

*K. Jam*

**OAKLAND CITY COUNCIL**  
**ORDINANCE No. 13059 -C.M.S.**

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**AN ORDINANCE TO 1) EXTEND THE BROADWAY RETAIL FRONTAGE INTERIM COMBINING ZONE REGULATIONS IN OAKLAND PLANNING CODE CHAPTER 17.101C THROUGH FEBRUARY 15, 2013 OR UNTIL CITY COUNCIL ADOPTION OF THE BROADWAY/VALDEZ DISTRICT SPECIFIC PLAN, WHICHEVER COMES FIRST; AND 2) MAKE CHANGES TO THE D-BR ZONE TEXT, INCLUDING THE D-BR ZONE MAY BE COMBINED WITH ANY OTHER ZONE, NOT JUST A COMMERCIAL ZONE, AS RECOMMENDED BY THE CITY PLANNING COMMISSION. THE D-BR ZONE IS CURRENTLY LOCATED FROM 23<sup>RD</sup> ST. IN THE SOUTH; HIGHWAY 580 IN THE NORTH; WEBSTER ST. AND LOTS ON OR NEAR BROADWAY IN THE WEST; AND BROOK ST., PORTIONS OF VALDEZ ST., 27<sup>TH</sup> ST., AND HARRISON ST. IN THE EAST.**

**WHEREAS**, in 2007, the Conley Consulting Group prepared a report for the City Redevelopment Agency titled "*Upper Broadway Strategy, a Component of the Oakland Retail Enhancement Strategy*", which included recommendations about how to attract new retail businesses to Oakland, and identified the upper Broadway corridor as having the potential to develop into a regional retail district; and

**WHEREAS**, on January 15, 2008, the Oakland City Council adopted interim regulations for a portion of the upper Broadway corridor in order to give the City time to develop a Specific Plan that would include an area-wide set of development regulations and requirements to facilitate the development of a regional retail center in the Broadway/Valdez area; and to ensure that no uses that conflicted with the retail district envisioned by the City could be established while the Specific Plan was being developed.; and

**WHEREAS**, Ordinance No. 12850 C.M.S. was adopted by the City Council on January 15, 2008 as a 3-year interim control lasting until January 15, 2010, which established the S-5 Broadway Retail Frontage Interim Combining Zone, and applied the S-5 Interim Combining Zone on the Broadway corridor from 23rd Street to the south and Hawthorne Street to the north, in order to ensure that no uses that conflicted with the retail district envisioned could be established while the City developed a Specific Plan for the Broadway Auto Row and Valdez Street area; and

**WHEREAS**, on February 5, 2008, the Oakland City Council also adopted Ordinance No.12859 C.M.S. as a 3-year interim control lasting until February 5, 2010, which amended the text of the S-5 Interim Combining Zone to require new construction to contain ground floor commercial

space, and amended the Zoning Map to expand the S-5 Interim Combining Zone to include the east side of Webster Street between 30th Street and Hawthorne Avenue, and an area around Valdez and 27th Streets; and

**WHEREAS**, on March 16, 2010, the Oakland City Council adopted Ordinance No.12999 C.M.S., which adopted various Planning Code text amendments - including changing the name of the S-5 Interim Combining Zone to the D-BR Interim Combining Zone, and changing the Oakland Planning Code chapter name and number to the “17.101C. D-BR Broadway Retail Frontage Interim Combining Zone” in order to be consistent with the naming convention and location in the Planning Code of other zoning regulations that applied to specific geographic areas (i.e. Planning Code Chapters 17.101A through 17.101.D relating to the Wood Street, Oak-to-Ninth, Broadway Retail and Kaiser Permanente Districts, respectively); and

**WHEREAS**, the D-BR Combining Zone sets restrictions on allowed uses and design standards (among other requirements), in order to preserve new ground level facilities and activities for retail use consistent with the retail district envisioned by the City; and

**WHEREAS**, the D-BR Combining Zone is currently set to expire on February 5, 2011; and

**WHEREAS**, more time than was originally projected is needed to complete the Specific Plan due to budget cuts in the Planning and Zoning Division that resulted in a several month gap in project staffing, and to the process currently underway by the new project lead and supporting staff to carefully revise the schedule and scope of the project, taking into account the major changes in the overall economy that have occurred since 2007, particularly in the retail market; and

**WHEREAS**, this extension of the interim D-BR controls is necessary in order to continue to ensure that no uses, building, and site design that conflict with the retail district envisioned by the City may be established while the Specific Plan is being developed; and

**WHEREAS**, several past environmental documents discussed and evaluated the environmental impacts associated with this proposal and reliance on them satisfies any requirements under the California Environmental Quality Act (CEQA), as specified by CEQA Guidelines Section 15183 “Projects Consistent with a Community Plan, General Plan or Zoning”. Those environmental documents include, but are not limited to, the previously certified Final Environmental Impact Report for the Land Use and Transportation Element of the General Plan, adopted in 1998; now, therefore

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**Section 1.** The City Council finds and determines that the recitals above are true and correct and are an integral part of this Ordinance.

