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OAKLAND

2010 JUL 15 PM 3:48

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

CORRECTED 7-20-10  
APPROVED AS TO FORM AND LEGALITY

*Mark P. Ward*

City Attorney

**OAKLAND CITY COUNCIL**  
**ORDINANCE No. 13028 e.M.S.**

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**AN ORDINANCE, RECOMMENDED BY THE PLANNING COMMISSION, TO (A) AMEND SECTION 17.136.075 OF THE OAKLAND PLANNING CODE AND MAKE OTHER RELATED AMENDMENTS TO THE PLANNING CODE AND BUILDING AND CONSTRUCTION CODE (CHAPTER 15.36 OF THE OAKLAND MUNICIPAL CODE) RELATING TO REQUIRED FINDINGS FOR THE DEMOLITION OF HISTORIC STRUCTURES; AND (B) ADOPT ADMINISTRATIVE SUBMITTAL REQUIREMENT FOR APPLICATIONS TO DEMOLISH HISTORIC STRUCTURES.**

**WHEREAS,** The Historic Preservation Element (HPE) of the General Plan was adopted in 1994 (and amended in 1998) and provides a strategy to preserve the City's historic resources; and

**WHEREAS,** the HPE contains policies regarding the demolition of historic resources; and

**WHEREAS,** the proposed code amendments will implement the policies of the HPE; and

**WHEREAS,** historic properties and neighborhoods are important economic and cultural resources for Oakland; and

**WHEREAS,** standardization of the application requirements and findings will make the review of applications for demolitions more efficient; and

**WHEREAS,** this ordinance complies with the California Environmental Quality Act (CEQA) for the reasons stated in the June 8, 2010 City Council Agenda Report and summarized below; and

**WHEREAS,** The Landmarks Preservation Advisory Board held six duly noticed public hearings to develop findings required to be met to demolish a historic resource and materials required to be submitted with an application to demolish a historic resource; and

**WHEREAS,** after a duly noticed public hearing on January 20, 2010, the Zoning Update Committee recommended referring the proposed findings and submittal requirements to the Planning Commission; and

**WHEREAS**, after a duly noticed public hearing on April 7, 2010, the Planning Commission voted 5-0 to recommend adoption of the proposed findings and submittal requirements to the City Council; and

**WHEREAS**, after duly noticed public meetings on June 8, 2010 and June 22, 2010, the Community and Economic Development Committee voted to recommend the proposal to the City Council; and

**WHEREAS**, the City Council held a duly noticed public hearing on July 6, 2010 to consider the proposal; now therefore

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

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

**Section 2.** The Oakland Planning Code is hereby amended to include required findings for the demolition of certain historic structures and other related changes and the Building and Construction Code of the Oakland Municipal Code, is also amended, as detailed in **Exhibit A**, attached hereto and hereby incorporated herein by reference.

**Section 3.** New submittal requirements, as detailed in **Exhibit B**, attached hereto and hereby incorporated herein by reference, are hereby adopted for a demolition of a Potentially Designated Historic Property and Designated Historic Property. The Planning Director is authorized to make modifications to these requirements that are consistent with the spirit and intent of the requirements.

**Section 4.** The proposal relies on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998); the Final Environmental Report for the 1998 Amendment to the Historic Preservation Element of the General Plan; and the Housing Element Update Initial Study/Mitigated Negative Declaration (2004). As a separate and independent basis, the proposal is also exempt from CEQA pursuant to CEQA Guidelines Section 15183 “Projects Consistent with a Community Plan, General Plan or Zoning” and/or 15061(b)(3)(General Rule—no possibility of significant environmental impact. The Environmental Review Officer is directed to file a Notice of Determination/Exemption with the County Clerk.

**Section 5.** This Ordinance shall be effective 30 days from the date of final passage by the City Council, but shall not apply to (a) building/construction related permits already issued and not yet expired; (b) to zoning applications approved by the City and not yet expired; or to (c) zoning applications deemed complete by the City as of the date of final passage. However, zoning applications deemed complete by the City prior to the date of final passage of this Ordinance may be processed under provisions of these Planning Code amendments if the applicant chooses to do so.

**Section 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 no affect the validity of the remaining portions which shall remain in full effect.

**Section 8.** The City Council finds and determines that the proposals in Exhibits A and B will implement the policies presented in the General Plan.

**Section 9.** 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 11.** That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City's decision is based are respectively: (a) the Community and Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland; and (b) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 20 2010

**PASSED BY THE FOLLOWING VOTE:**

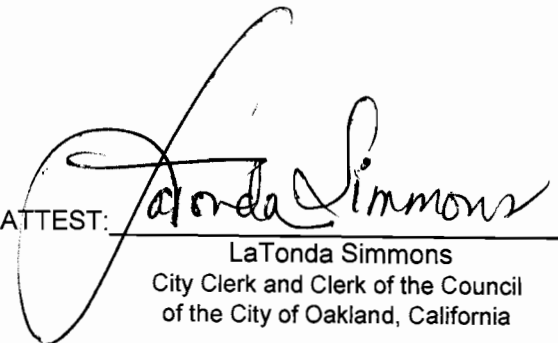
AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER — 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

Introduction Date JUL 6 2010

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

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

mfw

**EXHIBIT A**  
**AMENDMENTS TO THE PLANNING AND MUNICIPAL CODES**  
**7-6-10 City Council Meeting**

Additions to the codes are underlined; deletions are in ~~strikeout~~.

**OAKLAND PLANNING CODE**

**Chapter 17.136**

**DESIGN REVIEW PROCEDURE**

**17.136.025 Exemptions from Design Review.**

A. **Applicability.** A proposal will be exempt from design review if it meets each of the provisions set forth below. All such determinations are final and not appealable:

1. The proposal is limited to one or more of the types of work listed as exempt from design review in Section 17.136.025B;
2. The proposal does not require Regular Design Review, a conditional use permit or variance, pursuant to the zoning regulations of Title 17 of the Oakland Planning code;
3. The proposal is determined exempt from the California Environmental Quality Act (CEQA);
4. All exterior treatments visually match the existing or historical design of the building; and
5. The proposal will not have a significant effect on the ~~property's~~ structure's character-defining elements. "Character-defining elements" are those features of design, materials, workmanship, setting, location, and association that identify a ~~property~~ structure as representative of its period and contribute to its visual distinction or historical significance.

B. **Definition.** The following types of work are exempt from design review, pursuant to all provisions in Section 17.136.025(A):

1. Additions or Alterations.
  - a. Projects not requiring a building permit, except if otherwise specified below;
  - b. Repair or replacement of existing building components in a manner that visually matches the existing or historical design of the ~~building~~ structure;
  - c. After notice to the Director of City Planning, demolition or removal of either:
    - i) structures declared to be unsafe by the Building Official or the City Council. "Unsafe structures" means structures found by the Building Official or the City Council, to require immediate issuance of a demolition permit to protect the public health and safety; or
    - ii) structures declared be a public nuisance by the Building Official or City Council that are not Designated Historic Properties or Potentially Designated Historic Properties. Demolition or removal of structures on a site where neither the demolition or replacement project requires any discretionary zoning approvals, pursuant to Title 17 of the Oakland Planning Code; or demolition or removal of structures declared to be unsafe or a public nuisance by a City Department, their respective appeals boards or the City Council;

d. Secondary Units of five hundred (500) square feet or less on a lot with only one existing or proposed primary dwelling unit, pursuant to all regulations in Section 17.102.360;

e. Floor area additions within the existing building envelope not involving the creation of a living unit;

f. Cumulative additions over a three (3) year period not involving the creation of a dwelling unit that are outside the existing building envelope and equal no more than ten percent (10%) of the total floor area or footprint on site;

g. For Commercial, Civic, or Industrial Facilities and the Non-residential Portions of Mixed-Use Development Projects, any addition or alteration on a roof that does not project above the existing parapet walls; and any addition or alteration not otherwise exempt which is used as a loading dock, recycling area, utility area, or similar open structure addition that is no higher than six (6) feet above finished grade, less than five hundred (500) square feet in floor area or footprint, and is visually screened from neighboring properties; such exemptions shall only be permitted where the proposal conforms with all Buffering regulations in Chapter 17.110 and all Performance Standards in Chapter 17.120;

h. Areas of porch, deck or balcony with a surface that is less than thirty (30) inches above finished grade.

2. Signs.

a. A change of sign face copy or new sign face within an existing Advertisement Sign or a change of sign face copy within Business or Civic Sign structures so long as the structure and framework of the sign remain unchanged and the new sign face duplicates the colors of the original or, in the case of an internally illuminated sign, the letter copy is light in color and the background is dark;

b. Installation, alteration or removal of Realty Signs, Development Signs, holiday decorations, displays behind a display window and, except as otherwise provided in Section 17.114.120(C), for mere changes of copy, including cutouts, on Signs which customarily involve periodic changes of copy;

c. New or modified Signs conforming to an approved Master Sign Program, pursuant to Section 17.104.070.

3. Other Projects.

a. Sidewalk Cafes that have a maximum of five (5) tables and no more than fifteen (15) chairs and/or do not have any permanent structures in the public right of way, pursuant to Section 17.102.335.

b. Solar Power Production Equipment. The installation of Solar Power Production Equipment is exempt from design review within any zoning district.

**17.136.030 Small Project Design Review.**

A. **Applicability.** "Small Project Design Review" shall apply to proposals that do not qualify for an exemption from design review as set forth in Section 17.136.025, or require Regular Design Review as either determined by the Director of City Planning or as set forth in Section 17.136.040. "Small Project Design Review" proposals shall meet all of the following provisions:

1. The proposal is limited to one or more of the types of work listed as a “Small Project” in Section 17.136.030(B);
2. The proposal does not require a conditional use permit or variance, pursuant to the zoning regulations of Title 17 of the Oakland Planning code;
3. The proposal is determined exempt from the California Environmental Quality Act (CEQA). and
4. The proposal will not have a significant effect on the property’s character-defining elements. “Character-defining elements” are those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance.

