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OAKLAND

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# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** William A. Gilchrist,  
Director, PBD

**SUBJECT:** Amendments to the Planning Code to  
Update Regulations for Restaurants  
Serving Alcoholic Beverages

**DATE:** February 11, 2019

City Administrator Approval

Date:

2/26/19

## RECOMMENDATION

**Staff Recommends That The City Council Conduct A Public Hearing And, Upon Conclusion, Adopt An Ordinance Amending The Planning Code (Title 17) To Update Regulations For Restaurants Serving Alcoholic Beverages, Under Chapters 17.09, 17.10, 17.103, 17.134, And 17.156, As Recommended By The Planning Commission.**

## EXECUTIVE SUMMARY

Staff has drafted proposed Planning Code amendments relating to regulations for the sale of alcoholic beverage sales at restaurants (Case no. ZA18017). As described in this report, these proposed changes to regulations for restaurants pertain to relaxations to their operating characteristics (service format) and geographic locations (restricted streets) under Planning Code Chapters 17.09, 17.10, 17.103, 17.134 and 17.156. Staff requests the City Council review the proposed regulations outlined in the Planning Commission Staff Report, and vote to approve or amend the item.

## BACKGROUND / LEGISLATIVE HISTORY

On October 17, 2018, the Planning Commission voted to have the proposed Planning Code amendments relating to regulations for the sale of alcoholic beverage sales forwarded to the City Council with a recommendation of approval (**Attachment A**).

In 1977, the City of Oakland adopted zoning regulations for alcoholic beverage sales (Ordinance No. 9554 C.M.S.). Under these regulations, the sale of alcoholic beverages at new markets and bars requires a Conditional Use Permit (CUP). For restaurants, however, the sale of alcoholic beverages is permitted without a CUP if the establishment operates under a "full-service" format. The original rationale for this distinction is that the likelihood of negative impacts was determined to be greatly decreased with a full-service establishment.

Item: \_\_\_\_\_  
CED Committee  
March 5, 2019

In most Oakland zoning districts today, "full-service" restaurants can often be permitted (allowed) over the permit counter; therefore, alcohol sales with a restaurant can often be permitted without further zoning approvals involving public hearings and additional fees. In order for counter staff to permit a restaurant to include alcohol sales, Planning Bureau staff determines a restaurant to be "full-service" based on factors such as floor plan (namely, depiction of a dining room with one cash register only and no queuing areas) and menu items (namely, inclusion of dinner entrees). In contrast, the alcohol component for a "limited-service" restaurant is currently treated as a stand-alone land use in the Oakland Planning Code. This means that many delicatessens, pizzerias, and burrito shops cannot serve alcohol (even beer only) without public hearings and significant additional fees; historically, perhaps due to the onerous process, relatively few have applied (**Attachment A**).

However, in many other cities, limited-service restaurants are automatically granted zoning approval to sell beer and wine. Furthermore, in order to license a restaurant operator in California, the State Department of Alcoholic Beverage Control (ABC) does not distinguish between full-service and limited-service restaurants. The primary requirement is that a premise be a "bona fide public eating place" with a maximum of fifty-percent of revenues derived from alcohol sales (50/50). Typical ABC permits for restaurants are the license type 41 (restaurant with beer and wine up to 24% alcohol content / 48 proof) and type 47 (restaurant with liquor, beer and wine). Therefore, not all restaurants need be approved for a full bar including liquor inside the establishment to pull an ABC permit; in fact, the majority of restaurants only sell beer and wine (**Attachment A**).

In 1992, the Oakland zoning regulations were further amended to require restaurants on certain major corridors (or "restricted streets," including MacArthur Blvd., International Blvd., Foothill Blvd., and San Pablo Ave.) to obtain a CUP from the Planning Commission in order to sell alcohol with their meals. The reason that these streets were selected was likely due to the fact that, at that time, they matched corridors where special restrictions applied to new alcohol outlets (that is, a 1,000-foot distance separation between alcohol outlets).

This separation requirement has since been amended to include all streets not located Downtown. In addition, the 1,000-foot distance separation no longer applies to off-sale / markets in the Jack London District; on-sale / bars throughout the "Central District" (consisting of Downtown and beyond to 27<sup>th</sup> Street); and larger outlets, such as major supermarkets or drug stores.

In 1993, the description of a full-service restaurant was amended in the Planning Code with the adoption of the Deemed Approved Ordinance for legal nonconforming alcohol sales outlets (Ordinance No. 11624 C.M.S.) - including a provision that no less than sixty percent (60%) of total revenue can be generated from food service and no more than forty percent (40%) of revenue from the sales of alcohol.

In 2011, the Planning Code was amended to make "restaurant" its own land use classification. This code update separated restaurants from the combined classification of "General Food Sales" (including markets); and created the new land use classifications of "Full-Service Restaurant" and "Limited-Service Restaurant." (Ordinance No. 13064 C.M.S.)

More recently, the "restricted streets" designation was eliminated for most of San Pablo Avenue, with no known issues (Ordinance No. 13172 C.M.S.) (**Attachment A**).

In recent years, numerous restaurants have been established or upgraded throughout the City. This growth in new restaurants has established Oakland as a culinary destination in the region, and the phenomenon is nationally recognized. Staff notes it is now common for restaurants formerly not selling alcohol to express interest in selling beer and wine (ABC # 41), and for restaurants typically selling beer and wine to now seek the sale of liquor in addition to beer and wine (ABC # 47). Increasingly, many restaurants now do apply to operate as limited-service restaurant with sale of beer and wine, requiring a public hearing that often also involves a Variance for distance separation. Applicants have expressed concerns that the city's process is ambiguous and onerous. Additionally, restaurants on "restricted streets" routinely seek permission to sell alcohol, and dozens of hearings have been held. Therefore, due to a variety of factors and trends, staff considers the existing regulatory barriers to alcohol sales at "limited-service" and "restricted street" restaurants to be antiquated and in need of an update.

Such factors and trends include:

- Mismatch between City and ABC regulations; for example, the ABC does not differentiate between full-service and limited-service restaurant formats. By analogy, a previous mismatch for manufacturers such as breweries, were not bifurcated by the ABC for production and sales, has already been addressed in a Planning Code update;
- General trends in the restaurant industry in terms of both proliferation and format; that is, more restaurants are being established than in the past, as evidenced by many tenant improvements to install commercial kitchens, and, many restaurants are moving from a full-service to limited-service operating format;
- Operating expenses such as increasing rents and wages (the City has adopted a Minimum Wage Ordinance);
- Relaxation of other City alcohol regulations; for example, for off-sale in the Jack London District, floor-area to exempt distance separation between large retailers, and, for tasting rooms / bottle shops in manufacturers (breweries, wineries, distilleries, cideries, etc.);
- Equity in regulation of various districts throughout the City; a Major CUP involving a Planning Commission hearing applies to certain streets as opposed to zoning districts and/or activity types adding time and permitting costs to businesses seeking to operate in these areas;
- Reductions in number of liquor stores and bars, as well as related issues, in various districts throughout the City; in other words, the perception of alcoholic beverage sales-related nuisances has diminished in recent decades;

- Virtual lack of negative impacts by restaurants selling alcoholic beverages with their meals; that is, alcohol-related nuisances are not generally associated with restaurants as opposed to bars and liquor stores;
- Approval of numerous similar Variances; that is, many Variances for limited-service restaurants to serve alcoholic beverages within 1,000-feet of an alcohol outlet have been approved; and, therefore,
- An identification of the permitting process as inappropriate and therefore warranting an update.

Therefore, staff proposes:

- to eliminate the full-service restaurant requirement for inclusion of alcohol sales, and
- to eliminate the current CUP requirement for full-service restaurants to include alcohol sales on restricted streets.

This report will describe draft amendments that are proposed to update these regulations, and related issues, for Planning Commission consideration (**Attachment A**).

## **ANALYSIS AND POLICY ALTERNATIVES**

The following section summarizes the proposed changes to the Planning Code:

### **I. Amend the definition of "Full-service restaurant" in Planning Code Section 17.09.040.**

#### **17.09.040 Definitions.**

"**Full-service restaurant**" means a place ~~that~~ which is regularly and in a bona fide manner used and kept open for the serving of at least lunch and dinner to guests for compensation; and ~~that~~ which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals. The sale or service of sandwiches (whether prepared in a kitchen or made elsewhere and heated up on the premises) or snack foods shall not constitute a full-service restaurant. Also, see Sections 17.10.272 and 17.156.070.

**Staff Rationale:** *This amendment adds reference to the expanded full-service restaurant definitions under the Use Classification and Deemed Approved Alcoholic Beverage Sale Regulation chapters.*



**II. Amend Section 17.10.040, Accessory Activities.**

**17.10.040 Accessory activities.**

In addition to the principal activities expressly included therein, each activity type shall be deemed to include such activities as are customarily associated with, and are appropriate, incidental, and subordinate to, such a principal activity; are located on the same lot as such principal activity except as otherwise provided in Subsections A., J., and K. of this Section; and meet the further conditions set forth hereinafter. Such accessory activities shall be controlled in the same manner as the principal activities within such type except as otherwise expressly provided in the zoning regulations. Such accessory activities include, but are not limited to, the activities indicated below, but exclude the sale of alcoholic beverages to the general public except at a Full-Service Restaurant, Limited-Service Restaurant and Cafe, or at an alcoholic beverage manufacturer, as described in Sections 17.10.272, 17.10.274, 17.10.550, and 17.10.560, and subject to the standards in Section 17.103.030. (See also Section 17.10.050 for additional activities included within activity types in the case of combinations of different principal activities.)

**Staff Rationale:** *Currently, only 'Full-Service Restaurants' and 'alcoholic beverage manufacturers' are allowed to sell alcoholic beverages as an accessory activity. This change would allow 'Limited-Service Restaurants and Cafes' to also sell alcoholic beverages as an accessory activity. In addition, the amendment adds applicable references to the 'Full-Service Restaurant', 'Limited-Service Restaurant and Café', 'Custom Manufacturing', and 'Light Manufacturing' Use Classifications in Chapter 17.10.*

**III. Amend Section 17.10.272, Full-Service Restaurant Commercial Activities.**

**17.10.272 Full-Service Restaurant Commercial Activities.**

Full-Service Restaurant Commercial Activities include the provision of food or beverage services to patrons who order and are served while seated (table service), and pay after eating. Only a minor proportion, if any, of the food is sold for consumption off-premises. These restaurants have kitchens that contain equipment suitable for cooking an assortment of foods; and may include service of liquor, beer and/or wine, subject to the standards in Section 17.103.030. Also, see Sections ~~7.103.130~~ and 17.156.070 for definitions of a Full-Service Restaurant in relation to the Deemed Approved Alcoholic Beverage Sale regulations. ~~Alcoholic Beverage Sales~~. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**Staff Rationale:** *This proposed change would specify the types of alcohol sales allowed at a 'Full-Service Restaurant' (liquor, beer and/or wine); and could be a distinguishing factor from what is allowed at a 'Limited-Service Restaurant and Café', as described further in the next item. In addition, the amendment corrects the existing reference to the Deemed Approved Alcoholic Beverage Sale regulations in Chapter 17.156.*

**IV. Amend Section 17.10.274, Limited-Service Restaurant and Café Commercial Activities.**

**17.10.274 Limited-Service Restaurant and Cafe Commercial Activities.**

Limited-Service Restaurant and Cafe Commercial Activities include the provision of food or beverage services to patrons that generally order and pay at a service counter before eating. Food and beverages may be served in disposable containers and may be consumed on the premises or taken out. Seating for on-premises consumption is usually available and table service may or may not be provided. These restaurants may include service of beer and/or wine, subject to the standards in Section 17.103.030. Examples of these activities include, but are not limited to, cafes and restaurants that do not fall under Section 17.10.272 Full-Service Restaurant Commercial Activities, or Section 17.10.280 Fast-Food Restaurant Commercial Activities. Also, see Section 17.156.070 for definition of a Limited-Service Restaurant and Cafe in relation to the Deemed Approved Alcoholic Beverage Sale regulations. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**Staff Rationale:** *This change as currently proposed would specify that a 'Limited-Service Restaurant and Café' may include the sale of beer and/or wine only (no liquor). The City Council could recommend, alternatively, that full liquor be allowed in the Central District (Downtown and beyond up to 27th Street, where there is an Entertainment District and where alcohol regulations are less strict than in the neighborhood commercial districts); or allow full liquor at all Limited Service Restaurants and Cafés, regardless of location.*

**V. Amend Section 17.10.300, Alcoholic Beverage Sales Commercial Activities.**

**17.10.300 Alcoholic Beverage Sales Commercial Activities.**

Alcoholic Beverage Sales Commercial Activities include the retail sale, for on- or off-premises consumption, of liquor, beer, wine, or other alcoholic beverages, but exclude ~~full-service restaurants~~ Full-Service Restaurants, Limited-Service Restaurants and Cafes, and alcoholic beverage manufacturers that comply with their respective definition in Sections 17.10.272, 17.10.274, and 17.103.030. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**Staff Rationale:** *This change would clarify that the retail sale, for on- or off-premises consumption, of alcoholic beverages at a 'Limited-Service Restaurant and Café' would not be considered an Alcoholic Beverage Sales Commercial Activity, same as Full-Service Restaurants and alcoholic beverage manufacturers today, as long as the activity conforms to the definition of a Limited-Service Restaurant and Café in Section 17.10.274.*

**VI. Amend the title and content of Section 17.103.030.**

**Article III Commercial Activities**

~~17.103.030 Fast-Food Restaurant, and Convenience Market Commercial Activities, and Establishments Selling Alcoholic Beverages. Sales Commercial Activities.~~

**17.103.030 Fast-Food Restaurant, and Convenience Market Commercial Activities, and Establishments Selling Alcoholic Beverages. Sales Commercial Activities.**

A. Use Permit Criteria for Fast-Food Restaurants, Convenience Markets, and Establishments Selling Alcoholic Beverages. A Conditional Use Permit for any conditionally permitted Fast-Food Restaurant, Convenience Market, 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 additional use permit criteria:

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 10:00 p.m. and 7:00 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;~~

B. Special Restrictions on Establishments Selling Alcoholic Beverages.

1. No Alcoholic Beverage Sales Commercial Activity or sale of alcoholic beverages shall be located closer than one thousand (1,000) feet to any other establishment selling alcoholic beverages ~~Alcoholic Beverage Sales Commercial Activity~~ measured between closest building walls, except:

b. Off-sale retail licenses located in the Jack London District (defined for the purposes of this Chapter only as within the boundaries of Martin Luther King Jr. Way to the west, I-880 to the north; the Lake Merritt Channel to the east; and the Estuary to the south); or

c. If the activity is in conjunction with a Full-Service Restaurant or Limited-Service Restaurant and Cafe Commercial Activity; or

d. Establishments with twenty-five (25) or more full time equivalent (FTE) employees or a total floor area of twelve thousand (12,000) square feet or more; or

~~2. Sale of alcoholic beverages in conjunction with a Full-Service Restaurant Commercial Activity and located within any of the following restricted street 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:~~

~~International Boulevard; Foothill Boulevard; MacArthur Boulevard and West MacArthur Boulevard; that portion of San Pablo Avenue lying between Interstate 980 and 580; 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.~~

- ~~23.~~ In addition to the criteria prescribed elsewhere in the zoning regulations, a land use permit for an Alcoholic Beverage Sales Commercial Activity located within an Alcoholic Beverage Sales license overconcentrated area shall only be granted, and a finding of Public Convenience or Necessity made, if the proposal conforms to all of the following ~~three (3)~~ criteria:
- ~~34.~~ In addition to the above criteria, projects outside of the Central District, the Hegenberger Road Corridor, and the D-CO-2 and D-CO-3 Zones 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 twelve thousand (12,000) square feet or more:
- a. The proposed project is not within one thousand (1,000) feet of another alcohol outlet (not including Full-Service Restaurant and Limited-Service Restaurant and Cafe Commercial Activities), 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 percent (20%), the average of calls for police service in police beats Citywide during the preceding one (1) calendar year.
- ~~45.~~ See Chapter 17.156 for Deemed Approved Alcoholic Beverage Sale regulations.
5. Standards for Limited-Service Restaurant and Cafe Commercial Activities that include the service of alcoholic beverages:
- a. Hours of operation shall not exceed a closing time of 12:00 a.m., unless a Cabaret Permit is obtained.
  - b. Food service shall be offered at all times the Limited-Service Restaurant or Cafe is open, with the exception that the establishment may elect to close the kitchen one hour prior to closing.
  - c. Minors shall be admitted at all times, unless a Cabaret Permit is obtained.
  - d. No admission shall be charged, unless a Cabaret Permit is obtained.
  - e. Window clarity shall be maintained at or restored to seventy-five percent (75%) minimum.
  - f. Floor plan shall depict a dining area and no bar.
  - g. Off-sale (retail bottle sales of beer and / or wine) shall be considered with to-go food orders after a period of six (6) months of operation by same operator and upon completion of a satisfactory administrative compliance review.

- h. Sale of alcoholic beverages shall not exceed fifty percent (50%) of total revenues.
  - i. That where the proposed use is abutting and facing 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 10:00 p.m. and 7:00 a.m.
6. Applicants for projects involving alcohol sales are encouraged to conduct outreach early in the permit review process, including but not limited to, contact with the City Council District Office, Neighborhood Crime Prevention Council/NCPC (can be contacted through the City's Neighborhood Service Coordinators), merchant groups, and any other applicable neighborhood groups. Outcomes should be reported to the Planning Bureau in writing.

**Staff Rationale:** *The proposed changes to Section 17.103.030 described above would revise the existing special restrictions on establishments selling alcoholic beverages that staff has determined are antiquated and in need of reform:*

- *The "Restricted streets" provision (Section 17.103.030.B.2) would be eliminated from the Planning Code, and the underlying zoning requirements for restaurants apply. Any zoning district located on corridors permitting restaurants by-right would be able to also include the sale of alcoholic beverages without the current requirement for a Conditional Use Permit (CUP).*
- *Sections 17.103.030.B.1 and 17.103.030.B.3.a would be amended to specify that 'Limited-Service Restaurants and Cafes' are exempt from the 1,000-foot separation requirement, same as Full-Service Restaurants today.*
- *New standards applying to Limited-Service Restaurants and Cafes would be added (Section 17.103.030.B.5), in order to ensure that the sale of beer and wine at Limited-Service Restaurants and Cafes does not resemble a bar business in any way. Alternately, the City Council may choose to not recommend attaching special standards to Limited-Service Restaurants and Cafes that do not also apply to Full-Service Restaurants.*
- *The provision specifying that the sale of alcoholic beverages shall not exceed 50 percent of total revenues aligns with ABC requirements.*
- *The proposed new standards that: 1) limit hours of operation where the proposed use is abutting and facing residential uses, especially bedroom windows, and 2) encourage applicants to conduct community outreach, are both consistent with the typical criteria and conditions of approval the city currently applies to establishments selling alcoholic beverages.*

**VII. Amend Section 17.134.020, Definition of Major and Minor Conditional Use Permits**

**17.134.020 Definition of Major and Minor Conditional Use Permits.**

**17.134.020 Definition of Major and Minor Conditional Use Permits.**

**A. Major Conditional Use Permit.** A Conditional Use Permit (CUP) is considered a Major Conditional Use Permit if it involves any of the following:

2. **Uses.** Any project requiring a Conditional Use Permit 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 percent (20%):

a. Activities:

iv. Fast-Food Restaurant Commercial;

v. Convenience Market Commercial;

vi. Alcoholic Beverage Sales Commercial, ~~or sale of alcoholic beverages at any full-service restaurant in a location described by Subsection 17.103.030.B;~~

**Staff Rationale:** *This proposed change would remove the existing provision specifying that the sale of alcoholic beverages at any full-service restaurant on a "restricted street" requires a Major CUP. As stated earlier, many restaurants on "restricted streets" routinely seek permission to sell alcohol, and dozens of public hearings have been held. Applicants have expressed concerns that the existing process is time consuming, expensive, and onerous. Therefore, due to a variety of factors and trends, staff considers the existing regulatory barriers to alcohol sales on "restricted street" restaurants to be antiquated and in need of an update.*

**Key Issues And Impacts**

Currently, certain permits are onerous for restaurants to obtain. With proposed changes, there may be more restaurants selling alcoholic beverages (especially beer and wine). Staff does not anticipate issues historically associated with certain bars and liquor stores as a result of this change.

Staff suggests the City Council review the amendments recommended for approval by the Planning Commission and approve the Planning Code Amendments. Current conditions are restrictive to small businesses as well as inequitable to entrepreneurs wishing to establish restaurants along certain street corridors.

Alternately, the City Council may choose to make more sweeping changes, such as allowing full liquor at Limited-Service Restaurants and Cafés located in the Central District only (defined as

within the boundaries of I-980 and Brush street to the west; both sides of 27th Street to the north; Harrison Street/Lake Merritt and the Lake Merritt Channel to the east; and the Estuary to the south - where there is an Entertainment District and where alcohol regulations are less strict than in the neighborhood commercial districts); or allowing full liquor at *all* Limited-Service Restaurants and Cafés, regardless of location.

### **FISCAL IMPACT**

The draft ordinances would have no direct fiscal impact on the City. Existing staffing will be sufficient to process development applications, anticipated to decrease as a result of regulation by the draft zoning code amendments, which are the subject of this report. No additional costs are expected to be incurred by the Development Service Fund.

### **PUBLIC OUTREACH / INTEREST**

Public notice was provided for Planning Commission and Community and Economic Development Committee hearings, and notice was posted in the newspaper and online. Public notice will also be provided for the City Council public hearings.

### **COORDINATION**

This agenda report and legislation was reviewed by the Office of the City Attorney and the Bureau of Planning.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** The changes incentivize establishment and enhancement of restaurant businesses throughout the City.

***Environmental:*** As the proposed Ordinance is solely for Planning Code Amendments and not a development project, the proposal will not have a detrimental environmental effect. Each development project would need to comply with CEQA.

***Social Equity:*** Elimination of “restricted streets” will make the Planning Code more equitable.

### **CEQA**

The proposed amendments to the Planning Code rely on the previous set of applicable California Environmental Quality Act (CEQA) documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Wood Street EIR (2005), Transportation Element

of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); The Redevelopment Area EIRs, West Oakland (2003), Central City East (2003), and Coliseum (1995); the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively "Previous CEQA Documents"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163.

The proposed amendments to the Planning Code would not result in any significant effect that has not already been analyzed in the Previous CEQA Documents, and there will be no significant environmental effects caused by the change that have not already been analyzed in the Previous CEQA Documents. As a result, none of the circumstances necessitating preparation of additional environmental review, as specified in CEQA and the CEQA Guidelines, including, without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 or 15163 are present in that: (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the Previous CEQA Documents due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance," as defined in CEQA Guidelines Section 15162(a)(3).

Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Section 15183 (projects consistent with General Plan and Zoning). The proposal is also exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) (general rule, no significant effect on the environment).



**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Conduct A Public Hearing And, Upon Conclusion, Adopt An Ordinance Amending the Planning Code (Title 17) to Update Regulations for Restaurants Serving Alcoholic Beverages, Under Chapters 17.09, 17.10, 17.103, 17.134, and 17.156, as Recommended By the Planning Commission.

For questions regarding this report, please contact Aubrey Rose AICP, Planner III at (510) 238-2071 or [arose@oaklandca.gov](mailto:arose@oaklandca.gov)

Respectfully submitted,



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Aubrey Rose AICP, Planner III  
Planning Bureau

*Attachment (1):*

*A: Planning Commission staff report and attachments*

Item: \_\_\_\_\_  
CED Committee  
March 5, 2019

# Attachment A: Planning Commission Staff Report and Attachments

<b>Location:</b>	Citywide – unless otherwise stated
<b>Proposal:</b>	Discussion of proposed Zoning Text Amendments to amend regulations for sale of alcoholic beverages at restaurants; specifically, pertaining to operating characteristics (service format) and geographic locations (restricted streets) under OMC Sec. 17.10 and 17.103.030.
<b>Applicant:</b>	City Planning Commission
<b>Case File Number:</b>	ZA18017
<b>Planning Permits Required:</b>	Zoning Text Amendment pursuant to OMC 17.144
<b>General Plan:</b>	Various Citywide
<b>Zoning:</b>	Various Citywide
<b>Environmental Determination:</b>	The proposed amendments to the Planning Code rely on a number of previously adopted and certified program-level CEQA documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Wood Street EIR (2005); Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs - West Oakland (2003), Central City East (2003), and Coliseum (1995); the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA Documents"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).
<b>Council District:</b>	All Council Districts
<b>Action to be taken:</b>	Direct staff to revise draft as necessary and forward to City Council
<b>For further information:</b>	Contact case planner <b>Aubrey B Rose AICP</b> at (510) 238-2071 or <a href="mailto:arose@oaklandca.gov">arose@oaklandca.gov</a>

**SUMMARY**

Staff has drafted an Ordinance to amend Planning Code regulations for sale of alcoholic beverage sales at restaurants. As described in this report, these regulations for restaurants pertain to their operating characteristics (service format) and geographic locations (restricted streets). This effort is based on combined input by the Planning Commission, Councilmembers, merchants, City departments, and Planning staff. Staff requests the Planning Commission review proposed regulations and forward the item to the City Council with a recommendation. (**ATTACHMENT A – Proposed Zoning Text Amendments**)

## **BACKGROUND**

In 1977, the City of Oakland adopted zoning regulations for alcoholic beverage sales (Ord. 9554). Under these regulations, sale of alcoholic beverages at new markets and bars requires a Conditional Use Permit. For restaurants, however, sale of alcoholic beverages (“alcohol”) is included with a zoning approval if the establishment operated under a “full-service” format. A rationale is that, while historically there have been some negative impacts by certain alcohol outlets in Oakland and other cities, the likelihood would be greatly decreased with a full-service establishment. This is for a variety of reasons, such as relative product costs and staffing. In most zoning districts, restaurants can often be permitted at the counter; therefore, alcohol sales with a restaurant can often be permitted without further zoning approvals involving fees, public notices, and hearings. To permit a restaurant to include alcohol sales over the zoning counter, Planning Bureau staff determines a restaurant to be “full-service” based on factors such as floor plan (namely, depiction of a dining room with one cash register and no queuing areas) and menu items (namely, inclusion of dinner entrees). For a limited service restaurant, however, the alcohol component is treated as a stand-alone alcohol sales land use; this means that many delicatessens, pizzerias, and burrito shops cannot serve alcohol without fees and a hearing; historically, likely due to the process, relatively few have applied. (**ATTACHMENT B – Existing Zoning Regulations**)

However, in many other cities, limited service restaurants are automatically granted zoning approval to sell beer and wine. Furthermore, in order to license a restaurant operator in California, the ABC does not distinguish between full and limited service. The primary requirement is that a premise be a “bona fide public eating place” with a maximum of fifty-percent of revenues derived from alcohol sales (50/50). Typical ABC permits for restaurants are the license type 41 (restaurant with beer and wine up to 24% alcohol content / 48 proof) and type 47 (restaurant with liquor, beer and wine). Therefore, not all restaurants need be approved for a full bar including liquor inside the establishment to pull an ABC permit; in fact, the majority of restaurants only sell beer and wine. (**ATTACHMENT C – ABC Common Restaurant License Types**)

Furthermore, in 1992, Oakland zoning regulations for alcohol at restaurants were made stricter (Ord. 11491): the code update required restaurants on certain major corridors (or “restricted streets,” including MacArthur Blvd., International Blvd., Foothill Blvd., and San Pablo Ave.) to obtain a Conditional Use Permit from the Planning Commission in order to sell alcohol with their meals. Previous Councilmembers, Commissioners, and Planners may have selected these streets due to the fact that, at that time, as they matched corridors where special restrictions applied to new alcohol outlets (that is, one thousand feet distance separation; this requirement has subsequently been amended to include to all streets not located Downtown; the distance separation does not apply to off-sale / markets in the Jack London District, on-sale / bars throughout the Central District consisting of Downtown and beyond to 27<sup>th</sup> Street, and, at larger outlets such as as major supermarket or drug store). In 1993, the description of a full-service restaurant was elaborated in the Planning Code with the adoption of Deemed Approved Ordinance for legal nonconforming alcohol sales outlets (Ord. 11624), including a 60/40 provision. In 2011, “restaurant” was made its own classification, when the code update separated restaurants from the combined classification of “General Food Sales” (including markets) to “Full Service Restaurant” and “Limited Service Restaurant.” (Ord. 13064) More recently, the “restricted streets” public hearing requirement was eliminated for most of San Pablo Avenue, with no known issues (Ord. 13172). (**ATTACHMENT D - Prior Ordinances**)

In recent years, numerous restaurants have been established or upgraded throughout the City. This is to the extent that Oakland is now a culinary destination in the region, and the phenomenon is nationally recognized. Staff notes it be to be common for restaurants formerly not selling alcohol to express interest in sale of beer and wine (ABC # 41), and for restaurants typically selling beer and wine to now seek sale of liquor in addition to beer and wine (ABC # 47). Increasingly, many restaurants now do apply to operate as limited-service with sale of beer and wine, requiring a hearing that often also involves a Variance for distance separation. Applicants have expressed concerns that the process is ambiguous and onerous. Additionally, restaurants on "restricted streets" routinely desire sale of alcohol, and dozens of hearings have been held. Therefore, due to a variety of factors and trends, staff considers the regulatory barriers to alcohol sales at limited service and "restricted streets" restaurants to be antiquated and in need of an update.

Such factors and trends include:

- Mismatch between City and ABC regulations;
- General trends in the restaurant industry in terms of both proliferation and format;
- Operating expenses such as increasing rents and wages (the City has adopted a Minimum Wage Ordinance);
- Relaxation of other City alcohol regulations;
- Equity in regulation of various districts throughout the City
- Reductions in number of liquor stores and bars, as well as related issues, in various districts throughout the City;
- Virtual lack of negative impacts by restaurants selling alcoholic beverages with their meals;
- Approval of numerous similar Variances; and, therefore,
- An identification of the permitting process as inappropriate and therefore warranting an update.

Therefore, staff proposes to eliminate the full-service requirement for inclusion of alcohol sales, and, to eliminate the CUP requirement for restaurants on restricted streets. This report will describe draft amendments that are proposed to update these regulations, and related issues, for Planning Commission consideration.

**(ATTACHMENT E - ABC Statistics for Restaurants in Oakland)**

## **PROPOSAL**

Following is a brief description of proposed Planning Code amendments, by section:

### **17.09.040 Definitions. "Full-service restaurant"**

Update to reference expanded definitions under Use Classification, and, Deemed Approved Alcoholic Beverage Sale Regulation chapters.

### **17.10.040 Accessory activities.**

Update to include beer and wine sales as accessory to limited service restaurants and cafes, not a separate

use classification, as with full-service restaurants.

**17.10.272 Full Service Restaurant Commercial Activities.**

Update to include references.

**17.10.274 Limited Service Restaurant and Cafe Commercial Activities.**

Update to allow beer and wine, or full liquor in the Central District (Downtown and beyond up to 27<sup>th</sup> Street, where there is an Entertainment District and where alcohol regulations are less strict than for neighborhood commercial districts). Alternately, the Planning Commission may recommend restrictions to limited service restaurants and cafes located in and around Downtown to beer and wine only and exclude liquor, or, allow full liquor at all restaurants.

**17.103.030 Fast-Food Restaurant, Convenience Market, and Establishments Selling Alcoholic Beverages Sales Commercial Activities.**

**B. Special Restrictions on Establishments Selling Alcoholic Beverages.**

~~2. Sale of alcoholic beverages in conjunction with a Full Service Restaurant Commercial Activity and located within any of the following restricted street 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: International Boulevard; Foothill Boulevard; MacArthur Boulevard and West MacArthur Boulevard; that portion of San Pablo Avenue lying between Interstate 980 and 580; 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.~~

“Restricted streets” section eliminated from Planning Code; underlying zoning requirements for restaurants applies. Zoning districts conditionally permitting restaurants, such as certain CN Neighborhood Commercial zones, to handle all aspects of sale of alcoholic beverages under Conditional Use Permit or nonconforming use regulations as applicable. Any zoning district located on said corridors permitting restaurants by-right would now be also include sale of alcoholic beverages with not public notice and / or hearing (Zoning Clearance only). Alternately, the Planning Commission may choose to recommend requiring a Minor Conditional Use Permit along “restricted streets” requiring a public notice but no hearing.

**6. Standards for Limited Service Restaurants/Cafes serving alcoholic beverages**

New standards applying to limited service restaurants and cafes, in order to allow sale of beer and wine without resembling a bar business in any way. Alternately, the Planning Commission may choose to not recommend attaching special standards to limited service restaurants and cafes serving beer and wine that do not apply to full-service restaurants serving full liquor.

**a. Hours of operation shall not exceed the closing time of 12:00 A.M. unless a Cabaret Permit is obtained.**

**b. Food service shall be offered at all times the restaurant is open with the exception that the establishment may elect to close the kitchen one hour prior to closing.**

Full-service restaurants may close their kitchen two hours prior to closing.

**c. Minors shall be admitted at all times unless a Cabaret Permit is obtained.**

**d. No admission shall be charged unless a Cabaret Permit is obtained.**

Some restaurants are licensed Cabarets especially Friday and Saturday evenings; typically, however, these would be full-service restaurants

**e. Window clarity shall be maintained at or restored to 75% minimum.**

This is to prevent excessive alcoholic beverage advertising signage to be installed in restaurant windows.

**f. Floor plan shall depict a dining area, and, no bar.**

**g. Off-sale (retail bottle sales of beer and / or wine) shall be considered with to-go food orders after a period of six (6) months of operation by same operator and upon completion of a satisfactory administrative compliance review.**

ABC license types 41 and 47 allow bottle sales of beer and wine; the intent of the zoning regulation is that the license not be used to sell alcohol in excessive quantities and / or not in conjunction with food.

**h. Sale of alcoholic beverages shall not exceed fifty-percent (50%) of revenues.**

This aligns with ABC requirements.

**i. That where the proposed use is abutting and facing 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 10:00 p.m. and 7:00 a.m.**

This is included in additional Conditional Use Permit criteria for establishments selling alcoholic beverages.

**j. Applicants are encouraged to conduct outreach to the City Council District Office, Neighborhood Crime Prevention Council/NCPC (can be contacted through the City's Neighborhood Service Coordinators), merchant groups, and any other neighborhood groups; and, to remain available for contact.**

This is as a practice often applied to Conditional Use Permit reviews for establishments selling alcoholic beverages.

#### 17.134.020 Definition of major and minor conditional use permits.

**A. Major Conditional Use Permit.** A conditional use permit is considered a major conditional use permit if it involves any of the following:

**2. Uses.** Any project requiring a conditional use permit 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 percent (20%):

**a. Activities:**

**vi. Alcoholic Beverage Sales Commercial, ~~or sale of alcoholic beverages at any full-service restaurant in a location described by Subsection 17.103.030.B~~**

"Restricted street" restaurants are removed from the list of "major" permits requiring a Planning Commission hearing.

## **KEY ISSUES AND IMPACTS**

Staff finds no issues or impacts with this proposed Zoning Text Amendment. Staff suggests the Planning Commission exercise one of the following options, recommending Option 1:

- OPTION 1: Forward staff's proposal as a draft Ordinance to the City Council with a recommendation of approval;
- OPTION 2: Direct staff to make specific revisions to the draft Ordinance and forward to City Council with a recommendation of approval;
- OPTION 3: Direct staff to make specific revisions to the draft Ordinance and return to the Planning Commission; or,
- OPTION 4: Direct staff to make no changes to zoning regulations for alcoholic beverages at restaurants, and to advise interested parties.

## **ENVIRONMENTAL ANALYSIS**

The proposed amendments to the Planning Code rely on a number of previously adopted and certified program-level CEQA documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Wood Street EIR (2005); Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs - West Oakland (2003), Central City East (2003), and Coliseum (1995); the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA Documents"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).



**RECOMMENDATIONS**

Staff requests that the Planning Commission:

1. Affirm staff's environmental determination, and
2. Recommend that the City Council Approve the proposed zoning code amendments related to sale of alcoholic beverages at restaurants

Prepared by:

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AUBREY B ROSE, AICP  
Planner III / Zoning Counter Supervisor

Reviewed by:

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ROBERT MERKAMP  
Acting Zoning Manager

Approved for forwarding to the  
City Planning Commission:

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ED MANASSE, Acting Deputy Director  
Planning Bureau

**ATTACHMENTS:**

- A. Proposed Zoning Text Amendments
- B. Existing Zoning Regulations
- C. ABC Common Restaurant License Types
- D. Prior Ordinances
- E. ABC Statistics for Restaurants in Oakland

## ATTACHMENT A

### **17.09.040 Definitions.**

**"Full-service restaurant"** means a place which is regularly and in a bona fide manner used and kept open for the serving of at least lunch and dinner to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals. The sale or service of sandwiches (whether prepared in a kitchen or made elsewhere and heated up on the premises) or snack foods shall not constitute a full-service restaurant. Also, see Sections 17.10.272 and 17.156.070.

### **17.10.040 Accessory activities.**

In addition to the principal activities expressly included therein, each activity type shall be deemed to include such activities as are customarily associated with, and are appropriate, incidental, and subordinate to, such a principal activity; are located on the same lot as such principal activity except as otherwise provided in Subsections A., J., and K. of this Section; and meet the further conditions set forth hereinafter. Such accessory activities shall be controlled in the same manner as the principal activities within such type except as otherwise expressly provided in the zoning regulations. Such accessory activities include, but are not limited to, the activities indicated below, but exclude the sale of alcoholic beverages to the general public except at a ~~full-service-restaurant~~ as described in Sections 17.10.273 and 17.10.274 or at an alcoholic beverage manufacturer, as described in Sections 17.10.550, 17.10.560, and 17.103.030. (See also Section 17.10.050 for additional activities included within activity types in the case of combinations of different principal activities.)

### **17.10.272 Full Service Restaurant Commercial Activities.**

Full Service Restaurant Commercial Activities include the provision of food or beverage services to patrons who order and are served while seated (table service), and pay after eating. Only a minor proportion, if any, of the food is sold for consumption off-premises. These restaurants have kitchens that contain equipment suitable for cooking an assortment of foods. Also, see Sections 17.103.130 and 17.156.070 for definitions of a full-service restaurant in relation to Alcoholic Beverage Sales. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

### **17.10.274 Limited Service Restaurant and Cafe Commercial Activities.**

Limited Service Restaurant and Cafe Commercial Activities include the provision of food or beverage services to patrons that generally order and pay at a service counter before eating. Food and beverages may be served in disposable containers and may be consumed on the premises or taken out. Seating for on-premises consumption is usually available and table service may or may not be provided. May include service of beer and/or wine (typically, ABC license type 41). Examples of these activities include, but are not limited to, cafes and restaurants that do not fall under 17.10.272 Full Service Restaurant or 17.10.280 Fast-food Restaurant Commercial Activities. Also, see Sections 17.103.130 and 17.156.070 for definitions of a limited-service restaurant or café in relation to sale of alcoholic beverages. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**17.103.030 Fast-Food Restaurant, Convenience Market, and Establishments Selling Alcoholic Beverages Sales Commercial Activities.**

**B. Special Restrictions on Establishments Selling Alcoholic Beverages.**

~~2. Sale of alcoholic beverages in conjunction with a Full Service Restaurant Commercial Activity and located within any of the following restricted street 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: International Boulevard; Foothill Boulevard; MacArthur Boulevard and West MacArthur Boulevard; that portion of San Pablo Avenue lying between Interstate 980 and 580; 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.~~

6. Standards for Limited Service Restaurants/Cafes serving alcoholic beverages

a. Hours of operation shall not exceed the closing time of 12:00 A.M., unless a Cabaret Permit is obtained.

b. Food service shall be offered at all times the restaurant is open with the exception that the establishment may elect to close the kitchen one hour prior to closing.

c. Minors shall be admitted at all times, unless a Cabaret Permit is obtained.

d. No admission shall be charged, unless a Cabaret Permit is obtained.

e. Window clarity shall be maintained at or restored to 75% minimum.

f. Floor plan shall depict a dining area, and, no bar.

g. Off-sale (retail bottle sales of beer and / or wine) shall be considered with to-go food orders after a period of six (6) months of operation by same operator and upon completion of a satisfactory administrative compliance review.

h. Sale of alcoholic beverages shall not exceed fifty-percent (50%) of revenues.

i. That where the proposed use is abutting and facing 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 10:00 p.m. and 7:00 a.m.

j. Applicants are encouraged to conduct outreach to the City Council District Office, Neighborhood Crime Prevention Council/NCPC (can be contacted through the City's Neighborhood Service Coordinators), merchant groups, and any other neighborhood groups; and, to remain available for contact.

**17.134.020 Definition of major and minor conditional use permits.**

**A. Major Conditional Use Permit.** A conditional use permit is considered a major conditional use permit if it involves any of the following:

**2. Uses.** Any project requiring a conditional use permit 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 percent (20%):

a. Activities:

vi. ~~Alcoholic Beverage Sales Commercial, or sale of alcoholic beverages at any full-service restaurant in a location described by Subsection 17.103.030.B;~~

3. "Either...or" indicates that the connected items or provisions shall apply singly but not in combination.
- I. All public officials, bodies, and agencies to which reference is made are those of the city of Oakland unless otherwise indicated.
- J. The word "city" means the City of Oakland.  
(Ord. 12054 § 1(c), 1998; prior planning code § 2101)

#### 17.09.030 Use classifications.

Activity types and facility types, the names of which always start with capital letters, are described in the use classifications in Chapter 17.10.

(Ord. 12054 § 1(c), 1998; prior planning code § 2102)

#### 17.09.040 Definitions.

**"A' weighted sound level"** means the total sound level in decibels of all sound as measured with a sound level meter with a reference pressure of twenty (20) micropascals using the 'A' weighted network (scale) at slow response. The unit of measurement shall be defined as dBA or dB(a).

**"Access facility width"** means the width of the paved roadway surface curb-to-curb or edge-to-edge, exclusive of shoulders.

**"Accessory activity"** means an activity which is incidental to, and customarily associated with, a specified principal activity, and which meets the applicable conditions set forth in Section 17.10.040.

**"Accessory facility"** means a facility, other than a Sign, which is incidental to, and customarily associated with, a specified principal facility, and which meets the applicable conditions set forth in Section 17.10.070.

**"Accessory structure"** means a building or facility, other than a Sign, which is incidental to, and customarily associated with, a specified principal facility, and which meets the applicable regulations set forth in Title 17 of the Oakland Planning Code.

**"Activity"** means the performance of a function or operation.

**"Activity type"** means a type of activity which is specially described as such by the use classifications in Chapter 17.10 on the basis of common functional characteristics and similar effects on other uses, and which is designated throughout the zoning regulations by a special name each word of which starts with a capital letter.

**"Adult entertainment activity"** means any commercial activity, whether conducted intermittently or full-time, which primarily involves the sale, display, exhibition, or viewing of books, magazines, films, photographs, or other materials, distinguished or characterized by an emphasis on matter depicting, describing, or relating to human sex acts, or by emphasis on male or female genitals, buttocks, or female breasts.

**"Alcoholic beverage"** means alcohol, spirits, liquor, wine, beer, or any liquid or solid containing alcohol, spirits, wine, or beer, which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

**"Alcoholic beverage license overconcentrated areas"** means a police beat with crime rates that exceed the City median by twenty (20) percent or more or a census tract in which the per capita number of on-sale or off-sale retail Alcoholic Beverage Sales licenses exceeds the Alameda County median.

**"Alley"** means a dedicated public way intended primarily to provide secondary vehicular access to abutting properties.

**"Alteration"** means any enlargement; addition; demolition; removal; relocation; repair; remodeling; change in number of living units; development of or change in an open area; development of or change in a Sign, by painting or otherwise; or other change in a facility, but excluding painting except as provided above for Signs, and ordinary maintenance for which no building permit is required.

**"Ambient noise level"** means the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding any alleged offensive noise. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location.

**"Area Damaged by the 1991 Firestorm"** means all of that area situated: beginning at the intersection of Claremont Avenue and the westerly line of the University of California, Berkeley campus, thence southerly along said westerly property line of the University of California campus to Grizzly Peak Boulevard; thence southeasterly on Grizzly Peak Boulevard to the most westerly line of the Robert Sibley Volcanic Regional Preserve; thence due south to Skyline Boulevard; thence westerly on Skyline Boulevard to Broadway Terrace; thence southwest on Broadway Terrace to Farallon Way; thence southwest on Farallon Way and the extension of Farallon Way to Pinehaven Road; thence westerly on Pinehaven Road to Broadway Terrace; thence southerly on Broadway Terrace to Uranus Avenue; thence east on Uranus Avenue to Sherwood Drive; thence south on Sherwood Drive to Taurus Avenue; thence west on Taurus Avenue approximately six hundred fifty (650) feet to a path connecting Taurus Avenue and Capricorn Avenue; thence south along said path to Capricorn Avenue; thence south on Capricorn Avenue to Florence Terrace; thence north and west on Florence Terrace and an extension of Florence Terrace across Highway 13 to Estates Drive; thence west on Estates Drive to Masonic Avenue; thence south on Masonic Avenue to Amy Drive; thence southwest on Amy Drive to Harbord Drive; thence southeast on Harbord Drive to Maxwelton Road; thence southwest on Maxwelton Road to the Oakland-Piedmont border; thence northwest along said Oakland-Piedmont border to Clarewood Drive; thence northwest on Clarewood Drive to Broadway Terrace; thence west on Broadway Terrace to Margarido Drive; thence north and east on Margarido Drive to Rockridge Boulevard South; thence west on Rockridge Boulevard South to Rockridge Boulevard; thence west on Rockridge Boulevard to Broadway; thence north on Broadway to Golden Gate Avenue; thence north on Golden Gate Avenue to Chabot Road; thence along the extension of Golden Gate Avenue to the Oakland-Berkeley border; thence along said Oakland-Berkeley border to the intersection of said Oakland-Berkeley border with Claremont Avenue; thence northeast on Claremont Avenue to the point of beginning.

**"Area of Primary Importance" or "API"** means an area as defined by the Historic Preservation Element of the General Plan.

**"Area of Secondary Importance" or "ASI"** means an area as defined by the Historic Preservation Element of the General Plan.

**"Attic"** means a space between the roof framing and the floor of such space and which is excluded from the definition of "story."

- Custom Manufacturing
- Light Manufacturing
- General Manufacturing
- Heavy/High Impact Manufacturing
- Research and Development
- Construction Operations
- Warehousing, Storage and Distribution
- Regional Freight Transportation
- Trucking and Truck-Related
- Recycling and Waste-Related
- Hazardous Materials Production, Storage and Waste Management

E. Agricultural and Extractive Activities:

- Plant Nursery
- Limited Agriculture
- Extensive Agriculture
- Mining and Quarrying

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12138 § 4 (part), 1999; Ord. 12072 § 4, 1998; Ord. 11904 § 5.02, 1996; prior planning code § 2210)

**17.10.040 Accessory activities.**

In addition to the principal activities expressly included therein, each activity type shall be deemed to include such activities as are customarily associated with, and are appropriate, incidental, and subordinate to, such a principal activity; are located on the same lot as such principal activity except as otherwise provided in Subsections A., J., and K. of this Section; and meet the further conditions set forth hereinafter. Such accessory activities shall be controlled in the same manner as the principal activities within such type except as otherwise expressly provided in the zoning regulations. Such accessory activities include, but are not limited to, the activities indicated below, but exclude the sale of alcoholic beverages to the general public except at a full-service restaurant or at an alcoholic beverage manufacturer, as described in Sections 17.10.550, 17.10.560, and 17.103.030. (See also Section 17.10.050 for additional activities included within activity types in the case of combinations of different principal activities.)

- A. Off-street parking and loading serving a principal activity, whether located on the same lot thereas or on a different lot, but only if the facilities involved are reserved for the residents, employees, patrons, or other persons participating in the principal activity;

**17.10.050 Classification of combinations of principal activities.**

The following rules shall apply where a single lot contains activities which resemble two or more different activity types and which are not classified by Section 17.10.040 as accessory activities:

- A. **Separate Classification of Each Establishment.** The principal activities conducted on a single lot by each individual establishment, management, or institution shall be classified separately.
- B. **Separate Classification of Different Major Classes of Activities Conducted by Single Establishment.** If the principal activities conducted on a single lot by a single establishment, management, or institution resemble two or more different major classes of activities—Residential, Civic, Commercial, Industrial, or Agricultural and Extractive Activities—the principal activities resembling each major class shall be classified separately.
- C. **Classification of Different Activities within Same Major Class, Conducted by Single Establishment.** If principal activities conducted on a single lot by a single establishment, management, or institution resemble two or more different activity types within the same major class of activities, all such principal activities shall be classified in the activity type within said class the description of which type most closely portrays the overall nature of such activities. However, when they have any of the characteristics of Utility and Vehicular, Health Care, or Extensive Impact Civic Activities; Alcoholic Beverage Sales or General Wholesale Sales Commercial Activities; General Manufacturing, Heavy/High Impact Manufacturing, or Warehousing, Storage, and Distribution-Automotive Salvage/Junk Yards Industrial Activities; or Limited Agriculture, Extensive Agriculture, or Mining and Quarrying Agricultural or Extractive Activities, all such principal activities within the same major class of activities as any of such types shall be classified within that one of such types the description of which most closely portrays said principal activities; except that all such Industrial Activities shall be classified within the Warehousing, Storage, and Distribution-Automotive Salvage/Junk Yards Industrial Activities type if they have any of its characteristics, and all such Industrial Activities shall be classified within the Heavy/High Impact Industrial Activities type if they have any of its characteristics.
- D. **Classification of Different Activities within the Same Major Class Conducted on the Site of an Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activity.** All principal activities conducted on the site of an Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activity shall be classified as Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities regardless of separate ownership or management, unless said principal activity is listed as a Conditionally Permitted Activity pursuant to the individual zone regulations and such principal activity requires a Major Conditional Use Permit pursuant to Section 17.134.020.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; prior planning code § 2213)

**17.10.060 Listing of facility classifications.**

All facilities are classified into the following facility types, which are described in Section Article III of this Chapter. (See Section 17.10.080 for classification of combinations of facilities



**17.10.260 General description of Commercial Activities.**

Commercial Activities include the distribution and sale or rental of goods; the provision of services other than those classified as Civic Activities; and the administrative and research operations of private, profit-oriented firms, other than public utility firms. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009)

**17.10.270 General Food Sales Commercial Activities.**

General Food Sales Commercial Activities include the retail sales of food or beverages for off-site preparation and consumption. This classification includes, but is not limited to, the following:

- A. Supermarkets or grocery stores that offer a variety of food items for home consumption such as a combination of fresh fruits, vegetables, breads, meat, dairy products, cereals, pastas, and prepackaged foods. Generally, grocery stores are a minimum five thousand (5,000) square feet and have a minimum twenty percent (20%) of net retail floor area devoted to the display of fresh fruits and vegetables and/or fresh meats, whichever is greater.
- B. Stores specializing in particular or distinctive food items, including but not limited to, retailers whose primary business maintains an inventory of specialty, gourmet, health, or ethnic food items. Examples of activities in this classification include, but are not limited to, the following:
  - Gourmet food stores;
  - Bakeries;
  - Butchers;
  - Specialty food stores;
  - Fish and poultry shops;
  - Produce markets;
  - Delicatessens (may include sandwich shops in conjunction with the sale of other delicatessen products);
  - Health food stores.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

**17.10.272 Full Service Restaurant Commercial Activities.**

Full Service Restaurant Commercial Activities include the provision of food or beverage services to patrons who order and are served while seated (table service), and pay after eating. Only a minor proportion, if any, of the food is sold for consumption off-premises. These

restaurants have kitchens that contain equipment suitable for cooking an assortment of foods. Also, see Sections 17.103.130 and 17.156.070 for definitions of a full-service restaurant in relation to Alcoholic Beverage Sales. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

#### **17.10.274 Limited Service Restaurant and Cafe Commercial Activities.**

Limited Service Restaurant and Cafe Commercial Activities include the provision of food or beverage services to patrons that generally order and pay before eating. Food and beverages may be served in disposable containers and may be consumed on the premises or taken out. Seating for on-premises consumption is usually available and table service may or may not be provided. Examples of these activities include, but are not limited to, cafes and restaurants that do not fall under 17.10.272 Full Service Restaurant or 17.10.280 Fast-food Restaurant Commercial Activities. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

#### **17.10.280 Fast-Food Restaurant Commercial Activities.**

- A. Fast-Food Restaurant Commercial Activities include the retail sale of ready-to-eat prepared foods and beverages, for on- or off-premises consumption, whenever the foods and beverages are available upon a short waiting time and are primarily served in or on disposable wrappers, containers, or plates. Fast-Food Restaurants may also exhibit other design and operating characteristics, including: (1) a limited menu; (2) food is typically ordered and served at a service counter; (3) food is paid for prior to consumption; (4) the facility in which the activity/use is occurring provides a take-out counter space and space for customer queuing. They also include certain activities accessory to the above, as specified in Section 17.10.040.
- B. Except as may otherwise be allowed in Oakland Municipal Code (OMC) Chapters 5.49, 5.51, 8.09, and 9.52, the sale of ready-to-consume prepared foods from trucks, pushcarts or other movable equipment located on public or private property on a semi-permanent basis during hours of operation. Vehicular food vending generally has the following characteristics:
- Food is ordered and served from a take-out counter that is integral to the catering truck;
  - Food is paid for prior to consumption;
  - Catering trucks, pushcarts or other movable equipment from which the food is sold typically have a take-out counter and space for customer queuing;
  - Food and beverages are served in disposable wrappers, plates or containers; and
  - Food and beverages are prepared and sold for off-site consumption.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

**Editor's note—**

Ord. No. 13064, § 2(Exh. A), adopted March 15, 2011, renumbered the former Sections 17.10.280 (Convenience market commercial activities) and 17.10.290 (Fast-food restaurant commercial activities) as Sections 17.10.290 and 17.10.280, respectively. The historical notation has been preserved for reference purposes.

**17.10.290 Convenience Market Commercial Activities.**

Convenience Market Commercial Activities include the retail sale of food, beverages, and small personal convenience items, primarily for off-premises consumption and typically found in establishments with long or late hours of operation and a relatively small building; but exclude delicatessens and other specialty food shops, establishments that have a sizeable amount of highly perishable items such as fresh fruits and vegetables, fresh-cut meat. In general, "late hours of operation" means businesses that stay open until or after 10:00 p.m. or at or before 7:00 a.m.; "relatively small building" means a building that is less than five thousand (5,000) square feet; and "a sizeable amount of highly perishable items" means at least twenty percent (20%) of net retail floor area devoted to fresh fruits and vegetables and/or fresh meats, whichever is greater, devoted to these products. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009)

**Editor's note—**

See editor's note at Section 17.10.280

**17.10.300 Alcoholic Beverage Sales Commercial Activities.**

Alcoholic Beverage Sales Commercial Activities include the retail sale, for on- or off-premises consumption, of liquor, beer, wine, or other alcoholic beverages, but exclude full-service restaurants and alcoholic beverage manufacturers. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009)

**17.10.320 Mechanical or Electronic Games Commercial Activities.**

Mechanical or Electronic Games Commercial Activities include the provision of pinball machines, video game devices, or other mechanical or electronic games, as defined in the Oakland Municipal Code, where the games can be played or operated by the public or by customers; but exclude the provision of such games in a pool or billiard room or bowling alley for which a permit is required pursuant to Chapter 5.02 of the Oakland Municipal Code and from which persons under eighteen (18) years of age are barred at all times by the owner or operator, or in 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.

**17.103.030 Fast-Food Restaurant, Convenience Market, and Alcoholic Beverage Sales Commercial Activities.**

- A. Use Permit Criteria for Fast-Food Restaurants, Convenience Markets, and Establishments Selling Alcoholic Beverages. A conditional use permit for any conditionally permitted Fast-Food Restaurant, Convenience Market, 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 additional 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 10:00 p.m. and 7:00 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 or sale of alcoholic beverages shall be located closer than one thousand (1,000) feet to any other Alcoholic Beverage Sales Commercial Activity measured between closest building walls, except:
    - a. On-sale retail licenses located in the Central District (defined for the purposes of this Chapter only as within the boundaries of 1-980 and Brush street to the west; both sides of 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. Off-sale retail licenses located in the Jack London district (defined for the purposes of this Chapter only as within the boundaries of Martin Luther King Jr. Way to the west, I-880 to the north; the Lake Merritt Channel to the east; and the Estuary to the south); or

- c. If the activity is in conjunction with a Full-Service Restaurant Commercial Activity; or
  - d. Establishments with twenty-five (25) or more full time equivalent (FTE) employees or a total floor area of twelve thousand (12,000) square feet or more.
  - e. If the activity is in conjunction with the on-sale and/or off-sale of alcoholic beverages at an alcoholic beverage manufacturer:
    - i. For the purposes of this Chapter only, an "alcoholic beverage manufacturer" means a Custom or Light Manufacturing Industrial Activity producing alcoholic beverages as a principal activity, with a State of California Department of Alcoholic Beverage Control (ABC) license type that includes, but is not limited to, a Type 02 (Winegrower) or Type 23 (Small Beer Manufacturer). The ABC license type shall not consist solely of a bar or liquor store license type, such as a Type 48, 20, or 21. The on-sale and/or off-sale of alcoholic beverages at such an alcoholic beverage manufacturer are excluded from the definition of Alcoholic Beverage Sales Commercial Activities, as specified in Section 17.10.300.
    - ii. The sale of alcoholic beverages at an alcoholic beverage manufacturer is only permitted upon the granting of a Minor Conditional Use Permit (CUP), regardless of whether such Custom or Light Manufacturing Industrial Activity is otherwise allowed by right in the underlying zone (see Chapter 17.134 for the CUP procedure).
    - iii. Also, no additional CUP findings are required, regardless of whether such sale of alcoholic beverages at an alcoholic beverage manufacturer meets normally required separation requirements, and/or is located in an over-concentrated area.
2. Sale of alcoholic beverages in conjunction with a Full Service Restaurant Commercial Activity and located within any of the following restricted street 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: International Boulevard; Foothill Boulevard; MacArthur Boulevard and West MacArthur Boulevard; that portion of San Pablo Avenue lying between Interstate 980 and 580; 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 Commercial Activity located within an Alcoholic Beverage Sales license overconcentrated area shall only be granted, and a finding of Public Convenience or Necessity made, if the proposal conforms to all of the following three (3) 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 customarily associated with, and are appropriate, incidental, and subordinate to, a principal activity on the lot.
4. In addition to the above criteria, projects outside of the Central District, the Hegenberger Road Corridor, and the D-CO-2 and D-CO-3 Zones 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 twelve thousand (12,000) square feet or more:
  - a. The proposed project is not within one thousand (1,000) feet of another alcohol outlet (not including Full Service Restaurant Commercial Activities), 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 percent (20%), the average of calls for police service in police beats Citywide during the preceding one (1) calendar year.
5. See Chapter 17.156 for Deemed Approved Alcoholic Beverage Sale regulations.

C. 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 District (defined for the purposes of this Chapter only as within the boundaries of 1-980 and Brush Street to the west; both sides of 27th Street to the North; Harrison Street/Lake Merritt 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 D-CO-2 and D-CO-3 Zones.
2. Fast-Food Restaurants with Drive-Through Facilities shall not be located within three hundred (300) feet of a lot line adjacent to the Hegenberger Road or Oakport Street right-of-way, or five hundred (500) feet of a public or private elementary school, park, or playground.
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. 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

## COMMON ABC LICENSE TYPES AND THEIR BASIC PRIVILEGES

LICENSE TYPE	DESCRIPTION
01	<b>BEER MANUFACTURER</b> - (Large Brewery) Authorizes the sale of beer to any person holding a license authorizing the sale of beer, and to consumers for consumption on or off the manufacturer's licensed premises. Without any additional licenses, may sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide eating place contiguous to the manufacturer's licensed premises. May conduct beer tastings under specified conditions (Section 23357.3). Minors are allowed on the premises.
02	<b>WINEGROWER</b> - (Winery) Authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Authorizes the sale of all wines and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place that is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and operated by and for the licensee. May possess wine and brandy for use in the preparation of food and beverage to be consumed at the bona fide eating place. May conduct winetastings under prescribed conditions (Section 23356.1; Rule 53). Minors are allowed on the premises.
20	<b>OFF SALE BEER &amp; WINE</b> - (Package Store) Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.
21	<b>OFF SALE GENERAL</b> - (Package Store) Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.
23	<b>SMALL BEER MANUFACTURER</b> - (Brew Pub or Micro-brewery) Authorizes the same privileges and restrictions as a Type 01. A brewpub is typically a very small brewery with a restaurant. A micro-brewery is a small-scale brewery operation that typically is dedicated solely to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant.
40	<b>ON SALE BEER</b> - (Bar, Tavern) Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises.
41	<b>ON SALE BEER &amp; WINE - EATING PLACE</b> - (Restaurant) Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.
42	<b>ON SALE BEER &amp; WINE - PUBLIC PREMISES</b> - (Bar, Tavern) Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
47	<b>ON SALE GENERAL - EATING PLACE</b> - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises. Authorizes the sale of beer and wine for consumption off the licenses premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.
48	<b>ON SALE GENERAL - PUBLIC PREMISES</b> - (Bar, Night Club) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
49	<b>ON SALE GENERAL - SEASONAL</b> - Authorizes the same privileges and restrictions as provided for a Type 47 license except it is issued for a specific season. Inclusive dates of operation are listed on the license certificate.



INTRODUCED BY COUNCILMAN \_\_\_\_\_

*Mark B. Shroyer*Deputy CITY ATTORNEY**ORDINANCE No. 9554 C.M.S.**

AN ORDINANCE AMENDING THE OAKLAND PLANNING CODE TO ADD OR REVISE REGULATIONS PERTAINING TO CONVENIENCE MARKETS, FAST-FOOD RESTAURANTS AND ALCOHOLIC BEVERAGE SALES ACTIVITIES; MAKING RELEVANT FINDINGS AND DETERMINATIONS; REPEALING ORDINANCES No. 9507, 9508, AND 9515 C.M.S.; AND CERTIFYING COMPLIANCE WITH ENVIRONMENTAL QUALITY REQUIREMENTS.

The Council of the City of Oakland does ordain as follows:

SECTION I. DECLARATION OF FINDINGS AND INTENT. The Council hereby finds and declares as follows:

(a) Convenience markets and fast-food restaurants have the potential to cause or aggravate, and have in actual cases caused or aggravated, special problems affecting the areas surrounding them. These include litter, late-hour operation near residences, undesirable design and appearance, traffic and parking problems, loitering, crime, and vandalism.

(b) Establishments, other than full-service restaurants, which sell alcoholic beverages have the potential to cause or aggravate, and have in actual cases caused or aggravated, similar special problems for the areas surrounding them. These include rowdyism, loitering, crime, and vandalism, litter, late-hour operation near residences, undesirable design and appearance, and traffic and parking problems. Such establishments which sell for off-premises consumption are at least as prone to many of these problems, for example, loitering, as are those establishments which sell for on-premises consumption.

(c) The problems associated with establishments selling alcoholic beverages are particularly acute in certain specific sections of the city which in general have special problems of physical or visual blight, neighborhood instability, and conditions of urban disruption and deterioration.

(d) The public safety, health, convenience, comfort, prosperity, and general welfare will be furthered by adoption of the Planning Code amendment set forth in this ordinance.

SECTION 2. COMPLIANCE WITH ENVIRONMENTAL QUALITY REQUIREMENTS. The Council hereby finds and determines that the requirements of the California Environmental Quality Act, the Guidelines as prescribed by the Secretary for Resources, and the provisions of the City's Statement of Objectives, Criteria and Procedures for Implementation of the California Environmental Quality Act have been satisfied; that this action on the part of the City Council will not have a significant effect on the environment; and that Negative Declarations have been prepared. This ordinance complies with the California Environmental Quality Act, and the Review Officer is hereby directed to file Notices of Determination with the Alameda County Clerk.



SECTION 3. ADDITIONS TO TEXT OF PLANNING CODE. The following additions are hereby made to the Oakland Planning Code as follows:

SECTION 2110(f) ALCOHOLIC BEVERAGE. Alcohol, spirits, liquor, beer, or any liquid or solid containing alcohol, spirits, wine or beer, which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

SECTION 2117(e) FULL-SERVICE RESTAURANT. A place which is regularly and in a bona fide manner used and kept open for the serving of at least lunch and dinner to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals. The sale or service of sandwiches (whether prepared in a kitchen or made elsewhere and heated up on the premises) or snack foods shall not constitute a full-service restaurant.

SECTION 2361 CONVENIENCE MARKET COMMERCIAL ACTIVITIES. Convenience Market Commercial Activities include the retail sale of food, beverages, and small personal convenience items, primarily for off-premises consumption and typically found in establishments with long or late hours of operation and a relatively small building; but exclude delicatessens and other specialty food shops and also exclude establishments which have a sizeable assortment of fresh fruits and vegetables and fresh-cut meat. They also include certain activities accessory to the above, as specified in Section 2211.

SECTION 2362 FAST-FOOD RESTAURANT COMMERCIAL ACTIVITIES. Fast-Food Restaurant Commercial Activities include the retail sale of ready-to-eat cooked foods and beverages, for on- or off-premises consumption, wherever the foods and beverages are available upon a short waiting time and are primarily served in or on disposable wrappers, containers, or plates; but exclude establishments which have an interior seating capacity for 65 or more persons, and off-street parking for 25 or more automobiles. They also include certain activities accessory to the above, as specified in Section 2211.

SECTION 2363 ALCOHOLIC BEVERAGE SALES COMMERCIAL ACTIVITIES. Alcoholic Beverage Sales Commercial Activities include the retail sale for on- or off-premises consumption, of liquor, beer, wine, or other alcoholic beverages, but exclude full-service restaurants. They also include certain activities accessory to the above as specified in Section 2211.

SECTION 7023 SPECIAL REGULATIONS APPLYING TO CONVENIENCE MARKET, FAST-FOOD RESTAURANT, AND ALCOHOLIC BEVERAGE SALES COMMERCIAL ACTIVITIES.

(a) Use Permit Criteria. 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 at Section 9200, 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 10:00 p.m. and 7:00 a.m.

(b) Minimum Distance Between Alcoholic Beverage Sales Establishments Along Certain Streets. Along the streets or portions thereof indicated below, no Alcoholic Beverage Sales Commercial Activity shall be located closer than 1,000 feet from any other Alcoholic Beverage Sales Commercial Activity. This regulation shall apply to a depth of 200 feet on each side of such streets or portions thereof, as measured perpendicularly from the right-of-way line thereof.

1. all of East 14th Street.
2. all of Foothill Boulevard.
3. all of MacArthur Boulevard and West MacArthur Boulevard.
4. all those portions of San Pablo Avenue lying north of 16th Street.
5. that portion of Edes Avenue lying between Clara Street and Bergedo Drive.

Sections 4308, 4408, 4458, 4508, 4533, 4558, 4608, 4833, 4858, 4883 and 5408 are hereby added to the Oakland Planning Code, each of them to consist, aside from the sections's own number, of the following wording:

SPECIAL REGULATIONS APPLYING TO CONVENIENCE MARKETS, FAST-FOOD RESTAURANTS, AND ALCOHOLIC BEVERAGE SALES COMMERCIAL ACTIVITIES. See Section 7023.

The following subsection is hereby added to Sections 5608, 5708, and 5808 of the Oakland Planning Code, to consist in each case of the following wording:

(c) Convenience Markets, Fast-Food Restaurants, and Alcoholic Beverage Sales. See Section 7023.

SECTION 4. AMENDMENTS TO TEXT OF PLANNING CODE. The following amendments are hereby made to the Oakland Planning Code as follows:

Sections 2210, 3854, 3904, 6104, 6154, 6304, and 7812(a) of the Oakland Planning Code are hereby amended to insert the following in the list of Commercial Activities, in each case immediately above the term "Convenience Sales and Service":

Convenience Market  
Fast-Food Restaurant  
Alcoholic Beverage Sales

The term "Food Sales and Service" is hereby replaced by the term "General Food Sales" wherever the former term now appears in the following sections of the Oakland Planning Code: 2210, 3854, 3904, 4253, 4303, 4353, 4358, 4403, 4453, 4478, 4503, 4528, 4553, 4603, 4828, 4853, 4878, 4903, 5403, 5603, 5703, 5803, 6104, 6154, 6304, 6453, 7422, 7523, and 7812.

SECTION 2211 is hereby amended to change the third sentence thereof to read as follows:

Such accessory activities include, but are not limited to, the activities indicated below, but exclude the sale of alcoholic beverages to the general public except at a full-service restaurant.

SECTION 2213 is hereby amended to change the wording "General Wholesale Sales or Scrap Operation" to "Alcoholic Beverage Sales, General Wholesale Sales, or Scrap Operation."

Sections 2360, 4904, 4908, 7003, 7402, and 7403 of the Oakland Planning Code are hereby amended to read as follows:

SECTION 2360 GENERAL FOOD SALES COMMERCIAL ACTIVITIES. General Food Sales Commercial Activities include the retail sale from the premises, of food or beverages for home consumption, as well as the retail sale of prepared food or beverages for on-premises consumption, but exclude the activities described in Sections 2361, 2362, and 2363. They also include certain activities accessory to the above, as specified in Section 2211.

SECTION 4904 CONDITIONALLY PERMITTED ACTIVITIES. The following activities, as described in the USE CLASSIFICATIONS at Section 2200, may be permitted upon the granting of a Conditional Use Permit pursuant to the CONDITIONAL USE PERMIT PROCEDURE at Section 9200:

(a) Civic Activities:

Community Assembly  
Extensive Impact

(b) Commercial Activities:

Alcoholic Beverage Sales

(c) Manufacturing Activities:

Custom  
Light

(d) 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 7012.

SECTION 4908 SPECIAL REGULATIONS APPLYING TO CERTAIN COMMERCIAL ACTIVITIES. The maximum floor area devoted to General Food Sales, Convenience Market, Fast-Food Restaurant, Alcoholic Beverage Sales, or Convenience Sales and Service Commercial Activities by any single establishment shall be 3,000 square feet. See also Section 7023.

SECTION 7003 EFFECT OF PRIOR PERMITS.

(a) Building and Sign Permits. Whenever any building permit or sign permit has been issued or applied for prior to the effective date of the ZONING REGULATIONS or of any subsequent rezoning or other amendment thereto, and the proposed uses or change therein would not conform to said regulations or amendment

thereto, such uses may nevertheless be developed or changed to the extent authorized by the permit; provided, however, that for Convenience Markets, Fast-Food Restaurants, and Alcoholic Beverage Sales Commercial Activities this exception shall apply to the requirement for a Conditional Use Permit and to the provisions of Section 7023 only if the building permit or sign permit has actually been issued prior to the effective date of said section. If any such building permit or sign permit expires it shall not be renewed. Such uses shall be deemed nonconforming uses, and shall be subject to the NONCONFORMING USE REGULATIONS at Section 7400.

(b) Conditional Use Permits, Variances, and Other Special Zoning Approvals. Except as otherwise provided in Section 7004, whenever any subsisting conditional use permit, variance, or other special zoning approval has been granted or applied for prior to the effective date of the ZONING REGULATIONS or of any subsequent rezoning or other amendment thereto, and the proposed or affected uses or change therein would not or do not conform to said regulations or amendment thereto, such uses may nevertheless, to the extent authorized by the zoning approval, be developed or changed, and continued or maintained indefinitely except as otherwise specified in such approval. Such uses shall be subject to the plans and all other special conditions upon the basis of which the previous approvals were granted.

(c) Alcoholic Beverage Control Licenses. On premises for which a valid State of California Alcoholic Beverage Control license had been issued, and which premises had been used in the exercise of the rights and privileges conferred by the license at a time immediately prior to the effective date of Section 7023, the premises may hereafter be used in the exercise of the same rights and privileges without requiring a Conditional Use Permit or having to meet the provisions of the aforesaid section. Such use shall be deemed a nonconforming use, and shall be subject to the NONCONFORMING USE REGULATIONS except as otherwise provided in Section 7402 thereof. For the purposes of this subsection, the word "premises" shall mean and include only the actual space within a building devoted to the sale of alcoholic beverages on said effective date.

SECTION 7402 PRIOR PERMITS. (a) Building and Sign Permits and Special Zoning Approvals. As specified in Section 7003, uses may in certain cases be established, constructed, altered, extended, substituted, moved, or otherwise changed on the basis of building or sign permits or Conditional Use Permits, Variances, or other special zoning approvals applied for or granted before the effective date of the ZONING REGULATIONS, or of any subsequent rezoning or other amendment thereto, although said regulations or amendment thereto would otherwise prohibit such development or change.

(b) Alcoholic Beverage Control Licenses. Notwithstanding the provisions of the NONCONFORMING USE REGULATIONS, said provisions shall not apply to the extent that they would preclude the

exercise of the same rights and privileges as those conferred by a valid State of California Alcoholic Beverage Control license for premises which had been used in the exercise of such rights and privileges at a time immediately prior to the effective date of Section 7023. For the purposes of this subsection, the word "premises" shall mean and include only the actual space within a building devoted to the sale of alcoholic beverage.

SECTION 7403 RIGHT TO CONTINUE NONCONFORMING USE, SUBJECT TO LIMITATIONS. A nonconforming use which is in existence on the effective date of the ZONING REGULATIONS or of any subsequent rezoning or other amendment thereto which makes such use nonconforming, and which existed lawfully under the previous zoning controls, or which is subsequently developed or changed pursuant to Section 7402, may thereafter be continued and maintained indefinitely, and the rights to such use shall run with the land, except as otherwise specified in the NONCONFORMING USE REGULATIONS. However, no substitution, extension, or other change in activities and no alteration or other change in facilities is permitted except as otherwise provided in Section 7402 and except as specifically provided hereinafter.

Sections 2361, 2362, 2366, and 2367 of the Oakland Planning Code are hereby renumbered, respectively, as Sections 2364, 2366, 2368, and 2369.

Section 2363 of the Oakland Planning Code is hereby renumbered and otherwise amended so as to read as follows:

SECTION 2367 GENERAL RETAIL SALES COMMERCIAL ACTIVITIES. General Retail Sales Commercial Activities include the retail sale or rental from the premises, primarily for personal or household use, of goods consisting primarily of items other than food and beverages and those convenience items described in Section 2364; 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 include certain activities accessory to the above, as specified in Section 2211.

Sections 3858 and 3908 of the Oakland Planning Code are hereby amended to replace the wording "Food Sales and Service and Convenience Sales and Service" with the wording "General Food Sales, Convenience Market, Fast-Food Restaurant, Alcoholic Beverage Sales, and Convenience Sales and Service."

Sections 3858, 3908, 3911, 4258, 4358, 4483, 4486, 4861, 4908, 6108, 6111, 6158, and 6161 of the Oakland Planning Code are hereby amended to add, at the end of each such section the following sentence:

See also Section 7023.

SECTION 3861, subsection (a) of the Oakland Planning Code is hereby amended to read as follows:

(a) General Food Sales, Convenience Market, Fast-Food Restaurant, Alcoholic Beverage Sales, or Convenience Sales and Service. A Conditional Use Permit for General Food Sales, Convenience Market, Fast-Food Restaurant, Alcoholic Beverage Sales, or Convenience Sales and Service Commercial Activities may be granted only upon determination that the proposal conforms to the General Use Permit Criteria set forth in the CONDITIONAL USE PERMIT PROCEDURE at Section 9200, and that the proposed activities are intended primarily to serve residents of the facility within which the activities are to be located. See also Section 7023.

Sections 4254, 4304, 4354, 4404, 4454, 4479, 4504, 4529, 4554, 4604, 4829, 4854, 4879, 5404, 5604, and 6454 of the Oakland Planning Code are hereby amended to insert the following at the top of the list of types immediately following the term "Commercial Activities":

Convenience Market  
Fast-Food Restaurant  
Alcoholic Beverage Sales

SECTION 4258 of the Oakland Planning Code is hereby amended to change its title from "MAXIMUM SIZE OF COMMERCIAL ESTABLISHMENTS" to "SPECIAL REGULATIONS APPLYING TO COMMERCIAL ACTIVITIES."

SECTIONS 4358 and 7523 of the Planning Code are hereby amended to insert the wording "Convenience Market, Fast-Food Restaurant, Alcoholic Beverage Sales," immediately before the term "Convenience Sales and Service."

SECTION 4408 of the Oakland Planning Code is hereby renumbered SECTION 4411, and the following sentence is hereby added to the end of said section: "See also Section 7023."

SECTION 4483 of the Oakland Planning Code is hereby amended to change its title from "RESTRICTIONS ON SIZE OF COMMERCIAL AND MANUFACTURING ESTABLISHMENTS" to "SPECIAL REGULATIONS APPLYING TO COMMERCIAL AND MANUFACTURING ACTIVITIES."

Sections 4903, 5703 and 5803 of the Oakland Planning Code are hereby amended to insert the following in the list of Commercial Activities, in each case immediately above the term "Convenience Sales and Service":

Convenience Market  
Fast-Food Restaurant

Sections 5608, 5708, and 5808 of the Oakland Planning Code

are hereby amended to change their titles in each case from "RESTRICTIONS ON SIZE OF CERTAIN COMMERCIAL AND CIVIC ACTIVITIES" to "SPECIAL REGULATIONS APPLYING TO CERTAIN COMMERCIAL AND CIVIC ACTIVITIES."

Sections 5704 and 5804 of the Oakland Planning Code are hereby amended to insert the following at the top of the list of types immediately following the term "Commercial Activities":

Alcoholic Beverage Sales

SECTION 7422 of the Oakland Planning Code is hereby amended to revise the second sentence of subsection (a) to read as follows:

Changes other than substitutions may be made in such activities, but no substitution or other change may be made which would result in a greater degree of nonconformity with respect to any applicable provision of the PERFORMANCE STANDARDS at Section 7700, or wherever the nonconforming activity is conditionally permitted, with respect to applicable off-street parking or loading requirements; provided further that in the case of Alcoholic Beverage Sales Commercial Activities, no change shall be made in the activity which would require a different type of Alcoholic Beverage Control license from the State of California, except upon the granting of a conditional use permit pursuant to the CONDITIONAL USE PERMIT PROCEDURE at Section 9200.

SECTION 7422(a) of the Oakland Planning Code is hereby amended to insert the following types immediately above the term "Convenience Sales and Service" in the middle column of the table:

Convenience Market  
Fast-Food Restaurant  
Alcoholic Beverage Sales

SECTION 7423, subsection (a) is hereby amended to add the following sentence at the end of paragraph 1:

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 20 per cent of that already existing.



SECTION 7423, subsection (a) is hereby amended to add the following paragraph, and to renumber existing paragraphs 2, 3 and 4, respective, as 3, 4 and 5:

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 20 per cent of that already existing, except upon the granting of a conditional use permit pursuant to the CONDITIONAL USE PERMIT PROCEDURE at Section 9200.

SECTION 7513, subsection (a) of the Oakland Planning Code is hereby amended to read as follows:

Commercial Activity	Zone	Minimum Total Size for Which Parking Required	Requirement
(a) General Food Sales. Convenience Market. Fast-Food Restaurant. Alcoholic Beverage Sales.	C-52, C-55.	---	No spaces required.
	C-45, C-51, S-2.	10,000 square feet of floor area.	One space for each 450 square feet of floor area.
	C-10, C-31, C-35.	3,000 square feet of floor area.	One space for each 300 square feet of floor area.
	Any other zone.	3,000 square feet of floor area.	One space for each 200 square feet of floor area.

SECTION 9201(a)2 of the Oakland Planning Code is hereby amended to insert the wording "Convenience Market, Fast-Food Restaurant, Alcoholic Beverage Sales", immediately before the term "Automotive Servicing."

SECTION 9204 of the Oakland Planning Code is hereby amended to replace the wording "all other applicable use permit criteria" with the wording "any and all applicable use permit criteria in the individual ZONE REGULATIONS and in Section 7000 through Section 7039, inclusive."

SECTION 5. MORATORIUMS REPEALED. Ordinances No. 9507, 9508, and 9515 C.M.S. are hereby repealed.

DEC 27 1977

IN COUNCIL, OAKLAND, CALIF., \_\_\_\_\_, 19\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES — CHIALVO, ENG, GILMORE, MAGGIORA, MOORE, OGAWA, \_\_\_\_\_, VUKASIN  
AND \_\_\_\_\_ Vice President Sutter-8

NOES — NONE

ABSENT — Wilson - 1

ABSTENTION — NONE

ATTEST:

*Lionel Wilson*  
MAYOR OF THE CITY OF OAKLAND, CALIF.

ATTEST:

*Ann Peterson*  
CITY CLERK AND CLERK OF THE COUNCIL  
OF THE CITY OF OAKLAND, CALIF.

*Wanda P. Wall*  
CITY ATTORNEY

7/21

## ORDINANCE No. 11491 C. M. S.

AN ORDINANCE AMENDING SECTIONS 7023(b) AND 7422(a)(4) OF THE OAKLAND PLANNING CODE TO ESTABLISH GREATER CONTROLS ON ALCOHOLIC BEVERAGE SALES COMMERCIAL ACTIVITIES CITYWIDE

**WHEREAS**, the City Planning Department initiated, on behalf of the Health, Human Services and The Family Committee of the City Council, a study of Alcoholic Beverage Sales Commercial Activities Citywide; and

**WHEREAS**, the findings of this study demonstrated a proliferation of these alcoholic beverage sales activities when compared with population numbers of the City and County; and

**WHEREAS**, adverse land use impacts associated with these types of activities, including traffic problems, high rates of crime, citizen complaints, evidence of public nuisance, and revocation hearings before the City Planning Commission have occurred; and

**WHEREAS**, the Health, Human Services and The Family Committee of the City Council endorsed the study recommendations to implement new controls on Alcoholic Beverage Sales Commercial Activities on a Citywide basis; and

**WHEREAS**, the City Planning Commission received a request from the Committee to amend pertinent sections of the Oakland Planning Code concerning the retail sale of alcoholic beverages to implement the new controls; and

**WHEREAS**, a duly noticed public hearing on this matter was held by the City Planning Commission on May 27, 1992; and

**WHEREAS**, the City Planning Commission determined that the existing provisions of the Oakland Planning code governing Alcoholic beverage Sales Commercial Activities were inadequate or otherwise contrary to the public interest; and

**WHEREAS**, thereafter on July 8, 1992 the City Planning Commission voted to recommend amending the Oakland Planning Code as set forth below; and

**WHEREAS**, said recommendation of the City Planning Commission has come regularly on for hearing before the City Council on July 21, 1992; and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA) of 1970, the Guidelines as prescribed by the Secretary for Resources, and the provisions of the Statement of Objectives, Criteria and Procedures for implementation of the California Environmental Quality Act: City of Oakland, as amended, have been satisfied, and that in accordance with Section 15061 (b)(3) of the California Administrative Code it can be seen with certainty that there is no possibility that the amendments in question may have a significant effect on the environment; and

WHEREAS, the Council finds and determines that the public safety, health, convenience, comfort, prosperity and general welfare will be furthered by the proposed amendments; now, therefore,

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

SECTION 1. This ordinance is exempt from the California Environmental Quality Act, and the Environmental Review Officer is hereby directed to file a Notice of Exemption with the Alameda County Clerk.

SECTION 2. Section 7023(b) of the Oakland Planning Code is hereby amended to read as follows:

*"(b) Special Restrictions on Establishments Selling Alcoholic Beverages.*

I. No Alcoholic Beverage Sales Commercial Activity shall be located closer than 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.

II. Alcoholic Beverage Sales Activities in conjunction with a Full Service Restaurant and located within any of the following areas applied to a depth of 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 at Section 9200."

**SECTION 3.**

Section 7422(a)(4) of the Oakland Planning Code is hereby amended to read as follows:

"(a) *Activity Nonconforming Because It Is Not a Permitted Activity.*

- 4. For any nonconforming Alcoholic Beverage Sales Commercial Activity presently located in any zone in which it is not a permitted activity, no change shall be made in the activity which change requires obtaining a different type of alcoholic beverage sale retail license from the State of California Department of Alcoholic Beverage Control. Further, no change shall be made in any nonconforming activity involving the sale of alcoholic beverages at a full service restaurant in any location described by Section 7023(b)(II), which change requires obtaining a different type of alcoholic beverage sale retail license from the State of California Department of Alcoholic Beverage Control, unless a conditional use permit is granted pursuant to the CONDITIONAL USE PERMIT PROCEDURE at Section 9200."

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 28 1992, 19 \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES— BAZILE, CANNON, GIBSON HASKELL, MILEY, MOORE, OGAWA, RILES, SPEES, and PRESIDENT HARRIS , - 9

NOES— NONE

ABSENT— NONE

ABSTENTION— NONE

ATTEST:



**ARRECE JAMESON**

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

*Mark P. Wald*  
CITY ATTORNEY

## ORDINANCE No. 11831 C. M. S.

AN ORDINANCE AMENDING THE OAKLAND PLANNING CODE TO ADOPT STANDARD CRITERIA FOR FINDINGS OF "PUBLIC CONVENIENCE AND NECESSITY" FOR ALCOHOLIC BEVERAGE SALES LICENSES IN OVERCONCENTRATED AREAS OF THE CITY, TO GRANT EXCEPTIONS TO THE 1,000 FT. SEPARATION REQUIREMENT FOR LARGE RETAILERS, TO GRANT AUTHORITY TO THE CITY PLANNING COMMISSION TO MAKE FINDINGS OF "PUBLIC CONVENIENCE AND NECESSITY", AND TO MAKE FINDINGS OF "PUBLIC CONVENIENCE AND NECESSITY" FOR ESTABLISHMENTS WITH APPROVED PLANNING PERMITS

WHEREAS, the California Legislature adopted Assembly Bill 2897 that added Section 23958.4 to the Business and Professions Code in September, 1994; and

WHEREAS, this legislation changed the definition of undue concentration of retail alcoholic beverage sales licenses to include police reporting districts with rates of crime that are 20 percent or more above the average for the local jurisdiction and census tracts in which the number of per capita licenses exceed the County average; and

WHEREAS, findings of "public convenience and necessity" must be made by the local governing body before the Department of Alcoholic Beverage Control will grant licenses in overconcentrated areas; and

WHEREAS, the Department of Alcoholic Beverage Control allows each jurisdiction to define "public convenience and necessity" and decide what entity should act as the local governing body to make these required findings; and

WHEREAS, on May 23, 1995, the City Council adopted Resolution No. 71876 adopting a definition of "public convenience and necessity" and indicated at the time of adoption that the described criteria should be added to the Oakland Planning Code; and

WHEREAS, on May 23, 1995, the City Council indicated that it wished to amend the permit processing procedures for Major Variances for alcoholic beverage sales activities; and

WHEREAS, on May 23, 1995, the City Council indicated that it wished to grant exceptions to the 1,000 ft. separation requirement to large alcoholic beverage sales establishments; and

WHEREAS, a duly noticed public hearing was held on this matter by the City Planning Commission on July 26, 1995; and

**WHEREAS,** the City Planning Commission voted to recommend amending the Oakland Planning Code as set forth below; and

**WHEREAS,** said recommendation of the City Planning Commission came regularly on for hearing before the City Council on September 23, 1995; and

**WHEREAS,** the requirements of the California Environmental Quality Act (CEQA) of 1970, the State CEQA Guidelines, and the City CEQA Procedures have been satisfied, and in accordance with Section 15061(b)(3) of the State CEQA Guidelines it can be seen with certainty that there is no possibility that this action on the part of the City Council may have a significant effect on the environment, and therefore this action is not subject to the California Environmental Quality Act; and

**WHEREAS,** the City Council finds and determines that the public safety, health, convenience, comfort, prosperity, and general welfare will be furthered by the proposed amendments; now, therefore

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

**Section 1.** The City Council determines that this Ordinance complies with California Environmental Quality Act and directs the Review Officer to file a Notice of Exemption with the Alameda County Clerk.

