

**CITY OF OAKLAND** FILED  
**AGENDA REPORT** OFFICE OF THE CITY CLERK  
OAKLAND

2008 OCT -1 PM 5:16

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: Community and Economic Development Agency  
DATE: October 14, 2008

RE: **Public Hearing And Report For Adoption Of Various Planning Code Text Amendments, Including : A) Adding Extensive Impact Civic Activities As A Conditionally Permitted Activity To The C-45 And C-55 Zones; B) Adding Animal Care Commercial Activities As A Conditionally Permitted Activity To The C-36 Zone; C) Reducing The Time That An Automotive Servicing, Or A Repair And Cleaning Activity, May Be Discontinued Before It Loses Its Legal, Non-Conforming Status In The S-5 Broadway Retail Frontage Zone; D) Making Permanent An Emergency Ordinance That Creates Special Variance Findings And Expedited Appeal Procedures For Signs; E) Clarifying That Uniformly Applied Development Standards/Standard Conditions Of Approval Are Automatically Imposed On All Applications, Including Those "Deemed Approved" Under The State Permit Streamlining Act; And F) Various Amendments Which Codify Administrative Practice, Update References, Clarify Language, And Other Changes.**

---

**SUMMARY**

On September 17, 2008, the Planning Commission recommended that the Planning Code Amendments described in this report be approved by the City Council. The proposed amendments to the Oakland Planning Code include updating references, improving consistency among chapters, reducing redundancy, and clarifying language. Other amendments include: a) adding Extensive Impact Civic Activities as a Conditionally Permitted Activity to the C-45 and C-55 zone; b) adding Animal Care Commercial Activities as a Conditionally Permitted Activity to the C-36 zone; c) reducing the amount of time that an automotive servicing activity or an automotive repair and cleaning activity may be discontinued before it loses its legal, non-conforming status in the S-5 Broadway Retail Frontage Zone; d) making permanent an Emergency Ordinance that creates special variance findings and expedited appeal procedures for signs; and e) clarifying that Uniformly Applied Development Standards are applied as Standard Conditions of Approval, which are automatically imposed on all applications, including those "deemed approved" under the State Permit Streamlining Act, among other changes.

Item: \_\_\_\_\_

Community and Economic Development Committee  
October 14, 2008

## **FISCAL IMPACT**

The proposed ordinance will have no direct fiscal impact on the City. Existing staffing should be sufficient to process development applications regulated by the proposed zoning code amendments which are the subject of this report. No additional costs are expected to be incurred by the Development Service Fund. Some of the new conditionally permitted activities and facilities proposed in this ordinance might generate new revenue for the Development Service Fund, but the exact number of these potential applications has not yet been determined.

## **BACKGROUND**

The General Plan *Land Use and Transportation* element, adopted in 1998, prioritized updating the zoning code to create a more user-friendly framework for reviewing and approving development proposals. The zoning text amendments contained in this report are also necessary to achieve consistency with state law and, since there has not been a comprehensive zoning update effort since 1965, seek to codify in the Planning Code current administrative procedures which are not codified, such as applying the Uniformly Applied Development Standards as Standard Conditions of Approval when a development-related project is approved by the City. Additionally, the amendments propose new conditionally permitted activities which are common to other commercial zones, but not listed in C-45, C-55 and C-36 Zones (i.e., Extensive Impact Civic and Animal Care Commercial, respectively). At a public meeting on August 6, 2008, staff presented these proposed amendments to the Zoning Update Committee (ZUC), which recommended that the planning code amendments described in this report be heard by the Planning Commission. On September 17, 2008, the Planning Commission recommended the amendments be approved by the City Council. The Planning Commission staff report is included as **Attachment A**.

## **KEY ISSUES AND IMPACTS**

The majority of the proposed changes are non-substantive, correcting errors in the Planning Code, making clarifications to specific sections, and codifying existing policy. The more significant changes would improve development standards, and are necessary to achieve the General Plan objectives for a user-friendly Planning Code.

One proposed amendment to the C-45 Community Shopping Commercial Zone has generated comment from the Jack London District Association: Staff proposes to make Extensive Impact Civic activities conditionally permitted in C-45 and C-55 zoning districts—primarily the areas around Jack London Square and downtown Oakland; adopting this change would mean that a major Conditional Use Permit, heard by the Planning Commission, would be required for any of the specific activities listed in Section 17.10.240 of the Planning Code. Currently, these

activities require a variance application in C-28, C-45 and C-55; in all other zones, these activities are conditionally permitted. Staff believes there was an inadvertent error in 2002 when Extensive Impact Civic activities were removed from C-45 and C-55 zones without public notification and discussion; in these three zones, these activities had been conditionally permitted for decades.

On September 2, 2008 staff met with two members of the Jack London District Association (JLDA) board, following testimony by the JLDA at the August 6<sup>th</sup> ZUC meeting. At the September 2nd meeting with staff, JLDA representatives appeared satisfied with staff's latest proposal to add Extensive Impact Civic activities back to C-55 zones, as well as to the C-45 zone. The representative also suggested that the Planning Commission or the Council consider adding the activity to the C-28 zone. The representative considered it a matter of fairness that residents, businesses and property owners in C-28 zones (Telegraph Avenue and International Boulevard) be expected to share, with the rest of the city, the same potential burdens from conditionally permitted Extensive Impact Civic activities. However, staff doesn't recommend adding Extensive Impact Civic activities to the C-28 zone, because the zone was created in the early 1990's without those activities, in contrast to C-45 and C-55, which conditionally permitted those activities for many years.

## **POLICY DESCRIPTION**

As mentioned above, the proposed planning code amendments contained in this report reflect policy direction set forth in the General Plan to create a simpler, user-friendly and easily interpretable planning code. To that end, the changes to the zoning code proposed in this staff report would improve consistency, reduce redundancy, reformat and simplify language of key chapters of the zoning code. The proposed changes to the zoning code are categorized as follows, and are discussed in full in the Planning Commission Staff Report of September 17, 2008 (Attachment A of this Agenda Report):

- I. Non-substantive Changes
- II. Minor-substantive Changes
- III. Substantive Changes

Non-substantive changes include reformatting, reorganizing and improving the consistency of the code. Minor substantive changes include text changes to improve the interpretability, clarity, and flexibility of the code. Some of the minor text amendments are also necessary to bring the code provisions into conformance with state law. Finally, staff proposes a few more substantive changes to improve development standards in the code. The content of these proposed changes is summarized in this report. Please see Exhibit A to the Ordinance for the proposed changes to the Planning Code text.

## I. Non-substantive Changes

The following proposed non-substantive changes occur throughout the code. These chapters of the zoning code apply city-wide, unless otherwise noted. Specifically, staff notes the following proposed changes, among several others:

- Edited definition of “Alteration” in 17.09.040 Definitions. Proposed to include demolition and removal of a building or building structures; also edited definitions of “Footprint” and “Lot Coverage” to codify current administrative practice.
- 17.40.160 (C-25) Permitted Facilities. Adding One-Family Dwelling with Secondary Unit (subject to the provisions specified in Section 17.102.360) back to commercial zones where they were inadvertently omitted, conforming to state law for secondary units.

## II. Minor Substantive Changes

Staff notes the proposed changes, grouped by chapter; full discussion of each proposed change is found in the Planning Commission Staff Report of September 17, 2008, Attachment A of this Agenda Report. These changes of the zoning code apply city-wide, unless otherwise noted.

### 1. Chapter 17.10 USE CLASSIFICATIONS

Staff proposes changes and corrections to several sections of the Use Classifications chapter.

- Corrections which implement the new industrial zoning districts and related zoning amendments which were adopted by City Council on June 17, 2008:
  - Chapter 17.10, Article II, Part 3-- Use Classifications, Commercial Activity Types. Remove two sections from commercial activity types Transport and Warehousing (17.10.500) and Scrap Operation (17.10.530), and redefine the two more accurately in industrial activity types.
  - Chapter 17.10, Article II, Part 4—Use Classifications, Manufacturing Activity Types. Change “Manufacturing” in section title and in appropriate text to “Industrial”, to be consistent with new Industrial Chapter.
  - 17.10.030 (D) Listing of activity classifications—Manufacturing. Revise title of section from “Manufacturing” to “Industrial,” reflecting the adopted nomenclature change. Also revise specific industrial use classification activity types, such as “Research and Development” and “Regional Freight Transportation”, which were inadvertently omitted from this section in the June rezoning. Change class from “Manufacturing” to “Industrial” in the permitted and conditionally permitted activities sections of all zones with industrial activities, and make the appropriate substitution in other sections of the Planning Code; see Exhibit A for a full listing of proposed changes throughout.

Item: \_\_\_\_\_

- 17.10.240 Extensive Impact Civic Activities. Reverse vending machines and other recycling collection centers and large recycling collection centers were moved from the Extensive Impact Civic Activity classification and listed as an Industrial Activity Type.
- 17.10.580 Heavy/High Impact Manufacturing. Industrial Activity Type of “Heavy/High Impact Manufacturing”, adopted in June 2008 rezoning, is added to text where it was inadvertently omitted.
- 17.10.040 Accessory Activities—Car Sharing Services. Staff seeks to encourage more car-sharing activity in the city by defining the term as a specific listing as an accessory activity in the Use Classifications chapter. This addition codifies what had previously been staff interpretation of the accessory activity regulations.
- 17.10.050 (D) Classification of Different Activities Within the Same Major Class Conducted on the Site of an Automotive Servicing Commercial Activity. To remove a loophole in the code which allowed disparate activities to operate in gas stations, regardless of whether they were related to automotive servicing or not, staff proposes to add the clause: “...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.” This new language will limit the types of activities which can co-locate with gas stations without the approval of a Conditional Use Permit.

## 2. Chapter 17.52 C-36 GATEWAY BOULEVARD SERVICE COMMERCIAL ZONE

A previous revision in 2002 to the C-36 Zone created errors in this chapter’s permitted and conditionally permitted activities and facilities sections. Staff proposes the following corrections:

- 17.52.050 Permitted activities.
  - remove from this section facilities which were incorrectly listed as activities and correctly locate them in the facilities sections.
  - remove Transient Habitation as a permitted activity, listing it in 17.52.060 as a conditionally permitted activity—code incorrectly lists this activity in both sections.
  - add Telecommunications activities to permitted activities, which is required to codify the specific telecommunications facility types in 17.52.070 and .080. Telecommunications activities are permitted in every zone; the requirements for a conditional use permit for telecommunications facilities are contained elsewhere in the code.

Item: \_\_\_\_\_

- 17.52.060 Conditionally permitted activities.
  - Correct Transient Habitation as a conditionally permitted activity—code currently lists this activity incorrectly in both Permitted and Conditionally Permitted sections.
  - delete a duplicate listing, in error, of both Community Education and Community Assembly in the conditionally permitted section; these two activities had been incorrectly listed as commercial, rather than civic, activities in the C-36 Zone.
  - correct listing of Health Care activities, moving it from the Commercial Section to the Civic section. Under the code, Health Care is a Civic activity; “Medical Service” is the term for the separate Commercial activity.
  
- 17.52.070 Permitted facilities.
  - correct sidewalk cafes to indicate their proper listing as Nonresidential facility.
  - relocate Mini and Micro Telecommunications facilities from their incorrect placement in 17.52.050 Permitted Activities. These are facilities, not activities.
  
- 17.52.080 Conditionally permitted facilities. Add Macro and Monopole Telecommunications facilities as a conditionally permitted facility type. Staff does not consider this a substantive change, because Macro and Monopole facilities are conditionally permitted in other commercial districts, and staff considers it an oversight to exclude them from C-36 Zone, especially due to its proximity to the Airport, and the related trade and logistics businesses in the area.
  
- 17.52.120 Minimum lot area, width, and frontage. Adding a new, more precise measurement—“lot width mean,” as defined in Section 17.09.040. This definition was added as part of the April 1, 2007 Planning Code changes implementing design review procedures. Staff expects to bring to the Commission, at a future date, Planning Code amendments which add this measurement to all commercial zones.
  
- 17.52.160 Minimum setback and yards. Adding a clarifying clause to section B.

### 3. Chapter 17.56 C-45 COMMUNITY SHOPPING COMMERCIAL ZONE REGULATIONS

Community education is listed in the C-45 zone in both the permitted and conditionally permitted activities sections, in error. Staff proposes to follow precedence of most other commercial districts and make community education a permitted activity.

### 4. Chapter 17.62 C-55 CENTRAL CORE COMMERCIAL ZONE REGULATIONS

Community education is listed in the C-55 zone in both the permitted and conditionally permitted activities sections, in error. Staff proposes to follow precedence of most other commercial districts and make community education a permitted activity.

Item: \_\_\_\_\_

## 5. Chapter 17.102 GENERAL REGULATIONS APPLICABLE TO ALL ZONES

Several minor changes are proposed for the general regulations:

- 17.102.150 Conditional use permit requirement for accessory heliports and other flying fields. Staff recommends this section be deleted for redundancy. This use is already regulated as an Extensive Impact Civic Activity (Section 17.10.240); further, it is already allowed with a conditional use permit in all zones, with the exception of C-28, C-45, and C-55 zones. See page 10 of this report, for further discussion of Extensive Impact in C-45 and C-55 zones.
- 17.102.240 Special regulations applying to microwave dishes and energy production facilities in or near residential zones. State law now precludes the City from requiring a CUP for alternative energy generating facilities, such as solar panels. In this section of the Planning Code, staff recommends deleting the phrase “energy production facilities”, and recommends tailoring the special regulations for microwave dishes larger than one meter in diameter, to meet Federal law about telecommunications facilities. If passed, the resulting Conditional Use Permit requirement would still apply to microwave dishes over one meter in diameter.
- 17.102.290 Special regulations for Drive-Through Nonresidential Facilities. Staff is proposing clarifying language regarding the findings required to receive a conditional use permit for Drive-Through Nonresidential facilities, such as a drive-through bank. No change to which zones this facility is allowed or not allowed are proposed.

## 6. Chapter 17.108 GENERAL HEIGHT, YARD, AND COURT REGULATIONS

17.108.130 Exceptions to required openness of minimum yards and courts. To aid the construction of wheelchair ramps, staff recommends allowing wheelchair ramps to project a certain amount into required setback areas. These regulations would be the same as those currently applied to unroofed porches and steps.

## 7. Chapter 17.130 ADMINISTRATIVE PROCEDURES GENERALLY

An existing section of the Code is edited to clarify and codify current policies and practices:

- 17.130.060 Obligation of applicant to defend, indemnify, and hold harmless the City of Oakland. These amendments clarify obligations of developers and better protect City of Oakland interests.
- 17.130.070 Uniformly Applied Development Standards Automatically Imposed as Standard Conditions of Approval for Development Projects (see Ordinance, Exhibit B). Staff proposes to codify a current policy and practice: making development applications comply with the City’s Uniformly Applied Development Standards, which are currently incorporated into projects as Standard Conditions of Approval regardless of a project’s

Item: \_\_\_\_\_

environmental determination. As applicable, the Standard Conditions of Approval are adopted as requirements of an individual project when it is approved by the City and are designed to, and will, substantially mitigate environmental effects/impacts, in part, pursuant to CEQA Guidelines section 15183. In reviewing project applications, the City determines which of the standard conditions are applied, based upon the zoning district, community plan, and the type(s) of permit(s)/approvals(s) required for the project. Depending on the specific characteristics of the project type and/or project site, the city will determine which standard conditions apply to each project; for example, standard conditions related to creek protection permits will only be applied to projects on creekside properties.

The Standard Conditions of Approval, as amended from time to time, incorporate development policies and standards from various adopted plans, policies, and ordinances (such as the Oakland Planning and Municipal Codes, Oakland Creek Protection, Stormwater Water Management and Discharge Control Ordinance, Oakland Tree Protection Ordinance, Oakland Grading Regulations, National Pollutant Discharge Elimination System (NPDES) permit requirements, Housing Element-related mitigation measures, California Building Code, and Uniform Fire Code, among others), which have been found to substantially mitigate environmental effects/impacts when applied to future projects. Where there are peculiar circumstances associated with a project or project site that will result in significant environmental impacts, despite implementation of the Standard Conditions, the City will determine whether there are feasible mitigation measures to reduce the impact to less than significant levels in the course of appropriate CEQA review (mitigated negative declarations or EIRs).

- 17.130.080 Minor Land Use Permits Considered Concurrently with Major permits. If an application consists of both major and minor permits, or where one discretionary action is initially determined by City staff but another action is initially determined by the Planning Commission, the application(s) shall follow all procedural and substantive requirements associated with City Planning Commission decisions. Therefore, the entire application shall initially be considered by the Planning Commission and may be appealed to the City Council, in accordance with the requirements for such major permits or discretionary actions. For example, an application where both a major conditional use permit and a minor variance are required, both permits will be initially considered by the Commission, with both appealable to the City Council (as compared to the minor permit being decided by staff, with an appeal to the Commission, and the major permit being decided by the Commission with an appeal to the City Council). Likewise, in the case of administrative actions, such as a creek protection permit, or a minor subdivision (which are outside of the Planning Code, but part of the Municipal Code) those minor permits would also, under this proposal, be considered by the Planning Commission, if there is also a major permit associated with the project. This codifies current staff practice.

Item: \_\_\_\_\_



- 17.130.090 City Council consideration of legislative and adjudicatory actions. When a development application requires both legislative and adjudicatory actions, the entire application shall automatically be considered by the City Council for final action, even though there may not be an appeal of the adjudicatory, land use permit. Thus, City Council will have 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. This codifies current staff practice.

#### 8. Chapter 17.148 VARIANCE PROCEDURE

17.148.050 Findings required. Staff proposes making permanent an Emergency Ordinance that creates special variance findings and expedited appeal procedures for sign variances in order to comply with the first amendment of the U.S. Constitution (free speech). Ordinance No. 12566 C.M.S. was adopted in 2003 and extended, in order to address a lawsuit challenging, on first amendment grounds, the City's sign regulations. The court eventually upheld the Emergency Ordinance and this proposal makes permanent the regulations. Exhibit A edits all zones which conditionally permit sign facilities to now prohibit those sign facilities, thus requiring the variance findings and procedure proposed in Section 17.148.050.

### III. Substantive Changes

The following proposed substantive changes are grouped together by planning code chapter. These chapters apply city-wide unless otherwise noted.

1. Chapter 17.52 C-36 GATEWAY BLVD. SERVICE COMMERCIAL ZONE 17.52.060 Conditionally permitted activities (C-36 Zone). Staff proposes adding a new activity type to the C-36 Zone, Animal Care Commercial. This activity, according to the definition in 17.10.510, includes "the provision of animal care, treatment, and boarding services. They also include certain activities accessory to the above, as specified in Section 17.10.040." A recent interim conditional use permit application revealed a need for this proposed change, which makes the use conditionally permitted, instead of prohibited, which is typical of other similar zones. Staff finds that through the conditional use permit process, appropriate limitations and conditions on a project can be included, to ensure compatibility with other activities in the C-36 Zone.

2. Chapter 17.56 C-45 COMMUNITY SHOPPING COMMERCIAL ZONE 17.56.060 Conditionally permitted activities. Staff proposes adding Extensive Impact Civic as a conditionally permitted activity to C-45. Passage of this proposal would mean that a project from the list of Extensive Impact Civic Activities (codified in section 17.10.240) would require a major conditional use permit from the Planning Commission, following established procedures in Section 17.134 of the Planning Code, as opposed to a variance, as currently required.

Item: \_\_\_\_\_

While Extensive Impact Civic includes a wide variety of different activities, some of which might be considered objectionable by the public, staff notes that Extensive Impact Civic activities are conditionally permitted in all zones except for C-28, C-45 and C-55. Staff notes that Extensive Impact Civic activities were conditionally permitted in C-45 and C-55 zones for many years, and the activity was part of the 1997 Planning Code and previous Codes. Staff believes that this activity was removed from C-45 and C-55 zones, an inadvertent error, as part of a 2002 code update to create Special Health Care Civic Activities. Staff is recommending that the activity be put back into the C-45 and C-55 zones, to correct the error.

### 3. Chapter 17.62 C-55 CENTRAL CORE COMMERCIAL ZONE REGULATIONS

17.62.060 Conditionally permitted activities. Staff believes that adding Extensive Impact Civic activities back to the C-55 Zone corrects the same error which removed the activity from the C-45 Zone, during a 2002 code amendment. This activity was conditionally permitted in C-55 in the 1997 Planning Code, and previous Codes.

### 4. Chapter 17.81 S-5 BROADWAY RETAIL FRONTAGE INTERIM ZONE

17.81.060 Permitted and conditionally permitted activities. Automotive Servicing activities and Automotive Repair and Cleaning activities remain prohibited in the S-5 Zone (Broadway Auto Row and neighboring blocks). Staff recommends a new limitation on legal, non-conforming activities in this zone, which reduces from one year to six months, the time in which these activities can be reestablished without a conditional use permit. Procedures in Section 17.114.050 (A) allow for the application of a conditional use permit to reestablish these activities, after six months have elapsed.

Staff also recommends extending the two limitations on certain residential and commercial activities, currently applicable just to Broadway, to 27th Street, as well. 27th Street is ranked the second prominent street in this zone--see Section 17.81.070 (B), and staff wants the same protections the S-5 zone gives to Broadway to be granted to 27<sup>th</sup> Street.

These two recommended changes are made in anticipation of the new retail uses expected for this area by the City's Retail Strategy and the upcoming Broadway retail specific plan.

### 5. Chapter 17.114 NONCONFORMING USES

17.114.050 Nonconforming activity--Discontinuance. As part of the City's retail strategy for Broadway Auto Row, staff recommends limiting the time that a non-conforming automotive servicing or an automotive repair and cleaning activity may be reestablished, from a period of one year (current) to six months (proposed). See section 4 of this staff report, above.

## SUSTAINABLE OPPORTUNITIES

No economic, environmental or social equity opportunities have been identified.

Item: \_\_\_\_\_

Community and Economic Development Committee  
October 14, 2008

## DISABILITY AND SENIOR CITIZEN ACCESS

Staff does not anticipate any particular barriers or benefits resulting from the zoning text amendments, regarding access issues for the disabled or for senior citizens.

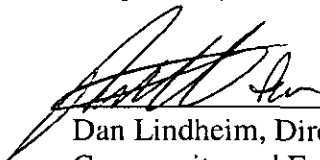
## RECOMMENDATION(S) AND RATIONALE

Staff recommends that the City Council adopt the proposed Planning Code amendments, which will improve the administration of the zoning code, codify current administrative practice, and correct long-standing errors. These Planning Code amendments, found in many chapters of the code, are an initial step to simplify the zoning code.

## ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the City Council adopt the proposed Planning Code amendments which implement the General Plan policy direction to create a user friendly planning code by clarifying language, increasing the flexibility of the code, and codifying current administrative practice.

Respectfully submitted,



Dan Lindheim, Director  
Community and Economic Development Agency

Reviewed By: Eric Angstadt, Manager  
Strategic Planning Division

Prepared by:  
Devan Reiff, AICP, Planner II

APPROVED AND FORWARDED TO THE  
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE:

  
Office of the City Administrator

Attachment A—September 17, 2008 Planning Commission report (w/o Attachments)

Item: \_\_\_\_\_  
Community and Economic Development Committee  
October 14, 2008

<b>Location:</b>	Citywide – unless otherwise stated
<b>Proposal:</b>	Consider proposed text amendments to various parts of the Planning Code, such as: a) adding Extensive Impact Civic Activities as a Conditionally Permitted Activity to the C-45 and C-55 zones; b) adding Animal Care Commercial Activities as a Conditionally Permitted Activity to the C-36 zone; c) reducing the amount of time that an automotive servicing activity or an automotive repair and cleaning activity may be discontinued before it loses its legal, non-conforming status in the S-5 Broadway Retail Frontage Zone; d) making permanent an Emergency Ordinance that creates special variance findings and an expedited appeal procedures for signs; e) clarifying that Uniformly Applied Development Standards/Standard Conditions of Approval are automatically imposed on all applications, including those "deemed approved" under the State Permit Streamlining Act. Also, discuss additional proposed amendments which add definitions, update references to state regulations, clarify language regarding conditional use permit processes, and other items.
<b>Applicant:</b>	City Planning Commission
<b>Planning Permits Required:</b>	Zoning Text Amendments
<b>General Plan:</b>	All General Plan designations
<b>Zoning:</b>	Each Zoning District
<b>Environmental Determination:</b>	Staff plans to rely on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998). As a separate and independent basis, this proposal is also exempt under Sections 15061(b)(3), 15183, and/or Section 15273 of the State CEQA Guidelines.
<b>Service Delivery District:</b>	All Service Delivery Districts
<b>City Council District:</b>	All Council Districts
<b>Date Filed:</b>	August 6, 2008

## ATTACHMENT A

<b>Status:</b>	Heard by Zoning Update Committee on August 6, 2008. Recommended by Zoning Update Committee to be considered by the Planning Commission.
<b>Staff Recommendation:</b>	Recommend adoption to City Council
<b>For Further Information:</b>	Contact: <b>Devan Reiff</b> at 238-3350 or email dreiff@oaklandnet.com

### SUMMARY

On August 6, 2008, the Zoning Update Committee recommended that the planning code amendments described in this report be heard by the Planning Commission. The proposed zoning text amendments to the Oakland Planning Code include updating references, improving consistency among chapters, reducing redundancy, and clarifying language. Other amendments include: a) adding Extensive Impact Civic Activities as a Conditionally Permitted Activity to the C-45 zone; b) adding Animal Care Commercial Activities as a Conditionally Permitted Activity to the C-36 zone; c) reducing the amount of time that an automotive servicing activity or an automotive repair and cleaning activity may be discontinued before it loses its legal, non-conforming status in the S-5 Broadway Retail Frontage Zone; d) making permanent an Emergency Ordinance that creates special variance findings and an expedited appeal procedures for signs; e) clarifying that /Standard Conditions of Approval are automatically imposed on all applications, including those "deemed approved" under the State Permit Streamlining Act, among other changes.

### BACKGROUND

The General Plan Land Use and Transportation element, adopted in 1998, prioritized updating the zoning code to create a more user-friendly framework for reviewing and approving development proposals. The zoning text amendments contained in this report are also necessary to achieve consistency with state law, since there has not been a comprehensive zoning update effort since 1965, and seek to codify in the Planning Code current administrative procedures which are not codified, such as applying the Uniformly Applied Development Standards as Standard Conditions of Approval when a project is approved by the Planning Commission. Additionally, the proposed amendments suggest new conditionally permitted activities which are common to other commercial zones, but not listed in C-45, C-55 and C-36 Zones (i.e. Extensive Impact Civic and Animal Care Commercial, respectively).

### PROPOSED PLANNING CODE AMENDMENTS

As mentioned above, the proposed planning code amendments contained in this report reflect policy direction set forth in the General Plan to create a simpler, user-friendly and easily interpretable planning code. To that end, the changes to the zoning code proposed in this staff report would improve consistency, reduce redundancy, reformat and simplify language of key chapters of the zoning code. The proposed changes to the zoning code are categorized as follows:

## ATTACHMENT A

- I. Non-substantive Changes
- II. Minor-substantive Changes
- III. Substantive Changes

Non-substantive changes include reformatting, reorganizing and improving the consistency of the code. Minor substantive changes include text changes to improve the interpretability, clarity, and flexibility of the code. Some of the minor text amendments are also necessary to bring the code provisions into conformance with state law. Finally, staff proposes a few more substantive changes to improve development standards in the code. The content of these proposed changes is summarized in the following report. Please see Attachment A for the proposed zoning text amendments.

### I. Non-substantive Changes

The following proposed non-substantive changes occur throughout the code. These chapters of the zoning code apply city-wide, unless otherwise noted. Specifically, staff has made the following proposed changes:

- Edited definition of “Alteration” in **17.09.040 Definitions** to include demolition and removal of a building or building structures; edited definitions of “Footprint” and “Lot Coverage” to codify current administrative practice;
- **17.22.080 (R-40) Conditionally permitted facilities.** Correct typographical error. Citation in section C. Telecommunications Facilities should read: “Micro, except as provided in Chapter 17.128 and Section 17.134.020(A) (3) (j)” and “Mini, except as provided in Chapter 17.128 and Section 17.134.020(A) (3) (j).”
- **17.40.160 (C-25) Permitted Facilities.** Adding One-Family Dwelling with Secondary Unit (subject to the provisions specified in Section 17.102.360) back to commercial zones where they were inadvertently left out, conforming to state law for secondary units. This change was made to the proposal following the August 6, 2008 Zoning Update meeting.
- **17.68.030 (M-20) Permitted activities.** Fixing a reference error in section B: “Automotive Repair and Cleaning, except as provided in Section 17.102.380.”
- Section number **17.100** was mistakenly assigned to both S-19 Health and Safety Protection Overlay Zone and S-20 Historic Preservation District Combining Zone Regulations, as part of two separate Planning Code updates that occurred concurrently. To remedy the error, the following revisions to the Chapter numbering and the individual sections in each of the overlay zones is proposed:
  - 17.100A S-19 Health and Safety Protection Overlay Zone
  - 17.100B S-20 Historic Preservation District Combining Zone Regulations
- **17.102.390 Parking accommodation requirements for One and Two Family Residential Facilities.** Move this whole section, without edits, to the standard parking chapter, 17.116, creating a new Section, 17.116.300. This is the appropriate place in the Planning Code for these special parking regulations for One and Two Family facilities.

## **II. Minor Substantive Changes**

The following proposed changes apply to specific chapters. Therefore, each proposed change is briefly discussed below, grouped by chapter. These chapters of the zoning code apply city-wide, unless otherwise noted.

### **1. Chapter 17.10 USE CLASSIFICATIONS**

Staff proposes changes and corrections to several sections of the Use Classifications chapter.

- Corrections which implement the new industrial zoning districts and related zoning amendments which were adopted by City Council on June 17, 2008:
  - **Chapter 17.10, Article II, Part 3-- Use Classifications, Commercial Activity Types.** Remove two sections from commercial activity types Transport and Warehousing (17.10.500) and Scrap Operation (17.10.530), and redefine the two more accurately in industrial activity types.
  - **Chapter 17.10, Article II, Part 4—Use Classifications, Manufacturing Activity Types.** Change “Manufacturing” in section title and in appropriate text to “Industrial”, to be consistent with new Industrial Chapter.
  - **17.10.030 (D) Listing of activity classifications—Manufacturing.** Revise title of section from “Manufacturing” to “Industrial,” reflecting the adopted nomenclature change. Also revise specific industrial use classification activity types, such as “Research and Development” and “Regional Freight Transportation”, which were inadvertently omitted from this section in the June rezoning. Change class from “Manufacturing” to “Industrial” in the permitted and conditionally permitted activities sections of all zones with Industrial activities, and make the appropriate substitution in other sections of the Planning Code; see Attachment A for a full listing of proposed changes throughout.
  - **17.10.240 Extensive Impact Civic Activities.** Reverse vending machines and other recycling collection centers and large recycling collection centers were moved from the Extensive Impact Civic Activity classification and listed as an Industrial Activity Type.
  - **17.10.500 Transport and Warehousing Commercial Activities.** Remove from commercial activities, as this was redefined as industrial activity in June rezoning.
  - **17.10.530 Scrap Operation Commercial Activities.** Remove from commercial activities, as this was reorganized and moved to the Industrial Activity Type category.
  - **17.10.570 General Manufacturing Activities.** Industrial Activity Type of “General Manufacturing Activities”, adopted in June 2008 rezoning, is added to text where it was inadvertently omitted.

## ATTACHMENT A

- **17.10.580 Heavy/High Impact Manufacturing.** Industrial Activity Type of “Heavy/High Impact Manufacturing”, adopted in June 2008 rezoning, is added to text where it was inadvertently omitted.
- **17.10.040 Accessory Activities.** Staff seeks to encourage more car-sharing activity in the city by defining the term as a specific listing as an accessory activity in the Use Classifications chapter. This addition codifies what had previously been staff interpretation of the accessory activity regulations.
- **17.10.050 (D) Classification of Different Activities Within the Same Major Class Conducted on the Site of an Automotive Servicing Commercial Activity.** To remove a loophole in the code which allowed disparate activities to open in gas stations, regardless if they were related to automotive servicing, staff proposes to add the limiting clause: “...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.”
- **17.10.730 Open Nonresidential Facilities.**  
Staff proposes to clarify the exclusions of what is considered Open Nonresidential Facilities, by spelling out the name of the facility currently referred to in the Section only by code number (*italics added*): “Nonresidential Facilities include principal facilities, other than those facilities described in Sections 17.10.740 (*Drive-In Nonresidential*), 17.10.750 (*Sidewalk Café*)....” Further, staff proposes an additional exclusion to the definition of Open Nonresidential Facilities: “...17.10.770 (*Drive-Through Nonresidential*)....”

## **2. Chapter 17.52 C-36 GATEWAY BOULEVARD SERVICE COMMERCIAL ZONE**

A previous revision in 2002 to the C-36 Zone created errors in this chapter’s permitted and conditionally permitted activities and facilities sections. Staff proposes the following corrections:

- **17.52.050 Permitted activities.**
  - move from this section facilities which were incorrectly listed as activities, and correctly locate them in the facilities sections.
  - remove Transient Habitation as a permitted activity, listing it in 17.52.060 as a conditionally permitted activity—code incorrectly lists this activity in both sections.
  - add Telecommunications activities to permitted activities, which is required to codify the specific telecommunications facility types in 17.52.070 and .080. Telecommunications activities are permitted in every zone; the requirements for a conditional use permit for telecommunications facilities are contained elsewhere in the code.



## ATTACHMENT A

- **17.52.060 Conditionally permitted activities.**
  - Correct Transient Habitation as a conditionally permitted activity—code currently lists this activity incorrectly in both Permitted and Conditionally Permitted sections.
  - delete a duplicate listing, in error, of both Community Education and Community Assembly in the conditionally permitted section; these two activities had been incorrectly listed as commercial, rather than civic, activities in the C-36 Zone.
  - correct listing of Health Care activities, moving it from the Commercial Section to the Civic section. Under the code, Health Care is a Civic activity; “Medical Service” is the term for the separate Commercial activity.
- **17.52.070 Permitted facilities.**
  - correct sidewalk cafes to their proper listing as Nonresidential facility.
  - relocate Mini and Micro Telecommunications facilities from their incorrect placement in 17.52.050 Permitted Activities. These are facilities, not activities.
- **17.52.080 Conditionally permitted facilities.** Add Macro and Monopole Telecommunications facilities as a conditionally permitted facility type. Staff does not consider this a substantive change, because Macro and Monopole facilities are conditionally permitted in other commercial districts, and staff considers it an oversight to exclude them from C-36 Zone, especially due to its proximity to the Airport, and the related trade and logistics businesses in the area.
- **17.52.120 Minimum lot area, width, and frontage.** Adding a new, more precise measurement—“lot width mean,” as defined in Section 17.09.040. This definition was added as part of the April 1, 2007 Planning Code changes implementing design review procedures. Staff expects to bring to the Commission, at a future date, Planning Code amendments which add this measurement to all commercial zones.
- **17.52.160 Minimum setback and yards.** Adding a clarifying clause to section B.