**B. Definition of “Small Project”.** Small Projects are limited to one or more of the following types of work:

1. Additions or Alterations.
  - a. Repair or replacement of existing building components in a manner that is compatible with, but not necessarily identical to, the property’s existing or historical design;
  - b. Except as otherwise specified in Sections 17.136.025, and 17.136.040, demolition or removal of structures not involving a ~~Local Register Property~~ Designated Historic Property or Potential Designated Historic Property, on a site where the zoning regulations require design review to alter the exterior appearance of the applicable building facility, regardless of whether the owner intends to create a surface parking lot or a vacant lot pursuant to Section 15.36.080;
  - c. Cumulative additions over a three (3) year period not involving the creation of a dwelling unit that are outside the existing building envelope and equal more than ten percent (10%) of the total floor area or footprint on site, but do not exceed one thousand (1000) square feet or one hundred percent (100%) of the total floor area or footprint on site, whichever is less;
  - d. Secondary Units of more than five hundred (500) square feet in floor area, but not exceeding nine hundred (900) square feet or fifty percent (50%) of the floor area of the primary dwelling unit, whichever is less, pursuant to all regulations in Section 17.102.360;
  - e. For commercial, civic, or industrial facilities and the non-residential portions of mixed-use development projects, changes to storefronts or street-fronting facades, such as: (i) replacement or construction of doors, windows; bulkheads and nonstructural wall infill, or (ii) restoration of documented historic fabric.
2. Fences, barriers, and similar freestanding walls.
  - a. For Residential Zones and Residential Facilities, any fence, barrier, or similar freestanding wall exceeding forty-two (42) inches in height in the front yard and street-side yards, but not exceeding six (6) feet in height, pursuant to Section 17.108.140;
  - b. For Commercial Zones, Industrial Zones, and S-1, S-2, S-3, and S-15 Zones, any fence, barrier, or similar freestanding wall exceeding eight (8) feet in height within ten (10) feet of any abutting property in a residential zone, but not exceeding ten (10) feet in height, pursuant to Section 17.108.140.
3. Signs.

a. New or modified Signs, excluding Signs requiring Regular Design Review, Conditional Use Permit or Variance, pursuant to the zoning regulations of Title 17 of the Oakland Planning Code; and Signs conforming to an approved Master Sign Program, pursuant to Section 17.104.070;

b. New or modified awnings or other similar facilities;

c. Color changes to Signs, awnings or other similar facilities;

d. Installation of flags or banners having any permanent structure within the public right of way, pursuant to the same regulations for sidewalk cafes in Section 17.102.335B;

**C. Procedures for Consideration -- Small Project Design Review.** The Director of City Planning may, at his or her discretion, consider an application for small project design review according to the following Three-Track process, or if additional consideration is required, determine that the proposal shall be reviewed according to the regular design review procedure in Section 17.136.040:

1. **Track One Procedure** - Small Project Design Review Proposals Not Involving a Local Register Property; or an Upper-Story Addition requiring the Track Three review procedure pursuant to Subsection (C)(3):

a. The Director of City Planning, or his or her designee, shall determine whether the proposal meets the requirements for small project design review as set forth in this section.

b. Decision by the Director of City Planning. The Director, or his or her designee, may approve or disapprove a Track One proposal determined eligible for small project design review and may require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to the applicable small project design review criteria in Section 17.136.035.

c. The decision by the Director, or his or her designee, shall be final immediately and not appealable.

2. **Track Two Procedure** - Small Project Design Review Proposals Involving a Local Register Property:

a. The Director of City Planning, in concert with the City of Oakland's Historic Preservation staff, shall determine whether a proposed addition or alteration involving a Local Register Property will have a significant effect on the property's character-defining elements. "Character-defining elements" are those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance. Any proposed addition or alteration determined to have a significant effect on a Local Register Property's character-defining elements shall be reviewed instead according to the regular design review procedure in Section 17.136.040. Any proposed addition involving an upper-story addition of more than two hundred fifty (250) square feet in floor area or footprint to a One- or Two-Family Residential Facility or to any Building Facility in the HBX-1, HBX-2, and HBX-3 zones that is determined eligible for small project design review and to not have a significant effect on the property's character-defining elements, shall be reviewed according to the Track Three procedure in Section 17.136.030(C)(3).

b. Decision by the Director of City Planning. The Director, or his or her designee, may approve or disapprove a Track Two proposal determined eligible for small project design review and may require such changes therein or impose such reasonable

conditions of approval as are in his or her judgment necessary to ensure conformity to the applicable small project design review criteria in Section 17.136.035.

c. The decision by the Director, or his or her designee, shall be final immediately and not appealable.

**3. Track Three Procedure** - Small Project Design Review Proposals Involving an Upper-Story Addition of More than Two Hundred Fifty (250) Square Feet in Floor Area or Footprint to a One- or Two-Family Residential Facility or an over eight (8) foot increase in the height of any Building Facility in the HBX-1, HBX-2, and HBX-3 zones, not including allowed projections above the height limits listed in 17.108.030:

a. The Director of City Planning, or his or her designee, shall determine whether the proposal meets the requirements for small project design review as set forth in this section.

b. At the time of small project design review application, the owner of the affected property, or his or her authorized agent, shall obtain from the City Planning Department, a list of names and mailing addresses of all persons shown on the last available equalized assessment roll as owning the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site; a notice poster to install on the project site; and a Notice to Neighboring Property Owners form which includes the project description and contact information.

c. Prior to the subject application being deemed complete, the applicant shall install the notice poster provided at the time of application at a location on the project site that is clearly visible from the street, alley, or private way providing access to the subject lot; and provide by certified mail or delivery to all persons shown on the last available equalized assessment roll as owning the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site, a copy of the completed project notice form, as well as a set of reduced plans (consisting of at least a site plan and building elevations that show all proposed exterior work).

d. All required posting of the site and notification of adjacent and across the street property owners shall be completed by the project applicant not less than ten (10) days prior to the earliest date for final decision on the application. During the required noticing period, the Planning Department shall receive and consider comments from any interested party, as well as accept requests for a meeting with City Planning staff.

e. Decision by the Director of City Planning. Prior to final decision, City Planning staff shall hold a single meeting with interested parties whenever such a meeting request is received in writing by the Planning Department during the small project design review comment period. Following any such meeting with interested parties, the Director, or his or her designee, may approve or disapprove a Track Three proposal determined eligible for small project design review and may require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to the applicable small project design review criteria in Section 17.136.035.

f. The decision by the Director, or his or her designee, shall be final immediately and not appealable.

**17.136.040 Regular Design Review.**



A. Applicability. "Regular design review" shall apply to proposals that require design review pursuant to the zoning regulations of Title 17 of the Oakland Planning Code, but do not qualify for a design review exemption as set forth in Section 17.136.025 or small project design review as set forth in Section 17.136.030. Projects requiring regular design review include, but are not limited to, the following types of work:

1. Any proposal involving one or more of the facility, activity, building, structure, or development types that require design review pursuant to the zoning regulations of Title 17 of the Oakland Planning Code, but does not qualify for a design review exemption as set forth in Section 17.136.025, or small project design review as set forth in Section 17.136.030;

2. Any construction, addition or alteration of structures requiring a conditional use permit or variance, pursuant to the zoning regulations of Title 17 of the Oakland Planning Code;

3. New construction of one or two dwelling units, other than a secondary unit;

4. New construction of three or more dwelling units, or adding units to a property for a total of three or more dwelling units on site;

5. New construction of principal facilities in the HBX zone;

6. The creation of any new HBX 'work/live' unit or HBX 'live/work' unit (see Sections 17.65.160 and 17.65.170). This requirement shall apply for both: a) conversions of existing facilities to contain either of these unit types, and b) the construction of new buildings that contain either of these unit types;

7. Cumulative additions over a three (3) year period not involving the creation of a dwelling unit that are outside the existing building envelope and exceed one thousand (1000) square feet or one hundred percent (100%) of the total floor area or footprint on site, whichever is less;

8. Exceptions to the parking accommodation requirements for one- and two-family Residential Facilities in Section 17.102.390;

9. New or modified Signs not qualifying for a design review exemption as set forth in Section 17.136.025 or small project design review as set forth in Section 17.136.030; ;

10. Proposals for new or modified Telecommunications Facilities, pursuant to Chapter 17.128, but excluding those alterations to existing Telecommunications Facilities listed as a Small Project in Section 17.136.030(B).

11. Demolition or removal of any structure, or portion thereof, where the replacement project requires Regular Design Review, Conditional Use Permit or Variance;

12. Demolition or removal of any ~~Local Register Property~~, Designated Historic Property (DHP), or Potential Designated Historic Property (PDHP) pursuant to Section 17.136.075; subject to the following additional provisions:

~~a. For the Central Business District (CBD), see Section 17.136.055;~~

~~b. For landmarks outside of the CBD, see Sections 17.136.060 and 17.136.070;~~

~~c. For the S-7 zone, see Sections 17.84.040, 17.84.050, 17.84.060, and 17.136.060;~~

~~d. For "contributors" or "potential contributors" to the S-20 Historic Preservation District, as determined by the City's Cultural Heritage Survey, see Sections 17.100.050, 17.100.060, 17.100.070, and 17.136.060.~~

**B. Pre-Application Review --Regular Design Review.** Prior to application for regular design review, any applicant or his or her representative seeking early project feedback may submit for a pre-application review of the proposal by a representative of the City Planning Department. For projects of a larger scale or involving a significant policy issue, the Director of City Planning may, at his or her discretion, request that an applicant or his or her representative submit for a pre-application review of the proposal. During a pre-application review, the city representative will provide information about applicable design review criteria and pertinent procedures, including the opportunity for advice from outside design professionals. Where appropriate the city representative may also informally discuss possible design solutions, point out potential neighborhood concerns, and mention local organizations which the applicant is encouraged to contact before finalizing the proposal.

