

CITY OF OAKLAND

AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 NOV 20 PM 7:02

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: December 2, 2008

RE: **Public Hearing and An Ordinance Amending The Oakland Planning Code To:**
(1) Amend Chapter 17.102 "General Regulations Applicable To All Or Several Zones" To Include Performance Standards For Primary Collection Center Recycling Uses In All Zones;
(2) Amend Chapter 17.73 "CIX-1, CIX-2, IG And IO Industrial Zones" To Include Regulations Concerning Primary Collection Center Recycling Uses In CIX-1, CIX-2 And IG Zones;
(3) Amend Chapter 17.10 "Use Classifications" To Delete "Intermediate Processing Facility" As A Land Use Activity Type From O.M.C. Section 17.10.586 "Recycling And Waste-Related Industrial Activities"

SUMMARY

Staff and the Planning Commission recommend the adoption of the attached ordinance that amends the Oakland Planning Code to include proposed performance standards for Primary Recycling Centers in all zones; to include proposed regulations for Primary Recycling Centers in CIX-1, CIX-2 and IG zones; and to delete "Intermediate Processing Facility" as a land use activity type from O.M.C. Chapter 17.10 "Use Classifications", Section 17.10.586 "Recycling and Waste-Related Industrial Activities".

These proposed amendments incorporate input from two public meetings with interested stakeholders to discuss potential regulations regarding primary recycling centers in the City's recently adopted industrial zones, which took place in August-September 2008, as well as recommendations from the Planning Commission from their November 5, 2008 meeting.

FISCAL IMPACT

Adoption of this ordinance may have indirect positive impacts on City revenue. The proposal should facilitate development by providing regulations and a means for Primary Collection Center and Intermediate Processing Facility recycling uses to establish and/or expand, which have been under an interim urgency moratorium since June 17, 2008. More development would result in increased property taxes, sales taxes and other revenue.

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Community and Economic Development Committee
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BACKGROUND

At their May 20, 2008 meeting, Councilmembers could not reach agreement regarding the regulations pertaining to the location and operation of Primary Collection Centers and Intermediate Recycling Processing Facilities. Rather than delay the passage and adoption of the entire package of proposed changes to the City's industrial zoning district regulations, mapping, and related zoning amendments, the Council decided to introduce the first reading of the ordinance without including the regulations relating to Primary Collection Centers and Intermediate Recycling Processing Facilities (Chapter 17.73 "CIX-1, CIX-2, IG And IO Industrial Zones"), which was then adopted on June 17, 2008 (Ordinance No.12875 C.M.S.).

Because the new industrial zoning would not have regulations regarding these recycling uses, the Council concurrently took the following actions:

- 1) Directed staff to meet with residents, the recycling industry and other affected stakeholders to develop a set of regulations, such as performance standards, for these uses;
- 2) Adopted an Interim Urgency Ordinance (Ordinance No.12873 C.M.S.) establishing a moratorium on any new or expanded Primary Collection Centers and Intermediate Recycling Processing Facilities, in order to ensure that the deletion of regulations relating to these uses would not result in the absence of any regulations regarding these uses after passage and adoption of the new industrial zone regulations and when regulations could be developed and adopted;
- 3) Adopted an extension to the Interim Urgency Ordinance through December 16, 2008 (Ordinance No. 12889 C.M.S.). Pursuant to state law, the original ordinance was effective immediately upon passage by the City Council and in effect for 45 days. Since 45-days was not sufficient time to meet with stakeholders and process any revisions, staff returned within the 45-day period to Council for an extension through December 16, 2008, in order to provide staff with adequate time to meet with stakeholders, develop regulations and bring them through the approval process to the Planning Commission, the City Council and their respective committees.

As directed by Council, staff scheduled and held public meetings with interested stakeholders on August 7 and September 4, 2008; approximately 15-20 people attended each meeting, including four City of Oakland staff (Eric Angstadt, CEDA – Interim Deputy Director, CEDA, Alisa Shen, CEDA/Strategic Planning, Steve Lautze, CEDA/Economic Development Division, Oakland/Berkeley Recycling Market Development Zone Coordinator, and Peter Slote, Public Works/Environmental Services Division).

The proposed regulations were brought to the Planning Commission for review and consideration on November 5, 2008. Overall, the Planning Commission was in agreement with the proposed regulations and recommended the following changes:

- Apply the proposed performance standards to all zones (not just IG);

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- Make explicit that the performance standards provide a minimum floor for any conditions that would be applied as part of a CUP in the CIX zones
- Clean up language to more clearly indicate which standards apply to existing vs. new or expanded uses and to whom required plans should be submitted.

These changes have been incorporated into the proposal before the City Council and are described in detail below on pp.5-6. In addition, as a result of discussions at the Planning Commission meeting, staff also added a provision which permits owners/operators of Primary Recycling Centers to demonstrate to the City that the performance standards, as applied to them, are unlawful under federal, State or local regulation. This provides a safety valve to ensure the performance standards are not improperly applied.

KEY ISSUES AND IMPACTS

1. **Goal of proposed regulations.** The goal of the regulations is to balance the intent of industrially designated areas while protecting adjacent residential zones from potential off-site impacts.
2. **Proposed regulatory framework using CUP for CIX and performance standards in IG.**
 - For both the CIX and IG zones, it is proposed that Primary Collection Centers be **prohibited** within a distance of 300 feet (roughly equivalent to the average length of a city block) from any residential zone. Beyond the prohibited distance, different regulatory mechanisms (the CUP vs. performance standards) are proposed based on the intended character of each zone and how that affects potential off-site impacts.
 - The IG zone is intended to allow commercial and heavier industrial uses that may have the potential to generate off-site impacts such as noise, light/glare, odor, and traffic. Beyond the 300-foot prohibited distance, Primary Collection Centers would be permitted outright provided they adhere to the set of required performance standards. This potentially provides an incentive for existing businesses to relocate to the IG zone (more than 300 feet from a residential zone) rather than applying for a new or modified CUP if they were ever to expand. Moreover, allowing these types of uses outright in appropriate areas (e.g., heavy industrial areas), with performance standards in place, are consistent with the goals of the City's *Zero Waste Strategic Plan*.
 - In the CIX zones, a conditional use permit (CUP) is proposed as the appropriate regulatory mechanism to review applications for Primary Collection Centers that wish to locate beyond 300 feet of any R-zone. The CIX zones are intended to allow a mix of commercial and primarily light industrial uses. Therefore, staff

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believes that the additional review provided by the CUP process at the outset, when a business would like to establish itself, including the ability to tailor conditions of approval to a specific context is appropriate. As with all CUPs, after a CUP is granted, it would become a property right that runs with the land, provided that all conditions of the CUP are adhered to (as well as compliance with the OMC and not causing a public nuisance), giving in return a measure of certainty to the property owner, who has to go through the time and expense of having to apply for a CUP.