**Section 2.** Section 2110(h) of the Oakland Planning Code is hereby added to read as follows:

*2110 (h) - Alcoholic Beverage License Overconcentrated Areas - a police beat with crime rates that exceed the city median by 20% or more or a census tract in which the per capita number of on-sale or off-sale retail Alcoholic Beverage Sales licenses exceeds the Alameda County median.*

**Section 3.** Section 7023(b)1.c of the Oakland Planning Code is hereby added to read as follows:

**(b) Special Restrictions on Establishments Selling Alcoholic Beverages.**

1. No Alcoholic Beverage Sales Commercial Activity shall be located closer than 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

- c. establishments with 25 or more full time equivalent (FTE) employees and a total floor area of 20,000 sf. or more

Section 4. Section 7023(b)3 of the Oakland Planning Code is hereby added to read as follows:

- 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 only if the proposal conforms to one or more of the following criteria for findings of "public convenience and necessity", as well as any and all other applicable land use permit criteria:
  - a. That the proposed project will serve an unmet or underserved need or population within the Oakland community;
  - b. That the proposed project will enhance physical accessibility to needed goods or services; or,
  - c. That the proposed project will further the City's economic development goals and will not place burdensome demands on existing public services, particularly public safety-related services.

Section 5. Section 9203(a)5 of the Oakland Planning Code is hereby added to read as follows:

9203 PROCEDURE FOR CONSIDERATION

(a) Major Conditional Use Permits.

- 5. Alcoholic Beverage Sales Activities in Alcoholic Beverage Sales License Overconcentrated Areas. In addition to following the provisions of Section 9203(a).1, 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 7023(b)3.



Section 6. Section 9603(a)3 of the Oakland Planning Code is hereby added to read as follows:

9603 PROCEDURE FOR CONSIDERATION

(a) Major Variances.

3. *Alcoholic Beverage Sales Commercial Activities. In addition to following the provisions of Section 9603(a).1, 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 7023(b)3.*

Section 7. That findings of "public convenience and necessity" are hereby made for all Alcoholic Beverage Sales Activities located in areas of overconcentration that have validly issued land use permits in effect prior to the effective date of this ordinance and are subject to the requirements of Business and Professions Code § 23958.4.

Introduced: 10/17/95

IN COUNCIL, OAKLAND, CALIFORNIA, OCT 24 1995, 19 \_\_\_\_\_

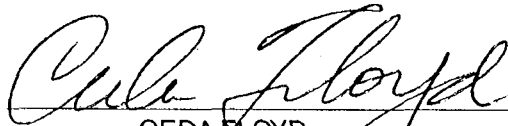
PASSED BY THE FOLLOWING VOTE:

AYES— BAYTON, DE LA FUENTE, JORDAN, MILEY, ~~MOORE, OGAWA, SPEES, WOODS-JONES, and PRESIDENT HARRIS~~ <sup>CHANG, RUSSO</sup> — 9

NOES— **NONE**

ABSENT— **NONE**

ABSTENTION— **NONE**

ATTEST:   
CEDA FLOYD  
City Clerk and Clerk of the Council  
of the City of Oakland, California

**AN ORDINANCE ABANDONING A FIVE-FOOT WIDE  
EASEMENT SITUATED ON LOT 18, AS SHOWN ON THE  
MAP ENTITLED "OCEAN VIEW HEIGHTS, OAKLAND,  
ALAMEDA COUNTY, CALIFORNIA"**

**N O T I C E   A N D   D I G E S T**

The City Council by this ordinance finds that a five-foot wide easement, situated on Lot 18 , as said Lot 18 is shown on the map entitled "Ocean View Heights, Oakland, Alameda County, California", which was dedicated to the City of Oakland on November 15, 1916 for the purpose of constructing and maintaining public sewers and utilities, is unnecessary for the present or the future use for which it was dedicated and orders its abandonment.

*mpw*

NOTICE AND DIGEST

AN ORDINANCE AMENDING THE OAKLAND PLANNING CODE TO ADOPT STANDARD CRITERIA FOR FINDINGS OF "PUBLIC CONVENIENCE AND NECESSITY" FOR ALCOHOLIC BEVERAGE SALES LICENSES IN OVERCONCENTRATED AREAS OF THE CITY, TO GRANT EXCEPTIONS TO THE 1,000 FT. SEPARATION REQUIREMENT FOR LARGE RETAILERS, TO GRANT AUTHORITY TO THE CITY PLANNING COMMISSION TO MAKE FINDINGS OF "PUBLIC CONVENIENCE AND NECESSITY", AND TO MAKE FINDINGS OF "PUBLIC CONVENIENCE AND NECESSITY" FOR ESTABLISHMENTS WITH APPROVED PLANNING PERMITS

This ordinance implements the "public convenience and necessity" findings required by Business and Professions Code Section 23958.4 and grants an exception to the 1,000 ft. separation requirement for large alcoholic beverage sales retailers.

**NOTICE AND CAVISSET**

**AN ORDINANCE AMENDING THE OAKLAND PLANNING CODE TO ADOPT STANDARD CRITERIA FOR FINDINGS OF "PUBLIC CONVENIENCE AND NECESSITY" FOR ALCOHOLIC BEVERAGE SALES LICENSES IN OVERCONCENTRATED AREAS OF THE CITY, TO GRANT EXCEPTIONS TO THE 1,000 FT. SEPARATION REQUIREMENT FOR LARGE RETAILERS, TO GRANT AUTHORITY TO THE CITY PLANNING COMMISSION TO MAKE FINDINGS OF "PUBLIC CONVENIENCE AND NECESSITY", AND TO MAKE FINDINGS OF "PUBLIC CONVENIENCE AND NECESSITY" FOR ESTABLISHMENTS WITH APPROVED PLANNING PERMITS (Requested by the City Attorney to be re-introduced)**

This ordinance implements the "public convenience and necessity" findings required by Business and Professions Code Section 23958.4 and grants an exception to the 1,000 ft. separation requirement for large alcoholic beverage sales retailers.

This Ordinance was introduced at the Regular council meeting, Tuesday evening, October 17, 1995, and passed to print 7 Ayes, 2 Noes. Hearing on final adoption is set for Special Council Meeting at One City Hall Plaza, City Council Chambers on the third floor in Oakland, California, Tuesday, October 24, 1995 at 6:00 p.m.

Three full copies are available for use and examination by the public in the office of the City Clerk at One City Hall Plaza, 1st floor, Oakland, California.

CEDA FLOYD  
City Clerk

Oakland Tribune, Legal No. 4685  
October 21, 1995

# The Oakland Tribune.

66 Jack London Square, Oakland, CA 94607  
(510) 208-6300

LEGAL NO. 4685

## PUBLIC NOTICE

### NOTICE AND DIGEST

AN ORDINANCE AMENDING THE OAKLAND PLANNING CODE TO ADOPT STANDARD CRITERIA FOR FINDINGS OF "PUBLIC CONVENIENCE AND NECESSITY" FOR ALCOHOLIC BEVERAGE SALES LICENSES IN OVERCONCENTRATED AREAS OF THE CITY, TO GRANT EXCEPTIONS TO THE 1,000 FT. SEPARATION REQUIREMENT FOR LARGE RETAILERS, TO GRANT AUTHORITY TO THE CITY PLANNING COMMISSION TO MAKE FINDINGS OF "PUBLIC CONVENIENCE AND NECESSITY", AND TO MAKE FINDINGS OF "PUBLIC CONVENIENCE AND NECESSITY" FOR ESTABLISHMENTS WITH APPROVED PLANNING PERMITS. (Requested by the City Attorney to be re-introduced)

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CEDA FLOYD  
City Clerk

Oakland Tribune, Legal No. 4685  
October 21, 1995

## PROOF OF PUBLICATION

Case No. ....

In the matter of

City of Oakland

.....  
.....  
.....

Samantha Allen..... deposes and says that he/she was the Public Notice Advertising Clerk of THE OAKLAND TRIBUNE a newspaper of general circulation as defined by Government Code Section 6000, adjudicated as such by the Superior Court of the State of California, County of Alameda (Order No. 237798, December 4, 1951) which is published and circulated in Oakland Township in said county and state seven days a week.

That the.....

Notice & Digest

of which the annexed is a printed copy, was published in every issue of THE OAKLAND TRIBUNE on the following dates:

October 21, 1995.....

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Date..... October 21, 1995  
at Oakland, California.

*Samantha Allen*

Public Notice Advertising Clerk

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2013 MAY 30 PM 5:11

APPROVED AS TO FORM AND LEGALITY

*Allen Chen*

City Attorney

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

## OAKLAND CITY COUNCIL

ORDINANCE NO. 13172 =C.M.S.

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AN ORDINANCE, RECOMMENDED BY THE PLANNING COMMISSION, TO AMEND THE OAKLAND PLANNING CODE TO: 1) UPDATE REFERENCES, REDUCE REDUNDANCY, AND CLARIFY LANGUAGE IN VARIOUS CHAPTERS OF THE PLANNING CODE; 2) MODIFY TRUCK WEIGHT CLASSIFICATIONS LANGUAGE TO CONFORM WITH INDUSTRY STANDARDS; 3) MODIFY THE SETBACK REQUIREMENT FOR THE PORTION OF BUILDINGS ABOVE 55 FEET IN HEIGHT IN THE CBD-R ZONE; 4) ADD DESIGN REVIEW REQUIREMENT FOR RESIDENTIAL FACILITIES AND HISTORIC PROPERTIES IN THE CIX, IG, AND IO ZONES; 5) ELIMINATE THE INCREASED PARKING REQUIREMENT FOR EXPANSIONS OF ACTIVITIES ACROSS ZONE BOUNDARIES; AND 6) ADD SIDEWALK CAFES AS A PERMITTED FACILITY IN THE M- INDUSTRIAL ZONES.

**WHEREAS**, in March of 1998, the City adopted the Land Use and Transportation Element (LUTE) of the Oakland General Plan; and

**WHEREAS**, one of the objectives of the LUTE is to create a 'user friendly' Planning Code document that minimizes the complexity of regulations; and

**WHEREAS**, the Planning Code contains overly complex language, is difficult to navigate and needs formatting and reference updates, as well as organizational improvements; and

**WHEREAS**, there are inconsistencies, typographical errors and omissions in the Planning Code text; and

**WHEREAS**, the current zoning regulations as they relate to truck weight classifications are not in conformance with industry standards; and

**WHEREAS**, the current zoning regulations pertaining to the setback requirement for the portion of buildings above 55 feet in height in the Central Business District - Residential (CBD-R) Zone are potentially too restrictive in a downtown context as envisioned by the Oakland General Plan; and

**WHEREAS**, due to an oversight in previous text amendments, the zoning regulations do not include a requirement for design review for residential facilities and historic properties in the CIX, IG, and IO industrial zones, as is currently required in the M- industrial zones; and

**WHEREAS**, the increased parking requirement for expansions of activities across zone boundaries is potentially too restrictive in corridors where development is encouraged; and

**WHEREAS**, due to an oversight in a previous text amendment that added restaurants as permitted activities in the M- industrial zones, sidewalk cafes were inadvertently omitted as permitted facilities; and

**WHEREAS**, the City of Oakland's Planning Division staff has prepared the following amendments to the Oakland Planning Code to correct the above code issues, update references, reduce redundancy, and clarify language in various chapters of the Planning Code in order to better promote the public's health, safety and general welfare; and

**WHEREAS**, on April 17, 2013, at a duly noticed public hearing, the Zoning Update Committee recommended approval of the proposed Planning Code Amendments; and

**WHEREAS**, on May 15, 2013, at a duly noticed public hearing, the Planning Commission recommended approval of the proposed Planning Code Amendments; and

**WHEREAS**, after a duly noticed public meeting on June 11, 2013, the Community and Economic Development Committee voted to recommend the proposal to the City Council; and

**WHEREAS**, the City Council held a duly noticed public hearing on June 18, 2013 to consider the proposal; and

**WHEREAS**, the proposed amendments to the Planning Code rely on the previously certified Final Environmental Impact Reports for the Land Use and Transportation Element of the General Plan (1998); the Oakland Estuary Policy Plan (1998); the West Oakland Central City East, Coliseum and Oakland Army Base Redevelopment Areas; the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010); and various Redevelopment Plan Final EIRs (collectively, "EIRs"); and

**WHEREAS**, the EIRs provide analysis of the environmental impacts of the proposed amendments and support all levels of approval necessary to implement the Planning Code amendments; and

**WHEREAS**, the proposed amendments to the Planning Code would not result in any significant effect that has not already been analyzed in the EIRs, and there will be no significant environmental effects caused by the change that have not already been analyzed in the EIRs; and

**WHEREAS**, the City Council hereby finds and determines on the basis of substantial evidence in the record that none of the circumstances necessitating preparation of additional environmental review, as specified in CEQA and the CEQA Guidelines, including, without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 or 15163 are present in that (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously

identified significant effects; and (2) there is no "new information of substantial importance," as defined in CEQA Guidelines Section 15162(a)(3); and

**WHEREAS**, each as a separate and independent basis, this action is exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (no significant effect on the environment); now, therefore,

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

**Section 1.** The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

**Section 2.** The Environmental Review Officer shall file a Notice of Exemption/Notice of Determination, and an Environmental Declaration under the California Fish and Game Code (Section 711.4) with the County of Alameda.

**Section 3.** Title 17 of the Oakland Planning Code is hereby amended pursuant to *Exhibit A* attached hereto and hereby incorporated by reference. Additions to Title 17 of the Oakland Planning Code are shown in Exhibit A as underline and omissions are shown as ~~strike through~~.

**Section 4.** This Ordinance shall be effective 30 days from the date of final passage by the City Council, but shall not apply to (a) building/construction related permits already issued and not yet expired, or (b) to zoning applications approved by the City and not yet expired, or to (c) zoning applications deemed complete by the City as of the date of final passage. However, zoning applications deemed complete by the City prior to the date of final passage of this Ordinance may be processed under provisions of these Planning Code amendments if the applicant chooses to do so.

**Section 5.** Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

**Section 6.** If any section, subsection, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of the remaining portions which shall remain in full effect.

**Section 7.** That the record before this Council relating to this Ordinance includes, without limitation, the following:

1. The application, including all accompanying papers;
2. All final staff reports, decision letters and other documentation and information produced by or on behalf of the City;
3. All oral and written evidence received by the City staff, Planning Commission and City Council before and during the public hearings on the application;
4. All matters of common knowledge and all official enactments and acts of the City,



such as (a) the General Plan and the General Plan Conformity Guidelines; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations, Oakland Fire Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and (e) all applicable state and federal laws, rules and regulations.

**Section 8.** That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1<sup>st</sup> floor, Oakland, CA.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 2 2013

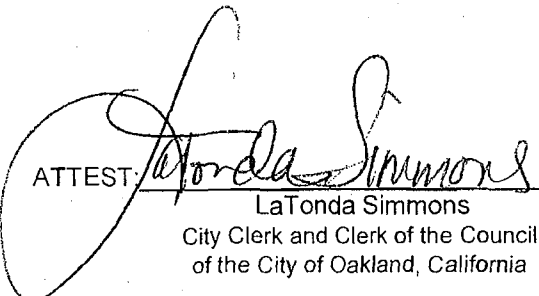
**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, GALLO, ~~GIBSON McELHANEY~~, KALB, KAPLAN, REID, SCHAAF, and PRESIDENT KERNIGHAN - 7

NOES- 0

ABSENT- Gibson McElhaneey - 1

ABSTENTION- 0

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

DATE OF ATTESTATION: July 10, 2013

Introduction Date JUN 18 2013

## NOTICE AND DIGEST

**AN ORDINANCE, RECOMMENDED BY THE PLANNING COMMISSION, TO AMEND THE OAKLAND PLANNING CODE TO: 1) UPDATE REFERENCES, REDUCE REDUNDANCY, AND CLARIFY LANGUAGE IN VARIOUS CHAPTERS OF THE PLANNING CODE; 2) MODIFY TRUCK WEIGHT CLASSIFICATIONS LANGUAGE TO CONFORM WITH INDUSTRY STANDARDS; 3) MODIFY THE SETBACK REQUIREMENT FOR THE PORTION OF BUILDINGS ABOVE 55 FEET IN HEIGHT IN THE CBD-R ZONE; 4) ADD DESIGN REVIEW REQUIREMENT FOR RESIDENTIAL FACILITIES AND HISTORIC PROPERTIES IN THE CIX, IG, AND IO ZONES; 5) ELIMINATE THE INCREASED PARKING REQUIREMENT FOR EXPANSIONS OF ACTIVITIES ACROSS ZONE BOUNDARIES; AND 6) ADD SIDEWALK CAFES AS A PERMITTED FACILITY IN THE M- INDUSTRIAL ZONES.**

This Ordinance would amend the Oakland Planning Code in largely non-substantive ways intended to improve consistency, reduce redundancy and simplify language. Other changes include, but are not limited to: delete references to Code sections that were remnants of previous code updates and are now obsolete, e.g., references to Transport and Warehousing Commercial Activities which has been replaced by the new industrial Use Classifications adopted in 2009; add clarifying language to the method of calculating the maximum non-residential floor-area-ratio and residential density in the Central Business District; correct the density for rooming units in the 120- and 160-foot height areas listed on Table 17.35.04 (Height, Floor Area Ratio, Density, and Open Space Regulations) to correct a typographical error; increase the percentage of ground floor commercial façade transparency in the CBD Zones (Table 17.58.03) to be consistent with similar standards in other zones; add language to various Code sections to codify and clarify the long-standing practice limiting evidence and testimony during appeals to evidence submitted in the appeal form itself and presented prior to the close of the written public comment period, for administrative decisions, or the close of public hearing, for Planning Commission decisions.

## 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
- 17.13 RH Hillside Residential Zones Regulations
- 17.15 RD Detached Unit Residential Zones Regulations
- 17.17 RM Mixed Housing Type Residential Zones Regulations
- 17.19 RU Urban Residential Zones Regulations
- 17.30 R-80 High-Rise Apartment Residential Zone Regulations
- 17.33 CN Neighborhood Center Commercial Zones Regulations
- 17.35 CC Community Commercial Zones Regulations
- 17.37 CR Regional Commercial Zone Regulations
- 17.54 C-40 Community Thoroughfare Commercial Zone Regulations
- 17.56 C-45 Community Shopping Commercial Zone Regulations
- 17.58 CBD Central Business District Zones Regulations
- 17.65 HBX Housing and Business Mix Commercial Zones 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~~
- 17.72 M-20, M-30, and M-40 Industrial Zones Regulations
- 17.73 CIX-1, CIX-2, IG and IO Industrial Zones 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
- 17.90 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
- 17.97 S-15 Transit Oriented Development Zone Regulations
- 17.99 S-17 Downtown Residential Open Space Combining Zone Regulations
- 17.100A S-19 Health and Safety Protection Combining Zone Regulations
- 17.100B S-20 Historic Preservation District Combining Zone Regulations
- 17.101A D-WS Wood Street District Commercial Zone Regulations
- 17.101B D-OTN Oak To Ninth District Zone Regulations
- 17.101C D-BR Broadway Retail Frontage District Interim Combining Zone Regulations
- 17.101D D-KP Kaiser Permanente Oakland Medical Center District Zones Regulations
- 17.102 Regulations Applicable to Certain Activities and Facilities General Regulations  
Applicable To All Or Several Zones
- 17.103 Special Regulations and Findings for Certain Use Classifications
- 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
- 17.117 Bicycle Parking Requirements
- 17.118 Recycling Space Allocation Requirements
- 17.120 Performance Standards
- 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 Mini-Lot and Planned Unit Development Regulations
- 17.144 Rezoning and Law Change Procedure
- 17.148 Variance Procedure
- 17.150 Fee Schedule
- 17.152 Enforcement
- 17.154 Zoning Maps
- 17.155 Special Regulations Applying to Mining and Quarrying Extractive Activities
- 17.156 Deemed Approved Alcoholic Beverage Sale Regulations
- 17.157 Deemed Approved Hotel and Rooming House Regulations
- 17.158 Environmental Review Regulations

**17.01.050 - General Plan prevails over Planning Code and Subdivision Regulations.**

Until the Planning Code is fully updated, land use designations, zoning controls and subdivision controls specified by the Planning Code and Subdivision Regulations shall apply, except where such action would expressly conflict with the Oakland General Plan. Where an express conflict does arise, the General Plan policies and land use designations shall apply. An "express conflict" shall be deemed to be any situation where a proposal clearly conforms with the General Plan but is not permitted by the Zoning and/or Subdivision Regulations, or where a proposal clearly does not conform with the General Plan but is permitted or conditionally permitted by the Zoning and/or Subdivision Regulations. The provisions of Sections 17.01.060 through 17.01.080 shall be used to determine whether an express conflict exists and the provisions of Sections 17.01.100 through 17.01.120, as applicable, shall then be followed.

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

- B. Within ten (10) calendar days of a written determination by the Director of City Planning pursuant to Subsection 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) days prior to the Council hearing, give written notice of the date and place of the hearing on the appeal 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.

**17.03.010 - City Planning Commission, Landmarks Preservation Advisory Board and Board of Adjustments.**

- I. Removal. To assure participation of Commission and Board members, attendance by the members of the Commission and Board at all regularly scheduled and special meetings of the Commission and Board shall be recorded, and such record shall be provided semiannually to the Office of the Mayor for review. A member may be removed pursuant to Section 601 of the City Charter. Cause for removal shall include, among other things, conviction of a felony, misconduct, incompetency, inattention to or inability to perform duties, absence from three consecutive regular meetings, or, for members of the Commission's Residential Appeals Committee, absence from three (3) consecutive regular meetings of the Committee, except, in the case of absences, on account of illness or when absent from the City by permission of the Commission or Board.

**17.03.040 - Residential Appeals Committee of the City Planning Commission**

There is created a Residential Appeals Committee of the City Planning Commission consisting of three (3) members of the Commission. The Committee shall decide all appeals of decisions by the Director of City Planning as set forth in the Zoning Regulations. The method for appointing Committee members and the length of Committee members' terms shall be as set forth in the Commission's Rules of Procedure.

**17.05.010 - Creation and membership.**

There is created a Landmarks Preservation Advisory Board. It shall consist of seven (7) members appointed by the Mayor subject to the affirmative vote of five or more members of the City Council. In making appointments, the Mayor may consult persons and organizations interested in landmarks or historic preservation. The members shall include at least one architect; one landscape architect or city planner; one person having extensive knowledge of Oakland history, or of relevant architectural history; and one real estate broker or other person with significant experience in the financing or management of real estate.

**17.05.040 - Removal.**

Any member of the Board may be removed for cause, after hearing, by the affirmative vote of six (6) or more members of the City Council.

## Chapter 17.07 - TITLE, PURPOSE AND SCOPE OF THE ZONING REGULATIONS

### Sections:

- 17.07.010 - Title, purpose, and applicability.
- 17.07.020 - Title of zoning regulations.
- 17.07.030 - Purposes of zoning regulations.
- 17.07.040 - Applicability of zoning regulations.
- 17.07.050 - Effect of development control maps.
- 17.07.060 - Conformity with zoning regulations required.
- 17.07.065 - Permitted and conditionally permitted uses.
- 17.07.070 - Minimum requirements.

### 17.07.030 - Purposes of zoning regulations.

The general purposes of the zoning regulations are to protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare and to achieve the following objectives:

- A. To promote the achievement of the proposals, policies and objectives of the Oakland General Plan;

### 17.07.040 - Applicability of zoning regulations.

- D. Private Agreements. The zoning regulations are not intended to abrogate, annul, or impair any easement, covenant, or other agreement between parties. However, where the zoning regulations impose a greater restriction or higher standard than that required by such agreement, the zoning regulations shall control, except as otherwise authorized under ~~Section 17.102.310~~ and the development agreement procedure in Chapter 17.138.

### 17.07.050 - Effect of development control maps.

Development control maps and all notations, references, and regulations shown therewith shall be considered part of the zoning regulations. Development control maps may include, but are not limited to, regulations intended to carry out any plan respecting location or type of activities; height, bulk, siting, or design of structures; location or design of open areas and landscaping; and other comparable regulations. In case of conflict with any other provision of the zoning regulations, the development control map shall take precedence, except as otherwise authorized under ~~Section 17.102.310~~ and the development agreement procedure in Chapter 17.138.

### 17.07.060 - Conformity with zoning regulations required.

Except as otherwise allowed by Section 17.114.030 ~~17.102.040~~ ~~114.030~~ and by the nonconforming use regulations in Chapter 17.114, or as authorized under Section 17.138.015, ~~17.102.310~~, the development agreement procedure in Chapter 17.138, or the variance procedure in Chapter 17.148, no activities or facilities shall be established, substituted, expanded, constructed, altered, moved, painted, maintained, or otherwise changed, and no lot lines shall be created or changed, except in conformity to the zoning regulations.



17.07.065 - Permitted and conditionally permitted uses.

- A. Other Uses Prohibited. Except as otherwise provided in Sections 17.114.030 and 17.154.060, the nonconforming use regulations in Chapter 17.114, and the planned unit development regulations in Chapter 17.142, or as authorized under Section 17.138.015, the development agreement procedure in Chapter 17.138, or the variance procedure in Chapter 17.148, no land shall be improved or used for any activity or facility which is not listed as permitted or conditionally permitted in the applicable individual zone regulations or development control maps.
- B. Relationship Between Activities and Facilities. A use must qualify under the zoning regulations both as an activity and as a facility. A permitted or conditionally permitted activity may be accommodated or served only by a permitted facility or, upon the granting of a conditional use permit, by a conditionally permitted facility; and a permitted or conditionally permitted facility may accommodate or serve, or be designed to accommodate or serve, only a permitted activity or, upon the granting of a conditional use permit, a conditionally permitted activity.

**17.09.040 - Definitions.**

**"Dwelling unit"** means a room or suite of rooms including one and only one kitchen, except as otherwise provided in Section 17.102.270, and designed or occupied as separate living quarters for ~~one of the persons or groups specified in Section 17.102.260, one person or family, or, where the facility occupied is a One-Family Dwelling, such family and not more than three (3) boarders, roomers, or lodgers where access to all rooms occupied by such boarders, roomers, or lodgers is had through the main entrance of the dwelling unit.~~

**"Floor-Area Ratio (FAR)"** means the number resulting from the division of the floor area on a lot by the lot area.

**"Gross vehicle weight rating"** means the vehicle weight specified by the manufacturer as the maximum loaded weight (truck plus cargo) of a single vehicle.

**"Habitable room"** means a space in a living unit intended for living, sleeping, eating, or cooking, including, but not limited to, living rooms, dining rooms, bedrooms, kitchens, dens, family rooms, finished recreation rooms, and enclosed porches suitable for year-round use.

To be considered an individual habitable room, a space must be either:

- 1) Entirely enclosed by partitions and connected to other rooms or spaces by doorways or open archways;
- 2) Separated from another space that both has a floor level difference of at least one (1) foot and is intended to be used for a different function; or
- 3) A kitchen area. Where there are no partitions, open archways, or a split floor level, as described in 1) and 2), the part of the kitchen space considered a habitable room includes all kitchen counters, cabinets, major appliances, and other fixtures plus the floor area within three (3) feet directly in front these items.

Specifically excluded from the definition of habitable room are bathrooms, water closets, hallways, foyers, storage closets, pantries, laundries, utility rooms, unfinished attics and basements, balconies, open porches, garages, and other unfinished spaces used for storage. See Section 17.102.280 for rules for determining the number of habitable rooms in a Residential Facility.

**"Habitable rooms, number of"** means the total number of habitable rooms in a Residential Facility, except:

1. A habitable room of less than fifty (50) square feet counts as half a room.
2. A habitable room larger than four hundred (400) square feet counts as one room for each four hundred (400) square feet or fraction thereof.

~~**"Gross vehicle weight"** means the vehicle weight specified by the manufacturer as the maximum loaded weight (truck plus cargo) of a single vehicle.~~

**"Planned Unit Development (PUD)"** means a large, integrated development adhering to a comprehensive plan and located on a single tract of land, or on two or more tracts of land which may be separated only by a street or other right-of-way.

**"Potential Designated Historic Property (PDHP)"** means any building or property that is determined by the City's Cultural Heritage Survey to have an existing or contingency rating of "A", "B", or "C", or to contribute or potentially contribute to an Area of Primary Importance (API) or an Area of Secondary Importance (ASI).

**"Secondary unit"** means a subordinate dwelling unit that is located on the same lot as a larger primary dwelling unit, is either attached or detached, and meets the standards and criteria of Section ~~17.102.360~~ 17.103.080.

## **Chapter 17.10 - USE CLASSIFICATIONS**

### **Sections:**

#### **Article I - General Classification Rules**

- 17.10.010 - Title, purpose, and applicability.
- 17.10.020 - Definitions.
- 17.10.030 - Listing of activity classifications.
- 17.10.040 - Accessory activities.
- 17.10.050 - Classification of combinations of principal activities.
- 17.10.060 - Listing of facility classifications.
- 17.10.070 - Accessory facilities.
- 17.10.080 - Classification of combinations of principal facilities.
- 17.10.090 - Classification of unlisted uses.

#### **Article II - Activity Types**

##### **Part 3 - Commercial Activity Types**

###### **Sections:**

- 17.10.260 - General description of commercial activities.
- 17.10.270 - General food sales commercial activities.
- 17.10.272 - Full service restaurant commercial activities.
- 17.10.274 - Limited service restaurant and cafe.
- 17.10.280 - Fast-food restaurant commercial activities.
- 17.10.290 - Convenience market commercial activities.
- 17.10.300 - Alcoholic beverage sales commercial activities.
- 17.10.320 - Mechanical or electronic games commercial activities.
- 17.10.330 - Medical service commercial activities.
- 17.10.340 - General retail sales commercial activities.
- 17.10.345 - Large-scale combined retail and grocery sales commercial activities.
- 17.10.350 - Consumer service commercial activities.
- 17.10.360 - Consultative and financial service commercial activities.
- 17.10.365 - Check cashier and check cashing activity.
- 17.10.370 - Consumer cleaning and repair service commercial activities.
- 17.10.375 - Consumer dry cleaning plant commercial activities.
- 17.10.380 - Group assembly commercial activities.
- 17.10.385 - Personal instruction and improvement and small scale entertainment commercial activities.
- 17.10.390 - Administrative commercial activities.

- 17.10.400 - Business, communication, and media service commercial activities.
- 17.10.410 - Broadcasting and recording service commercial activities.
- 17.10.420 - Research service commercial activities.
- 17.10.430 - General wholesale sales commercial activities.
- 17.10.440 - Transient habitation commercial activities.
- 17.10.450 - Building material sales commercial activities.
- 17.10.460 - Automobile and other light vehicle sales and rental commercial activities.
- 17.10.470 - Automobile and other light vehicle gas station and servicing commercial activities.
- 17.10.480 - Automobile and other light vehicle repair and cleaning commercial activities.
- 17.10.485 - Taxi and light fleet-based service commercial activities.
- 17.10.490 - Automotive fee parking commercial activities.
- ~~17.10.500 - Transport and warehousing commercial activities (does not apply to the CIX-1, CIX-2, IG, or IO zones).~~
- 17.10.505 - Animal boarding commercial activities.
- 17.10.510 - Animal care commercial activities.
- 17.10.520 - Undertaking service commercial activities.

Part 2 - Nonresidential Facility Types

Sections:

- 17.10.710 - General description of Nonresidential Facilities.
- 17.10.720 - Enclosed Nonresidential Facilities.
- 17.10.730 - Open Nonresidential Facilities.
- 17.10.740 - Drive-In Nonresidential Facilities.
- 17.10.750 - Sidewalk Cafe, Nonresidential Facilities facility.
- ~~17.10.760 - Shopping Center Facility.~~
- 17.10.770 - Drive-Through Nonresidential Facilities.

**17.10.030 - Listing of activity classifications.**

All activities are classified into the following activity types, which are described in Article II of this chapter. (See Section 17.10.050 for classification of combinations of activities resembling different types.) The names of these activity types start with capital letters throughout the zoning regulations.

- A. Residential Activities:
  - Permanent
  - Residential Care
  - Service-Enriched Permanent Housing
  - Transitional Housing

- Emergency Shelter
- Semi-Transient
- Bed and Breakfast
- B. Civic Activities:
  - Essential Service
  - Limited Child-Care
  - Community Assembly
  - Recreational Assembly
  - Community Education
  - Nonassembly Cultural
  - Administrative
  - Health Care
  - Special Health Care
  - Utility and Vehicular
  - Extensive Impact
- C. Commercial Activities:
  - General Food Sales
  - Full Service Restaurant
  - Limited Service Restaurant and Cafe
  - Fast-Food Restaurant
  - Convenience Market
  - Alcoholic Beverage Sales
  - Mechanical or Electronic Games
  - Medical Service
  - General Retail Sales
  - Large-Scale Combined Retail and Grocery Sales
  - Consumer Service
  - Consultative and Financial Service
  - Check Cashier and Check Cashing
  - Consumer Cleaning and Repair Service

Consumer Dry Cleaning Plant  
Group Assembly  
Personal Instruction and Improvement and Small Scale Entertainment  
Administrative  
Business, Communication, and Media Service  
Broadcasting and Recording Service  
Research Service  
General Wholesale Sales  
Transient Habitation  
Building Material Sales  
Automobile and Other Light Vehicle Sales and Rental  
Automobile and Other Light Vehicle Gas Station and Servicing  
Automotive and Other Light Vehicle Repair and Cleaning  
Taxi and Light Fleet-Based Service  
Automotive Fee Parking  
~~Transport and Warehousing~~  
Animal Boarding  
Animal Care  
Undertaking Service  
D. Industrial Activities:  
Custom Manufacturing  
Light Manufacturing  
General Manufacturing  
Heavy/High Impact Manufacturing  
Research and Development  
Construction Operations  
Warehousing, Storage and Distribution  
Regional Freight Transportation  
Trucking and Truck-Related  
Recycling and Waste-Related

Hazardous Materials Production, Storage and Waste Management

E. Agricultural and Extractive Activities:

Plant Nursery

Crop and Animal Raising

Mining and Quarrying

**17.10.040 - Accessory activities.**

- K. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five (5) or more lots;

**17.10.060 - Listing of facility classifications.**

All facilities are classified into the following facility types, which are described in Section Article III of this chapter. (See Section 17.10.080 for classification of combinations of facilities resembling different types.) The names of these facility types start with capital letters throughout the zoning regulations.

A. Residential Facilities:

One-Family Dwelling

One-Family Dwelling with Secondary Unit

Two-Family Dwelling

Multifamily Dwelling

Rooming House

Mobile Home

B. Nonresidential Facilities:

Enclosed

Open

Drive-in

~~Sidewalk Cafe Nonresidential Facilities~~

~~Drive-Through Nonresidential Facilities~~

C. Signs:

Residential

Special

Development

Realty

Civic

Business

Advertising

D. Telecommunications Facilities:

Micro

Mini

Macro

Monopole

Tower

**17.10.110 - Permanent residential activities.**

Permanent Residential Activities include the occupancy of living accommodations on a weekly or longer basis, with none of the living units under the same ownership or management on the same lot being occupied on a shorter basis; but exclude institutional living arrangements, other than state-licensed residential care facilities for six (6) or fewer residents including family foster care homes. However, such residential care facilities shall be subject to the three hundred (300) foot separation requirement in Section ~~17.102.242~~ 17.103.010(B). This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**17.10.112 - Residential care residential activities.**

Residential Care Residential Activities include all residential care facilities that require a state license or are state licensed for seven or more residents which provide twenty-four (24) hour primarily nonmedical care and supervision. Occupancy of living accommodations by six (6) or fewer disabled persons, elderly persons, or persons in need of support services for chemical dependency recovery; or a family foster care home; or occupancy of any facilities supervised by or under contract with the State Department of Corrections, are excluded. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. State licensed residential care facilities for six (6) or fewer residents shall be treated as Permanent Residential Activities except with regard to the three hundred (300) foot separation requirement in Section ~~17.102.242~~ 17.103.010(B).

**17.10.120 - Semi-transient residential activities.**

Semi-Transient Residential Activities include the occupancy of living accommodations partly on a weekly or longer basis and partly for a shorter time period, but with less than thirty ~~30~~-percent (30%) of the living units under the same ownership or management on the same lot being occupied on a less-than-weekly basis; but exclude institutional living arrangements involving the provision of a special kind of care or forced residence, such as in nursing homes, orphanages, asylums, and prisons. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**17.10.125 - Bed and breakfast residential activities.**

The provision of lodging services to transient guests on a less-than-weekly basis, other than in the case of activities classified by another Residential Activity (Sections 17.10.100 through 17.10.120) that have each of the following characteristics:

- A. The activity occupies a One-Family Dwelling Residential Facility, One-Family Dwelling with Secondary Unit Residential Facility, or a Two-Family Dwelling Residential Facility;
- B. The activity allows no more than twelve (12) adult paying guests at any time and contains no more than six (6) guest units;



- C. The activity is located in a facility that is owner occupied;
- D. The activity is located in a facility on a property with an existing or contingency historic rating of "A", "B", "C", or "D" or is a Landmark according to the City of Oakland Office of Historic Preservation
- E. The facility includes incidental eating and drinking services for lodgers only that are provided from a single kitchen per bed and breakfast establishment.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**17.10.150 - Limited child-care activities.**

Limited Child-Care Civic Activities include the provision of day-care service for fourteen (14) or fewer children, provided, however, that care for six (6) or more children be provided only in facilities licensed by a state or county agency. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**17.10.170 - Recreational assembly civic activities.**

Recreational Assembly Civic Activities include the provision of recreational activities, typically performed by participants within public facilities. Examples of activities in this classification include but are not limited to the following:

- Food service and other concessions located within public parks;
- Public and parochial playgrounds and playing fields;
- Temporary nonprofit festivals;
- Basketball courts, tennis courts, handball courts, lawn bowling, leisure areas, and similar outdoor park and recreational facilities;
- Community outdoor swimming and wading pools, and other water play features;
- Picnic areas.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**17.10.180 - Community education civic activities.**

Community Education Civic Activities include the activities typically performed by the following institutions:

- A. Public and private day-care centers for fifteen (15) or more children;
- B. Public and private nursery schools and kindergartens;
- C. Public 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.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

Part 3 - Commercial Activity Types

- 17.10.260 - General description of commercial activities.
- 17.10.270 - General food sales commercial activities.
- 17.10.272 - Full service restaurant commercial activities.
- 17.10.274 - Limited service restaurant and cafe.
- 17.10.280 - Fast-food restaurant commercial activities.
- 17.10.290 - Convenience market commercial activities.
- 17.10.300 - Alcoholic beverage sales commercial activities.
- 17.10.320 - Mechanical or electronic games commercial activities.
- 17.10.330 - Medical service commercial activities.
- 17.10.340 - General retail sales commercial activities.
- 17.10.345 - Large-scale combined retail and grocery sales commercial activities.
- 17.10.350 - Consumer service commercial activities.
- 17.10.360 - Consultative and financial service commercial activities.
- 17.10.365 - Check cashier and check cashing activity.
- 17.10.370 - Consumer cleaning and repair service commercial activities.
- 17.10.375 - Consumer dry cleaning plant commercial activities.
- 17.10.380 - Group assembly commercial activities.
- 17.10.385 - Personal instruction and improvement and small scale entertainment commercial activities.
- 17.10.390 - Administrative commercial activities.
- 17.10.400 - Business, communication, and media service commercial activities.
- 17.10.410 - Broadcasting and recording service commercial activities.
- 17.10.420 - Research service commercial activities.
- 17.10.430 - General wholesale sales commercial activities.
- 17.10.440 - Transient habitation commercial activities.
- 17.10.450 - Building material sales commercial activities.
- 17.10.460 - Automobile and other light vehicle sales and rental commercial activities.
- 17.10.470 - Automobile and other light vehicle gas station and servicing commercial activities.
- 17.10.480 - Automobile and other light vehicle repair and cleaning commercial activities.
- 17.10.485 - Taxi and light fleet-based service commercial activities.
- 17.10.490 - Automotive fee parking commercial activities.
- ~~17.10.500 - Transport and warehousing commercial activities (does not apply to the CIX-1, CIX-2, IG, or IO-zones).~~
- 17.10.505 - Animal boarding commercial activities.
- 17.10.510 - Animal care commercial activities.
- 17.10.520 - Undertaking service commercial activities.

#### **17.10.272 - Full service restaurant commercial activities.**

Restaurants providing food or beverage services to patrons who order and are served while seated (table service), and pay after eating. Only a minor proportion, if any, of the food is sold for consumption off-premises. These restaurants have kitchens that contain equipment suitable for cooking an assortment of foods. Also, see 17.402.240 Section 17.103.030 and 17.156.070 for definitions of a full-service restaurant in relation to Alcoholic Beverage Sales. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

#### **17.10.280 - Fast-food restaurant commercial activities.**

- A. Fast-Food Restaurant Commercial Activities include the retail sale of ready-to-eat prepared foods and beverages, for on- or off-premises consumption, whenever the foods and beverages are available upon a short waiting time and are primarily served in or on disposable wrappers, containers, or plates. Fast-Food Restaurants may also exhibit other design and operating characteristics, including: (1A) a limited menu; (2B) food is typically ordered and served at a service counter; (3C) food is paid for prior to consumption; (4D) the facility in which the activity/use is occurring provides a take-out counter space and space for customer queuing. They also include certain activities accessory to the above, as specified in Section 17.10.040.
- B. Except as may otherwise be allowed in Oakland Municipal Code (OMC) Chapters 5.49, 5.51, 8.09, and 9.52, The sale of ready-to-consume prepared foods from trucks, pushcarts or other movable equipment located on public or private property on a semi-permanent basis during hours of operation. Vehicular food vending generally has the following characteristics:
- Food is ordered and served from a take-out counter that is integral to the catering truck;
  - Food is paid for prior to consumption;
  - Catering trucks, pushcarts or other movable equipment from which the food is sold typically have a take-out counter and space for customer queuing;
  - Food and beverages are served in disposable wrappers, plates or containers; and
  - Food and beverages are prepared and sold for off-site consumption.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

#### **17.10.350 - Consumer service commercial activities.**

Consumer Service Commercial Activities include the provision of services of a personal nature, but exclude activities more specifically classified elsewhere. Examples of activities in this classification include, but are not limited to the following:

- Barber shops;
- Beauty salons;
- Laundromats;
- Nail salons;
- Full service laundry service and dry cleaners (not including dry cleaning plants);
- Shoe shine stands;
- Tailors;
- Tanning salons;
- Tattoo parlors;

- A pharmacy that exclusively sells prescription drugs, non-prescription drugs, and other medical related products.
- Massage services.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

#### **17.10.380 - Group assembly commercial activities.**

Group Assembly Commercial Activities include the provision of instructional, amusement, and or similar other services of a similar nature to group assemblages of people. This classification does not include any activity classified in Section 17.10.160 Community Assembly Civic Activities, Section 17.10.170 Recreational Assembly Civic Activities, or Section 17.10.180 Community Education Civic Activities. Examples of activities in this classification include, but are not limited to the following:

- Yoga, martial arts, driving school, job training, and other instructional classes in facilities with two thousand (2,000) square feet or more of classroom or instructional space;
- Drive-in theaters;
- Theaters or venues with three thousand (3,000) square feet or more of performance, lobby space, and audience floor area;
- Temporary carnivals, fairs, and circuses;
- Cabarets, night clubs, dance halls, adult entertainment, and pool halls;
- Banquet halls;
- Fitness clubs with two thousand (2,000) square feet or more of floor area.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

#### **17.10.385 - Personal instruction and improvement and small scale entertainment commercial activities.**

The provision of informational, instructional, personal improvement, and other similar services of a similar nature. This classification also includes theaters where less than three hundred (300) people are viewing ~~an individual stage or screen~~. This classification does not include any activity classified as Section 17.10.180 Community Education Civic Activities or Section 17.10.380 Group Assembly Civic Activities. Examples of activities in this classification include but are not limited to the following:

- Yoga, martial arts, driving school, job training, and other instructional classes in facilities with less than two thousand (2,000) square feet of classroom or instructional space;
- Fitness clubs with less than two thousand (2,000) square feet of floor area;
- Theaters or venues with less than three thousand (3,000) square feet of performance, lobby space, and audience floor area.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

#### **17.10.440 - Transient habitation commercial activities.**

Transient Habitation Commercial Activities include the provision of lodging services to transient guests on a less-than-weekly basis, other than in the case of activities classified by Section 17.10.120

Semi-Transient Residential Activities or Section 17.10.125 Bed and Breakfast ~~Commercial-Residential~~ Activities. Examples include hotels and motels. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**17.10.460 - Automobile and other light vehicle sales and rental commercial activities.**

Automobile and ~~Other Light Vehicle Light-Truck-Sales, and Rental, and Delivery~~ Commercial Activities include the sale, rental, leasing and incidental cleaning, servicing, and repair of small passenger vehicles and light trucks that have a gross vehicle weight rating of less than fourteen thousand (14,000) pounds such as cars, sports utility vehicles, motorcycles, pickup trucks, vans, light tow trucks, light trucks, boats and RVs. This classification also includes the retail or wholesale sale or rental, from the premises, of any type of goods where orders are placed predominantly by telephone or mail order with delivery being provided by motor vehicle. Delivery activities that include use of more than two (2) on-site tow trucks are excluded from this classification ~~and included in the Warehousing, Distribution and Storage or Outdoor Storage classification.~~ This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**17.10.480 - Automobile and other light vehicle repair and cleaning commercial activities.**

Automobile and Other Light Vehicle Repair and Cleaning Commercial Activities include the major repair or painting of motor vehicles that have a gross vehicle weight rating of less than fourteen thousand (14,000) pounds, including body work and installation of major accessories, as well as the washing and polishing of motor vehicles. This classification does not include vehicle dismantling or salvage and tire re-treading or recapping. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**17.10.485 - Taxi and light fleet-based service commercial activities.**

Passenger transportation services, local delivery services, and other businesses that rely on fleets of three (3) or more vehicles with a gross vehicle weight rating rated capacity of less than twelve thousand five hundred fourteen thousand (14,000) (12,500) pounds. This classification includes parking, dispatching, and offices for taxicab and limousine operations, airport shuttles, medical transport, local messenger and document delivery services, janitorial services, and similar businesses. This classification ~~does not only~~ includes towing operations when except for tow truck services where vehicles are taken to off-site locations and the tow trucks do not exceed the above gross vehicle weight rating. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**17.10.500 - ~~Transport and warehousing commercial activities (does not apply to the CIX-1, CIX-2, IG, or IO zones).~~**

~~Transport and Warehousing Commercial Activities include the provision of warehousing and storage, freight handling, shipping, and trucking services. This classification does not apply to the CIX-1, CIX-2, IG, or IO zones. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.~~

**17.10.550 - Custom manufacturing industrial activities.**

Custom Manufacturing Industrial Activities include the small-scale production of artisan and/or custom products. This activity typically includes the production of finished parts or products by hand, involving the use of hand tools and small-scale equipment within enclosed buildings. Custom Manufacturing Industrial Activities do not produce noise, vibration, air pollution, fire hazard or noxious

emission that will disturb or endanger neighboring properties. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. This classification includes but is not limited to the production of:

- A. Beverages (including alcoholic) and food (excluding the production of highly pungent, odor-causing items, such as vinegar and yeast) with less than ten thousand (10,000) square feet of floor area;
- B. Cameras and photographic equipment;
- C. Custom sign-making;
- D. Custom clothing;
- E. Custom furniture building and refinishing;
- F. Professional, scientific, measuring, and controlling instruments;
- G. Musical instruments;
- H. Medical, dental, optical and orthopedic instruments and appliances, and similar items;
- I. Handicraft, art objects, and jewelry.

**17.10.560 - Light manufacturing industrial activities.**

Light Manufacturing Industrial Activities include the manufacturing, compounding, processing, assembling, packaging, or treatment of components or products, primarily from previously prepared materials, and typically within enclosed buildings. Light Manufacturing Industrial Activities do not produce noise, vibration, air pollution, fire hazard or noxious emission that will disturb or endanger neighboring properties. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. This classification includes but is not limited to the production or assembly of:

- A. Production apparel manufacturing;
- B. Computer and electronic products;
- C. Pharmaceutical production;
- D. Beverages (including alcoholic) and food (excluding the production of highly pungent, odor-causing items, such as vinegar and yeast) with ten thousand (10,000) square feet or more of floor area;
- E. Electrical equipment, appliances, and components;
- F. Furniture and related products;
- G. Pharmaceutical production;
- H. Sporting and athletic goods.

**17.10.570 - General manufacturing industrial activities.**

General Manufacturing Industrial Activities include the manufacturing, compounding, processing, assembling, packaging or treatment of products from extracted, raw, recycled or secondary materials; they may have some or all activities conducted outdoors. This classification excludes all activities under Intermediate Recycling Processing Facilities. The Zoning Administrator or his/her designee may place an activity that otherwise fits this description, but does not produce noise, vibration, air pollution, fire hazard, or noxious emission that will violate standard in Chapter 17.120, or an other federal, State or local standards into the Light Manufacturing Industrial Activities classification. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. Examples of activities in this classification include but are not limited to the following:

- A. Chemical manufacturing (except for the chemical products listed under Heavy/High/Impact Manufacturing);
- B. Glass manufacturing;
- C. Metal foundries;
- D. Wood product manufacturing;
- E. Heavy equipment and manufacturing;
- F. Paper finishing;
- G. Pipe production facilities;
- H. Textile mills;
- I. Tire retreading and recapping;
- J. Wood product manufacturing.

**17.10.580 - Heavy/high impact manufacturing industrial activities.**

Heavy/High Impact Manufacturing Industrial Activities include high impact or hazardous manufacturing processes. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. Examples of activities in this classification include but are not limited to the following:

- A. Any manufacturing use with large-scale facilities for outdoor oil and gas storage;
- B. Any biotechnology research, development or production activities involving materials defined by the National Institute of Health as Risk Group 4 or Restricted Agents (commonly known as "bio-safety level 4");
- C. Battery manufacturing and storage;
- D. Lime and gypsum products manufacturing;
- E. Non-ferrous metals production, processing, smelting and refining;
- F. Painting, coating and adhesive manufacturing;
- G. Synthetic dye and pigment manufacturing;
- H. Urethane and other open-cell foam product manufacturing;
- I. Petroleum and coal products manufacturing and refining;
- J. Primary metal smelting;
- K. Vinegar, yeast and other pungent, odor-causing items production;
- L. Leather tanning;
- M. Cement and asphalt manufacturing;
- N. Explosives manufacturing;
- O. Fertilizer and other agricultural chemical manufacturing.

**17.10.584 - Regional freight transportation industrial activities.**

Regional Freight Transportation Activities include the provision of freight handling and shipping services by water and rail. They include the inter- and intra-regional transportation of goods. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

- A. Seaport. The accommodation of freight service and operations by ship. This classification includes piers, wharves ~~and~~ docks, marine terminals, container and break-bulk storage areas (where container storage is an accessory, rather than principal activity), related inter-modal facilities, and support services such as port and harbor operations and navigational services.
- B. Rail yard. Accommodation of freight service and operations by rail.

**17.10.585 - Trucking and truck-related industrial activities.**

Trucking and Truck-Related Activities include the provision of freight handling and shipping services by trucks as well as parking, maintenance, and services for trucks and other heavy vehicles and equipment. Each classification involves the use of trucks and other heavy vehicles that have a gross vehicle weight rating greater than or equal to fourteen thousand (14,000) pounds. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

- A. Freight/Truck Terminal. The accommodation of local or worldwide freight by truck. This classification includes facilities used primarily for transfer, breaking-down, and/or consolidation of freight, as well as parking and dispatch of trucks.
- B. Truck Yard. Parking, dispatch, refueling, and incidental repair of trucks, buses, or other fleets of heavy vehicles, where there is no on-site freight storage or transfer. This classification includes corporation yards operated by public and private towing operations. This classification does not include local courier and delivery services; towing operations as an accessory activity to Automotive and Other Light Vehicle Repair and Cleaning (see Section 17.10.480).
- C. Truck Weigh Stations. The weighing of commercial trucks in truck weighing facilities.
- D. Truck and Other Heavy Vehicle Sales, Rental, and Leasing. Sales, rental, and leasing of medium and heavy trucks, truck tractors, construction or agricultural equipment, buses, commercial boats, heavy equipment, and other commercial vehicles, ~~that have gross vehicle weight ratings greater than fourteen thousand (14,000) pounds.~~ This classification includes ~~ing~~ the sale, installation, accessory repair and servicing of related equipment and parts. This classification does not include vehicle dismantling or salvage and tire re-treading or recapping (See Salvage/Junk Yards, Section 17.10.583).
- E. Truck and Other Heavy Vehicle Service, Repair, and Refueling. Repair, fueling, and other servicing of medium and heavy trucks, truck tractors, construction or agricultural equipment, buses, boats, heavy equipment, and similar vehicles, ~~that generally have gross vehicle weights greater than fourteen thousand (14,000) pounds.~~ This classification includes ~~ing~~ the sale, installation, and servicing of related equipment and parts. This classification includes fueling stations, repair shops, body and fender shops, wheel and brake shops, engine repair and rebuilding, welding, major painting service, tire sales and installation, and upholstery shops for trucks and other heavy vehicles. This classification does not include vehicle dismantling or salvage (See Salvage/Junk Yards, Section 17.10.583E).

**17.10.586 - Recycling and waste-related industrial activities.**

Recycling and Waste-Related Industrial Activities include recycling collection, intermediate processing, and other activities related to the storage and processing of used and waste materials. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

- B. Primary Recycling Collection Centers. An activity accepting recyclable non-hazardous materials by donation, redemption, or purchase at facilities occupying an area of more than 500 square feet that are not operated incidental to a host use and that may have a permanent building. Primary collection centers typically use power-driven equipment to sort and condense material for shipment to an intermediate processor or other user. Primary Recycling Collection Centers may have a combination of outdoor processing and storage.



**Part 2 - Nonresidential Facility Types**

**17.10.710 - General description of Nonresidential Facilities.**

**17.10.720 - Enclosed Nonresidential Facilities.**

**17.10.730 - Open Nonresidential Facilities.**

**17.10.740 - Drive-In Nonresidential Facilities.**

**17.10.750 - Sidewalk Cafe, Nonresidential Facilities.**

~~17.10.760 - Shopping Center Facility.~~

**17.10.770 - Drive-Through Nonresidential Facilities.**

**17.10.750 - Sidewalk Cafe, Nonresidential Facilities.**

A Sidewalk Café Nonresidential Facility "sidewalk cafe" is either a General Food Sales Commercial, Full Service Restaurant, Limited Service Restaurant and Cafe, Fast-Food Restaurant, or Alcoholic Beverage Sales Commercial Activity located on private property with a dining area which encroaches within the sidewalk area of the public right-of-way. Such dining area shall be defined by design elements which separate the establishment from the remainder of the sidewalk.

~~17.10.760 - Shopping Center Facility.~~

~~A Shopping Center Nonresidential Facility is a complex of one or more retail buildings and related facilities forming a central retail market within a given area and having a common parking area.~~

~~(Prior planning code § 2614)~~

**17.10.810 - Development Signs.**

Development Signs are temporary Signs which announce the anticipated sale, lease, rental, or character of facilities being constructed or altered, or of facilities or lots in a real estate development or subdivision, ~~development~~, or which identify persons or firms engaged in the promotion, design, construction, or alteration thereof.

**17.11.020 - Designation and mapping of parks by category.**

A. All parks and public open space lands in the City of Oakland shall be classified using the categories listed below:

RCA	Resource Conservation Area
RSP	Region-Serving Park
CP	Community Park
NP	Neighborhood Park
AMP	Active Mini-Park
PMP	Passive Mini-Park
LP	Linear Park
SU	Special Use Park
AF	Athletic Field Park

- B. Designation of each park on the zoning maps shall be followed by the two- or three-letter abbreviation corresponding to each park type in parentheses.
- C. If a new park is developed or acquired or if an existing park is to be changed to a new category, the Parks and Recreation Advisory Commission (PRAC) shall make a recommendation on the designation to the City Council, consistent with the park type definitions contained in the Open Space Conservation and Recreation (OSCAR) Element of the Oakland General Plan. The City Council shall hold a noticed public hearing prior to making a decision on the recommendation.

**Chapter 17.13 - RH HILLSIDE RESIDENTIAL ZONES REGULATIONS**

**Sections:**

- 17.13.010 - Title, intent, and description.
- 17.13.020 - Required design review process.
- 17.13.030 - Permitted and conditionally permitted activities.
- 17.13.040 - Permitted and conditionally permitted facilities.
- 17.13.050 - Property development standards.
- 17.13.060 - Special regulations for mini-lot and planned unit developments.
- 17.13.070 - Other zoning provisions.

**17.13.010 - Title, intent, and description.**

- A. Title and Intent. The provisions of this Chapter shall be known as the Hillside Residential (RH) regulations. The intent of the RH regulations is to create, maintain, and enhance residential areas that are primarily characterized by detached, single unit structures on hillside lots.
- B. Description of Zones. This Chapter establishes land use regulations for the following four (4) zones:
  1. **RH-1 Hillside Residential Zone - 1.** The intent of the RH-1 zone is to create, maintain, and enhance areas for single-family living on lots of one acre or more, and is appropriate in portions of the Oakland Hills.
  2. **RH-2 Hillside Residential Zone - 2.** The intent of the RH-2 zone is to create, maintain, and enhance areas for single-family living on lots of at least twenty-five thousand (25,000) square feet, and is appropriate in portions of the Oakland Hills.
  3. **RH-3 Hillside Residential Zone - 3.** The intent of the RH-3 zone is to create, maintain, and enhance areas for single-family dwellings on lots of at least twelve thousand (12,000) square feet and is appropriate in portions of the Oakland Hills.
  4. **RH-4 Hillside Residential Zone - 4.** The intent of the RH-4 zone is to create, maintain, and enhance areas for single-family dwellings on lots of six thousand five hundred (6,500) to eight thousand (8,000) square feet and is typically appropriate in already developed areas of the Oakland Hills.

**17.13.030 - Permitted and conditionally permitted activities.**

Table 17.13.01 lists the permitted, conditionally permitted, and prohibited activities in the RH zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

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

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

**Table 17.13.01: Permitted and Conditionally Permitted Activities**

Activities	Zones				Additional Regulations
	RH-1	RH-2	RH-3	RH-4	

Residential Activities					
Permanent	P(L1)	P(L1)	P(L1)	P(L1)	17.102.242
Residential Care	— P(L1)	— PL1	— P(L1)	— P(L1)	17.103.010
Service-Enriched Permanent Housing	—	—	—	—	
Transitional Housing	—	—	—	—	
Emergency Shelter	—	—	—	—	
Semi-Transient	—	—	—	—	
Bed and Breakfast	—	—	—	—	
Civic Activities					
Essential Service	P	P	P	P	
Limited Child-Care Activities	P	P	P	P	
Community Assembly	C	C	C	C	
Recreational Assembly	C	C	C	C	
Community Education	C	C	C	C	
Nonassembly Cultural	C	C	C	C	
Administrative	C	C	C	C	
Health Care	—	—	—	—	
Special Health Care	—	—	—	—	
Utility and Vehicular	C	C	C	C	
Extensive Impact	C	C	C	C	
Commercial Activities (all)	—	—	—	—	17.112
Industrial Activities (all)	—	—	—	—	
Agriculture and Extractive Activities					
Crop and animal raising	C(L2)	C(L2)	C(L2)	C(L2)	
Plant nursery	C	C	C	C	
Mining and Quarrying	—	—	—	—	
Accessory off-street parking serving prohibited activities	C	C	C	C	17.102.100 17.116.075
Additional Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone, on lots near the boundary thereof.	C	C	C	C	17.102.110

**Limitations on Table 17.13.01:**

**L1.** Residential Care is only permitted in a One-Family Dwelling Residential Facility. No state licensed residential care facility shall be located closer than three hundred (300) feet from any other state licensed residential care facility or Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity. See Section 17.102.242 17.103.010 for other regulations regarding these activities.

**17.13.040 - Permitted and conditionally permitted facilities.**

Table 17.13.02 lists the permitted, conditionally permitted, and prohibited facilities in the RH zones. The descriptions of these facilities are contained in Chapter 17.10. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

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

"—" designates facilities that are prohibited.

**Table 17.13.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones				Additional Regulations
	RH-1	RH-2	RH-3	RH-4	
<b>Residential Facilities</b>					
One-Family Dwelling	P	P	P	P	
One-Family Dwelling with Secondary Unit	P	P	P	P	17.402.360 17.103.080
Two-Family Dwelling	—	—	—	—	
Multifamily Dwelling	—	—	—	—	
Rooming House	—	—	—	—	
Mobile Home	—	—	—	—	
<b>Nonresidential Facilities</b>					
Enclosed Nonresidential	P	P	P	P	
Open Nonresidential	P	P	P	P	
Sidewalk Cafe	—	—	—	—	
Drive-In Nonresidential	—	—	—	—	
Drive-Through Nonresidential	—	—	—	—	
<b>Telecommunications Facilities</b>					
Micro Telecommunications	C	C	C	C	17.128
Mini Telecommunications	C	C	C	C	17.128
Macro Telecommunications	C	C	C	C	17.128
Monopole Telecommunications	C(L1)	C(L1)	C(L1)	C(L1)	17.128
Tower Telecommunications	—	—	—	—	17.128
<b>Sign Facilities</b>					
Residential Signs	P	P	P	P	17.104
Special Signs	P	P	P	P	17.104
Development Signs	P	P	P	P	17.104
Realty Signs	P	P	P	P	17.104
Civic Signs	P	P	P	P	17.104
Business Signs	—	—	—	—	17.104
Advertising Signs	—	—	—	—	17.104

**17.13.050 - Property development standards.**

A. Zone Specific Standards. Table 17.13.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "—" indicates that a standard is not required in the specified zone.

**Table 17.13.03: Property Development Standards**

Development Standards	Zones				Additional Regulations
	RH-1	RH-2	RH-3	RH-4	

Minimum Lot Dimensions					
Width mean	100 ft	100 ft	90 ft	45 ft	1
Frontage	25 ft	25 ft	25 ft	25 ft	1
Lot area	43,560 sf	25,000 sf	12,000 sf	6,500 sf or 8,000 sf	1, 2, 3
Maximum Density	1 primary unit per lot				4
Minimum Setbacks					
Minimum front (<20% street-to-setback gradient)	25 ft	25 ft	20 ft	20 ft	5, 65
Minimum front (>20% street-to-setback gradient)	5 ft	5 ft	5 ft	5 ft	5, 56, 76
Minimum interior side <20% footprint slope	6 ft/15%	6 ft/15%	6 ft/10%	5 ft	78, 98
Minimum interior side >20% footprint slope	6 ft/15%	6 ft/15%	6 ft/10%	5 ft/10%	78, 98
Minimum street side	6 ft	6 ft	6 ft	5 ft	95, 10
Rear	35 ft	35 ft	25 ft	20 ft	7, 10, 11
Maximum Lot Coverage and Floor Area Ratio (FAR)	See Table 17.13.04				
Height Regulations for All Lots with a Footprint Slope of <20%					
Maximum wall height primary building	25 ft	25 ft	25 ft	25 ft	4213, 4314
Maximum pitched roof height primary building	30 ft	30 ft	30 ft	30 ft	4213, 4314
Maximum height for accessory structures	15 ft	15 ft	15 ft	15 ft	4213, 4314
Height Regulations for all Lots with a Footprint Slope of >20%	See Table 17.13.05 for Height regulations for all lots with a footprint slope of >20%				
Maximum Wall Length Before Articulation Required	40 ft	40 ft	40 ft	40 ft	44-15
Minimum Parking					
Minimum parking spaces required per unit	2	2	2	2	4516
Additional parking spaces required for secondary unit	1	1	1	1	4516, 4617

**Additional Regulations for Table 17.13.03:**

2. In the RH-4 Zone, for Subdivision Maps of 4 or fewer lots where each lot created has a buildable area slope of less than or equal to twenty percent (20%), the minimum lot size is six thousand five hundred (6,500) square feet. For Subdivision Maps where any one lot buildable area slope is greater than twenty percent (20%) or for Subdivision Maps of 5 or more lots, the minimum lot size is increased to eight thousand (8,000) square feet.

a. In order to determine buildable area slope of a subdivision, each lot shown on the Subdivision Map shall indicate the buildable area in dashed lines. The buildable area slope is measured at the steepest point between the front and rear setbacks (not included within the side setbacks).

4. A Secondary Unit may be permitted when there is no more than one unit on a lot, subject to the provisions of Section 17.102.360 17.103.080. 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.

5. On lots with only residential facilities, paved surfaces within required street-fronting yards, and any unimproved rights-of-way of adjacent streets, shall be limited to fifty percent (50%) on interior lots and

thirty percent (30%) on corner lots. Exceptions: The maximum percentages of paved surfaces specified in this additional regulation 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;
- b. Sidewalk construction or widening; 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 additional regulation, an unimproved right-of-way is the portion of a street or alley right-of-way that is not paved.

**67.** The minimum front setback depth required by the applicable individual zone shall be reduced to five (5) feet on any lot with a street-to-setback gradient that exceeds twenty (20)-percent (20%), provided, however, that the distance from the edge of the pavement to a garage or carport elevation containing one or more vehicular entries shall be at least eighteen (18) feet (see Illustration for Table 17.13.03, [Additional Regulation 6], below). See Section 17.108.130 for allowed projections into setbacks.

**78.** See Section 17.108.080 for the required interior side and rear setbacks on a lot containing two or more living units and opposite a legally-required living room window.

**89.** The minimum interior side setback is the greater of the two listed setbacks. Also, see Section 17.108.130 for allowed projections into setbacks.

**910.** In all residential zones, on every corner lot which abuts to the rear a key lot which is in a residential zone, there shall be provided on the street side of such corner lot a side setback with a minimum width equal to one-half (½) of the minimum front setback depth required on the key lot and no less than the minimum side setback width required along an interior side lot line of the corner lot. However, such side setback shall not be required to exceed five (5) feet in width if it would reduce to less than twenty-five (25) feet the buildable width of any corner lot. Such setback shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130 (see Illustration for Table 17.13.03, [Additional Regulation 9], below). See also Section 17.110.040 C for special controls on location of detached accessory buildings on such corner lots. See Section 17.108.130 for allowed projections into setbacks.

**4011.** Wherever a rear lot line abuts an alley, one-half (½) of the right-of-way width of the alley may be counted toward the required minimum rear setback; provided, however, that the portion of the minimum rear setback depth actually on the lot itself shall not be reduced to less than ten (10) feet. Also, see Section 17.108.130 for allowed projections into setbacks.

**12.4** For lots which abut an adjoining rear setback, the minimum rear setback depth shall be increased by an additional one-half (½) foot of rear setback depth for each additional one foot of lot depth over one hundred (100) feet, up to a maximum rear setback depth of forty (40) feet.

**4213.** See Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

**4314.** If at least sixty (60)-percent (60%) of the buildings in the immediate context are no more than one story in height, the maximum wall height shall be fifteen (15) feet within the front twelve (12) feet of buildable area. 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; 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 variance, conditional use permit, design review, determination of exemption from design review, or other special zoning approval or, if no special zoning approval is required, part of any Planning Department approval of a building permit application.

145. If the total wall length within ten (10) feet of the side lot line exceeds forty (40) feet, then the building wall shall be articulated by at least one section of additional setback. See design guidelines for more specific bulk and context standards.

165. Off-street parking and loading shall be provided as prescribed in the off-street parking and loading requirements in Chapter 17.116. Bicycle parking shall be provided as prescribed in the bicycle parking regulations in Chapter 17.117. Additional parking standards apply within the S-11 Zone, as prescribed in Section 17.92.

17.6 One parking space for the Secondary Unit is required in addition to any required parking spaces for the Primary Unit. Additional parking regulations that apply to Secondary Units are provided in Section ~~17.102.360~~ 17.103.080.

**Table 17.13.04 Floor Area Ratio (FAR) and Lot Coverage**

Regulation	Lot Size in Square Feet					Additional Regulations
	< 5,000	> 5,000 and <12,000	> 12,000 and <25,000	> 25,000 and <43,560	> 43,560	
Maximum FAR	0.55	0.50	0.45	0.30	0.20	1
Maximum Lot Coverage (%)	40%	40%	30%	20%	15%	2

**Additional Regulations for Table 17.13.04:**

1. Lots with less than five thousand (5,000) square feet in area may have a dwelling with at least two thousand (2,000) square feet, regardless of FAR listed.
  2. Lots with less than five thousand (5,000) square feet in area may have a lot coverage of up to two thousand (2,000) square feet regardless of lot coverage percentage (%) listed.
- C. Height. Table 17.13.05 below prescribes height standards associated with different sloped lots. The numbers in the "Additional Regulations" column refer to the regulations listed at the end of the Table.



**Table 17.13.05 Height Regulations for all Lots with a Footprint Slope of >20%**

Regulation	Downslope Lot Height Regulations With a Footprint Slope of:			Upslope Lot Height Regulations With a Footprint Slope of:	Additional Regulations
	> 20% and < 40%	> 40% and < 60%	> 60%	> 20%	
Maximum Height for Detached Accessory Structures	15 ft	15 ft	15 ft	15 ft	1
Maximum Wall Height Primary Building	32 ft	34 ft	36 ft	32 ft	1, 2
Maximum Wall Height Primary Building with a CUP	36 ft	38 ft	40 ft	35 ft	1
Maximum Pitched Roof Height Primary Building	36 ft	38 ft	40 ft	35 ft	1, 2
Maximum Height Above Edge of Pavement	18 ft	18 ft	18 ft	N/A	1
Maximum Height Above the Ground Elevation at the Rear Setback Line	N/A	N/A	N/A	24 ft	1
Maximum Height from Finished or Existing Grade (whichever is lower) Within 20' of the Front Property Line	N/A	N/A	N/A	24 ft	1, 3

**Additional Regulations for Table 17.13.05:**

2. On a downslope lot greater than forty (40) percent (40%) footprint slope, the rear wall of an attached garage or carport may exceed the wall height and roof height by five (5) feet, but may not exceed eighteen (18) feet above ground elevation at edge of pavement, if the garage or carport conforms with all of the following criteria:

- a. Maximum width is twenty-two (22) feet and maximum depth is twenty (20) feet; and
- b. Garage or carport floor is at the same level as the edge of the street pavement resulting from the project at the center point of the driveway entrance or is at a lower level; and
- c. Maximum height above the garage or carport floor is ten (10) feet for walls to the top of the plate or flat roof and twelve (12) feet for pitched roofs.

See Illustration for Table 17.13.05 [Additional Regulation 2], below.

3. The building height is measured from finished or existing grade, whichever is lower.

**17.13.060 - Special regulations for mini-lot and planned unit developments.**

A. ~~Mini-lot Developments. In mini-lot developments, certain regulations that otherwise apply to individual lots in the RH zones 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 17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the RH zones, and certain of the other regulations applying in said zone may be waived or modified.~~

**17.13.070 - Other zoning provisions.**

- E. Landscaping and Screening Standards. The landscaping and screening regulations set forth in Chapter 17.124 and ~~Chapter 17.102.400, screening of utility meters, etc.~~, shall apply in the RH zones.

**17.15.010 - Title, intent, and description.**

- A. Title and Intent. The provisions of this Chapter shall be known as the Detached Unit Residential (RD) regulations. The intent of the RD regulations is to create, maintain, and enhance residential areas primarily characterized by detached, single-unit structures.
- B. Description of Zones. This Chapter establishes land use regulations for the following two zones:
  1. **RD-1 Detached Unit Residential Zone - 1.** The intent of the RD-1 zone is to create, maintain, and enhance areas with detached, single unit structures. A limited number of commercial uses will be permitted or conditionally permitted in existing non-residential facilities.
  2. **RD-2 Detached Unit Residential Zone - 2.** The intent of the RD-2 zone is to create, maintain, and enhance areas with detached, single unit structures, with allowances for two-family structures on lots larger than six thousand (6,000) square feet. A limited number of commercial uses will be permitted or conditionally permitted in existing non-residential facilities.

**17.15.030 - Permitted and conditionally permitted activities.**

Table 17.15.01 lists the permitted, conditionally permitted, and prohibited activities in the RD zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

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

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

**Table 17.15.01: Permitted and Conditionally Permitted Activities**

Activities	Zones		Additional Regulations
	RD-1	RD-2	
<b>Residential Activities</b>			
Permanent	P(L1)	P(L1)	17.102.24217.103.010
Residential Care	P(L1)—	CP(L1)	17.102.24217.103.010
Service-Enriched Permanent Housing	—	C(L1)	17.102.24217.103.010
Transitional Housing	—	C(L1)	17.102.24217.103.010
Emergency Shelter	—	—	
Semi-Transient	—	—	
Bed and Breakfast	C	C	17.10.125
<b>Civic Activities</b>			
Essential Service	P	P	
Limited Child-Care Activities	P	P	
Community Assembly	C	C	
Recreational Assembly	C	C	
Community Education	C	C	
Nonassembly Cultural	C	C	
Administrative	C	C	

Health Care	—	—	
Special Health Care	—	—	
Utility and Vehicular	C	C	
Extensive Impact	C	C	
<b>Commercial Activities</b>			
General Food Sales	C(L2)(L3)	C(L2)(L3)	
Full Service Restaurants	C(L2)(L3)	C(L2)(L3)	
Limited Service Restaurant and Cafe	C(L2)(L3)	C(L2)(L3)	
Fast-Food Restaurant	—	—	
Convenience Market	—	—	
Alcoholic Beverage Sales	—(L4)	—(L4)	
Mechanical or Electronic Games	—	—	
Medical Service	—	—	
General Retail Sales	C(L2)(L3)	C(L2)(L3)	
Large-Scale Combined Retail and Grocery Sales	—	—	
Consumer Service	—	—	
Consultative and Financial Service	—	—	
Check Cashier and Check Cashing	—	—	
Consumer Cleaning and Repair Service	—	—	
Consumer Dry Cleaning Plant	—	—	
Group Assembly	—	—	
Personal Instruction and Improvement Services	—	—	
Administrative	P(L3)(L5)	P(L3)(L5)	
Business, Communication, and Media Services	—	—	
Broadcasting and Recording Services Commercial Activities	—	—	
Research Service	—	—	
General Wholesale Sales	—	—	
Transient Habitation	—	—	
Wholesale and Professional-Building Material Sales	—	—	
Automobile and Other Light Vehicle Sales and Rental	—	—	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	
Taxi and Light Fleet-Based Services	—	—	
Automotive Fee Parking	—	—	
Animal Boarding	—	—	
Animal Care	—	—	
Undertaking Service	—	—	
Industrial Activities (all)	—		
<b>Agriculture and Extractive Activities</b>			
Crop and animal raising	C(L6)	C(L6)	
Plant nursery	C	C	

Mining and Quarrying	—	—	
Accessory off-street parking serving prohibited activities	C	C	17.102.100 17.116.075
Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone Additional activities that are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof	C	C	17.102.110

**Limitations on Table 17.15.01:**

L1. Residential Care is only permitted in a One-Family Dwelling Residential Facility. No Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such activity. See Section 17.102.24217.103.010 for other regulations regarding these activities. Also, Residential Care is only permitted in a One-Family Dwelling Residential Facility.

**17.15.040 - Permitted and conditionally permitted facilities.**

Table 17.15.02 lists the permitted, conditionally permitted, and prohibited facilities in the RD zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

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

"—" designates facilities that are prohibited.

**Table 17.15.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones		Additional Regulations
	RD-1	RD-2	
<b>Residential Facilities</b>			
One-Family Dwelling	P	P	
One-Family Dwelling with Secondary Unit	P	P	17.102.360 17.103.080
Two-Family Dwelling	—	C(L1)	
Multifamily Dwelling	—	—	
Rooming House	—	—	
Mobile Home	—	—	
<b>Nonresidential Facilities</b>			
Enclosed Nonresidential	P	P	
Open Nonresidential	P	P	
Sidewalk Cafe	P(L2)	P(L2)	17.102.335 17.103.090
Drive-In Nonresidential	—	—	
Drive-Through Nonresidential	—	—	
<b>Telecommunications Facilities</b>			
Micro Telecommunications	C	C	17.128
Mini Telecommunications	C	C	17.128
Macro Telecommunications	C	C	17.128

Monopole Telecommunications	C	C	17.128
Tower Telecommunications	—	—	17.128
<b>Sign Facilities</b>			
Residential Signs	P	P	17.104
Special Signs	P	P	17.104
Development Signs	P	P	17.104
Realty Signs	P	P	17.104
Civic Signs	P	P	17.104
Business Signs	P(L3)	P(L3)	17.104
Advertising Signs	—	—	17.104

**Limitations on Table 17.15.02:**

**L2.** Sidewalk cafes are allowed only as an accessory facility to an already approved Full Service Restaurant or Limited Service Restaurant and Cafe. The sidewalk cafe may only operate within the hours of 7:00 a.m. to 10:00 p.m. No more than three (3) tables and no more than ten (10) chairs or seats are allowed. If more tables or chairs are requested, a Conditional Use Permit (CUP) is required (see Chapter 17.134 for the CUP procedure). See ~~17.102.335~~ Section 17.103.090 for other regulations regarding Sidewalk Cafes; however, the regulations in this section supersede any contradicting regulations in ~~Section 17.102.335~~ 17.103.090.

**17.15.050 - Property development standards.**

A. Zone Specific Standards. Table 17.15.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "—" indicates that a standard is not required in the specified zone.

**Table 17.15.03: Property Development Standards**

Development Standards	Zones		Additional Regulations
	RD-1	RD-2	
<b>Minimum Lot Dimensions</b>			
Width mean	45 ft	45 ft	1
Frontage	25 ft	25 ft	1
Lot area	5,000 sf	5,000 sf	1, 2
<b>Maximum Density</b>			
Permitted density	1 primary unit per lot	1 primary unit per lot	3, 4
Conditionally permitted density	—	2 units on lots 6,000 sf or greater	3, 5
<b>Minimum Setbacks</b>			
Minimum front (<20% street-to-setback gradient)	20 ft	20 ft	6
Minimum front (>20% street-to-setback gradient)	5 ft	5 ft	6, 7, 8
Minimum interior side <20% footprint slope	5 ft	5 ft	<del>8, 9, 10</del>
Minimum interior side >20% footprint slope	5 ft/10%	5 ft	<del>8, 9, 10, 11</del>
Minimum street side	5 ft	5 ft	<del>8, 9, 11, 12</del>
Rear	20 ft	15 ft	<del>8, 9, 11, 13, 14</del>
Side and Rear Setbacks for Smaller Lots	See Table 17.15.04 for setbacks for smaller lots		

Floor Area Ratio (FAR) and Lot Coverage	See Table 17.15.05		
Height Regulations for All Lots with a Footprint Slope of <20%			
Maximum wall height primary building	25 ft	25 ft	14, <del>15-16</del>
Maximum pitched roof height primary building	30 ft	30 ft	14, <del>15-16</del>
Maximum height for accessory structures	15 ft	15 ft	14, <del>15-16</del>
Height Regulations for all Lots with a Footprint Slope of >20%	See Table 17.15.06 for Height regulations for all lots with a footprint slope of >20%		
Maximum Wall Length Before Articulation Required	40 ft	40 ft	<del>16-17</del>
<b>Minimum Parking</b>			
Minimum parking spaces required per unit	2	1.5	<del>17-18</del>
Additional parking spaces required for secondary unit	1	1	<del>17-18, 19</del>
<b>Minimum Open Space</b>			
Group open space per unit	N/A	300 sf	<del>19</del> 20
Group open space per unit when private open space substituted	N/A	100 sf	<del>19</del> 20

**Additional Regulations for Table 17.15.03:**

4. A Secondary Unit may be permitted when there is no more than one unit on a lot, subject to the provisions of Section ~~17.102.360~~ 17.103.080.

5. A minimum lot size of six thousand (6,000) square feet is required in order to apply for a conditional use permit for a second primary dwelling in the RD-2 Zone. A conditional use permit for a Two-Family Dwelling Residential Facility or for two (2) dwelling units on a lot may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the Conditional use Permit (CUP) procedure in Chapter 17.134 and to all of the following additional use permit criteria:

- a. That the proposed development will not adversely affect adjoining property, nor the surrounding neighborhood, with consideration to be given to density; to the availability of neighborhood facilities and play space; to the generation of traffic and the capacity of surrounding streets; and to all other similar, relevant factors;
- b. That the site design and landscaping and the scale, height, length and width, bulk, coverage, and exterior treatment of structures are in harmony with neighborhood character and with facilities on nearby lots;
- c. That the shape and siting of the facilities, and especially of any portions thereof which exceed one story in height, are such as to minimize blocking of views and direct sunlight from nearby lots and from other Residential Facilities in the surrounding neighborhood;
- d. That the design and site planning of the buildings, open areas, parking and service areas, and other facilities provide a convenient, attractive, and functional living environment; and that paths, stairways, accessways, and corridors are designed to ensure privacy;
- e. That lot shape, size, and dimensions allow a development which will provide satisfactory internal living conditions without adversely affecting the privacy, safety, or residential amenity of adjacent residences.

8. On lots with only residential facilities, paved surfaces within required street-fronting yards, and any unimproved rights-of-way of adjacent streets, shall be limited to fifty percent (50%) on interior lots and

thirty percent (30%) on corner lots. Exceptions: The maximum percentages of paved surfaces specified in this additional regulation 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;

b. Sidewalk construction or widening; 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 additional regulation, an unimproved right-of-way is the portion of a street or alley right-of-way that is not paved.

**89.** See additional reduced side, and rear setbacks for smaller lots, Table 17.15.04. See Section 17.108.130 for allowed projections into setbacks.

**910.** See Section 17.108.080 for the required interior side and rear setback on a lot containing two or more living units and opposite a legally-required living room window.

**4011.** For RD-1, the minimum interior side setback is the greater of the two listed setbacks, either five (5) feet or ten (~~10~~) percent (10%) of the lot width, whichever is greater.

**4412.** In all residential zones, on every corner lot which abuts to the rear a key lot which is in a residential zone, there shall be provided on the street side of such corner lot a side setback with a minimum width equal to one-half ( $\frac{1}{2}$ ) of the minimum front setback depth required on the key lot and no less than the minimum side setback width required along an interior side lot line of the corner lot. However, such side setback shall not be required to exceed five (5) feet in width if it would reduce to less than twenty-five (25) feet the buildable width of any corner lot. Such setback shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130 (see Illustration for Table 17.15.03 [Additional Regulation 11], below). See also Section 17.110.040 C for special controls on location of detached accessory buildings on such corner lots.

**4213.** Wherever a rear lot line abuts an alley, one-half ( $\frac{1}{2}$ ) of the right-of-way width of the alley may be counted toward the required minimum rear setback; provided, however, that the portion of the minimum rear setback depth actually on the lot itself shall not be so reduced to less than ten feet. Also, see Section 17.108.130 for allowed projections into setbacks.

**4314.** In the RD-1 zone, for lots which abut an adjoining rear setback, the minimum rear setback depth shall be increased by an additional one-half ( $\frac{1}{2}$ ) foot of rear setback depth for each additional one foot of lot depth over one hundred (100) feet, up to a maximum rear setback depth of forty (40) feet.

**4415.** See Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

**4516.** If at least sixty (~~60~~) percent (60%) of the buildings in the immediate context are no more than one story in height, the maximum wall height shall be fifteen (15) feet within the front twelve (12) feet of buildable area. 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; 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 variance, conditional use permit, design review, determination of exemption from design review, or other special zoning approval or, if no special zoning approval is required, part of any Planning Department approval of a building permit application.

**4617.** If the total wall length within ten (10) feet of the side lot line exceeds forty (40) feet, then the building wall shall be articulated by at least one section of additional setback. See design guidelines for more specific bulk regulations and context standards.



4718. Off-street parking and loading shall be provided as prescribed in the off-street parking and loading requirements in Chapter 17.116. Bicycle parking shall be provided as prescribed in the bicycle parking regulations in Chapter 17.117. Also, additional parking standards apply within the S-11 and S-12 Zones, as prescribed in Section 17.92 and Section 17.94.

4819. One parking space for the Secondary Unit is required in addition to any required parking spaces for the Primary Unit. Additional parking regulations that apply to Secondary Units are provided in Section 17.102.360 17.103.080.

4920. Each square foot of private usable open space equals two (2) square feet towards the total usable open space requirement, except that actual group space shall be provided in the minimum amount of one hundred (100) square feet per dwelling unit. All usable open space shall meet the standards contained in Chapter 17.126.

B. Setbacks for Smaller Lots. Table 17.15.04 below prescribes reduced setback standards for lots less than four thousand (4,000) square feet. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

**Table 17.15.04 Setbacks for Smaller Lots**

Regulation	Lot Size		
	< 4,000 sf or < 40 feet wide	< 3,000 sf or < 35 feet wide	Additional Regulations
<b>Minimum Setbacks</b>			
Minimum interior side	4 ft	3 ft	1
Minimum street side	4 ft	3 ft	1
Rear	15 ft	15 ft	1

**Table 17.15.05 Floor Area Ratio (FAR) and Lot Coverage**

Regulation	Lot Size in Square Feet					Additional Regulations
	< 5,000	> 5,000 and < 12,000	> 12,000 and < 25,000	> 25,000 and < 43,560	> 43,560	
Maximum FAR for Lots with a Footprint Slope > 20%	0.55	0.50	0.45	0.30	0.20	1
Maximum Lot Coverage (%)	40%	40%	30%	20%	15%	2

Additional Regulations for Table 17.15.05:

1. FAR only applies to lots that have a footprint slope of greater than twenty percent (20%). Lots less than 5,000 square feet may have a dwelling with a minimum of 2,000 square feet of floor area, regardless of FAR listed.

D. Height. Table 17.15.06 below prescribes height standards associated with different sloped lots. The numbers in the right-hand column refer to the additional regulations listed at the end of the Table.

**Table 17.15.06 Height Regulations for all Lots with a Footprint Slope of >20%**

Regulation	Downslope Lot Height Regulations With a Footprint Slope of:			Upslope Lot Height Regulations With a Footprint Slope of:	Additional Regulations
	>20% and <40%	>40% and <60%	>60%	>20%	
Maximum Height for Detached Accessory	15 ft	15 ft	15 ft	15 ft	1

Structures					
Maximum Wall Height Primary Building	32 ft	34 ft	36 ft	32 ft	1, 2
Maximum Wall Height Primary Building with a CUP	36 ft	38 ft	40 ft	35 ft	1
Maximum Pitched Roof Height Primary Building	36 ft	38 ft	40 ft	35 ft	1, 2
Maximum Height Above Edge of Pavement	18 ft	18 ft	18 ft	N/A	1
Maximum Height Above the Ground Elevation at the Rear Setback Line	N/A	N/A	N/A	24 ft	1
Maximum Height from Finished or Existing Grade (whichever is greater) Within 20' of the Front Property Line	N/A	N/A	N/A	24 ft	1, 3

Additional Regulations for Table 17.15.06:

2. On a downslope lot greater than forty (40) percent (40%) footprint slope, the rear wall of an attached garage or carport may exceed the wall height and roof height by five (5) feet, but may not exceed eighteen (18) feet above ground elevation at edge of pavement, if the garage or carport conforms with all of the following criteria:

- a. Maximum width is twenty-two (22) feet and maximum depth is twenty (20) feet; and
- b. Garage or carport floor is at the same level as the edge of the street pavement resulting from the project at the center point of the driveway entrance or is at a lower level; and
- c. Maximum height above the garage or carport floor is ten (10) feet for walls to the top of the plate or flat roof and twelve (12) feet for pitched roofs (see illustration for Table 17.15.06 [Additional Regulation 2], below).

**17.15.060 - Special regulations for mini-lot and planned unit developments.**

- A. Mini-Lot Developments. In mini-lot developments, certain regulations that otherwise apply to individual lots in the RD-1 zones may be waived or modified when and as prescribed in ~~Section 47.102.320~~ Chapter 17.142.
- B. Planned Unit Developments. Large integrated developments shall be subject to the Planned Unit Development regulations in Chapter 17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the RH zones, and certain of the other regulations applying in said zone may be waived or modified.

**17.15.070 - Other zoning provisions.**

- A. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112.
- B. Nonconforming Uses. Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.114.
- E. Landscaping and Screening Standards. The landscaping and screening regulations set forth in Chapter 17.124 shall apply in The regulations set forth in Chapter 17.124 and Chapter 17.102.400, screening of utility meters, etc., shall apply in the RD zones.