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

1. Decision by the Director of City Planning or the City Planning Commission. An application for regular design review shall be considered by the Director of City Planning. The Director may, at his or her discretion, refer the application to the City Planning Commission for decision rather than acting on it himself or herself. However, if the project requires an Environmental Impact Report, or results in twenty-five thousand (25,000) square feet or more of new floor area and is located in any zone other than the R-80, R-90, C-51, C-55, CBD-R, CBD-P (except when combined with the S-7 zone), CBD-C, CBD-X, S-2, or S-15 zones, the Director of City Planning shall refer the application to the City Planning Commission for an initial decision rather than acting on it himself or herself.

2. Notification Procedures. Notice shall be given by posting an enlarged notice at a location on the project site that is clearly visible from the street, alley, or private way providing access to the subject lot. Notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the project site; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set, as the case may be, for decision on the application by the Director, or prior to the date set for a hearing before the Commission, if such is to be held. During the required noticing period, the planning department shall receive and consider comments from any interested party.

3. The Director or the applicant may seek the advice of outside design professionals. The Director shall determine whether the proposal conforms to the applicable design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to said criteria.

4. Finality of Decision. A determination by the Director shall become final ten calendar days after the date of initial decision unless appealed to the City Planning Commission or the Commission's Residential Appeals Committee in accordance with Section 17.136.080. In the event that the last date of appeal falls on a weekend or holiday

when city offices are closed, the next date such offices are open for business shall be the last date of appeal. In those cases which are referred to the Commission by the Director, the initial decision of the Commission shall become final ten days after the date of decision.

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

1. Decision by the Director of City Planning or the City Planning Commission. An application for regular design review shall be considered by the Director of City Planning. The Director may, at his or her discretion, refer the application to the City Planning Commission for an initial decision rather than acting on it himself or herself. 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, CBD-R, CBD-P (when not combined with the S-7 zone), CBD-C, CBD-X, S-2, or S-15 zones, the Director of City Planning shall refer the application to the City Planning Commission for an initial decision rather than acting on it himself or herself.

2. Notification Procedures. Notice shall be given by posting an enlarged notice at a location on the project site that is clearly visible from the street, alley, or private way providing access to the subject lot. Notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the project site; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set, as the case may be, for decision on the application by the Director, or prior to the date set for a hearing before the Commission, if such is to be held. During the required noticing period, the planning department shall receive and consider comments from any interested party.

3. The Director or the Commission may seek the advice of outside design professionals. The Director or the Commission, as the case may be, shall determine whether the proposal conforms to the applicable design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in his or her or its judgment necessary to ensure conformity to said criteria.

4. Finality of Decision. A determination by the Director shall become final ten days after the date of initial decision unless appealed to the City Planning Commission in accordance with Section 17.136.080. In those cases which are referred to the Commission by the Director, the initial decision of the Commission shall become final ten days after the date of decision unless appealed to the City Council in accordance with Section 17.136.090. In the event that the last day of appeal falls on a weekend or holiday when city offices are closed, the next date such offices are open for business shall be the last date of appeal.

**E. Alternative Notification Procedures.** If the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement the procedures set forth in subsections C and D of this section. (Ord. 12376 § 3 (part), 2001; Ord. 12237 § 4 (part), 2000; Ord. 11816 § 2 (part), 1995; prior planning code § 9305)

**17.136.070 Special regulations for designated landmarks.**

**A. Designation.** In any zone, the City Council may designate as a landmark any facility, portion thereof, or group of facilities which has special character, interest, or value of any of the types referred to in 17.07.030P. The designating ordinance for each landmark shall include a description of the characteristics of the landmark which justify its designation and a clear description of the particular features that should be preserved. Each ordinance shall also include the location and boundaries of a landmark site, which shall be the lot, or other appropriate immediate setting, containing the landmark. Designation of each landmark and landmark site shall be pursuant to the rezoning and law change procedure in Chapter 17.144.

**B. Design Review for Construction or Alteration.** Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, , Telecommunications Facility, Sign, or other associated structure on any designated landmark site shall be constructed or established, or altered in such a manner as to affect exterior appearance unless plans for the proposal have been approved pursuant to the design review procedure in this chapter and the applicable provisions of this section. Furthermore, for a publicly owned landmark, the designating ordinance may require such approval of proposed changes to major interior architectural features.

a. The Director of City Planning, or his or her designee, shall determine whether the proposal meets the requirements for small project design review as set forth in this section.

b. Decision by the Director of City Planning. The Director, or his or her designee, may approve or disapprove a Track One proposal determined eligible for small project design review and may require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to the applicable small project design review criteria in Section 17.136.035.

c. The decision by the Director, or his or her designee, shall be final immediately and not appealable.

~~C. Design Review for Demolition or Removal. Within any designated landmark site, no Building Facility, portion thereof, or other landmark shall be demolished or removed, unless plans for the proposal have been approved pursuant to the regular design review procedure in Section 17.136.040 and the applicable provisions of this section. However, in any case, after notice to the Director of City Planning, demolition or removal shall be permitted without such approval upon a determination by the Building Services Department, the Housing Conservation Division, their respective appeals boards, or the City Council that immediate demolition is necessary to protect the public health or safety, or after expiration of the periods of postponement referred to in subsection E of this section.~~

**DC. Regular Design Review Criteria.** Proposals involving designated landmarks that require regular design review approval may be granted only upon determination that the proposal conforms to the regular design review criteria set forth in Section 17.136.050 and to the additional criteria set forth in subdivisions 1, 2 and 3, or to one or both of the criteria set forth in subdivision 4:

1. That the proposal will not adversely affect the exterior features of the designated landmark nor, when subject to control as specified in the designating ordinance for a publicly owned landmark, its major interior architectural features;

2. That the proposal will not adversely affect the special character, interest, or value of the landmark and its site, as viewed both in themselves and in their setting;

3. That the proposal conforms with the Design Guidelines for Landmarks and Preservation Districts as adopted by the City Planning Commission and, as applicable for certain federally related projects, with the Secretary of the Interior's Standards for the Treatment of Historic Properties;

4. If the proposal does not conform to the criteria set forth in subdivisions 1, 2 and 3:

i. That the designated landmark or portion thereof is in such condition that it is not architecturally feasible to preserve or restore it, or

ii. That, considering the economic feasibility of alternatives to the proposal, and balancing the interest of the public in protecting the designated landmark or portion thereof, and the interest of the owner of the landmark site in the utilization thereof, approval is required by considerations of equity.

~~E. Postponement of Demolition or Removal. If an application for approval of demolition or removal of a facility, pursuant to subsections C and D of this section, is denied, the issuance of a permit for demolition or removal shall be deferred for a period of one hundred twenty (120) days, said period to commence upon the initial denial by the reviewing officer or body. During the period of postponement, the Director of City Planning or the City Planning Commission, with the advice and assistance of the Landmarks Preservation Advisory Board, shall explore all means by which, with the agreement of the owner or through eminent domain, the affected facility may be preserved or restored. The reviewing officer or body from whose decision the denial of the application became final may, after holding a public hearing, extend said period for not more than additional one hundred twenty (120) days; provided, however, that the decision to so extend said period shall be made not earlier than ninety (90) days, nor later than thirty (30) days prior to the expiration of the initial one hundred twenty (120) day period. Notice of the hearing shall be given by posting an enlarged notice on the premises of the subject property involved. Notice of the hearing shall also be given by mail or delivery to the applicant, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing. Such extension shall be made only upon evidence that substantial progress has been made toward securing the preservation or restoration of the facility. In the event that the applicant shall have failed to exhaust all appeals under Sections 17.136.080 and 17.136.090 from the denial of the application, the decision to extend said period shall be appealable under the provisions of Sections 17.136.080 and 17.136.090 to those bodies to whom appeal had not been taken from the initial denial of the application.~~

**FD. Duty to Keep in Good Repair.** Except as otherwise authorized under subsections B and C of this section, the owner, lessee, or other person in actual charge of each designated landmark shall keep in good repair all of the exterior portions thereof, all of the interior portions thereof when subject to control as specified in the designating ordinance, and all interior portions thereof the maintenance of which is necessary to prevent deterioration and decay of any exterior portion. (Ord. 12513 Attach. A (part), 2003; Ord. 12237 § 4 (part), 2000; prior planning code § 7002)

**17.136.075 Postponement of demolition Regulations for Demolition or Removal of Designated Historic Properties and Potentially Designated Historic Properties.**

A. With the exception of structures declared to be a public nuisance by the Building Official or City Council, Regular Design Review of the demolition or removal of a Designated Historic Property (DHP) or Potentially Designated Historic Property (PDHP) shall only be approved after the Regular Design Review of a replacement project at the subject site has been approved; however, demolition of nuisance structures must still undergo Regular Design Review for demolition as required by this chapter.

B. Regular Design Review approval for the demolition or removal of any Landmark, Heritage Property, structure rated “A” or “B” by the Oakland Cultural Heritage Survey, and building on the City’s Preservation Study List that are not in an S-7 or S-20 zone or Area of Primary Importance (API) as determined by the Oakland Cultural Heritage Survey may be granted only if the proposal conforms to the general design review criteria, all other applicable design review criteria, and the following additional criteria:

1. The applicant demonstrates that a) the existing property has no reasonable use or cannot generate a reasonable economic return and that the development replacing it will provide such use or generate such return or b) the applicant demonstrates that the structure constitutes a hazard and is economically infeasible to rehabilitate on its present site. For this finding, a hazard constitutes a threat to health and safety that is not immediate;

2. The design quality of the replacement facility is equal/superior to that of the existing facility; and

3. It is economically, functionally architecturally, or structurally infeasible to incorporate the historic structure into the proposed development.

C. Regular Design Review Approval for the demolition or removal of any structure in an S-7 or S-20 zone or Area or Primary Importance (API) as determined by the Oakland Cultural Heritage Survey may be granted only if the proposal conforms the general design review criteria, all other applicable design review criteria, and the following criteria:

1. For the demolition of contributors to an S-7 or S-20 zone or API:

a. The applicant demonstrates that i) the existing property has no reasonable use or cannot generate a reasonable economic return and that the development replacing it will provide such use or generates such return or ii) the applicant demonstrates that the structure constitutes a hazard and is economically infeasible to rehabilitate on its present site. For this criterion, a hazard constitutes a threat to health and safety that is not immediate; and

b. It is economically, functionally architecturally, or structurally infeasible to incorporate the historic structure into the proposed development.

