

OFFICE OF THE CITY CLERK  
CITY OF OAKLAND

2006 DEC -7 PM 6:07

APPROVED AS TO FORM AND LEGALITY

*Mark P. Wall*

DEPUTY CITY ATTORNEY

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

**ORDINANCE NO. 12776 C.M.S.**

**AN ORDINANCE TO AMEND TITLE 17 OF THE OAKLAND PLANNING CODE TO REVISE THE CITYWIDE DESIGN REVIEW PROGRAM AND MAKE OTHER MINOR ZONING CODE REVISIONS; ELIMINATE THE S-14, S-18 AND S-19 COMBINING ZONE OVERLAYS FROM THE OAKLAND ZONING MAP; AND AMEND THE PLANNING AND ZONING FEES IN THE MASTER FEE SCHEDULE**

**WHEREAS**, on December 18, 2001, the City Council adopted Ordinance No. 12376 C.M.S. (and corrected on February 26, 2002 with Ordinance No. 12406 C.M.S.), amending the Oakland Planning Code to include a new S-18 Mediated Design Review Combining Zone as a pilot program within City Council District One and the boundary area of the S-14 Overlay Zone (1991 Firestorm Area), with direction to staff to bring forward to the City Planning Commission and City Council an evaluation of the Mediated Design Review pilot program, and a recommendation of whether to retain it, eliminate it, or expand it to other areas; and

**WHEREAS**, from 2003 through 2006, staff held a series of community workshops and meetings with public and private working groups to discuss a comprehensive revision of the City's design review procedures and thresholds, and to evaluate the S-18 Mediated Design Review pilot program as part of this larger effort; and

**WHEREAS**, it is the assessment of staff that after administering the Mediated Design Review pilot program in the S-18 Zone since 2002, the program has not achieved its objective of facilitating design review through the use of mediation and in many respects has been counter-productive; and

**WHEREAS**, on May 12, 2004 and October 13, 2004, the Oakland Planning Commission held a notice public hearing to discuss conceptual revisions to the City's 1-2 unit residential design review procedures, including a proposal to eliminate the S-18 Mediated Design Review pilot program; and

**WHEREAS**, on February 15, 2005, the Oakland Planning Commission's Design Review Committee held a noticed Public Hearing to review and provide input regarding additional revisions to the City's 1-2 unit residential design review procedures; and

**WHEREAS**, on June 15, 2005, the Oakland Planning Commission held a noticed Public Hearing to discuss revisions to the City's 1-2 unit residential design review procedures and made a recommendation that the Oakland City Council adopt the proposed changes to the Planning Code; and

**WHEREAS**, following the June 15, 2005 Oakland Planning Commission hearing, staff received direction from the City Council that the proposed design review changes should be expanded to lay the groundwork for commercial design review in areas of the City that do not currently require it; and

**WHEREAS**, in order to accommodate the future expansion of nonresidential design review, staff developed additional revisions to the design review procedure changes previously endorsed by the Planning Commission to create more efficiencies through standardizing design review procedures for all residential project types citywide, and increasing the range of project types that qualify for a simple and expedited review process; and

**WHEREAS**, on November 8, 2005, the City Council's Community and Economic Development (CED) Committee held a noticed Public Hearing to discuss design review changes and directed staff to make additional revisions to the public notice and dispute resolution procedures; and

**WHEREAS**, on June 13, 2006, staff reported back to the CED Committee with an update to the design review procedure changes, a draft of the proposed zoning text amendments and a summary of public comment periods utilized by other East Bay cities; and

**WHEREAS**, on August 16, 2006, staff presented the proposed design review procedure changes and zoning text amendments to the Planning Commission's Zoning Update Committee (ZUC) for their review and recommendations; and

**WHEREAS**, on September 11, 2006, staff presented the proposed design review procedure changes and zoning text amendments to the Landmarks Preservation Advisory Board (LPAB) to receive their input and recommendations regarding amendments to historic preservation regulations and procedures; and

**WHEREAS**, on October 4, 2006, the Oakland Planning Commission held a duly noticed Public Hearing to discuss revisions to the design review procedures and thresholds citywide, revisions to other miscellaneous Zoning Code sections, and elimination of the S-14, S-18, and S-19 Combining Zones, and made a recommendation that the Oakland City Council adopt the proposed Zoning Code and Zoning Map changes; and

**WHEREAS**, in order to accommodate revisions to the citywide design review program, staff also developed revisions to the Master Fee Schedule to standardize Planning report and notification fees for similar project types citywide; and

**WHEREAS**, the revisions to the Master Fee Schedule will eliminate the specific fees for the following current design review procedures that will be eliminated as part of revisions to the

citywide design review program: S-14 Expedited Design and Bulk Review, S-18 Mediated Design Review, Special Residential Design Review, S-11 Site Development and Design Review, and R-36 Design Review; and

**WHEREAS**, since July 2006, the fees collected by CEDA are deposited into a separate “Development Services Fund”, and therefore the proposed changes to the planning fees in the Master Fee Schedule will not have a direct budget impact on the City’s General Fund; and

**WHEREAS**, the City of Oakland’s Community Economic Development Agency has studied the Master Fee Schedule changes and concluded that the following amendments to the Master Fee Schedule are reasonably related to the cost of processing design review-related applications; and

**WHEREAS**, the City of Oakland’s Community Economic Development Agency has studied the City’s existing zoning regulations, existing zoning maps, and existing applicable statutory requirements, and has found them in need of improvement and contrary to the public interest, and thus has prepared the following amendments to the Oakland Planning Code and Zoning Map to better promote the public’s health, safety and general welfare; and

**WHEREAS**, the requirements of the California Environmental Quality Act (CEQA) of 1970 are satisfied according to State CEQA Guidelines Section 15061(b)(3), “general rule”, no possibility of significant effect on the environment; Section 15183, adoption of uniformly applied development policies consistent with the General Plan; Section 15282(h), adoption of an ordinance involving second units in a single-family or multifamily residential zone; and Section 15273, the establishment, modification, restructuring, or approval of rates, fares and other charges by public agencies. Now, therefore,

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

**SECTION 1.** The City Council finds and determines the forgoing recitals to be true and correct and hereby makes them a part of this ordinance.

**SECTION 2.** The City Council finds and determines, that the adoption of this Ordinance is exempt from CEQA under Sections 15061(b)(3), 15183, 15282(h), and/or Section 15273 of the State CEQA Guidelines and authorizes the filing of a Notice of Exemption with the Alameda County Clerk.

**SECTION 3.** Title 17 of the Oakland Planning Code is hereby amended pursuant to **Exhibit A** incorporated herein by reference. Additions to Title 17 of the Oakland Planning Code are shown in Exhibit A as underline and omissions are shown as ~~strikethrough~~.

**SECTION 4.** The Oakland Zoning Map is hereby amended to eliminate the S-14, S-18, and S-19 Combining Zones pursuant to **Exhibit B** incorporated herein by reference. Revisions to the Oakland Zoning Maps are shown in Exhibit B as ~~strikethrough~~.

**SECTION 5.** The Planning and Zoning fees in the Oakland Master Fee Schedule are hereby amended pursuant to **Exhibit C** incorporated herein by reference. Additions to the Master Fee Schedule are shown in Exhibit C as underline and omissions are shown as ~~strikethrough~~.

**SECTION 6.** If any section, subsection, phrase, word or 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.

**SECTION 7.** This Ordinance shall be effective on **April 1, 2007**, provided, however, that all applications accepted as complete prior to the effective date of this Ordinance may go forward according to the regulations in effect at the time of initial case intake. Applicants may choose to convert their application to the applicable new review procedure if such a conversion would serve to expedite the review process and is accompanied by any appropriate change in fees.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 19 2006, 2006  
PASSED BY THE FOLLOWING VOTE:

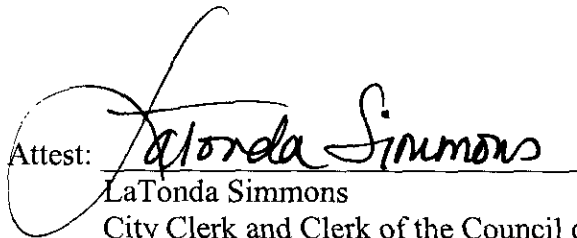
AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, AND REID

NOES- ~~0~~ PRESIDENT DE LA FUENTE - 8

ABSENT- ~~0~~

ABSTENTION- ~~0~~

Attest:



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

Introduction Date: DEC 5 2006

Title 17

PLANNING

**Chapters:**

- 17.01 **General Provisions of Planning Code and General Plan Conformity**
- 17.03 **City Planning Commission**
- 17.05 **Landmarks Preservation Advisory Board**
- 17.07 **Title, Purpose and Scope of the Zoning Regulations**
- 17.09 **Definitions**
- 17.10 **Use Classifications**
- 17.11 **OS Open Space Zoning Regulations**
- 17.11A **R-1 One Acre Estate Residential Zone Regulations**
- 17.12 **R-10 Estate Residential Zone Regulations**
- 17.14 **R-20 Low Density Residential Zone Regulations**
- 17.16 **R-30 One-Family Residential Zone Regulations**
- 17.18 **R-35 Special One-Family Residential Zone Regulations**
- 17.20 **R-36 Small Lot Residential Zone Regulations**
- 17.22 **R-40 Garden Apartment Residential Zone Regulations**
- 17.24 **R-50 Medium Density Residential Zone Regulations**
- 17.26 **R-60 Medium-High Density Residential Zone Regulations**
- 17.28 **R-70 High Density Residential Zone Regulations**
- 17.30 **R-80 High-Rise Apartment Residential Zone Regulations**
- 17.32 **R-90 Downtown Apartment Residential Zone Regulations**
- 17.34 **C-5 Neighborhood Commercial Zone Regulations**
- 17.36 **C-10 Local Retail Commercial Zone Regulations**
- 17.38 **C-20 Shopping Center**
- 17.40 **C-25 Office Commercial Zone Regulations**
- 17.42 **C-27 Village Commercial Zone Regulations**
- 17.44 **C-28 Commercial Shopping District Zone Regulations**
- 17.46 **C-30 District Thoroughfare Commercial Zone Regulations**
- 17.48 **C-31 Special Retail Commercial Zone Regulations**
- 17.50 **C-35 District Shopping Commercial Zone Regulations**
- 17.52 **C-36 Gateway Boulevard Service Commercial Zone Regulations**
- 17.54 **C-40 Community Thoroughfare Commercial Zone Regulations**
- 17.56 **C-45 Community Shopping Commercial Regulations**
- 17.58 **C-51 Central Business Service Commercial Zone Regulations**
- 17.60 **C-52 Old Oakland Commercial Zone Regulations**
- 17.62 **C-55 Central Core Commercial Zone Regulations**
- 17.64 **C-60 City Service Commercial Zone Regulations**
- 17.65 **HBX Housing and Business Mix (HBX)-Commercial Zones Regulations**
- 17.66 **M-10 Special Industrial Zone Regulations**
- 17.68 **M-20 Light Industrial Zone Regulations**
- 17.70 **M-30 General Industrial Zone Regulations**
- 17.72 **M-40 Heavy Industrial Zone Regulations**
- 17.74 **S-1 Medical Center Zone Regulations**
- 17.76 **S-2 Civic Center Zone Regulations**
- 17.78 **S-3 Research Center Zone Regulations**
- 17.80 **S-4 Design Review Combining Zone Regulations**

- 17.82 S-6 Mobile Home Combining Zone Regulations
  - 17.84 S-7 Preservation Combining Zone Regulations
  - 17.86 S-8 Urban Street Combining Zone Regulations
  - 17.88 S-9 Retail Frontage Combining Zone Regulations
  - 17.90 S-10 Scenic Route Combining Zone Regulations
  - 17.92 S-11 Site Development and Design Review Combining Zone Regulations
  - 17.94 S-12 Residential Parking Combining Zone Regulations
  - 17.96 S-13 Mixed-Use Development Combining Zone Regulations
  - ~~17.97 S-14 Broadway Auto Row Interim Study Combining Zone~~
  - ~~17.98 S-14 Community Restoration Development Combining Zone Regulations~~
  - 17.97 S-15 Transit Oriented Development Zone Regulations
  - 17.98 S-16 Industrial-Residential Transition Combining Zone Regulations
  - 17.99 S-17 Downtown Residential Open Space Combining Zone Regulations (S-17)
  - ~~17.100 S-15 Transit Oriented Development Zone Regulations~~
  - ~~17.101 S-16 Industrial-Residential Transition Combining Zone Regulations~~
  - ~~17.101B S-18 Mediated Residential Design Review Combining Zone Regulations~~
  - ~~17.101D S-20 Historic Preservation District Combining Zone Regulations~~
  - 17.102 General Regulations Applicable to All or Several Zones
  - 17.104 General Limitations on Signs
  - 17.106 General Lot, Density, and Area Regulations
  - 17.107 Density Bonus and Incentive Procedure
  - 17.108 General Height, Yard, Court, and Fence Regulations
  - 17.110 Buffering Regulations
  - 17.112 Home Occupation Regulations
  - 17.114 Nonconforming Uses
  - 17.116 Off-Street Parking and Loading Requirements
  - 17.118 Recycling Space Allocation Requirements
  - 17.120 Performance Standards
  - 17.122 Planned Unit Development Regulations
  - 17.124 Landscaping and Screening Standards
  - 17.126 Usable Open Space Standards
  - 17.128 Telecommunications Regulations
  - 17.130 Administrative Procedures Generally
  - 17.132 Administrative Appeal Procedure
  - 17.134 Conditional Use Permit Procedure
  - 17.135 Special Use Permit Review Procedure for the OS Zone
  - 17.136 Design Review Procedure
  - 17.138 Development Agreement Procedure
  - 17.140 Planned Unit Development Procedure
  - ~~17.142 Site Development and Design Review Procedure~~
  - 17.144 Rezoning and Law Change Procedure
  - ~~17.146 Special Residential Design Review Procedure~~
  - ~~17.147 Mediated Residential Design Review Procedure~~
  - 17.148 Variance Procedure
  - 17.150 Fee Schedule
  - 17.152 Enforcement
  - 17.154 Zoning Maps
  - 17.156 Deemed Approved Alcoholic Beverage Sale Regulations
  - 17.157 Deemed Approved Hotel and Rooming House Regulations
  - 17.158 Environmental Review Regulations
- Illustrations for Title 17
-

**Chapter 17.01**

**GENERAL PROVISIONS OF PLANNING CODE AND GENERAL PLAN CONFORMITY**

**Sections:**

**17.01.080 Appeal of Director's determination.**

**17.01.080 Appeal of Director's determination.**

A. Within ten calendar days of a written determination by the Director of City Planning pursuant to Section 17.01.070, an appeal of such determination may be taken to the City Planning Commission by the applicant or any other interested party. Such appeal shall be accompanied by a fee as prescribed in the city master fee schedule, and shall be processed in accordance with the administrative appeal procedure in Chapter 17.132.

B. Within ten calendar days of a written determination by the Director of City Planning pursuant to Section 17.01.120 C. an appeal of such determination may be taken to the City Council by the applicant or any other interested party. Such appeal shall be accompanied by a fee as prescribed in the city master fee schedule. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Director and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Planning Director or wherein his or her decision is not supported by the evidence in the record. Upon receipt of such appeal, the Council shall set the date for consideration thereof. After the hearing date is set, the Planning Director shall refer the matter to the Planning Commission for its review and advice. The Planning Commission shall consider the matter at its next available meeting. Such referral shall be only for the purpose of issue clarification and advice to the City Council. The City Clerk shall not less than seventeen (17) ~~ten~~-days prior to the Council hearing, give to the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, written notice of the date and place of the hearing on the appeal. In considering the appeal, the Council shall determine whether the proposal conforms to the provisions of Section 17.01.120.C., and may approve or disapprove the proposed determination. The decision of the City Council shall be made by resolution and shall be final.

(Ord. 12514 § 2 (part), 2003; Ord. 12054 § 2 (part), 1998)

**Chapter 17.05**

**LANDMARKS PRESERVATION ADVISORY BOARD**

**Sections:**

**17.05.080      Auxiliary committees and staffing.**

**17.05.080      Auxiliary committees and staffing.**

The Board shall make every effort to obtain assistance from, and to work with, private groups and citizens interested in preservation. It may designate auxiliary committees to assist it. The Board may seek staff assistance from the City ~~Manager~~ Administrator or the City Council. (Ord. 12054 § 1(e), 1998; prior planning code § 5(h))



**Chapter 17.09**

**DEFINITIONS**

**Sections;**

**17.09.040 Definitions.**

**17.09.040 Definitions.**

“Building Facility” means any structure, open area, or object which accommodates or is intended to accommodate Residential, Civic, Commercial, Manufacturing and/or Mixed Use Activities. Building Facilities also include such facilities as are customarily associated with, and are appropriate, incidental, and subordinate to Residential, Civic, Commercial, Manufacturing and/or Mixed Use Activities.

2. **“Floor area,”** (see illustration I-2b) for all projects with one or two dwelling units on a lot, means the total square footage of all levels of all buildings on the lot. Levels shall be measured horizontally from the outside surface of exterior walls and supporting columns. The amount of floor area in each building shall be determined by the following criteria:

a. Floor area shall include all enclosed shafts, including stairwells, ventilation shafts and similar vertical shafts; the floor area of such shafts shall consist of the horizontal projection into the shaft of surrounding floor area; and

b. Floor area shall not include:

i. Unenclosed living areas such as balconies, decks and porches;

ii. Carports that are unenclosed on two or more sides;

iii. Up to four hundred forty (440) square feet within an attached or detached garage or carport that is enclosed on three or more sides;

iv. Nonhabitable accessory structures not requiring a building permit of less than one hundred twenty (120) square feet;

v. Unfinished understories, attics and basements; and

vi. ~~Any portion of finished basements if the with a height of six feet or less, as measured from finished grade at the exterior perimeter of the building to the finish floor elevation above is six (6) feet or less for at least 50% of the perimeter and does not exceed twelve (12) feet above grade at any point.; those portions of finished basements with a height greater than six feet shall be considered floor area.~~

“Local Register Property” means any building, object, property or district listed in the City of Oakland’s Local Register of Historical Resources, which includes all Landmarks, Designated Historic Properties, Heritage Properties, Study List Properties, Preservation Districts, and S-7 and S-20 Preservation Combining Zone Properties; and those Potential Designated Historic Properties that are determined by the City’s Cultural Heritage Survey to have an existing rating of “A” or “B”, or to contribute or potentially contribute to an Area of Primary Importance.

~~“Lot width” (see illustration I-4) means the mean of is the horizontal distances between the side lot lines measured at right angles to the side lot lines depth at all points distant thereon twenty (20) feet from between the front lot line and twenty (20) feet from the rear lot line, or from the rearmost point of the lot depth in cases where there is no rear lot line.~~

~~“Lot width mean” (see illustration I-4) means is the mean of the horizontal distances between the side lot lines measured at right angles to the lot depth at points distant thereon twenty (20) feet from~~

**EXHIBIT A**

the front lot line and twenty (20) feet from the rear lot line, or from the rearmost point of the lot depth in cases where there is no rear lot line.

“Primary activity” means an activity which fulfills a primary function of an establishment, institution, household, or other entity.

“Primary facility” means a main building or other facility which is designed for or occupied by a primary activity.

“Potential Designated Historic Property” means any building or property that is determined by the City’s Cultural Heritage Survey to have an existing rating of “A”, “B”, or “C”, or to contribute or potentially contribute to an Area of Primary or Secondary Importance.

“Residential facility” means any structure, open area, or object which accommodates or is intended to accommodate Residential Activities. Residential Facilities also include such facilities as are customarily associated with, and are appropriate, incidental, and subordinate to Residential Activities.

“Secondary unit” means a subordinate dwelling unit that is located on the same lot as a larger primary dwelling unit structure, is either attached or detached, and meets the standards and criteria of Section 17.102.360.

“Story” means a portion of a building between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, the space between such floor and the ceiling next above it, provided that the following shall not be deemed a story:

1. A basement or cellar if the height from finished grade at the exterior perimeter of the building to the finish floor elevation above is six (6) feet or less for at least 50% of the perimeter and does not exceed twelve (12) feet above grade at any point; finished floor level directly above is not more than six feet above finished grade;

2. An attic or similar space under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such space.

“Upper story” means either: 1. Any story located above the bottommost story of a building; or 2. Any story with finished floor located at least twelve (12) fifteen (15) feet above finished grade at any point along the building perimeter.

**Chapter 17.10**

**USE CLASSIFICATIONS**

**Sections:**

- 17.10.150 Limited Child-Care Activities.**
- 17.10.180 Community Education Civic Activities.**
- 17.10.340 General Retail Sales Commercial Activities.**

**17.10.150 Limited Child-Care Activities.**

Limited Child-Care Civic Activities include the provision of day-care service for fourteen (14) ~~twelve (12)~~ or fewer children, provided, however, that care for seven (7) ~~six~~ or more children be provided only in facilities licensed by a state or county agency. They also include certain activities accessory thereto, as specified in Section 17.10.040. (Prior planning code § 2311)

**17.10.180 Community Education Civic Activities.**

Community Education Civic Activities include the activities typically performed by the following institutions. They also include certain activity accessory thereto, as specified in Section 17.10.040.

A. Public, parochial, and private day-care centers for fifteen (15) ~~thirteen (13)~~ or more children;

B. Public, parochial, and private nursery schools and kindergartens;

C. Public, parochial, and private elementary, junior high, and high schools;

D. Support services provided for independent living skills development including self-improvement education, employment and job training for both on-site and off-site residents in conjunction with Service-Enriched Permanent Housing and Transitional Housing Residential Activities. (Ord. 12138 § 4 (part), 1999; prior planning code § 2316)

**17.10.340 General Retail Sales Commercial Activities.**

General Retail Sales Commercial Activities Include the retail sale or rental from the ~~premise~~premises, primarily for personal or household use, of goods consisting primarily of items other than food and beverages and convenience items described in Section 17.10.310; but exclude sale or rental of motor vehicles, except for parts and accessories, and sale of materials used in construction of buildings or other structures, except for paint, fixtures, and hardware. They also exclude Large-Scale Combined Retail and Grocery Sales Commercial Activity, as defined in Section 17.10.345. They also include certain activities accessory to the above, as specified in Section 17.10.040. (Ord. 12547 § 3 (part), 2003; prior planning code § 2367)

Chapter 17.11A

R-1 ONE ACRE ESTATE RESIDENTIAL ZONE REGULATIONS

Sections:

~~17.11A.020 Special residential design review for projects with one or two units on a lot.~~

~~17.11A.030 Required Design review process for Telecommunications Facilities.~~

~~17.11A.100 Maximum residential density.~~

~~17.11A.020 Special residential design review for projects with one or two units on a lot.~~

~~A. General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. Except in the case of a Secondary Unit, this requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~
- ~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building.~~

~~(Ord. 12501 § 5, 2003; Ord. 12376 § 4, 2001; Ord. 12272 § 3 (part), 2000)~~

~~17.11A.030 Required Design review process for Telecommunications Facilities.~~

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Micro or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

~~(Ord. 12272 § 3 (part), 2000)~~

~~17.11A.100 Maximum residential density.~~

~~The maximum density of Residential Facilities shall be as set forth below. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five or more bedrooms. No~~

***EXHIBIT A***

residential facility shall be permitted to have both an additional kitchen as provided for in Section 17.102.270B and a Secondary Unit.

A. Permitted Density. One primary dwelling unit is permitted on each lot. A Secondary Unit may also be permitted, thereby making a total of two dwelling units on the lot, subject to the provisions of Section 17.102.360.

(Ord. 12501 § 8, 2003; Ord. 12376 § 3 (part), 2001; Ord. 12272 § 3 (part), 2000)

Chapter 17.12

R-10 ESTATE RESIDENTIAL ZONE REGULATIONS

Sections:

- ~~17.12.020~~ ~~Special residential design review for projects with one or two units on a lot.~~
- ~~17.12.030~~ ~~Required dDesign review process, for Telecommunications Facilities.~~
- 17.12.100 Maximum residential density.

~~17.12.020~~ ~~Special residential design review for projects with one or two units on a lot.~~

~~A. General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. Except in the case of a Secondary Unit, this requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~
- ~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building.~~

~~(Ord. 12501 § 8, 2003; Ord. 12376 § 4, 2001; prior planning code § 3251)~~

**17.12.030** **Required dDesign review process, for Telecommunications Facilities.**

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

~~(Ord. 11904 § 5.60 (part), 1996; prior planning code § 3252)~~

**17.12.100** **Maximum residential density.**

The maximum density of Residential Facilities shall be as set forth below. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five or more bedrooms. No

***EXHIBIT A***

residential facility shall be permitted to have both an additional kitchen as provided for in Section 17.102.270B and a Secondary Unit.

A. Permitted Density. One primary dwelling unit is permitted on each lot. A Secondary Unit may also be permitted, thereby making a total of two dwelling units on the lot, subject to the provisions of Section 17.102.360.

(Ord. 12501 § 12, 2003; Ord. 12199 § 5A (part), 2000; Ord. 12116 § 2 (part), 1999; prior planning code § 3265)

Chapter 17.14

R-20 LOW DENSITY RESIDENTIAL ZONE REGULATIONS

Sections:

~~17.14.020 — Special residential design review for projects with one or two units on a lot.~~

~~17.14.030 Required ~~d~~Design review process for Telecommunications Facilities.~~

~~17.14.100 Maximum residential density.~~

~~17.14.020 — Special residential design review for projects with one or two units on a lot.~~

~~A. General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. Except in the case of a Secondary Unit, this requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~
- ~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building.~~

~~(Ord. 12501 § 13, 2003; Ord. 12376 § 4, 2001; prior planning code § 3351)~~

**17.14.030 Required ~~d~~Design review process for Telecommunications Facilities.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

~~(Ord. 11904 § 5.60 (part), 1996; prior planning code § 3352)~~

**17.14.100 Maximum residential density.**

The maximum density of Residential Facilities shall be as set forth below. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five or more bedrooms. No



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residential facility shall be permitted to have both an additional kitchen as provided for in Section 17.102.270B and a Secondary Unit.

A. Permitted Density. One primary dwelling unit is permitted on each lot. A Secondary Unit may also be permitted, thereby making a total of two dwelling units on the lot, subject to the provisions of Section 17.102.360.

(Ord. 12501 § 16, 2003; Ord. 12199 § 5A (part), 2000; Ord. 12116 § 2 (part), 1999; prior planning code § 3365)

Chapter 17.16

R-30 ONE-FAMILY RESIDENTIAL ZONE REGULATIONS

Sections:

~~17.16.020 Special residential design review for projects with one or two units on a lot.~~

~~17.16.030 Required dDesign review process. for Telecommunications Facilities.~~

17.16.100 Maximum residential density.

~~17.16.020 Special residential design review for projects with one or two units on a lot.~~

~~A. General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. Except in the case of a Secondary Unit, this requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in-kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in-kind of existing building components; or~~
- ~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building.~~

~~(Ord. 12501 § 17, 2003; Ord. 12376 § 4, 2001; prior planning code § 3451)~~

**17.16.030 Required dDesign review process. for Telecommunications Facilities.**

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

~~(Ord. 11904 § 5.60 (part), 1996; prior planning code § 3452)~~

**17.16.100 Maximum residential density.**

The maximum density of Residential Facilities shall be as set forth below. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five or more bedrooms. No

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residential facility shall be permitted to have both an additional kitchen as provided for in Section 17.102.270B and a Secondary Unit.

A. Permitted Density. One primary dwelling unit is permitted on each lot. A Secondary Unit may also be permitted, thereby making a total of two dwelling units on the lot, subject to the provisions of Section 17.102.360.

(Ord, 12501 § 20, 2003; Ord. 12199 § 5A (part), 2000; Ord. 12116 § 2 (part), 1999; prior planning code § 3465)

**Chapter 17.18**

**R-35 SPECIAL ONE-FAMILY RESIDENTIAL ZONE REGULATIONS**

**Sections:**

- ~~17.18.020 — Special residential design review for projects with one or two units on a lot.~~
- ~~17.18.030 — Required Design review process, for Telecommunications Facilities.~~
- ~~17.18.100 — Maximum residential density.~~

~~17.18.020 — Special residential design review for projects with one or two units on a lot.~~

~~A. General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. Except in the case of a Secondary Unit, this requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in-kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in-kind of existing building components; or~~
- ~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building.~~

~~(Ord. 12501 § 21, 2003; Ord. 12376 § 4, 2001; prior planning code § 3551)~~

~~17.18.030 — Required Design review process, for Telecommunications Facilities.~~

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

~~(Ord. 11904 § 5.60 (part), 1996; prior planning code § 3552)~~

~~17.18.100 — Maximum residential density.~~

~~The maximum density of Residential Facilities shall be as set forth below. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five or more bedrooms. No~~

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residential facility shall be permitted to have both an additional kitchen as provided for in Section 17.102.270B and a Secondary Unit.

A. Permitted Density. One primary dwelling unit is permitted on each lot. A Secondary Unit may also be permitted, thereby making a total of two dwelling units on the lot, subject to the provisions of Section 17.102.360.

B. Conditionally Permitted Density. A total of two dwelling units may be permitted on any lot which has five thousand (5,000) square feet or more of lot area, or on any lot which has four thousand (4,000) to four thousand nine hundred ninety-nine (4,999) square feet of lot area and qualifies under Section 17.106.010 as an existing buildable parcel, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

(Ord. 12501 § 24, 2003; Ord. 12199 § 5 D (part), 2000; prior planning code § 3565)

Chapter 17.20

R-36 SMALL LOT RESIDENTIAL ZONE REGULATIONS

Sections:

- 17.20.020 ~~Required dDesign review process, for construction or alteration.~~
- 17.20.025 ~~Special residential design review for Secondary Units.~~
- 17.20.070 Design review criteria.
- 17.20.100 Maximum residential density.

**17.20.020 Required dDesign review process, for construction or alteration.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 additional provisions in Section 17.20.070, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.~~

~~No building, Sign, or other facility other than a new Secondary Unit shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance unless plans for such proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and the provisions of Section 17.20.070, or for Micro Telecommunications Facilities pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136. However, design review approval is not required for Realty Signs, Development Signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110C, for mere changes of copy, including cutouts, on Signs the customary use of which involves frequent and periodic changes of copy.~~

~~(Ord. 12501 § 25, 2003; Ord. 11904 § 5.61, 1996; prior planning code § 3576)~~

**17.20.025 Special residential design review for Secondary Units.**

~~No Secondary Unit shall be constructed or established unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146.~~  
~~(Ord. 12501 § 26, 2003)~~

**17.20.070 Design review criteria.**

~~In the R-36 zone, proposals requiring regular dDesign review approval pursuant to Section 17.20.020 may be granted only upon determination that the proposal conforms to the regular general design review criteria set forth in the design review procedure in Chapter 17.136 and to all of the following additional criteria:~~

- A. Site Design.
  - 1. That the siting of the building is such that it is compatible with adjacent properties and respects the configuration and natural amenities of the lot;
  - 2. That the building is oriented in such a way that it maintains direct sunlight to adjacent properties wherever possible;
  - 3. That, where desirable, entry paths are distinct and separate elements from parking pads and driveways; and that stairways, accessways, and corridors are designed to ensure the privacy and security of residents without adversely affecting the residential amenity of adjacent properties;
  - 4. That the design and site planning of the building, open areas, parking, and other facilities are convenient and functional;
  - 5. That the siting and orientation of the proposal maintains views to adjacent properties wherever possible.
- B. Parking.

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1. That parking spaces are incorporated into the design such that they are complementary elements of the overall design;
  2. That, where physically feasible, unenclosed parking spaces are situated on the site in such a manner that they maintain or improve the character and integrity of the neighborhood, and are visually screened from the street and other significant vantage points to minimize their visual impact.
- C. Building Design.
1. That the building has a scale, height, bulk, and massing compatible with, but not necessarily identical to, surrounding buildings;
  2. That parking entrances are integrated into the overall project design;
  3. That the primary entrance is identifiable and is treated such that it is consistent with the rest of the building;
  4. That the design of the building is specific to its location and responds to topographic, physical, or climatic characteristics of the site.
- D. Landscaping.
1. That the proposed landscaping complements the design of the building and the use of open spaces and yards;
  2. That water conservation has been considered in the selection of plant material and irrigation systems.
- E. General.
1. That the proposed design conforms in all significant respects with the Oakland Comprehensive General Plan and with any applicable district plan or development control map which has been adopted by the City Council.  
(Prior planning code § 3587)

**17.20.100 Maximum residential density.**

The maximum density of Residential Facilities shall be as set forth below. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five or more bedrooms. No residential facility shall be permitted to have both an additional kitchen as provided for in Section 17.102.270B and a Secondary Unit.

A. Permitted Density. The numbers of dwelling units indicated in the following table are permitted on the lots of the specified sizes:

<b>Total Lot Area</b>	<b>Permitted Total Number of Dwelling Units</b>
Less than 4,000 square feet, but only in the case of a lot which qualifies under Section 17.106.010 as an existing buildable parcel.	One <u>primary</u> dwelling unit, or one <u>primary</u> dwelling unit with one Secondary Unit, subject to the provisions specified in Section 17.102.360.
4,000--4,999 square feet, but only in the case of a lot that qualifies under Section 17.106.010 as an existing buildable parcel.	Two dwelling units.
5,000 or more square feet.	Two dwelling units.

**Chapter 17.22**

**R-40 GARDEN APARTMENT RESIDENTIAL ZONE REGULATIONS**

**Sections:**

- ~~17.22.020~~ ~~Special residential design review for projects with one or two units on a lot.~~
- ~~17.22.030~~ ~~Design review for residential projects with three or more units on a lot.~~
- ~~17.22.040~~ ~~Required design review process for Telecommunications Facilities.~~
- ~~17.22.110~~ ~~Maximum residential density.~~

~~17.22.020~~ ~~Special residential design review for projects with one or two units on a lot.~~

~~A. General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. Except in the case of a Secondary Unit, this requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~
- ~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building.~~

~~(Ord. 12501 § 30, 2003; Ord. 12376 § 4, 2001; prior planning code § 3601)~~

~~17.22.030~~ ~~Design review for residential projects with three or more units on a lot.~~

~~A. General. If a project involves or results in three or more dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and upon determination that the proposal conforms to the design review criteria for high density housing as adopted by the City Council. This requirement shall not apply to any facility containing both residential and nonresidential activities unless, the floor space devoted to residential activities constitutes seventy five (75) percent of the total floor space in the facility.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in one or more dwelling units being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of one or more dwelling units and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in kind of a roof;~~



- ~~3. Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~
  - ~~4. Is certified by the City Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent; and (b) that all exterior treatment matches the existing building.~~
- (Prior planning code § 3602)

**17.22.040 Required ~~d~~Design review process for Telecommunications Facilities.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Micro, or Mini-Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

(Ord. 11904 § 5.60 (part), 1996: prior planning code § 3602.1)

**17.22.110 Maximum residential density.**

The maximum density of Residential Facilities shall be as set forth below. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five or more bedrooms. No residential facility shall be permitted to have both an additional kitchen as provided for in Section 17.102.270B and a Secondary Unit.

A. Permitted Density. The numbers of dwelling units indicated in the following table are permitted on lots of the specified sizes:

<b>Total Lot Area</b>	<b>Permitted Total Number of Dwelling Units</b>
Less than 4,000 square feet, but only in the case of a lot which qualifies under Section 17.106.010 as an existing buildable parcel.	One <u>primary</u> dwelling unit, or one <u>primary</u> dwelling unit with one Secondary Unit, subject to the provisions specified in Section 17.102.360.
4,000--4,999 square feet, but only in the case of a lot that qualifies under Section 17.106.010 as an existing buildable parcel.	Two dwelling units.
5,000 or more square feet.	Two dwelling units.

**Chapter 17.24**

**R-50 MEDIUM DENSITY RESIDENTIAL ZONE REGULATIONS**

**Sections:**

- ~~17.24.020 — Special residential design review for projects with one or two units on a lot.~~
- ~~17.24.030 — Design review for residential projects with three or more units on a lot.~~
- ~~17.24.040 — Required design review process for Telecommunications Facilities.~~
- ~~17.24.110 — Maximum residential density.~~

~~17.24.020 — Special residential design review for projects with one or two units on a lot.~~

~~A. General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. Except in the case of a Secondary Unit, this requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in-kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in-kind of existing building components; or~~
- ~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building.~~

~~(Ord. 12501 § 34, 2003; Ord. 12376 § 4, 2001; prior planning code § 3651)~~

~~17.24.030 — Design review for residential projects with three or more units on a lot.~~

~~A. General. If a project involves or results in three or more dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and upon determination that the proposal conforms to the design review criteria for high density housing as adopted by the City Council. This requirement shall not apply to any facility containing both residential and nonresidential activities unless, the floor space devoted to residential activities constitutes seventy-five (75) percent of the total floor space in the facility.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in one or more dwelling units being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of one or more dwelling units and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in-kind of a roof;~~

~~3. Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~

~~4. Is certified by the City Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, and (b) that all exterior treatment matches the existing building.~~

~~(Prior planning code § 3652)~~

**17.24.040 Required ~~d~~Design review process, for Telecommunications Facilities.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

~~(Ord. 11904 § 5.60 (part), 1996: prior planning code § 3652.1)~~

**17.24.110 Maximum residential density.**

The maximum density of Residential Facilities shall be as set forth below. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five or more bedrooms. No residential facility shall be permitted to have both an additional kitchen as provided for in Section 17.102.270B and a Secondary Unit.

A. Permitted Density. The numbers of dwelling units indicated in the following table are permitted on lots of the specified sizes:

<b>Total Lot Area</b>	<b>Permitted Total Number of Dwelling Units</b>
Less than 4,000 square feet, but only in the case of a lot which qualifies under Section 17.106.010 as an existing buildable parcel.	One <u>primary</u> dwelling unit, or one <u>primary</u> dwelling unit with one Secondary Unit, subject to the provisions specified in Section 17.102.360.
4,000 or more square feet.	Two dwelling units, or one <u>primary</u> dwelling unit with one Secondary Unit, subject to the provisions specified in Section 17.102.360.

Chapter 17.26

R-60 MEDIUM-HIGH DENSITY RESIDENTIAL ZONE REGULATIONS

Sections:

~~17.26.020 — Special residential design review for projects with one or two units on a lot.~~

~~17.26.030 — Design review for residential projects with three or more units on a lot.~~

~~17.26.040 — Required Design review process, for Telecommunications Facilities.~~

~~17.26.020 — Special residential design review for projects with one or two units on a lot.~~

~~A. General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. Except in the case of a Secondary Unit, this requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in-kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in-kind of existing building components; or~~
- ~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building.~~

~~(Ord. 12501 § 38, 2003; Ord. 12376 § 4, 2001; prior planning code § 3751)~~

~~17.26.030 — Design review for residential projects with three or more units on a lot.~~

~~A. General. If a project involves or results in three or more dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and upon determination that the proposal conforms to the design review criteria for high density housing as adopted by the City Council. This requirement shall not apply to any facility containing both residential and nonresidential activities unless, the floor space devoted to residential activities constitutes seventy-five (75) percent of the total floor space in the facility.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in one or more dwelling units being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of one or more dwelling units and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in-kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in-kind of existing building components; or~~

~~4. Is certified by the City Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, and (b) that all exterior treatment matches the existing building.~~

~~(Prior planning code § 3752)~~

**17.26.040 Required Design review process for Telecommunications Facilities.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

~~(Ord. 11904 § 5.60 (part), 1996: prior planning code § 3752.1)~~

Chapter 17.28

R-70 HIGH DENSITY RESIDENTIAL ZONE REGULATIONS

Sections:

~~17.28.020 — Special residential design review for projects with one or two units on a lot.~~

~~17.28.030 — Design review for residential projects with three or more units on a lot.~~

~~17.28.040 — Required Design review process for Telecommunications Facilities.~~

~~17.28.020 — Special residential design review for projects with one or two units on a lot.~~

~~A. General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. Except in the case of a Secondary Unit, this requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~
- ~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building.~~

~~(Ord. 12501 § 41, 2003; Ord. 12376 § 4, 2001; prior planning code § 3801)~~

~~17.28.030 — Design review for residential projects with three or more units on a lot.~~

~~A. General. If a project involves or results in three or more dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and upon determination that the proposal conforms to the design review criteria for high density housing as adopted by the City Council. This requirement shall not apply to any facility containing both residential and nonresidential activities unless, the floor space devoted to residential activities constitutes seventy five (75) percent of the total floor space in the facility.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in one or more dwelling units being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of one or more dwelling units and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~

~~4. Is certified by the City Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, and (b) that all exterior treatment matches the existing building.~~

~~(Prior planning code § 3802)~~

**17.28.040 Required Design review process for Telecommunications Facilities.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

~~(Ord. 11904 § 5.60 (part), 1996: prior planning code § 3802.1)~~

**Chapter 17.30**

**R-80 HIGH-RISE APARTMENT RESIDENTIAL ZONE REGULATIONS**

**Sections:**

~~17.30.020 — Special residential design review for projects with one or two units on a lot.~~

~~17.30.030 — Design review for residential projects with three or more units on a lot.~~

~~17.30.040 — Required Design review process. for Telecommunications Facilities.~~

~~17.30.020 — Special residential design review for projects with one or two units on a lot.~~

~~———— A. ——— General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. Except in the case of a Secondary Unit, this requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~———— B. ——— Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~———— 1. ——— Does not require a building permit;~~
- ~~———— 2. ——— Involves only the repair or replacement in kind of a roof;~~
- ~~———— 3. ——— Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~
- ~~———— 4. ——— Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building.~~

~~(Ord. 12501 § 44, 2003; Ord. 12376 § 4, 2001; prior planning code § 3851)~~

~~17.30.030 — Design review for residential projects with three or more units on a lot.~~

~~———— A. ——— General. If a project involves or results in three or more dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and upon determination that the proposal conforms to the Design Review Criteria for High Density Housing as adopted by the City Council. This requirement shall not apply to any facility containing both residential and nonresidential activities unless, the floor space devoted to residential activities constitutes seventy five (75) percent of the total floor space in the facility.~~

~~———— B. ——— Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in one or more dwelling units being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of one or more dwelling units and if it:~~

- ~~———— 1. ——— Does not require a building permit;~~
- ~~———— 2. ——— Involves only the repair or replacement in kind of a roof;~~
- ~~———— 3. ——— Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~



~~4. Is certified by the City Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, and (b) that all exterior treatment matches the existing building.~~

~~(Prior planning code § 3852)~~

**17.30.040 Required Design review process for Telecommunications Facilities.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

~~(Ord. 11904 § 5.60 (part), 1996: prior planning code § 3852.1)~~

## Chapter 17.32

## R-90 DOWNTOWN APARTMENT RESIDENTIAL ZONE REGULATIONS

## Sections:

~~17.32.020 — Special residential design review for projects with one or two units on a lot.~~

~~17.32.030 — Design review for residential projects with three or more units on a lot.~~

~~17.32.040 — Required Design review process for Telecommunications Facilities.~~

~~17.32.020 — Special residential design review for projects with one or two units on a lot.~~

~~A. General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. Except in the case of a Secondary Unit, this requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~
- ~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building.~~

~~(Ord. 12501 § 47, 2003; Ord. 12376 § 4, 2001; prior planning code § 3901)~~

~~17.32.030 — Design review for residential projects with three or more units on a lot.~~

~~A. General. If a project involves or results in three or more dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and upon determination that the proposal conforms to the design review criteria for high density housing as adopted by the City Council. This requirement shall not apply to any facility containing both residential and nonresidential activities unless, the floor space devoted to residential activities constitutes seventy-five (75) percent of the total floor space in the facility.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in one or more dwelling units being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of one or more dwelling units and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~

4. Is certified by the City Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, and (b) that all exterior treatment matches the existing building.

(Prior planning code § 3902)

**17.32.040 Required Design review process for Telecommunications Facilities.**

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

(Ord. 11904 § 5.60 (part), 1996; prior planning code § 3902.1)

Chapter 17.34

C-5 NEIGHBORHOOD COMMERCIAL ZONE REGULATIONS

Sections:

~~17.34.020 Required Design review process for construction or alteration.~~

~~17.34.025 Special residential design review for Secondary Units.~~

17.34.140 Maximum residential density.

~~17.34.020 Required Design review process for construction or alteration.~~

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No building, Sign, or other facility, other than a Secondary Unit, shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance unless plans for such proposal shall have been approved pursuant to the design review procedure in Chapter 17.136, or for signs pursuant to the sign regulations in Chapter 17.04 and the design review procedure in Chapter 17.136, or for Micro Telecommunications Facilities pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136. However, design review approval is not required for Realty Signs, Development Signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110C, for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy.~~

~~(Ord. 12606 Att. A (part), 2004; Ord. 12501 § 50, 2003; Ord. 11904 § 5.62 (part), 1996; prior planning code § 4202)~~

~~17.34.025 Special residential design review for Secondary Units.~~

~~No Secondary Unit shall be constructed or established unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146.~~

~~(Ord. 12501 § 51, 2003)~~

17.34.140 Maximum residential density.

Residential uses shall be subject to the same maximum density and other, related regulations as are set forth in Section 17.22.110 for the R-40 zone. (Prior planning code § 4215)

**Chapter 17.36**

**C-10 LOCAL RETAIL COMMERCIAL ZONE REGULATIONS**

**Sections:**

~~17.36.020 — Special residential design review for projects with one or two units on a lot.~~

~~17.36.030 — Required dDesign review process, for Telecommunications Facilities.~~

~~17.36.035 — Design review for business, civic and residential signs.~~

~~17.36.130 — Maximum residential density.~~

~~17.36.020 — Special residential design review for projects with one or two units on a lot.~~

~~A. General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. Except in the case of a Secondary Unit, this requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in-kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in-kind of existing building components; or~~
- ~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building.~~

~~(Ord. 12501 § 53, 2003; Ord. 12376 § 4, 2001; prior planning code § 4251)~~

~~17.36.030 — Required dDesign review process, for Telecommunications Facilities.~~

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136. (Ord. 11904 § 5.60 (part), 1996; prior planning code § 4252)~~

~~17.36.035 — Design review for business, civic, and residential signs.~~

~~No sign shall be constructed or established, or altered in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136. However, design review approval is~~

***EXHIBIT A***

~~not required for realty signs, development signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110(C), for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy. (Ord. 42606 Att. A (part), 2004)~~

**17.36.130 Maximum residential density.**

Residential uses shall be subject to the same maximum density and other, related regulations as are set forth in Section 17.24.110 for the R-50 zone. (Prior planning code § 4265)

Chapter 17.38

C-20 SHOPPING CENTER COMMERCIAL ZONE REGULATIONS

Sections:

**17.38.020** ~~Required d~~**Design review process, for construction or alteration.**

~~17.38.025~~ ~~Special residential design review for Secondary Units.~~

**17.38.110** **Maximum residential density.**

**17.38.020** ~~Required d~~**Design review process, for construction or alteration.**

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.

~~No building, Sign, other than a Secondary Unit, or other facility, shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance unless plans for such proposal shall have been approved pursuant to the design review procedure in Chapter 17.136, or for signs pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136, or for Micro Telecommunications Facilities pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136. However, design review approval is not required for realty signs, development signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110(C) for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy.~~

~~(Ord. 12606 Att. A (part), 2004; Ord. 12501 § 55, 2003; Ord. 11904 § 5.63 (part), 1996; prior planning code § 4302)~~

~~17.38.025~~ ~~Special residential design review for Secondary Units.~~

~~No Secondary Unit shall be constructed or established unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146.~~

~~(Ord. 12501 § 56, 2003)~~

**17.38.110** **Maximum residential density.**

Residential uses shall be subject to the same maximum density and other, related regulations as are set forth in Section 17.24.110 for the R-50 zone, except that no residential living units are permitted unless a conditional use permit ~~therefor~~ is granted pursuant to the conditional use permit procedure in Chapter 17.134. (Prior planning code § 4315)

Chapter 17.40

C-25 OFFICE COMMERCIAL ZONE REGULATIONS

Sections:

- ~~17.40.020 Special residential design review for projects with one or two units on a lot.~~
- ~~17.40.030 Required ~~d~~Design review process, for construction or alteration.~~
- ~~17.40.140 Maximum residential density.~~

~~17.40.020 Special residential design review for projects with one or two units on a lot.~~

~~A. General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. This requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~
- ~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building. (Ord. 12376 § 4, 2001; prior planning code § 4351)~~

~~17.40.030 Required ~~d~~Design review process, for construction or alteration.~~

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No building, Sign, or other facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance unless plans for such proposal shall have been approved pursuant to the design review procedure in Chapter 17.136, or for signs pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136, or for Micro Telecommunications Facilities pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136. However, design review approval is not required for Realty Signs, Development Signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110C, for mere changes of copy, including outouts, on signs the customary use of which involves periodic changes of copy.~~

~~(Ord. 12606 Att. A (part), 2004; Ord. 11904 § 5.62 (part), 1996; prior planning code § 4352)~~



**17.40.140 Maximum residential density.**

Residential uses shall be subject to the same maximum density and other\_-related regulations as are set forth in Section 17.28.120 for the R-70 zone. (Prior planning code § 4365)

Chapter 17.42

C-27 VILLAGE COMMERCIAL ZONE REGULATIONS

Sections:

- ~~17.42.020~~ ~~Special residential design review for projects with one or two units on a lot.~~
- ~~17.42.030~~ ~~Required dDesign review process. for construction or alteration.~~
- ~~17.42.140~~ ~~Maximum residential density.~~

~~17.42.020~~ ~~Special residential design review for projects with one or two units on a lot.~~

~~A. General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. This requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~
- ~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building. (Ord. 12376 § 4, 2001; prior planning code § 4401)~~

**17.42.030 Required dDesign review process. for construction or alteration.**

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.

~~No building, Sign, or other facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance unless plans for such proposal shall have been approved pursuant to the design review procedure in Chapter 17.136, or for signs pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136, or for Micro Telecommunications Facilities pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136. However, design review approval is not required for Realty Signs, Development Signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110C, for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy.~~

~~(Ord. 12606 Att. A (part), 2004; Ord. 11904 § 5.62 (part), 1996; prior planning code § 4402)~~

**17.42.140 Maximum residential density.**

Residential uses shall be subject to the same maximum density and other, related regulations as are set forth in Section 17.28.120 for the R-70 zone. (Prior planning code § 4415)

Chapter 17.44

C-28 COMMERCIAL SHOPPING DISTRICT ZONE REGULATIONS

Sections:

17.44.020 ~~Required Design review process for construction or alteration.~~

17.44.140 Maximum residential density.

17.44.200 Special regulations for mini-lot, planned unit developments, and bonuses for mixed use developments containing Residential and Commercial Activities, excluding joint living and work quarters.

17.44.020 ~~Required Design review process for construction or alteration.~~

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No building, Sign, or other facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance unless plans for such proposal shall have been approved pursuant to the design review procedure in Chapter 17.136, or for signs pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136, or for Micro Telecommunications Facilities pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136. However, design review approval is not required for Realty Signs, Development Signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110C, for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy.~~

~~(Ord. 12606 Att. A (part), 2004; Ord. 11904 § 5.62 (part), 1996; prior planning code § 4427)~~

17.44.140 Maximum residential density.

Residential uses shall be subject to the same maximum density, and other, related regulations as set forth in Section 17.28.120 for the R-70 zone, except as modified in Section 17.44.200 for mixed use developments. (Prior planning code § 4440)

17.44.200 Special regulations for mini-lot, planned unit developments, and bonuses for mixed use developments containing Residential and Commercial Activities, excluding joint living and work quarters.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-28 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter 17.122 if they meet the minimum land area requirements of Section 17.22.030.

C. Mixed Use Developments Containing Residential and Commercial Activities, Excluding Joint Living and Work Quarters. To qualify as a mixed use development, a project must include at least twenty-five (25) percent of the number of residential units that would be permitted if the project were solely residential.

1. The following bonuses shall be permitted upon the granting of a conditional use permit pursuant to Section 17.44.110 and the conditional use permit procedure in Chapter 17.134:

## ***EXHIBIT A***

a. Non-retail ground floor uses prohibited in Section 17.44.070B, not including residential, shall be allowed in instances where the residential uses are provided in the ratio of at least one square foot of residential use per one square foot of non-retail ground floor commercial use.

b. The standards of the S-12 residential parking combining zone regulations relating to reduction of aisle and stall width, and number of allowable compact spaces, shall be allowed for the residential portion of the mixed use project.

c. The minimum requirements for usable open space shall be reduced from one hundred fifty (150) square feet per unit to one hundred twenty (120) square feet of group open space per unit. Private usable open space may be substituted for such group space in the ratio prescribed in Section 17.126.020.

d. The total floor area of commercial and manufacturing activities by a single establishment may exceed seven thousand five hundred (7,500) square feet.

2. In addition to the bonuses listed in subsection (C)(1) of this section, the following bonuses shall be permitted on sites a minimum of one acre in size, upon the granting of a conditional use permit pursuant to Section 17.44.110 and the conditional use permit procedure in Chapter 17.134:

a. The total amount of required parking for the residential component of the mixed use development may be reduced by up to twenty-five (25) percent.

b. The maximum height of the project may be fifty-five (55) feet. (Ord. 11892 § 3, 1996; prior planning code § 4448)

## Chapter 17.46

## C-30 DISTRICT THOROUGHFARE COMMERCIAL ZONE REGULATIONS

## Sections:

~~17.46.020 — Special residential design review for projects with one or two units on a lot.~~

~~17.46.030 — Design review for residential projects with three or more units on a lot.~~

~~17.46.040 — Required Design review process for Telecommunications Facilities.~~

~~17.46.045 — Design review for business, civic and residential signs.~~

17.46.130 Maximum residential density.

~~17.46.020 — Special residential design review for projects with one or two units on a lot.~~

~~A. General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. This requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in-kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in-kind of existing building components; or~~
- ~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building.~~

~~(Ord. 12376 § 4, 2001; prior planning code § 4451)~~

~~17.46.030 — Design review for residential projects with three or more units on a lot.~~

~~A. General. If a project involves or results in three or more dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and upon determination that the proposal conforms to the Design Review Criteria for high density housing as adopted by the City Council. This requirement shall not apply to any facility containing both residential and nonresidential activities unless, the floor space devoted to residential activities constitutes seventy-five (75) percent of the total floor space in the facility.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in one or more dwelling units being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of one or more dwelling units and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in-kind of a roof;~~

~~3. Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~

~~4. Is certified by the City Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, and (b) that all exterior treatment matches the existing building.~~

~~(Prior planning code § 4452)~~

**17.46.040 Required Design review process for Telecommunications Facilities.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

~~(Ord. 11904 § 5.60 (part), 1996; prior planning code § 4452.1)~~

**17.46.045 Design review for business, civic, and residential signs.**

~~No sign shall be constructed or established, or altered in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136. However, design review approval is not required for realty signs, development signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110(C), for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy. (Ord. 12606 Att. A (part), 2004)~~

**17.46.130 Maximum residential density.**

~~Residential uses shall be subject to the same maximum density and other, related regulations as are set forth in Section 17.28.120 for the R-70 zone. (Prior planning code § 4465)~~

**Chapter 17.48**

**C-31 SPECIAL RETAIL COMMERCIAL ZONE REGULATIONS**

**Sections:**

**17.48.020** ~~**Required dDesign review process, for construction or alteration.**~~

**17.48.130** **Maximum residential density.**

**17.48.020** ~~**Required dDesign review process, for construction or alteration.**~~

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No building, Sign, or other facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance unless plans for such proposal shall have been approved pursuant to the design review procedure in Chapter 17.136, or for signs pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136, or for Micro Telecommunications Facilities pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136. However, design review approval is not required for Realty Signs, Development Signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110C, for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy.~~

~~(Ord. 12606 Att. A (part), 2004; Ord. 11904 § 5.62 (part), 1996; prior planning code § 4477)~~

**17.48.130** **Maximum residential density.**

Residential uses shall be subject to the same maximum density and other, related regulations as are set forth in Section 17.28.120 for the R-70 zone. (Prior planning code § 4490)



Chapter 17.50

C-35 DISTRICT SHOPPING COMMERCIAL ZONE REGULATIONS

Sections:

- 17.50.010 Title, purpose, and applicability.
- ~~17.50.020 Special residential design review for projects with one or two units on a lot.~~
- ~~17.50.030 Design review for residential projects with three or more units on a lot.~~
- 17.50.040 Required Design review process for Telecommunications Facilities.
- ~~17.50.045 Design review for business, civic and residential signs.~~
- 17.50.140 Maximum residential density.

