



AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: FRED BLACKWELL

SUBJECT: Amendments to Planning Code, ZT12-012

DATE: 2/16/12

City Administrator
Approval

Date

3/14/12

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff recommends that the City Council adopt an Ordinance, Recommended By The Planning Commission, To: 1) Update References, Reduce Redundancy, And Clarify Language In Various Chapters Of The Planning Code; 2) Modify The Threshold In Chapter 17.102 For Exemption From The 1,000-Foot Separation Requirement For Alcohol Beverage Sales Commercial From 20,000 Square Feet Down To 12,000 Square Feet, And Modify The Requirement For 25 Full-Time Employees; 3) Modify Chapter 17.108 For Setbacks Of Allowed Projections Above The Height Limits And Allowed Projections Into Required Setbacks; 4) Modify Chapter 17.108 For Interior Courtyard Regulations And Separation And Setback Requirements From Legally Required Windows; 5) Modify Chapter 17.108 For Inclusion Of Specific Standards For Wind Power Generating Facilities.

EXECUTIVE SUMMARY

The proposed text amendments primarily address Section 17.108 (General Height, Yard and Court Regulations), a few portions of Section 17.102 (General Regulations Applicable to All or Several Zones), and minor clarifications to Section 17.104 (Signs). Many of the amendments are non-substantive, intended to improve consistency, reduce redundancy and simplify language. Other minor changes include modifications in Chapter 17.108 to setbacks of allowed projections above the height limits, allowed projections into required setbacks, interior courtyard regulations and separation and setback requirements from legally required windows.

Staff is also proposing two more substantive changes: 1) the modification of the square footage threshold that allows exemptions from the separation requirements for Alcohol Beverage Sales from 20,000 and 25 full-time employees to 12,000 square feet or 25 full-time employees; and 2) the inclusion of specific standards for wind power generating facilities.

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OUTCOME

Adoption of the recommended text changes to the Planning Code would clarify, improve consistency, reduce redundancy and simplify language portions of the Code to make for a more user friendly document. The major changes associated with the recommended text changes would be that retail operations containing 12,000 square feet or more that are requesting to sell alcoholic beverage sales would be allowed to apply for a Major Conditional Use permit regardless of whether or not another establishment selling alcoholic beverages is located within 1,000 feet. At present the threshold for such allowance is 20,000 square feet and also having 25 full-time employees. Other major changes would include modifications to the internal courtyards for in-fill residential development projects which would better help to facilitate residential density along the City's major transportation corridors, and the addition of standards for wind power generating facilities, where at present none exist.

BACKGROUND/LEGISLATIVE HISTORY

Page 170 of the City of Oakland Land Use and Transportation Element of the General Plan contains policy direction calling for a simple, user-friendly and easy-to-interpret Planning Code. To comply with that directive, staff has prepared proposed zoning text and map amendments that are largely focused on improving consistency, reducing redundancies, and simplifying language of key chapters of the Planning Code. On February 15, 2012, the Planning Commission voted to recommend that the City Council approve the proposal (see *Attachment A* for the Planning Commission Staff Report).

Although most of the proposed amendments are non-substantive or minor changes, there are four more substantive changes. These more substantive changes address the threshold for exemption to the distance separation requirement for alcoholic beverage sales, side yards opposite living room windows and courtyard width requirements, security fences, and standards for wind power generating facilities.

Threshold for Exemption to Distance Separation for Alcohol Beverage Sales

Section 17.102.210B of the Planning Code sets a 1,000 foot separation requirement between any establishment selling alcoholic beverages; therefore no new establishment may open if located within 1,000 feet of an existing establishment with an ABC license. This section allows an exception to the separation requirement in certain instances, one of which is for large operators such as grocery stores. The threshold for this exception under the current Planning Code is 25 full-time employees and a minimum of 20,000 square feet of floor area. The reason behind this exception is that the typical problems that may be associated with smaller liquor stores and bars generally do not develop with larger operators like grocery stores, primarily because of store

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policies, store security, and the fact that customers are also buying many other goods while shopping.

Recently there have been a number of applications for large retail operations that include pharmacies, which include chain operations such as Walgreen's, CVS, and Rite Aid. Many of these potential operators are looking to open locations in areas in Oakland that are underserved for general convenience goods that are typically sold at these locations. Nationwide, these businesses' operations (when not located in downtown areas) typically include the sales of beer and wine and sometimes liquor. In order to allow these types of businesses to open with their typical operation in the City, staff has proposed a text change in the Planning Code that would reduce the threshold from 25 full-time employees and 20,000 square feet of floor area to 25 full-time employees or 12,000 square feet of floor area. This proposed change would allow for a number of these types of businesses to open operations in areas of the City that are underserved for retail and convenience goods. This proposal generally follows the same thinking that these larger operations would be similar to grocery stores currently, which do not typically encounter the same nuisance issues which are more often the case with the smaller alcohol sales operations. These larger operators also typically have standard alcohol sales training for employees and significant security measures as part of their operations. A Major Conditional Use permit would still be required for any Alcohol Beverage Sales application, and specific conditions would still be applied to these businesses. (See Change #1 in *Attachment B* for the exact Code language).

Side Yards Opposite Living Room Windows and Courtyard Width Requirements

The current Planning Code regulations for required side yard setbacks for living room windows, and the regulations that are applied to internal courtyards for developments when legally required windows are present, were developed in the 1960's around a model for large garden apartment developments, which were typically being developed within medium to high density Residential Zones around the City. Since the 1960's the development pattern has changed within the City of Oakland, due in large part to the adoption of the General Plan in 1998. The 1998 General Plan directed that the future high density development should be moved away from the internal residential neighborhoods and placed in areas closer to mass transit access and commercial areas, such as downtown and the Oakland transit corridors. This is often referred to as "Maintain and Enhance" in the residential neighborhoods and "Grow and Change" in downtown and the corridors.

As development moves onto the corridors the possible development sites are much more compact and often result in a more vertical development. As a result these older 1960's regulations that were intended for garden apartment complexes, which were typically three or four stories with large interior courtyards with pools (as often seen in the Adams Point neighborhood), have now turned into mixed-use developments with four to six stories above a ground floor podium and commercial space. When applying the existing regulations to development projects over the past years there were often requirements for Minor Variances to

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allow relief from some of these regulations. The courtyard regulations as they are today require the width of the courtyard to be equal to the height of the opposite wall, with the intent of creating a 45 degree angle to try to obtain as much direct sunlight as possible during various seasons. While this was not an issue for a three story building with a large courtyard open space in the middle across a 150 foot by 150 foot lot, these regulations pose major issues for developing on smaller sites along the City's corridors which contain lots that are often as small as 50 feet wide, and thus the courtyards required for the height of a five story building may exceed the actual width of the lot itself. Planning staff has examined other cities' regulations regarding interior courtyards and side yards (light wells) opposite windows in locations similar to the City of Oakland's corridors and has applied development standards that are similar to the practices of those cities. These standards appear to have a more practical approach for corridor in-fill development, where the goal is not to try to attain access to direct sunlight during various seasons, but to obtain as much ambient light as possible for interior courtyards and light wells during seasons outside of summer when the sun may be lower in the sky, as well as provide adequate spatial separation and access to air. Staff believes that the newly proposed regulations help to meet the goals of the General Plan by easing regulations for dense residential and mixed-use development along the corridors, while still prescribing regulations that ensure comfortable living quarters comparable with other urban settings in the Bay Area (see Changes #12 and #16 in **Attachment B** for the exact Code language).

Security Fences

Currently Planning Code Section 17.108.130R allows fences of up to eight feet in height within the required setbacks for abandoned Fast-Food Facilities. Staff has proposed to alter this regulation and expand the allowance to include any active Code Enforcement Case for blight that is addressing a vacant lot or vacant building. Besides the fact that the existing regulation is largely irrelevant, since most Non-Residential Zones where any abandoned Fast-Food Facilities would typically be located already allow an eight foot tall fence anywhere on the lot, there have been ongoing issues with fences as it relates to Code Enforcement cases against blighted properties. A vacant lot or building that is under an active Code Enforcement case for blight can often attract various nuisances including illegal drug activities. Under the current regulations the owner of the property cannot install an eight foot fence to properly secure the site in residential zones due to the limitations of the Planning Code. By altering this regulation, more effective security fences will be allowed to be installed at a site on a temporary basis until the building is re-inhabited or the vacant lot is developed. This allowance will include a requirement that any fence contain a minimum of 75% transparency from any public right of way so that the site will remain open to view and no nuisance activities will be able to take place behind a hidden "wall" as may be the case with a solid fence (See Change #17 in **Attachment B** for the exact Code language).

Wind Power Generating Facilities

At present the Oakland Planning Code does not contain any specific provisions on wind power facilities. While urban areas are not typically the areas that these facilities are located, there has been a growing interest from property owners to install these facilities. In light of this, staff has proposed to include a set of regulations for wind power facilities that are located within the setbacks of Residential and Non-Residential Zones.

Staff is proposing that in Residential Zones the facility must be setback from any adjacent residentially zoned property at a distance equal to the height of the wind power facility itself, and may not exceed 25 feet in height above grade or ten feet above the prescribed height of the zone if located on top of a building. An allowance to extend a facility up to a maximum height of 60 feet is included if a Conditional Use permit is granted, which would likely only apply to very large parcels, as the 1:1 setback rule would still apply.

In Non-Residential Zones staff is proposing that a Conditional Use permit would be required for any wind power facility that exceeds ten feet above the prescribed height of the zone, whether located on a building or not, or that exceeds sixty feet in height. Staff has incorporated clarifying changes to the zoning text in Section 17.108.160 to reflect staff's proposal, as it was described to the Planning Commission and recommended by the Planning Commission for Council approval. Any wind power facility would also need to be setback from any residentially zoned property at a distance equal to the height of the facility if it is not located on a roof top of a primary facility on the site (See Change #19 in *Attachment B* for the exact Code language).

At the Planning Commission meeting on February 15, 2012, the Commission made as part of their recommendation that for wind power generating facilities consideration be given to potential impacts on migratory birds. Staff recommends that this be handled at the administrative level on a case by case basis, and that staff generate a Code Bulletin that recommends the use of cylindrical blades as a means of lessening any impacts on migratory birds.

ANALYSIS

PROJECT DESCRIPTION

The proposed changes to the zoning text and map fall into three basic categories:

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

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Non-substantive changes include reformatting, reorganizing and improving the consistency of the Planning Code. Minor substantive changes include text changes to improve the interpretability, clarity, and flexibility of the Planning Code. Finally, staff proposes a few more substantive changes to improve standards in the Planning Code. The content of these proposed changes is summarized below. Please see *Attachment B* for the proposed zoning text amendments.

I. NON-SUBSTANTIVE CHANGES

The following section summarizes the proposed non-substantive changes to the Planning Code.

- **17.102 General Regulations Applicable to All or Several Zones**
17.102.230 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a Nonresidential Activity--Nonresidential zones.
The proposed amendment would delete a duplication of the text of the beginning portion of this section. (See Change #2 in *Attachment B*)

- **17.102 General Regulations Applicable to All or Several Zones & 17.108 General Height, Yard and Court Regulations**
Section 17.102.240 Special regulations applying to microwave and satellite dishes over one (1) meter in diameter located in or near residential zones.
Section 17.108.030 Allowed projections above height limits
Section 17.108.130 Exceptions to required openness of minimum yards and courts
This amendment would clarify that satellite dishes are included as microwave dishes, which is somewhat of an outdated term, as well as clarify cross references between Section 17.108 and Section 17.102 that places Use Permit Criteria on dishes in excess of one meter in or near Residential Zones. (See Change #3 in *Attachment B*, and Changes #9 and #17 for Section 17.108 references)

- **17.102 General Regulations Applicable to All or Several Zones & 17.108 General Height, Yard and Court Regulations**
Section 17.102.400 Special design requirements for lots that contain Residential Facilities and no non-residential facilities & Section 17.102.150 Retaining Walls (added)
Delete provisions on retaining walls from Section 17.102 and place into Section 17.108, so that the regulations are easier to find since Section 17.108 typically deals with regulations of facilities within yards and courts, thus making the Planning Code easier to use. (See Changes #4 and #18 in *Attachment B*)

- **17.104 General Limitations on Signs**

Staff proposes to change the text to clarify the signage regulations for activities in the RU-4 and RU-5 zones as intended under the last Planning Code update. (See Change #5 in *Attachment B*)

- **17.108 General Height, Yard and Court Regulations**

- Section 17.108.030 Allowed projections above height limits

- Section 17.108.130 Exceptions to required openness of minimum yards and courts

Update text throughout the tables, to provide dimensional requirements in text as well as the numerals as done elsewhere to provide consistency in the Planning Code. (See Changes #9 and #17 in *Attachment B*)

- **17.108 General Height, Yard and Court Regulations**

Staff proposes to remove Sections 17.108.040, 17.108.070, 17.108.090, 17.108.100, and 17.108.110 from the Planning Code as these provisions were already incorporated into the individual zone regulations as part of the overall Zoning Update in 2011. (See Changes #6, #10, #11, #13, #14, and #15 in *Attachment B*)

- **17.108 General Height, Yard and Court Regulations**

- Section 17.108.120 Minimum court between opposite walls on same lot

Eliminate the reference to "Illustration I-15", which no longer exists. (See Change #16 in *Attachment B*)

- **17.108 General Height, Yard and Court Regulations**

- Section 17.108.130 Exceptions to required openness of minimum yards and courts

Update text within the table to clarify where height measurements for allowed projections are taken from. Currently the code states that the height is taken from the "level of the required yard or court", which has confused applicants in the past. Staff proposes to change the language to read that height is taken from "the finished grade of the required yard or level of the required court". This change occurs in four instances in the table in Section 17.108.130 in subsections B, C, E and G. Also in subsection G, the term "decks" is added into the list of facilities to clarify that these are treated the same as "unroofed porches". (See Change #17 in *Attachment B*)

- **17.108 General Height, Yard and Court Regulations**

- Section 17.108.130 Exceptions to required openness of minimum yards and courts

Update the text in subsection H in the table in Section 17.108.130 to include a reference to OMC Section 8.24.020F regarding blight. This is necessary due to the Planning Code allowing the open storage of boats, trailers, etc within setbacks, where another Section in the

OMC may refer to this condition as blight and has set rules for storage of these type of vehicles within enclosed structures. (See Change #17 in *Attachment B*)

- **17.108 General Height, Yard and Court Regulations**

- Section 17.108.130 Exceptions to required openness of minimum yards and courts

Update the text in subsection Q in the table in Section 17.108.130 to include a reference to Section 17.104 regarding rules for signs. This is necessary to better inform the public on what the regulations are regarding signs. While they may be allowed within setbacks in some instances there are other zone specific requirements within Section 17.104, and this cross reference will help to make this more evident. (See Change #17 in *Attachment B*)

II. MINOR-SUBSTANTIVE CHANGES

The following section summarizes the proposed minor-substantive changes to the Planning Code.

- **17.108 General Height, Yard and Court Regulations**

- Section 17.108.030 Allowed projections above height limits

Staff proposes a minor change to the table in Section 17.108.030A regarding the minimum horizontal distance an allowed height projection for rooftop mechanical equipment must be from any abutting residentially zoned lot. The current setback requirement is 20 feet and staff proposes reducing this to 15 feet. The reason behind this proposed change is that, for higher density residentially zoned properties that are often narrow parcels located on the corridors, the 20 foot setback requirement can often severely limit where the location of required rooftop mechanical equipment can be located and can have a negative impact on the floor planning. If there is a narrow parcel of 40 or less feet in width, as many are on the corridors, this regulation would be impossible to meet. Furthermore, staff believes the intent of the regulation will still be met since any rooftop equipment that would fall under this provision would still be setback at a ratio of greater than 1:1. (See Change #9 in *Attachment B*)

- **17.108 General Height, Yard and Court Regulations**

- Section 17.108.030 Allowed projections above height limits

Staff proposes a minor change to the table in Section 17.108.030B to clarify that the reference to an allowed projection above the prescribed height limit for scenery lofts only applies to theatres or performance venues, and is not to be used for additional floor area in any other building type. (See Change #9 in *Attachment B*)

- **17.108 General Height, Yard and Court Regulations**

- Section 17.108.130 Exceptions to required openness of minimum yards and courts

Staff proposes a minor change to the table in Section 17.108.130D regarding the allowed projection of bay windows into required setbacks. The current provision allows bay window projections into front, rear, and street side setbacks, but prohibits them to be located at the

first story of a building. Staff proposes to allow the bay window projections to be permitted at the first story as well as upper stories, because bay windows provide an opportunity for architectural detailing to a building and should be encouraged. Often when bay windows are only located at upper stories and are not allowed to continue down to the first story, a building can feel top heavy, leaving the proposed bay window looking tacked on rather than architecturally incorporated into the building design. (See Change #17 in *Attachment B*)

- **17.108 General Height, Yard and Court Regulations**

- Section 17.108.130 Exceptions to required openness of minimum yards and courts

- Staff proposes a minor change to the table in Section 17.108.130F regarding allowed projections into required setbacks for exterior access facilities which lead to the second or higher story of a building. These projections are limited to four feet into the required setbacks, with the exception to required interior side yard setbacks, and staff proposes allowing this to be exceeded where necessary for wheelchair ramps or other ADA access facilities. A similar change was made to subsection G in the same table, but is limited to no more than six feet in height. This proposed change would allow for the same ADA facilities when required to exceed six feet in height which is often required for some older housing stock within the City. (See Change #17 in *Attachment B*)

- **17.108 General Height, Yard and Court Regulations**

- Section 17.108.130 Exceptions to required openness of minimum yards and courts

- Staff proposes a minor change to the table in Section 17.108.130M regarding allowed projections of unroofed parking areas. Currently the Code allows these projections in all setbacks, but restricts them to be located within "any street line or alley". Staff proposes changing the language of this subsection to restrict the location from "the edge of pavement of any street or alley." This change is necessary due to other sections in the Planning Code that allow for parking stalls to project into unimproved right of way as a means to provide additional parking stalls, which was created as a way to deal with on-street parking restrictions in the Oakland Hills where on-street parking can lead to fire safety hazards such as emergency access and egress in the event of a fire. (See Change #17 in *Attachment B*)

- **17.108 General Height, Yard and Court Regulations**

- Section 17.108.130 Exceptions to required openness of minimum yards and courts

- Staff proposes a minor change to the table in Section 17.108.130N regarding covered, underground, or partially excavated structures such as garages and basements. The Planning Code currently allows these structures to be located anywhere within the required setbacks as long as the surfaces are landscaped and they do not exceed more than 30 inches above grade, except that they may exceed the 30 inch maximum with the granting of a Conditional Use permit. Staff proposes removing the Conditional Use permit provision from this section as it seems inappropriate to allow these structures to exceed 30 inches above grade unless there is some special circumstance applying to the property such as topography, and in such cases a

Minor Variance would be the more appropriate findings to apply rather than the Conditional Use permit findings. (See Change #17 in *Attachment B*)

III. SUBSTANTIVE CHANGES

The following section summarizes the proposed substantive changes to the Planning Code.