2. For the demolition of noncontributors to an S-7 zone, S-20 zone, or API: The existing structure is either i) seriously deteriorated or a hazard, or ii) the existing design is undistinguished and does not warrant retention. For this finding, a hazard constitutes a threat to health and safety that is not immediate;

3. For the demolition of any structure in an S-7 zone, S-20 zone or API:

a. The design quality of the replacement structure is equal/superior to that of the existing structure; and

b. The design of the replacement project is compatible with the character of the district, and there is no erosion of design quality at the replacement project site and in the surrounding area. This includes, but is not necessarily limited to, the following additional findings:

i. The replacement project is compatible with the district in terms of massing, siting, rhythm, composition, patterns of openings, quality of material, and intensity of detailing;

ii. New street frontage with forms that reflect the widths and rhythm of the facades on the street and entrances that reflect the patterns on the street;

iii. The replacement project provides high visual interest that either reflects the level and quality of visual interest of the district contributors or otherwise enhances the visual interest of the district;

iv. If the design contrasts the new to the historic character, the replacement project enriches the historic character of the district;

v. The replacement project is consistent with the visual cohesiveness of the district. For the purpose of this item, visual cohesiveness is the architectural character, the sum of all visual aspects, features, and materials that defines the district. A new structure contributes to the visual cohesiveness of a district if it relates to the design characteristics of a historic district. New construction may do so by drawing upon some basic building features, such as the way in which a building is located on its site, the manner in which it relates to the street, its basic mass, form, direction or orientation (horizontal vs. vertical), recesses and projections, quality of materials, patterns of openings and level of detailing. When a combination of some of these design variables are arranged in a new building to relate to those seen traditionally in the area, but integral to the design and character of the proposed new construction, visual cohesiveness results; and

vi. The replacement project will not cause the district to lose its current historic status.

D. Regular Design Review Approval for the demolition or removal of any structure rated "C" by the by the Oakland Cultural Heritage Survey or contributes to an Area of Secondary Importance (ASI) as determined by the Oakland Cultural Heritage Survey may be granted only if the proposal conforms to the general design review criteria, all other applicable design review criteria, and to either: 1., 2., or 3., below:

1. The design quality of the proposed replacement project is at least equal to that of the original structure; or

2. The public benefits of the proposed replacement project outweigh the benefit of retaining the original structure and the proposed replacement project is compatible with the character of the neighborhood; or

3. The existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

~~E. Except for postponement periods as otherwise specified for structures in the S-7 zone (Chapter 17.84), for structures in the S-20 zone (Chapter 17.101), and for Designated Landmarks (Section 17.136.070),~~ For proposals that have received Design Review approval pursuant to this section, the issuance of a demolition permit for any structure or portion thereof may be postponed by the Director of City Planning for a period not to exceed one hundred twenty (120) days from the date of application for such permit. The Director may do so upon determination that the structure or portion thereof is listed as a Local Register Property, or is on a study list of facilities under serious study by the Landmarks Preservation Advisory Board, the City Planning Commission, or the Director, for possible landmark designation under Section 17.136.070 or for other appropriate action to preserve it. During the period of postponement the Board, the Commission, or the Director shall explore means for preserving or restoring the structure or portion thereof. However, demolition may not be postponed under this section if, after notice to the Director of City Planning, the Building Services Department, the Housing Conservation Division, their respective appeals boards, or the City Council determines that immediate demolition is necessary to protect the public health or safety. Any determination made by the Director of City Planning under this section may be appealed pursuant to the administrative appeal procedure in Chapter 17.132. (Prior planning code § 7005)

### **Chapter 17.84 - S-7 PRESERVATION COMBINING ZONE REGULATIONS**

17.84.010 - Title, purpose, and applicability.

17.84.020 - Zones with which the S-7 zone may be combined.

17.84.030 - Required design review process.

17.84.040 - Design review criteria for construction or alteration.

17.84.050 - Design review criteria for demolition or removal.

~~17.84.060 - Postponement of demolition or removal.~~

17.84.070 - Duty to keep in good repair.

#### **17.84.030 - Required design review process.**

A. Except for projects that are exempt from design review as set forth in Section 17.136.025, ~~no Local Register Property, no Designated Historic Property, Potentially Designated Historic Property,~~ Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the additional provisions in Sections 17.84.040, 17.84.050, and 17.84.060; the Telecommunications regulations in Chapter 17.128; or the Sign regulations in Chapter 17.104.

B. Section 17.136.075 contains design review criteria for the demolition or removal of Designated Historic Properties and Potentially Designated Historic Properties.



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

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

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

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

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

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

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

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

**17.84.060 – Postponement of demolition or removal.**

If an application for approval of demolition or removal of a structure or portion thereof, pursuant to Sections 17.84.030 and 17.84.050, is denied, the issuance of a permit for demolition or removal shall be deferred for a period of one hundred twenty (120) days, said period to commence upon the initial denial by the reviewing officer or body. However, if demolition or removal of the structure or portion thereof has also been postponed pursuant to Section 17.136.075, the initial period of postponement under this section shall be reduced by the length of the period imposed pursuant to Section 17.136.075. During the period of postponement, the Director of City Planning or the City Planning Commission, with the advice and assistance of the Landmarks Preservation Advisory Board, shall explore all means by which, with the agreement of the owner or through eminent domain, the affected structure or portion thereof may be preserved or restored. The reviewing officer or body from whose decision the denial of the application became final may, after holding a public hearing, extend said period for not more than

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

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

- 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.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, no Designated Historic Property, Potentially Designated Historic 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. Section 17.136.075 contains design review criteria for the demolition or removal of Designated Historic Properties and Potentially Designated Historic Properties.

~~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 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. (Ord. No. 12899 § 4, Exh. A, 2008; Ord. 12872 § 4, Exh. A (part), 2008; Ord. 12776 § 3, Exh. A (part), 2006; 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.~~

## **R-1 ONE ACRE ESTATE RESIDENTIAL ZONE REGULATIONS**

### **17.11A.030 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, no Designated Historic Property, Potentially Designated Historic Property,~~ Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.  
(Ord. 12272 § 3 (part), 2000)

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

**17.12.030 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

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

**R-20 LOW DENSITY RESIDENTIAL ZONE REGULATIONS**

**17.14.030 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

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

**R-30 ONE-FAMILY RESIDENTIAL ZONE REGULATIONS**

**17.16.030 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

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

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

**17.18.030 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

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

**R-36 SMALL LOT RESIDENTIAL ZONE REGULATIONS**

**17.20.020 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, no Designated Historic Property, Potentially Designated Historic Property~~, Building Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the additional provisions in Section 17.20.070, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104. (Ord. 12501 § 25, 2003; Ord. 11904 § 5.61, 1996; prior planning code § 3576)

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

### **17.22.040 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104. (Ord. 11904 § 5.60 (part), 1996; prior planning code § 3602.1)

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

### **17.24.040 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104. (Ord. 11904 § 5.60 (part), 1996; prior planning code § 3652.1)

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

### **17.26.040 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104. (Ord. 11904 § 5.60 (part), 1996; prior planning code § 3752.1)

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

### **17.28.040 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

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

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

### **17.30.040 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

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

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

### **17.32.040 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

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

## **C-5 NEIGHBORHOOD COMMERCIAL ZONE REGULATIONS**

### **17.34.020 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, no Designated Historic Property, Potentially Designated Historic Property~~, Building Facility, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

B. No facility accommodating an Automotive Servicing or Automotive Repair and Cleaning Commercial Activity that is located within one hundred fifty (150) feet of any residential zone boundary shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136. (Ord. 12606 Att. A (part), 2004: Ord. 12501 § 50, 2003: Ord. 11904 § 5.62 (part), 1996: prior planning code § 4202)

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

### **17.36.030 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

(Ord. 11904 § 5.60 (part), 1996: prior planning code § 4252)

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

### **17.38.020 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, no Designated Historic Property, Potentially Designated Historic 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.

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

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

### **17.40.030 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, no Designated Historic Property, Potentially Designated Historic 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.

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

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

### **17.42.030 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, no Designated Historic Property, Potentially Designated Historic 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.

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



## **C-28 COMMERCIAL SHOPPING DISTRICT ZONE REGULATIONS**

### **17.44.020 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, no Designated Historic Property, Potentially Designated Historic 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.

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

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

### **17.46.040 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

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

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

### **17.48.020 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, no Designated Historic Property, Potentially Designated Historic 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.

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

## **C-35 DISTRICT SHOPPING COMMERCIAL ZONE REGULATIONS**

### **17.50.040 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

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

## **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, no Designated Historic Property, Potentially Designated Historic Property~~, Building Facility, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the 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)

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

### **17.54.040 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, no Designated Historic Property, Potentially Designated Historic Property~~, Facility accommodating an Automotive Servicing or an Automotive Repair and Cleaning Commercial Activity, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

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

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

### **17.56.040 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

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

## **CENTRAL BUSINESS DISTRICT ZONES REGULATIONS**

### **17.58.020 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, no Designated Historic Property, Potentially Designated Historic Property~~, Building Facility, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have

been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

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

### **17.60.040 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

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

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

### **17.62.040 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

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

## **C-60 CITY SERVICE COMMERCIAL ZONE REGULATIONS**

### **17.64.020 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Facility accommodating an Automobile and Other Light Vehicle Gas Station and Servicing or an Automotive and Other Light Vehicle Repair and Cleaning Commercial Activity, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

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

## **HBX HOUSING AND BUSINESS MIX COMMERCIAL ZONE REGULATIONS**

### **17.65.020 Required design review process.**

A. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been

approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

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

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

## **M-10 SPECIAL INDUSTRIAL ZONE REGULATIONS**

### **17.66.020 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

(Ord. 11904 § 5.73 (part), 1996: prior planning code § 5402)

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

### **17.68.020 Required design review process.**

A. Except for projects that are exempt from design review as set forth in Section 17.136.025, ~~no Local Register Property, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

B. No facility accommodating an Automotive Servicing or Automotive Repair and Cleaning Commercial Activity that is located within one hundred fifty (150) feet of any residential zone boundary shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136.

