

FILED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY
AS REVISED PURSUANT TO JANUARY 22,
2019 CITY COUNCIL MOTION AND
APPROVAL

INTRODUCED BY COUNCILMEMBER _____
2019 JAN 31 PM 2:51


City Attorney

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

ADOPT AN ORDINANCE, AS RECOMMENDED BY THE CITY PLANNING COMMISSION, AMENDING OAKLAND PLANNING CODE REGULATIONS RELATED TO PARKING, LOADING, EMERGENCY SHELTERS, EXTENSIVE IMPACT CIVIC ACTIVITIES, PERMITTED ACTIVITIES IN THE D-GI ZONE, CONDITIONAL USE PERMITS, HOTEL CONVERSIONS IN THE CIX-2 ZONE, AND JOINT LIVING AND WORKING QUARTERS; AND MAKE APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATIONS.

WHEREAS, the City Council adopted a comprehensive update to the parking and loading regulations in the Planning Code; and

WHEREAS, a staff analysis of the updated parking and loading regulations identified additional changes and adjustments were required; and

WHEREAS, this Ordinance is in conformity with adopted City policies related to transit use, housing supply, air quality, and climate change contained in the Land Use and Transportation Element of the General Plan, Housing Element of the General Plan, City's "Transit First" policy, Climate Action Plan, and/or the Mayor's Housing Cabinet Report; and

WHEREAS, there is a crisis of homelessness in the region, and the conversion of hotels to housing for the homeless provides an opportunity to alleviate this crisis; and

WHEREAS, there is a discrepancy between where emergency shelters are allowed by right between Sections 17.103.015 and 17.73.020 of the Planning Code; and

WHEREAS, the conversion of nonresidential buildings to a joint living and working quarter(s) with several bedrooms and a shared working space is an affordable housing option for artists and other Oakland residents who desire to work and live in the same building;

WHEREAS, projects on several properties in Oakland have been granted Conditional Use Permits that do not include the most up to date Conditions of Approval and are not consistent with the intent of the current Planning Code and zoning map; and

WHEREAS, it is City policy to locate recycling facilities at the former Oakland Army Base;
and

WHEREAS, this Ordinance will serve the public necessity, convenience and welfare for the reasons set forth in the accompanying Agenda Report dated October 22, 2018, and incorporates such reasons herein by reference; and

WHEREAS, on September 5, 2018, the City Planning Commission conducted a public hearing to consider the proposed changes as follows: 1) Consolidating parking regulation in Chapter 17.116 of the Planning Code; 2) Capping the number of loading berths required for work/live and live/work units; 3) Change the permitting of emergency shelters in parts of the CIX, IG, and IO Industrial Zones to be consistent with Section 17.103.015, which identifies all areas citywide that permit Emergency Shelters by-right; 4) Removing employee parking requirements for live/work and work/live units in the CIX and HBX Zones; 5) Removing the cap of four persons who can live in a joint living and working quarter; 6) Requiring that nonresidential buildings be at least ten years old before they can be converted to joint living and working quarters; 7) Allowing the use of industrial buildings for commercial uses, and vice versa, without activating new parking requirements; 8) Reducing the number of parking spaces required for a single-family home in the RD-1 zone from 1.5 to 1; 8) Removing parking requirements for micro-living quarters in the D-BV-1 and D-BV-2 Zones; 9) Removing parking requirements for rooming units in the CBD, S-2, D-LM, D-BV-1 and D-BV-2 Zones; 10) Decreasing the parking requirement for new industrial developments; 11) Allowing parking reduction measures to be applied to developments of five dwelling units or fewer; 12) Capping the number of required loading berths for civic, residential, and commercial buildings at three; 13) Increasing the minimum floor area that requires a loading berth in industrial buildings; 14) Allowing the use of intermediate and compact parking spaces on lots containing a total of two or more parking spaces; 15) Adding a regulation that extinguishes a Conditional Use Permit if the activity that received the Conditional Use Permit has either ceased for two or more years, or a different activity has subsequently replaced the activity in the same facility or property; and 16) Increase the time allowed from one year to two years for issuance of all necessary permits for construction or alteration associated with a Conditional Use Permit; and

