

  
CITY ATTORNEY'S OFFICE

# OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

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**AN ORDINANCE:**

- (1) AMENDING CHAPTER 17.10 OF THE OAKLAND PLANNING CODE, AS RECOMMENDED BY THE PLANNING COMMISSION, TO REVISE THE DEFINITIONS FOR PERMANENT RESIDENTIAL AND SEMI-TRANSIENT RESIDENTIAL ACTIVITY TYPES;**
- (2) AMENDING THE PLANNING CODE, AS RECOMMENDED BY THE PLANNING COMMISSION, TO INCORPORATE VARIOUS CLEAN-UP ITEMS RELATED TO THE GENERAL PLAN UPDATE PHASE I PLANNING CODE AMENDMENT PACKAGE;**
- (3) AMENDING THE EXISTING EXEMPTION FROM BUSINESS TAXES FOR FAMILY DAYCARES UNDER SECTION 5.04.263 OF THE OAKLAND MUNICIPAL CODE TO CONFORM WITH THE KEEPING KIDS CLOSE TO HOME ACT (SENATE BILL 234); AND**
- (4) MAKING RELATED CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS.**

**WHEREAS**, on January 1, 2020, Senate Bill 234, the Keeping Kids Close to Home Act, took effect to address the supply shortage and to increase the accessibility and variety of child-care options available by simplifying the regulatory process; and

**WHEREAS**, per California Health & Safety Code Section 1596.78, a Family Daycare Home means a facility that regularly provides care, protection, and supervision for fourteen (14) or fewer children, in the provider's own home, for periods of less than twenty-four (24) hours per day, while the parents or guardians are away; and

**WHEREAS**, per California Health & Safety Code Section 1597.42, the use of a home as a Family Daycare Home, operated under the standards of state law, in a residentially zoned area shall be considered a residential use for the purposes of municipal ordinances and regulations, and shall not fundamentally alter the nature of the underlying residential use; and

**WHEREAS**, per California Health & Safety Code Section 1597.40, the California Legislature has declared the policy of situating family daycare homes in normal residential surroundings to be a statewide concern with the purpose of occupying the field and preempting local laws, regulations, and rules governing the use and occupancy of family daycare homes; and

**WHEREAS**, State law forbids any attempt to deny or restrict the leasing, renting, or mortgaging to family daycare homes and this activity does not require a business license or building permit; providers are not required to submit an annual Business Tax Exemption form or apply for a Zoning Clearance Permit; and

**WHEREAS**, on January 31, 2023, the City of Oakland (City) adopted Resolution No. 89565 C.M.S., adopting the 2023-2031 Housing Element as a General Plan Amendment to the Oakland General Plan and determining that said adoption was exempt from the California Environmental Quality Act (CEQA); and

**WHEREAS**, the 2023-2031 Housing Element includes a program, referred to as the Housing Action Plan, that sets forth a schedule of action during the 2023-2031 planning period that the City is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element, which addresses each requirement provided under California Government Code Section 65583, subsection (c); and

**WHEREAS**, on September 26, 2023, the City Council held a duly noticed public hearing and adopted Resolution No. 89907 C.M.S., adopting the Safety Element, Environmental Justice Element, and the General Plan Amendments and certifying the environmental impact report for the General Plan Update Phase 1 project; and

**WHEREAS**, on October 3, 2023, the City Council held a duly noticed public hearing and adopted Ordinance No. 13763 C.M.S., adopting the General Plan Update Phase 1 Planning Code Text and Map Amendments to implement several actions contained in the Housing Action Plan; and

**WHEREAS**, on November 1, 2023, at a duly noticed public hearing, the Oakland Planning Commission recommended that the City Council adopt amendments to the Planning Code Chapter 17.10 as well as amendments of various clean up items related to the General Plan Update Phase 1 Planning Code amendment package; and

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

**SECTION 1. Recitals.** 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 and B* 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 ~~strikethrough~~

**SECTION 3. Amendments to Section 5.04.263 of the Oakland Municipal Code.** Oakland Municipal Code Chapter 5.04, Business Taxes Generally, Section 5.04.263 is hereby amended to read as follows (Additions to O.M.C. Section 5.04.263 are shown as underline and deletions are shown as strikethrough):

**5.04.263 – Exemption: Family Daycare.**

Every person licensed by the State of California Department of Social Services as a family daycare provider, and maintaining a state license permitting up to fourteen (14) children or less per facility, shall be exempt from the business tax imposed under this Chapter ~~to the extent that they derive gross receipts from such activity. Persons seeking an exemption pursuant to this Section must submit an annual statement, as described in Section 5.04.300, together with a copy of the most current license issued by the State of California Department of Social Services to the City.~~ Family child care providers shall not be subject to the requirements under Section 5.04.300.

**SECTION 4. California Environmental Quality Act (CEQA).** The Council finds and determines the adoption of this Ordinance complies with CEQA based on: (1) the proposed amendments to the Planning Code rely on the certified Oakland 2045 General Plan Update Phase 1 Environmental Impact Report and no further environmental review is required under Public Resources Code section 21166 and CEQA Guidelines sections 15162 or 15163; (2) adoption of this Ordinance is exempt pursuant to CEQA Guidelines section 15183 (projects consistent with General Plan and Zoning); and (3) adoption of this Ordinance is exempt pursuant to CEQA Guidelines section 15061(b)(3) (general rule, no significant effect on the environment). Each of these provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

**SECTION 5. Direction to Environmental Review Office to File NOD.** The Environmental Review Officer shall file a Notice of Exemption/Notice of Determination with the appropriate agencies.

**SECTION 6. 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 7. 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 8. Applicability.** Changes to activities under Planning Code Chapter 17.10 included in this Ordinance shall not apply to existing permitted activities where the property owner has established a right to operate at an existing property under that activity, such as but not limited to the issuance of a land use entitlement, zoning clearance, or other Planning Bureau determination.

**SECTION 9. 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 10. 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 11. City Administrator Authorization to Make Non-Substantive Changes.** The Council hereby authorizes the City Administrator to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors), prior to formal publication of the amendments in the Oakland Municipal 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: \_\_\_\_\_



## EXHIBIT A:

### REVISIONS TO PERMANENT RESIDENTIAL, SEMI-TRANSIENT RESIDENTIAL, AND LIMITED CHILD-CARE ACTIVITIES

The Oakland Planning Code (Title 17 of the Oakland Municipal Code) is proposed to be amended as follows. Additions are shown in underline and deletions are shown in ~~strike-through~~. Note that only the relevant code subsections being amended are included and unamended portions are omitted.

#### Chapter 17.10 USE CLASSIFICATIONS

##### 17.10.110 - Permanent Residential Activities.

Permanent Residential Activities include the occupancy of living accommodations on a thirty (30) days or longer basis, with none of the living units under the same ownership or management on the same lot being occupied on a shorter basis; but exclude institutional living arrangements other than state-licensed Residential Care Facilities for six (6) or fewer residents. However, such state-licensed Residential Care Facilities shall be subject to the three hundred (300) foot separation requirement in Section 17.103.010.B. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

Permanent Residential Activities additionally include the use of a living unit as a Family Daycare Home, as defined in the California Health and Safety Code as facility that regularly provides care, protection, and supervision for fourteen (14) or fewer children, in the provider's own home, for periods of less than twenty-four (24) hours per day, while the parents or guardians are away. Family daycare homes are regulated and licensed by the California Department of Social Services and are considered a residential activity for the purposes of these Zoning Regulations.

Family Daycare Homes, as specified above, shall not be regulated as a Limited Child-Care Civic Activity as described under Section 17.10.150.

##### 17.10.120 - Semi-Transient Residential Activities.

Semi-Transient Residential Activities include the occupancy of living accommodations partly on a thirty (30) days or longer basis and partly for a shorter time period, but with less than thirty percent (30%) of the living units under the same ownership or management on the same lot being occupied on a less-than-thirty-days basis; but exclude institutional living arrangements involving the provision of a special kind of care or forced residence, such as in nursing homes, orphanages, asylums, and prisons. All units within this classification provided for occupancy on a less-than-thirty-day basis are intended to be used, rented, or hired out as an occupant's primary residence; and as such, are not permitted to be used or provided as lodging services for transient guests or

tourists. For use by transient guests or tourists, please see Section 17.10.440 Transient Habitation Commercial Activities or Section 17.10.125 - Bed and Breakfast Residential Activities. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**17.10.150 - Limited Child-Care Activities.**

Limited Child-Care Civic Activities include the provision of day-care service for fourteen (14) or fewer children, provided, however, that care for six (6) or more children be provided only in facilities licensed by a state or county agency. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

Note: Family Day Care Homes, as specified in 17.10.110, are permitted by right in all residential zoning districts.