(Ord. 11904 § 5.73 (part), 1996: prior planning code § 5602)

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

### **17.70.020 Required design review process.**

A. Except for projects that are exempt from design review as set forth in Section 17.136.025, ~~no Local Register Property, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

B. No facility accommodating an Automotive Servicing or Automotive Repair and Cleaning Commercial Activity that is located within one hundred fifty (150) feet of any residential zone boundary shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136.

## **M-40 HEAVY INDUSTRIAL ZONE REGULATIONS**

### **17.72.020 Required design review process.**

A. Except for projects that are exempt from design review as set forth in Section 17.136.025, ~~no Local Register Property, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

B. No facility accommodating an Automotive Servicing or Automotive Repair and Cleaning Commercial Activity that is located within one hundred fifty (150) feet of any residential zone boundary shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136.

## **S-1 MEDICAL CENTER ZONE REGULATIONS**

### **17.74.020 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, no Designated Historic Property, Potentially Designated Historic Property~~, Building Facility, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104. (Ord. 12606 Att. A (part), 2004: Ord. 11904 § 5.63 (part), 1996: prior planning code § 6102)

## **S-2 CIVIC CENTER ZONE REGULATIONS**

### **17.76.040 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, no Designated Historic Property, Potentially Designated Historic Property~~, Residential Facility, Mixed Use Development, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104. (Ord. 11904 § 5.60 (part), 1996: prior planning code § 6152.1)

## **S-3 RESEARCH CENTER ZONE REGULATIONS**

### **17.78.020 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, no Designated Historic Property, Potentially Designated Historic Property~~, Building Facility, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104. (Ord. 12606 Att. A (part), 2004: Ord. 11904 § 5.63 (part), 1996: prior planning code § 6202)

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

### **17.80.030 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, no Designated Historic Property, Potentially Designated Historic Property~~, Building Facility, Telecommunications Facility, Sign, or other associated structure in the S-4 combining zone shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

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

## **S-5 BROADWAY RETAIL FRONTAGE INTERIM COMBINING ZONE REGULATIONS**

### **17.81.050 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, no Designated Historic Property, Potentially Designated Historic Property~~, Building Facility, Telecommunications Facility, Sign or other associated structure in the S-5 combining zone shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.125, or the Sign regulations in Chapter 17.104. (Ord. 12850 § 2 Exh. A (part), 2008)

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

### **17.86.040 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, no Designated Historic Property, Potentially Designated Historic 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 Section 17.86.110, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

## **S-10 SCENIC ROUTE COMBINING ZONE REGULATIONS 17.90.030**

### **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, no Designated Historic Property, Potentially Designated Historic Property~~, Building Facility, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the additional provisions in Section 17.90.050, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

## **S-11 SITE DEVELOPMENT AND DESIGN REVIEW COMBINING ZONE REGULATIONS**

### **17.92.030 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, no Designated Historic Property, Potentially Designated Historic~~

Property, Building Facility, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the additional provisions in Section 17.92.050, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.  
(Ord. 12501 § 64, 2003: prior planning code § 6602)

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

#### **17.96.030 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, no Designated Historic Property, Potentially Designated Historic Property~~, Building Facility, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the additional provisions in Section 17.96.080, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

(Prior planning code § 6702)

### **S-15 TRANSIT ORIENTED DEVELOPMENT ZONE REGULATIONS**

#### **17.97.020 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, no Designated Historic Property, Potentially Designated Historic Property~~, Building Facility, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.  
(Ord. 12606 Att. A (part), 2004: Ord. 11904 § 5.62 (part), 1996: Ord. 11892 § 4 (part), 1996: prior planning code § 6851)

### **S-16 INDUSTRIAL-RESIDENTIAL TRANSITION COMBINING ZONE REGULATIONS**

#### **17.98.030 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, no Designated Historic Property, Potentially Designated Historic Property~~, Building Facility, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.  
(Ord. 12289 § 3 (part), 2000)

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

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

Except for projects that are exempt from design review as set forth in Section 17.136.025, ~~no~~ ~~Local Register Property, no~~ Designated Historic Property, Potentially Designated Historic Property, Building Facility, Telecommunications Facility, Sign or other associated structure in the D-BR combining zone shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.125, or the Sign regulations in Chapter 17.104.



**OAKLAND MUNICIPAL CODE CHAPTER 15.36 - DEMOLITION PERMITS**

- 15.36.010 - Definitions.
- 15.36.020 - Unlawful to demolish without permit.
- 15.36.030 - Demolition of buildings or structures, owner's completion bond.
- 15.36.040 - Posting requirement.
- 15.36.050 - Demolition permit fees.
- 15.36.060 - Penalties.
- 15.36.070 - Unlawful to demolish structure without building permit.
- 15.36.080 - Exceptions.
- 15.36.085 - Design Review Procedure.
- 15.36.090 - Applicability of the California Environmental Quality Act (CEQA).
- 15.36.100 - Dust control measures.

**15.36.010 - Definitions.**

For purposes of this chapter, certain words and phrases are defined, and certain provisions shall be construed, as herein set out, unless it shall be apparent from their context that a different meaning is intended.

"Demolition" means the decimating, razing, ruining, tearing down or wrecking of any facility, structure or building covered by this chapter. As used herein, the word "demolition" shall include any partial demolition and any interior demolition affecting more than ten percent of the replacement value of the structure as determined by the Building Official.

"Discretionary demolition permit" means a demolition permit for a building or structure where either the demolition project or the replacement project requires one or more discretionary zoning acts by the City.

"Facility" means structure or any part thereof.

"Ministerial demolition permit" means a demolition permit issued for unsafe structures, structures on a site where the demolition project or replacement project does not require any discretionary zoning permits, or where the owner intends to create a vacant lot pursuant to Section 15.36.080.

"Redevelopment Agency-sponsored project" means projects approved by the Agency for sites within redevelopment project areas.

"Redevelopment project areas" shall have the same definition herein as it is given by the Community Redevelopment Law.

"Residential structures" means and includes apartment buildings, single-family dwellings, cooperatives, condominiums, and hotels and motels which contain dwelling units, as said latter term is defined by the zoning regulations. This term shall not be applied to structures where no more than one dwelling unit exists in a building primarily devoted to a nonresidential use.

"Structure" means and includes anything that would require a building permit to construct, excluding, however, structures built or that could be built pursuant to a temporary building permit.

"Unsafe structures" means structures found by the ~~Inspectional Services Department of the Office of Public Works or the Housing Conservation Division of the Housing Department of the Office of Community Development, their respective appeals boards~~ Building Official or the City Council, to require immediate issuance of a demolition permit to protect the public health and safety.

**15.36.085 – Design Review Procedure.**

Demolitions may be subject to the Design Review Procedures contained in Chapter 17.136 of the Oakland Planning Code.

**15.36.080 - Exceptions.**

A demolition permit may be obtained without first obtaining a building permit where:

A. The owner intends to, and does, create a surface parking lot, for which no building permit is required, or a vacant lot.

B. The structure to be demolished is declared an unsafe structure or a public nuisance by the ~~Inspectional Services Department of the Office of Public Works or the Housing Conservation Division of the Housing Department of the Office of Community Development, their respective appeals boards~~ Building Official or the City Council. This exception shall not apply to any case where there is sufficient evidence that the owner or the owner's agent intentionally caused such structure to become an unsafe structure or public nuisance.

C. The structure to be demolished is a:

1. Nonresidential, one-story building of Type V construction with an area not exceeding six hundred (600) square feet; or

2. Group M, Division 1, Occupancies of Type V construction; or

3. Small and unimportant structure.

C. The structure to be demolished is either:

1. Part of a Redevelopment Agency-sponsored project; or

2. Part of a project with a valid conditional use permit or planned unit development approval, where demolition has been expressly considered as part of the project approval process.

MFW

**EXHIBIT B**  
**FINDINGS AND SUBMITTAL REQUIREMENTS FOR THE DEMOLITION OF HISTORIC PROPERTIES**  
**7-6-10 City Council Meeting**

The following is a summary of the recommendations for amendments to the Planning Code and required material to be submitted with an application for demolition of certain historic resources. The first column contains the applicable historic resources. The second column contains the findings required to be met to demolish the historic resource described in first column. These findings are contained in Section 17.136.075 of the Planning Code and the Planning Code controls if there are any inconsistencies or differences. The last column lists the submittals required for staff to analyze whether a demolition proposal meets the corresponding findings. The goal of the required submittals is to assist staff in evaluating whether a project meets the findings required to demolish a building. All submittals and analysis will be reviewed by the Planning Department and/or their agents, as necessary. The submittals are not criteria for whether a demolition can or cannot occur. Further, the required submittals are not meant to discourage either historicist or contemporary architecture in new construction. The Planning Director can, from time to time, make modifications to the required submittals if they are consistent with the intent of the proposed requirements.

For demolition of any structure in a category, an application must include a complete application for the replacement project, including plans designed by a licensed architect.