17.50.010 Title, purpose, and applicability.

The provisions of this chapter shall be known as the C-35 district shopping commercial zone regulations. The C-35 zone is intended to create, preserve, and enhance areas with a wide range of retail establishments serving both short and long term needs in compact locations oriented toward pedestrian comparison shopping, and is typically appropriate to commercial clusters ~~near~~ near intersections of major thoroughfares. These regulations shall apply in the C-35 zone. (Prior planning code § 4500)

~~17.50.020 Special residential design review for projects with one or two units on a lot.~~

~~A. General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. This requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in-kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in-kind of existing building components; or~~
- ~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building.~~

(Ord. 12376 § 4, 2001; prior planning code § 4501)

~~17.50.030 Design review for residential projects with three or more units on a lot.~~

~~A. General. If a project involves or results in three or more dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and upon determination that the proposal conforms to the Design Review Criteria for High Density Housing as adopted by the City Council. This requirement shall not apply to any facility containing both residential and nonresidential activities unless, the floor space devoted to residential activities constitutes seventy-five (75) percent of the total floor space in the facility.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in one or more dwelling units being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of one or more dwelling units and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in-kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in-kind of existing building components; or~~
- ~~4. Is certified by the City Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, and (b) that all exterior treatment matches the existing building.~~

~~(Prior planning code § 4502)~~

**17.50.040 Required Design review process for Telecommunications Facilities.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

~~(Ord. 11904 § 5.60 (part), 1996; prior planning code § 4502.1)~~

**17.50.045 Design review for business, civic, and residential signs.**

~~No sign shall be constructed or established, or altered in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136. However, design review approval is not required for realty signs, development signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110(C), for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy. (Ord. 12606 Att. A (part), 2004)~~

**17.50.140 Maximum residential density.**

~~Residential uses shall be subject to the same maximum density and other, related regulations as are set forth in Section 17.28.120 for the R-70 zone. (Prior planning code § 4515)~~

**Chapter 17.52**

**C-36 GATEWAY BOULEVARD SERVICE COMMERCIAL ZONE REGULATIONS**

**Sections:**

**17.52.040 ~~Required d~~Design review ~~process, for construction or alteration.~~**

**17.52.040 ~~Required d~~Design review ~~process, for construction or alteration.~~**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104. Findings for design review approval shall also be consistent with the Hegenberger Design Guidelines.~~

~~A. No building, Sign or other Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance unless plans for such proposal shall have been approved to the design review procedure in Chapter 17.136, or for signs pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136, or for Micro Telecommunications Facilities pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136. Findings for design review approval shall be consistent with the Hegenberger Design Guidelines.~~

~~B. Design review is not required for realty signs, development signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110C, for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy. (Ord. 12606 Att. A (part), 2004; Ord. 12076 § 3 (part), 1998; Ord. 11904 § 5.60 (part), 1996; prior planning code § 4527.1)~~

**Chapter 17.54**

**C-40 COMMUNITY THOROUGHFARE COMMERCIAL ZONE REGULATIONS**

**Sections:**

- ~~17.54.020 — Special residential design review for projects with one or two units on a lot.~~
- ~~17.54.025 — Design review for Automotive Servicing and Automotive Repair and Cleaning Commercial Activities.~~
- ~~17.54.030 — Design review for residential projects with three or more units on a lot.~~
- ~~17.54.040 — Required Design review process for Telecommunications Facilities.~~
- ~~17.54.045 — Design review for business, civic and residential signs.~~
- ~~17.54.110 — Limitations on Signs.~~
- ~~17.54.130 — Maximum residential density.~~

~~17.54.020 — Special residential design review for projects with one or two units on a lot.~~

~~A. — General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. This requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. — Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. — Does not require a building permit;~~
- ~~2. — Involves only the repair or replacement in-kind of a roof;~~
- ~~3. — Is certified by the City Planning Department to involve only replacement in-kind of existing building components; or~~
- ~~4. — Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building. (Ord. 12376 § 4, 2001; prior planning code § 4551)~~

~~17.54.025 — Design review for Automotive Servicing and Automotive Repair and Cleaning Commercial Activities.~~

~~No facility accommodating an Automotive Servicing or Automotive Repair and Cleaning Commercial Activity shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such a proposal shall have been approved pursuant to the design review procedure in Chapter 17.136. (Ord. 12240 § 3, 2000)~~

~~17.54.030 — Design review for residential projects with three or more units on a lot.~~

~~A. — General. If a project involves or results in three or more dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and upon determination that the proposal conforms to the design review criteria for high density housing as adopted by the City Council. This requirement shall not apply to any facility~~

~~containing both residential and nonresidential activities unless the floor space devoted to residential activities constitutes seventy five (75) percent of the total floor space in the facility.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in one or more dwelling units being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of one or more dwelling units and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~
- ~~4. Is certified by the City Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, and (b) that all exterior treatment matches the existing building. (Prior planning code § 4552)~~

**17.54.040 Required Design review process for Telecommunications Facilities.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Facility accommodating an Automotive Servicing or an Automotive Repair and Cleaning Commercial Activity, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

~~(Ord. 11904 § 5.60 (part), 1996; prior planning code § 4552.1)~~

**17.54.045 Design review for business, civic, and residential signs.**

~~No sign shall be constructed or established, or altered in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter~~

~~17.136. However, design review approval is not required for realty signs, development signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110(C), for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy. (Ord. 12606 Att. A (part), 2004)~~

**17.54.110 Limitations on Signs.**

~~A. General Limitations. All Signs shall be subject to the applicable limitations set forth in Section 17.104.020.~~

~~B. Restriction on Size of Individual Signs. No Sign, other than a Special Sign, shall have a display surface greater than seven hundred (700) square feet on any one face.~~

~~C. Restriction on Signs Above Roof Line. No Sign, other than a Special Sign, which is attached to a building shall be located or otherwise extend above the roof line or parapet wall thereof, except as follows:~~

- ~~1. Up to one half the area of display surface of any Business, Civic, or Residential Sign which is supported by the street wall may extend above the roof line or parapet wall, but not to a height greater than ten feet above the roof line or parapet wall or thirty five (35) feet above finished grade, whichever is lower.~~

~~2. A Business Sign serving Automotive Servicing Commercial Activities may extend above the canopy sheltering the gasoline pumps, but not to a height greater than thirty five (35) feet above finished grade.~~

~~3. Any Business, Civic, or Residential Sign may be located or otherwise extend above the roof line or parapet wall, and may exceed the limitations in subsections (C)(1) and (2) of this section, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that the Sign will be architecturally harmonious with the building and the immediate surroundings. However, such permit shall not authorize the Sign to extend above the roof line or top of the parapet wall by more than twenty five (25) percent of the height thereof, unless the overall height of the Sign above finished grade is not more than that allowed by subsection D of this section for freestanding Signs.~~

~~D. Maximum Height of Freestanding Signs. No Sign, other than a Special Sign, which is not attached to a building shall extend more than thirty five (35) feet above finished grade. However, said height may be increased to not to exceed forty five (45) feet for a Sign which identifies an integrated shopping center including at least five firms engaging in Commercial Activities, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that the Sign will be architecturally harmonious with the on-site and nearby facilities.~~

~~E. Prohibition of Pennants and Streamers. No Signs, other than Special Signs and Signs behind a display window, shall include any pennants, streamers, propellers, or similar devices. However, such devices may be displayed during openings and other special events, for not to exceed thirty (30) days in any one year period.~~

~~F. Special Limitations on Service Station Signs. The following limitations shall apply to all Business Signs serving Automotive Servicing Commercial Activities:~~

~~1. No single Sign shall have a display surface greater than one hundred twenty five (125) square feet on any one face.~~

~~2. Illumination, if any, of all such Signs shall be nonflashing. (Prior planning code § 4563)~~

**17.54.130 Maximum residential density.**

Residential uses shall be subject to the same maximum density and other, related regulations as are set forth in Section 17.28.120 for the R-70 zone. (Prior planning code § 4565)

## Chapter 17.56

## C-45 COMMUNITY SHOPPING COMMERCIAL REGULATIONS

## Sections:

~~17.56.020 — Special residential design review for projects with one or two units on a lot.~~

~~17.56.030 — Design review for residential projects with three or more units on a lot.~~

~~17.56.040 — Required Design review process for Telecommunications Facilities.~~

~~17.56.045 — Design review for business, civic and residential signs.~~

~~17.56.140 — Maximum residential density.~~

~~17.56.020 — Special residential design review for projects with one or two units on a lot.~~

~~A. General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. This requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~
- ~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building. (Ord. 12376 § 4, 2001; prior planning code § 4601)~~

~~17.56.030 — Design review for residential projects with three or more units on a lot.~~

~~A. General. If a project involves or results in three or more dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and upon determination that the proposal conforms to the design review criteria for high density housing as adopted by the City Council. This requirement shall not apply to any facility containing both residential and nonresidential activities unless, the floor space devoted to residential activities constitutes seventy five (75) percent of the total floor space in the facility.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in one or more dwelling units being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of one or more dwelling units and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~

~~4. Is certified by the City Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, and (b) that all exterior treatment matches the existing building. (Prior planning code § 4602)~~

**17.56.040 Required Design review process. for Telecommunications Facilities.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

~~(Ord. 11904 § 5.60 (part), 1996: prior planning code § 4602.1)~~

**17.56.045 Design review for business, civic, and residential signs.**

~~No sign shall be constructed or established, or altered in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136. However, design review approval is not required for realty signs, development signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110 (C), for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy. (Ord. 12606 Att. A (part), 2004)~~

**17.56.140 Maximum residential density.**

~~Residential uses shall be subject to the same maximum density and other related regulations as are set forth in Section 17.30.140 for the R-80 zone. (Prior planning code § 4615)~~



## Chapter 17.58

## C-51 CENTRAL BUSINESS SERVICE COMMERCIAL ZONE REGULATIONS

## Sections:

~~17.58.020 — Design review for residential projects with three or more units on a lot.~~

~~17.58.030 — Special residential design review for projects with one or two units on a lot.~~

~~17.58.040 — Required Design review process, for Telecommunications Facilities.~~

~~17.58.045 — Design review for business, civic and residential signs.~~

17.58.140 Maximum residential density.

~~17.58.020 — Design review for residential projects with three or more units on a lot.~~

~~—— A. — General. If a project involves or results in three or more dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and upon determination that the proposal conforms to the design review criteria for high density housing as adopted by the City Council. This requirement shall not apply to any facility containing both residential and nonresidential activities unless, the floor space devoted to residential activities constitutes seventy five (75) percent of the total floor space in the facility or to any facility.~~

~~—— B. — Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in one or more dwelling units being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of one or more dwelling units and if it:~~

- ~~—— 1. — Does not require a building permit;~~
- ~~—— 2. — Involves only the repair or replacement in kind of a roof;~~
- ~~—— 3. — Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~
- ~~—— 4. — Is certified by the City Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, and (b) that all exterior treatment matches the existing building. (Prior planning code § 4826)~~

~~17.58.030 — Special residential design review for projects with one or two units on a lot.~~

~~—— A. — General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. This requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~—— B. — Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~—— 1. — Does not require a building permit;~~
- ~~—— 2. — Involves only the repair or replacement in kind of a roof;~~
- ~~—— 3. — Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~

~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building. (Ord. 12376 § 4, 2001; prior planning code § 4827)~~

**17.58.040 Required Design review process for Telecommunications Facilities.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

~~(Ord. 11904 § 5.60 (part), 1996; prior planning code § 4827.1)~~

**17.58.045 Design review for business, civic, and residential signs.**

~~No sign shall be constructed or established, or altered in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136. However, design review approval is not required for realty signs, development signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110(C), for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy. (Ord. 12606 Att. A (part), 2004)~~

**17.58.140 Maximum residential density.**

~~Residential uses shall be subject to the same maximum density and other, related regulations as are set forth in Section 17.32.140 for the R-90 zone.~~

~~(Prior planning code § 4840)~~

**Chapter 17.60**

**C-52 OLD OAKLAND COMMERCIAL ZONE REGULATIONS**

**Sections:**

~~17.60.020 — Special residential design review for projects with one or two units on a lot.~~

~~17.60.030 — Design review for residential projects with three or more units on a lot.~~

~~17.60.040 — Required Design review process for Telecommunications Facilities.~~

~~17.60.045 — Design review for business, civic and residential signs.~~

~~17.60.140 — Maximum residential density.~~

~~17.60.020 — Special residential design review for projects with one or two units on a lot.~~

~~—— A. —— General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. This requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~—— B. —— Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~—— 1. —— Does not require a building permit;~~
- ~~—— 2. —— Involves only the repair or replacement in-kind of a roof;~~
- ~~—— 3. —— Is certified by the City Planning Department to involve only replacement in-kind of existing building components; or~~
- ~~—— 4. —— Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building. (Ord. 12376 § 4, 2001; prior planning code § 4851)~~

~~17.60.030 — Design review for residential projects with three or more units on a lot.~~

~~—— A. —— General. If a project involves or results in three or more dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and upon determination that the proposal conforms to the design review criteria for high density housing as adopted by the City Council. This requirement shall not apply to any facility containing both residential and nonresidential activities unless, the floor space devoted to residential activities constitutes seventy-five (75) percent of the total floor space in the facility.~~

~~—— B. —— Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in one or more dwelling units being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of one or more dwelling units and if it:~~

- ~~—— 1. —— Does not require a building permit;~~
- ~~—— 2. —— Involves only the repair or replacement in-kind of a roof;~~
- ~~—— 3. —— Is certified by the City Planning Department to involve only replacement in-kind of existing building components; or~~

~~4. Is certified by the City Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, and (b) that all exterior treatment matches the existing building. (Prior planning code § 4852)~~

**17.60.040 Required Design review process for Telecommunications Facilities.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

~~(Ord. 11904 § 5.60 (part), 1996: prior planning code § 4852.1)~~

**17.60.045 Design review for business, civic, and residential signs.**

~~No sign shall be constructed or established, or altered in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136. However, design review approval is not required for realty signs, development signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110(C), for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy. (Ord. 12606 Att. A (part), 2004)~~

**17.60.140 Maximum residential density.**

~~Residential uses shall be subject to the same maximum density and other, related regulations as are set forth in Section 17.30.140 for the R-80 zone. (Prior planning code § 4865)~~

## Chapter 17.62

## C-55 CENTRAL CORE COMMERCIAL ZONE REGULATIONS

## Sections:

~~17.62.020 — Design review for residential projects with three or more units on a lot.~~

~~17.62.030 — Special residential design review for projects with one or two units on a lot.~~

~~17.62.040 — Required Design review process for Telecommunications Facilities.~~

~~17.62.045 — Design review for business, civic and residential signs.~~

~~17.62.120 — Limitations on Signs.~~

~~17.62.140 — Maximum residential density.~~

~~17.62.020 — Design review for residential projects with three or more units on a lot.~~

~~A. — General. If a project involves or results in three or more dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and upon determination that the proposal conforms to the design review criteria for high density housing as adopted by the City Council. This requirement shall not apply to any facility containing both residential and nonresidential activities unless, the floor space devoted to residential activities constitutes seventy five (75) percent of the total floor space in the facility.~~

~~B. — Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in one or more dwelling units being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of one or more dwelling units and if it:~~

- ~~1. — Does not require a building permit;~~
- ~~2. — Involves only the repair or replacement in-kind of a roof;~~
- ~~3. — Is certified by the City Planning Department to involve only replacement in-kind of existing building components; or~~
- ~~4. — Is certified by the City Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, and (b) that all exterior treatment matches the existing building. (Prior planning code § 4876)~~

~~17.62.030 — Special residential design review for projects with one or two units on a lot.~~

~~A. — General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. This requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. — Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. — Does not require a building permit;~~
- ~~2. — Involves only the repair or replacement in-kind of a roof;~~

~~3. Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~

~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building. (Ord. 12376 § 4, 2001; prior planning code § 4877)~~

**17.62.040 Required Design review process for Telecommunications Facilities.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

~~(Ord. 11904 § 5.60 (part), 1996; prior planning code § 4877.1)~~

**17.62.045 Design review for business, civic, and residential signs.**

~~No sign shall be constructed or established, or altered in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136. However, design review approval is not required for realty signs, development signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110(C), for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy. (Ord. 12606 Att. A (part), 2004)~~

**17.62.120 Limitations on Signs.**

A. General Limitations. All Signs shall be subject to the applicable limitations set forth in Section 17.104.020.

~~B. Prohibition of Signs Above Roof Line. No Sign, other than a Special Sign, which is attached to a building shall extend above the roof or parapet wall thereof.~~

~~C. Maximum Height of Freestanding Signs. No Sign, other than a Special Sign, which is not attached to a building shall extend more than twenty four (24) feet above finished grade.~~

~~(Prior planning code § 4888)~~

**17.62.140 Maximum residential density.**

Residential uses shall be subject to the same maximum density and other, related regulations as are set forth in Section 17.32.140 for the R-90 zone.

(Prior planning code § 4890)

Chapter 17.64

C-60 CITY SERVICE COMMERCIAL ZONE REGULATIONS

Sections:

~~17.64.020 Required Design review process for Telecommunications Facilities.~~

~~17.64.025 Design review for Automotive Servicing and Automotive Repair and Cleaning Commercial Activities.~~

~~17.64.027 Design review for business, civic and residential signs.~~

**17.64.020 Required Design review process for Telecommunications Facilities.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Facility accommodating an Automotive Servicing or an Automotive Repair and Cleaning Commercial Activity, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

~~(Ord. 11904 § 5.60 (part), 1996; prior planning code § 4902)~~

~~17.64.025 Design review for Automotive Servicing and Automotive Repair and Cleaning Commercial Activities.~~

~~No facility accommodating an Automotive Servicing or Automotive Repair and Cleaning Commercial Activity shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such a proposal shall have been approved pursuant to the design review procedure in Chapter 17.136. (Ord. 12240 § 4, 2000)~~

~~17.64.027 Design review for business, civic, and residential signs.~~

~~No sign shall be constructed or established, or altered in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136. However, design review approval is not required for realty signs, development signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110(C), for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy. (Ord. 12606 Att. A (part), 2004)~~

**Chapter 17.65**

**HBX HOUSING AND BUSINESS MIX (HBX)-COMMERCIAL ZONES REGULATIONS**

**Sections:**

- 17.65.020 Required design review process.**
- 17.65.030 Permitted and conditionally permitted activities.**
- 17.65.110 Different maximum floor area ratio and height regulations in special situations.**
- 17.65.140 Landscaping, paving, and buffering.**
- 17.65.160 Special Regulations for HBX Work/Live Facility Type.**
- 17.65.170 Special Regulations for HBX Live/Work Facility.**

**17.65.020 Required design review process.**

~~A. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~BA. Conformance to the “HBX Design Guideline Manual” is required for any change to the exterior of a building that requires a building permit in the HBX-1, HBX-2, and HBX-3 zones.~~

~~CB. Where there is a conflict between the design review criteria contained in Section 17.136.070 and the design objectives contained in the “HBX Design Guideline Manual” the design objectives in the “HBX Design Guideline Manual” shall prevail.~~

~~C. Approval pursuant to the design review procedure (see Chapter 17.136) is required for:~~

~~1. An over eight (8) foot increase in the height of a building, not including allowed projections above the height limits listed in 17.108.030;~~

~~2. Any new construction of a principal facility;~~

~~3. The creation of any HBX work/live unit or HBX live/work unit (see Sections 17.65.160 and 17.65.170). This requirement shall apply for both 1) conversions of existing facilities to contain either of these units and 2) the new construction of buildings that contain either of these units;~~

~~4. A 20 percent or 10,000 square foot increase, whichever is less, in the footprint or square footage of a building;~~

~~C. No Signs or Micro Telecommunications Facilities shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance unless;~~

~~1. Plans for such a proposal have been approved pursuant to the design review procedure in Chapter 17.136;~~

~~2. Plans for any Micro Telecommunications Facility have been approved pursuant to the telecommunications regulations in Chapter 17.128; and~~

~~3. Plans for any Sign have been approved pursuant to the sign regulations in Chapter 17.104. However, design review approval is not required for Realty Signs, Development Signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Subsection 17.114.110C, for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy.~~

**17.65.030 Permitted and conditionally permitted activities.**

The following table lists the permitted, conditionally permitted, and prohibited activities in the HBX-1, HBX-2, and HBX-3 zones. The descriptions of these activities are contained in Chapter 17.10. A legally constructed facility shall be allowed to contain or be converted to contain any activities listed as permitted in the table below if they meet all applicable regulations.

“P” designates permitted activities in the corresponding zone.



**EXHIBIT A**

“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 uses that are prohibited in the corresponding zone.

Activity	Regulations			Additional Regulations
	HBX-1	HBX-2	HBX-3	
<b>Residential Activities</b>				
Permanent Residential	P	P	P	
Residential Care occupying a One-Family Dwelling Residential Facility	P	P	P	17.102.212
Residential Care not occupying a One-Family Dwelling Residential Facility	C	C	C	17.102.212
Service-Enriched Permanent Housing	C	C	C	17.102.212
Transitional Housing	C	C	C	17.102.212
Emergency Shelter	C	C	C	17.102.212
Semi-Transient Residential	C	C	C	17.102.212
<b>Civic Activities</b>				
Essential Service	C	C	C	
Limited Child-Care	P	P	P	
Community Assembly	P(L1)	P(L1)	P(L1)	
Community Education	C	C	C	
Nonassembly Cultural	P(L2)	P(L2)	P(L2)	
Administrative	P(L2)	P(L2)	P(L2)	
Health Care	C	C	C	
Special Health Care	C	C	C	17.102.410
Utility and Vehicular	C	C	C	
Extensive Impact	C	C	C	
Telecommunications	PG	PG	PG	17.128
<b>Commercial Activities</b>				
General Food Sales	P(L3)	P(L3)	P(L3)	
Convenience Market	C	C	C	17.102.210
Fast-Food Restaurant	--	--	--	
Alcoholic Beverage Sales	C	C	C	17.102.210
Convenience Sales and Service	P	P	P	
Mechanical or Electronic Games	C	C	C	17.102.210
Medical Service	P(L2)	P(L2)	P(L2)	
General Retail Sales	P	P	P	
Large-Scale Combined Retail and Grocery Sales	--	--	--	
General Personal Service	P	P	P	
Consultative and Financial Service	P(L2)	P(L2)	P(L2)	
Check Cashier and Check Cashing	--	--	--	
Consumer Laundry and Repair Service	C	C	C	
Group Assembly	C	C	C	
Administrative	P(L2)	P(L2)	P(L2)	
Business and Communication Service	P	P	P	
Retail Business Supply	P	P	P	
Research Service	P(L2)(L4)	P(L2)(L4)	P(L2)(L4)	
General Wholesale Sales	P(L2)	P(L2)	P(L2)	
Transient Habitation	--	--	--	17.102.370
Construction Sales and Service	P(L5)	P(L5)	P(L5)	
Automotive Sales, Rental, and Delivery	--	--	--	
Automotive Servicing	--(L6)	--	--	
Automotive Repair and Cleaning	--(L6)	--	--	
Automotive Fee Parking	--	--	--	
Transport and Warehousing	P(L7)	P(L7)	P(L7)	

**EXHIBIT A**

Activity	Regulations			Additional Regulations
	HBX-1	HBX-2	HBX-3	
Animal Care	C(L8)	C(L8)	C(L8)	
Undertaking Service	--	--	--	
Scrap Operation	--	--	--	17.102.210
<b>Manufacturing activities</b>				
Custom Manufacturing	P(L2)	P(L2)	P(L2)	17.120
Light Manufacturing	P(L2)(L4)	P(L2)(L4)	P(L2)(L4)	17.120
General Manufacturing	--	--	--	
Heavy Manufacturing	--	--	--	
Small Scale Transfer and Storage Hazardous Waste Management	--	--	--	
Industrial Transfer/Storage Hazardous Waste Management	--	--	--	
Residuals Repositories Hazardous Waste Management	--	--	--	
<b>Agricultural and Extractive activities</b>				
Plant Nursery	C	C	C	
Crop and Animal raising	--	--	--	
Mining and Quarrying Extractive	--	--	--	
<del>Accessory off-street parking serving prohibited activities</del>	C	C	C	17.102.110

**Limitations:**

- L1- The total floor area devoted to these activities by a single establishment shall only exceed ten thousand (10,000) square feet upon the granting of a conditional use permit (see Chapter 17.134).
- L2- The total floor area devoted to these activities by a single establishment shall only exceed twenty-five thousand (25,000) square feet upon the granting of a conditional use permit (see Chapter 17.134).
- L3- The total floor area devoted to a grocery store shall only exceed twenty-five thousand (25,000) square feet upon the granting of a conditional use permit (see Chapter 17.134). The total floor area devoted to a restaurant shall only exceed three thousand (3,000) square feet upon the granting of a conditional use permit (see Chapter 17.134).
- L4- Not including accessory activities, this activity shall take place entirely within an enclosed building. Other outdoor activities shall only be permitted upon the granting of a conditional use permit (see Chapter 17.134).
- L5- This activity shall be only permitted upon the granting of a conditional use permit (see Chapter 17.134) if it is the principal activity on a lot that is 25,000 square feet or larger or covers 25,000 square feet or more of lot area.
- L6- Except on Lowell Street, a nonconforming Automotive Servicing or Automotive Repair and Cleaning Commercial Activity in the HBX-1 zone may be extended, and the facilities accommodating or serving such activity may be altered or otherwise changed upon the granting of a conditional use permit (see Chapter 17.134) and approval pursuant to the regular design review procedure (see Chapter 17.136). This conditional use permit and regular design review approval may be granted only upon determination that the proposal is adequately buffered from the street and surrounding residential activities through landscaping and fencing. See 17.114 for general regulations regarding nonconforming uses.
- L7- Warehousing is permitted if the total floor area by a single establishment does not exceed twenty-five thousand (25,000) square feet. Floor areas over twenty-five thousand (25,000) square feet are only permitted upon the granting of a conditional use permit (see Chapter 17.134). Outdoor storage as a principal activity is only permitted upon the granting of a conditional use permit (see Chapter 17.134). Container storage, oil and gas storage, freight terminals, corporation yards, truck terminals, and truck services as primary activities are not permitted. Also, see Section 17.65.050 for special regulations regarding self storage establishments.
- L8- Dog or cat kennels are not permitted.

**17.65.110 Different maximum floor area ratio and height regulations in special situations.**

- A. Structures in the following locations may be constructed to a maximum height of 85 feet:
  - 1. Anywhere on a lot that both: a) abuts a street right of way that is wider than 80 feet; wide or more and b) is 25,000 square feet or more; or
  - 2. On lots adjacent to, or directly across the street from, a freeway right of way. On these lots, only the 125 feet of the lot closest to the freeway are eligible for the 85 foot maximum height.
- B. For lots eligible for additional height under location 2. in subsection A, above, any floor area above the generally prescribed maximum height listed in Section 17.65.100 shall not be counted towards the maximum floor area ratio for all structures listed in Subsection 17.65.080A. However, any

nonresidential floor area shall be counted towards the maximum nonresidential floor area ratio listed in Subsection 17.65.080B.

C. Any structure greater than the maximum FAR and height listed in Section 17.65.080 and Section 17.65.100, respectively, is permitted only upon approval pursuant to the regular design review procedure (see Chapter 17.136) and in conformance with ~~to~~ the “Design Guidelines for the HBX zones” as a whole. In particular, the project shall conform to Guideline 4.6 of that document.

**17.65.140 Landscaping, paving, and buffering.**

A. Submittal and approval of a landscaping and buffering plan for the entire site is required for the establishment of a new building facility, excluding secondary units of five hundred (500) square feet or less, and for additions to existing building facilities of over five hundred (500) square feet. A landscaping and buffering plan shall be submitted for every project that requires approval pursuant to the design review procedure. The landscaping and buffering plan shall contain the following:

1. Landscaping and buffering that is consistent with the “Design Guidelines for the HBX Zones” as adopted by the City Council;
2. An automatic system of irrigation for all landscaping shown in the plan;
3. A minimum of one fifteen-gallon tree, or substantially equivalent landscaping as approved by the Director of City Planning, for every twenty (20) feet of street frontage or portion thereof. On streets with sidewalks where the distance from the face of the curb to the outer edge of the sidewalk is at least six and one-half feet, the trees shall be street trees to the satisfaction of the City’s Tree Division.
4. At least one fifteen (15) gallon tree in the parking lot for every six parking spaces for projects that involve new or existing parking lots of 3,000 square feet or greater.
5. At least five feet of distance from the parking lot to the front and street side property lines shall be required for parking lots of 3,000 square feet or greater. Where parking stalls face into this required area, the width of the required area shall be increased by two feet unless wheel stops are installed.

**17.65.160 Special Regulations for HBX Work/Live Facilities.**

A. Regulations in this section do not supercede regulations contained in Section ~~17.102.190~~ 17.102.195 relating to the conversion of buildings originally designed for commercial or industrial activities into joint living and working quarters.

B. Activity, parking, loading, open space, and unit size standards. The following table contains the activities allowed in an HBX work/live unit; the minimum size of an HBX work/live unit; and the parking, loading, and open space required for each HBX work/live unit:

Standard	Requirement	Note	
Activities allowed in an HBX work/live unit	Same permitted and conditionally permitted activities as described in Section 17.65.030 and any activity that would qualify as a home occupation in a residential facility (see Chapter 17.112).		
Required parking	One parking space per unit plus one additional unassigned visitor or employee parking space per five HBX work/live units.	1	
Required loading	<b>Square feet of facility</b>	2	
	Less than 25,000 sf		No berth required
	25,000--69,999 sf		One berth
	70,000—130,000 sf		Two berths
	Each additional 200,000 sf	One additional berth	
Required usable open space	75 square feet of usable open space per unit	3	
Minimum size of unit	1,000 square feet	4	

**Notes:**

1. See Chapter 17.116 for other off-street parking standards.
2. Chapter 17.116 contains other off-street loading standards. However, the minimum height or length of a required berth listed in Chapter 17.116 may be reduced upon the granting of regular design review approval (see Chapter 17.136), and

upon determination that such smaller dimensions are ample for the size and type of trucks or goods that will be foreseeably involved in the loading operations of the activity served. This regular design review requirement shall supersede the requirement for a conditional use permit stated in Section 17.116.220.

3. All required usable open space shall meet the usable open standards contained in Chapter 17.126, except that all usable open space for HBX work/live units may be provided above ground. Further, each square foot of private usable open space equals two square feet towards the total usable open space requirement.
4. See subsection P for exceptions to this requirement.

P. Regular Design Review Criteria. Regular Design review approval for HBX Work/Live Facilities may be granted only upon determination that the proposal conforms to the regular design review criteria set forth in the design review procedure in Chapter 17.136 and to all of the following additional criteria:

1. That the exterior of a new building containing primarily HBX work/live units has a commercial or industrial appearance. This includes, but is not necessarily limited to, the use of nonresidential building styles or other techniques;:-
2. That, ~~whenever feasible,~~ a building containing HBX work/live units has nonresidential activities and nonresidential floor area on the ground floor and at street fronting elevations;:-
3. That units on the ground floor of a building have nonresidential floor area that is directly accessible from and oriented towards the street;:-
4. That units on the ground floor of a building have a business presence on the street. This includes, but is not necessarily limited to, providing storefront style windows, interior space visible to the street, a business door that is oriented towards the street, a sign or other means that identifies the business on the door and elsewhere, a prominent ground floor height, or other techniques;:-
5. That the layout of nonresidential floor areas within a unit provides a functional and bona fide open area for working activities;:-
6. That the floor and site plan for the project include an adequate provision for the delivery of items required for a variety of businesses. This may include, but is not necessarily limited to, the following:
  - a. Service elevators designed to carry and move oversized items;
  - b. Stairwells wide and/or straight enough to deliver large items;
  - c. Loading areas located near stairs and/or elevators; and
  - d. Wide corridors for the movement of oversized items.
7. That the floor and site plan for the project provide units that are easily identified as businesses and conveniently accessible by clients, employees, and other business visitors.

**17.65.170 Special Regulations for HBX Live/Work Facility.**

A. Regulations in this section do not supersede regulations contained in Section 17.102.190 relating to the conversion of buildings originally designed for commercial or industrial activities into joint living and working quarters.

B. Activity, parking, loading, open space, and unit size standards. The following table contains the activities allowed in an HBX live/work unit; the minimum size of an HBX live/work unit; and the parking, loading, and open space required for each HBX live/work unit:

Standard	Requirement	Note	
Activities allowed in an HBX live/work unit	Same permitted and conditionally permitted activities as described in Section 17.65.030 and any activity that would qualify as a home occupation in a residential facility (see Chapter 17.112).		
Required parking	One parking space per unit.	1	
Required Loading	<b>Square feet of facility</b>	2	
	Less than 50,000 sf		No berth required
	50,000--149,999 sf		One berth
	150,000—299,999 sf	Two berths	

Standard	Requirement		Note
	Each additional 300,000 sf	One additional berth	
Permitted Density	Same as Section 17.65.070		
Required usable open space	Same as Section 17.65.130		

**Notes:**

1. See Chapter 17.116 for other off-street parking requirements.
2. Chapter 17.116 contains other off-street loading requirements. However, the minimum height or length of a required berth listed in Chapter 17.116 may be reduced upon the granting of regular design review approval (see Chapter 17.136), and upon determination that such smaller dimensions are ample for the size and type of trucks or goods that will be foreseeably involved in the loading operations of the activity served. This design review requirement shall supersede the requirement for a conditional use permit stated in Section 17.116.220.

H. Regular Design Review Criteria. Regular Design review approval for HBX live/work units may be granted only upon determination that the proposal conforms to the regular design review criteria set forth in the design review procedure in Chapter 17.136 and to all of the following additional criteria:

1. That the layout of nonresidential floor areas within a unit provides a functional and bona fide open area for working activities;
2. That, where appropriate for the type of businesses anticipated in the development, the floor and site plan for the project include an adequate provision for the delivery of items required for a variety of businesses. This may include, but is not necessarily limited to, the following:
  - a. Service elevators designed to carry and move oversized items;
  - b. Stairwells wide and/or straight enough to deliver large items;
  - c. Loading areas located near stairs and/or elevators; and
  - d. Wide corridors for the movement of oversized items.

**Chapter 17.66**

**M-10 SPECIAL INDUSTRIAL ZONE REGULATIONS**

**Sections:**

**17.66.020** ~~Required dDesign review process. for Telecommunications Facilities.~~

**17.66.025** ~~Design review for business, civic and residential signs.~~

**17.66.020** ~~Required dDesign review process. for Telecommunications Facilities.~~

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Macro Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136. (Ord. 11904 § 5.73 (part), 1996; prior planning code § 5402)~~

**17.66.025** ~~Design review for business, civic, and residential signs.~~

~~No sign shall be constructed or established, or altered in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136. However, design review approval is not required for realty signs, development signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110(C), for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy. (Ord. 12606 Att. A (part), 2004)~~

**Chapter 17.68**

**M-20 LIGHT INDUSTRIAL ZONE REGULATIONS**

**Sections:**

**17.68.020** ~~Required~~ **Design review process for Telecommunications Facilities.**

**17.68.025** ~~Design review for business, civic and residential signs.~~

**17.68.020** ~~Required~~ **Design review process for Telecommunications Facilities.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Macro Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136. (Ord. 11904 § 5.73 (part), 1996; prior planning code § 5602)~~

**17.68.025** ~~Design review for business, civic, and residential signs.~~

~~No sign shall be constructed or established, or altered in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136. However, design review approval is not required for realty signs, development signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110(C), for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy. (Ord. 12606 Att. A (part), 2004)~~

Chapter 17.70

M-30 GENERAL INDUSTRIAL ZONE REGULATIONS

Sections:

17.70.020 ~~Required~~ Design review process for Telecommunications Facilities.

17.70.025 ~~Design review for civic, business and residential signs.~~

17.70.030 Permitted activities.

17.70.020 ~~Required~~ Design review process for Telecommunications Facilities.

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Macro, Monopole or Tower Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunication regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

(Ord. 11904 §§ 5.73 (part), 5.74 (part), 1996: prior planning code § 5702)

17.70.025 ~~Design review for business, civic, and residential signs.~~

~~No sign shall be constructed or established, or altered in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136. However, design review approval is not required for realty signs, development signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110(C), for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy. (Ord. 12606 Att. A (part), 2004)~~

17.70.030 Permitted activities.

The following activities, as described in the use classifications in Chapter 17.10, are permitted:

A. Civic Activities:

- Essential Service
- Limited Child-Care
- Nonassembly Cultural
- Administrative
- Utility and Vehicular, but excluding communications equipment installation and exchanges
- Telecommunications

B. Commercial Activities:

- General Food Sales
- Convenience Market
- Convenience Sales and Service
- Mechanical or Electronic Games, subject to the provisions of Section 17.102.210C
- Medical Service
- General Retail Sales
- General Personal Service
- Consultative and Financial Service



Administrative  
Business and Communication Service  
Retail Business Supply  
Research Service  
General Wholesale Sales  
Construction Sales and Service  
Automotive Servicing, except as provided in Section 17.102.380370.  
Automotive Repair and Cleaning, except as provided in Section 17.102.380370.  
Automotive Fee Parking, except as provided in Section 17.102.380370.  
Transport and Warehousing, except as provided in Section 17.102.210EF  
and subject to provisions in Section 17.102.380370.

C. Manufacturing Activities:

Custom  
Light  
General, except electroplating activities

D. Agricultural and Extractive Activities:

Plant Nursery  
Crop and Animal Raising

E. Off-street parking serving activities other than those listed above, subject to the conditions set forth in Section 17.102.100.

(Ord. 12289 § 4 (part), 2000; Ord. 12147 § 3 (part), 1999; Ord. 11956 § 5, 1996; Ord. 11904 § 5.65 (part), 1996; prior planning code § 5703)

**Chapter 17.72**

**M-40 HEAVY INDUSTRIAL ZONE REGULATIONS**

**Sections:**

**17.72.020** ~~Required d~~**Design review process for Telecommunications Facilities.**

~~17.72.025~~ **Design review for civic, business and residential signs.**

**17.72.020** ~~Required d~~**Design review process for Telecommunications Facilities.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Macro, Monopole or Tower Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunication regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

(Ord. 11904 §§ 5.73 (part), 5.74 (part), 1996: prior planning code § 5802)

~~17.72.025~~ **Design review for business, civic, and residential signs.**

~~No sign shall be constructed or established, or altered in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136. However, design review approval is not required for realty signs, development signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110(C), for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy. (Ord. 12606 Att. A (part), 2004)~~

Chapter 17.74

S-1 MEDICAL CENTER ZONE REGULATIONS

Sections:

17.74.020 ~~Required Design review process for construction or alteration.~~

17.74.120 Maximum residential density.

17.74.020 ~~Required Design review process for construction or alteration.~~

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No building, Sign, or other facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance unless plans for such proposal shall have been approved pursuant to the design review procedure in Chapter 17.136, or for signs pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136, or for Micro Telecommunications Facilities pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136. However, design review approval is not required for realty signs, development signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110 (C) for mere changes of copy, including outouts, on signs the customary use of which involves periodic changes of copy.~~

~~(Ord. 12606 Att. A (part), 2004; Ord. 11904 § 5.63 (part), 1996; prior planning code § 6102)~~

17.74.120 Maximum residential density.

Residential uses shall be subject to the same maximum density and other related regulations as are set forth in Section 17.30.140 for the R-80 zone. (Prior planning code § 6115)

**Chapter 17.76**

**S-2 CIVIC CENTER ZONE REGULATIONS**

**Sections:**

~~17.76.020 — Special residential design review for projects with one or two units on a lot.~~

~~17.76.030 — Design review for residential projects with three or more units on a lot.~~

~~17.76.040 — Required design review process for Telecommunications Facilities.~~

~~17.76.045 — Design review for business, civic and residential signs.~~

~~17.76.140 — Maximum residential density.~~

~~17.76.020 — Special residential design review for projects with one or two units on a lot.~~

~~A. General. If a project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. This requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to any facility in the S-18 mediated residential design review combining zone, except as set forth in the S-18 zone.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in a dwelling unit being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of a dwelling unit and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in-kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in-kind of existing building components; or~~
- ~~4. Is certified by the Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, (b) that all exterior treatment matches the existing building. (Ord. 12376 § 4, 2001; prior planning code § 6151)~~

~~17.76.030 — Design review for residential projects with three or more units on a lot.~~

~~A. General. If a project involves or results in three or more dwelling units on a lot, no Residential Facility shall be constructed or established, or altered as set forth in subsection B of this section, unless plans for the proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and upon determination that the proposal conforms to the design review criteria for high density housing as adopted by the City Council. This requirement shall not apply to any facility containing both residential and nonresidential activities unless, the floor space devoted to residential activities constitutes seventy-five (75) percent of the total floor space in the facility.~~

~~B. Criteria for Altered Residential Facilities. Proposals to alter Residential Facilities shall be subject to the requirements set forth in subsection A of this section, if such alterations result in one or more dwelling units being added to an existing Residential Facility or if they involve changes that affect exterior appearance. A proposal will be exempt from this requirement if it does not involve the addition of one or more dwelling units and if it:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in-kind of a roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in-kind of existing building components; or~~

~~4. Is certified by the City Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent, and (b) that all exterior treatment matches the existing building. (Prior planning code § 6152)~~

**17.76.040 Required Design review process for Telecommunications Facilities.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No Micro, or Mini Telecommunications Facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136.~~

~~(Ord. 11904 § 5.60 (part), 1996; prior planning code § 6152.1)~~

**17.76.045 Design review for business, civic, and residential signs.**

~~No sign shall be constructed or established, or altered in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136. However, design review approval is not required for realty signs, development signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110(C), for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy. (Ord. 12606 Att. A (part), 2004)~~

**17.76.140 Maximum residential density.**

~~Residential uses shall be subject to the same maximum density and other related regulations as are set forth in Section 17.30.140 for the R-80 zone. (Prior planning code § 6165)~~

**Chapter 17.78**

**S-3 RESEARCH CENTER ZONE REGULATIONS**

**Sections:**

**17.78.020** ~~**Required Design review process for construction or alteration.**~~

**17.78.020** ~~**Required Design review process for construction or alteration.**~~

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No building, Sign, or other facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance unless plans for such proposal shall have been approved pursuant to the design review procedure in Chapter 17.136, or for signs pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136, or for Micro Telecommunications Facilities pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136. However, design review approval is not required for realty signs, development signs, holiday decorations and displays behind a display window, and it is not required, except as otherwise provided in Section 17.114.110(C), for mere changes of copy, including outouts, on signs the customary use of which involves periodic changes of copy.~~

~~(Ord. 12606 Att. A (part), 2004; Ord. 11904 § 5.63 (part), 1996; prior planning code § 6202)~~

**Chapter 17.80**

**S-4 DESIGN REVIEW COMBINING ZONE REGULATIONS**

**Sections:**

**17.80.030** ~~Required dDesign review process for construction or alteration.~~

**17.80.040** ~~Special residential design review for Secondary Units.~~

**17.80.030** ~~Required dDesign review process for construction or alteration.~~

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure in the S-4 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~In the S-4 zone no building, Sign, other than a new Secondary Unit, or other facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the design review procedure in Chapter 17.136.~~

~~(Ord. 12501 § 58, 2003: prior planning code § 6252)~~

**17.80.040** ~~Special residential design review for Secondary Units.~~

~~No Secondary Unit shall be constructed or established unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146.~~

~~(Ord. 12501 § 59, 2003)~~

Chapter 17.84

S-7 PRESERVATION COMBINING ZONE REGULATIONS

Sections:

- 17.84.030 ~~Required dDesign review process. for construction, alteration, demolition, or removal.~~
- 17.84.035 ~~Special residential design review for Secondary Units.~~
- 17.84.040 Design review criteria for construction or alteration.
- 17.84.050 Design review criteria for demolition or removal.
- 17.84.060 Postponement of demolition or removal.

17.84.010 Title, purpose, and applicability.

The provisions of this chapter shall be known as the S-7 preservation combining zone regulations. The S-7 zone is intended to preserve and enhance the cultural, educational, aesthetic, environmental, and economic value of structures, other physical facilities, sites, and areas of special importance due to historical association, basic architectural merit, the embodiment of a style or special type of construction, or other special character, interest, or value, and is typically appropriate to selected older locations in the city. These regulations shall apply in the S-7 zone, and are supplementary to the provisions of Section ~~17.136.070~~ ~~17.102.030~~ and to the other regulations applying in the zones with which the S-7 zone is combined. (Prior planning code § 6400)

17.84.030 ~~Required dDesign review process. for construction, alteration, demolition, or removal.~~

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 additional provisions in Sections 17.84.040, 17.84.050, and 17.84.060; the Telecommunications regulations in Chapter 17.128; or the Sign regulations in Chapter 17.104.~~

~~In the S-7 zone no building, Sign, or other facility other than a new Secondary Unit shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, and no structure or portion thereof shall be demolished or removed, unless such proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and the applicable provisions of Sections 17.84.040, 17.84.050, and 17.84.060.~~

C. ~~However, as an exception to subsection A above and after notice to the Director of City Planning, demolition or removal of a structure or portion thereof shall be permitted without such approval upon a determination by the Inspectional Building Services Department, the Housing Conservation Division, their respective appeals boards, or the City Council that immediate demolition is necessary to protect the public health or safety, or after expiration of the periods of postponement referred to in Section 17.84.060. Whenever it is proposed that demolition or removal be followed within a reasonable period of time by new construction, review of the new construction shall take place in conjunction with review of the demolition or removal.~~

(Ord. 12501 § 60, 2003; prior planning code § 6402)

17.84.035 ~~Special residential design review for Secondary Units.~~

~~No Secondary Unit shall be constructed or established unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. (Ord. 12501 § 61, 2003)~~



**17.84.040 Design review criteria for construction or alteration.**

In the S-7 zone, proposals requiring regular design review approval pursuant to Section 17.84.030 for construction, establishment, alteration, or painting of a facility may be granted only upon determination that the proposal conforms to the regular general design review criteria set forth in the design review procedure in Chapter 17.136 and to all of the following additional design review criteria:

A. That the proposal will not substantially impair the visual, architectural, or historic value of the affected site or facility. Consideration shall be given to design, form, scale, color, materials, texture, lighting, detailing and ornamentation, landscaping, Signs, and any other relevant design element or effect, and, where applicable, the relation of the above to the original design of the affected facility.

B. That the proposed development will not substantially impair the visual, architectural, or historic value of the total setting or character of the surrounding area or of neighboring facilities. Consideration shall be given to integration with, and subordination to, the desired overall character of any such area or grouping of facilities. All design elements or effects specified in subsection A of this section shall be so considered.

C. That the proposal conforms with the Design Guidelines for Landmarks and Preservation Districts as adopted by the City Planning Commission and, as applicable for certain federally related projects, with the Secretary of the Interior's Standards for the Treatment of Historic Properties. (Ordinance 12513 Attach. A (part), 2003: Prior planning code § 6403)

**17.84.050 Design review criteria for demolition or removal.**

In the S-7 zone, Design review approval, pursuant to Section 17.84.030, no for demolition or removal of a structure or portion thereof may be granted unless only upon determination that the proposal conforms to the regular design review criteria set forth in the design review procedure in Chapter 17.136 and to the following additional design review criteria set forth in subsections A and B of this section, or to one or both of the criteria set forth in subsection C of this section:

A. That the affected structure or portion thereof is not considered irreplaceable in terms of its visual, cultural, or educational value to the area or community;

B. That the proposed demolition or removal will not substantially impair the visual, architectural, or historic value of the total setting or character of the surrounding area or of neighboring facilities;

C. If the proposal does not conform to the criteria set forth in subsections A and B of this section:

1. That the structure or portion thereof is in such condition that it is not architecturally feasible to preserve or restore it, or

2. That, considering the economic feasibility of preserving or restoring the structure or portion thereof, and balancing the interest of the public in such preservation or restoration and the interest of the owner of the property in the utilization thereof, approval is required by considerations of equity. (Prior planning code § 6404)

**17.84.060 Postponement of demolition or removal.**

If an application for approval of demolition or removal of a structure or portion thereof, pursuant to Sections 17.84.030 and 17.84.050, is denied, the issuance of a permit for demolition or removal shall be deferred for a period of one hundred twenty (120) days, said period to commence upon the initial denial by the reviewing officer or body. However, if demolition or removal of the structure or portion thereof has also been postponed pursuant to Section ~~17.102.060~~ 17.136.075, the initial period of postponement under this section shall be reduced by the length of the period imposed pursuant to Section ~~17.102.060~~ 17.136.075. During the period of postponement, the Director of City Planning or the City Planning Commission, with the advice and assistance of the Landmarks Preservation Advisory Board, shall explore all means by which, with the agreement of the owner or through eminent domain, the affected structure or portion thereof may be preserved or restored. The reviewing officer or body from whose decision the denial of the application became final may, after holding a public hearing, extend said

## ***EXHIBIT A***

period for not more than one hundred twenty (120) additional days; provided, however, that the decision to so extend said period shall be made not earlier than ninety (90) days nor later than thirty (30) days prior to the expiration of the initial one hundred twenty (120) day period. Notice of the hearing shall be given by posting an enlarged notices on thereof within three hundred (300) feet of premises of the subject property involved. Notice of the hearing shall also be given by mail or delivery to the applicant, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than seventeen (17) ten days prior to the date set for the hearing. Such extension shall be made only upon evidence that substantial progress has been made toward securing the preservation or restoration of the structure or portion thereof. In the event that the applicant shall have failed to exhaust all appeals under Sections 17.136.080 and 17.136.090 from the denial of the application, the decision to extend said period shall be appealable under the provisions of Sections 17.136.080 and 17.136.090 to those bodies to whom appeal had not been taken from the initial denial of the application. (Ord. 12237 § 4 (part), 2000: prior planning code § 6405)

**Chapter 17.86**

**S-8 URBAN STREET COMBINING ZONE REGULATIONS**

**Sections:**

**17.86.030** ~~Required Design review process for construction or alteration.~~

**17.86.110** ~~Design review criteria.~~

**17.86.030** ~~Required Design review process for construction or alteration.~~

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 additional provisions in Section 17.86.110, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.~~

~~In the S-8 zone, no building, Sign, or other facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and the provisions of Section 17.86.110, or for business signs pursuant to the sign regulations in Chapter 17.104 and the design review procedure in Chapter 17.136. However, design review approval is not required for Realty Signs, Development Signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110C, for mere changes of copy, including cutouts, on Signs the customary use of which involves periodic changes of copy. (Ord. 12606 Att. A (part), 2004; prior planning code § 6452)~~

**17.86.110** ~~Design review criteria.~~

~~In the S-8 zone, proposals requiring regular Design review approval pursuant to Section 17.86.030 may be granted only upon determination that the proposal conforms to the regular general design review criteria set forth in the design review procedure in Chapter 17.136 and to all of the following additional criteria:~~

- ~~A. That the proposal will be compatible with an atmosphere of quality and refined architectural taste appropriate to a highly urban commercial center;~~
- ~~B. That the design of ground-level facilities will be interesting to pedestrians and will preserve, and where possible enhance, the basic continuity of key shopping frontages;~~
- ~~C. That the building facade and other walls will be considered and treated as a whole, and in relationship to adjoining buildings;~~
- ~~D. That all Signs will be harmonious with the architectural design of the building and adjacent buildings, and will not cover or detract from desirable architectural features. (Prior planning code § 6462)~~

**Chapter 17.88**

**S-9 RETAIL FRONTAGE COMBINING ZONE REGULATIONS**

**Sections:**

**17.88.030 Conditional use permit requirement for General Food Sales and Consultative and Financial Activities on ground floor.**

**17.88.040 Use permit criteria.**

**17.88.030 Conditional use permit requirement for General Food Sales and Consultative and Financial Activities on ground floor.**

General Food Sales and Consultative and Financial Service Commercial Activities shall not be located on the ground floor of any building, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and ~~at the provisions of Section 17.88.040,~~ and except that incidental entranceways which lead to such an activity on a different floor are permitted. (Prior planning code § 6504)

**17.88.040 Use permit criteria.**

In the S-9 zone, a conditional use permit for any use under Section 17.88.030 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 to the following additional use permit criteria:

- A. That the proposal will not detract from the compact, integrated character of the area;
- B. That the proposal will not impair a generally continuous wall of building facades;
- C. That the proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not break up an important shopping frontage;
- D. That the proposal will not interfere with the movement of people along an important pedestrian walkway;
- E. That the proposal will conform in all significant respects with any applicable district plan which has been adopted by the City Council.

(Prior planning code § 6511)

**Chapter 17.90**

**S-10 SCENIC ROUTE COMBINING ZONE REGULATIONS**

**Sections:**

**17.90.030** ~~Required Design review process for construction or alteration.~~

~~17.90.035 Special residential design review for Secondary Units.~~

**17.90.050** **Design review criteria.**

**17.90.030** **Required Design review process for construction or alteration.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 additional provisions in Section 17.90.050, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.~~

~~In the S-10 zone no building, Sign, or other facility other than a new Secondary Unit shall be constructed or established, or altered in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and the provisions of Section 17.90.050. However, design review approval is not required for Realty Signs, Development Signs, holiday decorations, and displays behind a window; and it is not required, except as otherwise provided in Section 17.114.110C, for mere changes of copy, including cutouts, on Signs the customary use of which involves frequent and periodic changes of copy.  
(Ord. 12501 § 62, 2003; prior planning code § 6552)~~

~~17.90.035 Special residential design review for Secondary Units.~~

~~No Secondary Unit shall be constructed or established unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146.  
(Ord. 12501 § 63, 2003)~~

**17.90.050** **Design review criteria.**

~~In the S-10 zone, proposals requiring regular Design review approval pursuant to Section 17.90.030 may be granted only upon determination that the proposal conforms to the regular general design review criteria set forth in the design review procedure in Chapter 17.136 and to both of the following additional criteria:~~

~~A. That the siting, grading, and design will, to the maximum extent feasible, preserve existing live trees and other desirable natural features;~~

~~B. That the proposed development will, as far as practicable, maintain existing vistas or panoramas which can be seen from the abutting public road and maintain the visual value of the total setting or character of the surrounding area.~~

~~(Prior planning code § 6562)~~

Chapter 17.92

S-11 SITE DEVELOPMENT AND DESIGN REVIEW COMBINING ZONE REGULATIONS

Sections:

- 17.92.030 ~~Required Site development and design review process, for construction or alteration.~~
- 17.92.035 ~~Special residential design review for Secondary Units.~~
- 17.92.050 ~~Site development and d)Design review criteria.~~
- 17.92.060 Limitations on residential density.
- 17.92.070 Waiver of certain requirements through site development and regular design review.

**17.92.030 Required Site development and design review process, for construction or alteration.**

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 additional provisions in Section 17.92.050, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.~~

~~In the S-11 zone no building, Sign, or other facility other than a new Secondary Unit shall be constructed or established, or altered in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the site development and design review procedure in Chapter 17.142 and the provisions of Section 17.92.050. However, site development and design review approval is not required for Realty Signs, Development Signs, holiday decorations, and displays behind a window; and it is not required, except as otherwise provided in Section 17.114.110C, for mere changes of copy, including cutouts, on Signs, the customary use of which involves frequent and periodic changes of copy.~~

(Ord. 12501 § 64, 2003; prior planning code § 6602)

**17.92.035 ~~Special residential design review for Secondary Units.~~**

~~No Secondary Unit shall be constructed or established unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146.~~

(Ord. 12501 § 65, 2003)

**17.92.050 ~~Site development and d)Design review criteria.~~**

~~Site development and~~ In the S-11 zone, proposals requiring regular design review approval pursuant to Section 17.92.030 may be granted only upon determination that the proposal conforms to the regular general design review criteria set forth in the design review procedure in Chapter 17.136 and to all of the following additional criteria:

A. That the siting, clearing, landscaping, and other relevant features of the proposal will conform in all significant respects with the Vegetation Management Prescriptions of the North Oakland Hill Area Specific Plan;

B. That the proposal will conform in all significant respects with the Site Development Map of the North Oakland Hill Area Specific Plan with respect to the protection of view corridors and vegetation masses;

C. That, after due consideration has been given to other criteria, any proposed vehicular access will be provided at the safest point of entry from the appropriate street;

D. That the proposal will duly take into account any special geotechnical or similar constraint affecting the property;

E. That the proposal will involve the minimum possible amount of grading, consistent with the attainment of other criteria set forth in this section, and that an acceptable grading and/or erosion and sedimentation control plan, where required, has been or will be submitted;

F. That, in conjunction with criterion E of this section, retaining walls of excessive height and/or length will be avoided. Projects involving retaining walls over eight feet in height and/or grading or removal of material in excess of five hundred (500) cubic yards shall be referred to the Director of City Planning for regular design review pursuant to Chapter 17.136;

G. That fire hydrants will be provided consistent with the City of Oakland Fire Prevention Bureau's requirements;

H. That, where feasible, solar orientation and energy conservation techniques will be suitably incorporated in the overall design;

I. That if the proposal involves developing dwelling units on a property for which the Site Development Map of the North Oakland Hill Area Specific Plan depicts siting of those facilities, the provisions of Section 17.92.040 will be met;

J. That if the proposal involves creating driveway access to Grizzly Peak Boulevard, Skyline Boulevard, Tunnel Road, or Shepherd Canyon Road, it will meet the same criteria as are specified in subsections A and B of Section 17.90.040. (Prior planning code § 6612)

**17.92.060 Limitations on residential density.**

A. Overall Density. The maximum overall number of dwelling units within any development shall be whichever of the following is applicable and lowest:

1. The number of dwelling units implied by the applicable basic zone's minimum lot area requirement, and defined in the same manner as prescribed in subsection A of Section 17.122.110 and the first three sentences of subsection B of Section 17.122.110.

2. In the case of those properties for which the Site Development Map of the North Oakland Hill Area Specific Plan depicts siting of dwelling units, the number of dwelling units indicated by that map.

3. In the case of those properties where dwelling units are not shown on the Site Development Map of the North Oakland Hill Area Specific Plan, the lowest number of dwelling units derived from:

a. Dividing the street frontage of the property by the minimum lot width requirement in the respective residential zone; and

b. Counting the number of legally platted lots within the proposed development area; and

c. Analyzing the project under the ~~site development and regular~~ design review process to affirm or lower the maximum theoretical density pursuant to Sections 17.92.030 and 17.92.050.

One through three above shall not be deemed to preclude such additional secondary units in the S-11 zone as may be approved in accordance with the standards, criteria and conditions in Section 17.102.360.