## **Chapter 17.17 RM MIXED HOUSING TYPE RESIDENTIAL ZONES REGULATIONS**

### **Sections:**

17.17.060 Special regulations for Planned Unit Developments.

#### **17.17.060 Special regulations for Planned Unit Developments.**

~~A. Mini-Lot **Planned-Unit Developments.** In Mini-Lot Planned Unit Developments (Mini-Lot PUD), certain regulations that otherwise apply to individual lots in the RM Zones may be waived or modified when and as prescribed in Chapter 17.142.~~

AB. Planned Unit Developments. Large integrated developments shall be subject to the Planned Unit Development (PUD) regulations in Chapter 17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the RM Zones, and certain of the other regulations applying in said zone may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

## **Chapter 17.30 R-80 HIGH-RISE APARTMENT RESIDENTIAL ZONE REGULATIONS**

### **Sections:**

17.30.200 Special regulations for Planned Unit Developments and Large-Scale Developments.

#### **17.30.200 Special regulations for Planned Unit Developments and Large-Scale Developments.**

B. Large-Scale Developments. No development which involves more than one hundred thousand (100,000) square feet of new floor area, or a new building or portion thereof of more than one hundred twenty (120) feet in height, shall be permitted except upon the granting of a Conditional Use Permit pursuant to the Conditional Use Permit procedure in Chapter 17.134. This requirement shall not apply to developments that include one hundred percent (100%) affordable housing units, other than manager's units, or where a valid Planned Unit Development permit is in effect.

## Chapter 17.58 CBD CENTRAL BUSINESS DISTRICT ZONES REGULATIONS

### Sections:

17.58.030 Special Regulations for Large-Scale Developments.

### 17.58.030 Special Regulations for Large-Scale Developments.

No development that involves more than two hundred thousand (200,000) square feet of new floor area, or a new building or portion thereof of more than two hundred fifty (250) feet in height, shall be permitted except upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). This requirement shall not apply to developments that include one hundred percent (100%) affordable housing units, other than manager's units, or that have been approved according to the Planned Unit Development procedure (see Chapter 17.140 for the PUD procedure).

## Chapter 17.65 HBX HOUSING AND BUSINESS MIX COMMERCIAL ZONES REGULATIONS

### Sections:

17.65.150 Special regulations for HBX Work/Live units.

17.65.160 Special regulations for HBX Live/Work units.

### 17.65.150 Special regulations for HBX Work/Live units.

D. Activity, parking, bicycle parking, loading, open space, and unit size standards. The following table contains the activities allowed in an HBX Work/Live unit; the minimum size of an HBX Work/Live unit; and the parking, loading, and open space required for each HBX Work/Live unit:

Standard	Requirement		Note
Activities allowed in an HBX Work/Live unit	Same permitted and conditionally permitted activities as described in Section 17.65.030 and any activity that would qualify as a home occupation in a Residential Facility (See Chapter 17.112)		
Required parking	One (1) parking space per unit, <u>except that no parking shall be required if located within one-half (1/2) mile of a major transit stop, as defined in Section 21155 of the Public Resources Code.</u>		1, 4
Required bicycle parking	<b>With private garage for each unit:</b>	<b>Without private garage for each unit:</b>	2, 4
	One (1) short-term space for each 20 units; minimum requirement is two (2) short-term spaces.	One (1) long-term space for each four (4) units; minimum requirement is two (2) long-term spaces. One (1) short-term space for each 20 units; minimum requirement is two (2) short-term spaces.	
Required loading	<b>Square feet of facility</b>	<b>Requirement</b>	4

	Less than <del>50,000</del> <del>25,000</del> square feet	No berth required	
	<del>50,000—149,999</del> <del>25,000—69,999</del> square feet	One (1) berth	
	<del>70,000—129,999</del> square feet	<del>Two (2) berths</del>	
	<del>150,000</del> <del>130,000</del> square feet or more	<del>Two (2) berths</del> <del>Three (3) berths</del>	
Residential Density	Not applicable because HBX Work/Live units are Nonresidential Facilities.		
Required usable open space	75 square feet of usable open space per unit		<u>3</u>
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. See Chapter 17.117 for other bicycle parking standards.
3. No additional open space is required for newly established HBX Work/Live units located entirely within an existing facility. However, if the amount of open space on the lot equals or is less than required, then that existing amount must be preserved with the establishment of new HBX Work/Live units. If there is more open space on the lot than required, then the amount of open space can be reduced to the minimum required. Each one (1) square foot of private usable open space equals two (2) square feet towards the total usable open space requirement. Also, all required usable open space shall meet the usable open standards contained in Chapter 17.126, except that all usable open space for HBX Work/Live units may be provided above ground.
4. Parking and loading standards apply to new construction and additions only. For conversion of existing buildings, maintaining existing parking and loading is required to at least these minimum standards.

**17.65.160 Special regulations for HBX Live/Work units.**

- D. Activity, parking, bicycle parking, loading, open space, and unit size standards. The following table contains the activities allowed in an HBX Live/Work unit, required off-street auto parking, required bicycle parking, the minimum size of an HBX Live/Work unit, and the loading and open space for each HBX Live/Work unit:

Standard	Requirement	Note
Activities allowed in an HBX Live/Work unit	Same permitted and conditionally permitted activities as described in Section 17.65.030 and any activity that would qualify as a home occupation in a Residential Facility (See Chapter 17.112)	
Required parking	<u>One (1) parking space per unit, except that no parking shall be required if located within one-half (1/2) mile of a major transit stop, as defined in</u>	1, 4

	<u>Section 21155 of the Public Resources Code. See Chapter 17.116 for other off-street parking standards.</u>		
Required bicycle parking	<b>With private garage for each unit:</b>	<b>Without private garage for each unit:</b>	2, 4
	One (1) short-term space for each 20 units; minimum requirement is two (2) short-term spaces.	One (1) long-term space for each four (4) units; minimum requirement is two (2) long-term spaces. One (1) short-term space for each 20 units; minimum requirement is two (2) short-term spaces.	
Required loading	<b>Square feet of facility</b>	<b>Requirement</b>	3, 4
	Less than 50,000 square feet	No berth required	
	50,000—149,999 square feet	One (1) berth	
	150,000 square feet or more	Two (2) berths	
Permitted density	Same as Section 17.65.070		
Required usable open space	Same as Section 17.65.120		

**Notes:**

1. See Chapter 17.116 for other off-street parking standards.
2. See Chapter 17.117 for other bicycle parking standards.
3. Chapter 17.116 contains other off-street loading standards. However, for new construction, the minimum height or length of a required berth listed in Chapter 17.116 may be reduced upon the granting of Design Review approval (see Chapter 17.136), and upon determination that such smaller dimensions are ample for the size and type of trucks or goods that will be foreseeably involved in the loading operations of the activity served. This design review requirement shall supersede the requirement stated in Section 17.116.220.
4. Parking and loading standards shall apply to new construction and additions only. No additional parking or loading is required for HBX Live/Work units within an existing building. For conversion of existing buildings, maintaining the amount of existing parking and loading is required to at least these minimum standards. If there is more parking or loading spaces on the lot than required, then each can be reduced to the minimum required.

## **Chapter 17.72 M-20, M-30, AND M-40 INDUSTRIAL ZONES REGULATIONS**

### **Sections:**

17.72.070 Other zoning provisions.

### **17.72.070 Other zoning provisions.**

#### **A. Performance Standards.**

1. In the M-20 Zone, all Commercial and Industrial Activities shall be subject to the applicable provisions of the performance standards in Chapter 17.120.
2. In the M-30 and M-40 Zones, all Commercial and Industrial Activities which are located within six hundred (600) ~~four hundred (400)~~ feet from any boundary of a Residential Zone shall be subject to the applicable provisions of the performance standards in Chapter 17.120.