**Section 2.** Planning Code Chapter 17.101C (D-BR Broadway Retail Frontage Interim Combining District Zone Regulations) of the Oakland Planning Code is hereby amended as

detailed in **Exhibit A**, hereby incorporated by reference.

**Section 3.** The controls imposed by this ordinance shall remain in place and be effective through February 15, 2013 or until the City Council adopts a Specific Plan for the Broadway/Valdez District Area, whichever comes first.

**Section 4.** For the term of this ordinance, as set for the in Section 3 above, the provisions of this ordinance shall govern, and to the extent there is any conflict between the provisions of this ordinance and the provisions of any other City code, ordinance, resolution or policy, all such conflicting provisions shall be suspended.

**Section 5.** This ordinance shall be effective immediately upon its adoption by the City Council, subject to the provisions of Section 213 of the Charter of the City of Oakland, but shall not apply to building/construction-related permits already issued and not yet expired.

**Section 6.** This Ordinance complies with the California Environmental Quality Act.

**Section 7.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 1 2011, 20      

**PASSED BY THE FOLLOWING VOTE:**

AYES- ~~BRUNNER~~, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAFF, REID, and ~~PRESIDENT~~  
BRUNNER - 7

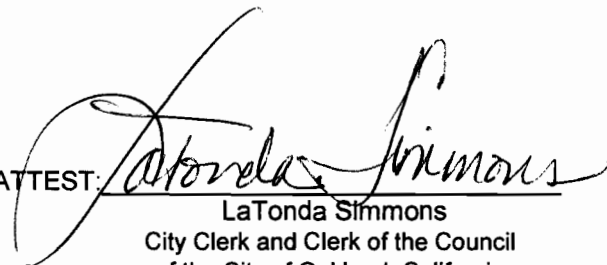
NOES- 0

ABSENT- 0

ABSTENTION- 0

Excused- Brooks - 1

ATTEST:

  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

Introduction Date

FEB 15 2011

DATE OF ATTESTATION:

3/4/2011

**AMENDMENTS TO OAKLAND PLANNING CODE**

The following are proposed text changes to the Planning Code. Additions to the code are underlined; deletions are in ~~strikeout~~.

**Title 17**

**PLANNING**

**Chapters:**

**17.101C D-BR Broadway Retail Frontage District Interim Combining ~~District~~-Zone Regulations**

**CHAPTER 17.101C**

**D-BR BROADWAY RETAIL FRONTAGE DISTRICT INTERIM  
COMBINING ~~DISTRICT-ZONE~~ REGULATIONS**

**Sections:**

- 17.101C.010 Title, purpose, and applicability.**
- 17.101C.020 Expiration for D-BR zone.**
- 17.101C.030 Zones with which the D-BR zone may be combined.**
- 17.101C.040 Relationship to base zone.**
- 17.101C.050 Required design review process.**
- 17.101C.060 Permitted and conditionally permitted activities.**
- 17.101C.070 Special regulations regarding facilities on the ground level of principal facilities.**
- 17.101C.080 Special ground floor height regulation.**
- 17.101C.090 Building location.**
- 17.101C.100 Special regulations applying to new construction over 10,000 square feet.**

**17.101C.010 Title, purpose, and applicability.**

The provisions of this chapter shall be known as the D-BR Broadway Retail Frontage District Interim Combining ~~District-Zone~~ Regulations. The D-BR zone is intended to create, preserve, and enhance ground level retail opportunities within the Broadway/Valdez Retail District area on the commercial areas of Broadway north of the Central Business District. These interim regulations anticipate the adoption of more comprehensive and detailed regulations and a plan to attract retail opportunities within the Broadway/Valdez Retail District area. on this area of Broadway.

**17.101C.020 Expiration for D-BR zone.**

The regulations contained in the D-BR zone shall remain in place and be effective through February 15, 2013, for a continuous period of three years from the date of the adoption of the regulations or until the City Council adopts a specific plan for the Broadway/Valdez Retail District, permanent regulations, whichever comes first.

**17.101C.030 Zones with which the D-BR zone may be combined.**

The D-BR zone may be combined with any other commercial-zone.

**17.101C.040 Relationship to base zone.**

The regulations in the D-BR zone are supplementary to the regulations applying in the zone or zones with which the D-BR zone is combined. Whenever any provision of the D-BR zone imposes overlapping or contradictory regulations with those contained in the applicable base zone, or contains restrictions covering any of the same subject matter, the provision within the D-BR zone shall control, except as otherwise expressly provided in the zoning regulations.