### **3. Chapter 17.56 C-45 COMMUNITY SHOPPING COMMERCIAL ZONE REGULATIONS**

Community education is listed in the C-45 zone in both the permitted and conditionally permitted activities sections, in error. Staff proposes to follow precedence of all other commercial districts and make community education a permitted activity.

### **4. Chapter 17.62 C-55 CENTRAL CORE COMMERCIAL ZONE REGULATIONS**

Community education is listed in the C-55 zone in both the permitted and conditionally permitted activities sections, in error. Staff proposes to follow precedence of all other commercial districts and make community education a permitted activity.

**5. Chapter 17.102 GENERAL REGULATIONS APPLICABLE TO ALL OR SEVERAL ZONES**

Several minor changes are proposed for the general regulations.

- **17.102.150 Conditional use permit requirement for accessory heliports and other flying fields.** Staff recommends this section be deleted for redundancy. This use is already regulated as an Extensive Impact Civic Activity (Section 17.10.240); further, it is already allowed with a conditional use permit in all zones, with the exception of C-28, C-45, and C-55 zones. See Section 2 below, for further discussion of Extensive Impact in C-45 and C-55 zones.
- **17.102.240 Special regulations applying to microwave dishes and energy production facilities in or near residential zones.** State law now precludes the City from requiring a CUP for alternative energy generating facilities, such as solar panels. In this section of the Planning Code, staff recommends deleting the phrase “energy production facilities”, and recommends tailoring the special regulations for microwave dishes larger than one meter in diameter, to meet Federal law about telecommunications facilities. If passed, the resulting Conditional Use Permit requirement would still apply to microwave dishes, over one meter in diameter.
- **17.102.290 Special regulations for Drive-Through Nonresidential Facilities.** Staff is proposing clarifying language regarding the findings required to receive a conditional use permit for Drive-Through Nonresidential facilities. No change to which zones this facility is allowed or not allowed are proposed.

**6. Chapter 17.108 GENERAL HEIGHT, YARD, AND COURT REGULATIONS**

**17.108.130 Exceptions to required openness of minimum yards and courts.** To aid the construction of wheelchair ramps, staff recommends allowing wheelchair ramps to project a certain amount into required setback areas. These regulations would be the same as those currently applied to unroofed porches and steps.

**7. Chapter 17.130 ADMINISTRATIVE PROCEDURES GENERALLY**

An existing section of the Code is edited to clarify and codify current policies and practices:

**17.130.060 Obligation of applicant to defend, indemnify, and hold harmless the City of Oakland.** These amendments clarify obligations of developers and better protect City of Oakland interests. These edits were not previously presented to the Zoning Update Committee, having been added by the City Attorney’s office after August 6, 2008.

## ATTACHMENT A

New sections which codify current policies and practices:

- **17.130.070 Uniformly Applied Development Standards Automatically Imposed as Standard Conditions of Approval for Development Projects (Attachment B).** Staff proposes codifying a current policy and practice: making development applications comply with the City's Uniformly Applied Development Standards, which are currently incorporated into projects as Standard Conditions of Approval regardless of a project's environmental determination (Attachment B). As applicable, the Standard Conditions of Approval are adopted as requirements of an individual project when it is approved by the City and are designed to, and will, substantially mitigate environmental effects, in part, pursuant to CEQA Guidelines section 15183. In reviewing project applications, the City determines which of the standard conditions are applied, based upon the zoning district, community plan, and the type(s) of permit(s)/approvals(s) required for the project. Depending on the specific characteristics of the project type and/or project site, the city will determine which standard conditions apply to each project; for example, standard conditions related to creek protection permits will only be applied projects on creekside properties.

The Standard Conditions of Approval, as amended from time to time, incorporate development policies and standards from various adopted plans, policies, and ordinances (such as the Oakland Planning and Municipal Codes, Oakland Creek Protection, Stormwater Water Management and Discharge Control Ordinance, Oakland Tree Protection Ordinance, Oakland Grading Regulations, National Pollutant Discharge Elimination System (NPDES) permit requirements, Housing Element-related mitigation measures, California Building Code, and Uniform Fire Code, among others), which have been found to substantially mitigate environmental effects. Where there are peculiar circumstances associated with a project or project site that will result in significant environmental impacts despite implementation of the Standard Conditions, the City will determine whether there are feasible mitigation measures to reduce the impact to less than significant levels in the course of appropriate CEQA review (mitigated negative declarations or EIRs).

- **17.130.080 Minor Land Use Permits Considered Concurrently with Major permits.** If an application consists of both major and minor permits, or where one discretionary action is initially determined by City Staff but another action is initially determined by the Planning Commission, the application(s) shall follow all procedural and substantive requirements associated with City Planning Commission decisions. Therefore, the entire application shall initially be considered by the Planning Commission and may be appealed to the City Council, in accordance with the requirements for such major permits or discretionary actions. For example, an application where both a major conditional use permit and a minor variance are required, both permits will be initially considered by the Commission, with both appealable to the City Council (as compared to the minor permit being decided by staff, with an appeal to the Commission, and the major permit being decided by the Commission with an appeal to the City Council). Likewise, in the case of administrative actions, such as a creek protection permit, or a minor subdivision (which

## ATTACHMENT A

are outside of the Planning Code, but part of the Municipal Code) those minor permits would also, under this proposal, be considered by the Planning Commission, if there is also a major permit associated with the project. This codifies current staff practice.

- **17.130.090 City Council consideration of legislative and adjudicatory actions.** When a development application requires both legislative and adjudicatory actions, the entire application shall automatically be considered by the City Council for final action, even though there may not be an appeal of the adjudicatory, land use permit. Thus, City Council will have 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. This codifies current staff practice.

### **8. Chapter 17.148 VARIANCE PROCEDURE**

**17.148.050 Findings required.** Staff proposes making permanent an Emergency Ordinance that creates special variance findings and an expedited appeal procedures for sign variances in order to comply with the first amendment (free speech). Ordinance No. 12566 C.M.S. was adopted in 2003, and extended, in order to address a lawsuit challenging, on first amendment grounds, the City's sign regulations. The court eventually upheld the Emergency Ordinance and this proposal makes permanent the regulations. Exhibit A edits all zones which conditionally permit sign facilities to now prohibit those sign facilities, thus requiring the variance findings and procedure proposed in Section 17.148.050.

### **III. Substantive Changes**

The following proposed substantive changes are grouped together by planning code chapter. These chapters apply city-wide unless otherwise noted.

#### **1. Chapter 17.52 C-36 GATEWAY BLVD. SERVICE COMMERCIAL ZONE**

**17.52.060 Conditionally permitted activities (C-36 Zone).** Staff proposes adding a new activity type to the C-36 Zone, Animal Care Commercial. This activity, according to the definition in 17.10.510, includes "the provision of animal care, treatment, and boarding services. They also include certain activities accessory to the above, as specified in Section 17.10.040." A recent interim conditional use permit application revealed a need for this change, which makes the use conditionally permitted, instead of prohibited, which is typical of other similar zones. Staff finds that through the conditional use permit process, appropriate limitations and conditions on a project can be included, to ensure compatibility with other activities in the C-36 Zone.

**2. Chapter 17.56 C-45 COMMUNITY SHOPPING COMMERCIAL ZONE**

**17.56.060 Conditionally permitted activities.** Staff proposes adding Extensive Impact Civic as a conditionally permitted activity to C-45. Passage of this proposal would mean that a project from the list of Extensive Impact Civic Activities (codified in section 17.10.240) would require a major conditional use permit from the Planning Commission, following established procedures in Section 17.134 of the Planning Code, as opposed to a variance, as currently required.

While Extensive Impact Civic includes a wide variety of different activities, some of which might be considered objectionable by the public, staff notes that Extensive Impact Civic activities are conditionally permitted in all zones except for C-28, C-45 and C-55. Staff notes that Extensive Impact Civic activities were conditionally permitted in C-45 and C-55 zones for many years, and the activity was part of the 1997 Planning Code and previous Codes. Staff believes that this activity was removed from C-45 and C-55 zones, in inadvertent error, as part of a 2002 code update to create Special Health Care Civic Activities. Staff is recommending that the activity be put back to the C-45 and C-55 zones, to correct the error.

**3. Chapter 17.62 C-55 CENTRAL CORE COMMERCIAL ZONE REGULATIONS**

**17.62.060 Conditionally permitted activities.** Staff believes that adding Extensive Impact Civic activities back to the C-55 Zone corrects the same error which removed the activity from the C-45 Zone, during a 2002 code amendment. This activity was conditionally permitted in C-55 in the 1997 Planning Code, and previous Codes.

This proposal, adding Extensive Impact Civic activities to the C-55 Zone, was not previously presented to the Zoning Update Committee on August 6, 2008, but rather, added by staff after public testimony during that meeting by a member of the Jack London District Association. The representative of the Association questioned why staff was proposing to add Extensive Impact Civic activities just to C-45 zones, one of three zones which prohibited the activity. Staff agreed that that C-55 zone should also be considered for Extensive Impact civic activities, given that prohibiting the activity was considered an error, and that staff considers the central business district a legitimate location for these types of civic infrastructure activities.

**4. Chapter 17.81 S-5 BROADWAY RETAIL FRONTAGE INTERIM ZONE**

**17.81.060 Permitted and conditionally permitted activities.** Automotive Servicing activities and Automotive Repair and Cleaning activities remain prohibited in the S-5 Zone (Broadway Auto Row and neighboring blocks). Staff recommends a new limitation on legal, non-conforming activities in this zone, which reduces from one year to six months, the time in which these activities can be reestablished without a conditional use permit. Procedures in Section

## ATTACHMENT A

17.114.050 (A) allow for the application of a conditional use permit to reestablish these activities, after the six months have elapsed.

Staff also recommends extending the two limitations on certain residential and commercial activities, currently applicable just to Broadway, to 27<sup>th</sup> Street. 27<sup>th</sup> Street is ranked, after Broadway, as the second prominent street in this zone--see Section 17.81.070 (B), and staff wants the same protections here, as Broadway.

These two suggested changes are made in anticipation of the new retail uses expected for this area by the City's Retail Strategy and the upcoming Broadway retail specific plan.

### **5. Chapter 17.114 NONCONFORMING USES**

**17.114.050 Nonconforming activity--Discontinuance.** As part of the City's retail strategy for Broadway Auto Row, Staff recommends limiting the time that a non-conforming automotive servicing or an automotive repair and cleaning activity may be reestablished, from a period of one year (current) to six months (proposed). See section 4 of this staff report, above.

### **GENERAL PLAN ANALYSIS**

The General Plan prioritizes revising the zoning code to be more user friendly, internally consistent and easier to understand. The proposed changes in this report achieve these priorities by simplifying language, reducing redundancy, and increasing the flexibility of the code. Therefore, these zoning text amendments are consistent with the General Plan. The following select General Plan objectives outline the City's policy for zoning consistency and Planning Code revisions.

- To establish and maintain zoning regulations consistent with the General Plan to ensure that development on individual properties is consistent with the General Plan land use designations and policies.
- To create a "user-friendly" document by minimizing the complexity of regulations.
- To reduce the number of projects requiring discretionary review and expedite the project approval process by establishing design and/or performance standards for some projects.

### **ENVIRONMENTAL DETERMINATION**

Staff is relying on previously certified Environmental Impact Reports (EIRs), including the certified Final EIR for the *Land Use and Transportation Element* of the General Plan (1998) and no further environmental review is required under CEQA Guidelines sections 15162 and 15163. As a separate and independent basis, this proposal is also exempt under Sections 15061(b)(3), 15183, and/or Section 15273 of the State CEQA Guidelines.

## KEY ISSUES AND RECOMMENDATIONS

As noted previously, the proposed changes contained in this report are necessary to achieve the General Plan objectives for a user-friendly code. The majority of the proposed changes are non-substantive. The more significant changes would improve development standards in the code.

The substantive changes are recommended for the following reasons:

- **Chapter 17.52 C-36 GATEWAY BLVD. SERVICE COMMERCIAL ZONE**  
In addition to the minor-substantive changes to the activities and facilities, which corrects previous errors, there is a new conditional activity proposed—Animal Care Commercial. This addition to the conditionally permitted activities is in response to a recent approval of a conditional use permit and appeal of the Planning Commission’s decision, which disclosed that, due to an oversight, this activity was not included, as it is in other similar zones.
- **Chapter 17.56 C-45 COMMUNITY SHOPPING COMMERCIAL ZONE**  
The proposal to conditionally permit Extensive Impact Civic activities in C-45 zoning districts would mean that any of the activities in this type (listed in Section 17.10.240) could be applied to the Planning Commission, with a major Conditional Use Permit. Currently, an application for any of these activities would require a variance application. All other zones, except for C-28, C-45 and C-55, conditionally allow these activities. Staff believes the removal of Extensive Impact Civic uses from C-45, after the activity had been conditionally permitted in this zone for several decades, was in error.

During the August 6, 2008 Zoning Update Committee meeting, a representative of the Jack London District Association (JLDA) strongly recommended that the proposed change not be made, unless it were an error, and unless it was put back in the two other zones where the activity is also prohibited –C-55 and C-28. The representative called the removal of Extensive Impact Civic activities from the C-45 Zone a beneficial error which protects residents and businesses of the Jack London area from the more objectionable activities listed in Section 17.10.240. Members of the Zoning Update Committee asked staff to discuss the JLDA’s concerns further, and on September 2, 2008, Staff met with two representatives of the JLDA. At that meeting, a representative of JLDA was satisfied that staff had proposed adding Extensive Impact Civic Activities back to C-55 zones, but also suggested that the Planning Commission consider adding the activity to the C-28 zone. The representative considered it a matter of fairness that residents, businesses and property owners in C-28 zones (Telegraph Avenue and International Boulevard) be expected to share the same potential burdens from conditionally permitted Extensive Impact Civic Activities, as the rest of the city.

These concerns notwithstanding, staff believes that the removal of Extensive Impact Civic Activities from C-45 and C-55 zones was the result of an unintentional removal of these activities from these two zones, and that bringing these uses back as conditionally permitted is considered correcting an unintentional error. Staff research reveals the prohibition of Extensive Impact Civic Activities from the C-28 Zone dates to the

## ATTACHMENT A

origination of the zone, from the 1990's; because that was an intentional prohibition, and not an error, staff does not recommend changing the prohibition.

- **Chapter 17.81 S-5 BROADWAY RETAIL FRONTAGE INTERIM ZONE**  
This proposal to Section 17.81.060 is a refinement of the S-5 Broadway Retail zone, which lays the groundwork for the City's retail strategy in the Broadway Auto Row. The proposal would limit, from one year to six months, the amount of time a non-conforming automotive repair or servicing activity could apply over the counter for a reestablishment of that activity. Beyond the six month point, a business would have to apply for a conditional use permit to reactivate the use (as is done currently, after one year). Changes in the language of Section 17.114.050, Non-conforming uses, to institute this change are also proposed.

At the August 6, 2008 public meeting, a commissioner of the Zoning Update Committee asked that we make a special outreach effort to the business owners of the area; staff has begun that effort.

Staff requests that the Planning Commission authorize staff to make minor changes to the Planning Code text (Attachment A), prior to adoption by the City Council. This may be required to clean up language, correct typing errors or make other, non-substantive changes. Staff proposes to bring any substantive changes back to the Planning Commission for specific recommendation.



ATTACHMENT A

**ACTION REQUESTED OF THE PLANNING COMMISSION**

Staff recommends the Planning Commission affirm staff's environmental determination and recommend adoption of these proposed changes of the Planning Code to the City Council.

Prepared by:

---

DEVAN REIFF, AICP, Planner II

Approved for forwarding to the  
City Planning Commission

---

ERIC ANGSTADT, INTERIM DEPUTY DIRECTOR, CEDA

**ATTACHMENTS:**

- A. Proposed Zoning Text Amendments
- B. Standard Conditions of Approval

FILED  
OFFICE OF THE CITY CLERK  
INTRODUCED BY COUNCIL MEMBER

APPROVED AS TO FORM AND LEGALITY  
*Mark P. Wall*  
City Attorney

2008 OCT -1 PM 5:16

# OAKLAND CITY COUNCIL

ORDINANCE No. \_\_\_\_\_ C.M.S.

AN ORDINANCE ADOPTING VARIOUS PLANNING CODE TEXT AMENDMENTS, INCLUDING : A) ADDING EXTENSIVE IMPACT CIVIC ACTIVITIES AS A CONDITIONALLY PERMITTED ACTIVITY TO THE C-45 AND C-55 ZONES; B) ADDING ANIMAL CARE COMMERCIAL ACTIVITIES AS A CONDITIONALLY PERMITTED ACTIVITY TO THE C-36 ZONE; C) REDUCING THE TIME THAT AN AUTOMOTIVE SERVICING, OR A REPAIR AND CLEANING ACTIVITY, MAY BE DISCONTINUED BEFORE IT LOSES ITS LEGAL, NON-CONFORMING STATUS IN THE S-5 BROADWAY RETAIL FRONTAGE ZONE; D) MAKING PERMANENT AN EMERGENCY ORDINANCE THAT CREATES SPECIAL VARIANCE FINDINGS AND EXPEDITED APPEAL PROCEDURES FOR SIGNS; E) CLARIFYING THAT UNIFORMLY APPLIED DEVELOPMENT STANDARDS/STANDARD CONDITIONS OF APPROVAL ARE AUTOMATICALLY IMPOSED ON ALL APPLICATIONS, INCLUDING THOSE "DEEMED APPROVED" UNDER THE STATE PERMIT STREAMLINING ACT; AND F) VARIOUS AMENDMENTS WHICH CODIFY ADMINISTRATIVE PRACTICE, UPDATE REFERENCES, CLARIFY LANGUAGE, AND OTHER CHANGES.

**WHEREAS**, the General Plan Land Use and Transportation Element, adopted in 1998, prioritized updating the Planning Code to create a more user-friendly framework for reviewing and approving development proposals; and

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

**WHEREAS**, the Planning Code contains provisions that are inconsistent with State law; and

**WHEREAS**, the recent adoption of industrial zoning districts CIX, IG and IO created new activities (uses) which require revisions of the language in the existing code, to achieve consistency, such as changing the phrase "manufacturing" for "industrial" where appropriate; and

**WHEREAS**, Car-sharing services are an activity that the City seeks to promote, and the Planning Code does not explicitly address, and the activity is already considered administratively as an accessory activity to the primary activities on a lot; and

**WHEREAS**, previous revisions to the C-36 Gateway Boulevard Service Commercial Zone, (mapped along Hegenberger Road near the Oakland Airport) created numerous typographical errors, such as listing activities as a facilities, and additionally left out of conditionally permitted facilities Macro and Monopole Telecommunications, when those facilities are conditionally permitted in other, similar commercial zones; and

**WHEREAS**, the C-36 Gateway Boulevard Service Commercial Zone doesn't permit Animal Care Commercial activities, but similar commercial zones conditionally permit the activity; and

**WHEREAS**, the permitted exceptions to the openness of yards and courts have not to date explicitly allowed the construction of wheelchair ramps and other access required by the Americans with Disabilities act; and

**WHEREAS**, the City routinely imposes Uniformly Applied Development Standards on development projects as Standard Conditions of Approval, regardless of a project's environmental determination, pursuant, in part, to CEQA Guidelines section 15183. However, this practice is not currently referenced in the Planning Code; and

**WHEREAS**, under current City practice, but not in the Planning Code, development applications consisting of both major and minor permits (or where one discretionary action is initially determined by City staff but another action is initially determined by the Planning Commission), staff follows all procedural and substantive requirements associated with City Planning Commission decisions; and

**WHEREAS**, under current City practice, but not in the Planning Code, a development application requiring both legislative and adjudicatory actions is automatically considered by the City Council for final action, even though there may not be an appeal of the adjudicatory, land use permit; and

**WHEREAS**, to uphold a court determination, and make permanent an emergency ordinance, the Planning Code requires special variance findings and an expedited appeal procedures for signs; those sections in the Planning Code where signs are conditionally permitted should be deleted, so that signs require a variance; and

**WHEREAS**, a loophole exists in Section 17.10.050 (D) of the Planning Code which permits disparate activities to locate in gas stations, regardless if they were related to automotive servicing; and

**WHEREAS**, due to a probable printing error after a recent amendment, Extensive Impact Civic Activities was left out of the conditionally permitted activities sections in both the C-55 Central Core Commercial Zone and the C-45 Community Shopping Commercial Zone; this set of activities, as defined in Section 17.10.240 of the Planning Code, is conditionally permitted in all other zoning districts, except in the C-28 Commercial Shopping District Zone, where it was specifically prohibited upon the creation of that zone in the 1990's; and

**WHEREAS**, the recent S-5 Broadway Retail Frontage Zone made automotive servicing and repair activities prohibited, in anticipation of an adopted Retail strategy and Specific Plan for Broadway Auto Row, and existing businesses in this activity type were made legal, non-conforming uses; despite these new regulations, new automotive servicing and repair activities continue to open in Broadway Auto Row; the number of these businesses might be reduced should the time period to reactivate a legal, non-conforming activity be shortened from one year to six months; and

**WHEREAS**, on August 6, 2008, at a duly noticed public meeting, the Zoning Update Committee of the Planning Commission recommended that the Planning Code Amendments be heard by the Planning Commission; and

**WHEREAS**, on September 17, 2008, at a duly noticed public hearing, the Planning Commission recommended approval of the proposed Planning Code Amendments, now, therefore

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

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

**Section 2.** Prior to adopting this Ordinance, the City Council independently finds and determines that this action complies with the California Environmental Quality Act (CEQA) because the City is relying on previously certified CEQA documents, including the Environmental Impact Report for the Land Use and Transportation Element of the General Plan, and no further environmental review is required under CEQA Guidelines sections 15162 and 15163. As a separate and independent basis, this Ordinance is also exempt under Sections 15061(b)(3), 15183, and/or Section 15273 of the State CEQA Guidelines. The Environmental Review Officer is directed to cause to be filed a Notice of Exemption/Determination with the appropriate agencies.

**Section 3.** Except for Uniformly Applied Development Standards, imposed as Standard Conditions of Approval, which are already in effect and apply to all development applications, this ordinance shall be effective thirty (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; (b) zoning applications approved by the City and not yet expired; (c) complete zoning applications or; (d) zoning applications that would otherwise be considered complete except for an environmental determination, as of the date of final passage.

**Section 4.** The Oakland Planning Code is hereby amended to include the zoning text amendments contained in **Exhibit A**, attached hereto and hereby incorporated by reference.

**Section 5.** That the City Council adopts the Uniformly Applied Development Standards, imposed as Standard Conditions of Approval, authorized pursuant to Oakland Planning Code section 17.130.070, contained in **Exhibit B**, attached hereto and hereby incorporated by reference. The City Council hereby finds and determines that the Uniformly Applied Development Standards are designed to and will substantially mitigate environmental impacts/effects when applied to future projects. The Planning Director is hereby authorized to

periodically revise, clarify, refine and amend the Uniformly Applied Development Standards, consistent with this Ordinance.

**Section 6.** 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 7.** 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 8.** That the record before this Council relating to this Ordinance includes, without limitation, the following:

1. the application, including all accompanying maps and papers;
2. all relevant plans and maps;
3. all final staff reports, decision letters and other documentation and information produced by or on behalf of the City;
4. all oral and written evidence received by the City staff, Planning Commission and City Council before and during the public hearings on the application;
5. 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 9.** 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, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

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

DATE OF ATTESTATION: \_\_\_\_\_

MPW

EXHIBIT A

October 14, 2008

Proposed Planning Code Amendments

Language in ~~strikeout~~ is proposed to be deleted

Language underlined is proposed to be new.

**Title 17**

**PLANNING**

**Chapters:**

- 17.01 General Provisions of Planning Code and General Plan Conformity**
- 17.03 City Planning Commission**
- 17.05 Landmarks Preservation Advisory Board**
- 17.07 Title, Purpose and Scope of the Zoning Regulations**
- 17.09 Definitions**
- 17.10 Use Classifications**
- 17.11 OS Open Space Zoning Regulations**
- 17.11A R-1 One Acre Estate Residential Zone Regulations**
- 17.12 R-10 Estate Residential Zone Regulations**
- 17.14 R-20 Low Density Residential Zone Regulations**
- 17.16 R-30 One-Family Residential Zone Regulations**
- 17.18 R-35 Special One-Family Residential Zone Regulations**
- 17.20 R-36 Small Lot Residential Zone Regulations**
- 17.22 R-40 Garden Apartment Residential Zone Regulations**
- 17.24 R-50 Medium Density Residential Zone Regulations**
- 17.26 R-60 Medium-High Density Residential Zone Regulations**
- 17.28 R-70 High Density Residential Zone Regulations**
- 17.30 R-80 High-Rise Apartment Residential Zone Regulations**
- 17.32 R-90 Downtown Apartment Residential Zone Regulations**
- 17.34 C-5 Neighborhood Commercial Zone Regulations**
- 17.36 C-10 Local Retail Commercial Zone Regulations**
- 17.38 C-20 Shopping Center**
- 17.40 C-25 Office Commercial Zone Regulations**
- 17.42 C-27 Village Commercial Zone Regulations**
- 17.44 C-28 Commercial Shopping District Zone Regulations**
- 17.46 C-30 District Thoroughfare Commercial Zone Regulations**
- 17.48 C-31 Special Retail Commercial Zone Regulations**
- 17.50 C-35 District Shopping Commercial Zone Regulations**
- 17.52 C-36 Gateway Boulevard Service Commercial Zone Regulations**
- 17.54 C-40 Community Thoroughfare Commercial Zone Regulations**
- 17.56 C-45 Community Shopping Commercial Regulations**
- 17.58 C-51 Central Business Service Commercial Zone Regulations**

- 17.60 C-52 Old Oakland Commercial Zone Regulations
- 17.62 C-55 Central Core Commercial Zone Regulations
- 17.64 C-60 City Service Commercial Zone Regulations
- 17.65 HBX Housing and Business Mix Commercial Zone Regulations
- 17.66 M-10 Special Industrial Zone Regulations
- 17.68 M-20 Light Industrial Zone Regulations
- 17.70 M-30 General Industrial Zone Regulations
- 17.72 M-40 Heavy Industrial Zone Regulations
- 17.73 CIX-1, CIX-2, IG and IO Industrial Zones
- 17.74 S-1 Medical Center Zone Regulations
- 17.76 S-2 Civic Center Zone Regulations
- 17.80 S-4 Design Review Combining Zone Regulations
- 17.81 S-5 Broadway Retail Frontage Interim Combining Zone Regulations
- 17.82 S-6 Mobile Home Combining Zone Regulations
- 17.84 S-7 Preservation Combining Zone Regulations
- 17.86 S-8 Urban Street Combining Zone Regulations
- 17.88 S-9 Retail Frontage Combining Zone Regulations
- 17.90 S-10 Scenic Route Combining Zone Regulations
- 17.92 S-11 Site Development and Design Review Combining Zone Regulations
- 17.94 S-12 Residential Parking Combining Zone Regulations
- 17.96 S-13 Mixed-Use Development Combining Zone Regulations
- 17.97 S-15 Transit Oriented Development Zone Regulations
- 17.98 S-16 Industrial-Residential Transition Combining Zone Regulations
- 17.99 S-17 Downtown Residential Open Space Combining Zone Regulations
- 17.100A S-19 Health and Safety Protection Overlay Zone
- 17.100B S-20 Historic Preservation District Combining Zone Regulations
- 17.102 General Regulations Applicable to All or Several Zones
- 17.104 General Limitations on Signs
- 17.106 General Lot, Density, and Area Regulations
- 17.107 Density Bonus and Incentive Procedure
- 17.108 General Height, Yard, Court, and Fence Regulations
- 17.110 Buffering Regulations
- 17.112 Home Occupation Regulations
- 17.114 Nonconforming Uses
- 17.116 Off-Street Parking and Loading Requirements
- 17.117 Bicycle Parking Requirements
- 17.118 Recycling Space Allocation Requirements
- 17.120 Performance Standards
- 17.122 Planned Unit Development Regulations
- 17.124 Landscaping and Screening Standards
- 17.126 Usable Open Space Standards
- 17.128 Telecommunications Regulations
- 17.130 Administrative Procedures Generally
- 17.132 Administrative Appeal Procedure
- 17.134 Conditional Use Permit Procedure
- 17.135 Special Use Permit Review Procedure for the OS Zone
- 17.136 Design Review Procedure
- 17.138 Development Agreement Procedure

- 17.140 Planned Unit Development Procedure**
- 17.144 Rezoning and Law Change Procedure**
- 17.148 Variance Procedure**
- 17.150 Fee Schedule**
- 17.152 Enforcement**
- 17.154 Zoning Maps**
- 17.156 Deemed Approved Alcoholic Beverage Sale Regulations**
- 17.157 Deemed Approved Hotel and Rooming House Regulations**
- 17.158 Environmental Review Regulations**

**Illustrations for Title 17**



## Chapter 17.09 DEFINITIONS

### 17.09.040 Definitions.

**“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.

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

**“Electroplating activity”** means the electrochemical process of depositing a thin metallic coating of one metal on top of a different metal by passing an electrical current into a piece of metal immersed in chemical solutions comprised of caustics, acids, cyanides or other bonding chemicals, and causing a metallic coating to bond with the object to be plated. Such activities are classified as General Manufacturing ~~Industrial~~ Activities and are subject to the provisions of Section 17.102.340.

**“Footprint”** means ~~the total land area covered by all of the structures on a lot horizontal area as seen in plan,~~ measured from outside of all exterior walls and supporting columns, ~~including residences, garages, covered carports, and accessory structures, except that the following shall not be considered in determining footprint: ; but not trellises, patios, and areas of porch, deck and balcony less than thirty (30) inches from finished grade.~~

- ~~1. The portions of any uncovered and unenclosed decks, porches, landings, or patios, not including railings, which are less than thirty (30) inches above finished grade;~~
- ~~2. The portions of any uncovered and unenclosed balconies and stairways, including railings, which are less than six (6) feet above finished grade;~~
- ~~3. Eaves and roof overhangs; and~~
- ~~4. Trellises and similar structures which do not have solid roofs and which would not otherwise be included in this definition.~~

**“Lot coverage”** means the total land area covered by all of the structures on a lot ~~measured from outside of all exterior walls and supporting columns,~~ including all projections, except that the following shall not be considered in determining lot coverage:

- ~~1. The portions of anythe following structures, including railings, which are less than six feet above finished grade: uncovered and unenclosed decks, porches, ~~or~~ landings or patios; and balconies and stairways; not including railings which are less than thirty (30) inches above finished grade;~~
- ~~2. The portions of any uncovered and unenclosed balconies and stairways, including railings which are less than six (6) feet above finished grade;~~
- ~~3. Eaves and roof overhangs up to four (4) feet from a wall;~~
- ~~4. Trellises and similar structures which do not have solid roofs and which would not otherwise be included in this definition; and~~
- ~~5. Nonhabitable accessory structures of less than one hundred twenty (120) square feet and which do not require a building permit.~~

## Chapter 17.10 USE CLASSIFICATIONS

(Article II, Activity Types, Part 3, Commercial Activity Types)

~~17.10.500 — Transport and Warehousing Commercial Activities.~~  
~~17.10.530 — Scrap Operation Commercial Activities.~~

### Part 4

#### ~~Manufacturing~~ Industrial Activity Types

#### 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
  - Semi-Transient
  - Residential Care
  - Service-Enriched Permanent Housing
  - Transitional Housing
  - Emergency Shelter
- B. Civic Activities:
  - Essential Service
  - Limited Child-Care
  - Community Assembly
  - Community Education
  - Nonassembly Cultural
  - Administrative
  - Health Care
  - Utility and Vehicular
  - Extensive Impact
  - Telecommunications
- C. Commercial Activities:
  - General Food Sales
  - Convenience Market
  - Fast-Food Restaurant
  - Alcoholic Beverage Sales
  - Convenience Sales and Service
  - Mechanical or Electronic Games
  - Medical Service
  - General Retail Sales
  - General Personal Service
  - Consultative and Financial Service
  - Consumer Laundry and Repair Service
  - Group Assembly

Administrative  
Business and Communications Service  
Retail Business Supply  
Research Service  
General Wholesale Sales  
Transient Habitation  
Construction Sales and Service  
Automotive Sales, Rental, and Delivery  
Automotive Servicing  
Automotive Repair and Cleaning  
Automotive Fee Parking  
Transport and Warehousing  
Animal Care  
Undertaking Service  
Scrap Operation

D. Manufacturing-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  
~~Small Scale Transfer and Storage Hazardous Waste Management~~  
~~Industrial Transfer/Storage Hazardous~~  
~~Waste Management~~  
~~Residuals Repositories Hazardous~~  
~~Waste Management~~

E. Agricultural and Extractive Activities:

Plant Nursery  
Crop and Animal Raising  
Mining and Quarrying

(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. (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;
- B. Home occupations, subject to the applicable provisions of the home occupation regulations in Chapter 17.112;
- C. Residential occupancy in connection with a principal nonresidential activity on the same lot, but only:
  - 1. If the residents are required to remain on the premises for protective, conference, or comparable technical purposes, or
  - 2. As joint living and work quarters subject to the applicable provisions of Section 17.102.190;
- D. Operation of an employee cafeteria by a firm engaging in a principal nonresidential activity on the same lot;
- E. Sale of goods on the same lot as a principal Civic Activity, but only if such goods are available only to persons participating in the principal activity;
- F. Production of goods for sale by a firm engaged in a principal Commercial Activity on the same lot, but only if:
  - 1. All goods so produced are sold at retail by the same firm either on the same or other lots, and
  - 2. Such production does not occupy more than seventy-five (75) percent of the total floor area and open sales, display, storage, and service area occupied by such firm on the lot, and
  - 3. Such production does not in any case occupy more than three thousand (3,000) square feet of such floor area and open area;
- G. Storage of goods sold by a principal Commercial Activity, or used in or produced by a principal ~~Manufacturing-Industrial-Industrial~~ Activity, engaged in by the same firm on the same lot;
- H. Operation of an administrative office of a firm engaged in a principal ~~Manufacturing or Industrial or Industrial~~ Activity on the same lot, but only if such office does not occupy more than fifty (50) percent of the total floor area and open sales, display, storage, and service area occupied by such firm on the lot;
- I. Wholesale sale, or retail sale to the buyer's custom order, of goods produced by a principal ~~Manufacturing or Industrial or Industrial~~ Activity engaged in by the same firm on the same lot;
- J. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time;
- 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 or more lots;
- L. Benches, street furniture, lighting, public art, sheds, and similar infrastructure associated with city and regional parks;
- M. Public restrooms serving park and recreational facilities. (Ord. 12078 § 5 (part), 1998; prior planning code § 2211)
- N. Car-sharing services and parking spaces are considered accessory to all activities, as long as required parking space for that activity is not taken by car-sharing trucks and automobiles.