## **Chapter 17.73 CIX, IG AND IO INDUSTRIAL ZONES REGULATIONS**

### **Sections:**

17.73.015 Required design review process.

17.73.030 Property Development Standards.

17.73.040 Special regulations for Work/Live units in the CIX, IG, and IO Industrial Zones

17.73.060 Referral to other applicable regulations.

### **17.73.015 Required design review process.**

- C. No facility located within six hundred (600) ~~one hundred fifty (150)~~ feet of any Residential Zone boundary and accommodating the following activities shall be constructed, established, or expanded in size unless plans for the proposal have been approved pursuant to the Regular Design Review procedure in Chapter 17.136.
  1. Automobile and Other Light Vehicle Gas Station and Servicing Activity.
  2. Automobile and Other Light Vehicle Repair and Cleaning Activity.
  3. Freight/Truck Terminal.
  4. Truck Yard.
  5. Truck Weigh Stations.
  6. Truck and Other Heavy Vehicle Sales, Rental, and Leasing.
  7. Truck and Other Heavy Vehicle Service, Repair, and Refueling.



**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-1A	CIX-1B	CIX-1C	CIX-1D	CIX-1	CIX-2	IG	IO	
<b>Minimum Fence Height in Yards adjacent to Residential or Open Space Zones</b>	8 ft.	8 ft.	8 ft.	8 ft.	8 ft.	8 ft.	8 ft.	8 ft.	14
<b><u>Fence heights &amp; other similar regulations</u> Maximum Fence Height in Yards adjacent to Residential or Open Space Zones</b>	See Section 17.108.140 for <u>standards applicable to fences, dense hedges, barriers or similar freestanding walls.</u> <del>maximum fence height adjacent to Residential or Open Space Zones</del>								14, 15

**Additional Regulations Noted in Table 17.73.030**

**14.** ~~Applies to all property lines in CIX, IG and IO Industrial Zones, except those fronting a public street, which directly abut a Residential or Open Space Zone. All buffering requirements apply to: a) new development; or expansion of an industrial or commercial building by more than twenty percent (20%) floor area, or b) addition or expansion of an existing building so that the building to land ratio exceeds thirty five percent (35%), whichever is greater. See Section 17.108.140 for additional standards applicable to fences, barriers and similar freestanding walls.~~

**15.** ~~A reduced buffer requirement may be permitted if appropriate and approved by the Planning Director with the provision of a solid wall of at least eight (8) feet in height in combination with trees and shrubs at a standard appropriate for minimizing the incompatibility between uses. The wall and landscape design shall be approved by the Planning Director, or his or her designee.~~

**17.73.040 Special regulations for Work/Live units in the CIX, IG, and IO Industrial Zones.**

E. Activity, parking, loading, open space, and unit size standards for Work/Live units in the CIX, IG, and IO Industrial Zones. 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 in the CIX, IG, and IO Industrial Zones.**

<b>Standard</b>	<b>Requirement</b>	<b>Note</b>
<b>Activities allowed in a Work/Live unit</b>	Same permitted and conditionally permitted activities as described in Section 17.73.020 for the applicable base zone.	
<b>Required parking</b>	<u>One (1) parking space per unit, except that no parking shall be required if located within one-half (1/2) mile of a major transit stop, as defined in Section 21155 of the Public Resources Code. See Chapter 17.116 for other off-street parking standards.</u>	1, 3
<b>Required usable open space</b>	Seventy-five (75) square feet of usable open space per unit	2, 3

**Notes:**

1. See Chapter 17.116 for 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 for Work/Live units may be provided above ground. Further, each one (1) square foot of private usable open space equals two (2) square feet towards the total usable open space requirement.
3. Parking, loading, and open space standards shall apply to new construction and additions only. No additional parking, loading or open space is required for newly established Work/Live units within an existing building. For conversion of existing buildings, maintaining the amount of existing parking, loading, and open space is required to at least these minimum standards. If there is more parking, loading, and open space on the lot than required, then each can be reduced to the minimum required.

**17.73.060 Referral to other applicable regulations.**

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

**Table 17.73.050: Referral to Other Regulations**

<b>Subject</b>	<b>Section</b>
Fence and retaining wall standards, including location, height, and materials	<u>17.108.140</u>

**Chapter 17.88 S-9 FIRE SAFETY PROTECTION COMBINING ZONE REGULATIONS**  
**Sections:**

17.88.050 Prohibited land uses.

**17.88.050 Prohibited land uses.**

The following land use activities or facilities are prohibited within the S-9 Fire Safety Protection Combining Zone:

A. The following Accessory Dwelling Units (ADUs) as defined in Sections 17.09.040 and 17.103.080:

One Family, Two- to Four-Family, and Multifamily Category One Accessory Dwelling Units that are conversions of space outside the envelope of an existing Residential Facility;

More than one Two- to Four-Family or Multifamily Category One Accessory Dwelling Unit that is within the existing envelope of an existing Residential Facility per lot;

One Family, Two- to Four-Family, and Multifamily Category Two Accessory Dwelling Units;

Two- to Four-Family and Multifamily Category Three Accessory Dwelling Units.

**Chapter 17.95 S-13 AFFORDABLE HOUSING COMBINING ZONE REGULATIONS**  
**Sections:**

17.95.020 Affordability Thresholds

**17.95.020 Affordability Thresholds**

By Right Residential Approval under the S-13 Combining Zone shall apply to developments that include one hundred percent (100%) affordable housing units, other than manager's units, one hundred percent (100%) affordable housing projects (as defined in Oakland Planning Code Section 17.09.040), restricted to extremely low-, very low-, low-, and/or moderate-income households (as defined in California Health and Safety Code Sections 50093, 50105, and 50106, and in Oakland Planning Code Section 17.09.040).

Projects proposing to utilize the By Right Residential Approval provisions in this chapter on a parcel less than fifteen thousand (15,000) square feet must provide affordable housing units that meet the following criteria:

At least twenty percent (20%) of the housing units are restricted to very low-income or lower-income households; and

At least twenty percent (20%) of the housing units are restricted to moderate-income households.

## **Chapter 17.96 S-14 HOUSING SITES COMBINING ZONE REGULATIONS**

### **Sections:**

17.96.050 Minimum Densities.

### **17.96.050 Minimum Densities.**

All development projects proposed in the S-14 Combining Zone must comply with the minimum residential density requirements described in this section. Any project proposed in the S-14 Zone not providing the minimum required residential density shall not be permitted.

All projects proposed in the S-14 Combining Zone shall include a residential unit count that equals no less than seventy-five percent (75%) of the Realistic Capacity designated for the site as shown in the Housing Sites Inventory.

Notwithstanding the above, a proposed development in which one hundred percent (100%) of the residential units are reserved for moderate-, low-, and very low-income households, other than manager's units, may propose a residential unit count that is less than seventy-five percent (75%) of the Realistic Capacity designated for the site so long as the residential unit count equals no less than one hundred percent (100%) of the lower income capacity for the site as shown in

## **Chapter 17.97 S-15 TRANSIT-ORIENTED DEVELOPMENT COMMERCIAL ZONES REGULATIONS**

### **Sections:**

17.97.030 Special regulations for Large-Scale Developments.

17.97.040 Permitted and conditionally permitted activities.

17.15.050 Permitted and conditionally permitted facilities.

17.97.060 Property development standards.

17.97.070 Height, floor area ratio (FAR), density, and open space.

17.97.090 Special regulations for Planned Unit Developments.

17.97.100 Other zoning provisions.

**17.97.030 Special regulations for Large-Scale Developments.**

No development which involves more than one hundred thousand (100,000) square feet of new floor area shall be permitted except upon the granting of a Conditional Use Permit pursuant to the Conditional Use Permit procedure in Chapter 17.134. This requirement shall not apply to developments that include one hundred percent (100%) affordable housing units, other than manager’s units, or where a valid Planned Unit Development permit is in effect, and Section 17.97.100, or upon the granting of a Planned Unit Development approval pursuant to Chapters 17.140 and 17.142.