B. Number of Units Per Unsubdivided Lot. An unsubdivided lot may not have more dwelling units when subdivided than are permitted per lot by the applicable basic zone. (Ord. 12199 § 6, 2000; prior planning code § 6615)

**17.92.070 Waiver of certain requirements through ~~site development and regular~~ design review.**

A. Reduction of Yard Requirements. Upon approval pursuant to Sections 17.92.030 and 17.92.050 the side yard may be varied within the following limits:

The side of a dwelling unit may be as close as six feet to the side of an adjoining dwelling unit provided that its opposite side is separated from the side of other adjoining dwelling units by at least two times the side yard normally required for a dwelling unit within that zone. (Prior planning code § 6623)

**Chapter 17.96**

**S-13 MIXED-USE DEVELOPMENT COMBINING ZONE REGULATIONS**

**Sections:**

**17.96.030** ~~Required design review process for construction or alteration.~~

**17.96.070** Use permit criteria.

**17.96.080** Design review criteria.

**17.96.030** ~~Required design review process for construction or alteration.~~

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 additional provisions in Section 17.96.080, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.~~

~~In the S-13 zone no building, Sign, or other facility shall be constructed or established, or altered in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and the provisions of Section 17.96.080. However, design review approval is not required for Realty Signs, Development Signs, holiday decorations, and displays behind a window; and it is not required, except as otherwise provided in Section 17.114.110C, for mere changes of copy, including cutouts, on Signs, the customary use of which involves frequent and periodic changes of copy.~~

~~(Prior planning code § 6702)~~

**17.96.070** Use permit criteria.

~~In the S-13 zone, a~~A conditional use permit for any use under Section 17.96.040 or 17.96.050 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 to all of the following additional use permit criteria:

A. That the development will be well integrated into its setting, not be visually obtrusive, harmonize with surrounding areas and facilities, not substantially harm major views for surrounding residents, and, if abutting existing industrial facilities, provide sufficient buffering in the form of spatial separation, vegetation, topographic features, or other devices;

B. That all parking areas, access, and vehicular traffic circulation patterns will be screened and designed in a manner that minimizes conflicts between pedestrians and vehicles; and that off-site vehicular circulation patterns will be designed to minimize congestion on surrounding local streets;

C. That any proposal involving both nonresidential and residential uses on the same site will locate and conduct the nonresidential use in a manner that shall not adversely affect the abutting activities due to generation of noise, lights, glare, dust, vapors, smoke, odors, electrical disturbances, or other factors, and that the proposal incorporates all applicable performance standards in Chapter 17.120;

D. That the proposal incorporates sound attenuation and similar protective measures that achieve a performance standard specified by local, state and federal regulations;

E. That the location and design of proposed residential areas will be adequately buffered, visually and spatially, from existing transit corridors including rail lines, vehicular entry points, and parking areas through appropriate landscaping, screening, and other buffering devices;

F. That future residents of the project will not be exposed to toxic and/or hazardous materials that exceed local, state and/or federal standards. (Prior planning code § 6716)



**17.96.080 Design review criteria.**

In the S-13 zone, proposals requiring regular design review approval pursuant to Section 17.96.030 may be granted only upon determination that the proposal conforms to the regular general design review criteria set forth in the design review procedure in Chapter 17.136 and to all of the following additional criteria:

A. That special architectural attention will be given to unfenestrated walls facing either street frontages or adjacent residential developments;

B. That extensive landscaping will be used to provide an appropriate setting for the proposed use, and to buffer and screen nearby sensitive uses from the visual impacts of the project;

C. That, where feasible, building setbacks will be provided to accommodate projections of architectural or decorative features;

D. That, particularly in developments involving more than one facility, a comprehensive, coordinated, controlled system of informational and directional graphic signage will be provided throughout the development;

E. That the design of the project will make every effort, where feasible, to preserve, for reuse, any facility or group of facilities which is a designated landmark. (Prior planning code § 6717)

Chapter 17.97

~~S 19 BROADWAY AUTO ROW INTERIM STUDY COMBINING ZONING REGULATIONS~~

Sections:

- ~~17.97.010 — Title, purpose, and applicability.~~
- ~~17.97.020 — Zones with which the S 19 zone may be combined.~~
- ~~17.97.050 — Permitted activities.~~
- ~~17.97.060 — Conditionally permitted activities.~~
- ~~17.97.070 — Design review for facilities with over ten thousand (10,000) square feet of floor area.~~
- ~~17.97.080 — Design review for signs with over one hundred (100) square feet of floor area.~~

~~17.97.010 — Title, purpose, and applicability.~~

~~— The provisions of this chapter shall be known as the S 19 Broadway Auto Row interim study combining zone regulations. The S 19 zone is intended to support and enhance automobile dealership activated and small, local serving retail, food, and personal service uses through physical improvements and development of complementary uses within the area with general frontage along Broadway and bounded between the north side of 23rd Street and the south side of 42nd/Mather Street. These regulations shall apply in the S 19 zone and are supplementary to the regulations applying in the zones with which the S 19 zone is combined. The interim controls imposed by this ordinance shall remain in place and be effective for a continuous period of two years from the effective date of this ordinance or until the City Council adopts permanent controls, whichever comes first. For the term of this ordinance, the provisions of this ordinance shall govern, 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, and, to the extent necessary to resolve such conflict, such conflicting provisions shall be suspended. (Ord. 12413 § 3, 2002)~~

~~17.97.020 — Zones with which the S 19 zone may be combined.~~

~~— The S 19 zone may be combined only with the C 40 zone. (Ord. 12413 § 3, 2002)~~

~~17.97.050 — Permitted activities.~~

- ~~— The following activities, as described in the use classifications in Chapter 17.10, are permitted:~~
- ~~— A. — Those Residential Activities listed below, subject to the provision for lots with frontage along Broadway that all permitted residential activities shall be allowed only in the floor levels above ground floor level and only if the ground floor of any lot fronting on Broadway contains a civic, commercial, or manufacturing activity as permitted or conditionally permitted under this chapter; however, any pedestrian residential lobby and/or vehicular access ramp serving the residential activity is permitted on the ground floor:~~
    - ~~— Permanent~~
    - ~~— Residential Care occupying a One Family Dwelling Residential Facility Semi-Transient~~
  - ~~— B. — Civic Activities:~~
    - ~~— Essential Service~~
    - ~~— Limited Child Care~~
    - ~~— Community Assembly with a maximum floor area of ten thousand (10,000) square feet~~
    - ~~— Community Education with a maximum floor area of ten thousand (10,000) square feet~~
    - ~~— Nonassembly Cultural with a maximum floor area of ten thousand (10,000) square feet~~
    - ~~— Administrative with a maximum floor area of ten thousand (10,000) square feet~~
    - ~~— Health Care with a maximum floor area of ten thousand (10,000) square feet~~
    - ~~— Utility and Vehicular with a maximum floor area of ten thousand (10,000) square feet, but not excluding communications equipment installations and exchanges~~
    - ~~— Telecommunications~~

- ~~C. Commercial Activities:~~
- ~~General Food Sales with a maximum floor area of ten thousand (10,000) square feet~~
- ~~General Retail Sales with a maximum floor area of ten thousand (10,000) square feet~~
- ~~General Personal Service with a maximum floor area of ten thousand (10,000) square feet~~
- ~~Convenience Sales and Services with a maximum floor area of ten thousand (10,000) square feet~~
- ~~Medical Service with a maximum floor area of ten thousand (10,000) square feet~~
- ~~Consultative and Financial Service with a maximum floor area of ten thousand (10,000) square feet~~
- ~~Consumer Laundry and Repair Service with a maximum floor area of ten thousand (10,000) square feet~~
- ~~Administrative with a maximum floor area of ten thousand (10,000) square feet~~
- ~~Business and Communication Service with a maximum floor area of ten thousand (10,000) square feet~~
- ~~Automotive Sales, Rental, and Delivery~~
- ~~Automotive Servicing (see Section 17.54.025 for Design Review requirements)~~
- ~~Automotive Repair and Cleaning (see Section 17.54.025 for Design Review requirements)~~
- ~~D. Off street parking servicing activities other than those listed above, subject to the condition set forth in Section 17.102.100. (Ord. 12413 § 3, 2002)~~

**17.97.060 Conditionally permitted activities.**

The following activities, as described in the use classifications Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134:

- ~~A. Those Residential Activities listed below, subject to the provision for lots with frontage along Broadway that all permitted residential activities shall be allowed only in the floor levels above ground floor level and only if the ground floor or any lot fronting on Broadway contains a civic, commercial, or manufacturing activity as permitted or conditionally permitted under this chapter; however, any pedestrian residential lobby and/or vehicular access ramp serving the residential activity is permitted on the ground floor:~~
- ~~Residential Care, except when occupying a One Family Dwelling Residential Facility~~
- ~~Service Enriched Permanent Housing~~
- ~~Transitional Housing~~
- ~~Emergency Shelter~~
- ~~B. Civic Activities:~~
- ~~Community Assembly with a floor area of over ten thousand (10,000) square feet~~
- ~~Community Education with a floor area of over ten thousand (10,000) square feet~~
- ~~Nonassembly Cultural with a floor area of over ten thousand (10,000) square feet~~
- ~~Administrative with a floor area of over ten thousand (10,000) square feet~~
- ~~Health Care with a floor area over ten thousand (10,000) square feet~~
- ~~Utility and Vehicular with a floor area of over ten thousand (10,000) square feet — however, if communications equipment installations and exchanges, then any floor area~~
- ~~Extensive Impact~~
- ~~C. Commercial Activities:~~
- ~~General Food Sales with a floor area of over ten thousand (10,000) square feet~~
- ~~General Retail Sales with a floor area of over ten thousand (10,000) square feet~~
- ~~General Personal Service with a floor area of over ten thousand (10,000) square feet~~
- ~~Convenience Sales and Service with a floor area of over ten thousand (10,000) square feet~~
- ~~Medical Service with a floor area of over ten thousand (10,000) square feet~~
- ~~Consultative and Financial Service with a floor area over ten thousand (10,000) square feet~~
- ~~Consumer Laundry and Repair Service with a floor area of over ten thousand (10,000) square feet~~
- ~~Administrative with a floor area of over ten thousand (10,000) square feet~~

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- ~~Business and Communication Service with a floor area of over ten thousand (10,000) square feet~~
- ~~Retail Business Supply~~
- ~~Research Service~~
- ~~General Wholesale Sales~~
- ~~Construction Sales and Service~~
- ~~Automotive Fee Parking~~
- ~~Convenience Market~~
- ~~Fast Food Restaurant~~
- ~~Alcoholic Beverage Sales~~
- ~~Mechanical or Electronic Games, subject to the provisions of Section 17.102.210C~~
- ~~Group Assembly~~
- ~~Transient Habitation~~
- ~~Animal Care~~
- ~~Undertaking Service~~
- ~~D. Manufacturing Activities:~~
  - ~~Custom~~
  - ~~Light~~
- ~~E. Agricultural and Extractive Activities:~~
  - ~~Plant Nursery~~
  - ~~Crop and Animal Raising~~
- ~~F. 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. (Ord. 12413 § 3, 2002)~~

**17.97.070** ~~Design review for facilities with over ten thousand (10,000) square feet of floor area.~~  
~~No facility shall be constructed or established, or expanded or increased in size so as to result in a floor area of over ten thousand (10,000) square feet, unless plans for such a proposal shall have been approved pursuant to the design review procedure in Chapter 17.136. (Ord. 12413 § 3, 2002)~~

**17.97.080** ~~Design review for signs with over 100 square feet of floor area.~~  
~~No sign shall be installed, expanded, or increased in size so as to result in a sign area of over one hundred (100) square feet, unless plans for such a proposal shall have been approved pursuant to the design review procedure in Chapter 17.136. (Ord. 12413 § 3, 2002)~~

**Chapter 17.98**

**S-14 COMMUNITY RESTORATION DEVELOPMENT-COMBINING ZONE REGULATIONS**

**Sections:**

~~17.98.010 — Title, purpose and applicability.~~

~~17.98.020 — Zones with which the S-14 shall be combined.~~

~~17.98.030 — Design review criteria in cases where a proposal in the S-14 zone requires design review or site development and design review.~~

~~17.98.010 — Title, purpose and applicability.~~

~~———— The S-14 zone is intended to guide the construction of residential facilities in the Area Damaged by the 1991 Firestorm of the city. The S-14 zone is intended to promote: reconstruction that will replicate, to the extent possible, the pre-fire conditions that contributed to the distinctive character and desirability of the neighborhoods in the Area Damaged by the 1991 Firestorm; design and construction that is responsive to the substantial variations in topography, access, and parcelization both within and among the respective neighborhoods; facilitation and expediting of reconstruction to minimize economic and emotional hardships for fire victims; and prevention of conditions that pose threats to life and property.~~

~~———— These standards and regulations shall apply in the Area Damaged by the 1991 Firestorm. These standards and regulations are supplementary to the regulations applying in the underlying zoning districts, as set forth in the zoning regulations and as designated on the Oakland Zoning Map. Where the standards and regulations contained herein conflict with those of the zoning regulations, then the standards and regulations contained herein shall apply, with the following exceptions:~~

~~———— A. — The standards and regulations contained herein shall not apply to any planning application which includes all required submittals and which is filed with, and accepted by, the Planning Official prior to the effective date of these standards and regulations; and~~

~~———— B. — The standards and regulations contained herein shall not be applicable if they conflict with Chapter 17.90 (the S-10 zone) or Chapter 17.92 (the S-11 zone) of the zoning regulations. (Ord. 12376 § 3 (part), 2001; prior planning code § 6800)~~

~~17.98.020 — Zones with which the S-14 shall be combined.~~

~~———— The S-14 zone shall be combined with the S-18 mediated residential design review combining zone but only within the Area Damaged by the 1991 Firestorm. The mediated design review procedure and other design review procedures applicable to the S-18 zone shall apply to the S-14 zone as set forth in the S-18 zone. (Ord. 12376 § 3 (part), 2001; prior planning code § 6801)~~

~~17.98.030 — Design review criteria in cases where a proposal in the S-14 zone requires design review or site development and design review.~~

~~———— In cases where a proposal in the S-14 zone requires design review pursuant to the design review procedure in Chapter 17.136, or a site development and design review pursuant to the site development and design review procedure in Chapter 17.142, design review or site development and design review may be granted only upon determination that the proposal conforms to the general design review criteria set forth in the design review procedure in Chapter 17.136, to any other criteria set forth by the zone with which the S-14 zone is combined and to the “Design and Bulk Review Criteria and Guidelines for Hillside Development” as adopted by the City Planning Commission. (Ord. 12376 § 3 (part), 2001)~~

Chapter ~~17.9717.100~~

S-15 TRANSIT ORIENTED DEVELOPMENT ZONE REGULATIONS

Sections:

- 17.97100.010 Title, purpose, and applicability.
- 17.97100.020 ~~Required Design review process for construction or alteration.~~
- 17.97100.030 Special regulations applying to mixed-use developments on Bay Area Rapid Transit (BART) stations on sites with one acre or more land area.
- 17.97100.040 Permitted activities.
- 17.97100.050 Conditionally permitted activities.
- 17.97100.060 Permitted facilities.
- 17.97100.070 Conditionally permitted facilities.
- 17.97100.080 Special regulations applying to certain Commercial and Manufacturing Activities.
- 17.97100.090 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a nonresidential activity.
- 17.97100.100 Use permit criteria.
- 17.97100.110 Limitations on Signs, marquees, awnings.
- 17.97100.120 Minimum lot area, width, and frontage.
- 17.97100.130 Maximum residential density.
- 17.97100.140 Maximum nonresidential floor area ratio.
- 17.97100.150 Maximum height.
- 17.97100.160 Minimum yards and courts.
- 17.97100.170 Minimum usable open space.
- 17.97100.180 Buffering and landscaping.
- 17.97100.190 Special regulations for mini-lot developments.
- 17.97100.200 Special regulations for large scale developments.
- 17.97100.210 Other zoning provisions.

17.97100.010 Title, purpose, and applicability.

The provisions of this chapter shall be known as the S-15 transit oriented development zone regulations. The S-15 zone is intended to create, preserve and enhance areas devoted primarily to serve multiple nodes of transportation and to feature high-density residential, commercial, and mixed-use developments to encourage a balance of pedestrian-oriented activities, transit opportunities, and concentrated development; and encourage a safe and pleasant pedestrian environment near transit stations by allowing a mixture of residential, civic, commercial, and light industrial activities, allowing for amenities such as benches, kiosks, lighting, and outdoor cafes; and by limiting conflicts between vehicles and pedestrians, and is typically appropriate around transit centers such as Bay Area Rapid Transit (BART) stations, AC Transit centers, and other transportation nodes. These regulations shall apply in the S-15 zone. (Ord. 11892 § 4 (part), 1996: prior planning code § 6850)

17.97100.020 ~~Required Design review process for construction or alteration.~~

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.~~

~~No building, Sign, or other facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance unless plans for such proposal shall have been approved pursuant to the design review procedure in Chapter 17.136, or for signs pursuant to the sign~~

~~regulations in Chapter 17.104 and the design review procedure in Chapter 17.136, or for Micro Telecommunications Facilities pursuant to the telecommunications regulations in Chapter 17.128 and the design review procedure in Chapter 17.136. However, design review approval is not required for Realty Signs, Development Signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Section 17.114.110C, for mere changes of copy, including outouts, on signs the customary use of which involves periodic changes of copy.~~

(Ord. 12606 Att. A (part), 2004; Ord. 11904 § 5.62 (part), 1996; Ord. 11892 § 4 (part), 1996; prior planning code § 6851)

**17.97400.030 Special regulations applying to mixed-use developments on Bay Area Rapid Transit (BART) stations on sites with one acre or more land area.**

No mixed-use developments that include Bay Area Rapid Transit (BART) stations located on sites with one acre or more land area shall be permitted except upon the granting of a conditional use permit pursuant to Section 17.97400.100 and the conditional use permit procedure in Chapter 17.134 or upon the granting of a planned unit development permit pursuant to Chapters 17.122 and 17.140, and shall be subject to the following special regulations:

A. Intermodal Activities and Pedestrian Plaza. Developments should incorporate multiple forms of public transportation and a pedestrian plaza.

B. Professional Design. The application shall certify that talents of the following professionals will be utilized at some stage in the design process for the development:

1. An architect licensed by the state of California; and
2. A landscape architect licensed by the state of California, or an urban planner holding or capable of holding membership in the American Institute of Certified Planners.

C. Undergrounding of Utilities. All electric and telephone facilities; fire alarm conduits; street light wiring; and other wiring, conduits, and similar facilities shall be placed underground by the developer as required by the city. Electric and telephone facilities shall be installed in accordance with standard specifications of the serving utilities. Street lighting and fire alarm facilities shall be installed in accordance with standard specifications of the Electrical Department.

D. Performance Bonds. The City Planning Commission or, on appeal, the City Council may, as a condition of approval of any said development, require a cash bond or surety bond for the completion of all or specified parts of the development deemed to be essential to the achievement of the purposes set forth in Section 17.97400.010. The bond shall be in a form approved by the City Attorney, in a sum of one hundred fifty (150) percent of the estimated cost of the work, and conditioned upon the faithful performance of the work specified within the time specified. This requirement shall not apply if evidence is provided to the city which indicates that alternative bonding or other assurances have been secured by the Bay Area Rapid Transit District. (Ord. 11892 § 4 (part), 1996; prior planning code § 6852)

**17.97400.040 Permitted activities.**

The following activities, as described in the use classifications in Chapter 17.10, are permitted:

- A. Residential Activities:
  - Permanent
- B. Civic Activities:
  - Essential Service
  - Limited Child Care
  - Community Assembly
  - Community Education
  - Nonassembly Cultural
  - Administrative
  - Health Care
  - Telecommunications
- C. Commercial Activities:

- General Food Sales
- Convenience Sales and Service
- Medical Service
- General Retail Sales
- General Personal Service
- Consultative and Financial Service
- Administrative
- Business and Communication Service
- Group Assembly

(Ord. 11904 § 5.78, 1996; Ord. 11892 § 4 (part), 1996: prior planning code § 6853)

**17.97400.050 Conditionally permitted activities.**

The following activities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to Section 17.97400.100 and the conditional use permit procedure in Chapter 17.134:

- A. Residential Activities:
  - Residential Care
  - Service-Enriched Permanent Housing
  - Transitional Housing
- B. Civic Activities:
  - Utility and Vehicular
  - Extensive Impact
- C. Commercial Activities:
  - Fast Food Restaurant
  - Convenience Market
  - Consumer Laundry and Repair Service
  - Transient Habitation and Commercial Activities
  - Alcoholic Beverage Sales
  - Mechanic or Electronic Games
  - Animal Care
  - Automotive Fee Parking subject to the additional criteria contained in Section

17.97400.100(F)

- D. Manufacturing Activities:
  - Custom
- E. Off-street parking serving nonresidential activities listed in Sections 17.97400.040 and 17.97400.050.
- F. 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. (Ord. 12561 § 3 (part), 2004; Ord. 12138 § 5 (part), 1999; Ord. 11892 § 4 (part), 1996: prior planning code § 6854)

**17.97400.060 Permitted facilities.**

The following facilities, as described in the use classifications in Chapter 17.10, are permitted:

- A. Residential Facilities:
  - Multifamily Dwelling
- B. Nonresidential Facilities:
  - Enclosed
  - Sidewalk Cafe
- C. Signs:
  - Residential
  - Special
  - Development



Realty  
Civic  
Business

D. Telecommunications:

Micro, except as provided in Chapter 17.128 and Section 17.134.020(A) (23)  
(Ord. 11904 § 5.82, 1996; Ord. 11892 § 4 (part), 1996: prior planning code § 6855)

**17.97400.070 Conditionally permitted facilities.**

The following facilities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to Section 17.97400.100 and the conditional use permit procedure in Chapter 17.134:

A. Residential Facilities:

One-Family Dwelling  
Two-Family Dwelling

B. Nonresidential Facilities:

Open Facilities

C. Telecommunications:

Micro, except as provided in Chapter 17.128 and Section 17.134.020(A) (23)  
Mini, except as provided in Chapter 17.128 and Section 17.134.020(A) (23)  
Macro  
Monopole

(Ord. 11904 § 5.86, 1996; Ord. 11892 § 4 (part), 1996: prior planning code § 6856)

**17.97400.080 Special regulations applying to certain Commercial and Manufacturing Activities.**

A. Convenience Markets, Fast-Food Restaurants, and Certain Establishments Selling Alcoholic Beverages. See Section 17.102.210.

B. Manufacturing Activities. All accessory manufacturing activities, as defined in Section 17.10.040F, shall be conducted entirely within an enclosed facility.

(Ord. 11892 § 4 (part), 1996: prior planning code § 6858)

**17.97400.090 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a nonresidential activity.**

See Sections 17.97400.100 and 17.102.230.

(Ord. 11892 § 4 (part), 1996: prior planning code § 6859)

**17.97400.100 Use permit criteria.**

In the S-15 zone, a conditional use permit for any use or facility listed in Sections 17.97400.030, 17.97400.050, 17.97400.070 and 17.97400.200, 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 to the following additional use permit criteria:

A. That the proposal will be of a quality and character which harmonizes with and serves to protect the value of private and public investment in the area;

B. That the proposal will encourage an appropriate mixture of Residential and Commercial Activities in a manner which promotes and enhances use of multiple modes of transportation;

C. That the proposal is designed to provide a safe and pleasant pedestrian environment;

D. That no front yard parking, loading area, or driveway shall connect or abut directly with the principal commercial street unless the determination can be made:

1. That vehicular access cannot reasonably be provided from a different street or other way,

2. That every reasonable effort has been made to share means of vehicular access with abutting properties,

3. That the proposal is enclosed or screened from view of the abutting principal street by the measures required in Section 17.110.040B;

E. That the amount of off-street parking, if any, provided in excess of this code will not contribute significantly to an increased orientation of the area to automobile or truck movement.

F. In addition to the foregoing criteria and any other applicable requirements, auto fee parking within this zone shall be subject to the following use permit criteria:

1. Auto fee parking shall be part of a larger development that contains a significant amount of commercial and/or residential facilities;

2. Auto fee parking may only be contained in a structured parking facility of at least three stories that replaces an existing at grade parking facility;

3. The new parking structure shall represent no more than a seventy-five (75) percent increase of existing parking at the site;

4. Auto fee parking at the site shall be specifically designated by a city sponsored plan or study designed to promote a transit oriented district as defined by the general plan;

5. The facility or facilities containing the residential and/or commercial activities shall be adjacent to the principal street(s) and the auto fee parking shall be behind and substantially visually obstructed from the principal street(s) by the residential and/or commercial facility or facilities; and

6. The project shall be consistent with the general plan's goals, objectives, and policies that promote transit oriented development and districts.

For purposes of this subsection 17.97400.100(F) "principal street" means the street or streets on which the development is most primarily oriented and that is appropriately designated in the general plan to accommodate the amount of trips proposed. On an interior lot, the principal street shall be the street in front of the development. On a corner lot, the principal streets shall be both the streets adjacent to the development. On a lot that has frontage on three or more streets, at least two streets shall be designated as principal streets. (Ord. 12561 § 3 (part), 2004: Ord. 11892 § 4 (part), 1996: prior planning code § 6860)

**17.97400.110 Limitations on Signs, marquees, awnings.**

A. General Limitations. All Signs shall be subject to the applicable limitations set forth in Section 17.104.030. (Ord. 12606 Att. A (part), 2004: Ord. 11892 § 4 (part), 1996: prior planning code § 6863)

**17.97400.120 Minimum lot area, width, and frontage.**

Every lot containing a Residential Facility shall have a minimum lot area of four thousand (4,000) square feet and a minimum lot width of twenty-five (25) feet, except as a lesser area or width is allowed by Section 17.106.010. No minimum lot area or lot width is prescribed for any lot which does not contain a Residential Facility. Every lot shall have a minimum frontage of twenty-five (25) feet upon a street, except as this requirement is modified by Section 17.106.020. (Ord. 11892 § 4 (part), 1996: prior planning code § 6864)

**17.97400.130 Maximum residential density.**

A. Permitted Density. Residential uses shall be subject to the same maximum density, and other, related regulations as set forth in Section 17.28.120 for the R-70 zone.

B. Conditionally Permitted Density. The number of living units permitted by subsection A of this section may be increased by up to twenty-five (25) percent upon the granting of a conditional use permit pursuant to the conditional use permit procedures in Chapter 17.134 and subject to the criteria listed in Section 17.97400.100. The number of living units may also be increased, as prescribed in Section 17.106.060, in certain special housing. (Ord. 11892 § 4 (part), 1996: prior planning code § 6865)

**17.97400.140 Maximum nonresidential floor area ratio.**

The maximum nonresidential floor area ratio of any facility shall be as set forth below.

A. Permitted Floor Area Ratio. The maximum permitted floor area ratio shall be 4.0, except that this ratio may be exceeded by ten percent on any corner lot and may also be exceeded by ten percent on any lot which faces or abuts a public park at least as wide as the lot.

B. Conditionally Permitted Floor Area Ratio. The floor area ratio permitted by subsection A of this section may be increased by up to one hundred fifty (150) percent upon the granting of a conditional use permit, pursuant to Section 17.97400.100 and the provisions set forth in the conditional use permit procedure in Chapter 17.134, and provided that it is a mixed use development containing residential and commercial activities and as defined as a project including at least twenty-five (25) percent of the number of residential units that would be permitted if the project were solely residential. (Ord. 11892 § 4 (part), 1996: prior planning code § 6867)

**17.97400.150 Maximum height.**

Except as otherwise provided in Sections 17.108.020, 17.108.030 and Chapter 17.128, the maximum height of all buildings and other facilities shall be forty-five feet. This maximum height may be extended up to fifty-five (55) feet provided that the following criteria is met:

A. One foot of building setback is provided for each additional foot of building height above forty-five feet. The height of facilities, however, shall be further limited, in that any portion of a building located within ten feet of the rear property line shall not exceed a height of thirty (30) feet and, as applicable, by the provisions of Section 17.108.010A for lots lying along a boundary of a residential zone. (Ord. 11904 § 5.90, 1996: Ord. 11892 § 4 (part), 1996: prior planning code § 6869)

**17.97400.160 Minimum yards and courts.**

No yards or courts are generally required except as indicated below. The following minimum yards and courts shall be provided unobstructed except for the accessory structures or other facilities allowed therein by Section 17.108.130:

A. Front Yard. A front yard shall be provided, as prescribed in Section 17.108.040, in certain situations where part of the frontage on the same side of a block is in a residential zone.

B. Side Yard--Street Side or Corner Lot. A side yard shall be provided, as prescribed in Section 17.108.070, on the street side of a corner lot in certain situations where a lot to the rear of the corner is in a residential zone.

C. Side Yard--Interior Lot Line.

1. A side yard shall be provided along an interior side lot line, when and as prescribed in Section 17.108.080, for Residential Facilities.

2. A side yard shall be provided, as prescribed in Section 17.108.090, along an interior side lot line lying along a boundary of any of certain other zones.

D. Rear Yard.

1. A rear yard with a minimum depth of ten feet shall be provided for all Residential Facilities, except as a lesser depth is allowed by Section 17.108.110.

2. A rear yard shall be provided, as prescribed in Section 17.108.100, along a boundary of any of certain other zones.

E. Courts. On each lot containing a Residential Facility, courts shall be provided when and as required by Section 17.108.120. (Ord. 11892 § 4 (part), 1996: prior planning code § 6870)

**17.97400.170 Minimum usable open space.**

Minimum usable open space.

A. Group Usable Open Space for Residential Facilities. On each lot containing Residential Facilities with a total of two or more living units, group usable open space shall be provided for such facilities in the minimum amount of one hundred fifty (150) square feet per regular dwelling unit plus one hundred (100) square feet per efficiency dwelling unit. All required group usable open space shall

conform with the standards set forth in Chapter 17.126, except that group usable open space may be located anywhere on the lot, and may be located entirely on the roof of any building on the site.

B. **Private Usable Open Space for Residential Facilities.** Private usable open space shall be provided in the minimum amount of thirty (30) square feet per regular dwelling unit and twenty (20) square feet per efficiency unit. All required space shall conform to the standards for required private usable open space in Section 17.126.040. All private usable open space may be substituted for group usable open space with a ratio prescribed in Section 17.126.020 except that actual group open space shall be provided in the minimum amount of seventy-five (75) square feet per regular dwelling unit and fifty (50) square feet per efficiency unit. (Ord. 11892 § 4 (part), 1996: prior planning code § 6871)

**17.97400.180 Buffering and landscaping.**

A. **Buffering.** All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, and storage areas; control of artificial illumination; and other matters specified therein.

B. **Landscaping.** All uses shall be subject to the applicable requirements of the standards for required landscaping and screening, Chapter 17.124, with respect to maintenance, required materials and capacity, combination materials, and heights; and other matters specified therein. (Ord. 11892 § 4 (part), 1996: prior planning code § 6872)

**17.97400.190 Special regulations for mini-lot developments.**

In mini-lot developments, certain of the regulations otherwise applying to individual lots in the S-15 zone may be waived or modified when and as prescribed in Section 17.102.320. (Ord. 11892 § 4 (part), 1996: prior planning code § 6873)

**17.97400.200 Special regulations for large scale developments.**

No development which involves more than one hundred thousand (100,000) square feet of a new floor area shall be permitted except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and Section 17.97400.100, or upon the granting of a planned unit development approval pursuant to Chapters 17.122 and 17.140. (Ord. 11892 § 4 (part), 1996: prior planning code § 6875)

**17.97400.210 Other zoning provisions.**

A. **Parking and Loading.** Off-street parking and loading shall be provided as prescribed in the off-street parking and loading requirements in Chapter 17.116.

B. **Home Occupations.** Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112.

C. **Nonconforming Uses.** Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.114.

D. **General Provisions.** The general exceptions and other regulations set forth in Chapter 17.102 shall apply in the S-15 zone. (Amended during 1997 codification; prior code § 6876)

**Chapter ~~17.9817.101~~**

**S-16 INDUSTRIAL-RESIDENTIAL TRANSITION COMBINING ZONE REGULATIONS**

**Sections:**

**17.98101.010 Title, purpose, and applicability.**

**17.98101.020 Zones with which the S-16 may be combined.**

**17.98101.030 ~~Required Design review process for construction or alteration.~~**

**17.98101.040 Permitted activities.**

**17.98101.050 Conditionally permitted activities.**

**17.98101.060 Prohibited activities.**

**17.98101.070 Conditionally permitted facilities.**

**17.98101.080 Maximum floor area ratio.**

**17.98101.090 Special regulations for activities and facilities.**

**17.98101.100 Applicable performance standards.**

**17.98101.110 Nonconforming uses.**

**17.98101.010 Title, purpose, and applicability.**

The provisions of this chapter shall be known as the S-16 Industrial-Residential Transition Combining Zone regulations. The intent of the S-16 zone is to provide a compatible transition between residential and industrial zones by limiting the impacts of new nonresidential development, particularly trucking facilities and industrial development, on adjacent residential zones. It is also intended to promote compatible economic development and provide opportunities for new joint living and working quarters. These regulations shall apply in the S-16 zone and are supplementary to the regulations applying in the zones with which the S-16 zone is combined. Where the standards and regulations contained herein conflict with those of the underlying zoning regulations, then the standards and regulations contained herein shall apply. (Ord. 12289 § 3 (part), 2000)

**17.98101.020 Zones with which the S-16 may be combined.**

The S-16 zone may be combined with any other zone whose General Plan land use classification is "Business Mix" or "General Industrial/Transportation" and abuts a residential zone, or with any industrial zone that abuts a residential zone. (Ord. 12289 § 3 (part), 2000)

**17.98101.030 ~~Required Design review process for construction or alteration.~~**

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 17.128, or the Sign regulations in Chapter 17.104.

~~In the S-16 zone no building, sign, or other facility shall be constructed or established, added to or altered by more than ten percent of the existing floor or sign area or altered or in such a manner as to affect exterior appearance, unless plans for such proposal shall have been approved pursuant to the design review procedure in Chapter 17.136.~~

(Ord. 12289 § 3 (part), 2000)

**17.98101.040 Permitted activities.**

The following activities, as described in the use classifications in Chapter 17.10, are permitted:

- A. Civic Activities:
  - Essential Service
  - Limited Child-Care
  - Nonassembly Cultural (with less than ten thousand (10,000) square feet of gross floor area)
  - Administrative (with less than ten thousand (10,000) square feet of gross floor area)
  - Telecommunications
- B. Commercial Activities:
  - Convenience Sales and Service
  - General Retail Sales
  - General Personal Service
  - Consultative and Financial Service
  - Administrative
  - Business and Communication Service
  - Retail Business Supply
  - Research Service (with less than ten thousand (10,000) square feet of gross floor area)
- C. Manufacturing Activities:
  - Custom (with less than ten thousand (10,000) square feet of gross floor area)
  - Light (with less than ten thousand (10,000) square feet of gross floor area)

(Ord. 12289 § 3 (part), 2000)

**17.98101.050 Conditionally permitted activities.**

The following activities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and the special regulations in Section 17.98101.090:

- A. Civic Activities:
  - Community Assembly
  - Community Education
  - Nonassembly Cultural (with more than ten thousand (10,000) square feet of new gross floor area)
  - Administrative (with more than ten thousand (10,000) square feet of new gross floor area)
  - Utility and Vehicular
- B. Commercial Activities:
  - General Food Sales
  - Convenience Market (subject to provisions in Section 17.102.210A)
  - Mechanical or Electronic Games (subject to provisions in Section 17.102.210C)
  - Medical Service
  - Consumer Laundry and Repair Service
  - Group Assembly
  - Research Service (with more than ten thousand (10,000) square feet of new gross floor area)
  - General Wholesale Sales (with less than fifty thousand (50,000) square feet of gross floor area)
  - Construction Sales and Service
  - Automotive Fee Parking
  - Animal Care

- C. **Manufacturing Activities:**
  - Custom (with more than ten thousand (10,000) square feet of new gross floor area)
  - Light (with more than ten thousand (10,000) square feet of new gross floor area)
- D. **Agricultural and Extractive Activities:**
  - Plant Nursery
- E. **Accessory Activities:**
  - Joint Living and Working Quarters (as defined in Section 17.10.040C and subject to the provisions in Section 17.102.190 and the special regulations in Section 17.98101.090A.)
  - Open Storage

(Ord. 12289 § 3 (part), 2000)

**17.98101.060 Prohibited activities.**

The following activities, as described in the use classifications in Chapter 17.10, are prohibited:

- A. **Commercial Activities:**
  - Alcoholic Beverage Sales
  - Automotive Repair and Cleaning
  - Automotive Sales, Rental, and Delivery
  - Automotive Servicing
  - Fast-Food Restaurant
  - Scrap Operation, subject to provisions of Section 17.102.210F
  - Transport and Warehousing, subject to provisions in Section 17.102.210F
- B. **Manufacturing Activities:**
  - General
  - Industrial Transfer/Storage Hazardous Waste Management
- C. **Agricultural and Extractive Activities**
  - Crop and Animal Raising
  - Mining and Quarrying

(Ord. 12289 § 3 (part), 2000)

**17.98101.070 Conditionally permitted facilities.**

The following facilities, as described in the use classifications in Chapter 17. 10, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and the special regulations in Section 17.98101.090:

- A. **Nonresidential Facilities:**
  - Open
- B. **Telecommunications Facilities:**
  - Macro
  - Monopole

(Ord. 12289 § 3 (part), 2000)

**17.98101.080 Maximum floor area ratio.**

A. **Maximum Floor Area Ratio Generally.** The maximum floor area ratio of any facility shall be 4.0 unless a lesser floor area ratio is specified by the applicable General Plan land use classification. Any new construction or addition or alteration that results in a total F.A.R. of more than 2.0 on any portion of any lot within one hundred fifty (150) feet of a residential zone shall require a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

B. **Maximum Floor Area Within One Hundred Fifty (150) Feet of a Residential Zone.** The 2.0 floor area ratio shall only apply to the portions of all properties located in the first one hundred fifty (150) feet of the S-16 zone. The one hundred fifty (150) foot measurement is not measured from the

zoning boundary but begins at the nearest property line within the S-16 zone that is adjacent to the residential zone. (Ord. 12289 § 3 (part), 2000)

**17.98101.090 Special regulations for activities and facilities.**

The following supplemental development standards shall apply to all new development and alterations and additions adding more than ten percent to existing floor area, unless otherwise indicated:

A. New Joint Living and Working Quarters. Construction of new joint living and work quarters, subject to the regulations in Section 17.102.190, is allowed subject to the following standards:

1. Size of Units. The average unit size of all joint living and work quarters in a development project shall be a minimum of one thousand (1,000) square feet of floor area. No individual unit shall be less than eight hundred (800) square feet of floor area.

2. Use of Space. Generally, as a guideline and not as a mandate, one-third of the floor area should be used for living space.

3. Minimum Usable Open Space. A minimum of seventy-five (75) square feet of group usable open space shall be provided for each joint living and working quarters unit. All required group usable open space shall conform with the standards set forth in Section 17.126.030, except that group usable open space may be located anywhere on the lot, and may be located entirely on the roof of any building on the site.

4. Required Parking. A minimum of one space shall be provided for each one thousand (1,000) square feet of floor area. This requirement preempts any conflicting requirement in Chapter 17.116.

5. Buffering. The general buffering requirements of Section 17.110.020 shall apply to joint living and working quarters.

B. Upper-story Stepback on Lots Abutting a Residential Zone or on a Block with Residential Activity. On any portion of any lot that:

1. Abuts a residential zone, or

2. Is directly across a street, alley, or path from a residential zone, or

3. Abuts a legally established residential activity, or

4. Is on a street where fifty (50) percent or more of the frontage on the street within three hundred (300) feet of the lot has legally established residential activities, no building or other facility shall, except for the projections allowed by Section 17.108.030, exceed thirty (30) feet in height unless each portion above that height is set back a minimum of one foot for each foot of additional height. This setback shall be measured from the inner line of the minimum yard required by subsection C below.

C. Minimum Yards on Lots Abutting a Residential Zone or on a Block with Residential Activity. On any portion of any lot that:

1. Abuts a residential zone, or

2. Is directly across a street, alley, or path from a residential zone, or

3. Abuts a legally established residential activity, or

4. Is on a street where fifty (50) percent or more of the frontage on the street within three hundred (300) feet of the lot has residential activities, a yard with a minimum depth or width, as the case may be, of ten feet shall be provided along the entire lot line that abuts or is across from said residential zone or residential activity. This yard shall be landscaped and unobstructed except for the accessory structures or other facilities allowed therein by Section 17.108.130. A solid masonry or lumber wall at least six feet high shall be provided along the entire length of any lot line not facing a street. Where the lot in question is twenty-five (25) feet or less in width, a solid masonry wall at least six feet high may be provided in lieu of any side yard required by this section.

D. Landscaping.

1. Front Yards. All front yards required by subsection C above shall be landscaped with trees and shrubs, except for driveways serving required parking or loading, and incidental pedestrian access.



2. Minimum Landscaping. For new construction or addition or alteration of more than ten percent of existing floor area, a minimum of ten percent of the site area must be landscaped.

3. Off-street Parking Facilities. Landscaping shall be provided for off-street parking facilities with more than ten spaces. A minimum of one tree for every six spaces shall be distributed evenly throughout the parking area. Parking rows shall be separated from driveways by a landscaped planter.

4. Required Irrigation. All planting areas shall be provided with an irrigation system that is permanent, below grade, and activated by automatic timing controls.

E. Screening of Parking on a Lot. A concrete or masonry wall at least three feet high shall be provided for parking areas located adjacent to a public right-of-way.

F. Minimum Usable Open Space for Nonresidential Activities. For nonresidential activities, a minimum of one square foot of usable group open space shall be provided for every one hundred (100) square feet of floor area with a minimum of one hundred (100) square feet of usable group open space provided on every lot subject to the applicable Usable Open Space Standards in Section 17.126.030.

G. Loading Berths. No loading berths shall be located within one hundred (100) feet of any residential zone except upon the granting of a conditional use permit pursuant to Section 17.102.080 and the conditional use permit procedure in Chapter 17.134.

H. Truck Parking. Any activity that operates or stores three or more Trucks shall require a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 on any lot that:

1. Abuts a residential zone, or
2. Is directly across a street, alley, or path from a residential zone, or
3. Abuts a legally established residential activity, or
4. Is on a street where fifty (50) percent or more of the frontage on the street within three hundred (300) feet of the lot has legally established residential activities.

For the purposes of this section, a "Truck" is defined as a "Commercial Vehicle" having a "Manufacturer's Gross Vehicle Weight Rating" exceeding ten thousand (10,000) pounds or a "Trailer," as those terms are defined in the California Vehicle Code.

I. Access. Where a lot has access from two or more streets, primary access shall not be from a street which serves as a residential zone boundary, unless all such streets serve as residential zone boundaries. (Ord. 12289 § 3 (part), 2000)

**17.98101.100 Applicable performance standards.**

The performance standards specified in Chapter 17.120 shall apply in the S-16 zone. (Ord. 12289 § 3 (part), 2000)

**17.98101.110 Nonconforming uses.**

The requirements regarding substitution of nonconforming uses specified in Chapter 17.114.070(A)(3) shall apply in the S-16 zone. (Ord. 12289 § 3 (part), 2000)

**Chapter 17.99**

**S-17 DOWNTOWN RESIDENTIAL OPEN SPACE COMBINING ZONE REGULATIONS (S-17)**

**Sections:**

**17.99.020 Zones with which the S-17 zone may be combined.**

**17.99.030 Definitions.**

**17.99.020 Zones with which the S-17 zone may be combined.**

The S-17 zone may be combined with the portion of any zoning district that is located within the General Plan-designated Central Business District. (Ord. 12343 § 2 (part), 2001)

**17.99.030 Definitions.**

As used in this chapter, the following words will have the meaning set forth unless the context clearly indicates otherwise:

Usable open space categories shall be defined as follows:

A. “Private Usable Open Space”. Private usable open space is accessible from a single unit and may be provided in a combination of recessed and projecting exterior spaces.

B. “Public Ground-Floor Plaza”. Public ground-floor plazas (plazas) are group usable open space located at street-level and adjacent to the building frontage. Plazas are publicly accessible during daylight hours and are maintained by the property owner. Plazas shall be landscaped and include pedestrian and other amenities, such as benches, fountains and special paving.

C. “Widened Sidewalk”. A widened sidewalk includes paving, landscaping and pedestrian amenities along the building frontage and within the property boundaries, and constitutes group usable open space. A widened sidewalk shall involve either a land dedication or easement to allow public access at all times and a seamless connection to the public right-of-way.

D. “Rooftop Open Space”. Rooftop open space, a type of group usable open space, includes gardens, decks, swimming pools, spas and landscaping located on the rooftop and accessible to all tenants.

E. “Courtyard”. A courtyard is a type of group usable open space that can be located anywhere within the subject property.

F. “Off-site Open Space”. Privately owned and maintained group usable or public open space at ground-floor or podium level within one thousand (1,000) feet of a residential development, intended to fulfill the usable open space requirement of said residential development, only. (Ord. 12343 § 2 (part), 2001)

**Chapter 17.101B**

**~~S-18 MEDIATED RESIDENTIAL DESIGN REVIEW COMBINING ZONE REGULATIONS~~**

**Sections:**

~~17.101B.010 — Title, purpose and applicability.~~

~~17.101B.020 — Zones with which the S-18 zone may be combined.~~

~~17.101B.030 — Mediated residential design review for new construction, additions of five hundred (500) square feet or more of floor area, or upper story or attic addition projects with one or two units on a lot and less than three thousand five hundred (3,500) square feet of floor area and for certain balcony or deck additions.~~

~~17.101B.040 — Design Review for Residential Facilities requiring a conditional use permit or variances or with floor area of three thousand five hundred (3,500) square feet or more.~~

~~17.101B.050 — Special residential design review for projects with one or two units on a lot and involving only additions or alterations, other than additions of five hundred (500) square feet or more of floor area, or upper story or attic additions, to an existing facility and involving less than three thousand five hundred (3,500) square feet of floor area and for new Secondary Units.~~

~~17.101B.060 — Mediated residential design review criteria.~~

~~17.101B.070 — Design review criteria.~~

~~17.101B.010 — Title, purpose and applicability.~~

~~———— The provisions of this chapter shall be known as the S-18 mediated residential design review combining zone regulations. The S-18 zone is intended to offer owners of properties in close proximity to projects that involve new construction of one or two dwelling units on a lot, or upper story additions to such dwelling units, an opportunity to resolve directly with the project applicant or the applicant's representatives, through mediation, any issues concerning the project design, and especially issues concerning the project's massing or bulk and any view, privacy and solar access impacts of the project on neighboring properties. These regulations shall apply in the S-18 zone and are supplementary to the regulations applying in the zones with which the S-18 zone is combined.~~

~~(Ord. 12376 § 3 (part), 2001)~~

~~17.101B.020 — Zones with which the S-18 zone may be combined.~~

~~———— The S-18 Zone may be combined with any zone, except zones where design review or site development and design review is required for all proposals that involve or result in one or two dwelling units on a lot.~~

~~(Ord. 12376 § 3 (part), 2001)~~

~~17.101B.030 — Mediated residential design review for new construction, additions of five hundred (500) square feet or more of floor area, or upper story or attic addition projects with one or two units on a lot and less than three thousand five hundred (3,500) square feet of floor area and for certain balcony or deck additions.~~

~~———— If either a new construction project, a project involving an addition of five hundred (500) square feet or more of floor area, or an upper story or attic addition project involves or results in one or two dwelling units on a lot and the cumulative floor area of all principal Residential Facilities on the lot is less than three thousand five hundred (3,500) square feet, or if the project involves construction of an upper story or attic balcony or deck regardless of the floor area of the facility, no such project shall be constructed or established, unless plans for the proposal have been approved pursuant to the mediated residential design review procedure in Chapter 17.147. Addition of floor area within an existing building~~

envelope shall not be considered floor area for purposes of this requirement. This requirement shall not apply to:

- ~~\_\_\_\_\_ A. \_\_\_\_\_ Any project limited to construction of a balcony or deck that is either less than ten feet in depth or is not on a side or rear elevation that faces a one or two unit Residential Facility on an adjacent lot;~~
- ~~\_\_\_\_\_ B. \_\_\_\_\_ Any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, the site development and design review procedure in Chapter 17.142, or the variance procedure in Chapter 17.148; or~~
- ~~\_\_\_\_\_ C. \_\_\_\_\_ Any facility containing both residential and nonresidential activities;~~
- ~~\_\_\_\_\_ D. \_\_\_\_\_ The construction of a new Secondary Unit.~~

~~(Ord. 12501 § 70, 2003; Ord. 12376 § 3 (part), 2001)~~

~~**17.101B.040 Design Review for Residential Facilities requiring a conditional use permit or variances or with floor area of three thousand five hundred (3,500) square feet or more.**~~

~~\_\_\_\_\_ Projects creating or adding floor area and either requiring a conditional use permit or variance or resulting in a Residential Facility with a floor area of three thousand five hundred (3,500) square feet or more shall require design review pursuant to the design review procedure in Chapter 17.136. Addition of floor area within an existing building envelope shall not be considered floor area for purposes of this requirement. This requirement shall not apply to the construction of a new Secondary Unit.~~

~~(Ord. 12501 § 71, 2003; Ord. 12376 § 3 (part), 2001)~~

~~**17.101B.050 Special residential design review for projects with one or two units on a lot and involving only additions or alterations, other than additions of five hundred (500) square feet or more of floor area, or upper story or attic additions, to an existing facility and involving less than three thousand five hundred (3,500) square feet of floor area and for new Secondary Units.**~~

- ~~\_\_\_\_\_ A. \_\_\_\_\_ If a project is limited to additions or alterations that:
  - ~~\_\_\_\_\_ 1. \_\_\_\_\_ Affect exterior appearance, other than the additions of five hundred (500) square feet or more of floor area or the upper story or attic additions described in Section 17.101B.030 which require mediated residential design review; and~~
  - ~~\_\_\_\_\_ 2. \_\_\_\_\_ Involve or result in one or two dwelling units on a lot; and~~
  - ~~\_\_\_\_\_ 3. \_\_\_\_\_ Create or result in a principal Residential Facility with less than three thousand five hundred (3,500) square feet of floor area, no Residential Facility shall be so constructed or altered unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146. This requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities or to the construction of a new Secondary Unit.~~~~
- ~~\_\_\_\_\_ B. \_\_\_\_\_ No Secondary Unit shall be constructed or established unless plans for the proposal have been approved pursuant to the special residential design review procedure in Chapter 17.146.~~
- ~~\_\_\_\_\_ C. \_\_\_\_\_ A project will be exempt from the requirements set forth in subsection A of this section if it does not involve the addition of a dwelling unit and if it meets one or more of the following criteria:
  - ~~\_\_\_\_\_ 1. \_\_\_\_\_ Does not require a building permit;~~
  - ~~\_\_\_\_\_ 2. \_\_\_\_\_ Involves only the repair or replacement in-kind of a roof;~~
  - ~~\_\_\_\_\_ 3. \_\_\_\_\_ Is certified by the City Planning Department to involve only replacement in-kind of existing building components; or~~~~

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~~4. Is certified by the City Planning Department: (a) to involve an increase or decrease in wall area, floor area, or footprint of no more than ten percent; and (b) that all exterior treatment matches the existing building. (Ord. 12501 § 72, 2003; Ord. 12376 § 3 (part), 2001)~~

~~17.101B.050~~

~~17.101B.060 Mediated residential design review criteria.~~

~~Mediated residential design review approval pursuant to Section 17.101B.030 may be granted only upon determination that the proposal conforms to the "Special Residential Design Review Checklist Standards and Discretionary Criteria" as adopted by the City Planning Commission and, where applicable as set forth in the mediated residential design review procedure in Chapter 17.147, the "Residential Design Review Guidelines for Building Mass and Bulk and for View, Privacy and Solar Access Impacts on Neighboring Properties" as adopted by the City Planning Commission. (Ord. 12376 § 3 (part), 2001)~~

~~**17.101B.070 Design review criteria.**~~

~~Design review approval pursuant to Section 17.101B.040 may be granted only upon determination that the proposal conforms to the general design review criteria set forth in the design review procedure in Chapter 17.136 and to the "Residential Design Review Guidelines for Building Mass and Bulk and for View, Privacy and Solar Access Impacts on Neighboring Properties" as adopted by the City Planning Commission. (Ord. 12376 § 3 (part), 2001)~~

Chapter 17.101D

S-20 HISTORIC PRESERVATION DISTRICT COMBINING ZONE REGULATIONS

Sections:

- 17.101D.010 Title, purpose, and applicability.
- 17.101D.020 Zones with which the S-20 zone may be combined.
- 17.101D.030 ~~Required design review process. Project review requirements for residential projects limited to alterations (including additions) and one or two units on a lot: Special Residential Design Review.~~
- ~~17.101D.040 Project review requirements: Design review for alterations and additions not eligible for Special Residential Review, for new construction, and for demolition or removal.~~
- 17.101D.050 Design review criteria, ~~for alterations not eligible for Special Residential Design Review and for new construction.~~
- 17.101D.060 Criteria for demolition or removal.
- 17.101D.070 Postponement of demolition or removal.
- 17.101D.080 Duty to keep in good repair.

17.101D.010 Title, purpose, and applicability.

The provisions of this chapter shall be known as the S-20 historic preservation district combining zone regulations. The S-20 zone is intended to preserve and enhance the cultural, educational, aesthetic, environmental, and economic value of structures, other physical facilities, sites, and areas of special importance due to historical association, basic architectural merit, the embodiment of a style or special type of construction, or other special character, interest, or value, and is typically appropriate to selected older locations in the city. The S-20 zone is similar to the S-7 preservation combining zone, but is designed for larger areas, often with a large number of residential properties that may not be individually eligible for landmark designation but which as a whole constitute a historic district. The S-20 zone provides generally more expeditious review procedures than those provided in the S-7 zone. These regulations shall apply in the S-20 zone, and are supplementary to the provisions of Section 17.102.030 for designated landmarks and to the other regulations applying in the zones with which the S-20 zone is combined; if a property is both a landmark and located in the S-20 zone and is therefore subject to both landmark and S-20 regulations, the stricter regulations prevail. (Ord. 12513 Attach. A (part), 2003)

17.101D.020 Zones with which the S-20 zone may be combined.

The S-20 zone may be combined with any other zone. (Ord. 12513 Attach. A (part), 2003)

17.101D.030 ~~Required design review process. Project review requirements for residential projects limited to alterations (including additions) and one or two units on a lot: Special Residential Design Review.~~

A. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure 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 additional provisions in Sections 17.101.050, 17.101.060, and 17.101.070; the Telecommunications regulations in Chapter 17.128; or the Sign regulations in Chapter 17.104.

B. Except as specified in subsection C, no demolition or removal of any structure or portion thereof that is a "contributor" or "potential contributor" to the S-20 Historic Preservation District, as determined by the City's Historical and Architectural Inventory (Cultural Heritage Survey) shall be permitted unless plans for the proposal have been approved pursuant to the regular design review

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procedure in Chapter 17.136 and the additional provisions in Sections 17.101.050, 17.101.060, and 17.101.070.

C. Exceptions--Demolition. After notice to the Director of City Planning, demolition or removal of a structure or portion thereof shall be permitted without design review approval upon a determination by the Building Official or the City Council that immediate demolition is necessary to protect the public health or safety, or after expiration of the periods of postponement referred to in Section 17.101.070.

D. Landmarks Referral. If an application is for regular design review in the S-20 zone, and the Director of City Planning determines that a proposed addition or alteration will have a significant effect on the property's character-defining elements that are visible from a street or other public area, the Director may, at his or her discretion, refer the project to the Landmarks Preservation Advisory Board for its recommendations. "Character-defining elements" are those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance. An addition or alteration is normally considered "visible from a street or other public area" if it affects a street face or public face of the facility or is otherwise located within the "critical design area," defined as the area within forty (40) feet of any street line, public alley, public path, park or other public area.