- The Council had asked staff to study the use of “licensing” in combination with performance standards as a possible alternative to a conditional use permit type of regulation. Licenses are currently required by the City for a number of different types of uses, such as cabaret/nightclub, massage parlors, tobacco sales, among others. These uses primarily consist of one component of a business; in the case of a massage therapist/parlor, while the use comprises the entirety of a business, it does not have the scale of capital investment—in the millions of dollars—that would be required for the equipment and facilities for a Primary Recycling Collection Center. These licenses are typically issued on a fee basis to the operator of a business and require annual renewal. Developing a licensing scheme was discussed with stakeholders at the first public meeting held in August 2008. Because of the high initial capital investment required by an operator of a Primary Recycling Collection Centers it was decided that a licensing scheme, where a license would have to be renewed, was not an appropriate regulatory tool in this case. If there are problem operators, land use permits (conditional use permits, variances, design review) can be revoked, after notice and opportunity for comment, for violation of conditions of approval, violations of Oakland Municipal Code, and/or creating a public nuisance. Likewise, those legal non-conforming land uses (which pre-dated the zoning regulations requiring land use permits) may be terminated for violations of the Oakland Municipal Code, and/or creating a public nuisance. Thus, there are sufficient regulatory enforcement mechanisms through the land use process that a licensing scheme is not necessary for enforcement.
3. **Proposed prohibited distance.** Participants generally agreed with the framework of the proposed regulations for Primary Recycling Collection Centers. Some groups expressed an opinion that the prohibited distance in CIX-1 and CIX-2, where no Primary Collection Center could be located, should be 600 feet from a residential zone boundary instead of 300 feet.
 4. **Specific performance standards.** As noted above, eight categories of performance standards are proposed for Primary Collection Centers *in any zone (Exhibit A of the attached ordinance)*, in order to minimize any potential off-site impacts. The

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performance standards were developed to be general enough so that they could be applied uniformly to all Primary Collection Centers. The performance standards establish minimum requirements that must be complied with and where there is an inconsistency between other portions of the OMC and/or imposed conditions of approval, the more stringent standards shall govern.

5. **Scope of the performance standards and legal nonconforming uses.** The Planning Commission recommended that the proposed performance standards apply to Primary Collection Centers located *in any* zone. With this proposal, new or expanded Primary Collection Centers would only be permitted under certain circumstances in the industrial zones. The rationale for applying the performance standards to all zones is to provide minimum citywide standards that would apply to any existing (legal nonconforming) Primary Collection Centers located in zones other than industrial zones. If the performance standards are not applied to other zones, then those Primary Collection Centers located in zones that do not have any land-use permits would continue to operate without any specific regulatory oversight; those with land-use permits would only have to comply with previously imposed conditions of approval (which may not be adequate).

PROGRAM DESCRIPTION

This section outlines the staff proposal for regulations regarding Primary Collection Centers in the CIX-1, CIX-2 and IG zones, and all other zones, as well as a proposal to delete "Intermediate Processing Facility" as a land use activity type from O.M.C. Section 17.10.586 "Recycling and Waste-Related Industrial Activities".

A. Proposed Regulations Regarding Primary Collection Centers

Based on comments and discussion to date, staff proposes the following regulations for Primary Collection Centers:

- **In all zones (citywide):** a standard set of performance standards would apply to existing and new or expanded uses;
- **In CIX-1 and CIX-2:** Prohibited within 300 feet of a residential zone (R-zone); require a major conditional use permit (CUP) if located anywhere else in these zones; the performance standards would serve as a minimum floor for conditions of the CUP;
- **In IG:** Prohibited within 300 feet of a residential zone, permitted outright beyond 300 feet with adherence to the set of citywide performance standards that would apply to existing and new or expanded uses.

The eight categories of proposed performance standards would be effective immediately upon adoption of the proposed amendment to the Planning Code except existing uses, which would

have ninety (90) days to come into compliance with the applicable performance standards. The performance standards establish minimum requirements that must be complied with and where there is an inconsistency between other portions of the OMC and/or imposed conditions of approval, the more stringent shall govern. The performance standards would also serve as the minimum floor for conditions of approval (COAs) for CUPs in CIX-1 and CIX-2. The COAs would be tailored as needed to reflect context of the application being reviewed; additional requirements not reflected in the list of performance standards below, such as limitations on fence or stacking height of materials on the property, hours of operation, closure to public on Sundays, size of materials dropped off, could also be considered.

As shown in **Exhibit A to the attached ordinance**, the proposed regulations appear as additions to O.M.C. Chapter 17.102 "General Regulations Applicable to All or Several Zones" as a new Section 17.102.440, Chapter 17.73 "CIX-1, CIX-2, IG and IO Industrial Zones" in Section 17.73.020 in the table of permitted and conditionally permitted uses, and in Section 17.73.035 "Special Regulations for Primary Collection Centers in the Industrial Zones".

B. Proposed Deletion of "Intermediate Processing Facility" as a land use activity type from O.M.C. Section 17.10.586 "Recycling and Waste-Related Industrial Activities".

As part of the ordinance adopting new industrial zones (Ord. No. 12875 C.M.S.), O.M.C. Chapter 17.10 "Use Classifications" was amended. The subclassification "Intermediate Processing Facility" (under Recycling and Waste-Related Industrial Activities) was added in order to call out a particular sector of manufacturers using recycled materials to produce new products to facilitate access by these businesses to available loan and grant monies. Such uses are generally distinguishable from Primary Collection Centers in that there are typically no direct transactions with the public; materials are delivered in large quantities (e.g., by the truckload) and are processed entirely indoors.

After considerable discussion with members of the public, business owners and other affected stakeholders, it is staff's recommendation to delete this definition and revert to the previous practice of considering such businesses as manufacturing (light, general or heavy/high impact, depending on the nature of the operations). Introduction of the definition only created a layer of complexity and confusion about what is essentially a manufacturing use.

Thus, staff proposes deletion of the following definition from O.M.C. Section 17.10.586 "Recycling and Waste-Related Industrial Activities:

C. Intermediate Recycling Processing Facility. An activity serving as a collection point for receiving, processing, storage, and distribution of large quantities of recyclable materials delivered from recycling collection centers or other sources. Processing of most or all material typically occurs inside a building, using mechanical and/or chemical processing equipment to alter the physical form of incoming material. Processed materials may be stored

in outdoor areas prior to sale to manufacturers or other end users. Intermediate processing facilities do not accept materials from but may sell goods to the public. This classification does not include facilities that handle or process hazardous materials and solid waste facilities and transfer stations.

ENVIRONMENTAL DETERMINATION

This proposal relies on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998); the EIRs for the West Oakland, Central City East, Coliseum and Oakland Army Base Redevelopment Areas. As a separate and independent basis, the proposal would also be exempt under CEQA Guidelines section 15061(b)(3)(no possibility that the activity in question may have a significant effect on the environment) and Guidelines section 15183 (consistent with adopted General Plan).

SUSTAINABLE OPPORTUNITIES

Economic: Adoption of the proposed ordinance will be positive for the local economy since greater certainty for property owners and businesses regarding the City's development regulations for primary recycling uses and intermediate processing facilities, and increase the likelihood that greater investment and job opportunities will be created in these areas.

Environmental: Adoption of the proposed ordinance will be positive because they include a reasonable required separation distance between primary recycling collection centers and residential zones as well as specific conditions of approval in the commercial/light industrial areas and adherence to minimum performance standards in all other zones. The proposed ordinance strikes a balance between protecting surrounding businesses and residential zones from potential off-site impacts of these uses, and do not unnecessarily burden businesses that help support the City's environmental goals.

Social Equity: Adoption of the proposed ordinance will be positive with regards to social equity. As noted above, the adoption of the proposed ordinance would provide a measure of certainty regarding the City's development regulations in its industrial zones; this certainty will increase the likelihood that property-owners and businesses will develop job-creating industrial opportunities in the area. Moreover, the proposed ordinance includes required separation distances and additional City oversight for uses that are likely to have greater off-site impacts in areas where industrially zoned and residentially zoned lands are adjacent to each other.

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DISABILITY AND SENIOR CITIZEN ACCESS

These proposed ordinance amendments will not change access issues for the disabled or for senior citizens.

RECOMMENDATION AND RATIONALE

Staff recommends that the City Council approve the adoption of the proposed ordinance in order to:

1. Update the industrial zoning regulations to reflect present-day industrial uses and the types of uses that the City of Oakland would like to encourage;
2. Balance the need to adequately address concerns about health, safety and other potential off site impacts and the desire to not unduly restrict business and job-generating activities.