Car Sharing services are considered accessory to all facility types, excepting: one-family dwelling, one family dwelling with secondary unit, two-unit dwellings, and rooming houses.

**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, ~~Manufacturing~~, 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 or~~ General Wholesale Sales, ~~or Scrap Operation~~ Commercial Activities; General Manufacturing ~~Manufacturing~~, ~~or Heavy/High Impact Manufacturing, or Warehousing, Storage, and Distribution-Automotive Salvage/Junk Yards~~ Industrial Activities; or Crop and Animal Raising 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 ~~Commercial-Industrial-Activities~~ shall be classified with in the ~~or Warehousing, Storage, and Distribution-Automotive Salvage/Junk Yards~~ Industrial ~~Scrap Operation-Commercial-Activities~~ type if they have any of its characteristics, and all such ~~Manufacturing-Industrial~~ Activities shall be classified within the Heavy/High Impact Manufacturing 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 Automotive Servicing Commercial Activity.** All principal activities conducted on the site of an Automotive Servicing Commercial Activity shall be classified as Automotive 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. (Prior planning code § 2213).

**17.10.240 Extensive Impact Civic Activities.**

Extensive Impact Civic Activities include the activities typically performed by, or the maintenance and operation of, the following institutions and installations. They also include certain activities accessory thereto, as specified in Section 17.10.040.

- A. Airports, heliports, and helistops;
- B. Cemeteries, mausoleums, and columbariums;
- C. Colleges, junior colleges, and universities, but excluding business schools operated as profit making enterprises;
- D. Detention and correction institutions;

- E. Docks and wharves operated by a public agency;
- F. Electric transmission lines;
- G. Garbage dumps;
- H. Golf courses and driving ranges;
- I. Major mail-processing centers;
- J. Military installations;
- K. Public and public utility corporation or truck yards;
- L. Radio and television transmission stations;
- M. Railroad and bus terminals;
- N. Railroad rights-of-way and yards and bus storage areas;
- O. Reservoirs and water tanks;
- P. Sewage disposal tanks;
- Q. Stadiums, sports arenas, auditoriums, and bandstands;
- R. Truck terminals operated by a public agency;
- S. Zoological gardens and wildlife preserves;
- ~~T. Reverse vending machines and other recycling collection centers;~~
- ~~U. Large recycling collection centers;~~
- V. Campgrounds;
- W. Stormwater detention ponds and facilities;
- X. Facilities supervised by or under contract with the State Department of Corrections, including alternative sentencing and community work release programs. (Ord. 12138 § 4 (part), 1999; Ord. 12078 § 5 (part), 1998; prior planning code § 2322)

**~~17.10.500 — Transport and Warehousing Commercial Activities.~~**

~~Transport and Warehousing Commercial Activities include the provision of warehousing and storage, freight handling, shipping, and trucking services. They also include certain activities accessory to the above, as specified in Section 17.10.040. (Prior planning code § 2387)~~

**~~17.10.530 — Scrap Operation Commercial Activities.~~**

~~Scrap Operation Commercial Activities include the storage and sale, from the premises, or dismantling or other processing of used or waste materials which are not intended for reuse in their original form, and the dismantling of motor vehicles to obtain parts, except when such activities are part of a manufacturing operation. They also include certain activities accessory to the above, as specified in Section 17.10.040. (Prior planning code § 2390)~~

**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. They also include certain activities accessory thereto, as specified in Section 17.10.040. This classification includes, but is not limited to, the production of:

- 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 less of floor area;
- Cameras and photographic equipment;
- Custom sign-making;

Custom clothing;  
Custom furniture building and refinishing;  
Professional, scientific, measuring, and controlling instruments;  
Musical instruments;  
Medical, dental, optical and orthopedic instruments and appliances, and similar items;  
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 thereto, as specified in Section 17.10.040. This classification includes, but is not limited to, the production or assembly of:

Production apparel manufacturing;  
Computer and electronic products;  
Pharmaceutical production;  
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;  
Electrical equipment, appliances, and components;  
Furniture and related products;  
Pharmaceutical production;  
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. They also include certain activities accessory thereto, as specified in Section 17.10.040. The classification includes, but is not limited to:

Chemical manufacturing (except for the chemical products listed under Heavy/High/Impact Manufacturing);  
Glass manufacturing;  
Metal foundries;  
Wood product manufacturing;  
Heavy equipment and manufacturing;  
Paper finishing;  
Pipe production facilities;  
Textile mills;  
Tire retreading and recapping;  
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. They also include certain activities accessory thereto, as specified in Section 17.10.040. This classification includes, but is not limited to:

- Any manufacturing use with large-scale facilities for outdoor oil and gas storage;
- 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”);
- Battery manufacturing and storage;
- Lime and gypsum products manufacturing;
- Non-ferrous metals production, processing, smelting and refining;
- Painting, coating and adhesive manufacturing;
- Synthetic dye and pigment manufacturing;
- Urethane and other open-cell foam product manufacturing;
- Petroleum and coal products manufacturing and refining;
- Primary metal smelting;
- Vinegar, yeast and other pungent, odor-causing items production;
- Leather tanning;
- Cement and asphalt manufacturing;
- Explosives manufacturing;
- Fertilizer and other agricultural chemical manufacturing

**17.10.730 Open Nonresidential Facilities.**

Open Nonresidential Facilities include principal facilities, other than those facilities described in Sections 17.10.740 (Drive-In Nonresidential), ~~and~~ 17.10.750 (Sidewalk Café) and 17.10.770 (Drive-Through Nonresidential), which accommodate or are intended to accommodate Civic, Commercial, ~~Manufacturing Industrial~~ or Agricultural or Extractive Activities and which either are unroofed areas or structures, or are buildings which are not separated from adjacent areas on all sides by walls pierced only by windows, vents, or customary entrances and exits. They also include certain facilities accessory to the above, as specified in Section 17.10.070. (Prior planning code § 2611)

**Chapter 17.11 OS OPEN SPACE ZONING REGULATIONS**

**17.11.080 Conditionally permitted facilities.**

The following facilities, as described in the use classifications at Chapter 17.10, and as further restricted to certain park and open space categories and specific uses as set forth in Section 17.11.090, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure at Chapter 17.134 and the special use permit procedure for the OS zone at Chapter 17.135, subject to the special definitions for projects in the open space zone at Section 17.09.050 and the use permit criteria at Section 17.11.110:

- A. Residential Facilities:
  - One-Family Dwelling
- B. Nonresidential Facilities:
  - Enclosed
  - Open



- ~~C. Signs:~~
- ~~Residential~~
- ~~Special~~
- ~~Civic~~
- ~~Business, but only under the limitations listed under Section 17.11.090~~
- ~~Advertising, but only under the limitations listed under Section 17.11.090~~

- DC. Telecommunications Facilities:
  - Mini
  - Micro
  - Macro
  - Monopole

ED. Accessory Facilities  
 (Ord. 12350 § 3 (part), 2001; Ord. 12078 § 3 (part), 1998)

**17.11.090 Special provisions for permitted and conditionally permitted facilities, and facilities allowed by variance in the OS zone.**

A. *Business and Advertising Signs.* Business and Advertising Signs are allowed 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 refer either to the name of the donor company and/or products for sale on site. The size and content of such signs is further limited to the following:

1. No signage may advertise alcohol, tobacco, drugs, pharmaceuticals or firearms.
2. Signage may only advertise products sold on-site or show the name of a private enterprise acting as a principal provider as a part of an agreement with a city agency.
3. Signs shall generally be consistent with the limitations established for Business and Advertising Signs in Sections 17.10.840 and 17.104.010, but some departure from these requirements may be considered on a case-by-case basis.

B. The following table shall apply to certain classes of facilities that are permitted and conditionally permitted within the OS zone. The specified facilities shall only be permitted or conditionally permitted in the types of parks indicated in the table. Permitted activities are noted with the letter "P." Uses requiring a minor conditional use permit are indicated with a star. Uses requiring a major conditional use permit are indicated with a solid circle and star. In the event that no letter or symbol appears in the matrix cell, the use is not permitted.

**Chapter 17.11A R-1 ONE ACRE ESTATE RESIDENTIAL ZONE REGULATIONS**

**17.11A.070 Conditionally permitted facilities.**

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

- ~~A. Signs:~~
- ~~Business~~
- B. Telecommunications Facilities:

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

(Ord. 12501 § 7, 2003; Ord. 12272 § 3 (part), 2000)

## **Chapter 17.12 R-10 ESTATE RESIDENTIAL ZONE REGULATIONS**

### **17.12.070 Conditionally permitted facilities.**

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

~~\_\_\_\_\_~~ A. ~~\_\_\_\_\_~~ Signs:

~~\_\_\_\_\_~~ ~~\_\_\_\_\_~~ Business

~~\_\_\_\_\_~~ B. Telecommunications Facilities:

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

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

Macro

Monopole

(Ord. 12501 § 11, 2003; Ord. 12199 § 4A, 2000; Ord. 11904 § 5.10 (part), 1996; prior planning code § 3256)

## **Chapter 17.14 R-20 LOW DENSITY RESIDENTIAL ZONE REGULATIONS**

### **17.14.070 Conditionally permitted facilities.**

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

~~\_\_\_\_\_~~ A. ~~\_\_\_\_\_~~ Signs:

~~\_\_\_\_\_~~ ~~\_\_\_\_\_~~ Business

~~\_\_\_\_\_~~ B. Telecommunications Facilities:

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

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

Macro

Monopole

(Ord. 12501 § 15, 2003; Ord. 12199 § 4B, 2000; Ord. 11904 § 5.10 (part), 1996; prior planning code § 3356)

## **Chapter 17.16 R-30 ONE-FAMILY RESIDENTIAL ZONE REGULATIONS**

### **17.16.070 Conditionally permitted facilities.**

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

~~\_\_\_\_\_~~ A. ~~Signs:~~

~~\_\_\_\_\_~~ ~~Business~~

~~\_\_\_\_\_~~ B. Telecommunications Facilities:

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

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

Macro

Monopole

(Ord. 12501 § 19, 2003; Ord. 12199 § 4C, 2000; Ord. 11904 § 5.10 (part), 1996; prior planning code § 3456)

## **Chapter 17.18 R-35 SPECIAL ONE-FAMILY RESIDENTIAL ZONE REGULATIONS**

### **17.18.070 Conditionally permitted facilities.**

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

A. Residential Facilities:

Two-Family Dwelling

~~\_\_\_\_\_~~ B. ~~Signs:~~

~~\_\_\_\_\_~~ ~~Business~~

~~C~~ B. Telecommunications Facilities:

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

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

Macro

Monopole

(Ord. 12501 § 23, 2003; Ord. 12199 § 4F (part), 2000; Ord. 11904 § 5.10 (part), 1996; prior planning code § 3556)

## **Chapter 17.20 R-36 SMALL LOT RESIDENTIAL ZONE REGULATIONS**

### **17.20.060 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. Residential Facilities:

Multi-family Dwelling

~~\_\_\_\_\_~~ B. ~~Signs:~~

~~\_\_\_\_\_~~ ~~Business~~

~~\_\_\_\_\_~~ ~~C~~ B. Telecommunications Facilities:

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

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

Macro

Monopole

(Ord. 12501 § 28, 2003; Ord. 12199 § 4D, 2000; Ord. 11904 § 5.10 (part), 1996; prior planning code § 3581)

## **Chapter 17.22 R-40 GARDEN APARTMENT RESIDENTIAL ZONE REGULATIONS**

### **17.22.080 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. Residential Facilities:

Multi-Family Dwelling

~~B. Signs:~~

~~Business~~

~~C.B. Telecommunications Facilities:~~

Micro, except as provided in Chapter 17.128 and Section 17.134.020(A) ~~(23)~~

(3) (i)

Mini, except as provided in Chapter 17.128 and Section 17.134.020(A) ~~(23)~~

(3) (i)

Macro

Monopole

(Ord. 12501 § 32, 2003; Ord. 12199 § 4F (part), 2000; Ord. 11904 § 5.10 (part), 1996; prior planning code § 3606)

## **Chapter 17.24 R-50 MEDIUM DENSITY RESIDENTIAL ZONE REGULATIONS**

### **17.24.080 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. Residential Facilities:

Multifamily Dwelling

~~B. Signs:~~

~~Business~~

~~C.B. Telecommunications Facilities:~~

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

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

Macro

Monopole

(Ord. 12501 § 36, 2003; Ord. 12199 § 4F (part), 2000; Ord. 11904 § 5.10 (part), 1996; prior planning code § 3656)

## **Chapter 17.26 R-60 MEDIUM-HIGH DENSITY RESIDENTIAL ZONE REGULATIONS**

### **17.26.080 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. Residential Facilities:

Rooming House

~~B. Signs:~~

~~Business~~

~~C.B. Telecommunications Facilities:~~

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

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

Macro

Monopole

(Ord. 11904 § 5.10 (part), 1996; prior planning code § 3756)

## **Chapter 17.28 R-70 HIGH DENSITY RESIDENTIAL ZONE REGULATIONS**

### **17.28.080 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. Residential Facilities:

Rooming House

~~B. Signs:~~

~~Business~~

~~C.B. Telecommunications Facilities:~~

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

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

Macro

Monopole

## **Chapter 17.30 R-80 HIGH-RISE APARTMENT RESIDENTIAL ZONE REGULATIONS**

### **17.30.080 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. Signs:~~

~~Business~~

~~B. Telecommunications Facilities:~~

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

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

(Ord. 11904 § 5.11 (part), 1996; prior planning code § 3856)

## **Chapter 17.32 R-90 DOWNTOWN APARTMENT RESIDENTIAL ZONE REGULATIONS**

### **17.32.080 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. ~~\_\_\_\_\_~~ Signs:

~~\_\_\_\_\_~~ ~~\_\_\_\_\_~~ Business

~~\_\_\_\_\_~~ B. Telecommunications Facilities:

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

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

Macro

Monopole

(Ord. 11904 § 5.11 (part), 1996; prior planning code § 3906)

## **Chapter 17.38 C-20 SHOPPING CENTER COMMERCIAL ZONE REGULATIONS**

### **17.38.060 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. Residential Facilities:

One-Family Dwelling

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

Two-Family Dwelling

Multifamily Dwelling

B. Nonresidential Facilities:

Open

Drive-In

Drive-Through

~~\_\_\_\_\_~~ C. ~~\_\_\_\_\_~~ Signs:

~~\_\_\_\_\_~~ ~~\_\_\_\_\_~~ Residential

~~DC~~ Telecommunications Facilities:

Mini

Macro

Monopole

(Ord. 12501 § 57, 2003; Ord. 12224 § 4 (part), 2000; Ord. 12199 § 4F (part), 2000; Ord. 11904 § 5.40, 1996; prior planning code § 4306)

## **Chapter 17.40 C-25 OFFICE COMMERCIAL ZONE REGULATIONS**

### **17.40.060 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
  - Two-Family Dwelling
  - Multifamily Dwelling
  - Rooming House
- B. Nonresidential Facilities:
  - Enclosed
  - Sidewalk Cafes, subject to the provisions of Section 17.102.335
- C. Signs:
  - Residential
  - Special
  - Development
  - Realty
  - Civic
  - Business
- D. Telecommunications Facilities:
  - Micro, except as provided in Chapter 17.128 and Section 17.134.020(A) (23)

(Ord. 12224 § 4 (part), 2000; Ord. 11904 § 5.34 (part), 1996; prior planning code § 4355)

## **Chapter 17.42 C-27 VILLAGE COMMERCIAL ZONE REGULATIONS**

### **17.42.060 Permitted facilities.**

The following facilities, as described in the use classifications in Chapter 17.10, are permitted, subject where applicable to the provisions of Section 17.42.080:

- A. Residential Facilities:
  - One-Family Dwelling
  - One-Family Dwelling with Secondary Unit, subject to the provisions specified in Section 17.102.360
  - Two-Family Dwelling
  - Multifamily Dwelling
  - Rooming House
- B. Nonresidential Facilities:
  - Enclosed
  - Sidewalk Cafes, subject to the provisions of Section 17.102.335
- C. Signs:

Residential  
Special  
Development  
Realty  
Civic  
Business

D. Telecommunications Facilities:

Micro, except as provided in Chapter 17.128 and Section 17.134.020(A) (23)  
(Ord. 12224 § 4 (part), 2000; Ord. 11904 § 5.34 (part), 1996; prior planning code § 4405)

## Chapter 17.44 C-28 COMMERCIAL SHOPPING DISTRICT ZONE REGULATIONS

### 17.44.040 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 Section 17.44.110 and 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  
Community Education  
Special Health Care Civic Activities

C. Commercial Activities:

Convenience Sales and Service  
Automotive Servicing  
Automotive Repair and Cleaning  
Convenience Market  
Fast-Food Restaurant  
Alcoholic Beverage Sales  
Group Assembly  
Animal Care

D. ~~Manufacturing~~ Industrial Activities:

Custom Manufacturing

E. Agricultural Activities:

Plant Nursery

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

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.

H. Installation of motor vehicle accessories. (Ord. 12450 § 5, 2002; Ord. 12138 § 5 (part), 1999; prior planning code § 4429)



**17.44.050 Permitted facilities.**

The following facilities, as described in the use classifications in Chapter 17.10, are permitted, subject where applicable to the provisions of Sections 17.44.080 and 17.44.200:

A. Residential Facilities:

One-Family Dwelling

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

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

Two-Family Dwelling

Multifamily Dwelling

B. Nonresidential Facilities:

Enclosed

Sidewalk Cafes, subject to the provisions of Section 17.102.335

C. Signs:

Residential

Special

Development

Realty

Civic

Business

D. Telecommunications Facilities:

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

(Ord. 12224 § 4 (part), 2000; Ord. 11904 § 5.34 (part), 1996; prior planning code § 4430)

**17.44.080 Special regulations applying to certain Commercial and Manufacturing Industrial Activities.**

Except as provided in Section 17.44.200(C)(1), the total floor area devoted to Commercial or ~~Manufacturing-Industrial~~ Activities by any single establishment shall not exceed seven thousand five hundred (7,500) square feet, except that a greater floor area may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, and the provisions of Section 17.44.110. (Prior planning code § 4433)

**17.44.090 Special regulations applying to certain Commercial Activities.**

A. Convenience Markets, Fast-Food Restaurants, and Certain Establishments Selling Alcoholic Beverages. See Section 17.102.210.

B. Automotive-Related Activities. All services performed by Automotive Service and Automotive Repair and Cleaning Commercial Activities, except those involving the dispensing of gasoline, shall take place in an enclosed building, and shall be screened from view of the principal street except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, and the provisions of Section 17.44.110.

C. ~~Manufacturing Industrial~~ Activities. All accessory ~~Manufacturing-Industrial~~ Activities, as defined in Section 17.10.040 shall be conducted entirely within an enclosed facility. (Prior planning code § 4434)

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

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

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter 17.142 if they meet the minimum land area requirements of Section 17.22.030.

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

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

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

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

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

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

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

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

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

## **Chapter 17.46 C-30 DISTRICT THOROUGHFARE COMMERCIAL ZONE REGULATIONS**

### **17.46.060 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:

- Facility Residential Care, except when occupying a One-Family Dwelling Residential
- Service-Enriched Permanent Housing  
 Transitional Housing  
 Emergency Shelter
- B. Civic Activities:  
 Extensive Impact  
 Utility and Vehicular (communications equipment installations and exchanges, only)
- C. Commercial Activities:  
 Special Health Care Civic Activities  
 Check Cashier and Check Cashing  
 Convenience Market  
 Fast-Food Restaurant  
 Alcoholic Beverage Sales  
 Mechanical or Electronic Games, subject to the provisions of Section 17.102.210C
- Group Assembly  
 General Wholesale Sales  
 Automotive Servicing  
 Automotive Repair and Cleaning  
 Animal Care
- D. ~~Manufacturing~~ Industrial Activities:  
 Custom-Manufacturing
- E. Agricultural and Extractive Activities:  
 Plant Nursery
- F. Additional activities which are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof, subject to the conditions set forth in Section 17.102.110. (Ord. 12626 § 4 (part), 2004; Ord. 12450 § 6, 2002; Ord. 12138 § 5 (part), 1999; Ord. 11854 § 4, 1996; prior planning code § 4454)

**17.46.070 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  
 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
- C. Signs:  
 Residential

- Special
- Development
- Realty
- Civic
- Business

D. Telecommunications Facilities:

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

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

(Ord. 12224 § 4 (part), 2000; Ord. 11904 § 5.36 (part), 1996; prior planning code § 4455)

**Chapter 17.48 C-31 SPECIAL RETAIL COMMERCIAL ZONE REGULATIONS**

**17.48.050 Permitted facilities.**

The following facilities, as described in the use classifications in Chapter 17.10, are permitted, subject where applicable to the provisions of Section 17.48.070:

A. Residential Facilities:

One-Family Dwelling

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

Two-Family Dwelling

Multifamily Dwelling

B. Nonresidential Facilities:

Enclosed

Sidewalk Cafes, subject to the provisions of Section 17.102.335

C. Signs:

Residential

Special

Development

Realty

Civic

Business

D. Telecommunications Facilities:

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

(Ord. 12224 § 4 (part), 2000; Ord. 11904 § 5.34 (part), 1996; prior planning code § 4480)

**17.50.070 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

Two-Family Dwelling

Multifamily Dwelling

Rooming House

- B. Nonresidential Facilities:
    - Enclosed
    - Sidewalk Cafes, subject to the provisions of Section 17.102.335
  - C. Signs:
    - Residential
    - Special
    - Development
    - Realty
    - Civic
    - Business
  - D. Telecommunications Facilities:
    - Micro, except as provided in Chapter 17.128 and Section 17.134.020(A) (23)
    - Mini, except as provided in Chapter 17.128 and Section 17.134.020(A) (23)
- (Ord. 12224 § 4 (part), 2000; Ord. 12021 § 2, 1997; Ord. 11904 § 5.36 (part), 1996; prior planning code § 4505)

## **Chapter 17.52 C-36 GATEWAY BOULEVARD SERVICE COMMERCIAL ZONE REGULATIONS**

### **17.52.040 Required design review process.**

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, ~~Mixed-Use Development~~, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104. Findings for design review approval shall also be consistent with the Hegenberger Design Guidelines.

(Ord. 12606 Att. A (part), 2004; Ord. 12076 § 3 (part), 1998; Ord. 11904 § 5.60 (part), 1996; prior planning code § 4527.1)

### **17.52.050 Permitted activities.**

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

#### A. Civic Activities:

- Essential Service
- Limited Child-Care
- Community Assembly
- Nonassembly Cultural
- Administrative
- Telecommunications

#### B. Commercial Activities:

- General Food Sales
- Convenience Sales and Service
- Medical Service
- General Personal Service
- General Retail Sales

Consultative and Financial Service  
Administrative  
Business and Communication Service  
Retail Business Supply  
Research Service

~~Transient Habitation~~

~~Nonresidential Facilities:~~

~~Enclosed~~

~~Signs:~~

~~Special~~

~~Development~~

~~Realty~~

~~Civic~~

~~Business~~

~~Advertising, on property owned by Alameda County City of Oakland adjacent to~~

~~Interstate Highway 880 and utilized by Oakland Alameda County Coliseum Complex~~

~~Telecommunications Facilities:~~

~~Mini~~

~~Micro~~

(Ord. 12076 § 3 (part), 1998; Ord. 11904 § 5.30 (part), 1996; prior planning code § 4528)

**17.52.060 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. Civic Activities:

Utility and Vehicular

Extensive Impact

~~Nonassembly Cultural~~

~~Community Education~~

~~Health Care~~

B. Commercial Activities:

Convenience Market

Fast-Food Restaurant

Alcoholic Beverage Sales

Mechanical or Electronic Games, subject to the provisions of Section 17.102.210C

General Wholesale Sales

~~Transient Habitation, subject to the provisions of Section 17.102.370~~

Consumer Laundry and Repair Service

Construction Sales and Service

~~Health Care~~

~~Community Education~~

~~Community Assembly~~

~~Warehouse and Transportation, but limited to properties without frontage on Hegenberger Road~~

~~Group Assembly~~

~~Automotive Sales, Rental, and Delivery, but limited to properties without frontage on Hegenberger Road~~

~~Automotive Servicing~~

~~Transport and Warehousing, but limited to properties without frontage on Hegenberger Road~~

~~Animal Care~~

~~Transient Habitation, subject to the provisions of Section 17.102.370~~

C. ~~Manufacturing Industrial Activities:~~

~~Custom, Light, and General Manufacturing, but limited to properties without frontage on Hegenberger Road~~

D. ~~Agricultural and Extractive Activities:~~

~~Crop and Animal Raising~~

E. ~~Off-street parking serving activities other than those listed above or in Section 17.52.050, subject to the conditions set forth in Section 17.102.100.~~

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.~~

G. ~~Additional activities not otherwise permitted or conditionally permitted if such activities are part of a Foreign Trade Zone as designated by the United States of America.~~

~~(Ord. 12266 § 5 (part), 2000; Ord. 12076 § 3 (part), 1998: prior planning code § 4529)~~

**17.52.070 Permitted facilities.**

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

A. ~~Nonresidential Facilities:~~

~~Enclosed~~

~~Sidewalk Cafes, subject to the provisions of Section 17.102.335~~

B. ~~Signs:~~

~~Special~~

~~Development~~

~~Realty~~

~~Civic~~

~~Business~~

~~Advertising, on property owned by Alameda County-City of Oakland adjacent to Interstate Highway 880 and utilized by Oakland-Alameda County Coliseum Complex~~

C. ~~Telecommunications Facilities:~~

~~Mini, except as provided in Chapter 17.128~~

~~Micro, except as provided in Chapter 17.128~~

~~Sidewalk Cafes, subject to the provisions of Section 17.102.335~~

~~(Ord. 12224 § 4 (part), 2000; Ord. 12076 § 3 (part), 1998: Ord. 11904 § 5.37 (part), 1996; prior planning code § 4530)~~

**17.52.080 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 Facilities:**

Macro  
 Monopole

(Ord. 12224 § 3 (part), 2000; Ord. 12076 § 3 (part), 1998: Ord. 11904 § 5.42 (part), 1996; prior planning code § 4531)

**17.52.120 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 mean 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. (Ord. 12076 § 3 (part), 1998: prior planning code § 4539)

**17.52.140 Maximum floor-area ratio.**

A. **Permitted Floor-Area Ratio.** The maximum permitted floor-area ratio is 2:50, except that this ratio may be exceeded by ten (10) percent on any corner lot and may also be exceeded by ten (10) percent on any lot which faces or abuts a public park at least as wide as the lot.

B. **Conditionally Permitted Floor-Area Ratio.** The floor-area ratio permitted by subsection A of this section may be increased by not to exceed fifty (50) percent upon the acquisition of development rights from nearby lots and the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, subject to the provisions of Section 17.106.050. (Ord. 12076 § 3 (part), 1998: prior planning code § 4542)

**17.52.160 Minimum setback and yards.**

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. The minimum setback area required by subsection A of this section shall be unobstructed except for the kinds of facilities allowed in a front yard by Section 17.108.130. See also Section 17.52.180B.

A. **Setback from Street.** On every lot, the following minimum setback shall be provided from each street abutting the lot:

Right-of-Way Width of Abutting Street	Minimum Setback
100 feet or more (Hegenberger Road, 98th Avenue, Edgewater Drive)	20 feet
Less than 100 feet	10 feet

B. **Front Yard.** A front yard shall be provided, as prescribed in Section 17.52.160(A), based on the right-of-way width of the abutting street; and Section 17.108.040, in certain situations where part of the frontage on the same side of a block is in a residential zone.

C. **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 a corner lot is in a residential zone.

D. **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.



E. Rear Yard. A rear yard shall be provided, as prescribed in Section 17.108.100, along a boundary of any of certain other zones. (Ord. 12076 § 3 (part), 1998; prior planning code § 4545)

## **Chapter 17.54 C-40 COMMUNITY THOROUGHFARE COMMERCIAL ZONE REGULATIONS**

### **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
  - 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
- C. Signs:
  - Residential
  - Special
  - Development
  - Realty
  - Civic
  - Business
- D. Telecommunications Facilities:
  - Micro, except as provided in Chapter 17.128 and Section 17.134.020(A) (23)
  - Mini, except as provided in Chapter 17.128 and Section 17.134.020(A) (23)

## **Chapter 17.56 C-45 COMMUNITY SHOPPING COMMERCIAL ZONE REGULATIONS**

### **17.56.050 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
  - Community Education
  - Nonassembly Cultural
  - Administrative
  - Health Care
  - Telecommunications
- C. Commercial Activities:
  - General Food Sales
  - Convenience Sales and Service
  - Medical Service
  - General Retail Sales
  - General Personal Service
  - Consultative and Financial Service
  - Consumer Laundry and Repair Service
  - Administrative
  - Business and Communication Service
  - Retail Business Supply
  - Research Service

D. ~~Manufacturing~~ Industrial Activities:

Custom Manufacturing

(Ord. 12138 § 5 (part), 1999; Ord. 11904 § 5.32 (part), 1996; prior planning code § 4603)

**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  
~~Community Education~~  
 Special Health Care Civic Activities  
~~Extensive Impact Civic~~

C. Commercial Activities:

Check Cashier and Check Cashing  
 Convenience Market  
 Fast-Food Restaurant  
 Alcoholic Beverage Sales  
 Mechanical or Electronic Games, subject to the provisions of Section

17.102.210C

Group Assembly

General Wholesale Sales  
Transient Habitation  
Automotive Sales, Rental, and Delivery  
Automotive Servicing  
Automotive Repair and Cleaning  
Automotive Fee Parking  
Animal Care  
Undertaking Service

D. ~~Manufacturing~~ Industrial Activities:

Light Manufacturing

E. Agricultural and Extractive Activities:

Plant Nursery  
Crop and Animal Raising

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.

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. (Ord. 12626 § 4 (part), 2004; Ord. 12450 § 10, 2002; Ord. 12138 § 5 (part), 1999; prior planning code § 4604)

**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  
Two-Family Dwelling  
Multifamily Dwelling  
Rooming House

B. Nonresidential Facilities:

Enclosed  
Sidewalk Cafes, subject to the provisions of Section 17.102.335

C. Signs:

Residential  
Special  
Development  
Realty  
Civic  
Business  
~~Sidewalk Cafes, subject to the provisions of Section 17.102.335~~

D. Telecommunications Facilities:

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

(Ord. 12224 § 4 (part), 2000; Ord. 12021 § 4, 1997; Ord. 11904 § 5.36 (part), 1996; prior planning code § 4605)

## **Chapter 17.58 C-51 CENTRAL BUSINESS SERVICE COMMERCIAL ZONE REGULATIONS**

### **17.58.070 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
  - Two-Family Dwelling
  - Multifamily Dwelling
  - Rooming House
- B. Nonresidential Facilities:
  - Enclosed
  - Sidewalk Cafes, subject to the provisions of Section 17.102.335
- C. Signs:
  - Residential
  - Special
  - Development
  - Realty
  - Civic
  - Business

(Ord. 12224 § 4 (part), 2000; Ord. 12021 § 5, 1997; prior planning code § 4830)

## **Chapter 17.60 C-52 OLD OAKLAND COMMERCIAL ZONE REGULATIONS**

### **17.60.070 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
  - Two-Family Dwelling
  - Multifamily Dwelling
- B. Nonresidential Facilities:
  - Enclosed
  - Sidewalk Cafes, subject to the provisions of Section 17.102.335
- C. Signs:
  - Residential
  - Special
  - Development
  - Realty
  - Civic
  - Business

~~Sidewalk Cafes, subject to the provisions of Section 17.102.335~~

D. Telecommunications Facilities:

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

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

(Ord. 12224 § 4 (part), 2000; Ord. 11904 § 5.36 (part), 1996; prior planning code § 4855)

## **Chapter 17.62 C-55 CENTRAL CORE COMMERCIAL ZONE REGULATIONS**

### **17.62.060 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

~~Community Education~~

Special Health Care Civic Activities

Extensive Impact Civic

C. Commercial Activities:

Check Cashier and Check Cashing

Convenience Market

Fast-Food Restaurant

Alcoholic Beverage Sales

Mechanical or Electronic Games, subject to the provisions of Section

17.102.210C

General Wholesale Sales

Automotive Sales, Rental, and Delivery

Automotive Servicing

Automotive Fee Parking

Animal Care

Undertaking Service

Transient Habitation, subject to the provisions of Section 17.102.370

D. ~~Manufacturing~~ Industrial Activities:

Light

Manufacturing

E. Agricultural and Extractive Activities:

Crop and Animal Raising

F. Off-street parking serving activities other than those listed above or in Section

17.62.050, subject to the conditions set forth in Section 17.102.100.

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. (Ord. 12626 § 4 (part), 2004; Ord. 12450 § 12, 2002; Ord. 12266 § 5 (part), 2000; Ord. 12138 § 5 (part), 1999; prior planning code § 4879)

**17.62.070 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
  - Two-Family Dwelling
  - Multifamily Dwelling
  - Rooming House
- B. Nonresidential Facilities:
  - Enclosed
  - Sidewalk Cafes, subject to the provisions of Section 17.102.335
- C. Signs:
  - Residential
  - Special
  - Development
  - Realty
  - Civic
  - Business
- D. Telecommunications Facilities:
  - Micro, except as provided in Chapter 17.128 and Section 17.134.020(A) (23)
  - Mini, except as provided in Chapter 17.128 and Section 17.134.020(A) (23)

**Chapter 17.65 HBX HOUSING AND BUSINESS MIX COMMERCIAL ZONE REGULATIONS**

**17.65.150 Special regulations for HBX work/live Facilities.**

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.