- **17.102 General Regulations Applicable to All or Several Zones**

- Section 17.102.210 Special regulations applying to Fast-Food Restaurants, Conveniences markets, certain establishments selling alcoholic beverages, providing electronic and mechanical games

Staff proposes modifying subsection B of 17102.210 which applies to establishments selling alcoholic beverages. The current Planning Code sets a 1,000 foot separation requirement between any establishment selling alcoholic beverages; therefore no new establishment may open if located within 1,000 feet of an existing establishment with an ABC license. This section allows an exception to the separation requirement in certain instances, one of which is for large operators such as grocery stores. The threshold for this exception under the current Planning Code is 25 full-time employees and a minimum of 20,000 square feet of floor area. Staff has proposed a text change in the Planning Code that would reduce the threshold from 25 full-time employees and 20,000 square feet of floor area to 25 full-time employees or 12,000 square feet of floor area. Please refer to the “Key Issues” section of this report for the reasoning behind the proposed change. (See Change #1 in *Attachment B*)

- **17.108 General Height, Yard and Court Regulations**

- Section 17.108.080 Minimum side yard opposite living room windows

The Planning Code requires any side yard opposite a living room window within a multi unit development to contain a setback to assure adequate light and air into a dwelling unit. Planning Code Section 17.108.080 sets a formulated setback requirement where you set a base distance of eight feet and then add two feet for each story at or above the level of the window, though the setback is not required to exceed 12% of the lot width in higher density areas (RU-3, RU-4, RU-5, R-80, CN, CC, C-40, C-45, CBD, S-1, S-2, S-15, and D-KP zones) and 20 percent of the lot width in other areas. In addition, if this window is to be located within a light well, said light well must contain a width equal to ten feet in both directions from the centerline from the living room window, thus resulting in a 20 foot wide light well. Staff has proposed the following modifications to this section; 1) reduce the maximum setback threshold in higher density areas from 12 percent to 10 percent, 2) reduce the maximum setback threshold in lesser intense areas from 20 percent to 15 percent, and 3) reduce the width from the center line of the window from ten feet to eight feet, thus reducing the required width of a light well for a living room window from 20 feet to 16 feet. Please refer to pages 3-4 of this report for the reasoning behind the proposed change. (See Change #12 in *Attachment B*)

- 17.108 General Height, Yard and Court Regulations

- Section 17.108.120 Minimum court between opposite walls on same lot

The Planning Code formulates courtyard width requirements whenever living room or “other legally required windows” (bedroom windows) face onto a courtyard within a multi-unit development. These setback requirements are to assure access to light and air for dwelling units. The first provision set forth in this section is for any internally facing “light well” requirement for any legally required window, which states that said light well must contain a width equal to ten feet in both directions from the centerline from the living room window, thus resulting in a 20 foot wide internally facing “light well.” Staff proposes to modify this requirement and change the width in both directions from the centerline of the window from ten feet to eight feet, thus resulting in an internal “light well” of 16 feet rather than 20 feet as is currently required. The second provision of this Planning Code section pertains to the overall courtyard separation requirements within a proposed development that has internally facing legally required windows. The current regulations require that whenever there is a living room window facing onto the an interior courtyard with an opposite wall, said courtyard width shall be equal to the height of the wall opposite the subject window, but no less than 18 feet and no more than 50 feet, and in the case of other legally required windows (bedroom windows) the minimum depth of the wall separation shall be 12 feet. Staff has proposed the following modifications to this section: 1) change the courtyard separation requirement from being equivalent to the height of the opposite wall and no less than 18 feet and no more than 50 feet to being set at a base width of 16 feet as a minimum, then add four feet per story above the courtyard, but not to exceed 40 feet; and 2) change the wall separation requirement for other legally required windows from 12 feet to ten feet. Please refer to pages 3-4 of this report for the reasoning behind the proposed change. (See Change #16 in *Attachment B*)

- 17.108 General Height, Yard and Court Regulations

- Section 17.108.130 Exceptions to required openness of minimum yards and courts

Staff proposes a change to the table in Section 17.108.130R regarding security fences for abandoned fast-food facilities. The Planning Code currently allows for an eight foot tall fence within any setbacks for any abandoned fast-food facility. Staff proposes modifying this regulation to allow for eight foot tall fences to apply to any active Code Enforcement Cases that are addressing blighted vacant lots or buildings, with an additional provision that any fence facing a public right of way shall main a minimum 75% transparency. Please refer to page 4 of this report for the reasoning behind the proposed change. (See Change #17 in *Attachment B*)

- 17.108 General Height, Yard and Court Regulations

Currently, the Planning Code does not have any direct regulations regarding the installation of Wind Power Generating Facilities. Any currently applicable regulations would be very restrictive in Residential Zones, and in most Non-Residential Zones would be too relaxed and would not take into account potential

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negative impacts. Given the move to more alternative energy resources, staff recommends that provisions be incorporated into the Planning Code to address these facilities. Staff has provided text of the regulations for Residential and Non-Residential zones and is proposing to add these provisions in a new Planning Code Section in Section 17.108.160 Wind Power Generating Facilities. Please refer to page 5 of this report for the reasoning behind the proposed change. (See Change #19 in *Attachment B*)

PUBLIC OUTREACH/INTEREST

This item did not require any additional public outreach other than the required public notice for the City Council Hearing and Planning Commission Hearing of February 15, 2012, in which a Public Notice was placed in the Oakland Tribune on Sunday January 28, 2012 to meet the minimum 17 day public notice prior to the Planning Commission hearing. During the public notice period staff did not receive any public comments.

COORDINATION

The proposed text changes have been reviewed by the City Attorney's Office and the Budget Office.

COST SUMMARY/IMPLICATIONS

The proposed amendments will have no direct fiscal impact on the City. No additional staffing will be necessary to implement these amendments. No additional costs are expected to be incurred.

SUSTAINABLE OPPORTUNITIES

Economic: The modification of the exemption threshold for alcohol sales will allow a number of larger businesses that sell retail and consumer goods to open with their typical format operations as anchor tenants for commercial redevelopment projects, spurring further retail sales opportunities which would bring increases in sales tax dollars and local jobs.

Environmental: Relaxing the courtyard width regulations in Section 17.108 will help to further promote in-fill development projects along the corridors and place density in areas that are adequately served by mass transit.

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Social Equity: The modification to the exemption threshold for alcohol sales would allow for a number larger businesses that sell retail and consumer goods to open operations in areas of the City that are currently underserved.

CEQA

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 Oakland Estuary Policy Plan (1998); the EIRs for the West Oakland Central City East, Coliseum and Oakland Army Base Redevelopment Areas; the Final EIR for the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (certified on November 17, 2010); and various Redevelopment Plan Final EIRs. No further environmental review is required under CEQA Guidelines sections 15162 and 15163. On a separate and independent basis, this proposal is also exempt under Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning" and Section 15061(b)(3) "Review for Exemption" of the State CEQA Guidelines.

For questions regarding this report, please contact Peterson Z. Vollmann, Planner III, at (510) 238-6167 or by e-mail at pvollmann@oaklandnet.com.

Respectfully submitted,



Fred Blackwell, Assistant City Administrator

Reviewed by:
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Scott Miller, Zoning Manager

Prepared by:
Peterson Z. Vollmann, Planner III
Planning & Zoning

Attachments:

- A. February 15, 2012 Planning Commission Staff Report
- B. Proposed text amendments

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Location:	Citywide
Proposal:	Discussion of proposed zoning text amendments to various parts of the Planning Code, including: 1) updating references, reducing redundancy, and clarifying language in various chapters of the Planning Code; 2) modifying the threshold in Chapter 17.102 for exemption from the 1,000-foot separation requirement for Alcohol Beverage Sales Commercial from 20,000 square feet down to 12,000 square feet, and modifying the requirement for 25 Full-Time Employees; 3) modifications in Chapter 17.108 to setbacks of allowed projections above the height limits and allowed projections into required setbacks; 4) modifications in Chapter 17.108 to interior courtyard regulations and separation and setback requirements from legally required windows; 5) modifications in Chapter 17.108 for inclusion of specific standards for wind power generating facilities.
Applicant:	Planning Commission
Planning Permits Required:	Text Amendments
General Plan:	Various
Zoning:	Various
Environmental Determination:	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 Oakland Estuary Policy Plan EIR (1998); the EIRs for the West Oakland Central City East, Coliseum and Oakland Army Base Redevelopment Areas. On a separate and independent basis, this proposal is also exempt under Sections 15061(b)(3), 15183, 15301, 15303, 15304 and/or Section 15305 of the State CEQA Guidelines.
Service Delivery District:	All
City Council District:	All
Status:	Hearing by the Planning Commission
Action to be Taken:	Recommendation to the City Council
Staff Recommendation:	Recommend adoption of the proposal to City Council
For Further Information:	Contact Peterson Z. Vollmann at 238-6167 or email pvollmann@oaklandnet.com

SUMMARY

The subject proposal includes text amendments to the City's Planning Code. This is the 2nd set of amendments brought forward since the adoption of the major Planning Code amendments and citywide rezoning effective in April 2011. These proposed text amendments primarily address Section 17.108 (General Height, Yard and Court Regulations), a few portions of Section 17.102 (General Regulations Applicable to All or Several Zones), and minor clarifications to Section 17.104 (Signs). Many of the amendments are non-substantive, intended to improve consistency, reduce redundancy and simplify language. Other minor changes include modifications in Chapter 17.108 to setbacks of allowed projections above the height limits, allowed projections into required setbacks, interior courtyard regulations and separation and setback requirements from legally required windows. Staff is also proposing two more substantive changes: 1) the modification of the square footage threshold that allows exemptions from the separation requirements for Alcohol Beverage Sales from 20,000 and 25 full-time employees to 12,000 square feet or 25 full-time employees; 2) and the inclusion of specific standards for wind power generating facilities.

PROJECT DESCRIPTION

The proposed changes to the zoning text and map fall into three basic categories:

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

Non-substantive changes include reformatting, reorganizing and improving the consistency of the Planning Code. Minor substantive changes include text changes to improve the interpretability, clarity, and flexibility of the Planning Code. Finally, staff proposes a few more substantive changes to improve standards in the Planning Code. The content of these proposed changes is summarized in the following report. Please see Attachment A for the proposed zoning text amendments.

I. NON-SUBSTANTIVE CHANGES

The following section summarizes the proposed non-substantive changes to the Planning Code.
(See Change # in Attachment A)

- **17.102 General Regulations Applicable to All or Several Zones**
17.102.230 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a Nonresidential Activity--Nonresidential zones.
The proposed amendment would delete a duplication of the text of the beginning portion of this section. (See Change #2 in Attachment A)
- **17.102 General Regulations Applicable to All or Several Zones & 17.108 General Height, Yard and Court Regulations**
Section 17.102.240 Special regulations applying to microwave and satellite dishes over one (1) meter in diameter located in or near residential zones.
Section 17.108.030 Allowed projections above height limits
Section 17.108.130 Exceptions to required openness of minimum yards and courts
This amendment would clarify that satellite dishes are included as microwave dishes, which is somewhat of an outdated term, as well as clarify cross references between Section 17.108 and Section 17.102 that places Use Permit Criteria on dishes in excess of one meter in or near Residential Zones. (See Change #3 in Attachment A, and Changes #9 and #17 for Section 17.108 references)
- **17.102 General Regulations Applicable to All or Several Zones & 17.108 General Height, Yard and Court Regulations**
Section 17.102.400 Special design requirements for lots that contain Residential Facilities and no non-residential facilities & Section 17.102.150 Retaining Walls (added)
Delete provisions on retaining walls from Section 17.102 and place into Section 17.108 so that the regulations are easier to find since Section 17.108 typically deals with regulations of facilities within yards and courts thus making the Planning Code easier to use. (See Changes #4 and #18 in Attachment A)
- **17.104 General Limitations on Signs**
Staff proposes to change the text to clarify the signage regulations for activities in the RU-4 and RU-5 zones as intended under the last Planning Code update. (See Change #5 in Attachment A)

- **17.108 General Height, Yard and Court Regulations**
Section 17.108.030 Allowed projections above height limits
Section 17.108.130 Exceptions to required openness of minimum yards and courts
Update text throughout the tables, to provide dimensional requirements in text as well as the numerals as done elsewhere to provide consistency in the Planning Code. (See Changes #9 and #17)

- **17.108 General Height, Yard and Court Regulations**
Staff proposes to remove Sections 17.108.040, 17.108.070, 17.108.090, 17.108.100, and 17.108.110 from the Planning Code as these provisions were already incorporated into the individual zone regulations as part of the overall Zoning Update in 2011. (See Changes #6, #10, #11, #13, #14, and #15 in Attachment A)

- **17.108 General Height, Yard and Court Regulations**
Section 17.108.120 Minimum court between opposite walls on same lot
Eliminate the reference to “Illustration 1-15”, which no longer exists. (See Change #16 in Attachment A)

- **17.108 General Height, Yard and Court Regulations**
Section 17.108.130 Exceptions to required openness of minimum yards and courts
Update text within the table to clarify where height measurements for allowed projections are taken from. Currently the code states that the height is taken from the “level of the required yard or court”, which has confused applicants in the past. Staff proposes to change the language to read that height is taken from “the finished grade of the required yard or level of the required court”. This change occurs in four instances in the table in Section 17.108.130 in subsections B, C, E and G. Also in subsection G, the term “decks” is added into the list of facilities to clarify that these are treated the same as “unroofed porches”. (See Change #17 in Attachment A)

- **17.108 General Height, Yard and Court Regulations**
Section 17.108.130 Exceptions to required openness of minimum yards and courts
Update the text in subsection H in the table in Section 17.108.130 to include a reference to OMC Section 8.24.020F regarding blight. This is necessary due to the Planning Code allowing the open storage of boats, trailers, etc within setbacks, where another Section in the OMC may refer to this condition as blight and has set rules for storage of these type of vehicles within enclosed structures. (See Change #17 in Attachment A)

- **17.108 General Height, Yard and Court Regulations**
Section 17.108.130 Exceptions to required openness of minimum yards and courts
Update the text in subsection Q in the table in Section 17.108.130 to include a reference to Section 17.104 regarding rules for signs. This is necessary to better inform the public on what the regulations are regarding signs. While they may be allowed within setbacks in some instances there are other zone specific requirements within Section 17.104, and this cross reference will help to make this more evident. (See Change #17 in Attachment A)

II. MINOR-SUBSTANTIVE CHANGES

The following section summarizes the proposed minor-substantive changes to the Planning Code. (See Change # in Attachment A)

- **17.108 General Height, Yard and Court Regulations**
Section 17.108.030 Allowed projections above height limits
Staff proposes a minor change to the table in Section 17.108.030A regarding the minimum horizontal distance an allowed height projection for rooftop mechanical equipment must be from any abutting

residentially zoned lot. The current setback requirement is 20 feet and staff proposes reducing this to 15 feet. The reason behind this proposed change is that for higher density residentially zoned properties that are often narrow parcels located on the corridors the 20 foot setback requirement can often severely limit where the location of required rooftop mechanical equipment can be located and can have a negative impact on the floor planning. If there is a narrow parcel of 40 or less feet in width, as many are on the corridors, this regulation would be impossible to meet. Furthermore, staff believes the intent of the regulation will still be met since any rooftop equipment that would fall under this provision would still be setback at a ratio of greater than 1:1. (See Change #9 in Attachment A)

- **17.108 General Height, Yard and Court Regulations**

- Section 17.108.030 Allowed projections above height limits

- Staff proposes a minor change to the table in Section 17.108.030B to clarify that the reference to an allowed projection above the prescribed height limit for scenery lofts only applies to theatres or performance venues, and is not to be used for additional floor area in any other building type. (See Change #9 in Attachment A)

- **17.108 General Height, Yard and Court Regulations**

- Section 17.108.130 Exceptions to required openness of minimum yards and courts

- Staff proposes a minor change to the table in Section 17.108.130D regarding the allowed projection of bay windows into required setbacks. The current provision allows bay window projections into front, rear, and street side setbacks, but prohibits them to be located at the first story of a building. Staff proposes to allow the bay window projections to be permitted at the first story as well as upper stories because bay windows provide an opportunity for architectural detailing to a building and should be encouraged, and often when bay windows are only located at upper stories and are not allowed to continue down to the first story a building can feel top heavy and leaves the proposed bay window looking tacked on rather than architecturally incorporated into the building design. (See Change #17 in Attachment A)

- **17.108 General Height, Yard and Court Regulations**

- Section 17.108.130 Exceptions to required openness of minimum yards and courts

- Staff proposes a minor change to the table in Section 17.108.130F regarding allowed projections into required setbacks for exterior access facilities which lead to the second or higher story of a building. These projections are limited to four feet into the required setbacks, with the exception to required interior side yard setbacks, and staff proposes allowing this to be exceeded where necessary for wheelchair ramps or other ADA access facilities. A similar change was made to subsection G in the same table, but is limited to no more than six feet in height. This proposed change would allow for the same ADA facilities when required to exceed six feet in height which is often required for some older housing stock within the City. (See Change #17 in Attachment A)

- **17.108 General Height, Yard and Court Regulations**

- Section 17.108.130 Exceptions to required openness of minimum yards and courts

- Staff proposes a minor change to the table in Section 17.108.130M regarding allowed projections of unroofed parking areas. Currently the Code allows these projections in all setbacks, but restricts them to be located within "any street line or alley". Staff proposes changing the language of this subsection to restrict the location from "the edge of pavement of any street or alley". This change is necessary due to other sections in the Planning Code that allow for parking stalls to project into unimproved right of way as a means to provide additional parking stalls, which was created as a way to deal with on-street parking restrictions in the Oakland Hills where on-street parking can lead to fire safety hazards such as emergency access and egress in the event of a fire. (See Change #17 in Attachment A)

- 17.108 General Height, Yard and Court Regulations

Section 17.108.130 Exceptions to required openness of minimum yards and courts

Staff proposes a minor change to the table in Section 17.108.130N regarding covered, underground, or partially excavated structures such as garages and basements. The Planning Code currently allows these structures to be located anywhere within the required setbacks as long as the surfaces are landscaped and they do not exceed more than 30 inches above grade, except that they may exceed the 30 inch maximum with the granting of a Conditional Use permit. Staff proposes removing the Conditional Use permit provision from this section as it seems inappropriate to allow these structures to exceed 30 inches above grade unless there is some special circumstance applying to the property such as topography, and in such case a Minor Variance would be the more appropriate findings to apply rather than the Conditional Use permit findings. (See Change #17 in Attachment A)

III. SUBSTANTIVE CHANGES

The following section summarizes the proposed substantive changes to the Planning Code. (See Change # in Attachment A)