**17.97.040 Permitted and conditionally permitted activities.**

**Table 17.97.01: Permitted and Conditionally Permitted Activities**

Activities	Zone		Additional Regulations
	S-15	S-15W	
<b>Residential Activities</b>			
Permanent	P	P	
Residential Care	P(L1)	P(L1)	17.103.010
Supportive Housing	P	P	
Transitional Housing	P	P	
Emergency Shelter	<del>—P(L1)</del>	<del>—P(L1)</del>	17.103.010
Semi-Transient	—	—	
Bed and Breakfast	—	—	17.10.125
<b>Agriculture and Extractive Activities</b>			
Limited Agriculture	P(L4)	P(L4)	
Extensive Agriculture	C(L5)	C(L5)	
Plant Nursery	—	—	
Mining and Quarrying	—	—	

**Limitations on Table 17.97.01:**

**L1.** See Section 17.103.010 for other regulations regarding Residential Care Residential Activities, and Sections 17.103.010 and 17.103.015 for other regulations regarding Emergency Shelter Residential Activities. Notwithstanding anything to the contrary contained in the Planning Code, Emergency Shelter Residential Activities are permitted by-right on properties owned by churches, temples, synagogues, and other similar places of worship approved for Community Assembly Civic Activities; prohibited elsewhere in the zone. Residential Care is permitted if located in a One Family Dwelling Residential Facility; conditionally permitted if located elsewhere (see Chapter 17.134 for the CUP procedure). No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.

**L2.** Community Gardens are permitted ~~outright~~ if they do not include the cultivation of animals, animal products, and/or livestock production, except for bee keeping involving no more than three (3) hives. ~~The cultivation of animals, animal products and/or livestock production, except for bee keeping involving no more than three (3) hives, is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).~~

**L4.** Limited Agriculture is permitted ~~outright~~ if the activity occupies less than five thousand (5,000) square feet ~~one (1) acre~~ of land area and any sales area is less than one thousand (1,000) square feet; conditionally permitted if the activity is larger in either land or sales area (see Chapter 17.134 for the CUP procedure).

**17.97.050 Permitted and conditionally permitted facilities.**

**Table 17.97.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones		Additional Regulations
	S-15	S-15W	
<b>Residential Facilities</b>			
One-Family Dwelling	—(L2)	—(L2)	17.103.080
Two- to Four-Family Dwelling	C(L3)	C(L3)	17.103.080
Multifamily Dwelling	P(L3)	P(L3)	17.103.080
Rooming House	— <u>C</u>	C	
Vehicular	P	P	17.103.085

**17.97.060 Property development standards.**

A. Zone Specific Standards. Table 17.97.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

**Table 17.97.03: Property Development Standards**

Activities	Zones		Additional Regulations
	S-15	S-15W	
<b>Minimum/Maximum Setbacks</b>			
Minimum interior side	0 ft.	0 ft.	3, 8
Minimum street side	0 ft.	0 ft.	4, 8

**Additional Regulations for Table 17.97.03:**

**3.** Wherever an interior side lot line abuts an interior side lot line of any lot located in an RH or RD Zone, a side setback of six (6) feet is required. ~~the setback of the abutting portion of its side~~

~~lot line is ten (10) feet.~~ In the case where an interior side lot line abuts an interior side lot line in an RM Zone, the setback of the abutting portion of its side lot line is five (5) feet. In the case where an interior side lot line abuts an interior side lot line of any lot located in a side yard of an RU-1 or RU-2 Zone, ~~lot~~, a side setback of four (4) feet is required (see Illustration for Table 17.97.03 [Additional Regulation 3], below). Also, see Section 17.108.130 for allowed projections into setbacks.

4. When the rear yard of a reversed corner lot abuts a key lot that is in an RH, RD, or RM Zone, the required street side yard setback in the rear ~~ten (10) twenty (20)~~ feet of the reversed corner lot is one-half (½) of the minimum front yard required on the key lot but shall not be required to exceed four (4) feet in width if it would reduce to less than twenty-five (25) feet the buildable width of any corner lot. (see Illustration for Table 17.97.03 [Additional Regulation 4], below) Also, see Section 17.108.130 for allowed projections into setbacks.

**17.97.070 Height, floor area ratio (FAR), density, and open space.**

Table 17.97.04 below prescribes height, FAR, density, and open space standards associated with the S-15 and S-15W Height Areas described in the Zoning Maps. The number designations in the "Additional Regulations" column refer to regulations below the table. "N/A" designates the regulation is not applicable to the specified Height Area.

**Table 17.97.04 Height, Floor Area Ratio (FAR), Density, and Open Space Regulations**

Regulation	Height Area									Additional Regulations
	35	45	55	65	95	100	125	140	175	
<b>Minimum Usable Open Space</b>										
Group usable open space per Regular Dwelling Unit	<del>75</del> 150	<del>75</del> 150	<del>75</del> 150	<del>75</del> 150	<del>75</del> 100	75	75	75	75	6
Group usable open space per Regular Dwelling Unit when private open space substituted	<del>20</del> 30	<del>20</del> 30	<del>20</del> 30	<del>20</del> 30	20	15	15	15	15	6
Group usable open space per Rooming Unit	<del>38</del> 75	<del>38</del> 75	<del>38</del> 75	<del>38</del> 75	<del>38</del> 50	38	38	38	38	6
Group usable open space per Rooming Unit when private open space is substituted	<del>10</del> 15	<del>10</del> 15	<del>10</del> 15	<del>10</del> 15	10	8	8	8	8	6
Group usable open space per Efficiency Dwelling Unit	<del>38</del> 75	<del>38</del> 75	<del>38</del> 75	<del>38</del> 75	<del>38</del> 50	38	38	38	38	6
Group usable open space per Efficiency Dwelling Unit when	<del>10</del> 15	<del>10</del> 15	<del>10</del> 15	<del>10</del> 15	10	8	8	8	8	6

private open space is substituted										
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**Additional Regulations for Table 17.97.04:**

2. Buildings shall have a thirty (30) foot maximum height at the setback line associated with any rear or interior side lot line that abut a lot in an RH, RD, or RM Zone; if the principal building on the abutting lot has a height of thirty (30) feet or less, this maximum height shall increase one (1) foot for every foot of distance away from this setback line. If the principal building on the abutting lot has a height of greater than thirty (30) feet, the maximum height shall increase two (2) feet for every foot away from the applicable setback line (see Illustration for Table 17.97.04 [Additional Regulation 2], below). Also, see Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits in certain situations.

5. As specified in Section 17.106.030, the total lot area shall be used as the basis for computing both the maximum nonresidential FAR and the maximum residential density for mixed use projects. No portion of lot area used to meet the residential density requirements shall be used as a basis for computing the maximum nonresidential FAR unless the total nonresidential floor area on the lot is less than three thousand (3,000) square feet.

**17.97.090 Special regulations for Planned Unit Developments.**

~~A. Mini-Lot **Planned Unit Developments.** In Mini-Lot Planned Unit Developments (Mini-Lot PUDs), certain regulations that apply to individual lots in the S-15 Zones may be waived or modified when and as prescribed in Chapter 17.142.~~

AB. Planned Unit Developments. Large integrated developments shall be subject to the Planned Unit Development (PUD) regulations in Chapter 17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the S-15 Zones, and certain of the other regulations applying in said zone may be waived or modified. The normally required design review process may also be waived for developments at the time of initial granting of a Planned Unit Development (PUD) permit. Unless otherwise specified in the PUD permit, any future changes within the Planned Unit Development shall be subject to applicable design review regulations.

**17.97.100 Other zoning provisions.**

C. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112. ~~See Section 17.112.060 for home occupation regulations specific to the West Oakland Specific Plan Area.~~



**Chapter 17.99 S-17 DOWNTOWN RESIDENTIAL OPEN SPACE COMBINING ZONE REGULATIONS**

**Sections:**

17.99.060 Landscaping requirements.

**17.99.060 Landscaping requirements.**

At least ten percent (10%) of usable open space area (with the exception of private usable open space) shall include landscaping enhancement. Landscaping enhancements shall consist of permanent features, such as trees, shrubbery, decorative planting containers and coverings (mulch, gravel), fountains, boulders or artwork (sculptures, murals). The remainder of the space shall include user amenities such as seating, decorative paving, ~~sidewalk cafes~~, or playground structures.