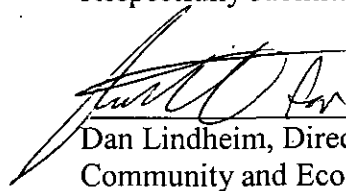
ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt an ordinance that will:

1. Amend Chapter 17.102 "General Regulations Applicable to All or Several Zones" of the Oakland Municipal Code (O.M.C.) to include performance standards for Primary Collection Center Recycling Uses in all zones;
2. Amend Chapter 17.73 "CIX-1, CIX-2, IG And IO Industrial Zones" of the Oakland Municipal Code (O.M.C.) to include regulations concerning Primary Collection Center Recycling Uses in CIX-1, CIX-2 and IG zones; and

3. Amend Chapter 17.10 "Use Classifications" to delete "Intermediate Processing Facility" as a land use activity type from O.M.C. 17.10.586 "Recycling and Waste-Related Industrial Activities"

Respectfully submitted,



Dan Lindheim, Director
Community and Economic Development Agency

Reviewed by:
Eric Angstadt, Strategic Planning Manager

Prepared by:
Alisa Shen, Planner III
Strategic Planning Division, Planning and Zoning

APPROVED AND FORWARDED TO
THE COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE:



Office of the City Administrator

Item: _____
Community and Economic Development Committee
December 2, 2008

Mark P. Wall

City Attorney

INTRODUCED BY COUNCILMEMBER _____

OAKLAND CITY COUNCIL
ORDINANCE No. _____ C.M.S.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 NOV 20 PM 7:02

AN ORDINANCE AMENDING THE OAKLAND PLANNING CODE TO: (1) AMEND CHAPTER 17.102 "GENERAL REGULATIONS APPLICABLE TO ALL OR SEVERAL ZONES" TO INCLUDE PERFORMANCE STANDARDS FOR PRIMARY COLLECTION CENTER RECYCLING USES IN ALL ZONES (2) AMEND CHAPTER 17.73 "CIX-1, CIX-2, IG AND IO INDUSTRIAL ZONES" TO INCLUDE REGULATIONS CONCERNING PRIMARY COLLECTION CENTER RECYCLING USES IN CIX-1, CIX-2 AND IG ZONES; (2) AMEND CHAPTER 17.10 "USE CLASSIFICATIONS" TO DELETE "INTERMEDIATE PROCESSING FACILITY" AS A LAND USE ACTIVITY TYPE FROM O.M.C. 17.10.586 "RECYCLING AND WASTE-RELATED INDUSTRIAL ACTIVITIES".

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

WHEREAS, the standards contained in a city's zoning code and zoning maps should directly implement the intent for each of these land use classifications contained in the LUTE; and

WHEREAS, Business Mix and General Industrial/Transportation are land use designations in the LUTE; and

WHEREAS, the intent of the Business Mix and General Industrial/Transportation LUTE designations is to create, preserve and enhance areas of the city that are appropriate for a wide variety of commercial and industrial uses, while also providing protections against potential nuisances where industrial and residential areas neighbor each other; and

WHEREAS, the City Council adopted an Ordinance No. 12875 C.M.S. on June 17, 2008 that created four new industrial zones (CIX-1, CIX-2, IG and IO) without including the regulations relating to Primary Collection Centers and Intermediate Recycling Processing Facilities to implement the Business Mix and General Industrial/Transportation LUTE designations; and

WHEREAS, the City Council concurrently adopted an Interim Urgency Ordinance No. 12873 C.M.S. establishing a moratorium on any new or expanded Primary Collection Centers and Intermediate Recycling Processing Facilities, in order to ensure that the deletion of regulations relating to these uses would not result in the absence of any regulations regarding these uses after passage and adoption of the new industrial zone regulations and when regulations could be developed and adopted; and

WHEREAS, the City Council adopted an extension to the Interim Urgency Ordinance

(Ordinance No. 12889 C.M.S.) in order to provide staff with adequate time to meet with stakeholders, develop regulations and bring them through the approval process to the Planning Commission, the City Council and their respective committees; and

WHEREAS, various community meetings with residents, the recycling industry and other affected stakeholders, and duly noticed meetings before the City Planning Commission were held to develop a set of regulations, such as performance standards, for these uses; and

WHEREAS, after a duly noticed public hearing, the City Planning Commission voted unanimously on November 5, 2008 to recommend to the City Council it adopt the proposed regulations and performance regulations for Primary Collection Centers and amendments to the industrial land use classification activity types; and

WHEREAS, the proposed regulations serve both to protect surrounding businesses and residential zones from potential off-site impacts of these uses, and do not unnecessarily burden businesses that help support the City's environmental goals, such as those in the City's *Zero Waste Strategic Plan*; and

WHEREAS, the proposed regulations came before the Community and Economic Development Committee on December 2, 2008; and

WHEREAS, the proposed regulations came before the City Council at a duly noticed public hearing on December 9, 2008; now, therefore;

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

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

Section 2. Title 17 of the Oakland Planning Code is hereby amended to: 1) Amend Chapter 17.102 "General Regulations Applicable to All or Several Zones to include regulations concerning Primary Collection Center recycling uses; 2) Amend Chapter 17.73 "CIX-1, CIX-2, IG And IO Industrial Zones" to include regulations concerning Primary Collection Center recycling uses in CIX-1, CIX-2 and IG zones; 3) Amend Chapter 17.10 "Use Classifications" to delete "Intermediate Processing Facility" as a land use activity type from O.M.C. 17.10.586 "Recycling and Waste-Related Industrial Activities", as detailed in **Exhibit A**, attached hereto and hereby incorporated herein by reference.

Section 3. Prior to adopting this Ordinance, the City Council independently finds and determines that this action complies with CEQA because the City is relying on previously certified EIRs for the Land Use and Transportation Element of the General Plan (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. As a separate and independent basis, this Ordinance is consistent with CEQA Guidelines sections 15183 and 15061(b)(3). The Environmental Review Officer is directed to

cause to be filed a Notice of Determination/Exemption with the appropriate agencies.

Section 4. Pursuant to Charter Section 216, this Ordinance shall be effective immediately from the date of final passage by the City Council if it receives six or more affirmative votes; if this Ordinance receives five affirmative votes, it shall be effective seven days after the date of final passage by the City Council; notwithstanding, all existing Primary Collection Center recycling uses shall have ninety (90) days from the date of final passage to come into compliance with the applicable performance standards.

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

Section 8. If any section, subsection, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall no affect the validity of the remaining portions which shall remain in full effect.

Section 9. That the record before this Council relating to this Ordinance includes, without limitation, the following:

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

Section 10. 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; and be it

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

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

DATE OF ATTESTATION: _____

MPW

Title 17

PLANNING

Additions to Title 17 of the Oakland Planning Code are shown as underline and omissions are shown as ~~strike through~~. Additional changes made in response to Planning Commission review (November 5, 2008): new additions, shown in underline and omissions shown as ~~strike through~~, are shown in on p.7 and 9-12 of this exhibit.

Planning Code Chapters Amended:**17.10 Use Classifications****17.73 CIX-1, CIX-2, IG and IO Industrial Zones****17.102 General Regulations Applicable to All or Several Zones**

Chapter 17.10**USE CLASSIFICATIONS****Part 4 Manufacturing Activity Types****Sections:****17.10.586 Recycling and Waste-Related Industrial Activities.**

Recycling and Waste-Related Activities include recycling collection, intermediate processing, and other activities related to the storage and processing of used and waste materials.

A. Satellite Recycling Collection Centers. An activity accepting recyclable non-hazardous materials directly from the public by donation, redemption, or purchase at facilities less than five hundred (500) square feet in area that generally do not use power-driven processing equipment.