All consultant reports required for the Demolition Findings shall be prepared by independent third party consultants, or each report shall be peer reviewed. Reports shall be paid for by the applicant, the consultant approved by the City and the Consultant shall report to City, as in the City's Environmental Review process. All applicable discussion points shall be taken into account when making a finding. If a point is not applicable, the analysis shall state why. Any analysis may also include attributes that the support the replacement project, but are not mentioned in the points.

| Historic Status  | Findings for demolition or removal  | Submittal Requirements/Discussion Points   |
|--|---|--|
| <p><b>Category I</b><br/>           The following Local Register Properties:<br/>           ➤ Landmarks<br/>           ➤ Heritage Properties<br/>           ➤ "A" and "B" rated properties<br/>           ➤ Preservation Study List Properties</p> | <p>1. The applicant demonstrates that the existing property has no reasonable use or cannot generate a reasonable economic return and that the development replacing it will provide such use or generate such return<br/> <u>Or</u><br/>           2. The applicant demonstrates that the property constitutes a hazard and is economically infeasible to rehabilitate on its present site. For this finding, a hazard constitutes a threat to health and safety that is not imminent.</p> | <p><b>(i) Building Use – Economic Viability</b><br/>           The applicant shall submit a market analysis prepared by an architect, developer, real estate consultant, appraiser, or other real estate professional with extensive experience in both real estate and historic rehabilitation that demonstrates all of the following:<br/>           a. The current use does not generate a reasonable economic return (may include market report of like uses and building scale in the same or similar neighborhood);<br/>           b. That appropriate and reasonable alternate uses in the building could not generate a future reasonable economic return;<br/>           c. That alterations or additions to the existing building could not make the current or future use generate a reasonable economic return; and<br/>           d. Potential Federal Tax Credits, Mills Act Contracts, Façade Grants, Transfer of Development Rights or other funding sources are not feasible to bridge the gap identified above.</p> <p><b>(ii) Building Soundness</b><br/>           The applicant shall submit a report from a licensed engineer or architect with extensive experience in rehabilitation as to the structural soundness of the property and its suitability for rehabilitation. The soundness report shall be based on the requirements contained in Document A, attached. This soundness report is based on a methodology used by San Francisco's Planning Department for Proposed Demolition of Historic Buildings.</p> <p><b>(iii) Building Maintenance History</b><br/>           The applicant shall submit a cost estimate report prepared by a qualified cost estimator with extensive experience in rehabilitation, analyzing any building neglect contributing to any deterioration;<br/>           a) Is the building free of a history of serious, continuing code violations?<br/>           b) Has the building been maintained and stabilized?<br/>           Long term deferred maintenance and/or a history of continuing code violations not addressed by the owner, or other proper person having legal custody of the structure or building shall constitute a violation and will not be considered as a part of the economic infeasibility analysis bottom line.</p> |

| Historic Status   | Findings for demolition or removal | Submittal Requirements/Discussion Points  |
|---|------------------------------------|---|
| <p><b>Category 1 (continued)</b><br/>           The following Local Register Properties:</p> <ul style="list-style-type: none"> <li>➤ Landmarks</li> <li>➤ Heritage Properties</li> <li>➤ "A" and "B" rated properties</li> <li>➤ Preservation Study List Properties</li> </ul> |                                    | <p><b>(iv) Existing Building Appraised Value</b></p> <ul style="list-style-type: none"> <li>a. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing, or ownership of the property;</li> <li>b. Any listing of the property for sale or rent price asked, and offers received, if any, within the previous two years; and</li> <li>c. Existing Building/Property Appraisal (current within the last six months):           <ol style="list-style-type: none"> <li>1. Estimated market value of the property in its current condition under best practices management;</li> <li>2. After repair of construction deficiencies;</li> <li>3. After repair of construction deficiencies and maintenance;</li> <li>4. After any changes recommended by the Historic Preservation Staff/LPAB;</li> <li>5. After completion of the proposed demolition or removal; and</li> <li>6. After completion of the replacement proposal.</li> </ol> </li> </ul> <p><b>(v) Public Benefits</b></p> <p>A public benefits analysis report shall be prepared and take into consideration the educational, cultural, social, equity, and economic benefits of the historic building and the proposed building. Some issues that shall be considered include, but are not limited to:</p> <ul style="list-style-type: none"> <li>a. The benefits to the City's tourism industry;</li> <li>b. The benefits to owners of other commercial and residential property owners and renters in the area;</li> <li>c. The services provided to the community, including social services;</li> <li>d. Housing and jobs opportunities;</li> <li>e. Civic, community, and neighborhood identity;</li> <li>f. Cultural heritage and the image of the City and local neighborhood; and</li> <li>g. Educational opportunities and cultural benefits regarding architectural and local history.</li> </ul> |

|  |  |   |
|--|--|---|
| <p><b>Category I (continued)</b><br/>         The following Local Register Properties:<br/>         &gt; Landmarks<br/>         &gt; Heritage Properties<br/>         &gt; "A" and "B" rated properties<br/>         &gt; Preservation Study List Properties</p> |  | <p><b>vii) Optional submittal: Sustainability – Life Cycle Assessment Criteria</b><br/>         The applicant may wish to submit a Life Cycle Assessment Report to demonstrate the quality of the replacement proposal and of the existing building as described below. Demonstration that the durability and expected life of the new proposal's quality of construction, materials and craftsmanship, including the cost of demolition or deconstruction of the historic resource, exceeds the value of the embodied energy of the building's existing materials, durability of materials, quality of construction, level of craftsmanship, cost to repair construction deficiencies and maintenance.<br/> <b>For Finding 2:</b><br/>         A declaration from the Building Official or the City Council that the structure to be demolished is a threat to the public health and safety although such threat is not immediate. The applicant shall also submit a report from a licensed engineer or architect with extensive experience in rehabilitation as to the structural soundness of the property and its suitability for rehabilitation. The soundness report shall be based on the requirements contained in Exhibit A, attached. The applicant shall also submit a building maintenance history report, (see iii. above). Based on these reports, the other submittals contained in Finding I may be required. A replacement project, if any, must meet Finding 3.</p>   |
|  | <p>3. The design quality of the replacement facility is equal/superior to that of the existing facility.</p>   | <p>Analysis prepared by a historic architect or professional with equivalent experience. The following discussion points shall be taken into account when making this finding. The proposal demonstrates 'equal quality' with respect to:</p> <ol style="list-style-type: none"> <li>A clearly identifiable visual or design value. For instance, does the replacement proposal express its present character as strongly as the historic design expressed its past?</li> <li>Durability, quality, and design value of surface materials. Durable and quality materials include, but are not limited to: stone, granite, marble, concrete, highest quality and detailed glass curtain wall, terra cotta or other materials appropriate to the design style of the building or context of the neighborhood. In terms of design value, are materials in the replacement building used to enhance the architectural design elements of the building instead of used solely for the sake of variety?</li> <li>Significant enhancement of the visual interest of the surrounding area;</li> <li>High quality detailing;</li> <li>Composition. A well composed building integrates all aspects of the building (materials, façade patterns, proportions, openings, forms, massing, detailing, etc.) into its overall character and design.</li> <li>Site setting, neighborhood, and streetscape contexts;</li> <li>Incorporating "especially fine" construction details, methods, or structural materials. These include those that successfully address challenging structural problems, contribute significantly to the building's overall design quality, exhibit fine craftsmanship, or are visible design elements;</li> <li>The replacement building's reflection of the time it was designed not merely a caricature of the demolished building;</li> <li>The replacement building's contemporary interpretation of the demolished building's elements in terms of the cultural, historic, economic, or technological trends of its time.</li> </ol> |
|  | <p>4. It is economically, functionally architecturally, or structurally infeasible to incorporate the historic building into the proposed development.</p> | <ol style="list-style-type: none"> <li>Could alternations or additions to the existing building make the current or a future use generate a reasonable economic return and/or architecturally/structurally accommodate the proposed uses?</li> <li>Do preservation alternatives exist which can achieve at least the same level of non-preservation benefits?</li> <li>Include discussion of potential economic benefits of a rehabilitated or reused cultural resource, including how building or district character might affect property values, attract commercial economic development, and increase City tax revenues.</li> </ol>   |

| Historic Status  | Findings for demolition or removal  | Submittal Requirements/Discussion Points  |
|--|---|---|
| <p><b>Category II</b><br/> The following Local Register Properties:<br/> S-7/S-20/API contributors &amp; noncontributors</p> | <p>For contributing or potentially contributing properties:</p> <ol style="list-style-type: none"> <li>1. The applicant demonstrates that the existing property has no reasonable use or cannot generate a reasonable economic return and that the development replacing it will provide such use or generate such return</li> <li><i>Or</i></li> <li>2. The applicant demonstrates that the property constitutes a hazard and is economically infeasible to rehabilitate on its present site. For this finding, a hazard constitutes a threat to health and safety that is not imminent;</li> <li>3. For noncontributing properties: The existing facility is either: <ol style="list-style-type: none"> <li>a. Seriously deteriorated or a hazard, or</li> <li>b. The existing design is undistinguished and does not warrant retention.</li> </ol> </li> </ol> <p>For this finding, a hazard constitutes a threat to health and safety that is not imminent;</p> | <p>Same as submittal findings as Findings 1 and 2 for Landmarks, Heritage Properties, "A" and "B" rated properties and study list properties.</p> <p>Same as (1), but demolition or removal is also permitted if either:</p> <p>For a: A declaration from the Building Official or the City Council that the structure to be demolished is a threat to the public health and safety although such threat is not immediate or a public nuisance; or</p> <p>For b: The Property is determined to be "Of no particular interest" by the Oakland Cultural Heritage Survey Evaluation. If the property is so rated due to alterations, reversal of the historic architectural integrity is not economically or physically feasible (as determined under Local Register Properties (ii), (iii) and (iv)).</p>   |
|  | <p>4. For all properties in a district: The design quality of the replacement facility is equal/superior to that of the existing facility.</p> <p>5. For all properties in a district: the design of the replacement project is compatible with the character of the preservation district, and there is no erosion of design quality at the replacement project site and in the surrounding area. This includes, but is not necessarily limited to, the following additional findings: The replacement project is compatible with the district in terms of massing, siting, rhythm, composition, patterns of openings, quality of material, and intensity of detailing.</p> <ol style="list-style-type: none"> <li>a. New street frontage with forms that reflect the widths and rhythm of the facades on the street and entrances that reflect the patterns on the street;</li> </ol>   | <p>Same as submittal findings as Finding 3 for Landmarks, Heritage Properties, "A" and "B" rated properties.</p> <p>Analysis of the findings prepared by a historic architect or professional with equivalent experience. Other discussion points include:</p> <ol style="list-style-type: none"> <li>a. The proposed design not only protects the integrity and aesthetic quality of the historic district but enhances and enlivens the historic fabric at the same time respecting and recognizing the district or due to circumstances discussed in the analysis, the project has been designed as a background project to the district (i.e., a simplified version of a period revival style.</li> <li>b. The new building's contemporary interpretation of the demolished building's elements in terms of cultural, historic, economic, or technological trends of its time.</li> <li>c. If a replacement project conveys an authenticity of its own time, it is compatible with the authenticity of the existing historic district.</li> <li>d. The compatibility of the design of the replacement proposal with the district without being merely a compilation of façade features that are common to district or a caricature of the buildings in the district.</li> </ol> |