**Chapter 17.101A - D-WS WOOD STREET DISTRICT ZONES REGULATIONS**

**Sections:**

17.101A.030 Property development standards.

**17.101A.030 Property development standards.**

**Zone Specific Standards.** Table 17.101A.02 below prescribes development standards specific to individual D-WS Zones in the Wood Street Zoning District. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "N/A" designates the regulation is not applicable to the specified D-WS Zone.

**Table 17.101A.02 – Property Development Standards**

Development Standards	Zones									Additional Regulations
	D-WS-1	D-WS-2	D-WS-3	D-WS-4	D-WS-5	D-WS-6	D-WS-7	D-WS-8	D-WS-9	
<b>Maximum Residential Density (square feet of lot area required per dwelling unit)</b>										
Maximum Permitted Density for Regular Dwelling Units	1 unit per 1,535 sf. of lot area	1 unit per 850 sf. of lot area	1 unit per 1,218 sf. of lot area	1 unit per 614 sf. of lot area	N/A	1 unit per 549 sf. of lot area	1 unit per 679 sf. of lot area	1 unit per 332 sf. of lot area	N/A	1
Maximum Number of <u>Regular</u>	82	200	200	450	0	215	170	264	0	1

Dwelling Units										
<b>Minimum Residential Density (square feet of lot area required per dwelling unit)</b>										
Minimum Permitted Density for Regular Dwelling Units	1 unit per 2,000 sf. of lot area	1 unit per 2,000 sf. of lot area	1 unit per 2,000 sf. of lot area	1 unit per 2,000 sf. of lot area	N/A	1 unit per 1,000 sf. of lot area (44 Dwelling Units/Acre)	1 unit per 1,000 sf. of lot area	1 unit per 1,000 sf. of lot area	N/A	1

**Additional Regulations for Table 17.101A.02:**

1. Density based on Regular Dwelling Units. For Efficiency Dwelling Units, the minimum allowable lot area per unit shall be one-half (1/2) that ~~the same as~~ for Regular Dwelling Units. One additional unit is allowed if after division of the total lot area by the minimum lot area the remainder is equal to two-thirds (2/3) or greater of the minimum lot area. For Rooming Units, there is no minimum density standard.

**Chapter 17.101B D-OTN OAK TO NINTH DISTRICT ZONE REGULATIONS**

**Sections:**

17.101B.020 Permitted and conditionally permitted activities.

17.101B.020 Permitted and conditionally permitted activities.

**Table 17.101B.01: Permitted and Conditionally Permitted Activities**

Activities	Zones		Additional Regulations
	D-OTN	OS-RSP	
<b>Residential Activities</b>			
Permanent	P	C	
Residential Care	P(L3)	C	17.103.010
Supportive Housing	P	C	
Transitional Housing	P	C	
Emergency Shelter	—P(L3)	—	17.103.010
Semi-Transient	C	—	
Bed and Breakfast	—	—	17.10.125

**Limitations on Table 17.101B.01:**

L3. See Section 17.103.010 for other regulations regarding Residential Care Residential Activities, and Sections 17.103.010 and 17.103.015 for other regulations regarding Emergency Shelter Residential Activities. Notwithstanding anything to the contrary contained in the Planning

~~Code, Emergency Shelter Residential Activities are permitted by-right on properties owned by churches, temples, synagogues, and other similar places of worship approved for Community Assembly Civic Activities; prohibited elsewhere in the zone. Residential Care is permitted if located in a One-Family Dwelling Residential Facility; conditionally permitted if located elsewhere (see Chapter 17.134 for the CUP procedure). No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.~~

**Chapter 17.101C D-BV BROADWAY VALDEZ DISTRICT COMMERCIAL ZONES REGULATIONS**

**Sections:**

17.101C.050 - Property development standards.

**17.101C.050 - Property development standards.**

**D. Retail Priority Sites: Height, Floor Area Ratio (FAR), Residential Bonus, and Open Space.** Table 17.101C.06 below prescribes height, FAR, residential bonus, and open space, standards associated with the minimum retail area required in the Retail Priority Sites described in Table 17.101C.05 above. The number designations in the "Additional Regulations" column refer to regulations below the table. "N/A" designates the regulation is not applicable to the specified retail percentage category.

<b>Table 17.101C.06: Retail Priority Sites: Height, Floor Area Ratio (FAR), Residential Bonus, and Open Space</b>			
Regulation	Percentage (%) of Retail Area Equals the Square Footage of Retail Required from Table 17.101C.05 to Develop Residential Facilities or Taller Non-Residential Facilities		
	50% of Retail Priority Site	60% of Retail Priority Site	Additional Regulations
<b>Maximum Height</b>			
Building Base Max. Height	85 ft.	85 ft.	
Maximum Height Total	200 ft.	200/250 ft.	1, 2
Maximum number of stories (not including underground construction)	19	19/24	1, 2
<b>Height Minimum</b>	N/A	N/A	
<b>Maximum Residential Bonus (retail square feet required per dwelling unit)</b>			
Regular Units	125	100	2, 3, 4
Rooming Units	100	75	2, 3
<b>Maximum Nonresidential FAR</b>	8.0	8.0/10.0	1, 2
<b>Minimum Usable Open Space</b>			

Area: on each lot containing Residential Facilities of two or more units, usable open space shall be provided for such facilities at a rate stated per dwelling unit	75 sf.	75 sf.	5, 6, 7
Area: on each lot containing Residential Facilities of two or more units, usable open space shall be provided for such facilities at a rate stated per rooming unit	38 sf.	38 sf.	5, 6, 7
Area: on each lot containing senior or affordable housing units, usable open space shall be provided for such facilities at a rate stated per dwelling unit or rooming unit	30 sf.	30 sf.	5, 6, 7
Area: Conversion of Historic Resource building from commercial to residential, usable open space shall be provided for such facilities at a rate stated per dwelling or rooming unit	0 sf.	0 sf.	7
<b>Size and shape of open space:</b> An area of contiguous space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than the dimensions shown below:			
Private Open Space: is accessible from a single unit	10 ft. for space on the ground floor and 4 ft. on other floors		5, 6, 7
Rooftop: a type of group open space, includes decks, swimming pools, spas and landscaping located on the rooftop and accessible to all tenants	15 ft.		5, 6, 7
Courtyard: a type of group open space that can be located anywhere within the subject property	15 ft.		5, 6, 7
Private Group Community Room: a type of interior group space that could include a movie room, kitchen, and/or gym	10 ft. (1/3 of the required usable open space can be used for this type)		5, 6, 7
Public Ground-Floor Plaza: a type of group open space (see Section 17.127.030) located at street level and adjacent to the building frontage. Plazas are publicly accessible during daylight hours and are maintained by the property owner. Plazas shall be landscaped and include pedestrian and other amenities, such as benches, fountains and special paving	10 ft.		5, 6, 7

**Additional Regulations for Table 17.101C.06:**

7. Notwithstanding anything to the contrary contained in the Planning Code, variances may not be granted relating to: (a) a reduction and/or elimination of any open space; or (b) a reduction and/or elimination of any open space serving any activity, or if already less than currently required open space, shall not be reduced further below the requirements prescribed for such activity in this Chapter, as the granting of a CUP (see Chapter 17.134 for the CUP procedure) and payment of the in-lieu fee shall be the sole means of reducing or eliminating open space, except as provisions in state and local law requiring regulatory concessions for certain types of affordable and senior housing projects may apply.

## **Chapter 17.101D D-KP KAISER PERMANENTE OAKLAND MEDICAL CENTER DISTRICT ZONES REGULATIONS**

### **Sections:**

17.101D.060 Design review.

17.101D.080 Master Plan amendment.

### **17.101D.060 Design review.**

D. Regular Project Design Review. Unless determined exempt or subject to Small project design review pursuant to Section 17.101D.040 B or C above, no building, sign or other facility shall be constructed or established or altered in such a manner as to substantially affect its exterior appearance unless plans for such proposal have been approved pursuant to the following Regular Design Review procedures:

2. Procedure for Consideration of Design Review: Applications for design review shall be considered by the Director of City Planning or the Planning Commission according to the following procedures:
  - b. Notice of public and/or administrative hearings shall be given by posting notices thereof within three hundred (300) feet of the property involved in the application; notice shall also be given by mail or delivery to all owners and occupants ~~persons shown on the last available equalized assessment roll as owning real property in the City~~ within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown on the last available equalized assessment roll shall not invalidate the affected proceedings. Notice shall also be given by e-mail, mail or delivery to all persons previously requesting to be notified of actions related to the Kaiser OMC Campus through public workshops, community meetings or other direct requests to the Planning and Building Department. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing, if such is to be held, or, if not, for decision on the application by the Director or the Commission, as the case may be.