**17.17.030 - Permitted and conditionally permitted activities.**

Table 17.17.01 lists the permitted, conditionally permitted, and prohibited activities in the RM zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

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

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

**Table 17.17.01: Permitted and Conditionally Permitted Activities**

Activities	Primary Zones				Combining Zone*	Additional Regulations
	RM-1	RM-2	RM-3	RM-4		
<b>Residential Activities</b>						
Permanent	P(L1)	P(L1)	P(L1)	P(L1)	P(L1)	17.102.21217.103.010
Residential Care	PG(L1)	PG(L1)	PG(L1)	PG(L1)	PG(L1)	17.102.21217.103.010
Service-Enriched Permanent Housing	C(L1)	C(L1)	C(L1)	C(L1)	C(L1)	17.102.21217.103.010
Transitional Housing	C(L1)	C(L1)	C(L1)	C(L1)	C(L1)	17.102.21217.103.010
Emergency Shelter	—	—	—	—	—	
Semi-Transient	—	—	—	—	—	
Bed and Breakfast	C	C	C	C	P	17.10.125
<b>Civic Activities</b>						
Essential Service	P	P	P	P	P	
Limited Child-Care Activities	P	P	P	P	P	
Community Assembly	C	C	C	C	C	
Recreational Assembly	C	C	C	C	C	
Community Education	C	C	C	C	C	
Nonassembly Cultural	C	C	C	C	C	
Administrative	C	C	C	C	C	
Health Care	C	C	C	C	C	
Special Health Care	—	—	—	—	—	
Utility and Vehicular	C	C	C	C	C	
Extensive Impact	C	C	C	C	C	
<b>Commercial Activities</b>						
General Food Sales	C(L2)(L3)	C(L2)(L3)	C(L2)(L3)	C(L2)(L3)	P(L4)	
Full Service Restaurants	C(L2)(L3)	C(L2)(L3)	C(L2)(L3)	C(L2)(L3)	P(L4)	
Limited Service Restaurant and Cafe	C(L2)(L3)	C(L2)(L3)	C(L2)(L3)	C(L2)(L3)	P(L4)	
Fast-Food Restaurant	—	—	—	—	—	
Convenience Market	—	—	—	—	—	

Alcoholic Beverage Sales	—(L5)	—(L5)	—(L5)	—(L5)	—(L5)	
Mechanical or Electronic Games	—	—	—	—	—	
Medical Service	C(L2)(L3)	C(L2)(L3)	C(L2)(L3)	C(L2)(L3)	CP(L6)	
General Retail Sales	C(L2)(L3)	C(L2)(L3)	C(L2)(L3)	C(L2)(L3)	P(L4)	
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	—	
Consumer Service	C(L2)(L3)	C(L2)(L3)	C(L2)(L3)	C(L2)(L3)	PG(L6)	
Consultative and Financial Service	C(L2)(L3)	C(L2)(L3)	C(L2)(L3)	C(L2)(L3)	P(L4)	
Check Cashier and Check Cashing	—	—	—	—	—	
Consumer Cleaning and Repair Service	C(L2)(L3)	C(L2)(L3)	C(L2)(L3)	C(L2)(L3)	P(L4)	
Consumer Dry Cleaning Plant	—	—	—	—	—	
Group Assembly	—	—	—	—	C(L6)(L7)	
Personal Instruction and Improvement Services	C(L2)(L3)	C(L2)(L3)	C(L2)(L3)	C(L2)(L3)	P(L4)	
Administrative	P(L2)(L3) (L87)	P(L2)(L3) (L87)	P(L2)(L3) (L87)	P(L2)(L3) (L7L8)	P(L4)	
Business, Communication, and Media Services	—	—	C(L2)(L3)	C(L2)(L3)	P(L4)	
Broadcasting and Recording Services Commercial Activities	—	—	—	—	—	
Research Service	—	—	—	—	—	
General Wholesale Sales	—	—	—	—	—	
Transient Habitation	—	—	—	—	—	
Wholesale and Professional Building Material Sales	—	—	—	—	—	
Automobile and Other Light Vehicle Sales and Rental	—	—	—	—	—	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	—	—	—	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	—	—	—	
Taxi and Light Fleet-Based Services	—	—	—	—	—	
Automotive Fee Parking	—	—	—	—	—	
Animal Boarding	—	—	—	—	—	
Animal Care	—	—	—	—	—	
Undertaking Service	—	—	—	—	—	
Industrial Activities (all)	—	—	—	—	—	
<b>Agriculture and Extractive Activities</b>						
Crop and animal raising	C(L8L9)	C(L98)	C(L98)	C(L98)	C(L98)	
Plant nursery	C	C	C	C	C	
Mining and Quarrying	—	—	—	—	—	
Accessory off-street parking serving prohibited activities	—	—	—	—	—	17.102.400 17.116.075
Activities that are listed as prohibited but are permitted or conditionally permitted on nearby lots in an adjacent zone Additional	C	C	C	C	C	17.102.110

activities that are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof						
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**Limitations on Table 17.17.01:**

\* If a base zone (RM-1, RM-2, RM-3, or RM-4) also has the C combining zone, the C regulations supersede the base zone.

~~L1. Residential Care is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when not located in a One-Family Dwelling Residential Facility. No Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such activity. See Section 17.102.242 17.103.010 for other regulations regarding these activities. Also, Residential Care is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when not located in a One-Family Dwelling Residential Facility.~~

L4. These activities may only be located on the ground floor of an existing or new nonresidential facility and may only operate within the hours of 7:00 a.m. and 10:00 p.m.; a Conditional Use Permit (CUP) is required if the facility exceeds three thousand (3,000) square feet (see Chapter 17.134 for the CUP procedure).

L7. Adult entertainment activities are prohibited.

~~L78.~~ These activities may only be located in an existing ground floor of nonresidential facility that was both built prior to the effective date of this chapter (April 15, 2011) and not original used for a Civic Activity. For the purposes of this limitation, a facility is considered built if it received its certificate of occupancy or passed its final building inspection on its building permit. Also, these activities may only operate within the hours of 7:00 a.m. and 10:00 p.m.; a Conditional Use Permit (CUP) is required if the ground floor nonresidential facility exceeds 1,500 square feet (see Chapter 17.134 for the CUP procedure).

~~L8L9.~~ Crop and Animal Raising is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;
2. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and
3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

**17.17.040 - Permitted and conditionally permitted facilities.**

Table 17.17.02 lists the permitted, conditionally permitted, and prohibited facilities in the RM zones. The descriptions of these facilities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

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

"—" designates facilities that are prohibited.

**Table 17.17.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones					Additional Regulations
	RM-1	RM-2	RM-3	RM-4	C*	
<b>Residential Facilities</b>						
One-Family Dwelling	P	P	P	P	P	
One-Family Dwelling with Secondary Unit	P	P	P	P	P	47.102.360 17.103.080
Two-Family Dwelling	C(L1)	P	P	P	Same as underlying zone	
Multifamily Dwelling	—	C(L1)	C(L1)	CP(L1)	Same as underlying zone	
Rooming House	—	—	—	—	—	
Mobile Home	—	—	—	—	—	
<b>Nonresidential Facilities</b>						
Enclosed Nonresidential	P	P	P	P	P	
Open Nonresidential	P	P	P	P	C	
Sidewalk Cafe	P(L2)	P(L2)	P(L2)	P(L2)	P(L2)	47.102.335 17.103.090
Drive-In Nonresidential	—	—	—	—	—	
Drive-Through Nonresidential	—	—	—	—	—	
<b>Telecommunications Facilities</b>						
Micro Telecommunications	C	C	C	C	C	17.128
Mini Telecommunications	C	C	C	C	C	17.128
Macro Telecommunications	C	C	C	C	C	17.128
Monopole Telecommunications	C	C	C	C	C	17.128
Tower Telecommunications	—	—	—	—	—	17.128
<b>Sign Facilities</b>						
Residential Signs	P	P	P	P	P	17.104
Special Signs	P	P	P	P	P	17.104
Development Signs	P	P	P	P	P	17.104
Realty Signs	P	P	P	P	P	17.104
Civic Signs	P	P	P	P	P	17.104
Business Signs	P(L3)	P(L3)	P(L3)	P(L3)	P(L4)	17.104
Advertising Signs	—	—	—	—	—	17.104

**Limitations on Table 17.17.02:**

\* If a base zone (RM-1, RM-2, RM-3, or RM-4) also has the C combining zone, the C regulations supersede the base zone.

L1. See Table 17.17.03, Property Development Standards, for additional regulations on this conditionally permitted density.

L2. Sidewalk cafes are allowed only as an accessory facility to an already approved Full Service Restaurant or Limited Service Restaurant and Cafe. The sidewalk cafe may only operate within the hours of 7:00 a.m. to 10:00 p.m. No more than three (3) tables and no more than ten (10) chairs or seats are allowed. If more tables or chairs are requested, a Conditional Use Permit (CUP) is required (see Chapter 17.134 for the CUP procedure). See 17.102.335 Section 17.103.090 for other regulations regarding Sidewalk Cafes; however, the regulations in this section supersede any contradicting regulations in 17.102.335 Section 17.103.090.

**17.17.050 - Property development standards.**

A. Zone Specific Standards. Table 17.17.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "—" indicates that a standard is not required in the specified zone.

**Table 17.17.03: Property Development Standards**

Development Standards	Zones				Additional Regulations
	RM-1	RM-2	RM-3	RM-4	
<b>Minimum Lot Dimensions</b>					
Width mean	45 ft	45 ft	25 ft	25 ft	1
Frontage	25 ft	25 ft	25 ft	25 ft	1
Lot area	5,000 sf	5,000 sf	4,000 sf	4,000 sf	1
<b>Maximum Density</b>					
Permitted density	1 primary unit per lot	1 unit on lots less than 4,000 sf; 2 units on lots 4,000 sf or greater	1 unit on lots less than 4,000 sf; 2 units on lots 4,000 sf or greater	1 unit on lots less than 4,000 sf; For 1 — 4 units, 1 unit per 1,100 sf of lot area; only on lots 4,000 sf or greater	2
Conditionally permitted density (only for lots 4,000 sf or greater)	2 units	For 3 or more units, 1 unit per 2,500 sf of lot area	For 3 or more units, 1 unit per 1,500 sf of lot area	For 5 or more units, 1 unit per 1,100 sf of lot area;	2, 3
<b>Minimum Setbacks</b>					
Minimum front (<20% street-to-setback gradient)	20 ft	20 ft	15 ft	15 ft	4, 54
Minimum front (>20% street-to-setback gradient)	5 ft	5 ft	5 ft	5 ft	4, 54, 86
Minimum interior side	5 ft	5 ft	4 ft	4 ft	76, 87, 98
Minimum street side	5 ft	5 ft	4 ft	4 ft	4, 76, 87, 910
Rear	15 ft	15 ft	15 ft	15 ft	110
Side and Rear Setbacks for Smaller Lots	See Table 17.17.04 for setbacks for smaller lots				
Floor Area Ratio (FAR) and Lot Coverage for 1 or 2 Units	See Table 17.17.05 for FAR and maximum lot coverage for 1 or 2 units				
Maximum Lot Coverage for 3 or More Units	N/A	40%	50%	N/A	
<b>Height Regulations for All Lots with a Footprint Slope of &lt;20%</b>					
Maximum wall height primary building	25 ft	25 ft	30 ft	35 ft	124, 132, 143
Maximum pitched roof	30 ft	30 ft	30 ft	35 ft	124, 132,

height primary building					143
Maximum height for accessory structures	15 ft	15 ft	15 ft	15 ft	124
Height Regulations for all Lots with a Footprint Slope of > 20%	See Table 17.17.06 for Height regulations for all lots with a footprint slope of >20%				
Maximum Wall Length Before Articulation Required	40 ft	40 ft	40 ft	40 ft	154
<b>Minimum Parking</b>					
Minimum parking spaces required per unit	1.5	1.5	1	1	165, 4617
Additional parking spaces required for secondary unit	1	1	1	1	165, 4718
Minimum Parking Spaces for Nonresidential Activities	See Chapter 17.116 for automobile parking and Chapter 17.117 for bicycle parking				
<b>Minimum Open Space</b>					
Group open space per unit	300 sf	300 sf	200 sf	175 sf	4819
Group open space per unit when private open space substituted	100 sf	100 sf	85 sf	70 sf	4819
Courtyard Regulations	See Section 17.108.120				

**Additional Regulations for Table 17.17.03:**

2. See Chapter 17.107 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one unit on a lot, subject to the provisions of Section ~~17.102.360~~ 17.103.080. 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.

3. A Conditional Use Permit (CUP) for density may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the CUP procedure in Chapter 17.134. In addition, the CUP in the RM-1 and RM-2 Zones may only be granted upon determination that the proposal conforms to the following additional use permit criteria. In the RM-3 Zone, this CUP may only be granted upon determination that the proposal conforms to additional criteria a, d, and e.

a. That the proposed development will not adversely affect adjoining property, nor the surrounding neighborhood, with consideration to be given to density; to the availability of neighborhood facilities and play space to the generation of traffic and the capacity of surrounding streets; and to all other similar, relevant factors;

b. That the site design and landscaping and the scale, height, length and width, bulk, coverage, and exterior treatment of structures are in harmony with neighborhood character and with facilities on nearby lots;

c. That the shape and siting of the facilities are such as to minimize blocking of views and direct sunlight from nearby lots and from other Residential Facilities in the surrounding neighborhood;



d. That the design and site planning of the buildings, open areas, parking and service areas, and other facilities provide a convenient, attractive, and functional living environment; and that paths, stairways, accessways, and corridors are designed to minimize privacy impacts;

e. That lot shape, size, and dimensions allow a development which will provide satisfactory internal living conditions without adversely affecting the privacy, safety, or residential amenity of adjacent residences.

5. On lots with only residential facilities, paved surfaces within required street-fronting yards, and any unimproved rights-of-way of adjacent streets, shall be limited to fifty percent (50%) on interior lots and thirty percent (30%) on corner lots. Exceptions: The maximum percentages of paved surfaces specified in this additional regulation 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;

b. Sidewalk construction or widening; 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 additional regulation, an unimproved right-of-way is the portion of a street or alley right-of-way that is not paved.

56. In all residential zones the minimum front setback depth otherwise required by the applicable individual zone regulations shall be reduced to five (5) feet on any lot with a street-to-setback gradient that exceeds twenty (~~20~~) percent (20%), provided, however, that the distance from the edge of the pavement to a garage or carport elevation containing one or more vehicular entries shall be at least eighteen (18) feet (see Illustration for Table 17.17.03 [Additional Regulation 5], below). See Section 17.108.130 for allowed projections into setbacks.

67. No front or side setbacks are required for commercial facilities in the C combining zone except wherever an interior side lot line of any lot located in the C combining zone abuts an interior side lot line of any lot that is not located in an C combining zone or commercial zone, there shall be provided on the former lot, along the abutting portion of its side lot line, a side yard with a minimum width of five (5) feet. (Where it abuts a rear lot line, no yard is required). Section 17.108.080 still applies. Also, see Section 17.108.130 for allowed projections into setbacks.

78. See additional reduced side, and rear setbacks for smaller lots, Table 17.17.04. See Section 17.108.130 for allowed projections into setbacks.

89. See Section 17.108.080 for the required interior side and rear setbacks on a lot containing two or more living units and opposite a legally-required living room window.

910. In all residential zones, on every corner lot which abuts to the rear a key lot which is in a residential zone, there shall be provided on the street side of such corner lot a side setback with a minimum width equal to one-half ( $\frac{1}{2}$ ) of the minimum front setback depth required on the key lot and no less than the minimum side setback width required along an interior side lot line of the corner lot. However, such side setback shall not be required to exceed five (5) feet in width if it would reduce to less than twenty-five (25) feet the buildable width of any corner lot. Such setback shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. This does not apply to lots within the C combining zone (see Illustration for Table 17.17.03 [Additional Regulation 9], below). See also Section 17.110.040(C) for special controls on location of detached accessory buildings on such corner lots.

4011. Wherever a rear lot line abuts an alley, one-half of the right-of-way width of the alley may be counted toward the required minimum rear setback; provided, however, that the portion of the minimum

rear setback depth actually on the lot itself shall not be reduced to less than ten (10) feet. Also, see Section 17.108.130 for allowed projections into setbacks.

**124.** See Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

**132.** In the RM-1 and RM-2 Zones if at least sixty (60)-percent (60%) of the buildings in the immediate context are no more than one story in height, the maximum wall height shall be fifteen (15) feet within the front twelve (12) feet of buildable area. 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; 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 variance, conditional use permit, design review, determination of exemption from design review, or other special zoning approval or, if no special zoning approval is required, part of any Planning Department approval of a building permit application.

**14.3** In the RM-2 Zone, the maximum pitched roof height may be increased to thirty-five (35) feet and maximum wall height may increase to thirty (30) feet upon the granting of a Conditional Use Permit (CUP) (see Chapter 17.134 for the CUP procedure). An increased wall height shall only be permitted in conjunction with a project with a pitched roof (a "pitched roof," as used in this section, is defined as having a vertical to horizontal ratio of a minimum of four in twelve (4:12) slope). In addition to the criteria contained in Section 17.136.050, any proposed increase in roof height must also meet the following use permit criteria:

a. The additional pitched roof height is required to accommodate a roof form that is consistent with the historic context in the neighborhood; and

b. In conjunction with an increased pitched roof height, the additional wall height is required to accommodate a wall height that is consistent with the historic context in the neighborhood.

**15.4** If the total wall length within ten (10) feet of the side lot line exceeds forty (40) feet, then the building wall shall be articulated by at least one section of additional setback. See design guidelines for more specific bulk regulations and context standards.

**165.** Off-street parking and loading shall be provided as prescribed in the off-street parking and loading requirements in Chapter 17.116. Bicycle parking shall be provided as prescribed in the bicycle parking regulations in Chapter 17.117. Also, additional parking standards apply within the S-11 and S-12 Zones, as prescribed in ~~Chapters Section-17.92 and Section-17.94.~~

**167.** In the RM-2 Zone when the lot is less than 4,000 square feet in size or forty-five (45) feet in width only one (1) parking space is required per unit.

**187.** One parking space for the Secondary Unit is required in addition to any required parking spaces for the Primary Unit. Additional regulations that apply to Secondary Units are provided in Section ~~17.102.360~~ 17.103.080.

**198.** Each square foot of private usable open space equals two (2) square feet towards the total usable open space requirement, except that actual group space shall be provided in the minimum amount specified in the table per dwelling unit. All usable open space shall meet the standards contained in Chapter 17.126.

B. Setbacks for Smaller Lots. Table 17.17.04 below prescribes reduced setback standards for lots less than four thousand (4,000) square feet. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

**Additional Regulations for Table 17.17.04:**

1. See Section 17.108.130 for allowed projections into setbacks.

C. Floor Area Ratio (FAR) and Lot Coverage for One and Two-Family Dwelling Units Only. Table 17.17.05 below prescribes FAR and lot coverage standards associated with lot sizes. The numbers in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

**Table 17.17.05 Floor Area Ratio (FAR) and Lot Coverage Regulations for One and Two-Family Dwelling Units Only**

Regulation	Lot Size in Square Feet					Additional Regulations
	< 5,000	> 5,000 and < 12,000	> 12,000 and < 25,000	> 25,000 and < 43,560	> 43,560	
Maximum FAR for Lots with a Footprint Slope >20%	0.55	0.50	0.45	0.30	0.20	1, 2
Maximum Lot Coverage (%)	40%	40%	30%	20%	15%	2

**Additional Regulations for Table 17.17.05:**

1. Floor Area Ratio (FAR) only applies to lots that have a footprint slope of greater than twenty (20) percent (20%). Lots less than five thousand (5,000) square feet may have a dwelling with a minimum of two thousand (2,000) square feet of floor area, regardless of FAR listed.

3. Lots less than five thousand (5,000) square feet may have a lot coverage of up to two thousand (2,000) square feet regardless of lot coverage percentage (%) listed.

D. Height. Table 17.17.06 below prescribes height standards associated with different sloped lots. The numbers in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

**Table 17.17.06 Height Regulations for all Lots With a Footprint Slope of >20%**

Regulation	Downslope Lot Height Regulations With a Footprint Slope of:			Upslope Lot Height Regulations With a Footprint Slope of:	Additional Regulations
	> 20% and < 40%	> 40% and < 60%	> 60%		
Maximum Height for Detached Accessory Structures	15 ft	15 ft	15 ft	15 ft	1
Maximum Wall Height Primary Building	32 ft	34 ft	36 ft	32 ft	1, 2
Maximum Wall Height Primary Building with a CUP	36 ft	38 ft	40 ft	35 ft	1
Maximum Pitched Roof Height Primary Building	36 ft	38 ft	40 ft	35 ft	1, 2
Maximum Height Above Edge of Payment	18 ft	18 ft	18 ft	N/A	1
Maximum Height Above the Ground Elevation at the Rear Setback Line	N/A	N/A	N/A	24 ft	1
Maximum Height from Finished or Existing Grade (whichever is lower) Within 20' of the Front Property Line	N/A	N/A	N/A	24 ft	1, 3

**Additional Regulations for Table 17.17.06:**

2. On a downslope lot greater than forty (40) percent (40%) footprint slope, the rear wall of an attached garage or carport may exceed the wall height and roof height by five (5) feet, but may not exceed

eighteen (18) feet above ground elevation at edge of pavement, if the garage or carport conforms with all of the following criteria:

- a. Maximum width is twenty-two (22) feet and maximum depth is twenty (20) feet; and
- b. Garage or carport floor is at the same level as the edge of the street pavement resulting from the project at the center point of the driveway entrance or is at a lower level; and
- c. Maximum height above the garage or carport floor is ten (10) feet for walls to the top of the plate or flat roof, and twelve (12) feet for pitched roofs (see Illustration for Table 17.17.06 [Additional Regulation 2], below).

**17.17.060 - Special regulations for mini-lot and planned unit developments.**

- A. Mini-Lot Developments. In mini-lot developments, certain regulations that otherwise apply to individual lots in the RM zones may be waived or modified when and as prescribed in ~~Section 17.102.320~~ Chapter 17.142.

**17.17.070 - Other zoning provisions.**

- A. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112.
- B. Nonconforming Uses. Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.114.
- E. Landscaping and Screening Standards. The landscaping and screening regulations set forth in Chapter 17.124 shall apply in the RM zones. ~~The regulations set forth in Chapter 17.124 and Chapter 17.102.400, screening of utility meters, etc., shall apply in the RM zones.~~
- F. 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, storage areas, control of artificial illumination, and other matters specified therein.

**17.19.030 - Permitted and conditionally permitted activities.**

Table 17.19.01 lists the permitted, conditionally permitted, and prohibited activities in the RU zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

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

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

**Table 17.19.01: Permitted and Conditionally Permitted Activities**

Activities	Zones					Additional Regulations
	RU-1	RU-2	RU-3	RU-4	RU-5	
<b>Residential Activities</b>						
Permanent	P(L1)	P(L1)	P(L1)	P(L1)	P(L1)	17.102.242 17.103.010
Residential Care	PC(L1)	CP(L1)	GP(L1)	GP(L1)	GP(L1)	17.102.242 17.103.010
Service-Enriched Permanent Housing	C(L1)	C(L1)	C(L1)	C(L1)	C(L1)	17.102.242 17.103.010
Transitional Housing	C(L1)	C(L1)	C(L1)	C(L1)	C(L1)	17.102.242 17.103.010
Emergency Shelter	—	C(L1)	C(L1)	C(L1)	C(L1)	17.102.242 17.103.010
Semi-Transient	—	—	—	C(L1)	C(L1)	
Bed and Breakfast	C	C	C	C	C	17.10.125
<b>Civic Activities</b>						
Essential Service	P	P	P	P	P	
Limited Child-Care Activities	P	P	P	P	P	
Community Assembly	C	C	C	C	C	
Recreational Assembly	P	P	P	P	P	
Community Education	C	C	C	P(L2)	P(L2)	
Nonassembly Cultural	P(L2)	P(L2)	P(L2)	P(L2)	P(L2)	
Administrative	C	C	C	P(L2)(L3)	P(L2)(L4)	
Health Care	C	C	C	P(L2)(L3)	P(L2)(L4)	
Special Health Care	—	—	—	—	—	
Utility and Vehicular	C	C	C	C	C	
Extensive Impact	C	C	C	C	C	
<b>Commercial Activities</b>						
General Food Sales	C(L5)(L6)	C(L5)(L6)	C(L5)(L6)	P(L2)(L3)	P(L2)(L4)	
Full Service Restaurants	C(L5)(L6)	C(L5)(L6)	C(L5)(L6)	P(L2)(L3)	P(L2)(L4)	
Limited Service Restaurant and Cafe	C(L5)(L6)	C(L5)(L6)	C(L5)(L6)	P(L2)(L3)	P(L2)(L4)	

Fast-Food Restaurant	—	—	—	—	C(L4)	47.102.240 17.103.030
Convenience Market	—	—	—	—	C(L4)	47.102.240 17.103.030
Alcoholic Beverage Sales	—(L7)	—(L7)	—(L7)	C(L3)	C(L4)	47.102.240 17.103.030 and 47.102.040 17.114.030
Mechanical or Electronic Games	—	—	—	—	C(L4)	47.102.240
Medical Service	P(L6)(L8)	P(L6)(L8)	P(L6)(L8)	P(L2)(L3)	P(L2)(L4)	
General Retail Sales	P(L6)(L8)	P(L6)(L8)	P(L6)(L8)	P(L2)(L3)	P(L2)(L4)	
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	—	
Consumer Service	C(L5)(L6)(L9)	P(L6)(L8) (L9)	P(L6)(L8) (L9)	P(L2)(L3) (L9)	P(L2)(L4) (L9)	
Consultative and Financial Service	P(L6)(L8)	P(L6)(L8)	P(L6)(L8)	P(L2)(L3)	P(L2)(L4)	
Check Cashier and Check Cashing	—	—	—	—	—	
Consumer Cleaning and Repair Service	P(L6)(L8)	P(L6)(L8)	P(L6)(L8)	P(L2)(L3)	P(L2)(L4)	
Consumer Dry Cleaning Plant	—	—	—	C(L3)	C(L4)	
Group Assembly	—	—	C(L5)(L6)(L10)	C(L3)(L10)	C(L4)(L10)	
Personal Instruction and Improvement Services	P(L6)(L8)	P(L6)(L8)	P(L6)(L8)	P(L2)(L3)	P(L2)(L4)	
Administrative	P(L6)(L9L11)	P(L6)(L9L11)	P(L6)(L9L11)	P(L2)(L3)	P(L2)(L4)	
Business, Communication, and Media Services	P(L6)(L8)	P(L6)(L8)	P(L6)(L8)	P(L2)(L3)	P(L2)(L4)	
Broadcasting and Recording Services Commercial Activities	—	—	—	P(L2)(L3)	P(L2)(L4)	
Research Service	—	—	—	P(L2)(L3)	P(L2)(L4)	
General Wholesale Sales	—	—	—	—	—	
Transient Habitation	—	—	—	—	—	
Wholesale and Professional-Building Material Sales	—	—	—	—	—	
Automobile and Other Light Vehicle Sales and Rental	—	—	—	—	—	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	—	—	—	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	—	—	—	
Taxi and Light Fleet-Based Services	—	—	—	—	—	
Automotive Fee Parking	—	—	—	—	—	
Animal Boarding	—	—	—	—	—	
Animal Care	—	—	—	—	—	
Undertaking Service	—	—	—	—	—	
Industrial Activities (all)	—	—	—	—	—	
<b>Agriculture and Extractive Activities</b>						
Crop and animal raising	C(L10L12)	C(L10L12)	C(L10L12)	C(L10L12)	C(L10L12)	

Plant nursery	C	C	C	C	C	
Mining and Quarrying	—	—	—	—	—	
Accessory off-street parking serving prohibited activities	C	C	C	C	C	17.102.100 17.116.075
<u>Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone. Additional activities that are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof</u>	C	C	C	C	C	17.102.110

**Limitations on Table 17.19.01:**

L1. Residential Care is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when not located in a One-Family Dwelling Residential Facility. No Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such activity. See Section 17.102.242 17.103.010 for other regulations regarding these activities. Also, Residential Care is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when not located in a One-Family Dwelling Residential Facility.

**L8.** These activities may only be located in an existing ground floor of nonresidential facility that was both built prior to the effective date of this chapter (April 14, 2011) and not originally used for a Civic Activity. For the purposes of this limitation, a facility is considered built if it received its certificate of occupancy or passed its final building inspection on its building permit. These activities may only operate within the hours of 7:00 a.m. and 10:00 p.m.; a Conditional Use Permit (CUP) is required if the facility exceeds three thousand (3,000) square feet (see Chapter 17.134 for the CUP procedure).

L9. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five-hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

**L10.** Adult entertainment activities are prohibited.

**L119.** These activities may only be located in an existing ground floor of nonresidential facility that was both built prior to the effective date of this chapter (April 14, 2011) and not originally used for a Civic Activity. These activities may only operate within the hours of 7:00 a.m. and 10:00 p.m.; a Conditional Use Permit is required if the facility exceeds one thousand five hundred (1,500) square feet (see Chapter 17.134 for the CUP procedure).

**L120.** Crop and Animal Raising is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;
2. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and
3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

**17.19.040 - Permitted and conditionally permitted facilities.**

Table 17.19.02 lists the permitted, conditionally permitted, and prohibited facilities in the RU zones. The descriptions of these facilities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

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

"—" designates facilities that are prohibited.

**Table 17.19.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones					Additional Regulations
	RU-1	RU-2	RU-3	RU-4	RU-5	
<b>Residential Facilities</b>						
One-Family Dwelling	P	P	P	—(L1)	—(L1)	
One-Family Dwelling with Secondary Unit	P	P	P	—(L1)	—(L1)	17.102.360 17.103.080
Two-Family Dwelling	P	P	P	P	P	
Multifamily Dwelling	P	P	P	P	P	
Rooming House	—	C	C	P	P	
Mobile Home	—	—	—	—	—	
<b>Nonresidential Facilities</b>						
Enclosed Nonresidential	P	P	P	P(L2)	P(L3)	
Open Nonresidential	P	P	P	P	P	
Sidewalk Cafe	P(L4)	P(L4)	P(L4)	P	P	17.102.335 17.103.090
Drive-In Nonresidential	—	—	—	—	—	
Drive-Through Nonresidential	—	—	—	—	—	
<b>Telecommunications Facilities</b>						
Micro Telecommunications	C	C	C	C	C	17.128
Mini Telecommunications	C	C	C	C	C	17.128
Macro Telecommunications	C	C	C	C	C	17.128
Monopole Telecommunications	C	C	C	C	C	17.128
Tower Telecommunications	—	—	—	—	—	17.128
<b>Sign Facilities</b>						
Residential Signs	P	P	P	P	P	17.104
Special Signs	P	P	P	P	P	17.104
Development Signs	P	P	P	P	P	17.104
Realty Signs	P	P	P	P	P	17.104
Civic Signs	P	P	P	P	P	17.104
Business Signs	P(L5)	P(L5)	P(L5)	P	P	17.104
Advertising Signs	—	—	—	—	—	17.104



**Limitations on Table 17.19.02:**

**L4.** Sidewalk cafes are allowed only as an accessory facility to an already approved Full Service Restaurant or Limited Service Restaurant and Cafe. The sidewalk cafe may only operate within the hours of 7:00 a.m. to 10:00 p.m. No more than three (3) tables and no more than ten (10) chairs or seats are allowed. If more tables or chairs are requested, a Conditional Use Permit (CUP) is required (see Chapter 17.134 for the CUP procedure). See ~~17.102.335~~ Section 17.103.090 for other regulations regarding Sidewalk Cafes; however, the regulations in this section supersede any contradicting regulations in ~~17.102.335~~ Section 17.103.090.

**L5.** Business Signs are only allowed on existing nonresidential facilities built prior to the effective date of this chapter (April 14, 2011); otherwise Chapter 17.104 applies. For the purposes of this limitation, a facility is considered built if it received its certificate of occupancy or passed its final building inspection on its building permit. The maximum aggregate area of display surface of all business, civic, and residential signs on any one lot shall be 0.5 square foot for each one foot of lot frontage in the case of an interior lot, or 0.25 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. The total amount of aggregate sign area shall not exceed one hundred (100) square feet on any one property. See Chapter 17.104 for other regulations regarding Business Signs; however, the regulations in this section supersede any contradicting regulations in Chapter 17.104.

**17.19.050 - Property development standards.**

A. Zone Specific Standards. Table 17.19.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "-" indicates that a standard is not required in the specified zone.

**Table 17.19.03: Property Development Standards**

Development Standards	Zones					Additional Regulations
	RU-1	RU-2	RU-3	RU-4	RU-5	
<b>Minimum Lot Dimensions</b>						
Width mean	25 ft	25 ft	25 ft	25 ft	25 ft	1
Frontage	25 ft	25 ft	25 ft	25 ft	25 ft	1
Lot area	4,000 sf	4,000 sf	4,000 sf	4,000 sf	4,000 sf	1
<b>Maximum Density</b>						
Permitted density for regular dwelling units	1 unit per 1,100 sf	1 unit per 800 sf	1 unit per 450 sf	See Table 17.19.04	See Table 17.19.04	2
Permitted density for rooming units	N/A	1 unit per 800 sf	1 unit per 450 sf	See Table 17.19.04	See Table 17.19.04	
<b>Minimum Setbacks</b>						
Minimum front (<20% street-to-setback gradient) for residential facilities	15 ft	10 ft	10 ft	5 ft	0 ft	3, 4, 54, 65
Minimum front (>20% street-to-setback gradient) for residential facilities	5 ft	5 ft	5 ft	5 ft	5 ft	3, 4, 54, 65
Minimum front for commercial facilities	15 ft	10 ft	10 ft	0 ft	0 ft	3
Minimum interior side	4 ft	4 ft	0 ft	0 ft	0 ft	3, 76, 87
Minimum street side	4 ft	4 ft	4 ft	0 ft	0 ft	3, 4, 76, 98
Rear (Residential Facilities)	15 ft	15 ft	15 ft	10/15 ft	10/15 ft	3, 76, 109, 110

Rear (Nonresidential Facilities)	15 ft	15 ft	15 ft	0/10/15 ft	0/10/15 ft	3, 9, 10, 11, 40
<b>Setbacks for Smaller Lots &lt; 3,000 sf or &lt; 35 ft wide</b>						
Minimum interior side	3 ft	3 ft	0 ft	NA	NA	3, 8, 7
Minimum street side	3 ft	3 ft	3 ft	NA	NA	3, 4, 8, 7
<b>Height Regulations</b>						
Minimum height of ground floor nonresidential facilities	0 ft	0 ft	0 ft	12 ft	12 ft	12, 4
Minimum separation between the grade and ground floor living space	0 ft	0 ft	0 ft	2.5 ft	2.5 ft	13, 2
Maximum height primary building	40 ft	50 ft	60 ft	See Table 17.19.04	See Table 17.19.04	13, 4, 15, 4
Maximum height for accessory structures	15 ft	15 ft	15 ft	See Table 17.19.04	See Table 17.19.04	
<b>Parking Requirements</b>						
Minimum Parking Spaces Required per Regular Residential Unit	1	1	1	1	1	16, 5
Additional Parking Spaces Required for Secondary Unit	1	1	1	1	1	16, 5, 17, 6
Parking and driveway location requirements	No	No	No	Yes	Yes	17, 8
Minimum Parking Spaces for Nonresidential Activities	See Chapter 17.116 for automobile parking and Chapter 17.117 for bicycle parking					
<b>Minimum Usable Open Space</b>						
Group usable open space per regular unit	175 sf	175 sf	150 sf	See Table 17.19.04	See Table 17.19.04	19, 4, 8
Group usable open space per regular unit when private open space is substituted	50 sf	30 sf	30 sf	See Table 17.19.04	See Table 17.19.04	19, 4, 8
Group usable open space per rooming unit	85 sf	85 sf	75 sf	See Table 17.19.04	See Table 17.19.04	19, 4, 8
Group usable open space per rooming unit when private open space substituted	15 sf	15 sf	15 sf	See Table 17.19.04	See Table 17.19.04	19, 8
<b>Courtyard Regulations</b>	See Section 17.108.120					

#### Additional Regulations for Table 17.19.03:

1. See Sections 17.106.010 and 17.106.020 for exceptions to lot area, width mean and street frontage regulations.
2. See Chapter 17.107 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one unit on a lot, subject to the provisions of Section 17.102.360 17.103.080. 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 (5) or more bedrooms.
3. See Section 17.108.130 for allowed projections into setbacks.
4. On lots with only residential facilities, paved surfaces within required street-fronting yards, and any unimproved rights-of-way of adjacent streets, shall be limited to fifty percent (50%) on interior lots and thirty percent (30%) on corner lots. Exceptions: The maximum percentages of paved surfaces specified in this additional regulation 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;

b. Sidewalk construction or widening; 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 additional regulation, an unimproved right-of-way is the portion of a street or alley right-of-way that is not paved.

**54.** In the RU-1 zone, if adjacent lots abutting the side lot lines of the subject lot both contain principal Residential Facilities that have front setbacks with a depth of less than fifteen (15) feet, the minimum front setback may be reduced for buildings and other structures on the subject lot up to a line parallel to the front lot line and extended from the most forward projection of the principal Residential Facility on the adjacent lots having the deeper front setback depth, provided such projection is enclosed, has a wall height of at least eight (8) feet, and has a width of at least five (5) feet. In the case of a corner lot or lot that has a vacant parcel next to it, this same principal may apply if the two lots adjacent to the corner lot or lot along its front lot line have less than a fifteen (15) foot front setback (see Illustration for Table 17.19.03 [Additional Regulation 4], below). Also, see Section 17.108.130 for allowed projections into setbacks.

**65.** In all residential zones, the minimum front setback otherwise required by the applicable individual zone regulations shall be reduced to five (5) feet on any lot with a street-to-setback gradient that exceeds twenty (20) percent (20%), provided, however, that the distance from the edge of the pavement to a garage or carport elevation containing one or more vehicular entries shall be at least eighteen (18) feet (see Illustration for Table 17.19.03 [Additional Regulation 5], below). See Section 17.108.130 for allowed projections into setbacks.

**67.** See Section 17.108.080 for the required interior side and rear setbacks on a lot containing two or more living units and opposite a legally-required living room window.

**87.** Wherever an interior side lot line of any lot located in the RU-3, RU-4, or RU-5 zone abuts an interior side lot line of any lot located in an RH or RD zone, the setback of the abutting portion of its side lot line is ten (10) feet. In the case where an interior side lot line of any lot located in the RU-3, RU-4, or RU-5 zone abuts an interior side lot line in an RM zone, the setback of the abutting portion of its side lot line is five (5) feet. In the case where an interior side lot line in an RU-3, RU-4, or RU-5 lot abuts a side yard of an RU-1 or RU-2 lot, a side setback of four (4) feet is required (see Illustration for Table 17.19.03 [Additional Regulation 7] below).

**98.** When the rear yard of a reversed corner lot abuts a key lot that is in an RH, RD, or RM zone or the RU-1 zone, the required street side yard setback in the rear twenty (20) feet of the reversed corner lot is one-half of the minimum front yard required on the key lot (see Illustration for Table 17.19.03 [Additional Regulation 8], below)

**910.** Wherever a rear lot line abuts an alley, one-half (½) of the right-of-way width of the alley may be counted toward the required minimum rear setback; provided, however, that the portion of the minimum rear setback actually on the lot itself shall not be so reduced to less than ten (10) feet. Also, see Section 17.108.130 for allowed projections into setbacks.

**1140.** When a rear lot line in the RU-4 or RU-5 zone is adjacent to an RH, RD, or RM zone or the RU-1 zone, the required rear setback for both residential and nonresidential facilities is ten (10) feet if the lot depth is one-hundred (100) feet or less and fifteen (15) feet if the lot depth is more than one-hundred (100) feet. When a rear lot line of a lot in these zones is not adjacent to an RH, RD, or RM zone or the RU-1 zone, the required rear setback is ten (10) feet for residential facilities and there is no required setback for nonresidential facilities.

**1244.** This height is only required for new principal buildings and is measured from the sidewalk grade to the ground floor ceiling.

**1342.** This regulation only applies to new residential facilities and ground floor living space located within fifteen (15) feet of a street frontage.

**1443.** Buildings in the RU-1, RU-2, RU-3, RU-4, and RU-5 zones shall have a thirty (30) foot maximum height at the setback line associated with any rear or interior side lot line that abut a lot in an RU-1 zone or an RH, RD, or RM zone; this maximum height may increase one foot for every foot of distance from this setback line (see Illustration for Table 17.19.13 [Additional Regulation 11], below). Also, see Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

**154.** In the RU-2 and RU-3 zone, a building may only exceed forty (40) feet in height up to the maximum height if each portion above forty (40) feet is: Set back from the inner line of each of the minimum side setbacks, if any, required by Section 17.28.150(C)(1) a minimum horizontal distance equal to one (1) foot for each four (4) feet by which it extends above the height of forty (40) feet; and set back from the inner line of the minimum rear yard required by Section 17.28.150D a minimum horizontal distance equal to one (1) foot for each two (2) feet by which it extends above the height of forty (40) feet, provided, however, that such setback from the inner line of the minimum rear yard need not exceed forty (40) feet (see Illustration for Table 17.19.03 [Additional Regulation 14], below).

**165.** Off-street parking and loading shall be provided as prescribed in the off-street parking and loading requirements in Chapter 17.116. Bicycle parking shall be provided as prescribed in the bicycle parking regulations in Chapter 17.117. Also, additional parking standards apply within the S-11 and S-12 zones, as prescribed in Chapters Section-17.92 and Section-17.94.

**176.** One parking space for the Secondary Unit is required in addition to any required parking spaces for the Primary Unit. Additional regulations that apply to Secondary Units are provided in Section 17.102.360 17.103.080.

**187.** For the new construction of principal buildings in the RU-4 and RU-5 zones, access to parking and loading facilities through driveways, garage doors, or other means shall not be from the principal street when alternative access is feasible from another location such as a secondary frontage or an alley. Where this is not feasible, every reasonable effort shall be made to share means of vehicular access with abutting properties. Open parking areas shall not be located between the sidewalk and a principal building.

**198.** Each square foot of private usable open space equals two (2) square feet towards the total usable open space requirement, except that actual group space shall be provided in the minimum amount specified in the table per dwelling unit. All usable open space shall meet the standards contained in Chapter 17.126.

B. Height, Floor Area Ratio (FAR), Density, and Open Space for the RU-4 and RU-5 Zones Only. Table 17.19.04 below prescribes height, FAR, intensity, and open space standards associated with the Height Areas described in the Zoning Maps. The number designations in the "Additional Regulations" column refer to regulations below the table.

**Table 17.19.04 Height, Floor Area Ratio (FAR), Density, and Open Space Regulations for the RU-4 and RU-5 Zones Only**

Regulation	Height Area						Additional Regulations
	35	45	60	75	90	120	
Maximum Height	35 ft	45 ft	60 ft	75 ft	90 ft	90 ft	1, 2
Height Minimum							
Permitted height minimum	0 ft	0 ft	35 ft	35 ft	35 ft	35 ft	3

Conditionally permitted height minimum	NA	NA	25 ft	25 ft	25 ft	25 ft	3
Maximum Residential Density (square feet of lot area required per unit)	550 sf	450 sf	375 sf	275 sf	225 sf	225 sf	4, 5
Maximum Nonresidential FAR	2.0	2.5	3.0	4.0	4.0	4.0	4, 5
Maximum Number of Stories (not including underground construction)	3	4	5	7	8	11	
<b>Minimum Usable Open Space</b>							
Group usable open space per regular unit	150 sf	150 sf	150 sf	150 sf	100 sf	100 sf	6
Group usable open space per regular unit when private open space substituted	30 sf	30 sf	30 sf	30 sf	20 sf	20 sf	6
Group usable open space per rooming unit	75 sf	75 sf	75 sf	75 sf	50 sf	50 sf	6
Group usable open space per rooming unit when private open space is substituted	15 sf	15 sf	15 sf	15 sf	10 sf	10 sf	6

**Additional Regulations for Table 17.19.04:**

3. This minimum height requirement only applies to the new construction of a principal building that is located on parcels adjacent to a street right-of-way that is one hundred (100) feet wide or more. Buildings constructed to accommodate Essential Service, Utility and Vehicular, or Extensive Impact Civic Activities are exempted from the height minimum regulation. The allowed projections into the height limits contained in Section 17.108.030 are not counted towards the height minimum.

4. See Chapter 17.107 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one unit on a lot, subject to the provisions of ~~Section 17.102.360~~ 17.103.080. 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 (5) or more bedrooms.

5. No portion of lot area used to meet the residential density requirements shall be used as a basis for computing the maximum nonresidential FAR unless the total nonresidential floor area on the lot is less than three thousand (3,000) square feet.

**17.19.060 - Special regulations for mini-lot and planned unit developments.**

A. Mini-Lot Developments. In mini-lot developments, certain regulations that apply to individual lots in the RU zones may be waived or modified when and as prescribed in ~~Section 17.102.320~~ Chapter 17.142.

**17.19.070 - Other zoning provisions.**

A. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112.

B. Nonconforming Uses. Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.114.

E. Landscaping and Screening Standards. The landscaping and screening regulations set forth in Chapter 17.124 shall apply in the ~~The regulations set forth in Chapter 17.124 and Chapter 17.102.400, screening of utility meters, etc., shall apply in the~~ RU zones.

**17.30.060 - 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:

A. Residential Activities:

Residential Care, except when occupying a One-Family Dwelling Residential Facility

Service-Enriched Permanent Housing

Transitional Housing

Emergency Shelter

B. Civic Activities:

Administrative

Health Care

Utility and Vehicular

Extensive Impact

C. Commercial Activities:

General Food Sales

Full Service Restaurant

Limited Service Restaurant and Cafe

Convenience Market

Alcoholic Beverage Sales

Medical Service

Consumer Service (see Section 17.102.170 for special regulations relating to massage services and Section 17.102.450 for special regulations related to laundromats)

Consultative and Financial Service, but limited to the provision of advice, designs, information, or consultation of a professional nature

D. Agricultural and Extractive Activities:

Crop and Animal Raising

E. Off-street parking serving activities other than those listed above or in Section 17.30.050, subject to the conditions set forth in ~~Section 17.102.100~~ 17.116.075.

F. Activities that are listed neither as permitted nor conditionally permitted, but are permitted or conditionally permitted on nearby lots in an adjacent zone~~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.

**17.30.070 - Permitted facilities.**

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

A. Residential Facilities:

One-Family Dwelling

One-Family Dwelling with Secondary Unit, subject to the provisions specified in Section ~~17.102.360~~ 17.103.080

Two-Family Dwelling

Multifamily Dwelling

Rooming House

B. Nonresidential Facilities:

Enclosed

Open

C. Signs:

Residential

Special

Development

Realty

Civic

**17.30.090 - Special regulations applying to certain commercial activities.**

All General Food Sales, Full Service Restaurant, Limited Service Restaurant and Cafe, Convenience Market, Alcoholic Beverage Sales, and Consumer Service Commercial Activities shall, except for off-street parking and loading and maintenance of accessory landscaping and screening, be conducted entirely within enclosed portions of Multifamily Dwelling or Rooming House Residential Facilities, with customer access only through the lobby of such a facility. The maximum floor area devoted to such activities by any single establishment shall be one thousand five hundred (1,500) square feet. No Business Signs or display windows shall be provided for such activities. See also Section ~~17.102.240~~ 17.103.030.

**17.30.110 - Use permit criteria for commercial activities.**

- A. General Food Sales, Full Service Restaurant, Limited Service Restaurant and Cafe, Convenience Market, Fast-Food Restaurant, Alcoholic Beverage Sales, or Consumer Service. A conditional use permit for General Food Sales, Full Service Restaurant, Limited Service Restaurant and Cafe, Convenience Market, Fast-Food Restaurant, Alcoholic Beverage Sales, or Consumer Service Commercial Activities 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 that the proposed activities are intended primarily to serve residents of the facility within which the activities are to be located. See also Section ~~17.102.240~~ 17.103.030.

**17.30.130 - Minimum lot area, width, and frontage.**

Every lot 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. 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.

**17.30.140 - Maximum residential density.**

The maximum density of Residential Facilities shall be as set forth below, subject to the provisions of Section 17.106.030 with respect to maximum density on lots containing both Residential and Nonresidential Facilities. 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 Subsection 17.102.270B and a Secondary Unit.

- A. Permitted Density. One regular dwelling unit is permitted for each three hundred (300) square feet of lot area, provided that one extra such unit is permitted if a remainder of 200 square feet or more is obtained after division of the lot area by three hundred (300) square feet. One efficiency dwelling unit is permitted for each two hundred (200) square feet of lot area, provided that one extra such unit is permitted if a remainder of one hundred fifty (150) square feet or more is obtained after division of the lot area by two hundred (200) square feet. One rooming unit is permitted for each one hundred fifty (150) square feet of lot area, provided that one extra such unit is permitted if a remainder of 100 square feet or more is obtained after division of the lot area by one hundred fifty (150) square feet. For a combination of different types of living units, the total required lot area shall be the sum of the above requirements for each. The number of living units permitted heretofore 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. A One-Family Dwelling or a One-Family Dwelling with Secondary Unit is permitted on any lot which qualifies under Section 17.106.010 as an existing buildable parcel and that contains no other dwelling units.
- B. Conditionally Permitted Density. The number of living units permitted by Subsection A. of this Section may be increased by not to exceed fifty 50-percent (50%) upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, in each of the following situations:
1. In the case of a Residential Facility with more than four (4) stories containing living units, subject to the provisions of Section 17.106.040.
  2. Upon the acquisition of development rights from nearby lots, subject to the provisions of Section 17.106.050.

The number of living units may also be increased, as prescribed in Section 17.106.060, in certain special housing.

**17.30.150 - Maximum floor-area ratio.**

The maximum floor-area ratio of any facility shall be as set forth below, subject to the provisions of Section 17.106.030 with respect to maximum floor-area ratio on lots containing both Residential and Nonresidential Facilities:

- A. Permitted Floor-Area Ratio (FAR). The maximum permitted floor-area ratio is 3.50, except that this ratio may be exceeded by ten percent (10%) on any corner lot and may also be exceeded by ten percent (10%) on any lot which faces or abuts a public park at least as wide as the lot.
- B. Conditionally Permitted Floor-Area Ratio (FAR). The floor-area ratio permitted by Subsection A. of this Section may be increased by not to exceed fifty 50-percent (50%) upon the granting of a



conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, in each of the following situations:

1. In the case of a Residential Facility with more than four (4) stories containing living units, subject to the provisions of Section 17.106.040.
2. For any facility, upon the acquisition of development rights from nearby lots, subject to the provisions of Section 17.106.050.

#### **17.30.170 - Minimum yards and courts.**

The following minimum yards and courts shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130:

- ~~A. Front Yard. The minimum front yard depth on every lot shall be ten (10) feet, ~~except as a lesser depth is allowed by Section 17.108.050 on steep lots.~~~~
- ~~B. Side Yard—Street Side of Corner Lot. A side yard shall be provided on the street side of a corner lot when and as prescribed in Section 17.108.060~~
- ~~CB. Side Yard—Interior Lot Line. No side yard is generally required along an interior side lot line except as follows:~~
  1. A side yard shall be provided, when and as prescribed in Section 17.108.080, opposite a living room window which faces an interior side lot line and which is located on a lot containing Residential Facilities with a total of two or more living units.
  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.~~
- ~~DC. Rear Yard. The minimum rear yard depth on every lot shall be ten (10) feet, ~~except as a lesser depth is allowed by Section 17.108.110~~~~
- ~~ED. Courts. On each lot containing Residential Facilities with a total of two or more living units, courts shall be provided when and as required by Section 17.108.120.~~

#### **17.30.180 - Minimum usable open space.**

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 plus seventy-five (75) square feet per rooming unit. Private usable open space may be substituted for such group space in the ratio prescribed in Section 17.126.020. All required space shall conform to the standards for required usable open space in Chapter 17.126.

#### **17.30.200 - Special regulations for mini-lot developments, planned unit developments, and large-scale developments.**

- A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the R-80 zone may be waived or modified when and as prescribed in ~~Section 17.102.320~~ Chapter 17.142.
- C. Large-Scale Developments. No development which 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, shall be permitted except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. This requirement shall not apply to developments where a valid planned unit development permit is in effect.

**17.33.030 - Permitted and conditionally permitted activities.**

Table 17.33.01 lists the permitted, conditionally permitted, and prohibited activities in the CN zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

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

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

**Table 17.33.01: Permitted and Conditionally Permitted Activities**

Activities	Zones				Additional Regulations
	CN-1	CN-2	CN-3	CN-4	
<b>Residential Activities</b>					
Permanent	P(L1)(L2)(L3)	P(L1)(L2)(L3)	P(L1)(L3)	P(L1)(L3)	
Residential Care	P(L1)(L2)(L3)	P(L1)(L2)(L3)	P(L1)(L3)	P(L1)(L3)	47.102.242 17.103.010
Service-Enriched Permanent Housing	C(L1)(L3)(L4)	C(L1)(L3)(L4)	C(L1)(L3)(L4)	C(L1)(L3)	47.102.242 17.103.010
Transitional Housing	C(L1)(L3)(L4)	C(L1)(L3)(L4)	C(L1)(L3)(L4)	C(L1)(L3)	47.102.242 17.103.010
Emergency Shelter	C(L1)(L3)(L4)	C(L1)(L3)(L4)	C(L1)(L3)(L4)	C(L1)(L3)	47.102.242 17.103.010
Semi-Transient	—	—	—	—	
Bed and Breakfast	C(L3)(L4)	C(L3)(L4)	C(L3)(L4)	C(L3)	47.10.126
<b>Civic Activities</b>					
Essential Service	P	P	P	P	
Limited Child-Care Activities	P(L2)	P(L2)	P(L5)	P(L5)	
Community Assembly	C(L4)	C(L4)	C(L4)	C	
Recreational Assembly	P(L2)	P(L2)	P(L5)	P(L5)	
Community Education	C(L4)	C(L4)	C(L4)	C	
Nonassembly Cultural	P(L5)	P(L5)	P(L5)	P(L5)	
Administrative	P(L2)	P(L2)	P(L5)	P(L5)	
Health Care	C(L4)	C(L4)	C(L4)	C	
Special Health Care	C(L4)(L6)	C(L4)(L6)	C(L4)(L6)	C(L6)	47.102.390 17.103.020
Utility and Vehicular	C(L4)	C(L4)	C(L4)	C	
Extensive Impact	C(L4)	C(L4)	C(L4)	C	
<b>Commercial Activities</b>					
General Food Sales	P(L5)	P(L5)	P(L7)	P(L7)	
Full Service Restaurants	C(L4)	P(L5)	P(L5)	P(L5)	
Limited Service Restaurant and Cafe	C(L4)	P(L5)	P(L5)	P(L5)	
Fast-Food Restaurant	C(L4)	C(L4)	C(L4)	C	47.102.240

					17.103.030 and 8.09
Convenience Market	C(L4)	C(L4)	C(L4)	C	17.102.210 17.103.030
Alcoholic Beverage Sales	C(L4)	C(L4)	C(L4)	C	17.102.210 17.103.030 and 17.102.040 17.114.030
Mechanical or Electronic Games	C(L4)	C(L4)	C(L4)	C	17.102.210
Medical Service	P(L2)	P(L6L7)	P(L76)	P(L5)	
General Retail Sales	P(L5)	P(L5)	P(L5L8)	P(L5L8)	
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	
Consumer Service	P(L5)(L9)	P(L5)(L9)	P(L5)(L9)	P(L5)(L9)	
Consultative and Financial Service	P(L2)	P(L8L10)	P(L5)	P(L5)	
Check Cashier and Check Cashing	—	—	—	—	
Consumer Cleaning and Repair Service	P(L5)	P(L5)	P(L5)	P(L5)	
Consumer Dry Cleaning Plant	C(L4)	C(L4)	C(L4)	C	
Group Assembly	C(L4)(L11)	C(L4)(L11)	C(L4)(L11)	C(L11)	
Personal Instruction and Improvement Services	P(L2)	P(L5)	P(L5)	P(L5)	
Administrative	P(L2)	P(L2)	P(L5)	P(L5)	
Business, Communication, and Media Services	P(L2)	P(L2)	P(L5)	P(L5)	
Broadcasting and Recording Services	P(L2)	P(L2)	P(L5)	P(L5)	
Research Service	C(L4)	C(L4)	P(L5)	P(L5)	
General Wholesale Sales	—	—	—	—	
Transient Habitation	—	—	—	—	
Wholesale and Professional Building Material Sales	—	—	—	—	
Automobile and Other Light Vehicle Sales and Rental	—	—	—	—	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	—	C	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	—	—	
Taxi and Light Fleet-Based Services	—	—	—	—	
Automotive Fee Parking	C(L4)	C(L4)	C(L4)	C	
Animal Boarding	—	—	—	—	
Animal Care	C(L4)	C(L4)	P(L5)	P(L5)	
Undertaking Service	—	—	—	—	
<b>Industrial Activities</b>					
Custom Manufacturing	C(L4)(L912)	C(L4)(L129)	C(L124)	C	17.102.040
Light Manufacturing	—	—	—	—	
General Manufacturing	—	—	—	—	
Heavy/High Impact	—	—	—	—	
Research and Development	—	—	—	—	

Construction Operations	—	—	—	—	
Warehousing, Storage, and Distribution					
A. General Warehousing, Storage and Distribution	—	—	—	—	
B. General Outdoor Storage	—	—	—	—	
C. Self- or Mini-Storage	—	—	—	—	
D. Container Storage	—	—	—	—	
E. Salvage/Junk Yards	—	—	—	—	
Regional Freight Transportation	—	—	—	—	
Trucking and Truck-Related	—	—	—	—	
Recycling and Waste-Related					
A. Satellite Recycling Collection Centers	—	—	—	—	
B. Primary Recycling Collection Centers	—	—	—	—	
Hazardous Materials Production, Storage, and Waste Management	—	—	—	—	
Agriculture and Extractive Activities					
Crop and animal raising	C(L40L13)	C(L40L13)	C(L40L13)	C(L40L13)	
Plant nursery	C(L4)	C(L4)	C(L4)	C	
Mining and Quarrying	—	—	—	—	
Accessory off-street parking serving prohibited activities	C(L4)	C(L4)	C(L4)	C	17.102.100 17.116.075
Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone. Additional activities that are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof	C(L4)	C(L4)	C(L4)	C	17.102.110

**Limitations on Table 17.33.01:**

**L1.** Residential Care is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when not located in a One-Family Dwelling Residential Facility. No Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such activity. See Section 17.102.242 17.103.010 for other regulations regarding these activities.

**L6.** No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity or five hundred (500) feet from any K-12 school or Transitional Housing, Enriched Housing, or Licensed Emergency Shelters Civic Activity. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

**L6L7.** A Medical Service Commercial Activity that occupies more than thirty-five (35) feet of frontage facing the principal street is not permitted except upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). All window space facing the principal street shall be clear, non-reflective, and allow views into the indoor space.

**L87.** The total floor area devoted to these activities on the ground floor by any single establishment may only exceed fifteen thousand (15,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground floor activities must also meet the criteria contained in L4, above.

L9. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

**L108.** With the exception of retail bank branches, these activities are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when located on the ground floor of a building. Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement. In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground floor activities must also meet the criteria contained in L4, above. The size limitation described in L5, above, shall apply to retail bank branches.

L11. No new or expanded adult entertainment activity shall be located closer than one thousand (1,000) feet to the boundary of any residential zone or three hundred (300) feet from any other adult entertainment activity. See Section 17.102.160 for further regulations regarding adult entertainment activities.

~~L129. Not permitted on the gGround fFloor-except when associated with a full-service restaurant or retail store.~~

**L130.** Crop and Animal Raising is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;
2. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and
3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

**17.33.040 - Permitted and conditionally permitted facilities.**

Table 17.33.02 lists the permitted, conditionally permitted, and prohibited facilities in the CN zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

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

"—" designates facilities that are prohibited.

**Table 17.33.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones				Additional Regulations
	CN-1	CN-2	CN-3	CN-4	
<b>Residential Facilities</b>					
One-Family Dwelling	—(L1)	—(L1)	—(L1)	—(L1)	
One-Family Dwelling with Secondary Unit	—(L1)	—(L1)	—(L1)	—(L1)	17.102.360 17.103.080
Two-Family Dwelling	P(L2)	P(L2)	P(L3)	P	
Multifamily Dwelling	P(L2)	P(L2)	P(L3)	P	
Rooming House	P(L2)	P(L2)	P(L3)	P	

Mobile Home	—	—	—	—	
<b>Nonresidential Facilities</b>					
Enclosed Nonresidential	P	P	P	P	
Open Nonresidential	C(L4)	C(L4)	C(L4)	C(L4)	
Sidewalk Cafe	P	P	P	P	17.102.335 17.103.090
Drive-In	—	—	—	C	
Drive-Through	—	—	—	C(L5)	17.103.100
<b>Telecommunications Facilities</b>					
Micro Telecommunications	P(L65)	P(L65)	P(L65)	P(L65)	17.128
Mini Telecommunications	P(L65)	P(L65)	P(L65)	P(L65)	17.128
Macro Telecommunications	C	C	C	C	17.128
Monopole Telecommunications	C	C	C	C	17.128
Tower Telecommunications	—	—	—	—	17.128
<b>Sign Facilities</b>					
Residential Signs	P	P	P	P	17.104
Special Signs	P	P	P	P	17.104
Development Signs	P	P	P	P	17.104
Realty Signs	P	P	P	P	17.104
Civic Signs	P	P	P	P	17.104
Business Signs	P	P	P	P	17.104
Advertising Signs	—	—	—	—	17.104

**Limitations on Table 17.33.02:**

**L4.** No conditional use permit is required for Open Nonresidential Facilities to accommodate either seasonal sales and/or special event activities.

**L5.** No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

**L65.** See Section 17.128.025 for restrictions on Telecommunication Facilities near residential or HBX zones.

**17.33.050 - Property development standards.**

A. Zone Specific Standards. Table 17.33.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "—" indicates that a standard is not required in the specified zone.

**Table 17.33.03: Property Development Standards**

Development Standards	Zones				Additional Regulations
	CN-1	CN-2	CN-3	CN-4	
<b>Minimum Lot Dimensions</b>					
Width Mean	25 ft	25 ft	25 ft	25 ft	1
Frontage	25 ft	25 ft	25 ft	25 ft	1

Lot area	4,000 sf	4,000 sf	4,000 sf	4,000 sf	1
<b>Minimum/Maximum Setbacks</b>					
Minimum front	0 ft	0 ft	0 ft	0 ft	2
Maximum front	10 ft	10 ft	10 ft	None	3
Minimum interior side	0 ft	0 ft	0 ft	0 ft	4, 5
Minimum street side	0 ft	0 ft	0 ft	0 ft	6
Rear (Residential Facilities)	10/15 ft	10/15 ft	10/15 ft	10/15 ft	7, 8
Rear (Nonresidential Facilities)	0/10/15 ft	0/10/15 ft	0/10/15 ft	0/10/15 ft	8
<b>Design Regulations</b>					
Minimum ground floor nonresidential facade transparency	65%	65%	65%	None	9
Minimum height of ground floor nonresidential facilities	12 ft	12 ft	12 ft	12 ft	10
Minimum separation between the grade and ground floor living space	—	—	2.5 ft	2.5 ft	11
Parking and driveway location requirements	Yes	Yes	Yes	No	12
Ground floor active space requirement	Yes	Yes	Yes	No	13
Height, Floor Area Ratio, Density, and Open Space Regulations	See Table 17.33.04				
Minimum required parking	See Chapter 17.116 for automobile parking and Chapter 17.117 for bicycle parking				
Courtyard regulations	See Section 17.108.120				

**Additional Regulations for Table 17.33.03:**

1. See Sections 17.106.010 and 17.106.020 for exceptions to lot area, width mean, and street frontage regulations.
2. If ~~fifty (50)-percent (50%)~~ or more of the frontage on one side of the street between two intersecting streets is in any residential zone and all or part of the remaining frontage is in any commercial or industrial zone, the required front setback of the commercially or industrially zoned lots is one-half of the minimum front setback required in the residential zone. If ~~fifty 50-percent (50%)~~ or more of the total frontage is in more than one residential zone, then the minimum front setback on the commercially or industrially zoned lots is one-half of that required in the residential zone with the lesser front setback (see Illustration for Table 17.33.03 [Additional Regulation 2]). Also, see Section 17.108.130 for allowed projections into setbacks.

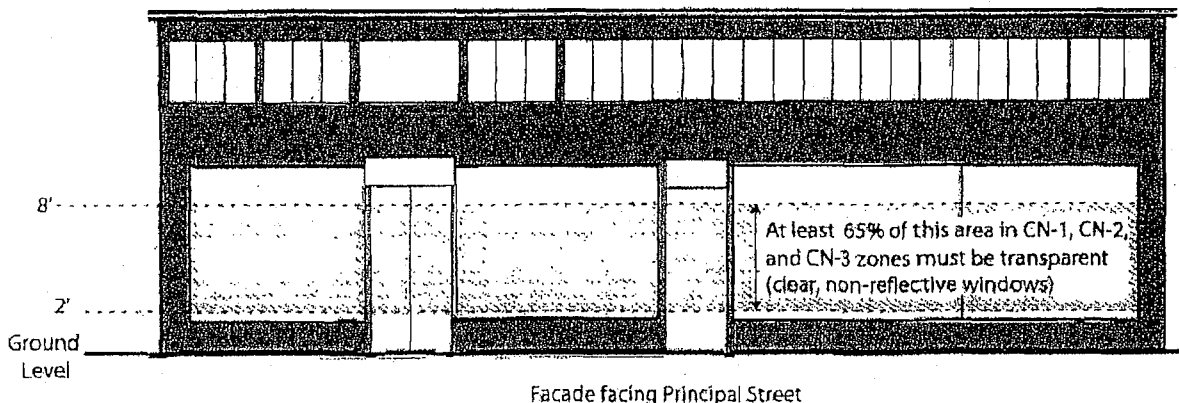
Illustration for Table 17.33.03 [Additional Regulation 2]  
\*for illustration purposes only

3. The following notes apply to the maximum front yard requirement:
  - a. The requirements only apply to the construction of new principal buildings.
  - b. The requirements do not apply to lots containing Recreational Assembly, Community Education, Utility and Vehicular, or Extensive Impact Civic Activities or Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities as principal activities.

c. Maximum yards apply to seventy-five (75) percent (75%) of the street frontage on the principal street and fifty (50) percent (50%) on other streets, if any. All percentages, however, may be reduced to fifty (50) percent (50%) upon the granting of regular design review approval (see Chapter 17.136 for the design review procedure). In addition to the CUP criteria contained in Section 17.136.035, the proposal to reduce to fifty (50) percent (50%) must also meet each of the following criteria:

- i. The additional yard area abutting the principal street is designed to accommodate publicly accessible plazas, cafes, or restaurants;
- ii. The proposal will not impair a generally continuous wall of building facades;
- iii. The proposal will not weaken the concentration and continuity of retail facilities at ground-level, and will not impair the retention or creation of an important shopping frontage; and
- iv. The proposal will not interfere with the movement of people along an important pedestrian street.

9. This percentage of transparency is only required for principal buildings that include ground floor nonresidential facilities and only apply to the facade facing the principal street. The regulations only apply to facades located within twenty (20) feet of a street frontage. The area of required transparency is between two (2) feet and nine (9) feet in height of the ground floor and must be comprised of clear, nonreflective windows that allow views out of indoor commercial space, residential space, or lobbies (see Illustration for Table 17.33.03 [Additional Regulation 9], below). Areas required for garage doors shall not be included in the calculation of facade area (see Note 12 for limitations on the location of parking access). Glass block does not qualify as a transparent window. Exceptions to this regulation may be allowed by the Planning Director for unique facilities such as convention centers, gymnasiums, parks, gas stations, theaters and other similar facilities.



3. This minimum height requirement only applies to the new construction of a principal building that is located on parcels adjacent to a street right-of-way that is one hundred (100) feet wide or more. Buildings constructed to accommodate Essential Service, Utility and Vehicular, or Extensive Impact Civic Activities or Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities may be exempted from the height minimum regulation by the Planning Director. The allowed projections into the height limits contained in Section 17.108.030 are not counted towards the height minimum.

4. See Chapter 17.107 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one unit on a lot, subject to the provisions of Section 17.102.360 17.103.080. 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 (5) or more bedrooms.

5. No portion of lot area used to meet the residential density requirements shall be used as a basis for computing the maximum nonresidential Floor Area Ratio (FAR) unless the total nonresidential floor area on the lot is less than three thousand (3,000) square feet.

**17.33.060 - Special regulations for mini-lot and planned unit developments.**

A. Mini-Lot Developments. In mini-lot developments, certain regulations that apply to individual lots in the CN zones may be waived or modified when and as prescribed in ~~Section 17.102.320~~ Chapter 17.142.

**17.33.070 - Other zoning provisions.**

A. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112.

B. Nonconforming Uses. Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.114.

E. Landscaping and Screening Standards. The landscaping and screening regulations set forth in Chapter 17.124 shall apply in the~~The regulations set forth in Chapter 17.124 and Chapter 17.102.400, screening of utility meters, etc., shall apply in the~~ CN zones.

**17.35.030 - Permitted and conditionally permitted activities.**

Table 17.35.01 lists the permitted, conditionally permitted, and prohibited activities in the CC zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

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

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

**Table 17.35.01: Permitted and Conditionally Permitted Activities**

Activities	Zones			Additional Regulations
	CC-1	CC-2	CC-3	
<b>Residential Activities</b>				
Permanent	P(L1)(L2)(L3)	P(L1)(L2)(L3)	C(L1)(L3)	
Residential Care	P(L1)(L2)(L3)	P(L1)(L2)(L3)	C(L1)(L3)	47.102.242 17.103.010
Service-Enriched Permanent Housing	C(L1)(L3)	C(L1)(L3)	C(L1)(L3)	47.102.242 17.103.010
Transitional Housing	C(L1)(L3)	C(L1)(L3)	C(L1)(L3)	47.102.242 17.103.010
Emergency Shelter	C(L1)(L3)	C(L1)(L3)	C(L1)(L3)	47.102.242 17.103.010
Semi-Transient	—	—	—	
Bed and Breakfast	C	C	C	47.10.125
<b>Civic Activities</b>				
Essential Service	P	P	P	
Limited Child-Care Activities	P	P	C	
Community Assembly	C	C	C	
Recreational Assembly	P	P	P	
Community Education	P	P	P	
Nonassembly Cultural	P	P	P	
Administrative	P	P	P	
Health Care	P	P	P	
Special Health Care	C(L4)	C(L4)	C(L4)	47.102.390 17.103.020
Utility and Vehicular	C	C	C	
Extensive Impact	C	C	C	
<b>Commercial Activities</b>				
General Food Sales	P	P	P	
Full Service Restaurants	P	P	P	
Limited Service Restaurant and Cafe	P	P	P	
Fast-Food Restaurant	C	C	C	47.102.240 17.103.030 and 8.09
Convenience Market	C	C	C	17.102.240 17.103.030
Alcoholic Beverage Sales	C	C	C	47.102.240 17.103.030 and 47.102.040

				17.114.030
Mechanical or Electronic Games	C	C	C	17.102.210
Medical Service	P	P	P	
General Retail Sales	P	P	P	
Large-Scale Combined Retail and Grocery Sales	—	—	—	
Consumer Service	P(L5)	P(L5)	P(L5)	
Consultative and Financial Service	P	P	P	
Check Cashier and Check Cashing	C(L6)	C(L6)	C(L6)	17.102.430 17.103.040
Consumer Cleaning and Repair Service	P	P	P	
Consumer Dry Cleaning Plant	P	C	P	
Group Assembly	C(L7)	C(L7)	C(L7)	
Personal Instruction and Improvement Services	P	P	P	
Administrative	P	P	P	
Business, Communication, and Media Services	P	P	P	
Broadcasting and Recording Services	P	P	P	
Research Service	P	P	P	
General Wholesale Sales	—	—	P	
Transient Habitation	—	—	—	
Wholesale and Professional-Building Material Sales	—	—	P	
Automobile and Other Light Vehicle Sales and Rental	C	P(L4L8)	P	
Automobile and Other Light Vehicle Gas Station and Servicing	P	C	P	
Automobile and Other Light Vehicle Repair and Cleaning	C(L5L9)	C(L5L9)	P	
Taxi and Light Fleet-Based Services	—	—	C	
Automotive Fee Parking	C	C	C	
Animal Boarding	C	C	C	
Animal Care	P	P	P	
Undertaking Service	—	—	—	
<b>Industrial Activities</b>				
Custom Manufacturing	C	C	P	17.102.040
Light Manufacturing	—	C	P(L6L10)	17.102.040
General Manufacturing	—	—	—	
Heavy/High Impact	—	—	—	
Research and Development	—	—	—	
Construction Operations	—	—	—	
<b>Warehousing, Storage, and Distribution</b>				
A. General Warehousing, Storage and Distribution	—	—	P	
B. General Outdoor Storage	—	—	—	
C. Self-or Mini Storage	—	—	—	
D. Container Storage	—	—	—	
E. Salvage/Junk Yards	—	—	—	
Regional Freight Transportation	—	—	—	

Trucking and Truck-Related	—	—	—	
Recycling and Waste-Related				
A. Satellite Recycling Collection Centers	—	—	—	17.10.040
B. Primary Recycling Collection Centers	—	—	—	
Hazardous Materials Production, Storage, and Waste Management	—	—	—	
Agriculture and Extractive Activities				
Crop and animal raising	C(L7L11)	C(L7L11)	C(L7L11)	
Plant nursery	C	C	C	
Mining and Quarrying	—	—	—	
Accessory off-street parking serving prohibited activities	C	C	C	17.102.400116.075
<u>Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone</u> <del>Additional activities that are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof</del>	C	C	C	17.102.110

**Limitations on Table 17.35.01:**

L1. Residential Care is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when not located in a One-Family Dwelling Residential Facility. No Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such activity. See Section 17.103.010 for other regulations regarding these activities.

L4. No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity or five hundred (500) feet from any K-12 school or Transitional Housing, Enriched Housing, or Licensed Emergency Shelters Civic Activity. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

L5. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

L6. No new or expanded Check Cashier and Check Cashing Commercial Activity shall be located closer than one thousand (1,000) feet from any other such activity or five hundred (500) feet from any Community Education, Community Assembly, or Recreational Assembly Civic Activity; state or federally chartered bank, savings association, credit union, or industrial loan company; or certain Alcoholic Beverage Sales Commercial Activities. See Section 17.103.040 for further regulations regarding Check Cashier and Check Cashing Commercial Activities.

L7. No new or expanded adult entertainment activity shall be located closer than one thousand (1,000) feet to the boundary of any residential zone or three hundred (300) feet from any other adult entertainment activity. See Section 17.102.160 for further regulations regarding adult entertainment activities.

L8. Automobile and Other Light Vehicle Sales and Rental is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when located on Telegraph Avenue between 28<sup>th</sup> Street and I-580.

L5L9. This Conditional Use Permit may only be granted 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:

1. That all repair and servicing is performed in an enclosed building;

2. That a minimum six (6) -foot tall masonry or decorative screening wall is provided at all parcels lines adjacent to an RH-, RD- or RM-zone;
3. That a landscape buffering is at all parcels lines adjacent to an RH-, RD- or RM-zone; and
4. That no auto repair activities shall be conducted before 7:00 a.m. or after 9:00 p.m. on any day of the week;

**L6L10.** This activity is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when located on a lot that is within three hundred (300) feet of an RH, RD, or RM zone.

**L7L11.** Crop and Animal Raising is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;
2. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and
3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

**17.35.040 - Permitted and conditionally permitted facilities.**

Table 17.35.02 lists the permitted, conditionally permitted, and prohibited facilities in the CC zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the Table.

"—" designates facilities that are prohibited.

**Table 17.35.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones			Additional Regulations
	CC-1	CC-2	CC-3	
<b>Residential Facilities</b>				
One-Family Dwelling	—(L1)	—(L1)	—(L1)	
One-Family Dwelling with Secondary Unit	—(L1)	—(L1)	—(L1)	17.102.360 17.103.080
Two-Family Dwelling	P(L2)	P(L3)	—	
Multifamily Dwelling	P(L2)	P(L3)	—	
Rooming House	P(L2)	P(L3)	—	
Mobile Home	—	—	—	
<b>Nonresidential Facilities</b>				
Enclosed Nonresidential	P	P	P	
Open Nonresidential	P	P	P	
Sidewalk Cafe	P	P	P	17.102.335 17.103.090

Drive-In	C	C	C	
Drive-Through	C(L4)	C(L4)	C(L4)	
<b>Telecommunications Facilities</b>				
Micro Telecommunications	P(L4L5)	P(L4L5)	P(L4L5)	17.128
Mini Telecommunications	P(L54)	P(L54)	P(L54)	17.128
Macro Telecommunications	C	C	C	17.128
Monopole Telecommunications	C	C	C	17.128
Tower Telecommunications	—	—	—	17.128
<b>Sign Facilities</b>				
Residential Signs	P	P	P	17.104
Special Signs	P	P	P	17.104
Development Signs	P	P	P	17.104
Realty Signs	P	P	P	17.104
Civic Signs	P	P	P	17.104
Business Signs	P	P	P	17.104
Advertising Signs	—	—	—	17.104

**Limitations on Table 17.35.02:**

L4. No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

L54. See Section 17.128.025 for restrictions on Telecommunication Facilities near residential or HBX zones.

**17.35.050 - Property development standards.**

A. Zone Specific Standards. Table 17.35.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "—" indicates that a standard is not required in the specified zone.

**Table 17.35.03: Property Development Standards**

Development Standards	Zones			Additional Regulations
	CC-1	CC-2	CC-3	
<b>Minimum Lot Dimensions</b>				
Width mean	50 ft	25 ft	25 ft	1
Frontage	50 ft	25 ft	25 ft	1
Lot area	7,500 sf	4,000 sf	4,000 sf	1
<b>Minimum/Maximum Setbacks</b>				
Minimum front	0 ft	0 ft	0 ft	2
Maximum front	N/A	10 ft	N/A	3
Minimum interior side	0 ft	0 ft	0 ft	4, 5
Minimum street side	0 ft	0 ft	0 ft	6

Rear (Residential Facilities)	10/15 ft	10/15 ft	10/15 ft	7, 8
Rear (Nonresidential Facilities)	0/10/15 ft	0/10/15 ft	0/10/15 ft	8
<b>Design Regulations</b>				
Minimum ground floor nonresidential facade transparency	N/A	55%	N/A	9
Minimum height of ground floor nonresidential facilities	N/A	12 ft	N/A	10
Parking and driveway location requirements	No	Yes	No	11
Ground floor active space requirement	No	Yes	No	12
Height, Floor Area Ratio, Density, and Open Space Regulations	See Table 17.35.04			
Minimum Required Parking	See Chapter 17.116 for automobile parking and Chapter 17.117 for bicycle parking			
Courtyard Regulations	See Section 17.108.120			

**Additional Regulations for Table 17.35.03:**

2. If fifty ~~(50)~~-percent (50%) or more of the frontage on one side of the street between two intersecting streets is in any residential zone and all or part of the remaining frontage is in any commercial or industrial zone, the required front setback of the commercially or industrially zoned lots is one-half of the minimum front setback required in the residential zone. If ~~fifty 50~~-percent (50%) or more of the total frontage is in more than one residential zone, then the minimum front setback on the commercially or industrially zoned lots is one-half of that required in the residential zone with the lesser front setback (see Illustration for Table 17.35.03 [Additional Regulation 2], below).

3. The following notes apply to the maximum front yard requirement:

- a. The requirements only apply to the construction of new principal buildings.
- b. The requirements do not apply to lots containing the following principal activities: Recreational Assembly, Community Education, Utility and Vehicular, or Extensive Impact Civic Activities or Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities as principal activities.
- c. Maximum yards apply to seventy-five ~~(75)~~-percent (75%) of the street frontage on the principal street and fifty ~~(50)~~-percent (50%) on other streets, if any. All percentages, however, may be reduced to fifty ~~(50)~~-percent (50%) upon the granting of Regular Design Review approval (see Chapter 17.136 for the design review procedure). In addition to the CUP criteria contained in Section 17.136.035, the proposal to reduce to fifty ~~(50)~~-percent (50%) must also meet each of the following criteria:
  - i. The additional yard area abutting the principal street is designed to accommodate publicly accessible plazas, cafes, or restaurants;
  - ii. The proposal will not impair a generally continuous wall of building facades;
  - iii. The proposal will not weaken the concentration and continuity of retail facilities at ground-level, and will not impair the retention or creation of an important shopping frontage; and
  - iv. The proposal will not interfere with the movement of people along an important pedestrian street.

8. When a rear lot line is adjacent to an RH, RD, RM, or RU-1 zone, the required rear setback for both residential and nonresidential facilities is ten (10) feet if the lot depth is one-hundred (100) feet or less and fifteen (15) feet if the lot depth is more than one-hundred (100) feet. When a rear lot line is not adjacent to an RH, RD, RM, or RU-1 zone, the required rear setback is ten (10) feet for residential facilities and there is no required setback for nonresidential facilities.

12. For the new construction of principal buildings in the CC-2 zone, ground level parking spaces, locker areas, mechanical rooms, and other non-active spaces shall not be located within thirty (30) feet from the front of the principal building except for incidental entrances to such activities elsewhere in the building. Exceptions to this regulation may be permitted by the Planning Director for utilities and trash enclosures that cannot be feasibly placed in other locations of the building. Driveways, garage entrances, or other access to parking and loading facilities may be located on the ground floor of this area as regulated by Note 11, above.

C. Height, Floor Area Ratio (FAR), Density, and Open Space. Table 17.35.04 below prescribes height, FAR, density, and open space standards associated with the Height Areas described in the Zoning Maps. The number designations in the "Additional Regulations" column refer to regulations below the table.

**Table 17.35.04 Height, Floor Area Ratio (FAR), Density, and Open Space Regulations**

Regulation	Height Area							Additional Regulations
	35	45	60	75	90	120	160	
<b>Maximum Height</b>	35 ft	45 ft	60 ft	75 ft	90 ft	120 ft	160 ft	1, 2
<b>Height Minimum</b>								
Permitted height minimum	0 ft	0 ft	35 ft	35 ft	35 ft	35 ft	35 ft	3
Conditionally permitted height minimum	NA	NA	25 ft	25 ft	25 ft	25 ft	25 ft	3
<b>Maximum Residential Density (square feet of lot area required per dwelling unit)</b>								
Regular units	550	450	375	275	225	225	225	4, 5
Rooming units	275	225	185	135	110	<u>110</u> 225	<u>110</u> 225	4, 5
<b>Maximum Nonresidential FAR</b>	2.0	2.5	3.0	4.0	4.5	5.0	5.0	4, 5
<b>Maximum number of stories (not including underground construction)</b>	3	4	5	7	8	11	15	
<b>Minimum Usable Open Space</b>								
Group usable open space per regular unit	150	150	150	150	100	100	100	6
Group usable open space per regular unit when private open space substituted	30	30	30	30	20	20	20	6
Group usable open space per rooming unit	75	75	75	75	50	50	50	6
Group usable open space per rooming unit when private open space is substituted	15	15	15	15	10	10	10	6

**Additional Regulations for Table 17.35.04:**

3. This minimum height requirement only applies to the new construction of a principal building that is located on parcels adjacent to a street right-of-way that is one hundred (100) feet wide or more. Buildings in the CC-1 zone and buildings constructed to accommodate Essential Service, Utility and Vehicular, or Extensive Impact Civic Activities or Automobile and Automobile and Other Light Vehicle Sales and



Rental, Automobile and Other Light Vehicle Gas Station and Servicing or Automobile and Other Light Vehicle Repair and Cleaning Commercial Activities may be exempted from the height minimum regulation by the Planning Director. The allowed projections into the height limits contained in Section 17.108.030 are not counted towards the height minimum.

4. See Chapter 17.107 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one unit on a lot, subject to the provisions of Section ~~17.102.360~~ 17.103.080. 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 (5) or more bedrooms.

5. No portion of lot area used to meet the residential density requirements shall be used as a basis for computing the maximum nonresidential FAR unless the total nonresidential floor area on the lot is less than three thousand (3,000) square feet.

**17.35.060 - Special regulations for mini-lot and planned unit developments.**

A. Mini-Lot Developments. In mini-lot developments, certain regulations that apply to individual lots in the CC zones may be waived or modified when and as prescribed in ~~Section 17.102.320~~ Chapter 17.142.

**17.35.070 - Other zoning provisions.**

A. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112.

B. Nonconforming Uses. Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.114.

D. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the CN zones.

E. Landscaping and Screening Standards. The landscaping and screening regulations set forth in Chapter 17.124 shall apply in the ~~The regulations set forth in Chapter 17.124 and Chapter 17.102.400, screening of utility meters, etc., shall apply in the~~ CC zones.

**17.37.030 - Permitted and conditionally permitted activities.**

Table 17.37.01 lists the permitted, conditionally permitted, and prohibited activities in the CR-1 zone. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

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

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

**Table 17.37.01: Permitted and Conditionally Permitted Activities**

Activities	Zone	Additional Regulations
	CR-1	
<b>Residential Activities</b>		
Permanent	—	
Residential Care	—	
Service-Enriched Permanent Housing	—	
Transitional Housing	C(L1)	47.102.242 17.103.010
Emergency Shelter	C(L1)	47.102.242 17.103.010
Semi-Transient	C(L1)	
Bed and Breakfast	—	17.10.125
<b>Civic Activities</b>		
Essential Service	P	
Limited Child-Care Activities	P	
Community Assembly	P	
Recreational Assembly	P	
Community Education	C	
Nonassembly Cultural	P	
Administrative	P	
Health Care	C	
Special Health Care	C(L2)	47.102.390 17.103.020
Utility and Vehicular	C	
Extensive Impact	C	
<b>Commercial Activities</b>		
General Food Sales	P	
Full Service Restaurants	P	
Limited Service Restaurant and Cafe	P	
Fast-Food Restaurant	C	47.102.210 17.103.030 and 8.09
Convenience Market	C	47.102.210 17.103.030
Alcoholic Beverage Sales	C	47.102.210 17.103.030 and 47.102.040

		17.114.030
Mechanical or Electronic Games	C	17.102.219
Medical Service	P	
General Retail Sales	P	
Large-Scale Combined Retail and Grocery Sales	—	
Consumer Service	P(L3)	
Consultative and Financial Service	P	
Check Cashier and Check Cashing	—	
Consumer Cleaning and Repair Service	P(L2L4)	
Consumer Dry Cleaning Plant	C	
Group Assembly	C(L5)	
Personal Instruction and Improvement Services	P	
Administrative	P	
Business, Communication, and Media Services	P	
Broadcasting and Recording Services	P	
Research Service	P	
General Wholesale Sales	C	
Transient Habitation	C	17.102.370 17.103.050
Wholesale and Professional Building Material Sales	P(L2L4)	
Automobile and Other Light Vehicle Sales and Rental	P(L2L4)	
Automobile and Other Light Vehicle Gas Station and Servicing	P(L2L4)	
Automobile and Other Light Vehicle Repair and Cleaning	P(L2L4)	
Taxi and Light Fleet-Based Services	P(L2L4)	
Automotive Fee Parking	—(L3L6)	
Animal Boarding	C	
Animal Care	P	
Undertaking Service	—	
<b>Industrial Activities</b>		
Custom Manufacturing	P(L2L4)	17.102.040
Light Manufacturing	P(L2L4)	17.102.040
General Manufacturing	C(L2L4)	17.102.040
Heavy/High Impact	—	
Research and Development	P	
Construction Operations	—	
<b>Warehousing, Storage, and Distribution</b>		
A. General Warehousing, Storage and Distribution	P(L2L4)	
B. General Outdoor Storage	C(L2L4)	
C. Self or Mini Storage	C(L2L4)	
D. Container Storage	C(L2L4)	
E. Salvage/Junk Yards	—	
Regional Freight Transportation	C(L2L4)	
Trucking and Truck-Related	C(L2L4)	

Recycling and Waste-Related		
A. Satellite Recycling Collection Centers	C(L2L4)	17.10.040
AB. Primary Recycling Collection Centers	C(L2L4)	17.103.060
Hazardous Materials Production, Storage, and Waste Management	--	
Agriculture and Extractive Activities		
Crop and animal raising	C(L2L4)(L4L7)	
Plant nursery	C(L2L4)	
Mining and Quarrying	--	
Accessory off-street parking serving prohibited activities	P	17.102.100 17.116.075
Activities that are listed as prohibited but are permitted or conditionally permitted on nearby lots in an adjacent zone. Additional activities that are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof	C	17.102.110

**Limitations on Table 17.37.01:**

**L1.** No Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such activity. See Section ~~17.102.242~~ 17.103.010 for other regulations regarding these activities.