B. The establishment of an HBX work/live unit is permitted in the HBX zones if it meets and is consistent with the regulations and definitions contained in this section.

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

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, bicycle parking, loading, and open space required for each HBX work/live unit:

Standard	Requirement	Notes
Activities allowed in an HBX work/live unit	Same permitted and conditionally permitted activities as described in Section 17.65.030 and any activity that would qualify as a home occupation in a residential facility (See Chapter 17.112).	
Required parking	One parking space per unit plus one additional unassigned visitor or employee parking space per five HBX work/live units	1
Required bicycle parking	<b>With private garage for each unit:</b> One short-term space for each 20 dwelling units; minimum requirement is two short-term spaces.	2
	<b>Without private garage for each unit:</b> 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>
	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
Required usable open space	75 square feet of usable open space per unit	3
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. 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.

**17.65.160 Special regulations for HBX live/work units.**

A. Definition. "HBX live/work 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 live/work unit accommodates both residential and nonresidential activities. An HBX live/work unit meets all applicable regulations contained in this section.

B. The establishment of an HBX live/work unit is permitted in the HBX zones if it meets and is consistent with the regulations and definitions contained in this section.

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

D. Activity, parking, bicycle parking, loading, open space, and unit size standards. The following table contains the activities allowed in an HBX live/work unit, required off-street auto parking, required bicycle parking, the minimum size of an HBX live/work unit, and the loading and open space for each HBX live/work unit:

Standard	Requirement	Note
Activities allowed in an HBX live/work unit	Same permitted and conditionally permitted activities as described in Section 17.65.030 and any activity that would qualify as a home occupation in a residential facility	

	(See Chapter 17.112)		
Required parking	One parking space per unit		1
Required 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 50,000 square feet	No berth required	
	50,000--149,999 square feet	One berth	
	150,000--299,999 square feet	Two berths	
	Each additional 300,000 square feet	One additional berth	
Permitted density	Same as Section 17.65.070		
Required usable open space	Same as Section 17.65.130		

**Notes:**

1. See Chapter 17.116 for other off-street parking standards.

2. See Chapter 17.117 for other bicycle parking standards.

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

## Chapter 17.66 M-10 SPECIAL INDUSTRIAL ZONE REGULATIONS

### 17.66.030 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
  - Telecommunications
- B. Commercial Activities:
  - General Food Sales
  - Convenience Sales and Service
  - Medical Service
  - Consultative and Financial Service
  - Administrative
  - Business and Communication Service
  - Research Service
  - General Wholesale Sales
  - Automotive Fee Parking
- C. ~~Manufacturing~~ Industrial Activities:
  - Custom Manufacturing



Light Manufacturing

D. Off-street parking serving activities other than those listed above, subject to the conditions set forth in Section 17.102.100. (Ord. 11904 § 5.64 (part), 1996; prior planning code § 5403)

## **Chapter 17.68 M-20 LIGHT INDUSTRIAL ZONE REGULATIONS**

### **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
- Telecommunications

B. Commercial Activities:

- General Food Sales
- Convenience Sales and Service
- Mechanical or Electronic Games, subject to the provisions of Section

17.102.210C

- Medical Service
- General Retail Sales
- General Personal Service
- Consultative and Financial Service
- Administrative
- Business and Communication Service
- Research Service
- General Wholesale Sales
- Automotive Repair and Cleaning, except as provided in Section

17.102.370-380

Automotive Fee Parking, except as provided in Section 17.102.370.

C. ~~Manufacturing-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. (Ord. 12289 § 4 (part), 2000; Ord. 11904 § 5.64 (part), 1996; prior planning code § 5603)

### **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  
Community Education  
Utility and Vehicular  
Extensive Impact  
Special Health Care Civic Activities

- B. Commercial Activities:  
Convenience Market  
Fast-Food Restaurant  
Alcoholic Beverage Sales  
Consumer Laundry and Repair Service  
Retail Business Supply  
Construction Sales and Service  
Automotive Servicing  
Transport and Warehousing, except as provided in Section 17.102.210F  
Animal Care  
~~Scrap Operation, except as provided in Section 17.102.210F~~

- C. ~~Manufacturing~~ 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  
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. (Ord. 12450 § 15, 2002; Ord. 12147 § 3 (part), 1999; Ord. 12072 § 6, 1998; Ord. 11956 § 4, 1996; prior planning code § 5604)

## **Chapter 17.70 M-30 GENERAL INDUSTRIAL ZONE REGULATIONS**

### **17.70.030 Permitted activities.**

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

- A. Civic Activities:  
Essential Service  
Limited Child-Care  
Nonassembly Cultural  
Administrative

Utility and Vehicular, but excluding communications equipment installation and exchanges

Telecommunications

B. Commercial Activities:

General Food Sales

Convenience Market

Convenience Sales and Service

Mechanical or Electronic Games, subject to the provisions of Section 17.102.210C

Medical Service

General Retail Sales

General Personal Service

Consultative and Financial Service

Administrative

Business and Communication Service

Retail Business Supply

Research Service

General Wholesale Sales

Construction Sales and Service

Automotive Servicing, except as provided in Section 17.102.380.

Automotive Repair and Cleaning, except as provided in Section 17.102.380.

Automotive Fee Parking, except as provided in Section 17.102.380.

Transport and Warehousing, except as provided in Section 17.102.210E and subject to provisions in Section 17.102.380.

C. ~~Manufacturing~~ 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.

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

**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

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 Laundry and Repair Service  
 Group Assembly  
 Automotive Sales, Rental, and Delivery  
 Animal Care  
~~Scrap Operation, subject to the provisions of Section 17.102.210F~~

- C. ~~Manufacturing~~ 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. (Ord. 12450 § 16, 2002; Ord. 12147 § 3 (part), 1999; Ord. 12072 § 8, 1998; Ord. 11956 § 6, 1996; Ord. 11854 § 12, 1996; prior planning code § 5704)

**Chapter 17.72 M-40 HEAVY INDUSTRIAL ZONE REGULATIONS**

**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 installations and exchanges  
 Telecommunications
- B. Commercial Activities:  
 General Food Sales  
 Convenience Market  
 Convenience Sales and Service  
 Mechanical or Electronic Games, subject to the provisions of Section 17.102.210C  
 Medical Service  
 General Retail Sales  
 General Personal Service

- Consultative and Financial Service
- Administrative
- Business and Communication Service
- Retail Business Supply
- Research Service
- General Wholesale Sales
- Construction Sales and Service
- Automotive Sales, Rental, and Delivery
- Automotive Servicing
- Automotive Repair and Cleaning
- Automotive Fee Parking
- Transport and Warehousing, except as provided in Section 17.102.210F
- Scrap Operation, except as provided in Section 17.102.210F

- C. ~~Manufacturing~~ 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 17.102.100. (Ord. 12147 § 3 (part), 1999; Ord. 11956 § 7, 1996; Ord. 11904 § 5.65 (part), 1996; Ord. 11889 § 2, 1996; Ord. 11854 § 13, 1996; prior planning code § 5803)

**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
  - 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 Laundry and Repair Service
  - Group Assembly
  - Animal Care
- C. ~~Manufacturing~~ Industrial Activities:
  - General Manufacturing, 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. (Ord. 12450 § 17, 2002; Ord. 12147 § 3 (part), 1999; Ord. 12072 § 10, 1998; Ord. 11889 § 3, 1996; Ord. 11854 § 14, 1996; prior planning code § 5804)

**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:

A. **Nonresidential Facilities:**  
 Drive-Through

~~\_\_\_\_\_ If the agreement referenced under Section 17.104.060 expressly requires a conditional use permit then a conditional use permit shall be required for the following:~~

~~\_\_\_\_\_ B. \_\_\_\_\_ Signs:~~  
~~\_\_\_\_\_ Advertising~~

(Ord. 12425 § 2 (part), 2002; Ord. 12234 § 2, 2000; prior planning code § 5806)

**Chapter 17.73 CIX-1, CIX-2, IG AND IO INDUSTRIAL ZONES**

**17.73.060 Referral to Other Applicable Regulations**

The following table contains referrals to other regulations that may apply:

**Table 17.73.03: Referral to Other Regulations**

Subject	Section
Required number, dimensions, and location of parking spaces; maneuvering aisle dimensions, and related regulations	17.116
Sign regulations	17.104.20 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 17.108.040 17.124 17.68.130A
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

Subject	Section
Fence and retaining wall standards, including location, height, and materials	17.108.040
Expanding a use into adjacent zones	17.102.110
Application of zoning regulations to lots divided by zone boundaries	17.210.070
Landmarks	17.05
Special Restrictions on Establishments Selling Alcoholic Beverages (not low or medium residential zones)	17.102.210
Regulations applying to tobacco-oriented activities (not low or medium residential zones)	17.102.350
Microwave dishes and energy production facilities	17.102.240
Special regulations applying to adult entertainment activities (not low or medium residential zones)	17.102.160
Special regulations applying to massage service activities (not low or medium residential zones)	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

## Chapter 17.81 S-5 BROADWAY RETAIL FRONTAGE INTERIM COMBINING ZONE REGULATIONS

### 17.81.060 Permitted and conditionally permitted activities.

The following table lists activities permitted, conditionally permitted, and prohibited in the S-5 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.

Activity	Regulations	Additional Regulations
<b>Commercial Activities</b>		
General Food Sales	P	
Convenience Market	C	17.102.210
Fast-Food Restaurant	C	
Alcoholic Beverage Sales	C	17.102.210
Convenience Sales and Service	P	
Mechanical or Electronic Games	--	17.102.210
Medical Service	P (L2)	
General Retail Sales	P	
Large-Scale Combined Retail and Grocery Sales	--	
General Personal Service	P	
Consultative and Financial Service	P	
Check Cashier and Check Cashing	--	
Consumer Laundry and Repair Service	P	
Group Assembly	C	
Administrative	P (L1)	

Business and Communication Service	P	
Retail Business Activity	C	
Research Center	--	
General Wholesale Sales	--	
Transient Habitation	--	17.102.370
Construction Sales and Service	--	
Automotive Sales, Rental, and Delivery	C	
Automotive Servicing	--(L3)--	17.114.050 (A)
Automotive Repair and Cleaning	--(L3)--	17.114.050 (A)
Automotive Fee Parking	C	
Transport and Warehousing	--	
Animal Care	C	
Undertaking Service	--	
Scrap Operation	--	17.102.210

**Limitations:**

L1 - These activities shall not be located on the ground floor of a building on a lot with a property line that abuts the Broadway or 27<sup>th</sup> Street right of way except for incidental pedestrian entrances that lead to one of these activities in stories above the ground floor.

L2- These activities may only be located on the ground floor of a building on a lot that has a property line abutting the Broadway or 27<sup>th</sup> Street right of way upon the granting of a conditional use permit (see Chapter 17.134), and shall conform to the additional criteria contained in Section 17.25.030. However, incidental pedestrian entrances that lead to one of these activities in stories above the ground floor are permitted without the granting of a conditional use permit.

(Ord. 12850 § 2 Exh. A (part), 2008)

L3- Reestablishment of a discontinued, legal non-conforming Automotive Servicing activity and/or an Automotive Repair and Cleaning activity must occur no later than six (6) months after discontinuation of such activity, per Section 17.114.050 (A).

## Chapter 17.96 S-13 MIXED-USE DEVELOPMENT COMBINING ZONE REGULATIONS

### 17.96.010 Title, purpose, and applicability.

The provisions of this chapter shall be known as the S-13 mixed-use development combining zone regulations. The S-13 zone is intended to preserve and enhance areas containing residential, commercial and ~~manufacturing industrial~~ industrial activities in close proximity to one another, and to allow for residential developments, or for a compatible mixture of residential, commercial and/or light industrial developments in a planned and coordinated development plan, and is typically appropriate to industrially-zoned areas adjacent to residential zones. These regulations shall apply in the S-13 zone and are supplementary to the regulations applying in the zones with which the S-13 zone is combined. (Prior planning code § 6700)

## Chapter 17.97 S-15 TRANSIT ORIENTED DEVELOPMENT ZONE REGULATIONS

### 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 Laundry and Repair Service
  - Transient Habitation and Commercial Activities
  - Alcoholic Beverage Sales
  - Mechanic or Electronic Games
  - Animal Care
  - Automotive Fee Parking subject to the additional criteria contained in Section

17.97.100(F)

- D. ~~Manufacturing Industrial~~ Industrial Activities:
  - Custom ~~Manufacturing~~ Manufacturing

E. Off-street parking serving nonresidential activities listed in Sections 17.97.040 and 17.97.050.

F. Additional activities which are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof, subject to the conditions set forth in Section 17.102.110. (Ord. 12561 § 3 (part), 2004; Ord. 12138 § 5 (part), 1999; Ord. 11892 § 4 (part), 1996; prior planning code § 6854)

**17.97.080 Special regulations applying to certain Commercial and Manufacturing Industrial Activities.**

A. Convenience Markets, Fast-Food Restaurants, and Certain Establishments Selling Alcoholic Beverages. See Section 17.102.210.

B. ~~Manufacturing Industrial~~ Activities. All accessory ~~manufacturing industrial~~ activities, as defined in Section 17.10.040F, shall be conducted entirely within an enclosed facility. (Ord. 11892 § 4 (part), 1996; prior planning code § 6858)

**Chapter 17.98 S-16 INDUSTRIAL-RESIDENTIAL TRANSITION  
COMBINING ZONE REGULATIONS**

**17.98.040 Permitted activities.**

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

- A. Civic Activities:
  - Essential Service
  - Limited Child-Care
  - Nonassembly Cultural (with less than ten thousand (10,000) square feet of gross floor area)

- Administrative (with less than ten thousand (10,000) square feet of gross floor area)
- Telecommunications
- B. Commercial Activities:
  - Convenience Sales and Service
  - General Retail Sales
  - General Personal Service
  - Consultative and Financial Service
  - Administrative
  - Business and Communication Service
  - Retail Business Supply
  - Research Service (with less than ten thousand (10,000) square feet of gross floor area)
- C. ~~Manufacturing~~ Industrial Activities:
  - Custom Manufacturing (with less than ten thousand (10,000) square feet of gross floor area)
  - Light Manufacturing (with less than ten thousand (10,000) square feet of gross floor area)

(Ord. 12289 § 3 (part), 2000)

**17.98.050 Conditionally permitted activities.**

The following activities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and the special regulations in Section 17.98.090:

- A. Civic Activities:
  - Community Assembly
  - Community Education
  - Nonassembly Cultural (with more than ten thousand (10,000) square feet of new gross floor area)
  - Administrative (with more than ten thousand (10,000) square feet of new gross floor area)
  - Utility and Vehicular
- B. Commercial Activities:
  - General Food Sales
  - Convenience Market (subject to provisions in Section 17.102.210A)
  - Mechanical or Electronic Games (subject to provisions in Section 17.102.210C)
  - Medical Service
  - Consumer Laundry and Repair Service
  - Group Assembly
  - Research Service (with more than ten thousand (10,000) square feet of new gross floor area)
  - General Wholesale Sales (with less than fifty thousand (50,000) square feet of gross floor area)
  - Construction Sales and Service
  - Automotive Fee Parking
  - Animal Care
- C. ~~Manufacturing~~ Industrial Activities:

Custom Manufacturing (with more than ten thousand (10,000) square feet of new gross floor area)

Light Manufacturing (with more than ten thousand (10,000) square feet of new gross floor area)

D. Agricultural and Extractive Activities:

Plant Nursery

E. Accessory Activities:

Joint Living and Working Quarters (as defined in Section 17.10.040C and subject to the provisions in Section 17.102.190 and the special regulations in Section 17.98.090A.)

Open Storage

(Ord. 12289 § 3 (part), 2000)

**17.98.060 Prohibited activities.**

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

A. Commercial Activities:

Alcoholic Beverage Sales

Automotive Repair and Cleaning

Automotive Sales, Rental, and Delivery

Automotive Servicing

Fast-Food Restaurant

~~Scrap Operation, subject to provisions of Section 17.102.210F~~

~~Transport and Warehousing, subject to provisions in Section 17.102.210F~~

B. ~~Manufacturing~~ Industrial Activities:

General Manufacturing

Warehousing, Storage, and Distribution

Industrial Transfer/Storage Hazardous Waste Management

C. Agricultural and Extractive Activities

Crop and Animal Raising

Mining and Quarrying

(Ord. 12289 § 3 (part), 2000)

**Chapter 17.100A S-19 HEALTH AND SAFETY PROTECTION OVERLAY ZONE**

**Sections:**

**17.100A.010 Title, Purpose and Applicability**

**17.100A.020 Definitions**

**17.100A.030 Zones with Which the S-19 May Be Combined**

**17.100A.040 Prohibited Land Uses**

**17.100A.050 General Standards**

**17.100A.060 Regulations Required by Other Agencies**

**17.100A.010 Title, Purpose and Applicability**

The intent of the Health & Safety Protection Overlay Zone is to promote the public health, safety and welfare by ensuring that activities which use hazardous material substances or store hazardous materials, hazardous waste, or explosives locate in appropriate locations and develop in such a manner as not to be a serious threat to the environment, or to public health, particularly to residents living adjacent to industrial areas where these materials are commonly used, produced or found.

**17.100A.020 Definitions**

For the purposes of this regulation, the following definitions apply:

**A. Hazardous Material.** Hazardous material is defined as that which could exhibit one or more of the hazard characteristics defined in the California Fire Code (CFC), which generally means, any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment (H.S.C. §25503.5a).

**B. Hazardous Waste.** Hazardous waste is defined as any hazardous material whose intended original purpose is no longer applicable for its use, or a waste that meets federal or state criteria for ignitability, corrosivity, reactivity or toxicity, or is specifically listed by the federal or state law or regulations (40 C.F.R., part 240 et. seq.).

**C. Explosives.** Explosives are defined as chemicals that cause a sudden, almost instantaneous release of pressure, gas and heat when subjected to sudden shock, pressure, or high temperatures; or a material or chemical, other than a blasting agent, that is commonly used or intended to be used for the purpose of producing an explosive effect (29 C.F.R.).

**17.100A.030 Zones with Which the S-21 May Be Combined**

A. The standards of this overlay zone shall apply to the following zoning districts:

1. Housing and Business Mix zones;
2. CIX-1 (Commercial Industrial Mix-1) zone;
3. CIX-2 (Commercial Industrial Mix-2) and IG (General Industrial) and IO (Industrial Office) zoning districts that are within three hundred (300) feet from any residential, open space, or institutional zone boundary.

B. The standards of this overlay zone shall apply to the following facility types:

1. All new nonresidential facilities or activities
2. Any nonresidential facility which has lost its legal non-conforming status
3. Any existing facility or activity where the usable floor area is expanded by more than twenty (20%) percent after the effective date of the adoption of this Ordinance.
4. Any alteration or expansion of a facility or activity, such that it requires a new Risk Management Plan or other Hazardous Materials Business Plan.

**17.100A.040 Prohibited Land Uses**

The following land use activities are prohibited within the Health and Safety Protection Overlay Zone:

- A. Electroplating;

B. Hazardous Waste Management, Industrial/Transfer Storage; and Residuals Repositories;

C. Activities which involve manufacturing, storing or use of explosives

**17.100A.050 General Standards**

The following additional regulations shall apply within the ~~S-21~~S-19 Health and Safety Protection Zone:

A. Storage and use of all hazardous materials and hazardous waste shall be reviewed and approved by the Fire Department prior to commencement of operation or any alteration of activity. A risk management plan may also be required, per the Certified Program Uniform Assistance (CUPA) ordinance (O.M.C. 8.42).

B. No storage or use of hazardous materials and waste can be located within 300 feet of a residential, institutional or open space zoning district without written approval or consent of the Fire Department.

**17.100A.060 Regulations Required by Other Agencies**

A. The following regulations may be required by the Fire Department, City of Oakland:

1. Process Hazard Analysis
2. Risk Management Plan
3. Local Hazardous Materials Business Plan

B. In addition the Fire Department may establish any of the following limitations:

1. Limitations on the location for storage or use of hazardous material;
2. Containment measures for storage or use of hazardous materials;
3. *Limitations or prohibitions on the storage or use of specific hazardous materials; or specific processes that use or combine hazardous materials.*

C. The foregoing shall not prevent compliance with other requirements that may be imposed under other federal, state or local rules, statutes, codes or regulations.

**Chapter 17.100B S-20 HISTORIC PRESERVATION DISTRICT  
COMBINING ZONE REGULATIONS**

**Sections:**

- 17.100B.010 Title, purpose, and applicability.**
- 17.100B.020 Zones with which the S-20 zone may be combined.**
- 17.100B.030 Required design review process.**
- 17.100B.050 Design review criteria.**
- 17.100B.060 Criteria for demolition or removal.**
- 17.100B.070 Postponement of demolition or removal.**
- 17.100B.080 Duty to keep in good repair.**

**17.100B.010 Title, purpose, and applicability.**

The provisions of this chapter shall be known as the S-20 historic preservation district combining zone regulations. The S-20 zone is intended to preserve and enhance the cultural, educational, aesthetic, environmental, and economic value of structures, other physical facilities, sites, and areas of special importance due to historical association, basic architectural merit, the embodiment of a style or special type of construction, or other special character, interest, or value, and is typically appropriate to selected older locations in the city. The S-20 zone is similar to the S-7 preservation combining zone, but is designed for larger areas, often with a large number of residential properties that may not be individually eligible for landmark designation but which as a whole constitute a historic district. The S-20 zone provides generally more expeditious review procedures than those provided in the S-7 zone. These regulations shall apply in the S-20 zone, and are supplementary to the provisions of Section 17.102.030 for designated landmarks and to the other regulations applying in the zones with which the S-20 zone is combined; if a property is both a landmark and located in the S-20 zone and is therefore subject to both landmark and S-20 regulations, the stricter regulations prevail. (Ord. 12513 Attach. A (part), 2003)

**17.100B.020 Zones with which the S-20 zone may be combined.**

The S-20 zone may be combined with any other zone. (Ord. 12513 Attach. A (part), 2003)

**17.100B.030 Required design review process.**

A. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility (see code 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. Except as specified in subsection C, no demolition or removal of any structure or portion thereof that is a "contributor" or "potential contributor" to the S-20 Historic Preservation District, as determined by the City's Historical and Architectural Inventory (Cultural Heritage Survey) shall be permitted unless plans for the proposal have been approved pursuant to the regular design review procedure in Chapter 17.136 and the additional provisions in Sections 17.100B.050, 17.100B.060, and 17.100B.070.

C. Exceptions--Demolition. After notice to the Director of City Planning, demolition or removal of a structure or portion thereof shall be permitted without design review approval upon a determination by the Building Official or the City Council that immediate demolition is necessary to protect the public health or safety, or after expiration of the periods of postponement referred to in Section 17.100B.070.

D. Landmarks Referral. If an application is for regular design review in the S-20 zone, and the Director of City Planning determines that a proposed addition or alteration will have a significant effect on the property's character-defining elements that are visible from a street or other public area, the Director may, at his or her discretion, refer the project to the Landmarks Preservation Advisory Board for its recommendations. "Character-defining elements" are those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance. An addition or alteration is normally considered "visible from a street or other public area" if it affects a street face or public face of the facility or is otherwise located within the "critical design area,"

defined as the area within forty (40) feet of any street line, public alley, public path, park or other public area.

**17.100B.050 Design review criteria.**

In the S-20 zone, proposals requiring regular review approval pursuant to Section 17.100B.030 may be granted only upon determination that the proposal conforms to the regular design review criteria set forth in the design review procedure in Chapter 17.136 and to all of the following additional criteria:

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

B. That the proposed development will not substantially impair the visual, architectural, or historic value of the total setting or character of the S-20 historic preservation district or of neighboring facilities. Consideration shall be given to the desired overall character of any such area or grouping of facilities, including all design elements or effects specified in subsection (A) above; and

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

**17.100B.060 Criteria for demolition or removal.**

Except as otherwise specified in subsection C of 17.100B.030, no structure or portion thereof that is a "contributor" or "potential contributor" to the S-20 Historic Preservation District, as determined by the City's Cultural Heritage Survey, shall be removed or demolished unless plans for the proposal have been approved pursuant to the regular design review procedure in Chapter 17.136 and to the following additional criteria set forth in subsections A and B below, or to one or both of the criteria set forth in subsection C below:

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

B. That the proposed demolition or removal will not substantially impair the visual, architectural, or historic value of the total setting or character of the S-20 historic preservation district or of neighboring facilities; or

C. If the proposal does not meet criteria under subsections A and B, then it must meet one or both of the following criteria:

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

2. That, considering the economic feasibility of preserving or restoring the structure or portion thereof, and balancing the interest of the public in preservation or restoration and the interest of the owner of the property in its utilization, approval is required by considerations of equity. (Ord. 12513 Attach. A (part), 2003)

**17.100B.070 Postponement of demolition or removal.**

A. Initial One Hundred Twenty (120) -Day Postponement. If an application for approval of demolition or removal of a structure or portion thereof, pursuant to Sections 17.100B.030 and 17.100B.060, is denied, the issuance of a permit for demolition or removal shall be deferred for a

period of one hundred twenty (120) days, beginning upon the initial denial by the reviewing officer or body. During the period of postponement, the Director of City Planning or the City Planning Commission, with the advice and assistance of the Landmarks Preservation Advisory Board, shall explore all means by which the affected structure or portion thereof may be preserved or restored, with the agreement of the owner or through eminent domain.

B. **Possible One Hundred Twenty (120) -Day Extension.** The reviewing officer or body from whose decision the denial of the application became final may, after holding a public hearing, extend the initial postponement for not more than one hundred twenty (120) additional days. Notice of the hearing shall be given by the posting an enlarged notice on the premises of the subject property involved and by mail or delivery to the applicant, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing. The decision to extend the postponement can only be made between the 30th and 90th days, inclusive, of the initial one hundred twenty (120) day period. Extension shall be made only upon evidence that substantial progress has been made toward securing the preservation or restoration of the structure or portion thereof. If the applicant has not exhausted all appeals under Sections 17.136.080 and 17.136.090 from the denial of the application, the decision to extend the postponement is appealable under the provisions of Sections 17.136.080 and 17.136.090 to those bodies to whom appeal had not been taken from the initial denial of the application. (Ord. 12513 Attach. A (part), 2003)

**17.100B.080 Duty to keep in good repair.**

Except as otherwise authorized under Sections 17.100.030 and 17.100.070, the owner, lessee, or other person in actual charge of each structure in the S-20 zone shall keep in good repair all of the exterior, as well as all interior portions whose maintenance is necessary to prevent deterioration and decay of the exterior. (Ord. 12513 Attach. A (part), 2003)

**Chapter 17.102 GENERAL REGULATIONS APPLICABLE TO ALL OR SEVERAL ZONES**

~~17.102.150 Conditional use permit requirement for accessory heliports and other flying fields.~~

~~In all zones, private or accessory heliports, helistops, and other flying fields are permitted only upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. (Prior planning code § 7016)~~

**17.102.180 Restriction on vertical location of activities in buildings containing both Residential and Nonresidential Activities--Commercial zones.**

In all commercial zones, no Commercial or ~~Manufacturing~~ Industrial Activity shall be conducted within any building above any story thereof occupied wholly or partly by Residential Activities, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. (Prior planning code § 7019)

~~17.102.240 Special regulations applying to microwave dishes and energy production facilities in or near residential zones.~~

~~The following regulations shall apply to microwave dishes over one (1) meter in diameter and energy production facilities such as solar panels and wind activated power generating equipment~~



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:

A. Height. No such facility which is on a building shall extend more than seven feet above the building's actual roof line or parapet wall except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. No such facility which is freestanding shall extend more than seven feet above finished grade except upon the granting of a conditional use permit.

B. Distance from Lot Line in Certain Cases. No such facility shall be located within ten feet from any abutting residentially zoned lot, or from any street, alley, or path or private way described in Section 17.106.020 directly across which there is a lot in any residential zone, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure.

C. Glare. All such facilities shall be placed, screened, or designed in such a way as to avoid casting objectionable glare into the windows of any residentially zoned lot located within one hundred fifty (150) feet.

D. 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 and to the applicable use permit criteria set forth below:

1. That in all cases, the proposed facility will not be unduly large or obtrusive for its surroundings;

2. That if the facility is to be located on a building, its supporting structure will be so screened, painted, formed of attractive materials, or otherwise designed that the facility will harmonize with the building's overall color and design;

3. That if the facility is to be freestanding, it will be so placed, screened, or designed that it will be visually compatible with the nearby residentially zoned uses. (Prior planning code § 7028)

#### **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 shall be permitted in all commercial and industrial zones, except the C-5, C-10, C-27, C-31, and C-52 zones, may be granted only upon the granting of a conditional use permit 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. (Prior planning code § 7034)

**~~17.102.390 — Parking accommodation requirements for One and Two Family Residential Facilities:~~**

~~The provisions of this section apply to lots containing One Family Dwelling Residential Facilities, One Family Dwelling Residential Facilities with Secondary Unit Residential Facilities, and Two Family Dwelling Residential Facilities. Exceptions to the provisions of this section may be approved pursuant to the regular design review procedure in Chapter 17.136.~~

~~A. Required Garage, Carport or Uncovered Parking Location to the Side or Rear of a Residence in Certain Cases. Garages, carports or any uncovered required parking spaces shall be located to the rear or side of any primary Residential Facility and at a minimum of twenty five (25) feet from the front lot line if:~~

~~1. At least sixty (60) percent of the buildings in the immediate context have garages, carports and uncovered required parking located at a depth of at least twenty five (25) feet from the front lot line; and~~

~~2. On the lot being developed, the difference in elevation of existing grade between the midpoint of the front lot line and the farthest opposite point of the lot depth does not exceed a gradient of twenty (20) percent.~~

~~The immediate context shall consist of the five closest lots on each side of the project site plus the ten (10) closest lots on the opposite side of the street (see Illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any approval of any required garage, carport, or uncovered parking space. Lots with a front lot line width of less than thirty five (35) feet are exempt from this subsection if the garage, carport or uncovered parking space dimensions facing the front lot line equal less than fifty (50) percent of the building elevation facing the front lot line.~~

~~B. Garage or Carport Recessed from Front of Residence in Certain Cases. (See Illustration I-8a) When an attached or detached garage or carport is not subject to subsection A of this section and is located on lots with a street to setback gradient of twenty (20) percent or less and where the face of the primary Residential Facility, including projections at least eight feet in height and five feet in width, such as covered porches and bay windows, is within twenty five (25) feet of the front lot line, at least one of the following requirements shall apply:~~

~~1. The front of the garage or carport shall be set back a minimum of five feet from such face; or~~

~~2. If the garage or carport is located below living space, either:~~

~~a. The front of the garage or carport shall be set back at least eighteen (18) inches from the upper level living space; or~~

~~b. The garage door shall be recessed at least six inches from the surrounding exterior wall surfaces.~~

~~C. Maximum Widths of Garages and Carports. Garages and carports shall have a maximum width of twenty two (22) feet if the front of the garage or carport is located within thirty (30) feet of a street line and shall have a maximum width of thirty (30) feet if located elsewhere. In addition, all attached garages and carports shall have a maximum width not to exceed fifty (50)~~

percent of the total width of the primary Residential Facility if the front of the garage or carport is located within thirty (30) feet of a street line.

~~———— D. ——— Parking Restricted to Garages, Carports, Uncovered Required Parking Spaces or Driveways. Parking on a lot containing primary Residential Facilities may take place only in garages, carports, uncovered required parking spaces, or approved driveways. (Ord. 12376 (part), 2001)~~

## **Chapter 17.108 GENERAL HEIGHT, YARD, AND COURT REGULATIONS**

### **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....

<b>Allowed Projection Into or Location Within Minimum Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)</b>					
Facilities	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
F. Exterior access facilities which lead to the second or higher story of a building, including open or enclosed fire escapes and open, unroofed fireproof outside stairways, landings, and exterior corridors, and <u>wheelchair ramps.</u>	Four feet into above yard.	Four feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.	Any distance into above yard if they meet the same provisos as stated in subsection K (not allowed otherwise).	Four feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.	
G. Unroofed porches, steps, <u>wheelchair ramps</u> and other similar raised structures projecting from a building and having a height, including railings, of not more than six feet above the required level of the yard or court.	Eight feet into above yard.	Eight feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.	Eight feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.	Any distance into above yard.	Anywhere in court.

## Chapter 17.110 BUFFERING REGULATIONS

### 17.110.030 General buffering requirements--Commercial and industrial zones.

(See illustration I-17.) The following regulations shall apply in all commercial and industrial zones, and are in addition to the provisions set forth in Section 17.110.040:

A. Screening Along Entire Lot Line Abutting Residential Zone If Lot in Commercial or Industrial Zone Is Occupied by Commercial, ~~Manufacturing-Industrial~~, or Agricultural or Extractive Activities. Wherever any lot which is located in any commercial or industrial zone and which is occupied by Commercial, ~~Manufacturing-Industrial~~, or Agricultural or Extractive Activities abuts a lot located in any residential zone, it shall be screened from the residentially zoned lot, along the

entire abutting lot line except where a driveway or maneuvering aisle is shared with the abutting lot in the manner described in Section 17.116.170, by dense landscaping not less than five and one-half feet (5 ½) high and not less than three (3) feet wide, or by a decorative screening fence or wall not less than five and one-half (5 ½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said chapter.

B. Screening of Open Parking, Loading, and Storage Areas in Certain Situations. All open off-street parking areas located on any lot containing three or more parking spaces, and all open off-street loading, storage, sales, display, service, and processing areas on any lot, shall be:

1. Screened from any Residential Facilities located on any abutting lot, except where a maneuvering aisle is shared with the abutting lot in the manner described in Section 17.116.170, by dense landscaping not less than five and one-half (5 ½) 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 (5 ½) feet high, subject to the standards for required landscaping and screening and the exceptions stated therein; and

2. Screened from any abutting lot located in any residential zone, except where a maneuvering aisle is shared with the abutting lot in the manner described in Section 17.116.170, by dense landscaping not less than five and one-half (5 ½) 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 (5 ½) feet high, subject to the standards for required landscaping and screening and the exceptions stated therein; and

3. Except in the case of sales, display, or service areas occupied by Automotive Servicing Commercial Activities, screened from that portion of any street, alley, or path, or private street or other way described in Section 17.106.020, directly across which or within one hundred fifty (150) feet, as measured parallel to the centerline of such public or private way, along which there is a lot in any residential zone, by dense landscaping not less than three and one-half (3 ½) feet high and not less than three (3) feet wide, or by a decorative screening fence or wall not less than three and one half (3 ½) feet high, subject to the standards for required landscaping and screening and the exceptions stated therein.