- 17.102 General Regulations Applicable to All or Several Zones

Section 17.102.210 Special regulations applying to Fast-Food Restaurants, Conveniences markets, certain establishments selling alcoholic beverages, providing electronic and mechanical games

Staff proposes modifying subsection B of 17.102.210 which applies to establishments selling alcoholic beverages. The current Planning Code sets a 1,000 foot separation requirement between any establishment selling alcoholic beverages; therefore no new establishment may open if located within 1,000 feet of an existing establishment with an ABC license. This section allows an exception to the separation requirement in certain instances, one of which is for large operators such as grocery stores. The threshold for this exception under the current Planning Code is 25 full-time employees and a minimum of 20,000 square feet of floor area. Staff has proposed a text change in the Planning Code that would reduce the threshold from 25 full-time employees and 20,000 square feet of floor area to 25 full-time employees or 12,000 square feet of floor area. Please refer to the "Key Issues" section of this report for the reasoning behind the proposed change. (See Change #1 in Attachment A)

- 17.108 General Height, Yard and Court Regulations

Section 17.108.080 Minimum side yard opposite living room windows

The Planning Code requires any side yard opposite a living room window within a multi unit development to contain a setback to assure adequate light and air into a dwelling unit. Planning Code Section 17.108.080 sets a formulated setback requirement where you set a base distance of eight feet and then add two feet for each story at or above the level of the window, though the setback is not required to exceed 12% of the lot width in higher density areas (RU-3, RU-4, RU-5, R-80, CN, CC, C-40, C-45, CBD, S-1, S-2, S-15, and D-KP zones) and 20 percent of the lot width in other areas. In addition, if this window is to be located within a light well, said light well must contain a width equal to ten feet in both directions from the centerline from the living room window, thus resulting in a 20 foot wide light well. Staff has proposed the following modifications to this section; 1) reduce the maximum setback threshold in higher density areas from 12 percent to 10 percent, 2) reduce the maximum setback threshold in lesser intense areas from 20 percent to 15 percent, and 3) reduce the width from the center line of the window from ten feet to eight feet, thus reducing the required width of a light well for a living room window from 20 feet to 16 feet. Please refer to the "Key Issues" section of this report for the reasoning behind the proposed change. (See Change #12 in Attachment A)

- 17.108 General Height, Yard and Court Regulations

- Section 17.108.120 Minimum court between opposite walls on same lot

The Planning Code formulates courtyard width requirements whenever living room or "other legally required windows" (bedroom windows) face onto a courtyard within a multi-unit development. These setback requirements are to assure access to light and air for dwelling units. The first provision set forth in this section is for any internally facing "light well" requirement for any legally required window, which states that said light well must contain a width equal to ten feet in both directions from the centerline from the living room window, thus resulting in a 20 foot wide internally facing "light well". Staff proposes to modify this requirement and change the width in both directions from the centerline of the window from ten feet to eight feet, thus resulting in an internal "light well" of 16 feet rather than 20 as is currently required. The second provision of this Planning Code section pertains to the overall courtyard separation requirements within a proposed development that has internally facing legally required windows. The current regulations require that whenever there is a living room window facing onto the an interior courtyard with an opposite wall, said courtyard width shall be equal to the height of the wall opposite the subject window, but no less than 18 feet and no more than 50 feet, and in the case of other legally required windows (bedroom windows) the minimum depth of the wall separation shall be 12 feet. Staff has proposed the following modifications to this section, 1) change the courtyard separation requirement from being equivalent to the height of the opposite wall and no less than 18 feet and no more than 50 feet to being set at a base width of 16 feet as a minimum then add four feet per story above the courtyard, but not to exceed 40 feet, and 2) change the wall separation requirement for other legally required windows from 12 feet to ten feet. Please refer to the "Key Issues" section of this report for the reasoning behind the proposed change. (See Change #16 in Attachment A)

- 17.108 General Height, Yard and Court Regulations

- Section 17.108.130 Exceptions to required openness of minimum yards and courts

Staff proposes a change to the table in Section 17.108.130R regarding security fences for abandoned fast-food facilities. The Planning Code currently allows for an eight foot tall fence within any setbacks for any abandoned fast-food facility. Staff proposes modifying this regulation to allow for eight foot tall fences to apply to any active Code Enforcement Cases that are addressing blighted vacant lots or buildings, with an additional provision that any fence facing a public right of way shall main a minimum 75% transparency. Please refer to the "Key Issues" section of this report for the reasoning behind the proposed change. (See Change #17 in Attachment A)

- 17.108 General Height, Yard and Court Regulations

Currently the Planning Code does not have any direct regulations regarding the installation of Wind Power Generating Facilities, which currently the any applicable regulations would be very restrictive in Residential Zones and in most Non-Residential Zones would be too relaxed and would not take into account potential negative impacts. Given the move to more alternative energy resources staff recommends that provisions be incorporated into the Planning Code to address these facilities. Staff has provided text of the regulations for Residential and Non-Residential zones and is proposing to add these provisions in a new Planning Code Section in Section 17.108.160 Wind power generating facilities. Please refer to the "Key Issues" section of this report for the reasoning behind the proposed change. (See Change #19 in Attachment A)

ENVIRONMENTAL DETERMINATION

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 Oakland Estuary Policy Plan (1998); the EIRs for the West Oakland Central City East, Coliseum and Oakland Army Base Redevelopment Areas; the Final EIR for the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (certified on November 17, 2010); and various Redevelopment Plan Final EIRs. No further environmental review is required under CEQA Guidelines sections 15162 and 15163. On a separate and independent basis, this proposal is also exempt under Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning" and Section 15061(b)(3) "Review for Exemption" of the State CEQA Guidelines.

KEY ISSUES AND IMPACTS

Threshold for Exemption to Distance Separation for Alcohol Beverage Sales

Section 17.102.210B of the Planning Code sets a 1,000 foot separation requirement between any establishment selling alcoholic beverages; therefore no new establishment may open if located within 1,000 feet of an existing establishment with an ABC license. This section allows an exception to the separation requirement in certain instances, one of which is for large operators such as grocery stores. The threshold for this exception under the current Planning Code is 25 full-time employees and a minimum of 20,000 square feet of floor area. The reason behind this exception is that the typical problems that are associated with smaller liquor stores and bars don't generally apply to larger operators like grocery stores.

Recently there have been a number of applications for large retail operations that include pharmacies, which include chain operations such as Walgreen's, CVS, and Rite Aid. Many of these potential operators are looking to open locations in areas in Oakland that are underserved for general convenience goods that are typically sold at these locations. Nationwide these businesses' operations when not located in downtown areas typically include the sales of beer and wine and sometimes liquor. In order to allow these types of businesses to open with their typical operation in the City, staff has proposed a text change in the Planning Code that would reduce the threshold from 25 full-time employees and 20,000 square feet of floor area to 25 full-time employees or 12,000 square feet of floor area. This proposed change would allow for a number of these types of businesses to open operations in areas of the City that are underserved for retail and convenience goods, and generally would follow the same idea that these larger operations would be similar to a grocery store in that the typical nuisance issues would not be occurring as is often the case with the smaller operations in the City. These operators also typically have standard alcohol sales training for employees and significant security measures as part of their operations. A Major Conditional Use permit would still be required for any Alcohol Beverage Sales application, and specific conditions could still be applied to these businesses.

Side Yards Opposite Living Room Windows and Courtyard Width Requirements

The current Planning Code regulations for required side yard setbacks for living room windows and the regulations that are applied to internal courtyards for developments when legally required windows are present were developed in the 1960's around a model for large garden apartment developments, which were typically being developed within medium to high density Residential Zones around the City. Since the 1960's the development pattern has changed within the City of Oakland, due in large part to the adoption of the General Plan in 1998. The 1998 General Plan directed that the future high density development should be moved away from the internal residential neighborhoods and placed in areas

closer to mass transit access and commercial areas such as downtown and the Oakland corridors, which is often referred to as "Maintain and Enhance" in the residential neighborhoods and "Growth and Change" in downtown and the corridors.

As development moves onto the corridors the possible development sites are much more compact and often result in a more vertical development. As a result these older 1960's regulations that were intended for garden apartment complexes that were typically three or four stories with large interior courtyards with pools, which are often seen in the Adams Point neighborhood, have now turned into mixed use developments with four to six stories above a ground floor podium and commercial space. When applying the existing regulations to development projects over the past years there were often requirements for Minor Variances to allow relief from some of these regulations. The courtyard regulations as they are today require the width of the courtyard to be equal to the height of the opposite wall with the intent of creating a 45 degree angle to try to obtain as much direct sunlight as possible during various seasons. While this was not an issue for a three story building with a large courtyard open space in the middle across a 150 foot by 150 foot lot, these regulations pose major issues for developing on smaller sites along the City's corridors that contain lots that are often as small as 50 feet wide, and thus the courtyards required for the height of a five story building may exceed the actual width of the lot itself. Planning staff has examined other city's regulations regarding interior courtyards and side yards (light wells) opposite windows in locations similar to the City of Oakland's corridors and has applied development standards that are similar to the practices of those City's. These standards appear to have a more practical approach for corridor in-fill development where the goal is not to try to attain access to direct sunlight during various seasons but to obtain as much ambient light as possible for interior courtyards and light wells during seasons outside of summer when the sun may be lower in the sky, as well as provide adequate spatial separation and access to air. Staff believes that the newly proposed regulations help to meet the goals of the General Plan by easing regulations for dense residential and mixed-use development along the corridors, while still prescribing regulations that ensure comfortable living quarters comparable with other urban settings in the Bay Area.

Security Fences

Currently Planning Code Section 17.108.130R allows fences of up to eight feet in height within the required setbacks for abandoned Fast-Food Facilities. Staff has proposed to alter this regulation and expand the allowance to include any active Code Enforcement Case for blight that is addressing a vacant lot or vacant building. Besides the fact that the existing regulation is largely irrelevant since most Non-Residential Zones where any abandoned Fast-Food Facilities would typically be located already allow an eight foot tall fence anywhere on the lot, there have been ongoing issues with fences as it relates to Code Enforcement cases against blighted properties. Often there will be a vacant lot or building that is under an active Code Enforcement case for blight and the sites often attract various nuisances including illegal drug activities. Under the current regulations the owner of the property cannot install an eight foot fence to properly secure the site in residential zones due to the limitations of the Planning Code. By altering this regulation more effective security fences will be allowed to be installed at a site on a temporary basis until the building is re-inhabited or the vacant lot is developed. This allowance will include a requirement that any fence contain a minimum of 75% transparency from any public right of way so that the site will remain open to view and no nuisance activities will be able to take place behind a hidden "wall" as may be the case with a solid fence.

Wind Power Generating Facilities

At present the Oakland Planning Code does not contain any specific provisions on wind power facilities. While urban areas are not typically the areas that these facilities are located, there has been a growing interest from property owners to install these facilities. In light of this, staff has proposed to include a set

of regulations for wind power facilities that are located within the setbacks of Residential and Non-Residential Zones.

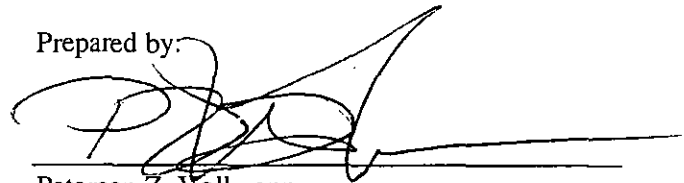
Staff is proposing that in Residential Zones the facility must be setback from any adjacent residentially zoned property at a distance equal to the height of the wind power facility itself, and may not exceed 25 feet in height above grade or ten feet above the prescribed height of the zone if located on top of a building. An allowance to extend a facility up to a maximum height of 60 feet is included if a Conditional use permit is granted, which would likely only apply to very large parcels as the 1:1 setback rule would still apply.

In Non-Residential Zones staff is proposing that any wind power facility may not exceed ten feet above the prescribed height of the zone, whether located on a building or not, and may not exceed sixty feet in height unless granted a Conditional Use permit. Any wind power facility would also need to be setback from any residentially zoned property at a distance equal to the height of the facility if it is not located on a roof top of a primary facility on the site.

RECOMMENDATIONS

1. Affirm staff's environmental determination;
2. Recommend that City Council approves the proposed text amendments; and
3. Find that existing regulations are inadequate and otherwise contrary to the public interest.

Prepared by:



Peterson Z. Vollmann
Planner III

Approved by:

Approved for forwarding to the
City Planning Commission:



ERIC ANGSTADT
Deputy Director of CEDA

LEGAL NOTICE: The decision of the City Planning Commission is final and not administratively appealable. Any party seeking to challenge such decision in court must do so within ninety (90) days of the date the decision is announced (Code of Civil Procedure Section 1094.6).

ATTACHMENTS:

- A. Proposed Zoning Text Amendments

ATTACHMENT B: PROPOSED CHANGES TO THE PLANNING CODE

Items that are underlined are insertions, while items that appear in strikeout-are deletions.

Change #1

17.102.210 - Special regulations applying to Fast-Food Restaurants, Convenience Markets, certain establishments selling alcoholic beverages, providing mechanical and electronic games.

d. Establishments with twenty-five (25) or more full time equivalent (PFE) employees, or and a total floor area of twenty twelve thousand (12,000~~20,000~~) square feet or more.

2. Sale of alcoholic beverages in conjuncton with a Full Service Restaurant and located within any of the following restricted street areas applied to a depth of two hundred (200) feet on each side of the identified streets and portions of streets, as measured perpendicularly from the right-of-way line thereof International Boulevard; Foothill Boulevard; MacArthur Boulevard and West MacArthur Boulevard; that portion of San Pablo Avenue lying between Highway 1-980 and 1-580; that portion of Edes Avenue lying between Clara Street and Bergedo Drive, shall require a conditional use permit pursuant to the condidonal use permit procedure in Chapter 17.134.

4. In addition to the above criteria, projects outside the Central District and Hegenberger Corridor shall meet all of the following criteria to make a finding of Public Convenience or Necessity, with the exception of those projects that will result in twenty-five (25) or more full time equivalent (PFE) employees, or and will result in a total floor area of twenty twelve thousand (12,000~~20,000~~) square feet or more:

Change #2

~~17.102.230—Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a Nonresidential Activity—Nonresidential zones. (DELETE DUPLICATED SECTION ONLY)~~

~~———A. Conditional Use Permit Requirement. The demolition of a facility containing, or intended to contain, rooming units, or the conversion of a living unit from its present or last previous use by a Permanent Residential Activity, a Semi-Transient Residential Activity, or a Transient Habitation Commercial Activity to its use by a nonresidential activity other than Transient Habitation Commercial is only permitted in a nonresidential zone upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. The only exceptions to this requirement are conversions in the HBX-1, HBX-2 or HBX-3 zones, and units in a One-Family or Two-Family Residential Facility. Such permit may be granted only upon determination that the proposed demolition or conversion conforms to the general use permit criteria set forth in the conditional use permit procedure and to at least one of the following additional use permit criteria:~~

Change #3

17.102.240 - Special regulations applying to microwave and satellite dishes over one (1) meter in diameter located in or near residential zones.

The following regulations shall apply to microwave and satellite dishes which are over one (1) meter in diameter, which are located in any residential zone or within one hundred fifty (150) feet from the nearest boundary of any residential zone, as measured perpendicularly from said boundary at any point:

B. Distance from Lot Line in Certain Cases. No such facility shall be located within ten (10) feet from any abutting residentially zoned lot, or from any street, alley, or path or private way described in Secdon 17.106.020 directly across which there is a lot in any residential zone, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure.

C. Noise and Glare. All such facilities located within one hundred fifty (150) feet of any residentially zoned lot shall be placed, screened, or designed in such a way as to avoid casting objectionable glare into the windows of any residentially facility or generating noise levels that exceed city performance standards. zoned-lot-located-within one-hundred-fifty-(150)-feet.

D. Use Permit Criteria. A condional use permit under this secdon may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and to the following applicable-additonal use permit criteria set forth below:

Change #4

17.102.400 - Special design requirements for lots that contain Residential Facilities and no Nonresidential Facilities.

~~E. Retaining Walls.~~

~~1. No retaining wall shall exceed six (6) feet in height, except in the following cases:~~

~~a. Retaining walls flanking driveways that are nineteen (19) feet or less in width on lots with a street-to-setback gradient of twenty percent (20%) or more may exceed six (6) feet in height if both of the following provisos are met:~~

~~i. The garage floor is at the highest possible elevation based on the maximum driveway slopes permitted by Section 17.116.260A; and~~

~~ii. The top of the retaining wall is no higher than necessary to retain the existing grade at the top of the wall.~~

~~h. Retaining walls not flanking driveways may also exceed six (6) feet in height upon the granting of small project design review, pursuant to the small project design review procedure in Section 17.136.030 and if both of the following provisos are met:~~

~~i. The top of the retaining wall is no higher than necessary to retain the existing grade at the top of the wall, and~~

~~ii. The retaining wall is located behind buildings, other permanent structures, or existing grade in such a manner as to visually screen the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot. Whenever~~

~~buildings or other permanent structures on the subject lot block most, but not all, visibility of the retaining wall, dense landscaping shall be installed and maintained to screen the remaining views of the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot.~~

~~2. Multiple retaining walls shall be separated by a distance of at least four (4) feet between the exposed faces of each wall.~~

~~3. Retaining walls visible from the street or adjacent lots shall be surfaced with a decorative material, treatment or finish, such as stained or stuccoed concrete, decorative concrete block, wood, stone or masonry, or other decorative material, treatment or finish approved by the Director of City Planning. For purposes of this section, "visible from the street or adjacent lots" refers to any portion of a wall that is not located behind buildings, other permanent structures, or existing grade in such a manner as to visually screen the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot.~~

Change #5

Chapter 17.104

GENERAL LIMITATIONS ON SIGNS

Sections:

17.104.010 **General limitations on Signs in Rresidential zones, except the RU-4 and RU-5 zones, and in Open Space (OS) zones.**

17.104.020 **General limitations on signs-- RU-4 and RU-5 zones, and all Commercial and Industrial zones.**

17.104.030 **General limitations on signs-- S-1, S-2, and S-3, and S-15 zones.**

17.104.040 **Limitations on Signs within one thousand (1,000) feet of rapid transit routes.**

17.104.050 **Amortization of Advertising Signs in Rresidential zones.**

17.104.060 **General Limitations on Advertising Signs.**

17.104.070 **Master Sign Programs.**

17.104.010 **General limitations on Signs in Rresidential zones, except the RU-4 and RU-5 zones, and in Open Space (OS) zones.**

The following limitations shall apply to the specified Signs in all Residential and OS zones, except the RU-4 and RU-5 zones and except as otherwise provided herein, and are in additions to the limitations, if any prescribed for fro-Signs in the applicable individual zone regulations and development control maps.