**Category II (continued)**

The following Local

Register Properties:

➤ S-7/S-20/API

contributors &

noncontributors

|   |   |
|---|---|
| <p>b. The replacement project provides high visual interest that either reflects the level and quality of visual interest of the district contributors or otherwise enhances the visual interest of the district;</p> <p>c. If the design contrasts the new to the historic character, the replacement project enriches the historic character of the district;</p> <p>d. Is consistent with the visual cohesiveness of the district. For the purpose of this item, visual cohesiveness is the architectural character, the sum of all visual aspects, features, and materials that defines the district. A new structure contributes to the visual cohesiveness of a district if it relates to the design characteristics of a historic district while also conveying its own time. New construction may do so by drawing upon some basic building features, such as the way in which a building is located on its site, the manner in which it relates to the street, its basic mass, form, direction or orientation (horizontal vs. vertical), recesses and projections, quality of materials, patterns of openings and level of detailing. When a combination of some these design variables are arranged in a new building to relate to those seen traditionally in the area, but integral to the design and character of the proposed new construction, visual cohesiveness results; and</p> <p>e. The replacement project will not cause the district to lose its current historic status.</p> | <p>b. The replacement project provides high visual interest that either reflects the level and quality of visual interest of the district contributors or otherwise enhances the visual interest of the district;</p> <p>c. If the design contrasts the new to the historic character, the replacement project enriches the historic character of the district;</p> <p>d. Is consistent with the visual cohesiveness of the district. For the purpose of this item, visual cohesiveness is the architectural character, the sum of all visual aspects, features, and materials that defines the district. A new structure contributes to the visual cohesiveness of a district if it relates to the design characteristics of a historic district while also conveying its own time. New construction may do so by drawing upon some basic building features, such as the way in which a building is located on its site, the manner in which it relates to the street, its basic mass, form, direction or orientation (horizontal vs. vertical), recesses and projections, quality of materials, patterns of openings and level of detailing. When a combination of some these design variables are arranged in a new building to relate to those seen traditionally in the area, but integral to the design and character of the proposed new construction, visual cohesiveness results; and</p> <p>e. The replacement project will not cause the district to lose its current historic status.</p> |
| <p>6. It is economically, functionally architecturally, or structurally infeasible to incorporate the historic building into the proposed development.</p>  | <p>a. Could alternations or additions to the existing building make the current or a future use generate a reasonable economic return and/or architecturally/structurally accommodate the proposed uses?</p> <p>b. Do preservation alternatives exist which can achieve at least the same level of non-preservation benefits?</p> <p>c. Include discussion of potential economic benefits of a rehabilitated or reused cultural resource, including how building or district character might affect property values, attract commercial economic development, and increase City tax revenues.</p>   |



| Historic Status  | Findings for demolition or removal   | Submittals/Discussion Points   |
|--|--|--|
| Category III:<br>Other PDHPs:<br>> C's<br>> ASI contributors | <p><b>Findings required: 1, 2 or 3</b></p> <p>1. The design quality of the proposed replacement project is at least equal to that of the original structure and the proposed replacement project is compatible with the character of the neighborhood and it is economically, architecturally.</p> | <p>The submittals and discussion points listed in this column are for guidance to the applicant and staff. These submittals may be modified on a case-by-case basis by the Planning Director depending on the content of a particular proposal.</p> <p>The following submittals shall be required:<br/>           Analysis of 'equal quality' and compatibility prepared by historic architect, or professional with equivalent experience. This analysis should include:<br/>           a. A discussion of design quality in terms of: visual or design value; quality of surface materials; quality of detailing; composition; construction detail; and architectural integrity.<br/>           b. For proposals in an ASI, the analysis should compare the integrity of the ASI with the proposal to the integrity of the ASI with the structure proposed for demolition. This analysis should include a discussion of consistency with street frontage patterns, fenestration patterns, contribution to the visual quality of the district, and cohesiveness of the district.<br/>           c. A discussion of the historic significance of structure proposed for demolition.<br/>           d. A discussion of whether incorporation of the historic structure into the proposal will result in a project that has a design quality that is at least equal or better than the original structure.</p> |
|  | <p>2. The public benefits of the proposed replacement project outweigh the benefit of retaining the original structure. .</p>  | <p>The analysis should include a discussion of the benefits of the replacement structure and the existing historic structure, prepared by appropriate qualified consultants such as an economist, realtor with experience in evaluating both new and historic structures. The analysis should include a discussion of the following topics, as applicable:<br/>           a. The economy, including the City's tourism industry and the local commercial district. This includes the number of post construction jobs provided.<br/>           b. The services provided to the community, including social services;<br/>           c. Fulfilling the intent of 1) the Land Use and Transportation Element of the General Plan for the area and 2) other General Plan policies, as applicable.<br/>           d. Housing opportunities;<br/>           e. Civic, community, and neighborhood identity;<br/>           f. Cultural heritage and the image of the City and local neighborhood; and<br/>           g. Educational opportunities and cultural resources regarding architectural and local history.</p>   |
|  | <p>3. The existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.</p>  | <p>a. The submittal shall include an analysis, to be reviewed by the Oakland Cultural Heritage Survey, to determine if the building is "of no particular interest" as defined by the Historic Preservation Element survey evaluation methods and criteria. If the applicant submits a claim that the structure proposed for demolition is of "no particular interest", then the applicant may provide material such as photos, written analysis or expert opinion that provides evidence that the building should be so rated.<br/>           b. Analysis of 'compatibility with the neighborhood' prepared by historic architect (see discussion point d. for #1 above).</p>  |

**DOCUMENT A (TO EXHIBIT B)  
SOUNDNESS REPORT REQUIREMENTS FOR PROPOSED DEMOLITION OF  
STRUCTURES**

**7/6/10 City Council Meeting**

Applicants proposing demolition of a Local Register Property shall provide the Planning Department with a Soundness Report prepared in accordance with the requirements described below. This submittal is required by the Findings for Demolition of Local Register Historic Properties. Without a determination that the structure is unsound, the recommendation of approval to demolish is more difficult to make, and in that case, the applicant may be advised to consider a project that alters, rather than demolishes, the existing structure.

**Who prepares the Soundness Report?** Soundness Reports are required to be produced by licensed design or construction professionals (architects, engineers, and contractors) or by certified specifiers, construction cost estimators or physical inspectors. The author of the report must be a disinterested third party at “arm’s length” from the project; that is, not involved in its ownership, design or construction. Professionals who prepare such reports must be familiar with the demolition standards and procedures adopted by the City Council, and knowledgeable about construction assemblies, processes and cost.

**How is Soundness defined?** “Soundness” is an economic measure of the feasibility of repairing construction deficiencies. It compares an estimate of construction-repair cost called the Upgrade Cost to an estimate called the Replacement Cost.

Replacement Cost is defined as the current cost to construct structures exactly like the size of those proposed for demolition. The Soundness Report Requirements will use unit costs, as outlined in the most recent City of Oakland Building Services Construction Valuation For Building Permits<sup>1</sup>.

Upgrade Cost is an estimate of the cost to make the existing structure ‘usable,’ that is, the cost to bring a construction deficient structure into compliance with the minimum standards of the Building Code in effect at the time of its construction, with certain retroactive life-safety exceptions.

Programmatic shortcomings of the existing structure have no bearing on the soundness report. Costs to add floor space in an addition, to increase headroom in a basement or attic, to install interior upgrades, etc., cannot be included, nor can certain “soft costs” and site improvements listed below. Bringing the structure into compliance with current seismic requirements of the Building Code is not an allowable expense, even though it may be prudent or desirable for the public good, or even if required by the Building Code for the scope of repair work. Routine, repetitive maintenance costs must also be excluded. Contractor’s profit and overhead and permit costs may be included, but Architects’ and Engineers’ design fees, and allowances for construction contingencies may not.

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<sup>1</sup> Market value based on the current costs of labor, materials, related fees, and any entrepreneurial profit or incentive. - Marshall & Swift

Authors of Soundness Reports need to be focused on the concept that “Soundness” is an economic measure, not an issue of structural compliance with the Building Code. Further, they need to distinguish costs to upgrade elements that were original construction deficiencies from those elements needing repair due to deferred maintenance, as explained below.

Soundness Determination: A structure is considered unsound if the cost to upgrade construction deficiencies exceeds 50% of the replacement cost.

If the soundness report cannot support that finding, the next step is to calculate a second upgrade cost, including the costs calculated for the 50% upgrade, and also adding in the cost of any necessary functional repairs attributable to lack of maintenance. For example, if a significant roof leak went unrepaired for a sufficient length of time to cause mildewed gypsum board and rotted structural members, their repair could be included in this upgrade, if it is certain and demonstrable that the leak was the cause. If this second upgrade cost exceeds 75%, then the structure is determined to be unsound.

Just because a building component or system is not pristine or modern does not justify its replacement, as long as it meets required functional standards and is not a hazard. For example, rusted ductwork on a heating system that can maintain the temperature requirement does not justify replacement of the heating system. The presence of knob and tubing wiring, unless unequivocally documented as a hazard, does not justify replacement of the electrical service with conduit or Romex. The cost to replace a pull-out fuse box that is not a hazard with a new circuit breaker panel cannot be included as an upgrade expense, even if it is part of the proposed work.

Further examples:

**Flashing:** Replacement of roof flashing, step flashing, coping, gravel stops, diverters, etc. should be excluded, because these items can be replaced as part of the re-roofing process, and in that sense are maintenance items. Replacement of corroded galvanized sheet metal head flashing over doors and windows might be allowed at the 75% level if it is clear that the corrosion resulted from lack of painting or other improper maintenance.