Satellite collection centers may include mobile recycling units, bulk reverse vending machines, kiosk type units, and/or unattended containers placed for the donation of recyclable materials. These facilities are generally located in, or associated with supermarkets and shopping centers. Most, though not all, satellite collection centers are set up pursuant to requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986, which requires establishment of such centers in all "Convenience Zones" (CZ) in California, defined as the area within ½ mile of all supermarkets, to collect beverage containers made from materials such as aluminum, glass, plastic, and bimetal for recycling.

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

~~**C. Intermediate Recycling Processing Facility.** An activity serving as a collection point for receiving, processing, storage, and distribution of large quantities of recyclable materials delivered from recycling collection centers or other sources. Processing of most or all material typically occurs inside a building, using mechanical and/or chemical processing equipment to alter the physical form of incoming material. Processed materials may be stored in outdoor areas prior to sale to manufacturers or other end users. Intermediate processing facilities do not accept materials from but may sell goods to the public. This classification does not include facilities that handle or process hazardous materials and solid waste facilities and transfer stations.~~

Chapter 17.73

CIX-1, CIX-2, IG AND IO INDUSTRIAL ZONES

Sections:

17.73.010	Title, Purpose, and Applicability
17.73.020	Permitted and Conditionally Permitted Uses and Facilities
17.73.030	Property Development Standards
17.73.035	<u>Special Regulations for Primary Collection Centers in the Industrial Zones</u>
17.73.040	Special Regulations for Work/Live Units in the Industrial Zones
17.73.050	Parking and Loading Dock Restrictions
17.73.060	Referral to Other Applicable Regulations

17.73.010 Title, Purpose, and Applicability

The provisions of this chapter shall be known as the industrial zones regulations. This chapter establishes regulations for the (CIX-1) Commercial Industrial Mix-1, (CIX-2) Commercial Industrial Mix-2, (IG) General Industrial, (IO) and Industrial Office.

These industrial zoning districts are intended to create, preserve, and enhance areas for industrial uses, including manufacturing, scientific and product-related research and development, construction, transportation, warehousing/storage/distribution, recycling/waste-related activities, clean technology, and similar uses. The primary purposes of these areas are to support Oakland's economic base and to provide employment opportunities. The specific purposes of these industrial districts are to:

- A. Provide a diversified economic base and a wide range of employment opportunities;
 - B. Maximize Oakland's regional role as a transportation, distribution, and communications hub;
 - C. Support Port operations and expansion by providing land for Port services such as trucking, warehousing, and distribution;
 - D. Preserve areas with good freeway, rail, seaport, and/or airport access for business and industrial uses;
 - E. Prohibit residential uses and limit commercial uses in General Industrial (IG) areas so that a maximum amount of the City's land base is preserved for industrial uses, and so that industrial uses may operate without impacting those activities;
 - F. Locate high impact industrial uses away from residential areas; and
 - G. Allow heavy-impact or large scale commercial retail uses on sites with direct access to the regional transportation system.
- A. **CIX-1 Commercial Industrial Mix 1 Zone.** The CIX-1 zone is intended to create, preserve, and enhance the industrial areas of West Oakland that are appropriate for a wide variety of businesses and related commercial and industrial establishments. This zone is intended to accommodate existing older industries and provide flexibility in order to anticipate new technologies. Large-

scale commercial and retail uses will be limited to sites with direct access to the regional transportation system.

- B. **CIX-2 Commercial Industrial Mix 2 Zone.** The CIX-2 zone is intended to create, preserve, and enhance areas of the Central and Eastern portions of the City that are appropriate for a wide variety of heavy commercial and industrial establishments. Uses with greater off-site impacts may be permitted provided they meet specific performance standards and are buffered from residential areas.
- C. **IG General Industrial Zone.** The IG zone is intended to create, preserve and enhance areas of the City that are appropriate for a wide variety of businesses and related commercial and industrial establishments that may have the potential to generate off-site impacts such as noise, light/glare, odor, and traffic. This zone allows heavy industrial and manufacturing uses, transportation facilities, warehousing and distribution, and similar and related supporting uses. Uses that may inhibit such uses, or the expansion thereof, are prohibited. This district is applied to areas with good freeway, rail, seaport, and/or airport access.
- D. **IO Industrial Office Zone.** The IO zone is intended to create and support areas of the City that are appropriate for a wide variety of businesses and related commercial and industrial establishments in a campus-style setting. Development and performance standards in this district are more restrictive and accommodate large-parcel development in an attractive, well-landscaped setting. Future development shall reflect large-scale office, research and development, light industrial, wholesaling and distribution, and similar and related supporting uses.

17.73.020 Permitted and Conditionally Permitted Uses and Facilities

The following table lists the permitted, conditionally permitted, and prohibited uses and facilities in the CIX-1, CIX-2, IG and IO zones. The descriptions of these uses are contained in Chapter 17.10.

- “P” designates permitted uses and facilities in the corresponding zone.
- “C” designates uses and facilities that are permitted only upon the granting of a conditional use permit (see Chapter 17.134) in the corresponding zone.
- “L” designates uses and facilities subject to certain limitations listed at the bottom of the Table.
- “--” designates uses and facilities that are prohibited in the corresponding zone.

Table 17.73.020: Permitted and Conditionally Permitted Uses and Facilities

Uses	Zones				Additional Regulations
	CIX-1	CIX-2	IG	IO	
Residential Uses	All residential uses prohibited in each zone				
Civic Uses					
Essential Service	C	C	C	C	
Limited Child-Care	--	--	--	--	
Community Assembly	P	C	--	C	
Community Education	P	C	--	C	
Nonassembly Cultural	P	C	--	C	
Administrative	P	C	--	C	
Health Care	P	--	--	--	
Special Health Care	C	C	--	--	
Utility and Vehicular	P	C	C	C	
Extensive Impact	C	C	C	C	
Telecommunication	P	P	P	P	See Chapter 17.128

Table 17.73.020: Permitted and Conditionally Permitted Uses and Facilities

Uses	Zones				Additional Regulations
	CIX-1	CIX-2	IG	IO	
Commercial Uses					
General Food Sales	P	C (L1)	C (L1)	P (L1)	See Section 17.102.210
Convenience Market	C	C	--	C	
Fast Food Restaurant	C	C	--	C	
Alcoholic Beverage Sales	L2	C	--	--	
Convenience Sales and Service	P	P	--	P	See Section 17.102.210
Mechanical or Electronic Games	L3	--	--	--	
Medical Service	P	C	--	C	
General Retail Sales	P	--	--	--	Retail allowed as an accessory use only in CIX-2 and IO per Section 17.10.040
Large-Scale Combined Retail and Grocery Sales	--	--	--	--	
General Personal Service	P	--	--	--	
Consultative and Financial Services	P	--	--	--	
Check Cashier and Check Cashing	--	--	--	--	
Consumer Laundry and Repair Service	P	C	--	--	
Group Assembly	P (L7)	C (L8)	C (L8)	C (L8)	
Administrative	P	P	L9	P	
Business and Communication Service	P	P	P	P	
Retail Business Supply	P	P	P	C	
Research Service	P	P	C	P	
General Wholesale Sales	P	P	P	P	No retail ancillary activities allowed in IG or IO.
Transient Habitation	--	--	--	--	
Construction Sales and Service	L3	L3	--	--	
Automotive Sales, Rental, and Delivery	P	C	--	C	
Automotive Servicing	P	P	P	--	If located within (150) feet of any residential zone boundary is pursuant to the design review procedure in Chapter 17.136.
Automotive Repair and Cleaning	L3	L3	P	--	If located within (150) feet of any residential zone boundary is pursuant to the design review procedure in Chapter 17.136.
Automotive Fee Parking	L3	P	P	P	
Animal Care	L4	C	C	--	