F. **Civic Signs.** No single Civic Sign shall have a display surface greater than one square foot on any one face, except that two Civic Signs on each lot or, in the case of a lot with a lot area of more than twenty thousand (20,000) square feet, two Civic Signs for each twenty thousand (20,000) square feet of lot area may have a greater display surface. The maximum total area of display surface of any two such larger Signs shall be thirty (30) square feet. No Civic Sign which is attached to a building shall have a display surface

greater than one square foot on any one face, unless it is flat against a wall of the building and does not project outward more than eighteen (18) inches therefrom nor at all above the roof or parapet wall of the building. No Civic Sign which is not attached to a building and which has a display surface greater than one square foot on any one face shall extend more than twelve (12) feet above finished grade, nor be located within five (5) feet from any lot line. All Civic Signs shall be nonmoving. Illumination, if any, of all such Signs shall be indirect and nonflashing. Such Signs shall not, except for Signs with a display surface not greater than one square foot on any one face, include any pennants, streamers, propellers, or similar devices.

2. No single Business Sign serving Agricultural or Extractive Activities shall have a display surface greater than one square foot on any one face, except that one such Sign on each lot may have a display surface of not more than six (6) square feet on any one face. All Business Signs which serve such activities, which are attached to a building, and which have a display surface greater than one square foot on any one face shall be located flat against a wall of the first story of the building, and no such Sign shall project outward more than eighteen (18) inches from such wall nor any distance above the roof or parapet wall of the building. No Business Sign which serves such activities, which is not attached to a building, and which has a display surface greater than one square foot on any one face shall extend more than six (6) feet above finished grade, nor be located within five (5) feet from any lot line. All Business Signs serving such activities shall be nonmoving. Illumination, if any, of all such Signs shall be indirect and nonflashing. Such Signs shall not, except in the case of Signs behind a display window, include any pennants, streamers, propellers, or similar devices.

3. The maximum aggregate area of display surface of Business Signs serving off-street parking which is subject to the conditions set forth in Section 17.102.100(B) shall be twelve (12) square feet for each vehicular entrance or exit. No such Sign shall extend more than six (6) feet above finished grade, nor be located within five (5) feet from any lot line. All such Signs shall be nonmoving. Illumination, if any, of all such Signs shall be indirect and nonflashing. Such Signs shall not include any pennants, streamers, propellers, or similar devices.

17.104.020 General limitations on signs-- RU-4 and RU-5 zones, and all Commercial and Industrial zones.

The following limitations shall apply to the specified Signs in the RU-4 and RU-5 zones and all Commercial and Industrial zones, and except as otherwise provided herein, and are in addition to the limitations, if any, prescribed for Signs in the applicable individual zone regulations and development control maps:

B. Permitted Aggregate Sign Area.

1. In the RU-4 and RU-5 zones and all Commercial zones, the maximum aggregate area of display surface of all business, civic, and residential signs on any one lot shall be one square foot for each one foot of lot frontage in the case of an interior lot, or 0.5 square feet for each one foot of lot frontage in the case of a corner lot. The aggregate shall include only one face of a double-faced sign. The total amount of

aggregate sign area shall not exceed two hundred (200) square feet on any one property. Exceptions to the total amount of aggregate sign area normally allowed on any one property may be approved pursuant to the regulations in Subsection B(3) below and to the small project design review procedure in Chapter 17.136.

2. In all Industrial zones, the maximum aggregate area of display surface of all business, civic and residential signs on any one lot shall be one square foot for each one foot of lot frontage in the case of an interior lot, or 0.5 square feet for each one foot of lot frontage in the case of a corner lot. The aggregate shall include only one face of a double-faced sign. The total amount of aggregate sign area shall not exceed three hundred (300) square feet on any one property. Exceptions to the total amount of aggregate sign area normally allowed on any one property may be approved pursuant to the regulations in Subsection B(3) below.

2. Freestanding Signs. The maximum height of any freestanding sign in the CC, M-20, M-30, M-40, CIX-1, CIX-2, IG, and IO zones is twenty (20) feet. The maximum height in the RU-4 and RU-5 zones and all other Commercial and Industrial zones is ten (10) feet.

D. Limitations on Signs within Required Minimum Yards.

1. No business, realty, or development sign shall be located within a required minimum yard..

E. Special Limitations near Boundaries of Residential Zones, except the RU-4 and RU-5 zones. (See illustration I-10.) The following special limitations shall apply to the indicated signs within the specified distances from any boundary of a Residential zone, except the RU-4 and RU-5 zones. For the purposes of this subsection, a sign shall be deemed to face a zone boundary if the angle between the face of its display surface and said boundary is less than ninety (90) degrees; and a sign shall be considered visible from a zone boundary if it may be seen from any point located along such boundary within the following indicated distances from the sign and at a height equal to or less than that of the sign.

1. Within twenty-five (25) feet from any boundary of a Residential zone, except the RU-4 and RU-5 zones, no business sign shall face said boundary if it is visible therefrom.

F. Development Signs. In the RU-4 and RU-5 zones and all Commercial and Industrial zones, the maximum aggregate area of display surface of all development signs on any one lot shall be either seventy-five (75) square feet or one square foot for each two (2) feet of street line abutting the lot, whichever is greater. However, a greater area of display surface may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

G. Realty Signs. In the RU-4 and RU-5 zones and all Commercial and Industrial zones, the maximum aggregate area of display surface of all Realty Signs on any one lot shall be one square foot for each two (2) feet of street line abutting the lot; provided that such area shall not exceed twenty-five (25) square feet along any consecutive fifty (50) feet of street line; and farther provided that a sign with a display surface of twelve (12) square feet or less shall be permitted for each lot, or for each building or other rentable unit thereon.

D. **Special Limitations Near Boundaries of Residential Zones, except the RU-4 and RU-5 zones.** Signs shall be subject to the same special limitations along or near boundaries of Residential zones, except the RU-4 and RU-5 zones, as are set forth in Section 17.104.020(E).

E. **Special, Development, and Realty Signs.** All special, development, and realty signs shall be subject to the same limitations as are set forth in subsections (C), (D) and (F) of Section 17.104.010 for such signs in Residential zones, except the RU-4 and RU-5 zones.

F. **Signs within One Thousand (1,000) Feet of Rapid Transit Routes.** Signs within one thousand (1,000) feet of the centerline of rapid transit routes shall be subject to the applicable limitations set forth in Sections 17.104.040 and 17.114.150. (Ord. 12606 Att. A (part), 2004: prior planning code § 7042)

17.104.040 Limitations on Signs within one thousand (1,000) feet of rapid transit routes.

17.104.050 Amortization of Advertising Signs in Residential zones.

A. **Removal Criteria.** In accordance with California Business and Professions Code Section 5412.1, those Advertising Signs meeting all of the following criteria shall be removed within the time periods set forth below without compensation:

1. The Advertising Sign is located within an area shown as Residential in the Oakland General Plan; and

17.104.070 Master Sign Programs

A. **Submittal Requirements.** In all Commercial and Industrial zones, as well as the RU-4, RU-5, S-1, S-2, S-3, and S-15 zones, any Commercial, Industrial, or mixed use building or complex containing two (2) or more tenant spaces on site may apply for a Master Sign Program which specifies the overall design, configuration, and permitted sizes of signs for that building or complex. Applications for a Master Sign Program shall identify, at a minimum, the permitted sign sizes, materials, colors, placement, construction, method of lighting, and other related sign requirements for the applicable Commercial, Industrial, or mixed use building or complex. Drawings shall indicate the exterior surface details of all buildings on the site; the typical sign locations, designs, colors, and faces; and the methods of sign construction, installation, and lighting.

Change #6

Chapter 17.108

GENERAL HEIGHT, YARD, AND COURT REGULATIONS

Sections:

17.108.010 Height restrictions on lots abutting property in an **RH, RD, or RM** zone.

17.108.020 Different maximum height in certain situations.

17.108.030 Allowed projections above height limits.

- ~~17.108.040—Minimum front yard in commercial and industrial zones where part of frontage on same side of block is in residential zone.~~
- ~~17.108.070—Minimum side yard on street side of corner lot in commercial and industrial zones where key lots is in residential zone.~~
- 17.108.080 Minimum side yard opposite living room windows.
- ~~17.108.090—Minimum side yard abutting side of property in an RH, RD, or RM zones.~~
- ~~17.108.100—Minimum rear abutting any portion of property in any residential zone.~~
- ~~17.108.110—Reduced rear yard adjacent to alley.~~
- 17.108.120 Minimum court between opposite walls on same lot.
- 17.108.130 Exceptions to required openness of minimum yards and courts.
- 17.108.140 Fences, dense hedges, barrier and similar freestanding walls.
- 17.108.150 Retaining walls
- 17.108.160 Wind power generating facilities

Change #7

17.108.010 Height restrictions on lots abutting property in an RH, RD, or RM zone.

In the RU, R-80, S-1, S-2, S-3, and S-15 zones and all Commercial and Industrial zones, the following regulations shall apply to every lot therein which abuts any lot located in an RH, RD, or RM zone:

Change #8

17.108.020 Different maximum height in certain situations.

A.—General Height for Civic Facilities with Increased Yards. On parcels in the RH, RD, RM, RU, CN, CC, CR, HBX, M-20, S-15 and OS zones that have a height limit of less than seventy-five (75) feet, a facility accommodating or serving any Civic Activity may, notwithstanding the maximum height prescribed for facilities in general in the applicable individual zone regulations, have a height of up to seventy-five (75) feet upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 if the minimum depth or width, as the case may be, of each front, side, and rear yard, if any, otherwise required is increased for such facility by one foot for each foot by which the facility exceeds the aforesaid maximum height. To the extent allowed by the conditional use permit, the greater height authorized by this subsection may be exceeded by the projections allowed by Section 17.108.030.

Change #9

17.108.030 Allowed projections above height limits.

The height restrictions prescribed for facilities in the applicable individual zone regulations and development control maps and in Sections 17.108.010 and 17.108.020 may be exceeded in accordance with the following table. However, facilities within required minimum yards and courts shall also be subject to the applicable provisions of Section 17.108.130.

	Restrictions on Facility, or Portion Thereof, Above the Prescribed Height
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Facilities Allowed Above the Prescribed Height	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	Maximum Vertical Projection Above the Prescribed Height	Minimum Horizontal Distance from any Abutting Residentially Zoned Lot
A. Chimneys, ventilators, plumbing vent stacks, water tanks, cooling towers, machinery rooms, and other equipment and appurtenances which are not provided for elsewhere in this section. (For screening around these, see below.)	<u>Ten (10)</u> percent, minus any percentage covered pursuant to subsection B of this section.	<u>Ten (10)</u> feet, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.	<u>Fifteen (15)</u> \geq 0 feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four <u>(4)</u> feet.

	Restrictions on Facility, or Portion Thereof, Above the Prescribed Height		
Facilities Allowed Above the Prescribed Height	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	Maximum Vertical Projection Above the Prescribed Height	Minimum Horizontal Distance from any Abutting Residentially Zoned Lot
B. Elevator or stair towers; penthouses, excluding those containing any living unit; stage or scenery lofts <u>in theatres or performance venues;</u> skylights and dormer windows <u>located on principal and accessory Nonresidential Facilities;</u> and rooftop fenced or walled spaces which do not qualify elsewhere in this section.	<u>Ten (10) percent,</u> minus any percentage covered pursuant to subsection A of this section.	<u>Twelve (12) feet,</u> except upon the granting of a conditional use permit.	<u>Ten (10) feet,</u> except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four <u>(4)</u> feet.

	Restrictions on Facility, or Portion Thereof, Above the Prescribed Height		
Facilities Allowed Above the Prescribed Height	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	Maximum Vertical Projection Above the Prescribed Height	Minimum Horizontal Distance from any Abutting Residentially Zoned Lot
C. Skylights, dormers and gable ends up to <u>fifteen (15)</u> feet in width located on principal and accessory Residential Facilities, except accessory facilities permitted in minimum yards or courts pursuant to Section 17.108.130K.	<u>Ten (10)</u> percent, minus any percentage covered pursuant to subsection A of this section.	<u>Ten (10)</u> feet above <u>maximum wall height</u> for dormers and gable ends, <u>but in all cases, no higher than the maximum roof height</u> ; and one <u>(1)</u> foot for skylights, but in all cases, no higher than the maximum height of the roof section on which they are located, except that skylights on a flat roof (slope 1:12 or less) may extend one <u>(1)</u> foot above the roof.	<u>Ten (10)</u> feet; except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four <u>(4)</u> feet.
D. Decorative features such as spires, bell towers, domes, cupolas, obelisks, and monuments.	<u>Ten (10)</u> percent, minus any percentage covered pursuant to subsection A or B of this section.	<u>Fifteen (15)</u> feet, except upon the granting of a conditional use permit.	<u>Fifteen (15)</u> feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four <u>(4)</u> feet.
E. Fire escapes, catwalks, and open railings required by law.	No restriction.	No restriction.	No restriction.

	Restrictions on Facility, or Portion Thereof, Above the Prescribed Height		
Facilities Allowed Above the Prescribed Height	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	Maximum Vertical Projection Above the Prescribed Height	Minimum Horizontal Distance from any Abutting Residentially Zoned Lot
F. Rooftop recreational, observation, seating, outdoor dining, clothesline, and parking facilities, unroofed themselves except for incidental sunshades, wind-screens, and similar devices; rooftop landscaping, other than trees; and unroofed open stairs and rooftop open fencing which do not qualify elsewhere in this section.	No restriction.	<u>Ten (10)</u> feet, except upon the granting of a conditional use permit.	<u>Fifteen (15)</u> feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four <u>(4)</u> feet.

	Restrictions on Facility, or Portion Thereof, Above the Prescribed Height		
Facilities Allowed Above the Prescribed Height	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	Maximum Vertical Projection Above the Prescribed Height	Minimum Horizontal Distance from any Abutting Residentially Zoned Lot
G. Eaves, awnings, balconies, open stairs, and similar lateral extensions of a building, where the prescribed height is expressed as a ratio to some horizontal setback.	No restriction.	Four (4) feet in the case of Section 17.108.010 and eight (8) feet otherwise.	No restriction.
H. Microwave and satellite dishes which are <u>over one (1) meter in diameter and located in any residential zone or within one hundred fifty (150) feet from the nearest boundary of any residential zone,</u> subject where applicable to the provisions of Section 17.102.240.	<u>Ten (10) percent, minus any percentage covered pursuant to subsection A or B of this section.</u> No-restriction.	Seven (7) feet, except upon the granting of a conditional use permit.	Ten (10) feet, except upon the granting of a conditional use permit.

	Restrictions on Facility, or Portion Thereof, Above the Prescribed Height		
Facilities Allowed Above the Prescribed Height	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	Maximum Vertical Projection Above the Prescribed Height	Minimum Horizontal Distance from any Abutting Residentially Zoned Lot
I. Radio and television masts antennas, other than micro-wave and satellite dishes.	No restriction.	<u>Fifteen (15) feet, except upon the granting of a conditional use permit.</u>	<u>Five (5) feet, except upon the granting of conditional use permit.</u>
J. Trees; flagpoles; weather vanes; <u>microwave and satellite dishes which are one (1) meter or less in diameter;</u> and utility poles and lines.	No restriction.	No restriction.	No restriction.
K. Wind power generating facilities, <u>subject where applicable to the provisions of Section 17.108.160.</u>	<u>Ten (10) percent, minus any percentage covered pursuant to subsection A or B of this section.</u>	<u>Ten (10) feet, except upon the granting of a conditional use permit.</u>	<u>Distance of required setback equal to the height of the wind power generating facility, except if located on the rooftop of a primary facility in a Commercial zone, Industrial zone, or in an S-1, S-2, S-3, or S-15 zone.</u>
<u>L. K-</u>Special Signs; and other Signs if flat against the surface of a facility authorized above.	No special restriction, but subject to the regular height and other limitations applicable to Signs.	No special restriction, but subject to the regular height and other limitations applicable to Signs.	No special restriction, but subject to the regular height and other limitations applicable to Signs.

Any conditional use permit under subsection H of this section shall be subject to the same use permit criteria as are prescribed in Section 17.102.240. (Ord. 12376 § 3 (part), 2001: prior planning code § 7075)

Change #10

~~17.108.040—Minimum front yard in commercial and industrial zones where part of frontage on same side of block is in residential zone.~~

~~——(See illustration I-12a.) Whenever fifty percent (50%) or more of the frontage on one side of a street between two intersecting streets is in any residential zone and all or part of the remaining frontage is in any commercial or industrial zone, a front yard with a minimum depth equal to one-half of the minimum front yard depth required in the residential zone shall be provided on every commercially or industrially zoned lot having such frontage. If fifty percent (50%) or more of the total frontage is in more than one residential zone, the minimum front yard depth on the commercially or industrially zoned lots shall be equal to one-half of that required in the residential zone in which the least such depth is required. Such yard shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. See also, where applicable, the greater yard depth prescribed for certain facilities by Section 17.108.020. (Prior planning code § 7078)~~

Change #11

~~17.108.070—Minimum side yard on street side of corner lot in commercial and industrial zones where key lots is in residential zone.~~

~~——(See illustration I-12a.) Wherever any reversed corner lot located in any commercial or industrial zone abuts to the rear a key lot which is in any residential zone, there shall be provided on the street side of such corner lot a side yard with a minimum width of one-half of the minimum front yard depth required on the key lot. Such side yard shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. See also, where applicable, the greater yard width prescribed for certain facilities by Section 17.108.020, and the special controls prescribed by Section 17.110.040C for detached accessory buildings on such corner lots. (Prior planning code § 7081)~~

Change #12

17.108.080 Minimum side yard opposite living room windows.

(See illustration I-14.) On each lot containing Residential Facilities with a total of two or more living units, except in the case of a One-Family Dwelling with Secondary Unit, a side yard with the minimum width prescribed hereinafter shall be provided opposite any legally required window of a living room in a Residential Facility wherever such window faces any interior side lot line of such lot, other than a lot line abutting an alley, path, or public park. The side yard prescribed by this section is not required on other lots or in other situations. Such yard shall have a minimum width of eight (8) feet, plus two (2) feet for each story at or above the level of the aforesaid window; provided, however, that such side yard width shall not be required to exceed ~~ten (10%)~~ twelve (12) percent of the lot width in the RU-3, RU-4, RU-5, R-80, CN, CC, C-40, C-45, CBD, S-1,

S-2, S-15, and D-KP zones and ~~fifteen (15%)~~ twenty-percent-(20%) of the lot width in all other zones, except that in no case shall such side yard width be less than five (5) feet. The side yard required by this section shall be provided opposite the legally required window and opposite that portion of the wall containing such window, or of any extension of such wall on the same lot, for a distance of not less than ~~eight (8)~~ ten-feet in both directions from the centerline of such legally required window, and at and above finished grade or the floor level of the lowest story containing such a window, whichever level is higher. Such yard shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. (Ord. 11892 § 7, 1996; prior planning code § 7082)

Change #13

~~17.108.090 Minimum side yard abutting side of property in an RH, RD, RM, RU-1, or RU-2, zones.~~

~~(See illustrations I-6a and I-12b.) Wherever an interior side lot line of any lot located in the RU-3, RU-4, RU-5, CBD-R, S-1, S-2, or S-15 zone or any commercial or industrial zone abuts an interior side lot line of any lot located in the RH, RD, RM, RU-1, or RU-2 zone, there shall be provided on the former lot, along the abutting portion of its side lot line, a side yard with a minimum width of ten (10) feet. (Where it abuts a rear lot line, no yard is required by this section.) This side yard shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. See also, where applicable, the greater yard width prescribed for certain facilities by Section 17.108.020(A). (Ord. 12272 § 4 (part), 2000; Ord. 11892 § 8, 1996; prior planning code § 7083)~~

Change #14

~~17.108.100 Minimum rear yard abutting any portion of property in any residential zone.~~

~~(See illustration I-12b.) Wherever the rear lot line of any lot located in any commercial or industrial zone abuts any portion of any lot located in any residential zone, there shall be provided on the former lot, along the abutting portion of its rear lot line, a rear yard with a minimum depth of ten feet. This yard shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. See also, where applicable, the greater yard depth prescribed for certain facilities by Section 17.108.020A. (Prior planning code § 7085)~~

Change #15

~~17.108.110 Reduced rear yard adjacent to alley.~~

~~In all zones, wherever a rear lot line abuts an alley, one-half of the right-of-way width of the alley may be counted toward the required minimum rear yard depth; provided, however, that the portion of the minimum rear yard depth actually on the lot itself shall not be so reduced to less than ten (10) feet in the , RH, RD, and RM zones, nor to less than five foot in any other zone. (Prior planning code § 7086)~~

Change #16

17.108.120 Minimum court between opposite walls on same lot.

~~(See illustration I-15.)~~ On each lot containing Residential Facilities with a total of two or more living units, except in the case of a One-Family Dwelling with Secondary Unit, courts with the minimum depths prescribed below shall be provided in the cases specified hereinafter between opposite exterior walls, or portions thereof, of the same or separate buildings on such lot. Courts are not required on other lots or in other situations. The aforesaid walls shall be considered to be opposite one another if a line drawn in a horizontal plane perpendicularly from any portion of any of the legally required windows referred to hereinafter, or from any point along the wall containing such window, or any extension of such wall on the same lot, on the same story as and within eight (8) ten-(10) feet in either direction from the centerline of said legally required window, intersects the other wall. The courts required by this section shall be provided opposite each of the legally required windows referred to hereinafter and along the wall containing such window, and along any extension of such wall on the same lot, for not less than eight (8) ten-(10)-feet in both directions from the center line of such legally required window, and at and above finished grade or the floor level of the lowest story containing such a window, whichever level is higher. Such courts shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130.