### **17.101D.080 Master Plan amendment.**

E. Notice of public hearings required herein shall be given by (1) newspaper; (2) posting notices thereof within three hundred (300) feet of the property involved in the application; and (3) by mail or delivery to all owners and occupants ~~of persons shown on the last available equalized assessment roll as owning real property in the City~~ within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown on the last available equalized assessment roll shall not invalidate the affected proceedings. Notice shall also be given by e-mail, mail or delivery to all persons previously requesting to be notified of actions related to the Kaiser OMC Campus through public workshops, community meetings or other direct requests to the Planning and Building Department. All such notices shall be given not less than seventeen (17) days prior to the date

set for the hearing on the application before the Commission or City Council, as the case may be.

**Chapter 17.101E D-CE CENTRAL ESTUARY DISTRICT ZONES REGULATIONS**

**Sections:**

17.101E.050 Property development standards.

17.101E.070 Special regulations for D-CE Work/Live units.

17.101E.080 Special Regulations for Live/Work Units in the D-CE-3 and D-CE-4 Zones.

**17.101E.050 Property development standards.**

A. Zone Specific Standards. Table 17.101E.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "N/A" designates the standard is not applicable to the specified zone.

**Table 17.101E.03 Property Development Standards**

Development Standards	Zones						Additional Regulations	
	D-CE-1	D-CE-2	D-CE-3	D-CE-4	D-CE-5	D-CE-6		
Fence heights & other regulations	See Chapter 17.108.140 for standards applicable to fences, dense hedges, barriers, & free standing walls; and Design Guidelines for the Central Estuary Section 3.8.						8	
—Minimum fence height in yards adjacent to Residential and Open Space Zones	See Chapter 17.108.140 for fences, dense hedges, barriers, & freestanding walls; and "Design Guidelines for the Central Estuary" Section 3.8.			8 ft.			8 ft.	8
—Maximum fence height adjacent to Residential and Open Space Zones	8 ft.	N/A	8 ft.	8 ft.	12 ft.	12 ft.	8	

**17.101E.070 Special regulations for D-CE Work/Live Units.**

D. Table 17.101E.06 below prescribes special regulations for D-CE Work/Live Units. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

**Table 17.101E.06 Special Regulations for D-CE Work/Live Units**

Development Standards	Zones						Additional Regulations	
	D-CE-1	D-CE-2	D-CE-3	D-CE-4	D-CE-5	D-CE-6		

**Parking and Loading Requirements** - See also "Design Guidelines for the Central Estuary" Sections 3.2, 3.5, 3.6 and 3.8.

Minimum parking spaces required per Work/Live Unit	N/A	N/A	<u>One (1) parking space per unit, except that no parking shall be required if located within one-half (1/2) mile of a major transit stop, as defined in Section 21155 of the Public Resources Code. See Chapter 17.116 for other parking requirements</u>	<u>One (1) parking space per unit, except that no parking shall be required if located within one-half (1/2) mile of a major transit stop, as defined in Section 21155 of the Public Resources Code. See Chapter 17.116 for other parking requirements</u>	N/A	N/A	5
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**17.101E.080 Special Regulations for Live/Work Units in the D-CE-3 and D-CE-4 Zones.**

E. Table 17.101E.08 below prescribes special regulations for D-CE Live/Work units. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

**Table 17.101E.08 Special Regulations for Live/Work Units in D-CE-3 and D-CE-4 Zones**

Development Standards	Zones		Additional Regulations
	D-CE-3	D-CE-4	
<b>Parking and Loading Requirements</b> See also "Design Guidelines for the Central Estuary" Sections 3.2, 3.5, 3.6 and 3.8.			
Minimum parking spaces required per Work/Live unit	<u>1 parking space per unit, except that no parking shall be required if located within one-half (1/2) mile of a major transit stop, as defined in Section 21155 of the Public Resources Code.</u>	<u>1 parking space per unit, except that no parking shall be required if located within one-half (1/2) mile of a major transit stop, as defined in Section 21155 of the Public Resources Code.</u>	2
<b>Required Loading</b> See also "Design Guidelines for the Central Estuary" Section 3.6			
Less than 50,000 sf.	No berth	No berth	<u>2</u> , 4

50,000 - 149,999 sf.	1 berth	1 berth	<u>2</u> , 4
150,000 sf. or more <del>–299,000 sf.</del>	2 berths	2 berths	<u>2</u> , 4
300,000 sf. or more	<del>3</del> berths	<del>3</del> berths	4

**Additional Regulations for Table 17.101E.08:**

1. Live/Work units are Residential Facilities and shall be counted towards the residential density, not the nonresidential floor area ratio.
2. Off-street parking standards apply to new construction and additions only. For conversion of existing buildings, maintaining existing parking is required to at least these minimum standards. See Chapter 17.116 for other off-street parking and loading standards.
3. See Chapter 17.117 for other bicycle parking requirements.
4. Loading standards apply to new construction and additions only. For conversion of existing buildings, maintaining existing loading is required to at least these minimum standards. See Chapter 17.116 for other loading standards. However, for new construction, the minimum height or length of a required berth listed in Chapter 17.116 may be reduced upon the granting of regular design review approval (see Chapter 17.136), and upon determination that such smaller dimensions are ample for the size and type of trucks or goods that will be foreseeably involved in the loading operations of the activity served. This design review requirement shall supersede the requirement for a Conditional Use Permit stated in Section 17.116.220.

**Chapter 17.101G D-LM LAKE MERRITT STATION AREA DISTRICT ZONES REGULATIONS**

**Sections:**

17.101G.060 Usable open space standards.

17.101G.070 Special regulations for Large-Scale Developments.

**17.101G.060 Usable open space standards.**

- C. Standards. All required usable open space shall be permanently maintained and shall conform to the following standards:
  1. Area. On each lot containing Residential Facilities with a total of two (2) or more living units, excluding any permitted Accessory Dwelling Units, usable open space shall be provided for such facilities at the following rates:



**Table 17.101G.05: Required Amounts of Usable Open Space**

<b>Type of Living Unit</b>	<b>Minimum Open Space Area Required</b>
Senior Housing Unit	Thirty (30) square feet per unit
Affordable Housing Unit	<del>Thirty (30)</del> <del>Thirty-eight (38)</del> square feet per unit
Rooming Unit	Thirty (30) square feet per unit
Efficiency Dwelling Unit	Thirty (30) square feet per unit
Residential Unit within a Building on the Local Register of Historic Resources	Thirty (30) square feet per unit
Other Residential Unit	Sixty (60) square feet per unit

**17.101G.070 Special regulations for Large-Scale Developments.**

No development which involves more than one hundred thousand (100,000) square feet of new floor area shall be permitted except upon the granting of a Conditional Use Permit pursuant to the Conditional Use Permit procedure in Chapter 17.134. This requirement shall not apply to developments that include one hundred percent (100%) affordable housing units, other than manager’s units, or where a valid Planned Unit Development permit is in effect.

**Chapter 17.101H D-CO COLISEUM AREA DISTRICT ZONES REGULATIONS**

**Sections:**

17.101H.050 Property development standards.

17.101H.080 Special regulations for Large-Scale Developments.

**17.101H.050 Property development standards.**

**Zone Specific Standards.** Table 17.101H.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "N/A" designates the regulation is not applicable to the specified zone.

**Table 17.101H.03 Property Development Standards**

<b>Development Standards</b>	<b>Zones</b>						<b>Additional Regulations</b>
	<b>D-CO-1</b>	<b>D-CO-2</b>	<b>D-CO-3</b>	<b>D-CO-4</b>	<b>D-CO-5</b>	<b>D-CO-6</b>	
Fence heights & other regulations	See Chapter 17.108.140 for standards applicable to fences, dense hedges, barriers, & free standing walls.						