C. Restrictions on Storage, Repair, and Production in Certain Required Yards. See subsections H and K of Section 17.108.130.

D. Control on Artificial Illumination in Certain Situations. All artificial illumination which is readily visible from any of the Residential Facilities or residentially zoned lots referred to in subsection B of this section shall be nonflashing and shall be directed away from said facilities and lots so as to eliminate objectionable glare. (Prior planning code § 7111)

## Chapter 17.114 NONCONFORMING USES

### 17.114.050 Nonconforming activity--Discontinuance.

A. Activity Nonconforming Because It Is Not a Permitted Activity. ~~Whenever an activity~~ Other than: 1) an Alcoholic Beverage Sales Commercial Activity, and other than the sale of alcoholic beverages at any full-service restaurant in a location described by Section 17.102.210B, or 3) an Automotive Servicing or Automotive Repair and Cleaning Activity in the S-5 Zone, whenever an activity that ~~which~~ 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 Whenever an Alcoholic Beverage Sales Commercial Activity, or sale of alcoholic beverages at any full-service restaurant in a location described by Section 17.102.210B, 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 S-5 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 17.114.070A. Section 17.114.060 shall also apply.

BD. Activity Nonconforming for Other Reasons. A nonconforming activity which is itself a permitted activity where it is located, and which is nonconforming only as to applicable off-street parking or loading requirements, performance standards, or other requirements applying to activities, may be resumed regardless of the period during which it may have discontinued active operation. However, if another activity has replaced it, the former activity may thereafter be resumed only if such resumption would constitute an allowable change under Section 17.114.070B. Section 17.114.060 shall also apply.

**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 Activity, Subject to the Provisos 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 <del>Manufacturing-Industrial</del> Activity where it is not conditionally permitted.	Any civic or Commercial Activity permitted in the C-10 zone.
	The following such Commercial Activities where they are not conditionally permitted:	Any Civic or Commercial Activity permitted in the C-35 zone.

<b>Zone</b>	<b>Prior Nonconforming Activity</b>	<b>Activity Which May be Substituted for Prior Activity, Subject to the Provisos Listed Below This Table</b>
	Research Service	
	General Wholesale Sales	
	Construction Sales and Service	
	Automotive Sales, Rental, and Delivery	
	Automotive Repair and Cleaning	
	Transport and Warehousing	
	Animal Care	
	Undertaking Service	
	Scrap Operation	
	The following such Commercial Activities where they are not conditionally permitted:	Administrative Civic Activities.
	General Food Sales	Any Commercial Activity permitted in the C-10 zone.
	Convenience Market	Administrative Commercial Activities.
	Fast-Food Restaurant	
	Alcoholic Beverage Sales	
	Convenience Sales and Service	
	Mechanical or Electronic Games	
	General Retail Sales	
	General Personal Service	
	Consumer Laundry and Repair Service	
	Group Assembly	
	Business and Communication Service	
	Retail Business Supply	
	The following such Commercial Activities where they are not conditionally permitted:	Administrative Civic Activities.
	Medical Service	The following Commercial Activities:
	Consultative and Financial Service	Medical Service
	Administrative	Consultative and Financial Service
		Administrative
	Any such Commercial Activity where it is not conditionally permitted.	Any Commercial Activity permitted in the C-35 zone.
Any commercial zone.	Any such <del>Manufacturing</del> Industrial Activity where it is not conditionally permitted.	Any Commercial Activity permitted in the C-45 zone.
Any industrial zone.	Any such Commercial Activity where it is not conditionally permitted.	Any Commercial Activity permitted in the C-35 zone.

## **Chapter 17.116 OFF-STREET PARKING AND LOADING REQUIREMENTS**

### **Article I**

#### **General Provisions**

##### **Sections:**

- 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**

##### **Sections:**

- 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--~~Manufacturing~~ 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**

##### **Sections:**

- 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--~~Manufacturing~~ Industrial Activities.**
- 17.116.160 Off-street loading--Agricultural and Extractive Activities.**

### **Article IV**

#### **Standards for Required Parking and Loading Facilities**

##### **Sections:**

- 17.116.170 Property on which parking and loading must be provided.**
- 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.**

**17.116.090 Off-street parking--Manufacturing Industrial Activities.**

Except as otherwise provided in Sections 17.101.090, 17.116.020, 17.116.030, and 17.116.110, and subject to the calculation rules set forth in Section 17.116.040, the following amounts of off-street parking are required for all Manufacturing Industrial Activities when located in the indicated zones and occupying facilities of the specified sizes or having the indicated number of employees, and shall be developed and maintained pursuant to the provisions of Article IV of this chapter: (See illustration I-18.)

Zone	Minimum Total Size for Which Parking Required	Requirement
C-52, C-55, S-15.	-	No spaces required.
C-45, C-51, S-2.	10,000 square feet of floor area.	One space for each 1,500 square feet of floor area or for each three employees, whichever requires more spaces.
Any other zone.	5,000 square feet of floor area.	One space for each 1,500 square feet of floor area or for each three employees, whichever requires more spaces.

(Ord. 12289 § 4 (part), 2000; Ord. 11892 § 15, 1996: prior planning code § 7514)

**17.116.150 Off-street loading--Manufacturing Industrial Activities.**

Except as otherwise provided in Sections 17.116.020 and 17.116.030, the following amounts of off-street loading are required in all zones except C-52 for all Manufacturing Industrial Activities when occupying facilities of the indicated sizes, and shall be developed and maintained pursuant to the provisions of Article IV of this chapter: (See illustration I-18.)

Total Floor Area of Facilities Occupied	Requirement
Less than 10,000 square feet.	No berths required.
10,000--24,999 square feet.	One berth.
25,000--49,999 square feet.	Two berths.
50,000--99,999 square feet.	Three berths.
Each additional 170,000 square feet or fraction of one-half or more thereof.	One additional berth.

Off-street loading is not required in the C-52 zone. (Prior planning code § 7524)

**17.116.170 Property on which parking and loading must be provided.**

A. Parking Spaces and Loading. Off-street parking spaces and loading berths required by the zoning regulations shall be located as set forth below for the specified activities except as otherwise provided in Section 17.116.290B. When a maximum distance from the lot containing the activity served to another lot is prescribed, it shall be measured along a permanently accessible pedestrian route between a lot line of the former lot and the nearest boundary of the offsite parking or loading area.

Required Facility and Activity it Serves	Zone	Location
<i>.... (prior rows unchanged)</i>		
Parking spaces for any <del>Manufacturing Industrial Activity</del> ; Administrative or Utility and Vehicular Civic Activities; or Administrative, Research Service, Transport and Warehousing, or Scrap Operation Commercial Activities.	Any zone.	On the same lot as the activity served; or, subject to the provisions of Section 17.116.180, on another lot located within five hundred (500) feet and having at least one owner in common with the former lot.

**17.116.220 Loading berth dimensions.**

All required loading berths shall have the minimum dimensions set forth below when serving the indicated activities; provided that where one or both of the long sides of a berth which is at an angle of ninety (90) degrees or less, but more than sixty (60) degrees, to a maneuvering aisle abuts a wall or other similar obstruction, each of the widths specified below shall be increased by three feet. However, the minimum height or length of a required berth may in any case be reduced upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that such smaller dimensions are ample for the size and type of trucks or goods which foreseeably will be involved in the loading operations of the activity served.

A. For all ~~Manufacturing-Industrial Activities~~ and for Retail Business Supply, General Wholesale Sales, Construction Sales and Service, Automotive Sales, Rental, and Delivery, Automotive Servicing, ~~Transport and Warehousing, and Scrap Operation Commercial Activities~~; forty-five (45) feet long, twelve (12) feet wide, and fourteen (14) feet high;

B. For Undertaking Service Commercial Activities: twenty-five (25) feet long, ten feet wide, and eight feet high;

C. For all other activities for which loading facilities are required: thirty-three (33) feet long, twelve (12) feet wide, and fourteen (14) feet high.

(Prior planning code § 7541)

**17.116.300 Parking accommodation requirements for One- and Two-Family Residential Facilities.**

The provisions of this section apply to lots containing One-Family Dwelling Residential Facilities, One-Family Dwelling Residential Facilities with Secondary Unit Residential Facilities, and Two-Family Dwelling Residential Facilities. Exceptions to the provisions of this section may be approved pursuant to the regular design review procedure in Chapter 17.136.

A. Required Garage, Carport or Uncovered Parking Location to the Side or Rear of a Residence in Certain Cases. Garages, carports or any uncovered required parking spaces shall be located to the rear or side of any primary Residential Facility and at a minimum of twenty-five (25) feet from the front lot line if:

1. At least sixty (60) percent of the buildings in the immediate context have garages, carports and uncovered required parking located at a depth of at least twenty-five (25) feet from the front lot line; and

2. On the lot being developed, the difference in elevation of existing grade between the midpoint of the front lot line and the farthest opposite point of the lot depth does not exceed a gradient of twenty (20) percent.

The immediate context shall consist of the five closest lots on each side of the project site plus the ten (10) closest lots on the opposite side of the street (see Illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any approval of any required garage, carport, or uncovered parking space. Lots with a front lot line width of less than thirty-five (35) feet are exempt from this subsection if the garage, carport or uncovered parking space dimensions facing the front lot line equal less than fifty (50) percent of the building elevation facing the front lot line.

B. Garage or Carport Recessed from Front of Residence in Certain Cases. (See Illustration I-8a) When an attached or detached garage or carport is not subject to subsection A of this section and is located on lots with a street-to-setback gradient of twenty (20) percent or less and where the face of the primary Residential Facility, including projections at least eight feet in height and five feet in width, such as covered porches and bay windows, is within twenty-five (25) feet of the front lot line, at least one of the following requirements shall apply:

1. The front of the garage or carport shall be set back a minimum of five feet from such face; or

2. If the garage or carport is located below living space, either:

a. The front of the garage or carport shall be set back at least eighteen (18) inches from the upper level living space; or

b. The garage door shall be recessed at least six inches from the surrounding exterior wall surfaces.

C. Maximum Widths of Garages and Carports. Garages and carports shall have a maximum width of twenty-two (22) feet if the front of the garage or carport is located within thirty (30) feet of a street line and shall have a maximum width of thirty (30) feet if located elsewhere. In addition, all attached garages and carports shall have a maximum width not to exceed fifty (50) percent of the total width of the primary Residential Facility if the front of the garage or carport is located within thirty (30) feet of a street line.

D. Parking Restricted to Garages, Carports, Uncovered Required Parking Spaces or Driveways. Parking on a lot containing primary Residential Facilities may take place only in garages, carports, uncovered required parking spaces, or approved driveways. (Ord. 12376 (part), 2001)

## **Chapter 17.117 BICYCLE PARKING REQUIREMENTS**

### **17.117.090 Required Bicycle Parking – Residential Activities.**

Subject to the calculation rules set forth in Section 17.117.080, the following minimum amounts of bicycle parking are required for all Residential Activities and shall be developed and maintained pursuant to the provisions of Article II of this chapter:

Type of Activity	Long-term Bicycle Parking Requirement	Short-term Bicycle Parking Requirement
<b>Permanent and Semi-Transient Residential Activities occupying the specified facilities:</b>		
1) One-Family Dwelling.	No spaces required.	No spaces required.
2) One-Family Dwelling with Secondary Unit.	No spaces required.	No spaces required.
3) Two-Family Dwelling.	No spaces required.	No spaces required.
4) Multifamily Dwelling.		
a) With private garage for each unit.	No spaces required.	1 space for each 20 dwelling units. Minimum requirement is 2 spaces.
b) Without private garage for each unit.	1 space for each 4 dwelling units. Minimum requirement is 2 spaces.	1 space for each 20 dwelling units. Minimum requirement is 2 spaces.
c) Senior Housing.	1 space for each 10 dwelling units. Minimum requirement is 2 spaces.	1 space for each 20 dwelling units. Minimum requirement is 2 spaces.
5) Rooming House.	1 space for each 8 residents. Minimum requirement is 2 spaces.	No spaces required.
6) Mobile Home.	1 per 20 units.	No spaces required.
7) HBX Live/Work Lofts.	1 space for each 4 dwelling units. Minimum requirement is 2 spaces.	1 space for each 20 dwelling units. Minimum requirement is 2 spaces.
<b>Residential Care, Service-Enriched Permanent, Transitional Housing, and Emergency Shelter Residential Activities occupying the specified facilities:</b>		
7) Residential Care.	1 space for each 20 employees or 1 space for each 70,000 s.f., whichever is greater. Minimum requirement is 2 spaces.	2 spaces.
8) Service-Enriched Permanent Housing.		
9) Transitional Housing.	1 space for each 8 residents. Minimum requirement is 2 spaces.	1 space for each 20 dwelling units. Minimum requirement is 2 spaces.
10) Emergency Shelter Residential.	1 space for each 20 employees or 1 space for each 70,000 s.f., whichever is greater. Minimum requirement is 2 spaces.	1 space for each 5,000 s.f. of floor area. Minimum requirement is 2 spaces.

### 17.117.110 Required Bicycle Parking – Commercial Activities

Subject to the calculation rules set forth in Section 17.117.080, the following amounts of bicycle parking are required for the specified Commercial Activities and shall be developed and maintained pursuant to the provisions of Article II of this chapter:

Commercial Activity	Long-term Bicycle Parking Requirement	Short-term Bicycle Parking Requirement
<b>Retail</b>		
1. General Food Sales.	1 space for each 12,000 s.f. of floor area. Minimum requirement is 2 spaces.	1 space for each 2,000 s.f. of floor area. Minimum requirement is 2 spaces.

<b>Commercial Activity</b>	<b>Long-term Bicycle Parking Requirement</b>	<b>Short-term Bicycle Parking Requirement</b>
2. Convenience Market. 3. Fast-Food Restaurant. 4. Alcoholic Beverage Sales. 5. Convenience Sales and Service. 6. Mechanical or Electronic Games. 7. General Retail Sales. 8. Large-scale combined retail and grocery sales. 9. General Personal Service. 10. Consumer Laundry and Repair Service. 11. Check Cashier and Check Cashing.	1 space for each 12,000 s.f. of floor area. Minimum requirement is 2 spaces.	1 space for each 5,000 s.f. of floor area. Minimum requirement is 2 spaces.
12. Retail Business Supply. 13. General Wholesale Sales. 14. Construction Sales and Service.	1 space for each 12,000 s.f. of floor area. Minimum requirement is 2 spaces.	1 space for each 20,000 s.f. of floor area. Minimum requirement is 2 spaces.
<b>Office</b>		
1. Consultative and Financial Service. 2. Administrative Commercial. 3. Business and Communication Service.	1 space for each 10,000 s.f. of floor area. Minimum requirement is 2 spaces.	1 space for each 20,000 s.f. of floor area. Minimum requirement is 2 spaces.
<b>Medical</b>		
1. Medical Service. 2. Animal Care.	1 space for each 12,000 s.f. of floor area. Minimum requirement is 2 spaces.	1 space for each 5,000 s.f. of floor area. Minimum requirement is 2 spaces.
<b>Auto Related</b>		
1. Automotive Sales, Rental, and Delivery. 2. Automotive Servicing. 3. Automotive Repair and Cleaning.	1 space for each 12,000 s.f. of floor area. Minimum requirement is 2 spaces. 1 space for each 20 employees. Minimum requirement is 2 spaces.	1 space for each 20,000 s.f. of floor area. Minimum requirement is 2 spaces. No spaces required.
<b>Other Commercial</b>		
	<b>Long-term Bicycle Parking Requirement</b>	<b>Short-term Bicycle Parking Requirement</b>
1. Group Assembly. 2. Research Service. 3. Transient Habitation. 4. Automotive Fee Parking. 5. Transport and Warehousing. 5. Undertaking Service. 6. Scrap Operation.	Number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.117.040. 1 space for each 10,000 s.f. of floor area. Minimum requirement is 2 spaces. 1 space for each 20 rentable rooms. Minimum requirement is 2 spaces. 1 space for each 20 automobile spaces. Minimum requirement is 2 spaces. 1 space for each 40,000 s.f. of floor area. Minimum requirement is 2 spaces. 1 space for each 12,000 s.f. of floor area. Minimum requirement is 2 spaces. 1 space for each 20 employees. Minimum requirement is 2 spaces.	Number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.117.040. 1 space for each 40,000 s.f. of floor area. Minimum requirement is 2 spaces. 1 space for each 20 rentable rooms. Minimum requirement is 2 spaces. Minimum of 6 spaces or 1 per 20 auto spaces (parking lots excepted) No spaces required. 2 spaces. No spaces required.

7. HBX Work/Live.	1 space for each 4 dwelling units. Minimum requirement is 2 spaces.	1 space for each 20 dwelling units. Minimum requirement is 2 spaces.
-------------------	--	---

**17.117.120 Required Bicycle Parking – Manufacturing and Other Activities**

Subject to the calculation rules set forth in Section 17.117.080, the following minimum amounts of bicycle parking are required for the specified Manufacturing, Agricultural and Extractive Activities and All Other Activities and shall be developed and maintained pursuant to the provisions of Article II of this chapter:

Type of Activity	Long-term Bicycle Parking Requirement	Short-term Bicycle Parking Requirement
<del>Manufacturing and Production- Industrial</del>		
1. Custom Manufacturing.	1 space for each 15,000 s.f. of floor area. Minimum requirement is 2 spaces.	No spaces required.
2. Light Manufacturing.		
3. General Manufacturing.		
4. Heavy High/Impact Manufacturing.		
5. Research and Development.	1 space for each 10,000 s.f. of floor area. Minimum requirement is 2 spaces.	1 space for each 20,000 s.f. of floor area. Minimum requirement is 2 spaces.
6. Construction Operations.	1 space for each 15,000 s.f. of floor area. Minimum requirement is 2 spaces.	<del>No spaces required.</del>
7. Warehousing, Storage and Distribution. A. General Warehousing, Storage and B. Distribution. C. General Outdoor Storage D. Self or Mini-Storage E. Container Storage F. Automotive Salvage/Junk Yards	1 space for each 40,000 s.f. of floor area. Minimum requirement is 2 spaces.	No spaces required.
8. Regional Freight Transportation A. Seaport. B. Railyard		
9. Trucking and Truck-Related. A. Freight/Truck Terminal. B. Truck Yard. C. Truck Weigh Stations. D. Truck and Other Heavy Vehicle Sales, Rental, and Leasing. E. Truck and Other Heavy Vehicle Service, Repair, and Refueling.		

Type of Activity	Long-term Bicycle Parking Requirement	Short-term Bicycle Parking Requirement
10. <u>Recycling and Waste-Related.</u> A. <u>Satellite Recycling Collection Centers</u> B. <u>Primary Recycling Collection Centers</u> C. <u>Intermediate Recycling Processing Facility</u>	1 space for each 15,000 s.f. of floor area. Minimum requirement is 2 spaces.	No spaces required.
11. <u>Hazardous Material Production, Storage and Waste Management.</u> A. <u>Small Scale Transfer and Storage Hazardous Waste Management.</u> B. <u>Industrial Transfer/Storage Hazardous Waste Management.</u> C. <u>Residual Repositories Hazardous Waste Management</u> D. <u>Oil and Gas Storage</u>		
<del>5. <u>Small Scale Transfer and Storage Hazardous Waste Management.</u></del>		
<del>6. <u>Industrial Transfer/Storage Hazardous Waste Management.</u></del>		
<del>7. <u>Residual Repositories Hazardous Waste Management.</u></del>		
<b>Agricultural and Extractive</b>		
1. <u>Plant Nursery Agricultural.</u>	Number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.117.040.	Number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.117.040.
2. <u>Crop and Animal Raising Agricultural</u>	No spaces required.	No spaces required.
3. <u>Mining and Quarrying Extractive.</u>		
<b>Other Manufacturing</b>		
<del>4. <u>HBX Work/Live.</u></del>	<del>1 space for each 4 dwelling units. Minimum requirement is 2 spaces.</del>	<del>1 space for each 20 dwelling units. Minimum requirement is 2 spaces.</del>

### 17.117.130 Required Shower and Locker Facilities

Subject to the calculation rules set forth in Section 17.117.080, the following amounts of shower facilities and lockers are required per gender for the specified Activities and shall be developed and maintained pursuant to the provisions of Article II of this chapter:

Type of Activity	Shower Requirement (per gender)	Locker Requirement
<b>Residential.</b>	None required.	None required.
<b>Civic.</b>	None required.	None required.
<b>Commercial: Less than 150,000 square feet of floor area.</b>	None required.	None required.
<b>Commercial: 150,000 square feet of floor area or greater.</b>	A minimum of 2 showers per gender plus one shower per gender for each 150,000 s.f. above 150,000 s.f.	4 lockers per shower.
<b>Manufacturing-Industrial.</b>	None required.	None required.
<b>Agricultural and Extractive.</b>	None required.	None required.

## Chapter 17.120 PERFORMANCE STANDARDS

### 17.120.070 Smoke.

All Commercial, Manufacturing and Industrial Activities located in the M-10, S-3, or S-13 zone, or in any HBX or CIX zone shall be so operated as not to emit visible smoke as dark as Ringelmann number 2 or its equivalent opacity for more than three minutes in any one-hour period, and visible smoke as dark as Ringelmann number 1 or its equivalent opacity for more than an additional seven minutes in any one-hour period. Darker or more opaque smoke is prohibited at any time. (Prior planning code § 7712)

## 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 Minor land use permits considered concurrently with Major permits

17.130.090 City Council consideration of legislative and adjudicatory actions

**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 Oakland City Planning Commission and its respective agents, officers, 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 and 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, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. 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 Action claim, action, or proceeding and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.

B. Within ten (10) calendar days of the filing of any Action as specified in subsection A above, claim, action, or proceeding to attack, set aside, void or annul, an approval by the City of a development-related application or subdivision, the applicant shall execute a Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter Agreement shall survive termination, extinguishment



or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this Section 17.130.060 or other requirements or conditions of approval that may be imposed by the City.

**17.130.070 Uniformly Applied Development Standards automatically Imposed as Standard Conditions of Approval for Development Projects**

A development application must comply with all current and applicable City of Oakland Uniformly Applied Development Standards, typically imposed as Standard Conditions of Approval, including those development applications “deemed approved” under the State Permit Streamlining Act (Government Code section 65920 et. seq., as it may be amended).

**17.130.080 Minor land use permits considered concurrently with Major permits**

A development application: 1) that requires both a Major land use permit (i.e. a major conditional use permit and/or a major variance) as well as any minor land use permits; or 2) for which one discretionary action is initially determined by City Staff but another action is initially determined by the Planning Commission, shall follow all procedural and substantive requirements associated with City Planning Commission decisions and therefore the entire application shall initially be considered by the Planning Commission and may be appealed to the City Council, in accordance with the requirements for such major permits or discretionary actions.

**17.130.090 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.

## **Chapter 17.136 DESIGN REVIEW PROCEDURE**

**17.136.040 Regular Design Review.**

**D. Procedure for Consideration of Regular Design Review Proposals which do not Involve or Result in a One- or Two-Unit Residential Facility--Decisions Ultimately Appealable to City Council.**

1. Decision by the Director of City Planning or the City Planning Commission. An application for regular design review shall be considered by the Director of City Planning. The Director may, at his or her discretion, refer the application to the City Planning Commission for an initial decision rather than acting on it himself or herself. In these instances, any other minor permits associated with the application shall be considered concurrently by the Planning Commission, pursuant to Section 17.130.080. However, if the project requires an Environmental Impact Report, or results in twenty-five thousand (25,000) square feet of new floor area and is located in any zone other than the R-80, R-90, C-51, C-55, S-2, or S-15 zones, the Director of City Planning shall refer the application to the City Planning Commission for an initial decision rather than acting on it himself or herself.

## Chapter 17.148 VARIANCE PROCEDURE

### 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. For proposals involving one or two residential dwelling units on a lot: That, if the variance would relax a regulation governing maximum height, minimum yards, maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:

- a. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height; or
- b. Over sixty (60) percent of the lots in the immediate vicinity are already developed and the proposal does not exceed the corresponding as-built condition on these lots and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five closest lots on each side of the project site plus the ten closest lots on the opposite side of the street (see illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any variance.

B. A variance for adult entertainment activities shall be granted upon a determination that all of the following conditions are present, notwithstanding any conflicting requirements contained elsewhere in the zoning regulations:

1. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstance or conditions of design;
2. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property;

3. That the variance will not adversely affect the use of churches, temples or synagogues; public, parochial or private elementary, junior high or high schools; public parks and recreation centers; public or parochial playgrounds; residences; child care facilities; elderly residential care facilities; hospitals; medical clinics; colleges; or libraries, all within a five hundred (500) foot radius by engendering sounds, activities, visual depictions or advertisements that create an exterior atmosphere which unreasonably interferes with the operations of such surrounding uses;

4. That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations. (Ord. 12376 § 3 (part), 2001: prior planning code § 9604)

C. A variance for sign facilities shall be granted upon a determination that all of the following conditions are present, notwithstanding any conflicting requirements contained elsewhere in the zoning regulations:

1. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstance or conditions of design;

2. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; and

3. 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.

#### **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 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 event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City Planning Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. Upon receipt of such appeal, the Council shall set the date for consideration thereof. After setting the hearing date, the Council, prior to hearing the appeal, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available meeting. Any such referral shall be only for the purpose of issue clarification and advice. *In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal.*

The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Council shall determine whether the conditions required by Section 17.148.050 are present, and may grant or deny an application for a variance or require such changes in the proposed use or impose such

reasonable conditions of approval as are in its judgment necessary to carry out the purposes of the zoning regulations.

The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided.

B. Appeals to the City Council relating to adult entertainment activities or for signs shall be governed by the following:

Within ten calendar days after the date of a decision by the City Planning Commission on an application for a major variance, an appeal from said decision may be taken to the City Council by the applicant, the holder of the variance, or any other interested party. In event the last date of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. Upon receipt of the appeal, the Council shall set the date for consideration thereof. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) days prior thereto, given written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the Council shall determine whether the conditions required by Section 17.148.050 are present, and shall grant an application for variance if it determines that all the said criteria are present or require such changes in the proposed use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said criteria. The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided. In any event, however, the City Council must decide the appeal within sixty (60) days of the appeal being filed. (Prior planning code § 9606)

## **Chapter 17.156 DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS**

### **17.156.040 Applicability of Deemed Approved Alcoholic Beverage Sale regulations.**

A. To Which Property Applicable. The Deemed Approved Alcoholic Beverage Sale regulations shall apply, to the extent permissible under other laws, to all Legal Nonconforming Alcoholic Beverage Sale Commercial Activities within the city.

B. Duplicated Regulation. Whenever any provision of the Deemed Approved Alcoholic Beverage Sale regulations and any other provision of law, whether set forth in this code, or in any other law, ordinance, or resolution of any kind, imposes overlapping or contradictory regulations, or contain restrictions covering any of the same subject matter, that provision which is more restrictive

or imposes higher standards shall control, except as otherwise expressly provided in the Deemed Approved Alcoholic Beverage Sale regulations.

^ C. Relationship to the Zoning Regulations. The Nonconforming Use provisions of the zoning regulations including, but not limited to, Sections 17.114.020, 17.114.050AB, 17.114.070(A)(4), 17.114.080(A)(1) and (2), shall apply to the Deemed Approved Alcoholic Beverage Sale regulations. (Ord. 11624 § 2, 1993: prior planning code § 15003)

MPW

**Exhibit B**

**City of Oakland  
Planning and Zoning Division**

**CONDITIONS OF APPROVAL &  
UNIFORMLY APPLIED DEVELOPMENT  
STANDARDS IMPOSED AS STANDARD  
CONDITIONS OF APPROVAL**

A list of Condition of Approval Templates for projects  
approved under the Oakland Planning Code.

**For Staff Use Only**

This document is available electronically at  
L:\CEQA Documents\StandardCOA9/17/08.finalDraft.doc

**REVISED 09/05/07**

**Amended 01/17/08**

**Amended 9/17/0**

## TABLE OF CONTENTS

---

Introduction .....	5
Practical Use .....	6

---

### **Part 1: General Conditions of Approval for all Projects**

---

Approved Use .....	7
Effective Date, Expiration, Extensions and Extinguishment .....	7
Scope of This Approval; Major and Minor Changes .....	7
Conformance with Other Requirements .....	7
Conformance to Approved Plans; Modification of Conditions and Revocation.....	8
Signed Copy of the Conditions/Mitigation Measures .....	8
Indemnification.....	8
Compliance with the Conditions of Approval.....	9
Severability.....	9
Job Site Plans.....	9
Special Inspector/Inspections, Independent Technical Review, etc.....	9
Required Landscape Plan for New Residential Construction & Certain Additions, etc.....	9
Landscape Requirements for Street Frontages (Residential) .....	10
Assurance of Landscaping Completion.....	10
Landscape Maintenance .....	10
Landscape Requirements for Downslope Lots.....	11
Landscape Requirements for Street Frontages (Commercial and Manufacturing).....	11
Landscape Maintenance .....	11

---

### **Part 2: Additional General Conditions of Approval for Major Project Cases**

---

Underground Utilities .....	12
Improvements in the Public Right-of-Way (General).....	12

---

Improvements in the Public Right-of-Way (Specific).....	12
Payment for Public Improvements .....	13
Compliance Matrix .....	13
Construction Management Plan .....	13
Parking and Transportation Demand Management.....	13

---

### **Part 3: Uniformly Applied Development Standards (Imposed as Standard Conditions of Approval)**

---

Dust Control .....	15
Construction Emissions .....	16
Days/Hours of Operation.....	16
Noise Control.....	17
Noise Complaint Procedures .....	17
Interior Noise.....	18
Operational Noise-General.....	18
Construction Traffic and Parking .....	18
Erosion and Sedimentation Control.....	19
Hazards Best Management Practices.....	19
Waste Reduction and Recycling.....	20
Standard Conditions of Approval / Mitigation Measures and Existing Program (SCAMMRP) .....	21
Vibration.....	21
Pile Driving and Other Extreme Noise Generators .....	22
Lighting Plan .....	22
Asbestos Removal in Structures.....	23
Asbestos Removal in Soil.....	23
Tree Removal Permit on Creekside Properties .....	25
Tree Removal During Breeding Season .....	25
Tree Removal Permit.....	25
Tree Replacement Plantings .....	25
Tree Protection During Construction .....	26
Whipsnake Habitat, Biological Monitor.....	27
Whipsnake Habitat, Placement of Debris.....	27
Whipsnake Habitat, Barrier Fence .....	28

## ***Exhibit B***



---

Whipsnake Habitat, Downsloping Lots.....	28
Archeological Resources.....	28
Human Remains.....	29
Paleontological Resources.....	29
Erosion and Sedimentation Control Plan.....	29
Compliance with Policy 3.7 of the Historic Preservation Element.....	30
Vibrations Adjacent to Historic Structures.....	30
Soils Report.....	31
Geotechnical Report (Alquist Priolo).....	32
Geotechnical Report (Seismic Hazards Zone).....	33
Site Review by the Fire Services Division.....	34
Phase I and/or Phase II Reports.....	34
Lead-Based Paint/Coatings, Asbestos, or PCB Occurrence Assessment.....	34
Environmental Site Assessment Reports Remediation.....	34
Lead-Based Paint Remediation.....	34
Other Materials Classified as Hazardous Waste.....	35
Health and Safety Plan per Assessment.....	35
Best Management Practices for Soil and Groundwater Hazards.....	35
Radon or Vapor Intrusion from Soil or Groundwater Sources.....	36
Vegetation Management Plan.....	36
Fire Safety Phasing Plan.....	36
Vegetation Management Plan on Creekside Properties.....	37
Fire Safety.....	37
Hazardous Materials Business Plan.....	37
Stormwater Pollution Prevention Plan.....	38
Drainage Plan for Projects on slopes Greater than 20%.....	38
Erosion, Sedimentation and Debris Control Measures.....	39
Site Design Measures for Post-Construction Stormwater Management.....	40
Source Control Measures to Limit Stormwater Pollution.....	40
Post-Construction Stormwater Management Plan.....	41
Maintenance Agreement for Stormwater Treatment Measures.....	42
Erosion, Sedimentation, and Debris Control Measures.....	42
Creek Protection Plan.....	44
Regulatory Permits and Authorizations (Creeks).....	44

## ***Exhibit B***

---

Creek Monitoring .....	44
Creek Landscaping Plan .....	44
Creek Dewatering and Aquatic Life .....	45
Creek Dewatering and Diversion .....	45
Regulatory Permits and Authorizations (Flood Hazard Boundary) .....	46
Structures within Floodplain .....	46
Stormwater and Sewer.....	46
Traffic Fairshare for Projects Located in Southeast Oakland .....	47
Oakland Area Geologic Hazards Abatement District (GHAD) .....	47
Indoor Air Quality .....	48
Air Pollution Buffering for Private Open Space .....	49

---

**Part 4: Conditions of Approval Based on Topic (Forthcoming; See Standard Conditions Template October 01, 2003 for possible suggestions for project specific Conditions of Approval)**

---

## INTRODUCTION

In general, projects of the same type should have the same Conditions of Approval. Variations in conditions of approval should only occur if two projects have different characteristics such as their zoning, General Plan land use category, size, location, development context, or other special considerations. This document provides a template to achieve this consistency.

This document has been divided into three parts:

- 1) General Conditions of Approval for **all** Projects;
- 2) General Conditions for **Major** Permits; and
- 3) Uniformly Applied Development Standards, imposed as Standard Conditions of Approval, as indicated below.

The Conditions listed in **Part 1** are General Conditions which we attach to each and every planning approval regardless of project type, location, size, context, or other considerations.

The Conditions listed in **Part 2** are applied to projects that require an initial decision by the Planning Commission, which are appealable to the City Council, and therefore require the imposition of special conditions of approval.