A. Legally Required Living Room Windows in Either or Both Walls. If either or both such opposite walls contain any legally required window of any living room in a Residential Facility, a court shall be provided between such walls with a minimum horizontal depth equal to ~~the height of the wall opposite such window, or the height of the higher of such opposite walls where both walls contain such a window, provided, however, that in no case shall the horizontal depth of such court be less than sixteen (16) eighteen-(18) feet, plus four (4) feet for each story above the level of the aforementioned court, but shall nor be required to exceed forty (40) fifty-(50) feet.~~ For the purpose of computing the minimum depth of such court, ~~the aforesaid height of wall shall be measured above finished grade or above the floor level of the lowest story of the opposite wall containing such a window, whichever level is higher.~~

B. Other Legally Required Windows in Both Walls. If both such opposite walls contain legally required windows of any habitable rooms, other than living rooms, in a Residential Facility, a court shall be provided between such walls with a minimum horizontal depth of ten (10) twelve-(12)-feet. (Prior planning code § 7087)

Change #17

17.108.130 Exceptions to required openness of minimum yards and courts.

Every part of each required minimum yard and court shall be open and unobstructed from finished grade, or where applicable from such other specified level at which the yard or court is required, to the sky except for the facilities allowed in the yard or court by the following table. Furthermore, in no case shall more than fifty percent (50%) of the horizontal area of any required minimum rear yard be covered by any facilities, other than trees, which extend more than six (6) feet above the level at which the rear yard is required. Wherever a yard is required only for a particular facility, it may be provided at the level of the lowest story containing such facility; provided that where

such facility is a Residential Facility, such level shall be that of the lowest story, or portion thereof, containing any living unit. Where the height of facilities within minimum yards or courts is not specifically further limited by the following table, the facilities shall conform to the regular height restrictions, if any, applicable to facilities where they are located. Facilities within minimum yards and courts shall also be subject to any applicable screening requirements or other controls prescribed by the buffering regulations in Chapter 17.110 or by the pertinent development control maps or individual zone regulations, which in some zones require that minimum front yards, or side yards on the street side of a corner lot, be landscaped.

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
A. Eaves; awnings, louvers, and similar shading devices; sills, cornices, and chimneys; and similar architectural projections from a building.	Four (4) feet into above yard.	Four (4) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.	Two (2) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.	Four (4) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.	Two (2) feet into court.

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph

(Blanks indicate that facility is not allowed.)

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
<p>B. Patio roofs and similar structures projecting from and serving a Residential Facility, if such structures do not exceed twelve (12) feet in height above the finished grade level of the required yard or level of the required court and if each has open, unwallled sides along not less than fifty percent (50%) of its perimeter. (If less open, see subsection K.)</p>	<p>Four (4) feet into above yard.</p>	<p>Four (4) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.</p>	<p>Two (2) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.</p>	<p>Any distance into above yard.</p>	<p>Two (2) feet into court.</p>

**Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph
(Blanks indicate that facility is not allowed.)**

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
<p>C. Breezeways and similar roofed passageways projecting from and serving a Residential Facility, if they do not exceed twelve (12) feet in height above the <u>finished grade level</u> of the required yard or <u>level</u> of the required court and eight (8) feet in width and if they are not enclosed on the sides. (If wider or less open, see subsection K.)</p>	<p>Four (4) feet into above yard.</p>	<p>Four (4) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.</p>	<p>Two (2) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.</p>	<p>Any distance into above yard.</p>	<p>Two (2) feet into court.</p>

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph

(Blanks indicate that facility is not allowed.)

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
<p>D. Bay windows, located above the first-story of a building, if the aggregate width of bay windows on any one story does not exceed fifty percent (50%) of the length of the wall containing them; <u>and if</u> no individual bay window exceeds fifteen (15) feet in width, <u>and</u> if all such windows are cantilevered only.</p>	<p>Three (3) feet into above yard, though not to within five (5) feet of the front lot line for One- or Two-Family Residential Facilities.</p>	<p>Three (3) feet into above yard, though not to within five (5) feet of the front lot line for One- or Two-Family Residential Facilities.</p>		<p>Five (5) feet into above yard.</p>	

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph

(Blanks indicate that facility is not allowed.)

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
<p>E. Balconies, decks, and similar structures projecting from and serving Residential Facility and having a height, including railings, of more than six (6) feet above the <u>finished grade level of the required yard or level of the required court</u>, but excluding corridors and similar facilities providing access to two or more living units; provided that such structures are cantilevered or supported by necessary columns; and further provided that such structures are unroofed, except that a balcony or deck projecting from a higher story shall not be deemed a roof</p>	<p>Six (6) feet into above yard, though not to within five (5) feet of the front lot line for One- or Two-Family Residential Facilities.</p>	<p>Five (5) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.</p>	<p>Five (5) feet into above yard, though not to within five (5) feet of interior side lot line; but may extend any distance if they meet the same provisos as stated in subsection K.</p>	<p>Six (6) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.</p>	

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph

(Blanks indicate that facility is not allowed.)

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
<p>F. Exterior access facilities which lead to the second or higher story of a building, including open or enclosed fire escapes and open, unroofed fireproof outside stairways, landings, exterior corridors, and wheelchair ramps.</p>	<p>Four (4) feet into above yard, <u>but may extend any distance if they are required to accommodate wheelchair ramps or similar ADA access facilities.</u></p>	<p>Four (4) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K <u>or if they are required to accommodate wheelchair ramps or similar ADA access facilities.</u></p>	<p>Any distance into above yard if they meet the same provisos as stated in subsection K (not allowed otherwise).</p>	<p>Four (4) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K <u>or if they are required to accommodate wheelchair ramps or similar ADA access facilities.</u></p>	

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph

(Blanks indicate that facility is not allowed.)

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
<p>G. Umoofted porches, steps, <u>decks</u>, and wheelchair ramps and other similar raised structures projecting from a building and having a height, including railings, of not more than six (6) feet above the <u>finished grade level</u> of the required yard or <u>level of the required court</u>.</p>	<p>Eight (8) feet into above yard; but may extend any distance if they are required to accommodate wheelchair ramps or similar ADA access facilities.</p>	<p>Eight (8) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K or if they are required to accommodate wheelchair ramps or similar ADA access facilities.</p>	<p>Eight (8) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K or if they are required to accommodate wheelchair ramps or similar ADA access facilities..</p>	<p>Any distance into above yard.</p>	<p>Anywhere in court.</p>

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph

(Blanks indicate that facility is not allowed.)

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
<p>H. Open storage of boats, trailers, appliances, miscellaneous equipment, and similar materials, including areas for temporary storage of waste or used materials. (See also subsection I, and O.M.C Section 8.24.020F.)</p>			<p>Anywhere in above yard, provided that in all commercial and industrial zones the height of such storage shall not exceed five and one-half (5 ½) feet within a horizontal distance of ten (10) feet from any abutting residentially zoned lot.</p>	<p>Anywhere in above yard, provided that in all commercial and industrial zones the height of such storage shall not exceed five and one-half (5 ½) feet within a horizontal distance of ten (10) feet from any abutting residentially zoned lot.</p>	<p>Anywhere in court.</p>

**Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph
(Blanks indicate that facility is not allowed.)**

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior. Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
<p>L Air conditioners, compressors, hot tub motors, and similar devices if emitting noise readily noticeable by the average person at or beyond the lot line, whether or not the devices are attached to a building.</p>				Anywhere in above yard.	Anywhere in court.
<p>J. Slides, clotheslines, and similar equipment; radio or televisions masts or antennas; microwave or <u>satellite</u> dishes.</p>		Anywhere in above yards, subject where applicable to the provisions of Section 17.102.240.	Anywhere in above yards, subject where applicable to the provisions of Section 17.102.240.	Anywhere in above yards, subject where applicable to the provisions of Section 17.102.240.	Anywhere in court, subject where applicable to the provisions of Section 17.102.240.

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph

(Blanks indicate that facility is not allowed.)

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
<p>K. Detached garages and sheds; detached or attached carports, parking podiums, and other detached or attached accessory structures not provided for elsewhere by this section; and portions of principal Nonresidential Facilities not provided for elsewhere nearby.</p>		<p>Anywhere in above yards, provided that:</p>	<p>Anywhere in above yards, provided that:</p>	<p>Anywhere in above yards, provided that:</p>	
		<p>1. The facility is within thirty-five (35) feet of the rear lot line; and</p>	<p>1. The facility is within thirty-five (35) feet of the rear lot line; and</p>	<p>1. The facility is within thirty-five (35) feet of the rear lot line; and</p>	

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph

(Blanks indicate that facility is not allowed.)

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
		<p>2. The wall height of the facility does not exceed nine (9) feet in height to the top of the plate above finished grade and the roof height, for roofs with a maximum 8 in 12 slope, does not exceed twelve (12) feet above finished grade, except for incidental decorative features or minor appurtenances such as flues; and</p>	<p>2. The wall height of the facility does not exceed nine (9) feet in height to the top of the plate above finished grade and the roof height, for roofs with a maximum 8 in 12 slope, does not exceed twelve (12) feet above finished grade, except for incidental decorative features or minor appurtenances such as flues; and</p>	<p>2. The wall height of the facility does not exceed nine (9) feet in height to the top of the plate above finished grade and the roof height, for roofs with a maximum 8 in 12 slope, does not exceed twelve (12) feet above finished grade, except for incidental decorative features or minor appurtenances such as flues; and</p>	

**Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph
(Blanks indicate that facility is not allowed.)**

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
		3. The facility itself does not contain any residential living quarters; and	3. The facility itself does not contain any residential living quarters; and	3. The facility itself does not contain any residential living quarters; and	
		4. No building or portion thereof within the minimum yard is itself used for any commercial or manufacturing repair or production operations, unless it has no exterior openings there other than emergency exits or fixed windows or skylights; and	4. No building or portion thereof within the minimum yard is itself used for any commercial or manufacturing repair or production operations, unless it has no exterior openings there other than emergency exits or fixed windows or skylights; and	4. No building or portion thereof within the minimum yard is itself used for any commercial or manufacturing repair or production operations, unless it has no exterior openings there other than emergency exits or fixed windows or skylights; and	

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph

(Blanks indicate that facility is not allowed.)

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
		5. The affected side yard, if any, is not one required by Section 17.102.240 or 17.28.150(C)(1).	5. The affected side yard, if any, is not one required by Section 17.102.240 or 17.28.150(C)(1).	5. The affected side yard, if any, is not one required by Section 17.102.240 or 17.28.150(C)(1).	
		But on any reversed corner lot which abuts a key lot in any residential zone, detached accessory buildings shall also be subject to the provisions stated in Section 17.110.040 C.	But on any reversed corner lot which abuts a key lot in any residential zone, detached accessory buildings shall also be subject to the provisions stated in Section 17.110.040 C.	But on any reversed corner lot which abuts a key lot in any residential zone, detached accessory buildings shall also be subject to the provisions stated in Section 17.110.040 C.	

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph

(Blanks indicate that facility is not allowed.)

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
<p>L. Unroofed, raised platforms designed to accommodate off-street parking, including ramps and stairways necessary to provide access.</p>	<p>Anywhere in above yard except within five (5) feet of interior side lot line and except as otherwise provided in subsection M.</p>	<p>Same as prescribed in subsection K, except as otherwise provided in subsection M.</p>	<p>Same as prescribed in subsection K, except as otherwise provided in subsection M.</p>	<p>Same as prescribed in subsection K, except as otherwise provided in subsection M.</p>	

**Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph
(Blanks indicate that facility is not allowed.)**

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
<p>M. Umoofted parking and loading areas.</p>	<p>In any yard or court, except that in all residential zones and in the S-1, S-2, and S-3 zones, no umoofted parking space which is located on any lot containing three or more parking spaces, and no unroofed loading berth, shall be located within five (5) feet of <u>the edge of pavement of any street line or alley.</u></p>	<p>In any yard or court, except that in all residential zones and in the S-1, S-2, and S-3 zones, no unroofed parking space which is located on any lot containing three or more parking spaces, and no unroofed loading berth, shall be located within five (5) feet of <u>the edge of pavement of any street line or alley.</u></p>	<p>In any yard or court, except that in all residential zones and in the S-1, S-2, and S-3 zones, no unroofed parking space which is located on any lot containing three or more parking spaces, and no umoofted loading berth, shall be located within five (5) feet of <u>the edge of pavement of any street line or alley.</u></p>	<p>In any yard or court, except that in all residential zones and in the S-1, S-2, and S-3 zones, no umoofted parking space which is located on any lot containing three or more parking spaces, and no unroofed loading berth, shall be located within five (5) feet of <u>the edge of pavement of any street line or alley.</u></p>	<p>In any yard or court, except that in all residential zones and in the S-1, S-2, and S-3 zones, no umoofted parking space which is located on any lot containing three or more parking spaces, and no umoofted loading berth, shall be located within five (5) feet of <u>the edge of pavement of any street line or alley.</u></p>

**Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph
(Blanks indicate that facility is not allowed.)**

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
<p>N. Covered, underground or partially excavated structures including, but not limited to garages, fallout shelters, wine cellars, and basements.</p>	<p>In any yard or court, provided that:</p>	<p>In any yard or court, provided that:</p>	<p>In any yard or court, provided that:</p>	<p>In any yard or court, provided that:</p>	<p>In any yard or court, provided that:</p>
	<p>1. The surfaces of such facilities are landscaped or developed as patios or terraces; and</p>	<p>1. The surfaces of such facilities are landscaped or developed as patios or terraces; and</p>	<p>1. The surfaces of such facilities are landscaped or developed as patios or terraces; and</p>	<p>1. The surfaces of such facilities are landscaped or developed as patios or terraces; and</p>	<p>1. The surfaces of such facilities are landscaped or developed as patios or terraces; and</p>

**Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph
(Blanks indicate that facility is not allowed.)**

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
	<p>2. Such facilities do not extend more than thirty (30) inches above finished grade, except that they may extend farther upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.</p>	<p>2. Such facilities do not extend more than thirty (30) inches above finished grade, except that they may extend farther upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.</p>	<p>2. Such facilities do not extend more than thirty (30) inches above finished grade, except that they may extend farther upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.</p>	<p>2. Such facilities do not extend more than thirty (30) inches above finished grade, except that they may extend farther upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.</p>	<p>2. Such facilities do not extend more than thirty (30) inches above finished grade, except that they may extend farther upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.</p>

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph

(Blanks indicate that facility is not allowed.)

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
	However, these provisos shall not apply if the facilities would otherwise qualify, in the same yard, under subsection K.	However, these provisos shall not apply if the facilities would otherwise qualify, in the same yard, under subsection K.	However, these provisos shall not apply if the facilities would otherwise qualify, in the same yard, under subsection K.	However, these provisos shall not apply if the facilities would otherwise qualify, in the same yard, under subsection K.	However, these provisos shall not apply if the facilities would otherwise qualify, in the same yard, under subsection K.
O. Fences; dense hedges; barrier, and similar freestanding walls.	In any yard or court, provided that such facilities comply with the provisions of Section 17.108.140.	In any yard or court, provided that such facilities comply with the provisions of Section 17.108.140.	In any yard or court, provided that such facilities comply with the provisions of Section 17.108.140.	In any yard or court, provided that such facilities comply with the provisions of Section 17.108.140.	In any yard or court, provided that such facilities comply with the provisions of Section 17.108.140.

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph

(Blanks indicate that facility is not allowed.)

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
<p>P. Trees, shrubs, and landscaping other than dense hedges with a screening effect; sculpture and similar decorations; flagpoles; unroofed patios and swimming pools; driveways; walkways and detached steps; and utility poles and lines.</p>	<p>In any yard or court, subject to the applicable limitations of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections."</p>	<p>In any yard or court, subject to the applicable limitations of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections."</p>	<p>In any yard or court, subject to the applicable limitations of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections."</p>	<p>In any yard or court, subject to the applicable limitations of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections."</p>	<p>In any yard or court, subject to the applicable limitations of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections."</p>
<p>Q. Signs.</p>	<p>In any yard or court, subject to the applicable limitations on Signs in Chapter <u>17.104.</u></p>	<p>In any yard or court, subject to the applicable limitations on Signs in Chapter <u>17.104.</u></p>	<p>In any yard or court, subject to the applicable limitations on Signs in Chapter <u>17.104.</u></p>	<p>In any yard or court, subject to the applicable limitations on Signs in Chapter <u>17.104.</u></p>	<p>In any yard or court, subject to the applicable limitations on Signs in Chapter <u>17.104.</u></p>

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph

(Blanks indicate that facility is not allowed.)