—Maximum fence height adjacent to Residential and Open Space Zones	8 ft.	8 ft.	8 ft.	8 ft.	8 ft.	8 ft.	
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**17.101H.080 Special regulations for Large-Scale Developments.**

No development which involves more than one hundred thousand (100,000) square feet of new floor area shall be permitted except upon the granting of a Conditional Use Permit pursuant to the Conditional Use Permit procedure in Chapter 17.134, or upon the granting of a Planned Unit Development approval pursuant to Chapters 17.140 and 17.142. This requirement shall not apply to developments that include one hundred percent (100%) affordable housing units, other than manager’s units, or where a valid Planned Unit Development permit is in effect.

**Chapter 17.106 GENERAL LOT, DENSITY, AND AREA REGULATIONS**

**Sections:**

17.106.060 Increased number of living units in senior citizen housing.

**17.106.060 Increased number of living units in senior citizen housing.**

Wherever provided for in the applicable individual zone regulations, the number of residential living units otherwise permitted or conditionally permitted may be increased by not to exceed seventy-five percent (75%) in senior citizen housing where living units are regularly occupied by not more than two individuals at least one of whom is sixty (60) years of age or older or is physically handicapped regardless of age, upon the granting of a Conditional Use Permit pursuant to the Conditional Use Permit procedure in Chapter 17.134 and upon determination that the proposal conforms to both of the following additional use permit criteria:

- A. That such occupancy is guaranteed, for a period of not less than fifty-five (55) ~~fifty (50)~~ years, by appropriate conditions incorporated into the permit;
- B. That the impact of the proposed facilities will be substantially equivalent to that produced by the kind of development otherwise allowed within the applicable zone, with consideration being given to the types and rentals of the living units, the probable number of residents therein, and the demand for public facilities and services generated.

## Chapter 17.108 GENERAL HEIGHT, YARD, AND COURT REGULATIONS

### Sections:

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

### 17.108.140 Fences, dense hedges, barriers, and similar freestanding walls.

D. Industrial Zones. The provisions of this Subsection shall apply to all properties in all Industrial Zones (M, CIX, IG, IO, D-CE-5, D-CE-6, D-CO-5, and D-CO-6 Zones).

## Chapter 17.112 HOME OCCUPATION REGULATIONS

### Sections:

17.112.020 Definitions.

17.112.030 Exclusions.

17.112.040 Requirements.

### 17.112.020 Definitions.

- A. A "home occupation" is an accessory activity of a nonresidential nature which is performed within a living unit, or within a garage or accessory structure attached or detached thereto and reserved for use by an occupant of the living unit; or, for Limited Agricultural Activities, ~~and/or bee keeping~~, in an outdoor area on the same lot as a living unit by an occupant of the living unit and which is customarily incidental to the residential use of the living unit. A home occupation may include, but is not limited to, the handicraft or custom manufacture of products, Limited Agricultural Activities, ~~(unless the activities include mechanized farming equipment), bee keeping (unless the activities include more than three (3) hives)~~, the conduct of an art or profession, the offering of a service, or the conduct of a business, subject to the provisions of Sections 17.112.030, 17.112.040, and 17.112.050.
- B. For the purpose of this Chapter, ~~Limited Agricultural Activities include the cultivation on the premises of fruits, vegetables, plants, flowers, herbs, and/or ornamental plants intended to produce food, fibers, or other plant products for on- or off-site sale. This activity does not include the keeping, grazing, or feeding of animals, except for bee keeping involving no more than three (3) hives. Any on-site sales of agricultural products are limited to no more than four (4) times per year between the hours of 8:00 am and 9:00 pm in a temporary movable structure not exceeding two hundred (200) square feet in size.~~
- C. For the purpose of this Chapter only, a ~~"bee keeping activity"~~ is the maintenance of honey bee colonies, commonly in hives, by one or more persons. A bee keeper keeps bees in order to collect their honey and other products that the hive produces, to pollinate crops, or to produce bees for sale to other bee keepers.

### **17.112.030 Exclusions.**

The following activities shall not in any case qualify as home occupations:

- A. Introductory service;
- B. Teaching of organized classes totaling more than six (6) persons at a time;
- C. Accommodation of more than four (4) ~~three (3)~~ paying guests within a One-Family Dwelling Residential Facility, or of any number of paying guests within a living unit in any other type of Residential Facility;
- D. Operation of a beauty parlor with more than two (2) hair-drying machines;
- E. Maintenance of a construction contractor's storage or construction yard or garage;
- F. Care, treatment, or boarding of animals for profit.
- G. Agricultural Activities that include the use of mechanized farm equipment.
- ~~H. Bee keeping activities that include more than three (3) hives.~~
- HH. On-site car and/or truck repair.

### **17.112.040 Requirements.**

- B. Location. A home occupation shall only be performed in the following locations:
  - 1. Within a living unit by a resident thereof;
  - 2. Within an attached or detached garage or accessory structure that is reserved for use by an occupant of a living unit; and
  - 3. For Limited Agricultural Activities ~~and bee keeping~~ only, in an outdoor area on the same lot as a living unit, ~~but only if the home occupation activity does not include the use of mechanized farming equipment or involve the keeping of more than three (3) bee hives.~~

## **Chapter 17.134 CONDITIONAL USE PERMIT PROCEDURE**

### **Sections:**

17.134.020 Definition of Major and Minor Conditional Use Permits.

### **17.134.020 Definition of Major and Minor Conditional Use Permits.**

- A. Major Conditional Use Permit. A Conditional Use Permit (CUP) is considered a Major Conditional Use Permit if it involves any of the following:
  - 3. Special Situations. Any project requiring a Conditional Use Permit that involves any of the following situations:

- e. A project in the OS Zones listed as requiring a Major Conditional Use Permit in Chapter 17.11, except that any improvement or change in use consistent with a Park Master Plan that has been adopted by the Oakland City Council shall not require a Conditional Use Permit (as specified in Section 17.135.050), even where it involves facilities or activities that would otherwise require a Major Conditional Use Permit in Section 17.11.060;
- f. An Electroplating Activity as defined in Section 17.09.040 subject to the provisions of Section 17.102.340;
- g. A Telecommunications Facility in or within one hundred (100) feet of the boundary of any Residential Zone, HBX Zone, or the D-CE-3 or D-CE-4 Zone;
- h. A Telecommunications Facility whose antennas and equipment are not fully concealed from view within three hundred (300) feet of the boundary of the RH, RD, RM, RU-1, or RU-2 Zones, HBX Zones, or the D-CE-3 or D-CE-4 Zone;
- i. A project requiring a Conditional Use Permit as set forth under Section 17.153.050 for any demolition or conversion of Residential Hotel Units or a Residential Hotel;
- j. A Park Master Plan for a City-Owned Park, subject to the provisions of Section 17.135.050(A).

## **Chapter 17.135 SPECIAL USE PERMIT REVIEW PROCEDURE FOR THE OS ZONE**

### **Sections:**

17.135.030 Procedure for consideration.

17.135.050 Special requirements for projects consistent with Park Master Plans.

### **17.135.030 Procedure for consideration.**

No change in use or improvement, as defined in Section 17.09.050, shall occur on land designated OS unless the following process has been followed:

- C. Public Hearing. A public hearing shall be required for any change in use or improvement and shall be conducted and heard by the City Planning Commission and/or the Parks and Recreation Advisory Commission, as provided by Subdivisions 1 and 2 of this Subsection.
  - 1. Major Conditional Use Permits.
    - a. An application for a Major Conditional Use Permit, as required by Sections 17.11.060 and 17.11.090, shall be considered first by the Parks and Recreation Advisory Commission (PRAC) and second by the City Planning Commission. Each commission shall conduct a public hearing on the application. Notice of the PRAC hearing shall follow the procedure outlined at Section 17.135.030(C)(2). Notice of the City Planning Commission hearing shall be

given by posting an enlarged notice on the premises of the subject property. At the discretion of the Director, notice of the public hearing may also be provided on utility poles within three hundred (300) feet of such park or open space land. Notice of each hearing shall also be given by mail or delivery to all owners and occupants ~~persons owning real property in the city of Oakland~~ within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown on the last available equalized assessment roll in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing. Notice shall also be provided to those community or neighborhood groups included in the Planning and Building Department database that are within the service area radius of the impacted park. Additional outreach shall be provided through press releases and other notification as warranted by the size and location of the project.