Table 17.73.020: Permitted and Conditionally Permitted Uses and Facilities

Uses		Zones				Additional Regulations
		CIX-1	CIX-2	IG	IO	
Undertaking Service		P	C	C	--	
Industrial Uses						
Custom Manufacturing		P	P	P	P	
Light Manufacturing		P	P	P	P	
General Manufacturing		L3	L3	P	--	
Heavy Manufacturing		--	--	C	--	
Research and Development		P	P	P	P	
Construction Operations		L3	L3	L3	C	
Warehousing, Storage and Distribution						
A.	General Warehousing, Storage and Distribution	P	P	P	P	No retail component allowed in IG or IO. See Section 17.73.060
B.	General Outdoor Storage	C	L3	P	P	
C.	Self or Mini Storage	C	C	--	C	
D.	Container Storage	--	L3	P	--	
E.	Automotive Salvage and Junk Yards	--	--	L3	--	
Regional Freight & Transportation:						
A.	Seaport	--	--	P	C	
B.	Rail Yard	--	C	P	--	
Trucking & Trucking-related Activities:						
A.	Freight/Truck Terminal	L5	L3	P	--	If located within (150) feet of any residential zone boundary is pursuant to the design review procedure in Chapter 17.136.
B.	Truck Yard	L5	C	P	C	
C.	Truck Weigh Stations	--	P	P	--	
D.	Truck & Other Heavy Vehicle Sales, Rental & Leasing	L6	P	P	P	
E.	Truck & Other Heavy Vehicle Service, Repair, and Refueling	L5	P	P	--	
Recycling & Waste Related Activities						
A.	Satellite Recycling Collection Centers	C	C	C	C	
B.	Primary Collection Centers	L10	L10	L11	=	
Hazardous Materials Production, Storage & Waste-Related Activities						L44L12 See also Health & Safety Protection Zone (S-19)
A.	Small Scale Transfer and Storage	--	C	C	--	
B.	Industrial Transfer/Storage	--	--	C	--	
C.	Residuals Repositories	--	--	C	--	
D.	Oil and Gas Storage	--	--	L2	--	
Agricultural and Extractive uses						
Plant nursery		P	P	P	--	
Crop and animal raising		--	--	C	--	See Section 17.102.220

Table 17.73.020: Permitted and Conditionally Permitted Uses and Facilities

Uses	Zones				Additional Regulations
	CIX-1	CIX-2	IG	IO	
Mining and Quarrying Extractive	--	--	C	--	

Facility Types	Zones				Additional Regulations
	CIX-1	CIX-2	IG	IO	
Residential Facilities	All residential uses prohibited in each zone				
Nonresidential Facilities					
Enclosed Nonresidential	P	P	P	P	
Open Nonresidential	P	P	P	P	
Sidewalk Cafe	C	C	--	--	See Section 17.102.335
Drive-In Nonresidential	--	--	--	--	
Drive-Through Nonresidential	C	C	C	C	See Section 17.102.290
Shopping Center Facility	--	--	--	--	
Telecommunications					
Micro Telecommunications	P	P	P	P	See Chapter 17.128
Mini Telecommunications	P	P	P	P	
Macro Telecommunications	C	C	P	P	
Monopole Telecommunications	C	C	P	P	
Tower Telecommunications	--	--	P	P	
Signs					
Residential Signs	--	--	--	--	See Chapter 17.104
Special Signs	P	P	P	P	
Development Signs	P	P	--	--	
Realty Signs	P	P	P	P	
Civic Signs	P	P	P	P	
Business Signs	P	P	P	P	
Advertising Signs	--	--	--	--	

Limitations:

- L1. Limited to location on a ground floor in CIX-2, IG and IO. Over 5,000 sf floor area requires a conditional use permit in CIX-2, IG, and IO.
- L2. Prohibited within 300 feet of a residential zone and requires a conditional use permit elsewhere throughout the zone. (Conditional use permit is required in CIX-2).
- L3. A conditional use permit is required if within 300 feet of a residential zone; Permitted if beyond 300 feet of a residential zone.
- L4. A conditional use permit is required if the use involves any of the following: a) outdoor yard activities; or b) ancillary overnight boarding.
- L5. Prohibited within 600 feet of a residential zone. A conditional use permit is required elsewhere throughout the zone.
- L6. A conditional use permit is required a) if within 300 feet of a residential zone, and b) if located anywhere in the district when outdoor repair and service activity exceeds 50% of site area.
- L7. A conditional use permit is required for entertainment uses.
- L8. Entertainment, educational and athletic services are not permitted.
- L9. Administrative activities accessory to an existing industrial activity are limited to twenty (20) percent of floor area in IG.

~~L10. Prohibited within 300 feet of a residential zone; a conditional use permit is required within 300 to 600 feet of a residential zone; permitted if beyond 600 feet of a residential zone boundary.~~

~~L10. Prohibited within 300 feet of a residential zone; a conditional use permit containing requirements no less stringent than the performance standards set out in 17.73.035 is required if beyond 300 feet of a residential zone boundary.~~

~~L11. Prohibited within 300 feet of a residential zone, permitted outright beyond 300 feet with a standard set of performance standards that would apply to existing, new or expanded uses, as detailed in Section 17.73.035.~~

~~L12. A conditional use permit is required for electroplating activities.~~

17.73.030 Property Development Standards

Table 17.73.030 contains the property development standards for all zones within this Chapter.

Table 17.73.030: Property Development Standards

Development Standards	Zones				Additional Regulations
	CIX-1	CIX-2	IG	IO	
Minimum Lot Frontage	25 ft	25ft	25ft	100ft	1
Minimum Lot Width	25 ft	25ft	25ft	100ft	1
Minimum Lot Area (square feet)	5,000 sf	10,000 sf	10,000 sf	25,000 sf	1
Floor-Area Ratio (FAR)					
Greater than 300 feet of a residential zone boundary	4.0	4.0	2.0	4.0	
Within 300 feet of a residential zone boundary	2.0	2.0	1.0	2.0	2
Maximum Height	None	55 ft	None	55 ft	3, 4
Minimum Front Yard Setback	0 ft	0 ft	0 ft	20 ft	5
Minimum Rear Yard Setback	0 ft				5
Minimum Interior Side Yard Setback	0 ft				5
Minimum Street Side Yard Setback Of A Corner Lot	10 ft	10 ft	10 ft	20 ft	5
Site Landscaping (% of lot area)	5%	5%	5%	15%	6, 7
Parking Lot Landscaping (% of lot area)	10%	10%	10%	10%	8
Street Trees	Required	Required	See also note 10	Required	9
Site and Driveway Access – Minimum Distance from any residential or open space boundary	50 ft	50 ft	50 ft	50 ft	11
Driveway Width Maximum	35 ft	35 ft	35 ft	35 ft	12
Pedestrian Walkway	Required	Required	Required	Required	13
Minimum Fence Height in Yards adjacent to Residential or Open Space Zones	8 ft	8 ft	8 ft	8 ft	14
Maximum Fence Height in Yards adjacent to Residential or Open Space Zones	15 ft	15 ft	15 ft	15 ft	14, 15

Additional Regulations Noted in Table 17.73.02:

1. See Sections 17.106.010 and 17.106.020 for exceptions to street frontage, lot width and lot area regulations.
2. A conditional use permit to exceed the permitted floor area ratio (FAR) may be allowed, as shown in parentheses above in Table 17.31.030, upon determination that the proposal conforms to the conditional use permit criteria set forth in the conditional use permit procedure in Chapter 17.134; and to all of the following additional criteria:
 - a. Additional intensity does not subject residentially zoned areas within 300 feet to significant adverse impacts related to: truck traffic; nighttime operations; noise; vehicular traffic; hazardous materials exposure and risk; air emissions; blockage of sunlight to private open space areas; or other such environmental impacts;
 - b. The site is located on a major arterial, freeway, rail line or other location that has adequate capacity to handle the intensity and type of traffic volume.
 - c. If adjacent to a residential or open space zone boundary the proposed development has a step back of one foot to every one foot of height, beginning with a maximum height of 30 feet at all required yard setbacks; and
 - d. All new development activities meet the Performance Standards in 17.120.
3. Except as other wise provided in Section 17.108.030 (Allowed Projections above Height Limits), Chapter 17.128 (Telecommunications Regulations), and Subsection 17.108.010 on lots lying along a boundary of certain residential zones. See Section 17.104.020 for maximum height of signs.
4. The height of materials stored in any outdoor yards may be no higher than eight (8) feet within the required rear or side yard setback along the property line. However, materials may be stacked up to the height of the wall, and may be stacked within the required yard area if a solid masonry wall eight (8) to ten (10) feet in height and buffer planting is installed. The aisle width and material composition of all stored material, and the ultimate height of all outdoor materials stored beyond the 10 foot yard requirement, shall be according to the Fire Code regulations.
5. See 17.108.040, 17.108.070, 17.108.090, 17.108.100, 17.108.110, and 17.108.130 for minimum front, side, and rear yards in commercial and industrial zones which may be across from, abut or be adjacent to a residential zone or alley. Accessory structures or other facilities allowed within the yards and setbacks is in sections 17.108.130.
6. All new projects which involve the construction of a new building, or the expansion or replacement of existing building footprint by more than twenty (20%) percent such that the floor area to site ratio exceeds 35%, shall comply with the landscape requirements. Landscaping shall consist of pervious surface with lawn, ground cover, shrubs, permeable paving materials, and/or trees and which is irrigated and maintained. See also 17.124 Landscaping and Screening Standards.
7. In the IO district, the minimum front yard setback area required shall, except for driveways, walkways, and allowable signs, be developed as open landscaped areas with lawn, ground cover, shrubs, trees or decorative and permeable paving materials, subject to the standards for required landscaping and screening in Chapter 17.124.
8. Parking Lot Landscaping applies only to lots associated with new construction with more than 25,000 sf floor area. Shade trees shall be provided at a ratio of 1 tree for every 10 spaces through the parking lot. A minimum of 10 percent of a surface parking lot shall be landscaped accompanied by an irrigation system that is permanent, below grade and activated by automatic timing controls which may be provided entirely in permeable surfacing in lieu of irrigated landscaping if approved through Design Review. Parking lots located adjacent to a public right-of-way shall include screening consisting of a minimum of five (5) foot deep planted area or a three (3) foot tall

- opaque, concrete, or masonry wall. Chain link, cyclone, and barbed wire fencing is prohibited in all cases.
9. For all projects requiring a building permit, street trees are required. In addition to the general landscaping requirements set forth above, a minimum of one fifteen-gallon tree, or substantially equivalent landscaping consistent with city policy and as approved by the Director of City Planning, shall be provided for every twenty (20) feet of street frontage or portion thereof and, if a curbside planting strip exists, for every twenty-five (25) feet of street frontage. On streets with sidewalks where the distance from the face of the curb to the outer edge of the sidewalk is at least six and one-half feet, the trees to be provided shall include street trees to the satisfaction of the Tree Division.
 10. The street tree requirement noted above shall apply only to properties in the IG zone that have frontage on San Leandro Street, 98th Avenue, 66th Avenue, and Hegenberger Road.
 11. Applies to new development; or expansion of industrial or commercial buildings by more than 20 percent floor area; or b) addition or expansion of an existing building so that the building to land ratio exceeds 35 percent, whichever is greater; and all new driveway projects. This requirement may be waived administratively if such distance requirement will impede direct access to a rail line.
 12. Driveway shall not exceed 35 feet in width without obtaining approval from the Engineering Department of Building Services through the Driveway Appeal Process.
 13. A clearly defined and lighted walkway, at least four (4) feet wide, shall be provided between the main building entry and a public sidewalk for all new development. On-site walkways shall be separated from on-site automobile circulation and parking areas by landscaping, a change in paving material, or a change in elevation.
 14. Applies to all property lines in industrial zones, except those fronting a public street, which directly abut a residential or open space zone. All buffering Requirements apply to new development; or expansion of an industrial or commercial building by more than 20 percent floor area or b) addition or expansion of an existing building so that the building to land ratio exceeds 35 percent, whichever is greater.
 15. A reduced buffer requirement may be permitted with the provision of a solid wood or articulated masonry wall of at least 8 feet in height in combination with a reduced buffer width as well as fewer trees and shrubs at a standard appropriate for minimizing the incompatibility between uses. The planting requirement may be eliminated if appropriate and approved by the Planning Director. The fence or wall design shall be approved by the Planning Director.

17.73.035 Special Regulations for Primary Collection Centers in the Industrial Zones

A. Applicability. This Section applies to Primary Collection Centers, as defined in 17.10.585 "Recycling and Waste-Related Industrial Activities," that are located in the Commercial Industrial Mix-1 (CIX-1), Commercial Industrial Mix-2 (CIX-2) or General Industrial (IG) zone. Conditional use permits issued for operations in CIX zones must contain conditions no less stringent than the performance standards set out in this Section. Where there is any apparent conflict between these regulations and regulations contained elsewhere in Title 17 of the Oakland Municipal Code, and/or with conditions of approval, the more stringent shall govern.

B. Performance Standards. In addition to the performance standards set forth in Chapter 17.120, the following minimum performance standards shall be uniformly applied, as applicable, to all Primary Collection Centers.

1. Site Design and Layout. For new and expanded uses, submittal and approval of the following plans, and implementation of approved plans shall be required:

- a. Site and floor plans, which shall include designated areas for separation and disposal of materials, as well as required fencing/walls, to the Planning and Zoning and Building Services Divisions;
 - b. Building plans to the Fire Services Division;
 - c. Fire safety/emergency plan to the Fire Services Division.
2. Signage. For existing, new or expanded uses: identification, directional and informational signs shall be provided on site in conformance with Chapter 17.104 General Limitation on Signs and with the small project design review procedure in Chapter 17.136. At a minimum, the following information shall be posted near the entrance(s) and/or perimeter of the facility:
- a. Business Identification, 24-hour contact information of facility operator;
 - b. Hours of operation;
 - c. Signage prohibiting the delivery of material to be recycled shall be accepted after-hours;
 - d. Signage prohibiting illegal dumping, littering or loitering in proximity of the site's perimeter;
 - e. A map of authorized truck routes to the facility posted at the office or scale house (and available to customers);
 - f. A list of accepted and/or non-accepted materials for recycling.
3. Appearance and Design
- a. Landscaping.
 - i) For existing, new or expanded uses, all required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. All required irrigation systems shall be permanently maintained in good condition, and, whenever necessary, repaired or replaced.
 - ii) For new or expanded uses, submittal and approval of a landscape and irrigation maintenance plan and/or street tree plan, and implementation of approved plan for new and expanded uses, as required by the Planning Director or his/her designee;
 - b. Screening. For existing, new and expanded uses, screening by a solid fences and/or walls shall be required around the entire site;
 - c. Lighting.
 - i) For new or expanded uses, submittal and approval of lighting plans, and implementation of approved plans, to the Planning and Zoning Division and the Electrical Services Division of the Public Works Agency shall be required. The proposed lighting fixtures shall be adequately shielded to a point below the light bulb and reflector so as to prevent unnecessary glare onto adjacent properties or public streets.
 - ii) For existing uses, lighting shall comply with the performance standards of Section 17.120.100 of the Oakland Planning Code relating to glare. Lighting shall be so operated as to not adversely affect nearby properties or public streets.
4. Noise, Vibration and Other Applicable Health and Safety Regulations. For existing, new or expanded uses:
- a. ~~Noise. For existing, new or expanded uses,~~ Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning and Building Services Divisions;