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
R. Security fences (for active Code Enforcement Cases addressing blighted vacant lots and vacant buildings) Abandoned Fast Food Facilities)	In any yard or court provided that such facilities:	In any yard or court provided that such facilities:	In any yard or court provided that such facilities:	In any yard or court provided that such facilities:	In any yard or court provided that such facilities:
	1. Shall not exceed eight (8) feet; and	1. Shall not exceed eight (8) feet; and	1. Shall not exceed eight (8) feet; and	1. Shall not exceed eight (8) feet; and	1. Shall not exceed eight (8) feet; and

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph

(Blanks indicate that facility is not allowed.)

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
	<p>2. Shall comply with the applicable provisions of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections;" and</p> <p>3. Shall contain a minimum 75% transparency to allow visual access into the site from the public right of way.</p>	<p>2. Shall comply with the applicable provisions of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections;" and</p> <p>3. Shall contain a minimum 75% transparency to allow visual access into the site from the public right of way.</p>	<p>2. Shall comply with the applicable provisions of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections;" and</p> <p>3. Shall contain a minimum 75% transparency to allow visual access into the site from the public right of way.</p>	<p>2. Shall comply with the applicable provisions of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections;" and</p> <p>3. Shall contain a minimum 75% transparency to allow visual access into the site from the public right of way.</p>	<p>2. Shall comply with the applicable provisions of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections;" and</p> <p>3. Shall contain a minimum 75% transparency to allow visual access into the site from the public right of way.</p>

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
S. Living space located completely under driveway ramps	In any yard or court.	In any yard or court.	In any yard or court.	In any yard or court.	In any yard or court.
T. Retaining walls; and earthen mounds, embankments, and other fill.	In any yard or court, provided that such facilities comply with the provisions of Section <u>17.108.150.</u> 17.102.400(E)	In any yard or court, provided that such facilities comply with the provisions of Section <u>17.108.150.</u> 17.102.400(E)	In any yard or court, provided that such facilities comply with the provisions of Section <u>17.108.150.</u> 17.102.400(E)	In any yard or court, provided that such facilities comply with the provisions of Section <u>17.108.150.</u> 17.102.400(E)	In any yard or court, provided that such facilities comply with the provisions of Section <u>17.108.150.</u> 17.102.400(E)

(Ord. 12533 § 3 (part), 2003; Ord. 12376 § 3 (part), 2001; prior planning code § 7090)

Change #18

17.108.150 Retaining walls

A. No retaining wall shall exceed six (6) feet in height, except in the following cases:

I. Retaining walls flanking driveways that are nineteen (19) feet or less in width on lots with a street-to-setback gradient of twenty percent (20%) or more may exceed six (6) feet in height if both of the following provisions are met:

a. The garage floor is at the highest possible elevation based on the maximum driveway slopes permitted by Section 17.116.260A; and

b. The top of the retaining wall is no higher than necessary to retain the existing grade at the top of the wall.

2. Retaining walls not flanking driveways may also exceed six (6) feet in height upon the granting of small project design review, pursuant to the small project design review procedure in Section 17.136.030 and if both of the following provisos are met:

a. The top of the retaining wall is no higher than necessary to retain the existing grade at the top of the wall, and

b. The retaining wall is located behind buildings, other permanent structures, or existing grade in such a manner as to visually screen the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot. Whenever buildings or other permanent structures on the subject lot block most, but not all, visibility of the retaining wall, dense landscaping shall be installed and maintained to screen the remaining views of the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot.

B. Multiple retaining walls shall be separated by a distance of at least four (4) feet between the exposed faces of each wall.

C. Retaining walls visible from the street or adjacent lots shall be surfaced with a decorative material, treatment or finish, such as stained or stuccoed concrete, decorative concrete block, wood, stone or masonry, or other decorative material, treatment or finish approved by the Director of City Planning. For purposes of this section, "visible from the street or adjacent lots" refers to any portion of a wall that is not located behind buildings, other permanent structures, or existing grade in such a manner as to visually screen the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot.

Change #19

17.108.160 Wind power generating facilities

A. Residential Zones. The provisions of this subsection shall apply to wind power generating facilities in all Residential Zones:

1. Setback. A wind power generating facility may only be located in a Residential zone if the facility is setback from any adjacent residentially zoned property at a distance equal to the height of the wind power generating facility.

2. Height. No wind power generating facility may exceed twenty-five (25) feet in height above grade, or if located on top of a building no more than ten (10) feet above the maximum height limit of the Residential zone except upon approval of a Conditional Use permit, and in no case shall it exceed sixty (60) feet above grade.

B. Commercial Zones, Industrial Zones, and in the S-1, S-2, S-3, and S-15 Zones. The provisions of this subsection shall apply to wind power generating facilities in all Commercial zones, Industrial zones, and in the S-1, S-2, S-3, and S-15 zones:

1. Height. A wind power generating facility may not exceed ten (10) feet above the maximum height limit for the zone in which it is located or sixty (60) feet above grade, whichever is less, except upon approval of a Conditional Use permit.

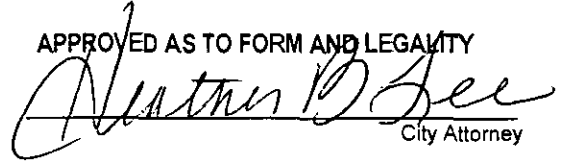
2 Setback. Any wind power generating facility must be setback from any residentially zoned property at a distance equal to the height of the facility if said facility is located at any location other than on a rooftop of a primary facility on the project site.

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OAKLAND

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INTRODUCED BY COUNCILMEMBER _____

APPROVED AS TO FORM AND LEGALITY


City Attorney

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

AN ORDINANCE, RECOMMENDED BY THE PLANNING COMMISSION, TO: 1) UPDATE REFERENCES, REDUCE REDUNDANCY, AND CLARIFY LANGUAGE IN VARIOUS CHAPTERS OF THE PLANNING CODE; 2) MODIFY THE THRESHOLD IN CHAPTER 17.102 FOR EXEMPTION FROM THE 1,000-FOOT SEPARATION REQUIREMENT FOR ALCOHOL BEVERAGE SALES COMMERCIAL FROM 20,000 SQUARE FEET DOWN TO 12,000 SQUARE FEET, AND MODIFY THE REQUIREMENT FOR 25 FULL-TIME EMPLOYEES; 3) MODIFY CHAPTER 17.108 FOR SETBACKS OF ALLOWED PROJECTIONS ABOVE THE HEIGHT LIMITS AND ALLOWED PROJECTIONS INTO REQUIRED SETBACKS; 4) MODIFY CHAPTER 17.108 FOR INTERIOR COURTYARD REGULATIONS AND SEPARATION AND SETBACK REQUIREMENTS FROM LEGALLY REQUIRED WINDOWS; 5) MODIFY CHAPTER 17.108 FOR INCLUSION OF SPECIFIC STANDARDS FOR WIND POWER GENERATING FACILITIES.

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

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

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

WHEREAS, the current zoning regulations prohibit alcohol beverage sales activities for businesses with less than 25 full-time employees and 25,000 square feet to be located within 1,000 feet of another alcohol beverage sales activity thus restricting large scale retail/pharmacy businesses from conducting prototypical operations that often include the sales of beer and wine; and

WHEREAS, the current zoning regulations pertaining to side yards opposite living room windows and courtyard widths that were designed for 1960's era garden apartments have proven problematic to functional design of more dense corridor residential developments along the City's corridors as envisioned by the Oakland General Plan; and

WHEREAS, the current zoning regulations limit the height of security fences for blighted vacant properties under code compliance action to 42 inches or six feet with small project design review thus limiting the effectiveness of such fences; and

WHEREAS, the current zoning regulations do not specifically set standards for wind power generating facilities which gives very little restriction in non-residential zones and is overly prohibitive in residential zones; and

WHEREAS, on February 15, 2012, at a duly noticed public hearing, the Planning Commission recommended approval of the proposed Planning Code Amendments; and

WHEREAS, after a duly noticed public meeting on March 27, 2012 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 April 3, 2012 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 that the forgoing recitals to be true and correct and hereby makes them a part of this ordinance.

Section 2. Prior to adopting this Ordinance, the City Council independently finds and determines that this action complies with the California Environmental Quality Act (CEQA) because the City is relying on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998); the Oakland Estuary Policy Plan EIR (1998); the EIRS for the West Oakland Central City East, Coliseum and Oakland Army Base Redevelopment Areas and no further environmental review is required under CEQA Guidelines sections 15162 and 15163. On a separate and independent basis, this proposal is also exempt under Sections 15061(b)(3), 15183, and/or Section 15273 of the State CEQA Guidelines. The Environmental Review Officer is directed to cause to be filed a Notice of Exemption/Determination with the appropriate agencies.

Section 3. This Ordinance shall be effective 30 days from the date of final passage by the City Council, but shall not apply to (a) building/construction related permits already issued and not yet expired, or (b) to zoning applications approved by the City and not yet expired, or to (c) zoning applications deemed complete by the City as of the date of final passage. However, zoning applications deemed complete by the City prior to the date of final passage of this Ordinance may be processed under provisions of these Planning Code amendments if the applicant chooses to do so.

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

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

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

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

1. the application, including all accompanying papers;
2. all final staff reports, decision letters and other documentation and information produced by or on behalf of the City;
3. all oral and written evidence received by the City staff, Planning Commission and City Council before and during the public hearings on the application;
4. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan and the General Plan Conformity Guidelines; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations, Oakland Fire Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and, (e) all applicable state and federal laws, rules and regulations.

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

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, and PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

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

DATE OF ATTESTATION: _____

EXHIBIT A: PROPOSED CHANGES TO THE PLANNING CODE

Items that are underlined are insertions, while items that appear in ~~strikeout~~ are deletions. All changes are to the Planning Code.

17.102.210 - Special regulations applying to Fast-Food Restaurants, Convenience Markets, certain establishments selling alcoholic beverages, providing mechanical and electronic games.

d. Establishments with twenty-five (25) or more full time equivalent (FTE) employees, or and a total floor area of twenty twelve thousand (~~12,000~~20,000) square feet or more.

2. Sale of alcoholic beverages in conjunction with a Full Service Restaurant and located within any of the following restricted street areas applied to a depth of two hundred (200) feet on each side of the identified streets and portions of streets, as measured perpendicularly from the right-of-way line thereof: International Boulevard; Foothill Boulevard; MacArthur Boulevard and West MacArthur Boulevard; that portion of San Pablo Avenue lying between Highway 1-980 and 1-580; that portion of Edes Avenue lying between Clara Street and Bergedo Drive, shall require a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

4. In addition to the above criteria, projects outside the Central District and Hegenberger Corridor shall meet all of the following criteria to make a finding of Public Convenience or Necessity, with the exception of those projects that will result in twenty-five (25) or more full time equivalent (FTE) employees, or and will result in a total floor area of twenty twelve thousand (~~12,000~~20,000) square feet or more:

17.102.240 - Special regulations applying to microwave and satellite dishes over one (1) meter in diameter located in or near residential zones.

The following regulations shall apply to microwave and satellite dishes which are over one (1) meter in diameter, which are located in any residential zone or within one hundred fifty (150) feet from the nearest boundary of any residential zone, as measured perpendicularly from said boundary at any point:

B. Distance from Lot Line in Certain Cases. No such facility shall be located within ten (10) feet from any abutting residentially zoned lot, or from any street, alley, or path or private way described in Section 17.106.020 directly across which there is a lot in any residential zone, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure.

C. Noise and Glare. All such facilities located within one hundred fifty (150) feet of any residentially zoned lot shall be placed, screened, or designed in such a way as to avoid casting objectionable glare into the windows of any residentially facility or generating noise levels that exceed city performance standards. ~~zoned lot located within one-hundred-fifty-(150)-feet.~~

D. Use Permit Criteria. A conditional use permit under this section may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and to the following applicable-additional use permit criteria set forth below:

17.102.400 - Special design requirements for lots that contain Residential Facilities and no Nonresidential Facilities.

~~_____ E. _____ Retaining Walls.~~

~~1. _____ No retaining wall shall exceed six (6) feet in height, except in the following cases:~~

~~_____ a. _____ Retaining walls flanking driveways that are nineteen (19) feet or less in width on lots with a street-to-setback gradient of twenty percent (20%) or more may exceed six (6) feet in height if both of the following provisos are met:~~

~~_____ i. _____ The garage floor is at the highest possible elevation based on the maximum driveway slopes permitted by Section 17.116.260A; and~~

~~_____ ii. _____ The top of the retaining wall is no higher than necessary to retain the existing grade at the top of the wall.~~

~~_____ b. _____ Retaining walls not flanking driveways may also exceed six (6) feet in height upon the granting of small project design review, pursuant to the small project design review procedure in Section 17.136.030 and if both of the following provisos are met:~~

~~_____ i. _____ The top of the retaining wall is no higher than necessary to retain the existing grade at the top of the wall, and~~

~~_____ ii. _____ The retaining wall is located behind buildings, other permanent structures, or existing grade in such a manner as to visually screen the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot. Whenever buildings or other permanent structures on the subject lot block most, but not all, visibility of the retaining wall, dense landscaping shall be installed and maintained to screen the remaining views of the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot.~~

~~_____ 2. _____ Multiple retaining walls shall be separated by a distance of at least four (4) feet between the exposed faces of each wall.~~

~~_____ 3. _____ Retaining walls visible from the street or adjacent lots shall be surfaced with a decorative material, treatment or finish, such as stained or stuccoed concrete, decorative concrete block, wood, stone or masonry, or other decorative material, treatment or finish approved by the Director of City Planning. For purposes of this section, "visible from the street or adjacent lots" refers to any portion of a wall that is not located behind buildings, other permanent structures, or existing grade in such a manner as to visually screen the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot.~~

Chapter 17.104

GENERAL LIMITATIONS ON SIGNS

Sections:

- 17.104.010 General limitations on Signs in Rresidential zones, except the RU-4 and RU-5 zones, and in Open Space (OS) zones.
- 17.104.020 General limitations on signs-- RU-4 and RU-5 zones, and all Commercial and Industrial zones.
- 17.104.030 General limitations on signs-- S-1, S-2, and S-3, and S-15 zones.
- 17.104.040 Limitations on Signs within one thousand (1,000) feet of rapid transit routes.
- 17.104.050 Amortization of Advertising Signs in Rresidential zones.
- 17.104.060 General Limitations on Advertising Signs.
- 17.104.070 Master Ssign Pprograms.

- 17.104.010 General limitations on Signs in Rresidential zones, except the RU-4 and RU-5 zones, and in Open Space (OS) zones.

The following limitations shall apply to the specified Signs in all Rresidential and OS zones, except the RU-4 and RU-5 zones and except as otherwise provided herein, and are in additions to the limitations, if any prescribed for ~~the~~ Signs in the applicable individual zone regulations and development control maps.

- F. Civic Signs. No single Civic Sign shall have a display surface greater than one square foot on any one face, except that two Civic Signs on each lot or, in the case of a lot with a lot area of more than twenty thousand (20,000) square feet, two Civic Signs for each twenty thousand (20,000) square feet of lot area may have a greater display surface. The maximum total area of display surface of any two such larger Signs shall be thirty (30) square feet. No Civic Sign which is attached to a building shall have a display surface greater than one square foot on any one face, unless it is flat against a wall of the building and does not project outward more than eighteen (18) inches therefrom nor at all above the roof or parapet wall of the building. No Civic Sign which is not attached to a building and which has a display surface greater than one square foot on any one face shall extend more than twelve (12) feet above finished grade, nor be located within five (5) feet from any lot line. All Civic Signs shall be nonmoving. Illumination, if any, of all such Signs shall be indirect and nonflashing. Such Signs shall not, except for Signs with a display surface not greater than one square foot on any one face, include any pennants, streamers, propellers, or similar devices.

- 2. No single Business Sign serving Agricultural or Extractive Activities shall have a display surface greater than one square foot on any one face, except that one such Sign on each lot may have a display surface of not more than six (6) square feet on any

one face. All Business Signs which serve such activities, which are attached to a building, and which have a display surface greater than one square foot on any one face shall be located flat against a wall of the first story of the building, and no such Sign shall project outward more than eighteen (18) inches from such wall nor any distance above the roof or parapet wall of the building. No Business Sign which serves such activities, which is not attached to a building, and which has a display surface greater than one square foot on any one face shall extend more than six (6) feet above finished grade, nor be located within five (5) feet from any lot line. All Business Signs serving such activities shall be nonmoving. Illumination, if any, of all such Signs shall be indirect and nonflashing. Such Signs shall not, except in the case of Signs behind a display window, include any pennants, streamers, propellers, or similar devices.

3. The maximum aggregate area of display surface of Business Signs serving off-street parking which is subject to the conditions set forth in Section 17.102.100(B) shall be twelve (12) square feet for each vehicular entrance or exit. No such Sign shall extend more than six (6) feet above finished grade, nor be located within five (5) feet from any lot line. All such Signs shall be nonmoving. Illumination, if any, of all such Signs shall be indirect and nonflashing. Such Signs shall not include any pennants, streamers, propellers, or similar devices.

17.104.020 General limitations on signs-- RU-4 and RU-5 zones, and all Commercial and Industrial zones.

The following limitations shall apply to the specified Signs in the RU-4 and RU-5 zones and all Commercial and Industrial zones, and except as otherwise provided herein, and are in addition to the limitations, if any, prescribed for Signs in the applicable individual zone regulations and development control maps:

B. Permitted Aggregate Sign Area.

1. In the RU-4 and RU-5 zones and all Commercial zones, the maximum aggregate area of display surface of all business, civic, and residential signs on any one lot shall be one square foot for each one foot of lot frontage in the case of an interior lot, or 0.5 square feet for each one foot of lot frontage in the case of a corner lot. The aggregate shall include only one face of a double-faced sign. The total amount of aggregate sign area shall not exceed two hundred (200) square feet on any one property. Exceptions to the total amount of aggregate sign area normally allowed on any one property may be approved pursuant to the regulations in Subsection B(3) below and to the small project design review procedure in Chapter 17.136.

2. In all Industrial zones, the maximum aggregate area of display surface of all business, civic and residential signs on any one lot shall be one square foot for each one foot of lot frontage in the case of an interior lot, or 0.5 square feet for each one foot of lot frontage in the case of a corner lot. The aggregate shall include only one face of a double-faced sign. The total amount of aggregate sign area shall not exceed three hundred (300) square feet on any one property. Exceptions to the total amount of aggregate sign area normally allowed on any one property may be approved pursuant to the regulations in Subsection B(3) below.