~~A. Special Residential Design Review. For alterations and additions to Residential Facilities with one or two dwelling units on a lot that affect exterior appearance, unless exempt or subject to other design review requirements (subsections (B) and (C) below), plans must be approved pursuant to the Special Residential Design Review procedure in Chapter 17.146, including determination that the proposal conforms to the "Special Residential Design Review Checklist Standards and Discretionary Criteria" as adopted by the City Planning Commission.~~

~~B. Exemption. A project eligible for Special Residential Design Review will be exempt from the review set forth in subsection (A) above if it does not involve the addition of a dwelling unit and if it meets one or more of the following criteria:~~

- ~~1. Does not require a building permit;~~
- ~~2. Involves only the repair or replacement in kind of roof;~~
- ~~3. Is certified by the City Planning Department to involve only replacement in kind of existing building components; or~~
- ~~4. Is certified by the City Planning Department: (a) to involve and increase or decrease in wall area, floor area, or footprint of no more than ten (10) percent, and (b) that all exterior treatment matches the existing building.~~

~~C. Projects Not Eligible for Special Residential Design Review. Special Residential Design Review does not apply to any application subject to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142, nor to any facility containing both residential and nonresidential activities or any facility in the S-18 mediated residential design review combining zone, as set forth in the S-18 zone. These projects are reviewed as set forth in Sections 17.101D.040 and 17.101D.050, below.~~

~~D. Landmarks Referral. If the Director of City Planning determines that an alteration changes or removes significant historic architectural elements or alters the historic character of a facility and such elements or character are visible from a street or other public area, the Director may, at the Director's discretion, refer the project to the Landmarks Preservation Advisory Board for its recommendations. If such a referral occurs, the fifteen (15) working day period of consideration set forth in Section 17.146.030 for Special Residential Design Review shall be changed to sixty (60) days. An alteration is normally considered "visible from a street or other public area" if it affects a street face or public face of the facility or is otherwise located within the "critical design area," defined as the area within forty (40) feet of any street line, public alley, public path, park or other public area (see illustration I-30). (Ord. 12513 Attach. A (part), 2003)~~

**17.101D.040 ~~Project review requirements: Design review for alterations and additions not eligible for Special Residential Review, for new construction, and for demolition or removal.~~**

~~A. In the S-20 zone, approval pursuant to the design review procedure in Chapter 17.136 and the applicable provisions of Sections 17.101D.050, 17.101D.060, and 17.101D.070 is required for the following types of projects:~~

~~1. Alterations not subject to Special Residential Design Review as set forth in Section 17.101D.030C above;~~

~~2. New construction of structures; and~~

~~3. Demolition or removal of any structure or portion thereof that is a "contributor" or "potential contributor" to the S-20 Historic Preservation District, as determined by the City's Historical and Architectural Inventory (Cultural Heritage Survey) subject to the right of appeal pursuant to the administrative appeal procedure in Chapter 17.132. The terms "contributor," "potential contributor," "Historical and Architectural Inventory," and "Cultural Heritage Survey" are defined in the Historic Preservation Element of the Oakland General Plan.~~

~~B. Exceptions - Demolition. After notice to the Director of City Planning, demolition or removal of a structure or portion thereof shall be permitted without design review approval upon a determination by the Building Official or the City Council that immediate demolition is necessary to protect the public health or safety, or after expiration of the periods of postponement referred to in Section 17.101D.070. (Ord. 12513 Attach. A (part), 2003)~~

**17.101D.050 ~~Design review criteria, for alterations not eligible for Special Residential Design Review and for new construction.~~**

~~In the S-20 zone, proposals requiring regular review approval pursuant to Section 17.101.030 may be granted only upon determination that the proposal conforms to the regular design review criteria set forth in the design review procedure in Chapter 17.136 and to all of the following additional criteria: new construction and those alterations and additions that are not eligible for review or exemption under Special Residential Design Review as set forth in Section 17.101D.030 must conform to the general design review criteria set forth in Chapter 17.136 and to all of the following additional criteria:~~

~~A. That the proposal will not substantially impair the visual, architectural, or historic value of the affected site or facility. Consideration shall be given to design, form, scale, color, materials, texture, lighting, detailing and ornamentation, landscaping, signs, and any other relevant design element or effect, and, where applicable, the relation of the above to the original design of the affected facility.~~

~~B. That the proposed development will not substantially impair the visual, architectural, or historic value of the total setting or character of the S-20 historic preservation district or of neighboring facilities. Consideration shall be given to the desired overall character of any such area or grouping of facilities, including all design elements or effects specified in subsection (A) above; and~~

~~C. That the proposal conforms with the Design Guidelines for Landmarks and Preservation Districts as adopted by the City Planning Commission and, as applicable for certain federally related projects, with the Secretary of the Interior's Standards for the Treatment of Historic Properties. (Ord. 12513 Attach. A (part), 2003)~~

**17.101D.060 ~~Criteria for demolition or removal.~~**

~~Except as otherwise specified in subsection C of 17.101.030, no structure or portion thereof that is a "contributor" or "potential contributor" to the S-20 Historic Preservation District, as determined by the City's Cultural Heritage Survey, shall be removed or demolished unless plans for the proposal have been approved pursuant to the regular design review procedure in Chapter 17.136 and to the following additional criteria set forth in subsections A and B below, or to one or both of the criteria set forth in subsection C below: Demolition or removal of a structure or portion thereof required design review approval, pursuant to Section 17.101D.040. The proposal must meet the criteria of both subsections (A) and (B) below, or one or both of criteria under subsection (C) below:~~



A. That the affected structure or portion thereof is not considered irreplaceable in terms of its visual, cultural, or educational value to the area or community; and

B. That the proposed demolition or removal will not substantially impair the visual, architectural, or historic value of the total setting or character of the S-20 historic preservation district or of neighboring facilities; or

C. If the proposal does not meet criteria under subsections (A and (B)), then it must meet one or both of the following criteria:

1. That the structure of portion thereof is in such physical condition that it is not architecturally feasible to preserve or restore it, or

2. That, considering the economic feasibility of preserving or restoring the structure or portion thereof, and balancing the interest of the public in preservation or restoration and the interest of the owner of the property in its utilization, approval is required by considerations of equity. (Ord. 12513 Attach. A (part), 2003)

**17.101D.070 Postponement of demolition or removal.**

A. Initial One Hundred Twenty (120) -Day Postponement. If an application for approval of demolition or removal of a structure or portion thereof, pursuant to Sections 17.101D.030~~040~~ and 17.101D.060, is denied, the issuance of a permit for demolition or removal shall be deferred for a period of one hundred twenty (120) days, beginning upon the initial denial by the reviewing officer or body. ~~However, if the demolition or removal has also been postponed pursuant to Section 17.102.070 (preservation study list), the initial period of postponement under this subsection shall be reduced by the length of the period imposed pursuant to Section 17.102.070.~~ During the period of postponement, the Director of City Planning or the City Planning Commission, with the advice and assistance of the Landmarks Preservation Advisory Board, shall explore all means by which the affected structure or portion thereof may be preserved or restored, with the agreement of the owner or through eminent domain.

B. Possible One Hundred Twenty (120) -Day Extension. The reviewing officer or body from whose decision the denial of the application became final may, after holding a public hearing, extend the initial postponement for not more than one hundred twenty (120) additional days. Notice of the hearing shall be given by the posting an enlarged notice on the premises ~~notices thereof within three hundred (300) feet of the subject property involved~~ and by mail or delivery to the applicant, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than seventeen (17) ten ~~ten~~ days prior to the date set for the hearing. The decision to extend the postponement can only be made between the 30th and 90th days, inclusive, of the initial one hundred twenty (120) day period. Extension shall be made only upon evidence that substantial progress has been made toward securing the preservation or restoration of the structure or portion thereof. If the applicant has not exhausted all appeals under Sections 17.136.080 and 17.136.090 from the denial of the application, the decision to extend the postponement is appealable under the provisions of Sections 17.136.080 and 17.136.090 to those bodies to whom appeal had not been taken from the initial denial of the application. (Ord. 12513 Attach. A (part), 2003)

**17.101D.080 Duty to keep in good repair.**

Except as otherwise authorized under Sections 17.101D.030 and 17.101D.070, the owner, lessee, or other person in actual charge of each structure in the S-20 zone shall keep in good repair all of the exterior, as well as all interior portions whose maintenance is necessary to prevent deterioration and decay of the exterior. (Ord. 12513 Attach. A (part), 2003)

## Chapter 17.102

## GENERAL REGULATIONS APPLICABLE TO ALL OR SEVERAL ZONES

## Sections:

- ~~17.102.030~~ ~~Special regulations for designated landmarks.~~
- ~~17.102.050~~ ~~Revocation of unused prior zoning approvals after one year.~~
- ~~17.102.060~~ ~~Study list~~ ~~Postponement of demolition.~~
- 17.102.090 Conditional use permit for shared access facilities.
- 17.102.210 Special regulations applying to convenience markets, fast-food restaurants, certain establishments selling alcoholic beverages, providing mechanical or electronic games, and transport and warehousing storage of abandoned, dismantled or inoperable vehicles, machinery, equipment, and of construction, grading, and demolition materials and scrap operation.
- 17.102.335 Standards for sidewalk cafes.
- 17.102.360 Secondary units.
- 17.102.390 Parking accommodation requirements for one- and two-family residential facilities.
- 17.102.400 Special design requirements for lots that contain residential facilities and no nonresidential facilities.

~~17.102.030~~ ~~Special regulations for designated landmarks.~~

~~A. Designation. In any zone, the City Council may designate as a landmark any facility, portion thereof, or group of facilities which has special character, interest, or value of any of the types referred to in 17.07.030P. The designating ordinance for each landmark shall include a description of the characteristics of the landmark which justify its designation and a clear description of the particular features that should be preserved. Each ordinance shall also include the location and boundaries of a landmark site, which shall be the lot, or other appropriate immediate setting, containing the landmark. Designation of each landmark and landmark site shall be pursuant to the rezoning and law change procedure in Chapter 17.144.~~

~~B. Design Review for Construction, Alteration, Demolition, or Removal. Within any designated landmark site, no building, Sign, or other facility shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance and no structure, portion thereof, or other landmark shall be demolished or removed, unless such proposal shall have been approved pursuant to the design review procedure in Chapter 17.136 and the applicable provisions of this section. Furthermore, for a publicly owned landmark, the designating ordinance may require such approval of proposed changes in major interior architectural features. However, in any case, after notice to the Director of City Planning, demolition or removal shall be permitted without such approval upon a determination by the Inspectional Services Department, the Housing Conservation Division, their respective appeals boards, or the City Council that immediate demolition is necessary to protect the public health or safety, or after expiration of the periods of postponement referred to in subsection D of this section.~~

~~C. Design Review Criteria. Design review approval pursuant to subsection B of this section may be granted only upon determination that the proposal conforms to the general design review criteria set forth in the design review procedure in Chapter 17.136 and to the criteria set forth in subdivisions 1, 2 and 3 or to one or both of the criteria set forth in subdivision 3:~~

~~1. That the proposal will not adversely affect the exterior features of the designated landmark nor, when subject to control as specified in the designating ordinance for a publicly owned landmark, its major interior architectural features;~~

~~2. That the proposal will not adversely affect the special character, interest, or value of the landmark and its site, as viewed both in themselves and in their setting;~~

~~3. That the proposal conforms with the Design Guidelines for Landmarks and Preservation Districts as adopted by the City Planning Commission and, as applicable for certain federally related projects, with the Secretary of the Interior's Standards for the Treatment of Historic Properties;~~

~~4. If the proposal does not conform to the criteria set forth in subdivisions 1, 2 and 3:~~

~~a. That the designated landmark or portion thereof is in such condition that it is not architecturally feasible to preserve or restore it, or~~

~~b. That, considering the economic feasibility of alternatives to the proposal, and balancing the interest of the public in protecting the designated landmark or portion thereof, and the interest of the owner of the landmark site in the utilization thereof, approval is required by considerations of equity.~~

~~D. Postponement of Demolition or Removal. If an application for approval of demolition or removal of a facility, pursuant to subsections B and C of this section, is denied, the issuance of a permit for demolition or removal shall be deferred for a period of one hundred twenty (120) days, said period to commence upon the initial denial by the reviewing officer or body. However, if demolition or removal of the facility has also been postponed pursuant to Section 17.102.060, the initial period of postponement under this subsection D shall be reduced by the length of the period imposed pursuant to Section 17.102.060. During the period of postponement, the Director of City Planning or the City Planning Commission, with the advice and assistance of the Landmarks Preservation Advisory Board, shall explore all means by which, with the agreement of the owner or through eminent domain, the affected facility may be preserved or restored. The reviewing officer or body from whose decision the denial of the application became final may, after holding a public hearing, extend said period for not more than one hundred twenty (120) additional days; provided, however, that the decision to so extend said period shall be made not earlier than ninety (90) days nor later than thirty (30) days prior to the expiration of the initial one hundred twenty (120) day period. Notice of the hearing shall be given by posting notices thereof within three hundred (300) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the applicant, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than ten days prior to the date set for the hearing. Such extension shall be made only upon evidence that substantial progress has been made toward securing the preservation or restoration of the facility. In the event that the applicant shall have failed to exhaust all appeals under Sections 17.136.080 and 17.136.090 from the denial of the application, the decision to extend said period shall be appealable under the provisions of Sections 17.136.080 and 17.136.090 to those bodies to whom appeal had not been taken from the initial denial of the application.~~

~~E. Duty to Keep in Good Repair. Except as otherwise authorized under subsections B and C of this section, the owner, lessee, or other person in actual charge of each designated landmark shall keep in good repair all of the exterior portions thereof, all of the interior portions thereof when subject to control as specified in the designating ordinance, and all interior portions thereof the maintenance of which is necessary to prevent deterioration and decay of any exterior portion. (Ord. 12513 Attach. A (part), 2003; Ord. 12237 § 4 (part), 2000; prior planning code § 7002)~~

~~17.102.030~~

**17.102.050 — Revocation of unused prior zoning approvals after one year.**

~~Unless a specific termination date has been prescribed in the granting thereof, all conditional use permits, variances, and other special zoning approvals granted prior to the effective date of the zoning regulations shall become void one year after said effective date unless the privileges granted by such approval have been exercised before the end of such period by the beginning of actual construction or alteration of, or other change in, the authorized facilities or actual commencement of the authorized activities. (Prior planning code § 7004)~~

**17.102.060 — Study list — Postponement of demolition.**

~~The issuance of a demolition permit for any structure or portion thereof may be postponed by the Director of City Planning for not to exceed sixty (60) days from the date of application for such permit.~~

~~The Director may do so upon determination that the structure or portion thereof is on a study list of facilities under serious study by the Landmarks Preservation Advisory Board, the City Planning Commission, or the Director, for possible landmark designation under Section 17.102.030 or for other appropriate action to preserve it. During the period of postponement the Board, the Commission, or the Director shall explore means for preserving or restoring the structure or portion thereof. However, demolition may not be postponed under this section if, after notice to the Director of City Planning, the Inspectional Services Department, the Housing Conservation Division, their respective appeals boards, or the City Council determines that immediate demolition is necessary to protect the public health or safety. Any determination made by the Director of City Planning under this section may be appealed pursuant to the administrative appeal procedure in Chapter 17.132. (Prior planning code § 7005)~~

**17.102.090 Conditional use permit for shared access facilities.**

A. Use Permit Required. A shared access facility shall be allowed only upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

B. Use Permit Criteria. A conditional use permit under this section 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 to all of the following additional use permit criteria:

1. Compliance with Guidelines. Each shared access facility proposal shall be in compliance with the City Planning Commission guidelines for development and evaluation of shared access facilities.

2. Public Safety. The width of a shared access facility shall be adequate to ensure unimpeded emergency and nonemergency ingress and egress at all times. Additionally, the shared access facility shall conform to city standards for roadway layout and design.

3. Aesthetics. A shared access facility shall be designed to provide the environmentally superior alternative to other approaches for the development of the property and shall be designed to be visually compatible with its surroundings, as set forth in the City Planning Commission guidelines; necessary retaining walls shall not be of excessive height and shall not be visibly obtrusive, as such are defined in the City Planning Commission guidelines.

4. On-Going Owner Responsibility. Applicants for a shared access facility ~~at the time of application to the city,~~ shall submit, for approval, an agreement for access facility maintenance, parking restrictions, and landscape maintenance. Upon staff approval, the proposed agreement shall be recorded by the applicant within thirty (30) days with the Alameda County Recorder. In addition, applicants for a shared access facility shall provide documentation of continuing liability insurance coverage. Documentation of insurance coverage shall include the written undertaking of each insurer to give the city thirty (30) days' prior written notice of cancellation, termination, or material change of such insurance coverage.

5. Certification. Prior to construction, applicants for a shared access facility shall retain a California registered professional civil engineer to certify, upon completion, that the access facility was constructed in accordance with the approved plans and construction standards. This requirement may be modified or waived at the discretion of the Director of Public Works, based on the topography or geotechnical considerations. An applicant may also be required to show assurance of performance bonding for grading and other associated improvements. In addition, prior to the installation of landscaping, an applicant shall retain a landscape architect or other qualified individual to certify, upon completion, that landscaping was installed in accordance with the approved landscape plan. (Prior planning code § 7010)

**17.102.210 Special regulations applying to Convenience Markets, Fast-Food Restaurants, certain establishments selling alcoholic beverages, providing mechanical or electronic games, and Transport and Warehousing Storage of abandoned, dismantled or inoperable vehicles, machinery, equipment, and of construction, grading, and demolition materials and Scrap Operation.**

A. Use Permit Criteria for Convenience Markets, Fast-Food Restaurants, and Establishments Selling Alcoholic Beverages. A conditional use permit for any conditionally permitted Convenience Market, Fast-Food Restaurant, or Alcoholic Beverage Sales Commercial Activity 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, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following use permit criteria:

1. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable, with consideration to be given to the area's function and character, problems of crime and loitering, and traffic problems and capacity;

2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds;

3. That the proposal will not interfere with the movement of people along an important pedestrian street;

4. That the proposed development will be of an architectural and visual quality and character which harmonizes with, or where appropriate enhances, the surrounding area;

5. That the design will avoid unduly large or obtrusive Signs, bleak unlandscaped parking areas, and an overall garish impression;

6. That adequate litter receptacles will be provided where appropriate;

7. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, it will be limited in hours of operation, or designed or operated, so as to avoid disruption of residents' sleep between the hours of ten p.m. and seven a.m. The same criteria shall apply to all conditional use permits required by subsection B of this section for sale of alcoholic beverages at full-service restaurants.

8. That proposals for new Fast-Food Restaurants must substantially comply with the provisions of the Oakland City Planning Commission "Fast-Food Restaurant--Guidelines for Development and Evaluation" (OCPD 100-18).

B. Special Restrictions on Establishments Selling Alcoholic Beverages.

1. No Alcoholic Beverage Sales Commercial Activity shall be located closer than one thousand (1,000) feet to any other Alcoholic Beverage Sales Commercial Activity, except:

a. On-sale retail licenses located in the central district (defined as within the boundaries of I-980 and Brush street to the west; 27th Street to the north; Harrison Street/Lake Merritt and the Lake Merritt Channel to the east; and the Estuary to the south); or

b. If the activity is in conjunction with a Full-Service Restaurant; or

c. Establishments with twenty-five (25) or more full time equivalent (FTE) employees and a total floor area of twenty thousand (20,000) square feet or more.

2. Alcoholic Beverage Sales Activities in conjunction with a Full Service Restaurant and located within any of the following areas applied to a depth of two hundred (200) feet on each side of the identified streets and portions of streets, as measured perpendicularly from the right-of-way line thereof: E. 14th Street; Foothill Boulevard; MacArthur Boulevard and West MacArthur Boulevard; that portion of San Pablo Avenue lying north of 16th Street; that portion of Edes Avenue lying between Clara Street and Bergedo Drive, shall require a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

3. In addition to the criteria prescribed elsewhere in the zoning regulations, a land use permit for an Alcoholic Beverage Sales Activity located within an Alcoholic Beverage Sales license

overconcentrated area shall be granted and a finding of Public Convenience or Necessity made only if the proposal conforms to all of the following three criteria:

a. That a community need for the project is clearly demonstrated. To demonstrate community need, the applicant shall document in writing, specifically how the project would serve an unmet or underserved need or population within the overall Oakland community or the community in which the project is located, and how the proposed project would enhance physical accessibility to needed goods or services that the project would provide, including, but not limited to alcohol; and

b. That the overall project will have a positive influence on the quality of life for the community in which it is located, providing economic benefits that outweigh anticipated negative impacts, and that will not result in a significant increase in calls for police service; and

c. That alcohol sales are typically a part of this type of business in the City of Oakland (for example and not by way of limitation, alcohol sales in a laundromat would not meet this criteria).

4. In addition to the above criteria, projects outside the Central Business District and Hegenberg Corridor shall meet all of the following criteria to make a finding of Public Convenience or Necessity, with the exception of those projects that will result in twenty-five (25) or more full time equivalent (FTE) employees and will result in a total floor area of twenty thousand (20,000) square feet or more.

a. The proposed project is not within one thousand (1,000) feet of another alcohol outlet (except full service restaurants), school, licensed day care center, public park or playground, churches, senior citizen facilities, and licensed alcohol or drug treatment facilities; and

b. Police department calls for service within the "beat" where the project is located do not exceed by twenty (20) percent, the average of calls for police service in police beats citywide during the preceding twelve (12) months.

C. Special Restrictions on Provision of Mechanical or Electronic Games in Certain Cases. The following regulations shall apply to the provision of pinball machines, video game devices, or other mechanical or electronic games, as defined in the Oakland Municipal Code, within any kind of place of business where the games can be played or operated by the public or by customers; provided, however, that these regulations shall not apply to the provision of a total of fewer than three mechanical or electronic games in any single place of business, except where the games provide the main or primary source of income for the proprietor; and further provided that these regulations shall not apply to the provision of any number of such games in any pool or billiard room or bowling alley for which a permit is required pursuant to Chapter 5.02 of the municipal code and from which persons under eighteen (18) are barred at all times by the owner or operator, nor in any premises which are licensed by the State Department of Alcoholic Beverage Control for on-sale consumption of alcoholic beverages and which do not lawfully allow minors:

1. It shall not be located in any residential zone nor in the M-10, S-1, S-2, or S-3 zone.

2. It is not permitted except upon the granting of a conditional use permit in any commercial zone other than the C-60 zone.

3. It shall not be located:

a. Within three hundred (300) feet from any lot in a residential zone; nor

b. Within one thousand (1,000) feet from the nearest regular entrance to or exit from any public playground or public, parochial, or private elementary, junior high, or high school.

These distances shall be measured horizontally in the most direct pedestrian route along or across any street or streets, alleys, or paths, or private ways described in Section 17.106.020, leading to the closest regular entrance to the actual space devoted to said games.

D. Special Restrictions Applying to Fast-Food Restaurants.

1. No Fast-Food Restaurant Commercial Activity shall be located within a one thousand (1,000) foot radius of an existing or approved Fast-Food Restaurant, as measured from the center of the front property line of the proposed site, except in the central business district (defined as within the boundaries of I-980 and Brush Street to the west; 27th Street to the North; Harrison Street/Lake Merritt

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and the Lake Merritt Channel to the east; and the Estuary to the south), within the main building of Shopping Center Facilities, and in the C-36 boulevard service commercial zone.

2. Fast-Food Restaurants with Drive-Through Facilities shall not be located within five hundred (500) feet of a public or private elementary school, park, or playground, measured perpendicularly from the street right-of-way.

3. Access. Ingress and egress to Fast-Food Facilities shall be limited to commercial arterial streets rather than residential streets. No direct access shall be provided to adjacent residential streets which are less than thirty-two (32) feet in pavement width. Exceptions to either of the requirements may be obtained where the City Traffic Engineer determines that compliance would deteriorate local circulation or jeopardize the public safety. Any such determination shall be stated in writing and shall be supported with findings. Driveway locations and widths and entrances and exits to Fast-Food Facilities shall be subject to the approval of the City Traffic Engineer.

4. Trash and Litter. Disposable containers, wrappers and napkins utilized by Fast-Food Restaurants shall be imprinted with the restaurant name or logo.

~~5. Special Requirements Regarding Permit Revocation for Fast-Food Restaurants. See Section 17.134.100.~~

56. Vacated/Abandoned Fast-Food Facilities. The project sponsor of a proposed Fast-Food Facility shall be required to obtain a performance bond, or other security acceptable to the City Attorney, to cover the cost of securing and maintaining the facility and site if it is abandoned or vacated within a prescribed high-risk period. As used in this code, the words "abandoned" or "vacated" shall mean a facility that has not been operational for a period of thirty (30) consecutive days, except where nonoperation is the result of maintenance or renovation activity pursuant to valid city permits. The defined period of coverage is four years following the obtaining of an occupancy permit. The bond may be renewed annually, and proof of renewal shall be forwarded to the Director of City Planning. The bond amount shall be determined by the city's Risk Manager and shall be adequate to defray expenses associated with the requirements outlined below. Monitoring and enforcement of the requirements set forth in this section shall be the responsibility of the Housing Manager of the Department of Housing Conservation, pursuant to Chapter 8.24 of the Oakland Municipal Code and those sections of the Oakland Housing Code which are applicable.

If a Fast-Food Facility has been vacated or abandoned for more than thirty (30) consecutive days, the project sponsor shall be required to comply with the following requirements, pursuant to the relevant cited city, county and state codes:

- a. Enclose the property with a security fence and secure the facility;
- b. Post signs indicating that vehicular parking and storage are prohibited on the site (10.16.070 O.T.C. and 22658 C.V.C), and that violators will be cited, and vehicles towed at the owner's expense, and that it is unlawful to litter or dump waste on the site (Sections 374b.5 C.P.C. and 374b C.P.C.). All signs shall conform to the limitations on signs for the specific zone and shall be weatherproof and of appropriate size and standard design for the particular function;
- c. Install and maintain security lighting as appropriate and required by the Oakland Police Department;
- d. Keep the site free of handbills, posters and graffiti and clear of litter and debris pursuant to Section 8.38.160 of the O.M.C.;
- e. Maintain existing landscaping and keep the site free of overgrown vegetation.
- E. Special Restrictions on Transport and Warehousing storage of abandoned, dismantled or inoperable vehicles, machinery, equipment and of construction, grading and demolition materials, and Scrap Operation (these provisions would not apply to the storage or parking of operable recreational vehicles, operable automobiles, public parking facilities, or parking for active establishments, e.g., auto dealerships).

(Ord. 12241 § 3 (part), 2000; Ord. 12224 § 5, 2000; Ord. 11958 § 9, 1996; amended during 1997 codification; Ord. 11831 §§ 3, 4, 1995; prior planning code § 7023)

**17.102.335 Standards for Sidewalk Cafes.**

A. Procedures for Construction of Sidewalk Cafe Facilities.

1. Notwithstanding any design review requirement of the particular zone, Sidewalk Cafes that have a maximum of five tables and no more than fifteen (15) chairs and/or will not have any permanent structures in the public right of way, are allowed by right subject to the standards required in subsection B of this section.

2. Sidewalk Cafes that have more than five tables/fifteen (15) chairs and/or have a permanent structure in the public right of way are subject to small project design review in Section 17.136.030, 020.

B. Standards for Sidewalk Cafes.

1. Sidewalk Cafes shall not encroach upon any public right-of-way unless a minimum of six and one-half feet of unobstructed improved sidewalk remains available for pedestrian purposes. The minimum distance shall be measured from the portion of the Sidewalk Cafe encroachment which is nearest to any obstruction within the sidewalk area. For purposes of the minimum clear path, parking meters, traffic signs, trees and all similar obstacles shall constitute obstruction.

2. Operators/owners of Sidewalk Cafes shall obtain an encroachment permit from the city's Building Services Division, and shall comply with all requirements imposed by other affected departments. The encroachment permit shall include language that a waste receptacle be placed outside, all garbage/litter associated with Sidewalk Cafes must be removed within twenty-four (24) hours, and a requirement to obtain liability insurance. The city shall be named as an additional insured and the amount of the insurance shall be determined by the city's Risk Manager.

3. The operators/owners of Sidewalk Cafes shall defend, indemnify, and hold harmless the City of Oakland its agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, its agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the City Planning Department, Planning Commission, or City Council. The city shall promptly notify the applicant of any claim, action or proceeding and the city shall cooperate fully in such defense. The city may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

4. The operator/owners of Sidewalk Cafes shall continually bus tables and provide a final cleanup at the end of the business day that will include litter pickup one hundred (100) feet in each direction from the site.

(Ord. 12224 § 6, 2000)

**17.102.360 Secondary Units.**

A. Development Standards. The following regulations shall apply to the construction, establishment, or alteration of Secondary Units wherever permitted or conditionally permitted, as specified in each individual zone:

1. Other Uses on Property. A Secondary Unit shall only be permitted on a lot that contains only one other primary dwelling unit. A Secondary Unit may be approved and constructed at the same time or after the approval and construction of the primary dwelling unit.

2. Sale of Unit. A Secondary Unit shall not be sold separately from the primary dwelling on the same lot.

3. Owner Occupancy. The legal owner shall occupy either the primary dwelling or the Secondary Unit. Prior to issuance of a building permit for a Secondary Unit, the applicant shall record as a deed restriction in the Alameda County Recorder's Office, notice of this requirement, in a form prescribed by the Director of City Planning.

4. Maximum Permitted Floor Area. The floor area of a Secondary Unit shall not exceed ~~nine hundred (900) six hundred fifty (650)~~ square feet or fifty (50) percent of the floor area of the primary dwelling, whichever is less, except that Secondary Units of up to ~~five hundred (500) square feet~~ in floor area are permitted regardless of the size of the primary dwelling. ~~This floor area limitation may be~~



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exceeded, up to a maximum of one thousand two hundred (1,200) square feet, upon the granting of a conditional use permit, pursuant to the conditional use permit procedure in Chapter 17.134.

5. Fire Flow and Water Pressure. A Secondary Unit may be permitted only if the fire flow and water pressure in the adjoining street meets the minimum requirements as determined by the Fire Marshal.

6F. Emergency Access -- multiple vehicular outlets. A Secondary Unit may be permitted only on a lot which has frontage on a through street, or a dead-end street that has a total length of less than three hundred (300) feet. For the purposes of this subsection, the total length of a dead-end street shall be the distance from the intersection with the nearest through street to the farthest opposite end of the street right-of-way, or private access easement (as defined by Section 16.32.010 of the Oakland Municipal Code) if the private access easement is connected to said dead-end street.

76. Emergency Access -- minimum pavement width. A Secondary Unit may be permitted only if all streets connecting the lot to the nearest arterial street (as designated by the City of Oakland General Plan Land Use and Transportation Element) have a minimum pavement width of at least twenty-four (24) feet. The minimum pavement width limitation may be reduced to a minimum of twenty (20) feet, upon the granting of a conditional use permit, pursuant to the criteria in subsection B of this section, and the conditional use permit procedure in Chapter 17.134.

8. Public Sanitary Sewer. A Secondary Unit may be permitted only if it is served by a public sanitary sewer.

9. Architectural Compatibility. The Secondary Unit shall be clearly subordinate to the primary dwelling unit in size and location. Also, the architectural design and materials of a Secondary Unit shall match or be visually compatible with that of the primary dwelling, including the architectural style, siding material, roof shape, roofing material, trim material and design, window types, window trim, and window sill detail.

10. Compliance with Building and Fire Codes. All Secondary Units shall comply with all other code and permit requirements imposed by all other affected departments, including but not limited to fire separation, sound separation, egress, utility access, and the requirement for a building permit.

11. Review procedure. An application for a Secondary Unit of up to five hundred (500) square feet shall be granted ministerial approval as specified in Section 17.136.025 upon confirmation of compliance with all applicable zoning regulations, including but not limited to, all provisions in this Section. The five hundred (500) square-foot floor area threshold for a Secondary Unit may only be exceeded, up to a maximum of nine hundred (900) square feet or fifty (50) percent of the floor area of the primary dwelling, whichever is less, upon the granting of small project design review, pursuant to the small project design review procedure in Section 17.136.030.

~~11. Upon receipt of an application for a secondary unit made pursuant to this section seeking ministerial approval of said application, notice of the application shall be sent to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved. All such notices shall be given not less than ten days prior to the date that the Director of City Planning acts on the application. Failure of any person to receive such notice shall not affect the validity of action taken on the application by City staff.~~

B. Use permit criteria for Secondary Units accessed via narrow streets. A conditional use permit for a Secondary Unit accessed from the nearest arterial street via a street with a minimum pavement width of between twenty (20) and twenty-four (24) feet may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the general use permit procedure in Chapter 17.134 and to all of the following additional use permit criteria:

1. That there is adequate emergency access to the lot as determined by the Fire Marshall.
2. That the portions of the street that have a pavement width of less than twenty-four (24) feet are not located on a dead-end street.
3. That if on-street parking is permitted on portions of the street that have a pavement width of less than twenty-four (24) feet, that there exist a level and hard surface shoulders with a combined additional width of at least eight (8) feet.

4. That if on-street parking is prohibited on portions of the street that have a pavement width of less than twenty-four (24) feet, that the restricted parking areas are clearly marked with official city installed no-parking signs and/or red curbs, pursuant to the provisions of the Oakland Traffic Code (Title 10 of the Oakland Municipal Code).  
(Ord. 12555 § 5, 2003; Ord. 12501 § 73, 2003; Ord. 12199 § 7, 2000)

**17.102.390 Parking accommodation requirements for One- and Two-Family Residential Facilities.**

The provisions of this section apply to lots containing One-Family Dwelling Residential Facilities, One-Family Dwelling Residential Facilities with Secondary Unit Residential Facilities, and Two-Family Dwelling Residential Facilities. Exceptions to the provisions of this section may be approved pursuant to the regular design review procedure in Chapter 17.136.

A. Required Garage, Carport or Uncovered Parking Location to the Side or Rear of a Residence in Certain Cases. Garages, carports or any uncovered required parking spaces shall be located to the rear or side of any ~~principal~~primary Residential Facility and at a minimum of twenty-five (25) feet from the front lot line if:

1. At least sixty (60) percent of the buildings in the immediate context have garages, carports and uncovered required parking located at a depth of at least twenty-five (25) feet from the front lot line; and
2. On the lot being developed, the difference in elevation of existing grade between the midpoint of the front lot line and the farthest opposite point of the lot depth does not exceed a gradient of twenty (20) percent.

The immediate context shall consist of the five closest lots on each side of the project site plus the ten (10) closest lots on the opposite side of the street (see Illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any approval of any required garage, carport, or uncovered parking space. Lots with a front lot line width of less than thirty-five (35) feet are exempt from this subsection if the garage, carport or uncovered parking space dimensions facing the front lot line equal less than fifty (50) percent of the building elevation facing the front lot line.

B. Garage or Carport Recessed from Front of Residence in Certain Cases. (See Illustration I-8a) When an attached or detached garage or carport is not subject to subsection A of this section and is located on lots with a street-to-setback gradient of twenty (20) percent or less and where the face of the ~~principal~~primary Residential Facility, including projections at least eight feet in height and five feet in width, such as covered porches and bay windows, is within twenty-five (25) feet of the front lot line, at least one of the following requirements shall apply:

1. The front of the garage or carport shall be set back a minimum of five feet from such face; or
2. If the garage or carport is located below living space, either:
  - a. The front of the garage or carport shall be set back at least eighteen (18) inches from the upper level living space; or
  - b. The garage door shall be recessed at least six inches from the surrounding exterior wall surfaces.

C. Maximum Widths of Garages and Carports. Garages and carports shall have a maximum width of twenty-two (22) feet if the front of the garage or carport is located within thirty (30) feet of a street line and shall have a maximum width of thirty (30) feet if located elsewhere. In addition, all attached garages and carports shall have a maximum width not to exceed fifty (50) percent of the total width of the primary Residential Facility if the front of the garage or carport is located within thirty (30) feet of a street line.

D. Parking Restricted to Garages, Carports, Uncovered Required Parking Spaces or Driveways. Parking on a lot containing ~~principal~~primary Residential Facilities may take place only in

garages, carports, uncovered required parking spaces, or approved driveways. ~~Multiple vehicles parked in driveways shall be parked only in tandem.~~ (Ord. 12376 (part), 2001)

**17.102.400 Special design requirements for lots that contain Residential Facilities and no Nonresidential Facilities.**

The provisions of this section apply to lots containing Residential Facilities and no Nonresidential Facilities.

A. Limitations on Paving in Street-Fronting Yards. Paved surfaces within required street-fronting yards, and any unimproved rights-of-way of adjacent streets, shall be limited to the following:

1. All lots other than corner lots and through lots: fifty (50) percent maximum paved surface;
2. Corner lots: thirty (30) percent maximum paved surface; and
3. Through lots: twenty-five (25) percent maximum paved surface.

Exceptions: The maximum percentages of paved surfaces specified in this subsection A may be exceeded within unimproved rights-of-way in the following cases upon issuance of a private construction of public improvements (P-job) permit or if undertaken directly by the city or by a private contractor under contract to the city:

- a. Roadway construction or widening up to a maximum roadway width of twenty-eight (28) feet;
- b. Sidewalk construction or widening up to a maximum sidewalk width of six feet; and
- c. Any work pursuant to an approved final map, parcel map or final development plan pursuant to a planned unit development permit.

For purposes of this subsection A, an unimproved right of way is the portion of a street or alley right-of-way that is not paved.

The provisions of this section apply to lots containing Residential Facilities and no Nonresidential Facilities.

B. Screening of Utility Meters. All utility meters shall either be located within a box set within a building, located on a non-street facing elevation, or screened with vegetation.

C. Screening of Trash Containers. All trash containers shall be located in a storage area that is screened from the street and adjacent properties by a wall, fence, or dense landscaping with a minimum height of four feet.

D. Restrictions on exterior security bars and related devices. Exterior security bars and grills are not permitted on windows, doors, or porch enclosures, that are located on a street-facing elevation of ~~principal~~primary Residential Facilities unless the Director of City Planning determines that the proposed bars or grills are consistent with the architectural style of the building. Removal of such bars or grills shall be a condition of the granting of all conditional use permits, variances, design reviews and other special zoning approvals involving changes to the elevation on which the bars or grills are located unless the bars or grills have been shown to be architecturally consistent with the architectural style of the building.

E. Retaining Walls.

1. No retaining wall shall exceed six (6) feet in height, except in the following cases:

~~\_\_\_\_\_ a. \_\_\_\_\_ that on lots with an upslope street to setback gradient of twenty (20) percent or more,~~  
Retaining walls flanking driveways that are nineteen (19) feet or less in width on lots with an upslope, street-to-setback gradient of twenty (20) percent or more may exceed six feet in height if both of the following provisos are met:

\_\_\_\_\_ i. The garage floor is at the highest possible elevation based on the maximum driveway upslopes permitted by Section 17.116.260A; and

~~\_\_\_\_\_ Either of the following apply:~~

\_\_\_\_\_ ii. The top of the retaining wall is no higher than necessary to retain the existing grade at the top of the wall, if maintaining such existing grade would avoid removing one or more protected trees as defined in the tree preservation ordinance (Chapter 12.36 of the Oakland Municipal Code); or

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~~ii. The finished grade at the top of the wall has a minimum 1:1 upslope that extends away perpendicularly from the wall for a distance of at least ten (10) feet or to a lot line, whichever is less. (See illustration I-8b).~~

~~b. Retaining walls not flanking driveways may also exceed six feet in height upon the granting of small project design review, pursuant to the small project design review procedure in Section 17.136.030 and if both of the following provisos are met:~~

~~i. The top of the retaining wall is no higher than necessary to retain the existing grade at the top of the wall, and~~

~~ii. The retaining wall is located behind buildings, other permanent structures, or existing grade in such a manner as to visually screen the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot. Whenever buildings or other permanent structures on the subject lot block most, but not all, visibility of the retaining wall, dense landscaping shall be installed and maintained to screen the remaining views of the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot.~~

~~2. Multiple retaining walls shall be separated by a distance of at least four feet between the exposed faces of each wall.~~

~~3. Retaining walls visible from the street or adjacent lots shall be surfaced with a decorative material, treatment or finish, ~~have architecturally treated surfaces, such as stained or stuccoed decorative concrete, or decorative concrete block, wood, stone or masonry, or other decorative material, treatment or finish approved by the Director of City Planning, if any portion of the wall is visible from the street.~~ For purposes of this section, “visible from the street or adjacent lots” refers to any portion of a the wall that is not located behind buildings, other permanent structures, or existing grade in such a manner as to visually screen the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot. at a higher level than and within thirty (30) feet of the edge of the pavement of a street, alley or private way described in Section 17.106.020, except for any portions of the wall behind buildings or other structures located between the wall and the edge of the pavement and which block visibility of the wall from the street, alley or private way. (Ord. 12533 § 3 (part), 2003; Ord. 12406 (part), 2002; Ord. 12376 (part), 2001)~~

**Chapter 17.104**

**GENERAL LIMITATIONS ON SIGNS**

**Sections:**

- 17.104.020 General limitations on signs--Commercial and industrial zones.**
- 17.104.030 General limitations on signs--S-1, S-2, S-3 and S-15 zones.**
- 17.104.040 Limitations on Signs within one thousand feet of rapid transit routes.**
- 17.104.050 Amortization of Advertising Signs in residential zones.**

**17.104.020 General limitations on signs--Commercial and industrial zones.**

The following limitations shall apply to the specified signs in all commercial and industrial zones, except as otherwise provided herein, and are in addition to the limitations, if any, prescribed for signs in the applicable individual zone regulations and development control maps:

A. **Design Review.** No business, civic, or residential sign shall be constructed or established, or altered in ~~such a manner as to affect exterior appearance,~~ unless plans for ~~the such proposal shall have~~ been approved to ~~pursuant to the tire design review procedure in Chapter 17.136.~~

B. **Permitted Aggregate Sign Area.**

1. C-5, C-10, C-20, C-25, C-27, C-28, C-30, C-31, C-35, C-40, C-45, C-51, C-52, C-55 and C-60 Zones. The maximum aggregate area of display surface of all business, civic, and residential signs on any one lot shall be one square foot for each one foot of ~~lot building frontage~~ in the case of an interior lot, or 0.5 square feet for each one foot of ~~lot building frontage~~ in the case of a corner lot. The aggregate shall include only one face of a double-faced sign. ~~In no cases can~~ The total amount of aggregate sign area shall not exceed two hundred (200) square feet on any one property. Exceptions to the total amount of aggregate sign area normally allowed on any one property may be approved pursuant to the regulations in Subsection B(3) below and to the small project design review procedure in Chapter 17.136.

2. M-10, M-20, M-30 and M-40 Zones. The maximum aggregate area of display surface of all business, civic and residential signs on any one lot shall be one square foot for each one foot of lot frontage in the case of an interior lot, or 0.5 square feet for each one foot of lot frontage in the case of a corner lot. The aggregate shall include only one face of a double-faced sign. ~~In no cases can~~ The total amount of aggregate sign area shall not exceed three hundred (300) square feet on any one property. Exceptions to the total amount of aggregate sign area normally allowed on any one property may be approved pursuant to the regulations in Subsection B(3) below and the small project design review procedure in Chapter 17.136.

3. Exception to Aggregate Sign Area Limits. In cases in which the maximum aggregate sign area for a property is already being utilized by a portion of the existing tenant spaces in a multi-tenant building or complex, the following exception to the maximum aggregate sign area may be approved pursuant to the small project design review procedure in Chapter 17.136:

a. Twenty (20) square feet of sign area for each tenant space in the multi-tenant building or complex without existing signage on site.

C. **Maximum Height.**

1. **Attached Signs.** The maximum height of any sign that is attached to a building may not exceed the height of the building wall that it is attached to.

2. **Freestanding Signs.** The maximum height of any freestanding sign in the C-5, C-10, C-20, C-25, C-27, C-28, C-31, C-36, C-45, C-51, C-52, C-55, C-60 and M-10 Zones is ten (10) feet. The maximum height of any -freestanding sign in the C-30, C-35, C-40, M-20, M-30 and M-40 zones is twenty (20) feet.

D. **Limitations on Signs within Required Minimum Yards.**

1. No business, realty, or development sign shall be located within a required minimum yard.

## EXHIBIT A

E. Special Limitations near Boundaries of Residential Zones. (See illustration I-10.) The following special limitations shall apply to the indicated signs within the specified distances from any boundary of a residential zone. For the purposes of this subsection, a Sign shall be deemed to face a zone boundary if the angle between the face of its display surface and said boundary is less than ninety (90) degrees; and a sign shall be considered visible from a zone boundary if it may be seen from any point located along such boundary within the following indicated distances from the sign and at a height equal to or less than that of the sign.

1. Within twenty-five (25) feet from any boundary of a residential zone, no business sign shall face said boundary if it is visible therefrom.

F. Development Signs. In all commercial and industrial zones except the C-60, M-30 and M-40 zones, the maximum aggregate area of display surface of all development signs on any one lot shall be either seventy-five (75) square feet or one square foot for each two feet of street line abutting the lot, whichever is greater. However, a greater area of display surface may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

G. Realty Signs. In all commercial and industrial zones except the C-60, M-30, and M-40 zones, the maximum aggregate area of display surface of all Realty Signs on any one lot shall be one square foot for each two feet of street line abutting the lot; provided that such area shall not exceed twenty-five (25) square feet along any consecutive fifty (50) feet of street line; and farther provided that a sign with a display surface of twelve (12) square feet or less shall be permitted for each lot, or for each building or other rentable unit thereon.

H. Signs Within One thousand (1,000) Feet of Rapid Transit Routes. Signs within one thousand (1,000) feet of the centerline of rapid transit routes shall be subject to the applicable limitations set forth in Sections 17.104.040 and 17.114.150.

I. Permitted Projection over Sidewalk. An awning, canopy, marquee, or single sign that is attached perpendicularly to the -face of a building may project up to two-thirds (66.7%) seventy-five (75) percent of the distance from the lot line to the curb, but can not extend more than seven feet from the face of building or cannot be closer than two feet to the curb, in any case. ~~All portions of a~~ Any awning, canopy, marquee, or single sign that is are attached perpendicularly to the face of a building shall provide eight (8) feet minimum clearance above a sidewalk for framed or rigid portions, and seven (7) feet minimum clearance for any unframed valance, shall be a minimum of ten (10) feet above the sidewalk.

J. Temporary Business Signs.

1. Size Allowed. Temporary signs are allowed in addition to permanent signs. The size of the temporary signs may not exceed the allowed square footage for permanent signs.

2. Allowed Time Limits.

a. Grand Opening Signs. Temporary signs for the purpose of grand openings of a new business can be in place for a maximum of thirty (30) days. The installation date of the sign shall be placed on the sign to verify compliance with this regulation.

b. Special Event Signs. Temporary signs for the purpose of special events may be placed on site a maximum of four times per calendar year and a maximum of five consecutive days per event.

3. Placement of Signs.

a. Signs are allowed on private property only. Signs shall not be placed in public rights-of-way or at off-site locations.

b. Signs must be affixed to a permanent structure.

4. Temporary signs shall not be illuminated.

5. Durable Materials Required. Signs shall be constructed of durable, rigid material suitable to the-ir location and purpose. Only interior window signs may be made of nonrigid (e.g., paper) material.

6. Removal of Signs. Temporary signs and their components shall be promptly removed at the expiration of the time limits set forth above.

K. Window Signs. Window signs shall not take up more than twenty-five (25) percent of any one window. Window signs shall count against the total allowable aggregate sign area for the

property as measured in Section 17.104.020(B). Interior signs which are located eighteen (18) inches or more from behind the window face shall be exempt from these regulations.

L. Clear Sight Restrictions. A triangular area measuring fifteen (15) feet from the intersection along each street line shall be kept free of all freestanding signs. A triangular area measuring ten (10) feet from the intersection of a driveway and a street line shall be kept free of all freestanding signs. (Ord. 12606 Att. A (part), 2004: prior planning code § 7041)

**17.104.030 General limitations on signs--S-1, S-2, S-3 and S-15 zones.**

The following limitations shall apply to the specified signs in the S-1, S-2, S-3 and S-15 zones, and are in addition to the limitations, if any, prescribed for signs in the applicable individual zone regulations or development control maps:

A. Design Review. No business, civic, or residential sign shall be ~~he~~ constructed or established, or altered in ~~such a manner as to affect exterior appearance,~~ unless plans for the such proposal shall have been approved pursuant to the design review procedure in Chapter 17.136.

B. Permitted Aggregate Sign Area. S-1, S-2, S-3 and S-15 Zones. The maximum aggregate area of display surface of all business, civic, and residential signs on any one lot shall be one square foot for each one foot of ~~lot building frontage~~ in the case of an interior lot, or 0.5 square feet for each one foot of ~~lot building frontage~~ in the case of a corner lot. The aggregate shall include only one face of a double-faced sign. ~~In no cases can~~ The total amount of aggregate sign area shall not exceed two hundred (200) square feet on any one property. Exceptions to the total amount of aggregate sign area normally allowed on any one property may be approved pursuant to the regulations in Subsection B(1) below and to the small project design review procedure in Chapter 17.136.

1. Exception to Aggregate Sign Area Limits. In cases in which the maximum aggregate sign area for a property is already being utilized by a portion of the existing tenant spaces in a multi-tenant building or complex, the following exception to the maximum aggregate sign area may be approved pursuant to the small project design review procedure in Chapter 17.136:

a. Twenty (20) square feet of sign area for each tenant space in the multi-tenant building or complex without existing signage on site.

C. Maximum Height.

1. Attached Signs. The maximum height of any sign that is attached to a building may not exceed the height of the building wall that it is attached to.

2. Freestanding Signs. The maximum height of any freestanding sign in the S-1, S-2, S-3 and S-15 Zones is ten (10) feet.

D. Special Limitations Near Boundaries of Residential Zones. Signs shall be subject to the same special limitations along or near boundaries of residential zones as are set forth in Section 17.104.020(E).

E. Special, Development, and Realty Signs. All special, development, and realty signs shall be subject to the same limitations as are set forth in subsections (C), (D) and (F) of Section 17.104.010 for such signs in residential zones.

F. Signs within One Thousand (1,000) Feet of Rapid Transit Routes. Signs within one thousand (1,000) feet of the centerline of rapid transit routes shall be subject to the applicable limitations set forth in Sections 17.104.040 and 17.114.150. (Ord. 12606 Att. A (part), 2004: prior planning code § 7042)

**17.104.040 Limitations on Signs within one thousand feet of rapid transit routes.**

The following limitations shall apply in all zones, within one thousand (1,000) feet of the centerline of every rapid transit route, after the date of official determination thereof and except where the route is underground. The distance shall be measured perpendicularly from said centerline, i.e., at right angles to said centerline. These provisions shall not prohibit a sign identifying an on-premises business or naming the product manufactured thereon, except to the extent of requiring design review approval.

A. Design Review for Certain New or Altered Signs the Advertising Material of Which Is Primarily Viewable from the Transit Route.

1. No sign, the advertising material of which is or has become primarily viewable by the passengers on the transit route, shall be constructed, established, reoriented, changed as to illumination, or otherwise altered or painted a new color, unless plans for such Sign shall have been approved pursuant to the regular design review procedure in Chapter 17.136.

2. The Director of City Planning shall determine which signs are or have become primarily viewable by the passengers on the transit route, subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132.

B. Removal of Nonconforming Existing Signs. See Section 17.14.150. (Ord. 12606 Att. A (part), 2004; prior planning code § 7046)

**17.104.050 Amortization of Advertising Signs in residential zones.**

C. Administrative Appeal Procedure.

1. Appeal Period. Within ninety (90) days of receipt of a notice of amortization, an appeal may be filed by any interested party with the Director of City Planning challenging the city's determination. The Director of City Planning will forward the appeal to the City ~~Administrator~~Manager for final determination.

2. Grounds for Appeal. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the city or where the city's determinations are not supported by the evidence in the record. The burden is on the appellant to provide sufficient evidence and arguments to overturn the initial city determinations. The minimum information to be included in an appeal is:

- a. Identification of specific billboard under appeal;
- b. Specific determination of the city being challenged;
- c. Current photograph of billboard;
- d. Legal and factual documentation to support the challenge, including, without limitation, building permits (if available) and repair/improvement records.

The city may request additional information as it deems reasonably necessary to complete the review.

3. Failure to Timely Appeal. Failure to timely file an appeal will waive any rights to further challenge the city's determination contained in the notice of amortization.

4. Appeal Fee. Established per master fee schedule. Appellants shall be allowed to file one appeal and pay one appeal fee where the City ~~Manager~~Administrator determines that similar issues are raised and the payment of multiple fees would be unreasonable.

5. Notification of Completeness. The city will notify appellant within forty-five (45) business days of appeal submittal whether the appeal application is deemed complete. City failure to notify appellant within said time period will deem the application complete. This does not preclude the city from requesting additional information after the application has been deemed complete.

6. Written Determination. The city will provide appellant with a written decision within ninety (90) days of receipt of a complete appeal application, unless an extension is agreed to by the appellant. Request by the city for additional information after the application has been deemed complete will not modify the timing of the ninety (90) day period during which the written determination is being made, provided that the appellant responds in a timely manner to the city request. Failure of the city to timely issue a written decision shall result in granting of the appeal.

7. Decision Final. The written decision of the City ~~Administrator~~Manager is final and not administratively appealable. (Ord. 12146 §§ 3, 4, 1999; Ord. 12073 § 7, 1998)



**Chapter 17.108**

**GENERAL HEIGHT, YARD, AND COURT REGULATIONS**

**Sections:**

**17.108.140 Fences, dense hedges, barrier, and similar freestanding walls**

**17.108.140 Fences, dense hedges, barrier, and similar freestanding walls**

A. Compliance with Oakland Traffic Code. Notwithstanding other provisions of the Oakland Planning Code, all fences, dense hedges, barrier and similar freestanding walls shall comply with the applicable provisions of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurements at Intersections".

B. Residential zones and Residential Facilities. The provisions of this section apply to all properties located in residential zones, and to all properties located in any zone containing Residential Facilities, ~~and no Nonresidential Facilities.~~

1. Height. In the locations specified below, the height of any fence, dense hedge, or barrier or similar freestanding wall, but excluding retaining walls, shall not exceed the following (see Illustration I-15a):

a. In any minimum front yard, or any minimum side yard on the street side of a corner lot: 42 inches, except that six (6) feet is permitted in the following cases:

i. In the portions of street side yards located within the greater of the following distances, from the rear lot line:

a) 35 feet from the rear lot line.

b) the distance between the rear lot line and a line that is perpendicular to the street side lot line and that extends to the rearmost enclosed portion of the ~~principal~~primary building on the lot; or

ii. Upon the granting of ~~small project design review a conditional use permit~~ pursuant to the ~~small project design review conditional use permit procedure in Chapter 17.136.17.134.~~

b. In any minimum rear yard if within 10 feet of a street line that abuts the lot: six (6) feet.

c. In any other minimum yard or court: eight (8) feet; and

d. One entry gateway, trellis or other entry structure may be permitted in the required front setback area of each lot provided the maximum height or width of the facility does not exceed 10 feet;

2. Materials. The following materials are restricted in constructing or rebuilding walls or fences:

a. Barbed wire or razor wire is not allowed to be used in fences.

b. Chain link fencing is permitted in the following locations only if it does not exceed 42 inches in height;

i. Street-fronting yards; or

ii. Interior side yards if closer to the front lot line than the front wall of the ~~principal~~primary Residential Facility.

c. Plain concrete blocks are not allowed as a fencing material unless capped and finished with stucco or other material approved by the Director of City Planning.

C. Commercial zones and in the S-1, S-2, S-3, and S-15 Zones. The provisions of this subsection apply to fences, dense hedges, barrier and similar freestanding walls, but excluding retaining walls, located within all commercial zones and in the S-1, S-2, S-3, and S-15 zones.

1. Height:

a. The height of any fence, dense hedge, barrier or similar freestanding wall located within 10 feet of any abutting property located in a residential zone shall not exceed eight (8) feet. A fence higher than eight (8) feet but no more than 10 feet may only be permitted in these locations upon the granting of ~~small project design review a conditional use permit~~ pursuant to the ~~small project design review conditional use permit procedure in Chapter 17.136.17.134.~~

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b. The maximum height of any fence, dense hedge, barrier, or similar freestanding wall elsewhere on a lot shall be 10 feet.

2. Restricted materials. In any location visible from the adjacent public right of way, no barbed wire or razor wire shall be permitted as part of or attached to fences or walls.

a. Exceptions: Fences enclosing the following activities shall be exempted from the above limitation on barbed wire and razor wire where the Director of City Planning determines that trespassing could present a public safety hazard and/or disruption of public utility, transportation, or communication services:

i. Public utility installations, including but not limited to electrical substations and gas substations

ii. Rights of way and transit routes

D. Manufacturing zones. The provisions of this subsection apply to fences, dense hedges, barrier and similar freestanding walls located within all manufacturing zoning districts.

1. Height:

a. The maximum height of any fence, dense hedge, barrier or similar freestanding wall located within 10 feet of any abutting property located within a residential zone shall be eight (8) feet. A fence higher than eight feet but no more than 10 feet may only be permitted in these locations upon the granting of small project design review ~~a conditional use permit~~ pursuant to the small project design review conditional use permit procedure in Chapter ~~17.136, 17.134~~.