**17.101C.050 Required design review process.**

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Designated Historic Property, Potentially Designated Historic Property, Building Facility, Telecommunications Facility, Sign or other associated structure in the D-BR combining zone shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design

review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.125, or the Sign regulations in Chapter 17.104.

**17.101C.060 Permitted and conditionally permitted activities.**

Table 17.101C.01 lists activities permitted, conditionally permitted, and prohibited in the D-BR zone. The descriptions of these activities are contained in Chapter 17.10.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a conditional use permit (see Chapter 17.134) in the corresponding zone.

"L" designates activities subject to certain limitations listed at the bottom of the table.

"--" designates activities that are prohibited in the corresponding zone.

<b>Table 17.101C.01 Permitted and Conditionally Permitted Activities</b>		
<b>Activity</b>	<b>Regulations</b>	<b>Additional Regulations</b>
<b><i>Residential Activities</i></b>		
Permanent Residential	C (L1)	
Residential Care occupying a One-Family Dwelling Residential Facility	C (L1)	17.102.212
Residential Care not occupying a One-Family Dwelling Residential Facility	C (L1)	17.102.212
Service-Enriched Permanent Housing	C (L1)	17.102.212
Transitional Housing	C (L1)	17.102.212
Emergency Shelter	--	17.102.212
Semi-Transient Residential	--	17.102.212
Bed and Breakfast		
<b><i>Civic Activities</i></b>		
Essential Service	P	
Limited Child-Care	C (L1)	
Community Assembly	C (L1)	
Recreational Assembly	C(L1)	
Community Education	P (L1)	
Nonassembly Cultural	P	
Administrative	P (L1)	
Health Care	C	
Special Health Care	--	17.102.410
Utility and Vehicular	--	
Extensive Impact	--	
<b><i>Commercial Activities</i></b>		

Table 17.101C.01 Permitted and Conditionally Permitted Activities		
Activity	Regulations	Additional Regulations
General Food Sales	P	
Full Service Restaurant	P	
Limited Service Restaurant and Café	P	
Convenience Market	C	17.102.210
Fast-Food Restaurant	C	
Alcoholic Beverage Sales	C	17.102.210
Mechanical or Electronic Games	--	17.102.210
Medical Service	P (L2)	
General Retail Sales	P	
Large-Scale Combined Retail and Grocery Sales	--	
Consumer Service	P	
Consultative and Financial Service	P	
Check Cashier and Check Cashing	--	
Consumer Cleaning and Repair Service	P	
Consumer Dry Cleaning Plant	C	
Group Assembly	C	
Personal Instruction and Improvement and Small Scale Entertainment	C	
Administrative	P (L1)	
Business, Communication, and Media Service	P	
Broadcasting and Recording Service	P	
Retail Business Activity	C	
Research Center	--	
General Wholesale Sales	--	
Transient Habitation	--	17.102.370
Building Material Sales	--	
Automobile and Other Light Vehicle Sales and Rental	C	
Automobile and Other Light Vehicle Gas Station and Servicing	--(L3)	17.114.050 (A)
Automotive and Other Light Vehicle Repair and Cleaning	--(L3)	17.114.050 (A)
Taxi and Light Fleet-Based Service	--	
Automotive Fee Parking	C	
Transport and Warehousing	--	

Table 17.101C.01 Permitted and Conditionally Permitted Activities		
Activity	Regulations	Additional Regulations
Animal Care	C	
Animal Boarding	C	
Undertaking Service	--	
Scrap Operation	--	17.102.210
<b>Industrial Activities</b>	All Industrial Activities prohibited in these zones	
<b>Agricultural and Extractive Activities</b>	All Agricultural and Extractive Activities prohibited in these zones	
<i>Off-street parking serving activities other than those listed above or in Section 17.74.030, subject to the conditions set forth in Section 17.102.100</i>	C	17.102.100
<i>Additional activities which are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof, subject to the conditions set forth in Section 17.102.110.</i>	C	17.102.110

**Limitations:**

- L1 - These activities shall not be located on the ground floor of a building on a lot with a property line that abuts the Broadway or 27<sup>th</sup> Street right of way except for incidental pedestrian entrances that lead to one of these activities in stories above the ground floor.
- L2- These activities may only be located on the ground floor of a building on a lot that has a property line abutting the Broadway or 27<sup>th</sup> Street right of way upon the granting of a conditional use permit (see Chapter 17.134), and shall conform to the additional criteria contained in Section 17.25.030. However, incidental pedestrian entrances that lead to one of these activities in stories above the ground floor are permitted without the granting of a conditional use permit.  
(Ord. 12850 § 2 Exh. A (part), 2008)
- L3- Reestablishment of a discontinued, legal non-conforming Automobile and Other Light Vehicle Gas Station and Servicing activity and/or an Automotive and Other Light Vehicle Repair and Cleaning activity may only ~~must~~ occur no later than six (6) months after discontinuation of such a activity, per sSection 17.114.050(A).