2. **Freestanding Signs.** The maximum height of any freestanding sign in the CC, M-20, M-30, M-40, CIX-1, CIX-2, IG, and IO zones is twenty (20) feet. The maximum height in the RU-4 and RU-5 zones and all other Commercial and Industrial zones is ten (10) feet.

D. Limitations on Signs within Required Minimum Yards.

I. No business, realty, or development sign shall be located within a required minimum yard.

E. Special Limitations near Boundaries of Residential Zones, except the RU-4 and RU-5 zones. (See illustration 1-10.) The following special limitations shall apply to the indicated signs within the specified distances from any boundary of a Residential zone, except the RU-4 and RU-5 zones. For the purposes of this subsection, a sign shall be deemed to face a zone boundary if the angle between the face of its display surface and said boundary is less than ninety (90) degrees; and a sign shall be considered visible from a zone boundary if it may be seen from any point located along such boundary within the following indicated distances from the sign and at a height equal to or less than that of the sign.

1. Within twenty-five (25) feet from any boundary of a Residential zone, except the RU-4 and RU-5 zones, no business sign shall face said boundary if it is visible therefrom.

F. Development Signs. In the RU-4 and RU-5 zones and all Commercial and Industrial zones, the maximum aggregate area of display surface of all development signs on any one lot shall be either seventy-five (75) square feet or one square foot for each two (2) feet of street line abutting the lot, whichever is greater. However, a greater area of display surface may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

G. Realty Signs. In the RU-4 and RU-5 zones and all Commercial and Industrial zones, the maximum aggregate area of display surface of all Realty Signs on any one lot shall be one square foot for each two (2) feet of street line abutting the lot; provided that such area shall not exceed twenty-five (25) square feet along any consecutive fifty (50) feet of street line; and further provided that a sign with a display surface of twelve (12) square feet or less shall be permitted for each lot, or for each building or other rentable unit thereon.

D. Special Limitations Near Boundaries of Residential Zones, except the RU-4 and RU-5 zones. Signs shall be subject to the same special limitations along or near boundaries of Residential zones, except the RU-4 and RU-5 zones, as are set forth in Section 17.104.020(E).

E. Special, Development, and Realty Signs. All special, development, and realty signs shall be subject to the same limitations as are set forth in subsections (C), (D) and (F) of Section 17.104.010 for such signs in Residential zones, except the RU-4 and RU-5 zones.

F. Signs within One Thousand (1,000) Feet of Rapid Transit Routes. Signs within one thousand (1,000) feet of the centerline of rapid transit routes shall be subject to the applicable limitations set forth in Sections 17.104.040 and 17.114.150. (Ord. 12606 Att. A (part), 2004: prior planning code § 7042)

17.104.040 Limitations on Signs within one thousand (1,000) feet of rapid transit routes.

17.104.050 Amortization of Advertising Signs in Residential zones.

A. **Removal Criteria.** In accordance with California Business and Professions Code Section 5412.1, those Advertising Signs meeting all of the following criteria shall be removed within the time periods set forth below without compensation:

1. The Advertising Sign is located within an area shown as Residential in the Oakland General Plan; and

17.104.070 Master Sign Programs

A. **Submittal Requirements.** In all Commercial and Industrial zones, as well as the RU-4, RU-5, S-1, S-2, S-3, and S-15 zones, any Commercial, Industrial, or mixed use building or complex containing two (2) or more tenant spaces on site may apply for a Master Sign Program which specifies the overall design, configuration, and permitted sizes of signs for that building or complex. Applications for a Master Sign Program shall identify, at a minimum, the permitted sign sizes, materials, colors, placement, construction, method of lighting, and other related sign requirements for the applicable Commercial, Industrial, or mixed use building or complex. Drawings shall indicate the exterior surface details of all buildings on the site; the typical sign locations, designs, colors, and faces; and the methods of sign construction, installation, and lighting.

Chapter 17.108

GENERAL HEIGHT, YARD, AND COURT REGULATIONS

Sections:

17.108.010 Height restrictions on lots abutting property in an RH, RD, or RM zone.

17.108.020 Different maximum height in certain situations.

17.108.030 Allowed projections above height limits.

~~**17.108.040** Minimum front yard in commercial and industrial zones where part of frontage on same side of block is in residential zone.~~

~~**17.108.070** Minimum side yard on street side of corner lot in commercial and industrial zones where key lots is in residential zone.~~

17.108.080 Minimum side yard opposite living room windows.

~~**17.108.090** Minimum side yard abutting side of property in an RH, RD, or RM zones.~~

~~**17.108.100** Minimum rear abutting any portion of property in any residential zone.~~

~~**17.108.110** Reduced rear yard adjacent to alley.~~

17.108.120 Minimum court between opposite walls on same lot.

17.108.130 Exceptions to required openness of minimum yards and courts.

17.108.140 Fences, dense hedges, barrier and similar freestanding walls.

17.108.150 Retaining walls

17.108.160 Wind power generating facilities

17.108.010 Height restrictions on lots abutting property in an RH, RD, or RM zone.

In the RU, R-80, S-1, S-2, S-3, and S-15 zones and all Commercial and Industrial zones, the following regulations shall apply to every lot therein which abuts any lot located in an RH, RD, or RM zone:

17.108.020 Different maximum height in certain situations.

A.—General Height for Civic Facilities with Increased Yards. On parcels in the RH, RD, RM, RU, CN, CC, CR, HBX, M-20, S-15 and OS zones that have a height limit of less than seventy-five (75) feet, a facility accommodating or serving any Civic Activity may, notwithstanding the maximum height prescribed for facilities in general in the applicable individual zone regulations, have a height of up to seventy-five (75) feet upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 if the minimum depth or width, as the case may be, of each front, side, and rear yard, if any, otherwise required is increased for such facility by one foot for each foot by which the facility exceeds the aforesaid maximum height. To the extent allowed by the conditional use permit, the greater height authorized by this subsection may be exceeded by the projections allowed by Section 17.108.030.

17.108.030 Allowed projections above height limits.

The height restrictions prescribed for facilities in the applicable individual zone regulations and development control maps and in Sections 17.108.010 and 17.108.020 may be exceeded in accordance with the following table. However, facilities within required minimum yards and courts shall also be subject to the applicable provisions of Section 17.108.130.

	Restrictions on Facility, or Portion Thereof, Above the Prescribed Height		
Facilities Allowed Above the Prescribed Height	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	Maximum Vertical Projection Above the Prescribed Height	Minimum Horizontal Distance from any Abutting Residentially Zoned Lot

Restrictions on Facility, or Portion Thereof, Above the Prescribed Height			
Facilities Allowed Above the Prescribed Height	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	Maximum Vertical Projection Above the Prescribed Height	Minimum Horizontal Distance from any Abutting Residentially Zoned Lot
A. Chimneys, ventilators, plumbing vent stacks, water tanks, cooling towers, machinery rooms, and other equipment and appurtenances which are not provided for elsewhere in this section. (For screening around these, see below.)	<u>Ten (10)</u> percent, minus any percentage covered pursuant to subsection B of this section.	<u>Ten (10)</u> feet, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.	<u>Fifteen (15)</u> 20 feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed <u>four (4)</u> feet.

Restrictions on Facility, or Portion Thereof, Above the Prescribed Height			
Facilities Allowed Above the Prescribed Height	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	Maximum Vertical Projection Above the Prescribed Height	Minimum Horizontal Distance from any Abutting Residentially Zoned Lot
<p>B. Elevator or stair towers; penthouses, excluding those containing any living unit; stage or scenery lofts <u>in theatres or performance venues;</u> skylights and dormer windows <u>located on principal and accessory Nonresidential Facilities;</u> and rooftop fenced or walled spaces which do not qualify elsewhere in this section.</p>	<p><u>Ten (10) percent, minus any percentage covered pursuant to subsection A of this section.</u></p>	<p><u>Twelve (12) feet, except upon the granting of a conditional use permit.</u></p>	<p><u>Ten (10) feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four (4) feet.</u></p>

	Restrictions on Facility, or Portion Thereof, Above the Prescribed Height		
Facilities Allowed Above the Prescribed Height	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	Maximum Vertical Projection Above the Prescribed Height	Minimum Horizontal Distance from any Abutting Residentially Zoned Lot
C. Skylights, dormers and gable ends up to <u>fifteen (15)</u> feet in width located on principal and accessory Residential Facilities, except accessory facilities permitted in minimum yards or courts pursuant to Section 17.108.130K.	<u>Ten (10)</u> percent, minus any percentage covered pursuant to subsection A of this section.	<u>Ten (10)</u> feet <u>above maximum wall height</u> for dormers and gable ends, <u>but in all cases, no higher than the maximum roof height</u> ; and one <u>(1)</u> foot for skylights, but in all cases, no higher than the maximum height of the roof section on which they are located, except that skylights on a flat roof (slope 1:12 or less) may extend one <u>(1)</u> foot above the roof.	<u>Ten (10)</u> feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four <u>(4)</u> feet.
D. Decorative features such as spires, bell towers, domes, cupolas, obelisks, and monuments.	<u>Ten (10)</u> percent, minus any percentage covered pursuant to subsection A or B of this section.	<u>Fifteen (15)</u> feet, except upon the granting of a conditional use permit.	<u>Fifteen (15)</u> feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four <u>(4)</u> feet.
E. Fire escapes, catwalks, and open railings required by law.	No restriction.	No restriction.	No restriction.

	Restrictions on Facility, or Portion Thereof, Above the Prescribed Height		
Facilities Allowed Above the Prescribed Height	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	Maximum Vertical Projection Above the Prescribed Height	Minimum Horizontal Distance from any Abutting Residentially Zoned Lot
F. Rooftop recreational, observation, seating, outdoor dining, clothesline, and parking facilities, unroofed themselves except for incidental sunshades, wind-screens, and similar devices; rooftop landscaping, other than trees; and unroofed open stairs and rooftop open fencing which do not qualify elsewhere in this section.	No restriction.	<u>Ten (10)</u> feet, except upon the granting of a conditional use permit.	<u>Fifteen (15)</u> feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four (4) feet.

	Restrictions on Facility, or Portion Thereof, Above the Prescribed Height		
Facilities Allowed Above the Prescribed Height	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	Maximum Vertical Projection Above the Prescribed Height	Minimum Horizontal Distance from any Abutting Residentially Zoned Lot
G. Eaves, awnings, balconies, open stairs, and similar lateral extensions of a building, where the prescribed height is expressed as a ratio to some horizontal setback.	No restriction.	Four (4) feet in the case of Section 17.108.010 and eight (8) feet otherwise.	No restriction.
H. Microwave and satellite dishes which are over one (1) meter in diameter and located in any residential zone or within one hundred fifty (150) feet from the nearest boundary of any residential zone, subject where applicable to the provisions of Section 17.102.240.	<u>Ten (10) percent, minus any percentage covered pursuant to subsection A or B of this section.</u> No restriction.	Seven (7) feet, except upon the granting of a conditional use permit.	Ten (10) feet, except upon the granting of a conditional use permit.

	Restrictions on Facility, or Portion Thereof, Above the Prescribed Height		
Facilities Allowed Above the Prescribed Height	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	Maximum Vertical Projection Above the Prescribed Height	Minimum Horizontal Distance from any Abutting Residentially Zoned Lot
I. Radio and television masts antennas, other than micro-wave and satellite dishes.	No restriction.	<u>Fifteen (15) feet, except upon the granting of a conditional use permit.</u>	Five (5) feet, except upon the granting of conditional use permit.
J. Trees; flagpoles; weather vanes; <u>microwave and satellite dishes which are one (1) meter or less in diameter; and utility poles and lines.</u>	No restriction.	No restriction.	No restriction.
K. <u>Wind power generating facilities, subject where applicable to the provisions of Section 17.108.160.</u>	<u>Ten (10) percent, minus any percentage covered pursuant to subsection A or B of this section.</u>	<u>Ten (10) feet, except upon the granting of a conditional use permit.</u>	<u>Distance of required setback equal to the height of the wind power generating facility, except if located on the rooftop of a primary facility in a Commercial zone, Industrial zone, or in an S-1, S-2, S-3, or S-15 zone.</u>

	Restrictions on Facility, or Portion Thereof, Above the Prescribed Height		
Facilities Allowed Above the Prescribed Height	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	Maximum Vertical Projection Above the Prescribed Height	Minimum Horizontal Distance from any Abutting Residentially Zoned Lot
L. K. Special Signs; and other Signs if flat against the surface of a facility authorized above.	No special restriction, but subject to the regular height and other limitations applicable to Signs.	No special restriction, but subject to the regular height and other limitations applicable to Signs.	No special restriction, but subject to the regular height and other limitations applicable to Signs.

Any conditional use permit under subsection H of this section shall be subject to the same use permit criteria as are prescribed in Section 17.102.240. (Ord. 12376 § 3 (part), 2001; prior planning code § 7075)

~~17.108.040—Minimum front yard in commercial and industrial zones where part of frontage on same side of block is in residential zone.~~

~~——(See illustration 1-12a.) Whenever fifty percent (50%) or more of the frontage on one side of a street between two intersecting streets is in any residential zone and all or part of the remaining frontage is in any commercial or industrial zone, a front yard with a minimum depth equal to one-half of the minimum front yard depth required in the residential zone shall be provided on every commercially or industrially zoned lot having such frontage. If fifty percent (50%) or more of the total frontage is in more than one residential zone, the minimum front yard depth on the commercially or industrially zoned lots shall be equal to one-half of that required in the residential zone in which the least such depth is required. Such yard shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. See also, where applicable, the greater yard depth prescribed for certain facilities by Section 17.108.020. (Prior planning code § 7078)~~

~~17.108.070—Minimum side yard on street side of corner lot in commercial and industrial zones where key lots is in residential zone.~~

~~——(See illustration 1-12a.) Wherever any reversed corner lot located in any commercial or industrial zone abuts to the rear a key lot which is in any residential zone, there shall be provided on the street side of such corner lot a side yard with a minimum width of one-half of the minimum front yard depth required on the key lot. Such side~~

~~yard shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. See also, where applicable, the greater yard width prescribed for certain facilities by Section 17.108.020, and the special controls prescribed by Section 17.110.040C for detached accessory buildings on such corner lots. (Prior planning code § 7081)~~

17.108.080 Minimum side yard opposite living room windows.

(See illustration I-14.) On each lot containing Residential Facilities with a total of two or more living units, except in the case of a One-Family Dwelling with Secondary Unit, a side yard with the minimum width prescribed hereinafter shall be provided opposite any legally required window of a living room in a Residential Facility wherever such window faces any interior side lot line of such lot, other than a lot line abutting an alley, path, or public park. The side yard prescribed by this section is not required on other lots or in other situations. Such yard shall have a minimum width of eight (8) feet, plus two (2) feet for each story at or above the level of the aforesaid window; provided, however, that such side yard width shall not be required to exceed ten (10%) ~~twelve (12%)~~ percent of the lot width in the RU-3, RU-4, RU-5, R-80, CN, CC, C-40, C-45, CBD, S-1, S-2, S-15, and D-KP zones and fifteen (15%) ~~twenty percent (20%)~~ of the lot width in all other zones, except that in no case shall such side yard width be less than five (5) feet. The side yard required by this section shall be provided opposite the legally required window and opposite that portion of the wall containing such window, or of any extension of such wall on the same lot, for a distance of not less than eight (8) ~~ten~~-feet in both directions from the centerline of such legally required window, and at and above finished grade or the floor level of the lowest story containing such a window, whichever level is higher. Such yard shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. (Ord. 11892 § 7, 1996: prior planning code § 7082)

~~**17.108.090 Minimum side yard abutting side of preproperty in an RH, RH, RM, RU-1, or RU-2, zones.**~~

~~(See illustrations I-6a and I-12b.) Wherever an interior side lot line of any lot located in the RU-3, RU-4, RU-5, CBD-R, S-1, S-2, or S-15 zone or any commercial or industrial zone abuts an interior side lot line of any lot located in the RH, RD, RM, RU-1, or RU-2 zone, there shall be provided on the former lot, along the abutting portion of its side lot line, a side yard with a minimum width of ten (10) feet. (Where it abuts a rear lot line, no yard is required by this section.) This side yard shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. See also, where applicable, the greater yard width prescribed for certain facilities by Section 17.108.020(A). (Ord. 12272 § 4 (part), 2000; Ord. 11892 § 8, 1996: prior planning code § 7083)~~

~~17.108.100—Minimum rear yard abutting any portion of property in any residential zone.~~

~~———(See illustration I-12b.) Wherever the rear lot line of any lot located in any commercial or industrial zone abuts any portion of any lot located in any residential zone, there shall be provided on the former lot, along the abutting portion of its rear lot line, a rear yard with a minimum depth of ten feet. This yard shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. See also, where applicable, the greater yard depth prescribed for certain facilities by Section 17.108.020A. (Prior planning code § 7085)~~

~~17.108.110—Reduced rear yard adjacent to alley.~~

~~———In all zones, wherever a rear lot line abuts an alley, one-half of the right-of-way width of the alley may be counted toward the required minimum rear yard depth; provided, however, that the portion of the minimum rear yard depth actually on the lot itself shall not be so reduced to less than ten (10) feet in the RH, RD, and PM zones, nor to less than five feet in any other zone. (Prior planning code § 7086)~~

17.108.120 Minimum court between opposite walls on same lot.

~~(See illustration 1-15.)~~ On each lot containing Residential Facilities with a total of two or more living units, except in the case of a One-Family Dwelling with Secondary Unit, courts with the minimum depths prescribed below shall be provided in the cases specified hereinafter between opposite exterior walls, or portions thereof, of the same or separate buildings on such lot. Courts are not required on other lots or in other situations. The aforesaid walls shall be considered to be opposite one another if a line drawn in a horizontal plane perpendicularly from any portion of any of the legally required windows referred to hereinafter, or from any point along the wall containing such window, or any extension of such wall on the same lot, on the same story as and within eight (8) ten-(10) feet in either direction from the centerline of said legally required window, intersects the other wall. The courts required by this section shall be provided opposite each of the legally required windows referred to hereinafter and along the wall containing such window, and along any extension of such wall on the same lot, for not less than eight (8) ten-(10)-feet in both directions from the center line of such legally required window, and at and above finished grade or the floor level of the lowest story containing such a window, whichever level is higher. Such courts shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130.

