



CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE, AS RECOMMENDED BY THE PLANNING COMMISSION, THAT: (1) AMENDS THE OAKLAND PLANNING CODE TO UPDATE CHAPTER 17.101B D-OTN, OAK-TO-NINTH DISTRICT ZONE REGULATIONS, TO: (A) UPDATE THE CHAPTER TITLE FROM PLANNED WATERFRONT ZONING DISTRICT (PWD-4) TO D-OTN, OAK-TO-NINTH DISTRICT ZONE; AND (B) MAKE CLERICAL UPDATES TO THE CHAPTER TO ENSURE THE INTENT OF THE CHAPTER IS IMPLEMENTED; AND 2) MAKES APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, on February 10, 2010, the City Council established Chapter 17.101B D-OTN Oak To Ninth District Regulations to establish zoning regulations and standards for development and use of property within the Planned Waterfront Zoning District (PWD-4) Oak to Ninth Mixed Use Development; and

WHEREAS, on January 12, 2016, the City Council amended Chapter 17.101B in 2016 to add Section 17.101B.020 – Permitted and Conditionally Permitted Activities and listed the permitted, conditionally permitted, and prohibited activities in the D-OTN and OS-RSP Zones within the Oak to Ninth Mixed Use Development; and

WHEREAS, on May 16, 2023, the City Council approved a zoning text amendment increasing the maximum average density and modifying parking requirements in the D-OTN Oak To Ninth District; and

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

WHEREAS, one of the objectives of the LUTE is to create a 'user friendly' land use document and conforming Planning Code that minimize the complexity of the regulations; and

WHEREAS, based on internal review, Planning Staff found internal inconsistencies, typographical errors and omissions in the Planning Code text adopted on May 16, 2023, and Chapter 17.101B D-OTN Oak To Ninth District Regulations updated on January 12, 2016; and

WHEREAS, the City of Oakland's Planning Staff has prepared amendments to the Oakland Planning Code to bring Chapter 17.101B in conformance with the rest of the Planning Code and the intent of the LUTE; and

WHEREAS, the proposed amendments will improve the interpretability and clarity of the Planning Code; and

WHEREAS, on October 2, 2024, at a duly noticed public hearing, the Planning Commission recommended approval of the proposed amendments to Chapter 17.101B; and

WHEREAS, on November 19, 2024, at a duly noticed public meeting, the Community and Economic Development (CED) Committee of the City Council voted to recommend the proposal to the City Council; and

WHEREAS, on December 3, 2024, the City Council held a duly noticed public hearing to consider the proposal; and

WHEREAS, the proposed amendments to the Planning Code rely on the certified Supplemental Environmental Impact Report (SEIR) for the Brooklyn Basin Marina Expansion Project (2023) and previous Oak-To-Ninth EIR (2009), since it implements, and is consistent with, the adopted Planning Code regulations that were studied in the previous EIR and updated through the SEIR; and

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

WHEREAS, each as a separate and independent basis, this action is exempt from CEQA pursuant to CEQA Guidelines sections 15183 (projects consistent with General Plan and Zoning); and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

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

SECTION 2. Planning Code Amendments. Title 17 of the Oakland Municipal Code is hereby amended pursuant to ***Exhibit A*** attached hereto, which is incorporated by reference herein. Additions to Title 17 of the Oakland Municipal Code are shown as underline and omissions are shown as ~~striketrough~~.

SECTION 3. California Environmental Quality Act. The Council finds and determines the adoption of this Ordinance complies with the California Environmental Quality Act (CEQA) and relies on the Previous CEQA Documents. No further environmental review is required under Public Resources Code section 21166 and CEQA Guidelines sections 15162 or 15163. Further, the Council finds the adoption of this Ordinance is exempt, pursuant to CEQA Guidelines sections 15183 (projects consistent with General Plan and Zoning). Each of these provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

SECTION 4. Direction to Environmental Review Office to File NOD. The Environmental Review Officer shall file a Notice of Exemption/Notice of Determination, and an Environmental Declaration under the California Fish and Game Code (Section 711.4) with the County of Alameda.

SECTION 5. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

SECTION 6. No Conflict with State and Federal Law. Nothing in this Ordinance shall be interpreted or applied to create any requirement, power, or duty in conflict with any federal or state law.

SECTION 7. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

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

SECTION 9. City Administrator Authorization to Make Non-Substantive Changes.

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

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

AN ORDINANCE, AS RECOMMENDED BY THE PLANNING COMMISSION, THAT: (1) AMENDS THE OAKLAND PLANNING CODE TO UPDATE CHAPTER 17.101B D-OTN, OAK-TO-NINTH DISTRICT ZONE REGULATIONS, TO: (A) UPDATE THE CHAPTER TITLE FROM PLANNED WATERFRONT ZONING DISTRICT (PWD-4) TO D-OTN, OAK-TO-NINTH DISTRICT ZONE; AND (B) MAKE CLERICAL UPDATES TO THE CHAPTER TO ENSURE THE INTENT OF THE CHAPTER IS IMPLEMENTED; AND 2) MAKES APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

This Ordinance makes Planning Code and Zoning text amendments to Chapter 17.101B that will replace the Planning Code text adopted on May 16, 2023, and Chapter 17.101B D-OTN Oak To Ninth District Regulations updated on January 12, 2016. The miscellaneous changes proposed will bring Chapter 17.101B in conformance with the rest of the Planning Code. The Ordinance also includes appropriate California Environmental Quality Act (CEQA) findings related to the above actions.