- b. ~~Vibration. For existing, new or expanded uses,~~ Vibration levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code. If vibration levels exceed these standards, the activity causing the vibration shall be abated until appropriate vibration reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services;
- c. ~~Other Applicable Health and Safety Regulations. For existing, new or expanded uses,~~ The project operator/applicant shall comply with State and other regional bodies and/or applicable regulations including, but not limited to, the federal Clean Water Act and Occupational Safety and Health Administration (OSHA), the California Penal Code Section 496.(a), the Environmental Protection Agency (EPA), the Bay Area Air Quality Management District (BAAQMD) and Best Management Practices (BMP) for stormwater.
5. Litter, Debris, Graffiti and Cleanliness
- a. ~~For existing, new or expanded uses;~~
- a-i) The site shall be maintained in a clean and orderly condition, free of vectors, and free of standing water and any odiferous waste;
- b-ii) The public right-of-way shall not be used for storage or processing of materials;
- e-iii) Graffiti shall be removed within seventy-two (72) hours of application;
- d-iv) ~~All businesses shall develop and maintain a~~ A cleanliness/litter management and control plan shall be developed, implemented and maintained, such that it is ready for inspection. The plan shall include provisions for the disposal of all materials within a one-block radius of the premises, as well as a graffiti abatement plan; submittal and approval of such a plan prior to operation shall be required for new or expanding businesses;
- e-v) ~~All businesses shall develop and maintain a~~ site/immediate neighborhood shopping cart management plan shall be developed, implemented and maintained, such that it is ready for inspection; submittal and approval of such a plan prior to operation shall be required for new or expanding businesses;
- f-vi) ~~All businesses shall develop and maintain a~~ loitering deterrence plan shall be developed, implemented and maintained, such that it is ready for inspection; submittal and approval of such a plan prior to operation shall be required for new or expanding businesses.
6. Circulation. For new or expanded uses submittal and approval of the following plans, and implementation of approved plans are required:
- a. ~~For new or expanded uses, submittal and approval of~~ A circulation plan that shows an ingress and egress, as well as includes provisions for any needed staff to monitor on-site traffic operations, submitted to the Transportation Services Division circulation plan shall be required;
- b. ~~For new or expanded uses, a~~ plan showing rail loading and unloading within site shall be required (as applicable) submitted to the Transportation Services Division.
7. Equipment and Facilities. For existing, new or expanded uses;
- a. ~~For existing, new or expanded uses,~~ There shall be no exterior pay telephones located at the site;
- b. ~~For existing, new or expanded uses,~~ All equipment shall be maintained and kept in good working order.

8. Operations. All existing, new or expanded uses:
- a. All existing, new or expanded uses shall Shall have a representative regularly attend Neighborhood Crime Prevention Council meetings—a minimum of two meetings per year—for their community policing beat with the sole purpose of addressing and responding to community complaints. For the purposes of this provision said representative will mean a site or company manager with sufficient authority to address the concerns of neighbors;
 - b. All existing, new or expanded uses Shall maintain a 24 hour “hotline” where neighbors can log complaints regarding nuisance activity associated with or emanating from the recycling facility. Complaints logs shall be maintained and made available to the City for inspection/copying upon reasonable notice;
 - c. All existing, new or expanded uses Shall provide staff and training for traffic operations needed on-site, as required by the Transportation Services Division as part of any circulation plan City of Oakland;
 - d. All existing, new or expanded uses Shall develop, implement and maintain a plan for the disposal and containment of non-recoverable materials that is ready for inspection; submittal and approval of such a plan prior to operation shall be required for new or expanded uses;
 - e. For existing, new or expanded uses Shall keep all entrance gates ~~shall be~~ closed and locked when the primary recycling collection facility is not open to the public;
 - f. For existing, new or expanded uses Shall not burning insulation from copper wire as a means to increase the material's value or for any other purpose ~~shall be prohibited~~.

C. Relief from Performance Standards. Any person who owns or operates, or who has applied to construct, expand, modify or establish an activity or facility that involves Primary Recycling Collection Centers which would be affected by the performance standards required, and who contends that the performance standards as applied to him or her would be unlawful under Federal, State, or local law or regulation, may submit a written application to the Planning Director requesting relief from the performance standards within 10 (ten) days of being initially notified of the performance standards. For purposes of this section, notice to a predecessor in interest shall constitute such initial notice to subsequent owners/operators. The written request for relief from these performance standards must (a) identify the name and address of the applicant and business; (b) the affected application number; (c) specifically state how the performance standards as applied to him or her would be unlawful under Federal, State, or local law or regulation; and (d) include all appropriate legal and factual support for the request for relief. Within thirty (30) days of receipt of the completed request for relief, the Planning Director, or his/her designee, shall mail to the applicant a written determination. The applicant may appeal such determination pursuant to the provisions in Oakland Planning Code chapter 17.132.

17.73.040 Special Regulations for Work/Live Units in the Industrial Zones

A. Applicability. A work/live unit in the industrial zones must meet all applicable regulations contained in this section. Regulations in this section supersede regulations contained in Section 17.102.190 relating to the conversion of buildings originally designed for commercial or industrial activities into joint living and working quarters for work/live units in the industrial zones only.

B. Definition. A “work/live unit” means a room or suite of rooms that are internally connected maintaining a common household that includes: (1) cooking space and sanitary facilities that satisfy the provisions of other applicable codes, and (2) adequate working space reserved for, and regularly used by, one or more persons residing therein. A work/live unit accommodates a primary nonresidential activity with an accessory residential component.

C. Conditional use permit required.

1. Establishment of a work/live unit for new construction and conversion of existing buildings is only permitted upon determination that the proposal conforms to the conditional use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 on lots that are both: 1) in the CIX-1 or CIX-2 zones and 2) within three-hundred feet of a residential zone.
2. Establishment of a work/live unit through the conversion of an existing building which is rated "A" or "B," by the City's Cultural Heritage Survey, is permitted in all industrial zones with the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

D. Regular design review required. Establishment of a work/live unit shall only be permitted upon determination that the proposal conforms to the regular design review criteria set forth in the design review procedure in Chapter 17.136 and to all of the following additional criteria:

1. That the exterior of a new building containing primarily work/live units in the industrial zones has a commercial or industrial appearance. This includes, but is not necessarily limited to, the use of nonresidential building styles or other techniques;
2. That units on the ground floor or level of a building have a business presence on the street. This includes, but is not necessarily limited to, providing roll up doors at the street or storefront style windows that allow interior space to be visible from the street, a business door that is oriented towards the street, a sign or other means that identifies the business on the door and elsewhere, a prominent ground floor height, or other techniques;
3. That the layout of nonresidential floor areas within a unit provides a functional and bona fide open area for working activities;
4. That the floor and site plan for the project include an adequate provision for the delivery of items required for a variety of businesses. This may include, but is not necessarily limited to, the following:
 - a. Service elevators designed to carry and move oversized items,
 - b. Stairwells wide and/or straight enough to deliver large items,
 - c. Loading areas located near stairs and/or elevators and
 - d. Wide corridors for the movement of oversized items; and
5. That the floor and site plan for the project provide units that are easily identified as businesses and conveniently accessible by clients, employees and other business visitors.

E. Activity, parking, loading, open space, and unit size standards for work/live units. The following table contains the activities allowed in a work/live unit; the minimum size of an industrial work/live unit; and the parking, loading and open space required for each work/live unit:

Table 17.73.040.C Activity, parking, loading, open space, and unit size standards for work/live units.