**17.101C.070 Special regulations regarding facilities on the ground level of principal facilities.**

A. This section shall only apply to lots that have a property line abutting either the Broadway, Valdez Street, 24th Street, 26th Street, 27th Street, or Bay Place right of way.

B. For the purposes of this section, the front of a building on lots abutting more than one street shall be that side facing the most prominent street. The following is a ranking of the prominence of streets in the D-BR zone, from most prominent to least prominent: Broadway, 27th Street, Bay Place, Valdez Street, 24th Street, 26th Street, and then all other streets.

C. Except upon the granting of a conditional use permit (see subsection E of this section), only principal nonresidential facilities (~~excluding joint living and working quarters~~) shall be located within the front thirty (30) feet of the ground floor of any new principal facility located on a corner lot that abuts the Broadway right of way.

D. Except upon the granting of a conditional use permit (see subsection E), only principal non-residential facilities (~~excluding joint living and working quarters~~) and a maximum one driveway shall be



located within the front thirty (30) feet of the ground floor of any new principal facility located on an interior lot that abuts the Broadway right of way. This driveway shall be a maximum nineteen (19) feet in width and lead to parking that is at least thirty (30) feet (~~30~~) from the front of the building.

E. Upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, twenty (~~20~~) percent (20%) of the width of the front thirty (30) feet of the ground floor of a new principal facility may contain required parking. This conditional use permit may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and the following additional criterion:

1. That the requirements contained in subsections C or D of this section are infeasible due to lot dimensions, topographic features, or other site constraints.

F. The ground level of Broadway facing facades of new principal facilities shall have a store front appearance defined by at least the following design elements:

1. An ample amount of street-facing ground level building facade comprised of clear, non-reflective windows that allow views of indoor commercial space. This includes:

a. A minimum of sixty (~~60~~) percent (60%) of the front building façade between three and one half (3 ½) feet and ten (10) feet in height comprised of clear, non-reflective windows that allow views of indoor commercial space or product display areas. The total area of the front building façade shall not include the area with the driveway;

b. The bottom of any window or product display window being no more than four (4) feet above the abutting sidewalk; and

c. Product display windows used to satisfy that are a minimum height of four and one half (4 ½) feet and internally lighted.

2. A prominent and primary entrance feature facing Broadway; and

3. An area designated for signage.

**17.101C.080 Special ground floor height regulation.**

The minimum height from the grade to the ground floor ceiling of newly constructed principal facilities shall be fourteen (14) feet. This regulation does not apply to additions to existing buildings.

**17.101C.090 Building location.**

The entire building façade that faces Broadway shall be located within five (5) feet of the sidewalk. This standard shall not apply to plazas, recessed entrances, parks, or space designed to accommodate sidewalk seating areas for restaurants, cafes, and similar businesses. No more than fifty (~~50~~) percent (50%) of a building frontage shall qualify for the exception for plazas, recessed entrances, or sidewalk seating areas.

**17.101C.100 Special regulations applying to new construction over 10,000 square feet.**

New construction shall only exceed ten thousand (10,000) square feet upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

## NOTICE AND DIGEST

**A PUBLIC HEARING AND UPON CONCLUSION, ADOPTION OF AN ORDINANCE TO: 1) EXTEND THE BROADWAY RETAIL FRONTAGE INTERIM COMBINING ZONE REGULATIONS IN OAKLAND PLANNING CODE CHAPTER 17.101C THROUGH FEBRUARY 15, 2013 OR UNTIL CITY COUNCIL ADOPTION OF THE BROADWAY/VALDEZ DISTRICT SPECIFIC PLAN, WHICHEVER COMES FIRST; AND 2) MAKE OTHER CHANGES TO THE D-BR ZONE TEXT, INCLUDING THE D-BR ZONE MAY BE COMBINED WITH ANY OTHER ZONE, NOT JUST A COMMERCIAL ZONE, AS RECOMMENDED BY THE CITY PLANNING COMMISSION. THE D-BR ZONE IS CURRENTLY LOCATED FROM 23<sup>RD</sup> ST. IN THE SOUTH; HIGHWAY 580 IN THE NORTH; WEBSTER ST. AND LOTS ON OR NEAR BROADWAY IN THE WEST; AND BROOK ST., PORTIONS OF VALDEZ ST., 27<sup>TH</sup> ST., AND HARRISON ST. IN THE EAST.**

This ordinance extends the D-BR Broadway Retail Frontage Interim Combining Zone (DB-R Zone, Oakland Planning Code Chapter 17.101C) through February 15, 2013 or until City Council adoption of the Broadway/Valdez District Specific Plan, whichever comes first; and makes other zoning text changes to the D-BR Zone Chapter text, including the D-BR Zone may be combined with any other zone, not just a commercial zone.