**L2.** No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity or five hundred (500) feet from any K-12 school or Transitional Housing, Enriched Housing, or Licensed Emergency Shelters Civic Activity. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

**L3.** See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

**L42.** These activities are not permitted within three hundred (300) feet of a lot line adjacent to the Hegenberger Road right-of-way.

**L5.** No new or expanded adult entertainment activity shall be located closer than one thousand (1,000) feet to the boundary of any residential zone or three hundred (300) feet from any other adult entertainment activity. See Section 17.102.160 for further regulations regarding adult entertainment activities.

**L63.** Existing fee parking lots may be reconfigured to increase the number of parking spaces and make more efficient use of the existing parking area. Expansion of existing facilities to include structured parking or expanding the size of the parcel with the parking constitutes an expansion of a nonconforming use and is not permitted.

**L74.** Crop and Animal Raising is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;
2. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and

3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

**17.37.040 - Permitted and conditionally permitted facilities.**

Table 17.37.02 lists the permitted, conditionally permitted, and prohibited facilities in the CR-1 zone. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the Table.

"—" designates facilities that are prohibited.

**Table 17.37.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zone	Additional Regulations
	CR-1	
<b>Residential Facilities</b>		
One-Family Dwelling	—(L1)	
One-Family Dwelling with Secondary Unit	—(L1)	
Two-Family Dwelling	—(L1)	
Multifamily Dwelling	—(L1)	
Rooming House	—(L1)	
Mobile Home	—(L1)	
<b>Nonresidential Facilities</b>		
Enclosed Nonresidential	P	
Open Nonresidential	P	
Sidewalk Cafe	P	47.102.335 17.103.090
Drive-In	C	
Drive Through	C	
<b>Telecommunications Facilities</b>		
Micro Telecommunications	P(L2)	17.128
Mini Telecommunications	P(L2)	17.128
Macro Telecommunications	C	17.128
Monopole Telecommunications	C	17.128
Tower Telecommunications	—	17.128
<b>Sign Facilities</b>		
Residential Signs	P	17.104
Special Signs	P	17.104
Development Signs	P	17.104
Realty Signs	P	17.104
Civic Signs	P	17.104
Business Signs	P	17.104

**17.37.050 - Property development standards.**

A. Zone Specific Standards. Table 17.37.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

**Table 17.37.03: Property Development Standards**

Development Standards	CR-1 zone	Additional Regulations
<b>Minimum Lot Dimensions</b>		
Width mean	50 ft	1
Frontage	50 ft	1
Lot area	7,500 sf	1
<b>Minimum/Maximum Setbacks</b>		
Minimum front	20 feet on parcels facing a right of way of 100 ft or more; 10 feet on parcels facing a right of way that is less than 100 feet wide.	2
Minimum interior side	0 ft	3
Minimum street side	0 ft	4
Rear	0/10/15 ft	5
Height and Floor Area Ratio Regulations	See Table 17.37.04	
Minimum Required Parking	See Chapter 17.116 for automobile parking and Chapter 17.117 for bicycle parking	

**Additional Regulations for Table 17.37.03:**

1. See Sections 17.106.010 and 17.106.020 for exceptions to lot area, width mean, and street frontage regulations.
  
2. Hegenberger Road, 98th Avenue, and Edgewater Drive each have a right-of-way width of one hundred (100) feet or more. This minimum front yard setback area shall, except for necessary driveways, walkways, and allowable signs, be developed as open landscaped areas with lawn, ground cover, garden, shrubs, trees, or decorative paving materials, subject to the standards for required landscaping and screening in Chapter 17.124. Further, if ~~fifty (50)~~ percent (50%) or more of the frontage on one side of the street between two intersecting streets is in any residential zone and all or part of the remaining frontage is in any commercial or industrial zone, the required front setback of the commercially or industrially zoned lots is one-half of the minimum front setback required in the residential zone. If ~~fifty~~ 50 percent (50%) or more of the total frontage is in more than one residential zone, then the minimum front setback on the commercially or industrially zoned lots is one-half of that required in the residential zone with the lesser front setback.

**17.37.060 - Special regulations for mini-lot and planned unit developments.**

- A. Mini-Lot Developments. In mini-lot developments, certain regulations that apply to individual lots in the CR zone may be waived or modified when and as prescribed in ~~Section 17.102.320~~ Chapter 17.142.

**17.37.070 - Other zoning provisions.**

- A. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112.
- B. Nonconforming Uses. Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.114.
- E. Landscaping and Screening Standards. The landscaping and screening regulations set forth in Chapter 17.124 shall apply in the ~~The regulations set forth in Chapter 17.124 and Chapter 17.102.400, screening of utility meters, etc., shall apply in the~~ CR zone.

**17.54.050 - Permitted activities.**

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

A. Residential Activities:

Permanent

Residential Care occupying a One-Family Dwelling Residential Facility

Semi-Transient

B. Civic Activities:

Essential Service

Limited Child-Care

Community Assembly

Recreational Assembly

Community Education

Nonassembly Cultural

Administrative

Health Care

Utility and Vehicular, but excluding communications equipment installations and exchanges

C. Commercial Activities:

General Food Sales

Full Service Restaurant

Limited Service Restaurant and Cafe

Medical Service

General Retail Sales

Consumer Service

Consultative and Financial Service

Consumer Cleaning and Repair Service

Consumer Dry Cleaning Plant

Administrative

Business, Communication, and Media Service

Broadcasting and Recording Service

Research Service



General Wholesale Sales

Building Material Sales

Automobile and Other Light Vehicle Sales and Rental

Automobile and Other Light Vehicle Gas Station and Servicing

Automotive and Other Light Vehicle Repair and Cleaning

Automotive Fee Parking

D. Industrial Activities:

Custom Manufacturing

E. Off-street parking serving activities other than those listed above, subject to the conditions set forth in Section ~~17.102.100~~ 17.116.075.

**17.54.060 - 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:

A. Residential Activities:

Residential Care, except when occupying a One-Family Dwelling Residential Facility

Service-Enriched Permanent Housing

Transitional Housing

Emergency Shelter

B. Civic Activities:

Extensive Impact

Utility and Vehicular (communications equipment installations and exchanges, only)

Special Health Care Civic Activities

C. Commercial Activities:

Check Cashier and Check Cashing

Fast-Food Restaurant

Convenience Market

Alcoholic Beverage Sales

Mechanical or Electronic Games, ~~subject to the provisions of Section 17.102.210C~~

Group Assembly

Personal Instruction and Improvement and Small Scale Entertainment

Transient Habitation

- Animal Care
- Animal Boarding
- Undertaking Service
- D. Industrial Activities:
  - Light
- E. Agricultural and Extractive Activities:
  - Plant Nursery
  - Crop and Animal Raising (see Section 17.54.090)
- F. ~~Activities that are listed neither as permitted nor conditionally permitted, but are permitted or conditionally permitted on nearby lots in an adjacent zone. 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

**17.54.070 - Permitted facilities.**

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

- A. Residential Facilities:
  - One-Family Dwelling
  - One-Family Dwelling with Secondary Unit, subject to the provisions specified in Section ~~17.102.360~~ 17.103.080
  - Two-Family Dwelling
  - Multifamily Dwelling
  - Rooming House
- B. Nonresidential Facilities:
  - Enclosed
  - Open
  - Drive-In
  - Sidewalk Cafes, subject to the provisions of Section ~~17.102.335~~ 17.103.090
- C. Signs:
  - Residential
  - Special
  - Development
  - Realty
  - Civic
  - Business

D. Telecommunications Facilities:

Micro, except when a Major Conditional Use Permit is required by Section 17.128.025

Mini, except when a Major Conditional Use Permit is required by Section 17.128.025

**17.54.090 - Special regulations applying to certain activities.**

- A. Fast-Food Restaurants, Convenience Markets, and Certain Establishments Selling Alcoholic Beverages or Providing Mechanical or Electronic Games. See Section ~~17.102.210~~ 17.103.030.
- C. Crop and Animal Raising is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:
1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;
  2. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and
  3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

**17.54.130 - Maximum residential density.**

- B. Density Bonuses. The number of living units allowed by subsection A of this section may be increased by not to exceed fifty ~~(50)~~ percent (50%) upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, in each of the following situations:
1. In the case of a Residential Facility with more than four stories containing living units, subject to the provisions of Section 17.106.040.
  2. Upon the acquisition of development rights from nearby lots, subject to the provisions of Section 17.106.050.

The number of living units may also be increased, as prescribed in Section 17.106.060, in certain special housing.

**17.54.180 - Buffering and landscaping.**

- B. Landscaping for Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities. One and one-half percent of the lot area devoted to Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities shall be developed with lawn, ground cover, garden, or shrubs, and one street tree shall be provided for each one hundred (100) feet of street line abutting the lot, subject to the standards for required landscaping and screening in Chapter 17.124.

**17.54.190 - Special regulations for mini-lot and planned unit developments.**

- A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-40 zone may be waived or modified when and as prescribed in ~~Section 17.102.320~~ Chapter 17.142.

**17.54.200 - 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. **Bicycle Parking.** Bicycle parking shall be provided as prescribed in the bicycle parking regulations in Chapter 17.117.
- C. **Home Occupations.** Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112.
- D. **Nonconforming Uses.** Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.114.

**Chapter 17.56 - C-45 COMMUNITY SHOPPING COMMERCIAL ZONE REGULATIONS**

**Sections:**

- 17.56.010 - Title, purpose, and applicability.
- 17.56.040 - Required design review process.
- 17.56.050 - Permitted activities.
- 17.56.060 - Conditionally permitted activities.
- 17.56.070 - Permitted facilities.
- 17.56.080 - Conditionally permitted facilities.
- 17.56.090 - Restriction on accessory parking and loading within 75 feet of front lot line.
- 17.56.095 - Special regulations regarding crop and animal raising.
- 17.56.100 - Special regulations applying to Fast-Food Restaurants, Convenience Markets, and certain establishments selling alcoholic beverages, ~~or providing mechanical or electronic games.~~
- 17.56.105 - Reserved.
- 17.56.110 - Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a nonresidential activity.
- 17.56.120 - Limitations on Signs.
- 17.56.130 - Minimum lot area, width, and frontage.
- 17.56.140 - Maximum residential density.
- 17.56.150 - Maximum floor-area ratio.
- 17.56.160 - Maximum height.
- 17.56.170 - Minimum yards and courts.
- 17.56.180 - Minimum usable open space.
- 17.56.190 - Buffering.
- 17.56.200 - Special regulations for mini-lot and planned unit developments.
- 17.56.210 - Other zoning provisions.
  
- 17.56.060 - 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:

- A. Residential Activities:
  - Residential Care, except when occupying a One-Family Dwelling Residential Facility
  - Service-Enriched Permanent Housing
  - Transitional Housing
  - Emergency Shelter
- B. Civic Activities:

- Utility and Vehicular
- Special Health Care Civic
- Extensive Impact Civic
- C. Commercial Activities:
  - Check Cashier and Check Cashing
  - Fast-Food Restaurant
  - Convenience Market
  - Alcoholic Beverage Sales
  - Mechanical or Electronic Games, ~~subject to the provisions of Section 17.102.210C~~
  - Group Assembly
  - Personal Instruction and Improvement and Small Scale Entertainment
  - General Wholesale Sales
  - Transient Habitation
  - Automobile and Other Light Vehicle Sales and Rental
  - Automobile and Other Light Vehicle Gas Station and Servicing
  - Automotive and Other Light Vehicle Repair and Cleaning
  - Automotive Fee Parking
  - Animal Care
  - Animal Boarding
  - Undertaking Service
- D. Industrial Activities:
  - Light Manufacturing
- E. Agricultural and Extractive Activities:
  - Plant Nursery
  - Crop and Animal Raising (see Section 17.56.095)
- F. Off-street parking serving activities other than those listed above or in Section 17.56.050, subject to the conditions set forth in Section ~~17.102.100~~ 17.116.075.
- G. Activities that are listed neither as permitted nor conditionally permitted, but are permitted or conditionally permitted on nearby lots in an adjacent zone, subject to the conditions set forth in Section 17.102.110.
- ~~G. 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~~

**17.56.070 - Permitted facilities.**

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

A. Residential Facilities:

One-Family Dwelling

One-Family Dwelling with Secondary Unit, subject to the provisions specified in Section ~~17.102.360~~ 17.103.080

Two-Family Dwelling

Multifamily Dwelling

Rooming House

B. Nonresidential Facilities:

Enclosed

Sidewalk Cafes, subject to the provisions of Section ~~17.102.335~~ 17.103.090

C. Signs:

Residential

Special

Development

Realty

Civic

Business

D. Telecommunications Facilities:

Micro, except when a Major Conditional Use Permit is required by Section 17.128.025

Mini, except when a Major Conditional Use Permit is required by Section 17.128.025

**17.56.090 - Restriction on accessory parking and loading within 75 feet of front lot line.**

Accessory off-street parking and loading activities, areas, and driveways shall not be located within seventy-five (75) feet from the front lot line of the lot on which they are located, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

**17.56.100 - Special regulations applying to Fast-Food Restaurants, Convenience Markets, and certain establishments selling alcoholic beverages ~~or providing mechanical or electronic games.~~**

See Section ~~17.102.240~~ 17.103.030.

**17.56.140 - Maximum residential density.**

B. Conditionally Permitted Density. The number of living units permitted by subsection A of this section may be increased by not to exceed fifty ~~(50)~~-percent (50%) upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, in each of the following situations:

1. In the case of a Residential Facility with more than four (4) stories containing living units, subject to the provisions of Section 17.106.040.
2. Upon the acquisition of development rights from nearby lots, subject to the provisions of Section 17.106.050.

The number of living units may also be increased, as prescribed in Section 17.106.060, in certain special housing.



**17.58.010 - Title, purpose, and applicability.**

- A. Intent. The provisions of this Chapter shall be known as the CBD Central Business District regulations. The intent of the CBD regulations is to:
1. Encourage, support, and enhance the Central Business District as a high density, mixed use urban center of regional importance and a primary hub for business, communications, office, government, urban residential activities, technology, retail, entertainment, and transportation.
  2. Encourage, support, and enhance a mix of large-scale offices, commercial, urban high-rise residential, institutional, open space, cultural, educational, arts, entertainment, services, community facilities, and visitor uses.
  3. Enhance the skyline and encourage well-designed, visually interesting, and varied buildings.
  4. Encourage and enhance a pedestrian-oriented streetscape.
  5. Encourage vital retail nodes that provide services, restaurants, and shopping opportunities for employees, residents, and visitors.
  6. Preserve and enhance distinct neighborhoods in the Central Business District.
- B. Description of zones. This Chapter establishes land use regulations for the following four zones:
1. **CBD-R Central Business District Residential Zone.** The intent of the CBD-R zone is to create, maintain, and enhance areas of the Central Business District appropriate for residential development with small-scaled compatible ground-level commercial uses.
  2. **CBD-P Central Business District Pedestrian Retail Commercial Zone.** The intent of the CBD-P zone is to create, maintain, and enhance areas of the Central Business District for ground-level, pedestrian-oriented, active storefront uses. Upper story spaces are intended to be available for a wide range of office and residential activities.
  3. **CBD-C Central Business District General Commercial Zone.** The intent of the CBD-C zone is to create, maintain, and enhance areas of the Central Business District appropriate for a wide range of ground-floor office and other commercial activities. Upper-story spaces are intended to be available for a wide range of residential and office or other commercial activities.
  4. **CBD-X Central Business District Mixed Commercial Zone.** The intent of the CBD-X zone is to designate areas of the Central Business District appropriate for a wide range of upper story and ground level residential, commercial, and compatible light industrial activity.
- C. Description of Combining Zone. This Chapter establishes interim land use regulations for the following combining zone:
1. **CH Chinatown Interim Commercial Combining Zone.** The intent of the CH combining zone is to allow for expanded commercial uses in the core of the Chinatown commercial area, which is located within the Lake Merritt Station Area Plan boundaries. When an above base zone is combined with the CH combining zone, the permitted uses in CH combining zone supersede those of the base zone. These interim land use regulations anticipate the adoption of more comprehensive and detailed regulations for the entire area within the Lake Merritt Station Area Plan boundaries. Therefore, these regulations shall remain in place and be effective through ~~(two years from effective date), or until the City Council takes further action to regulate the area in connection with the Lake Merritt Station Area Plan, whichever comes first.~~

**17.58.030 - Conditional use permit for large projects.**

No development that involves more than two hundred thousand (200,000) square feet of new floor area, or a new building or portion thereof of more than two hundred fifty (250) feet in height, shall be permitted except upon the granting of a conditional use permit (see Chapter 17.134 for the CUP

procedure). This requirement shall not apply to developments that have been approved according to the planned unit development procedure (see Chapter 17.140 for the PUD procedure).

**17.58.040 - Permitted and conditionally permitted activities.**

Table 17.58.01 lists the permitted, conditionally permitted, and prohibited activities in the CBD-R, CBD-P, CBD-C and CBD-X zones. The descriptions of these activities are contained in Chapter 17.10.

"P" designates permitted activities in the corresponding zone.

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

"L" designates activities subject to certain limitations or notes listed at the bottom of the Table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

**Table 17.58.01: Permitted and Conditionally Permitted Activities**

Activities	Primary Zones				Combining Zones* CBD-P/CH	Additional Regulations
	CBD-R	CBD-P	CBD-C	CBD-X		
<b>Residential Activities</b>						
Permanent	P	P(L1)	P(L1)	P	P(L1)	
Residential Care	P(L2)	P(L1)(L2)	P(L1)(L2)	P	P(L1)(L2)	47.102.242 17.103.010
Service-Enriched Permanent Housing	C(L2)	C(L1)(L2)	C(L1)(L2)	C	C(L1)(L2)	47.102.242 17.103.010
Transitional Housing	C(L2)	C(L1)(L2)	C(L1)(L2)	C	C(L1)(L2)	47.102.242 17.103.010
Emergency Shelter	C(L2)	C(L2)	C(L2)	C	C(L2)	47.102.242 17.103.010
Semi-Transient	C	C(L1)	C(L1)	C	C(L1)	
Bed and Breakfast	P	P	P	P	P	17.10.125
<b>Civic Activities</b>						
Essential Service	P	P	P	P	P	
Limited Child-Care Activities	P(L3)	P(L5)	P	P	P	
Community Assembly	C	C(L6)	C	C	C	
Recreational Assembly	P(L3)(L4)	P(L5)	P	P	P	
Community Education	P(L3)(L4)	P(L5)	P	P	P	
Nonassembly Cultural	P(L3)(L4)	P(L4)	P	P	P	
Administrative	P(L4)(L7)	P(L5)	P	P	P	
Health Care	P(L3)(L4)	P(L4)(L5)	P	P	P(L4)	
Special Health Care	—	C(L6)(L8)	C(L8)	C(L8)	C(L6)(L8)	47.102.390 17.103.020
Utility and Vehicular	C	C	C	C	C	
Extensive Impact	C	C	C	C	C	
<b>Commercial Activities</b>						
General Food Sales	P(L4)(L7)	P(L4)	P	P	P	
Full Service Restaurants	P(L4)(L7)	P	P	P	P	
Limited Service Restaurant and Cafe	P(L4)(L7)	P	P	P	P	
Fast-Food Restaurant	—	C	C	C	C	47.102.240 17.103.030 and 8.09
Convenience Market	C(L7)	C	C	C	C	47.102.240 17.103.030
Alcoholic Beverage Sales	C(L7)	C	C	C	C	47.102.240 17.103.030 and 47.102.040 17.114.030
Mechanical or Electronic Games	—	C	C	C	C	
Medical Service	P(L4)(L7)	P(L5)	P	P	P	
General Retail Sales	P(L4)(L7)	P	P	P	P	
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	—	

Consumer Service	P(L4)(L7)(L9)	P(L4)(L9)	P(L9)	P(L9)	P(L9)	
Consultative and Financial Service	P(L4)(L7)	P(L5)	P	P	P	
Check Cashier and Check Cashing	—	C(L10)	C(L10)	C(L10)	C(L10)	17.102.430 17.103.040
Consumer Cleaning and Repair Service	P(L4)(L7)	P(L5)	P	P	P	
Consumer Dry Cleaning Plant	C(L7)	C	C	C	C	
Group Assembly	C(L7)(L11)	P(L4)(L11)	P(L11)	P(L11)	P(L4)(L11)	
Personal Instruction and Improvement Services	P(L4)(L7)	P(L5)	P	P	P	
Administrative	P(L4)(L7)	P(L5)	P	P	P	
Business, Communication, and Media Services	P(L4)(L7)	P(L5)	P	P	P	
Broadcasting and Recording Services	—	P(L5)	P	P(L4)	P	
Commercial Activities						
Research Service	P(L4)(L7)	P(L5)	P	P	P	
General Wholesale Sales	—	—	—	C	—	
Transient Habitation	C(L8L12)	C(L6)	P	C	C	17.102.370 17.103.050
Building Material Sales	—	—	—	—	—	
Automobile and Other Light Vehicle Sales and Rental	—	—	—	C	—	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	C(L139)	C(L139)	—	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	—	—	—	
Taxi and Light Fleet-Based Services	—	—	C(L139)	C(L139)	—	
Automotive Fee Parking	C(L149)	C(L140)	C(L140)	C(L140)	C(L140)	
Animal Boarding	—	—	—	—	—	
Animal Care	—	C(L6)	C	C	C	
Undertaking Service	—	—	C	C	—	
<b>Industrial Activities</b>						
Custom Manufacturing	—(L11)	—(L11)	—(L11)	C(L9L13)	—(L11)	17.102.040
Light Manufacturing	—(L11)	—(L11)	—(L11)	C(L9L13)	—(L11)	17.102.040
General Manufacturing	—(L11)	—(L11)	—(L11)	—(L11)	—(L11)	17.102.040
Heavy/High Impact	—	—	—	—	—	
Research and Development	—	—	C(L9L13)	C(L9L13)	—	
Construction Operations	—	—	—	—	—	
<b>Warehousing, Storage, and Distribution</b>						
A. General Warehousing, Storage and Distribution	—	—	—	C(L9L13)	—	
B. General Outdoor Storage	—	—	—	—	—	
C. Self- or Mini Storage	—	—	—	—	—	
D. Container Storage	—	—	—	—	—	
E. Salvage/Junk Yards	—	—	—	—	—	
Regional Freight Transportation	—	—	—	—	—	
Trucking and Truck-Related	—	—	—	—	—	
<b>Recycling and Waste-Related</b>						
A. Satellite Recycling Collection Centers	—	—	C	C	—	17.10.040
B. Primary Recycling Collection Centers	—	—	—	—	—	
Hazardous Materials Production, Storage, and Waste Management	—	—	—	—	—	
<b>Agriculture and Extractive Activities</b>						
Crop and animal raising	—	—	—	—	—	
Plant nursery	—	—	—	—	—	
Mining and Quarrying	—	—	—	—	—	
Accessory off-street parking serving prohibited activities	C	C	C	C	C	17.102.100 17.116.075
Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone Additional activities that are permitted or conditionally permitted in an adjacent zone, on lots near the boundary	C	C	C	C	C	17.102.110

**Limitations:**

\* If the base zone (CBD-P) also has the CH Combining Zone, the CH regulations supersede the base zone.

L1. These activities may not be located within thirty (30) feet of the front lot line on the ground floor of the principal building with the exception of incidental pedestrian entrances that lead to one of these activities elsewhere in the building.

L2. Residential Care is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when not located in a One-Family Dwelling Residential Facility. No Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility.

L4. With the exception of parcels facing Broadway, Telegraph Avenue, and 14th Street, the total floor area devoted to these activities on the ground floor by any single establishment may only exceed seven thousand five hundred (7,500) square feet upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure).

L5. If located both on the ground floor of a building and within thirty (30) feet from any street-abutting property line, these activities are only permitted upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure). Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this conditional use permit requirement. In addition to the criteria contained in Section 17.134.050, these conditionally permitted ground floor proposals must also meet each of the following criteria:

- a. The proposal will not impair a generally continuous wall of building facades;
- b. The proposal will not weaken the concentration and continuity of retail facilities at ground-level, and will not impair the retention or creation of an important shopping frontage; and
- c. The proposal will not interfere with the movement of people along an important pedestrian street.

L6. These activities are only permitted upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, when these activities are located within thirty (30) feet of the front of the ground floor of the principal building (with the exception of incidental pedestrian entrances that lead to one of these activities elsewhere in the building) the proposed activities must also meet the criteria contained in Note L5, above.

L7. These activities may only be located on or below the ground floor of a building with the following exceptions:

- a) If the floor area devoted to the activity is less than two thousand (2,000) square feet and the activity takes place in a Local Register property, then the activity is permitted above the ground floor upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP process).
- b) An activity located on the ground floor may extend to the second floor of a building if each: 1) the floor area devoted to nonresidential activities in the building is less than the floor area devoted to residential activities; 2) the activity on the second floor is the same as, or accessory to, the ground floor activity and part of the same business or establishment; and 3) there is a direct internal connection between the ground floor and the second story activities.

L8. No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity or five-hundred (500) feet from any K-12 school or Transitional Housing, Enriched Housing, or Licensed Emergency Shelters Civic Activity. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

L9. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

L10. No new or expanded Check Cashier and Check Cashing Commercial Activity shall be located closer than one thousand (1,000) feet from any other such activity or five hundred (500) feet from any Community Education, Community Assembly, or Recreational Assembly Civic Activity; state or federally chartered bank, savings association, credit union, or industrial loan company; or certain Alcoholic Beverage Sales Commercial Activities. See Section 17.103.040 for further regulations regarding Check Cashier and Check Cashing Commercial Activities.

L11. No new or expanded adult entertainment activity shall be located closer than one thousand (1,000) feet to the boundary of any residential zone or three hundred (300) feet from any other adult entertainment activity. See Section 17.102.160 for further regulations regarding adult entertainment activities.

L12. The total floor area devoted to these activities by any single establishment shall not exceed three thousand (3,000) square feet.

L13. These activities, including accessory activities, are only allowed to be performed indoors. This requirement includes, but is not limited to: vehicles stored before and after servicing, general storage, vehicle and other repair, and automotive cleaning. This requirement excludes parking for customers currently at the business and automotive fueling.

L140. Auto fee parking is permitted upon the granting of conditional use permit (see Chapter 17.134 for the CUP procedure) if it is located in either a parking structure that is at least three (3) stories high or in a below grade parking lot. Auto fee parking is otherwise prohibited.

~~L11. These activities are not allowed as a principal activity but are permitted as an accessory activity subject to the regulations contained in Subsection 17.10.040F.~~

**17.58.050 - Permitted and conditionally permitted facilities.**

Table 17.58.02 lists the permitted, conditionally permitted, and prohibited facilities in the CBD-R, CBD-P, CBD-C, and CBD-X zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

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

"L" designates facilities subject to certain limitations listed at the bottom of the Table.

"—" designates facilities that are prohibited

**Table 17.58.02: Permitted and Conditionally Permitted Facilities**

Activities	Zones				Additional Regulations
	CBD-R	CBD-P	CBD-C	CBD-X	
<b>Residential Facilities</b>					
One-Family Dwellings	(L1)	—	—	—	
One-Family Dwelling with Secondary Unit	P	—	—	—	17.102.360 17.103.080
Two-Family Dwelling	P	—	—	—	

Multifamily Dwelling	P	P	P	P	
Rooming House	P	P	P	P	
Mobile Home	—	—	—	—	
<b>Nonresidential Facilities</b>					
Enclosed Nonresidential	P	P	P	P	
Open Nonresidential	C	C	C	C	
Sidewalk Cafe	P	P	P	P	17.102.335 17.103.090
Drive-In Nonresidential	—	—	—	C	
Drive-Through Nonresidential	—	—	—	C(L2)	17.103.100
<b>Telecommunications Facilities</b>					
Micro Telecommunications	C	P	P	P	17.128
Mini Telecommunications	C	P	P	P	17.128
Macro Telecommunications	C	C	C	C	17.128
Monopole Telecommunications	C	C	C	C	17.128
Tower Telecommunications	—	—	—	—	17.128
<b>Sign Facilities</b>					
Residential Signs	P	P	P	P	17.104
Special Signs	P	P	P	P	17.104
Development Signs	P	P	P	P	17.104
Realty Signs	P	P	P	P	17.104
Civic Signs	P	P	P	P	17.104
Business Signs	P	P	P	P	17.104
Advertising Signs	—	—	—	—	17.104

**Limitations:**

L1. See Chapter 17.114, Nonconforming Uses, for additions and alterations to legal nonconforming One-Family Dwellings.

L2. No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

**17.58.060 - Property development standards.**

A. Zone Specific Standards: Table 17.58.03 below prescribes development standards specific to individual zones. The number designations in the right-hand column refer to the additional regulations listed at the end of the Table.

**Table 17.58.03: Property Development Standards**

Development Standards	Zones				Additional Regulations
	CBD-R	CBD-P	CBD-C	CBD-X	
<b>Minimum Lot Dimensions</b>					
Width	25 ft	25 ft	50 ft	50 ft	1
Frontage	25 ft	25 ft	50 ft	50 ft	1

Lot area	4,000 sf	4,000 sf	7,500 sf	7,500 sf	1
<b>Minimum/Maximum Setbacks</b>					
Minimum front	0 ft	0 ft	0 ft	0 ft	2
Maximum front and street side for the first story	None	5 ft	5 ft	10 ft	3
Maximum front and street side for the second and third stories or 35 ft, whatever is lower	None	5 ft	5 ft	None	3
Minimum interior side	0 ft	0 ft	0 ft	0 ft	4
Minimum corner side	0 ft	0 ft	0 ft	0 ft	
Rear	10 ft	0 ft	0 ft	0 ft	5
<b>Design Regulations</b>					
Ground floor commercial facade transparency	55.60%	65.70%	55.60%	55.60%	6
Minimum height of the ground floor	15 ft	15 ft	15 ft	15 ft	7
Minimum separation between the grade and ground floor living space	2.5 ft	Not Applicable	Not Applicable	2.5 ft	8

**Additional Regulations:**

3. The following notes apply to the maximum yard requirements:

- a. The requirements only apply to the construction of new principal buildings and to no more than two property lines. One of these property lines shall abut the principal street.
- b. The requirements do not apply to lots containing Recreational Assembly, Community Education, Utility and Vehicular, or Extensive Impact Civic Activities or Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities as principal activities.
- c. In the CBD-P, CBD-C, and CBD-X zones, these maximum yards apply to seventy-five percent (75%) of the street frontage on the principal street and fifty percent (50%) on other streets, if any. All percentages, however, may be reduced to fifty percent (50%) upon the granting of regular design review approval (see Chapter 17.136 for the design review procedure). In addition to the criteria contained in Section 17.136.035, the proposal must also meet each of the following criteria:
  - i. ~~Any~~ The additional yard area abutting the principal street is designed to accommodate publicly accessible sidewalk cafes and restaurants;
  - ii. The proposal will not impair a generally continuous wall of building facades;
  - iii. The proposal will not weaken the concentration and continuity of retail facilities at ground-level, and will not impair the retention or creation of an important shopping frontage; and
  - iv. The proposal will not interfere with the movement of people along an important pedestrian street.
- d. The maximum yard requirements above the ground floor may be waived upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, the proposal must also meet each of the following criteria:
  - i. It infeasible to both accommodate the use proposed for the space and meet the maximum yard requirement;
  - ii. The proposal will not weaken the street definition provided by buildings with reduced setbacks; and

iii. The proposal will not interrupt a continuity of 2<sup>nd</sup> and 3<sup>rd</sup> story facades on the street that have minimal front yard setbacks.

4. In the CBD-R zone, portions of a building over fifty-five (55) feet in height shall have a setback of at least one (1) foot from the required interior side yard for every five (5) ~~four (4)~~-feet that portion is above fifty-five (55) feet. This setback, however, need not exceed forty (40) feet. Also, see Section 17.108.080 for the required interior side and rear yard setbacks on a lot containing two or more living units and opposite a legally-required living room window. See Section 17.108.130 for allowed projections into required yards.

5. In the CBD-R zone, portions of a building over fifty-five (55) feet shall setback at least one (1) foot from the required rear yard for every five (5) ~~four (4)~~-feet that portion is above fifty-five (55) feet. This regulation shall not apply when the rear yard faces a street. This setback, however, need not exceed forty (40) feet. The following other minimum rear yard setback regulations apply in all CBD zones:

a. A minimum ten (10) foot rear yard setback is required whenever a rear lot line abuts any portion of a lot in a residential zone; and

b. ~~See Section 17.108.110 for reduced required rear yards setbacks next to an alley; and~~

bc. See Section 17.108.130 for allowed projections into required yards.

6. This percentage of transparency is only required for principal buildings that include ground floor nonresidential facilities and only apply to the facade facing the principal street. On all other street facing facades, the requirement is one-half the standard for the facade facing the principal street. The area of required transparency is between two (2) feet and nine (9) ~~ten (10)~~-feet in height of the ground floor and must be comprised of clear, non-reflective windows that allow views out of indoor commercial space, residential space, or lobbies. The bottom of any window used to satisfy this requirement may not be more than four (4) ~~feet~~ above the adjacent sidewalk. Glass block does not qualify as a transparent window. Exceptions to this regulation may be allowed by the Planning Director for unique facilities such as convention centers, gymnasiums, parks, gas stations, theaters and other similar facilities.

**Table 17.58.04 Height, Density, Bulk, and Tower Regulations**

Regulation	Height/Bulk/Intensity Area							Notes
	1	2	3	4	5	6	7	
<b>Maximum Density (Square Feet of Lot Area Required Per Unit)</b>								
Dwelling unit	300	200	90	90	90	90	90	1,2
Rooming unit	150	100	45	45	45	45	45	1,2
Maximum Floor Area Ratio	4.5	6.0	8.0	14.0	17.0	20.0	20.0	2
<b>Maximum Height</b>								
Building base	55 ft	85 ft	55 ft	85 ft	85 ft	85 ft	120 ft	3
Total	No tower permitted	No tower permitted	170 ft	275 ft	400 ft	No height limit	No height limit	3
<b>Minimum Height</b>								
New principal buildings	None	None	None	45 ft	45 ft	45 ft	45 ft	4
<b>Maximum Lot Coverage</b>								
Building base (for each story)	Not applicable	Not applicable	100% of site area	100% of site area	100% of site area	100% of site area	100% of site area	



Average per story lot coverage above the base	Not applicable	Not applicable	50% of site area or 7,500 sf, whichever is greater	75% of site area or 10,000 sf, whichever is greater	75% of site area or 10,000 sf, whichever is greater	75% of site area or 10,000 sf, whichever is greater	85% of site area or 10,000 sf, whichever is greater	5
<b>Tower Regulations</b>								
Maximum average area of floor plates	Not applicable	Not applicable	10,000 sf	15,000 sf	20,000 sf	25,000 sf	No maximum	6
Maximum building length	Not applicable	Not applicable	115 ft	150 ft	175 ft	195 ft	No maximum	7
Maximum diagonal length	Not applicable	Not applicable	145 ft	180 ft	210 ft	235 ft	No maximum	
Minimum distance between towers on the same lot	Not applicable	Not applicable	40 ft	40 ft	40 ft	40 ft	No minimum	

**Notes:**

1. See Chapter 17.107 for affordable and senior housing density incentives.
2. For mixed use projects in the Central Business District (CBD) zones, the allowable intensity of development shall be measured according to both the maximum nonresidential Floor Area Ratio (FAR) allowed by the zone and the maximum residential density allowed by the zone. The total lot area shall be used as a basis for computing both the maximum nonresidential FAR and the maximum residential density. No portion of lot area used to meet the density requirements for a Residential Facility shall be used as a basis for computing, through the maximum floor area ratio, the maximum amount of floor area for any nonresidential facility on the same lot, and visa-versa.
3. In Height Areas 4, 5, and 6, lots having frontage on Broadway, San Pablo Avenue, or Telegraph Avenue where the width of the right of way is greater than eighty-five (85) feet shall have a maximum base height equal to the width of that right of way. Also, see Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.
4. This minimum height excludes the height of the allowed projections into the height limit contained in 17.108.030.
5. The average floor area of the stories above the base cannot exceed this percentage of lot area, with the following qualifications:
  - a. When a project contains more than one tower above the base, the floor area of a story is calculated by adding the square footages of the equivalent story in each tower. For example, if there are two towers above the base and the 5<sup>th</sup> story of one tower is fifteen thousand (15,000) square feet and the 5<sup>th</sup> story of the other tower is twenty thousand (20,000) square feet, then the total floor area of the 5<sup>th</sup> story is thirty-five thousand (35,000) square feet.
  - b. To allow a variety of articulation in a building, the floor area of an individual story can be as much as fifteen percent (15%) greater than the maximum average per story floor area above base.
  - c. A story that is more than fifteen percent (15%) less than the maximum average floor area is not included in the average per story floor area above the base.
6. The average floor plate of an individual tower cannot exceed this area, with the following qualifications:
  - a. The floor area of an individual tower floor plate cannot be more than fifteen percent (15%) greater than the maximum average tower floor plate.

b. An individual tower floor plate that is more than fifteen percent (15%) less than the maximum average tower floor plate is not included in the maximum average tower floor plate area calculation.

7. The following regulation applies to lots that both: 1) are designated as Special Area A on Map 17.58; and 2) have either a west or east side property line that is more than ninety (90) feet in length: the cumulative building length of the east or west elevation of all towers on such a lot shall be no more than two-thirds (2/3) the length of any east or west side property line.

**17.65.030 - Permitted, conditionally permitted, and prohibited activities.**

The following table lists the permitted, conditionally permitted, and prohibited activities in the HBX 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.

"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(L1)	P(L1)	P(L1)	17.102.212 17.103.010
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 17.103.010
Transitional Housing	C	C	C	17.102.212 17.103.010
Emergency Shelter	C	C	C	17.102.212 17.103.010
Semi-Transient Residential	C	C	C	17.102.212 17.103.010
Bed and Breakfast	—	—	—	17.12.125
<b>Civic Activities</b>				
Essential Service	P	P	P	
Limited Child-Care	P	P	P	
Community Assembly	P(L1L2)	P(L1L2)	P(L1L2)	
Recreational Assembly	P(L1L2)	P(L2L3)	P(L3L4)	
Community Education	C	C	C	
Nonassembly Cultural	P(L2L3)	P(L2L3)	P(L2L3)	
Administrative	P(L2L3)	P(L2L3)	P(L2L3)	
Health Care	C	C	C	
Special Health Care	C(L5)	C(L5)	C(L5)	17.102.390 17.103.020
Utility and Vehicular	C	C	C	
Extensive Impact	C	C	C	
<b>Commercial Activities</b>				
General Food Sales	P(L3)	P(L3)	P(L3)	
Full Service Restaurant	P(L3L4)	P(L3L4)	P(L3L4)	
Limited Service Restaurant and Cafe	P(L3L4)	P(L3L4)	P(L3L4)	

Fast-Food Restaurant	—	—	—	47.102.240 17.103.030
Convenience Market	C	C	C	47.102.240 17.103.030
Alcoholic Beverage Sales	C	C	C	47.102.240 17.103.030
Mechanical or Electronic Games	C	C	C	47.102.240
Medical Service	P(L2L3)	P(L2L3)	P(L2L3)	
General Retail Sales	P	P	P	
Large-Scale Combined Retail and Grocery Sales	—	—	—	
Consumer Service	P(L6)	P(L6)	P(L6)	
Consultative and Financial Service	P(L2L3)	P(L2L3)	P(L2L3)	
Check Cashier and Check Cashing	—	—	—	47.102.430 17.103.040
Consumer Cleaning and Repair Service	C	C	C	
Consumer Dry Cleaning Plant	C	C	C	
Group Assembly	C(L7)	C(L7)	C(L7)	
Personal Instruction and Improvement and Small Scale Entertainment	C	C	C	
Administrative	P(L2L3)	P(L2L3)	P(L2L3)	
Business, Communication, and Media Service	P	P	P	
Broadcasting and Recording Service	P	P	P	
Research Service	P(L2L3)(L4L8)	P(L2L3)(L4L8)	P(L2L3)(L4L8)	
General Wholesale Sales	P(L2L3)	P(L2L3)	P(L2L3)	
Transient Habitation	—	—	—	47.102.370 17.103.050
Building Material Sales	P(L5L9)	P(L5L9)	P(L5L9)	
Automotive and other Light Vehicle Sales and Rental	—	—	—	
Automobile and Other Light Vehicle Gas Station and Servicing	—(L6L10)	—	—	
Automotive and Other Light Vehicle Repair and Cleaning	—(L6L10)	—	—	
Taxi and Light Fleet-Based Service	P(L7L3)	P(L7L3)	P(L7L3)	
Automotive Fee Parking	—	—	—	
Transport and Warehousing	P(L7)	P(L7)	P(L7)	
Animal Boarding	—	—	—	
Animal Care	C	C	C	
Animal Boarding	—	—	—	
Undertaking Service	—	—	—	
Scrap Operation	—	—	—	47.102.240
<b>Industrial Activities</b>				
Custom Manufacturing	P(L2L3)	P(L2L3)	P(L2L3)	17.120
Light Manufacturing	P(L2L3)(L4L8)	P(L2L3)(L4L8)	P(L2L3)(L4L8)	17.120

General Manufacturing	--	--	--	
Heavy/High Impact Manufacturing	--	--	--	
Research and Development	P(L3)(L8)	P(L3)(L8)	P(L3)(L8)	
Construction Operations	P(L9)	P(L9)	P(L9)	
Warehousing, Storage, and Distribution				
A. General Warehousing, Storage and Distribution	P(L3)	P(L3)	P(L3)	
B. General Outdoor Storage	C	C	C	
C. Self- or Mini-Storage	C(L11)	C(L11)	C(L11)	
D. Container Storage	--	--	--	
E. Salvage/Junk Yards	--	--	--	
Regional Freight Transportation	--	--	--	
Trucking and Truck-Related	--	--	--	
Recycling and Waste-Related				
A. Satellite Recycling Collection Centers	--	--	--	
B. Primary Recycling Collection Centers	--	--	--	
Hazardous Materials Production, Storage, and Waste Management	--	--	--	
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	--C(L8L12)	--C(L8L13)	--C(L8L12)	
Mining and Quarrying Extractive	--	--	--	
Accessory off-street parking serving prohibited activities	C	C	C	47.102.110-17.116.175
Additional activities which are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof	C	C	C	17.102.110

**Limitations:**

L1. Residential Care is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when not located in a One-Family Dwelling Residential Facility. No Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility.

~~L24.~~ 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).

~~L2L3.~~ 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).

L4. The total floor area devoted to a Full-Service or Limited-Service restaurant-Restaurant Commercial Activity shall only exceed three thousand (3,000) square feet upon the granting of a conditional use permit (see Chapter 17.134).

L5. No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity or five hundred (500) feet from any K-12 school or Transitional Housing, Enriched Housing, or Licensed Emergency Shelters Civic Activity. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

L6. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

L7. No new or expanded adult entertainment activity shall be located closer than one thousand (1,000) feet to the boundary of any residential zone or three hundred (300) feet from any other adult entertainment activity. See Section 17.102.160 for further regulations regarding adult entertainment activities.

~~L4L8.~~ Not including accessory Outdoor principal activities, this activity shall take place entirely within an enclosed building. Other outdoor activities shall are only be permitted upon the granting of a conditional use permit (see Chapter 17.134).

~~L5L9.~~ This activity shall is 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 twenty-five thousand (25,000) square feet or larger or covers twenty-five thousand (25,000) square feet or more of lot area.

L6L10. Except on Lowell Street, a nonconforming Automobile and Other Light Vehicle Gas Station and Servicing or Automotive and Other Light Vehicle 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 Section 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.

L11. All facilities containing Self- or Mini Storage activities shall meet the following requirements:

1. No more than twenty percent (20%) of the total floor area on a lot shall be occupied by facilities containing Self- or Mini-Storage activities.
2. No facility that includes a Self- or Mini-Storage activity shall be within the front twenty (20) feet of a building.
3. Projects that include self storage establishments shall have a minimum fifty percent (50%) of lot frontage occupied by Convenience Sales and Service, General Food Sales, General Retail

Sales, and/or General Personal Service Commercial Activities on the ground floor. These ground floor activities shall not be directly associated with the self storage establishment at the site.

**L8L12.** Crop and Animal Raising is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;
2. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and
3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

**17.65.040 - Permitted and conditionally permitted facilities.**

The following table lists regulations relating to certain facilities. The descriptions of these facilities are contained in Chapter 17.10.

"P" indicates that the facility is permitted in the corresponding zone.

"C" indicates that the facility is only permitted upon the granting of a conditional use permit (see Chapter 17.134) in the corresponding zone.

"—" designates uses that are prohibited in the corresponding zone.

Facility Types	Zones			Additional Regulations
	HBX-1	HBX-2	HBX-3	
<b>Residential Facilities</b>				
One-Family Dwellings	P	P	P	
One-Family Dwelling with Secondary Unit	P	P	P	17.102.360 17.103.080
Two-Family Dwelling	P	P	P	
Multifamily Dwelling	P	P	P	
Rooming House	P	P	P	
Mobile Home	—	—	—	
<b>Nonresidential Facilities</b>				
Enclosed Nonresidential	P	P	P	
Open Nonresidential	C	C	C	
Sidewalk Cafe	P	P	P	17.102.335 17.103.090
Drive-In Nonresidential	P	P	P	
Drive-Through Nonresidential	C(L1)	C(L1)	C(L1)	17.102.290 17.103.100
Shopping Center	—	—	—	
<b>Telecommunications Facilities</b>				
Micro Telecommunications	C	C	C	17.128
Mini Telecommunications	C	C	C	17.128
Macro Telecommunications	C	C	C	17.128
Monopole Telecommunications	C	C	C	17.128

Tower Telecommunications	—	—	—	17.128
<b>Sign Facilities</b>				
Residential Signs	P	P	P	17.104
Special Signs	P	P	P	17.104
Development Signs	P	P	P	17.104
Realty Signs	P	P	P	17.104
Civic Signs	P	P	P	17.104
Business Signs	P	P	P	17.104
Advertising Signs	—	—	—	17.104

**Limitation:** 17.65.050 - Special regulations for self-storage facilities.

A. ~~For the purposes of this Chapter, a "self-storage establishment" means an establishment that provides storage in small individual spaces that are exclusively and directly accessible to a specific tenant, offered on a monthly or other limited basis, and available to the general public. Generally, the individual storage spaces are four hundred (400) square feet or less.~~

B. ~~No more than twenty percent (12%) of the total floor area on a lot shall be occupied by self-storage establishments.~~

C. ~~No project that includes a self-storage establishment shall have any floor area devoted to self-storage within twenty (20) feet of the building frontage.~~

D. ~~Projects that include self-storage establishments shall have a minimum fifty percent (50%) of lot frontage occupied by Convenience Sales and Service, General Food Sales, General Retail Sales, and/or General Personal Service Commercial Activities on the ground floor. These ground floor activities shall not be directly associated with the self-storage establishment at the site.~~

L1. No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

**17.65.070 - Maximum density.**

The following table contains the maximum number of living units allowed per lot for the zones in this Chapter.

Living Unit Type	Zone		
	HBX-1	HBX-2	HBX-3
Dwelling Unit	1,000 sf of lot area per unit	930 sf of lot area per unit	730 sf of lot area per unit
Rooming Unit	500 sf of lot area per unit	465 sf of lot area per unit	365 sf of lot area per unit

**Notes:**

1. See (1) ~~Section Chapter 102.360-17.103.070~~ for regulations regarding secondary units; (2) Chapter 17.107 for affordable housing density incentives; and (3) Section 17.106.060 for increased density for senior housing.

2. New construction on a vacant lot that is greater than five thousand (5,000) square feet shall only result in a total of one unit on the lot upon the granting of a conditional use permit (see Chapter 17.134) in



the HBX-2 and HBX-3 zones. This requirement does not apply to the expansion of the floor area or other alteration of an existing Single Family Dwelling.

**17.65.080 - Maximum floor area ratio.**

**17.65.090 - Maximum density and floor-area ratio for mixed use projects.**

- A. This Section shall only apply to the following two types of mixed use projects:
1. Projects that have at least twenty ~~20~~-percent (20%) of its total floor area devoted to nonresidential facilities or
  2. Projects that:
    - a. Are on lots that are fifty ~~(50)~~ feet wide or less and
    - b. Have a minimum fifty ~~50~~-percent (50%) of lot frontage occupied by Ground Floor Convenience Sales and Service, General Food Sales, General Retail Sales, and/or General Personal Service Commercial Activities. This commercial floor area must be at least twenty ~~(20)~~ feet deep measured from the building frontage and be within an enclosed building. Projects on through lots require this minimum fifty ~~50~~-percent (50%) on only the longest lot frontage to qualify as a mixed use project for this Section.
- B. For projects described in Subsection A, the maximum number of units permitted on a lot shall not be affected by the nonresidential floor area provided on the same lot. Conversely, for these projects the maximum floor area allowed on a lot shall not be affected by the number of living units provided on the same lot. For projects described in Subsection A, this Subsection supersedes the requirements in Section 17.106.030.

**17.65.130 - 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 (see Section 17.09.040 for definition), 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.
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 15-gallon tree, or substantially equivalent landscaping as approved by the Director of City Planning, for every twenty-five ~~(25)~~ 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 15-gallon tree in the parking lot for every six (6) parking spaces for projects that involve new or existing parking lots of three thousand ~~(3,000)~~ square feet or greater.
  5. A minimum of five feet of landscaping shall be required adjacent to the front and street side property lines for parking lots of three thousand ~~(3,000)~~ square feet or greater. Where parking stalls face into this required area, the width of the required landscaping area shall be increased by two feet unless wheel stops are installed.

**17.65.140 - Outdoor storage.**

The outdoor storage of materials shall not exceed sixteen (16) feet in height on a lot. Further, outdoor storage may not be higher than eight feet if both: 1) the storage is within fifteen (15) feet from any property line of a lot containing residential activities, and 2) the storage faces any windows of a residential facility. Outdoor storage may also not be higher than eight (8) feet if it is within fifteen (15) feet from the front property line. The height of all outdoor storage shall also be restricted according to the Fire Code regulations. Sites with outdoor storage shall be screened in conformance to the "Design Guidelines for the HBX zones" as adopted by the City Council.

**17.65.150 - Special regulations for HBX work/live units.**

- A. Definition. An "HBX work/live unit" means a room or suite of rooms that are internally connected maintaining a common household that includes: (1) cooking space and sanitary facilities that satisfy the provisions of other applicable codes, and (2) adequate working space reserved for, and regularly used by, one or more persons residing therein. An HBX work/live unit accommodates both residential and nonresidential activities but emphasizes the accommodation of commercial activities. An HBX work/live unit meets all applicable regulations contained in this section.
- D. Activity, parking, bicycle 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, <del>plus one additional unassigned visitor or employee parking space per five HBX work/live units</del>		1
Required bicycle parking	<b>With private garage for each unit:</b>	<b>Without private garage for each unit:</b>	2
	One short-term space for each 20 dwelling units; minimum requirement is two short-term spaces.	One long-term space for each four dwelling units; minimum requirement is two long-term spaces. One short-term space for each 20 dwelling units; minimum requirement is two short-term spaces.	
Required loading	<b>Square feet of facility</b>	<b>Requirement</b>	3
	Less than 25,000 square feet	No berth required	
	25,000—69,999 square feet	One berth	
	70,000—130,000 square feet	Two berths	
	Each additional 200,000 square feet	One additional berth	
Residential Density	<u>Not applicable because HBX work/live units are nonresidential facilities.</u>		
Required usable open space	75 square feet of usable open space per unit		
Minimum size of unit	No individual unit shall be less than eight hundred (800) square feet of floor area		

**Notes:**

- 1. See Chapter 17.116 for other off-street parking standards.
- 2. See Chapter 17.117 for other bicycle parking standards.

3. Each square foot of private usable open space equals two square feet towards the total usable open space requirement. Also, 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.

E. Each new HBX work/live unit shall qualify as at least one of the following Unit Types:

Unit Type	Maximum residential floor area (percent of total floor area)	Special requirements	Separation between residential and nonresidential floor area
Type 1	One-third	None	Nonresidential floor area and residential floor area shall be located on separate floors (including mezzanines), or be separated by an interior wall (see Note 1, below, for an exception for kitchens).
Type 2	45 percent	There must be two entrances into the unit, one adjacent to the residential space, the other adjacent to the nonresidential space; the nonresidential entrance must be clearly designated as a business entrance separate from the residential entrance and be directly accessible by the public.	Nonresidential floor area and residential floor area shall be located on separate floors (including mezzanines), or be separated by an interior wall (see Note 1, below, for an exception for kitchens).
Type 3	55 percent	1. The majority of the nonresidential floor area for the unit must be at a public street level and directly accessible to the street; 2. The unit must have no residential floor area at the ground level; and 3. The ground floor entrance must be clearly designated as a business entrance.	Nonresidential floor area and residential floor area shall be located on separate floors (including mezzanines).

**Notes:**

1. In Types 1 and 2, a kitchen may be open to non-residential floor area if the kitchen is adjacent to and directly accessible from a residential floor area or stairs that lead to residential floor area. In these unpartitioned kitchens, the kitchen is only required to be separated from the nonresidential floor area by a partition that can be opened and closed. The counters, cabinets, sink and appliances in the area that will function as a kitchen and the floor area that is four (4) feet in front of these items shall be considered residential floor area.

2. See Section 17.102.190 for regulations regarding converting facilities originally designed for industrial or commercial occupancy to joint living and working quarters.

~~F. All required plans for the creation of HBX work/live units shall (1) delineate areas designated to contain residential activities and areas designated to contain nonresidential activities and (2) contain a table showing the square footage of each unit devoted to residential and nonresidential activities.~~

~~GF. For HBX work/live units, residential and nonresidential floor areas shall be designated according to the following standards:~~

1. Residential floor area shall be considered areas containing bedrooms, sleeping areas, and kitchens (not including kitchenettes).
2. Nonresidential floor area shall include floor areas designated for working.
3. The floor area of stairs and balconies shall not be considered floor area for the purpose of this subsection.

4. The floor area between residential rooms that will commonly be used for residential activities and foot traffic such as the corridors and areas between bedrooms, kitchens, residentially designated bathrooms, and other similar areas shall be considered residential floor area.
5. The floor area of bathrooms shall be counted as residential or nonresidential based on whether which area of the unit it is most conveniently accessed from the residential or nonresidential portion of the unit, according to the following rules:
  - a. If there is only one bathroom in the unit, half of the bathroom shall be considered residential floor area and half shall be considered nonresidential floor area;
  - b. If there is more than one bathroom in a unit the rules in the following table shall apply:

Bathroom access	Floor area calculation of bathroom
Bathroom can only be accessed through residential floor area	All of bathroom shall be considered residential floor area
Bathroom can be directly accessed from both nonresidential and residential floor area	Half of bathroom shall be considered residential floor area, the other half nonresidential floor area.
Bathroom can only be accessed through nonresidential floor area	All of bathroom shall be considered nonresidential floor area. However, if all bathrooms in the unit require access through nonresidential floor area, then at least one bathroom shall be considered residential floor area. In this case, the bathroom that is closest to or most conveniently accessed from residential floor area shall be designated as residential floor area.

6. In unpartitioned kitchens, counters, cabinets, sink and appliances and the floor area that is four (4) feet in front of these items shall be considered residential floor area. ~~(see footnote 1 of the table contained in subsection E), the counters, cabinets, sink and appliances in the area that will function as a kitchen and the floor area that is four (4) feet in front of these items shall be considered residential floor area.~~
  7. If any part of a loft or mezzanine is designated as residential space, according to rules above, then the entire loft or mezzanine space shall be considered residential floor area.
  8. The Planning Director shall determine the floor area designation of the floor area when the above standards do not clearly do so do not clearly apply.
- ~~H. Each HBX work/live unit shall contain no more than one fully equipped kitchen. An HBX work/live unit may contain a second kitchenette to serve the nonresidential floor area. For the purposes of this section a kitchenette shall be considered a space with a counter that is no more than twenty (20) square feet, a sink, and an area for a refrigerator. No stovetop or oven (excluding microwave ovens) shall be permitted in a kitchenette.~~
- G. Each HBX work/live unit shall have at least one public entrance that is directly adjacent to nonresidential floor area. A visitor traveling through this business entrance shall not be required to pass through any residential floor area in order to enter into the nonresidential area of the unit.
- HJ. Each unit shall contain at least one tenant that operates a business within that unit. That tenant shall possess a valid and active City of Oakland Business Tax Certificate to operate a business out of the unit.
- IK. For any HBX work/live unit, a statement of disclosure shall be: (1) provided to prospective owners or tenants before a unit or property is rented, leased, or sold; and (2) in any covenant, conditions, and restrictions associated with a facility. This statement of disclosure shall contain the following acknowledgments:

1. The unit is in a nonresidential facility that allows commercial and/or light industrial activities that may generate odors, truck traffic, vibrations, noise and other impacts at levels and during hours that residents may find disturbing.
2. Each unit shall contain at least one tenant that operates a business within that unit. This tenant must possess an active City of Oakland Business Tax Certificate for the operation out of the unit.

JL. Each building with an HBX work/live unit shall contain a sign that: (1) is permanently posted; (2) is at a common location where it can be frequently seen by all tenants such as a mailbox, lobby, or entrance area; (3) is made of durable material; and (4) has a minimum dimension of nine by eleven inches and lettering at least one-half an inch tall. This sign shall contain the following language; "This development contains work/live units. As such, please anticipate the possibility of odors, truck traffic, noise or other impacts at levels and hours that residents may find disturbing." Further, City of Oakland regulations require that each unit have a tenant that: (1) operates a business from that unit, and (2) possesses an active City of Oakland Business Tax Certificate for this business.

MK. HBX work/live units are nonresidential facilities and counted towards the nonresidential floor area ratio, not the residential density.

~~N.~~ The development of HBX work/live units in an HBX zone shall not be considered adding housing units to the City's rental supply and does not create "conversion rights" under the City's condominium conversion ordinance, Chapter 16.36. The development standards for HBX work/live units are not intended to be a circumvention of the requirements of the City's condominium conversion ordinance, Chapter 16.36

OL. Regular Design Review Criteria. Regular design review approval for HBX work/live 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 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 a building containing HBX work/live units has nonresidential activities and nonresidential floor area on the ground floor or level and at street fronting elevations. These units shall have a significant ground floor street presence. The floor area facing the streets shall contain nonresidential activities and a depth of at least twenty (20) feet for lots more than thirty-five (35) feet wide, fifteen (15) feet otherwise. This ground level shall be either part of a larger HBX work/live Type 3 unit or its own independent commercial space;
3. That units on the ground floor or level of a building have nonresidential floor area that is directly accessible from and oriented towards the street;
4. That units on the ground floor or level of a building have a business presence on the street. This includes, but is not necessarily limited to, providing storefront style windows, roll-up doors, 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.

**17.65.160 - Special regulations for HBX live/work units.**

- H. Each building with an HBX live/work unit shall contain a sign that: (1) is permanently posted; (2) is at a common location where it can be frequently seen by all tenants such as a mailbox, lobby, or entrance area; (3) is made of durable material; and (4) has a minimum dimension of nine by eleven inches and lettering at least one-half an inch tall. This sign shall contain the following language: "This development contains live/work units. As such, please anticipate the possibility of odors, truck traffic, noise or other impacts at levels and hours that residents may find disturbing.
- I. HBX live/work units are residential facilities, shall be counted towards the residential density, not the nonresidential floor area ratio, and may create "conversion rights" under the City's condominium conversion ordinance, Chapter 16.36. The same requirements contained in the City's condominium conversion ordinance that relate to residential units shall apply to HBX live/work units.

**17.65.170 - Special regulations for mini-lot and planned unit developments.**

- A. Mini-Lot Developments. In mini-lot developments, certain regulations otherwise applying to individual lots in the HBX-1, HBX-2 and HBX-3 zones may be waived or modified when and as prescribed in ~~Section 17.102.320~~ Chapter 17.142.

**17.65.180 - 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. Bicycle Parking. Bicycle parking shall be provided as prescribed in the bicycle parking regulations in Chapter 17.117.
- C. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112.
- D. Nonconforming Uses. Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.114.

Chapter 17.72 M-20, M-30, AND M-40 INDUSTRIAL ZONES REGULATIONS

SECTIONS:

17.72.010 Title, Intent, and Description

17.72.020 Required Design Review Process

17.72.030 Permitted and Conditionally Permitted Activities

17.72.040 Permitted and Conditionally Permitted Facilities

17.72.050 Property Development Standards

17.72.060 Special Regulations for Mini-lot and Planned Unit Developments

17.72.070 Other Zoning Provisions

17.72.010 Title, Intent, and Description

A. Title and Intent. The provisions of this chapter shall be known as the M-20, M-30, and M-40 Industrial Zones regulations. This chapter establishes regulations for the (M-20) Light Industrial, (M-30) General Industrial, and (M-40) Heavy Industrial. The intent of the regulations is to create, preserve and enhance areas containing manufacturing, industrial, and related establishments.

B. Description of Zones. This Chapter establishes land use regulations for the following three zones:

1. M-20 Light Industrial Zone. The M-20 zone is intended to create, preserve, and enhance areas containing manufacturing, industrial and related establishments with limited external impact within an open and attractive setting, and is typically appropriate to locations adjacent to residential communities.
2. M-30 General Industrial Zone. The M-30 zone is intended to create, preserve, and enhance areas containing a wide range of manufacturing, industrial, and related establishments, and is typically appropriate to areas providing a wide variety of sites with good rail or highway access.
3. M-40 Heavy Industrial Zone. The M-40 zone is intended to create, preserve, and enhance areas containing manufacturing, industrial, or related establishments that are potentially incompatible with most other establishments, and is typically appropriate to areas which are distant from residential areas and which have extensive rail or shipping facilities.

17.72.020 Required Design Review Process

A. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Residential Facility, Designated Historic Property, Potentially Designated Historic Property, 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.

B. No facility located within one hundred fifty (150) feet of any residential zone boundary and accommodating the following activities shall be constructed, established, or expanded in size unless plans for the proposal have been approved pursuant to the Regular Design Review procedure in Chapter 17.136:

1. Automobile and Other Light Vehicle Gas Station and Servicing Activity.
2. Automobile and Other Light Vehicle Repair and Cleaning Activity.
3. Freight/Truck Terminal.
4. Truck Yard.
5. Truck Weigh Stations.
6. Truck and Other Heavy Vehicle Sales, Rental, and Leasing.
7. Truck and Other Heavy Vehicle Service, Repair, and Refueling.

**17.72.030 Permitted and Conditionally Permitted Activities**

Table 17.72.01 lists the permitted, conditionally permitted, and prohibited activities in the M-20, M-30, and M-40 zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

- “P” designates permitted activities in the corresponding zone.
- “C” designates activities that are permitted only upon the granting of a Conditional Use permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).
- “L” designates activities subject to certain limitations or notes listed at the bottom of the table.
- “...” designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

Table 17.72.01: Permitted and Conditionally Permitted Activities

Activities	Zones			Additional Regulations
	M-20	M-30	M-40	
<b>Residential Activities</b>				
<u>Permanent</u>	=	=	=	
<u>Residential Care</u>	=	=	=	
<u>Service-Enriched Permanent Housing</u>	=	=	=	
<u>Transitional Housing</u>	=	=	=	
<u>Emergency Shelter</u>	=	=	=	
<u>Semi-Transient</u>	=	=	=	
<u>Bed and Breakfast</u>	=	=	=	
<b>Civic Activities</b>				



<u>Essential Service</u>	P	P	P	
<u>Limited Child-Care Activities</u>	P	P	P	
<u>Community Assembly</u>	C	C	C	
<u>Recreational Assembly</u>	C	C	C	
<u>Community Education</u>	C	C	C	
<u>Nonassembly Cultural</u>	P	=	P	
<u>Administrative</u>	P(L1)	P(L1)	P(L1)	
<u>Health Care</u>	C	=	=	
<u>Special Health Care</u>	C(L2)	C(L2)	C(L2)	17.103.020
<u>Utility and Vehicular</u>	C	P(L3)	P(L3)	
<u>Extensive Impact</u>	C	C	C	
<u>Commercial Activities</u>				
<u>General Food Sales</u>	P	P	P	
<u>Full Service Restaurants</u>	P	P	P	
<u>Limited Service Restaurant and Café</u>	P	P	P	
<u>Fast-Food Restaurant</u>	C	C	C	17.103.030 and 8.09
<u>Convenience Market</u>	C	P	P	17.103.030
<u>Alcoholic Beverage Sales</u>	C	C	C	17.103.030 and 17.114.030
<u>Mechanical or Electronic Games</u>	P	P	P	
<u>Medical Service</u>	P(L1)	P	P	
<u>General Retail Sales</u>	P(L4)	P(L4)	P(L4)	
<u>Large-Scale Combined Retail and Grocery Sales</u>	=	=	=	
<u>Consumer Service</u>	P(L4)(L5)	P(L4)(L5)	P(L4)(L5)	
<u>Consultative and Financial Service</u>	P(L1)	P(L1)	P(L1)	
<u>Check Cashier and Check Cashing</u>	=	=	=	
<u>Consumer Cleaning and Repair Service</u>	C	C	C	
<u>Consumer Dry Cleaning Plant</u>	C	C	C	
<u>Group Assembly</u>	=	C(L6)	C(L6)	
<u>Personal Instruction and Improvement Services</u>	=	C	C	
<u>Administrative</u>	P(L1)	P(L1)	P(L1)	
<u>Business, Communication, and Media Services</u>	P	P	P	

<u>Broadcasting and Recording Services</u>	P	P	P	
<u>Research Service</u>	P	P	P	
<u>General Wholesale Sales</u>	P	P	P	
<u>Transient Habitation</u>	=	=	=	
<u>Building Material Sales</u>	C	P	P	
<u>Automobile and Other Light Vehicle Sales and Rental</u>	P	C	P	
<u>Automobile and Other Light Vehicle Gas Station and Servicing</u>	C(L7)	P(L7)	P(L7)	
<u>Automobile and Other Light Vehicle Repair and Cleaning</u>	P(L7)	P(L7)	P(L7)	
<u>Taxi and Light Fleet-Based Services</u>	C	P	P	
<u>Automotive Fee Parking</u>	P	=	P	
<u>Animal Boarding</u>	C	C	C	
<u>Animal Care</u>	C	C	C	
<u>Undertaking Service</u>	=	=	=	
<u>Industrial Activities</u>				
<u>Custom Manufacturing</u>	P(L8)	P	P	
<u>Light Manufacturing</u>	P(L9)	P	P	
<u>General Manufacturing</u>	C(L9)	C(L9)	C(L9)	
<u>Heavy/High Impact</u>	=	=	C	
<u>Research and Development</u>	C	C	P	
<u>Construction Operations</u>	C	P	P	
<u>Warehousing, Storage, and Distribution</u>				
<u>A. General Warehousing, Storage and Distribution</u>	C	P	P	
<u>B. General Outdoor Storage</u>	C	P	P	
<u>C. Self- or Mini Storage</u>	P	P	P	
<u>D. Container Storage</u>	C	P	P	
<u>E. Salvage/Junk Yards</u>	C	C	P(L10)	
<u>Regional Freight Transportation</u>	C	C	C	
<u>Trucking and Truck-Related</u>				
<u>A. Freight/Truck Terminal</u>	C	P(L7)(L11) }	P(L7)(L11) }	
<u>B. Truck Yard</u>	C	P(L7)(L11) }	P(L7)(L11) }	
<u>C. Truck Weigh Stations</u>	C	P(L7)(L11)	P(L7)(L11)	

		1	1	
<u>D. Truck and Other Heavy Vehicle Sales, Rental and Leasing</u>	C	P(L7)(L11) 1	P(L7)(L11) 1	
<u>E. Truck and Other Heavy Vehicle Service, Repair and Refueling</u>	C	P(L7)(L11) 1	P(L7)(L11) 1	
<u>Recycling and Waste-Related</u>				
<u>A. Satellite Recycling Collection Centers</u>	C	C	C	
<u>B. Primary Recycling Collection Centers</u>	=	C	P	17.103.060
<u>Hazardous Materials Production, Storage, and Waste Management</u>	C(L12)	C(L12)	C(L12)	
<u>Agriculture and Extractive Activities</u>				
<u>Plant Nursery</u>	C	P	P	
<u>Crop and Animal Raising</u>	C(L13)	C(L13)	C(L13)	
<u>Mining and Quarrying</u>	C	C	C	
<u>Accessory off-street parking serving prohibited activities</u>	P	P	P	17.116.075
<u>Additional activities that are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof.</u>	C	C	C	17.102.110

**Limitations on Table 17.72.01:**

- L1. The total floor area devoted to these activities on any single lot may only exceed fifteen thousand (15,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).
- L2. No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity or five hundred (500) feet from any K-12 school or Transitional Housing, Enriched Housing, or Licensed Emergency Shelters Civic Activity. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.
- L3. Communications equipment installation and exchanges are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).
- L4. The total floor area devoted to these activities on any single lot may only exceed three thousand (3,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).
- L5. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.
- L6. No new or expanded adult entertainment activity shall be located closer than one thousand (1,000) feet to the boundary of any residential zone or three hundred (300) feet from any other adult entertainment activity. See Section 17.102.160 for further regulations regarding adult entertainment activities.
- L7. No facility accommodating either of these activities that is located within one hundred fifty (150) feet of any residential zone boundary shall be constructed, established, or altered in exterior appearance.

unless the proposal have been approved pursuant to the Design Review Procedure (see Chapter 17.136 for the Design Review Procedure).

L8. These activities are only permitted upon the granting of a Conditional Use Permit if located within one hundred fifty (150) feet of a residential zone (see Chapter 17.134 for the CUP procedure).

L9. Electroplating activities are prohibited.

L10. Salvage/Junk Yards Industrial Activities in the M-40 zone are only permitted upon the granting of a Conditional Use Permit if located within four hundred (400) feet of any zone except the M-30 zone (see Chapter 17.134 for the CUP procedure). The following regulations shall apply to all Salvage/Junk Yards Industrial Activities in the M-40 zone that do not require for a conditional use permit: Except for accessory off-street parking, landscaping, and screening, said activities shall be conducted entirely within an enclosed building or behind a solid lumber, masonry, or sheet metal fence or wall not less than ten (10) feet high, subject to the standards for required landscaping and screening in Chapter 17.124. All openings in such fence or wall shall be equipped with solid gates or doors of the same height as the fence or wall, and said gates or doors shall be kept securely closed at such times as the establishment is not open for business. Open storage of vehicles and other scrap material shall not exceed twenty (20) feet in height.

L11. Only permitted upon the granting of a Conditional Use Permit (see Section 17.134 for the CUP procedure) in the West Oakland Community Development District, defined to include all areas between Interstate 980 to the east, 3rd Street to the south, Interstate 880 to the west, and Interstate 580 to the north.

L12. These activities are prohibited when located within two thousand (2,000) feet from a residential facility. When not within two thousand (2,000) feet of a residential facility, Hazardous Materials Production, Storage, and Waste Management is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. That the project is not detrimental to the public health, safety or general welfare of the community;
2. That the project is or will be adequately served by roads and other public or private service facilities;
3. That the project is consistent with the regional fair-share facility needs assessment and siting criteria established in the Alameda County Hazardous Waste Management Plan;
4. That the cumulative effects of locating the project within the proposed area have been analyzed and where applicable, measures have been incorporated into the project.

L13. Crop and Animal Raising is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;
2. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and
3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

#### **17.72.040 Permitted and Conditionally Permitted Facilities**

Table 17.72.02 lists the permitted, conditionally permitted, and prohibited facilities in the M-20, M-30, and M-40 zones. The descriptions of these facilities are contained in Chapter 17.10.

“P” designates permitted facilities in the corresponding zone.

“C” designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

“L” designates facilities subject to certain limitations listed at the bottom of the Table.

“-” designates facilities that are prohibited.

Table 17.72.02: Permitted and Conditionally Permitted Facilities				
Facilities	Zones			Additional Regulations
	M-20	M-30	M-40	
<b>Residential Facilities</b>				
One-Family Dwelling	=	=	=	
One-Family Dwelling with Secondary Unit	=	=	=	17.103.080
Two-Family Dwelling	=	=	=	
Multifamily Dwelling	=	=	=	
Rooming House	=	=	=	
Mobile Home	=	=	=	
<b>Nonresidential Facilities</b>				
Enclosed Nonresidential	P	P	P	
Open Nonresidential	C(L1)	P(L1)	P(L1)	
Sidewalk Café	-P	-P	-P	17.103.090
Drive-In	C	P	P	
Drive-Through	C	C	C	17.103.100
<b>Telecommunications Facilities</b>				
Micro Telecommunications	P	P	P	17.128
Mini Telecommunications	P	P	P	17.128
Macro Telecommunications	P	P	P	17.128
Monopole Telecommunications	C	P	P	17.128
Tower Telecommunications	=	C	C	17.128
<b>Sign Facilities</b>				
Residential Signs	P	P	P	17.104
Special Signs	P	P	P	17.104
Development Signs	P	P	P	17.104
Realty Signs	P	P	P	17.104
Civic Signs	P	P	P	17.104
Business Signs	P	P	P	17.104
Advertising Signs	=	=	=	17.104

**Limitations on Table 17.72.02:**

**L1.** Off-street parking facilities serving fifty (50) or more vehicles are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

**L2.** No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

**17.72.050 Property Development Standards**

**A. Zone Specific Standards.** Table 17.72.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "--" indicates that a standard is not required in the specified zone.

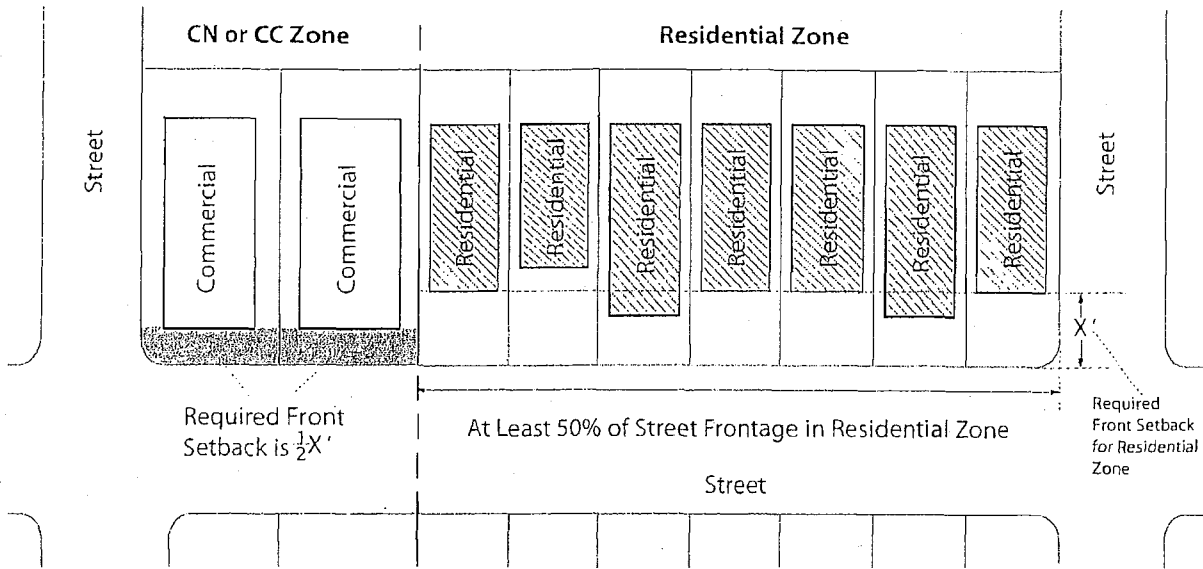
Table 17.72.03: Property Development Standards				
Development Standards	Zones			Additional Regulations
	M-20	M-30	M-40	
Minimum Lot Frontage	25 feet	25 feet	25 feet	1
Minimum/Maximum Setbacks				
Minimum front	5 ft	0 ft	0 ft	2, 3
Minimum interior side	0 ft	0 ft	0 ft	4
Minimum street side	0 ft	0 ft	0 ft	5
Rear (Nonresidential Facilities)	0/10/15 ft	0/10/15 ft	0/10/15 ft	6, 7
Maximum Height	None	None	None	8
Minimum Required Parking	See Chapter 17.116 for automobile parking and Chapter 17.117 for bicycle parking			
Courtyard Regulations	See Section 17.108.120			

**Additional Regulations for Table 17.72.03:**

- See Section 17.106.020 for exceptions to street frontage regulations.
- If fifty percent (50%) or more of the frontage on one side of the street between two intersecting streets is in any residential zone and all or part of the remaining frontage is in any commercial or industrial zone, the required front setback of the commercially or industrially zoned lots is one-half of the minimum front setback required in the residential zone. If fifty percent (50%) or more of the total frontage is in more than one residential zone, then the minimum front setback on the commercially or industrially zoned lots is one-half of that required in the residential zone with the lesser front setback (see Illustration for Table 17.72.03/Additional Regulation 8], below).
- In the M-20 zone, this minimum front yard shall, except for accessory driveways and walkways, be developed with lawn, ground cover, harden, shrubs, or trees, subject to the standards for required landscaping and screening in Chapter 17.124.

Illustration for Table 17.72.03 [Additional Regulation 8]

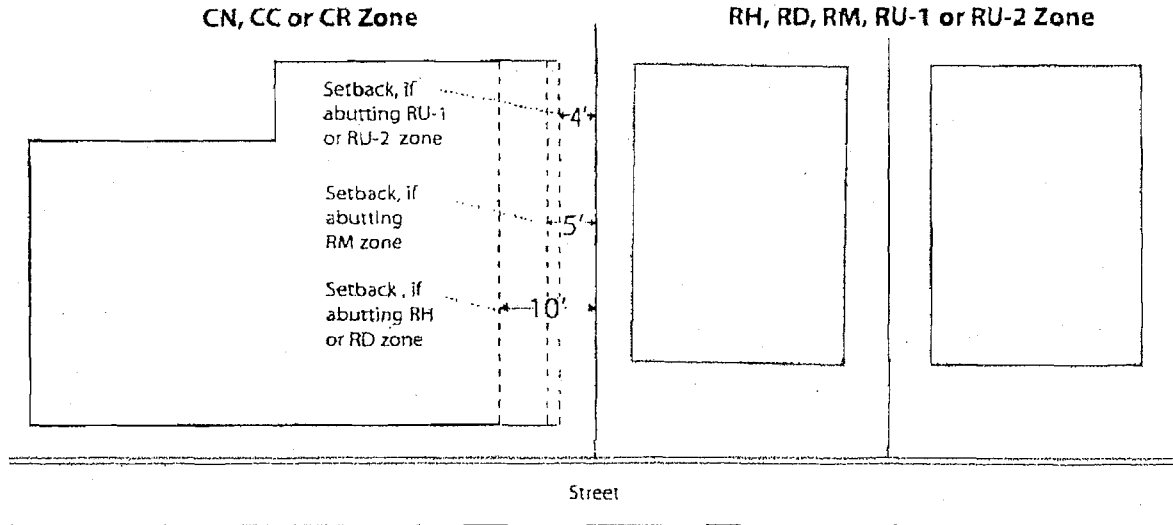
\*for illustration purposes only



4. Wherever an interior side lot line abuts an interior side lot line of any lot located in an RH or RD zone, the setback of the abutting portion of its side lot line is ten (10) feet. In the case where an interior side lot line abuts an interior side lot line in an RM zone, the setback of the abutting portion of its side lot line is five (5) feet. In the case where an interior side lot line abuts a side yard of an RU-1 or RU-2 lot, a side setback of four (4) feet is required (see Illustration for Table 17.68.03 [Additional Regulation 9], below). Also, see Section 17.108.130 for allowed projections into setbacks.

Illustration for Table 17.72.03[Additional Regulation 9]

\*for illustration purposes only

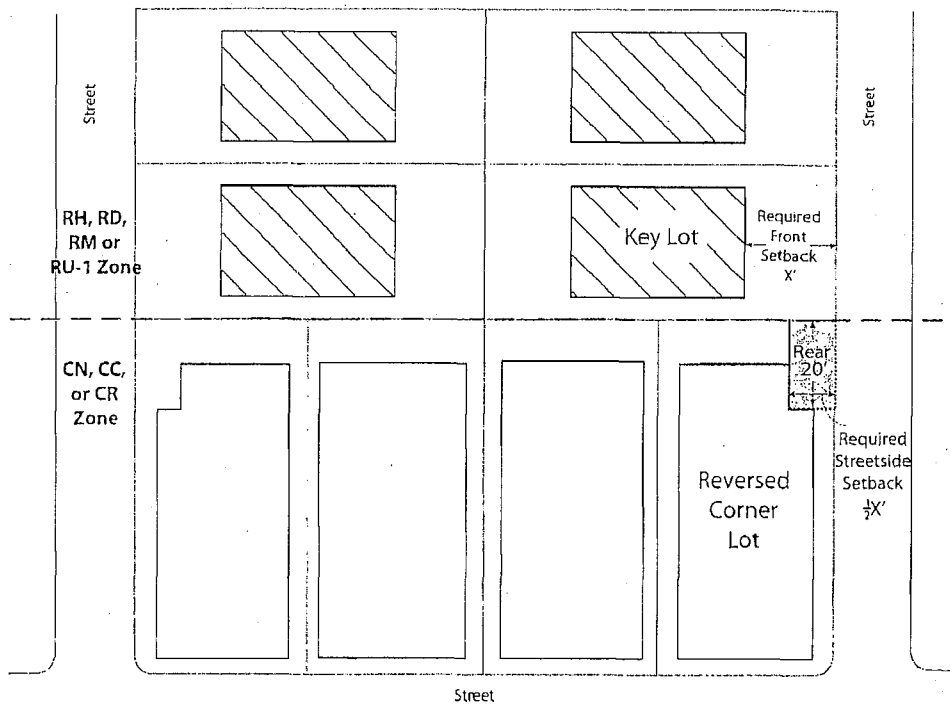


5. When the rear yard of a reversed corner lot abuts a key lot that is in an RH, RD, or RM zone or the RU-1 zone, the required street side yard setback in the rear twenty (20) feet of the reversed corner lot is one-half (1/2) of the minimum front yard required on the key lot (see Illustration for Table 17.33.03[Additional Regulation 11], below). Also, see Section 17.108.130 for allowed projections into the setbacks.



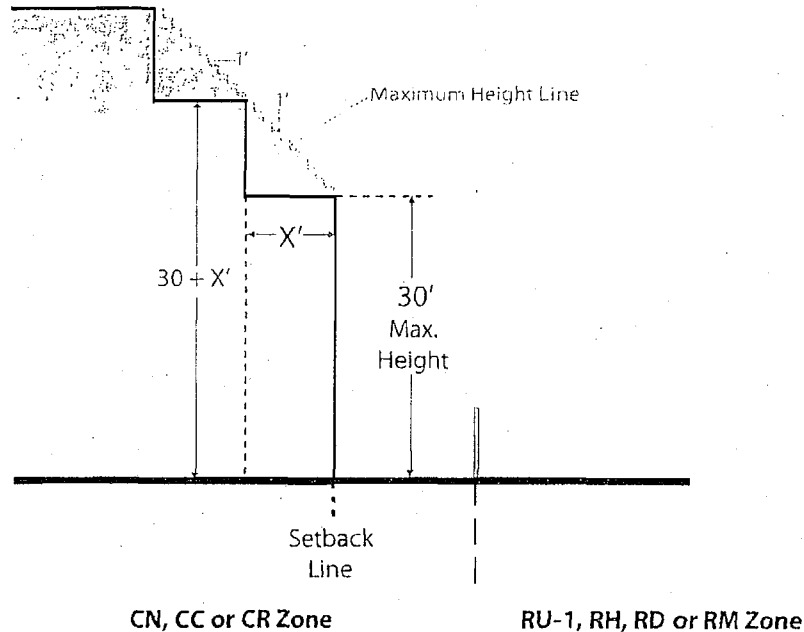
Illustration for Table 17.72.03[Additional Regulation 11]

\*for illustration purposes only



6. Wherever a rear lot line abuts an alley, one-half (1/2) of the right-of-way width of the alley may be counted toward the required minimum rear setback; provided, however, that the portion of the minimum rear setback actually on the lot itself shall not be so reduced to less than ten (10) feet. Also, see Section 17.108.130 for allowed projections into setbacks.
7. When a rear lot line is adjacent to an RH, RD, RM, or RU-1 zone, the required rear setback for both residential and nonresidential facilities is ten (10) feet if the lot depth is one hundred (100) feet or less and fifteen (15) feet if the lot depth is more than one hundred (100) feet. When a rear lot line is not adjacent to an RH, RD, RM, or RU-1 zone, the required rear setback is ten (10) feet for residential facilities and there is no required setback for nonresidential facilities.

8. Buildings shall have a thirty (30) foot maximum height at the setback line associated with any rear or interior side lot line that abut a lot in an RH, RD, RM, or RU-1 zone; this maximum height shall increase one foot for every foot of distance away from this setback line(see Illustration for Table 17.35.04 [Additional Regulation 14], below). Also, see Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.



#### **17.72.060 Special Regulations for Mini-lot and Planned Unit Developments**

- A. Mini-lot Developments. In mini-lot developments, certain regulations that apply to individual lots in the M-20, M-30, and M-40 zones may be waived or modified when and as prescribed in Chapter 17.142.
- B. Planned Unit Developments. Large integrated developments shall be subject to the Planned Unit Development regulations in Chapter 17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the M-20, M-30, and M-40 zones, and certain of the other regulations applying in said zone may be waived or modified.

#### **17.72.070 Other Zoning Provisions**

##### **A. Performance Standards.**

1. In the M-20 zone, all Commercial and Industrial Activities shall be subject to the applicable provisions of the performance standards in Chapter 17.120.
2. In the M-30 zone, all Commercial and Industrial-Activities which are located within four hundred (400) feet from any boundary of a residential zone shall be subject to the applicable provisions of the performance standards in Chapter 17.120.

- 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 Chapters 17.102, 17.103, 17.104, 17.106, and 17.108 shall apply in the M-20, M-30, and M-40 zones.
- E. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the M-20, M-30, and M-40 zones.
- F. Landscaping and Screening Standards. The regulations set forth in Chapter 17.124 shall apply in the M-20, M-30, and M-40 zones.
- G. 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, storage areas, control of artificial illumination, and other matters specified therein.