WHEREAS, on October 17, 2018, the City Planning Commission conducted a public hearing to consider the proposed changes as follows: 1) amending the definition of Extensive Impact Civic Activities in Section 17.10.240 to include Garbage Transfer Stations and Curbside Recycling Collection Centers; 2) amending Sections 17.72.030 and 17.72.040 to make applicable reference to the Emergency Shelter regulations in Section 17.103.015; 3) amending Section 17.73.020 in the CIX, IG and IO Industrial Zones Chapter to allow for conversion of an existing Transient Habitation Commercial Activity to a Residential Activity in the CIX-2 Zone through a Conditional Use Permit; and 4) amending Section 17.101F in the D-GI Gateway District Zone Chapter to specify that only certain specified types of Extensive Impact Civic Activities are permitted outright, and that all other Extensive Impact Civic Activities in the D-GI Zone are only permitted upon the granting of a Conditional Use Permit; and

WHEREAS, after a duly noticed public meeting on November 13, 2018, 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 November 27, 2018 to consider the proposal, and all interested parties were provided an ample opportunity to participate in said hearing and express their views; and

WHEREAS, the proposed amendments to the Planning Code rely on the previous set of applicable California Environmental Quality Act (CEQA) documents including previously certified Final Environmental Impact Reports for the Coliseum Area Specific Plan (2105); Broadway Valdez Specific Plan (2014); West Oakland Specific Plan (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan (1998); the Oakland

Estuary Policy Plan (1998); the West Oakland, Central City East, Coliseum, and Oakland Army Base Redevelopment Areas; the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010); and various Redevelopment Plan Final EIRs (collectively, "EIRs"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163; and

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

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

WHEREAS, the City Council hereby finds and determines on the basis of substantial evidence in the record that none of the circumstances necessitating preparation of additional environmental review, as specified in CEQA and the CEQA Guidelines, including, without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 and 15163 are present in that (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the Previous CEQA Documents due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance," as defined in CEQA Guidelines Section 15162(a)(3); and

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

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

Section 1. The City Council finds and determines the foregoing recitals to be true and correct and an integral part of the City Council's decision, and hereby adopts such recitals as findings.

Section 2. The City Council finds and determines the adoption of this Ordinance complies with CEQA, and relies on the Previous CEQA Documents. No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Further, the Council finds the adoption of this Ordinance is exempt, pursuant to CEQA Guidelines section 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment). Each of these provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

Section 3. The Environmental Review Officer shall file a Notice of Exemption/Notice of Determination, and an Environmental Declaration under the California Fish and Game Code (Section 711.4) with the County of Alameda.

Section 4. Titles 17 of the Oakland Municipal Code are hereby amended pursuant to *Exhibit A* attached hereto and incorporated by reference herein. Additions to Titles 17 of the Oakland Municipal Code are shown as underline and omissions are shown as ~~strikethrough~~.

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) zoning applications approved by the City and not yet expired, or (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 to create any requirement, power, or duty in conflict with any federal or state law.

Section 7. If any section, subsection, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of the remaining portions which shall remain in full effect.

Section 8. This Ordinance serves the public interest and is necessary to protect the health, safety and/or general welfare of the citizens of Oakland, and is enacted pursuant to the City of Oakland's general police powers, Section 106 of the Charter of the City of Oakland, and Article XI, Sections 5 and 7 of the California Constitution.

Section 9. The City Council hereby authorizes the City Administrator or designee to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors), prior to formal publication of the amendments in the Oakland Planning Code.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES – FORTUNATO-BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO, AND PRESIDENT KAPLAN.

NOES –

ABSENT –

ABSTENTION –

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

DATE OF ATTESTATION: _____