(Ord. 12553 § 3 (part), 2003)

**Chapter 17.112**

**HOME OCCUPATION REGULATIONS**

**Sections:**

**17.112.010 Title, purpose, and applicability.**

**17.112.020 Definition of home occupation.**

**17.112.030 Exclusions.**

**17.112.040 Requirements.**

**17.112.050 Required approval.**

**17.112.060 ~~Revocation.~~**

**17.112.060 ~~Revocation:~~**

~~In the event of a failure to comply with these regulations, the Director of City Planning may, after holding a public hearing, revoke his or her certificate of approval of a home occupation. Notice of the hearing shall be given by posting notices thereof within three hundred (300) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the certificate holder, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than ten days prior to the date set for the hearing. Such revocation may be appealed pursuant to the administrative appeal procedure in Chapter 17.132. (Ord. 12237 § 4 (part), 2000; prior planning code § 7305)~~

**Chapter 17.114**

**NONCONFORMING USES**

**Sections:**

**17.114.060 Nonconforming activity--Damage or destruction.**

**17.114.080 Nonconforming activity--Allowed alterations and extensions.**

**17.114.060 Nonconforming activity--Damage or destruction.**

A. General. Except as noted in subsection B of this section, the facilities accommodating or serving any nonconforming activity are damaged or destroyed to the extent of not more than seventy-five (75) percent of their current replacement cost as estimated by the Building Inspector, they may be restored to their prior condition and occupancy. If such damage or destruction exceeds seventy-five (75) percent of said cost, the facilities may not thereafter be restored to accommodate or serve any nonconforming activity, except that for a Residential Activity such restoration may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

B. Nonconforming Residential Activities Within the Adams Point Rezoning Area. In the area generally bounded by Grand Avenue, Lake Merritt, the MacArthur Freeway (I-580), Kempton Avenue, and Fairmount Avenue, if the facilities accommodating or serving any nonconforming residential activity are damaged or destroyed to the extent of not more than seventy-five (75) percent of their current replacement costs as estimated by the Building Inspector, they may be restored to their prior condition and occupancy. If such damage or destruction exceeds seventy-five (75) percent of said costs, the facility may thereafter be restored to accommodate or serve any residential nonconforming activity, provided all of the following conditions are met:

1. That documentation is provided which substantiates that such damage or destruction occurred involuntarily with respect to the owner of said unit(s);

2. That no expansion of the previous floor area occurs;

3.a. That if the project involves or results in one or two dwelling units on a lot, no Residential Facility shall be constructed or established, unless plans for the proposal have been approved pursuant to the ~~special residential design review procedure in Chapter 17.146-17.136. This requirement shall not apply to any Residential Facility whose proposed plans must be approved pursuant to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, or the site development and design review procedure in Chapter 17.142. This requirement also shall not apply to any facility containing both residential and nonresidential activities;~~

b. That if the project involves or results in three or more dwelling units on a lot, no Residential Facility shall be constructed or established, unless plans for the proposal ~~shall have been approved pursuant to the design review procedure in Chapter 17.136, and upon determination that the proposal conforms to the design review criteria for high density housing as adopted by the City Council. This requirement shall not apply to any facility containing both residential and nonresidential activities unless the floor space devoted to residential activities constitutes seventy-five percent of the total floor space in the facility;~~

4. That a building permit is obtained and the nonconforming structure(s) is replaced in compliance with the building code;

5. That a building permit is sought and obtained no later than two years after the date of the facility's destruction and construction pursuant thereto is diligently pursued to completion.

If all of the preceding requirements are not met, the replacement facility must comply with all applicable zoning code provisions in effect on the date of such replacement. (Ord. 11861 § 7, 1996: prior planning code § 7421)

**17.114.080 Nonconforming activity--Allowed alterations and extensions.**

A. Nonresidential Activity Nonconforming Because It Is Not a Permitted Activity. Except as otherwise provided in Section 17.114.060, a nonresidential activity which is nonconforming wholly or partly because it is not itself a permitted activity where it is located may be extended, and the facilities accommodating or serving such activity may be altered or otherwise changed, subject to the requirements normally applying to uses where the activity is located and subject to the following provisions and exceptions:

1. Except as otherwise provided in subsection (A)(3) of this section, the floor area and overall outside dimensions of any building, or portion thereof, devoted to such activity shall not be increased; no open parking, loading, sales, display, service, production, or storage area accommodating or serving such activity shall be relocated or increased in size; and no such building or open area shall be wholly reconstructed. However, in the case of an establishment classified as an Alcoholic Beverage Sales Commercial Activity, the total floor area, open areas, or outside building dimensions occupied by the establishment may be increased as long as the amount of space actually devoted to the sale of alcoholic beverages is not increased by more than twenty (20) percent of that already existing.

2. In the case of an establishment classified as an Alcoholic Beverage Sales Commercial Activity, the percentage of actual floor area devoted to the sale of alcoholic beverages shall not be increased by more than twenty (20) percent of that already existing, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

3. New, wholly reconstructed, enlarged, or relocated structures or open areas devoted to off-street parking or loading serving such activity may be provided wherever Automotive Fee Parking Commercial Activities are permitted or, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, wherever Automotive Fee Parking Commercial Activities are conditionally permitted. In residential zones, such facilities for off-street parking may be provided in the situations, and subject to the conditions, prescribed in Section 17.102.100.

4. New Signs may be provided for such activity, but the aggregate area of display surface of all Signs serving such activity shall not be increased. All Signs shall be subject to the limitations, other than aggregate area of display surface, normally applying to Signs where they are located.

5. During any five-year period, beginning on or after the effective date of the zoning regulations or of any subsequent rezoning or other amendment thereto which makes such activity thus nonconforming, the aggregate cost of all alterations for which a building or sign permit is required, and which are intended for any activity subject to this subsection, shall not exceed twenty-five (25) percent of the replacement cost, as estimated by the ~~Inspectional~~Building Services Department, of the facilities accommodating or serving such activity at the beginning of said period. However, the cost of alterations ordered by any governmental agency or permitted by Section 17.114.060 shall be exempt from said maximum cost.

6. No facility accommodating a nonconforming Automotive Servicing or Automotive Repair and Cleaning Commercial Activity shall be altered ~~in or painted a new color in such a manner as to affect exterior appearance, unless plans for the such a proposal shall have been approved pursuant to the design review procedure in Chapter 17.136.~~

7. A nonconforming Automotive Servicing or Automotive Repair and Cleaning Commercial Activity in the HBX-1 zone may be extended, and the facilities accommodating or serving such activity may be altered or otherwise changed upon the granting of a conditional use permit (see Chapter 17.134) and approval pursuant to the regular design review procedure ~~in (see Chapter 17.136)~~. This conditional use permit and design review approval may be granted only upon determination that the proposal is adequately buffered from the street and surrounding residential activities through landscaping and fencing.

B. Residential Activity Nonconforming Because It Is Not a Permitted Activity. Except as otherwise provided in Section 17.114.060, a Residential Activity which is nonconforming wholly or partly because it is not itself a permitted activity where it is located may be extended, and the facilities

## ***EXHIBIT A***

accommodating or serving such activity may be altered or otherwise changed, subject to the following provisions:

1. The number of living units shall not be increased.
  2. The amount of added or wholly reconstructed floor area devoted to such activity shall not exceed in the aggregate twenty (20) percent of that already existing on the affected lot. If a new or wholly reconstructed floor area is developed, usable open space shall be provided for all living units on the lot in the amount required therefor in the R-60 zone.
  3. Existing usable open space shall not be reduced below, or if already less than shall not be reduced further below, the usable open space requirements applying in the R-60 zone.
  4. All alterations and other changes shall conform to, or not further conflict with, the minimum yard and court and maximum height requirements and the limitations on Signs generally applying in the R-50 zone, as well as to the requirements generally applying to uses where the activity is actually located.
- C. Activity Nonconforming for Other Reasons. Except as otherwise provided in Section 17.114.060, any activity which is itself a permitted activity where it is located and which is nonconforming only as to off-street parking or loading requirements, performance standards, or other requirements applying to activities may be extended, and the facilities accommodating or serving such activity may be altered or otherwise changed, in any way which does not result in a greater degree of nonconformity with respect to such requirements and which conforms to the requirements normally applying to uses where the activity is located. (Ord. 12240 § 8, 2000; prior planning code § 7423)

**Chapter 17.116**

**OFF-STREET PARKING AND LOADING REQUIREMENTS**

**Sections:**

**17.116.210 Driveways and maneuvering aisles for parking.**

**17.116.240 Tandem spaces and berths.**

**17.116.210 Driveways and maneuvering aisles for parking.**

Where necessary, maneuvering aisles and driveways shall be provided of such design and arrangement as to provide adequate ingress to and egress from all required parking spaces. (See also Sections 17.94.070, 17.94.080, 17.116.240, 17.116.250, and 17.116.260.) Except within the S-12 residential parking combining zone, where the provisions of Section 17.94.080 shall apply, and for shared access facilities, where the provisions of Section 17.102.090 shall apply, an onsite driveway serving any required off-street parking area shall have a minimum width of nine feet. Driveways serving Residential Facilities with one or two living units on one lot shall be not more than nineteen (19) feet in width with a curb cut no more than nineteen (19) feet in width, and shall be limited to one driveway and one driveway curb cut per lot frontage. Driveways serving one lot or serving any of several adjacent lots under the same ownership shall be separated edge-to-edge by at least twenty-five (25) feet; where curbs exist, the separation shall be by at least twenty-five (25) feet of full vertical curb. Driveways serving adjacent lots under different ownership shall be separated edge-to-edge by at least ten feet; where curbs exist, the separation shall be by at least ten feet of full vertical curb.

A. Maneuvering Aisle Width. Except for activities occupying One-Family, Two-Family, or Multifamily Residential Facilities located within the S-12 residential parking combining zone, where the provisions of Section 17.94.070 shall apply, maneuvering aisles necessary for access into and out of required parking spaces shall have the following minimum widths, whether serving regular or compact parking spaces (see illustration I-21):

- 1A. Where parking is parallel: twelve (12) feet;
- 2B. Where parking is at an angle of forty-five (45) degrees or less: twelve (12) feet;
- 3C. Where parking is at an angle of sixty (60) degrees or less but more than forty-five (45) degrees: sixteen (16) feet;
- 4D. Where parking is at an angle of ninety (90) degrees or less but more than sixty (60) degrees: twenty-four (24) feet.

(Ord. 12376 § 3 (part), 2001: prior planning code § 7540)

**17.116.240 Tandem spaces and berths.**

(See illustration I-21.) A vehicle shall not have to cross another loading berth, or a parking space, in order to gain access to any required loading berth. On any lot containing three or more required off-street parking spaces, or containing required spaces for two or more residential living units, a vehicle shall not have to cross another parking space, or a loading berth, in order to gain access to a required parking space, except that:

A. In the S-11 zone, with the provision of three or more required parking spaces for a given dwelling unit, at least fifty (50) percent of the vehicles shall not have to cross another parking space in order to gain access to a required parking space.

B. In the S-12 zone, tandem parking may be permitted for One-Family Dwelling, One-Family Dwelling with Secondary Unit, Two-Family Dwelling, and Multi-family Dwelling Residential Facilities under the provisions of Section 17.94.060.

C. In the R-1, R-10, R-20, R-30, R-35, R-36, and R-40 zones, except when combined with the S-11 or S-12 zones, tandem parking may be permitted for one of the required spaces on a lot containing a One-Family Dwelling with Secondary Unit Residential Facility if the floor area of the Secondary Unit does not exceed five hundred (500) square feet.

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D. In any zone, tandem parking may be permitted for nonresidential activities upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that such proposal conforms to either or both of the following use permit criteria:

1. That a full-time parking attendant supervises the parking arrangements at all times when the activities served are in active operation;

2. That there are a total of ten or fewer parking spaces on a lot, or within a separate parking area or areas on a lot, which spaces are provided solely for employees.

E. Tandem parking spaces may be provided for Residential Care Residential Activities pursuant to the provisions of Section 17.116.060B.

(Ord. 12501 § 79, 2003; Ord. 12199 § 8 (part), 2000; Ord. 12138 § 4 (part), 1999; prior planning code § 7543)



**Chapter 17.124**

**LANDSCAPING AND SCREENING STANDARDS**

**Sections:**

**17.124.020 Required landscape plan for new residential units and certain additions to Residential Facilities.**

**17.124.020 Required landscape plan for new residential units and certain additions to Residential Facilities.**

Submittal and approval of a landscape plan ~~for the entire site~~ is required for the establishment of a new residential unit, ~~excluding secondary units of five hundred (500) square feet or less, and for additions to Residential Facilities of over five hundred (500) square feet, or on upper stories or attics.~~ The landscape plan and the plant materials installed pursuant to the plan shall conform with all provisions of this chapter, including the following: ~~The area encompassed by the landscape plan is limited to street-fronting yards and any abutting unimproved rights-of-way of improved streets or alleys, except that the following shall apply:~~

A. Landscape plans for projects involving grading, rear walls on downslope lots requiring conformity with the screening requirements in Section 17.124.040, or vegetation management prescriptions in the S-11 zone shall show proposed landscape treatments for all graded areas, rear wall treatments, and vegetation management prescriptions; and

~~B. Landscape plans for projects resulting in two or more living units, excluding secondary units, shall show the proposed landscape treatment for the entire site.~~

BC. Within the portions of Oakland northeast of the line formed by State Highway 13 and continued southerly by Interstate 580, south of its intersection with State Highway 13, all plant materials on submitted landscape plans shall be fire resistant and, to the satisfaction of the Director of City Planning, a substantial portion of the planted area shown on submitted landscape plans shall be drought tolerant plant materials. The City Planning Department shall maintain lists of plant materials considered fire resistant and drought tolerant.

CD. All landscape plans shall show proposed methods of irrigation. The methods shall ensure adequate irrigation of all plant materials for at least one growing season. (Ord. 12376 § 3 (part), 2001)

**Chapter 17.130**

**ADMINISTRATIVE PROCEDURES GENERALLY**

**Sections:**

**17.130.050 Presentation of written and documentary evidence.**

**17.130.060 Obligation of applicant to defend, indemnify, and hold harmless the City of Oakland.**

**17.130.050 Presentation of written and documentary evidence.**

Whenever, pursuant to the Oakland Planning Code, an appeal or matter of original jurisdiction, for which a hearing is required, is pending before the City Council, or City Planning Commission, or the Commission's Residential Appeals Committee, any interested party, while the hearing is open, may submit written and/or documentary evidence to the City Council, the Commission, or the Committee, whichever is applicable, for its consideration. (Ord. 12376 § 3 (part), 2001; Ord. 11828 § 1, 1995; prior ~~planning~~planning code § 9004)

**17.130.060 Obligation of applicant to defend, indemnify, and hold harmless the City of Oakland.**

A. The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and its respective agents, officers, and employees (hereafter collectively called City) from any claim, action, or proceeding (including legal costs and attorneys' fees) against the City to attack, set aside, void or annul, an approval by the City relating to a development-related application or subdivision. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.

B. Within ten (10) calendar days of the filing of any claim, action, or proceeding to attack, set aside, void or annul, an approval by the City of a development-related application or subdivision, the applicant shall execute a Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter Agreement shall survive termination, extinguishment or invalidation of the approval.

**Chapter 17.132**

**ADMINISTRATIVE APPEAL PROCEDURE**

**17.132.020 Appeal.**

**17.132.030 Procedure for consideration.**

**17.132.040 Appeal to Council on transit line sign controls.**

**17.132.020 Appeal.**

~~Within ten calendar days after the date of any administrative determination or interpretation made by the Director of City Planning under the zoning regulations, an appeal from said decision may be taken to the City Planning Commission by any interested party. An appeal may be taken to the City Planning Commission by any interested party, from any administrative determination or interpretation made by the Director of City Planning under the zoning regulations.~~ In the case of appeals involving one- or two-unit Residential Facilities, and ~~no Nonresidential Facilities,~~ the appeal shall be considered by the Commission's Residential Appeals Committee. Such appeal shall be made on a form prescribed by the City Planning Department and shall be filed with such Department and shall be accompanied by such a fee as specified in the City fee schedule. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director or wherein his or her decision is not supported by the evidence in the record. The appeal shall be accompanied by such information as may be required to facilitate review. Upon receipt of the appeal, the Secretary of the City Planning Commission shall set the date for consideration thereof and, not less than seventeen (17) ten-days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. (Ord. 12376 § 3 (part), 2001: prior planning code § 9101)

**17.132.030 Procedure for consideration.**

In its review of an administrative appeal, the City Planning Commission or, if applicable, the Commission's Residential Appeals Committee shall consider the purpose and intent, as well as the letter, of the pertinent provisions, and shall affirm, modify, or reverse the Director's determination or interpretation. ~~Should a decision not be rendered by the Commission or Committee within sixty (60) days after filing, the Director's determination or interpretation shall be deemed reversed in favor of the appellant. However, said time may be extended by agreement between the Director of City Planning, or the Commission or Committee and the appellant.~~ The decision of the Commission or Committee shall be final immediately, except as otherwise provided in Section 17.132.040. (Ord. 12376 § 3 (part), 2001: prior planning code § 9102)

**17.132.040 Appeal to Council on transit line sign controls.**

Within ten calendar days after the date of a decision by the City Planning Commission on an administrative appeal involving the provisions of Sections 17.104.040 or 17.114.150, an appeal from said decision may be taken to the City Council by any interested party. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. Upon receipt of the appeal, the Council shall set the date for consideration thereof. After setting the hearing date, the Council, prior to hearing the appeal, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after

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receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) ~~ten~~-days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Council shall review the purpose and intent, as well as the letter, of the pertinent provisions, and shall affirm, modify, or reverse the Commission's decision. The decision of the Council shall be final. (Prior planning code § 9103)

Chapter 17.134

CONDITIONAL USE PERMIT PROCEDURE

Sections:

- 17.134.020 Definition of major and minor conditional use permits.
- 17.134.040 Procedures for consideration.
- 17.134.050 General use permit criteria.
- 17.134.060 Appeal to Planning Commission--Minor conditional use permits.
- 17.134.070 Appeal to Council--Major conditional use permits.
- 17.134.080 Adherence to approved plans.
- ~~17.134.090 Revocation.~~
- ~~17.134.100 Regulations governing permit revocation for Fast Food Restaurants.~~
- ~~17.134.130 Reconsideration by the Planning Commission of decisions on secondary units.~~

17.134.020 Definition of major and minor conditional use permits.

A. Major Conditional Use Permit. A major conditional use permit is one that involves any of the following:

1. Thresholds. Any project that meets any of the following size thresholds:
  - a. The actual project site (including only portions of the lot actually affected by the project) exceeds one acre;
  - b. ~~Nonresidential—except in the R-80, R-90, C-51, C-55, S-2, or S-15 zones: projects involving twenty-five thousand (25,000) square feet or more of floor area; except in the R-80, R-90, C-51, C-55, S-2, or S-15 zones;~~
  - c. ~~Residential—except in the S-11 zone: projects requiring a conditional use permit for density resulting in a total number of dwelling units as follows:~~
    - i. ~~Two or more dwelling units in the R-10, R-20, R-30, or R-35 zone, except in the case of a Secondary Unit,~~
    - ii. ~~Three or more dwelling units in the R-36 or R-40 zone,~~
    - iii. ~~Seven or more dwelling units in the R-50, R-60, R-70, R-80, or R-90 zone.~~
    - d. ~~Residential projects requiring a conditional use permit to exceed the basic or permitted density resulting in 7 or more dwelling units in the R-60, R-70, R-80, or R-90 zone.~~  
~~(In the S-11 zone, see Section 17.142.030);~~
    - de. Large Scale Developments. Any development which is located in the R-80, R-90, C-51, C-55, S-2, or S-15 zone and results in involves more than one hundred thousand (100,000) square feet of new floor area, or a new building, or portion thereof, of more than one hundred twenty (120) feet in height.

2. Uses. Any project that involves any of the following activity or facility types except where the proposal involves only accessory parking, the resumption of a discontinued nonconforming activity, or an addition to an existing activity which does not increase the existing floor area by more than twenty (20) percent:

- a. Activities:
  - i. Residential Care Residential,
  - ii. Service Enriched Housing Residential,
  - iii. Transitional Housing Residential,
  - iv. Emergency Shelter Residential,
  - v. Extensive Impact Civic,
  - vi. Convenience Market Commercial,
  - vii. Fast-food Restaurant Commercial,
  - viii. Alcoholic Beverage Sales Commercial or sale of alcoholic beverages at any full-service restaurant in a location described by Section 17.102.210(B),

- ix. Heavy Manufacturing,
- x. Small Scale Transfer and Storage Hazardous Waste Management,
- xi. Industrial Transfer/Storage Hazardous Waste Management,
- xii. Mining and Quarrying Extractive;
- b. Facilities:
  - i. Drive-Through,
  - ii. Advertising Sign, except when the facility meets the requirements of Section 17.11.090.
  - iii. Special Health Care Civic Activities.
- 3. Special Situations. Any project that involves any of the following situations:
  - a. Any project that requires development of an Environmental Impact Report;
  - b. Any Commercial or Manufacturing Activity, or portion thereof, which is located in any residential zone and occupies more than one thousand five hundred (1,500) square feet of floor area, except where the proposal involves only the resumption of a nonconforming activity;
  - c. Off-Street Parking Facilities in the C-40, C-51, C-52 and S-2 zones serving fifty (50) or more vehicles;
  - d. Transient Habitation Commercial Activities in the C-40 and C-45 zones;
  - e. Monopole Telecommunications Facilities in, or within three hundred (300) feet of the boundary of, any residential zone;
  - f. Any project in the OS zone listed as requiring a major conditional use permit in Chapter 17.11;
  - ~~g. Continuation of an illegal use that existed in a facility in the S-14 zone prior to the Oakland Hills fire;~~
  - gh. Any electroplating activity as defined in Section 17.09.040 subject to the provisions of Section 17.102.340;
  - hi. Any conditional use permit application referred by the Director of City Planning to the City Planning Commission for decision pursuant to Section 17.134.040(B)(1);
  - ij. Any Telecommunications Facility in or within one hundred (100) feet of the boundary of any residential zone;
  - jk. Any Telecommunications Facility whose antennas and equipment are not fully concealed from view within three hundred (300) feet of the boundary of residential zones R-1 through R-60 inclusive.

B. Minor Conditional Use Permit. A minor conditional use permit is a conditional use permit which does not involve any of the purposes listed in subsection A of this section. (Ord. 12501 § 80, 2003; Ord. 12450 § 19, 2002; Ord. 12350 § 3 (part), 2001; Ord. 12272 § 4 (part), 2000; Ord. 12237 § 4, 2000; Ord. 12234 § 4, 2000; Ord. 12224 § 7, 2000; Ord. 12205 § 4 (part), 2000; Ord. 12199 § 9 (part), 2000; Ord. 12138 § 4 (part), 1999; Ord. 12078 § 5 (part), 1998; Ord. 12072 § 12, 1998; Ord. 12016 § 2 (part), 1997; Ord. 11904 § 5.91, 1996; Ord. 11892 § 21, 1996; Ord. 11539 § 2, 1993; prior planning code § 9201)

**17.134.040 Procedures for consideration.**

- A. Major Conditional Use Permits.
  - 1. In All Zones ~~Except the S-14 Zone~~. An application for a major conditional use permit shall be considered by the City Planning Commission which shall hold a public hearing on the application. Notice of the hearing shall be given by posting an enlarged notices thereof on within three hundred (300) feet of the premises of the subject property involved in the application. Notice of the hearing shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) ten-days prior to the date set for the hearing. The Commission shall determine whether the proposal conforms to the general use permit criteria set forth in Section 17.134.050 and to

## EXHIBIT A

other applicable use permit criteria, and may grant or deny the application for the proposed conditional use permit or require such changes or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The determination of the Commission shall become final ten calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.134.070. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.

~~2. In the S-11 Zone. The procedure for consideration of major conditional use permits in the S-11 zone shall be as set forth in the site development and design review procedure in Chapter 17.142.~~

23. Alcoholic Beverage Sales Activities in Alcoholic Beverage Sales License Overconcentrated Areas. In addition to following the provisions of subsection (A)(1) of this section, the City Planning Commission shall also determine whether the proposal conforms to the criteria for findings of "Public Convenience and Necessity" set forth in Section 17.102.210(B)(3).

34. In the OS Zone. Applications for conditional use permits in the OS zone shall be subject to the special use permit review procedure for the OS zone established in Chapter 17.135.

### B. Minor Conditional Use Permits.

1. In All Zones ~~Except the S-11 Zone~~. An application for a minor conditional use permit shall be considered by the Director of City Planning. However, the Director may, at his or her discretion, refer the application to the City Planning Commission for decision rather than acting on it himself or herself. In this case, the application shall be processed as a major conditional use permit pursuant to subsection A of this section. At his or her discretion, an administrative hearing may be held. Notice shall be given by posting an enlarged notices thereof on within three hundred (300) feet of premises of the subject property involved in the application; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) ten-days prior to the date set for the hearing, if such is to be held, or, if not, for decision on the application by the Director. The Director shall determine whether the proposal conforms to the general use permit criteria set forth in Section 17.134.050 and to other applicable use permit criteria, and may grant or deny the application for the proposed conditional use permit or require such changes in the proposed use or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to said criteria. The determination of the Director of City Planning shall become final ten calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.134.060. In those cases which are referred to the Commission by the Planning Director, the decision of the Commission shall become final ten days after the date of decision unless appealed to the City Council in accordance with Section 17.134.070. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.

~~2. In the S-11 Zone. The procedure for consideration of minor conditional use permits in the S-11 zone shall be as set forth in the site development and design review procedure in Chapter 17.142.~~

23. In the OS Zone. Applications for conditional use permits in the OS zone shall be subject to the special use permit review procedure for the OS zone established in Chapter 17.135.

~~C. Period of Consideration. Should a decision not be rendered pursuant to subsection A or B of this section within sixty (60) days after filing, the application shall be deemed approved except when, pursuant to the California Environmental Quality Act, an environmental document is required prior to decision, in which case should a decision not be rendered within sixty (60) days after final action on the environmental document, the application shall be deemed approved. In any case, however, the date by which a decision must be rendered may be extended by agreement between the Director of City Planning or the City Planning Commission and the applicant.~~

CD. Alternative Notification Procedures. If the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement the procedures set

forth in subsections A and B of this section. (Ord. 12237 § 4 (part), 2000; Ord. 12073 § 5 (part), 1998; Ord. 11904 §§ 5.92, 5.93, 1996; Ord. 11831 § 5, 1995; prior planning code § 9203)

**17.134.050 General use permit criteria.**

Except as different criteria are prescribed elsewhere in the zoning regulations, a conditional use permit shall be granted only if the proposal conforms to all of the following general use permit criteria, as well as to any and all other applicable use permit criteria:

A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development;

B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant;

C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region;

D. That the proposal conforms to all applicable regular design review criteria set forth in the regular design review procedure at Section 17.136.050070;

E. For proposals involving a One- or Two-Family Residential Facility: If the conditional use permit concerns a regulation governing maximum height, minimum yards, or maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:

1. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation, and, for conditional use permits that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height; or

2. At least sixty (60) percent of the lots in the immediate context are already developed and the proposal would not exceed the corresponding as-built condition on these lots, and, for conditional use permits that allow height increases, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five closest lots on each side of the project site plus the ten closest lots on the opposite side of the street (see illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any conditional use permit.

F. That the proposal conforms in all significant respects with the Oakland ~~Comprehensive~~ General Plan and with any other applicable plan or development control map which has been adopted by the City Council. (Ord. 12376 § 3 (part), 2001; prior planning code § 9204)

**17.134.060 Appeal to Planning Commission--Minor conditional use permits.**

Within ten calendar days after the date of a decision by the Director of City Planning on an application for a minor conditional use permit, an appeal from said decision may be taken to the City Planning Commission by the applicant or any other interested party. In the case of appeals involving one- or two-unit Residential Facilities ~~and no Nonresidential Facilities~~, the appeal shall be considered by the Commission's Residential Appeals Committee. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City Planning Department and shall be filed with such Department. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director or wherein his or her decision is not supported by the evidence in the



record. Upon receipt of the appeal, the Secretary of the City Planning Commission shall set the date for consideration thereof; which in the case of applications limited to one- or two-unit Residential Facilities, shall be the date of the Committee's next regularly scheduled meeting following the thirtieth day after the appeal is filed. Not less than seventeen (17) ten-days prior to the date of the Commission's or Committee's consideration of the appeal, the Secretary shall give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Commission or, if applicable, the Committee shall determine whether the proposal conforms to the general use permit criteria set forth in Section 17.134.050 and to any other applicable use permit criteria, and may grant or deny a permit or require such changes in the proposed use or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The decision of the Commission or, if applicable, the Committee shall be final. (Ord. 12376 § 3 (part), 2001: prior planning code § 9205)

**17.134.070 Appeal to Council--Major conditional use permits.**

A. ~~With the exceptions of appeal for adult entertainment activities, appeals in the S-14 zone, and appeal of decisions on secondary units,~~ appeals to the City Council shall be governed by the following:

Within ten calendar days after the date of a decision by the City Planning Commission on an application for a major conditional use permit, ~~or on revocation of any use permit in accordance with Section 17.134.090,~~ an appeal from said decision may be taken to the City Council by the applicant, the permit holder, or any other interested party. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. Upon receipt of the appeal, the Council shall set the date for consideration thereof. After setting the hearing date, the Council, prior to hearing the appeal, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) ten-days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Council shall determine whether the proposed use conforms to the applicable use permit criteria, and may grant or deny a permit or require such changes in the proposed use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said criteria. The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided.

B. Appeals to the City Council relating to adult entertainment activities shall be governed by the following:

Within ten calendar days after the date of a decision by the City Planning Commission on an application for a major conditional use permit, ~~or on revocation of any use permit in accordance with~~

~~Section 17.134.090~~, an appeal from said decision may be taken to the City Council by the applicant, the permit holder, or any other interested party. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. Upon receipt of the appeal, the Council shall set the date for consideration thereof. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) ten-days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the council shall determine whether the proposed use conforms to the applicable special use permit criteria, and shall grant the permit if it determines that all the said criteria are present or require such changes in the proposed use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said criteria. The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided. In any event, however, the City Council must decide the appeal within sixty (60) days of the appeal being filed.

~~C. Planning Commission decisions on secondary units shall not be appealable to the City Council, however, any interested party may request the Planning Commission to reconsider a decision on a secondary unit pursuant to Section 17.134.130. Such a request must be made in order to constitute the exhaustion of administrative remedies prior to the filing of litigation. (Ord. 12199 § 9 (part), 2000; prior planning code § 9206)~~

**17.134.080 Adherence to approved plans.**

A conditional use permit shall be subject to the plans and other conditions upon the basis of which it was granted. Unless a different termination date is prescribed, the permit shall terminate ~~two one~~ years from the effective date of its granting ~~unless, within such period, all necessary permits for actual construction or alteration have been issued, or actual commencement of the authorized activities have commenced~~ in the case of a permit not involving construction or alteration, ~~has begun under necessary permits within such period.~~ However, such period of time may be extended by the original reviewing officer or body, upon application filed at any time before said period has expired. Expiration of any necessary building permit for the project may invalidate the conditional use permit approval if said extension period has also expired. (Prior planning code § 9207)

**~~17.134.090 Revocation.~~**

~~— In the event of a violation of any of the provisions of the zoning regulations, or in the event of a failure to comply with any prescribed condition of approval, the City Planning Commission may, after holding a public hearing, revoke any conditional use permit. Notice of the hearing shall be given by posting notices thereof within three hundred (300) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the permit holder, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than ten days prior to the date set for the hearing. The determination of the Commission shall become final ten calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.134.070. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. (Ord. 12237 § 4 (part), 2000; prior planning code § 9208)~~

**17.134.100 — Regulations governing permit revocation for Fast Food Restaurants.**

~~Violations by Fast Food Restaurants of conditions of approval related to hours of operation, and/or noise, trash and litter, lighting, or loitering shall be grounds for reopening the use permit hearings and, after notice and hearing conducted by the Planning Commission, for adding conditions to control the violations/complaint or for revoking the permit. This remedy shall be in addition to any other remedy available to the city under this code, or in law or in equity. (Prior planning code § 9208.1)~~

**17.134.130 — Reconsideration by the Planning Commission of decisions on secondary units.**

~~Reconsideration of decisions on secondary units may be requested by the applicant or any interested party within ten calendar days after the date of a decision by the City Planning Commission on an application for a secondary unit. Any such request for reconsideration shall be processed in accordance with the Rules and Regulations for Procedures of the Oakland City Planning Commission as adopted by the Planning Commission and as may be amended in the future. (Ord. 12199 § 9 (part), 2000)~~

**Chapter 17.135**

**SPECIAL USE PERMIT REVIEW PROCEDURE FOR THE OS ZONE**

**Sections:**

**17.135.030 Procedure for consideration.**

**17.135.060 No net loss tracking.**

**17.135.030 Procedure for consideration.**

No change in use or improvement, as defined in Section 17.09.050, shall occur on land designated OS unless the following process has been followed:

A. Pre-development Neighborhood Meeting. At the discretion of the Director of Parks, Recreation, and Cultural Affairs, a neighborhood meeting may be convened in the vicinity of the park or open space land affected by the proposed change in use or improvement. If such a meeting is held, notice shall be given by posting an enlarged notice it shall be noticed via posting on the premises of the park or open space land, and At the discretion of the Director, the meeting notice may also be posted on utility poles within three hundred (300) feet of such park or open space land. Notices shall also be mailed to neighborhood organizations and individuals who have expressed an interest in the subject park or project area.

B. Administrative Project Review. Once preliminary community feedback has been received and considered, the project sponsor shall submit a request to the Director of City Planning, including a project description and cost estimate. The Director shall coordinate preliminary review of the project with the project's operating department and any other City department or agency likely to be interested or involved in the execution, operation, or maintenance of the project. These requirements shall include, but are not limited to, formal CEQA review of the proposed change in use or improvement. A written summary of comments shall be prepared prior to the scheduling of the public hearing.

C. Public Hearing. A public hearing shall be required for any change in use or improvement and shall be conducted and heard by the City Planning Commission and/or the Parks and Recreation Advisory Commission, as provided by subdivisions 1 and 2 of this subsection.

1. Major Conditional Use Permits.

a. An application for a major conditional use permit, as required by Sections 17.11.060 and 17.11.090, shall be considered first by the Parks and Recreation Advisory Commission (PRAC) and second by the City Planning Commission. Each commission shall conduct a public hearing on the application. Notice of the PRAC hearing shall follow the procedure outlined at Section 17.135.030(C)(2). Notice of the City Planning Commission hearing shall be given by posting notices within three hundred (300) feet of the property involved in the application; a substantially an enlarged notice shall also be posted on the premises of the subject property. At the discretion of the Director, notice of the public hearing may also be provided on utility poles within three hundred (300) feet of such park or open space land. Notice of each hearing shall also be given by mail or delivery to all persons owning real property in the city of Oakland within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) ten-days prior to the date set for the hearing. Notice shall also be provided to those community or neighborhood groups included in the Planning Department database that are within the service area radius of the impacted park. Additional outreach shall be provided through press releases and other notification as warranted by the size and location of the project.

b. The PRAC shall schedule its public hearing within forty-five (45) days after receiving the application for consideration. The PRAC shall make a recommendation to the Planning Commission at the conclusion of the hearing. In the event the PRAC has not acted on the application within forty-five (45) days, the project shall automatically be forwarded to the City Planning Commission.

c. The City Planning Commission shall determine whether the proposal conforms to the use permit criteria set forth in Section 17.11.110 and to other applicable criteria, and shall make a recommendation to grant or deny the application, or recommend such changes or impose such conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The determination of the Commission shall become final within ten calendar days after the date of the decision unless appealed to the City Council in accordance with Section 17.134.070.

2. Minor Conditional Use Permits.

a. An application for a minor conditional use permit, as required by Sections 17.11.060 and 17.11.090, shall be considered by the Parks and Recreation Advisory Commission prior to a final decision by the Director of City Planning. The Parks and Recreation Advisory Commission shall hold a noticed public hearing on the application and shall make a recommendation to grant or deny the application, or recommend such changes or conditions of approval as are in its judgment necessary. Notice of the public hearing shall be provided by posting an enlarged notice on the premises of the park or open space land, ~~and~~ At the discretion of the Director, notice of the public hearing may also be provided on utility poles within three hundred (300) feet of such park or open space land. Notices shall also be mailed to neighborhood organizations and individuals who have expressed an interest in the subject park or project area.

b. The Director of City Planning shall determine whether the proposal conforms to the special use permit criteria set forth in Section 17.11.110 and to other applicable criteria and shall grant, deny, or conditionally grant the permit. The determination of the Director of City Planning shall become final within ten calendar days after the date of the decision unless appealed to the City Planning Commission in accordance with Section 17.134.060. If no action is taken by the Director of City Planning within thirty (30) days of the Parks and Recreation Advisory Commission's recommendation, the project shall be deemed approved.

D. Appeals. Any interested party may appeal a decision of the Director of City Planning or a decision of the City Planning Commission in accordance with the provisions outlined in the conditional use permit procedure at Sections 17.134.060 and 17.134.070. In the event the last date of appeal falls on a weekend or holiday, the next date such offices are open for business shall be the last date of appeal. (Ord. 12237 § 4 (part), 2000; Ord. 12078 § 4 (part), 1998)

**17.135.060 No net loss tracking.**

A. Beginning on the effective date of the OS zone regulations, the Oakland City ~~Manager~~ Administrator's Office shall establish an open space tracking system. The tracking system shall be maintained in a publicly accessible format and shall be updated on a continuous basis as additions and subtractions are made to the city's park system. Beginning on the effective date of these regulations, all enclosed facilities in urban parks which exceed one hundred (100) square feet shall be tracked and recorded as "subtractions" from a baseline figure of zero. All acquisition of parkland or creation of new useable public open space shall be tracked and recorded as "additions." Only land which is improved or intended for improvement to urban park standards may be counted as "additions"; acquisition of Resource Conservation Area land is excluded. The city shall strongly encourage actions which result in a net gain of open space; in other words, a condition where the "additions" of open space in the tracking system exceed the "subtractions" resulting from new buildings and structure coverage.

B. Unless overriding considerations exist, approval of any increase in structure coverage within the OS zone shall be contingent on a finding that there has been no net loss of urban parkland from the time of the baseline date. If this finding cannot be made, approval shall be conditioned upon provision of replacement open space of comparable value and of an area equal to or greater than the space covered which shall be made available concurrently. Land within the jurisdiction of the Port of Oakland is exempt from this requirement and shall be excluded from this calculation. (Ord. 12078 § 4 (part), 1998)

## Chapter 17.136

## DESIGN REVIEW PROCEDURE

## Sections:

- 17.136.010 Title, purpose, and applicability.
- 17.136.020 Application.
- ~~17.136.020 Definition of regular and small project design review.~~
- 17.136.025 Exemptions from design review.
- ~~17.136.030 Application.~~
- 17.136.030 Small project design review.
- 17.136.035 Small project design review criteria.
- 17.136.040 Regular design review.
- 17.136.050 Regular design review criteria.
- 17.136.06040 Review by Landmarks Board in certain cases.
- 17.136.070 Special regulations for designated landmarks.
- 17.136.075 Postponement of demolition.
- ~~17.136.050 Procedure for consideration--Small project design review.~~
- ~~17.136.060 Procedures for consideration--Regular design review.~~
- ~~17.136.070 Design review criteria.~~
- 17.136.080 Appeal to Planning Commission--Regular design review.
- 17.136.090 Appeal to City Council--Regular design review.
- 17.136.100 Adherence to approved plans.
- ~~17.136.110 Revocation.~~
- 17.136.120 Design review related to conditional use permit, planned unit development, variance, or subdivision.
- 17.136.130 Limitation on resubmission--Small project design review.

17.136.020 Application.

~~A. Application for design review. Application for design review shall be made by the owner of the affected property, or his or her authorized agent, on a form prescribed by the City Planning Department and shall be filed with such Department. The application shall be accompanied by such information as may be required to allow applicable criteria to be applied to the proposal, and by the fee prescribed in the city master fee schedule. Such information may include, but is not limited to, site and building plans, elevations, and relationships to adjacent properties. (Ord. 11892 § 22, 1996; Ord. 11816 § 2 (part), 1995; prior planning code § 9302)~~

**17.136.025 Exemptions from Design Review.**

~~A. Applicability. A proposal will be exempt from design review if it meets each of the provisions set forth below. All such determinations are final and not appealable:~~

- ~~1. The proposal is limited to one or more of the types of work listed as exempt from design review in Section 17.136.025B;~~
- ~~2. The proposal does not require a conditional use permit or variance, pursuant to the zoning regulations of Title 17 of the Oakland Planning code;~~
- ~~3. The proposal is determined exempt from the California Environmental Quality Act (CEQA);~~
- ~~4. All exterior treatments visually match the existing or historical design of the building; and~~
- ~~5. The proposal will not have a significant effect on the property's character-defining elements. "Character-defining elements" are those features of design, materials, workmanship, setting,~~

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location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance.

The following changes to existing nonresidential buildings are exempt from design review:

B. Definition. The following types of work are exempt from design review, pursuant to all provisions in Section 17.136.025A:

1. Additions or Alterations.
  - a. Projects not requiring a building permit, except if otherwise specified below;
  - b. Repair or replacement of existing building components in a manner that visually matches the existing or historical design of the building;
  - c. Secondary Units of five hundred (500) square feet or less on a lot with only one existing or proposed primary dwelling unit, pursuant to all regulations in Section 17.102.360;
  - d. Floor area additions within the existing building envelope not involving the creation of a dwelling unit;
  - e. Cumulative additions over a three (3) year period not involving the creation of a dwelling unit that are outside the existing building envelope and equal no more than ten percent (10%) of the total floor area or footprint on site;
  - f. For Commercial, Civic, or Industrial Facilities and the Non-residential Portions of Mixed-Use Development Projects, any addition or alteration on a roof that does not project above the existing parapet walls;
  - g. Any addition or alteration not otherwise exempt which is used as a loading dock, recycling area, utility area, or similar open structure addition that is no higher than six (6) feet above finished grade, less than five hundred (500) square feet in floor area or footprint, and is visually screened from neighboring properties; such exemptions shall only be permitted where the proposal conforms with all Buffering regulations in Chapter 17.110 and all Performance Standards in Chapter 17.120;
  - h. Areas of porch, deck or balcony with a surface that is less than thirty (30) inches above finished grade.
2. Signs.
  - a. A change of sign face copy or new sign face within an existing Advertisement Sign or a change of sign face copy within Business or Civic Sign structures so long as the structure and framework of the sign remain unchanged and the new sign face duplicates the colors of the original or, in the case of an internally illuminated sign, the letter copy is light in color and the background is dark; or
  - b. Installation, alteration or removal of Realty Signs, Development Signs, holiday decorations, displays behind a display window and, except as otherwise provided in Section 17.114.120C, for mere changes of copy, including cutouts, on Signs which customarily involve periodic changes of copy.
3. Other Projects.
  - a. Sidewalk Cafes that have a maximum of five tables and no more than fifteen (15) chairs and/or do not have any permanent structures in the public right of way, pursuant to Section 17.102.335.
  2. Any alteration or addition of floor area less than ten percent (10%) of existing floor area or footprint area determined by the Director of City Planning to be visible from the street or from other public areas. An alteration or addition will normally be considered "not visible from the street or from other public areas" if it meets at least one of the following criteria:
    - i) The alteration or addition does not affect any street face or public face of a building or is otherwise located outside the Critical Design Area defined as the area within forty (40) feet of any street line, public path, park or other public area (see illustration I-30);
  3. Any alteration or addition not normally exempt which is used as a loading dock, recycling area, utility area, porch, deck or similar open structure addition that is no higher than six (6) feet above finished grade, less than five hundred (500) square feet in floor or footprint area, and has no significant visual or noise impact to neighboring properties. Exemptions only permitted where the proposal conforms with all Buffering requirements in Chapter 17.110 and all Performance Standards in Chapter 17.120.

~~4. The alteration or addition is on a roof and does not project above the parapet walls. (Ord. 12417 § 1, 2002)~~

**17.136.030020 Small Project Design Review. Definition of regular and small project design review.**

A. Applicability. "Small Project Design Review" shall apply to proposals that do not qualify for an exemption from design review as set forth in Section 17.136.025, or require Regular Design Review as either determined by the Director of City Planning or as set forth in Section 17.136.040. "Small Project Design Review" proposals shall meet all of the following provisions:

1. The proposal is limited to one or more of the types of work listed as a "Small Project" in Section 17.136.030B;

2. The proposal does not require a conditional use permit or variance, pursuant to the zoning regulations of Title 17 of the Oakland Planning code;

3. The proposal is determined exempt from the California Environmental Quality Act (CEQA), and

4. The proposal will not have a significant effect on the property's character-defining elements. "Character-defining elements" are those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance.

~~Small Project Design Review. "Small project design review" means design review for existing commercial, civic, or industrial facilities, and the nonresidential portions of mixed use development projects, which are determined exempt from the California Environmental Quality Act; do not require any other permit, variance or other approval pursuant to the zoning regulations of Title 17 of the Oakland Planning code;~~

B. Definition of "Small Project". Small Projects are limited to one or more of the following types of work:

1. Additions or Alterations.

a. Repair or replacement of existing building components in a manner that is compatible with, but not necessarily identical to, the property's existing or historical design;

b. Cumulative additions over a three (3) year period not involving the creation of a dwelling unit that are outside the existing building envelope and equal more than ten percent (10%) of the total floor area or footprint on site, but do not exceed one thousand (1000) square feet or one hundred percent (100%) of the total floor area or footprint on site, whichever is less;

c. Secondary units of more than five hundred (500) square feet in floor area, but not exceeding nine hundred (900) square feet or fifty percent (50%) of the floor area of the primary dwelling, whichever is less, pursuant to all regulations in Section 17.102.360;

d. For commercial, civic, or industrial facilities and the non-residential portions of mixed-use development projects, changes to storefronts or street-fronting facades that involve either: (i) replacement or construction of doors, windows; bulkheads and nonstructural wall infill, or (ii) restoration of documented historic fabric.

2. Fences.

a. For Residential Zones and Residential Facilities, fences exceeding 42 inches in height in the front yard and street-side yards, but not exceeding six (6) feet in height, pursuant to Section 17.108.140;

b. For Commercial Zones, Manufacturing Zones, and S-1, S-2, S-3, and S-15 Zones, fences exceeding eight (8) feet in height within ten (10) feet of any abutting property in a residential zone, but not exceeding ten (10) feet in height, pursuant to Section 17.108.140.

3. Signs.

~~a.1. New or modified Signs, excluding Advertising Signs; and Signs extending above the roofline; and multi-tenant freestanding signs;~~

~~b.2. New or modified awnings;~~

~~c.3. Color changes to buildings, Signs, awnings or other similar facilities;~~



## EXHIBIT A

d. Installation of flags or banners having any permanent structure within the public right of way, pursuant to the same regulations for sidewalk cafes in Section 17.102.335B;

e. Exceptions to aggregate Sign area limits, pursuant to Sections 17.104.020(B)(3) and 17.104.030(B)(1).

4. Alterations to Existing Telecommunications Facilities, pursuant to all regulations in Chapter 17.128.

a. At an existing Micro Facility, the addition of new or replacement antennas resulting in no more than six (6) antennas that are concealed from view, consistent with the definition of "Micro" Facility in Section 17.10.870;

b. At an existing Mini Facility, the addition of new or replacement antennas resulting in no more than twelve (12) antennas that are concealed from view, consistent with the definition of "Mini" Facility in Section 17.10.880;

c. Repair or replacement of existing equipment cabinets that are concealed from view;

d. Repair or replacement of existing equipment ancillary to the transmissions and reception of voice and data via radio frequencies. Such equipment may include, but is not limited to, cable, conduit, and connectors.

5. Other Projects.

a. Retaining walls not flanking a driveway exceeding six (6) feet in height, if all provisions in Section 17.102.400 are met;

b. Sidewalk Cafes that have more than five tables/fifteen (15) chairs and/or have a permanent structure in the public right of way, pursuant to Section 17.102.335.

4. Changes to storefronts or ground floor facades (provided they do not involve properties determined to be historic resources as defined by the California Environmental Quality Act (CEQA) Guidelines Section 15064.5A) including but not limited to properties on the Local Register of Historic Resources (LRHR) as defined in the Historic Preservation Element of the Oakland General Plan) and are limited to either:

i) Replacement or construction of doors, windows, bulkheads and nonstructural wall-infill;  
or

ii) Restoration of documented historic fabric; or

iii) Installation or replacement of security grilles or gates;

5. Changes to previously altered doors and windows that restore the doors and windows to their original or historic design;

6. Installation of flags or banners having any permanent structure within the public right of way, subject to 17.102.335B.

7. Fences.

C. Procedures for Consideration -- Small Project Design Review. The Director of City Planning may, at his or her discretion, consider an application for small project design review according to the following Three-Track process, or if additional consideration is required, determine that the proposal shall be reviewed according to the regular design review procedure in Section 17.136.040:

1. Track One Procedure - Small Project Design Review Proposals Not Involving a Local Register Property, or an Upper-Story Addition to a One or Two Unit Primary Dwelling Unit of More than 250 Square Feet in Floor Area:

a. The Director of City Planning, or his or her designee, shall determine whether the proposal meets the requirements for small project design review as set forth in this section.

b. Decision by the Director of City Planning. The Director, or his or her designee, may approve or disapprove a Track One proposal determined eligible for small project design review and may require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to the applicable small project design review criteria in Section 17.136.035.

c. The decision by the Director, or his or her designee, shall be final immediately and not appealable.

2. Track Two Procedure - Small Project Design Review Proposals Involving a Local Register Property:

a. The Director of City Planning, in concert with the City of Oakland's Historic Preservation staff, shall determine whether a proposed addition or alteration involving a Local Register Property will have a significant effect on the property's character-defining elements. "Character-defining elements" are those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance. Any proposed addition or alteration determined to have a significant effect on a Local Register Property's character-defining elements shall be reviewed instead according to the regular design review procedure in Section 17.136.040. Any proposed addition involving an upper-story addition to a one or two unit primary dwelling unit of more than 250 square feet in floor area that is determined eligible for small project design review and to not have a significant effect on the property's character-defining elements shall be reviewed according to the Track Three procedure in Section 17.136.030(C)(3).

b. Decision by the Director of City Planning. The Director, or his or her designee, may approve or disapprove a Track Two proposal determined eligible for small project design review and may require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to the applicable small project design review criteria in Section 17.136.035.

c. The decision by the Director, or his or her designee, shall be final immediately and not appealable.

3. Track Three Procedure - Small Project Design Review Proposals Involving an Upper-Story Addition to a One or Two Unit Primary Dwelling Unit of More than 250 Square Feet in Floor Area; or an over eight (8) foot increase in the height of a building in the HBX-1, HBX-2, and HBX-3 zones, not including allowed projections above the height limits listed in 17.108.030:

a. The Director of City Planning, or his or her designee, shall determine whether the proposal meets the requirements for small project design review as set forth in this section.

b. At the time of small project design review application, the owner of the affected property, or his or her authorized agent, shall obtain from the City Planning Department, a list of names and mailing addresses of all persons shown on the last available equalized assessment roll as owning the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site; a notice poster to install on the project site; and a "Notice to Neighboring Property Owners" form which includes the project description and contact information.

c. Prior to the subject application being deemed complete, the applicant shall install the notice poster provided at the time of application at a location on the project site that is clearly visible from the street, alley, or private way providing access to the subject lot; and provide by certified mail or delivery to all persons shown on the last available equalized assessment roll as owning the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site, a copy of the completed project notice form, as well as a set of reduced plans (consisting of at least a site plan and building elevations that show all proposed exterior work).

d. All required posting of the site and notification of adjacent and across the street property owners shall be completed by the project applicant not less than ten (10) days prior to the earliest date for final decision on the application. During the required noticing period, the Planning Department shall receive and consider comments from any interested party, as well as accept requests for a meeting with City Planning staff.

e. Decision by the Director of City Planning. Prior to final decision, City Planning staff shall hold a meeting with interested parties whenever such a meeting request is received in writing by the Planning Department during the small project design review comment period. Following any meeting with interested parties, the Director, or his or her designee, may approve or disapprove a Track Three proposal determined eligible for small project design review and may require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to the applicable small project design review criteria in Section 17.136.035.

f. The decision by the Director, or his or her designee, shall be final immediately and not appealable.

**17.136.035 Small Project Design Review Criteria.**

A Small project design review approval shall be granted for proposals that conform to each of the applicable criteria set forth in subdivisions 1, 2, and 3 below, and if also applicable, to the criteria in subdivision 4 below:

1. That for commercial, civic, or industrial facilities and the nonresidential portions of Mixed Use Development projects, the proposed design conforms with the adopted Small Project Design Guidelines, as may be amended;

2. That for Residential Facilities with one or two primary dwelling units and the residential portions of Mixed Use Development projects with one or two primary dwelling units, the proposed design conforms with the adopted checklist criteria for facilities with 1-2 primary dwelling units, as may be amended;

3. That for Residential Facilities with three or more dwelling units and the residential portions of Mixed Use Development projects with three or more dwelling units, the proposed design conforms with the adopted checklist criteria for facilities with three or more dwelling units, as may be amended;

4. That for Local Register Properties and Potential Designated Historic Properties, the proposed design will not substantially impair the visual, architectural, or historic value of the affected site or facility.

**17.136.040 Regular Design Review.**

A. Applicability. "Regular design review" shall apply to proposals that require design review pursuant to the zoning regulations of Title 17 of the Oakland Planning Code, but do not qualify for a design review exemption as set forth in Section 17.136.025 or small project design review as set forth in Section 17.136.030. Projects requiring regular design review include, but are not limited to, the following types of work:

1. Any proposal involving one or more of the facility, activity, building, structure, or development types that require design review pursuant to the zoning regulations of Title 17 of the Oakland Planning Code, but does not qualify for a design review exemption as set forth in Section 17.136.025, or small project design review as set forth in Section 17.136.030;

2. Construction or alteration of structures requiring a conditional use permit or variance, pursuant to the zoning regulations of Title 17 of the Oakland Planning Code;

3. New construction of one or two dwelling units, other than a secondary unit;

4. New construction of three or more dwelling units, or adding units to a property for a total of three or more dwelling units on site;

5. New construction of principal facilities in the HBX zone;

6. The creation of any new HBX 'work/live' unit or HBX 'live/work' unit (see Sections 17.65.160 and 17.65.170). This requirement shall apply for both: a) conversions of existing facilities to contain either of these unit types, and b) the construction of new buildings that contain either of these unit types;

7. Cumulative additions over a three (3) year period not involving the creation of a dwelling unit that are outside the existing building envelope and exceed one thousand (1000) square feet or one hundred percent (100%) of the total floor area or footprint on site, whichever is less;

8. Exceptions to the parking accommodation requirements for one- and two-family Residential Facilities in Section 17.102.390;

9. Advertising Signs, and Signs extending above the roofline;

10. Proposals for new or modified Telecommunications Facilities, pursuant to Chapter 17.128, but excluding those alterations to existing Telecommunications Facilities listed as a Small Project in Section 17.136.030(B).

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B. Pre-Application Review --Regular Design Review. Prior to application for regular design review, any applicant or his or her representative seeking early project feedback may submit for a pre-application review of the proposal by a representative of the City Planning Department. For projects of a larger scale or involving a significant policy issue, the Director of City Planning may, at his or her discretion, request that an applicant or his or her representative submit for a pre-application review of the proposal. During a pre-application review, the city representative will provide information about applicable design review criteria and pertinent procedures, including the opportunity for advice from outside design professionals. Where appropriate the city representative may also informally discuss possible design solutions, point out potential neighborhood concerns, and mention local organizations which the applicant is encouraged to contact before finalizing the proposal.

C. Procedure for Consideration of Regular Design Review Proposals which Involve or Result in a One- or Two-Unit Residential Facility--Decisions Not Ultimately Appealable to City Council.

1. Decision by the Director of City Planning or the City Planning Commission. An application for regular design review shall be considered by the Director of City Planning. The Director may, at his or her discretion, refer the application to the City Planning Commission for decision rather than acting on it himself or herself. However, if the project requires an Environmental Impact Report, or results in twenty-five thousand (25,000) square feet of new floor area and is located in any zone other than the R-80, R-90, C-51, C-55, S-2, or S-15 zones, the Director of City Planning shall refer the application to the City Planning Commission for an initial decision rather than acting on it himself or herself.

2. Notification Procedures. Notice shall be given by posting an enlarged notice at a location on the project site that is clearly visible from the street, alley, or private way providing access to the subject lot. Notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the project site; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set, as the case may be, for decision on the application by the Director, or prior to the date set for a hearing before the Commission, if such is to be held. During the required noticing period, the planning department shall receive and consider comments from any interested party.

3. The Director or the applicant may seek the advice of outside design professionals. The Director shall determine whether the proposal conforms to the applicable design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to said criteria.

4. Finality of Decision. A determination by the Director shall become final ten calendar days after the date of initial decision unless appealed to the City Planning Commission or the Commission's Residential Appeals Committee in accordance with Section 17.136.080. In the event that the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. In those cases which are referred to the Commission by the Director, the initial decision of the Commission shall become final ten days after the date of decision.

D. Procedure for Consideration of Regular Design Review Proposals which do not Involve or Result in a One- or Two-Unit Residential Facility--Decisions Ultimately Appealable to City Council.

1. Decision by the Director of City Planning or the City Planning Commission. An application for regular design review shall be considered by the Director of City Planning. The Director may, at his or her discretion, refer the application to the City Planning Commission for an initial decision rather than acting on it himself or herself. However, if the project requires an Environmental Impact Report, or results in twenty-five thousand (25,000) square feet of new floor area and is located in any zone other than the R-80, R-90, C-51, C-55, S-2, or S-15 zones, the Director of City Planning shall refer the application to the City Planning Commission for an initial decision rather than acting on it himself or herself.

2. Notification Procedures. Notice shall be given by posting an enlarged notice at a location on the project site that is clearly visible from the street, alley, or private way providing access to the subject lot. Notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the project site; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set, as the case may be, for decision on the application by the Director, or prior to the date set for a hearing before the Commission, if such is to be held. During the required noticing period, the planning department shall receive and consider comments from any interested party.

3. The Director or the Commission may seek the advice of outside design professionals. The Director or the Commission, as the case may be, shall determine whether the proposal conforms to the applicable design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in his or her or its judgment necessary to ensure conformity to said criteria.

4. Finality of Decision. A determination by the Director shall become final ten days after the date of initial decision unless appealed to the City Planning Commission in accordance with Section 17.136.080. In those cases which are referred to the Commission by the Director, the initial decision of the Commission shall become final ten days after the date of decision unless appealed to the City Council in accordance with Section 17.136.090. In the event that the last day of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.

E. Alternative Notification Procedures. If the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement the procedures set forth in subsections C and D of this section.