**Part 3** of this document includes the City's Uniformly Applied Development Standards. These Development Standards are incorporated into projects as Standard Conditions of Approval regardless of a project's environmental determination, pursuant, in part, to CEQA Guidelines section 15183. As applicable, the Standard Conditions of Approval are adopted as requirements of an individual project when it is approved by the City and are designed to, and will, substantially mitigate environmental effects. In reviewing project applications, the City determines which of the Standard Conditions of Approval are applied, based upon the zoning district, community plan, and the type(s) of permit(s)/approvals(s) required for the project. Depending on the specific characteristics of the project type and/or project site, the City will determine which Standard Conditions of Approval apply to each project; for example, Standard Conditions of Approval related to creek protection permits will only be applied projects on creekside properties.

The Standard Conditions of Approval incorporate development policies and standards from various adopted plans, policies, and ordinances (such as the Oakland Planning and Municipal Codes, Oakland Creek Protection, Stormwater Water Management and Discharge Control Ordinance, Oakland Tree Protection Ordinance, Oakland Grading Regulations, National Pollutant Discharge Elimination System (NPDES) permit requirements, Housing Element-related mitigation measures, California Building Code, and Uniform Fire Code, among others<sup>1</sup>), which have been found to substantially mitigate environmental effects. In EIRs the Development Standards should be included in the discussion concerning the regulatory setting of each environmental topic. Where there are peculiar circumstances associated with a project or project site that will result in significant environmental impacts despite implementation of the Standard Conditions of Approval the City will determine whether there are feasible mitigation measures to reduce the impact to less than significant levels in the course of appropriate CEQA review (mitigated negative declarations or EIRs).

---

<sup>1</sup> These Standard Conditions of Approval do not include each and every mitigation measure from every General Plan, Redevelopment Plan, or other plan EIR. Mitigation measures not included here have already been implemented or adopted as City policy.

## INTRODUCTION

In general, projects of the same type should have the same Conditions of Approval. Variations in conditions of approval should only occur if two projects have different characteristics such as their zoning, General Plan land use category, size, location, development context, or other special considerations. This document provides a template to achieve this consistency.

This document has been divided into three parts:

- 1) General Conditions of Approval for **all** Projects;
- 2) General Conditions for **Major** Permits; and
- 3) Uniformly Applied Development Standards, imposed as Standard Conditions of Approval, as indicated below.

The Conditions listed in **Part 1** are General Conditions which we attach to each and every planning approval regardless of project type, location, size, context, or other considerations.

The Conditions listed in **Part 2** are applied to projects that require an initial decision by the Planning Commission, which are appealable to the City Council, and therefore require the imposition of special conditions of approval.

**Part 3** of this document includes the City's Uniformly Applied Development Standards. These Development Standards are incorporated into projects as Standard Conditions of Approval regardless of a project's environmental determination, pursuant, in part, to CEQA Guidelines section 15183. As applicable, the Standard Conditions of Approval are adopted as requirements of an individual project when it is approved by the City and are designed to, and will, substantially mitigate environmental effects. In reviewing project applications, the City determines which of the Standard Conditions of Approval are applied, based upon the zoning district, community plan, and the type(s) of permit(s)/approvals(s) required for the project. Depending on the specific characteristics of the project type and/or project site, the City will determine which Standard Conditions of Approval apply to each project; for example, Standard Conditions of Approval related to creek protection permits will only be applied projects on creekside properties.

The Standard Conditions of Approval incorporate development policies and standards from various adopted plans, policies, and ordinances (such as the Oakland Planning and Municipal Codes, Oakland Creek Protection, Stormwater Water Management and Discharge Control Ordinance, Oakland Tree Protection Ordinance, Oakland Grading Regulations, National Pollutant Discharge Elimination System (NPDES) permit requirements, Housing Element-related mitigation measures, California Building Code, and Uniform Fire Code, among others<sup>1</sup>), which have been found to substantially mitigate environmental effects. In EIRs the Development Standards should be included in the discussion concerning the regulatory setting of each environmental topic. Where there are peculiar circumstances associated with a project or project site that will result in significant environmental impacts despite implementation of the Standard Conditions of Approval the City will determine whether there are feasible mitigation measures to reduce the impact to less than significant levels in the course of appropriate CEQA review (mitigated negative declarations or EIRs).

---

<sup>1</sup> These Standard Conditions of Approval do not include each and every mitigation measure from every General Plan, Redevelopment Plan, or other plan EIR.

## Practical Use

This document has been designed to be incorporated into the Planning and Zoning Division's templates and staff reports. To effectively use this document please copy the entire document into each approval letter and report. Copying this into your report should keep all the formatting the same. The other option would be to use the document as a separate Attachment from your letter or report. Do not use a previous approval letter or staff report as a template. This negates the use of this document.

**For an Administrative Case**, delete the Introduction/ Guide. Then start with Part 1 and delete the grey heading and underline. Fill in the other grey boxes with the appropriate dates, etc. To edit grey boxes double-click with mouse and edit the default text box. Delete all of Part 2 and delete Part 3's heading and purpose once you have familiarized yourself with the contents. Delete the underline. Go through each grey heading and decide whether it is applicable to the project. All grey boxes within the condition should be filled-out. If a heading does not apply to the project delete the entire section until the next heading. Repeat until you reach the end of the document. Delete the Planning Commission approval lines. You might need to also delete spaces between conditions or add spaces to make sure that all of the condition is on one page. To turn-off grey boxes, go to View/toolbars and check forms. On the forms toolbar, click the "a" surrounded by the hatching. This should turn off all the grey shading.

**For a Major Permits**, delete the Introduction Guide. Follow the directions for Part 1 of the Administrative Cases above. Delete heading for Part 2 and continue filling in the grey boxes. To edit grey boxes double-click with mouse and edit the default text box. Also delete the underline. Once you reach Part 3, delete the heading and the purpose once you have familiarized yourself with the contents. Delete underline. Go through each grey heading and decide whether it is applicable to the project. All grey boxes within the condition should be filled-out. If a heading does not apply to the project delete the entire section until the next heading. The conditions should renumber themselves. Do not change any of the wording in the condition except for the grey boxes. You might need to also delete spaces between conditions or add spaces to make sure that all of the condition is on one page. To turn-off grey boxes, go to View/toolbars and check forms. On the forms toolbar, click the "a" surrounded by the hatching. This should turn off all the grey shading.

**[Part 1: General Conditions of Approval for all Projects]**

**1. Approved Use**

***Ongoing***

a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials, **letter and/or staff report**, and the plans dated **insert date of final approved plans** and submitted on **insert "received" date of final approved plans**, and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall required prior written approval from the Director of City Planning or designee.

b) This action by the **Director of City Planning or City Planning Commission** ("this Approval") includes the approvals set forth below. This Approval includes: **List permit, code section, memo and/or date if applicable per the language in the public notice.**

**I. Example: Approval of a Planned Unit Development ("PUD") for the Kenilworth Residential PUD, under Oakland Municipal Code Section 17.140**

**2. Effective Date, Expiration, Extensions and Extinguishment**

***Ongoing***

Unless a different termination date is prescribed, this Approval shall expire **select one calendar year for code compliance cases / two years for all other cases** from the approval date, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit for this project may invalidate this Approval if the said extension period has also expired.

**3. Scope of This Approval; Major and Minor Changes**

***Ongoing***

The project is approved pursuant to the **select document. Examples include Planning Code, Subdivision Regulations, Creek Protection Ordinance etc** only. Minor changes to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

**4. Conformance with other Requirements**

***Prior to issuance of a demolition, grading, P-job, or other construction related permit***

a) The project applicant shall comply with all other applicable federal, state, regional and/or local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition of Approval 3.

- b) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, including, but not limited to automatic extinguishing systems, water supply improvements and hydrants, fire department access, and vegetation management for preventing fires and soil erosion.

## **5. Conformance to Approved Plans; Modification of Conditions or Revocation**

### ***Ongoing***

- a) *Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.*
- b) The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.
- c) Violation of any term, **Conditions/ Mitigation Measures** or project description relating to the Approvals is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approvals or alter these **Conditions/ Mitigation Measures** if it is found that there is violation of any of the **Conditions/ Mitigation Measures** or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

## **6. Signed Copy of the Conditions/ Mitigation Measures**

### ***With submittal of a demolition, grading, and building permit***

A copy of the approval letter and **Conditions/ Mitigation Measures** shall be signed by the property owner, notarized, and submitted with each set of permit plans to the appropriate City agency for this project.

## **7. Indemnification**

### ***Ongoing***

- a) To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and its respective agents, officers, and employees (hereafter collectively called City) from any 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, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of 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 Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

**8. Compliance with Conditions of Approval**

***Ongoing***

The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval **and all applicable adopted mitigation measures** set forth below at its sole cost and expense, and subject to review and approval of the City of Oakland.

**9. Severability**

***Ongoing***

Approval of the project would not have been granted but for the applicability and validity of each and every one of the specified conditions **and/or mitigations**, and if one or more of such conditions **and/or mitigations** is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid conditions **and/or mitigations** consistent with achieving the same purpose and intent of such Approval.

**10. Job Site Plans**

***Ongoing throughout demolition, grading, and/or construction***

At least one (1) copy of the stamped approved plans, along with the Approval Letter and Conditions of Approval **and/or mitigations**, shall be available for review at the job site at all times.

**11. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Management**

***Prior to issuance of a demolition, grading, and/or construction permit***

The project applicant may be required to pay for on-call third-party special inspector(s)/inspections as needed during the times of extensive or specialized plancheck review or construction. The project applicant may also be required to cover the full costs of independent technical review and other types of peer review, monitoring and inspection, including without limitation, third party plan check fees, including inspections of violations of Conditions of Approval. The project applicant shall establish a deposit with the Building Services Division, as directed by the Building Official, Director of City Planning or designee.

**General Landscape Conditions of Approval for all new residential construction or residential additions of over 500 sq. ft.**

**12. Required Landscape Plan for New Construction and Certain Additions to Residential Facilities**

***Prior to issuance of a building permit***

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 approved plan shall conform with all provisions of Chapter 17.124 of the Oakland Planning Code, including the following:

- a) Landscape plan shall include a detailed planting schedule showing the proposed location, sizes, quantities, and specific common botanical names of plant species.
- b) 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.
- c) Landscape plan shall incorporate pest-resistant and drought-tolerant landscaping practices. Within the portions of Oakland northeast of the line formed by State Highway 13 and continued southerly by Interstate 580, south of its intersection with State Highway 13, all plant materials on submitted landscape plans shall be fire-resistant. The City Planning and Zoning Division shall maintain lists of plant materials and landscaping practices considered pest-resistant, fire-resistant, and drought-tolerant.
- d) All landscape plans shall show proposed methods of irrigation. The methods shall ensure adequate irrigation of all plant materials for at least one growing season.

### **13. Landscape Requirements for Street Frontages.**

#### ***Prior to issuance of a final inspection of the building permit***

- a) All areas between a primary Residential Facility and abutting street lines shall be fully landscaped, plus any unpaved areas of abutting rights-of-way of improved streets or alleys, provided, however, on streets without sidewalks, an unplanted strip of land five (5) feet in width shall be provided within the right-of-way along the edge of the pavement or face of curb, whichever is applicable. Existing plant materials may be incorporated into the proposed landscaping if approved by the Director of City Planning.
- b) In addition to the general landscaping requirements set forth in Chapter 17.124, a minimum of one (1) 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-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 (6 ½) feet, the trees to be provided shall include street trees to the satisfaction of the Director of Parks and Recreation.

### **14. Assurance of Landscaping Completion.**

#### ***Prior to issuance of a final inspection of the building permit***

The trees, shrubs and landscape materials required by the conditions of approval attached to this project shall be planted before the certificate of occupancy will be issued; **or a bond, cash, deposit, or letter of credit, acceptable to the City**, shall be provided for the planting of the required landscaping. The amount of such **or a bond, cash, deposit, or letter of credit** shall equal the greater of two thousand five hundred dollars (\$2,500.00) or the estimated cost of the required landscaping, based on a licensed contractor's bid.

### **15. Landscape Maintenance.**

#### ***Ongoing***

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 fences, walls and irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

**General Landscape Conditions of Approval for all new residential construction and residential additions over 500 sq. ft. on Downslope Lots.**

**16. Landscape Requirements for Downslope Lots.**

*Prior to issuance of a final inspection of the building permit*

On downslope lots where the height of the rear elevation of the primary Residential Facility exceeds twenty-eight (28) feet, landscaping that meets the following requirements shall be planted to screen the rear face of the building:

- a) A minimum of one (1) fifteen-gallon tree or five (5) five-gallon shrubs, or substantially equivalent landscaping as approved by the Director of City Planning, shall be provided for each fifteen (15) feet of lot width, measured at the rear face of the residence.
- b) The landscape screening shall be elected and maintained such that it is sufficient in size within five (5) years of planting to screen, at a minimum, the lower ten (10) feet of the structure.

**General Landscape Conditions of Approval for all new commercial and manufacturing construction.**

**17. Landscape Requirements for Street Frontages.**

*Prior to issuance of a final inspection of the building permit*

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 (6 ½) feet and does not interfere with access requirements, a minimum of one (1) twenty-four (24) inch box tree shall be provided for every twenty-five (25) feet of street frontage, unless a smaller size is recommended by the City arborist. The trees to be provided shall include species acceptable to the Tree Services Division.

**18. Landscape Maintenance.**

*Ongoing*

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.

**Part 2: Additional General Conditions of Approval for Major Permits (Initial Decision is by the Planning Commission and can be appealed to City Council)**

**19. Underground Utilities**

***Prior to issuance of a building permit***

The project applicant shall submit plans for review and approval by the Building Services Division and the Public Works Agency, and other relevant agencies as appropriate, that show all new electric and telephone facilities; fire alarm conduits; street light wiring; and other wiring, conduits, and similar facilities placed underground. The new facilities shall be placed underground along the project applicant's street frontage and from the project applicant's structures to the point of service. The plans shall show all electric, telephone, water service, fire water service, cable, and fire alarm facilities installed in accordance with standard specifications of the serving utilities.

**20. Improvements in the Public Right-of-Way (General)**

***Approved prior to the issuance of a P-job or building permit***

- a) The project applicant shall submit Public Improvement Plans to Building Services Division for adjacent public rights-of-way (ROW) showing all proposed improvements and compliance with the conditions **and/or mitigations** and City requirements including but not limited to curbs, gutters, sewer laterals, storm drains, street trees, paving details, locations of transformers and other above ground utility structures, the design specifications and locations of facilities required by the East Bay Municipal Utility District (EBMUD), street lighting, on-street parking and accessibility improvements compliant with applicable standards and any other improvements or requirements for the project as provided for in this Approval. Encroachment permits shall be obtained as necessary for any applicable improvements- located within the public ROW.
- b) Review and confirmation of the street trees by the City's Tree Services Division is required as part of this condition **and/or mitigations**.
- c) The Planning and Zoning Division and the Public Works Agency will review and approve designs and specifications for the improvements. Improvements shall be completed prior to the issuance of the final building permit.
- d) The Fire Services Division will review and approve fire crew and apparatus access, water supply availability and distribution to current codes and standards.

**21. Improvements in the Public Right-of Way (Specific)**

***Approved prior to the issuance of a grading or building permit***

Final building and public improvement plans submitted to the Building Services Division shall include the following components: **Examples include:**

- a) Install additional standard City of Oakland streetlights **insert location**.
- b) Remove and replace any existing driveway that will not be used for access to the property with new concrete sidewalk, curb and gutter.
- c) Reconstruct drainage facility to current City standard **insert location**.
- d) Provide separation between sanitary sewer and water lines to comply with current City of Oakland and Alameda Health Department standards.

- e) Construct wheelchair ramps that comply with Americans with Disability Act requirements and current City Standards at ~~insert location.~~
- f) Remove and replace deficient concrete sidewalk, curb and gutter within property frontage ~~insert location.~~
- g) Provide adequate fire department access and water supply, including, but not limited to currently adopted fire codes and standards. ~~Insert as applicable!~~
- h) ~~Insert as applicable!~~

## 22. Payment for Public Improvements

*Prior to issuance of a final inspection of the building permit.*

The project applicant shall pay for and install public improvements made necessary by the project including damage caused by construction activity.

## 23. Compliance Matrix

*Prior to issuance of a demolition, grading, or building permit*

The project applicant shall submit to the Planning and Zoning Division and the Building Services Division a **Conditions/ Mitigation Measures** compliance matrix that lists each condition of approval **and/or mitigation measure**, the City agency or division responsible for review, and how/when the project applicant has met or intends to meet the conditions **and/or mitigations**. The applicant will sign the Conditions of Approval attached to the approval letter and submit that with the compliance matrix for review and approval. The compliance matrix shall be organized per step in the plancheck/construction process unless another format is acceptable to the Planning and Zoning Division and the Building Services Division. The project applicant shall update the compliance matrix and provide it with each item submittal.

## 24. Construction Management Plan

*Prior to issuance of a demolition, grading, or building permit*

The project applicant shall submit to the Planning and Zoning Division and the Building Services Division for review and approval a construction management plan that identifies the conditions of approval **and mitigation measures** related to construction impacts of the project and explains how the project applicant will comply with these construction-related conditions of approval **and mitigation measures**.

**These Development Standards apply to ALL projects involving 50 or more new residential units or 50,000 sq. ft. or more of new non residential space.**

## 25. Parking and Transportation Demand Management

*Prior to issuance of a final inspection of the building permit.*

The applicant shall submit for review and approval by the Planning and Zoning Division a Transportation Demand Management (TDM) plan containing strategies to reduce on-site parking demand and single occupancy vehicle travel. The applicant shall implement the approved TDM plan. The TDM shall include strategies to increase bicycle, pedestrian, transit, and carpools/vanpool use. All four modes of travel shall be considered. Strategies to consider include the following:

- a) Inclusion of additional bicycle parking, shower, and locker facilities that exceed the requirement
- b) Construction of bike lanes per the Bicycle Master Plan; Priority Bikeway Projects
- c) Signage and striping onsite to encourage bike safety
- d) Installation of safety elements per the Pedestrian Master Plan (such as cross walk striping, curb ramps, count down signals, bulb outs, etc.) to encourage convenient crossing at arterials
- e) Installation of amenities such as lighting, street trees, trash receptacles per the Pedestrian Master Plan

and any applicable streetscape plan.

- f) Direct transit sales or subsidized transit passes
- g) Guaranteed ride home program
- h) Pre-tax commuter benefits (checks)
- i) On-site car-sharing program (such as City Car Share, Zip Car, etc.)
- j) On-site carpooling program
- k) Distribution of information concerning alternative transportation options
- l) Parking spaces sold/leased separately
- m) Parking management strategies; including attendant/valet parking and shared parking spaces

### **Part 3: Uniformly Applied Development Standards (Imposed as Standard Conditions of Approval)**

#### **These Development Standards apply to ALL construction projects**

#### **26. Dust Control**

##### ***Prior to issuance of a demolition, grading or building permit***

During construction, the project applicant shall require the construction contractor to implement the following measures required as part of Bay Area Air Quality Management District's (BAAQMD) basic and enhanced dust control procedures required for construction sites. These include: **Insert as applicable!**

#### **BASIC (Applies to ALL construction sites)**

- a) Water all active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.
- b) Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- c) Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- d) Sweep daily (with water sweepers using reclaimed water if possible) all paved access roads, parking areas and staging areas at construction sites.
- e) Sweep streets (with water sweepers using reclaimed water if possible) at the end of each day if visible soil material is carried onto adjacent paved roads.
- f) Limit the amount of the disturbed area at any one time, where feasible.
- g) Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.
- h) Pave all roadways, driveways, sidewalks, etc. as soon as feasible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
- i) Replant vegetation in disturbed areas as quickly as feasible.
- j) Enclose, cover, water twice daily or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
- k) Limit traffic speeds on unpaved roads to 15 miles per hour.
- l) Clean off the tires or tracks of all trucks and equipment leaving any unpaved construction areas.

#### **ENHANCED (ALL "Basic" Controls listed above plus the following if the construction site is greater than 4 acres)**

- m) All "Basic" controls listed above, plus:
- n) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- o) Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for one month or more).
- p) Designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods

when work may not be in progress. The name and telephone number of such persons shall be provided to the BAAQMD prior to the start of construction as well as posted on-site over the duration of construction.

- q) Install appropriate wind breaks at the construction site to minimize wind blown dust.

## **27. Construction Emissions**

### ***Prior to issuance of a demolition, grading or building permit***

To minimize construction equipment emissions during construction, the project applicant shall require the construction contractor to:

- a) Demonstrate compliance with Bay Area Air Quality Management District (BAAQMD) Regulation 2, Rule 1 (General Requirements) for all portable construction equipment subject to that rule. BAAQMD Regulation 2, Rule 1 provides the issuance of authorities to construct and permits to operate certain types of portable equipment used for construction purposes (e.g., gasoline or diesel-powered engines used in conjunction with power generation, pumps, compressors, and cranes) unless such equipment complies with all applicable requirements of the "CAPCOA" Portable Equipment Registration Rule" or with all applicable requirements of the Statewide Portable Equipment Registration Program. This exemption is provided in BAAQMD Rule 2-1-105.
- b) Perform low- NOx tune-ups on all diesel-powered construction equipment greater than 50 horsepower (no more than 30 days prior to the start of use of that equipment). Periodic tune-ups (every 90 days) shall be performed for such equipment used continuously during the construction period.

## **28. Days/Hours of Construction Operation**

### ***Ongoing throughout demolition, grading, and/or construction***

The project applicant shall require construction contractors to limit standard construction activities as follows:

- a) Construction activities are limited to between 7:00 AM and 7:00 PM Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday.
- b) Any construction activity proposed to occur outside of the standard hours of 7:00 am to 7:00 pm Monday through Friday for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened and such construction activities shall only be allowed with the prior written authorization of the Building Services Division.
- c) Construction activity shall not occur on Saturdays, with the following possible exceptions:
- i. Prior to the building being enclosed, requests for Saturday construction for special activities (such as concrete pouring which may require more continuous amounts of time), shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened. Such construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division.
  - ii. After the building is enclosed, requests for Saturday construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division, and only then within the interior of the building with the doors and windows closed.
- d) No extreme noise generating activities (greater than 90 dBA) shall be allowed on Saturdays, with no exceptions.

- e) No construction activity shall take place on Sundays or Federal holidays.
- f) Construction activities include but are not limited to: truck idling, moving equipment (including trucks, elevators, etc) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.
- g) Applicant shall use temporary power poles instead of generators where feasible.

## **29. Noise Control**

### ***Ongoing throughout demolition, grading, and/or construction***

To reduce noise impacts due to construction, the project applicant shall require construction contractors to implement a site-specific noise reduction program, subject to the Planning and Zoning Division and the Building Services Division review and approval, which includes the following measures:

- a) Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds, wherever feasible).
- b) Except as provided herein, Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.
- c) Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.
- d) The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

## **30. Noise Complaint Procedures**

### ***Ongoing throughout demolition, grading, and/or construction***

Prior to the issuance of each building permit, along with the submission of construction documents, the project applicant shall submit to the Building Services Division a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

- a) A procedure and phone numbers for notifying the Building Services Division staff and Oakland Police Department; (during regular construction hours and off-hours);
- b) A sign posted on-site pertaining with permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours);
- c) The designation of an on-site construction complaint and enforcement manager for the project;
- d) Notification of neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of extreme noise generating activities about the estimated duration of the activity; and



- e) A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

### **31. Interior Noise**

#### ***Prior to issuance of a building permit and Certificate of Occupancy***

If necessary to comply with the interior noise requirements of the City of Oakland's General Plan Noise Element and achieve an acceptable interior noise level, noise reduction in the form of sound-rated assemblies (i.e., windows, exterior doors, and walls), and/or other appropriate features/measures, shall be incorporated into project building design, based upon recommendations of a qualified acoustical engineer and submitted to the Building Services Division for review and approval prior to issuance of building permit. Final recommendations for sound-rated assemblies, and/or other appropriate features/measures, will depend on the specific building designs and layout of buildings on the site and shall be determined during the design phases. Written confirmation by the acoustical consultant, HVAC or HERS specialist, shall be submitted for City review and approval, prior to Certificate of Occupancy (or equivalent) that:

- (a) Quality control was exercised during construction to ensure all air-gaps and penetrations of the building shell are controlled and sealed; and
- (b) Demonstrates compliance with interior noise standards based upon performance testing of a sample unit.
- (c) Inclusion of a Statement of Disclosure Notice in the CC&R's on the lease or title to all new tenants or owners of the units acknowledging the noise generating activity ~~and the single event noise occurrences~~. Potential features/measures to reduce interior noise could include, but are not limited to, the following:
  - a) Installation of an alternative form of ventilation in all units identified in the acoustical analysis as not being able to meet the interior noise requirements due to adjacency to a noise generating activity, filtration of ambient make-up air in each unit and analysis of ventilation noise if ventilation is included in the recommendations by the acoustical analysis.
  - b) Prohibition of Z-duct construction.

### **32. Operational Noise-General**

#### ***Ongoing.***

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 Division and Building Services.

### **33. Construction Traffic and Parking**

#### ***Prior to the issuance of a demolition, grading or building permit***

The project applicant and construction contractor shall meet with appropriate City of Oakland agencies to determine traffic management strategies to reduce, to the maximum extent feasible, traffic congestion and the effects of parking demand by construction workers during construction of this project and other nearby projects that could be simultaneously under construction. The project applicant shall develop a construction management plan for review and approval by the Planning and Zoning Division, the Building Services Division, and the Transportation Services Division. The plan shall include at least the following items and requirements:

- a) A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes.
- b) Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures will occur.
- c) Location of construction staging areas for materials, equipment, and vehicles at an approved location.
- d) A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an onsite complaint manager. The manager shall determine the cause of the complaints and shall take prompt action to correct the problem. Planning and Zoning shall be informed who the Manager is prior to the issuance of the first permit issued by Building Services.
- e) Provision for accommodation of pedestrian flow.

**Major Project Cases:**

- f) Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces **or insert name of street..**
- g) Any damage to the street caused by heavy equipment, or as a result of this construction, shall be repaired, at the applicant's expense, within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to issuance of a final inspection of the building permit. All damage that is a threat to public health or safety shall be repaired immediately. The street shall be restored to its condition prior to the new construction as established by the City Building Inspector and/or photo documentation, at the applicant's expense, before the issuance of a Certificate of Occupancy.
- h) Any heavy equipment brought to the construction site shall be transported by truck, where feasible.
- i) No materials or equipment shall be stored on the traveled roadway at any time.
- j) Prior to construction, a portable toilet facility and a debris box shall be installed on the site, and properly maintained through project completion.
- k) All equipment shall be equipped with mufflers.
- l) Prior to the end of each work day during construction, the contractor or contractors shall pick up and properly dispose of all litter resulting from or related to the project, whether located on the property, within the public rights-of-way, or properties of adjacent or nearby neighbors.

**34. Erosion and Sedimentation Control ~~When no grading permit is required!~~**

*Ongoing throughout demolition grading, and/or construction activities*

The project applicant shall implement Best Management Practices (BMPs) to reduce erosion, sedimentation, and water quality impacts during construction to the maximum extent practicable. Plans demonstrating the Best Management Practices shall be submitted for review and approval by the Planning and Zoning Division and the Building Services Division. At a minimum, the project applicant shall provide filter materials deemed acceptable to the City at nearby catch basins to prevent any debris and dirt from flowing into the City's storm drain system and creeks.

**35. Hazards Best Management Practices**

*Prior to commencement of demolition, grading, or construction*

The project applicant and construction contractor shall ensure that construction of Best Management Practices (BMPs) are implemented as part of construction to minimize the potential negative effects to groundwater and soils. These shall include the following:

- a) Follow manufacture's recommendations on use, storage, and disposal of chemical products used in construction;
- b) Avoid overtopping construction equipment fuel gas tanks;
- c) During routine maintenance of construction equipment, properly contain and remove grease and oils;
- d) Properly dispose of discarded containers of fuels and other chemicals.
- e) Ensure that construction would not have a significant impact on the environment or pose a substantial health risk to construction workers and the occupants of the proposed development. Soil sampling and chemical analyses of samples shall be performed to determine the extent of potential contamination beneath all UST's, elevator shafts, clarifiers, and subsurface hydraulic lifts when on-site demolition, or construction activities would potentially affect a particular development or building.
- f) If soil, groundwater or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notification of regulatory agency(ies) and implementation of the actions described in the City's Standard Conditions of Approval, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

### **36. Waste Reduction and Recycling**

The project applicant will submit a Construction & Demolition Waste Reduction and Recycling Plan (WRRP) and an Operational Diversion Plan (ODP) for review and approval by the Public Works Agency.

#### ***Prior to issuance of demolition, grading, or building permit***

Chapter 15.34 of the Oakland Municipal Code outlines requirements for reducing waste and optimizing construction and demolition (C&D) recycling. Affected projects include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3), and all demolition (including soft demo). The WRRP must specify the methods by which the development will divert C&D debris waste generated by the proposed project from landfill disposal in accordance with current City requirements. Current standards, FAQs, and forms are available at [www.oaklandpw.com/Page39.aspx](http://www.oaklandpw.com/Page39.aspx) or in the Green Building Resource Center. After approval of the plan, the project applicant shall implement the plan.

#### ***Ongoing***

The ODP will identify how the project complies with the Recycling Space Allocation Ordinance, (Chapter 17.118 of the Oakland Municipal Code), including capacity calculations, and specify the methods by which the development will meet the current diversion of solid waste generated by operation of the proposed project from landfill disposal in accordance with current City requirements. The proposed program shall be implemented and maintained for the duration of the proposed activity or facility. Changes to the plan may be re-submitted to the Environmental Services Division of the Public Works Agency for review and approval. Any incentive programs shall remain fully operational as long as residents and businesses exist at the project site.

**This Development Standard applies to ALL projects that require a Mitigation Monitoring Program.**

### **37. Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCAMMRP)**

#### *Ongoing*

All mitigation measures identified in the **insert the name of the EIR/MND** are included in the Standard Condition of Approval and Mitigation Monitoring Program (SCAMMRP) which is included in these conditions of approval and are incorporated herein by reference, as Attachment **attachment letter** as conditions of approval of the project. The Standard Conditions of Approval identified in the **insert the name of the EIR/MND** are also included in the SCAMMRP, and are therefore, not repeated in these conditions of approval. To the extent that there is any inconsistency between the SCAMMRP and these conditions, the more restrictive conditions shall govern. The project sponsor (also referred to as the Developer or Applicant) shall be responsible for compliance with the recommendation in any submitted and approved technical reports, all applicable mitigation measures adopted and with all conditions of approval set forth herein at its sole cost and expense, unless otherwise expressly provided in a specific mitigation measure or condition of approval, and subject to the review and approval of the City of Oakland. The SCAMMRP identifies the time frame and responsible party for implementation and monitoring for each mitigation measure. Overall monitoring and compliance with the mitigation measures will be the responsibility of the Planning and Zoning Division. Adoption of the SCAMMRP will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in Section 21081.6 of CEQA. Prior to the issuance of a demolition, grading, and/or construction permit, the project sponsor shall pay the applicable mitigation and monitoring fee to the City in accordance with the City's Master Fee Schedule.

**These Development Standards apply to ALL residential projects that are located adjacent to an active rail line.**

### **38. Vibration**

#### *Prior to issuance of a building permit*

A qualified acoustical consultant shall be retained by the project applicant during the design phase of the project to comment on structural design as it relates to reducing groundborne vibration at the project site. If required in order to reduce groundborne vibration to acceptable levels **(insert FTA vibration standards applicable to the project. This information is located in the CEQA Thresholds, page 13, Table 3)**, the project applicant shall incorporate special building methods to reduce groundborne vibration being transmitted into project structures. The City shall review and approve the recommendations of the acoustical consultant and the plans implementing such recommendations. Applicant shall implement the approved plans. Potential methods include the following:

- a) Isolation of foundation and footings using resilient elements such as rubber bearing pads or springs, such as a "spring isolation" system that consists of resilient spring supports that can support the podium or residential foundations. The specific system shall be selected so that it can properly support the structural loads, and provide adequate filtering of ground-borne vibration to the residences above.
- b) Trenching, which involves excavating soil between the railway/freeway and the project so that the vibration path is interrupted, thereby reducing the vibration levels before they enter the project's structures. Since the reduction in vibration level is based on a ratio between trench depth and vibration wavelength, additional measurements shall be conducted to determine the vibration wavelengths affecting the project. Based on the resulting measurement findings, an adequate trench depth and, if

required, suitable fill shall be identified (such as foamed styrene packing pellets (i.e., Styrofoam) or low-density polyethylene).

**These Development Standards apply to ALL projects that involve pile driving or other extreme noise generation greater than 90 dba.**

### **39. Pile Driving and Other Extreme Noise Generators**

#### ***Ongoing throughout demolition, grading, and/or construction***

To further reduce potential pier drilling, pile driving and/or other extreme noise generating construction impacts greater than 90dBA, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the Planning and Zoning Division and the Building Services Division to ensure that maximum feasible noise attenuation will be achieved. This plan shall be based on the final design of the project. A third-party peer review, paid for by the project applicant, may be required to assist the City in evaluating the feasibility and effectiveness of the noise reduction plan submitted by the project applicant. The criterion for approving the plan shall be a determination that maximum feasible noise attenuation will be achieved. A special inspection deposit is required to ensure compliance with the noise reduction plan. The amount of the deposit shall be determined by the Building Official, and the deposit shall be submitted by the project applicant concurrent with submittal of the noise reduction plan. The noise reduction plan shall include, but not be limited to, an evaluation of implementing the following measures. These attenuation measures shall include as many of the following control strategies as applicable to the site and construction activity:

- a) Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;
- b) Implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
- c) Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- d) Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and
- e) Monitor the effectiveness of noise attenuation measures by taking noise measurements.

**These Development Standards apply to ALL construction projects that will have new exterior lighting.**

### **40. Lighting Plan**

#### ***Prior to the issuance of an electrical or building permit***

The proposed lighting fixtures shall be adequately shielded to a point below the light bulb and reflector and that prevent unnecessary glare onto adjacent properties. Plans shall be submitted to the Planning and Zoning Division and the Electrical Services Division of the Public Works Agency for review and approval. All lighting shall be architecturally integrated into the site.