## Chapter 17.68—M-20 LIGHT INDUSTRIAL ZONE REGULATIONS

### Sections:

- ~~17.68.010—Title, purpose, and applicability.~~
- ~~17.68.020—Required design review process.~~
- ~~17.68.030—Permitted activities.~~
- ~~17.68.040—Conditionally permitted activities.~~
- ~~17.68.050—Permitted facilities.~~
- ~~17.68.060—Conditionally permitted facilities.~~
- ~~17.68.070—Special regulations applying to certain activities.~~
- ~~17.68.071—Special regulations applying to Hazardous Waste Management Activities.~~
- ~~17.68.080—Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a nonresidential activity.~~
- ~~17.68.085—Reserved.~~
- ~~17.68.090—Performance standards for Commercial and Industrial activities.~~
- ~~17.68.100—Limitations on Signs.~~
- ~~17.68.110—Minimum lot frontage.~~
- ~~17.68.120—Maximum height.~~
- ~~17.68.130—Minimum yards.~~
- ~~17.68.140—Buffering and landscaping.~~
- ~~17.68.150—Other zoning provisions.~~

### ~~17.68.010—Title, purpose, and applicability.~~

~~The provisions of this Chapter shall be known as the M-20 light industrial zone regulations. The M-20 zone is intended to create, preserve, and enhance areas containing manufacturing and related establishments with limited external impact within an open and attractive setting, and is typically appropriate to locations adjacent to residential communities. These regulations shall apply in the M-20 zone.~~

~~(Prior planning code § 5600)~~

### ~~17.68.020—Required design review process.~~

~~A. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Designated Historic Property, Potentially Designated Historic Property, 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~~

~~B. No facility accommodating an Automotive Servicing or Automotive Repair and Cleaning Commercial Activity that is located within 150 feet of any residential zone boundary 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~~

### ~~17.68.030—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

B. \_\_\_\_\_ Commercial Activities:

General Food Sales  
Full Service Restaurant  
Limited Service Restaurant and Cafe  
Mechanical or Electronic Games, subject to the provisions of Section 17.102.210C  
Medical Service  
General Retail Sales  
Consumer Service  
Consultative and Financial Service  
Administrative  
Business, Communication, and Media Service  
Broadcasting and Recording Service  
Research Service  
General Wholesale Sales  
Automotive and Other Light Vehicle Repair and Cleaning  
Automotive Fee Parking

C. \_\_\_\_\_ Industrial Activities:

Custom Manufacturing—when located further than one hundred fifty (150) feet from residential zones  
Light Manufacturing—when located further than one hundred fifty (150) feet from residential zones  
D. Off-street parking serving activities other than those listed above, subject to the conditions set forth in Section 17.102.100

**17.68.040—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:

A. \_\_\_\_\_ Civic Activities:

Community Assembly  
Recreational Assembly  
Community Education  
Utility and Vehicular  
Extensive Impact  
Special Health Care Civic Activities

B. \_\_\_\_\_ Commercial Activities:

- Fast-Food Restaurant
- Convenience Market
- Alcoholic Beverage Sales
- Consumer Cleaning and Repair Service
- Consumer Dry-Cleaning Plant
- Wholesale Professional Building Material Sales
- Automobile and Other Light Vehicle Gas Station and Servicing
- Taxi and Light Fleet-Based Service
- Transport and Warehousing
- Animal Care
- Animal Boarding

C. \_\_\_\_\_ Industrial Activities:

- Custom Manufacturing—when located within one hundred fifty (150) feet of residential zones
- Light Manufacturing—when located within one hundred fifty (150) feet of residential zones
- General Manufacturing, provided that electroplating activities shall also be subject to the provisions of Section 17.102.340
- Warehousing, Storage, and Distribution—Automotive Salvage/Junk Yards
- Small Scale Transfer and Storage Hazardous Waste Management when located a minimum of 2,000 feet from a Residential Facility; such facilities when located within 2,000 feet of a Residential Facility are not permitted

D. \_\_\_\_\_ Agricultural and Extractive Activities:

- Plant Nursery
- Crop and Animal Raising (see Section 17.68.070)
- Mining and Quarrying

E. \_\_\_\_\_  
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

**17.68.050 – Permitted facilities.**

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

A. \_\_\_\_\_ Nonresidential Facilities:

Enclosed

B. \_\_\_\_\_ Signs:

- Special
- Development
- Realty
- Civic
- Business

C. \_\_\_\_\_ Telecommunications:

Micro

Mini

Macro

17.68.060—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:

A. \_\_\_\_\_ Nonresidential Facilities:

Open

Drive-In

Drive-Through

B. \_\_\_\_\_ Telecommunications:

Monopole

**17.68.070—Special regulations applying to certain activities.**

A. ~~Administrative Activities, Medical Service, and Consultative and Financial Service. The total floor area devoted to Administrative Civic Activities or Administrative, Medical Service, or Consultative and Financial Service Commercial Activities on any single lot shall not exceed fifteen thousand (15,000) square feet, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134~~

B. ~~General Retail Sales and Consumer Service. The total floor area devoted to General Retail Sales or Consumer Service Commercial Activities by any single establishment shall not exceed three thousand (3,000) square feet, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134~~

C. ~~Fast Food Restaurants, Convenience Markets, and Certain Establishments Selling Alcoholic Beverages or Providing Mechanical or Electronic Games. See Section 17.102.240~~

D. ~~Crop and Animal Raising is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in 17.134.050, this activity must meet the following use permit criteria:~~

- ~~1. \_\_\_\_\_ The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;~~
- ~~2. \_\_\_\_\_ Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and~~
- ~~3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.~~

~~Editor's note—~~

**17.68.071—Special regulations applying to Hazardous Waste Management Activities.**

A conditional use permit for a Hazardous Waste Management Activity may be granted only upon determination that the proposed development conforms to the general use permit criteria set forth in the conditional use permit procedure at Chapter 17.134 and to all of the following use permit criteria:

A. That the project is not detrimental to the public health, safety or general welfare of the community;

B. ~~That the project is or will be adequately served by roads and other public or private service facilities;~~

C. ~~That the project is consistent with the regional fair-share facility needs assessment and siting criteria established in the Alameda County Hazardous Waste Management Plan;~~

D. ~~That the cumulative effects of locating the project within the proposed area have been analyzed and where applicable, measures have been incorporated into the project.~~

~~17.68.080 - 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 Section 17.102.230.~~

~~(Prior planning code § 5609)~~

~~17.68.085 - Reserved.~~

~~Editor's note—~~

~~17.68.090 - Performance standards for Commercial and Industrial activities.~~

~~All Commercial and Industrial Activities shall be subject to the applicable provisions of the performance standards in Chapter 17.120.~~

~~Editor's note—~~

~~17.68.100 - Limitations on Signs.~~

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

~~17.68.110 - Minimum lot frontage.~~

~~Every lot shall have a minimum frontage of 25 feet upon a street, except as this requirement is modified by Section 17.106.020.~~

~~(Prior planning code § 5614)~~

~~17.68.120 - Maximum height.~~

~~Except as provided in Chapter 17.128, no general maximum height is prescribed, except that the height of facilities shall be limited, as prescribed in Section 17.108.010, on lots lying along a boundary of any of certain other zones. But see Section 17.68.100 for maximum height of Signs, and Section 17.108.130 for maximum height of facilities within minimum yards and courts.~~

~~17.68.130 - Minimum yards.~~

~~No yards are generally required except as indicated below. The following minimum yards shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. See also Section 17.108.020 for greater yard requirements applying to certain facilities which exceed the general maximum height prescribed in Section 17.68.120.~~

~~A. Front Yard. The minimum front yard depth on every lot shall be five feet, except that a greater depth shall be required, 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 of 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 lot is in a residential zone.~~

~~C. Side Yard—Interior Lot Line. 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. A rear yard shall be provided, as prescribed in Section 17.108.100, along a boundary of any of certain other zones.~~

~~(Prior planning code § 5620)~~

~~17.68.140 – Buffering and landscaping.~~

~~A. General Requirements. 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. Landscaped Front Yard. The minimum front yard required by Sections 17.68.130A and 17.108.040 shall, except for necessary driveways and walkways, be developed with lawn, ground cover, garden, shrubs, or trees, subject to the standards for required landscaping and screening in Chapter 17.124~~

~~(Prior planning code § 5622)~~

~~17.68.150 – 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. Bicycle Parking. Bicycle parking shall be provided as prescribed in the bicycle parking regulations in Chapter 17.117~~

~~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 M-20 zone.~~

~~E. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in M-20 zone.~~

## Chapter 17.70 – M-30 GENERAL INDUSTRIAL ZONE REGULATIONS

### Sections:

- ~~17.70.010 – Title, purpose, and applicability.~~
- ~~17.70.020 – Required design review process.~~
- ~~17.70.030 – Permitted activities.~~
- ~~17.70.040 – Conditionally permitted activities.~~
- ~~17.70.050 – Permitted facilities.~~
- ~~17.70.060 – Conditionally permitted facilities.~~
- ~~17.70.070 – Special regulations applying to certain Commercial and Civic Activities.~~
- ~~17.70.080 – Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a nonresidential activity.~~
- ~~17.70.081 – Special regulations applying to Hazardous Waste Management Activities.~~
- ~~17.70.085 – Reserved.~~
- ~~17.70.090 – Performance standards for Commercial and Industrial Activities within four hundred feet of residential zone.~~
- ~~17.70.100 – Limitations on Signs.~~
- ~~17.70.110 – Minimum lot frontage.~~
- ~~17.70.120 – Maximum height.~~
- ~~17.70.130 – Minimum yards.~~
- ~~17.70.140 – Buffering.~~
- ~~17.70.150 – Other zoning provisions.~~

### ~~17.70.010 – Title, purpose, and applicability.~~

~~The provisions of this Chapter shall be known as the M-30 general industrial zone regulations. The M-30 zone is intended to create, preserve, and enhance areas containing a wide range of manufacturing and related establishments, and is typically appropriate to areas providing a wide variety of sites with good rail or highway access. These regulations shall apply in the M-30 zone.~~

~~(Prior planning code § 5700)~~

### ~~17.70.020 – Required design review process.~~

~~A. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Designated Historic Property, Potentially Designated Historic Property, 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~~

~~B. No facility accommodating an Automotive Servicing or Automotive Repair and Cleaning Commercial Activity that is located within 150 feet of any residential zone boundary 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~~

### ~~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~~

B. \_\_\_\_\_ Commercial Activities:

General Food Sales  
Full-Service Restaurant  
Limited Service Restaurant and Cafe  
Convenience Market  
Mechanical or Electronic Games, subject to the provisions of Section 17.102.210C  
Medical Service  
General Retail Sales  
Consumer Service  
Consultative and Financial Service  
Administrative  
Business, Communication, and Media Service  
Broadcasting and Recording Service  
Research Service  
General Wholesale Sales  
Building Material Sales  
Automobile and Other Light Vehicle Gas Station and Servicing  
Automotive and Other Light Vehicle Repair and Cleaning  
Taxi and Light Fleet-Based Service  
Automotive Fee Parking  
Transport and Warehousing

C. \_\_\_\_\_ Industrial Activities:

Custom Manufacturing  
Light Manufacturing  
General Manufacturing, except electroplating activities

D. \_\_\_\_\_ Agricultural and Extractive Activities:

Plant Nursery  
Crop and Animal Raising  
~~Off-street parking serving activities other than those listed above, subject to the conditions set forth in Section 17.102.100.~~

~~17.70.040 - 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:

A. Civic Activities:

- Community Assembly
- Recreational Assembly
- Community Education
- Extensive Impact
- Utility and Vehicular (communications equipment installations and exchanges, only)
- Special Health Care Civic Activities

B. Commercial Activities:

- Fast Food Restaurant
- Alcoholic Beverage Sales
- Consumer Cleaning and Repair Service
- Consumer Dry-Cleaning Plant
- Group Assembly
- Personal Instruction and Improvement and Small Scale Entertainment
- Automobile and Other Light Vehicle
- Sales and Rental
- Animal Care
- Animal Boarding

C. Industrial Activities:

- General Manufacturing, electroplating activities subject to the provisions of Section 17.102.340
- Warehousing, Storage and Distribution—Automotive Salvage/Junk Yards
- Small Scale Transfer and Storage Hazardous Waste Management when located a minimum of 2,000 feet from a Residential Facility; such facilities when located within 2,000 feet of a Residential Facility are not permitted
- Industrial Transfer/Storage Hazardous Waste Management when located a minimum of 2,000 feet from a Residential Facility; such facilities when located within 2,000 feet of a Residential Facility are not permitted

D. Agricultural and Extractive Activities:

- Mining and Quarrying
- E: 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

**17.70.050 - Permitted facilities.**

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

A. Nonresidential Facilities:

- Enclosed
- Open

Drive-In

B. \_\_\_\_\_ Signs:

Special

Development

Realty

Civic

Business

C. \_\_\_\_\_ Telecommunications:

Micro

Mini

Macro

Monopole

Tower

**~~17.70.060 - 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:

A. \_\_\_\_\_ Nonresidential Facilities:

Drive-Through

(Prior planning code § 5706)

**~~17.70.070 - Special regulations applying to certain Commercial and Civic Activities.~~**

~~A. Administrative Activities, Medical Service, and Consultative and Financial Service. The total floor area devoted to Administrative Civic Activities or Administrative, Medical Service, or Consultative and Financial Service Commercial Activities on any single lot shall not exceed 15,000 square feet, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134~~

~~B. General Retail Sales and Consumer Service. The total floor area devoted to General Retail Sales or Consumer Service Commercial Activities by any single establishment shall not exceed 3,000 square feet, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134~~

~~C. Certain Establishments Selling Alcoholic Beverages or Providing Mechanical or Electronic Games. See Section 17.102.210~~

**~~17.70.080 - 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 Section 17.102.230.~~

~~(Prior planning code § 5709)~~

**~~17.70.081 - Special regulations applying to Hazardous Waste Management Activities.~~**

~~A conditional use permit for a Hazardous Waste Management Activity may be granted only upon determination that the proposed development 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 use permit criteria:~~

- A. ~~That the project is not detrimental to the public health, safety or general welfare of the community;~~
- B. ~~That the project is or will be adequately served by roads and other public or private service facilities;~~
- C. ~~That the project is consistent with the regional fair-share facility needs assessment and siting criteria established in the Alameda County Hazardous Waste Management Plan;~~
- D. ~~That the cumulative effects of locating the project within the proposed area have been analyzed and where applicable, measures that minimize adverse impacts to the surrounding community have been incorporated into the project.~~

**17.70.085 – Reserved.**

**Editor's note—**

**17.70.090 – Performance standards for Commercial and Industrial Activities within four hundred feet of residential zone.**

All Commercial and Industrial Activities which are located within four hundred (400) feet from any boundary of a residential zone shall be subject to the applicable provisions of the performance standards in Chapter 17.120.

**17.70.100 – Limitations on Signs.**

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

**17.70.110 – Minimum lot frontage.**

Every lot shall have a minimum frontage of 25 feet upon a street, except as this requirement is modified by Section 17.106.020.

(Prior planning code § 5714)

**17.70.120 – Maximum height.**

Except as provided in Chapter 17.128, no general maximum height is prescribed, except that the height of facilities shall be limited, as prescribed in Section 17.108.010, on lots lying along a boundary of any of certain other zones. But see Section 17.70.100 for maximum height of Signs, and Section 17.108.130 for maximum height of facilities within minimum yards and courts.

**17.70.130 – Minimum yards.**

No yards are generally required except as indicated below. The following minimum yards shall be provided unobstructed except for the accessory structures or the 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 of 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 lot is in a residential zone.~~
- C. ~~Side Yard—Interior Lot Line. 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. A rear yard shall be provided, as prescribed in Section 17.108.100, along a boundary of any of certain other zones.~~

(Prior planning code § 5720)

~~17.70.140 – 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.~~

~~(Prior planning code § 5722)~~

~~17.70.150 – 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. Bicycle Parking. Bicycle parking shall be provided as prescribed in the bicycle parking regulations in Chapter 17.117~~

~~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 M-30 zone.~~

~~E. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the M-30 zone.~~

**Chapter 17.72 - M-40 HEAVY INDUSTRIAL ZONE REGULATIONS**

**Sections:**

- ~~17.72.010 - Title, purpose, and applicability.~~
- ~~17.72.020 - Required design review process.~~
- ~~17.72.030 - Permitted activities.~~
- ~~17.72.040 - Conditionally permitted activities.~~
- ~~17.72.050 - Permitted facilities.~~
- ~~17.72.060 - Conditionally permitted facilities.~~
- ~~17.72.070 - Special regulations applying to certain Commercial and Civic Activities.~~
- ~~17.72.080 - Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a nonresidential activity.~~
- ~~17.72.081 - Special regulations applying to Hazardous Waste Management Activities.~~
- ~~17.72.085 - Reserved.~~
- ~~17.72.090 - Limitations on Signs.~~
- ~~17.72.100 - Minimum lot frontage.~~
- ~~17.72.110 - Maximum height.~~
- ~~17.72.120 - Minimum yards.~~
- ~~17.72.130 - Buffering.~~
- ~~17.72.140 - Other zoning provisions.~~

**17.72.010 - Title, purpose, and applicability.**

The provisions of this Chapter shall be known as the M-40 heavy industrial zone regulations. The M-40 zone is intended to create, preserve, and enhance areas containing manufacturing or related establishments which are potentially incompatible with most other establishments, and is typically appropriate to areas which are distant from residential areas and which have extensive rail or shipping facilities. These regulations shall apply in the M-40 zone.

(Prior planning code § 5800)

**17.72.020 - Required design review process.**

A. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Designated Historic Property, Potentially Designated Historic Property, 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

B. No facility accommodating an Automotive Servicing or Automotive Repair and Cleaning Commercial Activity that is located within 150 feet of any residential zone boundary 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

**17.72.030 - 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

~~B. \_\_\_\_\_ Commercial Activities:~~

~~General Food Sales~~

~~Full Service Restaurant~~

~~Limited Service Restaurant and Cafe~~

~~Convenience Market~~

~~Mechanical or Electronic Games, subject to the provisions of Section 17.102.240G~~

~~Medical Service~~

~~General Retail Sales~~

~~Consumer Service~~

~~Consultative and Financial Service~~

~~Administrative~~

~~Business, Communication, and Media Service~~

~~Broadcasting and Recording Service~~

~~Research Service~~

~~General Wholesale Sales~~

~~Building Material Sales~~

~~Automobile and Other Light Vehicle Sales and Rental~~

~~Automobile and Other Light Vehicle Gas Station and Servicing~~

~~Automotive and Other Light Vehicle Repair and Cleaning~~

~~Taxi and Light Fleet-Based Service~~

~~Automotive Fee Parking~~

~~Transport and Warehousing~~

~~C. \_\_\_\_\_ Industrial Activities:~~

~~Custom Manufacturing~~

~~Light Manufacturing~~

~~General Manufacturing, 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 17.102.400~~

**17.72.040 -- 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:

A. \_\_\_\_\_ Civic Activities:

- Community Assembly
- Recreational Assembly
- Community Education
- Extensive Impact
- Utility and Vehicular (communications equipment installations and exchanges, only)
- Special Health Care Civic Activities

B. \_\_\_\_\_ Commercial Activities:

- Fast Food Restaurant
- Alcoholic Beverage Sales
- Consumer Cleaning and Repair Service
- Consumer Dry Cleaning Plant
- Group Assembly
- Personal Instruction and Improvement and Small Scale Entertainment
- Animal Care
- Animal Boarding

C. \_\_\_\_\_ Industrial Activities:

- General, electroplating activities subject to the provisions of Section 17.102.340
- Heavy/High Impact Manufacturing
- Small Scale Transfer and Storage Hazardous Waste Management when located a minimum of 2,000 feet from a Residential Facility; such facilities when located within 2,000 feet of a Residential Facility are not permitted
- Industrial Transfer/Storage Hazardous Waste Management when located a minimum of 2,000 feet from a Residential Facility; such facilities when located within 2,000 feet of a Residential Facility are not permitted

D. \_\_\_\_\_ Agricultural and Extractive Activities:

- Mining and Quarrying
- E. 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
- 17.72.050 Permitted facilities.

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

A. \_\_\_\_\_ Nonresidential Facilities:

- Enclosed
- Open
- Drive-In

B. \_\_\_\_\_ Signs:

Special  
Development  
Realty  
Civic  
Business

C. \_\_\_\_\_ Telecommunications:

Micro  
Mini  
Macro  
Monopole Tower

**17.72.060 – 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:

Nonresidential Facilities:

Drive-Through

**17.72.070 – Special regulations applying to certain Commercial and Civic Activities.**

A. ~~Administrative Activities, Medical Service, and Consultative and Financial Service. The total floor area devoted to Administrative Civic Activities or Administrative, Medical Service, or Consultative and Financial Service Commercial Activities on any single lot shall not exceed 15,000 square feet, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134~~

B. ~~General Retail Sales and Consumer Service. The total floor area devoted to General Retail Sales or Consumer Service Commercial by any single establishment shall not exceed 3,000 square feet, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134~~

C. ~~Certain Establishments Selling Alcoholic Beverages or Providing Mechanical or Electronic Games. See Section 17.102.210~~

D. \_\_\_\_\_ Scrap Operations:

1. ~~No Scrap Operation Commercial Activity shall be located within 400 feet from the boundary of any other zone except the M-30 zone, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134~~

2. ~~The following regulations shall apply to all Scrap Operation Commercial Activities in the M-40 zone which are not subject to the requirement for a conditional use permit. Except for accessory off-street parking, landscaping, and screening, said activities shall be conducted entirely within an enclosed building or behind a solid lumber, masonry, or sheet metal fence or wall not less than ten feet high, subject to the standards for required landscaping and screening in Chapter 17.124. All openings in such fence or wall shall be equipped with solid gates or doors of the same height as the fence or wall, and said gates or doors shall be kept securely closed at such times as the establishment is not open for business. Open storage of vehicles and other scrap material shall not exceed 20 feet in height.~~

3. \_\_\_\_\_ See Sections 17.72.090 and 17.102.210F.

~~17.72.080 – 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 Section 17.102.230.~~

~~(Prior planning code § 5809)~~

~~17.72.081 – Special regulations applying to Hazardous Waste Management Activities.~~

~~A conditional use permit for a hazardous waste management activity may be granted only upon determination that the proposed development conforms to the general use permit criteria set forth in the conditional use permit procedure at Chapter 17.134 and to all of the following use permit criteria:~~

~~A. That the project is not detrimental to the public health, safety or general welfare of the community;~~

~~B. That the project is or will be adequately served by roads and other public or private service facilities;~~

~~C. That the project is consistent with the regional fair share facility needs assessment and siting criteria established in the Alameda County Hazardous Waste Management Plan;~~

~~D. That the cumulative effects of locating the project within the proposed area have been analyzed and where applicable, measures that minimize adverse impacts to the surrounding community have been incorporated into the project.~~

~~17.72.085 – Reserved.~~

~~Editor's note—~~

~~17.72.090 – Limitations on Signs.~~

~~A. General Limitations. All Signs shall be subject to the applicable limitations set forth in Sections 17.104.020 and 17.104.060~~

~~17.72.100 – Minimum lot frontage.~~

~~Every lot shall have a minimum frontage of 25 feet upon a street, except as this requirement is modified by Section 17.106.020.~~

~~(Prior planning code § 5814)~~

~~17.72.110 – Maximum height.~~

~~Except as provided in Chapter 17.128, no general maximum height is prescribed, except that the height of facilities shall be limited, as prescribed in Section 17.108.010, on lots lying along a boundary of any of certain other zones. But see Section 17.72.090 for maximum height of Signs, and Section 17.108.130 for maximum height of facilities within minimum yards and courts.~~

~~17.72.120 – Minimum yards.~~

~~No yards are generally required except as indicated below. The following minimum yards shall be provided unobstructed except for the accessory structures or the 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 of 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 lot is in a residential zone.~~

~~C. Side Yard—Interior Lot Line. A side yard shall be provided, as in Section 17.108.090, along an interior side lot line lying along a boundary of any of certain other zones.~~

~~D. Rear Yard. A rear yard shall be provided, as in Section 17.108.100, along an interior side lot line lying along a boundary of any of certain other zones.~~

~~(Prior planning code § 5820)~~

~~17.72.130 -- 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. See also Section 17.72.070(D).~~

~~(Prior planning code § 5822)~~

~~17.72.140 -- 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. Bicycle Parking. Bicycle parking shall be provided as prescribed in the bicycle parking regulations in Chapter 17.117~~

~~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 M-40 zone.~~

~~E. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in M-40 zone.~~

## Chapter 17.73 - CIX-1, CIX-2, IG AND IO INDUSTRIAL ZONES REGULATIONS

### Sections:

17.73.010 - Title, purpose, and applicability.

17.73.015 - Required Design Review Process

17.73.020 - Permitted and conditionally permitted uses and facilities.

17.73.030 - Property Development Standards.

17.73.035 - Special regulations for Recycling and Waste-Related Industrial Activities -- Primary Recycling Collection Centers ~~primary collection centers~~ in the CIX, IG, and IO industrial zones.

17.73.040 - Special regulations for work/live units in the CIX, IG, and IO industrial zones

17.73.050 - Parking and loading dock restrictions.

17.73.060 - Referral to other applicable regulations.

17.73.070 - Other zoning provisions.

17.73.010 - Title, purpose, and applicability.

The provisions of this chapter shall be known as the CIX, IG, and IO industrial zones regulations. This chapter establishes regulations for the (CIX-1) Commercial Industrial Mix-1, (CIX-2) Commercial Industrial Mix-2, (IG) General Industrial, and (IO) Industrial Office.

These CIX, IG, and IO industrial zoning districts are intended to create, preserve, and enhance areas for industrial uses, including manufacturing, scientific and product-related research and development, construction, transportation, warehousing/storage/distribution, recycling/waste-related activities, clean technology, and similar uses. The primary purposes of these areas are to support Oakland's economic base and to provide employment opportunities. The specific purposes of these industrial districts are to:

1. Provide a diversified economic base and a wide range of employment opportunities;
  2. Maximize Oakland's regional role as a transportation, distribution, and communications hub;
  3. Support Port operations and expansion by providing land for Port services such as trucking, warehousing, and distribution;
  4. Preserve areas with good freeway, rail, seaport, and/or airport access for business and industrial uses;
  5. Prohibit residential uses and limit commercial uses in General Industrial (IG) areas so that a maximum amount of the City's land base is preserved for industrial uses, and so that industrial uses may operate without impacting those activities;
  6. Locate high impact industrial uses away from residential areas; and
  7. Allow heavy-impact or large scale commercial retail uses on sites with direct access to the regional transportation system.
- A. **CIX-1 Commercial Industrial Mix 1 Zone.** The CIX-1 zone is intended to create, preserve, and enhance the industrial areas, including but not limited to of West Oakland, that are appropriate for a wide variety of businesses and related commercial and industrial establishments. This zone is intended to accommodate existing older industries and provide flexibility in order to anticipate new technologies. Large-scale commercial and retail uses will be limited to sites with direct access to the regional transportation system.
- B. **CIX-2 Commercial Industrial Mix 2 Zone.** The CIX-2 zone is intended to create, preserve, and enhance industrial areas, including but not limited to of the Central and Eastern portions of the City, that are appropriate for a wide variety of heavy commercial and industrial establishments.

Uses with greater off-site impacts may be permitted provided they meet specific performance standards and are buffered from residential areas.

- C. **IG General Industrial Zone.** The IG zone is intended to create, preserve and enhance areas of the City that are appropriate for a wide variety of businesses and related commercial and industrial establishments that may have the potential to generate off-site impacts such as noise, light/glare, odor, and traffic. This zone allows heavy industrial and manufacturing uses, transportation facilities, warehousing and distribution, and similar and related supporting uses. Uses that may inhibit such uses, or the expansion thereof, are prohibited. This district is applied to areas with good freeway, rail, seaport, and/or airport access.
- D. **IO Industrial Office Zone.** The IO zone is intended to create and support areas of the City that are appropriate for a wide variety of businesses and related commercial and industrial establishments in a campus-style setting. Development and performance standards in this district are more restrictive and accommodate large-parcel development in an attractive, well-landscaped setting. Future development shall reflect large-scale office, research and development, light industrial, wholesaling and distribution, and similar and related supporting uses.

#### **17.73.015 Required Design Review Process**

- A. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Residential Facility, Designated Historic Property, Potentially Designated Historic Property, 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.
- B. No facility located within one hundred fifty (150) feet of any residential zone boundary and accommodating the following activities shall be constructed, established, or expanded in size unless plans for the proposal have been approved pursuant to the Regular Design Review procedure in Chapter 17.136:
  - 1. Automobile and Other Light Vehicle Gas Station and Servicing Activity.
  - 2. Automobile and Other Light Vehicle Repair and Cleaning Activity.
  - 3. Freight/Truck Terminal.
  - 4. Truck Yard.
  - 5. Truck Weigh Stations.
  - 6. Truck and Other Heavy Vehicle Sales, Rental, and Leasing.
  - 7. Truck and Other Heavy Vehicle Service, Repair, and Refueling.
- C. Establishment of a work/live unit shall only be permitted upon determination that the proposal conforms to the regular design review criteria set forth in the Regular Design Review procedure in Chapter 17.136 and to all of the additional criteria set forth in Section 17.73.040(D).

#### **17.73.020 - Permitted and conditionally permitted uses and facilities.**

The following table lists the permitted, conditionally permitted, and prohibited uses and facilities in the CIX-1, CIX-2, IG and IO zones. The descriptions of these uses are contained in Chapter 17.10.

"P" designates permitted uses and facilities in the corresponding zone.

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

"L" designates uses and facilities subject to certain limitations listed at the bottom of the Table.

"—" designates uses and facilities that are prohibited in the corresponding zone.

**Table 17.73.020: Permitted and Conditionally Permitted Uses and Facilities**

Uses	Zones				Additional Regulations
	CIX-1	CIX-2	IG	IO	
<b>Residential Uses</b>	All residential uses prohibited in each zone				
<b>Civic Uses</b>					
Essential Service	GP	GP	GP	GP	
Limited Child-Care	—	—	—	—	
Community Assembly	P	C	—	C	
Recreational Assembly	P	C	—	C	
Community Education	P	C	—	C	
Nonassembly Cultural	P	C	—	C	
Administrative	P	C	—	C	
Health Care	P	—	—	—	
Special Health Care	C	C	—	—	See Section 17.103.020
Utility and Vehicular	P	C	C	C	
Extensive Impact	C	C	C	C	
<b>Commercial Uses</b>					
General Food Sales	P	C(L1)	C(L1)	P(L1)	
Full Service Restaurant	P	C(L1)	C(L1)	P(L1)	
Limited Service Restaurant and Cafe	P	C(L1)	C(L1)	P(L1)	
Fast Food Restaurant	C	C	—	C	See Section 17.102.240 17.103.030
Convenience Market	C	C	—	C	
Alcoholic Beverage Sales	L2	C	—	—	See Sections 17.103.030 and 17.114.030
Mechanical or Electronic Games	L3	—	—	—	
Medical Service	P	C	—	C	
General Retail Sales	P	—	—	—	In the CIX-2 and IO zones. Retail allowed as an accessory use only per Section 17.10.040
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	
Consumer Service	P	P	—	C	See Section 17.102.170 for special regulations relating to massage services and Section 17.102.450 for special regulations related to laundromats.
Consultative and Financial Service	P	—	—	—	
Check Cashier and Check Cashing	—	—	—	—	
Consumer Cleaning and Repair Service	P	C	—	—	
Consumer Dry Cleaning Plant	P	C	—	—	
Group Assembly	P(L7)	C(L8)	C(L8)	C(L8)	
Personal Instruction and Improvement and Small	P(L7)	C(L8)	C(L8)	C(L8)	



Scale Entertainment					
Administrative	P	P	L9	P	
Business, Communication, and Media Service	P	P	P	P	
Broadcasting and Recording Service	P	P	P	P	
Research Service	P	P	C	P	
General Wholesale Sales	P	P	P	P	No retail ancillary activities for this use allowed in IG or IO.
Transient Habitation	—	—	—	—	
Building Material Sales	L3	L3	—	—	
Automobile and Other Light Vehicle Sales and Rental	P	C	—	C	
Automobile and Other Light Vehicle Gas Station and Servicing	P	P	P	—	Requires Regular Design Review approval if located within 150 feet of any residential zone boundary is pursuant to the design review procedure in (see Chapter 17.136 for the Design Review procedure).
Automotive and Other Light Vehicle Repair and Cleaning	L3	L3	P	—	Requires Regular Design Review approval if located within 150 feet of any residential zone (see Chapter 17.136 for the Design Review procedure). If located within (150) feet of any residential zone boundary is pursuant to the design review procedure in Chapter 17.136
Automotive Fee Parking	L3	P	P	P	
Animal Care	L4	C	C	—	
Animal Boarding	L4	C	C	—	
Undertaking Service	P	C	C	—	
Industrial Uses					
Custom Manufacturing	P	P	P	P	
Light Manufacturing	P	P	P	P	
General Manufacturing	L3	L3	P	—	
Heavy Manufacturing	—	—	C	—	
Research and Development	P	P	P	P	
Construction Operations	L3	L3	L3	C	
Warehousing, Storage and Distribution					
A. General Warehousing, Storage and Distribution	P	P	P	P	No retail component of this use allowed in IG or IO. Also, See Sections 17.73.060
B. General Outdoor Storage	C	L3	P	P	
C. Self or Mini Storage	C	C	—	C	
D. Container Storage	—	L3	P	—	
E. Automotive Salvage and Junk Yards	—	—	L3	—	
Regional Freight & Transportation:					
A. Seaport	—	—	P	C	
B. Rail Yard	—	C	P	—	

Trucking & Trucking-Related Activities:					
A. Freight/Truck Terminal	L5	L3	P	—	The establishment of new or expanded trucking and trucking-related activities requires Regular Design Review approval if located within 150 feet of any residential zone (see Chapter 17.136 for the Design Review procedure). If located within 150 feet of any residential zone boundary is pursuant to the design review procedure in Chapter 17.136
B. Truck Yard	L5	C	P	C	
C. Truck Weigh Stations	—	P	P	—	
D. Truck & Other Heavy Vehicle Sales, Rental & Leasing	L6	P	P	P	
E. Truck & Other Heavy Vehicle Service, Repair, and Refueling	L5	P	P	—	
Recycling & Waste-Waste-Related Activities					
A. Satellite Recycling Collection Centers	C	C	C	C	
B. Primary Recycling Collection Centers	L10	L10	L11	—	
Hazardous Materials Production, Storage & Waste-Related Activities					L12 See also Health & Safety Protection Zone (S-19)
A. Small Scale Transfer and Storage	—	C	C	—	
B. Industrial Transfer/Storage	—	—	C	—	
C. Residuals Repositories	—	—	C	—	
D. Oil and Gas Storage	—	—	L2	—	
Agricultural and Extractive uses					
Plant nursery	P	P	P	—	
Crop and animal raising	—C(L13)	—C(L13)	C(L13)	—	See Section 17.102.220
Mining and Quarrying Extractive	—	—	C	—	See Chapter 17.155

Facility Types	Zones				Additional Regulations
	CIX-1	CIX-2	IG	IO	
<b>Residential Facilities</b>	All residential uses prohibited in each zone				
<b>Nonresidential Facilities</b>					
Enclosed Nonresidential	P	P	P	P	
Open Nonresidential	P	P	P	P	
Sidewalk Cafe	C	C	—	—	See Section 17.102.335 17.103.090
Drive-In Nonresidential	—	—	—	—	
Drive-Through Nonresidential	C	C	C	C	See Section 17.102.290 17.103.100
Shopping Center Facility	—	—	—	—	
<b>Telecommunications</b>					
Micro Telecommunications	P	P	P	P	See Chapter 17.128
Mini Telecommunications	P	P	P	P	
Macro Telecommunications	C	C	P	P	

Monopole Telecommunications	C	C	P	P	
Tower Telecommunications	—	—	P	P	
<b>Signs</b>					
Residential Signs	—	—	—	—	See Chapter 17.104
Special Signs	P	P	P	P	
Development Signs	P	P	—	—	
Realty Signs	P	P	P	P	
Civic Signs	P	P	P	P	
Business Signs	P	P	P	P	
Advertising Signs	—	—	—	—	

**Limitations:**

**L1.** Limited to location on a ground floor in CIX-2, IG and IO. Over five thousand (5,000) sf floor area requires a conditional use permit in CIX-2, IG, and IO.

**L2.** Prohibited within three hundred (300) feet of a residential zone and requires a conditional use permit elsewhere throughout the zone. (Conditional use permit is required in CIX-2).

**L3.** A conditional use permit is required if within three hundred (300) feet of a residential zone; Permitted if beyond three hundred (300) feet of a residential zone.

**L5.** Prohibited within six hundred (600) feet of a residential zone. A conditional use permit is required elsewhere throughout the zone. Also, only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) in the West Oakland Community Development District, defined to include all areas between Interstate 980 to the east, 3rd Street to the south, Interstate 880 to the west, and Interstate 580 to the north.

**L6.** A conditional use permit is required: a) if within three hundred (300) feet of a residential zone, and b) if located anywhere in the district when outdoor repair and service activity exceeds fifty percent (50%) of site area. Also, only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) in the West Oakland Community Development District, defined to include all areas between Interstate 980 to the east, 3rd Street to the south, Interstate 880 to the west, and Interstate 580 to the north.

**L7.** A conditional use permit is required for entertainment uses. Also, No new or expanded adult entertainment activity shall be located closer than one thousand (1,000) feet to the boundary of any residential zone or three hundred (300) feet from any other adult entertainment activity. See Section 17.102.160 for further regulations regarding adult entertainment activities.

**L8.** Entertainment, educational and athletic services are not permitted.

**L10.** Prohibited within three hundred (300) feet of a residential zone; a conditional use permit containing requirements no less stringent than the performance standards set out in Section 17.73.035 is required if beyond three hundred (300) feet of a residential zone boundary.

**L11.** Prohibited within three hundred (300) feet of a residential zone, permitted outright beyond three hundred (300) feet with a standard set of performance standards that would apply to existing, new or expanded uses, as detailed in Section 17.73.035.

**L13.** Crop and Animal Raising is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;
2. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and
3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

**17.73.030 - Property Development Standards.**

Table 17.73.030 contains the property development standards for all zones within this Chapter.

**Table 17.73.030**  
**Property Development Standards**

Development Standards	Zones				Additional Regulations
	CIX-1	CIX-2	IG	IO	
Minimum Lot Frontage	25 ft	25 ft	25 ft	100 ft	1
Minimum Lot Width	25 ft	25 ft	25 ft	100 ft	1
Minimum Lot Area (square feet)	5,000 sf	10,000 sf	10,000 sf	25,000 sf	1
Floor-Area Ratio (FAR)					
Greater than 300 feet	4.0	4.0	2.0	4.0	
Within 300 feet of a residential zone boundary	2.0	2.0	1.0	2.0	2
Maximum Height	None	55 ft	None	55 ft	3,4
Minimum Front Yard Setback	0 ft	0 ft	0 ft	20 ft	5
Minimum Rear Yard Setback	0 ft				5
Minimum Interior Side Yard setback	0 ft				5
Minimum Street Side Yard Setback of a Corner Lot	10 ft	10 ft	10 ft	20 ft	5
Site Landscaping (% of lot area)	5%	5%	5%	15%	6, 7
Parking Lot Landscaping (% of lot area)	10%	10%	10%	10%	8
Street Trees	Required	Required	See also note 10	Required	9
Site and Driveway Access - Minimum Distance from any residential or open space boundary	50 ft	50 ft	50 ft	50 ft	11
Driveway Width Maximum	35 ft	35 ft	35 ft	35 ft	12
Pedestrian Walkway	Required	Required	Required	Required	13
Minimum Fence Height in Yards adjacent to Residential or Open Space Zones	8 ft	8 ft	8 ft	8 ft	14
Maximum Fence Height in Yards adjacent to Residential or Open Space Zones	15 ft	15 ft	15 ft	15 ft	14, 15

### Additional Regulations Noted in Table 17.73.030

2. A conditional use permit to exceed the permitted Floor Area Ratio (FAR) may be allowed, as shown in parentheses above in Table 17.73.030, upon determination that the proposal conforms to the conditional use permit criteria set forth in the conditional use permit procedure in Chapter 17.134; and to all of the following additional criteria:

a. Additional intensity does not subject residentially zoned areas within three hundred (300) feet to significant adverse impacts related to: truck traffic; nighttime operations; noise; vehicular traffic; hazardous materials exposure and risk; air emissions; blockage of sunlight to private open space areas; or other such environmental impacts;

b. The site is located on a major arterial, freeway, rail line or other location that has adequate capacity to handle the intensity and type of traffic volume.

c. If adjacent to a residential or open space zone boundary the proposed development has a step back of one foot to every one foot of height, beginning with a maximum height of thirty (30) feet at all required yard setbacks; and

d. All new development activities meet the Performance Standards in 17.120.

5. See ~~Section 17.108.040, 17.108.070, 17.108.090, 17.108.100, 17.108.110, and 17.108.130~~ for minimum front, side, and rear yards in commercial and industrial zones which may be across from, abut or be adjacent to a residential zone or alley. Accessory structures or other facilities allowed within the yards and setbacks ~~are~~ is in ~~s~~Sections 17.108.130.

6. All new projects which involve the construction of a new building, or the expansion or replacement of existing building footprint by more than twenty percent (20%) such that the floor area to site ratio exceeds ~~thirty-five percent (35%)~~, shall comply with the landscape requirements. Landscaping shall consist of pervious surface with lawn, ground cover, shrubs, permeable paving materials, and/or trees and which is irrigated and maintained. See also Chapter 17.124 Landscaping and Screening Standards.

8. Parking Lot Landscaping applies only to lots associated with new construction with more than twenty-five thousand (25,000) sf floor area. Shade trees shall be provided at a ratio of 1 tree for every 10 spaces through the parking lot. A minimum of ~~ten (10%)~~ ten (10%) of a surface parking lot shall be landscaped accompanied by an irrigation system that is permanent, below grade and activated by automatic timing controls which may be provided entirely in permeable surfacing in lieu of irrigated landscaping if approved through the Regular Design Review process (see Chapter 17.136). Parking lots located adjacent to a public right-of-way shall include screening consisting of a minimum of five (5) foot deep planted area or a three (3) foot tall opaque, concrete, or masonry wall. Chain link, cyclone, and barbed wire fencing is prohibited in all cases.

9. For all projects requiring a building permit, street trees are required. In addition to the general landscaping requirements set forth above, a minimum of one fifteen-gallon tree, or substantially equivalent landscaping consistent with City policy and as approved by the Director of City Planning, shall be provided for every twenty (20) feet of street frontage or portion thereof and, if a curbside planting strip exists, for every twenty-five (25) feet of street frontage. 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 (6½) feet, the trees to be provided shall include street trees to the satisfaction of the Tree Division.

11. Applies to new development; or expansion of industrial or commercial buildings by more than twenty ~~20-percent (20%)~~ floor area; or b) addition or expansion of an existing building so that the building to land ratio exceeds ~~thirty-five (35%)~~ thirty-five (35%), which ever is greater; and all new driveway projects. This requirement may be waived administratively if such distance requirement will impede direct access to a rail line.

12. Driveway shall not exceed ~~thirty-five~~ <sup>35</sup> (35) feet in width without obtaining approval from the Engineering Department of Building Services through the Driveway Appeal Process.

13. A clearly defined and lighted walkway, at least four (4) feet wide, shall be provided between the main building entry and a public sidewalk for all new development. On-site walkways shall be separated from on-site automobile circulation and parking areas by landscaping, a change in paving material, or a change in elevation.

14. Applies to all property lines in industrial zones, except those fronting a public street, which directly abut a residential or open space zone. All buffering Requirements apply to: a) new development; or expansion of an industrial or commercial building by more than ~~twenty~~ <sup>20</sup> percent (20%) floor area, or b) addition or expansion of an existing building so that the building to land ratio exceeds ~~thirty-five~~ <sup>35</sup> percent (35%), whichever is greater.

**17.73.035 - Special regulations for Recycling and Waste-Related Industrial Activities -- Primary Recycling Collection Centers ~~primary collection centers~~ in the CIX, IG, and IO industrial zones.**

A. Applicability. This Section applies to Recycling and Waste-Related Industrial Activities -- Primary Collection Centers, as defined in ~~17.10.586 "Recycling and Waste-Related Industrial Activities,"~~ that are located in the Commercial Industrial Mix-1 (CIX-1), Commercial Industrial Mix-2 (CIX-2) or General Industrial (IG) zone. Conditional use permits issued for operations in CIX zones must contain conditions no less stringent than the performance standards set out in this Section. Where there is any apparent conflict between these regulations and regulations contained elsewhere in Title 17 of the Oakland Municipal Code, and/or with conditions of approval, the more stringent shall govern.

B. Performance Standards. In addition to the performance standards set forth in Chapter 17.120, the following minimum performance standards shall be uniformly applied, as applicable, to all Primary Recycling Collection Centers.

1. Site Design and Layout. For new and expanded uses, submittal and approval of the following plans, and implementation of approved plans shall be required:
  - a. Site and floor plans, which shall include designated areas for separation and disposal of materials, as well as required fencing/walls, to the Planning and Zoning and Building Services Divisions;
  - b. Building plans to the Fire Services Division;
  - c. Fire safety/emergency plan to the Fire Services Division.
2. Signage. For existing, new or expanded uses: identification, directional and informational signs shall be provided on site in conformance with Chapter 17.104 General Limitation on Signs and with the small project design review procedure in Chapter 17.136. At a minimum, the following information shall be posted near the entrance(s) and/or perimeter of the facility:
  - a. Business Identification, 24-hour contact information of facility operator;
  - b. Hours of operation;
  - c. Signage prohibiting the delivery or drop off of material to be recycled after-hours;
  - d. Signage prohibiting illegal dumping, littering loitering or sleeping in proximity of the site's perimeter;
  - e. A map of authorized truck routes to the facility posted at the office or scale house (and available to customers);
  - f. A list of accepted and/or non-accepted materials for recycling.

3. Appearance and Design.

a. Landscaping.

- i) For existing, new or expanded uses, all required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. All required irrigation systems shall be permanently maintained in good condition, and, whenever necessary, repaired or replaced.
- ii) For new or expanded uses, submittal and approval of a landscape and irrigation maintenance plan and/or street tree plan, and implementation of approved plan for new and expanded uses, as required by the Planning Director or his/her designee;

b. Screening. For existing, new and expanded uses, screening by a solid fences and/or walls shall be required around the entire site;

c. Lighting.

- i) For new or expanded uses, submittal and approval of lighting plans, and implementation of approved plans, to the Planning and Zoning Division and the Electrical Services Division of the Public Works Agency shall be required. The proposed lighting fixtures shall be adequately shielded to a point below the light bulb and reflector so as to prevent unnecessary glare onto adjacent properties or public streets.
- ii) For existing uses, lighting shall comply with the performance standards of Section 17.120.100 of the Oakland Planning Code relating to glare. Lighting shall be so operated as to not adversely affect nearby properties or public streets.

4. Noise, Vibration and Other Applicable Health and Safety Regulations. For existing, new or expanded uses:

- a. Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning and Building Services Divisions;
- b. Vibration levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code. If vibration levels exceed these standards, the activity causing the vibration shall be abated until appropriate vibration reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services;
- c. The project operator/applicant shall comply with State and other regional bodies and/or applicable regulations including, but not limited to, the federal Clean Water Act and Occupational Safety and Health Administration (OSHA), the California Penal Code Section 496. (a), the Environmental Protection Agency (EPA), the Bay Area Air Quality Management District (BAAQMD) and Best Management Practices (BMP) for stormwater.

5. Litter, Debris, Graffiti and Cleanliness. For existing, new or expanded uses:

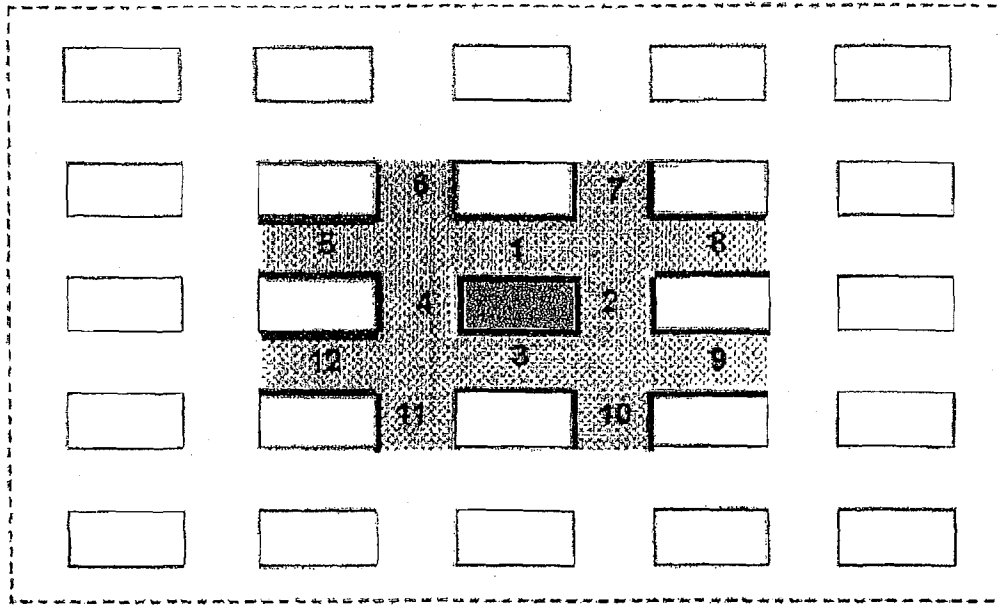
- a. The site shall be maintained in a clean and orderly condition, free of vectors, and free of standing water and any odiferous waste;
- b. The public right-of-way shall not be used for storage or processing of materials;
- c. Graffiti shall be removed within seventy-two (72) hours of application;
- d. A cleanliness/litter management and control plan shall be developed, implemented and maintained, such that it is ready for inspection. The plan shall include provisions for the disposal of recycling related litter and debris in the public right-of-way within the area


comprised of all streets adjacent to the premises, and the one-block extension of those streets to the north and south, and east and west, respectively (See Figure 17.73.01). This would not include material illegally dumped that is not related to the recycling operation, including but not limited to hazardous material, containers of paint or unidentified liquids, tree trimmings, residential, commercial and/or industrial waste or dumping of materials not accepted by the Primary Recycling Collection Center. In addition, the Primary Recycling Collection Center shall produce a notice to distribute to customers that states that all illegal dumping shall be reported to City authorities.

- e. A site/immediate neighborhood shopping cart management plan shall be developed, implemented and maintained, such that it is ready for inspection. If the Primary Recycling Collection Center accepts materials from the public brought by means of a shopping cart, it shall be responsible for the retrieval of all shopping carts within the area comprised of all streets adjacent to the premises, and the one-block extension of those streets to the north and south, and east and west, respectively (See Figure 17.73.01). Additionally, a Primary Recycling Collection Center shall post signage that includes contact information to report abandoned shopping carts in the vicinity of the facility; if called or notified by a member of the public about abandoned shopping carts located within a two-block radius of the premises, a Primary Recycling Collection Center shall retrieve said carts. A two-block radius of the premises shall comprise all street sides of the twenty-five- (25) square block area that includes the block on which the premises is located (as the center block of the twenty-five (25) square block area) See Figure 17.73.01).
  - f. A loitering deterrence plan shall be developed, implemented and maintained, such that is ready for inspection;
6. Circulation. For new or expanded uses submittal and approval of the following plans, and implementation of approved plans are required:
- a. A circulation plan that shows ingress and egress, parking both on-site and off-street, as well as includes provisions for any needed staff to monitor on-site traffic operations, submitted to the Transportation Services Division;
  - b. A plan showing rail loading and unloading within site shall be required (as applicable) submitted to the Transportation Services Division.
7. Equipment and Facilities. For existing, new or expanded uses:
- a. There shall be no exterior pay telephones located at the site;
  - b. All equipment shall be maintained and kept in good working order;
  - c. After business hours, all facility-owned vehicles shall be stored within the facility or at an appropriate alternative off-street location.
8. Operations. All existing, new or expanded uses:
- a. Shall have a representative attend Neighborhood Crime Prevention Council meetings—a minimum of two meetings per year or more frequently if items pertaining to their facility are on the agenda—for their community policing beat with the sole purpose of addressing and responding to community complaints. For the purposes of this provision said representative will mean a site or company manager with sufficient authority to address the concerns of neighbors;
  - b. Shall maintain a 24--hour "hotline" where neighbors can log complaints regarding nuisance activity associated with or emanating from the recycling facility. Complaints logs shall be maintained and made available to the City for inspection/copying upon reasonable notice;




Figure 17.73.01: Illustration of Extent of Area Primary Recycling Collection Centers are responsible for Litter/Garbage/Debris Removal and Shopping Cart Retrieval



 Area of Responsibility for Cleanliness/litter management plan (Section 17.73.035B.5d) and;

*If Primary Collection Center accepts materials from the public brought by means of a shopping cart retrieval (Section 17.73.035B.5e), area of responsibility for Primary Collection Center to retrieve abandoned shopping carts (the facility monitors area).*

 If Primary Collection Center accepts materials from the public brought by means of a shopping cart retrieval (Section 17.73.035B.5e), area of responsibility for Primary Collection Center to retrieve abandoned shopping carts **only** if contacted by a member of the public (complaint-based).

**Note:** The block on which Primary Collection Center is located is in the center, shown in gray.

- c. Shall provide staff and training for traffic operations needed on-site, as required by the Transportation Services Division as part of any circulation plan;

- d. Shall develop, implement and maintain a plan for the disposal and containment of non-recoverable materials that is ready for inspection; submittal and approval of such a plan prior to operation shall be required for new or expanded uses;
  - e. Shall keep all entrance gates closed and locked when the Primary Recycling Collection facility is not open to the public;
  - f. Shall not burn insulation from copper wire as a means to increase the material's value or for any other purpose.
- C. Relief from Performance Standards. Any person who owns or operates, or who has applied to construct, expand, modify or establish an activity or facility that involves Primary Recycling Collection Centers which would be affected by the performance standards required, and who contends that the performance standards as applied to him or her would be unlawful under Federal, State, or local law or regulation, may submit a written application to the Planning Director requesting relief from the performance standards within ten (10) 40 (ten)-days of being initially notified of the performance standards. For purposes of this section, notice to a predecessor in interest shall constitute such initial notice to subsequent owners/operators. The written request for relief from these performance standards must: (a) identify the name and address of the applicant and business; (b) the affected application number; (c) specifically state how the performance standards as applied to him or her would be unlawful under Federal, State, or local law or regulation; and (d) include all appropriate legal and factual support for the request for relief. Within thirty (30) days of receipt of the completed request for relief, the Planning Director, or his/her designee, shall mail to the applicant a written determination. The applicant may appeal such determination pursuant to the provisions in Oakland Planning Code chapter 17.132.

**17.73.040 - Special regulations for work/live units in the CIX, IG, and IO industrial zones**

- C. Conditional use permit required.
- 1. Establishment of a work/live unit for new construction is only permitted upon determination that the proposal conforms to the conditional use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 on lots that are both: (1) in the CIX-1 or CIX-2 zones, and (2) within three-hundred (300) feet of a residential zone.
  - 2. Establishment of a work/live unit through the conversion of an existing building originally designed for commercial or industrial activities is permitted in all industrial zones with the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 provided there are existing artist and/or artisan residents who meet the requirements of Zoning Code Bulletin regarding "live/work" (issued August 29, 2001 and amended August 23, 2004).
- K. The development of work/live units in the industrial zones shall not be considered adding housing units to the City's rental supply, nor does it create "conversion rights" under the City's condominium conversion ordinance, O.M.C. Chapter 16.36, nor are the development standards for work/live units intended to be a circumvention of the requirements of the City's condominium conversion ordinance, O.M.C. Chapter 16.36.

**17.73.050 - Parking and loading dock restrictions.**

- A. Off-street parking and loading shall be provided as prescribed in the off-street parking and loading requirements in Chapter 17.116.
- B. Parking for new development shall be located at the rear of the site or at the side of the building in the CIX-1, CIX-2, and IO except for drop-off areas, which may be at the entry, except where access to existing loading docks and/or rail lines is required. ~~n~~New truck loading docks shall not be located closer than fifty (50) feet from property line as measured from the subject dock to any property boundary if located within three hundred (300) feet of a residential zone, unless such a distance

requirement will impede direct access to a rail line. Truck docks shall be located such that trucks do not encroach into the public right of way. All existing loading docks are not subject to this requirement.

**17.73.060 - Referral to other applicable regulations.**

The following table contains referrals to other regulations that may apply:

**Table 17.73.050: Referral to Other Regulations**

Subject	Section
Required number, dimensions, and location of parking spaces; maneuvering aisle dimensions, and related regulations	17.116
Sign regulations	17.104.020 17.104.060
Buffering regulations, including the buffering of parking, loading, glare, and storage from other properties	17.110
Landscaping and screening, including street trees	17.66.140A <del>17.108.040</del> 17.124 17.68.130
Recycling space requirements	17.118
Nonconforming uses and facilities	17.114
Joint living and working quarters	17.102.190
Performance standards regarding the control of noise, odor, smoke, and other objectionable impacts	17.120
The demolition of living units and the conversion of a living unit to a Nonresidential Use	17.102.230
Accessory Uses	17.10.040
Fence and retaining wall standards, including location, height, and materials	<del>17.108.040</del>
Expanding a use into adjacent zones	17.102.110
Application of zoning regulations to lots divided by zone boundaries	<del>17.102.070</del> 17.154.060
Landmarks	17.05
<del>Special Restrictions on Establishments Selling Alcoholic Beverages</del>	<del>17.102.240</del>
Regulations applying to tobacco-oriented activities	17.102.350
Microwave dishes and energy production facilities	17.102.240
Special regulations applying to adult entertainment activities	17.102.160
Special regulations applying to massage service activities	17.102.170
Buffering regulations for lots with three or more required parking space. This includes the screening of parking, loading, glare, and storage from residential properties and zones	17.110.030
Buffer Regulations for commercial and industrial uses next to residential and open space zones	17.110
Special regulations applying to electroplating activities	17.102.340
S-19 Health and Safety Protection Overlay Zone	17.100A

**17.74.040 - 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:

A. Residential Activities:

Residential Care, except when occupying a One-Family Dwelling Residential Facility  
Service-Enriched Permanent Housing  
Transitional Housing  
Emergency Shelter

B. Civic Activities:

Administrative  
Utility and Vehicular  
Community Education  
Special Health Care Civic Activities (see Section 17.103.020)

C. Commercial Activities:

General Food Sales  
Full Service Restaurant  
Limited Service Restaurant and Cafe  
Fast Food Restaurant  
Convenience Market  
Alcoholic Beverage Sales  
Consumer Service (see Section 17.102.170 for special regulations relating to massage services and Section 17.102.450 for special regulations related to laundromats)  
Consultative and Financial Service  
Group Assembly  
Personal Instruction and Improvement and Small Scale Entertainment  
Administrative  
Business, Communication, and Media Service  
Broadcasting and Recording Service  
Research Service  
Automotive Fee Parking  
Animal Care

Animal Boarding

- D. Off-street parking serving activities other than those listed above or in Section 17.74.030, subject to the conditions set forth in ~~Section 17.102.100~~ 17.116.075.
- E. Activities that are listed neither as permitted nor conditionally permitted, but are permitted or conditionally permitted on nearby lots in an adjacent zone, subject to the conditions set forth in Section 17.102.110.
- ~~E. 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~~

**17.74.050 - Permitted facilities.**

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

A. Residential Facilities:

One-Family Dwelling

One-Family Dwelling with Secondary Unit, subject to the provisions specified in Section ~~17.102.360~~ 17.103.080

Two-Family Dwelling

Multifamily Dwelling

Rooming House

B. Nonresidential Facilities:

Enclosed

C. Signs:

Residential

Special

Development

Realty

Civic

Business

D. Telecommunications:

Micro, except when a Major Conditional Use Permit is required by Section 17.128.025

Mini, except when a Major Conditional Use Permit is required by Section 17.128.025

**17.74.070 - Special regulations applying to certain Commercial Activities.**

All conditionally permitted Commercial Activities other than Automotive Fee Parking shall, except for accessory off-street parking and loading and maintenance of accessory landscaping and screening, be

conducted entirely within enclosed buildings which are primarily occupied by permitted activities. See also Section ~~17.102.240~~ 17.103.030.

**17.74.090 - Use permit criteria for Commercial Activities.**

- B. That the proposed activity will not create or aggravate traffic congestion or interfere with the movement of traffic generated by permitted activities.

See also Section ~~17.102.240~~ 17.103.030.

**17.74.120 - Maximum residential density.**

- B. Conditionally Permitted Density. The number of living units permitted by subsection A of this section may be increased by not to exceed fifty ~~(50)~~ percent (50%) upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, in each of the following situations:

1. In the case of a Residential Facility with more than four stories containing living units, subject to the provisions of Section 17.106.040.
2. Upon the acquisition of development rights from nearby lots, subject to the provisions of Section 17.106.050.

The number of living units may also be increased, as prescribed in Section 17.106.060, in certain special housing.

**17.74.150 - Minimum yards and courts.**

- B. Side Yard—Street Side of Corner Lot. The minimum side yard width on the street side of every corner lot shall be ten (10) feet.
- D. Rear Yard. The minimum rear yard depth on every lot shall be ten (10) feet, ~~except as a lesser depth is allowed by Section 17.108.110~~
- E. Courts. On each lot containing a Residential Facility, courts shall be provided when and as required by Section 17.108.120.

**17.74.180 - Special regulations for mini-lot and planned unit developments.**

- A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the S-1 zone may be waived or modified when and as prescribed in ~~Section 17.102.320~~ Chapter 17.142.

**17.76.060 - 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:

A. Residential Activities:

Residential Care, except when occupying a One-Family Dwelling Residential Facility

Service-Enriched Permanent Housing

Transitional Housing

Emergency Shelter

B. Civic Activities:

Health Care

Utility and Vehicular

Extensive Impact

C. Commercial Activities:

General Food Sales

Full Service Restaurant

Limited Service Restaurant and Cafe

Fast-Food Restaurant

Convenience Market

Alcoholic Beverage Sales

General Retail Sales

Consumer Service (see Section 17.102.170 for special regulations relating to massage services and Section 17.102.450 for special regulations related to laundromats)

Consumer Cleaning and Repair Service

Consumer Dry Cleaning Plant

Group Assembly

Personal Instruction and Improvement and Small Scale Entertainment

Business, Communication, and Media Service

Broadcasting and Recording Service

Research Service

Transient Habitation (see Section 17.103.050)

Automobile and Other Light Vehicle Gas Station and Servicing

Automotive Fee Parking

D. Off-street parking serving activities other than those listed above or in Section 17.76.050, subject to the conditions set forth in ~~Section 17.102.100~~ 17.116.075.

~~E. Activities that are listed neither as permitted nor conditionally permitted but are permitted or conditionally permitted on nearby lots in an adjacent zone, subject to the conditions set forth in Section 17.102.110. E. 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~~

**17.76.070 - Permitted facilities.**

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

A. Residential Facilities:

One-Family Dwelling

One-Family Dwelling with Secondary Unit, subject to the provisions specified in Section ~~17.102.360~~ 17.103.080

Two-Family Dwelling

Multifamily Dwelling

Rooming House

B. Nonresidential Facilities:

Enclosed

C. Signs:

Residential

Special

Development

Realty

Civic

Business

D. Telecommunications:

Micro, except when a Major Conditional Use Permit is required by Section 17.128.025

Mini, except when a Major Conditional Use Permit is required by Section 17.128.025

**17.76.090 - Special regulations applying to certain Commercial Activities.**

All conditionally permitted Commercial Activities other than Automotive Fee Parking shall, except for open-air dining facilities, accessory off-street parking and loading, and maintenance of accessory landscaping and screening, be conducted entirely within enclosed buildings. See also Section ~~17.102.210~~ 17.103.030.



**17.76.140 - Maximum residential density.**

- B. Conditionally Permitted Density. The number of living units permitted by subsection A of this section may be increased by not to exceed fifty ~~(50)~~-percent (50%) upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, in each of the following situations:
1. In the case of a Residential Facility with more than four stories containing living units, subject to the provisions of Section 17.106.040.
  2. Upon the acquisition of development rights from nearby lots, subject to the provisions of Section 17.106.050.

The number of living units may also be increased, as prescribed in Section 17.106.060, in certain special housing.

**17.76.200 - Special regulations for mini-lot developments, planned unit developments, and large-scale developments.**

- A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the S-2 zone may be waived or modified when and as prescribed in ~~Section 17.102.320~~ Chapter 17.142.
- C. Large-Scale Developments. No development which 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, shall be permitted except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. This requirement shall not apply to development where a valid planned unit development permit is in effect.

**17.76.210 - 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. Bicycle Parking. Bicycle parking shall be provided as prescribed in the bicycle parking regulations in Chapter 17.117.
- C. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112.
- D. Nonconforming Uses. Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.114.

**17.78.120 - Maximum height.**

Except for the projections allowed by Section 17.108.030, and except as provided in Chapter 17.128, no building shall exceed forty-five (45) feet in height unless the building, or that portion thereof which exceeds forty-five (45) feet in height, is set back from the inner line of each of the minimum side yards required by Section 17.78.130C a minimum horizontal distance equal to one (1) foot for each two (2) feet by which it exceeds forty-five (45) feet in height. See Section 17.78.090 for maximum height of Signs, and Section 17.108.130 for maximum height of facilities within minimum yards.

**17.78.130 - Minimum yards.**

- A. Front Yard. The minimum front yard depth on every lot shall be fifty (50) feet.
- B. Side Yard—Street Side of Corner Lot. The minimum side yard width on the street side of every corner lot shall be fifty (50) feet.
- C. Side Yard—Interior Lot Line. The minimum width of the side yard along any single interior side lot line of any lot shall be twenty (20) feet. The minimum combined width of both such side yards shall be fifty (50) feet.
- D. Rear Yard. The minimum rear yard depth on every lot shall be thirty (30) feet, ~~except as a lesser depth is allowed by Section 17.108.110 and~~ except that the minimum rear yard depth shall be fifty (50) feet along any portion of a rear lot line which abuts a lot in any residential zone.

**17.78.140 - Buffering and landscaping.**

- C. Landscaping Coverage. A minimum of forty 40-percent (40%) of the lot area of each lot shall be developed with lawn, ground cover, garden, shrubs, or trees, subject to the standards for required landscaping and screening.

**17.84.030 - 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, Designated Historic Property, Potentially Designated Historic Property, 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 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.
- B. Section 17.136.075 contains design review criteria for the demolition or removal of Designated Historic Properties (DHPs) and Potentially Designated Historic Properties (PDHPs).

**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 17.142.110 and the first three sentences of subsection B of Section 17.142.110.
  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 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~~ 17.103.080.

**17.94.040 - Off-street parking regulations—Residential Activities.**

- A. Basic Requirement. One off-street parking space shall be provided for each three habitable rooms in the facility, as determined by the definition of "habitable rooms, number of" in accordance with ~~Section 17.102.280~~ 17.09.040 and rounded to a whole number in accordance with the rules of Section 17.116.050, or the same number of spaces as required by the underlying base zone pursuant to Section 17.116.060 without regard to the provisions of the S-12 regulations, whichever is greater. Such parking shall be designated and permanently maintained for the use of residents of the facility.

**17.94.050 - Standards for required parking facilities.**

The standards for required parking and loading facilities set forth in Article IV of Chapter 17.116 of the Oakland Planning Code, and the provisions of Chapters 12.04, 12.08, and 12.52 of the Oakland Municipal Code, shall apply in the S-12 zone, except as specified in Sections 17.94.060 through 17.94.100. All required parking spaces and associated maneuvering aisles, driveways, and other related features shall be of such design and arrangement as to provide motor vehicles with adequate ingress to and egress from all required parking spaces, and to provide pedestrians with adequate access to parked vehicles.

**17.94.100 - On-street parking regulations.**

- C. Definition of Parking Obstructions. For purposes of this section, parking obstructions are any features, other than posted time limitations, which preclude or restrict the parallel on-street parking of an automobile, including, but not limited to, the following:
1. Any existing driveway opening plus one and one-half ( $1\frac{1}{2}$ ) feet on either side;
  2. Any existing or required fire hydrant plus five (5) feet on either side;
  3. Any marked or unmarked crosswalk, plus a distance on either side to be determined by the City Traffic Engineer;
  4. Any red, yellow, green, white, blue, or other colored curb established by the City Traffic Engineer;
  5. Any area posted by the City Traffic Engineer for "No Parking Any Time";
  6. Any posted bus stop, the length of which shall be determined by the City Traffic Engineer if the curb is not marked;
  7. Any handicapped curb cut, plus a distance on either side to be determined by the City Traffic Engineer;
  8. Any metered parking space established by the City Traffic Engineer;
  9. Any parking space signed or marked by the City Traffic Engineer for angle parking;
  10. At approximate right-angle intersections, the curb return plus the area between the curb return and a point the following distance from the intersection of the curb lines projected: twenty (20) feet on the near side of the intersection, or ten feet on the far side of the intersection, measured in the normal direction of vehicular travel. If no curb exists, the edge of the roadway where such curb return and the area specified above would be located;
  11. Any section of curb or roadway edge located between any two parking obstructions as defined in subsections (C)(1) through (C)(10) of this section, that is currently, and that will remain, too short to be a usable on-street parking space as defined in subsection D of this section;

12. Any section of curb or roadway edge along which the City Traffic Engineer determines that it is unsafe to park an automobile.

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

- 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 17.97.010. The bond shall be in a form approved by the City Attorney, in a sum of one hundred fifty ~~450~~ percent (150%) 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.

**17.97.040 - 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

Recreational Assembly

Community Education

Nonassembly Cultural

Administrative

Health Care

C. Commercial Activities:

General Food Sales

Full Service Restaurant

Limited Service Restaurant and Cafe

Medical Service

General Retail Sales

Consumer Service (see Section 17.102.170 for special regulations relating to massage services and Section 17.102.450 for special regulations related to laundromats)

Consultative and Financial Service

Administrative  
Business, Communication, and Media Service  
Broadcasting and Recording Service  
Group Assembly  
Personal Instruction and Improvement and Small Scale Entertainment

**17.97.050 - 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 17.97.100 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 Cleaning and Repair Service
  - Consumer Dry Cleaning Plant
  - Transient Habitation and Commercial Activities (see Section 17.103.050)
  - Alcoholic Beverage Sales
  - Mechanic or Electronic Games
  - Animal Care
  - Animal Boarding
  - Automotive Fee Parking subject to the additional criteria contained in Subsection 17.97.100 F.
- D. Industrial Activities:
  - Custom Manufacturing
- E. Off-street parking serving nonresidential activities listed in Sections 17.97.040 and 17.97.050

F. Activities that are listed neither as permitted nor conditionally permitted, but are permitted or conditionally permitted on nearby lots in an adjacent zone, subject to the conditions set forth in Section 17.102.110.

~~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~~

**17.97.080 - Special regulations applying to certain Commercial and Industrial Activities.**

A. Fast-Food Restaurants, Convenience Markets, and Certain Establishments Selling Alcoholic Beverages. See Section ~~17.102.240~~ 17.103.030.

**17.97.100 - Use permit criteria.**

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;

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 (75%) 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 17.97.100(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.

**17.97.130 - Height, floor area ratio (FAR), density, and open space.**

Table 17.97.01 below prescribes height, FAR, density, and open space standards associated with the Height Areas described in the Zoning Maps. The number designations in the "Additional Regulations" column refer to regulations below the table.



**Table 17.97.01 Height, Floor Area Ratio (FAR), Density, and Open Space Regulations**

Regulation	Height Area							Additional Regulations
	35	45	60	75	90	120	160	
Maximum Height	35 ft	45 ft	60 ft	75 ft	90 ft	120 ft	160 ft	1, 2
<b>Height Minimum</b>								
Permitted height minimum	0 ft	0 ft	35 ft	35 ft	35 ft	35 ft	35 ft	3
Conditionally permitted height minimum	NA	NA	25 ft	25 ft	25 ft	25 ft	25 ft	3
<b>Maximum Residential Density (square feet of lot area required per dwelling unit)</b>								
Regular units	550	450	375	275	225	225	225	4, 5
Rooming units	275	225	185	135	110	<del>110</del> 225	<del>110</del> 225	4, 5
Maximum Nonresidential FAR	2.0	2.5	3.0	4.0	4.5	5.0	5.0	4, 5
Maximum number of stories (not including underground construction)	3	4	5	7	8	11	15	
<b>Minimum Usable Open Space</b>								
Group usable open space per regular unit	150	150	150	150	100	100	100	6
Group usable open space per regular unit when private open space substituted	30	30	30	30	20	20	20	6
Group usable open space per rooming unit	75	75	75	75	50	50	50	6
Group usable open space per rooming unit when private open space is substituted	15	15	15	15	10	10	10	6

**Additional Regulations for Table 17.97.01:**

3. This minimum height requirement only applies to the new construction of a principal building that is located on parcels adjacent to a street right-of-way that is one hundred (100) feet wide or more. Buildings in the CC-1 zone and buildings constructed to accommodate Essential Service, Utility and Vehicular, or Extensive Impact Civic Activities or Automobile and Automobile and Other Light Vehicle Sales and Rental, Automobile and Other Light Vehicle Gas Station and Servicing or Automobile and Other Light Vehicle Repair and Cleaning Commercial Activities may be exempted from the height minimum regulation by the Planning Director. The allowed projections into the height limits contained in Section 17.108.030 are not counted towards the height minimum.

4. See Chapter 17.107 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one unit on a lot, subject to the provisions of Section ~~17.102.360~~ 17.103.080. 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.

5. No portion of lot area used to meet the residential density requirements shall be used as a basis for computing the maximum nonresidential FAR unless the total nonresidential floor area on the lot is less than three thousand (3,000) square feet.

**17.97.190 - 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~~ Chapter 17.142.

**17.97.210 - 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. Bicycle Parking. Bicycle parking shall be provided as prescribed in the bicycle parking regulations in Chapter 17.117.
- C. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112.
- D. Nonconforming Uses. Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.114.
- E. General Provisions. The general exceptions and other regulations set forth in Chapter 17.102 shall apply in the S-15 zone.

**17.100B.030 - 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 (see Section 17.09.040 for definition), Designated Historic Property, Potentially Designated Historic Property, Building Facility, (see Section 17.09.040 for definition),~~ 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 17.100B.050, 17.100B.060, and 17.100B.070, the Telecommunications regulations in Chapter 17.128; or the Sign regulations in Chapter 17.104.
- B. See Section 17.136.075 for design review criteria for the demolition or removal of Designated Historic Properties and Potentially Designated Historic Properties.
- C. 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.

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

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

"P" designates permitted activities in the corresponding zone.

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

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

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

**Table 17.101C.01 Permitted and Conditionally Permitted Activities**

Residential Activities		
	D-BR Zone	
Permanent Residential	C(L1)	
Residential Care-occupying a One-Family-Dwelling-Residential-Facility	CP(L1)(L2)	17.102.242 17.103.010
<del>Residential Care not occupying a One-Family-Dwelling-Residential-Facility</del>	C(L1)	17.102.242
Service-Enriched Permanent Housing	C(L1)	17.102.242 17.103.010
Transitional Housing	C(L1)	17.102.242 17.103.010
Emergency Shelter	—	17.102.242 17.103.010
Semi-Transient Residential	—	17.102.242 17.103.010
Bed and Breakfast		
Civic Activities		
Essential Service	P	
Limited Child-Care	C(L1)	
Community Assembly	C(L1)	
Recreational Assembly	C(L1)	
Community Education	P(L1)	
Nonassembly Cultural	P	
Administrative	P(L1)	
Health Care	C	
Special Health Care	—	17.102.399 17.103.020
Utility and Vehicular	—	
Extensive Impact	—	
Commercial Activities		
General Food Sales	P	
Full Service Restaurant	P	
Limited Service Restaurant and Cafe	P	
Convenience Market	C	17.102.240 17.103.030
Fast-Food Restaurant	C	
Alcoholic Beverage Sales	C	17.102.240 17.103.030 and

		17.114.030
Mechanical or Electronic Games	—	17.102.210
Medical Service	P(L32)	
General Retail Sales	P	
Large-Scale Combined Retail and Grocery Sales	—	
Consumer Service	P(L4)	
Consultative and Financial Service	P	
Check Cashier and Check Cashing	—	
Consumer Cleaning and Repair Service	P	
Consumer Dry Cleaning Plant	C	
Group Assembly	C(L5)	
Personal Instruction and Improvement and Small Scale Entertainment	C	
Administrative	P(L14)	
Business, Communication, and Media Service	P	
Broadcasting and Recording Service	P	
Retail Business Activity	C	
Research Center	—	
General Wholesale Sales	—	
Transient Habitation	—	17.102.370 17.103.050
Building Material Sales	—	
Automobile and Other Light Vehicle Sales and Rental	C	
Automobile and Other Light Vehicle Gas Station and Servicing	—(L63)	17.114.050 (A)
Automotive and Other Light Vehicle Repair and Cleaning	—(L63)	17.114.050 (A)
Taxi and Light Fleet-Based Service	—	
Automotive Fee Parking	C	
—Transport and Warehousing	—	
Animal Care	C	
Animal Boarding	C	
Undertaking Service	—	
Scrap Operation	—	17.102.210
Industrial Activities	All Industrial Activities prohibited in these zones	
Agricultural and Extractive Activities	All Agricultural and Extractive Activities prohibited in these zones	
Off-street parking serving activities other than those listed above or in Section 17.74.030, subject to the conditions set forth in Section 17.102.400 17.116.075	C	17.102.400 17.116.075
Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone 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	C	17.102.110

**Limitations:**

L2. Residential Care is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when not located in a One-Family Dwelling Residential Facility. No

Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility.

L2-L3. These activities may only be located on the ground floor of a building on a lot that has a property line abutting the Broadway or 27<sup>th</sup> Street right of way upon the granting of a conditional use permit (see Chapter 17.134), and shall conform to the additional criteria contained in Section 17.25.030. However, incidental pedestrian entrances that lead to one of these activities in stories above the ground floor are permitted without the granting of a conditional use permit.

L4. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

L5. No new or expanded adult entertainment activity shall be located closer than one thousand (1,000) feet to the boundary of any residential zone or three hundred (300) feet from any other adult entertainment activity. See Section 17.102.160 for further regulations regarding adult entertainment activities.

L36. Reestablishment of a discontinued, legal non-conforming Automobile and Other Light Vehicle Gas Station and Servicing activity and/or an Automotive and Other Light Vehicle Repair and Cleaning activity may only occur no later than six (6) months after discontinuation of such a activity, per Section 17.114.050(A).

**17.101D.030 - Permitted and conditionally permitted activities.**

Table 17.101D.01 lists the permitted, conditionally permitted, and prohibited activities in the D-KP-1, D-KP-2, and D-KP-3 zones. The descriptions of these activities are contained in Chapter 17.10.

"P" designates permitted activities in the corresponding zone.

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

"—" designates uses that are prohibited in the corresponding zone.

**Table 17.101D.01 Permitted and Conditionally Permitted Activities**

Activities	Regulations			Additional Regulations
	D-KP-1	D-KP-2	D-KP-3	
<b>Residential Activities</b>				
Permanent	P	P	P	
Residential Care	C	C	C	17.102.242 17.103.010
Service-Enriched Permanent Housing	C	C	C	17.102.242 17.103.010
Transitional Housing	C	C	C	17.102.242 17.103.010
Emergency Shelter	C	C	C	17.102.242 17.103.010
Semi-Transient	C	C	C	17.102.242 17.103.010
Bed and Breakfast	C	C	C	17.10.125
<b>Civic Activities</b>				
Essential Service	P	P	P	
Limited Child-Care	P	P	P	
Community Assembly	P	P	P	
Recreational Assembly	P	P	P	
Community Education	P	P	P	
Nonassembly Cultural	P	P	P	
Administrative	C	C	C	
Health Care	P	P	P	
Special Health Care	C(L1)	C(L1)	C(L1)	17.102.390 17.103.020
Utility and Vehicular	C	C	C	
Extensive Impact	C	C	C	
<b>Commercial Activities</b>				
General Food Sales	P	P	P	
Full Service Restaurants	P	P	P	
Limited Service Restaurants and Cafe	P	P	P	
Fast-Food Restaurant	C	C	C	17.102.210 17.103.030 and 8.09
Convenience Market	P	C	C	17.102.210 17.103.030

Alcoholic Beverage Sales	C	C	C	17.102.210 17.103.030 and 17.102.040 17.114.030
Mechanical or Electronic Games	C	C	C	17.102.210
Medical Service	P	P	P	
General Retail Sales	P	P	P	
Large-Scale Combined Retail and Grocery Sales	—	—	—	
Consumer Service	P(L2)	P(L2)	P(L2)	
Consultative and Financial Service	C	C	C	
Check Cashier and Check Cashing	—	—	—	
Consumer Cleaning and Repair	P	P	P	
Consumer Dry Cleaning Plant	C	C	C	
Group Assembly	C(L3)	C(L3)	C(L3)	
Personal Instruction and Improvement	P	P	P	
Administrative	C	C	C	
Business, Communication, and Media Service	C	C	C	
Broadcasting and Recording Services	C	C	C	
Research Service	C	C	C	
General Wholesale Sales	—	—	—	
Transient Habitation	—	—	—	
Wholesale and Professional-Building Material Sales	—	—	—	
Automobile and Other Light Vehicle Sales and Rental	—	—	—	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	—	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	—	
Taxi and Light Fleet-Based Services	—	—	—	
Automotive Fee Parking	C	C	C	
Animal Boarding	C	C	C	
Animal Care	C	C	C	
Industrial Activities	All Industrial Activities prohibited in these zones			
Agricultural and Extractive Activities	All Agricultural and Extractive Activities prohibited in these zones			
Off-street parking serving activities other than those listed above or in Section 17.74.030, subject to the conditions set forth in Section 17.102.100 and 17.116.075	C	C	C	17.74.030 17.102.100 17.116.075
Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone. 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	C	C	C	17.102.110

**Limitations:**

L1. No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity or five hundred (500) feet from any K-12 school or



Transitional Housing, Enriched Housing, or Licensed Emergency Shelters Civic Activity. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

L2. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

L3. No new or expanded adult entertainment activity shall be located closer than one thousand (1,000) feet to the boundary of any residential zone or three hundred (300) feet from any other adult entertainment activity. See Section 17.102.160 for further regulations regarding adult entertainment activities.

**17.101D.040 - Permitted and conditionally permitted facilities in the D-KP-1, D-KP-2, and D-KP-3 zones.**

Table 17.101D.02 lists the permitted, conditionally permitted, and prohibited facilities in the D-KP-1, D-KP-2, and D-KP-3 zones. The descriptions of these activities are contained in Chapter 17.10.

"P" designates permitted activities in the corresponding zone.

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

"—" designates uses that are prohibited in the corresponding zone

**Table 17.101D.02 Permitted and Conditionally Permitted Activities**

Facility Types	Zone			Additional Regulations
	D-KP-1	D-KP-2	D-KP-3	
<b>Residential Facilities</b>				
One-Family Dwelling	P	P	P	
One-Family Dwelling with Secondary Unit	P	P	P	17.102.360 17.103.080
Two-Family Dwelling	P	P	P	
Multifamily Dwelling	P	P	P	
Rooming House	P	P	P	
Mobile Home	—	—	—	
<b>Nonresidential Facilities</b>				
Enclosed nonresidential facilities	P	P	P	
Open nonresidential facilities	C	C	C	
Sidewalk Cafe	P	P	P	17.102.335 17.103.090
Drive-In	C	C	C	
Drive-Through	C(L1)	C(L1)	C(L1)	17.102.290 17.103.100
<b>Telecommunications Facilities</b>				
Micro Telecommunications	P	P	P	
Mini Telecommunications	C	C	C	
Macro Telecommunications	C	C	C	
Monopole Telecommunications	C	C	C	
Tower Telecommunications	—	—	—	
<b>Sign Facilities</b>				

Residential Signs	P	P	P	17.104
Special Signs	P	P	P	17.104
Development Signs	P	P	P	17.104
Realty Signs	P	P	P	17.104
Civic Signs	P	P	P	17.104
Business Signs	P	P	P	17.104
Advertising Signs	—	—	—	17.104

**Limitation:**

L1. No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

**17.101D.060 - Design review.**

B. Exemptions from Design Review. The following changes to existing nonresidential buildings are exempt from design review:

1. Any alteration or addition of existing floor area or footprint area determined by the Director of City Planning to be not 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 does not affect any street face or public face of a building or is located more than forty (40) feet from any street line, public path, park or other public area;
2. Alterations or additions of floor area or footprint that are determined by the Director of City Planning to be visible from the street or from other public areas, but which comprises less than ten percent (10%) of the total floor area, or anything under twenty-five thousand (25,000) square feet, whichever is smaller;
3. A change of sign face copy or new sign face 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;
4. 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 or from a public street. Exemptions only permitted where the proposal conforms with all buffering requirements in Chapter 17.110 and all performance standards in Chapter 17.120;
5. The alteration or addition is on a roof and does not project above the parapet walls.

D. Regular Project Design Review. Unless determined exempt or subject to small project design review pursuant to Section 17.101D.040 B or C above, no building, sign or other facility shall be constructed or established or altered in such a manner as to substantially affect its exterior appearance unless plans for such proposal have been approved pursuant to the following Regular Design Review procedures:

1. Reviewing Body:
  - a. If the project requires preparation of a Subsequent or Supplemental Environmental Impact Report, or involves twenty-five thousand (25,000) square feet or more of floor area, or includes a proposed skybridge, the Director of City Planning shall refer the application to the City Planning Commission for an initial decision.

- b. All other applications for regular design review 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 an initial decision rather than acting on it himself or herself.
2. Procedure for Consideration of Design Review: Applications for design review shall be considered by the Director of City Planning or the Planning Commission according to the following procedures:
- a. Decisions by the Planning Commission shall be made at a public hearing. At his or her discretion, the Director of City Planning may hold an administrative hearing for projects under his or her review.
  - b. Notice of public and/or administrative hearings 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. Notice shall also be given by e-mail, mail or delivery to all persons previously requesting to be notified of actions related to the Kaiser OMC Campus through public workshops, community meetings or other direct requests to the Planning Department. All such notices shall be given not less than seventeen (17) 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.
  - c. The Director or the Commission may seek the advice of outside design professionals and/or refer the matter to the City's Landmark's Preservation Advisory Board if Historic Resources may potentially be affected.
  - d. The Director or the Commission, as the case may be, shall determine whether the proposal conforms to the applicable design review criteria and also is in substantial conformance to the Kaiser Permanente Oakland Medical Center Master Plan, 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.
  - e. A determination by the Director shall become final ten (10) days after the date of decision unless appealed to the City Planning Commission in accordance with the procedures in Section 17.136.080. The decision of the Planning Commission on appeal is final and is itself not appealable.
  - f. An initial decision of the Commission shall become final ten (10) days after the date of decision unless appealed to the City Council in accordance with the procedures in Section 17.136.090.
- F. 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 and shall terminate in accordance with Section 17.136.100.
- G. Revocation/Enforcement. 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 if the activity causes a public nuisance, the City may, after holding a public hearing, revoke any design review approval or other approval or take other enforcement actions in accordance with the procedures in Chapter 17.152.
- H. Review by Landmarks Board. A design review application may be subject to review by the Landmarks Preservation Advisory Board in accordance with Section 17.136.040.
- I. Design Review and Other Approvals. 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, in accordance with Section 17.136.120.

**17.101D.130 - Signs.**

- A. If a comprehensive sign program is adopted as part of the Kaiser Permanente Oakland Medical Center Master Plan, the provisions of the comprehensive sign program shall govern and shall supersede the provisions of Chapter 17.104.

CHAPTER 17.102 - GENERAL REGULATIONS APPLICABLE TO CERTAIN ACTIVITIES AND FACILITIES ALL OR SEVERAL ZONES

Sections:

17.102.010 - Title, purpose, and applicability.

~~17.102.020 - Supplemental zoning provisions.~~

~~17.102.040 - Effect of prior permits.~~

~~17.102.070 - Application of zoning regulations to lots divided by zone boundaries.~~

~~17.102.080 - Permitted and conditionally permitted uses.~~

17.102.090 - Conditional use permit for sShared access facilities.

~~17.102.100 - Conditions for accessory parking serving activities which are not themselves allowed.~~

~~17.102.110 - EConditions for eExpansion of use into adjacent zones.~~

17.102.120 - Restriction on rRemoval of dirt or other minerals—Residential and S-1, S-2, S-3 and OS zones.

~~17.102.130 - Time limit on operation of subdivision sales offices—Residential zones.~~

17.102.140 - Special regulations applying to pPrivate stables and corrals.

17.102.160 - Special regulations applying to aAdult entertainment activities.