(Ord. 12376 § 3 (part), 2001; Ord. 12237 § 4 (part), 2000; Ord. 11816 § 2 (part), 1995; prior planning code § 9305)

(Ord. 12533 § 3 (part); Ord. 12417 § 1 (part), 2002; Ord. 12376 § 3 (part), 2001; Ord. 12224 § 8, 2000; Ord. 11816 § 2 (part), 1995; prior planning code § 9301)

**17.136.050 Regular design review criteria.**

Regular design review approval may be granted only if the proposal conforms to all of the following general design review criteria, as well as to any and all other applicable design review criteria:

A. For Residential Facilities.

1. That the proposed design will create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures;

2. That the proposed design will protect, preserve, or enhance desirable neighborhood characteristics;

3. That the proposed design will be sensitive to the topography and landscape;

4. That, if situated on a hill, the design and massing of the proposed building relates to the grade of the hill;

5. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.

B. For Nonresidential Facilities and Signs.

1. That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design

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which have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.136.060;

2. That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area;

3. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.

C. For Local Register Properties that are not Landmarks or located in the S-7 or S-20 zone:

1. That for additions or alterations,

a. The proposal will not substantially impair the visual, architectural, or historic value of the affected site or facility. Consideration shall be given to design, form, scale, materials, texture, lighting, detailing and ornamentation, landscaping, Signs, and any other relevant design element or effect, and, where applicable, the relation of the above to the original design of the affected facility.

2. That for demolition or removal,

a. The affected structure or portion thereof is not considered irreplaceable in terms of its visual, cultural, or educational value to the area or community; or

b. The structure or portion thereof is in such condition that it is not architecturally feasible to preserve or restore it, or

c. Considering the economic feasibility of preserving or restoring the structure or portion thereof, and balancing the interest of the public in such preservation or restoration and the interest of the owner of the property in the utilization thereof, approval is required by considerations of equity.

D. For Potential Designated Historic Properties that are not Local Register Properties:

1. That for additions or alterations,

a. The design matches or is compatible with, but not necessarily identical to, the property's existing or historical design; or

b. The proposed design comprehensively modifies and is at least equal in quality to the existing design and is compatible with the character of the neighborhood; or

c. The existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

2. That for demolition or removal,

a. The design quality of the proposed project is at least equal to that of the original structure and is compatible with the character of the neighborhood; or

b. The public benefits of the proposed project outweigh the benefit of retaining the original structure ; or

c. The existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

E. For Retaining Walls,

1. That the retaining wall is consistent with the overall building and site design and respects the natural landscape and topography of the site and surrounding areas;

2. That the retaining wall is responsive to human scale, avoiding large, blank, uninterrupted or undesigned vertical surfaces;

3. That the retaining wall respects the natural topography, avoiding obvious scars on the land;

4. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.

(Ord. 12376 § 3 (part), 2001; Ord. 11816 § 2 (part), 1995; prior planning code § 9306)

**17.136.030 Application.**

~~A. Pre Application Conference for Certain Projects Regular Design Review. Prior to application for regular design review of any proposal which involves or results in three or more new dwelling units on a lot in the R-40, R-60, R-70, R-80, R-90, C-25, C-30, C-35, C-36, C-40, C-51, C-52, C-55, S-2, or S-15 zones, the applicant or his or her representative shall have a conference with a representative of the City Planning Department. This conference should take place before or at an early stage in the design process. At the conference the city representative shall provide information about applicable design review criteria and pertinent procedures, including the opportunity for advice from outside design professionals. Where appropriate the city representative may also informally discuss possible design solutions, point out potential neighborhood concerns, and mention local organizations which the applicant is encouraged to contact before finalizing the proposal.~~

~~B. Application for Design Review. Application for design review shall be made by the owner of the affected property, or his or her authorized agent, on a form prescribed by the City Planning Department and shall be filed with such Department. The application shall be accompanied by such information as may be required to allow applicable criteria to be applied to the proposal, and by the fee prescribed in the fee schedule in Chapter 17.150. Such information may include, but is not limited to, site and building plans, elevations, and relationships to adjacent properties. (Ord. 11892 § 22, 1996; Ord. 11816 § 2 (part), 1995; prior planning code § 9302)~~

**17.136.06040 Review by Landmarks Board in certain cases.**

~~A. Whenever an application is for regular design review in the S-7 zone, or on a designated landmark site, the Director of City Planning shall refer the proposal to the Landmarks Preservation Advisory Board for its recommendations.~~

~~B. Whenever an application is for regular design review in the S-20 zone, and the Director of City Planning determines that a proposed addition or alteration will have a significant effect on the property's character-defining elements that are visible from a street or other public area, the Director may, at his or her discretion, refer the project to the Landmarks Preservation Advisory Board for its recommendations. "Character-defining elements" are those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance. An addition or alteration is normally considered "visible from a street or other public area" if it affects a street face or public face of the facility or is otherwise located within the "critical design area," defined as the area within forty (40) feet of any street line, public alley, public path, park or other public area. the Director may, at his or her discretion, refer the application to the Board for its recommendations. (Ord. 11816 § 2 (part), 1995; prior planning code § 9303)~~

**17.136.070 Special regulations for designated landmarks.**

~~A. Designation. In any zone, the City Council may designate as a landmark any facility, portion thereof, or group of facilities which has special character, interest, or value of any of the types referred to in 17.07.030P. The designating ordinance for each landmark shall include a description of the characteristics of the landmark which justify its designation and a clear description of the particular features that should be preserved. Each ordinance shall also include the location and boundaries of a landmark site, which shall be the lot, or other appropriate immediate setting, containing the landmark. Designation of each landmark and landmark site shall be pursuant to the rezoning and law change procedure in Chapter 17.144.~~

~~B. Design Review for Construction or Alteration. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure on any designated landmark site shall be constructed or established, or altered in such a manner as to affect exterior appearance unless plans for the proposal have been approved pursuant to the design review procedure in this chapter and the applicable provisions of this section. Furthermore, for a publicly owned landmark, the designating ordinance may require such approval of proposed changes to major interior architectural features.~~

C. Design Review for Demolition or Removal. Within any designated landmark site, no Building Facility, portion thereof, or other landmark shall be demolished or removed, unless plans for the proposal have been approved pursuant to the regular design review procedure in Section 17.136.040 and the applicable provisions of this section. However, in any case, after notice to the Director of City Planning, demolition or removal shall be permitted without such approval upon a determination by the Building Services Department, the Housing Conservation Division, their respective appeals boards, or the City Council that immediate demolition is necessary to protect the public health or safety, or after expiration of the periods of postponement referred to in subsection E of this section.

D. Regular Design Review Criteria. Proposals involving designated landmarks that require regular design review approval may be granted only upon determination that the proposal conforms to the regular design review criteria set forth in Section 17.136.050 and to the additional criteria set forth in subdivisions 1, 2 and 3 or to one or both of the criteria set forth in subdivision 4:

1. That the proposal will not adversely affect the exterior features of the designated landmark nor, when subject to control as specified in the designating ordinance for a publicly owned landmark, its major interior architectural features;

2. That the proposal will not adversely affect the special character, interest, or value of the landmark and its site, as viewed both in themselves and in their setting;

3. That the proposal conforms with the Design Guidelines for Landmarks and Preservation Districts as adopted by the City Planning Commission and, as applicable for certain federally related projects, with the Secretary of the Interior's Standards for the Treatment of Historic Properties;

4. If the proposal does not conform to the criteria set forth in subdivisions 1, 2 and 3:

i. That the designated landmark or portion thereof is in such condition that it is not architecturally feasible to preserve or restore it, or

ii. That, considering the economic feasibility of alternatives to the proposal, and balancing the interest of the public in protecting the designated landmark or portion thereof, and the interest of the owner of the landmark site in the utilization thereof, approval is required by considerations of equity.

E. Postponement of Demolition or Removal. If an application for approval of demolition or removal of a facility, pursuant to subsections C and D of this section, is denied, the issuance of a permit for demolition or removal shall be deferred for a period of one hundred twenty (120) days, said period to commence upon the initial denial by the reviewing officer or body. During the period of postponement, the Director of City Planning or the City Planning Commission, with the advice and assistance of the Landmarks Preservation Advisory Board, shall explore all means by which, with the agreement of the owner or through eminent domain, the affected facility may be preserved or restored. The reviewing officer or body from whose decision the denial of the application became final may, after holding a public hearing, extend said period for not more than additional one hundred twenty (120) days; provided, however, that the decision to so extend said period shall be made not earlier than ninety (90) days, nor later than thirty (30) days prior to the expiration of the initial one hundred twenty (120) day period. Notice of the hearing shall be given by posting an enlarged notice on the premises of the subject property involved. Notice of the hearing shall also be given by mail or delivery to the applicant, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing. Such extension shall be made only upon evidence that substantial progress has been made toward securing the preservation or restoration of the facility. In the event that the applicant shall have failed to exhaust all appeals under Sections 17.136.080 and 17.136.090 from the denial of the application, the decision to extend said period shall be appealable under the provisions of Sections 17.136.080 and 17.136.090 to those bodies to whom appeal had not been taken from the initial denial of the application.

F. Duty to Keep in Good Repair. Except as otherwise authorized under subsections B and C of this section, the owner, lessee, or other person in actual charge of each designated landmark shall keep in good repair all of the exterior portions thereof, all of the interior portions thereof when subject to control as specified in the designating ordinance, and all interior portions thereof the maintenance of



which is necessary to prevent deterioration and decay of any exterior portion. (Ord. 12513 Attach. A (part), 2003; Ord. 12237 § 4 (part), 2000; prior planning code § 7002)

**17.136.075 Postponement of demolition.**

Except for postponement periods as otherwise specified for structures in the S-7 zone (Chapter 17.84), for structures in the S-20 zone (Chapter 17.101), and for Designated Landmarks (Section 17.136.070), the issuance of a demolition permit for any structure or portion thereof may be postponed by the Director of City Planning for a period not to exceed one hundred twenty (120) days from the date of application for such permit. The Director may do so upon determination that the structure or portion thereof is listed as a Local Register Property, or is on a study list of facilities under serious study by the Landmarks Preservation Advisory Board, the City Planning Commission, or the Director, for possible landmark designation under Section 17.136.070 or for other appropriate action to preserve it. During the period of postponement the Board, the Commission, or the Director shall explore means for preserving or restoring the structure or portion thereof. However, demolition may not be postponed under this section if, after notice to the Director of City Planning, the Building Services Department, the Housing Conservation Division, their respective appeals boards, or the City Council determines that immediate demolition is necessary to protect the public health or safety. Any determination made by the Director of City Planning under this section may be appealed pursuant to the administrative appeal procedure in Chapter 17.132. (Prior planning code § 7005)

**17.136.050 Procedure for consideration—Small project design review.**

A. Decision by the Director of City Planning. An application for small project design review shall be considered by the Director of City Planning. The Director shall determine whether the proposal conforms to the applicable design review criteria. The Director may approve or disapprove the proposal and may require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to said criteria. The Director's decision shall be in writing, and shall be final immediately. If the Director's decision involves a property in the S-7 zone or on a designated landmark site, a copy of the decision shall be forwarded to the Landmarks Preservation Advisory Board.

B. Period of Consideration. Should a decision not be rendered pursuant to subsection A of this section within five working days after filing a complete application, the application shall be deemed approved. However, the date by which a decision must be rendered may be extended by agreement between the Director of City Planning and the applicant. (Ord. 11816 § 2 (part), 1995; prior planning code § 9304)

**17.136.060 Procedures for consideration—Regular design review.**

A. Proposals in General Design Review Zones and Miscellaneous Cases—Decisions Ultimately Appealable to City Council. (This procedure shall apply if regular design review is required under any provision of the zoning regulations other than, or in addition to Section 17.22.030, 17.24.030, 17.26.030, 17.28.030, 17.30.030, 17.32.030, 17.40.030, 17.50.030, 17.52.020, 17.54.030, 17.56.030, 17.58.020, 17.60.030, 17.62.020, 17.76.030 or 17.101B.40.) An application for regular design review shall be considered by the Director of City Planning. The Director may, at his or her discretion, refer the application to the City Planning Commission for decision rather than acting on it himself or herself. However, if the project requires development of an Environmental Impact Report, or involves twenty-five thousand (25,000) square feet of floor area and is located in any zone other than the R-80, R-90, C-51, C-55, S-2, or S-15 zones, the Director of City Planning shall refer the application to the City Planning Commission for decision rather than acting on it himself or herself. At his or her discretion, an administrative hearing may be held. Notice shall be given by posting notices thereof within three hundred (300) feet of the property involved in the application; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved. All such notices shall be given not less than ten days

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prior to the date set for the hearing, if such is to be held, or, if not, for decision on the application by the Director or the Commission, as the case may be.

~~———— The Director or the Commission may seek the advice of outside design professionals. The Director or the Commission, as the case may be, shall determine whether the proposal conforms to the applicable design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in his or her or its judgement necessary to ensure conformity to said criteria.~~

~~———— A determination by the Director shall become final ten days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.136.100. In those cases, which are referred to the Commission by the Director, the decision of the Commission shall become final ten days after the date of decision unless appealed to the City Council in accordance with Section 17.136.090. In the event that the last day of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.~~

~~———— B. ——— Proposals Requiring Regular Design Review Only Because Project Involves or Results in Three or More Units or Creates a One or Two Unit Residential Facility Over 3,500 Square Feet in Floor Area in the S-18 Zone Decisions Not Ultimately Appealable to City Council. (This procedure shall apply if regular design review is required under any provision of the zoning regulations other than, or in addition to, Section 17.22.030, 17.24.030, 17.26.030, 17.28.030, 17.30.030, 17.32.030, 17.40.030, 17.46.030, 17.50.030, 17.52.020, 17.54.030, 17.56.030, 17.58.020, 17.60.030, 17.62.020, 17.76.030 or 17.101B.40.) An application for regular design review shall be considered by the Director of City Planning. The Director may, at his or her discretion, refer the application to the City Planning Commission for decision rather than acting on it himself or herself. However, if the project requires development of an Environmental Impact Report or involves twenty five thousand (25,000) square feet of floor area or twenty five (25) or more dwelling units and is located in any zone other than the R-80, R-90, C-51, C-55, S-2, or S-15 zones, the Director shall refer the application to the Commission for decision rather than acting on it himself or herself. If the Director refers the application to the Commission for decision, it shall be processed pursuant to subsection A of this section. At his or her discretion, an administrative hearing may be held. Notice shall be given by posting notices thereof within three hundred (300) feet of the property involved in the application; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved. All such notices shall be given not less than ten days prior to the date set the hearing, if such is to be held, or, if not, for decision on the application by the Director.~~

~~———— The Director or the applicant may seek the advice of outside design professionals. The Director shall determine whether the proposal conforms to the applicable design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to said criteria. A determination by the Director shall become final ten calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.136.100. In the event that last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.~~

~~———— C. ——— Period of Consideration. Should a decision not be rendered pursuant to subsection A or B of this section within sixty (60) days after filing, the application shall be deemed approved except when, pursuant to the California Environmental Quality Act, an environmental document is required prior to decision, in which case should a decision not be rendered within sixty (60) days after final action on the environmental document, the application shall be deemed approved. In any case, however, the date by which a decision must be rendered may be extended by agreement between the Director of City Planning or the City Planning Commission and the applicant.~~

~~———— D. ——— Alternative Notification Procedures. If the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement the procedures set~~

forth in subsections A and B of this section. (~~Ord. 12376 § 3 (part), 2001; Ord. 12237 § 4 (part), 2000; Ord. 11816 § 2 (part), 1995; prior planning code § 9305~~)

**17.136.070 — Design review criteria.**

~~Except as different criteria are prescribed elsewhere in the zoning regulations, design review approval may be granted only if the proposal conforms to all of the following criteria, as well as to any and all other applicable design review criteria:~~

~~A. For Residential Facilities.~~

~~1. That the proposed design will create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures;~~

~~2. That the proposed design will protect, preserve, or enhance desirable neighborhood characteristics;~~

~~3. That the proposed design will be sensitive to the topography and landscape;~~

~~4. That, if situated on a hill, the design and massing of the proposed building relates to the grade of the hill;~~

~~5. That the proposed design conforms in all significant respects with the Oakland Comprehensive Plan and with any applicable district plan or development control map which has been adopted by the City Council.~~

~~B. For Nonresidential Facilities and Signs.~~

~~1. That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design which have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.102.030;~~

~~2. That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area;~~

~~3. That the proposed design conforms in all significant respects with the Oakland Comprehensive Plan and with any applicable district plan or development control map which has been adopted by the City Council.~~

~~C. For Retaining Walls.~~

~~1. That the retaining wall is consistent with the overall building and site design and respects the natural landscape and topography of the site and surrounding areas;~~

~~2. That the retaining wall is responsive to human scale, avoiding large, blank, uninterrupted or undesignated vertical surfaces;~~

~~3. That the retaining wall respects the natural topography, avoiding obvious scars on the land.~~

~~(Ord. 12376 § 3 (part), 2001; Ord. 11816 § 2 (part), 1995; prior planning code § 9306)~~

**17.136.080 Appeal to Planning Commission--Regular design review.**

Within ten calendar days after the date of a decision by the Director of City Planning on an application for regular design review, an appeal from said decision may be taken to the City Planning Commission by the applicant, the Landmarks Preservation Advisory Board, or any other interested party. In the case of appeals involving one- or two-unit Residential Facilities, ~~and no Nonresidential Facilities,~~ the appeal shall be considered by the Commission's Residential Appeals Committee. In the event the last day of appeal falls on a weekend or holiday when city offices are closed, the next date offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City Planning Department and shall be filed with such Department. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director or wherein his or her decision is not supported by the evidence in the record. Upon receipt of such appeal, the Secretary of the City Planning

Commission shall set the time for consideration thereof; ~~which in the case of applications limited to one or two unit Residential Facilities, shall be the date of the Committee's next regularly scheduled meeting following the thirtieth day after the appeal is filed.~~ Not less than seventeen (17) ~~ten~~ days prior to the date of the Commission's or Committee's consideration of the appeal, the Secretary shall give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Commission or, if applicable, the Committee shall determine whether the proposal conforms to the applicable design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The Commission or, if applicable, the Committee or the applicant may seek the advice of outside design professionals. If the proposal is being considered under the procedure specified in Section 17.136.040(D) ~~17.136.060A~~ or also requires a major variance, the decision of the Commission or, if applicable, the Committee shall become final ten calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.136.090. In the event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. If it is being considered under the procedure specified in Section 17.136.040(C) ~~17.136.060B~~ and does not also require a major variance, the decision of the Commission or, if applicable, the Committee shall be final immediately. (Ord. 12376 § 3 (part), 2001: Ord. 11816 § 2 (part), 1995: prior planning code § 9307)

**17.136.090 Appeal to City Council--Regular design review.**

Within ten calendar days after the date of a decision by the City Planning Commission on an application for regular design review under the procedure specified in Section 17.136.040(D) ~~17.136.060A~~, or where the proposal also requires a major variance, ~~or on revocation of any regular design review approval in accordance with Section 17.136.110,~~ an appeal from said decision may be taken to the City Council by the applicant, the Landmarks Preservation Advisory Board, or any other interested party. In the event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. No such appeal is allowable under the procedure specified in Section 17.136.040(C) ~~17.136.060B~~ unless the proposal also requires a major variance. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. Upon receipt of the appeal, the Council shall set the date for consideration thereof. After setting the hearing date, the Council, prior to hearing the appeal, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal.

The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) ten days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Council shall determine whether the proposal conforms to the applicable design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria.

The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided. (Ord. 11816 § 2 (part), 1995: prior planning code § 9308)

**17.136.100 Adherence to approved plans.**

A design review approval shall be subject to the plans and other conditions upon the basis of which it was granted. Unless a different termination date is prescribed, the approval shall terminate two years ~~one year~~ from the effective date of its granting unless ~~actual construction, alteration, painting, demolition, or removal, as the case may be, has begun under all necessary permits for construction, alteration, painting, demolition, or removal, as the case may be, have been issued~~ within such period. However, such period of time may be extended by the original reviewing officer or body, upon application filed at any time before said period has expired. Expiration of any necessary building permit for the project may invalidate the design review approval if said extension period has also expired. (Ord. 11816 § 2 (part), 1995; prior planning code § 9309)

~~**17.136.110 Revocation.**~~

~~In the event of a violation of any of the provisions of the zoning regulations, or in the event of a failure to comply with any prescribed condition of approval, the City Planning Commission may, after holding a public hearing, revoke any design review approval. Notice of the hearing shall be given by posting notices thereof within three hundred (300) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the holder of the design review approval, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than ten days prior to the date set for the hearing. The determination of the Commission shall become final ten calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.136.090. In the event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. (Ord. 12237 § 4 (part), 2000; Ord. 11816 § 2 (part), 1995; prior planning code § 9310)~~

**17.136.120 Design review related to conditional use permit, planned unit development, variance, or subdivision.**

Whenever design review approval is required for a proposal also requiring a conditional use permit, or planned unit development permit or variance, the application for design review shall be included in the application to said permit and shall be processed and considered as part of same; provided that decisions on the design review aspects of a proposal also requiring a minor conditional use permit or minor variance shall still be appealable within ten calendar days after the date of decision to the City Planning Commission or City Council to the extent such appeal would otherwise be allowed under Sections 17.136.080 and 17.136.090. In the event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. However, in any case the provisions of Sections 17.136.020 ~~17.136.030A~~ and 17.136.060~~17.136.040~~ shall still apply; and the reviewing officer or body shall, in considering the design review aspects of the proposal, determine whether it conforms to all the applicable design review criteria. Whenever design review approval is required for a proposal also requiring subdivision approval, the application for design review approval may be submitted with the tentative map or tentative parcel map required by the Oakland Municipal Code, but shall nonetheless be subject to all the separate procedure and criteria pertaining to design review. (Ord. 12376 § 3 (part), 2001; Ord. 11816 § 2 (part), 1995; prior planning code § 9311)

**17.136.130 Limitation on resubmission--Small project design review.**

Whenever an application for small project design review has been denied by the Director of City Planning, no small project design review application for essentially the same proposal affecting the same

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property, or any portion thereof, shall be filed within one year after the date of denial; provided, however, that such proposal may be resubmitted as an application for regular design review.

The limitation of this section on resubmitting an application for small project design review shall not apply in instances where the applicant can show, on the face of any subsequent application, changed circumstances sufficient to justify reconsideration of denial of the original application for small project design review. Applications pursuant to this section shall be considered by the Director of City Planning. A determination by the Director shall become final ten calendar days after the date of decision unless appealed to the City Planning Commission. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Any such decision by the Planning Commission shall be final. (Ord. 11816 § 2 (part), 1995: prior planning code § 9312)

**Chapter 17.138**

**DEVELOPMENT AGREEMENT PROCEDURE**

**Sections:**

**17.138.030 Planning Commission action.**

**17.138.040 Council action.**

**17.138.090 Periodic review, and revocation.**

**17.138.030 Planning Commission action.**

An application for a development agreement shall be considered by the City Planning Commission which shall hold a public hearing on the application. Notice of the hearing shall be given by posting ~~an notices thereof within three hundred (300) feet of the property involved in the application; a substantially enlarged notice shall also be posted on the premises of the subject property.~~ Notice of the hearing shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) ten-days prior to the date set for the hearing. If, however, the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement these procedures. The Commission shall determine whether the proposal conforms to the criterion set forth in Section 17.138.050, and may recommend approval or disapproval of the application, or recommend its approval subject to changes in the development agreement or conditions of approval, giving consideration to the factors set forth in Section 17.138.060. Should a decision not be rendered within sixty (60) days after the filing, the application shall be deemed approved except when, pursuant to the California Environmental Quality Act, an environmental document is required prior to decision, in which case should a decision not be rendered within sixty (60) days after final action on the environmental document, the application shall be deemed approved. In any case, however, the date by which a decision must be rendered may be extended by agreement between the Director of City Planning or the City Planning Commission and the applicant. The Commission shall, within ten days of its decision, forward its recommendations to the City Council. (Prior planning code § 9352)

**17.138.040 Council action.**

After a recommendation has been rendered by the Commission, the City Council shall set the date for consideration of the matter. After setting the hearing date, the Council, prior to hearing the appeal, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal.

The City Clerk shall notify the Secretary of the City Planning Commission of the date set for consideration thereof; and said Secretary shall give notice of the hearing by mail or delivery to the applicant, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than seventeen (17) ten-days prior to the date set for the hearing. The Council shall review the recommendation of the Commission and shall determine whether the proposal conforms to the criterion set forth in Section 17.138.050, and may approve or disapprove the proposed development agreement, or approve it subject to changes therein or conditions of approval, giving consideration to the factors set forth in Section 17.138.060. If the Council approves the development agreement or approves it subject to changes or conditions, it shall do so by ordinance and the agreement shall be effective upon the effective date of the ordinance. In any case, the decision of the Council shall be final. (Prior planning code § 9353)

**17.138.090 Periodic review and revocation.**

A. Periodic Review. Each development agreement shall be reviewed at least once every twelve (12) months, and the review period shall be specified in the agreement. Application for periodic review shall be made on a form prescribed by the City Planning Department and shall be filed with such department. The application shall be accompanied by the fee prescribed in the city master fee schedule, in ~~Chapter 17.150~~. Failure to file for such review within the time limits specified in the agreement shall render the agreement null and void. The applicant or successor in interest shall be required to demonstrate good faith compliance with the terms of the agreement. If the Director of City Planning finds that such compliance has been deficient, he or she shall forward this finding and his or her recommendation to the City Council, for consideration in accordance with the enforcement procedure in Chapter 17.152, subsection B of this section.

~~B. Revocation. At any time the Council may, at a public hearing, consider whether there are grounds for revocation of any development agreement. Notice of the hearing shall be given by posting notices thereof within three hundred (300) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the holder of the development agreement, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than ten days prior to the date set for the hearing. At the hearing, the applicant or successor in interest shall be required to demonstrate good faith compliance with the terms of the agreement. If as a result of such review, the Council finds and determines, on the basis of substantial evidence, that the applicant or successor thereto has not complied in good faith with the terms or conditions of the agreement, the Council may revoke or modify the agreement in whole or in part. (Ord. 12237 § 4 (part), 2000; prior planning code § 9358)~~



**Chapter 17.140**

**PLANNED UNIT DEVELOPMENT PROCEDURE**

**Sections:**

**17.140.030 Preliminary Planning Commission action.**

**17.140.070 Appeal to Council.**

~~17.140.120 Revocation.~~

**17.140.030 Preliminary Planning Commission action.**

An application for a planned unit development permit shall be considered by the City Planning Commission which shall hold a public hearing on the application. Notice of the hearing shall be given by posting ~~an notices thereof within three hundred (300) feet of the property involved in the application; a substantially enlarged notice shall also be posted on the premises of the subject property.~~ Notice of the hearing shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than ~~seventeen (17) ten~~-days prior to the date set for the hearing. If, however, the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement these procedures. The Commission shall determine whether the proposal conforms to the permit criteria set forth in Section 17.140.080 and to the planned unit development regulations in Chapter 17.122, and may approve or disapprove the application and the accompanying preliminary development plan or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria and regulations. In so doing, the Commission may, in its discretion, authorize submission of the final development plan in stages corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the preliminary development plan and stage development schedule. ~~Should a decision not be rendered within sixty (60) days after filing, the application and preliminary development plan shall be deemed approved except when, pursuant to the California Environmental Quality Act, an environmental document is required prior to decision, in which case should a decision not be rendered within sixty (60) days after final action on the environmental document, the application shall be deemed approved. In any case, however, the date by which a decision must be rendered may be extended by agreement between the Director of City Planning or the City Planning Commission and the applicant. The determination of the Commission shall become final ten calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.140.070. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. (Prior planning code § 9402)~~

**17.140.070 Appeal to Council.**

Within ten calendar days after the date of a decision by the City Planning Commission on an application for approval of a preliminary or final development plan, or for modification or amendment of any such plan, ~~or on revocation of any such plan in accordance with Section 17.140.120,~~ an appeal from said decision may be taken to the City Council by the applicant, the permit holder, or any other interested party. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. Upon receipt of such appeal, the Council shall set the date for consideration thereof. After setting the hearing date, the Council, prior to hearing the appeal, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available

meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) ten-days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Council shall determine whether the proposal conforms to the applicable criteria and standards, and may approve or disapprove the proposed development or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria and standards. The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided. (Prior planning code § 9406)

**17.140.120 — Revocation.**

~~———— In the event of a failure to comply with the approved plan or any prescribed condition of approval, including failure to comply with the stage development schedule, the City Planning Commission may, after holding a public hearing, revoke a planned unit development permit. Notice of the hearing shall be given by posting notices thereof within three hundred (300) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the permit holder, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than ten days prior to the date set for the hearing. The determination of the Commission shall become final ten calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.140.070. In the event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. (Ord. 12237 § 4 (part), 2000; prior planning code § 9411)~~

Chapter 17.142

**SITE DEVELOPMENT AND DESIGN REVIEW PROCEDURE**

**Sections:**

~~17.142.010 — Title, purpose, and applicability.~~

~~17.142.020 — Application.~~

~~17.142.030 — Procedure for consideration.~~

~~17.142.040 — Site development and design review criteria.~~

~~17.142.050 — Appeal to Planning Commission.~~

~~17.142.060 — Appeal to Council.~~

~~17.142.070 — Adherence to approved plans.~~

~~17.142.080 — Revocation.~~

~~17.142.090 — Site development and design review related to conditional use permit or subdivision.~~

~~17.142.010 — Title, purpose, and applicability.~~

~~———— The provisions of this chapter, shall be known as the site development and design review procedure. The purpose of these provisions is to prescribe the procedure for the review of proposals located in areas or on sites, or involving uses, which require special siting, vegetative management, view preservation, and design treatment as well as the consideration of other relationships to the physical surroundings. This procedure shall apply to all proposals for which site development and design review is required by the zoning regulations. (Prior planning code § 9450)~~

~~17.142.020 — Application.~~

~~———— A. — Pre Application Conference for Certain Projects. Prior to application for site development and design review of any proposal which involves new residential living units in the S-11 zone, the applicant or his or her representative shall have a conference with a representative of the City Planning Department. This conference should take place before or at an early stage in the site development and design process. At the conference, the city representative shall provide information about applicable siting, vegetative management, view preservation, and site development and design review criteria and pertinent procedures, including the opportunity for advice from outside design professionals. Where appropriate, the city representative may also informally discuss possible siting and design solutions, point out potential neighborhood concerns, and mention local organizations which the applicant is encouraged to contact before finalizing the proposal.~~

~~———— B. — Application for Site Development and Design Review. Application for site development and design review shall be made by the owner of the affected property, or his or her authorized agent, on a form prescribed by the City Planning Department and shall be filed with such Department. The application shall be accompanied by such information as may be required to allow applicable criteria to be applied to the proposal, and by the fee prescribed in the fee schedule in Chapter 17.150. Such information may include, but is not limited to, site and building plans, relationships to view planes, elevations, grading and retaining wall plans, conformance to vegetative management prescriptions, and relationships to adjacent properties. (Prior planning code § 9451)~~

~~17.142.030 — Procedure for consideration.~~

~~———— A. — Applications Involving One or Two Dwelling Units on a Single Parcel. An application for site development and design review involving one or two dwelling units on a single parcel shall be considered by the Director of City Planning. However, the Director may, at his or her discretion, refer the application to the City Planning Commission rather than acting on it himself or herself. If development of an Environmental Impact Report is required the Director shall refer the application to the City Planning Commission for decision. At his or her discretion, an administrative hearing may be held. Notice shall be given by posting notices thereof within three hundred (300) feet of the property involved in the~~

~~application; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved. If a public hearing is to be held, a written notice shall be given by registered mail to an officer of each homeowner's association that has registered on a mailing list maintained by the Director. Such registration shall be effective for one calendar year. It is the responsibility of each association to maintain a current name and address for such notification. All such notices shall be given not less than ten days prior to the date set for the hearing, if such is to be held, or, if not, for decision on the application by the Director or the Commission, as the case may be.~~

~~———— The Director or the Commission may seek the advice of outside design professionals. The Director or the Commission, as the case may be, shall determine whether the proposal conforms to the applicable site development and design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in his or her or its judgment necessary to ensure conformity to said criteria. A determination by the Director shall become final ten days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.142.050. In those cases which are referred to the Commission by the Director, the decision of the Commission shall become final ten days after the date of decision unless appealed to the City Council in accordance with Section 17.142.060. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.~~

~~———— B. ——— Applications Involving More Than Two Dwelling Units on a Single Parcel. An application for site development and design review involving more than two dwelling units on a single parcel shall be considered by the City Planning Commission which shall hold a public hearing on the application. Notice of the hearing shall be given by posting notices thereof within three hundred (300) feet of the property involved in the application; a substantially enlarged notice shall also be posted on the premises of the subject property. Notice of the hearing shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved. In addition, written notice shall be given by registered mail to an officer of each homeowner's association that has registered on a mailing list maintained by the Director. Such registration shall be effective for one calendar year. It is the responsibility of each association to maintain a current name and address for such notification. All such notices shall be given not less than ten days prior to the date set for the hearing. The Commission may seek the advice of outside design professionals. The Commission shall determine whether the proposal conforms to the applicable site development and design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. A determination by the Commission shall become final ten calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.142.060. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.~~

~~———— C. ——— Applications Which Also Involve Conditional Use Permits or Variances.~~

~~———— 1. ——— Major Conditional Use Permits or Variances. Applications submitted pursuant to subsection A or B of this section which also involve a major conditional use permit or a major variance shall be considered by the City Planning Commission which shall hold a public hearing on the matter. Notice of the hearing shall be given as set forth in subsection B of this section.~~

~~———— 2. ——— Minor Conditional Use Permits or Variances. For applications which also involve a minor conditional use permit or a minor variance, an appropriate notification shall also be given in a newspaper of general circulation.~~

~~———— D. ——— Period of Consideration. Should a decision not be rendered pursuant to subsection A, B, or C of this section within sixty (60) days after filing, the application shall be deemed approved except when, pursuant to the California Environmental Quality Act, an environmental document is required prior to decision, in which case should a decision not be rendered within sixty (60) days after final action on the environmental document, the application shall be deemed approved. In any case, however, the date by~~

which a decision must be rendered may be extended by agreement between the Director of City Planning or the City Planning Commission and the applicant.

~~———— E. ———— Alternative Notification Procedures. If the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement the procedures set forth in subsections A, B, and C of this section. (Ord. 12237 § 4 (part), 2000; prior planning code § 9453)~~

**17.142.040 — Site development and design review criteria.**

~~———— Site development and design review approval pursuant to Section 17.92.030 may be granted only upon determination that the proposal conforms to the general design review criteria set forth in the design review procedure in Chapter 17.136 and to all of the additional criteria set forth in Section 17.92.050. (Prior planning code § 9454)~~

**17.142.050 — Appeal to Planning Commission.**

~~———— Within ten calendar days after the date of a decision by the Director of City Planning on an application for site development and design review, an appeal from said decision may be taken to the City Planning Commission by the applicant or any other interested party. In the case of appeals involving one or two unit Residential Facilities and no Nonresidential Facilities, the appeal shall be considered by the Commission's Residential Appeals Committee. In the event the last day of appeal falls on a weekend or holiday when city offices are closed, the next date offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City Planning Department and shall be filed with such Department. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director or wherein his or her decision is not supported by the evidence in the record. Upon receipt of such appeal, the Secretary of the City Planning Commission shall set the time for consideration thereof; which in the case of applications limited to one or two unit Residential Facilities, shall be the date of the Committee's next regularly scheduled meeting following the thirtieth day after the appeal is filed. Not less than ten days prior to the date of the Commission's or Committee's consideration of the appeal, the Secretary shall give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Commission or, if applicable, the Committee shall determine whether the proposal conforms to the applicable site development and design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The Commission or, if applicable, the Committee or the applicant may seek the advice of outside design professionals. If the proposal is being considered under the procedure specified in Section 17.142.030B or (C)(1), the decision of the Commission or, if applicable, the Committee shall become final ten calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.142.060. In the event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. If it is being considered under the procedure specified in Section 17.142.030A and does not also require a major conditional use permit or a major variance, the decision of the Commission or, if applicable, the Committee shall be final immediately. (Ord. 12376 § 3 (part), 2001; prior planning code § 9455)~~

**17.142.060 — Appeal to Council.**

~~———— Within ten calendar days after the date of a decision by the City Planning Commission on an application for site development and design review under the procedure specified in Section 17.142.030B or (C)(1), or on revocation of any site development and design review approval in accordance with Section 17.142.080, an appeal from said decision may be taken to the City Council by the applicant or any other interested party. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. No such appeal~~

~~is allowable under the procedure specified in Section 17.142.030A unless the proposal also requires a major conditional use permit or a major variance. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. Upon receipt of the appeal, the Council shall set the date for consideration thereof. After setting the hearing date, the Council, prior to hearing the appeal, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than ten days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Council shall determine whether the proposal conforms to the applicable site development and design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria.~~

~~\_\_\_\_\_ The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided. (Prior planning code § 9456)~~

**17.142.070 — Adherence to approved plans.**

~~\_\_\_\_\_ A site development and design review approval shall be subject to the plans and other conditions upon the basis of which it was granted. Unless a different termination date is prescribed, the approval shall terminate one year from the effective date of its granting unless actual construction, alteration, painting, demolition, or removal, as the case may be, has begun under necessary permits within such period. However, such period of time may be extended by the original reviewing officer or body upon application filed at any time before said period has expired. (Prior planning code § 9457)~~

**17.142.080 — Revocation.**

~~\_\_\_\_\_ In the event of a violation of any of the provisions of the zoning regulations, or in the event of a failure to comply with any prescribed conditions of approval, the City Planning Commission may, after holding a public hearing, revoke any site development and design review approval. Notice of the hearing shall be given by posting notices thereof within three hundred (300) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the holder of the site development and design review approval, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than ten days prior to the date set for the hearing. The determination of the Commission shall become final ten calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.142.060. In the event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. (Ord. 12237 § 4 (part), 2000; prior planning code § 9459)~~

**17.142.090 — Site development and design review related to conditional use permit or subdivision.**

~~\_\_\_\_\_ Whenever site development and design review approval is required for a proposal also requiring a conditional use permit, the application for site development and design review shall be included in the application for said permit and shall be processed and considered as part of same; provided that decisions~~

## ***EXHIBIT A***

~~on the site development and design review aspects of a proposal also requiring a minor conditional use permit shall still be appealable within ten calendar days after the date of decision to the City Planning Commission or City Council to the extent such appeal would otherwise be allowed under Sections 17.142.050 and 17.142.060. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. However, in any case, the provisions of Section 17.142.020A shall still apply; and the reviewing officer or body shall, in considering the site development and design review aspects of the proposal, determine whether it conforms to all the applicable site development and design review criteria. Whenever site development and design review approval is required for a proposal also requiring subdivision approval, a final decision on the application for site development and design review approval must be reached before a tentative map or tentative parcel map required by the Oakland Municipal Code can be submitted. (Prior planning code § 9460)~~

**Chapter 17.144**

**REZONING AND LAW CHANGE PROCEDURE**

**Sections:**

**17.144.060 Planning Commission action on private party application.**

**17.144.080 Planning Commission action on Commission or Landmarks Board proposal.**

**17.144.090 Council action.**

**17.144.060 Planning Commission action on private party application.**

In the case of private party initiation, the City Planning Commission shall hold a public hearing on the application within sixty (60) days after the date of application. Notice of the hearing shall be given by posting ~~an~~ notices thereof within three hundred (300) feet of the property involved in the application; a substantially-enlarged notice shall also be posted on the premises of the subject property. Notice of the hearing shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) ~~ten~~ days prior to the date for the hearing. If, however, the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement these procedures. Within sixty (60) days following Commission action on any environmental document which may be required pursuant to the California Environmental Quality Act in connection with the proposal, the Commission shall make a decision on the application; provided that the Commission may, with the consent of the applicant, defer action until necessary studies or plans shall have been completed for the area. The Commission shall consider whether the existing zone or regulations are inadequate or otherwise contrary to the public interest, and may approve, modify, or disapprove the application. In case of approval or modified approval, the Commission shall ~~within five days of its decision,~~ forward its recommendation to the City Council for appropriate action. In case of denial of a private party application, the decision of the Commission shall become final ten calendar days after the date of the decision unless appealed to the City Council in accordance with Section 17.144.070. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. (Prior planning code § 9505)

**17.144.080 Planning Commission action on Commission or Landmarks Board proposal.**

In the case of initiation by the City Planning Commission or the Landmarks Preservation Advisory Board, the Commission shall, within a reasonable period of time, hold a public hearing on the proposal. Notice of the hearing shall be given in the same manner as set forth in Section 17.144.060. In addition, notice of the hearing shall be mailed or delivered not less than seventeen (17) ~~ten~~ days prior to the date set for the hearing to the owners of all real property included in the proposal as shown on the last available equalized assessment roll; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. If, however, the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement these procedures. When the proposal involves changing the text of the zoning regulations, notice of the hearing shall be given in the official newspaper of the city at least ten days prior to the date set for the hearing. Within sixty (60) days following Commission action on any environmental document which may be required pursuant to the California Environmental Quality Act in connection with the proposal, the Commission shall make a decision on the proposal; provided that the Commission may defer action until completion of such studies or plans as may be necessary to determine the advisability of the proposal. The Commission shall consider whether the existing zone or regulations are inadequate or otherwise contrary to the public interest, and may approve, modify, or



disapprove the proposal. The Commission shall, in every case, make a recommendation to the City Council for appropriate action.

(Prior planning code § 9507)

**17.144.090 Council action.**

Upon receipt of an appeal by a private party, or upon receipt of a recommendation from the City Planning Commission, the City Council shall set the date for consideration of the matter. After setting the hearing date, the Council, prior to hearing the appeal or recommendation, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available scheduled meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal. In the case of receipt of a recommendation from the City Planning Commission, the City Clerk shall notify the Secretary of the City Planning Commission of the date set for consideration thereof; and said Secretary shall give notice of the hearing by mail or delivery to all parties who have commented on the matter and to other interested parties as deemed appropriate. All such notices shall be given not less than seventeen (17) ~~ten~~ days prior to the date set for the hearing.

In the case of an appeal by a private party, the City Clerk shall notify the Secretary of the City Planning Commission of the receipt of the appeal and of the date set for consideration thereof; and said Secretary shall, not less than ten days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. Upon an appeal by a private party, or upon the receipt of a recommendation from the City Planning Commission, the Council may approve, modify, or reverse the decision or may approve, modify, or disapprove the Commission's recommendations, as the case may be. The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided.

(Prior planning code § 9508)

## Chapter 17.146

**SPECIAL RESIDENTIAL DESIGN REVIEW PROCEDURE****Sections:****17.146.010** ~~Title, purpose, and applicability.~~**17.146.020** ~~Application.~~**17.146.030** ~~Procedure for consideration.~~**17.146.040** ~~Special residential design review standards and criteria.~~**17.146.050** ~~Adherence to approved plans.~~**17.146.060** ~~Revocation.~~**17.146.010** ~~Title, purpose, and applicability.~~

~~The provisions of this chapter shall be known as the special residential design review procedure. The purpose of these provisions is to prescribe the procedure for the review of proposals that involve or result in one or two dwelling units on a lot, or for additions and alterations to existing residential facilities, and that are not otherwise subject to any kind of review for the design of the proposal. This procedure shall apply to all proposals for which special residential design review is required by the zoning regulations.~~

~~(Prior planning code § 9550)~~

**17.146.020** ~~Application.~~

~~A. Two Track Optional Process for New Construction Projects. Except as indicated below, applicants may choose to have their applications for the construction or establishment of Residential Facilities with one or two dwelling units processed pursuant to the new construction checklist procedure or to the new construction discretionary procedure. Applications for the construction of a new Secondary Unit must be processed pursuant to the new construction checklist procedure. Applications for the following types of projects, however, must be processed pursuant to the new construction discretionary procedure:~~

- ~~1. The construction or establishment of more than one One Family Dwelling Residential Facility in separate structures on a single lot;~~
- ~~2. The construction or establishment of a One Family Dwelling Residential Facility on a lot with an existing One Family Dwelling Residential Facility;~~
- ~~3. The establishment of one or two One Family Dwelling Residential Facilities, or one Two Family Dwelling Residential Facilities, moved onto a lot; or~~
- ~~4. Development, within any one year period, of facilities which are of significantly the same design by the same owner or with the same designer on each of five or more lots that are contiguous or across the street from each other.~~

~~B. Two track Process for Addition and Alteration Projects. Except as indicated below, all applications involving additions, alterations, or other improvements to an existing One Family Dwelling, One Family Dwelling with Secondary Unit, or Two Family Dwelling Residential Facility, including those that would create an additional dwelling unit, other than a new Secondary Unit, shall be processed pursuant to the additions and alterations discretionary procedure.~~

~~Applicants with proposals that meet the following criteria may, however, choose to have their applications processed under either the additions and alterations discretionary procedure or the additions and alterations checklist procedure:~~

- ~~1. The proposal involves an increase or decrease in wall area, floor area, or footprint of no more than twenty (20) percent; and~~
- ~~2. The proposed exterior treatment matches the existing building.~~

~~Applicants with proposals that involve the extensive reconstruction of existing Residential Facilities may, with the permission of the City Planning Department, have their applications processed~~

~~pursuant to the new construction checklist procedure. Applications with proposals that involve the construction of a new Secondary Unit shall have their applications processed pursuant to the new construction checklist procedure.~~

~~C. Pre Application Conference. Prior to application for special residential design review, the applicant or his or her representative shall have a conference with a representative of the City Planning Department. The conference shall take place before the design process has begun. At the conference, the city representative shall provide information about the various special residential design review procedures and the criteria and standards associated with them. Also at the conference, if the proposal so warrants, the applicant and the City Planning Department representative shall based on project site slope information and photographs, as required, of surrounding structures that shall be submitted by the applicant attempt to jointly make determinations related to neighborhood context. In cases of disagreement, however, the decision of the Director of City Planning shall govern. Applications shall not be deemed filed until after the pre-application conference is held.~~

~~D. Application for Special Residential Design Review. Application for special residential design review shall be made by the owner of the affected property, or his or her authorized agent, on a form prescribed by the City Planning Department and shall be filed with such Department. The application shall set forth under which procedure (new construction, or additions and alterations; checklist, or discretionary) the application is to be processed. The application shall be accompanied by such information as may be required to allow applicable standards or criteria to be applied to the proposal, and by the fee prescribed in the fee schedule in Chapter 17.150. Such information may include, but is not limited to, site and building plans, elevations, and all information submitted at the pre application conference. Subject to the provisions of Section subsection C of this section, an application shall be deemed complete for purposes of review, unless the applicant is notified otherwise by mail within five working days of the application's submission to the City Planning Department. (Ord. 12501 § 81, 2003; prior planning code § 9551)~~

**17.146.030 Procedure for consideration.**

~~A. Decision by the Director of City Planning. An application for special residential design review shall be considered by the Director of City Planning. The Director shall determine whether the proposal conforms to applicable special residential design review standards or criteria. The Director may approve or disapprove the proposal and may require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to said standards or criteria. The Director's decision shall be in writing, contain findings, and shall be final immediately. The applicant of a disapproved application filed pursuant to the new construction checklist procedure may resubmit the proposal under the new construction discretionary procedure or may make adjustments to the design and resubmit the modified proposal under either the new construction checklist procedure or the discretionary procedure. A new application fee shall be required.~~

~~B. Period of Consideration. Should a decision not be rendered pursuant to subsection A of this section within fifteen (15) working days after filing a complete application, the application shall be deemed approved except:~~

~~1. When, pursuant to the California Environmental Quality Act, an environmental document is required prior to decision, in which case should a decision not be rendered within fifteen (15) working days after final action on the environmental document, the application shall be deemed approved; or~~

~~2. When, for projects in the S-20 zone, the Director refers the application to the Landmarks Preservation Advisory Board for its recommendations, the fifteen (15) working day period shall be changed to sixty (60) days.~~

~~In any case, however, the date by which a decision must be rendered may be extended by agreement between the Director of City Planning and the applicant. (Ord. 12513 Attach A. (part), 2003; Prior planning code § 9553)~~

**~~17.146.040 — Special residential design review standards and criteria.~~**

~~Special residential design review may be granted only upon determination that the proposal conforms to the “Special Residential Design Review Checklist Standards and Discretionary Criteria” as adopted by the City Planning Commission. (Ord. 12376 § 3 (part), 2001; prior planning code § 9554)~~

**~~17.146.050 — Adherence to approved plans:~~**

~~Special residential design review approval shall be subject to the plans and other conditions upon the basis of which it was granted. Unless a different termination date is prescribed, the approval shall terminate one year from the effective date of its granting unless actual construction or installation has begun under necessary permits within such period. However, such period of time may be extended by the Director of City Planning in writing, upon application filed at any time before said period has expired.~~

~~(Prior planning code § 9557)~~

**~~17.146.060 — Revocation:~~**

~~In the event of a violation of any of the provisions of the zoning regulations, or in the event of a failure to comply with any prescribed conditions of approval, the City Planning Commission may, after holding a public hearing, revoke any special residential design review approval. Notice of the hearing shall be given by posting notices thereof within seventy-five (75) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the holder of the special residential design review approval and to other interested parties as deemed appropriate. All such notices shall be given not less than ten days prior to the date set for the hearing. The determination of the Commission shall become final ten calendar days after the date of decision. (Prior planning code § 9559)~~

## Chapter 17.147

**MEDIATED RESIDENTIAL DESIGN REVIEW PROCEDURE****Sections:****17.147.010** ~~Title, purpose and applicability.~~**17.147.020** ~~Definitions.~~**17.147.030** ~~Application.~~**17.147.040** ~~Procedure for consideration.~~**17.147.050** ~~Appeal to Planning Commission's Residential Appeals Committee.~~**17.147.060** ~~Adherence to approved plans.~~**17.147.070** ~~Revocation.~~**17.147.010** ~~Title, purpose and applicability.~~

~~The provisions of this chapter shall be known as the mediated residential design review procedure. The purpose of these provisions is to prescribe the procedure for the review of new construction, additions of five hundred (500) square feet or more, and upper story or attic addition projects that involve or result in one or two dwelling units on a lot, have a cumulative floor area of less than three thousand five hundred (3,500) square feet for all Residential Facilities on the lot; are not subject to the conditional use permit procedure in Chapter 17.134, the design review procedure in Chapter 17.136, the planned unit development procedure in Chapter 17.140, the site development and design review procedure in Chapter 17.142, or the variance procedure in Chapter 17.148; and are located in areas where the proposal may adversely affect properties in close proximity, especially with respect to the proposal's massing or bulk and any view, privacy and solar access impacts of the proposal on neighboring properties. It is also the purpose of these provisions to establish a procedure where the project applicant and owners of neighboring properties have the opportunity to resolve, through mediation, any issues concerning the project design and to encourage the applicant and neighboring owners to have early discussion on proposed projects so that these issues can be resolved prior to the submittal of an application. It is also the purpose of these provisions to encourage low cost and timely mediation, such as that often provided by nonprofit mediation organizations, when available. This procedure shall apply to all proposals for which mediated residential design review is required by the zoning regulations. (Ord. 12376 § 3 (part), 2001)~~

**17.147.020** ~~Definitions.~~~~As used in this chapter:~~

~~"Applicant" means the person who submitted the application for mediated residential design review. The applicant shall be either the owner of the project site or the owner's authorized agent.~~

~~"Mediation" means a process in which a neutral person or persons facilitates communication between the disputants to assist them in reaching a mutually acceptable agreement.~~

~~"Mediator" means a neutral person who conducts a mediation. A "mediator" includes any person designated by a "mediator" either to assist in the mediation or to communicate with the participants in preparation for a mediation. A "mediator" need not be an attorney or other person with formal legal training.~~

~~"Project site" means the lot or lots on which the proposal is to be constructed or established.~~

~~"Property adjacent to the project site" means any lot which abuts the lot or lots containing the project site (see illustration I-29).~~

~~"Property directly across any street abutting the project site" means all lots with street lines that would be intersected by any line perpendicular to any street line of the lot or lots containing the project site (see illustration I-29).~~

~~"Request for mediation" means a written request for mediation as further described in Section 17.147.040 of this chapter. Requests for mediation may be submitted only by the applicant and persons~~

~~owning property adjacent to the project site or property directly across any street abutting the project site. (Ord. 12376 § 3 (part), 2001)~~

~~**17.147.030 — Application.**~~

~~A. Preliminary Review of Proposal by City Planning Department for Conformity with Zoning Requirements. Prior to application for any proposal which requires mediated residential design review, the owner or his or her authorized agent shall submit the plans to the City Planning Department for preliminary review. The purpose of this review is to verify that the plans conform to applicable provisions of the zoning regulations, including but not limited to height limits, required yards and parking requirements, and that the proposal does not require a conditional use permit, variance, design review or other discretionary City Planning Department approval. The plan submittal shall include all of the information listed in subsection C of this section and the fee for preliminary review prescribed in the fee schedule in Chapter 17.150. The City Planning Department shall complete the preliminary review within five working days of receipt of a complete plan submittal and provide:~~

~~1. A written determination of whether the proposal conforms with applicable zoning requirements; and~~

~~2. A list of the names and addresses of all persons shown on the latest available equalized assessment roll as owning property adjacent to the project site or property directly across any street abutting the project site.~~

~~B. Notice of Proposed Development to be Posted at Project Site and Review of Proposal by Owners of Property Adjacent to or Directly Across Any Street Abutting the Project Site. Following a determination by the City Planning Department that the plans conform with all applicable zoning requirements, the owner or owner's authorized agent shall:~~

~~1. Post a "Notice of Proposed Development" at a location on the project site that is clearly visible from an adjacent street; the form for the notice shall be provided by the City Planning Department; the notice form shall be completed by the owner or owner's authorized agent and shall include the following information:~~

~~a. Name, address and telephone number of the owner or owner's authorized agent;~~

~~b. Address, if any, and Assessor's Parcel Number(s) of the project site;~~

~~c. Project description; and~~

~~d. A statement that anyone desiring further information on the project may contact the owner or owner's authorized agent at the address and telephone number shown on the notice;~~

~~2. Provide a copy of the plans to all persons owning property adjacent to the project site or directly across any street abutting the project site as shown on the list provided by the City Planning Department pursuant to subsection A of this section; and~~

~~3. Obtain owners' signatures on the plans acknowledging that they have been shown the plans and indicating whether they have any objections to the proposal as shown on the plans or, if such signatures are not obtained, prepare the certification set forth in subsection C.1. below of this section.~~

~~Labels for obtaining owners' signatures to be affixed to the plans shall be provided by the City Planning Department.~~

~~C. Application for Mediated Residential Design Review. Application for mediated residential design review shall be made by the owner of the project site, or the owner's authorized agent, on a form prescribed by the City Planning Department and shall be filed with such Department. The application shall be accompanied by such information as may be required to allow applicable criteria to be applied to the proposal, and by the fee prescribed in the fee schedule in Chapter 17.150. Such information may include, but is not limited to, site and building plans, relationships to view planes, elevations, grading and retaining wall plans.~~

~~The application shall include:~~

~~1. Copies of the plans with signatures of persons owning property adjacent to the project site or property directly across any street abutting the~~

~~\_\_\_\_\_ project site as shown on the list provided by the City Planning Department pursuant to subsection A of this section. For each owner who refused to sign or could not be contacted, the person submitting the application must provide written certification on a form provided by the City Planning Department that an attempt has been made to obtain that owner's signature through either holding a meeting with the owner at which the owner refused to sign or mailing the plans to the owner with at least ten days to respond; and~~

~~\_\_\_\_\_ 2. \_\_\_\_\_ A copy of the completed "Notice of Proposed Development" described in subsection B of this section that was posted on the project site and a photograph of the posted notice. (Ord. 12376 § 3 (part), 2001)~~

**17.147.040 Procedure for consideration.**

~~\_\_\_\_\_ A. \_\_\_\_\_ Notice of Application Submittal and Opportunity to Request Mediation. Upon the filing of a complete application for mediated residential design review, notice shall be posted at the project site and by mail or delivery to the applicant and to all persons owning property within three hundred (300) feet of the property involved in the application; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning property in the city within three hundred (300) feet of the property involved. The notice shall advise:~~

~~\_\_\_\_\_ 1. \_\_\_\_\_ Of the receipt of the application;~~

~~\_\_\_\_\_ 2. \_\_\_\_\_ The time and place where the plans may be reviewed prior to the decision on the application by the Director of City Planning;~~

~~\_\_\_\_\_ 3. \_\_\_\_\_ That any person may submit comments on the application and any person owning property adjacent to the project site or directly across any street abutting the project site as described in Section 17.147.020 may submit a request for mediation; that the applicant may also submit a request for mediation; that any comments or request for mediation must be in writing and received by the City Planning Department within ten days of the date of the notice; and that if the last day for submitting comments or request for mediation falls on a weekend or holiday when city offices are closed, the next day offices are open for business shall be the last day for such submittals;~~

~~\_\_\_\_\_ 4. \_\_\_\_\_ That one-half of the costs of any mediation shall be paid by the applicant and the other half shall be paid in equal proportion by those persons owning property adjacent to the project site or directly across any street abutting the project site as described in Section 17.147.020 and who are participating in the mediation; and~~

~~\_\_\_\_\_ 5. \_\_\_\_\_ That anyone who does not submit a request for mediation will lose the right to appeal the decision on the application by the Director of City Planning.~~