**These Development Standards apply to projects with Asbestos in Structures**

**41. Asbestos Removal in Structures**

*Prior to issuance of a demolition permit*

If asbestos-containing materials (ACM) are found to be present in building materials to be removed, demolition and disposal, the project applicant shall submit specifications signed by a certified asbestos consultant for the removal, encapsulation, or enclosure of the identified ACM in accordance with all applicable laws and regulations, including but not necessarily limited to: California Code of Regulations, Title 8; Business and Professions Code; Division 3; California Health & Safety Code 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended.

**These Development Standards apply to ALL construction projects that are located on naturally occurring asbestos, serpentine soils and/or ultramafic rock (generally above Highway 13 between Shepard Canyon Rd. and Keller Ave.; See map on the L Drive)**

**42. Asbestos Removal in Soil**

*Prior to issuance of a demolition, grading, or building permit*

To minimize the release of naturally occurring asbestos in the soil during construction, the project applicant shall require the construction contractor to demonstrate compliance with Bay Area Air Quality Management District's (BAAQMD) Asbestos Airborne Toxic Control Measures for Construction, Grading, Quarrying and Surface Mining Operations (implementing CCR section 93105) for activities that disturb the soil, such as grading, etc. **Include the appropriate condition/requirements depending on site area below.**

**A. Minimum Requirements where area to be disturbed with Construction Grading Operations is 1 acre or less**

*Administrative Requirements*

- a) No notification is required to the BAAQMD office; unless
- b) Upon discovery of naturally occurring asbestos, serpentine, or ultramafic rock the project applicant must notify the BAAQMD's Air Pollution Control Officer (APCO) by the next business day.

*Dust Control Requirements*

- a) Vehicle speed shall be  $\leq 15$  mph
- b) Sufficient water shall be applied to the area prior to disturbance to prevent visible emissions from crossing project boundaries.
- c) Areas to be graded or excavated shall be kept adequately wetted to prevent visible emissions from crossing project boundaries.
- d) Storage piles kept shall be adequately wetted, treated with dust suppressant, or covered when the material is not being added or removed.
- e) Equipment must be washed down before moving from the property onto the paved roadway.
- f) Visible track-out on paved public road must be cleaned using wet sweeping or High Efficiency Particulate Air (HEPA) filter equipped vacuum device within 24 hours.
- g) Implement the preceding dust control measures within 24 hours upon discovery of naturally occurring asbestos, serpentine, or ultramafic rock.

**B. Minimum Requirements where area to be disturbed with Construction Operations is More than 1 acre**

*Administrative (Prior to the start of work)*

- a) Asbestos Dust Minimization Plan shall be submitted to BAAQMD and approved prior to engaging in the any construction or grading operation.
- b) The Asbestos Dust Minimization Plan provisions shall be implemented at the beginning and maintained throughout the duration of the construction or grading activity.

*Dust Control Requirements*

The Asbestos Dust Minimization Plan shall include one or more provisions to address the following topics:

- a) Control for traffic on on-site unpaved roads, parking lots, and staging areas shall include: limiting vehicle speed to less than 15 mph, and one or more of the following: watering every two hours of active operations or sufficiently often to keep area wetted; applying chemical dust suppressants to consistent with manufacturer's directions; maintaining gravel cover with a silt content less than 5% and asbestos content less than .25% as determined using the asbestos bulk test method; or any other measure as effective as those listed above.
- b) Control for earthmoving activities shall include one or more of the following: pre-wetting the ground to the depth of the anticipated cuts; suspending grading operations when wind speeds are high enough to result in dust emissions crossing the property line despite applicable of dust measures; application of water prior to any land clearing; or any other measure as effective.
- c) Storage piles shall be kept adequately wetted or covered with tarps when the material is not being added or removed.
- d) Storage piles must be stabilized when inactive for more than 7 days by implementing one or more of the following: adequately wetting the site, establishing and maintaining surface crusting material, chemical dust suppressant or stabilizer, covering with tarps or vegetative cover, installation of wind barriers of 50% porosity around three sides of the pile areas, or any measure as effective.
- e) Equipment must be washed down before moving from the property onto paved roadway.

Track-out prevention and control measures shall include:

- i. Removal of visible track-out on paved public road at any location where vehicles exit the work site using wet sweeping or High Efficiency Particulate Air (HEPA) filter equipped vacuum device at least one time per day.
- ii. Installation of one or more of the following track-out prevention devices: gravel pad, tire shaker, wheel wash system, not less than 50 feet of pavement extending from intersection with paved public road, or other measure as effective.
- f) Control for offsite-transport shall include the following: maintenance of trucks such that no spillage can occur from holes or openings in cargo compartments; loads are adequately wetted; and either covered with tarps or loaded such that the material does not touch the front, back, or sides of the cargo compartment at any point less than 6" from the top and that at no point of the load extends above the top of the cargo compartment.
- g) Post project stabilization of disturbed surfaces shall occur using one or more of the following: establishing vegetative cover; placement of at least 3" of non-asbestos-containing material, paving, or other measure deemed sufficient to prevent 10 mph winds from causing visible emissions.

*Administrative (After completion of work)*

- a) If required by the BAAQMD's APCO, the plan must include an air-monitoring component which shall specify the following: type of air sampling device; siting of the device; sampling of the device; sampling duration and frequency; and analytical method.

- b) The plan shall state the frequency with which the information will be reported to BAAQMD.
- c) The owner/operator shall keep maintain the following records for at least 7 years following completion of the project: results of any required air monitoring; documentation for any geologic evaluation conducted for the purposes of obtaining an exemption; and results of any bulk sampling conducted by the owner/operator to document applicability done or at the request of APCO.

**These Development Standards apply to ALL projects that require a removal of any unprotected tree.**

#### **43. Tree Removal Permit on Creekside Properties**

##### ***Prior to issuance of a final inspection of the building permit***

Prior to removal of any tree located on the project site which is identified as a creekside property, the project applicant must secure the applicable creek protection permit, and abide by the conditions of that permit.

#### **44. Tree Removal During Breeding Season**

##### ***Prior to issuance of a tree removal permit***

To the extent feasible, removal of any tree and/or other vegetation suitable for nesting of raptors shall not occur during the breeding season of March 15 and August 15. If tree removal must occur during the breeding season, all sites shall be surveyed by a qualified biologist to verify the presence or absence of nesting raptors or other birds. Pre-removal surveys shall be conducted within 15 days prior to start of work from March 15 through May 31, and within 30 days prior to the start of work from June 1 through August 15. The pre-removal surveys shall be submitted to the Planning and Zoning Division and the Tree Services Division of the Public Works Agency. If the survey indicates the potential presences of nesting raptors or other birds, the biologist shall determine an appropriately sized buffer around the nest in which no work will be allowed until the young have successfully fledged. The size of the nest buffer will be determined by the biologist in consultation with the CDFG, and will be based to a large extent on the nesting species and its sensitivity to disturbance. In general, buffer sizes of 200 feet for raptors and 50 feet for other birds should suffice to prevent disturbance to birds nesting in the urban environment, but these buffers may be increased or decreased, as appropriate, depending on the bird species and the level of disturbance anticipated near the nest.

**These Development Standards apply to ALL projects that involve a Tree Protection/Removal Permit for removal of a protected tree.**

#### **45. Tree Removal Permit**

##### ***Prior to issuance of a demolition, grading, or building permit***

Prior to removal of any protected trees, per the Protected Tree Ordinance, located on the project site or in the public right-of-way adjacent to the project, the project applicant must secure a tree removal permit from the Tree Division of the Public Works Agency, and abide by the conditions of that permit.

#### **46. Tree Replacement Plantings**

##### ***Prior to issuance of a final inspection of the building permit***

Replacement plantings shall be required for erosion control, groundwater replenishment, visual screening and wildlife habitat, and in order to prevent excessive loss of shade, in accordance with the following criteria:



- a) No tree replacement shall be required for the removal of nonnative species, for the removal of trees which is required for the benefit of remaining trees, or where insufficient planting area exists for a mature tree of the species being considered.
- b) Replacement tree species shall consist of *Sequoia sempervirens* (Coast Redwood), *Quercus agrifolia* (Coast Live Oak), *Arbutus menziesii* (Madrone), *Aesculus californica* (California Buckeye) or *Umbellularia californica* (California Bay Laurel) or other tree species acceptable to the Tree Services Division.
- c) Replacement trees shall be at least of twenty-four (24) inch box size, unless a smaller size is recommended by the arborist, except that three fifteen (15) gallon size trees may be substituted for each twenty-four (24) inch box size tree where appropriate.
- d) Minimum planting areas must be available on site as follows:
  - i. For *Sequoia sempervirens*, three hundred fifteen square feet per tree;
  - ii. For all other species listed in #2 above, seven hundred (700) square feet per tree.
- e) In the event that replacement trees are required but cannot be planted due to site constraints, an in lieu fee as determined by the master fee schedule of the city may be substituted for required replacement plantings, with all such revenues applied toward tree planting in city parks, streets and medians.
- f) Plantings shall be installed prior to the issuance of a final inspection of the building permit, subject to seasonal constraints, and shall be maintained by the project applicant until established. The Tree Reviewer of the Tree Division of the Public Works Agency may require a landscape plan showing the replacement planting and the method of irrigation. Any replacement planting which fails to become established within one year of planting shall be replanted at the project applicant's expense.

**These Development Standards apply to ALL projects that involve a Tree Protection/Removal Permit because a protected tree is located within 10' of construction.**

#### **47. Tree Protection During Construction**

##### ***Prior to issuance of a demolition, grading, or building permit***

Adequate protection shall be provided during the construction period for any trees which are to remain standing, including the following, plus any recommendations of an arborist:

- a) Before the start of any clearing, excavation, construction or other work on the site, every protected tree deemed to be potentially endangered by said site work shall be securely fenced off at a distance from the base of the tree to be determined by the City Tree Reviewer. Such fences shall remain in place for duration of all such work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of logs, brush, earth and other debris which will avoid injury to any protected tree.
- b) Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and nutrients. Any excavation, cutting, filing, or compaction of the existing ground surface within the protected perimeter shall be minimized. No change in existing ground level shall occur within a distance to be determined by the City Tree Reviewer from the base of any protected tree at any time. No burning or use of equipment with an open flame shall occur near or within the protected perimeter of any protected tree.
- c) No storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees shall occur within the distance to be determined by the Tree Reviewer from the base of any protected trees,

- or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within a distance from the base of any protected trees to be determined by the tree reviewer. Wires, ropes, or other devices shall not be attached to any protected tree, except as needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.
- d) Periodically during construction, the leaves of protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit leaf transpiration.
  - e) If any damage to a protected tree should occur during or as a result of work on the site, the project applicant shall immediately notify the Public Works Agency of such damage. If, in the professional opinion of the Tree Reviewer, such tree cannot be preserved in a healthy state, the Tree Reviewer shall require replacement of any tree removed with another tree or trees on the same site deemed adequate by the Tree Reviewer to compensate for the loss of the tree that is removed.
  - f) All debris created as a result of any tree removal work shall be removed by the project applicant from the property within two weeks of debris creation, and such debris shall be properly disposed of by the project applicant in accordance with all applicable laws, ordinances, and regulations.

**These Development Standards apply to ALL projects that are located within the Alameda Whipsnake Habitat as mapped by the California Department of Fish and Game (CDFG) and confirmed as habitat by the biological report. Generally located in the northwestern portion of the City limits. This area (in Oakland) is bounded by the Alameda/Contra Costa border to the north, Oakland/Berkeley border to the west, Snake Road to the east, and above Tunnel Road/Highway 13. (\*\*NOTE: PRESENCE OF HABITAT PRECLUDES USE OF THE IN-FILL EXEMPTION (SECTION 15332) AS THE SITE MUST HAVE "NO VALUE AS HABITAT")\*\***

#### **48. Whipsnake Habitat, Biological Monitor**

*Prior to issuance of a demolition, grading, or building permit and ongoing throughout demolition, grading, and/or construction*

If the project is located within confirmed Alameda Whipsnake Habitat area, the project applicant shall hire an on-site biological monitor who is qualified to identify Alameda Whipsnakes. The on-site biological monitor shall instruct the project superintendent and the construction crews (primarily the clearing, demolition and foundation crews) of the potential presence, status and identification of Alameda Whipsnakes. The biological monitor shall also provide information to the Planning and Zoning Division on the steps to take if a whipsnake is seen on the project site, including who to contact, to ensure that whipsnakes are not harmed or killed, as regulation by the federal Endangered Species Act.

#### **49. Whipsnake Habitat, Placement of Debris**

*Prior to issuance of a demolition, grading, or building permit and throughout construction*

If the project is located within confirmed Alameda Whipsnake Habitat area, the project applicant shall ensure that the placement of construction debris is limited to the area immediate adjacent to the foundation of the proposed buildings or and to the area between the foundation and the street. Install flexible construction fencing at the limit of work line (approximately ten feet beyond the foundation of the proposed building other than in the direction of the street). Such construction fencing shall limit the placement of construction materials and construction debris to inside the fencing.

**50. Whipsnake Habitat, Barrier Fence*****Prior to issuance of a demolition, grading, or building permit and throughout construction***

If the project is located within confirmed Alameda Whipsnake Habitat area, the project applicant shall install a solid fence along the real limit of construction line, and for a distance of ~~insert distance~~ perpendicular to the real line, to prevent whipsnakes from entering the work site. The snake barrier shall be constructed as follows and shall remain in place throughout the entire construction period:

- a) Plywood sheets at least three feet in height;
- b) Buried four foot, six inches into the ground
- c) Soil back-filled against the plywood fence to create a solid barrier at the ground;
- d) Plywood sheets maintained in an upright position with wooden or masonry stakes;
- e) Ends of each plywood sheet overlapped to ensure a continuous barrier.

**51. Whipsnake Habitat, Downsloping Lots*****Prior to issuance of a demolition, grading, or building permit and throughout construction***

If the project is located within confirmed Alameda Whipsnake Habitat area, the project applicant shall install erosion control devices, such as hay bales, at the downhill limit of construction line to prevent rocks and soil from moving downhill.

**These Development Standards apply to ALL projects that involve a Grading Permit**

**52. Archaeological Resources*****Ongoing throughout demolition, grading, and/or construction***

- a) Pursuant to CEQA Guidelines section 15064.5 (f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore, in the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist or paleontologist to assess the significance of the find. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified archaeologist would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Oakland. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards.
- b) In considering any suggested measure proposed by the consulting archaeologist in order to mitigate impacts to historical resources or unique archaeological resources, the project applicant shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while measure for historical resources or unique archaeological resources is carried out.
- c) Should an archaeological artifact or feature be discovered on-site during project construction, all activities within a 50-foot radius of the find would be halted until the findings can be fully investigated by a qualified archaeologist to evaluate the find and assess the significance of the find according to the CEQA definition of a historical or unique archaeological resource. If the deposit is determined to be significant, the project applicant and the qualified archaeologist shall meet to determine the appropriate

avoidance measures or other appropriate measure, subject to approval by the City of Oakland, which shall assure implementation of appropriate measure measures recommended by the archaeologist. Should archaeologically-significant materials be recovered, the qualified archaeologist shall recommend appropriate analysis and treatment, and shall prepare a report on the findings for submittal to the Northwest Information Center.

### **53. Human Remains**

#### ***Ongoing throughout demolition, grading, and/or construction***

In the event that human skeletal remains are uncovered at the project site during construction or ground-breaking activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

### **54. Paleontological Resources**

#### ***Ongoing throughout demolition, grading, and/or construction***

In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards (SVP 1995,1996)). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

**These Development Standards apply to ALL projects that require a Grading Permit, except for projects that involve construction on slopes that exceed 20%. (See other Erosion and Sedimentation Control Plan.)**

### **55. Erosion and Sedimentation Control Plan**

#### ***Prior to any grading activities***

- a) The project applicant shall obtain a grading permit if required by the Oakland Grading Regulations pursuant to Section 15.04.780 of the Oakland Municipal Code. The grading permit application shall include an erosion and sedimentation control plan for review and approval by the Building Services Division. The erosion and sedimentation control plan shall include all necessary measures to be taken to prevent excessive stormwater runoff or carrying by stormwater runoff of solid materials on to lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading operations. The plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and stormwater retention basins. Off-site work by the project applicant may be necessary.

The project applicant shall obtain permission or easements necessary for off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated stormwater runoff and sediment volumes shall be included, if required by the Director of Development or designee. The plan shall specify that, after construction is complete, the project applicant shall ensure that the storm drain system shall be inspected and that the project applicant shall clear the system of any debris or sediment.

***Ongoing throughout grading and construction activities***

- b) The project applicant shall implement the approved erosion and sedimentation plan. No grading shall occur during the wet weather season (October 15 through April 15) unless specifically authorized in writing by the Building Services Division.

**These Development Standards apply to ALL projects that propose demolition of a potentially designated historic structure (PDHP) OR a CEQA Historic Resource.**

**56. Compliance with Policy 3.7 of the Historic Preservation Element (Property Relocation Rather than Demolition)**

***Prior to issuance of a demolition permit***

The project applicant shall make a good faith effort to relocate the building located at **insert project location** to a site acceptable to the Planning and Zoning Division and the Oakland Cultural Heritage Survey. Good faith efforts include, at a minimum, the following:

- a) Advertising the availability of the building by: (1) posting of large visible signs (such as banners, at a minimum of 3'x 6' size or larger) at the site; (2) placement of advertisements in Bay Area news media acceptable to the City ;and (3) contacting neighborhood associations and for-profit and not-for-profit housing and preservation organizations;
- b) Maintaining a log of all the good faith efforts and submitting that along with photos of the subject building showing the large signs (banners) to the Planning and Zoning Division;
- c) Maintaining the signs and advertising in place for a minimum of 90 days; and
- d) Making the building available at no or nominal cost (the amount to be reviewed by the Oakland Cultural Heritage Survey) until removal is necessary for construction of a replacement project, but in no case for less than a period of 90 days after such advertisement.

**These Development Standards apply to ALL projects that involve construction that is adjacent to a CEQA Historic Resource or a potentially designated historic property (PDHP).**

**57. Vibrations Adjacent Historic Structures**

***Prior to issuance of a demolition, grading or building permit***

The project applicant shall retain a structural engineer or other appropriate professional to determine threshold levels of vibration and cracking that could damage the **insert historic building name** (Historic Structure) and design means and methods of construction that shall be utilized to not exceed the thresholds.

**These Development Standards apply to ALL projects that require a Tentative Tract Map or Tentative Parcel Map (not part of this approval), except condominium conversions.**

### **58. Soils Report**

*Required as part of the submittal of a Tentative Tract or Tentative Parcel Map.*

A preliminary soils report for each construction site within the project area shall be required as part of this project and submitted for review and approval by the Building Services Division. The soils reports shall be based, at least in part, on information obtained from on-site testing. Specifically the minimum contents of the report should include:

A. Logs of borings and/or profiles of test pits and trenches:

- a) The minimum number of borings acceptable, when not used in combination with test pits or trenches, shall be two (2), when in the opinion of the Soils Engineer such borings shall be sufficient to establish a soils profile suitable for the design of all the footings, foundations, and retaining structures.
- b) The depth of each boring shall be sufficient to provide adequate design criteria for all proposed structures.
- c) All boring logs shall be included in the soils report.

B. Test pits and trenches

- a) Test pits and trenches shall be of sufficient length and depth to establish a suitable soils profile for the design of all proposed structures.
- b) Soils profiles of all test pits and trenches shall be included in the soils report.

C. A plat shall be included which shows the relationship of all the borings, test pits, and trenches to the exterior boundary of the site. The plat shall also show the location of all proposed site improvements. All proposed improvements shall be labeled.

D. Copies of all data generated by the field and/or laboratory testing to determine allowable soil bearing pressures, sheer strength, active and passive pressures, maximum allowable slopes where applicable and any other information which may be required for the proper design of foundations, retaining walls, and other structures to be erected subsequent to or concurrent with work done under the grading permit.

E. Soils Report. A written report shall be submitted which shall include, but is not limited to, the following:

- a) Site description;
- b) Local and site geology;
- c) Review of previous field and laboratory investigations for the site;
- d) Review of information on or in the vicinity of the site on file at the Information Counter, City of Oakland, Office of Planning and Building;
- e) Site stability shall be addressed with particular attention to existing conditions and proposed corrective attention to existing conditions and proposed corrective actions at locations where land stability problems exist;
- f) Conclusions and recommendations for foundations and retaining structures, resistance to lateral loading, slopes, and specifications, for fills, and pavement design as required;
- g) Conclusions and recommendations for temporary and permanent erosion control and drainage. If not provided in a separate report they shall be appended to the required soils report;
- h) All other items which a Soils Engineer deems necessary;
- i) The signature and registration number of the Civil Engineer preparing the report.

- F. The Director of Planning and Building may reject a report that she/he believes is not sufficient. The Director of Planning and Building may refuse to accept a soils report if the certification date of the responsible soils engineer on said document is more than three years old. In this instance, the Director may require that the old soils report be recertified, that an addendum to the soils report be submitted, or that a new soils report be provided.

**These Development Standards apply to ALL projects that require an application for a Tentative Tract Map or Tentative Parcel Map (not part of this approval) AND are located partially or wholly within the Alquist-Priolo Special Studies Zone. Exceptions include condominium conversions, and single family wood or steel frame dwellings not exceeding two stories, when not part of a development of 4 or more dwellings. See Arcview for Hayfault Fault and Alquist-Priolo Special Studies Zone layers.**

### **59. Geotechnical Report**

#### ***Required as part of the submittal of a tentative Tract Map or tentative Parcel Map***

- a) A site-specific, design level, Fault Zone geotechnical investigation for each construction site within the project area shall be required as part of this project and submitted for review and approval to the Building Services Division. Specifically:
  - i. Each investigation shall include an analysis of expected ground motions at the site from identified faults. The analyses shall be in accordance with applicable City ordinances and polices, and consistent with the most recent version of the California Building Code, which requires structural design that can accommodate ground accelerations expected from identified faults.
  - ii. The investigations shall determine final design parameters for the walls, foundations, foundation slabs, surrounding related improvements, and infrastructure (utilities, roadways, parking lots, and sidewalks).
  - iii. The investigations shall be reviewed and approved by a registered geotechnical engineer. All recommendations by the project engineer, geotechnical engineer, shall be included in the final design, as approved by the City of Oakland.
  - iv. The geotechnical report shall include a map prepared by a land surveyor or civil engineer that shows all field work and location of the "No Build" zone. The map shall include a statement that the locations and limitations of the geologic features are accurate representations of said features as they exist on the ground, were placed on this map by the surveyor, the civil engineer or under their supervision, and are accurate to the best of their knowledge.
  - v. Recommendations that are applicable to foundation design, earthwork, and site preparation that were prepared prior to or during the project's design phase, shall be incorporated in the project.
  - vi. Final seismic considerations for the site shall be submitted to and approved by the City of Oakland Building Services Division prior to commencement of the project.
  - vii. A peer review is required for the Geotechnical Report. Personnel reviewing the geologic report shall approve the report, reject it, or withhold approval pending the submission by the applicant or subdivider of further geologic and engineering studies to more adequately define active fault traces.
- b) Tentative Tract or Parcel Map approvals shall require, but not be limited to, approval of the Geotechnical Report.

**These Development Standards apply to ALL projects that require an application for a Tentative Tract Map or Tentative Parcel Map (not part of this approval) AND are located partially or wholly within the Seismic Hazards Zone. Exceptions include condominium conversions and single family wood or steel frame dwellings not exceeding two stories, when not part of a development of 4 or more dwellings. See Arcview for Seismic Hazards Zone layer.**

## **60. Geotechnical Report**

### ***Required as part of the submittal of a tentative Tract Map or tentative Parcel Map***

- a) A site-specific, design level, Landslide or Liquefaction geotechnical investigation for each construction site within the project area shall be required as part if this project and submitted for review and approval by the Building Services Division. Specifically:
  - i. Each investigation shall include an analysis of expected ground motions at the site from identified faults. The analyses shall be accordance with applicable City ordinances and polices, and consistent with the most recent version of the California Building Code, which requires structural design that can accommodate ground accelerations expected from identified faults.
  - ii. The investigations shall determine final design parameters for the walls, foundations, foundation slabs, surrounding related improvements, and infrastructure (utilities, roadways, parking lots, and sidewalks).
  - iii. The investigations shall be reviewed and approved by a registered geotechnical engineer. All recommendations by the project engineer, geotechnical engineer, shall be included in the final design, as approved by the City of Oakland.
  - iv. The geotechnical report shall include a map prepared by a land surveyor or civil engineer that shows all field work and location of the "No Build" zone. The map shall include a statement that the locations and limitations of the geologic features are accurate representations of said features as they exist on the ground, were placed on this map by the surveyor, the civil engineer or under their supervision, and are accurate to the best of their knowledge.
  - v. Recommendations that are applicable to foundation design, earthwork, and site preparation that were prepared prior to or during the projects design phase, shall be incorporated in the project.
  - vi. Final seismic considerations for the site shall be submitted to and approved by the City of Oakland Building Services Division prior to commencement of the project.
  - vii. A peer review is required for the Geotechnical Report. Personnel reviewing the geologic report shall approve the report, reject it, or withhold approval pending the submission by the applicant or subdivider of further geologic and engineering studies to more adequately define active fault traces.
- b) Tentative Tract or Parcel Map approvals shall require, but not be limited to, approval of the Geotechnical Report.

**These Development Standards apply (a) to ALL projects that include the redevelopment or reuse of historically industrial or commercial buildings; (b) if the site has been identified in City records for hazardous materials, such as the Permit Tracking System (PTS); OR (c) if the site has been identified on the State Cortese List [NOTE: PRESENCE ON CORTESE LIST PRECLUDES USE OF A CATEGORICAL EXEMPTION].**



**61. Site Review by the Fire Services Division**

***Prior to the issuance of demolition, grading or building permit***

The project applicant shall submit plans for site review and approval to the Fire Prevention Bureau Hazardous Materials Unit. Property owner may be required to obtain or perform a Phase II hazard assessment.

**62. Phase I and/or Phase II Reports**

***Prior to issuance of a demolition, grading, or building permit***

Prior to issuance of demolition, grading, or building permits the project applicant shall submit to the Fire Prevention Bureau, Hazardous Materials Unit, a Phase I environmental site assessment report, and a Phase II report if warranted by the Phase I report for the project site. The reports shall make recommendations for remedial action, if appropriate, and should be signed by a Registered Environmental Assessor, Professional Geologist, or Professional Engineer.

**63. Lead-Based Paint/Coatings, Asbestos, or PCB Occurrence Assessment**

***Prior to issuance of any demolition, grading or building permit***

The project applicant shall submit a comprehensive assessment report to the Fire Prevention Bureau, Hazardous Materials Unit, signed by a qualified environmental professional, documenting the presence or lack thereof of asbestos-containing materials (ACM), lead-based paint, and any other building materials or stored materials classified as hazardous waste by State or federal law.

**64. Environmental Site Assessment Reports Remediation**

***Prior to issuance of a demolition, grading, or building permit***

If the environmental site assessment reports recommend remedial action, the project applicant shall:

- a) Consult with the appropriate local, State, and federal environmental regulatory agencies to ensure sufficient minimization of risk to human health and environmental resources, both during and after construction, posed by soil contamination, groundwater contamination, or other surface hazards including, but not limited to, underground storage tanks, fuel distribution lines, waste pits and sumps.
- b) Obtain and submit written evidence of approval for any remedial action if required by a local, State, or federal environmental regulatory agency.
- c) Submit a copy of all applicable documentation required by local, State, and federal environmental regulatory agencies, including but not limited to: permit applications, Phase I and II environmental site assessments, human health and ecological risk assessments, remedial action plans, risk management plans, soil management plans, and groundwater management plans.

**65. Lead-based Paint Remediation**

***Prior to issuance of any demolition, grading or building permit***

If lead-based paint is present, the project applicant shall submit specifications to the Fire Prevention Bureau, Hazardous Materials Unit signed by a certified Lead Supervisor, Project Monitor, or Project Designer for the stabilization and/or removal of the identified lead paint in accordance with all applicable laws and regulations, including but not necessarily limited to: Cal/OSHA's Construction Lead Standard, 8 CCR1532.1 and DHS regulation 17 CCR Sections 35001 through 36100, as may be amended.

**66. Other Materials Classified as Hazardous Waste*****Prior to issuance of any demolition, grading or building permit***

If other materials classified as hazardous waste by State or federal law are present, the project applicant shall submit written confirmation to Fire Prevention Bureau, Hazardous Materials Unit that all State and federal laws and regulations shall be followed when profiling, handling, treating, transporting and/or disposing of such materials.

**67. Health and Safety Plan per Assessment*****Prior to issuance of any demolition, grading or building permit***

If the required lead-based paint/coatings, asbestos, or PCB assessment finds presence of such materials, the project applicant shall create and implement a health and safety plan to protect workers from risks associated with hazardous materials during demolition, renovation of affected structures, and transport and disposal.

**68. Best Management Practices for Soil and Groundwater Hazards*****Ongoing throughout demolition, grading, and construction activities***

The project applicant shall implement all of the following Best Management Practices (BMPs) regarding potential soil and groundwater hazards.

- a) Soil generated by construction activities shall be stockpiled onsite in a secure and safe manner. All contaminated soils determined to be hazardous or non-hazardous waste must be adequately profiled (sampled) prior to acceptable reuse or disposal at an appropriate off-site facility. Specific sampling and handling and transport procedures for reuse or disposal shall be in accordance with applicable local, state and federal agencies laws, in particular, the Regional Water Quality Control Board (RWQCB) and/or the Alameda County Department of Environmental Health (ACDEH) and policies of the City of Oakland.
- b) Groundwater pumped from the subsurface shall be contained onsite in a secure and safe manner, prior to treatment and disposal, to ensure environmental and health issues are resolved pursuant to applicable laws and policies of the City of Oakland, the RWQCB and/or the ACDEH. Engineering controls shall be utilized, which include impermeable barriers to prohibit groundwater and vapor intrusion into the building (pursuant to the Standard Condition of Approval regarding Radon or Vapor Intrusion from Soil and Groundwater Sources
- c) Prior to issuance of any demolition, grading, or building permit, the applicant shall submit for review and approval by the City of Oakland, written verification that the appropriate federal, state or county oversight authorities, including but not limited to the RWQCB and/or the ACDEH, have granted all required clearances and confirmed that the all applicable standards, regulations and conditions for all previous contamination at the site. The applicant also shall provide evidence from the City's Fire Department, Office of Emergency Services, indicating compliance with the Standard Condition of Approval requiring a Site Review by the Fire Services Division pursuant to City Ordinance No. 12323, and compliance with the Standard Condition of Approval requiring a Phase I and/or Phase II Reports.

**These Development Standards apply to ALL construction projects that include 1) habitable space below the ground AND/OR 2) the redevelopment or reuse of historically industrial or commercial buildings OR 3) Soil and/or Groundwater Hazards**

**69. Radon or Vapor Intrusion from Soil or Groundwater Sources*****Ongoing***

The project applicant shall submit documentation to determine whether radon or vapor intrusion from the groundwater and soil is located on-site as part of the Phase I documents. The Phase I analysis shall be submitted to the Fire Prevention Bureau, Hazardous Materials Unit, for review and approval, along with a Phase II report if warranted by the Phase I report for the project site. The reports shall make recommendations for remedial action, if appropriate, and should be signed by a Registered Environmental Assessor, Professional Geologist, or Professional Engineer. Applicant shall implement the approved recommendations.

**These Development Standards apply to ALL projects that are located within the 2004 Wildfire Assessment District per map located on the L Drive.**

**70. Vegetation Management Plan**

**<http://www.oaklandnet.com/wildfirePrevention/WildfirePreventionAssessmentDistrictMap.pdf>**

***Prior to issuance of a demolition, grading, and/or construction and Ongoing***

- a) The project applicant shall submit a vegetation management plan to the Planning and Zoning Division and Fire Services Division that includes if deemed appropriate, but not limited to the, following measures:
  - i. Removal of dead vegetation overhanging roof and chimney areas;
  - ii. Removal of leaves and needles from roofs;
  - iii. Planting and placement of fire-resistant plants around the house and phasing out flammable vegetation;
  - iv. Trimming back vegetation around windows;
  - v. Removal of flammable vegetation on hillside slopes greater than 20%;
  - vi. Pruning the lower branches of tall trees;
  - vii. Clearing out ground-level brush and debris;
  - viii. Stacking woodpiles away from structures.
  
- b) The project applicant shall enter into a maintenance agreement with the City that ensures that landscaping will be maintained and adhere to measures listed above.

**These Development Standards apply to ALL phased projects (PUD's or projects with Development Agreements):**

**71. Fire Safety Phasing Plan**

***Prior to issuance of a demolition, grading, and/or construction and concurrent with any p-job submittal permit***

The project applicant shall submit a separate fire safety phasing plan to the Planning and Zoning Division and Fire Services Division for their review and approval. The fire safety plan shall include all of the fire safety features incorporated into the project and the schedule for implementation of the features. Fire Services Division may require changes to the plan or may reject the plan if it does not adequately address fire hazards associated with the project as a whole or the individual phase.

**These Development Standards apply to ALL projects that are located within the 2004 Wildfire Assessment District per map located on the L Drive AND are located on project sites identified as creekside properties.**

**72. Vegetation Management Plan on Creekside Properties**

<http://www.oaklandnet.com/wildfirePrevention/DosandDonts.pdf>

***Prior to issuance of a demolition, grading, and/or construction and Ongoing***

- a) The project applicant shall submit a vegetation management plan for review and approval by the Planning and Zoning Division, Fire Services Division, and Environmental Services Division of the Public Works Agency that includes, if deemed appropriate, the following measures:
  - i. Identify and do not disturb a 20-foot creek buffer from the top of the creek bank. If the top of bank cannot be identified, leave a 50-foot buffer from the centerline of the creek or as wide a buffer as possible between the creek centerline and the proposed site development.
  - ii. Identify and leave "islands" of vegetation in order to prevent erosion and landslides and protect nesting habitat.
  - iii. Leave at least 6 inches of vegetation on the site.
  - iv. Trim tree branches from the ground up (limbing up) and leave tree canopy intact.
  - v. Leave stumps and roots from cut down trees to prevent erosion.
  - vi. Plant fire-appropriate, drought-tolerant, preferably native vegetation.
  - vii. Err on the side of caution. If you don't know if a plant, tree or area is sensitive, ask for a second opinion before you cut.
  - viii. Provide erosion and sediment control protection if cutting vegetation on a steep slope.
  - IX. Leave tall shrubbery at least 3-feet high.
  - X. Fence off sensitive plant habitats and creek areas to protect from goat grazing.
  - XI. Obtain a tree protection permit for a protected tree (includes all mature trees except eucalyptus and Monterey pine).
  - XII. Contact the City Tree Department (615-5850) for dead trees.
  - XIII. Do not clear-cut vegetation. This can lead to erosion and severe water quality problems and destroy important habitat.
  - XIV. Do not remove vegetation within 20-feet of the top of bank. If the top of bank cannot be identified, do not cut within 50-feet of the centerline of the creek or as wide a buffer as possible between the creek centerline and the proposed site development.
  - XV. Do not trim/prune branches that are larger than 4 inches in diameter.
  - XVI. Do not remove tree canopy.
  - XVII. Do not dump cut vegetation in a creek.
  - XVIII. Do not cut tall shrubbery to less than 3-feet high.
  - XIX. Do not cut of short vegetation (grasses, ground-cover) to less than 6-inches high.