17.102.170 - Special regulations applying to mMassage activities.

17.102.180 - Restriction on vVertical location of activities in buildings containing both Residential and Nonresidential Activities—Commercial zones.

17.102.190 - Joint Living and Work Quarters.

17.102.195 - Residentially-Oriented Joint Living and Working Quarters.

17.102.200 - Conditional use permit required for pPedestrian bridges constructed over city streets.

~~17.102.210 - Special regulations applying to Convenience Markets, Fast Food Restaurants, certain establishments selling alcoholic beverages, providing mechanical or, and electronic games.~~

~~17.102.212 - Special Regulations Applying to Residential Care, Service-Enriched Permanent Housing, Transitional Housing, and Emergency Shelter Residential Activities.~~

~~17.102.220 - Special regulations applying to mining and quarrying extractive activities.~~

17.102.230 - Special regulations applying to the dDemolition of a facility containing rooming units or to the conversion of a living unit to a Nonresidential Activity—Nonresidential zones.

~~17.102.240 - Special regulations applying to microwave dishes in or near residential zones.~~

~~17.102.250 - Maximum density and floor area ratio during construction.~~

~~17.102.260 - Occupancy of a dwelling unit.~~

~~17.102.265 - Occupancy of a One-Family Dwelling Residential Facility by a Residential Care Residential Activity.~~

17.102.270 - An aAdditional kitchen for a single dwelling unit.

~~17.102.280 - Rules for determining the number of habitable rooms in Residential Facilities.~~

~~17.102.290 - Special regulations for Drive-Through Nonresidential Facilities.~~

17.102.300 - Conditional use permit for dDwelling units with five or more bedrooms.

~~17.102.310 - Special regulations for certain projects with development agreements.~~

~~17.102.320 - Conditional use permit for waiver of certain requirements in mini-lot developments.~~

- ~~17.102.330 - Conditional use permit for waiver of certain requirements with parcel division between existing buildings.~~
- ~~17.102.335 - Standards for Sidewalk Cafes.~~
- ~~17.102.340 - Special regulations applying to eElectroplating activities in the M-20, M-30, and M-40 zonesIndustrial Zones.~~
- ~~17.102.350 - Regulations applying to tTobacco-oriented activities.~~
- ~~17.102.360 - Secondary Units.~~
- ~~17.102.370 - Conditional use permit for hotels and motels.~~
- ~~17.102.380 - Special regulations applying to truck-related activities in the West Oakland Community Development District.~~
- ~~17.102.390 - Regulations Applying to Special Health Care Civic Activities.~~
- ~~17.102.400 - Exterior security bars and related devices. Special design requirements for lots that contain Residential Facilities and no Nonresidential Facilities.~~
- ~~17.102.420 - Special design requirements for lots located in a residential and commercial zones and the OS, S-1, S-2, S-3 and S-15 zones.~~
- ~~17.102.430 - Regulations applying to check cashier and/or check cashing activity.~~
- ~~17.102.450 - Special regulations applying to lLaundromats.~~

**17.102.010 - Title, purpose, and applicability.**

The provisions of this chapter and Chapters 17.104 through 17.108 shall be known as the general regulations applicable to certain activities and facilities. The purpose of these provisions is to set forth certain of the regulations which apply throughout the city or in several zones. These regulations shall apply in the zones and situations specified hereinafter.

(Prior planning code § 7000)

**~~17.102.020 - Supplemental zoning provisions.~~**

~~The definitions, special use classification rules, and other provisions set forth in Chapters 17.07, 17.09 and 17.10; the provisions of Section 17.108.130; the nonconforming use regulations in Chapter 17.114; the rezoning, variance, and other provisions set forth in Chapters 17.130 through 17.152; and the provisions of the zoning maps in Chapter 17.154 shall apply throughout the city. The provisions of the performance standards in Chapter 17.120 and the planned unit development regulations in Chapter 17.142 shall apply in the zones and situations specified in said chapters. The provisions of development control maps are in addition to, or supersede when so specified, the regulations applying in the zones covering the same areas.~~

**~~17.102.040 - Effect of prior permits.~~**

~~A. — Building and Sign Permits and Development Agreements. Whenever any subsisting building permit or sign permit has been lawfully issued beforehand, or whenever a subsisting development agreement has been approved beforehand under Section 17.102.310 and the development agreement procedure in Chapter 17.138, neither the original adoption of the zoning regulations nor the adoption of any subsequent rezoning or other amendment thereto shall prohibit the construction, other development or change, or use authorized by said permit or agreement. The uses as they result shall be deemed nonconforming uses and subject to the nonconforming use regulations in Chapter 17.114, except to the extent that they are authorized by a subsisting conditional use permit, development agreement, variance, or other special zoning approval.~~

B. ~~Alcoholic Beverage Control Licenses. On premises for which a valid state of California Alcoholic Beverage Control license had been issued, and which premises had been used in the exercise of the rights and privileges conferred by the license at a time immediately prior to the effective date of the applicable provisions of Section 17.102.210, the premises may hereafter be used in the exercise of the same rights and privileges without requiring a conditional use permit or having to meet the provisions of the aforesaid section. Such use shall be deemed a nonconforming use and subject to the nonconforming use regulations, except as otherwise provided in Sections 17.114.020 and 17.114.030. For the purposes of this subsection, the word "premises" shall mean and include only the actual space within a building devoted to the sale of alcoholic beverages on said effective date.~~  
(Prior planning code § 7003)

~~17.102.070 – Application of zoning regulations to lots divided by zone boundaries.~~

~~Wherever it is found, after applying the rules set forth in Section 17.154.050 for interpretation of zone boundaries, that any lot is divided by a boundary between zones, the provisions of the zoning regulations shall apply as follows to such lot:~~

~~A. Application of All Regulations of One Zone to Existing Lot If Boundary Is Near Lot Line. If the lot was on the effective date of the zoning regulations, or of a subsequent rezoning or other amendment thereto resulting in division of the lot by a zone boundary, and the owner or developer of such lot, or of a portion or combination of such lot or lots, may at his or her option assume that all of the regulations applying in any zone covering fifty percent (50%) or more of the lot area apply to the entire lot or lots. However, this option shall not apply unless the entire lot or all such lots or parcel of land could be included in such zone by shifting the affected zone boundary by not more than thirty (30) feet, as measured perpendicularly to said boundary at any point.~~

~~B. Application of Regulations Where subsection A Is Inoperative. Wherever the provisions of subsection A of this section do not apply or the option provided therein is not exercised:~~

~~1. No activity type or facility type is allowed on any portion of the lot located in a zone where such type is not generally allowed, except for the accessory uses allowed by subsections (B)(2) and (B)(3) of this section.~~

~~2. Accessory off-street parking and loading may be located on the lot without regard for zone boundaries; provided that no parking or loading shall be located on any portion of the lot located in a zone where the principal activity served is not generally allowed, except as such parking is specifically allowed by the applicable individual zone regulations subject to the conditions set forth in Section 17.102.100; and further provided that parking and loading shall be subject to a conditional use permit requirement or other special controls on any portion of the lot located in any zone where such controls generally apply to parking or loading. The total amount of required parking and loading shall be calculated separately on the basis of the amount of the served use and the requirements applying in each zone; provided that the minimum size for which any parking or loading is required shall be deemed to be exceeded if it is exceeded by the total of such use on the entire lot.~~

~~3. Accessory landscaping, fences, screening or retaining walls, and usable open space may be located on the lot without regard for zone boundaries. The total amount of required usable open space shall be calculated separately on the basis of the number of living units, or amount of floor area, and the usable open space requirements in each zone; provided that where reference is made to the total number of living units on a lot, the number on the entire lot shall be considered.~~

~~4. The maximum permitted or conditionally permitted number of living units or floor area ratio, if any, on the lot shall be calculated separately on the basis of the amount of lot area and the density ratio and floor area ratio applying in each zone. The resulting maximum permitted or conditionally permitted total number of living units or amount of floor area may be distributed on the lot without regard for zone boundaries, except as otherwise provided in subsection (B)(1) of this section and except that the number of living units and amount of floor area within each zone shall not exceed the number or amount which would be allowed on the entire lot if it were completely within such zone.~~

5. The minimum lot area, width, and frontage requirements of the zone which covers the greater or greatest portion of the lot area of the lot shall apply to the entire lot. If the lot area is divided equally between two or more zones, the owner or developer of the lot may assume that the minimum lot area, width, and frontage requirements of either or any of such zones apply to the entire lot.

6. All regulations not covered above shall apply separately to the portion of the lot within each zone, provided that where reference is made in such regulation to the total quantity of living units or other unit of measurement on a lot, the quantity on the entire lot shall be considered.

C. Wherever a lot is divided by a boundary between height areas, the height line may be moved up to thirty (30) feet in any direction upon the granting of Regular Design Review approval (see Chapter 17.136 for the Regular Design Review process) to accommodate the site plan of a proposed development project. In addition to the general Design Review Criteria contained in Chapter 17.136, the proposal must meet the following criteria:

1. The height line adjustment creates a more successful site plan in terms of open space, parking, or building location; and

2. Appropriate height transitions are incorporated into the building design and site plan to adjacent lower density residential properties that either share a parcel line or are across the street from the proposal.

#### **~~17.102.080 - Permitted and conditionally permitted uses.~~**

A. ~~Other Uses Prohibited.~~ Except as otherwise provided in Sections 17.102.040 and 17.102.070, the nonconforming use regulations in Chapter 17.114, and the planned unit development regulations in Chapter 17.142, or as authorized under Section 17.102.310, the development agreement procedure in Chapter 17.138, or the variance procedure in Chapter 17.148, no land shall be improved or used for any activity or facility which is not listed as permitted or conditionally permitted in the applicable individual zone regulations or development control maps.

B. ~~Relationship Between Activities and Facilities.~~ A use must qualify under the zoning regulations both as an activity and as a facility. A permitted or conditionally permitted activity may be accommodated or served only by a permitted facility or, upon the granting of a conditional use permit, by a conditionally permitted facility; and a permitted or conditionally permitted facility may accommodate or serve, or be designed to accommodate or serve, only a permitted activity or, upon the granting of a conditional use permit, a conditionally permitted activity.

#### **17.102.090 - Conditional use permit for sShared 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.



**17.102.100 -- ~~Conditions for accessory parking serving activities which are not themselves allowed.~~**

~~The following regulations shall apply to parking serving principal activities which are not themselves permitted, wherever such parking is listed in the applicable individual zone regulations as permitted or conditionally permitted subject to the conditions set forth in this section:~~

~~A. General Conditions. In all zones, such parking facilities shall be used for accessory parking only, with no sales, dead storage, repair work, dismantling, or servicing of any kind.~~

~~B. Conditions in Residential Zones. In all residential zones:~~

~~1. Such parking shall not in any case be located farther than one hundred fifty (150) feet, excluding the width of any intervening street, from the nearest boundary of any nonresidential zone, as measured perpendicularly from said boundary at any point; and~~

~~2. Such parking shall not be so located as to extend along any one side of any street farther into any residential zone than any residentially zoned lot which is in separate ownership and which has frontage on the same side of the same street as said parking, other than a lot developed only for parking; and~~

~~3. Such parking facilities shall be open only; and~~

~~4. All Signs serving such parking shall be subject to the limitations set forth in Section~~

~~17.104.010(G)(3);~~

~~(Prior planning code § 7011)~~

**17.102.110 -- EConditions for eExpansion of use into adjacent zones.**

The following regulations standards and criteria shall apply when the applicable individual zone regulations conditionally permit activities that are prohibited in the subject zone, but permitted or conditionally permitted on nearby lots in an adjacent zone.

A. A conditional use permit for such a use may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and the following additional use permit criteria:

1. to activities which are conditionally permitted by the applicable individual zone regulations near a zone boundary and subject to the conditions set forth in this section:

A. Substantial Improvement in, or Superior, Environment. A conditional use permit for such a use 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

1. That the location, size, design, and other characteristics of the entire use as proposed will substantially improve or provide superior environmental relationships among all uses in the immediate vicinity.

B2. Preservation of Privacy. A conditional use permit for such a use may be granted only upon determination That the design and site planning of all buildings, open areas, parking, service areas, paths, stairways, accessways, corridors, and balconies will be so designed as to not adversely affect the privacy, safety, or environmental amenities of adjacent properties.

3G. Retention of Natural and Topographic Features. A conditional use permit for such a use may be granted only upon determination That within the expansion area every reasonable effort will be undertaken to preserve natural grades, topographic features, watercourses, and significant landscape features.

BD. Expansion of Use on Abutting Lot. The following standards shall also apply:

1. Such uses shall be allowed only when they constitute an expansion of or are a part of an existing or proposed activity or facility which is located in or partially located in the adjacent zone, and is permitted or conditionally permitted therein. Such uses shall be allowed only on a lot, or one of a series of lots under one ownership, directly contiguous to the lot in the adjacent zone, with no intervening streets.

2. ~~E.~~ —Maximum Distance from Zone Boundary. Such uses shall not extend more than one hundred fifty (150) feet into the zone, as measured perpendicularly from the zone boundary at any point.
- ~~F. Increased Off Street Parking. Off street parking shall be provided for the proposed development in an amount at least one hundred fifty percent (150%) of that required by the off street parking requirements in Chapter 17.116~~
3. ~~G.~~ Height. Within the area of the allowed expansion, the maximum height of any building or facility shall not exceed the maximum height permitted on abutting lots.
4. ~~H.~~ Increased Yard Areas. The minimum yard depth or width, as the case may be, for buildings within the expansion area shall be no less than one hundred fifty percent (150%) of the yard depth or width, if any, required for uses on those properties abutting the expansion area.
5. ~~I.~~ Screening and Buffering. The exterior perimeter of the expansion area shall be provided with screening and buffering devices including, but not limited to, established trees.
6. ~~J.~~ Maximum Density. The number of living units on any lot or series of lots involved in the expansion of use shall be calculated separately on the basis of the amount of lot area and the density ratio applying in each of the affected zones. The maximum number of living units allowed in the proposed development shall not exceed the accumulative total resulting from adding the density calculations for each of the lot areas and zones involved in the expansion.

**17.102.120 - ~~Restriction on r~~Removal of dirt or other minerals—Residential and S-1, S-2, S-3 and OS zones.**

In all residential zones and in the S-1, S-2, S-3 and OS zones, no grading or excavation shall involve the removal of any soil, rock, sand, or other material for purposes of sale, fill, building, or other construction usage off the premises, ~~from which removed, unless a conditional use permit for such removal is granted pursuant to the conditional use permit procedure in Chapter 17.134.~~ However, excavations in any street, alley, or other public place and excavations for foundations, basements, or cellars for the erection of any buildings for which a building permit has been issued shall be exempt from the above restriction.

**~~17.102.130 - Time limit on operation of subdivision sales offices—Residential zones.~~**

~~In all residential zones, the conduct and maintenance of any real estate sales office which is incidental to the development of a subdivision shall be limited to a one-year period unless a conditional use permit for a longer time period is granted pursuant to the conditional use permit procedure in Chapter 17.134.~~

(Prior planning code § 7014)

**17.102.140 - ~~Special regulations applying to p~~Private stables and corrals.**

The following regulations shall apply in all zones to private stables, corrals, and similar facilities and to the keeping or training of horses, mules, or donkeys as an accessory activity:

- A. Conditional Use Permit Requirement. Such uses are permitted only upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.
- B. Maximum Number of Animals. No more than three (3) such horses, mules, or donkeys shall be kept or trained on any single lot.

- C. Minimum Lot Area. Such uses shall not in any case be located on any lot having a lot area of less than twenty-five thousand (25,000) square feet.
- D. Location on Lot. No such stable, corral, or paddock shall be located within thirty (30) feet from any lot line.
- E. Screening. All open portions of such facilities shall be screened from abutting lots, streets, alleys, and paths, and from the private ways described in Section 17.106.020, by dense landscaping not less than five and one-half (5½) feet high and not less than three (3) feet wide or by a decorative screening fence or wall not less than five and one-half (5½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said chapter.
- F. See Oakland Municipal Code (OMC) Chapter 6.04 for additional regulations for animal quarters.

**17.102.160 - ~~Special regulations applying to a~~Adult entertainment activities.**

- A. Conditional Use Permit Requirement. Adult entertainment activities are not permitted in any zone except upon the granting of a conditional use permit pursuant to the criteria in subsection B of this section (which supersedes the general criteria in Section 17.134.050) and the conditional use procedure in Chapter 17.134.
- B. Conditional Use Permit Criteria. A conditional use permit for an adult entertainment activity shall only be granted upon a determination that all of the following conditions are present notwithstanding any conflicting requirements contained elsewhere in the zoning regulations:
  1. The requested use at the proposed location 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.
  2. The requested use at the proposed location is sufficiently buffered in relation to residentially zoned areas within the immediate vicinity such that any obtrusive or distracting environmental factors which may emanate from the use do not adversely affect said areas.
  3. The exterior appearance of the structure will not be conspicuously of a lesser quality (i.e., with respect to such elements as building facade, lighting, and signage materials) than the exterior appearance of commercial structures already constructed or under construction within the immediate neighborhood or cause a substantial diminution or impairment of property values within the neighborhood.
  4. The proposed use will not be inconsistent with the adopted general plan for the area.
  5. The proposed site is adequate in size and shape to accommodate the parking and loading facilities, landscaping and other development features prescribed in the planning code or other City regulations or as is otherwise required in order to integrate said use with the uses in the surrounding area.
  6. The proposed site is adequately served:
    - a. By highways or streets of sufficient width and capacity to carry the kind and quantity of traffic and to accommodate the parking demand such use would generate; and
    - b. By other public or private service facilities such as fire protection or trash collection services as are required.
- C. Location.

1. No adult entertainment activity shall be located within, nor closer than one thousand (1,000) feet to, the boundary of any residential zone.
  2. No adult entertainment activity shall be closer than three hundred (300) feet to any other adult entertainment activity except that this restriction shall not apply to any adult entertainment activity in an establishment devoted exclusively and on a full-time basis to such activity, which establishment was in existence on December 21, 1976 and operating under a valid City regulatory permit, where such a permit is required.
- D. Discontinuance of Nonconforming Activities. See Section 17.114.090.

**17.102.170 - ~~Special regulations applying to m~~Massage activities.**

Massage activities as defined in the Oakland Municipal Code shall be subject to the regulations contained in the Oakland Municipal Code Section 5.36 as may be amended by the Oakland City Council.

**17.102.190 - Joint Living and Work Quarters.**

- A. General Provisions. Joint living and work quarters are permitted in all zones where Residential Activities are permitted or conditionally permitted. In all zones where Residential Activities are not otherwise allowed by the applicable individual zone regulations, joint living and work quarters may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.
- B. Definition. Joint living and work quarters means residential occupancy by not more than four persons, maintaining a common household of one or more rooms or floors in a building originally designed for industrial or commercial occupancy which includes: (1) cooking space and sanitary facilities which satisfy the provisions of other applicable codes; and (2) adequate working space reserved for, and regularly used by, one or more persons residing therein.
- C. Use Permit Criteria. A conditional use permit for joint living and work quarters may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure and to both of the following use permit criteria:
  1. That the workers and others living there will not interfere with, nor impair, the purposes of the particular zone; and
  2. That the workers and others living there will not be subject to unreasonable noise, odors, vibration, or other potentially harmful environmental conditions.

**17.102.195 - Residentially-Oriented Joint Living and Working Quarters.**

- A. Area of Applicability. The provisions of Section 17.102.195 apply to the area bounded by Highway 980/Brush Street, the Estuary shoreline, the Lake Merritt/Estuary channel, the western shore of Lake Merritt, and 27th Street.
- B. Definition. Residentially-Oriented Joint Living and Working Quarters means residential occupancy by one or more persons maintaining a common household of one or more rooms in a building originally designed for non-residential occupancy which includes cooking space and sanitary facilities which satisfy the provisions of other applicable municipal codes. A Residentially-Oriented Joint Living and Working Quarter consists of a designated residential area and a designated work area. However, the definitions applied by City Council Resolution Number 68518 C.M.S that apply to "Joint Live/Work Space" including criteria that define space requirements are not applicable to Residentially-Oriented Joint Living and Working Quarters.
- C. Conditions for Conversion.

1. In the area prescribed in Subsection (A), an existing building or portion of a building that was originally designed for non-residential occupancy can be converted to Residentially-Oriented Joint Living and Working Quarters as long as each of the following standards is met:
    - a. The total number of Residentially-Oriented Joint Living and Working Quarter units on the subject property after the conversion will not exceed the maximum number of residential units permitted by the underlying zone.
    - b. All existing on-site parking spaces are retained for use by the residents, unless existing on-site parking exceeds required parking for all activities on the lot, in which case the number of parking spaces shall not be reduced below the number of spaces prescribed in Chapter 17.116 for all activities on the lot.
    - c. All open space associated with the building is retained for use by the residents, unless existing open space exceeds the requirement for of the applicable zone or zones.
    - d. All existing ground-floor commercial space is retained for commercial activities.
  2. New floor area may be created that is entirely within the existing building envelope; however, in no case shall the height, footprint, wall area, or other aspect of the exterior of the building proposed for conversion be expanded to accommodate Residentially-Oriented Joint Living and Working Quarters, except for dormers not exceeding the existing roof height and occupying no more than ten percent (10%) of the roof area, and incremental appurtenances such as elevator shafts, skylights, rooftop gardens, or other facilities listed in Section 17.108.130.
  3. If a project is located within the S-7 zone and involves exterior alterations, the design review requirements of that zone shall apply (see Sections 17.84.030 and 17.84.040).
  4. In any zone, projects involving exterior alterations shall be subject to the design review procedure in Chapter 17.136.
- D. Conditional use permit required in certain instances. In the area prescribed in Subsection A, a project that involves the conversion of an existing building or portion of a building that was originally designed for non-residential occupancy to Residentially-Oriented Joint Living and Working Quarters and does not meet one or more of the requirements of Subsection (C)(1) above may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. A conditional use permit may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in conditional use permit procedure in Chapter 17.134 and to any and all applicable additional use permit criteria set forth in the particular individual zone regulations.
- E. Non-applicability of certain requirements pertaining to dwelling units. In the area prescribed in Subsection (A), the conversion to Residentially-Oriented Joint Living and Working Quarters of a building or portion of a building that was originally designed for non-residential occupancy is not subject to the requirements for off-street parking in Section 17.116.020 (New Parking to Be Provided for New Living Units in Existing Facilities) and is not subject to the open space requirements for new residential dwelling units contained in the applicable zoning district or districts, but is subject to the requirements of subsection (C)(i) above for retention of existing parking and open space.

**~~17.102.200 - Conditional use permit required for p~~ Pedestrian bridges constructed over city streets.**

In all zones, pedestrian bridges are permitted over city streets only upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

**~~17.102.210 - Special regulations applying to Convenience Markets, Fast-Food Restaurants, certain establishments selling alcoholic beverages, providing mechanical or, and electronic games.~~**

~~A. Use Permit Criteria for Fast-Food Restaurants, Convenience Markets, and Establishments Selling Alcoholic Beverages. A conditional use permit for any conditionally permitted Fast-Food Restaurant,~~

~~Convenience Market, 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 additional 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 (10) p.m. and seven (7) 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 for the purposes of this Chapter) as within the boundaries of I-980 and Brush street to the west; both sides of 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. Off-sale retail licenses located in the Jack London district (defined for the purposes of this Chapter as within the boundaries of Martin Luther King Jr. Way to the west, I-880 to the north; the Lake Merritt Channel to the east; and the Estuary to the south); or~~

~~c. If the activity is in conjunction with a Full-Service Restaurant; or~~

~~d. Establishments with twenty-five (25) or more full-time equivalent (FTE) employees or a total floor area of twelve thousand (12,000) square feet or more.~~

~~2. Sale of alcoholic beverages in conjunction with a Full Service Restaurant and located within any of the following restricted street 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: International Boulevard; Foothill Boulevard; MacArthur Boulevard and West MacArthur Boulevard; that portion of San Pablo Avenue lying between Highway I-980 and I-580; 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 Commercial Activity located within an Alcoholic Beverage Sales license overconcentrated area shall only be granted, and a finding of Public Convenience or Necessity made, 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 District and Hegenberger 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 twelve thousand (12,000) 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 percent (20%), 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 Oakland 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 within three hundred (300) feet from any lot in a residential zone; or 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 District (defined for the purposes of this Chapter as within the boundaries of I-980 and Brush Street to the west; both sides of 27th Street to the North; Harrison Street/Lake Merritt 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 CR-1 Regional 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. ~~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 (4) 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 Building Official, pursuant to Chapter 8.24 of the Oakland Municipal Code and those sections of the Oakland Building 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.~~

#### **17.102.212 - Special Regulations Applying to Residential Care, Service-Enriched Permanent Housing, Transitional Housing, and Emergency Shelter Residential Activities.**

A. ~~Additional Use Permit Criteria.~~ A conditional use permit for any conditionally-permitted Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity may only be granted 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 additional use permit criteria:

1. ~~That staffing of the facility is in compliance with any State Licensing Agency requirements;~~
2. ~~That if located in a residential zone, the operation of buses and vans to transport residents to and from off-site activities does not generate vehicular traffic substantially greater than that normally generated by Residential Activities in the surrounding area;~~
3. ~~That if located in a residential zone, the on-street parking demand generated by the facility due to visitors is not substantially greater than that normally generated by the surrounding Residential Activities;~~



~~4. That if located in a residential zone, arrangements for delivery of goods are made within the hours that are compatible with and will not adversely affect the livability of the surrounding properties;~~

~~5. That the facility's program does not generate noise at levels that will adversely affect the livability of the surrounding properties.~~

~~B. Restriction on Overconcentration of Resident Care, Service-Enriched Permanent Housing, Transitional Housing, and Emergency Shelter Residential Activities. No Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility.~~

~~17.102.220 Special regulations applying to mining and quarrying extractive activities.~~

~~Sections:~~

1.0	Purpose and Intent.
2.0	Definitions.
3.0	Incorporation by Reference.
4.0	Scope.
5.0	Vested Rights.
6.0	Process.
7.0	Standards for Reclamation.
8.0	Statement of Responsibility.
9.0	Findings for Approval.
10.0	Financial Assurances.
11.0	Interim Management Plans.
12.0	Annual Report Requirements.
13.0	Inspections.

14.0	Violations and Penalties.
15.0	Appeals.
16.0	Fees.
17.0	Severability.
18.0	Effective Date.

~~§ 1.0 Purpose and Intent.~~

~~The City of Oakland recognizes that, historically, the extraction of minerals has benefited the economic well-being of the city and the needs of society and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. The city also recognizes that surface mining within the city occurs in a diverse, established, urban environment, which presents unique health, safety and welfare issues and where geologic, topographic, climatic, biological, and other conditions are significantly different than in less urbanized areas. Therefore, reclamation operations and the applicable specifications, inspections, reporting, monitoring must be appropriate to the surrounding conditions.~~

~~The purpose and intent of this section is to regulate surface mining operations as required by California's Surface Mining and Reclamation Act of 1975 (Public Resources Code Sections 2740 et seq.), as amended, hereinafter referred to as "SMARA", Public Resources Code (PRC) Section 2207 (relating to annual reporting requirements), and State Mining and Geology Board regulations (hereinafter referred to as "State regulations") for surface mining and reclamation practice (California Code of Regulations [CCR], Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3600 et seq.), to ensure that:~~

- ~~(a) Reclamation activities eliminate hazards to public health and safety and restore mined lands to a standard that is safe, stable, and usable for development of reuses that will enhance the community;~~
- ~~(b) Adverse environmental effects are prevented or minimized in accordance with CEQA and other applicable requirements;~~
- ~~(c) Reclamation activities further adopted city goals, plans, policies, objectives and regulations, including, without limitation the city's General Plan;~~
- ~~(d) Reclamation activities appropriately consider values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.~~

~~§ 2.0 Definitions.~~

~~The definitions set forth in this section shall govern the construction of this chapter.~~

~~"Area of Regional Significance" means an area designated by the State Mining and Geology Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the State within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local significance.~~

"Area of Statewide Significance" means an area designated by the board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the State and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance.

"Approved Plan" means a land use and/or development plan and all conditions of approval and adopted mitigation measures, as approved by the city pursuant to Chapter 17 of the Oakland Municipal Code.

"Borrow Pits" mean excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.

"City" means City of Oakland.

"City Council" means City Council of the City of Oakland.

"Compatible Land Uses" means land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space.

"General Plan" means the General Plan of the City of Oakland.

"Haul Road" means a road along which material is transported from the area of excavation to the processing plant or stock pile area of the surface mining operation.

"Idle" means surface mining operations curtailed for a period of one year or more, by more than ninety (90) percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.

"Incompatible Land Uses" means land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial, and commercial.

"Mined Lands" mean the surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools or other materials or property which result from, or are used in, surface mining operations are located.

"Minerals" means any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

"Operator" means any person who is engaged in surface mining operations, or who contracts with others to conduct operations on his or her behalf, except a person who is engaged in surface mining operations as an employee with wages as his or her sole compensation.

"Reclamation" means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resolling, revegetation, soil compaction, stabilization, or other measures.

"Reclamation Plan" means a plan for reclamation of mined lands as specified by SMARA.

"Stream Bed Skimming" means excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.

~~"Surface Mining Operations" means all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations include, but are not limited to, in-place distillation or retorting or leaching, the production and disposal of mining waste, prospecting and exploratory activities, borrow pitting, streambed skimming, and segregation and stockpiling of mined materials (and recovery of same).~~

~~"Use Permit" means a conditional use permit or other land use permit for mining activities.~~

#### ~~§ 3.0 Incorporation by Reference.~~

~~The provisions of SMARA (PRC § 2710 et seq.), PRC Section 2207, and State regulations CCR § 3500 et seq., as these provisions and regulations may be amended from time to time, are made a part of this section by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this section are more restrictive than correlative State provisions, this section shall prevail.~~

#### ~~§ 4.0 Scope.~~

~~Except as provided in this section, no person shall conduct surface mining operations unless a Reclamation Plan and financial assurances for reclamation have first been approved by the city. Any applicable exemption from this requirement does not automatically exempt or limit a project or activity from the application of other regulations, ordinances or policies of city, including but not limited to, the application of CEQA, the requirements of an Approved Plan or other permits, the payment of development impact fees, or the imposition of other dedications and exactions as may be permitted under the law. The provisions of this section shall apply to all lands within the city, public and private.~~

~~This section shall not apply to the following activities, subject to the above-referenced exceptions:~~

~~(a) Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.~~

~~(b) Onsite excavation and onsite earthmoving activities which are an integral and necessary part of an approved construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:~~

~~(1) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency or agencies in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act ("CEQA", Public Resources Code, Division 13, § 21000 et seq.).~~

~~(2) The city's approval and CEQA review (if applicable) of the construction project included the onsite excavation and onsite earthmoving activities.~~

~~(3) The approved construction project is consistent with the General Plan and zoning of the site.~~

~~(4) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if the city determines, in its discretion, that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.~~

~~(c) Permitted operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:~~

~~(1) The plant site is located on lands designated for industrial or commercial uses in the city's general plan.~~

~~(2) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the city.~~

~~(3) None of the minerals being processed is being extracted onsite.~~

~~(4) All reclamation work has been completed pursuant to the approved Reclamation Plan for any mineral extraction activities that occurred onsite after January 1, 1976.~~

~~(d) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than one thousand (1,000) cubic yards in any one location of one acre or less.~~

~~(e) Surface mining operations that are required by federal law in order to protect a mining claim, as specified in Public Resources Code section 2714(e).~~

~~(f) Any other surface mining operations that the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.~~

~~(g) The solar evaporation of sea water or bay water for the production of salt and related minerals.~~

~~(h) Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters or other emergencies.~~

~~(i) Road construction and maintenance for timber or forest operations, as specified in Public Resources Code section 2714(j)(1); and~~

~~(j) Excavation, grading, or other earthmoving activities in an oil or gas field, as specified in Public Resources Code section 2714(k).~~

#### ~~§ 5.0 Vested Rights.~~

~~No person who obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit to mine, so long as the vested right continues and as long as no substantial changes have been made in the mining operation except in accordance with SMARA, State regulations, this section and any other applicable requirements. Where a person with vested rights has continued surface mining in the same area subsequent to January 1, 1976, he shall obtain city approval of a Reclamation Plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense) between pre- and post-Act mining, the Reclamation Plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act (January 1, 1976), as determined by the city to be necessary or appropriate to accommodate reuse of the proposed site according to city plans, policies, ordinances, and other applicable requirements.~~

~~All other requirements of State law, this section or an approved plan shall apply to vested mining operations.~~

#### ~~§ 6.0 Process.~~

~~(a) Applications under the requirement for an Approved Plan or Reclamation Plan for surface mining or land reclamation projects shall include, at a minimum, each of the elements required by SMARA (§ 2772-2773) and State regulations, and any other requirements determined, in the discretion of the Planning Director or designee, to be necessary or appropriate to facilitate an evaluation of the proposed Reclamation Plan.~~

~~(b) Within thirty (30) days of the acceptance of a complete application for a Reclamation Plan or as a requirement of an Approved Plan for surface mining operations and/or a Reclamation Plan, the Planning Department shall notify the State Department of Conservation of the filing of the application(s). Whenever mining operations are proposed in the one hundred (100) year flood plain of any stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency ("FEMA"), and within one mile, upstream or downstream, of any state highway bridge, the Planning Department shall also notify the State Department of Transportation ("Caltrans") that the application has been received.~~

~~(c) The Planning Department shall process the application(s) in accordance with the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) and the City's environmental review guidelines.~~

~~(d) Subsequent to the appropriate environmental review, the Planning Department shall prepare a staff report with recommendations for consideration by the City Planning Commission. The City Planning Commission shall hold at least one noticed public hearing on Use Permit and/or Reclamation Plan. Notice shall be given by mail or delivery to all persons shown on the last available equalized assessment role as owning real property in the city limits within three hundred feet (300 feet) of the property involved. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing. At the conclusion of such hearing or hearings, the Planning Commission shall recommend to the City Council that it should approve, approve with changes, or deny the subject Reclamation Plan and/or Use Permit.~~

~~(e) The City Council shall hold at least one noticed public hearing on a Use Permit and/or Reclamation Plan. Notice shall be given by mail or delivery to all persons shown on the last available equalized assessment role as owning real property in the city limits within three hundred feet (300 feet) of the property involved. All such notice shall be given not less than seventeen (17) days prior to the date set for the hearing.~~

~~(f) Prior to final approval of a Reclamation Plan, financial assurances (as provided in this Chapter), any amendments to the Reclamation Plan, existing financial assurances, or those financial assurances required as part of an Approved Plan, the City Council shall certify to the State Department of Conservation that the Reclamation Plan and/or financial assurance complies with the applicable requirements of State law, and submit the plan, assurance, or amendments to the State Department of Conservation for review.~~

~~Pursuant to PRC § 2774(d), the State Department of Conservation shall be given thirty (30) days to review and comment on the Reclamation Plan and forty five (45) days to review and comment on the financial assurance. The Planning Department shall evaluate written comments received, if any, from the State Department of Conservation during the comment periods. Staff shall prepare a response describing the disposition of the major issues raised by the State for the City Council's approval. In particular, when the Planning Department's position is at variance with the recommendations and objections raised in the State's comments, the response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the Planning Department shall be promptly forwarded to the operator/applicant.~~

~~(g) The City Council shall then take action to approve, conditionally approve, or deny Use Permit and/or Reclamation Plan, and to approve the financial assurances pursuant to PRC § 2770(d) or any other requirement of an Approved Plan.~~

~~(h) The Planning Department shall forward a copy of each approved Use Permit for mining operations, an Approved Plan and/or approved Reclamation Plan, and a copy of the approved financial assurances to the State Department of Conservation. By July 1 of each year, the Planning Department shall submit to the State Department of Conservation for each active or idle mining operation a copy of the Approved Plan, or Reclamation Plan amendments, as applicable, or a statement that there have been no changes during the previous year.~~

#### ~~§ 7.0 Standards for Reclamation.~~

~~(a) All Reclamation Plans shall comply with the provisions of SMARA (§ 2772 and § 2773) and State regulations (CCR § 3500-3505). Reclamation Plans approved after January 15, 1993, Reclamation Plans for proposed new mining operations, and any substantial amendments to previously approved Reclamation Plans, shall also comply with the requirements for reclamation performance standards (CCR § 3700-3743).~~

~~(b) The city may impose additional performance standards as developed either in review of individual projects, as warranted, through the formulation and adoption of citywide performance standards or through an Approved Plan.~~

~~(c) Reclamation activities shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation may also be required for mined lands that have been disturbed and that may be disturbed again in future operations. Reclamation may be done on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill, as approved by the city. Each phase of reclamation shall be specifically~~

described in the Reclamation Plan and shall include (a) the beginning and expected ending dates for each phase; (b) all reclamation activities required; (c) criteria for measuring completion of specific reclamation activities; and (d) estimated costs for completion of each phase of reclamation.

(d) The information, analysis and other specifications submitted as part of the Reclamation Plan shall demonstrate that the improvements and financial assurances are sufficient to reclaim the site in a condition that meets all applicable state and city standards, and that is appropriate for the proposed reuse of the site and consistent with the land use and other applicable policies of the General Plan.

#### ~~§ 8.0 Statement of Responsibility.~~

The person submitting the Reclamation Plan shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the Reclamation Plan. Said statement shall be kept by the Planning Department in the mining operation's permanent record. Prior to sale or transfer of the operation, the new operator shall submit a signed statement of responsibility as well as evidence required to demonstrate the financial assurance requirement set forth in this section or the Planning Department for placement in the permanent record.

#### ~~§ 9.0 Findings for Approval.~~

(a) ~~Approved Plans.~~ In addition to any findings required by the Approved Plan or for surface mining operations, a finding shall be included that the project complies with the provisions of SMARA and State regulations.

(b) ~~Reclamation Plans.~~ For Reclamation Plans, the following findings shall be required:

(1) That the Reclamation Plan complies with SMARA Sections 2772 and 2773, and any other applicable provisions;

(2) That the Reclamation Plan complies with applicable requirements of State regulations (CCR § 3500-3505, and § 3700-3713).

(3) That the Reclamation Plan and potential use of reclaimed land pursuant to the plan are consistent with this section, the city's General Plan and any applicable resource plan, element or an Approved Plan.

(4) That the Reclamation Plan has been reviewed pursuant to CEQA and the City's environmental review guidelines, and all significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible.

(5) That the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or that suitable off-site development will compensate for related disturbance to resource values.

(6) That the Reclamation Plan will restore the mined lands to a safe, stable and usable condition which is readily adaptable for alternative land uses consistent with the General Plan, and other city Approved Plans, policies, ordinances and regulations.

(7) That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that department. Where the city's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted.

#### ~~§ 10.0 Financial Assurances.~~

(a) To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, the city shall require as a condition of approval security which will be released upon satisfactory performance. The applicant may pose security in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or other method acceptable to the city and the State Mining and Geology Board as specified in State regulations, and which the city determines are adequate to perform reclamation in accordance with the surface mining operation's approved Reclamation Plan and/or an Approved Plan. Financial assurances shall be made payable to city and the State Department of Conservation.



(b) Financial assurances will be required to ensure compliance with elements of the Reclamation Plan, including but not limited to, revegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures, if determined necessary by the Planning Department to comply with the requirements of an Approved Plan.

(c) Cost estimates for the financial assurance shall be submitted to the Planning Department for review and approval prior to the operator securing financial assurances. The Planning Director shall forward a copy of the cost estimates, together with any documentation received supporting the amount of the cost estimates, to the State Department of Conservation for review. If the State Department of Conservation does not comment within forty five (45) days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless the City has reason to determine that additional costs may be incurred. The Planning Director shall have the discretion to approve the financial assurance if it meets the requirements of this Chapter, SMARA, State regulations and any requirements of an Approved Plan.

(d) The amount of the financial assurance shall be based upon the estimated costs of reclamation to a safe, stable and usable condition in accordance with an Approved Plan for the years or phases stipulated in the approved Reclamation Plan, including any maintenance of reclaimed areas as may be required, subject to adjustment for the actual amount required to reclaim lands disturbed by surface mining activities since January 1, 1976, and new lands to be disturbed in the upcoming year. Cost estimates should be prepared by a California registered Professional Engineer and/or other similarly licensed and qualified professionals retained by the operator and approved by the Planning Director. The estimated amount of the financial assurance shall be based on an analysis of physical activities necessary to implement the approved Reclamation Plan in accordance with an Approved Plan for the site, the unit costs for each of these activities, the number of units of each of these activities, and the actual administrative costs. Financial assurances to ensure Reclamation Plan implementation and compliance with revegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved Reclamation Plan shall be based upon cost estimates that include, but may not be limited to, labor, equipment, materials, mobilization of equipment, administration, monitoring, inspections and reasonable profit by a commercial operator other than the permittee. A contingency factor of ten percent (10%) shall be added to the cost of financial assurances.

(e) In projecting the costs of financial assurances, it shall be assumed without prejudice or insinuation that the surface mining operation could be abandoned by the operator and, consequently, the city or State Department of Conservation may need to contract with a third party commercial company for reclamation of the site.

(f) The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed (including any maintenance required).

(g) The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the permittee may not claim credit for reclamation scheduled for completion during the coming year.

(h) Revisions to financial assurances shall be submitted to the Planning Director each year prior to the anniversary date for approval of the financial assurances. The financial assurance shall cover the cost of existing disturbance and anticipated activities for the next calendar year, including any required interim reclamation. If revisions to the financial assurances are not required, the operator shall explain, in writing, why revisions are not required.

#### § 11.0 Interim Management Plans.

(a) Within ninety (90) days of a surface mining operation becoming idle, the operator shall submit to the Planning Department a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all Approved Plan conditions, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into

~~consideration public health and safety. The proposed IMP shall be submitted on forms provided by the Planning Department, and shall be processed as an amendment to the Reclamation Plan. IMPs shall not be considered a project for the purposes of environmental review.~~

~~(b) Financial assurances for idle operations shall be maintained as though the operation were active, or as otherwise approved through the idle mine's IMP.~~

~~(c) Upon receipt of a complete proposed IMP, the Planning Department shall forward the IMP to the State Department of Conservation for review. The IMP shall be submitted to the State Department of Conservation at least thirty (30) days prior to approval by the Planning Director.~~

~~(d) Within sixty (60) days of receipt of the proposed IMP, or a longer period mutually agreed upon by the Planning Director and the operator, the Planning Director shall review and approve or deny the IMP in accordance with this Chapter. The operator shall have thirty (30) days, or a longer period mutually agreed upon by the operator and the Planning Director, to submit a revised IMP. The Planning Director shall approve or deny the revised IMP within sixty (60) days of receipt. If the Planning Director denies the revised IMP, the operator may appeal that action to the City Council. The decision of the City Council shall be final.~~

~~(e) The IMP may remain in effect for a period not to exceed five years, at which time the City Council may renew the IMP for another period not to exceed five years, or require the surface mining operator to commence reclamation in accordance with its approved Reclamation Plan.~~

#### ~~§ 12.0 Annual Report Requirements.~~

~~Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the City Planning Department on a date established by the State Department of Conservation, on forms furnished by the State Mining and Geology Board. New mining operations shall file an initial surface mining report and any applicable filing fees with the State Department of Conservation within thirty (30) days of permit approval, or before commencement of operations, whichever is sooner. Any applicable fees, together with a copy of the annual inspection report, shall be forwarded to the State Department of Conservation at the time of filing the annual surface mining report.~~

#### ~~§ 13.0 Inspections.~~

~~The Planning Director, through the Building Department Inspection Services Division or other agency or other designee, shall arrange for inspection of a surface mining operation within six months of receipt of the Annual Report required in Section 12, to determine whether the surface mining operation is in compliance with applicable requirements, including, without limitation, the Approved Plan, Reclamation Plan, approved financial assurances, and State regulations. In no event shall less than one inspection be conducted in any calendar year. Said inspections may be made by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, or state-registered forester, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous twelve (12) months, or other qualified specialists, as selected by the Planning Director. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.~~

~~The Planning Department shall notify the State Department of Conservation within thirty (30) days of completion of the inspection that said inspection has been conducted, and shall forward a copy of said inspection notice and any supporting documentation to the mining operator. The operator shall be solely responsible for all costs of inspections required by the city in furtherance of this section in accordance with the city master fee schedule or other applicable fee agreements or requirements.~~

#### ~~§ 14.0 Violations and Penalties.~~

~~If the Planning Director, through the Building Department Inspection Services Division or other designee, based upon an annual inspection or otherwise confirmed by an inspection of the mining operation, determines that a surface mining operation is not in compliance with this section, the Approved Plan, the Reclamation Plan or other applicable requirements, the city shall follow the procedures set forth in Public Resources Code, Sections 2774.1 and 2774.2 concerning violations and penalties.~~

#### ~~§ 15.0 Appeals.~~

A decision by the City Council to either approve or deny a Reclamation Plan pursuant to this section shall be considered a final agency action.

~~§ 16.0 Fees.~~

~~The city shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this section and the State regulations, including but not limited to, processing of applications, annual reports, inspections, monitoring, enforcement and compliance. These fees may be set forth in the city master fee schedule; however, failure to include such fees in the master fee schedule shall not limit the city's ability to impose fees it determines are necessary or desirable to fulfill the purposes of this section, State regulations and other applicable requirements. Such fees shall be paid by the operator, as required by the city, at the time of filing of the Reclamation Plan application, as a part of a fee agreement through an Approved Plan or at such other times as are determined by the city to be appropriate in order to ensure that all reasonable costs of implementing this section are borne by the mining operator.~~

**17.102.230 - Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a Nonresidential Activity—Nonresidential zones.**

- A. Conditional Use Permit Requirement. The demolition of a facility containing, or intended to contain, rooming units, or the conversion of a living unit from its present or last previous use by a Permanent Residential Activity, a Semi-Transient Residential Activity, or a Transient Habitation Commercial Activity to its use by a nonresidential activity other than Transient Habitation Commercial is only permitted in a nonresidential zone upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. The only exceptions to this requirement are conversions in the HBX zones, and units in a One-Family or Two-Family Residential Facility. Such permit may be granted only upon determination that the proposed demolition or conversion conforms to the general use permit criteria set forth in the conditional use permit procedure and to at least one of the following additional use permit criteria:
1. That the facility proposed for demolition or the living unit proposed for conversion is unoccupied and is, or is situated in, a residential building that has been found, determined, and declared to be substandard or unsafe pursuant to Section 15.08.350(B) of the Oakland Municipal Code; or
  2. That a replacement rental unit, comparable in affordability and type to each unit proposed for demolition or conversion, will be added to the City's housing supply prior to the proposed demolition or conversion taking place; or
  3. That the benefits to the City resulting from the proposed demolition or conversion will outweigh the loss of a unit from the City's housing supply; or
  4. That the conversion will be an integral part of a rehabilitation project involving both residential and nonresidential activities, and that the rehabilitation project would not be economically feasible unless some nonresidential activity were permitted within it.
- B. Tenant Assistance. Upon the granting of a conditional use permit for the demolition of a facility containing rooming units or for the conversion of a living unit to a nonresidential activity, the actual demolition or conversion cannot take place until the following have occurred:
1. If a dwelling unit is to be converted, the tenant has been given a one hundred twenty (120) day written notice of the conversion. If a rooming unit is to be demolished or converted, the tenant, if a permanent tenant, has been given a seventy-five (75) day written notice of the demolition or conversion. All such written notices shall comply with the legal requirements for service by mail.
  2. If a dwelling unit is to be converted, the tenant has been provided with a relocation allowance equal to one month's rent or five hundred dollars (\$500.00), whichever is greater. If a rooming unit is to be demolished or converted, the owner of the building containing the unit to be demolished or converted has referred the tenant (if a permanent tenant) to a comparable, available unit; if a comparable unit is not available, the permanent tenant has been provided

with a relocation allowance equal to one month's rent or five hundred dollars (\$500.00), whichever is greater.

3. The Director of City Planning has been provided with proof that the above actions have been taken.

(As used in this section, a permanent tenant of a rooming unit is defined as a tenant maintaining occupancy for six (6) months or more at a hotel or motel where the innkeeper does not retain a right of access and control of the unit and where the hotel or motel does not provide or offer all of the following services to all of the residents: safe deposit boxes for personal property; central telephone service; central dining; maid, mail, room, and recreational service; and occupancy for periods of less than seven (7) days.)

**17.102.240 - ~~Special regulations applying to m~~Microwave and satellite dishes over three (3) feet ~~one (1) meter in diameter located in or near residential zones.~~**

The following regulations shall apply to microwave and satellite dishes which are over three (3) feet ~~one (1) meter in diameter~~, which are located in any residential zone or within one hundred fifty (150) feet from the nearest boundary of any residential zone, as measured perpendicularly from said boundary at any point:

**~~17.102.250 - Maximum density and floor area ratio during construction.~~**

~~Whenever a new Residential Facility is constructed on any lot upon which there presently exists a Residential Facility, and such existing facility is retained and occupied temporarily pending completion of the new residential structure, the maximum density and floor area ratio prescribed for such lot shall be computed upon the basis of the new facility only. However, such existing facility shall be vacated and demolished or removed within one (1) year after commencement of construction of the new facility unless the existing and new facility together shall conform to said maximum density and floor area ratio requirements.~~

**~~17.102.260 - Occupancy of a dwelling unit.~~**

~~A Residential Facility, or portion thereof, shall be deemed to constitute a single dwelling unit only if it is occupied by a single family or, where the facility occupied is a One Family Dwelling, such family and not more than three (3) boarders, roomers, or lodgers where access to all rooms occupied by such boarders, roomers, or lodgers is had through the main entrance of the dwelling unit.~~

**~~17.102.265 - Occupancy of a One Family Dwelling Residential Facility by a Residential Care Residential Activity.~~**

~~A Residential Care Residential Activity shall be deemed to occupy a One Family Dwelling Residential Facility if it operates as a single housekeeping unit, as defined in Sec. 17.09.040, and the facility meets all of the characteristics of a One Family Dwelling Residential Facility as defined in Section 17.10.640.~~

**17.102.270 - An additional kitchen for a single dwelling unit.**

An additional kitchen for a single dwelling unit in any Residential Facility may be permitted, without thereby creating an additional dwelling unit, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, and upon determination that all of the following conditions set forth below exist:

- A. That the additional kitchen shall ~~will be~~ be located within the same residential structure as the existing kitchen and solely constitute an additional service facility for the resident household, family or its temporary guests,
- B. That the additional kitchen shall ~~will~~ not serve as a basis for permanent habitation of an extra household or family on the premises, or the creation of an additional dwelling unit on the premises.
- C. That the additional kitchen is necessary to render habitable a living area occupied by one or more persons related by blood, marriage, or adoption to the resident family or collective household occupying the main portion of the dwelling unit.

However, a conditional use permit under this subsection shall not be granted in the RH zones or the RD-1 zone if the lot contains two (2) or more dwelling units.

**~~17.102.280~~ Rules for determining the number of habitable rooms in Residential Facilities.**

~~The total number of habitable rooms in a Residential Facility shall be determined by adding together all rooms in all dwelling units in the facility, in accordance with the rules of subsections A through F of this section. In a case where application of these rules results in more than one possible interpretation of the total number of rooms, or where these rules appear to contradict each other, the interpretation resulting in the greatest number of rooms shall be used. For purposes of this section, a "kitchen" shall be deemed to include the floor area within three (3) feet directly in front of all kitchen counters, cabinets, major appliances, and other fixtures.~~

~~A. Except as specified in subsections B through F of this section, a space which meets the definition of "habitable room" at Section 17.09.040, which is entirely enclosed by floor to ceiling partitions, and which is connected to other rooms or spaces by doorways or open archways shall count as one room.~~

~~B. A habitable room of less than fifty (50) square feet shall count as half a room.~~

~~C. A habitable room larger than four hundred (400) square feet shall count as one room for each four hundred (400) square feet or fraction thereof.~~

~~D. Spaces which are not separated by floor to ceiling partitions but whose floor levels differ by more than one foot and which are intended to be used for different functions shall count as separate rooms.~~

~~E. A kitchen area of a least fifty (50) square feet which is not entirely enclosed by floor to ceiling partitions shall count as a separate room.~~

~~F. A kitchen area of less than fifty (50) square feet whose floor perimeter is at least fifty percent (50%) enclosed by any combination of partitions, counters, cabinets, major appliances, and other similar space dividers shall count as half a room; if not so enclosed, it shall not count as a separate room.~~

**~~17.102.290~~ Special regulations for Drive-Through Nonresidential Facilities.**

~~The following regulations shall apply to Drive-Through Nonresidential Facilities wherever permitted:~~

~~A. General Provisions/Use Permit Criteria. A Conditional Use Permit for a Drive-Through Nonresidential Facility may be granted only pursuant to the conditional use permit procedure in Chapter 17.134, and upon determination that the proposal, in addition to the general use permit criteria in that chapter, conforms to the additional use permit criteria set forth below:~~

- ~~1. That the proposed facility will not impair a generally continuous wall of building facades;~~
- ~~2. That the proposed facility will not result in weakening the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of a shopping frontage;~~
- ~~3. That the proposed facility will not directly result in a significant reduction in the circulation level of service of adjacent streets.~~

~~B. Standards. A driveway serving as a vehicle stacking or queuing lane for a drive-through window shall be separated from parking areas and shall not be the only entry or exit lane on the premises. Such facility shall be so situated that any vehicle overflow from it shall not spill onto public streets or the major circulation aisles of any parking lot. Such facility shall have durable, all-weather surface; shall have reasonable disposal of surface waters by grading and drainage; and shall be permanently maintained in good condition.~~

~~C. Dimensions. Each vehicle space comprising a stacking or queuing lane for a drive-through window shall be a minimum of ten (10) feet in width by twenty (20) feet in length. Such a stacking or queuing lane shall have a maximum capacity of eight (8) vehicles.~~

#### **17.102.300 - Conditional use permit for dWelling units with five or more bedrooms.**

- A. Use Permit Required. No existing Residential Facility shall be altered, through additions, division of existing rooms, or other means, so as to create a total of five (5) or more bedrooms in any dwelling unit except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.
- C. 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. That off-street parking for residents of the entire facility, including any existing facility and any proposed alteration or addition, is provided as specified in the zone or zones in which the facility is located, as set forth in Section 17.116.060.
  2. That a minimum of one (1) off-street visitor parking space is provided for the entire facility;
  3. That the parking spaces provided in accordance with criteria 1 and 2, and all associated driveways, maneuvering aisles, and other related features, comply with the standards for required parking and loading facilities applicable in the base zone in which the facility is located, as set forth in Sections 17.116.170 through 17.116.300.
  4. That no required parking spaces are located other than on approved driveways between the front lot line and the front wall of the facility or its projection across the lot.
  5. That the applicable requirements of the buffering regulations in Chapter 17.110 are met.

#### **~~17.102.310 - Special regulations for certain projects with development agreements.~~**

~~Any person having a legal or equitable interest in the real property involved may, upon approval pursuant to the development agreement procedure in Chapter 17.138, enter into a development agreement with the City for any specific development project which involves a total of at least four (4) acres of land area or five hundred thousand (500,000) square feet of floor area and is a project intended to be developed in stages, or which involves land sold or leased by the Redevelopment Agency of the City and is to be carried out by agreement with the Redevelopment Agency. The development agreement shall not be approved unless the project has received, or simultaneously receives, whatever major conditional use permit, preliminary planned unit development plan approval, and major variance it may otherwise require. For the duration of the particular agreement, and unless otherwise provided in the terms thereof, there shall be a contractual guarantee that the project covered by the agreement may be pursued under the applicable procedural criteria, if any, and other zoning regulations, and plans or other documents referred to by any such criteria, as they existed when the agreement was approved and notwithstanding any subsequent changes in said zoning regulations or documents. However, the agreement may also subject the proposal to special conditions to benefit or protect the City for entering into the development agreement. The conditions may include, but are not limited to, supplemental restrictions on kinds of uses, floor area ratio, or density; special conditions or criteria for required subsequent zoning approvals, if any; and requirements for the reservation, dedication, or improvement of land for public purposes or accessible to the public.~~

~~17.102.320 – Conditional use permit for waiver of certain requirements in mini-lot developments.~~

~~A. Basic Provisions. Subject to the provisions of subsections B and C of this section, the maximum height and minimum yard, lot area, width, and frontage requirements otherwise applying to individual lots may be waived or modified within a mini-lot development, and floor area, parking, and other facilities may be located within said development without reference to lot lines, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination:~~

- ~~1. That there is adequate provision for maintenance of the open space and other facilities within the development; and~~
- ~~2. That the total development meets all the requirements that would apply to it if it were a single lot.~~

~~B. Zones in Which Requirements May Be Waived. A conditional use permit pursuant to subsection A of this section may be granted only in the S-1 or S-2 zone or in any residential or commercial zone other than RH zones or the RD-1 zone.~~

~~C. Maximum Size for Which Requirements May Be Waived. A conditional use permit pursuant to subsection A of this section may be granted only if the total land area of the mini-lot development is less than sixty thousand (60,000) square feet.~~

~~17.102.330 – Conditional use permit for waiver of certain requirements with parcel division between existing buildings.~~

~~Where any parcel containing two or more existing principal buildings is divided in accordance with the conditions stated in Section 17.106.010, those requirements specified there which would otherwise apply to the divided lots may be waived or modified upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. Granting of any such permit shall be subject to the use permit criteria prescribed by Section 17.106.010.~~

~~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 (5) 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 (5) 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~~

~~B. Standards for Sidewalk Cafes.~~

- ~~1. Sidewalk Cafes shall not encroach upon any public right-of-way unless a minimum of five (5) 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.~~

**~~17.102.340 - Special regulations applying to e~~Electroplating activities in the M-20, M-30, and M-40~~Industrial z~~Zones.**

A. Distance Standards. No electroplating activity shall be located nor expanded within one thousand (1,000) feet from the boundary of any other zone except the CIX, IG, M-20, M-30, or M-40 zone, nor from any area designated "Resource Conservation Area" or "Park and Urban Open Space" in the Oakland General Plan.

**~~17.102.350 - Regulations applying to t~~Tobacco-oriented activities.**

A. Conditional Use Permit Requirement for Tobacco-Oriented Activities. Such uses are permitted only upon the granting of a conditional use permit pursuant to Sections 17.134 and to the following additional use permit criteria:

1. No tobacco-oriented activity shall be located within, nor closer than one thousand (1,000) feet to the boundary of a residential zone, school, public library, park or playground, recreation center or licensed daycare facility.

**~~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) square feet or fifty percent (50%) 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.~~
- ~~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.~~
- ~~6. 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.

7. ~~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 percent (50%) 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
- 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).~~

#### ~~17.102.370 - Conditional use permit for hotels and motels.~~

- A. ~~Use Permit Criteria for Hotel and Motel Uses.~~ A conditional use permit for hotel and motel uses 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 additional use permit criteria:

1. ~~That the proposal is located in downtown, along the waterfront, near the airport, or along the I-880 freeway, and/or in an area with a concentration of amenities for hotel patrons, including restaurant, retail, recreation, open space and exercise facilities, and is well served by public transit;~~
2. ~~That the proposal considers the impact of the employees of the hotel or motel on the demand in the city for housing, public transit, and social services;~~
3. ~~That the proposal is consistent with the goal of attracting first-class, luxury hotels in downtown, along the waterfront, near the airport, or along the I-880 freeway which provide:~~
  - a. ~~A minimum of one hundred (100) sleeping rooms;~~
  - b. ~~A full-service restaurant providing three meals per day; and~~
  - c. ~~On-site recreational amenities, which may include an exercise room, swimming pool, and/or tennis courts.~~
4. ~~That the proposed development will be of an architectural and visual quality and character which harmonizes and enhances the surrounding area, and that such design includes:~~
  - a. ~~Site planning that insures appropriate access and circulation, locates building entries which face the primary street, provides a consistent development pattern along the primary street, and insures a design that promotes safety for its users;~~
  - b. ~~Landscaping that creates a pleasant visual corridor along the primary streets with a variety of local species and high quality landscape materials;~~
  - c. ~~Signage that is integrated and consistent with the building design and promotes the building entry, is consistent with the desired character of the area, and does not detract from the overall streetscape;~~
  - d. ~~The majority of the parking to the rear of the site and where appropriate is provided within a structured parking facility that is consistent, compatible and integrated into the overall development;~~
  - e. ~~Appropriate design treatment for ventilation of room units as well as structured parking areas; and prominent entry features that may include attractive porte-cocheres;~~
  - f. ~~Building design that enhances the building's quality with strong architectural statements, high quality materials particularly at the pedestrian level and appropriate attention to detail; and~~
  - g. ~~Lighting standards for hotel buildings, grounds and parking lots shall not be overly bright and shall direct the downward placement of light.~~
5. ~~That the proposed development provides adequately buffered loading areas and to the extent possible, are located on secondary streets;~~
6. ~~The proposed operator of the facility shall be identified as part of the project description at the time of application.~~

**17.102.380 - Special regulations applying to truck-related activities in the West Oakland Community Development District.**

- A. ~~Use Permit Required. No Truck and Truck-related activity as described in Sections 17.10.470, 17.10.480, 17.10.490, and 17.10.500 shall be established or expanded in the West Oakland Community Development District except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134~~
- B. ~~"West Oakland Community Development District" is defined to include all areas between Interstate 980 to the east, 3rd Street to the south, Interstate 880 to the west, and Interstate 580 to the north.~~
- C. ~~The term "Truck" shall be defined as a "Commercial Vehicle" having a "Manufacturer's Gross Vehicle Weight Rating" exceeding ten thousand (10,000) pounds or a "Trailer," as these terms are defined in the California Vehicle Code.~~

~~17.102.380 -- Regulations Applying to Special Health Care Civic Activities.~~

- ~~A. Additional Use Permit Criteria. A conditional use permit for any conditionally permitted Special Health Care Civic Activities may only be granted 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 each Special Health Care Civic activity be no located no less than 2,500 feet from the nearest Special Health Care Civic activity within the City of Oakland.~~
  - ~~2. That each Special Health Care Civic activity be a minimum of 500 feet from the following activities:~~
    - ~~• Schools K-12~~
    - ~~• Licensed Transitional Housing~~
    - ~~• Licensed Service Enriched Housing~~
    - ~~• Licensed Emergency Shelters~~
  - ~~3. That each Special Health Care Civic activity meet the following Performance Standards and that these performance standards be included as standard conditions of approval. These performance standards may be amended or expanded by the Planning Commission as they are applied to individual locations and projects:~~
    - ~~• A lighting plan shall be reviewed and approved by the Zoning Administrator. Exterior lighting shall be provided on all frontages. Such lighting shall be designed to illuminate persons standing outside such that they can be identified 50 feet away. Exterior lighting shall be designed so as not to cast glare offsite.~~
    - ~~• A plan for any exterior changes and signage shall be reviewed and approved by the Zoning Administrator.~~
    - ~~• Storefronts shall have glass or transparent glazing in the windows. No more than 30 percent of any window area shall be covered by signs, banners, or opaque coverings of any kind.~~
    - ~~• Final floor plans shall be reviewed and approved by the Zoning Administrator prior to issuance of building permits.~~
    - ~~• Fenced yards shall be fenced with fencing a minimum of six feet tall. Such fencing shall be of an open design.~~
    - ~~• One non-flammable trash container and ashtray shall be located in front of the facility for smokers.~~
    - ~~• Clients shall not be allowed to loiter outside the building on the sidewalk or street. Clients waiting to be served shall be accommodated inside the building.~~
    - ~~• Days and hours of operation shall be Monday through Friday, 8:00 a.m. to 6:00 p.m. Clients shall be discouraged from loitering prior to or after hours. At least one no loitering sign with letters at least two inches tall shall be installed and maintained where it will be visible to pedestrians in front of the property. These performance standards and any conditions of approval, days and hours of operation, phone contact, and after hours phone contacts shall be posted where visible to the public 24 hours a day.~~
    - ~~• Graffiti shall be removed within 72 hours of application. No exterior pay telephones shall be installed.~~
    - ~~• Litter shall removed at least two times daily or as needed from in front of and for 20 feet beyond the building along adjacent street(s). All "street furniture" such as crates or mattresses shall be removed daily or as needed.~~
    - ~~• Prior to issuance of building permits or commencement of use, applicant shall submit a needle retrieval plan for all Special Health Care Civic activities that provide needle exchange services on-site. The~~

plan shall, at a minimum, detail the protocol for the exchange of clean needles for dirty needles and for retrieving used needles within 300 feet of the site on a regular basis.

**~~17.102.400 - Exterior security bars and related devices. 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: fifty percent (50%) maximum paved surface;~~
- ~~2. Corner lots: thirty percent (30%) 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;~~
- ~~b. Sidewalk construction or widening; 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.~~

~~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 (4) 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 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.~~

**~~17.102.420 - Special design requirements for lots located in a residential and commercial zones and the OS, S-1, S-2, S-3 and S-15 zones.~~**

~~The provisions of this section apply to any lot located in a residential or commercial zone, or are in the OS, S-1, S-2, S-3, or S-15 zone.~~

~~A. Restriction on Barbed Wire and Razor Wire. In any location visible from the public right-of-way, no barbed wire or razor wire may be attached to the exterior of any building or similar facility. Other restrictions on barbed wire and razor wire are specified in Section 17.108.140~~

**~~17.102.430 - Regulations applying to check cashier and/or check-cashing activity.~~**

~~A. Additional Use Permit Criteria. A conditional use permit for any conditionally permitted check cashier and/or check-cashing activity as defined in Section 17.10.365 of the Oakland Planning Code may~~

only be granted 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 performance standards:

1. ~~That each check cashier and or check cashing activity be located not less than one thousand (1,000) feet from the nearest check cashier and check cashing activity within the city of Oakland.~~
2. ~~That each check cashier and or check cashing activity be a minimum of five hundred (500) feet from the following activities, which on the date of an application for check cashier and/or check cashing activity had a vested right under California law to operate:~~
  - a. ~~Community education civic activities,~~
  - b. ~~State or federally chartered bank, savings association, credit union, or industrial loan company,~~
  - c. ~~Community assembly civic activities, or~~
  - d. ~~Recreational assembly civic activities or~~
  - e. ~~Alcoholic beverage sales commercial activities, excluding full service restaurants and alcoholic beverage sales commercial activities 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. (Note that this precludes combining check cashing with alcoholic beverage sales commercial activities because alcoholic beverage sales commercial activities are always considered a primary activity and therefore subject to this distance standard).~~
3. ~~That each check cashier and or check cashing activity meets the following performance standards and that these performance standards are included as standard conditions of approval. These performance standards may be amended or expanded by Staff and/or the Planning Commission as they are applied to individual locations and projects:~~
  - a. ~~A lighting plan shall be reviewed and approved by the Zoning Administrator prior to issuing building permits and installed prior to establishing the activity. Exterior lighting shall be provided on all frontages. Such lighting shall be designed to illuminate persons standing outside such that they can be identified fifty (50) feet away. Exterior lighting shall be designed so as not to cast glare offsite.~~
  - b. ~~Storefronts shall have glass or transparent glazing in the windows and doors. No more than ten (10) percent of any window or door area shall be covered by signs, banners, or opaque coverings of any kind so that law enforcement personnel will have clear view of the entire public area in the premises from the public sidewalk.~~
  - c. ~~Days and hours of operation shall be, no earlier than 7:00 AM nor later than 7:00 PM Monday through Saturday. Patrons shall be discouraged from loitering prior to, during and/or after hours. At least one no loitering sign with letters at least two inches tall shall be installed and maintained where it will be most visible to pedestrians on each side of the building in which the activity is located including, but not limited to, street frontages and parking lots.~~
  - d. ~~Graffiti shall be removed within seventy-two (72) hours of application.~~
  - e. ~~No exterior pay telephones shall be permitted.~~
  - f. ~~Litter shall be removed at least two times daily or as needed from in front of and for twenty (20) feet beyond the building along adjacent street(s). All "street furniture" such as crates or mattresses shall be removed daily or as needed.~~
  - g. ~~The applicant shall post at least one certified uniformed security guard on duty at all times the business is open. The security guard shall patrol the interior and all exterior portions of the property under control of the owner or lessee including, but not limited to, parking lots and any open public spaces such as lobbies.~~

~~17.102.440 - Special regulations for primary collection centers in all zones.~~

- ~~A. Applicability. This Section applies to Primary Collection Centers, as defined in Section 17.10.585 "Recycling and Waste-Related Industrial Activities," that are located in any zone. Where there is any apparent conflict between these regulations and regulations contained elsewhere in this Title 17, and/or with conditions of approval, the more stringent shall govern.~~
- ~~B. Performance Standards. In addition to the performance standards set forth in Chapter 17.120, the performance standards specified in Subsection 17.73.035-B shall be uniformly applied, as applicable, and the relief from the performance standards in Subsection 17.73.035-C shall apply to all Primary Collection Centers.~~

**17.102.450 - Special regulations applying to laudromats.**

The following regulations shall apply in all zones to the ~~Consumer Service Commercial Activity of~~ laundromats:

- A. ~~Conditional Use Permit Required.~~ All new or expanded uses-laundromats shall be required to obtain a Conditional Use Permit as specified in Chapter 17.134
- B. ~~Restriction on Over-Concentration of Laundromats.~~ No new or expanded laundromat use shall be located closer than five hundred (500) feet from any existing laundromat as measured by the closest radial distance between buildings.
- C. ~~Standards.~~ The following standards shall apply to all new or expanded Laundromat uses:
1. ~~On-Site Attendant.~~ An employee shall be on the premises during all business hours.
  2. ~~Security Cameras.~~ Security cameras shall be operated on the premises during all business hours and recordings shall be maintained for a minimum of seven days.
  3. ~~When located adjacent to or below a dwelling unit the following shall be minimized:~~
    - a. ~~Noise shall not exceed the limits set forth in Chapter 17.120, Performance Standards.~~
    - b. ~~Vibrations shall not exceed the limits set forth in Chapter 17.120, Performance Standards.~~
    - c. ~~Venting shall be directed away from residential dwelling units.~~
  4. ~~Transparency.~~
    - a. ~~A minimum of sixty 60-percent (60%) of the building facade along a street or streets shall be glass (windows and/or doors).~~
    - b. ~~Window Clarity. Ninety percent (90%) of area of windows shall remain clear to allow views into the commercial space.~~
  5. ~~Exterior Illumination.~~ Outdoor lighting shall be attached to the exterior of the facility containing the laundromat establishment and operated after dusk so that the exterior of the premises are discernible.
  6. ~~Off-Site Impacts.~~
    - a. ~~Litter and debris shall be cleared from the premises and the adjacent right-of-way and sidewalks of the property at least once daily or as needed to maintain a litter free environment.~~
    - b. ~~Graffiti shall be removed from the exterior of the building within 72 hours of application.~~
    - c. ~~At least two "No Loitering" signs shall be posted on the building facade and other visible locations around the site. Signs shall be of a permanent nature and have letters a minimum of two inches in height. The owner, manager, and employees of this~~

establishment shall make appropriate efforts to discourage loitering from the premises including calling the police to ask that they remove loiters who refuse to leave. Persons loitering in the vicinity of the exterior of the establishment with no apparent business for more than ten minutes shall be asked to leave. Techniques discussed in the manual entitled "Loitering: Business and Community Based Solutions" shall be used.

Chapter 17.103 – SPECIAL REGULATIONS AND FINDINGS FOR CERTAIN USE CLASSIFICATIONS

Sections:

Article I –Residential Activities

17.103.010 - Residential Care, Service-Enriched Permanent Housing, Transitional Housing, and Emergency Shelter Residential Activities.

Article II - Civic Activities

17.103.020 - Special Health Care Civic Activities.

Article III - Commercial Activities

17.103.030 - Convenience Market and Fast-Food Restaurant, and Alcoholic Beverage Sales Commercial Activities.

17.103.040 - Check Cashier and Check Cashing Commercial Activities.

17.103.050 - Transient Habitation Commercial Activities.

Article IV - Industrial Activities

17.103.060 - Recycling and Waste-Related Industrial Activities -- Primary Recycling Collection Centers.

Article V –Agricultural and Extractive Activities

17.103.070 - Mining and Quarrying Extractive Activities.

Article VI –Residential Facilities

17.103.080 - One-Family Dwelling with Secondary Unit Residential Facilities.

Article VII –Nonresidential Facilities

17.103.090 - Sidewalk Café Nonresidential Facilities.

17.103.100 - Drive-Through Nonresidential Facilities.

Article IX –Sign Facilities

17.103.110 – Sign Facilities.



## Article X –Telecommunications Facilities

### 17.103.120 – Telecommunications Facilities.

## Article I –Residential Activities

### 17.103.010 - Residential Care, Service-Enriched Permanent Housing, Transitional Housing, and Emergency Shelter Residential Activities.

- A. Additional Use Permit Criteria. A conditional use permit for any conditionally permitted Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity may only be granted 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 additional use permit criteria:
1. That staffing of the facility is in compliance with any State Licensing Agency requirements;
  2. That if located in a residential zone, the operation of buses and vans to transport residents to and from off-site activities does not generate vehicular traffic substantially greater than that normally generated by Residential Activities in the surrounding area;
  3. That if located in a residential zone, the on-street parking demand generated by the facility due to visitors is not substantially greater than that normally generated by the surrounding Residential Activities;
  4. That if located in a residential zone, arrangements for delivery of goods are made within the hours that are compatible with and will not adversely affect the livability of the surrounding properties;
  5. That the facility's program does not generate noise at levels that will adversely affect the livability of the surrounding properties.
- B. Restriction on Overconcentration of Resident Care, Service-Enriched Permanent Housing, Transitional Housing, and Emergency Shelter Residential Activities. No Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility.

## Article II - Civic Activities

### 17.103.020 – Special Health Care Civic Activities.

- A. Additional Use Permit Criteria. A conditional use permit for any conditionally permitted Special Health Care Civic Activities may only be granted 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 each Special Health Care Civic activity be no located no less than two thousand five hundred (2,500) feet from the nearest Special Health Care Civic activity within the City of Oakland.

2. That each Special Health Care Civic activity be a minimum of five hundred (500) feet from the following activities:
  - a) Schools K—12
  - b) Licensed Transitional Housing
  - c) Licensed Service Enriched Housing
  - d) Licensed Emergency Shelters
  
3. That each Special Health Care Civic activity meets the following Performance Standards and that these performance standards be included as standard conditions of approval. These performance standards may be amended or expanded by the Planning Commission as they are applied to individual locations and projects:
  - a) A lighting plan shall be reviewed and approved by the Zoning Administrator. Exterior lighting shall be provided on all frontages. Such lighting shall be designed to illuminate persons standing outside such that they can be identified fifty (50) feet away. Exterior lighting shall be designed so as not to cast glare offsite.
  - b) A plan for any exterior changes and signage shall be reviewed and approved by the Zoning Administrator.
  - c) Storefronts shall have glass or transparent glazing in the windows. No more than thirty percent (30%) of any window area shall be covered by signs, banners, or opaque coverings of any kind.
  - d) Final floor plans shall be reviewed and approved by the Zoning Administrator prior to issuance of building permits.
  - e) Fenced yards shall be fenced with fencing a minimum of six (6) feet tall. Such fencing shall be of an open design.
  - f) One non-flammable trash container and ashtray shall be located in front of the facility for smokers.
  - g) Clients shall not be allowed to loiter outside the building on the sidewalk or street. Clients waiting to be served shall be accommodated inside the building.
  - h) Days and hours of operation shall be Monday through Friday, 8:00 a.m. to 6:00 p.m. Clients shall be discouraged from loitering prior to or after hours. At least one no loitering sign with letters at least two (2) inches tall shall be installed and maintained where it will be visible to pedestrians in front of the property. These performance standards and any conditions of approval, days and hours of operation, phone contact, and after hours phone contacts shall be posted where visible to the public 24 hours a day.
  - i) Graffiti shall be removed within 72 hours of application. No exterior pay telephones shall be installed.
  - j) Litter shall be removed at least two times daily or as needed from in front of and for twenty (20) feet beyond the building along adjacent street(s). All "street furniture" such as crates or mattresses shall be removed daily or as needed.
  - k) Prior to issuance of building permits or commencement of use, applicant shall submit a needle retrieval plan for all Special Health Care Civic activities that provide needle exchange services on site. The plan shall, at a minimum, detail the protocol for the exchange of clean needles for dirty needles and for retrieving used needles within three hundred (300) feet of the site on a regular basis.

### Article III - Commercial Activities

#### 17.103.030 - Fast-Food Restaurant, Convenience Market, and Alcoholic Beverage Sales Commercial Activities.

- A. Use Permit Criteria for Fast-Food Restaurants, Convenience Markets, and Establishments Selling Alcoholic Beverages. A conditional use permit for any conditionally permitted Fast-Food Restaurant, Convenience Market, 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 additional 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 (10) p.m. and seven (7) 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 measured between closest building walls, except:
  - a. On-sale retail licenses located in the Central District (defined for the purposes of this Chapter) as within the boundaries of I-980 and Brush street to the west; both sides of 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. Off-sale retail licenses located in the Jack London district (defined for the purposes of this Chapter as within the boundaries of Martin Luther King Jr. Way to the west, I-880 to the north; the Lake Merritt Channel to the east; and the Estuary to the south); or
  - c. If the activity is in conjunction with a Full-Service Restaurant Commercial Activity; or
  - d. Establishments with twenty-five (25) or more full time equivalent (FTE) employees or a total floor area of twelve thousand (12,000) square feet or more.
2. Sale of alcoholic beverages in conjunction with a Full Service Restaurant Commercial Activity and located within any of the following restricted street 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: International Boulevard; Foothill Boulevard; MacArthur Boulevard and West MacArthur Boulevard; that portion of San Pablo Avenue lying between Highway I-980 and I-580; 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 Commercial Activity located within an Alcoholic Beverage Sales

license overconcentrated area shall only be granted, and a finding of Public Convenience or Necessity made, 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 customarily associated with, and are appropriate, incidental, and subordinate to, a principal activity on the lot.
4. In addition to the above criteria, projects outside the Central District and Hegenberger 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 twelve thousand (12,000) square feet or more:
- a. The proposed project is not within one thousand (1,000) feet of another alcohol outlet (not including Full Service Restaurant Commercial Activities), 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 percent (20%), the average of calls for police service in police beats Citywide during the preceding one calendar year.
5. See Chapter 17.156 for Deemed Approved Alcoholic Beverage Sale regulations.

C. 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 District (defined for the purposes of this Chapter as within the boundaries of I-980 and Brush Street to the west; both sides of 27th Street to the North; Harrison Street/Lake Merritt 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 CR-1 Regional 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.
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. 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 (4) 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 Building Official, pursuant to Chapter 8.24 of the Oakland Municipal Code (O.M.C.) and those sections of the Oakland Building 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.

#### **17.103.040 – Check Cashier and Check Cashing Commercial Activities.**

A. Additional Use Permit Criteria. A conditional use permit for any conditionally permitted Check Cashier and Check Cashing Commercial activity may only be granted 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 performance standards:

1. That each Check Cashier and Check Cashing Commercial activity be located not less than one thousand (1,000) feet from the nearest Check Cashier and Check Cashing Commercial activity within the city of Oakland.
2. That each Check Cashier and Check Cashing Commercial activity be a minimum of five hundred (500) feet from the following activities, which on the date of an application for Check Cashier and Check Cashing Commercial activity had a vested right under California law to operate:
  - a. Community education civic activities.
  - b. State or federally chartered bank, savings association, credit union, or industrial loan company.
  - c. Community assembly civic activities, or
  - d. Recreational assembly civic activities or
  - e. Alcoholic beverage sales commercial activities, excluding full service restaurants and alcoholic beverage sales commercial activities 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. (Note that this precludes combining Check Cashier and Check Cashing Commercial activity with alcoholic beverage sales commercial activities because alcoholic beverage sales commercial activities are always considered a primary activity and therefore subject to this distance standard).

3. That each Check Cashier and Check Cashing Commercial activity meets the following performance standards and that these performance standards are included as standard conditions of approval. These performance standards may be amended or expanded by Staff and/or the Planning Commission as they are applied to individual locations and projects:

a. A lighting plan shall be reviewed and approved by the Zoning Administrator prior to issuing building permits and installed prior to establishing the activity. Exterior lighting shall be provided on all frontages. Such lighting shall be designed to illuminate persons standing outside such that they can be identified fifty (50) feet away. Exterior lighting shall be designed so as not to cast glare offsite.

b. Storefronts shall have glass or transparent glazing in the windows and doors. No more than ten percent (10%) of any window or door area shall be covered by signs, banners, or opaque coverings of any kind so that law enforcement personnel will have clear view of the entire public area in the premises from the public sidewalk.

c. Days and hours of operation shall be, no earlier than 7:00 AM nor later than 7:00 PM Monday through Saturday. Patrons shall be discouraged from loitering prior to, during and/or after hours. At least one no loitering sign with letters at least two (2) inches tall shall be installed and maintained where it will be most visible to pedestrians on each side of the building in which the activity is located including, but not limited to, street frontages and parking lots.

d. Graffiti shall be removed within seventy-two (72) hours of application.

e. No exterior pay telephones shall be permitted.

f. Litter shall be removed at least two times daily or as needed from in front of and for twenty (20) feet beyond the building along adjacent street(s). All "street furniture" such as crates or mattresses shall be removed daily or as needed.

g. The applicant shall post at least one certified uniformed security guard on duty at all times the business is open. The security guard shall patrol the interior and all exterior portions of the property under control of the owner or lessee including, but not limited to, parking lots and any open public spaces such as lobbies.

#### **17.103.050 Transient Habitation Commercial Activities.**

A. A Conditional Use Permit for any Transient Habitation Commercial Activity may only be granted upon determination that the proposal conforms to the general use permit criteria (see Section 17.134.050) and to all of the following additional use permit criteria:

1. That the proposal is located in downtown, along the waterfront, near the airport, or along the I-880 freeway, and/or in an area with a concentration of amenities for hotel patrons, including restaurant, retail, recreation, open space and exercise facilities, and is well-served by public transit;

2. That the proposal considers the impact of the employees of the hotel or motel on the demand in the city for housing, public transit, and social services;

3. That the proposal is consistent with the goal of attracting first-class, luxury hotels in downtown, along the waterfront, near the airport, or along the I-880 freeway, which provide:

a. A minimum of one hundred (100) sleeping rooms;

- b. A full service restaurant providing three meals per day; and
- c. On-site recreational amenities, which may include an exercise room, swimming pool, and/or tennis courts;
- 4. That the proposed development will be of an architectural and visual quality and character which harmonizes and enhances the surrounding area, and that such design includes:
  - a. Site planning that insures appropriate access and circulation, locates building entries which face the primary street, provides a consistent development pattern along the primary street, and insures a design that promotes safety for its users;
  - b. Landscaping that creates a pleasant visual corridor along the primary streets with a variety of local species and high quality landscape materials;
  - c. Signage that is integrated and consistent with the building design and promotes the building entry, is consistent with the desired character of the area, and does not detract from the overall streetscape;
  - d. The majority of the parking located to the rear of the site and where appropriate is provided within a structured parking facility that is consistent, compatible and integrated into the overall development;
  - e. Appropriate design treatment for ventilation of room units as well as structured parking areas; and prominent entry features that may include attractive porte-cocheres;
  - f. Building design that enhances the building's quality with strong architectural statements, high quality materials particularly at the pedestrian level and appropriate attention to detail;
  - g. Lighting standards for hotel buildings, grounds and parking lots that are not be-overly bright and direct the downward placement of light.
- 5. That the proposed development provides adequately buffered loading areas and to the extent possible, are located on secondary streets;
- 6. The proposed operator of the facility shall be identified as part of the project description at the time of application.

B. See Chapter 17.157 for Deemed Approved Hotel regulations.

#### Article IV –Industrial Activities

##### 17.103.060 - Recycling and Waste-Related Industrial Activities -- Primary Recycling Collection Centers.

- A. Applicability. This Section applies to Recycling and Waste-Related Industrial Activities -- Primary Collection Centers that are located in any zone. Where there is any apparent conflict between these regulations and regulations contained elsewhere in this Title 17, and/or with conditions of approval, the more stringent shall govern.
- B. Performance Standards. In addition to the performance standards set forth in Chapter 17.120, the performance standards specified in Subsection 17.73.035.B. shall be uniformly applied, as applicable, and the relief from the performance standards in Subsection 17.73.035.C. shall apply to all Primary Collection Centers.

## Article V –Agricultural and Extractive Activities

### 17.103.070 - Mining and Quarrying Extractive Activities.

See Chapter 17.155 for special regulations regarding Mining and Quarrying Extractive Activities.

## Article VI –Residential Facilities

### 17.103.080 - One-Family Dwelling with Secondary Unit Residential Facilities.

- 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) square feet or fifty percent (50%) 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.
  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.
  6. 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.
  7. 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 percent (50%) 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.

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).

#### Article VIII – Nonresidential Facilities

##### 17.103.090 - Sidewalk Café Nonresidential Facilities.

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 (5) 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 (5) 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.

B. Standards for Sidewalk Cafes.

1. Sidewalk Cafes shall not encroach upon any public right-of-way unless a minimum of five and one-half (5½) 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.

#### **17.103.100 - Drive-Through Nonresidential Facilities.**

- A. Conditional Use Permit for any Drive-Through Nonresidential Facility may only be granted upon determination that the proposal conforms to the general use permit criteria (see Section 17.134.050) and to all of the following additional use permit criteria:
  1. That the proposed facility will not impair a generally continuous wall of building facades;
  2. That the proposed facility will not result in weakening the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of a shopping frontage;
  3. That the proposed facility will not directly result in a significant reduction in the circulation level of service of adjacent streets.
- B. A driveway serving as a vehicle stacking or queuing lane for a drive-through window in a Drive-Through Nonresidential Facility shall be separated from parking areas and shall not be the only entry or exit lane on the premises. Such facility shall be so situated that any vehicle overflow from it shall not spill onto public streets or the major circulation aisles of any parking lot. Such facility shall have durable, all-weather surface; shall have reasonable disposal of surface waters by grading and drainage; and shall be permanently maintained in good condition.
- C. Each vehicle space comprising a stacking or queuing lane for a drive-through window drive-through window in a Drive-Through Nonresidential Facility shall be a minimum of ten (10) feet in width by twenty (20) feet in length. Such a stacking or queuing lane shall have a minimum capacity of eight (8) vehicles.

#### **Article IX – Sign Facilities**

##### **17.103.110 – Sign Facilities.**

See Chapter 17.104 for special regulations regarding Sign Facilities.

Article X – Telecommunications Facilities

17.103.120 – Telecommunications Facilities.

See Chapter 17.128 for special regulations regarding Telecommunications Facilities.

**17.104.020 - General limitations on signs—RU-4 and RU-5 zones, and all Commercial and Industrial zones and the RU-4 and RU-5 zones.**

The following limitations shall apply to the specified signs in the RU-4 and RU-5 zones and 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 exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136.
- B. Permitted Aggregate Sign Area.
  - 1. In the RU-4 and RU-5 zones and all Commercial 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. 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. In all Industrial 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. 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.
  - 3. Exception to Aggregate Sign Area Limits. The following exceptions to the aggregate sign area limits may be approved:
    - a. 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, twenty (20) square feet of sign area for each tenant space in the multi-tenant building or complex without existing signage on site is allowed if approved pursuant to the small project design review procedure in Chapter 17.136.
    - b. Signs conforming to a Master Sign Program approved pursuant to Section 17.104.070.
- F. Development Signs. In RU-4 and RU-5 zones and all Commercial and Industrial 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 (2) 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.
- 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.
- 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 (4) times per calendar year and a maximum of five (5) 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 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.

**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:

- 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 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. 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.
  1. Exception to Aggregate Sign Area Limits. The following exceptions to the aggregate sign area limits may be approved:
    - a. 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, twenty (20) square feet of sign area for each tenant space in the multi-tenant building or complex without existing signage on site is allowed if approved pursuant to the small project design review procedure in Chapter 17.136.
    - b. Signs conforming to a Master Sign Program approved pursuant to Section 17.104.070.
- 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.

**17.104.040 - Limitations on Signs within one thousand (1,000) 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 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.