~~\_\_\_\_\_ B. \_\_\_\_\_ Response to Requests for Mediation. The City Planning Department shall within three working days provide written notice to the applicant of the filing of any valid request for mediation in response to the notice described in subsection A of this section. If mediation is requested by the applicant, the City Planning Department shall within three working days provide written notice of such request to all persons owning property adjacent to the project site or directly across any street abutting the project site as described in Section 17.147.020. Each recipient of such written notice shall, within five working days of the date of the notice, inform the City Planning Department in writing of whether that recipient agrees to mediation. Failure of a recipient to respond within five working days shall constitute a refusal of mediation.~~

~~\_\_\_\_\_ If mediation is held, the parties shall have thirty (30) days to agree on a mediator and complete the mediation process, including submittal of the mediator's report described below. The thirty (30) day time period shall commence upon conclusion of the five working day response period to any submittal of a request for mediation set forth above in this subsection B and may be extended beyond thirty (30) days by agreement of all mediation participants. Attendance at the mediation shall be limited to the mediator; the applicant; all persons owning property adjacent to the project site or directly across any street abutting the project site as described in Section 17.147.020 and who requested or agreed to mediation; and any agents and design professionals authorized by the participants to assist them during the mediation. Any written comments received by the City Planning Department by the end of the ten day period set forth in subsection A of this section shall be provided to the mediator. Any issue related to the project design may~~

~~be presented during mediation. One half of the mediation costs shall be paid by the applicant and the other half shall be paid in equal proportion by those persons owning property adjacent to the project site or directly across any street abutting the project site as described in Section 17.147.020 and who are participating in the mediation.~~

~~———— The mediator shall submit a report on the mediation to the City Planning Department. Unless all parties to the mediation waive their rights to confidentiality as set forth in Sections 1115 through 1128 of the California State Evidence Code, the report shall state only whether or not an agreement was reached. If all parties to the mediation waive such rights to confidentiality, the report shall:~~

- ~~———— 1. ——— Detail all items on which agreement was reached;~~
- ~~———— 2. ——— On items on which agreement could not be reached, state the different sides' starting and ending positions and any proposals presented concerning these items; and~~
- ~~———— 3. ——— Include any other comments which the parties to the mediation agree to disclose.~~

~~———— If the parties to any mediation are unable to achieve full agreement through mediation, nothing in this chapter precludes the parties from submitting any further comments on the mediated residential design review application, provided that all communications, negotiations or settlement discussions by and between participants in the course of a mediation or mediation consultation shall remain confidential, unless such confidentiality has been waived as described in this subsection.~~

~~———— C. ——— Decision by the Director of City Planning. An application for mediated residential design review shall be considered by the Director of City Planning. In all cases, the Director shall determine whether the proposal conforms to the "Special Residential Design Review Checklist Standards and Discretionary Criteria" as adopted by the City Planning Commission.~~

~~———— If mediation occurred, but no agreement was reached or if the mediation report was limited only to a statement that agreement was reached without describing the terms of the agreement, the Director shall approve the proposal upon determination that the proposal conforms to the "Special Residential Design Review Checklist Standards and Discretionary Criteria," as adopted by the City Planning Commission and upon determination that no conditional use permits, variances, design review or other discretionary City Planning Department approvals are required.~~

~~———— If mediation occurred and resolved any issues brought forward concerning building mass or bulk or concerning view, privacy or solar access impacts on neighboring properties, whose owners, or such owners' authorized agents, attended the mediation, any approval of the proposal by the Director of City Planning shall incorporate any agreements concerning such issues, but only as identified and described in the mediation report, except agreements that would be illegal or require a conditional use permit, a variance, design review or other discretionary City Planning approvals.~~

~~———— If mediation occurred but did not resolve or only partially resolved any issues brought forward concerning building mass or bulk or concerning view, privacy or solar access impacts on the neighboring properties whose owners, or the owners' authorized agents, attended the mediation, the Director of City Planning shall also determine with respect to these unresolved issues, but only as identified and described in the mediation report, whether the proposal conforms with the "Residential Design Review Guidelines for Building Mass and Bulk and for View, Privacy and Solar Access Impacts on Neighboring Properties" as adopted by the City Planning Commission.~~

~~———— In all cases, the Director of City Planning may approve or disapprove the proposal and may require such changes therein, including changes to building height and/or minimum yard size, or impose such reasonable conditions of approval necessary to ensure conformity with said Special Residential Design Review Checklist Standards and Discretionary Criteria and, where applicable as set forth above in this section, said Residential Design Review Guidelines for Building Mass and Bulk and for View, Privacy and Solar Impacts on Neighboring Properties.~~

~~———— If mediation occurred, the Director's decision may, at the Director's discretion, also incorporate as conditions of approval any agreements resulting from mediation as set forth in the mediation report, except agreements that would be illegal or require a conditional use permit, a variance, design review or other discretionary City Planning approvals.~~



~~\_\_\_\_\_ The Director's decision shall be in writing, shall be provided to all persons who attended any mediation and shall be final immediately, unless subject to appeal as set forth in Section 17.147.050.~~

~~\_\_\_\_\_ D. \_\_\_\_\_ Period of Consideration. Should a decision not be rendered pursuant to subsection C of this section within thirty (30) days after filing a complete application, and if no mediation was requested, the application shall be deemed approved. The thirty (30) day time period shall become seventy five (75) days if mediation occurred. The date by which a decision must be rendered may be extended by agreement between the Director of City Planning and the applicant.~~

~~\_\_\_\_\_ E. \_\_\_\_\_ Submitting Requests for Mediation Prior to "Notice of Application Submittal and Opportunity to Request Mediation." Nothing in this section shall preclude any person eligible to request mediation as set forth in subsection A of this section from making such request prior to the providing of the "Notice of Application Submittal and Opportunity to Request Mediation" by the city, provided that such request is made in writing following either:~~

~~\_\_\_\_\_ 1. \_\_\_\_\_ Receipt by such person of a copy of the plans for the proposal according to the procedure set forth in Section 17.147.030(B)(2); or~~

~~\_\_\_\_\_ 2. \_\_\_\_\_ Posting of the Notice of Proposed Development set forth in Section 17.147.030(B)(1). (Ord. 12376 § 3 (part), 2001)~~

**17.147.050 Appeal to Planning Commission's Residential Appeals Committee.**

~~\_\_\_\_\_ A. \_\_\_\_\_ Applicability. The Director of City Planning's decision on an application for mediated design review may be appealed only under the following circumstances:~~

~~\_\_\_\_\_ 1. \_\_\_\_\_ By any person eligible to participate in mediation as set forth in Section 17.147.040A.3 other than the applicant, but only if the application was approved and if the applicant refused a request for mediation; or~~

~~\_\_\_\_\_ 2. \_\_\_\_\_ By anyone who attended any mediation, if the project design agreed to in the mediation did not conform with the Zoning Regulations and the design was changed in the Director of City Planning's decision to achieve such conformity.~~

~~\_\_\_\_\_ B. \_\_\_\_\_ Appeal Procedure. Within ten days after the date of a decision by the Director of City Planning on an application for mediated residential design review, an appeal from said decision may be submitted to the City Planning Commission's Residential Appeals Committee in any of the circumstances set forth in subsection A of this section. In the event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City Planning Department and shall be filed with such Department along with the appropriate fee established in the Master Fee Schedule.~~

~~\_\_\_\_\_ If mediation occurred, the appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director or wherein his or her decision is not supported by the evidence in the record. If mediation did not occur, the only basis for appeal shall be that the proposal did not conform with the Residential Design Review Guidelines for Building Mass and Bulk and for View, Privacy and Solar Access Impacts on Neighboring Properties and the appeal shall state specifically wherein the proposal did not conform with said Guidelines.~~

~~\_\_\_\_\_ Upon receipt of such appeal, the Secretary of the City Planning Commission shall set the date for consideration thereof, which shall be the date of the Committee's next regularly scheduled meeting following the thirtieth day after the appeal is filed. Not less than ten days prior to the date of the Committee's consideration of the appeal, the Secretary shall give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Committee shall determine whether the proposal conforms to the applicable decision-making criteria and may grant or deny the proposal or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The decision of the Committee shall be final. (Ord. 12376 § 3 (part), 2001)~~

**17.147.060 — Adherence to approved plans.**

~~———— A mediated residential design review approval shall be subject to the plans and other conditions upon the basis of which it was granted. Unless a different termination date is prescribed, the approval shall terminate one year from the effective date of its granting unless actual construction has begun under necessary permits within such period. However, such period of time may be extended by the original reviewing officer or body, upon application filed at any time before said period has expired. (Ord. 12376 § 3 (part), 2001)~~

**17.147.070 — Revocation.**

~~———— In the event of a violation of any of the provisions of the zoning regulations, or in the event of a failure to comply with any prescribed condition of approval, the City Planning Commission may, after holding a public hearing, revoke any mediated residential design review approval. Notice of the hearing shall be given by posting notices thereof within three hundred (300) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the holder of the mediated design review approval, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than ten days prior to the date set for the hearing. The determination of the Commission shall become final ten calendar days after the date of decision. (Ord. 12376 § 3 (part), 2001)~~

**Chapter 17.148**

**VARIANCE PROCEDURE**

**Sections:**

- 17.148.020** Definition of major and minor variances.
- 17.148.040** Procedure for consideration.
- 17.148.050** Findings required.
- 17.148.060** Appeal to Planning Commission--Minor variances.
- 17.148.070** Appeal to Council--Major variances.
- 17.148.080** Adherence to approved plans.
- ~~**17.148.090** Revocation.~~
- 17.148.100** Variance related to conditional use permit, regular design review, planned unit development, or subdivision.

**17.148.020** Definition of major and minor variances.

A. Major Variance. A "major variance" is a variance which involves any of the following provisions:

1. Allowable activity types or facility types;
2. Maximum number of living units;
3. Minimum lot area, except in the situation mentioned in Section 17.106.010B;
4. Maximum floor-area ratio;
5. Maximum size of Commercial or Manufacturing establishments;
6. Restriction on over-concentration of Residential Care, Service-Enriched Permanent Housing, Transitional Housing, and Emergency Shelter Residential Activities as set forth in Section 17.102.212B;
7. Any variance application that requires development of an ~~and~~ Environmental Impact Report;
8. Any variance application referred by the Director of City Planning to the City Planning Commission for decision pursuant ~~pursuit~~ to Section 17.148.040(B)(1).

B. Minor Variance. A "minor variance" is a variance which does not involve any of the provisions listed in subsection A of this section.

(Ord. 12237 § 4 (part), 2000; Ord. 12138 § 4 (part), 1999; prior planning code § 9601)

**17.148.040** Procedure for consideration.

A. Major Variances.

1. ~~In All Zones. Except the S-11 Zone.~~ An application for a major variance shall be considered by the City Planning Commission which shall hold a public hearing on the application. Notice of the hearing shall be given by posting an enlarged notices on ~~thereof~~ within three hundred (300) feet of the premises of the subject property involved in the application. Notice of the hearing shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) ~~ten~~ days prior to the date set for the hearing. The Commission shall determine whether the conditions required in Section 17.148.050 are present, and may grant or deny an application for a variance or require such changes ~~charges~~ in the proposed use or impose such reasonable conditions of approval as are in its judgment necessary to promote the purposes of the zoning regulations. The determination of the Commission shall become final ten calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.148.070. In the event the last date of appeal falls on a weekend or

holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.

~~2. In the S-11 Zone. The procedure for consideration of major variances in the S-11 zone shall be as set forth in the site development and design review procedure in Chapter 17.142.~~

23. Alcoholic Beverage Sales Commercial Activities. In addition to following the provisions of subsection (A)(1) of this section, the City Planning Commission shall also determine whether the proposal conforms to the criteria for findings of "Public Convenience and Necessity" set forth in Section 17.102.210(B)(3).

B. Minor Variances.

1. In All Zones. ~~Except the S-11 Zone.~~ An application for a minor variance shall be considered by the Director of City Planning. However, the Director may, at his or her discretion, refer the application to the City Planning Commission rather than acting on it himself or herself. At his or her discretion, an administrative hearing may be held. Notice shall be given by posting an enlarged notices thereof on within three hundred (300) feet of the premises of the subject property involved in the application; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) ten-days prior to the date set for the hearing, if such is to be held, or, if not, for decision on the application by the Director. The Director shall determine whether the conditions required in Section 17.148.050 are present, and may grant or deny the application for a variance or require such changes in the proposed use or impose such reasonable conditions of approval as are in his or her judgment necessary to promote the purposes of the zoning regulations. The determination of the Director of City Planning shall become final ten calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.148.060. In those cases which are referred to the Commission by the Director, the decision of the Commission shall become final ten days after the date of decision unless appealed to the City Council in accordance with Section 17.148.070. In the event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.

~~2. In the S-11 Zone. The procedure for consideration of minor variances in the S-11 zone shall be as set forth in the site development and design review procedure in Chapter 17.142.~~

~~C. Period of Consideration. Should a decision not be rendered pursuant to subsection A or B of this section within sixty (60) days after filing, the application shall be deemed approved except when, pursuant to the California Environmental Quality Act, an environmental document is required prior to decision, in which case should a decision not be rendered within sixty (60) days after final action on the environmental document, the application shall be deemed approved. In any case, however, the date by which a decision must be rendered may be extended by agreement between the Director of City Planning or the City Planning Commission and the applicant.~~

~~CD. Alternative Notification Procedures. If the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement the procedures set forth in subsections A and B of this section (Ord. 12376 § 3 (part), 2001; Ord. 12237 § 4 (part), 2000; Ord. 11831 § 6, 1995; prior planning code § 9603)~~

**17.148.050 Findings required.**

A. With the exception of variances for adult entertainment activities, a variance may be granted only upon determination that all of the following conditions are present:

1. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance.

## EXHIBIT A

2. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation;

3. That the variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy;

4. That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations;

5. For proposals involving one or two dwelling units on a lot: That the elements of the proposal requiring the variance (e.g., elements such as buildings, walls, fences, driveways, garages and carports, etc.) conform with the regular design review criteria set forth in the design review procedure at Section 17.136.050-17.136.070.

~~6. For proposals involving one or two dwelling units on a lot and not requiring design review or site development and design review: That all elements of the proposal conform to the "Special Residential Design Review Checklist Standards and Discretionary Criteria" as adopted by the City Planning Commission.~~

67. For proposals involving one or two residential dwelling units on a lot: That, if the variance would relax a regulation governing maximum height, minimum yards, maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:

a. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height; or

b. Over sixty (60) percent of the lots in the immediate vicinity are already developed and the proposal does not exceed the corresponding as-built condition on these lots and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five closest lots on each side of the project site plus the ten closest lots on the opposite side of the street (see illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any variance.

B. A variance for adult entertainment activities shall be granted upon a determination that all of the following conditions are present, notwithstanding any conflicting requirements contained elsewhere in the zoning regulations:

1. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstance or conditions of design;

2. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property;

3. That the variance will not adversely affect the use of churches, temples or synagogues; public, parochial or private elementary, junior high or high schools; public parks and recreation centers; public or parochial playgrounds; residences; child care facilities; elderly residential care facilities; hospitals; medical clinics; colleges; or libraries, all within a five hundred (500) foot radius by engendering sounds, activities, visual depictions or advertisements that create an exterior atmosphere which unreasonably interferes with the operations of such surrounding uses;

4. That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations. (Ord. 12376 § 3 (part), 2001; prior planning code § 9604)

**17.148.060 Appeal to Planning Commission--Minor variances.**

Within ten calendar days after the date of a decision by the Director of City Planning on an application for a minor variance, an appeal from said decision may be taken to the City Planning Commission by the applicant or any other interested party. In the case of appeals involving one- or two-unit Residential Facilities, ~~and no Nonresidential Facilities,~~ the appeal shall be considered by the Commission's Residential Appeals Committee. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City Planning Department and shall be filed with such Department. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director or wherein his or her decision is not supported by the evidence in the record. Upon receipt of such appeal, the Secretary of the City Planning Commission shall set the date for consideration thereof; ~~which in the case of applications limited to one or two unit Residential Facilities, shall be the date of the Committee's next regularly scheduled meeting following the thirtieth day after the appeal is filed.~~ Not less than seventeen (17) ~~ten~~ days prior to the date of the Commission's or Committee's consideration of the appeal, the Secretary shall give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Commission or, if applicable, the Committee shall determine whether the conditions required in Section 17.148.050 are present, and may grant or deny an application for a variance or require such changes in the proposed use or impose such reasonable conditions of approval as are in its judgment necessary to carry out the purposes of the zoning regulations. The decision of the Commission or, if applicable, the Committee shall be final. (Ord. 12376 § 3 (part), 2001; Ord. 12237 § 4 (part), 2000; prior planning code § 9605)

**17.148.070 Appeal to Council--Major variances.**

A. With the exceptions of appeals for adult entertainment activities, appeals to the City Council shall be governed by the following:

Within ten calendar days after the date of a decision by the City Planning Commission on an application for a major variance, ~~or on revocation of any variance in accordance with Section 17.148.090,~~ an appeal from said decision may be taken to the City Council by the applicant, the holder of the variance, or any other interested party. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City Planning Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. Upon receipt of such appeal, the Council shall set the date for consideration thereof. After setting the hearing date, the Council, prior to hearing the appeal, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal.

The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) ~~ten~~ days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Council shall determine whether the conditions required by Section 17.148.050 are present, and may grant or deny an application for a

variance or require such changes in the proposed use or impose such reasonable conditions of approval as are in its judgment necessary to carry out the purposes of the zoning regulations.

The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided.

B. Appeals to the City Council relating to adult entertainment activities shall be governed by the following:

Within ten calendar days after the date of a decision by the City Planning Commission on an application for a major variance ~~or on revocation of any variance in accordance with Section 17.148.090,~~ an appeal from said decision may be taken to the City Council by the applicant, the holder of the variance, or any other interested party. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. Upon receipt of the appeal, the Council shall set the date for consideration thereof. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) ~~ten~~ days prior thereto, given written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Council shall determine whether the conditions required by Section 17.148.050 are present, and shall grant an application for variance if it determines that all the said criteria are present or require such changes in the proposed use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said criteria. The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided. In any event, however, the City Council must decide the appeal within sixty (60) days of the appeal being filed. (Prior planning code § 9606)

**17.148.080 Adherence to approved plans.**

A variance shall be subject to the plans and other specified conditions upon the basis of which it was granted. Unless a different termination date is prescribed, the permit shall terminate two one years ~~two one years~~ from the effective date of its granting unless, within such period, all necessary permits for actual construction or alteration have been issued, or actual commencement of the authorized activities have incommenced in the case of a variance not involving construction or alteration, ~~has begun under valid permits within such period.~~ However, such period of time may be extended by the original reviewing officer or body, upon application filed at any time before said period has expired. Expiration of any necessary building permit for the project may invalidate the variance approval if said extension period has also expired. (Prior planning code § 9607)

**17.148.090 — Revocation.**

~~In the event of a violation of any of the provisions of the zoning regulations, or in the event of a failure to comply with any prescribed condition of approval, or in the event that one year has elapsed since the granting of a variance and no building permit or sign permit has been issued pursuant thereto, or in the event that the authorized activities, in cases not requiring a building or sign permit, have not commenced within said period, the City Planning Commission may, after holding a public hearing, revoke any variance. Notice of the hearing shall be given by posting notices thereof within seventy five~~

~~(75) feet of the property involved. Notice of the hearing shall also be given by mail or delivery to the holder of the variance, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than ten days prior to the date set for the hearing. The determination of the Commission shall become final ten calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.148.070. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. (Prior planning code § 9608)~~

**17.148.100 Variance related to conditional use permit, regular design review, planned unit development, or subdivision.**

Whenever a variance is required for a proposal also requiring a conditional use permit, regular design review, or a planned unit development permit, application for the variance shall be included in the application for said conditional use permit, regular design review, or planned unit development permit, and shall be processed and considered as part of same. Whenever a variance is proposed within a proposed subdivision, the application for the variance may be submitted with the tentative map or tentative parcel map required by the Oakland Municipal Code, and may be processed and considered therewith. In either case, however, the reviewing officer or body shall, in considering such a variance, determine whether the conditions required in Section 17.148.050 are present. (Prior planning code § 9609)



**Chapter 17.152**

**ENFORCEMENT**

**Sections:**

- 17.152.070 Filing and commencement of revocation complaints.**
- 17.152.100 Notice.**
- 17.152.150 Appeal to Planning Commission.**
- 17.152.170 Appeal to the City Council.**
- 17.152.200 Liens, penalties and expenses of abatement.**

**17.152.070 Filing and commencement of revocation complaints.**

A. Any member of the public, city official, including any City Councilmember, City Planning Commissioner or city employee, may file a complaint with the City Planning Department and request that revocation proceedings be commenced under this Chapter to revoke or amend any land-use related zoning approval granted, or land-use permit held or issued, including subdivisions. However, this Chapter shall not apply to Deemed Approved Alcoholic Beverage Sales Regulations (Chapter 17.156) and Deemed Approved Hotel and Rooming House Regulations (Chapter 17.157) as those Chapters have specific revocation procedures, pursuant to the following sections of the Zoning Regulations:

- ~~1. 17.112.010 through 17.112.060;~~
- ~~2. 17.134.010 through 17.134.120;~~
- ~~3. 17.136.010 through 17.136.130;~~
- ~~4. 17.140.010 through 17.140.120;~~
- ~~5. 17.142.010 through 17.142.090;~~
- ~~6. 17.146.010 through 17.146.060; and,~~
- ~~7. 17.148.010 through 17.148.110.~~

B. All revocation complaints shall identify the property that is the subject of the complaint and shall state facts and circumstances which justify commencement of revocation proceedings. (Ord. 12233 § 3 (part), 2000)

**17.152.100 Notice.**

Not less than ~~seventeen (17)~~ ten-days prior to the revocation hearing, the City Planner shall give written notice to the complainant, property owner, and permit holder, if the latter is different from the property owner, of the date, time and place of the revocation hearing. The time and place of the revocation hearing shall be set, if at all possible, between seven p.m. and ten p.m. during the week. Notice also shall be given to other interested individuals, entities and neighborhood organizations that have requested notification, and to similar individuals and groups, as the City Planner deems necessary. The revocation administrative record shall be mailed with the notice to the property owner and permit holder. Notices also shall be appropriately posted on the property that is the subject of the revocation proceedings, ~~and within three hundred (300) feet of the property.~~ All posted and mailed notices to individuals and entities other than the owner and permit holder shall indicate the availability of the revocation administrative record. Notice by mail is deemed given on the date it is properly addressed and placed in the U.S. mail system. At the discretion of the Hearing Officer, and upon a good cause request by the city, the revocation administrative record may be amended. (Ord. 12233 § 3 (part), 2000)

**17.152.150 Appeal to Planning Commission.**

If the Hearing Officer's decision is properly appealed to the City Planning Commission, the City Planning Director, upon receipt of a valid appeal, shall forward a complete Hearing Officer hearing record, including a transcript of the Hearing Officer proceedings and the Hearing Officer's written decision, to the City Planning Commission. The Hearing Officer's record of proceedings shall be

forwarded to the City Planning Commission prior to the date the Commission hears the appeal. The appeal hearing before the Commission shall not be a de novo hearing.

Any appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Hearing Officer or wherein his/her decision is not supported by the evidence in the record. Upon receipt of such appeal, the Secretary to the Commission shall set the date for consideration thereof and, not less than seventeen (17) ~~ten~~-days prior thereto, give written notice to: the appellant, any adverse individuals and/or entities, or the attorney, spokesperson, or representative of such individual or entity, other interested groups and neighborhood associations that have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date, time and place of the hearing on the appeal, and, as soon as the same become technologically feasible, post the date, time and place of the hearing on the city's web site. Notice of the appeal shall be posted on the property, ~~and within three hundred (300) feet thereof.~~ (Ord. 12233 § 3 (part), 2000)

**17.152.170 Appeal to the City Council.**

Upon receipt of the appeal, the City Council shall set the date for consideration thereof. After setting the hearing date, the City Clerk shall notify the Secretary of the Planning Commission of the receipt of the appeal and of the date, time and place set for consideration thereof; and said Secretary shall, not less than seventeen (17) ~~ten~~-days prior thereto, give written notice to: the appellant, any adverse individual or entity, or to the attorney, spokesperson, or representative of such individual or entity; other interested groups and neighborhood associations who have requested notification; and similar groups and individuals as the Secretary deems appropriate, of the date, time and place of the hearing on the appeal, and as soon as the same becomes technologically feasible, post the date, time and place of the hearing on the city's web site. The City Council shall affirm, modify or reverse the Commission's decision. The decision of the City Council shall be final. (Ord. 12233 § 3 (part), 2000)

**17.152.200 Liens, penalties and expenses of abatement.**

A. If the Hearing Officer, City Planning Commission or City Council, as part of a final decision, imposes any fine and/or monetary penalty, such fine and/or monetary penalty, in addition to being a personal obligation of the property owner and permit holder, shall constitute a special assessment against that real property that is the subject of the final decision by the Hearing Officer, City Planning Commission or City Council;

B. In addition, any and all reasonable expenses necessarily incurred by the City Planning Department, City Building Official and/or any other City department, in abating any condition determined to be a public nuisance by a final decision of the Hearing Officer, City Planning Commission or City Council, also shall be a personal obligation of the permit holder and property owner and constitute a special assessment against the property that is the subject of the final decision.

C. Said reasonable expenses, fines and monetary expenses, among other ways, may be collected by the city pursuant to the provisions of subsection D of this section.

D. For purposes of this section, the personal obligation requirement shall apply to individuals and entities. The Building Official shall give the permit holder and owner of such premises a written notice showing the amount of the penalty, fine and expense and requesting payment thereof. If the amount of such penalty, time and expense are not paid to the Building Official within five days after the date of such notice, the Building Official shall forward a report of the penalty, fine and expense to the City Planning Commission for a confirmation hearing.

The property owner and permit holder shall be given at least seventeen (17) ~~ten~~-days' notice of the confirmation hearing before the City Planning Commission. Said notice shall be in writing. The amount of the penalty, fine and expense shall be confirmed by the City Planning Commission, unless the Commission finds, based upon evidence in the record, that the Building Official erred in imposing or computing the amount of the penalty, fine or expense. If such error is found, the Commission may modify the amount of the penalty, fine or expense as warranted.

**Chapter 17.154**

**ZONING MAPS**

**Sections:**

**17.152.200 Liens, penalties and expenses of abatement.**

**17.154.020 Maps and designated landmarks.**

D. Designated Landmarks and Landmark Sites. Subject to the provisions of Sections 17.154.040 and 17.154.050, the boundaries and other features of designated landmarks and landmark sites are established and fixed as indicated in such ordinances as are hereafter adopted pursuant to Section 17.136.070 ~~102.030~~ and the rezoning and law change procedure in Chapter 17.144. All such ordinances are incorporated as part of this section. (Prior planning code § 10002)

**Chapter 17.156**

**DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS**

**Article IV. Deemed Approved Status Procedure**

**Sections:**

- 17.156.100 Title, purpose, and applicability.**
- 17.156.160 Appeal to Planning Commission.**
- 17.156.170 Appeal on the revocation of a Deemed Approved Status to the City Council.**
- 17.156.180 Notification of public hearing.**

**17.156.100 Title, purpose, and applicability.**

The provisions of this article shall be known as the Deemed Approved Status procedure. The purpose of these provisions is to: (A) provide notice of Deemed Approved Status upon Alcoholic Beverage Sales Commercial Activities that were Legal Nonconforming Activities immediately prior to the effective date of the Deemed Approved Alcoholic Beverage Sale regulations; (B) prescribe the procedure for the imposition of conditions of approval upon these activities; and (C) prescribe the procedure for appealing conditions of approval or the revocation of a Deemed Approved Status. (Ord. 11624 § 2, 1993: prior planning code § 15300)

**17.156.160 Appeal to Planning Commission.**

Within ten calendar days after imposition of conditions of approval on a Deemed Approved Activity or the revocation of Deemed Approved Status, an appeal may be taken to the City Planning Commission by the Deemed Approved Activity owner or any other interested party. In the event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the city. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Officer or wherein its decision is not supported by the evidence in the record. The appeal shall be accompanied by such information as may be required to facilitate review. Upon receipt of the appeal and the required appeal fee in accordance with Section 17.156.190, the Secretary to the Planning Commission shall set the date for consideration thereof. The Administrative Hearing Officer shall, not less than seventeen (17) ~~ten~~ days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; the adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as appropriate, of the date and place of the hearing on the appeal.

In considering the appeal, the Planning Commission shall determine whether the established use conforms to the applicable Deemed Approved performance standards and/or conditions of approval, and may continue or revoke a Deemed Approved Status; or require such changes in the existing use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said performance standards.

The Planning Commission shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Commission is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Commission thereafter until decided. The decision of the Planning Commission on the appeal to the conditions of approval imposed by the Administrative Hearing Officer shall be final. (Ord. 11624 § 2, 1993: prior planning code § 15360)

**17.156.170 Appeal on the revocation of a Deemed Approved Status to the City Council.**

Within ten calendar days after the date of a decision by the City Planning Commission to revoke a Deemed Approved Status, an appeal from said decision may be taken to the City Council by any interested party. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Planning Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. Upon receipt of the appeal and an appeal fee in accordance with Section 17.156.190, the Council shall set the date for consideration thereof. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than ten days prior thereto, give written notice to: the owner of the Deemed Approved Activity; the property owner; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the time, date and place of the hearing on the appeal. In considering the appeal, the Council shall determine whether the Deemed Approved Activity conforms to the applicable Deemed Approved performance standards, and may approve or disapprove the revocation or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said standards.

The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided. (Ord. 11624 § 2, 1993: prior planning code § 15370)

**17.156.180 Notification of public hearing.**

The Officer shall notify the owner of each Deemed Approved Activity, and also the property owner if not the same, of the time and place of the public hearing. Such notice shall be sent via certified return receipt mail, and shall include notification that the Deemed Approved Status of the Deemed Approved Activity will be considered before the Officer. The public hearing shall be noticed by posting notices on within three hundred (300) feet of the premises of the subject property; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the subject property; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) ten-days prior to the date set for the hearing, if such is to be held. Fees for notification shall be in accordance with Section 17.156.190 and paid for by the Deemed Approved Activity in question.

A. Notice on Site. A city-provided notice of eight and one half by eleven (11) inches in dimension shall also be posted on the premises of the subject activity, placed in the window of the activity (if a window facing the street is not present, then the placard will be required to be posted onto the exterior of the building). All notices shall advertise the time, date, purpose and location of the public hearing for each particular site. All notices shall be given not less than seventeen (17) ten-days prior to the date set for the hearing.

B. Notice by Mail. Notice by mail is deemed given on the date the notice is placed into the U.S. Mail system. (Ord. 12154 § 4, 1999: Ord. 11624 § 2, 1993: prior planning code § 15380)

**Chapter 17.157**

**DEEMED APPROVED HOTEL AND ROOMING HOUSE REGULATIONS**

**Article IV. Deemed Approved Status Procedure**

**Sections:**

**17.157.070 Purpose and applicability.**

**17.157.130 Appeal to City Planning Commission.**

**17.157.140 Appeal on the revocation of a Deemed Approved Status to the City Council.**

**17.157.150 Notification of public hearing before Administrative Hearing Officer.**

**17.157.070 Purpose and applicability.**

The purpose of the provisions of this article is to: (A) provide notice of Deemed Approved Status upon Hotels and Rooming Houses that were Legal Nonconforming Activities immediately prior to the effective date of the Deemed Approved Hotel regulations; (B) prescribe the procedure for the imposition of conditions of approval upon those activities; and (C) prescribe the procedure for appealing conditions of approval or the revocation of a Deemed Approved Status. (Ord. 12137 § 2 (part), 1999)

**17.157.130 Appeal to City Planning Commission.**

Within ten calendar days after imposition of conditions of approval on a Deemed Approved Hotel Activity or the revocation of Deemed Approved Status, an appeal may be taken to the City Planning Commission by the Deemed Approved Activity owner or any other interested party. In the event the last date of appeal falls on a weekend or a holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the city. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Officer or wherein its decision is not supported by the evidence in the record. The appeal shall be accompanied by such information as may be required to facilitate review. Upon receipt of the appeal and the required appeal fee in accordance with Section 17.157.160 the Secretary of the City Planning Commission shall set a date for consideration thereof. The Secretary of the City Planning Commission shall, not less than seventeen (17) ~~ten~~ days prior thereto, give written notice to: the owner of the Deemed Approved Hotel Activity; the property owner; the appellant in those cases where the appellant is not the owner; the adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as appropriate, of the date and place of the hearing on the appeal.

In considering the appeal, the City Planning Commission shall determine whether the Deemed Approved Hotel Activity conforms to the applicable Deemed Approved performance standards and/or conditions of approval, and may continue or revoke a Deemed Approved Status; or require such changes in the existing use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said performance standards.

The City Planning Commission shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Commission is unable to decide on the appeal at that meeting, it shall appear for a vote on each regular meeting of the Commission thereafter until decided. The decision of the City Planning Commission on the appeal to the conditions of approval imposed by the Administrative Hearing Officer shall be final. (Ord. 12137 § 2 (part), 1999)

**17.157.140 Appeal on the revocation of a Deemed Approved Status to the City Council.**

Within ten calendar days after the date of a decision by the City Planning Commission to revoke a Deemed Approved Status, an appeal from said decision may be taken to the city Council by any interested party. In the event the last date of appeal falls on a weekend or a holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City Planning Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. Upon receipt of the appeal and an appeal fee in accordance with Section 17.157.160, the Council shall set the date for consideration thereof. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and the date set for consideration thereof; and said Secretary shall, not less than ten days prior thereto, give written notice to: the owner of the Deemed Approved Hotel Activity; the property owner; the appellant in those cases where the appellant is not the owner; the adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as appropriate, of the date and place of the hearing on the appeal.

In considering the appeal, the Council shall determine whether the Deemed Approved Hotel Activity conforms to the applicable Deemed Approved performance standards and/or conditions of approval, and may approve or disapprove the revocation of the Deemed Approved Status; or require such changes to the existing use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said performance standards.

The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing on the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided. (Ord. 12137 § 2 (part), 1999)

**17.157.150 Notification of public hearing before Administrative Hearing Officer.**

The Officer shall notify the owner of each Deemed Approved Activity, and also the property owner if not the same, of the time and place of the public hearing. Such notice shall be sent via certified return receipt mail, and shall include notification that the Deemed Approved Status of the Deemed Approved Hotel Activity will be considered by the Officer. The public hearing shall be noticed by posting notices on within three hundred (300) feet of the premises of the subject property; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the subject property; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. Such notices shall be given not less than seventeen (17) ten-days prior to the date set for the hearing, if such is to be held. Fees for notification shall be in accordance with Section 17.157.160 and paid for by the Deemed Approved Hotel Activity in question.

A. Notice on Site. A city-provided notice of a ~~minimum eight and one-half by eleven inches in dimension~~ shall also be posted on the premises of the subject activity, placed in the window of the activity (if a window facing the street is not present, then the notice placard will be required to be posted onto the exterior of the building). All notices shall advertise the time, date, purpose and location of the public hearing for each particular site. All notices shall be given not less than seventeen (17) ten-days prior to the date set for the hearing.

B. Notice by Mail. Notice by mail is deemed given on the date the notice is placed into the U.S. Mail system. (Ord. 12137 § 2 (part), 1999)

Chapter 17.158

ENVIRONMENTAL REVIEW REGULATIONS

Part 2. California Environmental Quality Act ("CEQA") Procedures

Article 2.1. General Provisions

Sections:

17.158.180 Ministerial actions.

17.158.190 Discretionary actions.

Article 2.2. Exemption Process

Sections:

17.158.270 Considerations in making exemption determinations.

17.158.180 Ministerial actions.

Ministerial actions typically processed by the city include, but are not limited to:

- A. Issuance of building, plumbing, mechanical, and electrical permits;
- B. Issuance of sign and banner permits;
- C. Issuance of sewer permits;
- D. Issuance of sidewalk, driveway, curb, and gutter permits;
- E. Issuance of ministerial demolition permits, as defined in Chapter 15.36 of the Oakland

Municipal Code;

- F. Issuance of reroofing permits;
- G. Issuance of pest control permits;
- H. Approval of individual utility service connections or disconnections;
- I. Approval of final subdivision maps;
- J. Approval of parcel map waivers, including lot line adjustments and lot combinations;

~~KJ. Checklist special Small project design review, as defined in Chapter 17.136 of the Oakland Planning Code;~~

~~L. Design review exemptions, as defined in Chapter 17.136 of the Oakland Planning Code;~~

~~MK. Issuance of business licenses and payment of business taxes;~~

~~NL. Granting of permits by the Police and Fire Departments. (Ord. 11766 § 2 (part), 1994; prior planning code § 1140)~~

17.158.190 Discretionary actions.

Discretionary actions typically processed by the city include, but are not limited to:

- A. Certain approvals granted under the zoning regulations, including but not limited to:
  - 1. Conditional use permits;
  - 2. ~~Regular d~~Design review;
  - ~~3. Discretionary special design review;~~
  - ~~34.~~ Development agreements;
  - ~~45.~~ Planned unit developments;
  - ~~56.~~ Rezoning;
  - ~~7.~~ Site development and design review;
  - ~~68.~~ Variances;
- B. Certain approvals granted under the subdivision regulations, including but not limited to:
  - ~~1.~~ Parcel map waivers;
  - ~~12.~~ Private access easements;
  - ~~23.~~ Tentative parcel maps;
  - ~~34.~~ Tentative tract maps;









- C. Certain permits issued under other city codes, regulations, and ordinances, including but not limited to:
  - 1. Discretionary demolition permits, as defined in Chapter 15.36 of the Oakland Municipal Code;
  - 2. Encroachment permits;
  - 3. Excavation permits;
  - 4. Grading permits;
  - 5. House moving permits;
  - 6. Obstruction permits;
  - 7. Permits for private construction of public improvements (“P-job” permits);
  - 8. Special activity permits issued by the City ~~Administrator~~ Manager;
  - 9. Tree removal permits;
- D. Amendments to the zoning regulations, subdivision regulations, other codes and regulations governing the issuance of discretionary permits, or the Oakland ~~Comprehensive~~ General Plan;
- E. Projects sponsored or assisted by the city or the Redevelopment Agency. (Ord. 11766 § 2 (part), 1994: prior planning code § 1150)

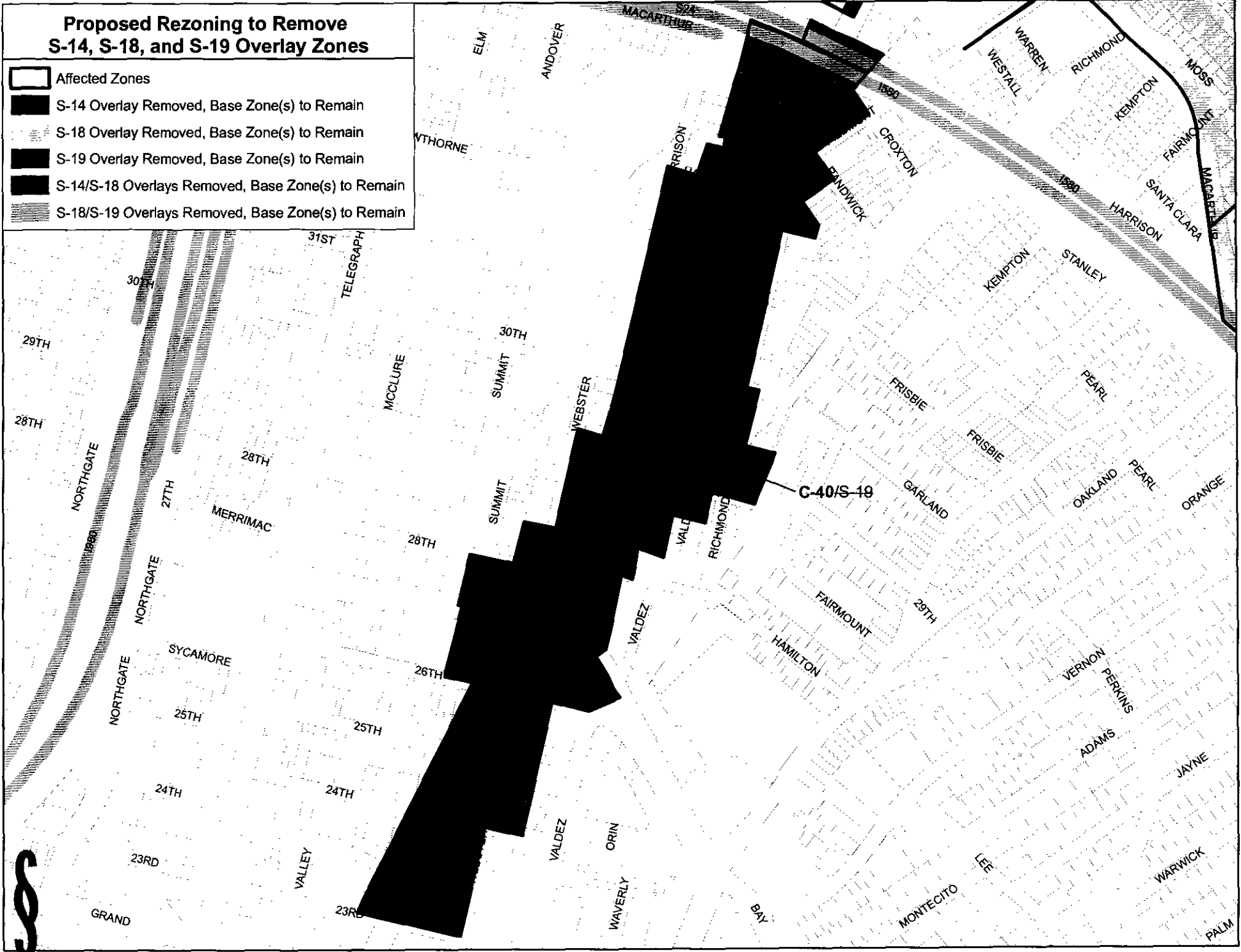
**17.158.270 Considerations in making exemption determinations.**

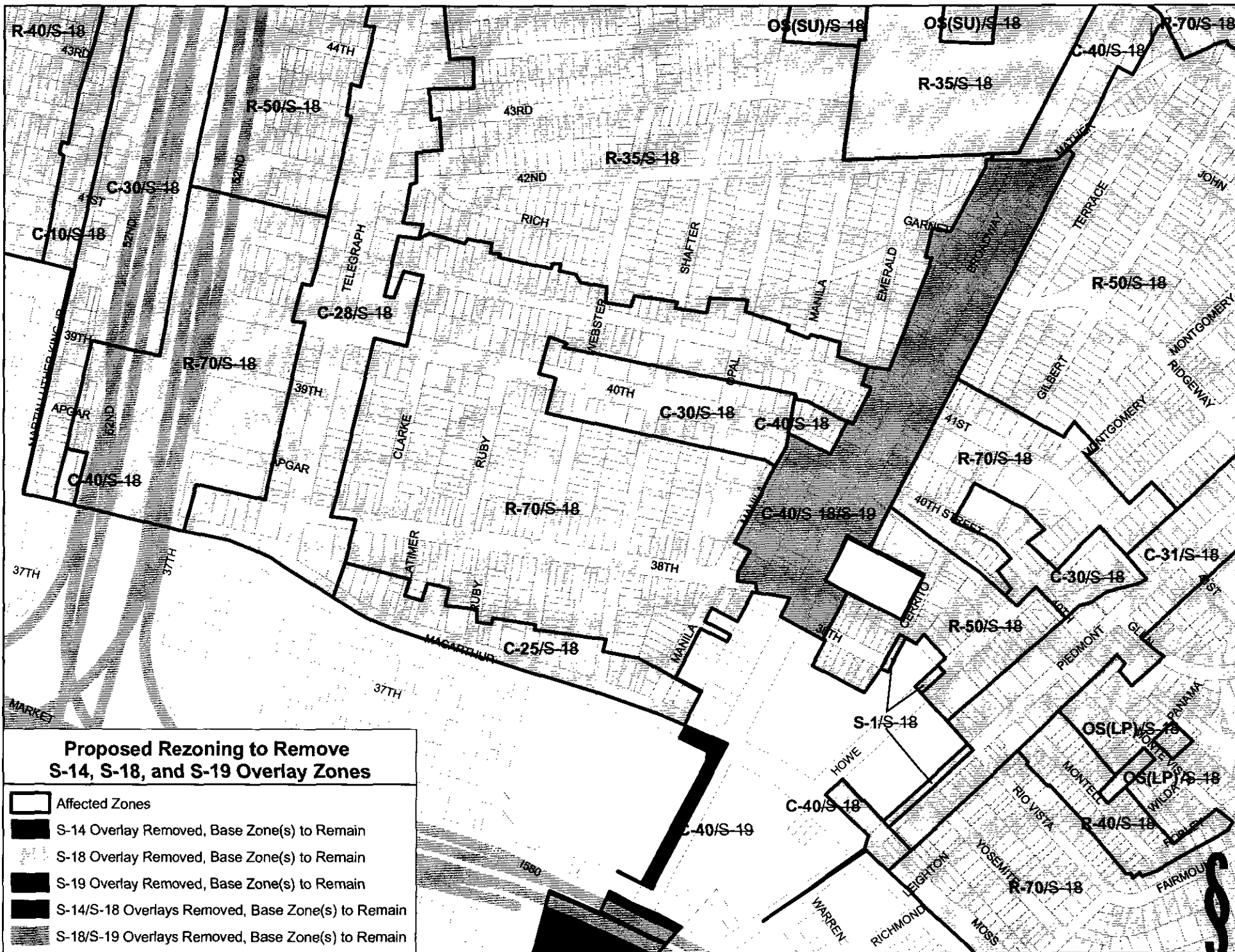
B. Applicability of Single and Multiple Exemptions. A project may be subject to more than one exemption from CEQA, in which case all applicable exemptions may be cited. If it is determined that a particular exemption does not apply to a project because of the qualifiers pertaining to that exemption, the project may still be exempt under another exemption. For example, a project involving grading and the construction of a new single-family home on a site with a fifteen (15) percent slope would not be exempt under Categorical Exemption Class 4, “Minor Alterations to Land,” because of the qualifier that the slope be less than ten percent, but could still be exempt under Categorical Exemption Class 3, “New Construction or Conversion of Small Structures,” because that class has no qualifier pertaining to slope. However, the “rule of reason” must be applied when considering possible multiple exemptions. For example, it would not be reasonable to exempt a five hundred (500) unit subdivision on a flat site under Class 4 because the project involved grading on a slope of less than ten percent. (Ord. 11766 § 2 (part), 1994: prior planning code § 1240)

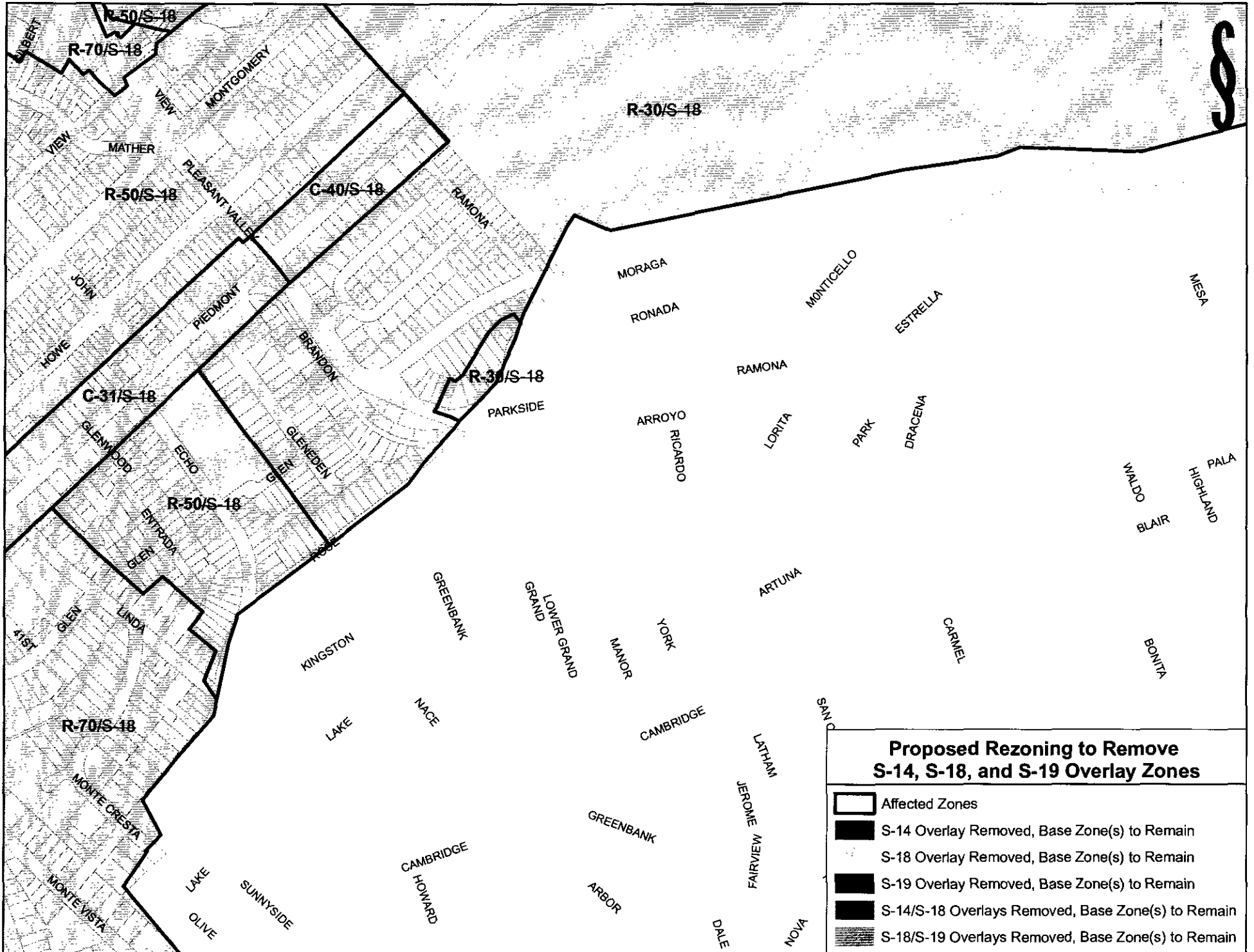
***Zoning Maps showing the Elimination of the  
S-14, S-18, and S-19 Combining Zones***

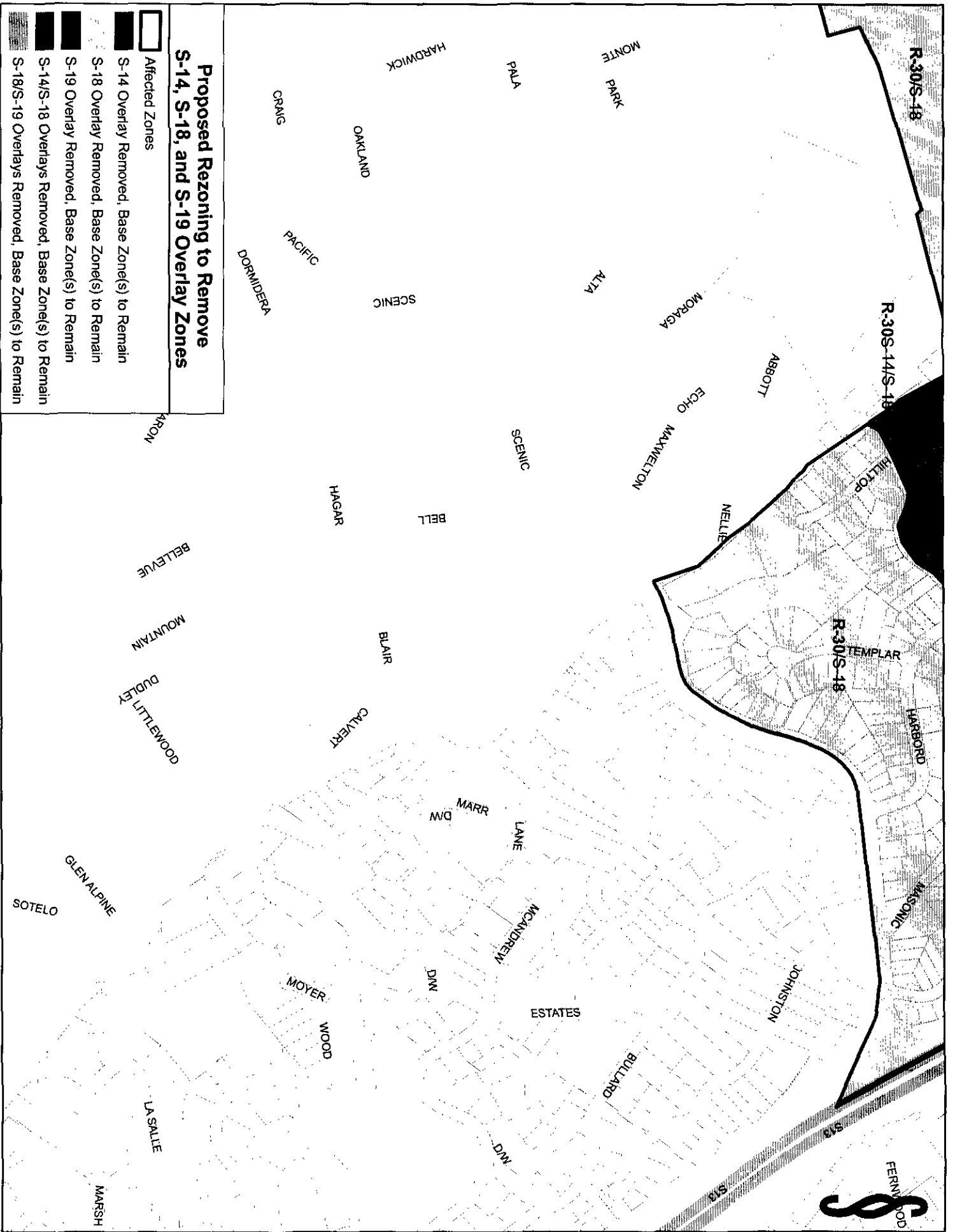
# Proposed Rezoning to Remove S-14, S-18, and S-19 Overlay Zones

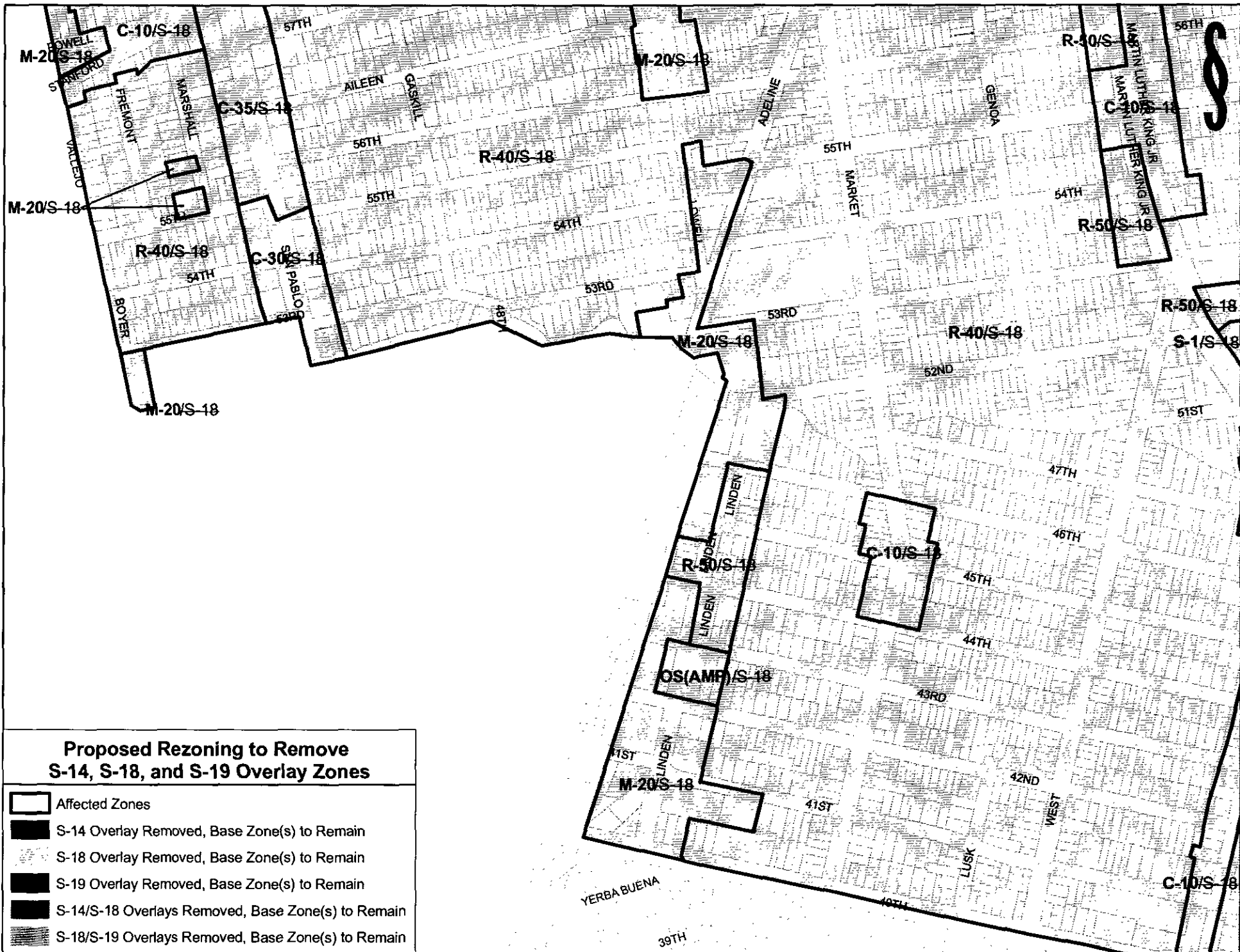
-  Affected Zones
-  S-14 Overlay Removed, Base Zone(s) to Remain
-  S-18 Overlay Removed, Base Zone(s) to Remain
-  S-19 Overlay Removed, Base Zone(s) to Remain
-  S-14/S-18 Overlays Removed, Base Zone(s) to Remain
-  S-18/S-19 Overlays Removed, Base Zone(s) to Remain