Standard	Requirement	Notes
Activities allowed in a work/live unit	Same permitted and conditionally permitted activities as described in Section 17.73.020 for the applicable base zone.	
Required parking	One parking space per unit plus one additional unassigned visitor or employee parking space per five work/live units	1, 3
Required loading	Square feet of facility	
	Less than 10,000 square feet	

	10,000--69,999 square feet	One berth
	70,000--130,000 square feet	Two berths
	Each additional 200,000 square feet	One additional berth
Required usable open space	75 square feet of usable open space per unit	2, 3
Minimum size of unit	No individual unit shall be less than eight hundred (800) square feet of floor area	

Notes:

1. See Chapter 17.116 for other off-street parking standards.
2. All required usable open space shall meet the usable open standards contained in Chapter 17. 126, except that all usable open space work/live units may be provided above ground. Further, each square foot of private usable open space equals two square feet towards the total usable open space requirement.
3. Parking and open space standards apply to new construction. For conversion of existing buildings, maintaining existing parking and open space is required.

F. A work/live unit shall consist of a maximum of one-third residential floor area with the remaining floor area to be used for the primary non-residential activity. All required plans for the creation of industrial work/live units shall: (1) delineate areas designated to contain residential activities and areas designated to contain nonresidential activities, and (2) contain a table showing the square footage of each unit devoted to residential and nonresidential activities.

G. Work/live space shall be considered Commercially/ Industrially Oriented Joint Living and Working Quarters under the Building Code. Any building permit plans for the construction or establishment of work/live units shall: (1) clearly state that the proposal includes Commercially/Industrially Joint Living and Working Quarters and (2) label the units intended to be these units as Commercially/ Industrially Joint Living and Working Quarters. This requirement is to assure the City applies building codes that allow industrial activities in work/live units in the industrial zones.

H. Each unit shall contain at least one tenant that operates a business within that unit. That tenant shall possess a valid and active City of Oakland Business Tax Certificate to operate a business out of the unit.

I. For any work/live unit, a statement of disclosure shall be: (1) provided to prospective owners or tenants before a unit or property is rented, leased, or sold, and (2) recorded with the County of Alameda as a Notice of Limitation and in any other covenant, conditions and restrictions associated with a facility. This statement of disclosure shall contain the following acknowledgments:

1. The unit is in a nonresidential facility that allows commercial and/or industrial activities that may generate odors, truck traffic, vibrations, noise and other impacts at levels and during hours that residents may find disturbing.

2. Each unit shall contain at least one tenant that operates a business within that unit. This tenant must possess an active City of Oakland Business Tax Certificate for the operation out of the unit.

J. Each building with a work/live unit shall contain a sign that: (1) is permanently posted; (2) is at a common location where it can be frequently seen by all tenants such as a mailbox, lobby, or entrance area; (3) is made of durable material; (4) has a minimum dimension of nine by eleven inches and lettering at least one-half an inch tall. This sign shall contain the following language: "This development contains work/live units. As such, please anticipate the possibility of odors, truck traffic, noise or other impacts at levels and hours that residents may find disturbing."

K. The development of work/live units in the industrial zones shall not be considered adding housing units to the City's rental supply, nor does it create "conversion rights" under the City's condominium conversion ordinance, O.M.C. Chapter 16.36, nor are the development standards for

work/live units intended to be a circumvention of the requirements of the City's condominium conversion ordinance, O.M.C. Chapter 16.36.

17.73.050 Parking and Loading Dock Restrictions

A. Off-street parking and loading shall be provided as prescribed in the off-street parking and loading requirements in Chapter 17.116.

B. Parking for new development shall be located at the rear of the site or at the side of the building in the CIX-1, CIX-2, and IO except for drop-off areas, which may be at the entry, except where access to existing loading docks and/or rail lines is required. New truck loading docks shall not be located closer than 50 feet from property line as measured from the subject dock to any property boundary if located within 300 feet of a residential zone, unless such a distance requirement will impede direct access to a rail line. Truck docks shall be located such that trucks do not encroach into the public right of way. All existing loading docks are not subject to this requirement.

17.73.060 Referral to Other Applicable Regulations

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

Table 17.73.03: Referral to Other Regulations

Subject	Section
Required number, dimensions, and location of parking spaces; maneuvering aisle dimensions, and related regulations	17.116
Sign regulations	17.104.20 17.104.060
Buffering regulations, including the buffering of parking, loading, glare, and storage from other properties	17.110
Landscaping and screening, including street trees	17.66.140A 17.108.040 17.124 17.68.130A
Recycling space requirements	17.118
Nonconforming uses and facilities	17.114
Joint living and working quarters	17.102.190
Performance standards regarding the control of noise, odor, smoke, and other objectionable impacts	17.120
The demolition of living units and the conversion of a living unit to a Nonresidential Use	17.102.230
Accessory Uses	17.10.040
Fence and retaining wall standards, including location, height, and materials	17.108.040
Expanding a use into adjacent zones	17.102.110
Application of zoning regulations to lots divided by zone boundaries	17.210.070
Landmarks	17.05

Subject	Section
Special Restrictions on Establishments Selling Alcoholic Beverages (not low or medium residential zones)	17.102.210
Regulations applying to tobacco-oriented activities (not low or medium residential zones)	17.102.350
Microwave dishes and energy production facilities	17.102.240
Special regulations applying to adult entertainment activities (not low or medium residential zones)	17.102.160
Special regulations applying to massage service activities (not low or medium residential zones)	17.102.170
Buffering regulations for lots with three or more required parking space. This includes the screening of parking, loading, glare, and storage from residential properties and zones	17.110.030
Buffer Regulations for commercial and industrial uses next to residential and open space zones	17.110
Special regulations applying to electroplating activities	17.102.340
S-19 Health and Safety Protection Overlay Zone	17.100

Chapter 17.102

GENERAL REGULATIONS APPLICABLE TO ALL OR SEVERAL ZONES

Section 17.102.440 Special Regulations for Primary Collection Centers in All Zones.

A. Applicability. This Section applies to Primary Collection Centers, as defined in 17.10.585 "Recycling and Waste-Related Industrial Activities," that are located in any zone. Where there is any apparent conflict between these regulations and regulations contained elsewhere in Title 17 of the Oakland Municipal Code, and/or with conditions of approval, the more stringent shall govern.

B. Performance Standards. In addition to the performance standards set forth in Chapter 17.120, the performance standards specified in 17.73.035B shall be uniformly applied, as applicable, and the relief from the performance standards in 17.73.035C shall apply to all Primary Collection Centers.

MPW

NOTICE AND DIGEST

AN ORDINANCE AMENDING THE OAKLAND PLANNING CODE TO: (1) AMEND CHAPTER 17.102 "GENERAL REGULATIONS APPLICABLE TO ALL OR SEVERAL ZONES" TO INCLUDE PERFORMANCE STANDARDS FOR PRIMARY COLLECTION CENTER RECYCLING USES IN ALL ZONES; (2) AMEND CHAPTER 17.73 "CIX-1, CIX-2, IG AND IO INDUSTRIAL ZONES" TO INCLUDE REGULATIONS CONCERNING PRIMARY COLLECTION CENTER RECYCLING USES IN CIX-1, CIX-2 AND IG ZONES; (3) AMEND CHAPTER 17.10 "USE CLASSIFICATIONS" TO DELETE "INTERMEDIATE PROCESSING FACILITY" AS A LAND USE ACTIVITY TYPE FROM O.M.C. 17.10.586 "RECYCLING AND WASTE-RELATED INDUSTRIAL ACTIVITIES"

Adoption of this ordinance will result in the establishment of performance standards for all existing, new or expanded Primary Collection Center recycling uses located in all zones; regulations and performance standards for existing, new or expanded Primary Collection Center recycling uses located in the CIX-1, CIX-2 and IG zones. This ordinance also amends O.M.C. Chapter 17.10 "Use Classifications" to delete "Intermediate Processing Facility" as a land use activity type from O.M.C. 17.10.586 "Recycling and Waste-Related Industrial Activities" and revert to the previous practice of considering such businesses as manufacturing (light, general or heavy/high impact, depending on the nature of their operations). This ordinance shall be effective immediately, however, existing businesses shall have 90 days to come into compliance with applicable performance standards.