**Windows:** The Building Code requires that windows, like all elements of structure, be maintained and repaired. Replacement of windows meeting the code requirements at the time of their installation cannot be included in upgrade costs, (e.g., replacing single-glazed windows installed in 1972, before Title 24 energy requirements, with double-glazed, energy efficient windows, would not be an allowed upgrade cost. Repair of leaky or aged windows may be included at the 75% threshold to the extent that it is demonstrable that the repair is necessitated by poor maintenance.

**Stairs:** Removal and replacement of existing stairs without legal headroom can be included (at the 50% level) only if the stairs are a means of egress **required** by the Building Code. If the stairs are not part of a required exit system, but for example provide access to a basement or garage, their replacement to meet current headroom requirements or rise and run ratios cannot be included. Wooden exterior stairs have a finite life, and their periodic replacement is considered a

maintenance issue. Only if it can be documented that improper construction led to the early loss of the stairs could their replacement be included in upgrade costs for soundness determination.

For general guidelines, see the description in the three lists below: Also note that in general, the code requires that buildings be maintained in accordance with the codes in effect at the time of their original construction. Please note that some of the concepts addressed in these standards are not detailed, and can only be determined upon review of specific cases by competent professional persons.

**WORK THAT COULD BE INCLUDED IN THE UPGRADE COST ESTIMATE FOR THE 50% THRESHOLD: (include costs to correct original construction deficiencies, NOT deferred maintenance items or programmatic requirements of the project.)**

- Building Permit Application cost.
- Correcting lack of flashing or proper weather protection if not originally installed.
- Installing adequate weather protection and ventilation to prevent dampness in rooms if not originally constructed.
- Provision of garbage and rubbish storage and removal facilities if not originally constructed.
- Eliminating structural hazards in foundation due to structural inadequacies.
- Eliminated structural hazards in flooring or floor supports, such as defective members, or flooring or supports of insufficient size to safely carry the imposed loads.
- Correcting vertical walls or partitions which lean or are buckled due to defective materials or which are insufficient in size to carry loads.
- Eliminating structural hazards in ceilings, roofs, or other horizontal members, such as sagging or splitting, due to defective materials or insufficient size.
- Eliminating structural hazards in fireplaces and chimneys, such as listing, bulging or settlement due to defective materials or due to insufficient size or strength.
- Upgrading electrical wiring which does not conform to the regulations in effect at the time of installation.
- Upgrading plumbing materials and fixtures that were not installed in accordance with regulations in effect at the time of installation.
- Providing exiting in accordance with the code in effect at the time of construction.
- Correction of improper roof, surface or sub-surface drainage if not originally installed
- Correction of structural pest infestation (termites, beetles, dry rot, etc.) to extent attributable to original construction deficiencies, (e.g., insufficient earth-wood separation).
- Contractor's profit and overhead, not to exceed 18% of construction subtotal, if unit costs used for repair items do not include Profit and Overhead.

**WORK THAT COULD BE INCLUDED IN THE UPGRADE COST ESTIMATE FOR THE 75% THRESHOLD: (include costs to correct deficiencies resulting from deferred**

**maintenance.)**

- Repair of fire-resistive construction and fire protection systems if required at the time of construction, including plaster and sheet rock where fire separation is required, and smoke detectors, fire sprinklers, and fire alarms when required.
- Repairs as need to provide at least one properly operating water closet, lavatory, and bathtub or shower.
- Repair of a sinks not operating properly.
- Provision of kitchen appliances, when provided by owner, in good working condition, excluding minor damage.
- Repair if needed of water heated to provide at least 8 gallons of hot water storage.
- Both hot and cold running water to plumbing fixtures.
- Repair to a sewage connection disposal system, if not working.
- Repair heating facilities to permit heat to habitable rooms, if not working.
- Repair ventilation equipment, such as bathroom fans, where operable windows are not provided, if not working.
- Provision of operable windows in habitable rooms (certain exceptions may apply).
- Repair of electrical wiring if not maintained in a safe condition.
- Repair of plumbing materials and fixtures in not maintained in good condition.
- Correcting vertical walls or partitions which lean or are buckled due to deterioration.
- Eliminating structural hazards in ceilings, roofs, or other horizontal members due to deterioration.
- Eliminating structural hazards in fireplaces and chimneys, such as listing, bulging or settlement due to deterioration.
- Eliminating chronic, severe mold and mildew.
- Repairing proper weather protection, including exterior coverings such as paint and roof coverings and windows and doors due to lack of maintenance.
- Repairing deteriorated, crumbling or loose plaster, gypboard and floor finishes due to faulty, poorly maintained weather protection.
- Contractor's profit and overhead, not to exceed 18% of construction subtotal, if unit costs used for repair items do not include profit and overhead.

**WORK THAT MUST BE EXCLUDED FROM THE UPGRADE COST ESTIMATE FOR BOTH THE 50% AND THE 75% THRESHOLDS: (Although these elements may be required, prudent, or desirable, the costs associated with them are not included in upgrade estimates.)**

- Architects' fees, Engineers' fees and other design fees.
- Construction contingency allowance.
- Addition of floor space, or increasing headroom or other programmatic requirements that are not required standards as part of the original structure.
- Interior and exterior painting except to assemblies required to be repaired or replaced under habitability standards.
- Adding electrical receptacles where not necessary;
- Installation of a higher capacity electrical service, unless the existing is a hazard.

- Finish upgrades, such as new cabinetry, countertops, tile, stonework and other interior finishes;
- Routine re-roofing except to assemblies required to be repaired or replaced under habitability standards.
- Site work, such as repairs to walkways, driveways, decks on grade, and retaining walls not part of the building foundation.
- Landscape and irrigation work.
- Removal of fire hazards, such as buildup of combustible waste and vegetation.
- Removal of accumulation of weeds, vegetation, trash, junk, debris, garbage, stagnant water.
- Elimination of insect, vermin or rodent infestation.
- Other routine, repetitive maintenance costs.

**What constitutes a “hazard”?**

For the purposes of Soundness Reports, “hazard” shall be defined as it is in the Demolition Findings, Category I and Category II, Finding 2. For this finding, a hazard constitutes a threat to health and safety that is not imminent.

**What should be in the Soundness Report?**

The Soundness Report should begin with a thorough description of the building in question: its age, size (e.g., footprint area, height, number of stories, square footage), roof form, roofing material, construction type, foundation and floor system, exterior siding, interior wall finish, and a description of repairs, maintenance, and any remodeling or additions. Documentation supporting the previous should be included in an appendix, using copies of the building permit history of the building.

Next, the Replacement Cost should be calculated using the methodology described above. Both the 50% threshold and the 75% threshold should be computed and noted.

The 50% Upgrade Cost should be described next, with line item descriptions of each element qualifying for upgrade (those due to initial construction deficiencies), followed by the unit cost, the unit multiplier, and the total cost for that element. If the sum of these cost items does not exceed 50% of the Replacement Cost, than a 75% Upgrade Cost can be detailed, including the previous upgrade items and adding in costs for repair of qualifying items deteriorated due to deferred maintenance, presented in a similar format.

Generalities and assertions unsupported by professional, detailed justification, or by photographic evidence or other documentation will undermine the essential credibility of the report. Replacement of many structural assemblies and mechanical systems is justified only if the existing elements are hazards. Careful and thorough demonstration of the hazardous condition is required, to justify including the replacement in the upgrade cost estimate.

Copies of any pest report, if such work is needed, and any other documentation supporting the conclusions of the soundness report, should be provided. Pest control work should be carefully

analyzed to determine which portions of work and cost are applicable to the 50% threshold and which to the 75% threshold.

Clear and well-labeled photographs of the façade, and close-ups that document elements needing upgrade work, are essential to support assertions that the elements in question qualify for inclusion in the upgrade cost.

A factual summary of the findings is a useful conclusion to the document.

### **How will the Planning Commission decide whether to approve the demolition application?**

The City of Oakland General Plan Land Use and Transportation Element (LUTE) and Historic Preservation Element (HPE) Policies discourage demolition and promote preservation of history and community through rehabilitation and reuse. Below are specific LUTE and HPE Policy references.

- LUTE Policy I/C2.2 Reusing Abandoned Buildings
- LUTE Policy D1.4 Planning for Old Oakland
- LUTE Policy D2.1 Enhancing the Downtown
- LUTE Policy D6.2 Reusing Vacant or Underutilized Buildings
- LUTE Policy N9.8 Preserving History and Community
- LUTE Policy N9.9 Respecting Architectural Integrity
- HPE Policy 2.4: Landmark and Preservation District Regulations
- HPE Policy 2.6 Preservation Incentives
- HPE Policy 3.5 Historic Preservation and Discretionary Permit Approvals
  - HPE Policy 3.8 Definition of “Local Register of Historical Resources” and Historic Preservation “Significant Effects” For Environmental Review Purposes
- HPE Policy 3.12 Historic Preservation and Substandard or Public Nuisance Properties
- HPE Policy 3.13 Security of Vacant Properties
- HPE Policy 3.14 Commercial Revitalization Programs

The Soundness Report will be reviewed and considered in conjunction with all other required submittals by the Findings for Demolition of Local Register Historic Properties. All of these reports will be reviewed by the appropriate advisory group(s) and decision maker(s). A replacement project, if any, must also meet the Demolition Findings.

Because a finding that a building is unsound makes approval of the demolition more probable, and because some costs included in the soundness report represent a subjective professional judgment, there may be a temptation to inflate the upgrade cost estimate, by including costs of elements that do not require repair or by exaggerating the cost of repairs, or by suggesting seismic or other structural upgrades beyond the scope of the requirements. Resist this temptation. Presentation of soundness reports with inflated upgrade costs or low replacement costs may lead to denial of the related demolition permits, or require a peer review, paid for by the applicant.

If the Soundness Report is credible and demonstrates that the structure in question is sound/not sound, the report findings will be taken into consideration, along with other required submittals by the Findings for Demolition of Local Register Historic Properties, for evaluation and determination of demolition approval, when reviewed by Landmarks Preservation Advisory Board and the Planning Commission.