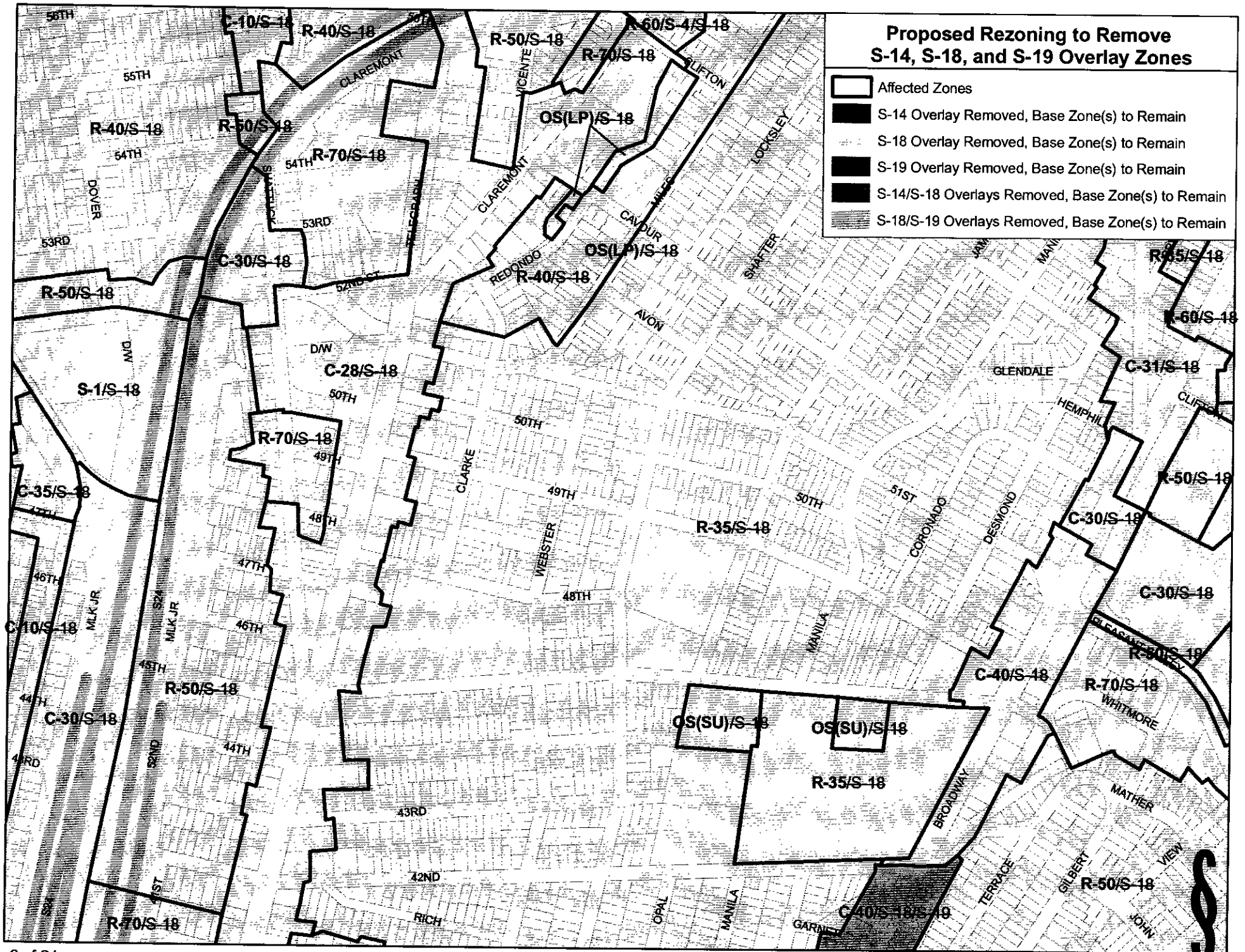




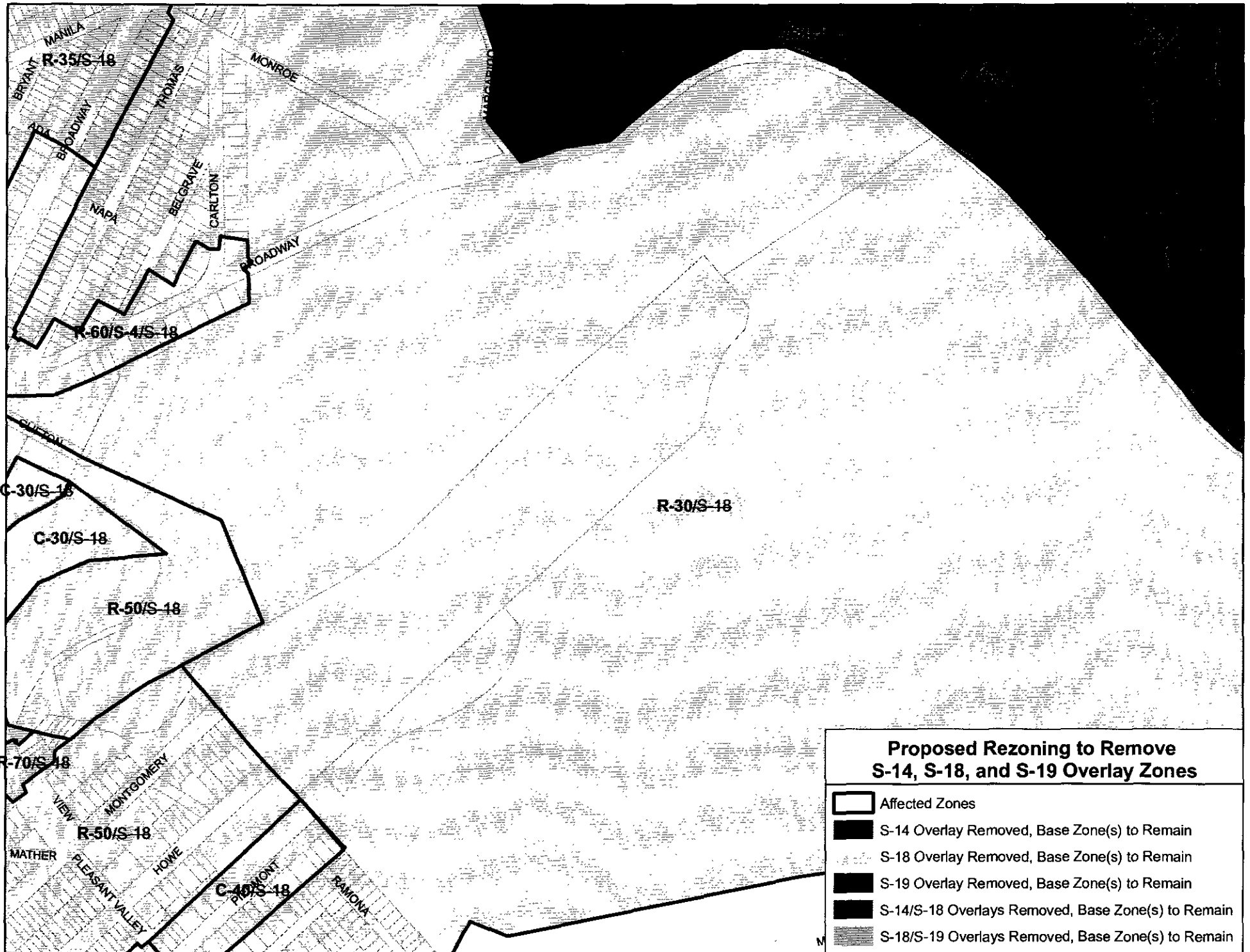












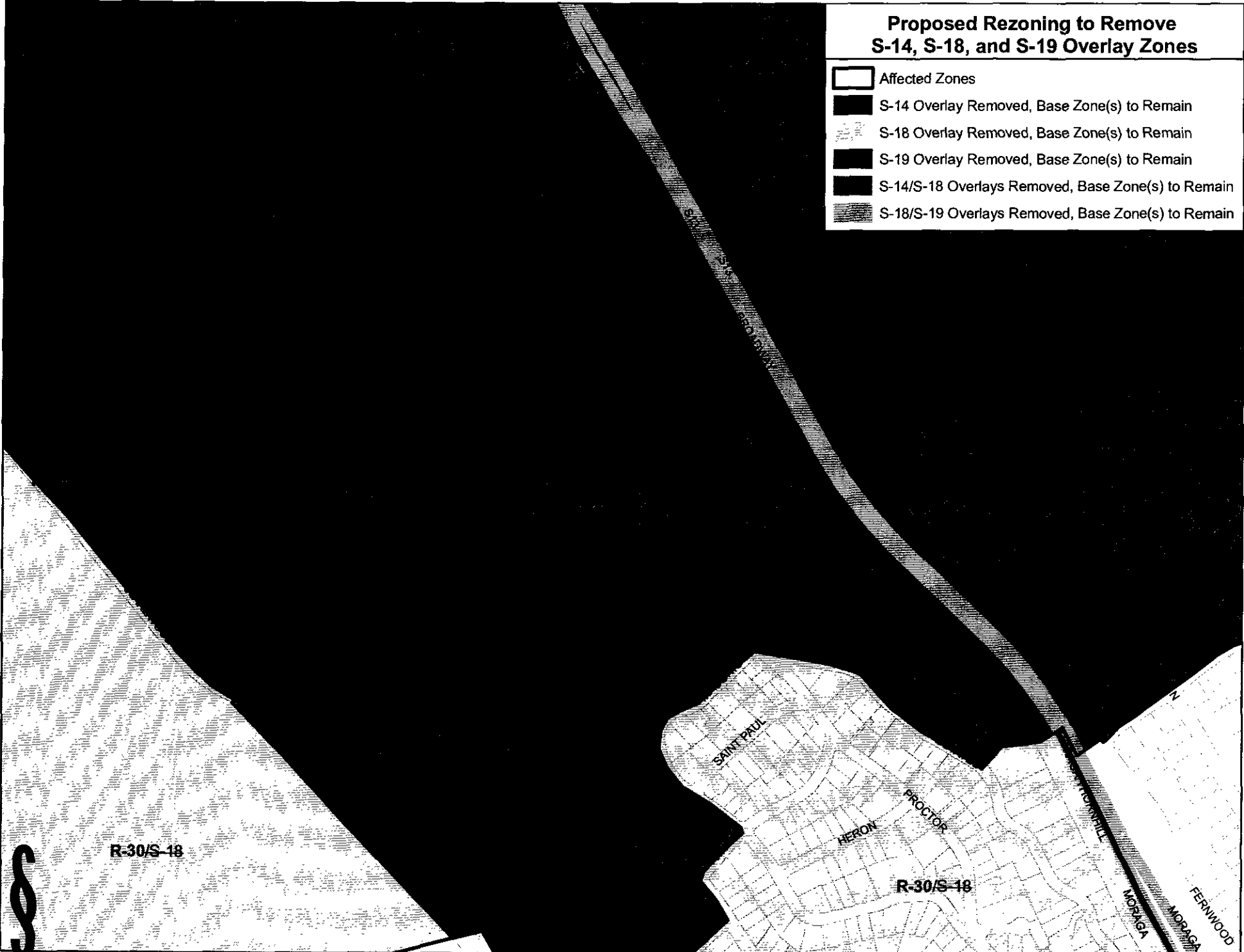












# Proposed Rezoning to Remove S-14, S-18, and S-19 Overlay Zones

-  Affected Zones
-  S-14 Overlay Removed, Base Zone(s) to Remain
-  S-18 Overlay Removed, Base Zone(s) to Remain
-  S-19 Overlay Removed, Base Zone(s) to Remain
-  S-14/S-18 Overlays Removed, Base Zone(s) to Remain
-  S-18/S-19 Overlays Removed, Base Zone(s) to Remain



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## Proposed Rezoning to Remove S-14, S-18, and S-19 Overlay Zones







-  Affected Zones
-  S-14 Overlay Removed, Base Zone(s) to Remain
-  S-18 Overlay Removed, Base Zone(s) to Remain
-  S-19 Overlay Removed, Base Zone(s) to Remain
-  S-14/S-18 Overlays Removed, Base Zone(s) to Remain
-  S-18/S-19 Overlays Removed, Base Zone(s) to Remain

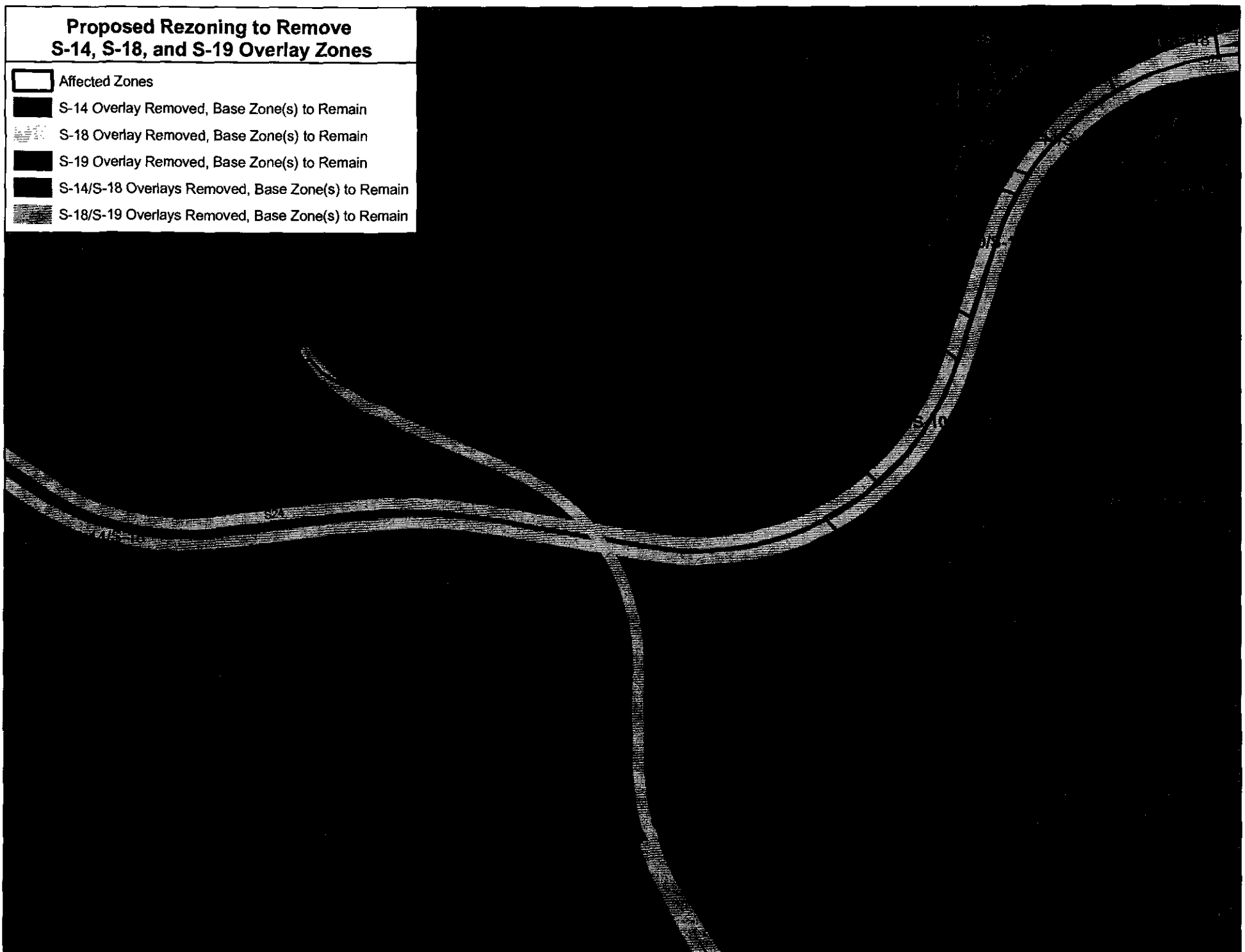






# Proposed Rezoning to Remove S-14, S-18, and S-19 Overlay Zones

-  Affected Zones
-  S-14 Overlay Removed, Base Zone(s) to Remain
-  S-18 Overlay Removed, Base Zone(s) to Remain
-  S-19 Overlay Removed, Base Zone(s) to Remain
-  S-14/S-18 Overlays Removed, Base Zone(s) to Remain
-  S-18/S-19 Overlays Removed, Base Zone(s) to Remain



OS(RCA)/S-10/S-11/S-14







R-10/S-10/S-11/S-18

R-10/S-10/S-14/S-18

R-10/S-10/S-11/S-14

R-30/S-10/S-11/S-18

### Proposed Rezoning to Remove S-14, S-18, and S-19 Overlay Zones

	Affected Zones
	S-14 Overlay Removed, Base Zone(s) to Remain
	S-18 Overlay Removed, Base Zone(s) to Remain
	S-19 Overlay Removed, Base Zone(s) to Remain
	S-14/S-18 Overlays Removed, Base Zone(s) to Remain
	S-18/S-19 Overlays Removed, Base Zone(s) to Remain

GRIZZLY PEAK

BALSAM

WOODLAND

PINE NEEDLE

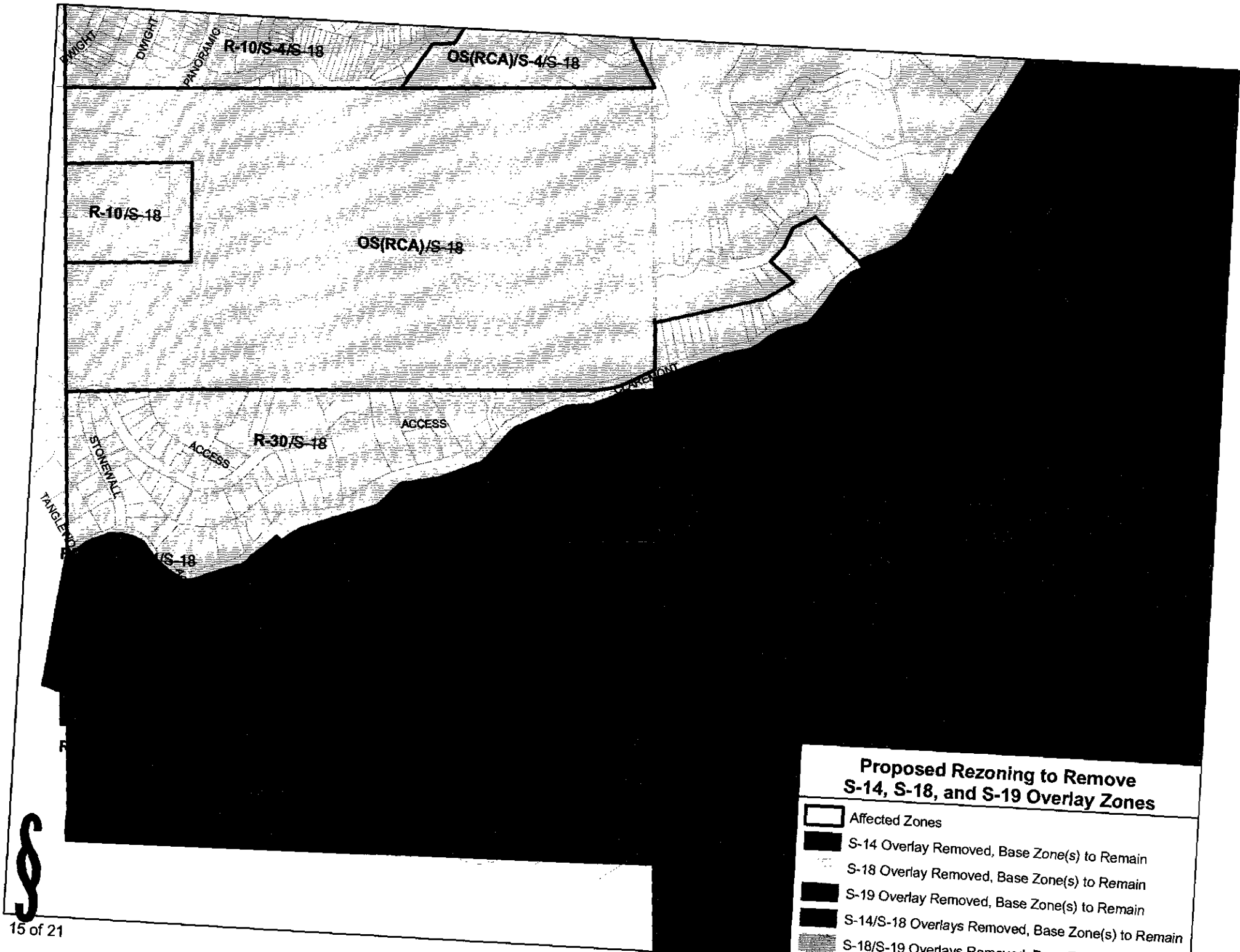
THE TURN

PINEHAVEN

OBSERVATION  
ELVERTON

THORNDALE









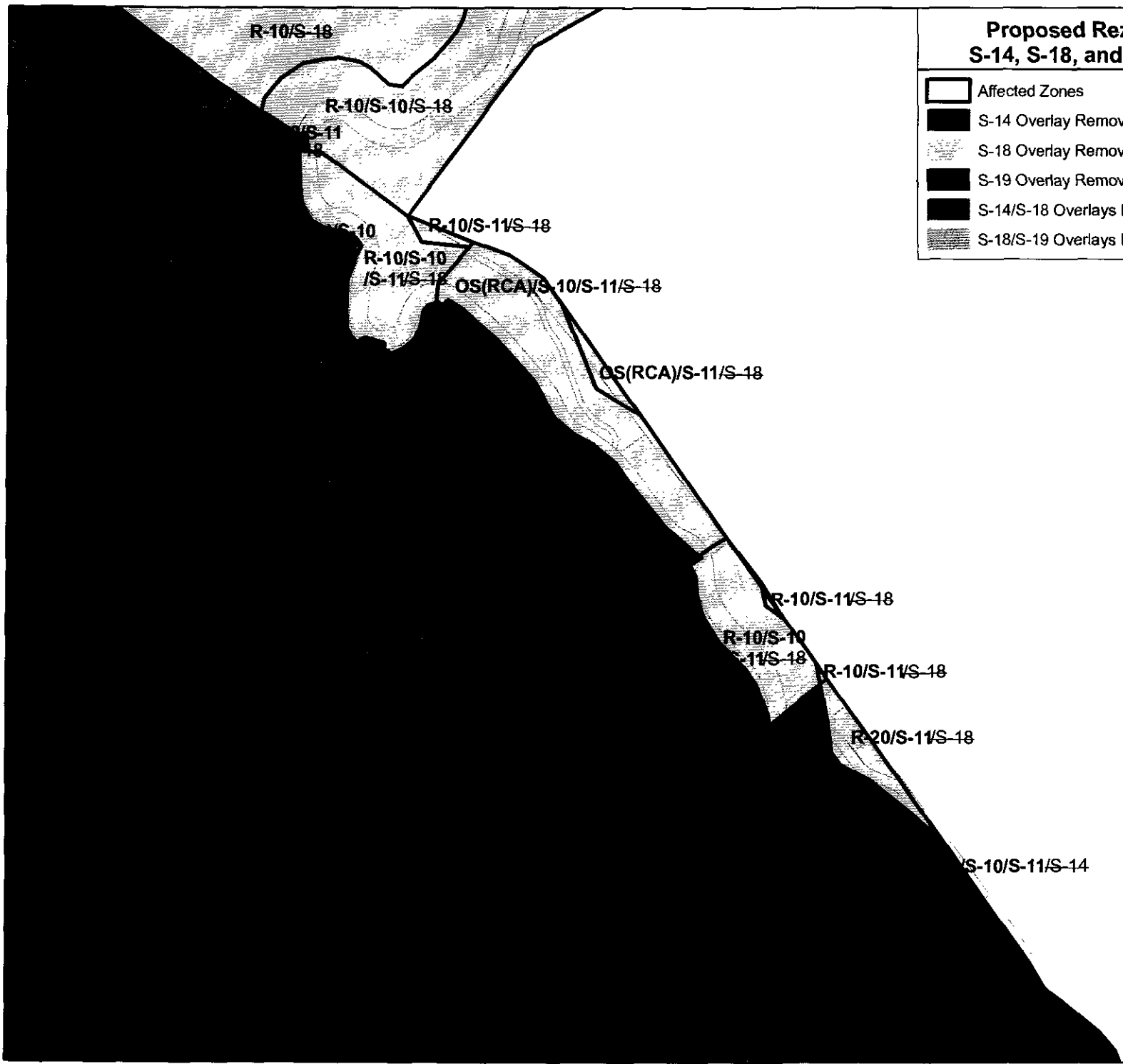


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### Proposed Rezoning to Remove S-14, S-18, and S-19 Overlay Zones

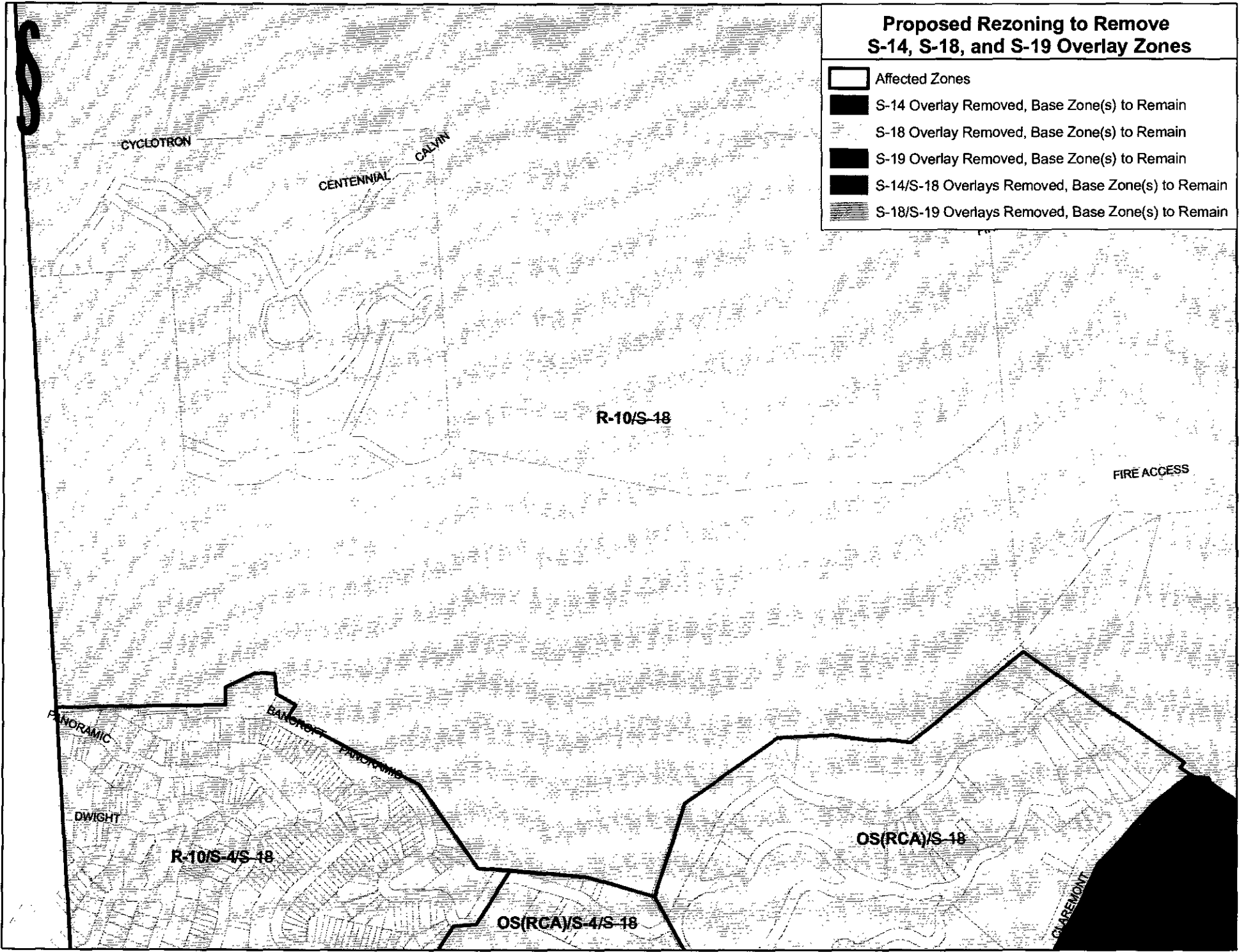
-  Affected Zones
-  S-14 Overlay Removed, Base Zone(s) to Remain
-  S-18 Overlay Removed, Base Zone(s) to Remain
-  S-19 Overlay Removed, Base Zone(s) to Remain
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-  S-18/S-19 Overlays Removed, Base Zone(s) to Remain









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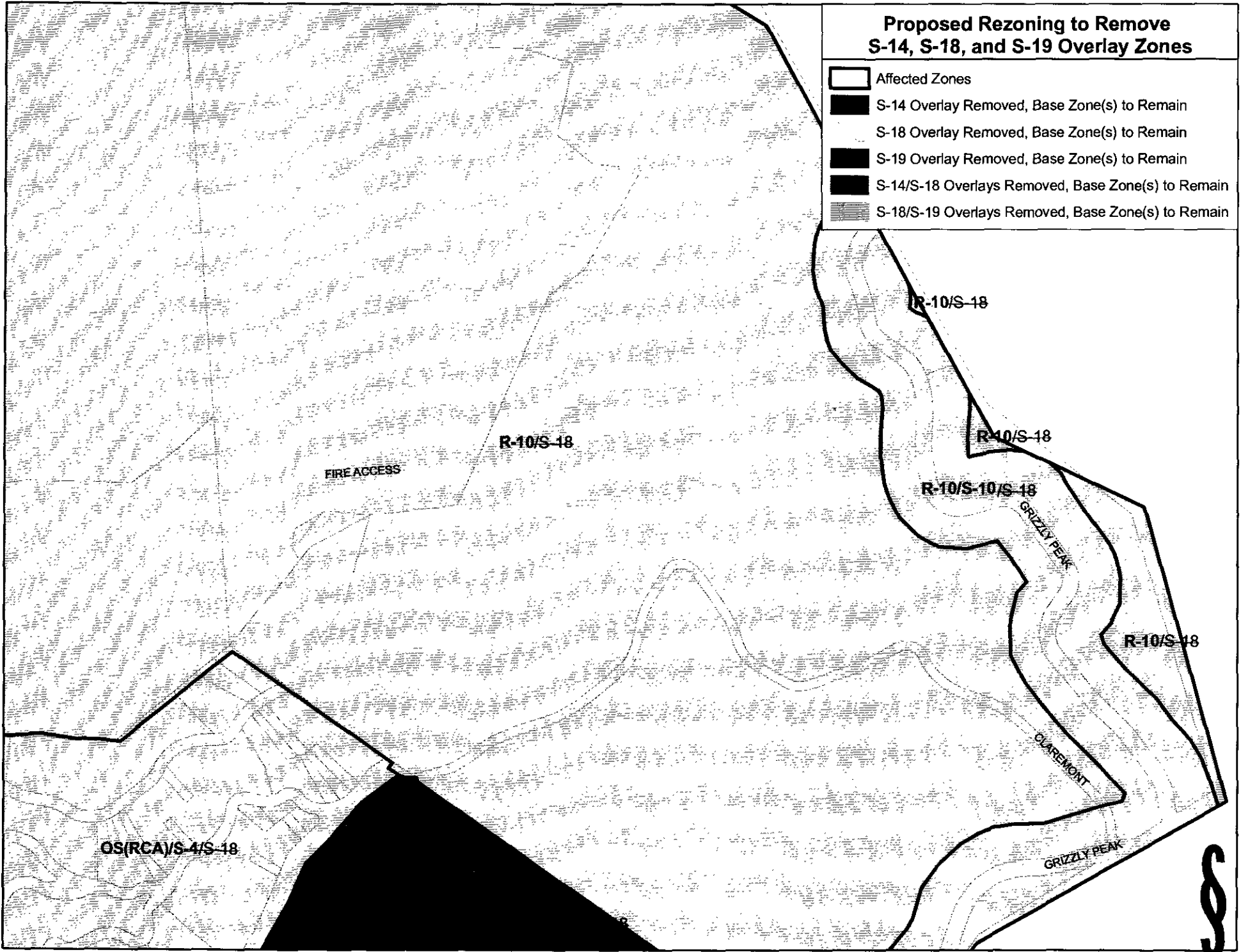
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-  S-18/S-19 Overlays Removed, Base Zone(s) to Remain









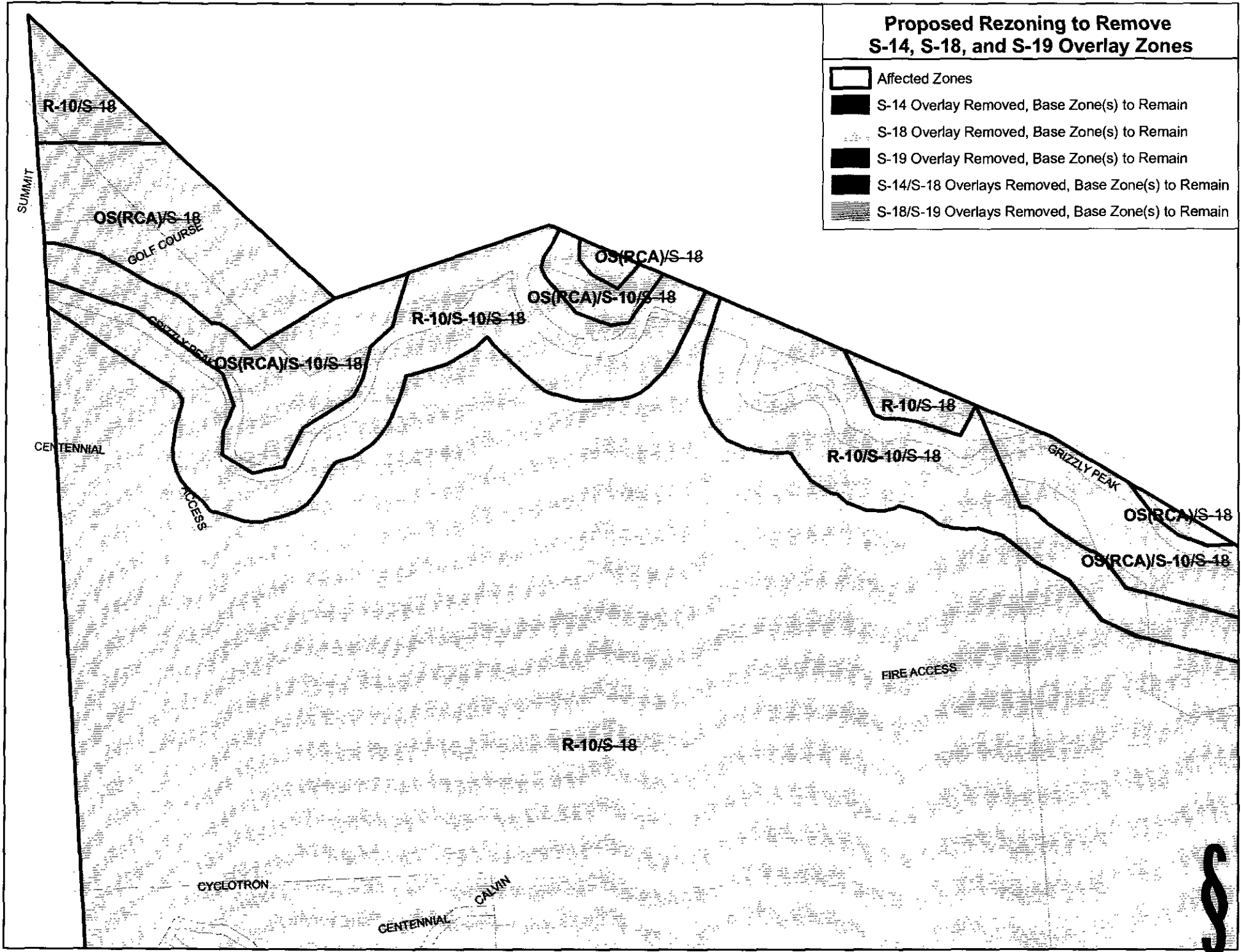
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-  S-18/S-19 Overlays Removed, Base Zone(s) to Remain









### Proposed Rezoning to Remove S-14, S-18, and S-19 Overlay Zones

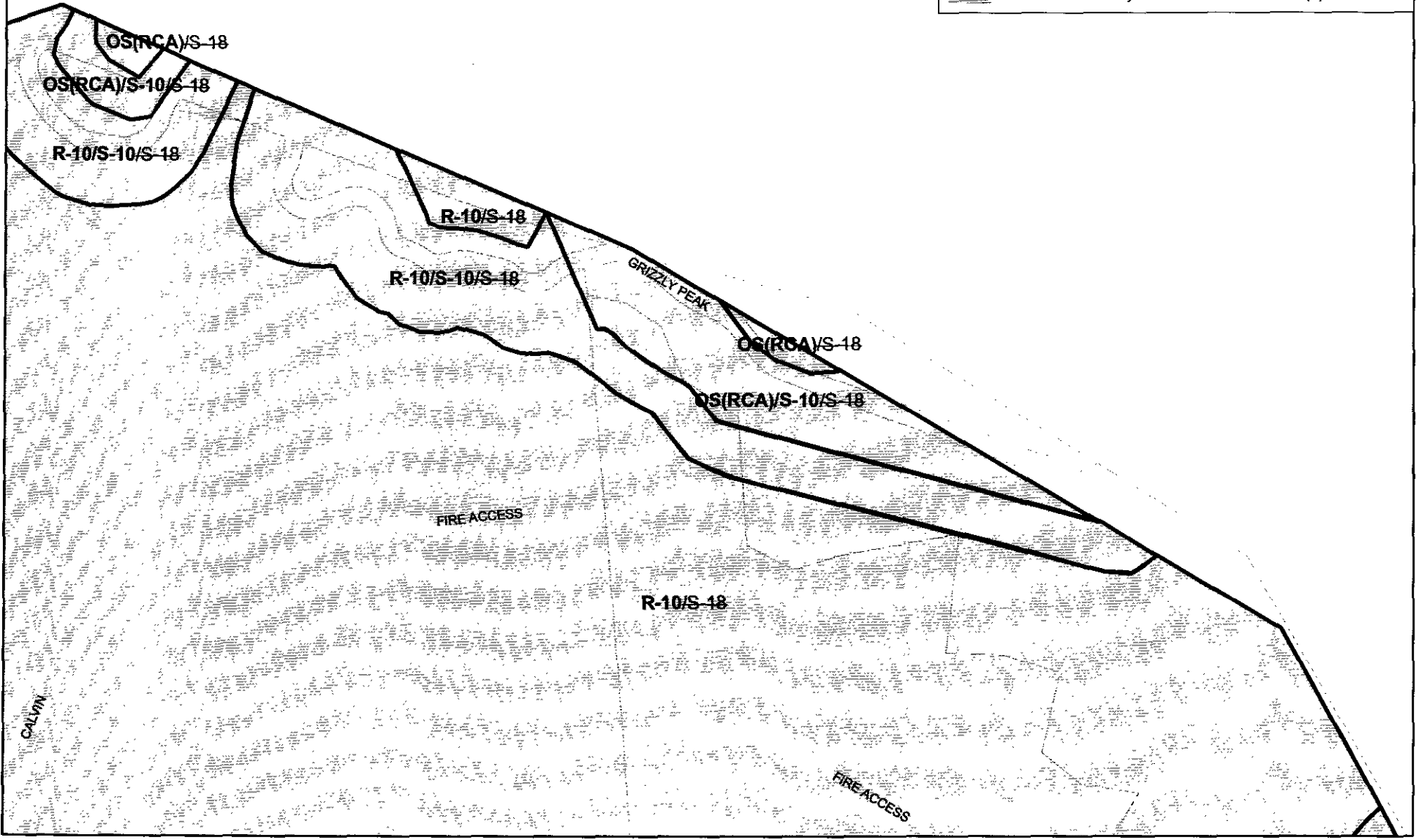
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-  S-18 Overlay Removed, Base Zone(s) to Remain
-  S-19 Overlay Removed, Base Zone(s) to Remain
-  S-14/S-18 Overlays Removed, Base Zone(s) to Remain
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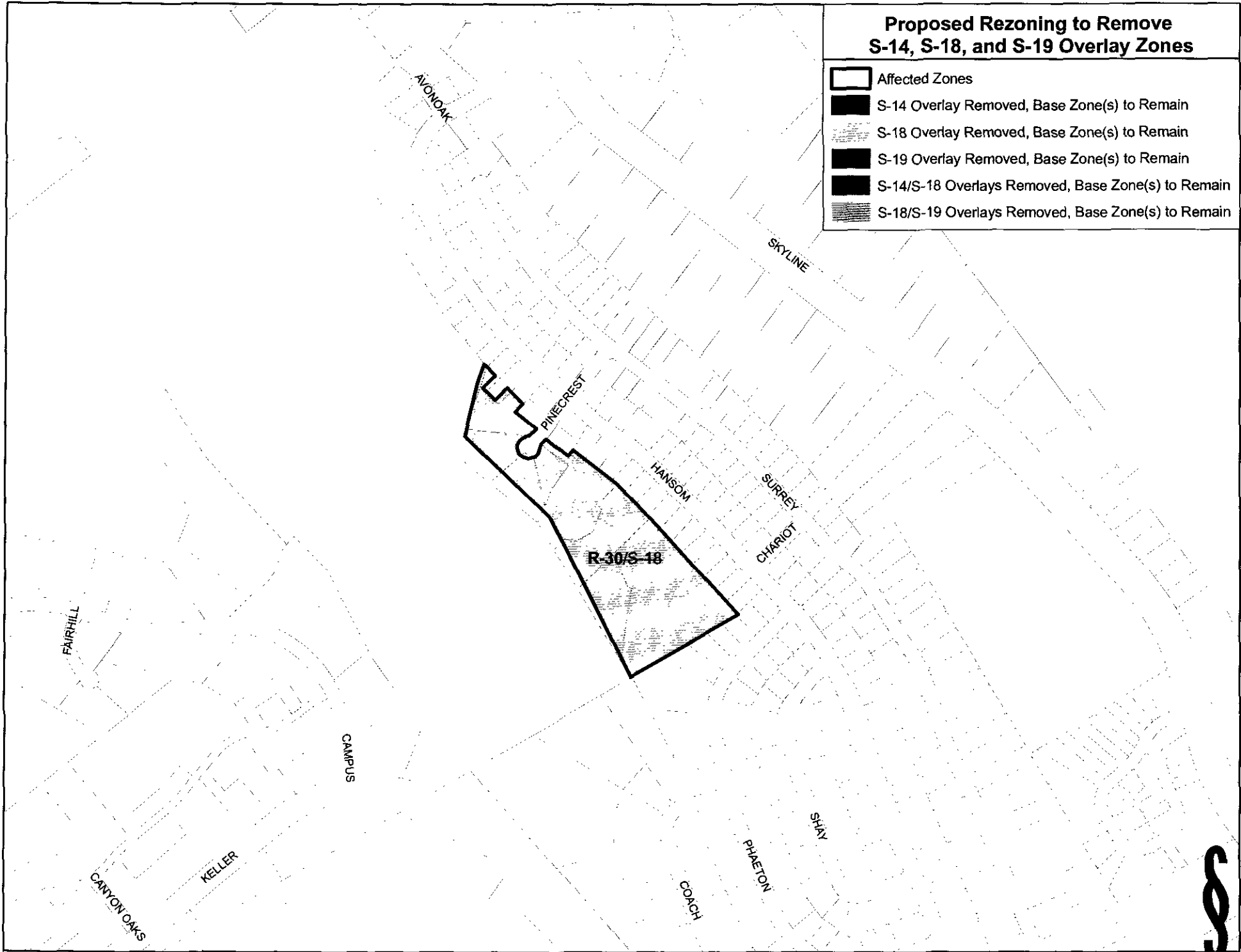
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-  Affected Zones
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-  S-18 Overlay Removed, Base Zone(s) to Remain
-  S-19 Overlay Removed, Base Zone(s) to Remain
-  S-14/S-18 Overlays Removed, Base Zone(s) to Remain
-  S-18/S-19 Overlays Removed, Base Zone(s) to Remain



**Proposed Rezoning to Remove  
S-14, S-18, and S-19 Overlay Zones**

-  Affected Zones
-  S-14 Overlay Removed, Base Zone(s) to Remain
-  S-18 Overlay Removed, Base Zone(s) to Remain
-  S-19 Overlay Removed, Base Zone(s) to Remain
-  S-14/S-18 Overlays Removed, Base Zone(s) to Remain
-  S-18/S-19 Overlays Removed, Base Zone(s) to Remain



*Revisions to the Planning and Zoning fees in the  
City Master Fee Schedule*

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*ORDINANCE NO. \_\_\_\_\_ C.M.S.*

COMMUNITY AND ECONOMIC DEVELOPMENT (CEDA)		
FEE DESCRIPTION	FY 06-07	Notes
<b><u>PLANNING AND ZONING</u></b>		
<i>Major Conditional Use Permit</i>		
<u>Report Fee: Major Conditional Use Permit</u>	<b>1,565.00</b>	<i>New Major Project fee</i>
<u>Site Area 15,000 Sq. Ft. or Less</u>	<del>1,565.00</del>	<i>Existing fees deleted and Replaced with fee above</i>
<u>Site Area Over 15,000 Sq. Ft.</u>	<del>2,631.00</del>	<i>Existing fees deleted and Replaced with fee above</i>
<u>Notification Fee: Major Conditional Use Permit</u>	577.00	<i>Existing Not. fee</i>
<i>Major Variance</i>		
<u>Report Fee: Major Variance</u>	<b>1,565.00</b>	<i>New Major Project fee</i>
<u>Site Area 15,000 Sq. Ft. or Less</u>	<del>1,565.00</del>	<i>Existing fees deleted and Replaced with fee above</i>
<u>Site Area over 15,000 Sq. Ft.</u>	<del>2,631.00</del>	<i>Existing fees deleted and Replaced with fee above</i>
<u>Notification Fee: Major Variance</u>	577.00	<i>Existing Not. fee</i>
<i>Minor Conditional Use Permit</i>		
<u>Report Fee: Minor Conditional Use Permit</u>	<b>864.00</b>	<i>New Minor Project fee</i>
<u>Except 1-2 Units Not Involving Building Envelope</u>	<del>864.00</del>	<i>Existing fees deleted and Replaced with fee above</i>
<u>1-2 Units Not Involving Building Envelope</u>	<del>308.00</del>	<i>Existing fees deleted and Replaced with fee above</i>
<u>Notification Fee: Minor Conditional Use Permit</u>	<del>577.00</del> <b>562.00</b>	<i>New Standard Not. fee</i>
<i>Minor Variance</i>		
<u>Report Fee: Minor Variance</u>	<b>864.00</b>	<i>New Minor Project fee</i>
<u>Except 1-2 Units Not Involving Building Envelope</u>	<del>864.00</del>	<i>Existing fees deleted and Replaced with fee above</i>
<u>1-2 Units Not Involving Building Envelope</u>	<del>308.00</del>	<i>Existing fees deleted and Replaced with fee above</i>
<u>Notification Fee: Minor Variance</u>	<del>577.00</del> <b>562.00</b>	<i>New Standard Not. fee</i>
<i>Regular Design Review</i>		
<u>Report Fee: Regular Design Review - Minor Project</u>	<b>864.00</b>	<i>New Minor Project fee</i>
<u>Report Fee: Regular Design Review - Major Project</u>	<b>1,565.00</b>	<i>New Major Project fee</i>
<u>Work Value \$150,000 or Less</u>	<del>864.00</del>	<i>Existing fees deleted and Replaced with fees above</i>
<u>Work Value Over \$150,000</u>	<del>2,281.00</del>	<i>Existing fees deleted and Replaced with fees above</i>
<u>Not. Fee: Design Review (Except for Landmarks) No Hearing</u>	<del>562.00</del>	<i>Eliminated Not. fee</i>
<u>Notification Fee: Regular Design Review (Except for Landmarks) with Public Hearing</u>	577.00	<i>Existing Not. fee</i>
<i>Minor Small Project Design Review</i>		
<u>Report Fee: Small Project Design Review - Track One</u>	<del>308.00</del> <b>450.00</b>	<i>Eliminated fee New Report fee</i>
<u>Report Fee: Small Project Design Review - Track Two</u>	<b>655.00</b>	<i>New Report fee</i>
<u>Report Fee: Small Project Design Review - Track Three</u>	<b>750.00</b>	<i>New Report fee</i>
<u>Notification Fee: Small Project Design Review (if notice required)</u>	<b>385.00</b>	<i>New Not. fee</i>
<u>Design Review Exemption</u>	156.00	<i>Existing fee</i>
<u>CEQA Exemption Determination</u>	156.00	<i>Existing fee</i>



COMMUNITY AND ECONOMIC DEVELOPMENT (CEDA)		
FEE DESCRIPTION	FY 06-07	Notes
<b><u>PLANNING AND ZONING</u></b>		
<i>Special Residential Design Review</i>		<b>Eliminate fee type</b>
New Construction	<u>655.00</u>	<i>Eliminated fee</i>
Additions and Alterations	<u>450.00</u>	<i>Eliminated fee</i>
<i>R-36 Zone Design Review</i>		<b>Eliminate fee type</b>
Basic Fee—Work Value Over \$150,000	<u>865.00</u>	<i>Eliminated fee</i>
Notification Fee	<u>577.00</u>	<i>Eliminated fee</i>
Basic Fee—Work Value Under \$150,000	<u>450.00</u>	<i>Eliminated fee</i>
<i>S-11 Site Development and Design Review</i>		<b>Eliminate fee type</b>
<i>Review of Improvements to Existing Dwelling</i>	864.00	<i>Eliminated fee</i>
<i>Addition Does Not Involve Building Envelope</i>	422.00	<i>Eliminated fee</i>
<i>New Single Family Dwelling on a Single Lot</i>	2,193.00	<i>Eliminated fee</i>
<i>Two New Single Family Dwellings on a Single Lot</i>	4,096.00	<i>Eliminated fee</i>
<i>Three New Single Family Dwellings on a Single Lot</i>	4,582.00	<i>Eliminated fee</i>
<i>Each Additional New Single Family Dwelling Over Three</i>	250.00	<i>Eliminated fee</i>
<i>Review of Subdivision, Parcel Map or Community Driveway</i>		<i>Eliminated fee</i>
<i>Proposal Devised to Serve</i>	4,096.00	
<i>Review of Subdivision, Parcel Map or Community Driveway</i>		<i>Eliminated fee</i>
<i>Proposal Devised to Serve</i>	4,628.00	
<i>Review of Subdivision, Parcel Map or Community Driveway</i>		<i>Eliminated fee</i>
<i>Proposal Devised to Serve</i>	250.00	
<b><u>S-11 Site Development and Design Review - Special Fees</u></b>		<b>Revised Fee title</b>
Special Fees		
North Oakland Hill Area Specific Plan Recovery Fee Per <u>New Dwelling</u>	215.00	<b>Existing fee - to remain</b>
<i>S-11 Notice Publication Fee</i>	<u>67.00</u>	<i>Eliminated fee</i>
<i>S-11 Special Mail Handling Fee</i>	<u>14.00</u>	<i>Eliminated fee</i>
Notification Fee: S-11 Site Development and Design		
<i>Notification Fee: S-11 Site Development and Design</i>	<u>577.00</u>	<i>Eliminated fee</i>
<i>No Public Hearing</i>	<u>577.00</u>	<i>Eliminated fee</i>
<i>S-14 Expedited Design and Bulk Review</i>		<b>Eliminate fee type</b>
New Construction	2,215.00	<i>Eliminated fee</i>
Notification Fee: S-14 Design and Bulk Review (Additions and Alterations)	562.00	<i>Eliminated fee</i>
Additions and Alterations	450.00	<i>Eliminated fee</i>
Notification Fee: S-14 Design and Bulk Review (Additions and Alterations)	562.00	<i>Eliminated fee</i>
Notification Fee: S-14 Administrative Review of Retaining Walls	234.00	<i>Eliminated fee</i>

<b>COMMUNITY AND ECONOMIC DEVELOPMENT (CEDA)</b>		
<b>FEE DESCRIPTION</b>	<b>FY 06-07</b>	<b>Notes</b>
<b><u>PLANNING AND ZONING</u></b>		
<i>Development Agreement</i>		
<u>Report Fee:</u> Development Agreement	7,857.00	<i>Existing Report fee</i>
Notification Fee: Development Agreement	<u>577.00</u> <del>738.00</del>	<i>New Not. fee</i>
<i>Development Agreement: Annual Review</i>	2,378.00	<i>Existing Report fee</i>
<i>Appeals</i>		
Administrative Appeal	514.00	<i>Existing Report fee</i>
To City Planning Commission (CPC)	234.00	<i>Existing Report fee</i>
To City Council	234.00	<i>Existing Report fee</i>
Billboard Amortization	364.00	<i>Existing Report fee</i>
Notification Fee: Appeals to Planning Commission	385.00	<i>Existing Not. fee</i>
Notification Fee: Appeals to City Council	385.00	<i>Existing Not. fee</i>
<i>Requests</i>		
For Extension of Time	248.00	<i>Existing report fee</i>
For Discretionary Waiver	114.00	<i>Existing report fee</i>
<del>For Reduction of Off Street Parking Requirements</del>	<del>114.00</del>	<i>Eliminated fee</i>
For CPC Reconsideration of <del>Conditions of Existing</del> Approval	248.00	<i>Existing report fee</i>
<u>For General Plan Determination</u>	<u>320.00</u>	<i>New Report fee</i>
<i>Business Tax Certificate</i>	23.00	<i>Existing fee</i>
<i>General Plan Amendment</i>		
<u>Report Fee:</u> General Plan Amendment	2,309.00	<i>Existing report fee</i>
Notification Fee: Request for General Plan Amendment	<u>738.00</u> <del>577.00</del>	<i>New Not. fee</i>
<i>Rezoning</i>		
<u>Report Fee:</u> Rezoning	2,382.00	<i>Existing report fee</i>
Notification Fee: Rezoning	738.00	<i>Existing Not. fee</i>
<i>Private Access Easement</i>		
<u>Report Fee:</u> Private Access Easement	2,711.00	<i>Existing report fee</i>
Notification Fee: Private Access Easement	<u>577.00</u> <del>461.00</del>	<i>New Not. fee</i>

COMMUNITY AND ECONOMIC DEVELOPMENT (CEDA)		
FEE DESCRIPTION	FY 06-07	Notes
<b><u>PLANNING AND ZONING</u></b>		
<i>Illegal Activity or Facility</i>	Double Report Fees	Existing fee
<i>Application Notification Fee</i>		
Major Conditional Use Permit	577.00	Existing Not. fee
Major Variance	577.00	Existing Not. fee
Rezoning	738.00	Existing Not. fee
Development Agreement	<del>577.00</del> 738.00	New Standard Not. fee
Tentative Map	577.00	Existing Not. fee
Request for General Plan Amendment	<del>738.00</del> 577.00	New Not. fee
<u>Request for General Plan Determination</u>	<del>577.00</del> 562.00	New Standard Not. fee
Private Access Easement	<del>577.00</del> 461.00	New Standard Not. fee
Minor Variance	<del>577.00</del> 492.00	New Standard Not. fee
Minor Conditional Use Permit	<del>577.00</del> 492.00	New Standard Not. fee
Appeals to City Council	385.00	Existing Not. fee
Request for Environmental Review	385.00	Existing Not. fee
Parcel Map	<del>577.00</del> 562.00	New Standard Not. fee
Planned Unit Development: Preliminary Planning Commission Action	577.00	Existing Not. fee
Planned Unit Development: Final Planning Commission Action	577.00	Existing Not. fee
<del>S-11 Site Development and Design Review: No Public Hearing</del>	577.00	Eliminated fee
<del>S-11 Site Development and Design</del>	577.00	Eliminated fee
Appeals to Planning Commission	385.00	Existing Not. fee
<del>Design Review (Except for Landmarks) No Public Hearing</del>	562.00	Eliminated fee
<del>Regular Design Review (Except for Landmarks) with Public Hearing</del>	577.00	Existing Not. fee
<u>Small Project Design Review (if notice is required)</u>	<del>385.00</del>	New Not. fee
Challenge to Negative Declaration	385.00	Existing Not. fee
Appeal of Director's Determination that EIR is Required	385.00	Existing Not. fee
<del>S-14 Design and Bulk Review (New Construction)</del>	562.00	Eliminated fee
<del>S-14 Design and Bulk Review (Additions and Alterations)</del>	562.00	Eliminated fee
<del>S-14 Administrative Review of Retaining Walls</del>	234.00	Eliminated fee