**17.104.070 - Master Sign Programs.**

- C. Review of individual signs upon approval of a Master Sign Program. Once a Master Sign Program is approved for any multi-tenant building or complex, the following provisions shall apply:
  - 1. Sign applications determined to conform to the provisions of an approved Master Sign Program shall be exempt from design review as is otherwise specified in Chapter 17.136.
  - 2. Sign applications determined to not conform to an approved Master Sign Program may only be granted upon approval of a revision to the original Master Sign Program conditional use permit.

**17.106.030 - Maximum density and floor-area ratio on lots containing both Residential and Nonresidential Facilities.**

- A. Portion of Lot Area Used in Computing Density in the Central Business District and Jack London District. For mixed use projects in the Central Business District CBD-zones and Jack London district, the allowable intensity of development shall be measured according to both the maximum nonresidential Floor Area Ratio (FAR) allowed by the zone and the maximum residential density allowed by the zone. The total lot area shall be used as a basis for computing both the maximum nonresidential FAR and the maximum residential density. ~~may be measured according to the maximum FAR allowed by the zone without a separate residential density calculation, provided the maximum number of units pursuant to the residential density allowed by the General Plan and Estuary Policy Plan is not exceeded.~~ (The Central Business District is that area identified as part of the Land Use and Transportation Element Land Use Diagram of the General Plan. The Jack London district is that area identified as part of the Estuary Policy Plan and adopted as part of the General Plan-).
- B. Portion of Lot Area Used in Computing Density in Areas other than the Central Business District and Jack London District. For mixed use projects located in areas other than the Central Business District CBD-zones and Jack London district, in which a maximum Floor Area Ratio (FAR) is generally prescribed for Nonresidential Facilities, no portion of lot area used to meet the density requirements for a Residential Facility shall be used as a basis for computing, through such Floor Area Ratio, the maximum amount of floor area for any Nonresidential Facility on the same lot, unless the total nonresidential floor area on the lot is less than three thousand (3,000) square feet.
- C. Different Floor-Area Ratios. In all zones in which the maximum Floor-Area Ratio (FAR) generally prescribed for Residential Facilities is different from that for Nonresidential Facilities, the overall maximum Floor-Area Ratio of any lot containing both Residential and Nonresidential Facilities shall be the greater of the two prescribed Floor-Area Ratios. However, the total floor area actually devoted to each class of facility shall not exceed the maximum ratio prescribed for that class.

**17.106.050 - Use permit criteria for increased density or floor-area ratio with acquisition of abutting development rights.**

A conditional use permit for an increase in the number of living units or Floor-Area Ratio (FAR) upon acquisition of nearby development rights, wherever such increase is provided for in the applicable individual zone regulations, 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 applicant has acquired development rights from the owners of abutting lots, restricting the number of living units or the amount of floor area which may be developed thereon so long as the facilities proposed by the applicant are in existence;
- B. That the owners of all such abutting lots shall prepare and execute an agreement, approved as to form and legality by the City Attorney and filed with the Alameda County Recorder, incorporating such restriction;
- C. That the resultant reduction in potential number of living units or amount of floor area on the abutting lots is sufficient in amount and is so located as to cause the net effect upon the surrounding neighborhood to be substantially equivalent to that of the development which would be allowable otherwise.

**17.107.020 - Definitions.**

- A. **Affordable Housing.** "Affordable housing" shall mean that the relevant housing is available on terms such that the housing costs are less than a specified percentage of the gross income of households within a particular income category (adjusted for household size, depending on the number of bedrooms in the living unit) as determined for the Oakland Primary Metropolitan Statistical Area (PMSA). For a rental unit, housing costs include rent and a reasonable allowance for utilities. For a for-sale unit, housing costs include loan principal, loan interest, property and mortgage insurance, property taxes, home owners' association dues and a reasonable allowance for utilities.
1. Where units are targeted as being affordable to low income households, housing costs for rental units must be equal to or less than thirty percent (30%) of the gross monthly income, adjusted for household size, of sixty percent (60%) of the median income for the Oakland PMSA. Housing costs for for-sale units must be equal to or less than thirty ~~(30)~~-percent (30%) of the gross monthly income, adjusted for household size, of seventy percent (70%) of the median income.
  2. Where units are targeted as being affordable to very low income households, housing costs for rental units and for for-sale units must be equal to or less than thirty percent (30%) of the gross monthly income, adjusted for household size, of fifty percent (50%) of the median income for the Oakland PMSA.
  3. Where units are targeted as being affordable to moderate income households, housing costs for rental units must be equal to or less than thirty percent (30%) of the gross monthly income, adjusted for household size, of one hundred twenty percent (120%) of the median income for the Oakland PMSA. Housing costs for for-sale units must be equal to or less than thirty-five percent (35%) of the gross monthly income, adjusted for household size, of one hundred twenty percent (120%) of the median income.
- E. **Moderate, Low and Very Low Income Households.** "Moderate, low and very low income households" means those households whose income matches levels determined periodically by the U.S. Department of Housing and Urban Development, based on the Oakland Primary Metropolitan Statistical Area (PMSA) median income levels by family size, under which:
1. "Moderate income" is defined as greater than eighty percent (80%) to one-hundred-twenty (120) percent of median income.
  2. "Low income" is defined as greater than fifty percent (50%) to eighty percent (80%) of median income.
  3. "Very low income" is defined as less than fifty percent (50%) of median income.

**17.107.040 - Findings required.**

A. **Density Bonus.**

Whenever action is taken on an application for design review of a housing development of at least five units which also seeks approval of a density bonus, the city shall grant the applicant a density bonus and, unless findings justifying the denial of an incentive are adopted, one density incentive, as set forth in Section 17.107.020(C), if the applicant proposes to build one of the following. Nothing in this section shall preclude the requirement for design review as provided for in the individual zone regulations:

1. Where the request is for a density bonus of twenty-five ~~(25)~~-percent (25%), or less if requested by the applicant, and the applicant proposes that:
  - a. Twenty ~~(20)~~-percent (20%) of the total housing units shall be affordable to low income households; or



- b. Ten ~~(40)~~ percent (10%) of the total housing units shall be affordable to very low income households; or
  - c. Fifty ~~(50)~~ percent (50%) of the total housing units shall be affordable to qualifying residents as defined in Section 51.3 of the Civil Code (senior citizens); or
  - d. Fifty ~~(50)~~ percent (50%) of the total housing units are affordable to moderate income households and an additional ten percent of the total housing units are affordable to low income households and the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 except that the density bonus cannot exceed the maximum density in the General Plan.
2. Where the request is for a density bonus of ten ~~(40)~~ percent (10%), or less if requested by the applicant, and the project is a residential condominium development, and twenty ~~(20)~~ percent (20%) of the total housing units are and will continue to be affordable to moderate income households.
3. Where the request is for a density bonus of greater than twenty-five ~~(25)~~ percent (25%), but not more than one hundred ~~(100)~~ percent (100%), the reviewing body shall find that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and that the proposal provides additional housing units that are affordable to very low income, low income or moderate income households, beyond the minimum requirements described above, proportional to the additional density bonus. Proposals for senior citizen housing projects that conform to the requirements of Section 17.106.060 may request a total density bonus, over the allowable base density, of up to one hundred (100) percent.

Chapter 17.108 - GENERAL HEIGHT, YARD, AND COURT REGULATIONS

Sections:

17.108.010 - Height restrictions on lots abutting property in an RH, RD, or RM zone.

17.108.020 - Different maximum height in certain situations.

17.108.030 - Allowed projections above height limits.

17.108.080 - Minimum side yard opposite living room windows.

17.108.120 - Minimum court between opposite walls on same lot.

17.108.130 - Exceptions to required openness of minimum yards and courts.

17.108.140 - Fences, dense hedges, barrier, and similar freestanding walls.

17.108.150 - Retaining walls

17.108.030 - Allowed projections above height limits.

The height restrictions prescribed for facilities in the applicable individual zone regulations and development control maps and in Sections 17.108.010 and 17.108.020 may be exceeded in accordance with the following table. However, facilities within required minimum yards and courts shall also be subject to the applicable provisions of Section 17.108.130.

Facilities Allowed Above the Prescribed Height	Restrictions on Facility, or Portion Thereof, Above the Prescribed Height		
	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	Maximum Vertical Projection Above the Prescribed Height	Minimum Horizontal Distance from any Abutting Residentially Zoned Lot
A. Chimneys, ventilators, plumbing vent stacks, water tanks, cooling towers, machinery rooms, and other equipment and appurtenances which are not provided for elsewhere in this section. (For screening around these, see below.)	Ten percent (10%) percent, minus any percentage covered pursuant to subsection B of this section.	Ten (10) feet, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134	Fifteen (15) feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four (4) feet.
B. Elevator or stair towers; penthouses, excluding those containing any living unit; stage or scenery lofts in theatres or performance venues; skylights and dormer windows located on principal and accessory Nonresidential Facilities; and rooftop fenced or walled spaces which do not qualify elsewhere in this section.	Ten percent (10%) percent, minus any percentage covered pursuant to subsection A of this section.	Twelve (12) feet, except upon the granting of a conditional use permit.	Ten (10) feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four (4) feet.
C. Skylights, dormers and gable ends up to fifteen (15) feet in width located on principal and accessory Residential Facilities, except accessory facilities permitted in minimum yards or courts pursuant to Section 17.108.130K.	Ten percent (10%) percent, minus any percentage covered pursuant to subsection A of this section.	Ten (10) feet for dormers and gable ends and one foot for skylights, but in all cases, no higher than the maximum height of the roof section on which they are located, except that skylights on a flat roof (slope 1:12 or less) may extend one (1) foot above the roof	Ten (10) feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four (4) feet.
D. Decorative features such as spires, bell towers, domes, cupolas, obelisks, and monuments.	Ten percent (10%) percent, minus any percentage covered pursuant to	Fifteen (15) feet, except upon the granting of a conditional use permit.	Fifteen (15) feet, except upon the granting of a conditional use permit; but no restriction if the vertical

	subsection A or B of this section.		projection above the prescribed height does not exceed four (4) feet.
E. Fire escapes, catwalks, and open railings required by law.	No restriction.	No restriction.	No restriction.
F. Rooftop recreational, observation, seating, outdoor dining, clothesline, and parking facilities, unroofed themselves except for incidental sunshades, wind-screens, and similar devices; rooftop landscaping, other than trees; and unroofed open stairs and rooftop open fencing which do not qualify elsewhere in this section.	No restriction.	Ten (10) feet, except upon the granting of a conditional use permit.	Fifteen (15) feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four (4) feet.
G. Eaves, awnings, balconies, open stairs, and similar lateral extensions of a building, where the prescribed height is expressed as a ratio to some horizontal setback.	No restriction.	Four (4) feet in the case of Section 17.108.010 and eight (8) feet otherwise.	No restriction.
H. Microwave and satellite dishes which are over one (1) meter <del>three (3) feet</del> in diameter and located in any residential zone or within one hundred fifty (150) feet from the nearest boundary of any residential zone, subject where applicable to the provisions of Section 17.102.240	Ten percent (10%) percent-minus any percentage covered pursuant to subsection A or B of this section.	Seven (7) feet, except upon the granting of a conditional use permit.	Ten (10) feet, except upon the granting of a conditional use permit.
I. Radio and television masts antennas, other than micro-wave and satellite dishes.	No restriction.	Fifteen (15) feet, except upon the granting of a conditional use permit.	Five (5) feet, except upon the granting of conditional use permit.
J. Trees; flagpoles; weather vanes; microwave and satellite dishes which are one (1) meter or less in diameter; and utility poles and lines.	No restriction.	No restriction.	No restriction.
K. Special Signs; and other Signs if flat against the surface of a facility authorized above.	No special restriction, but subject to the regular height and other limitations applicable to Signs.	No special restriction, but subject to the regular height and other limitations applicable to Signs.	No special restriction, but subject to the regular height and other limitations applicable to Signs.

Any conditional use permit under subsection H of this section shall be subject to the same use permit criteria as are prescribed in Section 17.102.240.

**17.108.080 - Minimum side yard opposite living room windows.**

On each lot containing Residential Facilities with a total of two or more living units, except in the case of a One-Family Dwelling with Secondary Unit, a side yard with the minimum width prescribed hereinafter shall be provided opposite any legally required window of a living room in a Residential Facility wherever such window faces any interior side lot line of such lot, other than a lot line abutting an alley, path, or public park. The side yard prescribed by this section is not required on other lots or in other situations. Such yard shall have a minimum width of eight (8) feet, plus two (2) feet for each story at or above the level of the aforesaid window; provided, however, that such side yard width shall not be required to exceed ten percent (10%) percent-of the lot width in the RU-3, RU-4, RU-5, R-80, CN, CC, C-40, C-45, CBD, S-1, S-2, S-15, and D-KP zones and fifteen percent (15%) of the lot width in all other zones, except that in no case shall such side yard width be less than five (5) feet. The side yard required by this section shall be provided opposite the legally required window and opposite that portion of the wall containing

such window, or of any extension of such wall on the same lot, for a distance of not less than eight (8) feet in both directions from the centerline of such legally required window, and at and above finished grade or the floor level of the lowest story containing such a window, whichever level is higher. Such yard shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130.

**17.108.130 - Exceptions to required openness of minimum yards and courts.**

Every part of each required minimum yard and court shall be open and unobstructed from finished grade, or where applicable from such other specified level at which the yard or court is required, to the sky except for the facilities allowed in the yard or court by the following table. Furthermore, in no case shall more than fifty percent (50%) of the horizontal area of any required minimum rear yard be covered by any facilities, other than trees, which extend more than six (6) feet above the level at which the rear yard is required. Wherever a yard is required only for a particular facility, it may be provided at the level of the lowest story containing such facility; provided that where such facility is a Residential Facility, such level shall be that of the lowest story, or portion thereof, containing any living unit. Where the height of facilities within minimum yards or courts is not specifically further limited by the following table, the facilities shall conform to the regular height restrictions, if any, applicable to facilities where they are located. Facilities within minimum yards and courts shall also be subject to any applicable screening requirements or other controls prescribed by the buffering regulations in Chapter 17.110 or by the pertinent development control maps or individual zone regulations, which in some zones require that minimum front yards, or side yards on the street side of a corner lot, be landscaped.

Facilities	Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)				
	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
T. Retaining walls; and earthen mounds, embankments, and other fill.	In any yard or court, provided that such facilities comply with the provision of <u>Section 17.108.150. 17.102.400(E)</u> .				

**17.108.140 - Fences, dense hedges, barrier, and similar freestanding walls.**

B. Residential zones and Residential Facilities. The provisions of this section apply to all properties located in all residential zones, and to all properties located in any zone containing Residential 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:
  - a. In any minimum front yard, or any minimum side yard on the street side of a corner lot: forty two (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) Thirty-five (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 primary building on the lot; or
    - ii. Upon the granting of small project design review pursuant to the small project design review procedure in Chapter 17.136.

- b. In any minimum rear yard if within ten (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 ten (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, ~~see also Section 17.102.420.~~
  - b. Chain link fencing is not allowed to exceed forty-two (42) inches in height in the following locations:
    - i. Street-fronting yards; or
    - ii. Interior side yards if closer to the front lot line than the front wall of the 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 OS, S-1, S-2, S-3, and S-15 zones. The provisions of this subsection apply to all properties fences, dense hedges, barrier and similar freestanding walls, but excluding retaining walls, located with in all commercial zones and in the OS, 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 ten (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 ten (10) feet may only be permitted in these locations upon the granting of small project design review pursuant to the small project design review procedure in Chapter 17.136.
  - b. The maximum height of any fence, dense hedge, barrier, or similar freestanding wall elsewhere on a lot shall be ten (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, or attached to the exterior of any building or similar facility. ~~see also Section 17.102.420.~~
- 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. Industrial zones. The provisions of this subsection apply to all properties fences, dense hedges, barrier and similar freestanding walls located with in all industrial zoning districts.
1. Height:
- a. The maximum height of any fence, dense hedge, barrier or similar freestanding wall located within ten (10) feet of any abutting property located within a residential zone shall be eight (8) feet. A fence higher than eight (8) feet but no more than ten (10) feet may only be permitted in these locations upon the granting of small project design review pursuant to the small project design review procedure in Chapter 17.136.

**17.110.040 - Special buffering requirements.**

- A. **Open Storage Areas on Same Lot as Residential Facility—Screening Required Within Three Years.** In all zones, on any lot which contains both a Residential Facility and any area devoted to open storage or display of goods or materials, said open storage or display area shall be screened from all abutting lots, streets, alleys, and paths, and private streets or other ways described in Section 17.106.020, by dense landscaping not less than five and one-half (5½) feet high and not less than three (3) feet wide, or by a decorative screening fence or wall not less than five and one-half (5½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said chapter. Existing open storage and display areas on such lots shall either be removed or provided with the above prescribed screening within three years after the effective date of the zoning regulations.
- C. **Location of Detached Accessory Buildings on Corner Lot Abutting a Key Lot in a Residential Zone.** In all zones, on any reversed corner lot which abuts a key lot located in any residential zone, no detached accessory building shall be located within five (5) feet from the abutting side lot line of the key lot. No detached accessory building on such lot shall be located closer to the street line on which the key lot fronts than a distance equal to the minimum front yard depth required on the key lot, unless the accessory building is at least thirty-five (35) feet from the side lot line of the key lot. An accessory building shall be considered detached from any principal building on the same lot if the only roofed attachment thereto consists of a breezeway or similar structure exceeding neither twelve (12) feet in height nor eight (8) feet in width.
- D. **Other Provisions.** Also applicable are the special provisions, if any, set forth in the applicable individual zone regulations and development control maps with respect to landscaping and screening and controls on parking, loading, and other specified uses; the requirements set forth in Section 17.102.140 for stables, corrals, and similar facilities; and the screening and other standards prescribed for required usable open space in the standards for required usable open space in Chapter 17.126.

**Chapter 17.114 - NONCONFORMING USES**

**Sections:**

**Article I - General Provisions**

- 17.114.010 - Title, purpose, and applicability.
- 17.114.020 - Definitions.
- 17.114.030 - Effect of Prior permits.
- 17.114.040 - Right to continue nonconforming use, subject to limitations.

**Article II - Nonconforming Activities**

- 17.114.050 - Nonconforming activity—Discontinuance.
- 17.114.060 - Nonconforming activity—Damage or destruction.
- 17.114.070 - Nonconforming activity—Allowed substitutions and other changes in activity.
- 17.114.080 - Nonconforming activity—Allowed alterations and extensions.
- 17.114.090 - Nonconforming massage service and adult entertainment activities—Discontinuance required within one year.
- 17.114.100 - Nonconforming scrap operation commercial activities—Discontinuance required within one year.

**Article III - Nonconforming Facilities**

- 17.114.110 - Nonconforming facility—Allowed alterations.
- 17.114.120 - Nonconforming facility—Damage or destruction.
- 17.114.130 - Nonconforming open storage on same lot as Residential Facility—Screening required within three years.
- 17.114.140 - Nonconforming open storage in CN, CR-1 and M-20 zones—Screening required within three years.
- 17.114.150 - Nonconforming Sign within 1,000 feet of, and primarily viewable from, rapid transit route—Removal required for certain categories.
- 17.114.160 - Reserved.
- 17.114.170 - Nonconforming Signs in CN-1 zone—Removal required.
- 17.114.180 - Nonconforming Signs in CR-1 zone—Removal required for certain categories.

## Article I - General Provisions

### 17.114.030 - Effect of Prior permits.

- A. Fundamental Vested Rights Not Abrogated By Code Adoption or Amendment. The adoption of, or amendment to, the Planning Code (Chapter 17), including without limitation, ordinances enacted pursuant to Oakland City Charter Section 213 (Emergency Ordinances) and/or ordinances enacted pursuant Government Code Section 65858 (Urgency Measure/moratoria), shall not abrogate any fundamental vested rights established pursuant to State law, including, without limitation, those established pursuant to the prior valid adoption and execution of a development agreement under Section 17.138.015 and the development agreement procedure in Chapter 17.138. Absent the prior establishment of such vested rights, any Planning Code adoption or amendment shall apply.
- B. Alcoholic Beverage Control Licenses. On premises for which a valid state of California Alcoholic Beverage Control license had been issued, and which premises had been used in the exercise of the rights and privileges conferred by the license at a time immediately prior to the effective date of the applicable provisions of Section 17.103.030, the premises may hereafter be used in the exercise of the same rights and privileges without requiring a conditional use permit or having to meet the provisions of the aforesaid section. The uses as they result that do not conform to the zoning regulations shall be deemed a nonconforming use and subject to the nonconforming use regulations, except as otherwise provided in Sections 17.114.020 and 17.114.030. For the purposes of this subsection, the word "premises" shall mean and include only the actual space within a building devoted to the sale of alcoholic beverages on said effective date.

~~A. Building and Sign Permits and Development Agreements. As specified in Sections 17.102.040 and 17.102.310, uses may in certain cases be established, constructed, altered, extended, substituted, moved, or otherwise changed on the basis of building or sign permits or development agreements although the zoning regulations or a rezoning or other amendment thereto would otherwise prohibit such use, development, or change.~~

~~B. Alcoholic Beverage Control Licenses. Notwithstanding the provisions of the nonconforming use regulations, said provisions shall not apply to the extent that they would preclude the exercise of the same rights and privileges as those conferred by a valid state of California Alcoholic Beverage Control license for premises which had been used in the exercise of such rights and privileges at a time immediately prior to the effective date of the applicable provisions of Section 17.102.210. For the purposes of this Subsection, the word "premises" shall mean and include only the actual space within a building devoted to the sale of alcoholic beverage.~~

~~(Prior planning code § 7402)~~

### 17.114.040 - Right to continue nonconforming use, subject to limitations.

- A. Right to Continue. A nonconforming use which is in existence on the effective date of the zoning regulations or of any subsequent rezoning or other amendment thereto which makes such use nonconforming, and which existed lawfully under the previous zoning controls, or which is subsequently developed or changed pursuant to Section 17.114.030, may thereafter be continued and maintained indefinitely, and the rights to such use shall run with the land, except as otherwise specified in the nonconforming use regulations. However, no substitution, extension, or other change in activities and no alteration or other change in facilities is permitted except as otherwise provided in Section 17.114.030 and except as specifically provided hereinafter.
- B. Limitation on Right to Continue Nonconforming Auto and Truck Related Activities in All Districts. As used in regards to all such nonconforming auto and truck related activities, the word "activity" refers solely to the unique function or operation occurring on the affected property, and does not refer to any other activity within an activity type with which that activity is grouped. Any right to substitute,



extend or alter an existing auto or truck related activity refers solely to the specific existing function or operation, and does not provide any right to substitute, extend or alter that activity with any other type of activity within the activity type with which the activity is grouped.

**Article II - Nonconforming Activities**

**17.114.050 - Nonconforming activity—Discontinuance.**

- A. Activity Nonconforming Because It Is Not a Permitted Activity. Other than: 1) an Alcoholic Beverage Sales Commercial Activity, 2) the sale of alcoholic beverages at any full-service restaurant in a location described by Section ~~17.102.240~~ 17.103.030(B), or 3) an Automotive Servicing or Automotive Repair and Cleaning Activity in the D-BR S-5 Zone, whenever an activity that is nonconforming wholly or partly because it is not itself a permitted activity where it is located, occupies four hundred (400) square feet or more of floor area and hereafter discontinues active operation for a continuous period of one year, or occupies less than four hundred (400) square feet of floor area and hereafter discontinues active operation for a continuous period of six months, and the facilities accommodating or serving such activity are not utilized for another activity during such period, said facilities may thereafter be utilized only for a normally permitted or conditionally permitted activity pursuant to Section 17.114.070A, except the former activity may be resumed after a longer period upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.
- B. Whenever an Alcoholic Beverage Sales Commercial Activity, or sale of alcoholic beverages at any full-service restaurant in a location described by Section ~~17.102.240~~ 17.103.030(B), discontinues active operation for more than ninety (90) days or ceases to be licensed by the State Department of Alcoholic Beverage Control, it may be resumed only upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. However, if another activity has replaced it, the former activity may thereafter be resumed if and only if such resumption would constitute an allowable change under Section 17.114.070A. Section 17.114.060 shall also apply.
- C. Whenever an Automotive Servicing or Automotive Repair and Cleaning Activity in the D-BR Zone discontinues active operation for more than six (6) months, it may be resumed only upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. However, if another activity has replaced it, the former activity may thereafter be resumed if and only if such resumption would constitute an allowable change under Section 17.114.070(A). Section 17.114.060 shall also apply.

**17.114.060 - Nonconforming activity—Damage or destruction.**

- A. Nonconforming Nonresidential Activities. Facilities accommodating or serving any nonconforming nonresidential activity which are damaged or destroyed to the extent of not more than seventy-five percent (75%) may be restored to their prior condition and occupancy. If such damage or destruction exceeds seventy-five percent (75%), the facilities may thereafter only be restored to accommodate or serve the prior nonconforming activity upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

**17.114.070 - Nonconforming activity—Allowed substitutions and other changes in activity.**

- A. Activity Nonconforming Because It Is Not a Permitted Activity. The activities specified in the following table may be substituted for any of the indicated activities which is nonconforming wholly or partly because it is not itself a permitted activity where it is located:

Zone	Prior Nonconforming Activity	Activity Which May be Substituted for Prior
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		Activity, Subject to the Provisions Listed Below This Table
Any zone.	Any such activity.	Any activity otherwise permitted or, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, any activity otherwise conditionally permitted in the same location.
Any Residential zone or S-1, S-2, or S-3 zone.	Any such Industrial Activity where it is not a permitted or conditionally permitted activity.	Any Activity permitted in the CN-4 zone.
	The following such Commercial Activities where they are not a permitted or conditionally permitted activity:	
	Research Service	(see below)
	General Wholesale Sales	(see below)
	Building Material Sales	(see below)
	Automobile and Other Light Vehicle Sales and Rental	(see below)
	Automotive and Other Light Vehicle Repair and Cleaning	(see below)
	Taxi and Light Fleet-Based Service	(see below)
	Transport and Warehousing	(see below)
	Animal Care	(see below)
	Animal Boarding	(see below)
	Undertaking Service	(see below)
	Scrap Operation	(see below)
		Any Activity permitted in the CC-2 zone.
	The following such Commercial Activities where they are not a permitted or conditionally permitted activity:	
	General Food Sales	(see below)
	Full Service Restaurant	(see below)
	Limited Service Restaurant and Cafe	(see below)
	Fast-Food Restaurant	(see below)
	Convenience Market	(see below)
	Alcoholic Beverage Sales	(see below)
	Mechanical or Electronic Games	(see below)
	General Retail Sales	(see below)
	Consumer Service	(see below)
	Consumer Cleaning and Repair Service	(see below)
	Consumer Dry Cleaning Plant	(see below)
	Group Assembly	(see below)
	Personal Instruction and Improvement and Small Scale Entertainment	(see below)
	Business, Communication, and Media Service	(see below)
	Broadcasting and Recording Service	(see below)
		Any Commercial Activity permitted in the CN-4 zone.
	The following such Commercial Activities where they are not a permitted or conditionally permitted activities:	

	Medical Service	(see below)
	Consultative and Financial Service	(see below)
	Administrative	(see below)
		Administrative Civic Activities. Administrative Commercial Activities. Medical Service. Consultative and Financial Service.
	Any other Commercial Activity where it is not a permitted or conditionally permitted activity.	Any Commercial Activity permitted in the CC-2 zone.
Any Commercial zone.	Any Industrial Activity where it is not a permitted or conditionally permitted activity.	Any Commercial Activity permitted in the CC-2 zone.
Any Industrial zone.	Any such Commercial Activity where it is not a permitted or conditionally permitted activity.	Any Commercial Activity permitted in the CC-2 zone.

Changes that do not constitute substitutions may be made in any activity which is nonconforming wholly or partly because it is not itself a permitted activity where it is located. The above substitutions and other changes may be made without regard for requirements on off-street parking and loading, conduct of activities within enclosed buildings, means of customer access, and total floor area which normally apply to activities, except as otherwise provided in Section 17.116.020C. However:

1. If the nonconforming activity is itself conditionally permitted where it is located, no substitution or other change shall be made in it which would conflict with, or further conflict with, any requirement on off-street parking or loading, conduct of activities within enclosed buildings, means of customer access, or total floor area which normally applies to activities. (Changes which are allowed by Section 17.116.020B shall not be deemed to conflict or further conflict with the parking or loading requirements.)
2. Conversions of dwelling units to use by a nonresidential activity shall be subject, where applicable, to the provisions of Section 17.102.230.
3. If the nonconforming activity is located at ground level on any lot in the CN-1 or CN-2 zone, no change shall be made in the nature of the particular activity, except when the result is itself permitted in the same location, unless a conditional use permit is granted pursuant to the conditional use permit procedure. This does not restrict a change in ownership, tenancy, or management where the previous line of business or other function is not changed.
4. For any nonconforming Alcoholic Beverage Sales Commercial Activity presently located in any zone in which it is not a permitted activity, no change shall be made in the activity which change requires obtaining a different type of alcoholic beverage sale retail license from the state of California Department of Alcoholic Beverage Control. Further, no change shall be made in any nonconforming activity involving the sale of alcoholic beverages at a full service restaurant in any location described by Section ~~17.102.240~~ 17.103.030(B)(2), which change requires obtaining a different type of alcoholic beverage sale retail license from the state of California Department of Alcoholic Beverage Control, unless a conditional use permit is granted pursuant to the conditional use permit procedure in Chapter 17.134.
5. No substitution or other change shall be made in any nonconforming activity which would conflict, or further conflict, with any applicable provision of the performance standards in Chapter 17.120, or of any kind of requirement not mentioned hereinabove which applies to activities.
6. In cases of discontinuance, damage, or destruction, the pertinent provisions of Sections 17.114.050 or 17.114.060 shall also apply.

If the activity resulting from a change allowed above is not a normally permitted and otherwise conforming activity, and is not authorized by a conditional use permit or other special zoning approval, it shall be deemed a nonconforming activity and changes in it shall be subject to this section.

**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 (20%) of that already existing. See 17.15.01 (L4), 17.17.01 (L4), and 17.19.01 (L7) for restrictions to this allowable expansion in the RD, RM, and RU zones.
  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 percent (20%) 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~~ 17.116.075.
  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 percent (25%) of the replacement cost, as estimated by the 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 Automobile and Other Light Vehicle Gas Station and Servicing or Automotive and Other Light Vehicle Repair and Cleaning Commercial Activity shall be altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136.
  7. A nonconforming Automobile and Other Light Vehicle Gas Station and Servicing or Automotive and Other Light Vehicle 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 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.

**17.114.100 - Nonconforming scrap operation commercial activities—Discontinuance required within one year.**

Within one (1) year after the effective date of this section or of any subsequent rezoning which makes an existing Scrap Operation Commercial Activity a nonconforming activity, all nonconforming Scrap Operation Commercial Activities located within a residential zone or within one-hundred (100) feet of a residential zone and which wholly or partially occupy an open facility shall be discontinued or may continue only upon the granting of a conditional use permit, pursuant to the conditional use permit procedure in Chapter 17.134; provided, however, that if the proposal does not conform to the use permit criteria at Section 17.134.050, but as an alternative a finding is made that the activity involves investment of money in leasehold or improvements such that a longer period is necessary to prevent undue financial hardship, then a conditional use permit shall be granted for a period not to exceed two (2) additional years.

**Article III - Nonconforming Facilities**

**17.114.110 - Nonconforming facility—Allowed alterations.**

- A. When Occupied by Conforming Activity. Except as otherwise provided in Section 17.114.120, a nonconforming facility which accommodates or serves a conforming activity may be altered or otherwise changed, and the lot lines of the lot containing it may be changed, in any way which does not create any new nonconformity or increase the degree of any existing nonconforming with respect to any requirement applying to facilities. Any new, relocated, or wholly reconstructed part of a facility shall itself conform to all applicable such requirements. Nonconforming Residential Facilities containing a total of more than one living unit on a lot, when located in a zone where only one living unit is permitted on a lot, shall be subject to the requirements generally applying in the RU-2 zone with respect to side yards opposite living room windows; courts; and usable open space. Nonconforming Nonresidential Facilities which are not themselves permitted facility types in the zone where they are located shall not be increased in floor area or overall outside dimensions; relocated, except to remove a nonconformity; or wholly reconstructed.
- B. When Occupied by Nonconforming Activity. Except as otherwise provided in Section 17.114.120, a nonconforming facility which accommodates or serves a nonconforming activity may be altered or otherwise changed, and the lot lines of the lot containing it may be changed, subject to the conditions of Section 17.114.080 as well as those of subsection A of this section. In such a case, new Signs of a type not otherwise permitted may be developed as authorized by subsections A and B of Section 17.114.080.
- C. Conversion from Advertising Sign in the CN, CR-1, or S-15 zones. No nonconforming Advertising Sign in the CN, CR-1, or S-15 zones shall be converted, by change of copy or otherwise, to any other type of Sign unless the entire Sign as converted meets all the requirements of said zone for a new Sign, including design review approval.
- D. Conversion from Advertising Sign Within One Thousand (1,000) Feet of, and Primarily Viewable from, Rapid Transit Route. No Advertising Sign shall be converted, to any other type of Sign unless the Sign as converted is approved, in a content-neutral manner, pursuant to the design review procedure in Chapter 17.136 and the provisions of Section 17.104.040A.

**17.114.120 - Nonconforming facility—Damage or destruction.**

- A. Nonconforming Nonresidential Facilities. Nonconforming nonresidential facilities which are damaged or destroyed to the extent of not more than seventy-five percent (75%) may be restored to their prior condition and occupancy. If such damage or destruction exceeds seventy-five percent (75%), the facilities may thereafter only be restored to their prior condition upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

**17.114.130 - Nonconforming open storage on same lot as Residential Facility—Screening required within three years.**

On any lot containing a Residential Facility, any open area which is devoted to storage or display of goods or materials shall, within three (3) years after the effective date of the zoning regulations, be either removed or made to conform to the applicable screening requirements of Section 17.110.040A.

(Prior planning code § 7432)

**17.114.140 - Nonconforming open storage in CN, CR-1 and M-20 zones—Screening required within three years.**

In the CN, CR-1, and M-20 zones, all open storage areas shall, within three (3) years after inclusion in said zones, be either removed or made to conform to the screening requirements of Section 17.110.040B.

**17.114.150 - Nonconforming Sign within 1,000 feet of, and primarily viewable from, rapid transit route—Removal required for certain categories.**

- A. Basic Requirements. Within the indicated time periods, and except as otherwise provided in Subsection B of this Section, all nonconforming Signs in the following categories which are located within one thousand (1,000) feet of the centerline of a rapid transit route shall be removed, relocated, or otherwise changed so as to conform:

Category	Time Period
Any Business which is painted, or consists of a poster affixed, directly on a building wall or fence; for which design review is prescribed by Section 17.104.040A; and which is or has become primarily viewable by the passengers on the transit route.	Three (3) years after the effective date of Section 17.104.040 (that date was April 8, 1971) or three (3) years after the date of official determination of the transit route, whichever occurs later.

The Director of City Planning shall determine which Signs are or have become so viewable, subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132.

**17.114.170 - Nonconforming Signs in CN-1 zone—Removal required.**

- A. Basic Requirements. Within the time periods indicated below for the specified categories, and except as otherwise provided in subsection B of this section, all nonconforming Signs shall be removed, relocated, or otherwise changed so as to conform. See also Section 17.114.110C.

Category	Time Period
Any pennants, streamers, propellers, and similar devices.	One (1) year after inclusion in the CN-1 zone.

Any other Sign which is nonconforming with respect to any provision of Section 17.148.110

Three (3) years after inclusion in the CN-1 zone.

The Director's determination shall be subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132.

## Chapter 17.116 - OFF-STREET PARKING AND LOADING REQUIREMENTS

### Sections:

#### Article I - General Provisions

- 17.116.010 - Title, purpose, and applicability.
- 17.116.020 - Effect on new and existing uses.
- 17.116.030 - More than one activity on a lot.
- 17.116.040 - Determination by Director of City Planning.

#### Article II - Off-Street Parking Requirements

- 17.116.050 - Calculation rules.
- 17.116.060 - Off-street parking—Residential Activities.
- 17.116.070 - Off-street parking—Civic Activities.
- 17.116.080 - Off-street parking—Commercial Activities.
- 17.116.090 - Off-street parking—Industrial Activities.
- 17.116.100 - Off-street parking—Agricultural and Extractive Activities.
- 17.116.110 - Special exemptions to parking requirements.

#### Article III - Off-Street Loading Requirements

- 17.116.120 - Off-street loading—Residential Activities.
- 17.116.130 - Off-street loading—Civic Activities.
- 17.116.140 - Off-street loading—Commercial Activities.
- 17.116.150 - Off-street loading—Industrial Activities.
- 17.116.160 - Off-street loading—Agricultural and Extractive Activities.

#### Article IV - Standards for Required Parking and Loading Facilities

- 17.116.170 - Property on which parking and loading must be provided.
- 17.116.175 - Standards and criteria for accessory parking that serves a prohibited activity.
- 17.116.180 - Conditions for off-street parking or loading.
- 17.116.190 - Utilization of off-street parking and loading facilities.
- 17.116.200 - Parking space dimensions.
- 17.116.210 - Driveways and maneuvering aisles for parking.
- 17.116.220 - Loading berth dimensions.



- 17.116.230 - Driveways and maneuvering aisles for loading.
- 17.116.240 - Tandem spaces and berths.
- 17.116.250 - Maximum backing distance.
- 17.116.260 - Surfacing and grade of parking and loading facilities.
- 17.116.270 - Screening and setback of parking and loading areas.
- 17.116.280 - Control on artificial illumination of parking and loading facilities.
- 17.116.290 - Special requirements applying in some zones.
- 17.116.300 - Parking accommodation requirements for one- and two-family residential facilities.

**17.116.020 - Effect on new and existing uses.**

(See illustrations I-19a, b.)

- A. New Parking and Loading to Be Provided for New Facilities and Additions to Existing Facilities. Except as otherwise provided in Section ~~s 17.102.040~~ 17.114.030 and ~~17.102.310~~ Chapter 17.138, new off-street parking and loading as prescribed hereafter shall be provided for activities occupying facilities, or portions thereof, which are constructed, established, wholly reconstructed, or moved onto a new lot after the effective date of the zoning regulations, or of a subsequent rezoning or other amendment thereto establishing or increasing parking or loading requirements for such activities, except to the extent that existing parking or loading exceeds such requirements for any existing facilities. The required amount of new parking and loading shall be based on the cumulative increase in floor area, or other applicable unit of measurement prescribed hereafter, after said effective date; provided, however, that for an activity occupying a facility existing on said effective date, new parking shall be required for said increase to the extent that the total of such existing facility and the added facilities exceeds any minimum size hereafter prescribed for which any parking is required for such activity.

**17.116.060 - Off-street parking—Residential Activities.**

- A. Permanent and Semi-Transient Residential Activities. Except as otherwise provided in Section 17.44.200, Chapter 17.94, Sections 17.102.300, 17.116.020, 17.116.030, and 17.116.110, and subject to the calculation rules set forth in Section 17.116.050, the following amounts of off-street parking are required for all Permanent and Semi-Transient Residential Activities when located in the indicated zones and occupying the specified facilities and shall be developed and maintained pursuant to the provisions of Article IV of this chapter:

Residential Facility Type	Zone	Requirement
One-Family Dwelling.	RH and RD zones, except when combined with the S-12 zone.	Two (2) spaces for each dwelling unit; however, in the S-11 zone, the requirement shall be one space per bedroom with a minimum of two (2) spaces per dwelling unit and a maximum requirement of four (4) spaces per dwelling unit.
	RM-1, except when combined with the S-12 zone.	One and one-half (1½) spaces for each dwelling unit.
	RM-2 zone	One (1) space for each dwelling unit when lot is less than 4,000 square feet in size and/or 45 feet in width, except when combined with the S-12 zone. One and

		one-half (1½) spaces for each dwelling unit when lot is 4,000 square feet or more in size and/or 45 feet in width, except when combined with the S-12 zone.
	CBD-P zone (when combined with the S-7 zone), except when combined with the S-12 zone.	No spaces required.
	S-15 zone, except when combined with the S-12 zone.	One-half (½)-space for dwelling unit.
	Any other zone, except when combined with the S-12 zone.	One (1) space for each dwelling unit.
	Any zone combined with the S-12 zone.	See Section 17.94.040.
One-Family Dwelling with Secondary Unit.	RH, RD, RM-1, and RM-2 zones, except when combined with the S-12 zone.	One (1) space for the secondary unit unless the lot already contains a total of at least three (3) spaces; however, in the S-11 zone the requirement shall be one (1) space for each bedroom in any secondary unit, up to a maximum requirement of two (2) spaces per secondary unit. See Section <del>17.102.360</del> <u>17.103.080</u> .
	All other zones, except when combined with the S-12 zone.	One (1) space for the secondary unit unless the lot already contains a total of at least two (2) spaces; however, in the S-11 zone the requirement shall be one (1) space for each bedroom in any secondary unit, up to a maximum requirement of two (2) spaces per secondary unit. See Section <del>17.102.360</del> <u>17.103.080</u> .
	Any zone combined with the S-12 zone.	See Section 17.94.040.
Two-Family Dwelling, Multifamily Dwelling.	RD-2, RM-1, RM-2 zones, except when combined with the S-12 zone.	One and one-half (1½) spaces for each dwelling unit.
	CBD-P zone (when combined with the S-7 zone), except when combined with the S-12 zone.	No spaces required.
	S-15 zone, except when combined with the S-12 zone.	One-half (½) space for each dwelling unit.
	Any other zone, except when combined with the S-12 zone.	One (1) space for each dwelling unit.
	Any zone combined with the S-12 zone.	See Section 17.94.040.
Rooming House.	CBD-P zone (when combined with the S-7 zone).	No spaces required.
	Any other zone.	One (1) space for each two rooming units.
Mobile Home.	CBD-P zone (when combined with the S-7 zone).	No spaces required.
	Any other zone.	One (1) space for each living unit plus one (1) additional space for each four living units.
Bed and Breakfast	Any zone.	One (1) space for each two units plus the required parking for a One-Family dwelling in the underlying zone.

**17.116.070 - Off-street parking—Civic Activities.**

Except as otherwise provided in Sections 17.44.200, 17.116.020, 17.116.030, and 17.116.110, and subject to the calculation rules set forth in Section 17.116.050, the following amounts of off-street parking are required for the specified Civic Activities when located in the indicated zones and occupying facilities of the specified sizes or having the indicated numbers of employees or doctors, and shall be developed and maintained pursuant to the provisions of Article IV of this chapter: (See illustration I-18.)

Civic Activity	Zone	Minimum Total Size for Which Parking Required	Requirement
A. Essential Service. Limited Childcare.	S-15 zone.	—	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	—	No spaces required.
B. Community Assembly and Recreational Assembly, playgrounds and playing fields; concessions located in public parks; temporary nonprofit festivals.	CBD-P zone (when combined with the S-7 zone).	—	No spaces required.
	S-15 zone.	—	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
Private non-profit clubs and lodges.	S-15 zone.	—	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	—	No spaces required.
Churches and all other.	CBD-P zone (when combined with the S-7 zone).	—	No spaces required.
	C-45, CBD-P (except when combined with the S-7 zone), CBD-C, CBD-X, and S-2 zones.	10,000 square feet of floor area.	One (1) space for each 20 seats or for each 150 square feet area where seats are not fixed, in principal meeting rooms.
	CN zones	Total of 75 seats or 750 square feet of floor area where seats are not fixed, in principal meeting rooms.	One (1) space for each 15 seats, or for each 100 square feet of floor area where seats are not fixed, in principal meeting rooms.
	S-15 zone.	—	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	Total of 75 seats, or 750 square feet of floor area where seats are not fixed in principal meeting rooms.	One (1) space for each 10 seats, or for each 100 square feet of floor area where seats are not fixed, in principal meeting rooms.
C. Community Education: high schools.	CBD-P, CBD-C, and CBD-X zones.	-	No spaces required.
	S-15 zone.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	One (1) space for each three employees plus one space for each 10 students of planned capacity.
aAll others.	CBD-P, CBD-C, and CBD-X zones.	-	No spaces required.

	S-15 zone.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	One (1) space for each three employees.
D. Nonassembly Cultural Administrative.	CBD-P, CBD-C, and CBD-X zones	-	No spaces required.
	C-45, and S-2 zones.	10,000 square feet of floor area.	One (1) space for each 1,400 square feet of floor area.
	CN zones	3,000 square feet of floor area.	One (1) space for each 900 square feet of floor area.
	S-15 zone	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	3,000 square feet of floor area.	One (1) space for each 600 square feet of floor area.
E. Health Care: hospitals.	CBD-P zone (only when combined with the S-7 zone)	-	No spaces required.
	C-45, CBD-P (only if not combined with the S-7 zone), CBD-C, CBD-X, and S-2 zones.	No minimum	One (1) space for each staff or regular visiting doctor.
	S-15 zone.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	One (1) space for each four beds, plus one space for each four employees other than doctors, plus one space for each staff or regular visiting doctor.
eClinics.	CBD-P zone (only when combined with the S-7 zone)	-	No spaces required.
	C-45, CBD-P (only when not combined with the S-7 zone), CBD-C, CBD-X, and S-2 zones.	No minimum.	One (1) space for each staff or regular visiting doctor.
	S-15 zone.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	Three (3) spaces for each staff or regular visiting doctor plus one (1) space for reach two other employees.
aAll other.	CBD-P zone (only when combined with the S-7 zone).	-	No spaces required.
	C-45, CBD-P (only when not combined with the S-7 zone), CBD-C, CBD-X, and S-2 zones.	No minimum.	One (1) space for each staff or regular visiting doctor.
	S-15 zone.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	One (1) space for each six beds, plus

			one space for each four employees other than doctors, plus one space for each staff or regular visiting doctor.
F. Utility and Vehicular.	CDB-P, CBD-C, and CBD-X zones.	-	No spaces required.
	C-45, and S-2 zones.	10,000 square feet of floor area.	One (1) space for each vehicle used in connection with the activities.
	S-15 zone.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	3,000 square feet of floor area.	One (1) space for each three employees plus one space for each vehicle used in connection with the activities.
G. Extensive Impact: colleges and universities.	CBD-P, CBD-C, and CBD-X zones.	-	No spaces required.
	S-15 zone.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	One (1) space for each three employees plus one space for each six students of planned capacity.
aAll other.	CBD-P zone (only when combined with the S-7 zone)	-	No spaces required.
	S-15 zone.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040

**17.116.175 – Standards and criteria for accessory parking that serves a prohibited activity.**

The following regulations shall apply to parking serving principal activities which are not themselves permitted, wherever such parking is listed in the applicable individual zone regulations as permitted or conditionally permitted. Approval of a permit for such accessory parking is subject to the conditions set forth in this section:

- A. General Conditions. In all zones, such parking facilities shall be used for accessory parking only, with no sales, dead storage, repair work, dismantling, or servicing of any kind.
- B. Conditions in Residential Zones. In all residential zones:
1. Such parking shall not in any case be located farther than one hundred fifty (150) feet, excluding the width of any intervening street, from the nearest boundary of any nonresidential zone, as measured perpendicularly from said boundary at any point; and
  2. Such parking shall not be so located as to extend along any one side of any street farther into any residential zone than any residentially zoned lot which is in separate ownership and which has frontage on the same side of the same street as said parking, other than a lot developed only for parking; and
  3. Such parking facilities shall be open only; and
  4. All Signs serving such parking shall be subject to the limitations set forth in Section 17.104.010(G)(3).

**17.116.290 - Special requirements applying in some zones.**

B. In the S-15 zone:

1. Location of Parking. All off-street parking may be provided anywhere on the lot, or on a separate lot which is not in common ownership with the subject lot, provided that a long-term lease agreement or comparable binding agreement is provided, pursuant to Section 17.116.180.
2. Parking Serving Nonresidential Uses. Off-street parking serving nonresidential uses may only be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedures in Chapter 17.134.
3. Ground Floor Parking and Loading. Off-street parking, loading, and driveway located within twenty (20) feet from all pedestrian walkways and plazas may only be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedures in Chapter 17.134 and Section 17.100.100.
4. Provisions for Shared Parking. Off-street parking may be shared amongst daytime activities between the hours of business operation and between the hours of nighttime activities. The number of required parking spaces for daytime use may be transferable to required parking or nighttime use, provided that a long-term lease agreement or comparable binding agreement is provided, pursuant to Section 17.116.180.
5. Exceptions to Parking Requirement. The number of parking spaces provided may exceed the number required upon the granting of a conditional use permit pursuant to Section 17.100.100 and the conditional use permit procedure in Chapter 17.134.

**17.117.020 - Bicycle parking required for new and existing uses.**

- B. Bicycle Parking Shall be Provided for Remodels. "Remodel" means any proposed physical improvement of an existing structure which requires a building permit but does not include New Facilities or Additions to Existing Facilities.
1. Remodel projects that are over ten thousand (10,000) square feet and have an estimated construction cost, excluding seismic retrofit costs, greater than \$250,000.00 shall provide the number of short-term bicycle parking spaces prescribed in Sections 17.117.090 to 17.117.120. This amount shall be adjusted to account for changes in the Building Cost Index for the San Francisco Bay Region, as reported in the Engineering News Record. The adjustment shall be made annually, starting in 2009, no sooner than one year from adoption.
  2. Remodel projects that are over fifty thousand (50,000) square feet and have an estimated construction cost, excluding seismic retrofit costs, over \$1,000,000.00 shall provide, in addition to short-term bicycle parking, the number of long-term bicycle parking spaces and shower and locker facilities prescribed in Sections 17.117.090 to 17.117.130. This amount shall be adjusted to account for changes in the Building Cost Index for the San Francisco Bay Region, as reported in the Engineering News Record. The adjustment shall be made annually, starting in 2009, no sooner than one year from adoption.

**17.120.020 - Existing activities.**

Activities existing on the effective date of the zoning regulations, or of a subsequent rezoning or other amendment thereto applying more restrictive performance standards to such activities, shall not be required to change their operations to comply with the performance standards. However, their operations shall not be so changed as to result in a greater degree of nonconformity with respect to such standards, except as otherwise authorized under ~~Section 17.102.310~~ and the development agreement procedure in Chapter 17.138. For existing activities meeting the definition specified in Section 17.114.080C., an expansion greater than twenty percent (20%) of production (e.g. non-administrative) floor area is one example of a change in operations that shall be considered an increase in the degree of nonconformity.

**17.120.050 - Noise.**

- I. Commercial Refrigeration Units. Stationary and mobile commercial refrigeration units shall not produce a noise level greater than the noise level standards set forth in this section. Between the hours of ten (10) p.m. and seven (7) a.m., a mobile refrigeration unit shall not be located within two hundred (200) feet of any residential zone boundary unless such unit is within an enclosure which reduces the noise level outside the enclosure to no more than sixty (60) dBA and reduces vibration to a level below the vibration perception threshold set forth in Section 17.120.060.
- J. Commercial Exhaust Systems. Unnecessary noise caused by exhaust from ventilation units, or other air control device shall not produce a noise level greater than the noise level standards set forth in this section between the hours of ten p.m. and seven a.m. and shall not be located within two hundred (200) feet of any residential zone boundary unless such unit is within an enclosure which reduces the noise level outside the enclosure to no more than sixty (60) dBA and reduces vibration to a level below the vibration perception threshold set forth in Section 17.120.060.



**Chapter 17.124 - LANDSCAPING AND SCREENING STANDARDS**

**Sections:**

**17.124.010 - Title, purpose, and applicability.**

**17.124.020 - Required landscape plan for new residential units and certain additions to Residential Facilities.**

**17.124.025 - Required landscape plan for new Nonresidential Facilities and certain additions to Nonresidential Facilities.**

**17.124.030 - Residential landscape requirements for street frontages.**

**17.124.040 - Residential landscape requirements for downslope lots.**

**17.124.045 - Trash and Utility Screening**

**17.124.050 - Assurance of landscaping completion.**

**17.124.060 - Maintenance.**

**17.124.070 - Required materials and opacity.**

**17.124.080 - Combination of materials.**

**17.124.090 - Reference level for prescribed heights.**

**17.124.100 - Exceptions to requirements.**

**17.124.110 - Frequently planted tree species list for Oakland.**

**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. The landscape plan and the plant materials installed pursuant to the plan shall conform with all provisions of this Chapter, Title 12 Street, Sidewalks and Public Spaces and the following:

- 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.

**17.124.025 - Required landscape plan for new Nonresidential Facilities and certain additions to Nonresidential Facilities.**

Submittal and approval of a landscape plan for the entire site and street frontage is required for the establishment of a new Nonresidential Facility and for additions to Nonresidential Facilities of over one thousand (1,000) square feet. The landscape plan and the plant materials installed pursuant to the plan shall conform with all provisions of this Chapter, Title 12 Street, Sidewalks and Public Spaces and the standards for required landscaping and screening, including the following:

**17.124.045 - Trash and Utility Screening**

- A. 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.

B. 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 (4) feet.

**17.124.100 - Exceptions to requirements.**

The landscaping and screening requirements set forth in other provisions of the zoning regulations shall be subject to the following exceptions:

- A. Equivalent Screening on Abutting Lot. Prescribed fences, walls, or dense landscaping need not be provided along a lot line if a building, fence, wall, or dense landscaping of at least equivalent height, opacity, and maintenance exists immediately abutting and on the opposite side of said lot line.
- B. Window on Abutting Lot. Prescribed fences, walls, or dense landscaping need not be higher than three and one-half (3½) feet when located opposite and within three (3) feet of any window in a Residential Facility on an abutting lot, other than a window in a basement or cellar, or within three feet of any portion of the same story of the wall containing such window and lying within ten feet in either direction from said window. Landscaping or a fence or wall shall be considered opposite such a window or portion of wall whenever it would be intersected by a horizontal plane drawn from the wall perpendicularly to the window.
- C. Adjacent to Excavated Parking or Other Area. Where a parking, loading, storage, or similar area, or usable open space, is excavated below adjoining finished grade, the depth of excavation may be deducted there from the prescribed height of fences, walls, or landscaping required to screen the area or space.
- D. Height Within Required Minimum Yard or Court. Required fences, walls, or dense landscaping need not be higher than three and one-half (3½) feet in that portion of any required minimum yard which lies within ten (10) feet of any street line. The height of fences, walls, and dense landscaping shall be limited within all required minimum yards and courts by the applicable provisions of Section 17.108.140
- E. General Exceptions to Prescribed Heights. The prescribed heights of dense landscaping shall indicate the height to be attained within three (3) years after planting. The height at time of planting may be not more than two (2) feet lower for dense landscaping required to be taller than five (5) feet, and not more than one (1) foot lower for dense landscaping for which a height of less than five (5) feet is prescribed. An earthen berm not taller than two (2) feet may count toward the prescribed height of any fence, wall, or dense landscaping.

**17.124.110 - Frequently planted tree species list for Oakland.**

No.	Botanical Name	Common Name	1 Size	2 H x S
1.	<i>Arbutus unedo</i>	Strawberry Tree	S	25x25
2.	<i>Cercis canadensis</i>	Eastern Redbud	S	25x25
3.	<i>Lagerstroemia indica</i> X <i>L. fauriei</i>	Crape Myrtle	S	30x20
4.	<i>Photinia fraseri</i>	Photinia	S	20x15
5.	<i>Prunus cerasifera</i> 'Thundercloud'	Purple Leaf Plum	S	30x20
6.	<i>Pyrus kawakamii</i>	Evergreen Pear	S	25x30
7.	<i>Rhus lancea</i>	African Sumac	S	20x20
8.	<i>Tristania laurina</i> 'Elegant'	Water Gum	S	25x20
9.	<i>Acer buergeranum</i>	Trident Maple	M	30x25

10.	<i>Aesculus carnea</i> 'Briotii'	Red Horsechestnut	M	40×35
11.	<i>Eriobotrya deflexa</i>	Bronze Loquat	M	20×20
12.	<i>Geijera parviflora</i>	Australian Willow	M	30×30
13.	<i>Ginkgo biloba</i> 'Saratoga' or 'Autumn Gold'	Maidenhair Tree	M	35×30
14.	<i>Koelreuteria bipinnata</i>	Chinese Flame Tree	M	30×30
15.	<i>Koelreuteria paniculata</i>	Golden Rain Tree	M	30×30
16.	<i>Laurus nobilis</i> 'Saratoga'	Saratoga Laurel	M	40×20
17.	<i>Magnolia grandiflora</i> 'Saint Mary'	Saint Mary Magnolia	M	20×20
18.	<i>Maytenus boaria</i> 'Green Showers'	Mayten Tree	M	30×25
19.	<i>Metrosideros excelsus</i>	New Zealand Christmas Tree	M	30×30
20.	<i>Olea europaea</i> 'Swan Hill'	Olive	M	40×40
21.	<i>Pyrus calleryana</i> 'Aristocrat'	Aristocrat Pear	M	40×30
22.	<i>Carpinus betulus</i> 'Fastigiata'	European Hornbeam	L	50×40
23.	<i>Fraxinus oxycarpa</i> 'Raywood'	Raywood Ash	L	35×25
24.	<i>Gliditsia triacanthos inermis</i> 'Shademaster'	Thornless Honey Locust	L	40×30
25.	<i>Nyssa sylvatica</i>	Sour Gum or Tupelo	L	50×25
26.	<i>Pistacia chinensis</i> 'Keith Davey' or 'Pearl Street'	Chinese Pistache	L	50×30
27.	<i>Platanus acerifolia</i> 'Yarwood'	London Plane	L	70×50
28.	<i>Podocarpus gracilior</i>	African Fern Pine	L	30×20
29.	<i>Quercus rubra</i>	Red Oak	L	50×40
30.	<i>Quercus coccinea</i>	Scarlet Oak	L	75×50

1. Size: (S) Small, (M) Medium, (L) Large
2. H × S: Height by Spread

**17.126.040 - Private usable open space.**

All required private usable open space shall be permanently maintained; shall be located, except as otherwise provided in subsection B of this section, on the same lot as the living unit it serves; and shall conform to the following standards:

- A. Usability. A surface shall be provided which prevents dust and allows convenient use for outdoor activities. Such surface shall be any practicable combination of lawn, garden, flagstone, wood planking, concrete, asphalt, or other serviceable, dustfree surfacing. Slope shall not exceed ten percent (10%). Off-street parking and loading areas, driveways, and service areas shall not be counted as usable open space. Adequate safety railings or other protective devices shall be erected wherever necessary for space on a roof or balcony, but shall not be more than the minimum height required by the Oakland Building Code.
- B. Location. The space may be located anywhere on the lot, except that ground-level space shall not be located in a required minimum front yard and except that above-ground-level space shall not be located within five (5) feet of an interior side lot line. Above-ground-level space may be counted even though it projects beyond a street line. All spaces shall be adjacent to, and not more than four (4) feet above or below the floor level of, the living unit served.
- C. Size and Shape. An area of contiguous ground-level space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than ten (10) feet. An area of above-ground-level space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than five (5) feet. When space is located on a roof, the area occupied by vents or other structures which do not enhance usability of the space shall not be counted toward the above dimension.
- D. Accessibility. The space shall be accessible to only one living unit by a doorway to a habitable room or hallway.
- E. Openness. There shall be no obstructions over ground-level space except for devices to enhance its usability and except that not more than fifty percent (50%) of the space may be covered by a private balcony projecting from a higher story. Above-ground-level space shall have at least one exterior side open and unobstructed, except for incidental railings or balustrades, for eight (8) feet above its floor level.
- F. Enclosure. Ground-level space shall be screened from abutting lots, streets, alleys, and paths, from abutting private ways described in Section 17.106.020, and from other areas on the same lot by a building wall, by dense landscaping not less than five and one-half (5½) feet high and not less than three (3) feet wide, or by a solid or grille, lumber or masonry fence or wall not less than five and one-half (5½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said chapter. However, when such screening would impair a beneficial outward and open orientation or view, with no building located opposite and within fifty (50) feet from such required screening, as measured perpendicularly therefrom in a horizontal plane, the above prescribed height may be reduced to three and one-half (3½) feet. Fences and walls shall not be so constructed as to interfere with the access required by applicable fire prevention regulations.

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**Chapter 17.130 - ADMINISTRATIVE PROCEDURES GENERALLY**

**Sections:**

- 17.130.010 - Title, purpose, and applicability.
- 17.130.020 - Alternative notification procedures.
- 17.130.030 - Notice by mail.
- 17.130.040 - Procedure for resolving tie votes.
- 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.
- 17.130.070 - Uniformly applied development standards automatically imposed as standard conditions of approval for development projects.
- 17.130.080 - City Council consideration of legislative and adjudicatory actions.
- 17.130.090 - Minor land use permits considered concurrently with Major permits.

**17.130.050 - Presentation of written and documentary evidence.**

Whenever, pursuant to the Oakland Planning Code, ~~a 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 ~~or~~, the Commission, ~~or the Committee~~, whichever is applicable, for its consideration. Whenever, pursuant to the Oakland Planning Code, an appeal for which a hearing is required is pending before the City Council, City Planning Commission, or the Commission's Residential Appeals Committee, the appellant may not submit written and/or documentary evidence not previously submitted in the appeal form itself and presented: (a) prior to the close of the written public comment period for the underlying decision being appealed, in the case of appeals based on a decision by the Zoning Administrator or other administrative decisions, or (b) prior to the close of the City Planning Commission's public hearing for the underlying decision being appealed, in the case of appeals based on decisions made by the City Planning Commission, as applicable.

**17.130.060 - Obligation of applicant to defend, indemnify, and hold harmless the City of Oakland.**

- A. To the maximum extent permitted by law, 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 City of Oakland Redevelopment Successor Agency, the Oakland City Planning Commission and its respective agents, officers, volunteers, and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, any land-use related approvals and actions including but not limited to: (1) amendments to the Planning Code, rezonings, and/or General Plan amendments; (2) an approval by the City relating to a development-related application or subdivision and/or a (Lease) Disposition and Development Agreement; or (3) implementation of such an approved development-related project. The City may elect, in its sole discretion, to participate in the defense of said Action 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 Action as specified in subsection A above, 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 of Agreement

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shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter of Agreement does not relieve the applicant of any of the obligations contained in this Section or any other requirements or conditions of approval that may be imposed by the City.

**17.130.080 - City Council consideration of legislative and adjudicatory actions.**

When a development application requires both legislative and adjudicatory actions, the entire application shall be considered by the City Council for final action. The City Council has the authority to consider and revise as appropriate (accept, reject, or modify) the adjudicatory land use decisions of the Planning Commission, regardless of whether an appeal to the City Council is filed challenging such adjudicatory land use decisions.

**17.130.090 – Minor land use permits considered concurrently with Major permits.**

- A. Any Minor land use related permit and/or approval that is related to a development application that also includes any Major land use related permit and/or approval shall be considered concurrently with the Major land use related permit and/or approval, and shall follow all procedural requirements associated with City Planning Commission decisions. In this case, the entire application shall initially be considered by the City Planning Commission and may be appealed to the City Council, in accordance with the requirements for Major land use related permit and/or approval or discretionary actions.
- B. Any Minor land use related permit referred to the City Planning Commission for initial decision in order to be considered concurrently with any Major land use related permit and/or approval shall still be considered a Minor land use related permit and/or approval, and the required findings for said Minor land use related permit and/or approval shall apply.

#### **17.132.020 - Appeal.**

Within ten (10) 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 such decision may be taken to the City Planning Commission by any interested party. In the case of appeals involving one- or two-unit Residential 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) 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.

#### **17.132.040 - Appeal to Council on transit line sign controls.**

Within ten (10) 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 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) 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.

**17.134.020 - Definition of major and minor conditional use permits.**

- A. Major Conditional Use Permit. A conditional use permit is considered a major conditional use permit if it 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 projects involving twenty-five thousand (25,000) square feet or more of floor area, except in the R-80, CBD-R, CBD-P (when not combined with the S-7 zone), CBD-C, CBD-X, S-2, or S-15 zones;
    - c. Residential projects requiring a conditional use permit for density resulting in a total number of living units as follows:
      - i. Three (3) or more dwelling units in the RM-2 zone,
      - ii. Seven (7) or more dwelling units in the RM-3 or RM-4 zone.
    - d. Residential projects requiring a conditional use permit to exceed the basic or permitted density which results in seven (7) or more living units in the RU or CBD-R zone.
    - e. Large Scale Developments. Any development which is located in the R-80, CBD-R, CBD-P (when not combined with the S-7 zone), CBD-C, CBD-X, S-2, or S-15 zone and results in more than one hundred thousand (100,000) square feet of new floor area.
  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 (20%):
    - a. Activities:
      - i. Residential Care Residential,
      - ii. Service Enriched Housing Residential,
      - iii. Transitional Housing Residential,
      - iv. Emergency Shelter Residential,
      - v. Extensive Impact Civic,
      - vi. Fast-food Restaurant Commercial,
      - vii. Convenience Market 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~~ 17.103.030(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,;
      - xiii. Special Health Care Civic Activities.
    - 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 (EIR);
  - b. Any single establishment containing a Commercial or Industrial Activity, or portion thereof, which is located in any residential zone and occupies more than five thousand (5,000) 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, CBD-P, CBD-C, CBD-X, 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 or HBX zone;
  - f. Any project in the OS zone listed as requiring a major conditional use permit in Chapter 17.11;
  - g. Any electroplating activity as defined in Section 17.09.040 subject to the provisions of Section 17.102.340;
  - h. ~~Any conditional use permit application referred by the Director of City Planning to the City Planning Commission for initial decision pursuant to Section 17.134.040(B)(1);~~
  - hi. Any Telecommunications Facility in or within one hundred (100) feet of the boundary of any residential or HBX zone;
  - ij. Any Telecommunications Facility whose antennas and equipment are not fully concealed from view within three hundred (300) feet of the boundary of the RH, RD, RM, RU-1, or RU-2 zones, or any HBX zone.

**17.134.040 - Procedures for consideration.**

A. Major Conditional Use Permits.

1. In All Zones. 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 notice on 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) days prior to the date set for the hearing. While the hearing is open, any interested party must enter into the record any issues and/or evidence to the Commission for its consideration; failure to do so will preclude the party from raising such issues during the appeal hearing and/or in court. The Commission 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 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 (10) calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.134.070. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Commission prior to the close of the Commission's public hearing on

the matter. 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. 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 ~~17.102.240~~ 17.103.030(B)(3).
3. 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. 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 still be considered a minor permit, but shall be processed according to the procedure in as a major conditional use permit pursuant to subsection A of this section. In these instances, any other minor permits associated with the application shall be considered concurrently by the Planning Commission, pursuant to Section 17.130.090. At his or her discretion, an administrative hearing may be held. Notice shall be given by posting an enlarged notice on 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) 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. Any interested party must enter into the record any issues and/or evidence: (a) to the Director prior to the close of the written public comment period for his or her consideration, or (b) to the Commission while the hearing is open for its consideration, whichever is applicable; failure to do so will preclude the party from raising such issues during the appeal hearing and/or in court. 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 (10) 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 (10) days after the date of decision unless appealed to the City Council in accordance with Section 17.134.070. Any party seeking to appeal the determination will be limited to issues and/or evidence presented (a) to the Director prior to the close of the written public comment period, or (b) to the Commission prior to the close of the Commission's public hearing on the matter, whichever is applicable. 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 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. 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.

**17.134.050 - General use permit criteria.**

- D. That the proposal conforms to all applicable regular design review criteria set forth in the regular design review procedure at Section 17.136.050;
- F. For proposals involving a One- or Two-Family Residential Facility: If the conditional use permit concerns a regulation governing maximum height, minimum yards, maximum lot coverage, or maximum floor area ratio, the proposal also conforms with at least one of the following additional 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 (60%) 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 (5) 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 decision on any conditional use permit.

**17.134.060 - Appeal to Planning Commission—Minor conditional use permits.**

Within ten (10) 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, the appeal shall be considered by the Commission's Residential Appeals Committee. 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 fees required by the City's Master 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 itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to the Director of City Planning prior to the close of the written public comment period on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues during the appeal and/or in court. 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) 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. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented to the Director of City Planning prior to the close of the written public comment period for the underlying decision being appealed. The appellant shall not be permitted to present any other evidence (written, oral, or otherwise) during the appeal process. 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.

**17.134.070 - Appeal to Council—Major conditional use permits.**

- A. With the exceptions of appeal for adult entertainment activities, appeals to the City Council shall be governed by the following:

Within ten (10) calendar days after the date of a decision by the City Planning Commission on an application for a major conditional use permit, 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, along with the appropriate fees required by the City's Master Fee Schedule. 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. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to City Planning Commission prior to the close of its public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues during the appeal and/or in court. 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) 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. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented prior to the close of the City Planning Commission's public hearing on the item. The appellant shall not be permitted to present any other evidence (written, oral, or otherwise) during the appeal process. 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 (10) calendar days after the date of a decision by the City Planning Commission on an application for a major conditional use permit, 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, along with the appropriate fees required by the City's Master Fee Schedule. 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. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to City Planning Commission prior to the close of its

public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues during the appeal and/or in court. 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) 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. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented prior to the close of the City Planning Commission's public hearing on the item. The appellant shall not be permitted to present any other evidence (written, oral, or otherwise) during the appeal process. 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 ~~and 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.

**17.134.110 - Conditional use permit related to planned unit development or subdivision.**

Whenever a conditional use permit is required for a proposal also requiring a planned unit development permit, application for the use permit shall be included in the application for the planned unit development permit and shall be processed and considered as part of same. Whenever a conditional use permit is required within a proposed subdivision, the application for the use permit 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 use permit, determine whether the proposal conforms to all the applicable use permit criteria.

**17.135.020 - Exemptions.**

- A. Projects approved by the City Council in conjunction with the public art program, Measure AA (1989), Measure K (1990), and Measure I (1996);
- B. Business and Advertising Signs. Business and Advertising Signs are exempt from these provisions only when a city agency enters into an agreement with a private enterprise to enhance public park facilities and/or programs, and the private enterprise is a principal provider of cash and/or in-kind contribution toward the enhancements. Such signs will meet the requirements of Section 17.11.090.

**17.135.030 - Procedure for consideration.**

- 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 an enlarged notice 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) 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. At the discretion of the Director, the meeting notice 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.

#### **17.135.040 - Referral to Landmarks Preservation Advisory Board.**

Any project in the OS zone requiring a major or minor conditional use permit shall be subject to review by the Landmarks Preservation Advisory Board if that project is located:

- A. Within the S-7 zone;
- B. On a site that could potentially impact a structure, site, or feature that is listed on the State or National Registers, or that has been formally designated as an Oakland landmark.

For projects requiring a minor conditional use permit, this review shall be made after the public hearing of the Parks and Recreation Advisory Commission and before the final decision of the Director of City Planning. For projects requiring a major conditional use permit, this review shall be made after the public hearing of the Parks and Recreation Advisory Commission and before the public hearing of the City Planning Commission. The Landmarks Preservation Advisory Board may recommend modifications to the project that it deems necessary to ensure that the historic value of the structure, site, or feature is not adversely impacted. If no action is taken by the Landmarks Preservation Advisory Board within thirty (30) days of its receipt of the application, the project will be forwarded to the Planning Commission (for major conditional use permits) or Director of City Planning (for minor conditional use permits).

**Chapter 17.136 - DESIGN REVIEW PROCEDURE**

**Sections:**

- 17.136.010 - Title, purpose, and applicability.**
- 17.136.020 - Application.**
- 17.136.025 - Exemptions from design review.**
- 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.**
- 17.136.055 - Special regulations for historic properties in the central business district zones.**
- 17.136.060 - Review by Landmarks Board in certain cases.**
- 17.136.070 - Special regulations for designated landmarks.**
- 17.136.075 - Regulations for demolition or removal of designated historic properties and potentially designated historic properties.**
- 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.**
- 17.136.120 - Design review related to conditional use permit, planned unit development, variance, or subdivision.**
- 17.136.130 - Limitation on resubmission—Small project design review.**

**17.136.025 - Exemptions from design review.**

B. Definition. The following types of work are exempt from design review, pursuant to all provisions in Section 17.136.025(A):

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 structure;
  - c. After notice to the Director of City Planning, demolition or removal of either:
    - i) Structures declared to be unsafe by the Building Official or the City Council. "Unsafe structures" means structures found by the Building Official or the City Council, to require immediate issuance of a demolition permit to protect the public health and safety; or
    - ii) Structures declared be a public nuisance by the Building Official or City Council that are not Designated Historic Properties or Potentially Designated Historic Properties.
  - d. 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~~ 17.103.080;



- e. Floor area additions within the existing building envelope not involving the creation of a dwelling unit;
  - f. 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;
  - g. 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; and 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;
  - b. Installation, alteration or removal of Realty Signs, Development Signs, holiday decorations, displays behind a display window and, except as otherwise provided in Section 17.114.120(C), for mere changes of copy, including cutouts, on Signs which customarily involve periodic changes of copy;
  - c. New or modified Signs conforming to an approved Master Sign Program, pursuant to Section 17.104.070.
3. Other Projects.
- a. Sidewalk Cafes that have a maximum of five (5) 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~~ 17.103.090;
  - b. Solar Power Production Equipment. The installation of Solar Power Production Equipment is exempt from design review within any zoning district.

**17.136.030 - Small project design review.**

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. Except as otherwise specified in Sections 17.136.025, and 17.136.040, demolition or removal of structures not involving a Designated Historic Property or Potential Designated Historic Property, on a site where the zoning regulations require design review to alter the exterior appearance of the applicable building facility, regardless of whether the owner intends to create a surface parking lot or a vacant lot pursuant to Section 15.36.080;
  - c. 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;

- d. 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 unit, whichever is less, pursuant to all regulations in Section ~~17.102.360~~ 17.103.080;
- e. For commercial, civic, or industrial facilities and the non-residential portions of mixed-use development projects, changes to storefronts or street-fronting facades, such as: (i) replacement or construction of doors, windows; bulkheads and nonstructural wall infill, or (ii) restoration of documented historic fabric.

2. Fences, barriers, and similar freestanding walls.

- a. For Residential Zones and Residential Facilities, any fence, barrier, or similar freestanding wall exceeding forty-two (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, Industrial Zones, and S-1, S-2, S-3, and S-15 Zones, any fence, barrier, or similar freestanding wall 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. New or modified Signs, excluding Signs requiring Regular Design Review, Conditional Use Permit or Variance, pursuant to the zoning regulations of Title 17 of the Oakland Planning Code; and Signs conforming to an approved Master Sign Program, pursuant to Section 17.104.070;
- b. New or modified awnings or other similar facilities;
- c. Color changes to Signs, awnings or other similar facilities;
- 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 ~~17.102.335~~ 17.103.090B;

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 requiring the Track Three review procedure pursuant to Subsection (C)(3):

- 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 of more than two hundred fifty (250) square feet in floor area or footprint to a One- or Two-Family Residential Facility or to any Building Facility in the HBX zones 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 of More than Two Hundred Fifty (250) Square Feet in Floor Area or Footprint to a One- or Two-Family Residential Facility or an over eight (8) foot increase in the height of any Building Facility in the HBX 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 single 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 such 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.

#### 17.136.040 - 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. Any construction, addition 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 (1,000) 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~~ Section 17.116.075;
9. New or modified Signs not qualifying 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;
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);
11. Demolition or removal of any structure, or portion thereof, where the replacement project requires Regular Design Review, Conditional Use Permit or Variance;
12. Demolition or removal of any Designated Historic Property (DHP) or Potential Designated Historic Property (PDHP) pursuant to Section 17.136.075.

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 an Initial Decision by the Director of City Planning — Decisions Not Ultimately Appealable to City Council.

1. Decision by the Director of City Planning. An application for regular design review that is not referred to the City Planning Commission for initial decision as specified in Section 17.136.040(D) shall be considered by the Director of City Planning.
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 for decision on the application by the Director. 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. Any interested party must enter into the record any issues and/or evidence to the Director prior to the close of the written public comment period for his or her consideration; failure to do so will preclude the party from raising such issues during the appeal hearing and/or in court. 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 decision by the Director shall become final ten (10) 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. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Director prior to the close of the written public comment period. 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. Appeals considered by the City Planning Commission or the Commission's Residential Appeals Committee under the procedures specified in Section 17.136.080 shall be final immediately and are not ultimately appealable to the City Council.

D. Procedure for Consideration of Regular Design Review Proposals which Involve an Initial Decision by the City Planning Commission — Decisions Ultimately Appealable to City Council.

1. Decision by the City Planning Commission. The Director of City Planning may, at his or her discretion, refer an application for regular design review to the City Planning Commission for an initial decision rather than acting on it himself or herself. In this case, the application shall still be considered a minor permit, but shall be processed according to the procedure in this subsection. In these instances, any other minor permits associated with the application shall be considered concurrently by the Planning Commission, pursuant to Section ~~17.130.090~~ 17.130.080. However, if the project involves a major variance or major conditional use permit; requires an Environmental Impact Report (EIR); or results in twenty-five thousand (25,000) square feet or more of new nonresidential floor area and is located in any zone other than the R-80, CBD-R, CBD-P (when not combined with the S-7 zone), CBD-C, CBD-X, 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 for a hearing before the Commission. During the required noticing period, the planning department shall receive and consider comments from any interested party.

3. The Planning Commission may seek the advice of outside design professionals. While the hearing is open, any interested party must enter into the record any issues and/or evidence to the Commission for its consideration; failure to do so will preclude the party from raising such issues during the appeal hearing and/or in court. The Commission 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. The initial decision of the Planning Commission shall become final ten (10) days after the date of decision unless appealed to the City Council in accordance with Section 17.136.090. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Commission prior to the close of the Commission's public hearing on the matter. 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.

#### **17.136.050 - Regular design review criteria.**

##### **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 17.136.060;
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.

#### **17.136.055 - Special regulations for historic properties in the central business district zones.**

- A. The provisions of this Section shall only apply to proposals in the Central Business District (CBD) zones.
- B. Findings.
  1. Any exterior alteration to a character-defining element of a Designated Historic Property (DHP) or Potentially Designated Historic Property (PDHP) that: 1) does not match its exterior historical materials or appearance, and 2) is part of the existing building (not part of any proposed addition) shall be required to meet any applicable criteria in Chapter 17.136 and meet findings

(a) and (b), below. The determination of whether a project meets these findings requires consultation with Historic Preservation staff.

- a. Any replacements of exterior character-defining elements are required because repair is not feasible. "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; and
  - b. Consultation with Historic Preservation staff has determined that any replacement or repair that differs from the original feature is compatible with the character of the building, Area of Primary Importance (API) or Area of Secondary Importance (ASI), if applicable, and retains the character-defining appearance of the feature.
2. Approval of applications for projects in an API that require Regular Design Review approval may be granted only upon determination that the proposal conforms to any applicable criteria in Chapter 17.136 and to the following additional criteria:
- a. Any proposed new construction is compatible with the existing API in terms of massing, siting, rhythm, composition, patterns of openings, quality of material, and intensity of detailing;
  - b. New street frontage has forms that reflect the widths and rhythm of the facades on the street and entrances that reflect the patterns on the street;
  - c. The proposal provides high visual interest that either reflects the level and quality of visual interest of the API contributors or otherwise enhances the visual interest of the API.
  - d. The proposal is consistent with the visual cohesiveness of the API. For the purpose of this finding, visual cohesiveness is the architectural character, the sum of all visual aspects, features, and materials that defines the API. A new structure contributes to the visual cohesiveness of a district if it relates to the design characteristics of a historic district while also conveying its own time. New construction may do so by drawing upon some basic building features, such as the way in which a building is located on its site, the manner in which it relates to the street, its basic mass, form, direction or orientation (horizontal vs. vertical), recesses and projections, quality of materials, patterns of openings and level of detailing. When some combination of these design variables are arranged in a new building to relate to those seen traditionally in the area, but integral to the design and character of the proposed new construction, visual cohesiveness results;
  - e. Where height is a character-defining element of the API there are height transitions to any neighboring contributing historic buildings. "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. APIs with a character-defining height and their character-defining height level are designated on the zoning maps; and
  - f. For additions, the proposal meets either: 1) Secretary of Interior's standards for the treatment of historic resources; 2) the proposal will not adversely affect the character of the property or API; or, 3) upon the granting of a conditional use permit, (see Chapter 17.134 for the CUP procedure) and a hearing in front of the Landmarks Preservation Advisory Board for its recommendations, a project meets the additional findings in Subsection g., below.
  - g. For construction of new principal buildings:
    - i. The project will not cause the API to lose its status as an API;
    - ii. The proposal will result in a building or addition with exterior visual quality, craftsmanship, detailing, and high quality and durable materials that is at least equal to that of the API contributors; and

- iii. The proposal contains elements that relate to the character-defining height of the API, if any, through the use of a combination of upper story setbacks, window patterns, change of materials, prominent cornice lines, or other techniques. APIs with a character-defining height and their character-defining height level are designated on the zoning maps.
  - 3. Approval of an application for a project that requires Regular Design Review Approval involving a DHP or PDHP outside of an API may be granted only upon determination that the proposal conforms to any applicable criteria in Chapter 17.136 and either meets each criteria (a), (b), and (c), or only (d), below:
    - a. Any proposed new construction is compatible with the existing district and/or building in terms of massing, siting, rhythm, composition, patterns of openings, quality of material, and intensity of detailing;
    - b. The proposal reflects the quality and visual interest of the building and/or ASI, or otherwise enhances the visual interest of the building or ASI.
    - c. The proposal does not disqualify an ASI as an ASI; and
    - d. If a project does not meet either finding (a), (b), or (c), above, approval of applications for projects may still be granted, but only after a hearing in front of the Landmarks Preservation Advisory Board for its recommendations and determination that the proposal meets the following criteria: The proposal will result in a signature building within the neighborhood, City, or region based on qualities including, but not necessarily limited to, exterior visual quality, craftsmanship, detailing, and high quality and durable materials.
- C. Required Hearings in Front of the Landmarks Preservation Advisory Board (LPAB).
- 1. Prior to project approval, the following projects require a hearing in front of the LPAB for its recommendations and/or advice to the decision making body:
    - a. Any construction of a new principal building in an API;
    - b. An addition to a API contributor when required by 17.136.055(B)(2)(f).
    - c. With the exception of additions that are not visible from a street or other public area, projects in an API that would result in a building taller than the character-defining height of the district, if any. Districts with a character-defining height and their character-defining height levels are designated on the zoning maps. An addition is considered "visible from a street or other public area" if it is 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.
    - d. New construction or an addition to a building when required by Subsection 17.136.055 B.3.d.
    - e. Any proposal involving a Local Register Property that requires Regular Design Review approval.

**17.136.060 - 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 40 feet of any street line, public alley, public path, park or other public area.

**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 Section 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.

**17.136.075 - Regulations for demolition or removal of designated historic properties and potentially designated historic properties.**

- B. Regular Design Review approval for the demolition or removal of any Landmark, Heritage Property, structure rated "A" or "B" by the Oakland Cultural Heritage Survey, and structure on the City's Preservation Study List that are not in an S-7 or S-20 zone or Area of Primary Importance (API) as determined by the Oakland Cultural Heritage Survey may be granted only if the proposal conforms to the regular general design review criteria, all other applicable design review criteria, and the following additional criteria:
1. The applicant demonstrates that: a) the existing property has no reasonable use or cannot generate a reasonable economic return and that the development replacing it will provide such use or generate such return, or b) the applicant demonstrates that the structure constitutes a hazard and is economically infeasible to rehabilitate on its present site. For this finding, a hazard constitutes a threat to health and safety that is not immediate;
  2. If a replacement facility is required by Section 17.136.075(A), the design quality of the replacement facility is equal or superior to that of the existing facility; and
  3. It is economically, functionally architecturally, or structurally infeasible to incorporate the historic structure into the proposed development.
- E. For proposals that have received Design Review approval pursuant to this section, 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.

**17.136.080 - Appeal to Planning Commission—Regular design review.**

Within ten (10) calendar days after the date of initial decision by the Director of City Planning on an application for regular design review under the procedure specified in Section 17.136.040(C), 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, 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, along with the appropriate fees required by the City's Master 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 itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to the Director of City Planning prior to the close of the written public comment period on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues during the appeal and/or in court. Upon receipt of such appeal, the Secretary of the City Planning Commission shall set the time for consideration thereof. Not less than seventeen (17) 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. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented to the Director of City Planning prior to the close of the written public comment period for the underlying decision being appealed. The appellant shall not be permitted to present any other evidence (written, oral, or otherwise) during the appeal process. 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 may seek the advice of outside design professionals. The decision of the Commission or, if applicable, the Committee on a proposal being considered under the procedure specified in Section 17.136.040(C) shall be final immediately and is not ultimately appealable to the City Council.

**17.136.090 - Appeal to City Council—Regular design review.**

Within ten (10) calendar days after the date of initial decision by the City Planning Commission on an application for regular design review under the procedure specified in Section 17.136.040(D), 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 to the City Council is allowable under the procedure specified in Section 17.136.040(C). Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk, along with the appropriate fees required by the City's Master Fee Schedule. 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. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to City Planning Commission prior to the close of its public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues during the appeal and/or in court. 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) 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. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented prior to the close of the City Planning Commission's public hearing on the item. The appellant shall not be permitted to present any other evidence (written, oral, or otherwise) during the appeal process. 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.~~

## Chapter 17.138 - DEVELOPMENT AGREEMENT PROCEDURE

### Sections:

17.138.010 - Title, purposes, and applicability.

17.138.015 - Projects eligible and special regulations for projects with development agreements.

17.138.020 - Application.

17.138.030 - Planning Commission action.

17.138.040 - Council action.

17.138.050 - Criterion.

17.138.060 - Factors for consideration.

17.138.070 - Recordation.

17.138.080 - Adherence to development agreement, and amendment or cancellation by mutual consent.

17.138.090 - Periodic review.

17.138.100 - Development agreement related to other special zoning approval or subdivision.

17.138.010 - Title, purposes, and applicability.

The provisions of this chapter shall be known as the development agreement procedure. The purposes of these provisions are to prescribe the procedure for consideration of development agreements and, by encouraging appropriate projects, to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development. This procedure shall apply to all proposals for development agreements, ~~as authorized by Section 17.102.310.~~

(Prior planning code § 9350)

17.138.015 - Projects eligible and special regulations for projects with development agreements.

A. Any person having a legal or equitable interest in the real property involved may, upon approval pursuant to the development agreement procedure in this chapter, enter into a development agreement with the City for any specific development project which involves either:

1. Aa total of at least four (4) acres of land area; or
2. fFive hundred thousand (500,000) square feet of floor area; and is a project intended to be developed in stages; or which
3. involves land sold or leased by the Redevelopment Agency or the successor to the Redevelopment Agency of the City, and is to be carried out by agreement with the Redevelopment Agency or the successor to the Redevelopment Agency.

B. The development agreement shall not be approved unless the project has received, or simultaneously receives, whatever design review, major conditional use permit, preliminary planned unit development plan approval, and/or major variance it may otherwise require. For the duration of the particular agreement, and unless otherwise provided in the terms thereof, there shall be a contractual guarantee that the project covered by the agreement may be pursued under the applicable procedural criteria, if any, and other zoning regulations, and plans or other documents referred to by any such criteria, as they existed when the agreement was approved and notwithstanding any subsequent changes in said zoning regulations or documents. However, the agreement may also subject the proposal to special conditions to benefit or protect the City for

entering into the development agreement. The conditions may include, but are not limited to, supplemental restrictions on kinds of uses, floor-area ratio, or density; special conditions or criteria for required subsequent zoning approvals, if any; and requirements for the reservation, dedication, or improvement of land for public purposes or accessible to the public.