A. Legally Required Living Room Windows in Either or Both Walls. If either or both such opposite walls contain any legally required window of any living room in a Residential Facility, a court shall be provided between such walls with a minimum horizontal depth equal to ~~the height of the wall opposite such window, or the height of the higher of such opposite walls where both walls contain such a window;~~ provided, however, ~~that in no case shall the horizontal depth of such court be less than sixteen (16) eighteen-(18) feet,~~ plus four (4) feet for each story above the level of the aforementioned court, but shall nor be required to exceed forty (40) fifty-(50)-feet. ~~For the purpose of computing the minimum depth of such court, the aforesaid height of wall shall be measured above finished grade or above the floor level of the lowest story of the opposite wall containing such a window, whichever level is higher.~~

B. Other Legally Required Windows in Both Walls. If both such opposite walls contain legally required windows of any habitable rooms, other than living rooms, in a Residential Facility, a court shall be provided between such walls with a minimum horizontal depth of ten (10) twelve-(12)-feet. (Prior planning code § 7087)

17.108.130 Exceptions to required openness of minimum yards and courts.

Every part of each required minimum yard and court shall be open and unobstructed from finished grade, or where applicable from such other specified level at which the yard or court is required, to the sky except for the facilities allowed in the yard or court by the following table. Furthermore, in no case shall more than fifty percent (50%) of the horizontal area of any required minimum rear yard be covered by any facilities, other than trees, which extend more than six (6) feet above the level at which the rear yard is required. Wherever a yard is required only for a particular facility, it may

be provided at the level of the lowest story containing such facility; provided that where such facility is a Residential Facility, such level shall be that of the lowest story, or portion thereof, containing any living unit. Where the height of facilities within minimum yards or courts is not specifically further limited by the following table, the facilities shall conform to the regular height restrictions, if any, applicable to facilities where they are located. Facilities within minimum yards and courts shall also be subject to any applicable screening requirements or other controls prescribed by the buffering regulations in Chapter 17.110 or by the pertinent development control maps or individual zone regulations, which in some zones require that minimum front yards, or side yards on the street side of a corner lot, be landscaped.

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
A. Eaves; awnings, louvers, and similar shading devices; sills, cornices, and chimneys; and similar architectural projections from a building.	Four (4) feet into above yard.	Four (4) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.	Two (2) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.	Four (4) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.	Two (2) feet into court.

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
B. Patio roofs and similar structures projecting from and serving a Residential Facility, if such structures do not exceed twelve (12) feet in height above the <u>finished grade level</u> of the required yard or <u>level of the required court</u> and if each has open, unwallled sides along not less than fifty percent (50%) of its perimeter. (If less open, see subsection K.)	Four (4) feet into above yard.	Four (4) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.	Two (2) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.	Any distance into above yard.	Two (2) feet into court.

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
C. Breezeways and similar roofed passageways projecting from and serving a Residential Facility, if they do not exceed twelve (12) feet in height above the <u>finished grade level</u> of the required yard or <u>level of the required court</u> and eight (8) feet in width and if they are not enclosed on the sides. (If wider or less open, see subsection K.)	Four (4) feet into above yard.	Four (4) / feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.	Two (2) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.	Any distance into above yard.	Two (2) feet into court.

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
D. Bay windows, located above the first-story of a building, if the aggregate width of bay windows on any one story does not exceed fifty percent (50%) of the length of the wall containing them; and if no individual bay window exceeds fifteen (15) feet in width, and if all such windows are cantilevered only.	Three (3) feet into above yard, though not to within five (5) feet of the front lot line for One- or Two-Family Residential Facilities.	Three (3) feet into above yard, though not to within five (5) feet of the front lot line for One- or Two-Family Residential Facilities.		Five (5) feet into above yard.	

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
<p>E. Balconies, decks, and similar structures projecting from and serving Residential Facility and having a height, including railings, of more than six (6) feet above the <u>finished grade level</u> of the required yard or <u>level of the required court</u>, but excluding corridors and similar facilities providing access to two or more living units; provided that such structures are cantilevered or supported by necessary columns; and further provided that such structures are unroofed, except that a balcony or deck projecting from a higher story shall not be deemed a roof</p>	<p>Six (6) feet into above yard, though not to within five (5) feet of the front lot line for One- or Two-Family Residential Facilities.</p>	<p>Five (5) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.</p>	<p>Five (5) feet into above yard, though not to within five (5) feet of interior side lot line; but may extend any distance if they meet the same provisos as stated in subsection K.</p>	<p>Six (6) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K.</p>	

**Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph
 (Blanks indicate that facility is not allowed.)**

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
<p>F. Exterior access facilities which lead to the second or higher story of a building, including open or enclosed fire escapes and open, unroofed fireproof outside stairways, landings, exterior corridors, and wheelchair ramps.</p>	<p>Four (4) feet into above yard, <u>but may extend any distance if they are required to accommodate wheelchair ramps or similar ADA access facilities.</u></p>	<p>Four (4) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K <u>or if they are required to accommodate wheelchair ramps or similar ADA access facilities.</u></p>	<p>Any distance into above yard if they meet the same provisos as stated in subsection K (not allowed otherwise).</p>	<p>Four (4) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K <u>or if they are required to accommodate wheelchair ramps or similar ADA access facilities.</u></p>	

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
G. Unroofed porches, steps, <u>decks</u> , and wheelchair ramps and other similar raised structures projecting from a building and having a height, including railings, of not more than six (6) feet above the <u>finished grade level</u> of the required yard or <u>level of the required court</u> .	Eight (8) feet into above yard; but may extend any distance if they are required to accommodate wheelchair ramps or similar ADA access facilities.	Eight (8) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K or if they are required to accommodate wheelchair ramps or similar ADA access facilities.	Eight (8) feet into above yard, but may extend any distance if they meet the same provisos as stated in subsection K or if they are required to accommodate wheelchair ramps or similar ADA access facilities..	Any distance into above yard.	Anywhere in court.

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
H. Open storage of boats, trailers, appliances, miscellaneous equipment, and similar materials, including areas for temporary storage of waste or used materials. (See also subsection 1, and O.M.C Section 8.24.020F.)			Anywhere in above yard, provided that in all commercial and industrial zones the height of such storage shall not exceed five and one-half (5 ½) feet within a horizontal distance of ten (10) feet from any abutting residentially zoned lot.	Anywhere in above yard, provided that in all commercial and industrial zones the height of such storage shall not exceed five and one-half (5 ½) feet within a horizontal distance of ten (10) feet from any abutting residentially zoned lot.	Anywhere in court.

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
I. Air conditioners, compressors, hot tub motors, and similar devices if emitting noise readily noticeable by the average person at or beyond the lot line, whether or not the devices are attached to a building.				Anywhere in above yard.	Anywhere in court.
J. Slides, clotheslines, and similar equipment; radio or televisions masts or antennas; microwave or satellite dishes.		Anywhere in above yards, subject where applicable to the provisions of Section 17.102.240.	Anywhere in above yards, subject where applicable to the provisions of Section 17.102.240.	Anywhere in above yards, subject where applicable to the provisions of Section 17.102.240.	Anywhere in court, subject where applicable to the provisions of Section 17.102.240.

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
K. Detached garages and sheds; detached or attached carports, parking podiums, and other detached or attached accessory structures not provided for elsewhere by this section; and portions of principal Nonresidential Facilities not provided for elsewhere nearby.		Anywhere in above yards, provided that:	Anywhere in above yards, provided that:	Anywhere in above yards, provided that:	
		1. The facility is within thirty-five (35) feet of the rear lot line; and	1. The facility is within thirty-five (35) feet of the rear lot line; and	1. The facility is within thirty-five (35) feet of the rear lot line; and	

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
		2. The wall height of the facility does not exceed nine (9) feet in height to the top of the plate above finished grade and the roof height, for roofs with a maximum 8 in 12 slope, does not exceed twelve (12) feet above finished grade, except for incidental decorative features or minor appurtenances such as flues; and	2. The wall height of the facility does not exceed nine (9) feet in height to the top of the plate above finished grade and the roof height, for roofs with a maximum 8 in 12 slope, does not exceed twelve (12) feet above finished grade, except for incidental decorative features or minor appurtenances such as flues; and	2. The wall height of the facility does not exceed nine (9) feet in height to the top of the plate above finished grade and the roof height, for roofs with a maximum 8 in 12 slope, does not exceed twelve (12) feet above finished grade, except for incidental decorative features or minor appurtenances such as flues; and	

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
		3. The facility itself does no contain any residential living quarters; and	3. The facility itself does no contain any residential living quarters; and	3. The facility itself does no contain any residential living quarters; and	
		4. No building or portion thereof within the minimum yard is itself used for any commercial or manufacturing repair or production operations, unless it has no exterior openings there other than emergency exits or fixed windows or skylights; and	4. No building or portion thereof within the minimum yard is itself used for any commercial or manufacturing repair or production operations, unless it has no exterior openings there other than emergency exits or fixed windows or skylights; and	4. No building or portion thereof within the minimum yard is itself used for any commercial or manufacturing repair or production operations, unless it has no exterior openings there other than emergency exits or fixed windows or skylights; and	

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph
 (Blanks indicate that facility is not allowed.)

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
		5. The affected side yard, if any, is not one required by Section 17.102.240 or 17.28.150(C)(1).	5. The affected side yard, if any, is not one required by Section 17.102.240 or 17.28.150(C)(1).	5. The affected side yard, if any, is not one required by Section 17.102.240 or 17.28.150(C)(1).	
		But on any reversed corner lot which abuts a key lot in any residential zone, detached accessory buildings shall also be subject to the provisions stated in Section 17.110.040 C.	But on any reversed corner lot which abuts a key lot in any residential zone, detached accessory buildings shall also be subject to the provisions stated in Section 17.110.040 C.	But on any reversed corner lot which abuts a key lot in any residential zone, detached accessory buildings shall also be subject to the provisions stated in Section 17.110.040 C.	

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
L. Unroofed, raised platforms designed to accommodate off-street parking, including ramps and stairways necessary to provide access.	Anywhere in above yard except within five (5) feet of interior side lot line and except as otherwise provided in subsection M.	Same as prescribed in subsection K, except as otherwise provided in subsection M.	Same as prescribed in subsection K, except as otherwise provided in subsection M.	Same as prescribed in subsection K, except as otherwise provided in subsection M.	

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
M. Unroofed parking and loading areas.	In any yard or court, except that in all residential zones and in the S-1, S-2, and S-3 zones, no unroofed parking space which is located on any lot containing three or more parking spaces, and no unroofed loading berth, shall be located within five (5) feet of <u>the edge of pavement of any street line or alley.</u>	In any yard or court, except that in all residential zones and in the S-1, S-2, and S-3 zones, no unroofed parking space which is located on any lot containing three or more parking spaces, and no unroofed loading berth, shall be located within five (5) feet of <u>the edge of pavement of any street line or alley.</u>	In any yard or court, except that in all residential zones and in the S-1, S-2, and S-3 zones, no unroofed parking space which is located on any lot containing three or more parking spaces, and no unroofed loading berth, shall be located within five (5) feet of <u>the edge of pavement of any street line or alley.</u>	In any yard or court, except that in all residential zones and in the S-1, S-2, and S-3 zones, no unroofed parking space which is located on any lot containing three or more parking spaces, and no unroofed loading berth, shall be located within five (5) feet of <u>the edge of pavement of any street line or alley.</u>	In any yard or court, except that in all residential zones and in the S-1, S-2, and S-3 zones, no unroofed parking space which is located on any lot containing three or more parking spaces, and no unroofed loading berth, shall be located within five (5) feet of <u>the edge of pavement of any street line or alley.</u>

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
N. Covered, underground or partially excavated structures including, but not limited to garages, fallout shelters, wine cellars, and basements.	In any yard or court, provided that:	In any yard or court, provided that:	In any yard or court, provided that:	In any yard or court, provided that:	In any yard or court, provided that:
	1. The surfaces of such facilities are landscaped or developed as patios or terraces; and	1. The surfaces of such facilities are landscaped or developed as patios or terraces; and	1. The surfaces of such facilities are landscaped or developed as patios or terraces; and	1. The surfaces of such facilities are landscaped or developed as patios or terraces; and	1. The surfaces of such facilities are landscaped or developed as patios or terraces; and

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
	2. Such facilities do not extend more than thirty (30) inches above finished grade, except that they may extend farther upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.	2. Such facilities do not extend more than thirty (30) inches above finished grade, except that they may extend farther upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.	2. Such facilities do not extend more than thirty (30) inches above finished grade, except that they may extend farther upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.	2. Such facilities do not extend more than thirty (30) inches above finished grade, except that they may extend farther upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.	2. Such facilities do not extend more than thirty (30) inches above finished grade, except that they may extend farther upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
	However, these provisos shall not apply if the facilities would otherwise qualify, in the same yard, under subsection K.	However, these provisos shall not apply if the facilities would otherwise qualify, in the same yard, under subsection K.	However, these provisos shall not apply if the facilities would otherwise qualify, in the same yard, under subsection K.	However, these provisos shall not apply if the facilities would otherwise qualify, in the same yard, under subsection K.	However, these provisos shall not apply if the facilities would otherwise qualify, in the same yard, under subsection K.
O. Fences; dense hedges; barrier, and similar freestanding walls.	In any yard or court, provided that such facilities comply with the provisions of Section 17.108.140.	In any yard or court, provided that such facilities comply with the provisions of Section 17.108.140.	In any yard or court, provided that such facilities comply with the provisions of Section 17.108.140.	In any yard or court, provided that such facilities comply with the provisions of Section 17.108.140.	In any yard or court, provided that such facilities comply with the provisions of Section 17.108.140.

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
P. Trees, shrubs, and landscaping other than dense hedges with a screening effect; sculpture and similar decorations; flagpoles; unroofed patios and swimming pools; driveways; walkways and detached steps; and utility poles and lines.	In any yard or court, subject to the applicable limitations of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections."	In any yard or court, subject to the applicable limitations of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections."	In any yard or court, subject to the applicable limitations of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections."	In any yard or court, subject to the applicable limitations of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections."	In any yard or court, subject to the applicable limitations of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections."
Q. Signs.	In any yard or court, subject to the applicable limitations on Signs in Chapter 17.104.	In any yard or court, subject to the applicable limitations on Signs in Chapter 17.104.	In any yard or court, subject to the applicable limitations on Signs in Chapter 17.104.	In any yard or court, subject to the applicable limitations on Signs in Chapter 17.104.	In any yard or court, subject to the applicable limitations on Signs in Chapter 17.104.

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
R. Security fences (for active Code Enforcement Cases addressing blighted vacant lots and vacant buildings) Abandoned Fast-Food Facilities)	In any yard or court provided that such facilities:	In any yard or court provided that such facilities:	In any yard or court provided that such facilities:	In any yard or court provided that such facilities:	In any yard or court provided that such facilities:
	1. Shall not exceed eight (8) feet; and	1. Shall not exceed eight (8) feet; and	1. Shall not exceed eight (8) feet; and	1. Shall not exceed eight (8) feet; and	1. Shall not exceed eight (8) feet; and

**Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph
 (Blanks indicate that facility is not allowed.)**

Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
	2. Shall comply with the applicable provisions of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections;" and 3. Shall contain a <u>minimum 75% transparency to allow visual access into the site from the public right of way.</u>	2. Shall comply with the applicable provisions of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections;" and 3. Shall contain a <u>minimum 75% transparency to allow visual access into the site from the public right of way.</u>	2. Shall comply with the applicable provisions of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections;" and 3. Shall contain a <u>minimum 75% transparency to allow visual access into the site from the public right of way.</u>	2. Shall comply with the applicable provisions of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections;" and 3. Shall contain a <u>minimum 75% transparency to allow visual access into the site from the public right of way.</u>	2. Shall comply with the applicable provisions of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurement at Intersections;" and 3. Shall contain a <u>minimum 75% transparency to allow visual access into the site from the public right of way.</u>

Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)					
Facilities	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
S. Living space located completely under driveway ramps	In any yard or court.	In any yard or court.	In any yard or court.	In any yard or court.	In any yard or court.
T. Retaining walls; and earthen mounds, embankments, and other fill.	In any yard or court, provided that such facilities comply with the provisions of Section <u>17.108.150.</u> 17.102.400(E)	In any yard or court, provided that such facilities comply with the provisions of Section <u>17.108.150.</u> 17.102.400(E)	In any yard or court, provided that such facilities comply with the provisions of Section <u>17.108.150.</u> 17.102.400(E)	In any yard or court, provided that such facilities comply with the provisions of Section <u>17.108.150.</u> 17.102.400(E)	In any yard or court, provided that such facilities comply with the provisions of Section <u>17.108.150.</u> 17.102.400(E)

(Ord. 12533 § 3 (part), 2003; Ord. 12376 § 3 (part), 2001; prior planning code § 7090)

17.108.150 Retaining walls

A. No retaining wall shall exceed six (6) feet in height, except in the following cases:

1. Retaining walls flanking driveways that are nineteen (19) feet or less in width on lots with a street-to-setback gradient of twenty percent (20%) or more may exceed six (6) feet in height if both of the following provisos are met:

a. The garage floor is at the highest possible elevation based on the maximum driveway slopes permitted by Section 17.116.260A; and

b. The top of the retaining wall is no higher than necessary to retain the existing grade at the top of the wall.

2. Retaining walls not flanking driveways may also exceed six (6) feet in height upon the granting of small project design review, pursuant to the small project design review procedure in Section 17.136.030 and if both of the following provisos are met:

a. The top of the retaining wall is no higher than necessary to retain the existing grade at the top of the wall, and

b. The retaining wall is located behind buildings, other permanent structures, or existing grade in such a manner as to visually screen the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot. Whenever buildings or other permanent structures on the subject lot block most, but not all, visibility of the retaining wall, dense landscaping shall be installed and maintained to screen the remaining views of the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot.

B. Multiple retaining walls shall be separated by a distance of at least four (4) feet between the exposed faces of each wall.

C. Retaining walls visible from the street or adjacent lots shall be surfaced with a decorative material, treatment or finish, such as stained or stuccoed concrete, decorative concrete block, wood, stone or masonry, or other decorative material, treatment or finish approved by the Director of City Planning. For purposes of this section, "visible from the street or adjacent lots" refers to any portion of a wall that is not located behind buildings, other permanent structures, or existing grade in such a manner as to visually screen the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot.

17.108.160 Wind power generating facilities

A. Residential Zones. The provisions of this subsection shall apply to wind power generating facilities in all Residential Zones:

1. Setback. A wind power generating facility may only be located in a Residential zone if the facility is setback from any adjacent residentially zoned property at a distance equal to the height of the wind power generating facility.

2. Height. No wind power generating facility may exceed twenty-five (25) feet in height above grade, or if located on top of a building no more than ten (10) feet above the maximum height limit of the Residential zone except upon approval of a Conditional Use permit, and in no case shall it exceed sixty (60) feet above grade.

B. Commercial Zones, Industrial Zones, and in the S-1, S-2, S-3, and S-15 Zones. The provisions of this subsection shall apply to wind power generating facilities in all Commercial zones, Industrial zones, and in the S-1, S-2, S-3, and S-15 zones:

1. Height. A wind power generating facility may not exceed ten (10) feet above the maximum height limit for the zone in which it is located or sixty (60) feet above grade, whichever is less, except upon approval of a Conditional Use permit.

2 Setback. Any wind power generating facility must be setback from any residentially zoned property at a distance equal to the height of the facility if said facility is located at any location other than on a rooftop of a primary facility on the project site.