**73. Fire Safety*****Prior to and ongoing throughout demolition, grading, and/or construction***

The project applicant and construction contractor will ensure that during project construction, all construction vehicles and equipment will be fitted with spark arrestors to minimize accidental ignition of dry construction debris and surrounding dry vegetation.

**These Development Standards apply to ALL projects that involve the handling, storage, or transportation of hazardous materials on-site.**

**74. Hazardous Materials Business Plan*****Prior to issuance of a business license***

The project applicant shall submit a Hazardous Materials Business Plan for review and approval by Fire Prevention Bureau, Hazardous Materials Unit. Once approved this plan shall be kept on file with the City

***Exhibit B***

and will be updated as applicable. The purpose of the Hazardous Materials Business Plan is to ensure that employees are adequately trained to handle the materials and provides information to the Fire Services Division should emergency response be required. The Hazardous Materials Business Plan shall include the following:

- a) The types of hazardous materials or chemicals stored and/or used on site, such as petroleum fuel products, lubricants, solvents, and cleaning fluids.
- b) The location of such hazardous materials.
- c) An emergency response plan including employee training information
- d) A plan that describes the manner in which these materials are handled, transported and disposed.

**These Development Standards apply to ALL projects that disturb one (1) acre or more of surface area:**

#### **75. Stormwater Pollution Prevention Plan (SWPPP)**

*Prior to and ongoing throughout demolition, grading, and/or construction activities*

The project applicant must obtain coverage under the General Construction Activity Storm Water Permit (General Construction Permit) issued by the State Water Resources Control Board (SWRCB). The project applicant must file a notice of intent (NOI) with the SWRCB. The project applicant will be required to prepare a stormwater pollution prevention plan (SWPPP) and submit the plan for review and approval by the Building Services Division. At a minimum, the SWPPP shall include a description of construction materials, practices, and equipment storage and maintenance; a list of pollutants likely to contact stormwater; site-specific erosion and sedimentation control practices; a list of provisions to eliminate or reduce discharge of materials to stormwater; Best Management Practices (BMPs), and an inspection and monitoring program. Prior to the issuance of any construction-related permits, the project applicant shall submit to the Building Services Division a copy of the SWPPP and evidence of submittal of the NOI to the SWRCB. Implementation of the SWPPP shall start with the commencement of construction and continue through the completion of the project. After construction is completed, the project applicant shall submit a notice of termination to the SWRCB.

**These Development Standards apply to ALL projects that involve construction on slopes greater than 20%.**

#### **76. Drainage Plan for Projects on Slopes Greater than 20%**

*Prior to issuance of building permit (or other construction-related permit)*

The project drawings submitted for a building permit (or other construction-related permit) shall contain a drainage plan to be reviewed and approved by the Building Services Division. The drainage plan shall include measures to reduce the post-construction volume and velocity of stormwater runoff to the maximum extent practicable. Stormwater runoff shall not be augmented to adjacent properties or creeks. The drainage plan shall include and identify the following:

- i. All proposed impervious surface on the site;
- ii. Anticipated directional flows of on-site stormwater runoff;
- iii. Site design measures to reduce the amount of impervious surface area and directly connected impervious surfaces;
- iv. Source control measures to limit the potential for stormwater pollution; and
- v. Stormwater treatment measures to remove pollutants from stormwater runoff.

## **77. Erosion, Sedimentation, and Debris Control Measures**

### ***Prior to issuance of demolition, grading, or construction-related permit***

The project applicant shall submit an erosion and sedimentation control plan for review and approval by the Building Services Division. All work shall incorporate all applicable "Best Management Practices (BMPs) for the construction industry, and as outlined in the Alameda Countywide Clean Water Program pamphlets, including BMP's for dust, erosion and sedimentation abatement per Chapter Section 15.04 of the Oakland Municipal Code. The measures shall include, but are not limited to, the following:

### **BASIC (Applies to ALL construction sites)**

- a) On sloped properties, the downhill end of the construction area must be protected with silt fencing (such as sandbags, filter fabric, silt curtains, etc.) and hay bales oriented parallel to the contours of the slope (at a constant elevation) to prevent erosion into the street, gutters, stormdrains.
- b) In accordance with an approved erosion control plan, the project applicant shall implement mechanical and vegetative measures to reduce erosion and sedimentation, including appropriate seasonal maintenance. One hundred (100) percent degradable erosion control fabric shall be installed on all graded slopes to protect and stabilize the slopes during construction and before permanent vegetation gets established. All graded areas shall be temporarily protected from erosion by seeding with fast growing annual species. All bare slopes must be covered with staked tarps when rain is occurring or is expected.
- c) Minimize the removal of natural vegetation or ground cover from the site in order to minimize the potential for erosion and sedimentation problems. Maximize the replanting of the area with native vegetation as soon as possible.
- d) Install filter materials acceptable to the Engineering Division at the storm drain inlets nearest to the project site prior to the start of the wet weather season (October 15); site dewatering activities; street washing activities; saw cutting asphalt or concrete; and in order to retain any debris flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding.
- e) Ensure that concrete/granite supply trucks or concrete/plaster finishing operations do not discharge wash water into the creek, street gutters, or storm drains.
- f) Direct and locate tool and equipment cleaning so that wash water does not discharge into the street, gutters, or stormdrains.
- g) Create a contained and covered area on the site for storage of bags of cement, paints, flammables, oils, fertilizers, pesticides, or any other materials used on the project site that have the potential for being discharged to the storm drain system by the wind or in the event of a material spill. No hazardous waste material shall be stored on site.
- h) Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to stormwater pollution.
- i) Remove all dirt, gravel, refuse, and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work.
- j) Broom sweep the street pavement adjoining the project site on a daily basis. Caked-on mud or dirt shall be scraped from these areas before sweeping. At the end of each workday, the entire

site must be cleaned and secured against potential erosion, dumping, or discharge to the street, gutter, stormdrains.

- k) All erosion and sedimentation control measures implemented during construction activities, as well as construction site and materials management shall be in strict accordance with the control standards listed in the latest edition of the Erosion and Sediment Control Field Manual published by the Regional Water Quality Board (RWQB).
- l) All erosion and sedimentation control measures shall be monitored regularly by the project applicant. The City may require erosion and sedimentation control measures to be inspected by a qualified environmental consultant (paid for by the project applicant) during or after rain events. If measures are insufficient to control sedimentation and erosion then the project applicant shall develop and implement additional and more effective measures immediately

**These Development Standards apply to ALL projects that create or replace LESS than 10,000 square feet of impervious surface or involve construction of one single family home. Exceptions to this standard include the following:**

**a) Sidewalks, bicycle lanes, trails, bridge accessories, guardrails, and landscape features associated with the street;**

**b) Routine maintenance and repair of existing impervious surfaces, including roof and pavement resurfacing and road pavement structural section rehabilitation work within the existing pavement footprint; and**

**c) Reconstruction work within an existing public street right-of-way where both sides of the right-of-way are already developed;**

#### **78. Site Design Measures for Post-Construction Stormwater Management**

##### ***Prior to issuance of building permit (or other construction-related permit)***

The project drawings submitted for a building permit (or other construction-related permit) shall contain a final site plan to be reviewed and approved by Planning and Zoning. The final site plan shall incorporate appropriate site design measures to manage stormwater runoff and minimize impacts to water quality after the construction of the project. These measures may include, but are not limited to, the following:

- i. Minimize impervious surfaces, especially directly connected impervious surfaces;
- ii. Utilize permeable paving in place of impervious paving where appropriate;
- iii. Cluster buildings;
- iv. Preserve quality open space; and
- v. Establish vegetated buffer areas.

##### ***Ongoing***

The approved plan shall be implemented and the site design measures shown on the plan shall be permanently maintained.

#### **79. Source Control Measures to Limit Stormwater Pollution**

##### ***Prior to issuance of building permit (or other construction-related permit)***

The applicant shall implement and maintain all structural source control measures imposed by the Chief of Building Services to limit the generation, discharge, and runoff of stormwater pollution.

##### ***Ongoing***

The applicant, or his or her successor, shall implement all operational Best Management Practices (BMPs) imposed by the Chief of Building Services to limit the generation, discharge, and runoff of stormwater pollution.

**These Development Standards apply to ALL projects 1) where the application for a zoning permit was deemed complete on or after February 15, 2005 that create or replace 1 acre or MORE of impervious surface or 2) that the application for a zoning permit was deemed complete on or after August 15, 2006 that create or replace 10,000 square feet or more of impervious surface. Exception include the following:**

- a) Sidewalks, bicycle lanes, trails, bridge accessories, guardrails, and landscape features associated with the street.**
- b) Routine maintenance and repair of existing impervious surfaces, including roof and pavement resurfacing and road pavement structural section rehabilitation work within the existing pavement footprint; and**
- c) Reconstruction work within an existing public street right-of-way where both sides of the right-of-way are already developed.**

#### **80. Post-Construction Stormwater Management Plan**

##### ***Prior to issuance of building permit (or other construction-related permit)***

The applicant shall comply with the requirements of Provision C.3 of the National Pollutant Discharge Elimination System (NPDES) permit issued to the Alameda Countywide Clean Water Program. The applicant shall submit with the application for a building permit (or other construction-related permit) a completed Construction-Permit-Phase Stormwater Supplemental Form to the Building Services Division. The project drawings submitted for the building permit (or other construction-related permit) shall contain a stormwater management plan, for review and approval by the City, to manage stormwater run-off and to limit the discharge of pollutants in stormwater after construction of the project to the maximum extent practicable.

- a) The post-construction stormwater management plan shall include and identify the following:
  - i. All proposed impervious surface on the site;
  - ii. Anticipated directional flows of on-site stormwater runoff; and
  - iii. Site design measures to reduce the amount of impervious surface area and directly connected impervious surfaces; and
  - iv. Source control measures to limit the potential for stormwater pollution;
  - v. Stormwater treatment measures to remove pollutants from stormwater runoff; and
  - vi. Hydromodification management measures so that post-project stormwater runoff does not exceed the flow and duration of pre-project runoff, if required under the NPDES permit.
- b) The following additional information shall be submitted with the post-construction stormwater management plan:
  - i. Detailed hydraulic sizing calculations for each stormwater treatment measure proposed; and
  - ii. Pollutant removal information demonstrating that any proposed manufactured/mechanical (i.e. non-landscape-based) stormwater treatment measure, when not used in combination with a landscape-based treatment measure, is capable of removing the range of pollutants typically removed by landscape-based treatment measures and/or the range of pollutants expected to be generated by the project.

All proposed stormwater treatment measures shall incorporate appropriate planting materials for stormwater treatment (for landscape-based treatment measures) and shall be designed with considerations for vector/mosquito control. Proposed planting materials for all proposed landscape-based stormwater treatment measures shall be included on the landscape and irrigation plan for the project. The applicant is not required to include on-site stormwater treatment measures in the post-construction stormwater



management plan if he or she secures approval from Planning and Zoning of a proposal that demonstrates compliance with the requirements of the City's Alternative Compliance Program.

***Prior to final permit inspection***

The applicant shall implement the approved stormwater management plan.

**81. Maintenance Agreement for Stormwater Treatment Measures**

***Prior to final zoning inspection***

For projects incorporating stormwater treatment measures, the applicant shall enter into the "Standard City of Oakland Stormwater Treatment Measures Maintenance Agreement," in accordance with Provision C.3.e of the NPDES permit, which provides, in part, for the following:

- i. The applicant accepting responsibility for the adequate installation/construction, operation, maintenance, inspection, and reporting of any on-site stormwater treatment measures being incorporated into the project until the responsibility is legally transferred to another entity; and
- ii. Legal access to the on-site stormwater treatment measures for representatives of the City, the local vector control district, and staff of the Regional Water Quality Control Board, San Francisco Region, for the purpose of verifying the implementation, operation, and maintenance of the on-site stormwater treatment measures and to take corrective action if necessary. The agreement shall be recorded at the County Recorder's Office at the applicant's expense.

**These Development Standards apply to ALL projects that involve a Creek Protection Permit**

**82. Erosion, Sedimentation, and Debris Control Measures**

***Prior to issuance of demolition, grading, or construction-related permit***

The project applicant shall submit an erosion and sedimentation control plan for review and approval by the Building Services Division. All work shall incorporate all applicable "Best Management Practices (BMPs) for the construction industry, and as outlined in the Alameda Countywide Clean Water Program pamphlets, including BMP's for dust, erosion and sedimentation abatement per Chapter Section 15.04 of the Oakland Municipal Code. The measures shall include, but are not limited to, the following:

**BASIC (Applies to ALL construction sites)**

- a) On sloped properties, the downhill end of the construction area must be protected with silt fencing (such as sandbags, filter fabric, silt curtains, etc.) and hay bales oriented parallel to the contours of the slope (at a constant elevation) to prevent erosion into the creek.
- b) In accordance with an approved erosion control plan, the project applicant shall implement mechanical and vegetative measures to reduce erosion and sedimentation, including appropriate seasonal maintenance. One hundred (100) percent degradable erosion control fabric shall be installed on all graded slopes to protect and stabilize the slopes during construction and before permanent vegetation gets established. All graded areas shall be temporarily protected from erosion by seeding with fast growing annual species. All bare slopes must be covered with staked tarps when rain is occurring or is expected.
- c) Minimize the removal of natural vegetation or ground cover from the site in order to minimize the potential for erosion and sedimentation problems. Maximize the replanting of the area with native vegetation as soon as possible.

- d) All work in or near creek channels must be performed with hand tools and by a minimum number of people. Immediately upon completion of this work, soil must be repacked and native vegetation planted.
- e) Install filter materials (such as sandbags, filter fabric, etc.) acceptable to the Engineering Division at the storm drain inlets nearest to the project site prior to the start of the wet weather season (October 15); site dewatering activities; street washing activities; saw cutting asphalt or concrete; and in order to retain any debris flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding.
- f) Ensure that concrete/granite supply trucks or concrete/plaster finishing operations do not discharge wash water into the creek, street gutters, or storm drains.
- g) Direct and locate tool and equipment cleaning so that wash water does not discharge into the creek.
- h) Create a contained and covered area on the site for storage of bags of cement, paints, flammables, oils, fertilizers, pesticides, or any other materials used on the project site that have the potential for being discharged to the storm drain system by the wind or in the event of a material spill. No hazardous waste material shall be stored on site.
- i) Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to stormwater pollution.
- j) Remove all dirt, gravel, refuse, and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work.
- k) Broom sweep the street pavement adjoining the project site on a daily basis. Caked-on mud or dirt shall be scraped from these areas before sweeping. At the end of each workday, the entire site must be cleaned and secured against potential erosion, dumping, or discharge to the creek, street, gutter, stormdrains.
- l) All erosion and sedimentation control measures implemented during construction activities, as well as construction site and materials management shall be in strict accordance with the control standards listed in the latest edition of the Erosion and Sediment Control Field Manual published by the Regional Water Quality Board (RWQB).
- m) Temporary fencing is required for sites without existing fencing between the creek and the construction site and shall be placed along the side adjacent to construction (or both sides of the creek if applicable) at the maximum practical distance from the creek centerline. This area shall not be disturbed during construction without prior approval of Planning and Zoning.
- n) All erosion and sedimentation control measures shall be monitored regularly by the project applicant. The City may require erosion and sedimentation control measures to be inspected by a qualified environmental consultant (paid for by the project applicant) during or after rain events. If measures are insufficient to control sedimentation and erosion then the project applicant shall develop and implement additional and more effective measures immediately.

**These Development Standards apply to ALL projects that involve a Category III and IV Creek Protection permit.**

**83. Creek Protection Plan**

<http://www.oaklandpw.com/creeks>

*Prior to and ongoing throughout demolition, grading, and/or construction activities*

- a) The approved creek protection plan shall be included in the project drawings submitted for a building permit (or other construction-related permit). The project applicant shall implement the creek protection plan to minimize potential impacts to the creek during and after construction of the project. The plan shall fully describe in plan and written form all erosion, sediment, stormwater, and construction management measures to be implemented on-site.
- b) If the plan includes a stormwater system, all stormwater outfalls shall include energy dissipation that slows the velocity of the water at the point of outflow to maximize infiltration and minimize erosion. The project shall not result in a substantial increase in stormwater runoff volume or velocity to the creek or storm drains.

**84. Regulatory Permits and Authorizations**

*Prior to issuance of a demolition, grading, or building permit within vicinity of the creek*

Prior to construction within the vicinity of the creek, the project applicant shall obtain all necessary regulatory permits and authorizations from the U.S. Army Corps of Engineers (Corps), Regional Water Quality Control Board (RWQCB), California Department of Fish and Game, and the City of Oakland, and shall comply with all conditions issued by applicable agencies. Required permit approvals and certifications may include, but not be limited to the following:

- a) U.S. Army Corps of Engineers (Corps): Section 404. Permit approval from the Corps shall be obtained for the placement of dredge or fill material in Waters of the U.S., if any, within the interior of the project site, pursuant to Section 404 of the federal Clean Water Act.
- b) Regional Water Quality Control Board (RWQCB): Section 401 Water Quality Certification. Certification that the project will not violate state water quality standards is required before the Corps can issue a 404 permit, above.
- c) California Department of Fish and Game (CDFG): Section 1602 Lake and Streambed Alteration Agreement. Work that will alter the bed or bank of a stream requires authorization from CDFG.

**85. Creek Monitoring**

*Prior to issuance of a demolition, grading, or building permit within vicinity of the creek*

A qualified geotechnical engineer and/or environmental consultant shall be retained and paid for by the project applicant to make site visits during all grading activities; and as a follow-up, submit to the Building Services Division a letter certifying that the erosion and sedimentation control measures set forth in the Creek Protection Permit submittal material have been instituted during the grading activities.

**86. Creek Landscaping Plan**

*Prior to issuance of a demolition, grading, or building permit within vicinity of the creek*

The project applicant shall develop a final detailed landscaping and irrigation plan for review and approval by the Planning and Zoning Division prepared by a licensed landscape architect or other qualified person. Such a plan shall include a planting schedule, detailing plant types and locations, and a system for temporary irrigation of plantings.

- a) Plant and maintain only drought-tolerant plants on the site where appropriate as well as native and riparian plants in and adjacent to riparian corridors. Along the riparian corridor, native plants shall not be disturbed to the maximum extent feasible. Any areas disturbed along the riparian corridor shall be replanted with mature native riparian vegetation and be maintained to ensure survival.
- b) All landscaping indicated on the approved landscape plan shall be installed prior to the issuance of a Final inspection of the building permit, unless bonded pursuant to the provisions of Section 17.124.50 of the Oakland Planning Code.
- c) All landscaping areas shown on the approved plans shall be maintained in neat and safe conditions, and all plants shall be maintained in good growing condition and, whenever necessary replaced with new plant materials to ensure continued compliance with all applicable landscaping requirements. All paving or impervious surfaces shall occur only on approved areas.

**These Development Standards apply to ALL projects that involve a Creek Protection Permit AND dewatering or diversion of water.**

#### **87. Creek Dewatering and Aquatic Life**

*Prior to the start of and ongoing throughout any in-water construction activity*

- a) If any dam or other artificial obstruction is constructed, maintained, or placed in operation within the stream channel, ensure that sufficient water is allowed to pass down channel at all times to maintain aquatic life (native fish, native amphibians, and western pond turtles) below the dam or other artificial obstruction.
- b) The project applicant shall hire a biologist, and obtain all necessary State and federal permits (e.g. CDFG Scientific Collecting Permit), to relocate all native fish/native amphibians/pond turtles within the work site, prior to dewatering. The applicant shall first obtain a project-specific authorization from the CDFG and/or the USFWS, as applicable to relocate these animals. Captured native fish/native amphibians/pond turtles shall be moved to the nearest appropriate site on the stream channel downstream. The biologist/contractor shall check daily for stranded aquatic life as the water level in the dewatering area drops. All reasonable efforts shall be made to capture and move all stranded aquatic life observed in the dewatered areas. Capture methods may include fish landing nets, dip nets, buckets, and by hand. Captured aquatic life shall be released immediately in the nearest appropriate downstream site. This condition does not allow the take or disturbance of any state or federally listed species, nor state-listed species of special concern, unless the applicant obtains a project specific authorization from the CDFG and/or the USFWS, as applicable.

#### **88. Creek Dewatering and Diversion**

*Prior to the start of any in-water construction activities*

If installing any dewatering or diversion device(s), the project applicant shall develop and implement a detailed dewatering and diversion plan for review and approval by the Building Services Division. All proposed dewatering and diversion practices shall be consistent with the requirements of the Streambed Alteration Agreement issued by the California Department of Fish and Game.

- a) Ensure that construction and operation of the devices meet the standards in the latest edition of the Erosion and Sediment Control Field Manual published by the Regional Water Quality Control Board (RWQCB).
- b) Construct coffer dams and/or water diversion system of a non-erodable material which will cause little or no siltation. Maintain coffer dams and the water diversion system in place and functional throughout

the construction period. If the coffer dams or water diversion system fail, repair immediately based on the recommendations of a qualified environmental consultant. Remove devices only after construction is complete and the site stabilized.

- c) Pass pumped water through a sediment settling device before returning the water to the stream channel. Provide velocity dissipation measures at the outfall to prevent erosion.

**These Development Standards apply to ALL projects that involve new construction within the 100 year flood plain as mapped on a Federal Hazard Boundary, Flood Insurance Rate Map, or other flood hazard delineation map. See Arcview for the 100 and 500 year flood layer.**

#### **89. Regulatory Permits and Authorizations**

##### ***Prior to issuance of a demolition, grading, or building permit***

Prior to construction within the floodway or floodplain, the project applicant shall obtain all necessary regulatory permits and authorizations from the Alameda County Flood Control and Water Conservation District and shall comply with all conditions issued by that agency.

#### **90. Structures within a Floodplain**

##### ***Prior to issuance of a demolition, grading, or building permit***

- a) The project applicant shall retain the civil engineer of record to ensure that the project's development plans and design contain finished site grades and floor elevations that are elevated above the Base Flood Elevation (BFE) if established within a 100-year flood event.
- b) The project applicant shall submit final hydrological calculations that ensure that the structure will not interfere with the flow of water or increase flooding.

**These Development Standards apply to ALL projects that involve a new connection to the City's stormwater and sewer system.**

#### **91. Stormwater and Sewer**

##### ***Prior to completing the final design for the project's sewer service***

Confirmation of the capacity of the City's surrounding stormwater and sanitary sewer system and state of repair shall be completed by a qualified civil engineer with funding from the project applicant. The project applicant shall be responsible for the necessary stormwater and sanitary sewer infrastructure improvements to accommodate the proposed project. In addition, the applicant shall be required to pay additional fees to improve sanitary sewer infrastructure if required by the Sewer and Stormwater Division. Improvements to the existing sanitary sewer collection system shall specifically include, but are not limited to, mechanisms to control or minimize increases in infiltration/inflow to offset sanitary sewer increases associated with the proposed project. To the maximum extent practicable, the applicant will be required to implement Best Management Practices to reduce the peak stormwater runoff from the project site. Additionally, the project applicant shall be responsible for payment of the required installation or hook-up fees to the affected service providers.

**These Development Standards apply to ALL projects (new, infill, change of use, and remodeling) that are located within the Southeast Oakland Hills TIF/TIF area per the map located on the L Drive. The area generally extends along both sides of the I-580**

**freeway corridor between the Seminary Avenue and the 98th Avenue interchanges. Exceptions to this standard include the following:**

- a) Affordable housing units;
- b) Residential remodeling where there is no change in use or the number of units;
- c) Reconstruction of a razed structure if proof of destruction is submitted that shows the destruction of the house prior to the Ordinance.

**92. Traffic Fairshare for Projects Located in Southeast Oakland**

*Prior to the issuance of a certificate of occupancy*

Project applicants shall submit fair share traffic payments to the City in accordance with Chapter 10.70 of the Oakland Municipal Code for funding capital improvement projects to accommodate future traffic demand in the area.

**These Development Standards apply to ALL projects that involve any new construction (residential, commercial, or industrial); AND**

**includes a geologic hazard, as defined in California Public Resource Section 26507, as an actual or threatened landslide, land subsidence, soil erosion, earthquake, fault movement, or any other natural or unnatural movement of land or earth; AND**

**technical, environmental peer review, or other applicable report pertaining to the actual or threatened geologic hazard specify the need to require a GHAD OR a greater than normal degree of construction attention, monitoring of the site, or maintenance of project improvements.**

**93. Oakland Area Geologic Hazards Abatement District (GHAD)**

*Prior to the approval of the final map*

Prior to approval of the final map, the project shall complete annexation into the Oakland Area GHAD and provide evidence that all assessments, reserves and other requirements necessary to fund the GHAD with respect to the annexed properties have been established and authorized. The applicant shall prepare a Plan of Control, as defined in Public Resource Code Section 26509 which shall specify all anticipated operations and maintenance responsibilities of the GHAD for the annexed properties.

- a) The applicant shall provide an initial funding on the annexed properties in the amount to be determined by the City Engineer in accordance with the Plan of Control and the Engineer's Report for the annexed properties which shall be no later than the recordation of the final map for the project.
- b) The Engineer's Report shall identify the projected costs and a budget for GHAD operations and reserve accumulation for the annexed properties.
- c) The Engineer's Report shall include costs for the services of the project manager, attorney and treasurer/clerk for the GHAD.

The applicant shall request the GHAD to defend, hold harmless, and indemnify the Indemnified Parties (as that is defined in Condition #7 and their insurers against any and all liability, damages, claims, demands, judgments, losses, ("Indemnified GHAD claims") or other forms of legal or equitable relief related to the operation (including, without limitation, maintenance of GHAD owned property) of a the annexed properties and in the case of the City Council members, actions taken by said members while acting as the GHAD Board of Directors. This indemnity shall include, without limitation, payment of litigation expenses associated with any action herein. The Indemnified Parties shall have the right to select counsel to represent the Indemnified

**Exhibit B**

Parties, at the GHAD's expense, in defense of any action specified in this condition of approval insert condition of approval number. The Indemnified Parties shall take all reasonable steps to promptly notify the GHAD of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval. Within 90 days of the annexation to the GHAD, the applicant shall request the GHAD to enter into an Indemnification Agreement in a form acceptable to the City Attorney to establish in more specific detail the terms and conditions of the GHAD's indemnification obligations set forth herein. Any failure of any party to timely execute such Indemnification Agreement shall not be construed to limit any right or obligation otherwise specified in these Conditions of Approval.

**These Development Standards apply to ALL new residential uses and sensitive land uses such as schools, daycare centers, playgrounds, and medical facilities located closer than the recommended buffer to any stationary sources of air pollution listed below, based on the California Air Resources Board's June 2005 Air Quality and Land Use Handbook: A Community Health Perspective and subsequent amendments to the California Code of Regulations:**

- a) Within 500' of a freeway or urban roads with 100,000 vehicles/day or within 500' of a railline (except BART) with over 30 trains per day;
- b) Within 1000' from a distribution center that accommodates more than 100 trucks per day, more than 40 trucks with operating refrigeration units (TRU) per day, or where the TRU unit operations exceed 300 hours per week;
- c) Within 1000' of a major service and maintenance rail or truck yard;
- d) Immediately downwind from ports;
- e) Immediately downwind from petroleum refineries;
- f) Within 300' of a chrome plater;
- g) Within 300' of a dry cleaning operation using Perchloroethylene (Perc Dry Cleaners) with one (1) machine; 500' separation for an operation with two (2) machines. (Perc dry cleaning operations with 3 or more machines should contact the air district for the required separation.)
- h) Within 300' of a large gas station facility with a throughput of 3.6 million gallons per year or greater.

**NOTE: One source for stationary sources of air pollution includes [www.arb.ca.gov/ch/chapis1/chapis1.htm](http://www.arb.ca.gov/ch/chapis1/chapis1.htm)**

#### 94. Indoor Air Quality

In order to comply with the California Air Resources Board Air Quality and Land Use Handbook (June 2005) and achieve an acceptable interior air quality level for sensitive receptors, appropriate measures, shall be incorporated into project building design. The appropriate measures shall include one of the following methods:

- a) The project applicant shall retain a qualified air quality consultant to prepare a health risk assessment (HRA) in accordance with the California Air Resources Board and the Office of Environmental Health and Hazard Assessment requirements to determine the exposure of project residents/occupants/users to stationary air quality pollutants prior to issuance of a demolition, grading, or building permit. The HRA shall be submitted to the Planning and Zoning Division for review and approval. The applicant shall

implement the approved HRA recommendations, if any. If the HRA concludes that the air quality risks from nearby sources are at or below acceptable levels, then additional measures are not required.

- b) The applicant shall implement the following features that have been found to reduce the air quality risk to sensitive receptors and shall be included in the project construction plans. These shall be submitted to the Planning and Zoning Division and the Building Services Division for review and approval prior to the issuance of a demolition, grading, or building permit and ongoing.
  - a) Do not locate sensitive receptors near distribution center's entry and exit points.
  - b) Do not locate sensitive receptors in the same building as a perchloroethylene dry cleaning facility.
  - c) Maintain a 50' buffer from a typical gas dispensing facility (under 3.6 million gallons of gas per year).
  - d) Install, operate and maintain in good working order a central heating and ventilation (HV) system or other air take system in the building, or in each individual residential unit, that meets the efficiency standard of the MERV 13. The HV system shall include the following features: Installation of a high efficiency filter and/or carbon filter to filter particulates and other chemical matter from entering the building. Either HEPA filters or ASHRAE 85% supply filters shall be used.
  - e) Retain a qualified HV consultant or HERS rater during the design phase of the project to locate the HV system based on exposure modeling from the mobile and/or stationary pollutant sources.
  - f) Maintain positive pressure within the building.
  - g) Achieve a performance standard of at least one air exchange per hour of fresh outside filtered air.
  - h) Achieve a performance standard of at least 4 air exchanges per hour of recirculation
  - i) Achieve a performance standard of .25 air exchanges per hour of in unfiltered infiltration if the building is not positively pressurized.
  - j) Project applicant shall maintain, repair and/or replace HV system or prepare an Operation and Maintenance Manual for the HV system and the filter. The manual shall include the operating instructions and maintenance and replacement schedule. This manual shall be included in the CC&R's for residential projects and distributed to the building maintenance staff. In addition, the applicant shall prepare a separate Homeowners Manual. The manual shall contain the operating instructions and maintenance and replacement schedule for the HV system and the filters. It shall also include a disclosure to the buyers of the air quality analysis findings.

**95. Air Pollution Buffering for Private Open Space**

***Prior to approval of Final Development Plan for each stage***

To the maximum extent practicable, private (individual and common) exterior open space, including playgrounds, patios, and decks, shall either be shielded from the stationary source of air pollution by buildings or otherwise buffered to further reduce air pollution for project occupants.

**APPROVED BY:**

City Planning Commission: \_\_\_\_\_ (date) \_\_\_\_\_ (vote)  
 City Council: \_\_\_\_\_ (date) \_\_\_\_\_ (vote)



**Applicant and/or Contractor Statement**

I have read and accept responsibility for the Conditions of Approval, as approved by Planning Commission action on   Date  . I agree to abide by and conform to these conditions, as well as to all provisions of the

Oakland Zoning Code and Municipal Code pertaining to the project.

Signature of Owner/Applicant: \_\_\_\_\_ (date)  
Signature of Contractor \_\_\_\_\_ (date)

MPW

## NOTICE AND DIGEST

**PUBLIC HEARING FOR ADOPTION OF VARIOUS PLANNING CODE TEXT AMENDMENTS, INCLUDING : A) ADDING EXTENSIVE IMPACT CIVIC ACTIVITIES AS A CONDITIONALLY PERMITTED ACTIVITY TO THE C-45 AND C-55 ZONES; B) ADDING ANIMAL CARE COMMERCIAL ACTIVITIES AS A CONDITIONALLY PERMITTED ACTIVITY TO THE C-36 ZONE; C) REDUCING THE TIME THAT AN AUTOMOTIVE SERVICING, OR A REPAIR AND CLEANING ACTIVITY, MAY BE DISCONTINUED BEFORE IT LOSES ITS LEGAL, NON-CONFORMING STATUS IN THE S-5 BROADWAY RETAIL FRONTAGE ZONE; D) MAKING PERMANENT AN EMERGENCY ORDINANCE THAT CREATES SPECIAL VARIANCE FINDINGS AND EXPEDITED APPEAL PROCEDURES FOR SIGNS; E) CLARIFYING THAT UNIFORMLY APPLIED DEVELOPMENT STANDARDS/STANDARD CONDITIONS OF APPROVAL ARE AUTOMATICALLY IMPOSED ON ALL APPLICATIONS, INCLUDING THOSE "DEEMED APPROVED" UNDER THE STATE PERMIT STREAMLINING ACT; AND F) VARIOUS AMENDMENTS WHICH CODIFY ADMINISTRATIVE PRACTICE, UPDATE REFERENCES, CLARIFY LANGUAGE, AND OTHER CHANGES.**

The proposed amendments to the Oakland Planning Code include updating references, improving consistency among chapters, clarifying language and codifying current administrative practice. Other amendments include: conditionally permitting Extensive Impact Civic activities in C-45 and C-55 Zones; conditionally permitting Animal Care Commercial activities in the C-36 Zone; reducing the amount a of time a automotive servicing or repair business on Broadway Auto Row can be discontinued before losing its legal, non-conforming status; create special sign variance findings and procedures; codify the Uniformly Applied Development Standards/Standard Conditions of Approval; and other changes.