#### **17.138.020 - Application.**

Application for a development agreement shall be made by a person, or the authorized agent of a person, having a legal or equitable interest in the affected property. Application 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 fee schedule in Chapter 17.150 and by the proposed development agreement and any supporting material which, between them, shall include the following:

- A. An identification of the affected property and the proposed parties to the agreement;
  - B. A description of the development project, indicating the proposed kinds of uses, floor-area ratio or density, and building height and size, and such additional information as may be required to allow the applicable criterion and factors to be applied to the proposal. Such information may include, but is not limited to, site and building plans, elevations, relationships to adjacent properties, and operational data. Where appropriate the description may distinguish between elements of the project which are proposed to be fixed under the agreement and those which may vary;
  - C. An identification of any subsisting planned unit development permit or other special zoning approval which has already been obtained for the development project;
  - D. The special conditions, if any, to be imposed pursuant to ~~Section 17.102.340~~ Section 17.138.015;
  - E. The proposed duration of the agreement and timing of the development project;
  - F. A program for periodic review under Section 17.138.090.
- (Prior planning code § 9351).

#### **17.140.020 - Application.**

- A. A preliminary development plan of the entire development showing streets, driveways, sidewalks and pedestrian ways, and off-street parking and loading areas; location and approximate dimensions of structures; utilization of structures, including activities and the number of living units; estimated population; reservations for public uses, including schools, parks, playgrounds, and other open spaces; major landscaping features; relevant operational data; and drawings and elevations clearly establishing the scale, character, and relationship of buildings, streets, and open spaces. Such development plan shall include maps and information on the surrounding area within one hundred (100) feet of the development. All elements listed in this paragraph shall be characterized as existing or proposed, and sufficiently detailed to indicate intent and impact. In the case of a development intended to be constructed over a period of more than four years, the design and arrangement of those portions of the project to be constructed more than four (4) years in the future may be shown in generalized, schematic fashion;
- B. A tabulation of the land area to be devoted to various uses, a tabulation of gross floor area to be devoted to various uses, and a calculation of the average residential density per net acre and per net residential acre;
- C. A stage development demonstrating that the developer intends to commence construction within one year after the approval of the final development plan and will proceed diligently to completion;

- D. If it is proposed that the final development plan will be submitted in stages, a schedule for submission thereof.

**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 enlarged notice 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 such records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) 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. While the hearing is open, any interested party must enter into the record any issues and/or evidence to the Commission for its consideration; failure to do so will preclude the party from raising such issues during the appeal hearing and/or in court. 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 17.142, 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. The determination of the Commission shall become final ten (10) calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.140.070. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Commission prior to the close of the Commission's public hearing on the matter. 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.

**17.140.060 - Final Planning Commission action.**

Upon receipt of the final development plan, the City Planning Commission shall examine such plan and determine whether it conforms to all applicable criteria and standards and whether it conforms in all substantial respects to the previously approved preliminary development plan, or, in the case of the design and arrangement of those portions of the plan shown in generalized, schematic fashion, whether it conforms to applicable design review criteria. After receiving a final development plan which includes design and arrangement of portions of the project shown in generalized, schematic fashion on the preliminary development plan, the Commission shall hold a public hearing before taking action. Notice of the hearing shall be given in the same manner as set forth in Section 17.140.030. While the hearing is open, any interested party must enter into the record any issues and/or evidence to the Commission for its consideration; failure to do so will preclude the party from raising such issues during the appeal hearing and/or in court. The Commission may grant or deny a planned unit development permit or require such changes in the proposed development or impose such conditions of approval as are in its judgment necessary to ensure conformity to the applicable criteria and standards. In so doing, the Commission may permit the applicant to revise the plan and resubmit it as a final development plan within thirty (30) days. If the Commission does not grant such permission, the decision of the Commission shall become final ten (10) calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.140.070. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Commission prior to the close of the Commission's public hearing on the matter. 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.

#### 17.140.070 - Appeal to Council.

Within ten (10) 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, an appeal from said decision may be taken to the City Council by the applicant, the permit holder, 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 Commission and shall be filed with the City Clerk, along with the appropriate fees required by the City's Master Fee Schedule. 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. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to City Planning Commission prior to the close of its public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues during the appeal and/or in court. 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) 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. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented prior to the close of the City Planning Commission's public hearing on the item. The appellant shall not be permitted to present any other evidence (written, oral, or otherwise) during the appeal process. 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.~~

## Chapter 17.142 - MINI-LOT AND PLANNED UNIT DEVELOPMENT REGULATIONS

### Sections:

#### Article I - Title, Purposes, and Applicability.

~~17.142.00240 - Title and purposes, and applicability.~~

17.142.004 - Applicability.

#### Article II - Mini-lot Developments

17.142.010 - Definition of mini-lot development.

17.142.012 - Basic provisions for mini-lot developments.

17.142.014 - Zones in which requirements may be waived for a mini-lot development.

17.142.016 - Maximum size for which requirements may be waived for a mini-lot development.

#### Article III - Planned Unit Developments

17.142.020 - Definition of planned unit development.

17.142.030 - Developments for which planned unit development permit approval is required or requested.

17.142.040 - Ownership and division of land.

17.142.050 - Professional design.

17.142.060 - Dedication of public facilities and maintenance of open space.

17.142.070 - Performance bonds.

17.142.080 - Zones in which bonuses may be granted.

17.142.090 - Minimum size for which bonuses may be granted.

17.142.100 - Bonuses.

17.142.110 - Development standards.

#### Article I - Title, Purposes and Applicability

~~17.142.00240 - Title and purposes, and applicability.~~

The provisions of this chapter shall be known as the mini lot and planned unit development regulations. The purposes of these regulations are to:

A. ~~Encourage the comprehensive planning of the appropriate development of tracts of land; sufficiently large to allow comprehensive planning, and to~~

B. Provide flexibility in the application of certain regulations in a manner consistent with the general purposes of the zoning regulations; and

C. ~~Thereby Promote~~ing a harmonious variety of uses, the economy of shared services and facilities, compatibility with surrounding areas, and the creation of attractive, healthful, efficient,



and stable environments for living, shopping, or working. ~~These regulations shall apply to all large, integrated developments for which a planned unit development permit is required by Section 17.142.030.~~

#### **17.142.004 – Applicability.**

These regulations shall apply to all:

- A. Mini-lot developments located on a single tract of land of less than sixty thousand (60,000) square feet, and containing lots which do not meet the minimum size or other requirements applying to individual lots in the zone where it is located; and
- B. Planned Unit Developments (PUDs) located on a single tract of land of sixty thousand (60,000) square feet or more, or on two or more tracts of land equaling sixty thousand (60,000) square feet or more in total which may be separated only by a street or other right-of-way.

### **Article II – Mini-lot Developments**

#### **17.142.010 - Definition of mini-lot development.**

A mini-lot development is a comprehensively designed development containing lots that do not meet the minimum size or other requirements applying to individual lots of less than sixty thousand (60,000) square feet in the zone where it is located.

#### **17.142.012 – Basic provisions for mini-lot developments.**

Subject to the provisions of this article, the maximum height and minimum yard, lot area, width, and frontage requirements otherwise applying to individual lots may be waived or modified within a mini-lot development, and floor area, parking, and other facilities may be located within said development without reference to lot lines, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination:

1. That there is adequate provision for maintenance of the open space and other facilities within the development; and
2. That the total development meets all the requirements that would apply to it if it were a single lot.

#### **17.142.014 – Zones in which requirements may be waived for a mini-lot development.**

A conditional use permit pursuant to 17.142.012 may only be granted in the S-1 or S-2 zone, or in any residential or commercial zone other than RH or RD zones.

#### **17.142.016 – Maximum size for which requirements may be waived for a mini-lot development.**

Maximum Size for Which Requirements May Be Waived. A conditional use permit pursuant to 17.142.012 of this section may be granted only if the total land area of the mini-lot development is less than sixty-thousand (60,000) square feet.

### **Article III – Planned Unit Developments**

#### **17.142.020 - Definition of planned unit development.**

A "Planned Unit Development" (PUD) is a large, integrated development adhering to a comprehensive plan and located on a single tract of land of sixty thousand (60,000) square feet or more, or on two or more tracts of land equaling sixty thousand (60,000) square feet or more in total which may be separated only by a street or other right-of-way. In developments that are approved pursuant to the

Planned Unit Development regulations in this Chapter, certain uses may be permitted in addition to those otherwise allowed in the underlying zone, and certain of the other regulations applying in said zone may be waived or modified.

**17.142.030 - Developments for which planned unit development permit approval is required or requested.**

A. The following developments are permitted only upon the granting of a planned unit development permit pursuant to the planned unit development procedure in Chapter 17.140. ~~Other large, integrated developments are permitted without such a permit, but shall be subject to all regulations generally applying in the zone in which they are located.~~

1A. Any planned unit development incorporating any of the bonuses set forth in Section 17.142.100.

2B. Any integrated development which is primarily designed for or occupied by Commercial Activities, which is located in any commercial zone, and which is developed under unified control, in accordance with a comprehensive plan, on a single tract with sixty thousand (60,000) square feet or more of land area, or on two or more tracts which total such area and which are separated only by a street or other right-of-way.

B. Unless required by the Planning Director, other large, integrated developments involving the same minimum land area thresholds of a planned unit development, as defined in Section 17.142.020, are permitted without such a permit. However, an applicant for such a development may request a planned unit development permit pursuant to the planned unit development procedure in Chapter 17.140, but shall be subject to all regulations generally applying in the zone in which they are located.

**17.142.070 - Performance bonds,**

The City Planning Commission or, on appeal, the City Council may, as a condition of approval of any development for which a permit is required by Section 17.142.030, 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 17.142.010. The bond shall be in a form approved by the City Attorney, in a sum of one hundred ~~(100)~~ percent (100%) of the estimated cost of the work, and conditioned upon the faithful performance of the work specified within the time specified.

**17.142.100 - Bonuses.**

For planned unit developments qualifying under Sections 17.142.080 and 17.142.090, the following exceptions to otherwise applicable regulations may be permitted upon the granting of a planned unit development permit pursuant to the planned unit development procedure in Chapter 17.140:

A. Additional Permitted Activities Where Increase in Overall Density or Floor-Area Ratio (FAR) Is Proposed. Except in the RH and RD-1 zones, the following activities, as described in the use classifications in Chapter 17.10, may be permitted in a planned unit development incorporating an increase in overall density or floor-area ratio pursuant to subsection E of this section, in addition to the activities generally permitted in the zone where the development is located:

1. Residential Activities:

Permanent

2. Civic Activities:

Limited Child-Care

Community Education

3. Commercial Activities, provided that such activities shall not occupy in the aggregate more than four (4) percent (4%) of the total floor area in such development, provided that the maximum floor area devoted to such activities by any single establishment shall be three thousand hundred (3,000) square feet, and further provided that such activities shall not be permitted at all in any such development which has an overall density in Residential Facilities of less than forty (40) living units per net residential acre (excluding streets and other rights-of-way):

General Food Sales

Full Service Restaurant

Limited Service Restaurant and Cafe

Fast-Food Restaurant

Convenience Market

Alcoholic Beverage Sales

Consumer Service (see Section 17.102.170 for special regulations relating to massage services and Section 17.102.450 for special regulations related to laundromats)

Medical Service

- B. Further Additional Permitted Activities Where No Increase in Overall Density or Floor-Area Ratio Is Proposed. Except in the RH and RD-1 zones, the following activities, as described in the use classifications, may be permitted in a planned unit development for which no increase in overall density or floor-area ratio is proposed pursuant to subsection E of this section, in addition to the activities listed in subsection A of this section and in addition to the activities generally permitted in the zone in which the development is located. The special limitations prescribed in subsection (A)(3) of this section with respect to location and amount of floor area devoted to Commercial Activities shall not apply in such a development.

1. Residential Activities:

Semi-Transient

2. Civic Activities:

Nursing Home

Community Assembly

Recreational Assembly

Nonassembly Cultural

Administrative

Utility and Vehicular

3. Commercial Activities:

Mechanical or Electronic Games

General Retail Sales

Consumer Service- (see Section 17.102.170 for special regulations relating to massage services and Section 17.102.450 for special regulations related to laundromats)

- Consultative and Financial Service
- Consumer Cleaning and Repair Service
- Consumer Dry Cleaning Plant
- Group Assembly
- Personal Instruction and Improvement and Small Scale Entertainment
- Administrative
- Business, Communication, and Media Service
- Broadcasting and Recording Service
- Research Service
- General Wholesale Sales
- Automobile and Other Light Vehicle Gas Station and Servicing
- Automotive Fee Parking
- Animal Care
- Animal Boarding
- 4. Manufacturing Activities:
  - Custom

**17.142.110 - Development standards.**

The following regulations shall apply to all developments for which a permit is required by Section 17.142.030:

- A. Density and Floor-Area Ratio (FAR) Calculation. The maximum overall number of living units in Residential Facilities and the maximum overall floor-area ratio, if any, shall be based on the land area within the development, excluding the following:
  - 1. Publicly dedicated streets, freeways, alleys, and paths;
  - 2. When computing density for Residential Facilities in the RH, RD, RM, C-10, C-20, or C-60 zones, the following:
    - a. Land, other than public housing sites, which is publicly owned or reserved for public ownership,
    - b. Land which is specifically devoted to or intended for Nonresidential Facilities.
- C. Height in the RH-4 and RD-1 Zones. In the RH-4 and RD-1 zones, no building shall exceed fifty (50) feet in height, except as would otherwise be allowed by Section 17.108.020(A) and except for the same projections as are allowed by Section 17.108.030.
- H. Other Regulations. Except as otherwise provided in Section 17.142.100 and in this section, and except as more restrictive regulations may be prescribed pursuant to Section 17.142.060 or otherwise as a condition of approval of a planned unit development permit pursuant to Section 17.142.030, the development shall be subject to the regulations generally applying in the zone in which it is located and the provisions of Section 17.108.080.

- I. Developments Divided by Boundaries. Any development which is divided by a boundary between zones shall be subject as if it were a single lot to the provisions of subsections (B)(2), (3), and (4) of Section ~~17.102.070~~ 17.154.060 with respect to calculation of required parking, loading, and usable open space; calculation of maximum number of living units or floor-area ratio; and distribution of the resulting number of living units or amount of floor area.

**17.144.050 - Review by Landmarks Board in certain cases.**

Whenever an application or proposal, other than one initiated by the Landmarks Preservation Advisory Board, is to rezone property to or from the S-7 zone or to establish, amend, or delete a designated landmark or landmark site, the City Planning Department shall promptly refer the application or proposal to said Board for its recommendations. The City Planning Commission shall not act on the application or proposal until it has first received a report from the Board or until more than thirty (30) days have elapsed since the proposal was sent to the Board, whichever is sooner. However, the thirty (30) day period may be extended by agreement between the Commission or private party applicant, as the case may be, and the Board.

**17.144.055 - Review by Parks and Recreation Advisory Commission in certain cases.**

Whenever an application or proposal, other than one initiated by the Parks and Recreation Advisory Commission (PRAC), is made to rezone property to or from the OS zone or to establish, amend, or delete a park category designation, the City Planning Department shall promptly refer the application or proposal to the PRAC for its recommendations. The City Planning Commission shall not act on the proposal until it has heard a report from the PRAC or until more than thirty (30) days have elapsed since the proposal was sent to the PRAC, whichever is sooner. However, the thirty (30) day period may be extended by agreement between the City Planning Commission or private party applicant, as the case may be, and the PRAC.

**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) 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 seventeen (17) 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.~~

**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, except for One-Family Dwellings, One-Family Dwellings with Secondary Unit, and Two-Family Dwellings;
  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 ~~17.102.212~~ 17.103.010B;
  - ~~7. Any variance application that requires development of an Environmental Impact Report;~~
  - ~~8. Any variance application referred by the Director of City Planning to the City Planning Commission for initial decision pursuant to Section 17.148.040(B)(1).~~

**17.148.040 - Procedure for consideration.**

- A. Major Variances.
1. In All Zones. 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 notice on 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) days prior to the date set for the hearing. While the hearing is open, any interested party must enter into the record any issues and/or evidence to the Commission for its consideration; failure to do so will preclude the party from raising such issues during the appeal hearing and/or in court. 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 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 decision of the Commission shall become final ten (10) calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.148.070. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Commission prior to the close of the Commission's public hearing on the matter. 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. 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~~ 17.103.030(B)(3).
- B. Minor Variances.
1. In All Zones. 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. In this case, the application

shall still be considered a minor permit, but shall be processed according to the procedure in subsection A of this section. In these instances, any other minor permits associated with the application shall be considered concurrently by the Planning Commission, pursuant to Section 17.130.090. At his or her discretion, an administrative hearing may be held. Notice shall be given by posting an enlarged notice on 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) 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. Any interested party must enter into the record any issues and/or evidence: (a) to the Director prior to the close of the written public comment period for his or her consideration, or (b) to the Commission while the hearing is open for its consideration, whichever is applicable; failure to do so will preclude the party from raising such issues during the appeal hearing and/or in court. 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 decision of the Director of City Planning shall become final ten (10) 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 (10) days after the date of decision unless appealed to the City Council in accordance with Section 17.148.070. Any party seeking to appeal the determination will be limited to issues and/or evidence presented (a) to the Director prior to the close of the written public comment period, or (b) to the Commission prior to the close of the Commission's public hearing on the matter, whichever is applicable. 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.

#### **17.148.050 - Findings required.**

- A. With the exception of variances for adult entertainment activities or sign facilities, 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.
  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. 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.



6. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.
7. 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 maximum floor area ratio, the proposal also conforms with at least one of the following additional 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 (60%) 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.

**17.148.060 - Appeal to Planning Commission—Minor variances.**

Within ten (10) 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, the appeal shall be considered by the Commission's Residential Appeals Committee. 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 fees required by the City's Master 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 itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to the Director of City Planning prior to the close of the written public comment period on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues during the appeal and/or in court. Upon receipt of such appeal, the Secretary of the City Planning Commission shall set the date for consideration thereof. Not less than seventeen (17) 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. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented to the Director of City Planning prior to the close of the written public comment period for the underlying decision being appealed. The appellant shall not be permitted to present any other evidence (written, oral, or otherwise) during the appeal process. 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.

**17.148.070 - Appeal to Council—Major variances.**

- A. With the exceptions of appeals for adult entertainment activities or for signs, appeals to the City Council shall be governed by the following:

Within ten (10) calendar days after the date of a decision by the City Planning Commission on an application for a major variance, 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 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 Commission and shall be filed with the City Clerk, along with the appropriate fees required by the City's Master Fee Schedule. 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. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to City Planning Commission prior to the close of its public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues during the appeal and/or in court. 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) 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. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented prior to the close of the City Planning Commission's public hearing on the item. The appellant shall not be permitted to present any other evidence (written, oral, or otherwise) during the appeal process. 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 or for signs shall be governed by the following:

Within ten (10) calendar days after the date of a decision by the City Planning Commission on an application for a major variance, 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 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 Commission and shall be filed with the City Clerk, along with the appropriate fees required by the City's Master Fee Schedule. 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. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to City Planning Commission prior to the close of its public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues during the appeal and/or in court. 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) 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. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented prior to the close of the City Planning Commission's public hearing on the item. The appellant shall not be permitted to present any other evidence (written, oral, or otherwise) during the appeal process. 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 ~~and 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.~~

**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.

**17.152.210 - Fee schedule.**

Fees and regulations pertaining to fees, including fees pertaining to complaints and appeals, shall be in accordance with the city's master fee schedule, provided that no city official or employee shall be required to pay a fee to file a complaint with the City Planning Department. There shall be no fee for lodging a revocation complaint with the city. To make an appeal, the property owner, permit holder and any individual or entity representing the interests of the project owner or permit holder shall pay one hundred ~~(100)~~ percent (100%) of the appeal fee set by the city's master fee schedule. However, to make an appeal, the complainant, or anyone representing the complainant's interest shall pay fifty ~~(50)~~ percent (50%) of the appeal fee established by the city's master fee schedule.

**17.154.060 - Application of regulations to lots divided by zone boundaries.**

Wherever it is found, pursuant to Section 17.154.050, that a lot is divided by a boundary between zones, the provisions of the zoning regulations shall apply to such lot as prescribed in Section 17.102.070. The actual location of the zone boundary itself, however, shall not be changed by the provisions of Section 17.102.070. Wherever it is found, after applying the rules set forth in Section 17.154.050 for interpretation of zone boundaries, that any lot is divided by a boundary between zones, the provisions of the zoning regulations shall apply as follows to such lot:

- A. Application of All Regulations of One Zone to Existing Lot If Boundary Is Near Lot Line. If the lot was on the effective date of the zoning regulations, or of a subsequent rezoning or other amendment thereto resulting in division of the lot by a zone boundary, and the owner or developer of such lot, or of a portion or combination of such lot or lots, may at his or her option assume that all of the regulations applying in any zone covering fifty percent (50%) or more of the lot area apply to the entire lot or lots. However, this option shall not apply unless the entire lot or all such lots or parcel of land could be included in such zone by shifting the affected zone boundary by not more than thirty (30) feet, as measured perpendicularly to said boundary at any point.
- B. Application of Regulations Where subsection A Is Inoperative. Wherever the provisions of subsection A of this section do not apply or the option provided therein is not exercised:
  1. No activity type or facility type is allowed on any portion of the lot located in a zone where such type is not generally allowed, except for the accessory uses allowed by subsections (B)(2) and (B)(3) of this section.
  2. Accessory off-street parking and loading may be located on the lot without regard for zone boundaries; provided that no parking or loading shall be located on any portion of the lot located in a zone where the principal activity served is not generally allowed, except as such parking is specifically allowed by the applicable individual zone regulations subject to the conditions set forth in Section 17.116.075; and further provided that parking and loading shall be subject to a conditional use permit requirement or other special controls on any portion of the lot located in any zone where such controls generally apply to parking or loading. The total amount of required parking and loading shall be calculated separately on the basis of the amount of the served use and the requirements applying in each zone; provided that the minimum size for which any parking or loading is required shall be deemed to be exceeded if it is exceeded by the total of such use on the entire lot.
  3. Accessory landscaping, fences, screening or retaining walls, and usable open space may be located on the lot without regard for zone boundaries. The total amount of required usable open space shall be calculated separately on the basis of the number of living units, or amount of floor area, and the usable open space requirements in each zone; provided that where reference is made to the total number of living units on a lot, the number on the entire lot shall be considered.
  4. The maximum permitted or conditionally permitted number of living units or Floor-Area Ratio, if any, on the lot shall be calculated separately on the basis of the amount of lot area and the density ratio and floor-area ratio applying in each zone. The resulting maximum permitted or conditionally permitted total number of living units or amount of floor area may be distributed on the lot without regard for zone boundaries, except as otherwise provided in subsection (B)(1) of this section and except that the number of living units and amount of floor area within each zone shall not exceed the number or amount which would be allowed on the entire lot if it were completely within such zone.
  5. The minimum lot area, width, and frontage requirements of the zone which covers the greater or greatest portion of the lot area of the lot shall apply to the entire lot. If the lot area is divided equally between two or more zones, the owner or developer of the lot may

assume that the minimum lot area, width, and frontage requirements of either or any of such zones apply to the entire lot.

6. All regulations not covered above shall apply separately to the portion of the lot within each zone, provided that where reference is made in such regulation to the total quantity of living units or other unit of measurement on a lot, the quantity on the entire lot shall be considered.
- C. Wherever a lot is divided by a boundary between height areas, the height area line may be moved up to thirty (30) feet in any direction upon the granting of Regular Design Review approval (see Chapter 17.136 for the Regular Design Review process) to accommodate the site plan of a proposed development project. In addition to the general Design Review Criteria contained in Chapter 17.136, the proposal must meeting the following additional criteria:
1. The height area line adjustment creates a more successful site plan in terms of open space, parking, or building location; and
  2. Appropriate height transitions are incorporated into the building design and site plan to adjacent lower density residential properties that either share a parcel line or are across the street from the proposal.

Chapter 17.155 - Special regulations applying to mining and quarrying extractive activities.

Sections:

- 17.155.010 Purpose and Intent.
- 17.155.020 Definitions.
- 17.155.030 Incorporation by Reference.
- 17.155.040 Scope.
- 17.155.050 Vested Rights.
- 17.155.060 Process.
- 17.155.070 Standards for Reclamation.
- 17.155.080 Statement of Responsibility.
- 17.155.090 Findings for Approval.
- 17.155.100 Financial Assurances.
- 17.155.110 Interim Management Plans.
- 17.155.120 Annual Report Requirements.
- 17.155.130 Inspections.
- 17.155.140 Violations and Penalties.
- 17.155.150 Appeals.
- 17.155.160 Fees.

17.155.010 - Purpose and Intent.

The City of Oakland recognizes that, historically, the extraction of minerals has benefited the economic well-being of the city and the needs of society and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. The city also recognizes that surface mining within the city occurs in a diverse, established, urban environment, which presents unique health, safety and welfare issues and where geologic, topographic, climatic, biological, and other conditions are significantly different than in less urbanized areas. Therefore, reclamation operations and the applicable specifications, inspections, reporting, monitoring must be appropriate to the surrounding conditions.

The purpose and intent of this section is to regulate surface mining operations as required by California's Surface Mining and Reclamation Act of 1975 (Public Resources Code Sections 2710 et seq.), as amended, hereinafter referred to as "SMARA", Public Resources Code (PRC) Section 2207 (relating to annual reporting requirements), and State Mining and Geology Board regulations (hereinafter referred to as "State regulations") for surface mining and reclamation practice (California Code of Regulations [CCR], Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.), to ensure that:

- (a) Reclamation activities eliminate hazards to public health and safety and restore mined lands to a standard that is safe, stable, and usable for development of reuses that will enhance the community;
- (b) Adverse environmental effects are prevented or minimized in accordance with CEQA and other applicable requirements;

(c) Reclamation activities further adopted city goals, plans, policies, objectives and regulations, including, without limitation the city's General Plan;

(d) Reclamation activities appropriately consider values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.

#### 17.155.020 - Definitions.

The definitions set forth in this section shall govern the construction of this chapter.

"Area of Regional Significance" means an area designated by the State Mining and Geology Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the State within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local significance.

"Area of Statewide Significance" means an area designated by the board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the State and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance.

"Approved Plan" means a land use and/or development plan and all conditions of approval and adopted mitigation measures, as approved by the city pursuant to Title Chapter 17 of the Oakland Municipal Code.

"Borrow Pits" mean excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.

"City" means City of Oakland.

"City Council" means City Council of the City of Oakland.

"Compatible Land Uses" means land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space.

"General Plan" means the General Plan of the City of Oakland.

"Haul Road" means a road along which material is transported from the area of excavation to the processing plant or stock pile area of the surface mining operation.

"Idle" means surface mining operations curtailed for a period of one year or more, by more than ninety (90) percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.

"Incompatible Land Uses" means land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial, and commercial.

"Mined Lands" mean the surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools or other materials or property which result from, or are used in, surface mining operations are located.

"Minerals" means any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.



"Operator" means any person who is engaged in surface mining operations, or who contracts with others to conduct operations on his or her behalf, except a person who is engaged in surface mining operations as an employee with wages as his or her sole compensation.

"Reclamation" means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

"Reclamation Plan" means a plan for reclamation of mined lands as specified by SMARA.

"Stream Bed Skimming" means excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.

"Surface Mining Operations" means all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations include, but are not limited to, in place distillation or retorting or leaching, the production and disposal of mining waste, prospecting and exploratory activities, borrow pitting, streambed skimming, and segregation and stockpiling of mined materials (and recovery of same).

"Use Permit" means a conditional use permit or other land use permit for mining activities.

#### 17.155.030 - Incorporation by Reference.

The provisions of SMARA (PRC § 2710 et seq.), PRC Section 2207, and State regulations CCR § 3500 et seq., as those provisions and regulations may be amended from time to time, are made a part this section by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this section are more restrictive than correlative State provisions, this section shall prevail.

#### 17.155.040 - Scope.

Except as provided in this section, no person shall conduct surface mining operations unless a Reclamation Plan and financial assurances for reclamation have first been approved by the city. Any applicable exemption from this requirement does not automatically exempt or limit a project or activity from the application of other regulations, ordinances or policies of city, including but not limited to, the application of CEQA, the requirements of an Approved Plan or other permits, the payment of development impact fees, or the imposition of other dedications and exactions as may be permitted under the law. The provisions of this section shall apply to all lands within the city, public and private.

This section shall not apply to the following activities, subject to the above-referenced exceptions:

- (a) Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.
- (b) Onsite excavation and onsite earthmoving activities which are an integral and necessary part of an approved construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:
  - (1) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency or agencies in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act ("CEQA", Public Resources Code, Division 13, § 21000 et seq.).

- (2) The city's approval and CEQA review (if applicable) of the construction project included the onsite excavation and onsite earthmoving activities.
- (3) The approved construction project is consistent with the General Plan and zoning of the site.
- (4) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if the city determines, in its discretion, that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.
- (c) Permitted operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:
  - (1) The plant site is located on lands designated for industrial or commercial uses in the city's general plan.
  - (2) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the city.
  - (3) None of the minerals being processed is being extracted onsite.
  - (4) All reclamation work has been completed pursuant to the approved Reclamation Plan for any mineral extraction activities that occurred onsite after January 1, 1976.
- (d) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than one thousand (1,000) cubic yards in any one location of one acre or less.
- (e) Surface mining operations that are required by federal law in order to protect a mining claim, as specified in Public Resources Code section 2714(e).
- (f) Any other surface mining operations that the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.
- (g) The solar evaporation of sea water or bay water for the production of salt and related minerals.
- (h) Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters or other emergencies.
- (i) Road construction and maintenance for timber or forest operations, as specified in Public Resources Code section 2714(j)(1); and
- (l) Excavation, grading, or other earthmoving activities in an oil or gas field, as specified in Public Resources Code section 2714(k).

#### **17.155.050 - Vested Rights.**

No person who obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit to mine, so long as the vested right continues and as long as no substantial changes have been made in the mining operation except in accordance with SMARA, State regulations, this section and any other applicable requirements. Where a person with vested rights has continued surface mining in the same area subsequent to January 1, 1976, he shall obtain city approval of a Reclamation Plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense) between pre- and post-Act mining, the Reclamation Plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act (January 1, 1976), as determined by the city to be necessary or appropriate to accommodate reuse of the proposed site according to city plans, policies, ordinances, and other applicable requirements.

All other requirements of State law, this section or an approved plan shall apply to vested mining operations.

17.155.060 - Process.

- (a) Applications under the requirement for an Approved Plan or Reclamation Plan for surface mining or land reclamation projects shall include, at a minimum, each of the elements required by SMARA (§ 2772-2773) and State regulations, and any other requirements determined, in the discretion of the Planning Director or designee, to be necessary or appropriate to facilitate an evaluation of the proposed Reclamation Plan.
- (b) Within thirty (30) days of the acceptance of a complete application for a Reclamation Plan or as a requirement of an Approved Plan for surface mining operations and/or a Reclamation Plan, the Planning Department shall notify the State Department of Conservation of the filing of the application(s). Whenever mining operations are proposed in the one hundred (100) year flood plain of any stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency ("FEMA"), and within one mile, upstream or downstream, of any state highway bridge, the Planning Department shall also notify the State Department of Transportation ("Caltrans") that the application has been received.
- (c) The Planning Department shall process the application(s) in accordance with the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) and the City's environmental review guidelines.
- (d) Subsequent to the appropriate environmental review, the Planning Department shall prepare a staff report with recommendations for consideration by the City Planning Commission. The City Planning Commission shall hold at least one noticed public hearing on Use Permit and/or Reclamation Plan. Notice shall be given by mail or delivery to all persons shown on the last available equalized assessment role as owning real property in the city limits within three hundred feet (300 feet) of the property involved. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing. At the conclusion of such hearing or hearings, the Planning Commission shall recommend to the City Council that it should approve, approve with changes, or deny the subject Reclamation Plan and/or Use Permit.
- (e) The City Council shall hold at least one noticed public hearing on a Use Permit and/or Reclamation Plan. Notice shall be given by mail or delivery to all persons shown on the last available equalized assessment role as owning real property in the city limits within three hundred feet (300 feet) of the property involved. All such notice shall be given not less than seventeen (17) days prior to the date set for the hearing.
- (f) Prior to final approval of a Reclamation Plan, financial assurances (as provided in this Chapter), any amendments to the Reclamation Plan, existing financial assurances, or those financial assurances required as part of an Approved Plan, the City Council shall certify to the State Department of Conservation that the Reclamation Plan and/or financial assurance complies with the applicable requirements of State law, and submit the plan, assurance, or amendments to the State Department of Conservation for review.

Pursuant to PRC § 2774(d), the State Department of Conservation shall be given thirty (30) days to review and comment on the Reclamation Plan and forty-five (45) days to review and comment on the financial assurance. The Planning Department shall evaluate written comments received, if any, from the State Department of Conservation during the comment periods. Staff shall prepare a response describing the disposition of the major issues raised by the State for the City Council's approval. In particular, when the Planning Department's position is at variance with the recommendations and objections raised in the State's comments, the response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the Planning Department shall be promptly forwarded to the operator/applicant.

- (g) The City Council shall then take action to approve, conditionally approve, or deny Use Permit and/or Reclamation Plan, and to approve the financial assurances pursuant to PRC § 2770(d) or any other requirement of an Approved Plan.
- (h) The Planning Department shall forward a copy of each approved Use Permit for mining operations, an Approved Plan and/or approved Reclamation Plan, and a copy of the approved financial

assurances to the State Department of Conservation. By July 1 of each year, the Planning Department shall submit to the State Department of Conservation for each active or idle mining operation a copy of the Approved Plan, or Reclamation Plan amendments, as applicable, or a statement that there have been no changes during the previous year.

**17.155.070 - Standards for Reclamation.**

- (a) All Reclamation Plans shall comply with the provisions of SMARA (§ 2772 and § 2773) and State regulations (CCR § 3500-3505). Reclamation Plans approved after January 15, 1993, Reclamation Plans for proposed new mining operations, and any substantial amendments to previously approved Reclamation Plans, shall also comply with the requirements for reclamation performance standards (CCR § 3700-3713).
- (b) The city may impose additional performance standards as developed either in review of individual projects, as warranted, through the formulation and adoption of citywide performance standards or through an Approved Plan.
- (c) Reclamation activities shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation may also be required for mined lands that have been disturbed and that may be disturbed again in future operations. Reclamation may be done on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill, as approved by the city. Each phase of reclamation shall be specifically described in the Reclamation Plan and shall include (a) the beginning and expected ending dates for each phase; (b) all reclamation activities required; (c) criteria for measuring completion of specific reclamation activities; and (d) estimated costs for completion of each phase of reclamation.
- (d) The information, analysis and other specifications submitted as part of the Reclamation Plan shall demonstrate that the improvements and financial assurances are sufficient to reclaim the site in a condition that meets all applicable state and city standards, and that is appropriate for the proposed reuse of the site and consistent with the land use and other applicable policies of the General Plan.

**17.155.080 - Statement of Responsibility.**

The person submitting the Reclamation Plan shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the Reclamation Plan. Said statement shall be kept by the Planning Department in the mining operation's permanent record. Prior to sale or transfer of the operation, the new operator shall submit a signed statement of responsibility as well as evidence required to demonstrate the financial assurance requirement set forth in this section or the Planning Department for placement in the permanent record.

**17.155.090 - Findings for Approval.**

- (a) Approved Plans: In addition to any findings required by the Approved Plan or for surface mining operations, a finding shall be included that the project complies with the provisions of SMARA and State regulations.
- (b) Reclamation Plans. For Reclamation Plans, the following findings shall be required:

  - (1) That the Reclamation Plan complies with SMARA Sections 2772 and 2773, and any other applicable provisions;
  - (2) That the Reclamation Plan complies with applicable requirements of State regulations (CCR § 3500-3505, and § 3700-3713).
  - (3) That the Reclamation Plan and potential use of reclaimed land pursuant to the plan are consistent with this section, the city's General Plan and any applicable resource plan, element or an Approved Plan.
  - (4) That the Reclamation Plan has been reviewed pursuant to CEQA and the City's environmental review guidelines, and all significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible.

- (5) That the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or that suitable off-site development will compensate for related disturbance to resource values.
- (6) That the Reclamation Plan will restore the mined lands to a safe, stable and usable condition which is readily adaptable for alternative land uses consistent with the General Plan, and other city Approved Plans, policies, ordinances and regulations.
- (7) That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that department. Where the city's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted.

#### **17.155.100 - Financial Assurances.**

- (a) To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, the city shall require as a condition of approval security which will be released upon satisfactory performance. The applicant may pose security in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or other method acceptable to the city and the State Mining and Geology Board as specified in State regulations, and which the city determines are adequate to perform reclamation in accordance with the surface mining operation's approved Reclamation Plan and/or an Approved Plan. Financial assurances shall be made payable to city and the State Department of Conservation.
- (b) Financial assurances will be required to ensure compliance with elements of the Reclamation Plan, including but not limited to, revegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures, if determined necessary by the Planning Department to comply with the requirements of an Approved Plan.
- (c) Cost estimates for the financial assurance shall be submitted to the Planning Department for review and approval prior to the operator securing financial assurances. The Planning Director shall forward a copy of the cost estimates, together with any documentation received supporting the amount of the cost estimates, to the State Department of Conservation for review. If the State Department of Conservation does not comment within forty-five (45) days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless the City has reason to determine that additional costs may be incurred. The Planning Director shall have the discretion to approve the financial assurance if it meets the requirements of this Chapter, SMARA, State regulations and any requirements of an Approved Plan.
- (d) The amount of the financial assurance shall be based upon the estimated costs of reclamation to a safe, stable and usable condition in accordance with an Approved Plan for the years or phases stipulated in the approved Reclamation Plan, including any maintenance of reclaimed areas as may be required, subject to adjustment for the actual amount required to reclaim lands disturbed by surface mining activities since January 1, 1976, and new lands to be disturbed in the upcoming year. Cost estimates should be prepared by a California registered Professional Engineer and/or other similarly licensed and qualified professionals retained by the operator and approved by the Planning Director. The estimated amount of the financial assurance shall be based on an analysis of physical activities necessary to implement the approved Reclamation Plan in accordance with an Approved Plan for the site, the unit costs for each of these activities, the number of units of each of these activities, and the actual administrative costs. Financial assurances to ensure Reclamation Plan implementation and compliance with revegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved Reclamation Plan shall be based upon cost estimates that include, but may not be limited to, labor, equipment, materials, mobilization of equipment, administration, monitoring, inspections and reasonable profit by a commercial operator other than the permittee. A contingency factor of ten percent (10%) shall be added to the cost of financial assurances.

- (e) In projecting the costs of financial assurances, it shall be assumed without prejudice or insinuation that the surface mining operation could be abandoned by the operator and, consequently, the city or State Department of Conservation may need to contract with a third party commercial company for reclamation of the site.
- (f) The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed (including any maintenance required).
- (g) The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the permittee may not claim credit for reclamation scheduled for completion during the coming year.
- (h) Revisions to financial assurances shall be submitted to the Planning Director each year prior to the anniversary date for approval of the financial assurances. The financial assurance shall cover the cost of existing disturbance and anticipated activities for the next calendar year, including any required interim reclamation. If revisions to the financial assurances are not required, the operator shall explain, in writing, why revisions are not required.

**17.155.110 - Interim Management Plans.**

- (a) Within ninety (90) days of a surface mining operation becoming idle, the operator shall submit to the Planning Department a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all Approved Plan conditions, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be submitted on forms provided by the Planning Department, and shall be processed as an amendment to the Reclamation Plan. IMPs shall not be considered a project for the purposes of environmental review.
- (b) Financial assurances for idle operations shall be maintained as though the operation were active, or as otherwise approved through the idle mine's IMP.
- (c) Upon receipt of a complete proposed IMP, the Planning Department shall forward the IMP to the State Department of Conservation for review. The IMP shall be submitted to the State Department of Conservation at least thirty (30) days prior to approval by the Planning Director.
- (d) Within sixty (60) days of receipt of the proposed IMP, or a longer period mutually agreed upon by the Planning Director and the operator, the Planning Director shall review and approve or deny the IMP in accordance with this Chapter. The operator shall have thirty (30) days, or a longer period mutually agreed upon by the operator and the Planning Director, to submit a revised IMP. The Planning Director shall approve or deny the revised IMP within sixty (60) days of receipt. If the Planning Director denies the revised IMP, the operator may appeal that action to the City Council. The decision of the City Council shall be final.
- (e) The IMP may remain in effect for a period not to exceed five (5) years, at which time the City Council may renew the IMP for another period not to exceed five years, or require the surface mining operator to commence reclamation in accordance with its approved Reclamation Plan.

**17.155.120 - Annual Report Requirements.**

Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the City Planning Department on a date established by the State Department of Conservation, on forms furnished by the State Mining and Geology Board. New mining operations shall file an initial surface mining report and any applicable filing fees with the State Department of Conservation within thirty (30) days of permit approval, or before commencement of operations, whichever is sooner. Any applicable fees, together with a copy of the annual inspection report, shall be forwarded to the State Department of Conservation at the time of filing the annual surface mining report.

**17.155.130 - Inspections.**

The Planning Director, through the Building Department Inspection Services Division or other agency or other designee, shall arrange for inspection of a surface mining operation within six months of receipt of the Annual Report required in Section 12, to determine whether the surface mining operation is in compliance with applicable requirements, including, without limitation, the Approved Plan, Reclamation Plan, approved financial assurances, and State regulations. In no event shall less than one inspection be conducted in any calendar year. Said inspections may be made by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, or state-registered forester, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous twelve (12) months, or other qualified specialists, as selected by the Planning Director. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.

The Planning Department shall notify the State Department of Conservation within thirty (30) days of completion of the inspection that said inspection has been conducted, and shall forward a copy of said inspection notice and any supporting documentation to the mining operator. The operator shall be solely responsible for all costs of inspections required by the city in furtherance of this section in accordance with the city master fee schedule or other applicable fee agreements or requirements.

**17.155.140 - Violations and Penalties.**

If the Planning Director, through the Building Department Inspection Services Division or other designee, based upon an annual inspection or otherwise confirmed by an inspection of the mining operation, determines that a surface mining operation is not in compliance with this section, the Approved Plan, the Reclamation Plan or other applicable requirements, the city shall follow the procedures set forth in Public Resources Code, Sections 2774.1 and 2774.2 concerning violations and penalties.

**17.155.150 - Appeals.**

A decision by the City Council to either approve or deny a Reclamation Plan pursuant to this section shall be considered a final agency action.

**17.155.160 - Fees.**

The city shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this section and the State regulations, including but not limited to, processing of applications, annual reports, inspections, monitoring, enforcement and compliance. These fees may be set forth in the city master fee schedule; however, failure to include such fees in the master fee schedule shall not limit the city's ability to impose fees it determines are necessary or desirable to fulfill the purposes of this section, State regulations and other applicable requirements. Such fees shall be paid by the operator, as required by the city, at the time of filing of the Reclamation Plan application, as a part of a fee agreement through an Approved Plan or at such other times as are determined by the city to be appropriate in order to ensure that all reasonable costs of implementing this section are borne by the mining operator.

#### 17.156.070 - Definitions.

"Full-Service Restaurant" means a place which is regularly and in a bona fide manner used and kept open for the serving of at least lunch and dinner to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals. The sale or service of sandwiches (whether prepared in a kitchen or made elsewhere and heated up on the premises) or snack foods shall not constitute a full-service restaurant. To be considered a Full Service Restaurant under the Deemed Approved Program, the establishment must meet the following criteria:

1. A "full service restaurant" shall serve "meals" to guests at all times the establishment is open for business. An establishment shall not be considered a "full-service restaurant" if it served alcohol without "meal" service being provided with the exception that alcohol sales to restaurant patrons may continue for up to two hours after meal service has ceased to allow guests to comfortably complete their meals.
2. There shall be a real offer or holding out to sell "meals." Premises shall make an offer or holding out of sales of "meals" to the public by maintaining and displaying a printed menu and/or a menu board. A two-thirds majority of the items offered on the menu shall be available at any given time the establishment is open. The mere offering of "meals" without actual sales shall not be deemed sufficient.
3. The "offer" of "meals" is not adequate to meet the above criteria. A "full service restaurant" shall make actual and substantial sales of "meals" to guests for compensation. Substantial sales shall mean that no less than sixty ~~(60)~~-percent (60%) of total revenue shall be generated from food service and no more than forty ~~(40)~~-percent (40%) of revenue from the sales of alcohol.
4. "Meals" means the usual assortment of foods commonly ordered at various times of the day for the cuisine served. The service of snack foods and/or appetizers alone shall not be deemed compliance with this requirement. "Meals" shall be prepared on the premises. Heating of food prepared elsewhere shall not constitute a meal for the purposes of this policy.
5. Premises shall be equipped for meal service and maintained in good faith. Premises must possess and maintain appliances for the cooking of a variety of foods such as stoves, ovens, broilers, or other devices, as well as pots, pans, or containers that can be used for cooking. Premises shall possess the necessary utensils, table service, and condiment dispensers with which to serve "meals" to the public.
6. A full service restaurant shall comply with all local health department standards.
7. A full service restaurant may have a separate lounge or bar area provided that the restaurant and bar/lounge area operate as a single entity. The physical layout, entry location(s), spatial connection between the areas, and operational characteristics, among other factors, shall be used to determine compliance. Any bar/lounge area cannot remain open when the dining area is closed. However, the dining area may be open while the bar/lounge area is closed.
8. To the extent that State Department of Alcoholic Beverage Control (ABC) regulations do not conflict with the above criteria, a full service restaurant shall comply with all ~~State Department of Alcoholic Beverage Control-ABC~~ regulations related to "Bona fide public eating place, meals."

"Restricted street" means that area applied to a depth of two hundred (200) feet on each side of and including the following streets and portions of streets, as measured perpendicularly from the right-of-way line thereof: ~~E. 14th Street~~International Boulevard; Foothill Boulevard; MacArthur Boulevard and West MacArthur Boulevard; that portion of San Pablo Avenue lying between Highway I-980 and I-580; that portion of Edes Avenue lying between Clara Street and Bergedo Drive.



**17.156.140 - Procedure for consideration of violations to performance standards.**

Upon receiving a complaint from the public, Police Department, or any other interested party that a Deemed Approved Activity is in violation of the performance standards at Section 17.156.090, and once it is determined by the city that violations appear to be occurring, then the Deemed Approved Status of the Deemed Approved Activity in question shall be reviewed by the Administrative Hearing Officer at a public hearing. Notification of the public hearing shall be in accordance with Section 17.156.180.

The purpose of the public hearing is to receive testimony on whether the operating methods of the Deemed Approved Activity are causing undue negative impacts in the surrounding area. While the hearing is open, any interested party must enter into the record any issues and/or evidence to the Administrative Hearing Officer for his or her consideration; failure to do so will preclude the party from raising such issues during the appeal hearing and/or in court. At the public hearing, the Administrative Hearing Officer shall determine whether the Deemed Approved Activity conforms to the Deemed Approved Performance Standards set forth in Section 17.156.090 and to any other applicable criteria, and may continue the Deemed Approved Status for the activity in question or require such changes or impose such reasonable Conditions of Approval as are in the judgment of the Administrative Hearing Officer necessary to ensure conformity to said criteria and such conditions shall be based on the evidence before the Officer. The decision of the Officer shall be based upon information compiled by staff and testimony from the business owner and all other interested parties. New conditions of approval shall be made a part of the Deemed Approved Status and the Deemed Approved Activity shall be required to comply with these conditions. The determination of the Officer shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.156.160. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Administrative Hearing Officer prior to the close of the Administrative Hearing Officer's public hearing on the matter.

**17.156.150 - Procedure for consideration of violations to conditions of approval.**

In the event of a violation of any of the provisions set forth in Sections 17.156.010 through 17.156.140 of these regulations, or upon evidence that there has been a failure to comply with any prescribed condition of approval, the Officer may hold a public hearing. Notification of the public hearing shall be in accordance with Section 17.156.180.

The purpose of this public hearing is to receive testimony and determine whether violations to any conditions of approval attached to the site have occurred. While the hearing is open, any interested party must enter into the record any issues and/or evidence to the Administrative Hearing Officer for his or her consideration; failure to do so will preclude the party from raising such issues during the appeal hearing and/or in court. The Officer may add to or amend the existing conditions of approval based upon the evidence presented; or alternatively may revoke the Deemed Approved Activity's Deemed Approved Status. The determination of the Administrative Hearing Officer shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.156.160. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Administrative Hearing Officer prior to the close of the Administrative Hearing Officer's public hearing on the matter. The decision of the Planning Commission shall be final unless appealed to the City Council in accordance with Section 17.156.170.

**17.156.160 - Appeal to Planning Commission.**

Within ten (10) 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 itself

must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to the Administrative Hearing Officer prior to the close of the public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues during the appeal and/or in court. 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) 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.

During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented to the Administrative Hearing Officer prior to the close of the public hearing on the item and raised in the appeal itself. The appellant shall not be permitted to present any other evidence (written, oral, or otherwise) during the appeal process. 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.~~

#### **17.156.170 - Appeal on the revocation of a Deemed Approved Status to the City Council.**

Within ten (10) 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 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, along with the appropriate fees required by the City's Master Fee Schedule. 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. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to City Planning Commission prior to the close of its public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues during the appeal and/or in court. 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 seventeen (17) 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. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented prior to the close of the City Planning Commission's public hearing on the item and raised in the appeal itself. The appellant shall not be permitted to present any other evidence (written, oral, or otherwise) during the appeal process. 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.

#### **17.157.110 - Procedure for consideration of violations to performance standards.**

As a result of an annual or bi-annual inspection pursuant to OMC Section 8.030.60B or upon receiving a complaint from the public, Police Department, or any other interested party that a Deemed Approved Hotel Activity is in violation of the performance standards at Section 17.157.060, and once it is determined by the city that violations appear to be occurring, then the Deemed Approved Status of the Deemed Approved Hotel Activity in question shall be reviewed by the Administrative Hearing Officer at a public hearing. Notification of the public hearing shall be in accordance with Section 17.157.150.

The purpose of the public hearing is to receive testimony on whether the operating methods of the Deemed Approved Hotel Activity is in violation of the performance standards at Section 17.157.060, are causing undue negative impacts in the surrounding area, and/or whether the property is not being maintained in a manner to be habitable by guests or residents. While the hearing is open, any interested party must enter into the record any issues and/or evidence to the Administrative Hearing Officer for his or her consideration; failure to do so will preclude the party from raising such issues during the appeal hearing and/or in court. At the public hearing, the Administrative Hearing Officer shall determine whether the Deemed Approved Activity conforms to the Deemed Approved Performance Standards set forth in Section 17.157.060 and to any other applicable criteria, and may continue the Deemed Approved Status for the activity in question or require such changes or impose such reasonable Conditions of Approval as are in the judgment of the Administrative Hearing Officer necessary to ensure conformity with said criteria and such conditions shall be based on the evidence before the Officer. The decision of the Officer shall be based upon information compiled by staff and testimony from the business owner and all other interested parties. New conditions of approval shall be made a part of the Deemed Approved Status and the Deemed Approved Hotel Activity shall be required to comply with these conditions. The determination of the Officer shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.157.130. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Administrative Hearing Officer prior to the close of the Administrative Hearing Officer's public hearing on the matter.

#### **17.157.120 - Procedure for consideration of violations of conditions of approval.**

In the event of a violation of any of the provisions set forth in Sections 17.157.010 through 17.157.110 of these regulations, or upon evidence that there has been a failure to comply with any prescribed condition of approval, the Officer may hold a public hearing. Notification of the public hearing shall be in accordance with Section 17.157.150.

The purpose of this public hearing is to receive testimony and determine whether violations to any conditions of approval attached to the site have occurred. While the hearing is open, any interested party must enter into the record any issues and/or evidence to the Administrative Hearing Officer for his or her consideration; failure to do so will preclude the party from raising such issues during the appeal hearing and/or in court. The officer may add to or amend the existing conditions of approval based upon the evidence presented; or alternatively may revoke the Deemed Approved Hotel Activity's Deemed Approved Status. The determination of the Administrative Hearing Officer shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.157.130. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Administrative Hearing Officer prior to the close of the Administrative Hearing Officer's public hearing on the matter. The decision of the City Planning Commission shall be final unless appealed to the City Council in accordance with Section 17.157.140.

#### **17.157.130 - Appeal to City Planning Commission.**

Within ten (10) 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 itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to the Administrative Hearing Officer prior to the close of the public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues during the appeal and/or in court. 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) 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.

During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented to the Administrative Hearing Officer prior to the close of the public hearing on the item and raised in the appeal itself. The appellant shall not be permitted to present any other evidence (written, oral, or otherwise) during the appeal process. 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.~~

#### **17.157.140 - Appeal on the revocation of a Deemed Approved Status to the City Council.**

Within ten (10) 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. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to City Planning Commission prior to the close of its public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues during the appeal and/or in court. 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 seventeen (17) 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.

During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented prior to the close of the City Planning Commission's public hearing on the item and raised in the appeal

itself. The appellant shall not be permitted to present any other evidence (written, oral, or otherwise) during the appeal process. 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.~~

#### 17.158.090 - Definitions.

Historic Property. "Historic property" are those properties that are designated city landmarks; ~~pursuant to Section 17.102.030 of this code; is~~ are listed on the National Register of Historic Places, ~~or is listed as a California Registered Historical Landmark,~~ or as is a California Point of Historical Interest; ~~is~~ are contributory to an S-7 Preservation Combining Zone pursuant to Section 17.84.010 of this code; ~~or have~~ has received an "A" or "B" rating by the Oakland Cultural Heritage Survey.

#### 17.158.190 - Discretionary actions.

- 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, and as related to any demolition or removal of structures on a site where the zoning regulations requires design review to alter the exterior appearance of the applicable building facility, regardless of whether the owner intends to create a surface parking lot or a vacant lot pursuant to Section 15.36.080;
  - 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;
  - 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 General Plan.
- E. Projects sponsored or assisted by the City or the Redevelopment Agency.

#### 17.158.200 - Decision on projects.

The City Planning Commission or other appropriate decision-making body shall not approve a project for which the environmental review process is required without following the procedures outlined below.

- A. Exempt Projects. If the project is exempt, some finding to this effect shall be included in the record. If action is by resolution, the resolution will typically contain a clause declaring that the project is exempt from the requirements of CEQA.
- B. Negative Declarations. If a negative declaration has been prepared, the decision-making body shall review this document and approve the negative declaration concurrently in approving the project's discretionary permit application. After making a decision, the decision-making body or its agent shall notify the Environmental Review Officer, to cause a Nnotice of Ddetermination (NOD) to be filed with the County Clerk. If the project requires discretionary approval from any state agency, the Environmental Review Officer shall also cause the notice of determination to be filed with the State Office of Planning and Research. The filing of the notice of determination is a mandatory requirement under CEQA Guidelines Section 15075.

The NOD shall include the following information:

1. A project identification including its common name and its location;
2. A brief description of the project;
3. The date of project approval;
4. A statement of determination that the project would not have a significant effect on the environment;
5. A statement that a negative declaration or an environmental impact report has been prepared pursuant to the provisions of CEQA;
6. The address and location where a copy of the negative declaration may be examined.

C. Environmental Impact Report (EIR). If an EIR has been prepared, the decision-making body shall certify the final EIR before approving the discretionary permits for the project. However, no project for which an EIR was completed and certified, and which identifies one or more significant environmental effects shall be approved without making one or more findings for each of the identified significant environmental effects. Such findings shall be supported by substantial evidence in the record. The following possible findings are identified in CEQA Guidelines Section 15091:

1. Changes or alterations have been required in, or incorporated into, the project which would avoid or substantially lessen the identified significant environmental effect as identified in the final EIR;
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the city. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.

Should a finding be made that mitigation measures are not feasible, the decision-making body shall adopt a "statement of overriding consideration" as described in CEQA Guidelines Section 15093.

4. If the benefits of a proposed project outweigh the unavoidable adverse environmental effects, the environmental effects may be considered acceptable. The decision-making body shall state in writing the specific reasons to support its action based on the final EIR and/or information in the record. If a statement of overriding consideration is adopted, it should be identified in the notice of determination.

After making a decision, the decision-making body or its agents shall notify the Environmental Review Officer, who shall cause a Notice of Determination (NOD) to be filed with the County Clerk and if required, the State Office of Planning and Research.

#### **17.158.210 - Time limits, extension or waiver of time limits.**

The Review Officer shall have authority to extend or waive time limits as provided in the Guidelines. Such action is appealable to the City Planning Commission within ten (10) days of the Review Officer's decision. The decision of the City Planning Commission is final. However, failure to adhere to the prescribed time limits, shall not in and of itself, prejudice the city from requiring appropriate environmental review.

F. Projects Subject to CEQA and NEPA. If a project is subject to both CEQA and NEPA environmental processing, the one-year time limit for the preparation of an EIR, and the one-hundred-five (105) day time limit for a negative declaration may be waived under certain conditions as discussed in Section 15110 of the CEQA Guidelines. Specifically, this time limit waiver shall apply when additional time is needed to prepare a combined EIR/EIS or combined



negative declaration/FONSI, and if the time to prepare the combined documents would be shorter than the time required to prepare the documents separately.


 California Department of Alcoholic Beverage Control Save As CSV
**License Type 41**

For the Cities of OAKLAND

Report as of: 09/24/2018

 Rows Per Page:  

Total Licenses: 326

Page 1 of 14

Click on column header to sort

	<u>License Number</u>	<u>Status</u>	<u>License Type</u>	<u>Orig. Iss. Date</u>	<u>Expir. Date</u>	<u>Primary Owner</u>	<u>Business Name</u>	<u>Premises Addr.</u>	<u>Geo Code</u>
1	<a href="#">180963</a>	ACTIVE	41	12/30/1985	03/31/2019	ROCKRIDGE CAFE INC THE	ROCKRIDGE CAFE	5490-92 COLLEGE AVE OAKLAND, CA 94618  Census Tract: 4003.00	0109
2	<a href="#">197536</a>	ACTIVE	41	04/20/1987	06/30/2019	FUNG, JING LING	BENS RESTAURANT	398 3RD ST OAKLAND, CA 94607  Census Tract: 9832.00	0109
3	<a href="#">202697</a>	ACTIVE	41	11/18/1987	07/31/2019	ZACHARYS CHICAGO PIZZA INC	ZACHARYS CHICAGO PIZZA INC	5801 COLLEGE AVE OAKLAND, CA 94618  Census Tract: 4002.00	0109
4	<a href="#">239002</a>	ACTIVE	41	11/22/1989	02/28/2019	ESPINOZA, NICOLAS	TIJUANA RESTAURANT	1308 INTERNATIONAL BLVD OAKLAND, CA 94606  Census Tract: 4059.02	0109
5	<a href="#">262355</a>	ACTIVE	41	11/04/1991	05/31/2019	HAN, KYENAM	UZEN	5415 COLLEGE AVE OAKLAND, CA 94618  Census Tract: 4003.00	0109
6	<a href="#">264267</a>	ACTIVE	41	09/19/1991	07/31/2019	HUNG, BRAND P C	SHAN DONG RESTAURANT	328 10TH ST, # 101 OAKLAND, CA 94607  Census Tract: 4030.00	0109
7	<a href="#">272978</a>	ACTIVE	41	06/18/1992	08/31/2019	MOGALIAN, JEFFREY ARAM	BAJA TAQUERIA	4070 PIEDMONT AVE OAKLAND, CA 94611  Census Tract: 4041.02	0109
8	<a href="#">285356</a>	ACTIVE	41	07/16/1993	06/30/2019	CATO CORP	CATOS ALE HOUSE	3891 PIEDMONT AVE OAKLAND, CA 94611  Census Tract: 4040.00	0109

9	<u>288520</u>	ACTIVE	41	10/28/1993	09/30/2018	TAQUERIA SAN JOSE INC		3433 INTERNATIONAL BLVD OAKLAND, CA 94601-3035  Census Tract: 4061.00	0109
10	<u>288794</u>	ACTIVE	41	03/21/1994	02/28/2019	GUM KUO RESTAURANT INC	GUM KUO RESTAURANT	388 9TH ST, STE 182 OAKLAND, CA 94607  Census Tract: 4030.00	0109
11	<u>303092</u>	ACTIVE	41	01/26/1995	12/31/2018	VASQUEZ, ANTONIO	JALISCO RESTAURANT	1721 INTERNATIONAL BLVD OAKLAND, CA 94606  Census Tract: 4060.00	0109
12	<u>303806</u>	ACTIVE	41	12/20/1994	01/31/2019	DOKHANCHY, MEHRDAD		3762 PIEDMONT AVE OAKLAND, CA 94611  Census Tract: 4040.00	0109
13	<u>312672</u>	ACTIVE	41	10/25/1995	09/30/2018	SERMSAKUL, SUTEERA	TAKE IT EASY	351 17TH ST OAKLAND, CA 94612  Census Tract: 4029.00	0109
14	<u>321261</u>	ACTIVE	41	12/16/1998	09/30/2018	SAWANWATANA, CHALADPAN	OLD WEANG PING VILLAGE RESTAURANT	6217 MACARTHUR BLVD OAKLAND, CA 94605  Census Tract: 4087.00	0109
15	<u>326009</u>	ACTIVE	41	02/06/1997	01/31/2019	CAMPOS, ADALBERTO	CUATRO CAMINOS RESTAURANT	3800 SAN LEANDRO ST OAKLAND, CA 94601  Census Tract: 4061.00	0109
16	<u>334289</u>	ACTIVE	41	09/29/1997	08/31/2019	OAKLAND HILLS TENNIS CLUB INC	OAKLAND HILLS TENNIS CLUB	5475 REDWOOD RD OAKLAND, CA 94619  Census Tract: 4080.00	0109
17	<u>334479</u>	ACTIVE	41	09/25/1997	08/31/2019	TEP, METHEA	DIGGERY INN	4212 PARK BLVD OAKLAND, CA 94602  Census Tract: 4049.00	0109
18	<u>334919</u>	ACTIVE	41	10/24/1997	09/30/2018	CACHIOTIS, ARTIE P	CONNIES CANTINA	3340 GRAND AVE OAKLAND, CA 94610  Census Tract: 4038.00	0109
19	<u>336347</u>	ACTIVE	41	12/02/1997	11/30/2018	CHANYONPATANAKUL, RATTANAPORN	SIAM BAY AUTHENTIC THAI CUISINE	1009 CLAY ST OAKLAND, CA 94607  Census Tract: 4031.00	0109

20	<u>337313</u>	ACTIVE	41	12/23/1997	06/30/2019	TAQUERIAS EL FAROLITO INC	TAQUERIA EL FAROLITO 4	3646 INTERNATIONAL BLVD OAKLAND, CA 94601  Census Tract: 4072.00	0109
21	<u>340934</u>	ACTIVE	41	05/11/1998	04/30/2019	LUONG, QUANG A	BECKY'S RESTAURANT	5620 COLLEGE AVE OAKLAND, CA 94618  Census Tract: 4003.00	0109
22	<u>341217</u>	ACTIVE	41	06/17/1998	05/31/2019	TRAN, HUE THI	BINH MINH QUAN VIETNAMESE RESTAURANT	338 12TH ST OAKLAND, CA 94607  Census Tract: 4030.00	0109
23	<u>341688</u>	ACTIVE	41	06/03/1998	05/31/2019	CHAE, SUSAN K	KORYO SUSHI	4390 TELEGRAPH AVE, STE G OAKLAND, CA 94609  Census Tract: 4011.00	0109
24	<u>351620</u>	ACTIVE	41	06/21/1999	01/31/2019	NGUYEN, TIMMY VAN	MISS SAIGON	3345 GRAND AVE OAKLAND, CA 94610  Census Tract: 4039.00	0109
25	<u>354600</u>	SUSPEN	41	07/20/1999	06/30/2019	ANTON, CARLOS ALBERTO	LA FURIA CHALACA	310 BROADWAY OAKLAND, CA 94607  Census Tract: 9832.00	0109



## California Department of Alcoholic Beverage Control

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**License Type 47**

For the Cities of OAKLAND

Report as of: 09/24/2018

Rows Per Page: 25 Reload

Total Licenses: 205

Page 1 of 9

Click on column header to sort

	<u>License Number</u>	<u>Status</u>	<u>License Type</u>	<u>Orig. Iss. Date</u>	<u>Expir. Date</u>	<u>Primary Owner</u>	<u>Business Name</u>	<u>Premises Addr.</u>	<u>Geo Code</u>
1	<a href="#">45616</a>	ACTIVE	47	11/01/1977	06/30/2019	GOMEZ, EFREN	MEXICALO ROSE RESTAURANT	701 CLAY ST OAKLAND, CA 94607  Census Tract: 4031.00	0109
2	<a href="#">121890</a>	ACTIVE	47	04/20/1982	10/31/2018	ROSSI, GERALD FRANK	FAT LADY RESTAURANT THE	201 WASHINGTON ST OAKLAND, CA 94607  Census Tract: 9832.00	0109
3	<a href="#">159865</a>	ACTIVE	47	11/13/1984	05/31/2019	SCOTTS JACK LONDON SEAFOOD INC	SCOTTS' JACK LONDON SEAFOOD INC	73 JACK LONDON SQ OAKLAND, CA 94607  Census Tract: 9832.00	0109
4	<a href="#">180965</a>	ACTIVE	47	10/04/1989	05/31/2019	YOHANNES, KESETE		5020 TELEGRAPH AVE OAKLAND, CA 94609  Census Tract: 4011.00	0109
5	<a href="#">218897</a>	ACTIVE	47	10/06/1988	07/31/2019	HAM ODAY INC	GRAND OAKS RESTAURANT	3701 GRAND AVE OAKLAND, CA 94610  Census Tract: 4039.00	0109
6	<a href="#">258498</a>	ACTIVE	47	03/12/1991	08/31/2019	BERGER, CHERYL	CLARION SUITES LAKE MERRITT HOTEL	1800 MADISON ST OAKLAND, CA 94612  Census Tract: 4034.00	0109
7	<a href="#">284182</a>	ACTIVE	47	07/26/1993	06/30/2019	CARLSON, ALAN SCOTT		2220 MOUNTAIN BLVD, STE 100 OAKLAND, CA 94611  Census Tract: 4045.02	0109
8	<a href="#">287976</a>	ACTIVE	47	09/21/1993	09/30/2018	MACIAS, JOSE MANUEL	LA ESTRELLITA CAFE	440-446 E 12TH ST OAKLAND, CA 94606  Census Tract: 4060.00	0109
9	<a href="#">289953</a>	ACTIVE	47	12/29/1993	11/30/2018	LAMUMBA INC	GEOFFREYS INNER CIRCLE	410 14TH ST OAKLAND, CA 94612  Census Tract: 4029.00	0109

10	<u>327546</u>	ACTIVE	47	03/25/1997	02/28/2019	CATO CORP	BEN & NICKS BAR & GRILL	5612 COLLEGE AVE OAKLAND, CA 94618  Census Tract: 4003.00	0109
11	<u>327583</u>	ACTIVE	47	04/29/1997	06/30/2019	YOSHIS JAPANESE RESTAURANT INC	YOSHIS	510 EMBARCADERO W OAKLAND, CA 94607  Census Tract: 9832.00	0109
12	<u>331955</u>	ACTIVE	47	10/15/1997	09/30/2018	MONTCLAIR GOLF ENTERPRISES	MONTCLAIR GOLF CLUB	2477 MONTEREY BLVD OAKLAND, CA 94611  Census Tract: 4047.00	0109
13	<u>336135</u>	ACTIVE	47	01/13/1998	12/31/2018	SIGALIT INC	BUTTERCUP GRILL & BAR	1000 COTTON ST OAKLAND, CA 94606  Census Tract: 4060.00	0109
14	<u>343042</u>	ACTIVE	47	03/10/1999	03/31/2019	GALINDO, ENRIQUE	MI GRULLENSE	1457 FRUITVALE AVE OAKLAND, CA 94601-2320  Census Tract: 4062.02	0109
15	<u>345977</u>	ACTIVE	47	10/06/1998	08/31/2018	PELAYO, ABRAHAM	GUADALAJARA RESTAURANT	1001 FRUITVALE AVE OAKLAND, CA 94601  Census Tract: 4061.00	0109
16	<u>368265</u>	ACTIVE	47	12/07/2000	11/30/2018	COLLEGE AVENUE RESTAURANT INC	A COTE	5478 COLLEGE AVE OAKLAND, CA 94618  Census Tract: 4003.00	0109
17	<u>369757</u>	ACTIVE	47	03/13/2001	02/28/2019	EVERETT & JONES BARBEQUE JACK LONDON LLC	EVERETT & JONES BARBEQUE	126 BROADWAY OAKLAND, CA 94607  Census Tract: 9832.00	0109
18	<u>370364</u>	ACTIVE	47	02/05/2001	01/31/2019	PATAJOTI, PARICHATI	SOI 4 RESTAURANT	5421 COLLEGE AVE OAKLAND, CA 94618  Census Tract: 4003.00	0109
19	<u>376061</u>	ACTIVE	47	06/21/2001	11/30/2018	CHRISTOPHER WARREN CORPORATION	MARICA SEAFOOD RESTAURANT	5301 COLLEGE AVE OAKLAND, CA 94618  Census Tract: 4003.00	0109
20	<u>384861</u>	ACTIVE	47	04/15/2002	03/31/2019	OLIVETO LINKS LLC	OLIVETO	5655 COLLEGE AVE OAKLAND, CA 94618  Census Tract: 4003.00	0109
21	<u>394743</u>	ACTIVE	47	01/07/2003	12/31/2018	FESEHA, IYASU	RED SEA RESTAURANT	5200-5204 CLAREMONT AVE OAKLAND, CA 94618  Census Tract: 4003.00	0109

22	<u>400401</u>	ACTIVE	47	07/18/2003	03/31/2019	ANTICA RESTAURANTS LLC	DOPO	4293 PIEDMONT AVE OAKLAND, CA 94611-4713  Census Tract: 4041.01	0109
23	<u>409515</u>	ACTIVE	47	10/05/2004	09/30/2018	LUKAS LLC	LUKAS TAPROOM & LOUNGE	2221 BROADWAY OAKLAND, CA 94612-3010  Census Tract: 4028.00	0109
24	<u>413495</u>	ACTIVE	47	10/21/2004	09/30/2018	DEDA ENTERPRISES INC	HOME OF CHICKEN & WAFFLES	444 EMBARCADERO W OAKLAND, CA 94607-3706  Census Tract: 9832.00	0109
25	<u>414721</u>	ACTIVE	47	01/03/2005	03/31/2019	KHO CORPORATION	OHGANE	3915 BROADWAY OAKLAND, CA 94611-5615  Census Tract: 4012.00	0109

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# OAKLAND CITY COUNCIL

ORDINANCE No. \_\_\_\_\_ C.M.S.

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**AN ORDINANCE AMENDING THE PLANNING CODE (TITLE 17) TO UPDATE REGULATIONS FOR RESTAURANTS SERVING ALCOHOLIC BEVERAGES, UNDER CHAPTERS 17.09, 17.10, 17.103, 17.134 AND 17.156, AS RECOMMENDED BY THE PLANNING COMMISSION**

**WHEREAS**, under the City of Oakland Planning Code at Title 17 of the Oakland Municipal Code (“Planning Code”), bars and liquor stores, due to historic issues with their community impacts at certain locations, are subject to discretionary review in order to establish a new premises; and

**WHEREAS**, under the Planning Code, restaurants located along certain corridors or “restricted streets” are currently regulated due to previous, neighborhood-specific concerns, in a manner similar to that of a bar or liquor store; and

**WHEREAS**, the City currently regulates restaurants providing a “Limited Service and Café” format rather than a Full-Service Restaurant service similar to a bar or liquor store by requiring a Conditional Use Permit; and

**WHEREAS**, the State of California Department of Alcoholic Beverage Control (ABC) does not, for purposes of alcoholic beverage regulation, distinguish between restaurants that offer a Full-Service Restaurant Service format and those that offer a Limited-Service and Café format; and

**WHEREAS**, the number of restaurants in Oakland continues to increase with no known negative consequences; and

**WHEREAS**, many new and existing restaurants in Oakland operate under a Limited-Service Restaurant and Café format due to issues such as operating expenses, with no known negative consequences; and

**WHEREAS**, many new and existing restaurants in Oakland wish to offer their customers alcoholic beverage options, but find that the discretionary review and permitting process is too onerous and costly to be a viable option; and

**WHEREAS**, the City has granted several variances for Limited-Service Restaurants and Cafes to serve alcoholic beverages with no known negative consequences; and

**WHEREAS**, other City regulations for alcoholic beverage establishments such as wineries and brewers have been updated to conform to current trends, also with no known negative consequences; and



**WHEREAS**, the proposed amendments to the Planning Code rely on the previously certified Final Environmental Impact Reports for the Coliseum Area Specific Plan (2105); Broadway Valdez Specific Plan (2014); West Oakland Specific Plan (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan (1998); the Oakland Estuary Policy Plan (1998); the West Oakland, Central City East, Coliseum, and Oakland Army Base Redevelopment Areas; the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010); and various Redevelopment Plan Final EIRs (collectively, "EIRs"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment); and now, therefore,

**BE IT RESOLVED:**

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

**SECTION 1. Recitals.** The Council of the City of Oakland finds and determines the foregoing recitals to be true and correct and are hereby incorporated herein as findings and determinations of the City Council.

**SECTION 2. Amendments to Relevant Provisions of the Oakland Planning Code (Title 17) Sections 17.09.040, 17.10.040, 17.10.272, 17.10.274, 17.103.030, 17.134.020, and 17.156.070.** The Oakland Planning Code (Title 17) Sections 17.09.040, 17.10.040, 17.10.272, 17.10.274, 17.103.030, 17.134.020, and 17.156.070 are hereby amended as follows (additions are shown as underline and deletions are shown as ~~strike through~~), with only the relevant portions of the Sections shown below:

**Chapter 17.09 DEFINITIONS**

**Section:**

**7.09.040 Definitions.**

**"Full-service restaurant"** means a place ~~that which~~ is regularly and in a bona fide manner used and kept open for the serving of at least lunch and dinner to guests for compensation; and that which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals. The sale or service of sandwiches (whether prepared in a kitchen or made elsewhere and heated up on the premises) or snack foods shall not constitute a full-service restaurant. Also, see Sections 17.10.272 and 17.156.070.

**Chapter 17.10 USE CLASSIFICATIONS**

**Articles and Sections:**

**Article I - General Classification Rules**

**17.10.040 Accessory activities.**

In addition to the principal activities expressly included therein, each activity type shall be deemed to include such activities as are customarily associated with, and are appropriate,

incidental, and subordinate to, such a principal activity; are located on the same lot as such principal activity except as otherwise provided in Subsections A., J., and K. of this Section; and meet the further conditions set forth hereinafter. Such accessory activities shall be controlled in the same manner as the principal activities within such type except as otherwise expressly provided in the zoning regulations. Such accessory activities include, but are not limited to, the activities indicated below, but exclude the sale of alcoholic beverages to the general public except at a Ffull-Sservice Rrestaurant, Limited-Service Restaurant and Cafe, or at an alcoholic beverage manufacturer, as described in Sections 17.10.272, 17.10.274, 17.10.550, and 17.10.560, and subject to the standards in Section 17.103.030. (See also Section 17.10.050 for additional activities included within activity types in the case of combinations of different principal activities.)

## **Article II - Activity Types**

### **Part 3 Commercial Activity Types**

17.10.272 Full-Service Restaurant Commercial Activities.

17.10.274 Limited-Service Restaurant and Cafe Commercial Activities.

17.10.300 Alcoholic Beverage Sales Commercial Activities.

#### **17.10.272 Full-Service Restaurant Commercial Activities.**

Full-Service Restaurant Commercial Activities include the provision of food or beverage services to patrons who order and are served while seated (table service), and pay after eating. Only a minor proportion, if any, of the food is sold for consumption off-premises. These restaurants have kitchens that contain equipment suitable for cooking an assortment of foods; and may include service of liquor, beer and/or wine, subject to the standards in Section 17.103.030. Also, see Sections ~~7.103.130~~ and 17.156.070 for definitions of a Ffull-Sservice Rrestaurant in relation to the Deemed Approved Alcoholic Beverage Sale regulations. ~~Alcoholic Beverage Sales~~. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

#### **17.10.274 Limited-Service Restaurant and Cafe Commercial Activities.**

Limited-Service Restaurant and Cafe Commercial Activities include the provision of food or beverage services to patrons that generally order and pay at a service counter before eating. Food and beverages may be served in disposable containers and may be consumed on the premises or taken out. Seating for on-premises consumption is usually available and table service may or may not be provided. These restaurants may include service of beer and/or wine, subject to the standards in Section 17.103.030. Examples of these activities include, but are not limited to, cafes and restaurants that do not fall under Section 17.10.272 Full-Service Restaurant Commercial Activities, or Section 17.10.280 Fast-Food Restaurant Commercial Activities. Also, see Section 17.156.070 for definition of a Limited-Service Restaurant and Cafe in relation to the Deemed Approved Alcoholic Beverage Sale regulations. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

## 17.10.300 Alcoholic Beverage Sales Commercial Activities.

Alcoholic Beverage Sales Commercial Activities include the retail sale, for on- or off-premises consumption, of liquor, beer, wine, or other alcoholic beverages, but exclude ~~full-service restaurants~~ Full-Service Restaurants, Limited-Service Restaurants and Cafes, and alcoholic beverage manufacturers that comply with their respective definition in Sections 17.10.272, 17.10.274, and 17.103.030. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

### Chapter 17.103 SPECIAL REGULATIONS AND FINDINGS FOR CERTAIN USE CLASSIFICATIONS

#### Article and Sections:

#### Article III Commercial Activities

#### 17.103.030 Fast-Food Restaurant, and Convenience Market Commercial Activities, and Establishments Selling Alcoholic Beverages, ~~Sales-Commercial Activities~~.

- A. Use Permit Criteria for Fast-Food Restaurants, Convenience Markets, and Establishments Selling Alcoholic Beverages. A Ceonditional Use Ppermit for any conditionally permitted Fast-Food Restaurant, Convenience Market, 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 Ceonditional Use Ppermit 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 additional use permit criteria:
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 10:00 p.m. and 7:00 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;~~
- B. Special Restrictions on Establishments Selling Alcoholic Beverages.
1. No Alcoholic Beverage Sales Commercial Activity or sale of alcoholic beverages shall be located closer than one thousand (1,000) feet to any other establishment selling alcoholic beverages ~~Alcoholic Beverage Sales Commercial Activity~~ measured between closest building walls, except:
    - b. Off-sale retail licenses located in the Jack London Ddistrict (defined for the purposes of this Chapter only as within the boundaries of Martin Luther King Jr. Way to the west, I-880 to the north; the Lake Merritt Channel to the east; and the Estuary to the south); or
    - c. If the activity is in conjunction with a Full-Service Restaurant or Limited-Service Restaurant and Cafe Commercial Activity; or
    - d. Establishments with twenty-five (25) or more full time equivalent (FTE) employees or a total floor area of twelve thousand (12,000) square feet or more;  
or
  2. ~~Sale of alcoholic beverages in conjunction with a Full Service Restaurant Commercial Activity and located within any of the following restricted street 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: International Boulevard; Foothill Boulevard; MacArthur Boulevard and West MacArthur Boulevard; that portion of San Pablo Avenue lying between Interstate 980 and 580; 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.

23. In addition to the criteria prescribed elsewhere in the zoning regulations, a land use permit for an Alcoholic Beverage Sales Commercial Activity located within an Alcoholic Beverage Sales license overconcentrated area shall only be granted, and a finding of Public Convenience or Necessity made, if the proposal conforms to all of the following three (3) criteria:
34. In addition to the above criteria, projects outside of the Central District, the Hegenberger Road Corridor, and the D-CO-2 and D-CO-3 Zones 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 twelve thousand (12,000) square feet or more:
  - a. The proposed project is not within one thousand (1,000) feet of another alcohol outlet (not including Full-Service Restaurant and Limited-Service Restaurant and Cafe Commercial Activities), 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 percent (20%), the average of calls for police service in police beats Citywide during the preceding one (1) calendar year.
45. See Chapter 17.156 for Deemed Approved Alcoholic Beverage Sale regulations.
5. Standards for Limited-Service Restaurant and Cafe Commercial Activities that include the service of alcoholic beverages:
  - a. Hours of operation shall not exceed a closing time of 12:00 a.m., unless a Cabaret Permit is obtained.
  - b. Food service shall be offered at all times the Limited-Service Restaurant or Cafe is open, with the exception that the establishment may elect to close the kitchen one hour prior to closing.
  - c. Minors shall be admitted at all times, unless a Cabaret Permit is obtained.
  - d. No admission shall be charged, unless a Cabaret Permit is obtained.
  - e. Window clarity shall be maintained at or restored to seventy-five percent (75%) minimum.
  - f. Floor plan shall depict a dining area and no bar.
  - g. Off-sale (retail bottle sales of beer and / or wine) shall be considered with to-go food orders after a period of six (6) months of operation by same operator and upon completion of a satisfactory administrative compliance review.
  - h. Sale of alcoholic beverages shall not exceed fifty percent (50%) of total revenues.
  - i. That where the proposed use is abutting and facing 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 10:00 p.m. and 7:00 a.m.

6. Applicants for projects involving alcohol sales are encouraged to conduct outreach early in the permit review process, including but not limited to, contact with the City Council District Office, Neighborhood Crime Prevention Council/NCPC (can be contacted through the City's Neighborhood Service Coordinators), merchant groups, and any other applicable neighborhood groups. Outcomes should be reported to the Planning Bureau in writing.

## **Chapter 17.134 CONDITIONAL USE PERMIT PROCEDURE**

### **Section:**

#### **17.134.020 Definition of Major and Minor Conditional Use Permits.**

A. **Major Conditional Use Permit.** A Conditional Use Permit (CUP) is considered a Major Conditional Use Permit if it involves any of the following:

2. **Uses.** Any project requiring a Conditional Use Permit 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 percent (20%):

a. **Activities:**

- iv. **Fast-Ffood Restaurant Commercial;**  
vi. **Alcoholic Beverage Sales Commercial, ~~or sale of alcoholic beverages at any full-service restaurant in a location described by Subsection 17.103.030.B;~~**

## **Chapter 17.156 DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS**

### **Article and Section:**

#### **Article II Definitions**

##### **17.156.070 Definitions.**

As used in this Chapter:

**"Alcoholic Beverage Sales Commercial Activity"** means the retail sale, for on- or off-premises consumption, of liquor, beer, wine, or other alcoholic beverages, excluding Full-Service Restaurants and Limited-Service Restaurants and Cafes that comply with the below-listed definition of Full-Service Restaurant or Limited-Service Restaurant and Cafe.

**"Full-Service Restaurant"** means a place which is regularly and in a bona fide manner used and kept open for the serving of at least lunch and dinner to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals. The sale or service of sandwiches (whether prepared in a kitchen or made elsewhere and heated up on the premises) or snack foods shall not constitute a full-service restaurant. To be considered a Full-Service Restaurant under the Deemed Approved Program, the establishment must meet the following criteria:

1. A "Full-Service Restaurant" ~~"full-service restaurant"~~ shall serve "meals" to guests at all times the establishment is open for business. An establishment shall not be considered a "full-service restaurant" if it served alcohol without "meal" service being provided with the exception that alcohol sales to restaurant patrons may continue for up to two (2) hours after meal service has ceased to allow guests to comfortably complete their meals.
3. The "offer" of "meals" is not adequate to meet the above criteria. A "Full-Service Restaurant" ~~"full-service restaurant"~~ shall make actual and substantial sales of "meals" to guests for compensation. Substantial sales shall mean that no less than sixty percent (60%) of total revenue shall be generated from food service and no more than forty percent (40%) of revenue from the sales of alcohol.
6. A Full-Service Restaurant ~~full-service restaurant~~ shall comply with all local health department standards.
7. A Full-Service Restaurant ~~full-service restaurant~~ may have a separate lounge or bar area provided that the restaurant and bar/lounge area operate as a single entity. The physical layout, entry location(s), spatial connection between the areas, and operational characteristics, among other factors, shall be used to determine compliance. Any bar/lounge area cannot remain open when the dining area is closed. However, the dining area may be open while the bar/lounge area is closed.
8. To the extent that State Department of Alcoholic Beverage Control (ABC) regulations do not conflict with the above criteria, a Full-Service Restaurant ~~full-service restaurant~~ shall comply with all ABC regulations related to "Bona fide public eating place, meals."

**"Legal Nonconforming Alcoholic Beverage Sales Commercial Activity" or "Legal Nonconforming Activity"** means an Alcoholic Beverage Sales Commercial Activity which was a nonconforming use pursuant to the Nonconforming Use Regulations in Chapter 17.114, and for which a valid state of California Alcoholic Beverage Control license had been issued and used in the exercise of the rights and privileges conferred by the license, at a time immediately prior to the effective date of the Deemed Approved Alcoholic Beverage Sale regulations. Such an Activity shall be considered a Deemed Approved Activity, and shall no longer be considered a Legal Nonconforming Activity, except such activity shall be subject to those zoning regulations relating to nonconforming uses as specified in Section 17.156.040C, as of the effective date of the Deemed Approved Alcoholic Beverage Sale regulations.

**"Limited-Service Restaurant and Café"** means a place that provides food or beverage services to patrons that generally order and pay at a service counter before eating. Food and beverages may be served in disposable containers and may be consumed on the premises or taken out. Seating for on-premises consumption is usually available and table service may or may not be provided. Examples of these activities include, but are not limited to, cafes and restaurants that do not fall under the definition of "Full-Service Restaurant" as used in this Chapter; or the definition of Full-Service Restaurant Commercial Activities, as specified in Section 17.10.272, or Fast-Food Restaurant Commercial Activities, as specified in Section 17.10.280.

**"Restricted street"** means that area applied to a depth of two hundred (200) feet on each side of and including the following streets and portions of streets, as measured perpendicularly from the right-of-way line thereof: International Boulevard; Foothill Boulevard; MacArthur Boulevard and West MacArthur Boulevard; that portion of San Pablo Avenue lying between Highway 1-980 and 1-580; that portion of Edes Avenue lying between Clara Street and Bergedo Drive.

**SECTION 3. California Environmental Quality Act.** The City Council has reviewed the proposed amendments to the Oakland Planning Code and independently finds and determines that the proposed amendments to the Planning Code rely on the previously certified Final

Environmental Impact Reports for the Coliseum Area Specific Plan (2105); Broadway Valdez Specific Plan (2014); West Oakland Specific Plan (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan (1998); the Oakland Estuary Policy Plan (1998); the West Oakland, Central City East, Coliseum, and Oakland Army Base Redevelopment Areas; the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010); and various Redevelopment Plan Final EIRs (collectively, "EIRs"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).

**SECTION 4. Undertaking for the General Welfare.** In enacting and implementing this Ordinance, the City of Oakland is assuming an undertaking to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

**SECTION 5. Authority.** This Ordinance is enacted by the City Council pursuant to the police powers accorded to the City by and through Section 106 of the Charter of the City of Oakland and Article XI of the Constitution of the State of California.

**SECTION 6. Severability.** The provisions of this Ordinance are severable, and if any article, section, subsection, sentence, clause, phrase, paragraph, provision, or part of this Ordinance, or the application of this Ordinance to any person, is for any reason held to be invalid, preempted by state or federal law, or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of remaining portions of the Ordinance which shall remain in full force and effect.

**SECTION 7. Effective Date.** Pursuant to Section 216 of the Charter of the City of Oakland, this Ordinance shall become effective immediately on final adoption if it receives six (6) or more affirmative votes on final adoption. Otherwise, it shall become effective upon the seventh day after final adoption.

**SECTION 8. Conflict.** Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

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

## NOTICE AND DIGEST

### **AN ORDINANCE AMENDING THE PLANNING CODE (TITLE 17) TO UPDATE REGULATIONS FOR RESTAURANTS SERVING ALCOHOLIC BEVERAGES, UNDER CHAPTERS 17.09, 17.10, 17.103, 17.134 AND 17.156, AS RECOMMENDED BY THE PLANNING COMMISSION**

The Ordinance amends the Planning Code Regulations relating to the sale of alcoholic beverages for Limited-Service Restaurants and Cafes and Full-Service Restaurants located along certain corridors where the sale of alcoholic beverages therein have been previously restricted. These proposed Planning Code amendments for these restaurants serve to relieve these restaurants of the need for further discretionary approvals to serve certain alcoholic beverages, which will in turn make their businesses more viable.