- c. The City Planning Commission shall determine whether the proposal conforms to the use permit criteria set forth in Chapter 17.134 and Section 17.11.110 and to other applicable criteria, and shall make a recommendation to grant or deny the application, or recommend such changes or impose such conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The determination of the Commission shall become final within ten (10) calendar days after the date of the decision unless appealed to the City Council in accordance with Section 17.134.070.

## 2. Minor Conditional Use Permits.

- a. An application for a Minor Conditional Use Permit, as required by Sections 17.11.060 and 17.11.090, shall be considered by the Parks and Recreation Advisory Commission prior to a final decision by the Director of City Planning. The Parks and Recreation Advisory Commission shall hold a noticed public hearing on the application and shall make a recommendation to grant or deny the application, or recommend such changes or conditions of approval as are in its judgment necessary. Notice of the public hearing shall be provided by posting an enlarged notice on the premises of the park or open space land. At the discretion of the Director, the meeting notice may also be provided on utility poles within three hundred (300) feet of such park or open space land. Notices shall also be mailed to neighborhood organizations and individuals who have expressed an interest in the subject park or project area.
- b. The Director of City Planning shall determine whether the proposal conforms to the ~~special-use~~ permit criteria set forth in Chapter 17.134 and Section 17.11.110 and to other applicable criteria and shall grant, deny, or conditionally grant the permit. The determination of the Director of City Planning shall become final within ten (10) calendar days after the date of the decision unless appealed to the City Planning Commission in accordance with Section 17.134.060. ~~If no action is taken by the Director of City Planning within thirty (30) days of the Parks and Recreation Advisory Commission's recommendation, the project shall be deemed approved.~~

### 17.135.050 Special requirements for projects consistent with Park Master Plans.

- A. Park Master Plans for Projects in City-Owned Parks. Initial consideration of a Park Master Plan shall be made through a Major Conditional Use Permit application to the Planning and Building Department. A Major Conditional Use Permit for a Park Master Plan shall be considered first by the Parks and Recreation Advisory Commission (PRAC) and second by the City Planning Commission, except in cases also requiring referral to the Landmarks Preservation Advisory Board (LPAB) as specified in Section 17.135.040, in which case this review shall be made second before the hearing by the City Planning Commission. After receiving the advice of the Planning Commission, the City Council shall hold a hearing and decide on the Park Master Plan.
1. Projects Consistent with Park Master Plans. Any improvement or change in use that is consistent with a Park Master Plan that has been adopted by the Oakland City Council shall not require a Conditional Use Permit, be subject to these provisions. However, in accordance with Section 17.11.060, such projects shall be subject to the Minor Conditional Use Permit process only, even where they involve facilities or activities that would otherwise require a Major or Minor Conditional Use Permits in Section 17.11.060. Projects shall be eligible for this provision only if the Master Plan in question has been adopted by the Oakland City Council within fifteen (15) ~~ten (10)~~ years of the date of the improvement or change in use application, or has been amended or updated with Council approval within fifteen (15) ~~ten (10)~~ years of the date of the improvement or change in use application. The determination that a project is consistent with a Park Master Plan shall be made by the Director of City Planning, or his or her designee.
- B. Projects in East Bay Regional Parks. Any improvement or change in use on land owned by the East Bay Regional Park District (EBRPD) shall be subject to the development standards contained in this Chapter. However, in accordance with Section 17.11.060, such projects shall not require a Conditional Use Permit if they are park, recreational, or civic uses that are consistent with a Park Land Use Plan or equivalent land use planning document adopted by the EBRPD Board. In the event a land use plan or equivalent document does not exist or must be amended to accommodate the facility, preparation/amendment of such a plan by the EBRPD will be required prior to issuance of a building permit for future improvements. Such plans and plan amendments shall require public notice to abutting property owners and occupants, and to the Oakland Parks and Recreation Advisory Commission, City Planning Commission, and City Council at least forty-five (45) days prior to adoption by the Park Board in order to ensure opportunity for public comment from Oakland residents.

## **Chapter 17.136 DESIGN REVIEW PROCEDURE**

### **Sections:**

17.136.023 Projects subject to By Right Residential Approval

17.136.025 Exemptions from design review.

17.136.030 Small project design review.

17.136.038 Special project design review.

17.136.040 Regular design review.

17.136.050 Regular design review criteria.

17.136.080 Appeal to Planning Commission—Regular design review.

17.136.090 Appeal to City Council—Regular design review.

17.136.100 Adherence to approved plans.

### **17.136.023 Projects subject to By Right Residential Approval.**

Projects eligible for By Right Residential Approval under Chapter 17.95 or 17.96; and projects for Affordable Housing where one hundred percent (100%) of the housing units, other than manager's units, are restricted to very low-, low-, and moderate-income households, and not proposed on a site with a City, State, or National landmark or within an S-7 or S-20 Zone or an Area of Primary Importance (API) as determined by the Oakland Cultural Heritage Survey, shall not be subject to any of the design review procedures set forth in Sections 17.136.030, 17.136.038, and 17.136.040; under this Chapter and shall instead be subject to the By Right Residential Approval procedure as defined in Section 17.09.040.

### **17.136.025 Exemptions from design review.**

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

#### **3. Other Projects.**

- a. Sidewalk Cafes ~~that have a maximum of five (5) tables and no more than fifteen (15) chairs and/or do not have any permanent structures~~ in the public right-of-way, pursuant to Section 17.103.090;
- b. Solar Power Production Equipment. The installation of Solar Power Production Equipment is exempt from design review within any zoning district;
- c. Projects involving no more than four (4) Vehicular Residential Facilities pursuant to Section 17.103.085, and projects involving any number of Vehicular Residential Facilities when occupied by an Emergency Shelter Residential Activity and located in an area where Emergency Shelter Residential Activities are permitted by-right pursuant to Section 17.103.015;
- d. Electrical Vehicle Charging Stations or other similar facilities.



### 17.136.030 Small project design review.

- A. Applicability. "Small Project Design Review" shall apply to proposals that do not qualify for By-Right Residential Approval as set forth in Section 17.136.023, an exemption from design review as set forth in Section 17.136.025, or require Special Project Design Review as set forth in Section 17.136.038, or Regular Design Review as either determined by the Director of City Planning or as set forth in Section 17.136.040. "Small Project Design Review" proposals shall meet all of the following provisions:
- B. Definition of "Small Project". Small Projects are limited to one or more of the following types of work:
2. Fences, barriers, and similar freestanding walls.
    - b. For Commercial Zones, ~~Industrial Zones~~, and in the OS, S-1, S-2, S-3, S-15, and D-CO-1 Zones, any fence, barrier, or similar freestanding wall exceeding eight (8) feet in height within ten (10) feet of the public right-of-way or any abutting property in a Residential or Open Space Zone, but not exceeding ten (10) feet in height, pursuant to Section 17.108.140.
    - c. For Industrial Zones, any fence, barrier, or similar freestanding wall exceeding eight (8) feet in height within ten (10) feet of the public right-of-way or any abutting property in a Residential or Open Space Zone, but not exceeding twelve (12) feet in height, pursuant to Section 17.108.140. Any fence, dense hedge, barrier, or similar freestanding wall located elsewhere on a lot in an Industrial Zone may only be permitted to exceed twelve (12) feet in height if installed with additional landscape screening and upon the granting of Small Project Design Review pursuant to the Design Review procedure in Section 17.136.030(C).
  3. Signs.
- C. Procedures for Consideration—Small Project Design Review. The Director of City Planning may, at his or her discretion, consider an application for Small project design review according to the following Three-Track process, or if additional consideration is required, determine that the proposal shall be reviewed according to the Regular design review procedure in Section 17.136.040.
2. Track Two Procedure—Small Project Design Review Proposals Involving a Local Register Property:
    - a. The Director of City Planning, in concert with the City of Oakland's Historic Preservation staff, shall determine whether a proposed addition or alteration involving a Local Register Property will have a significant effect on the property's character-defining elements. "Character-defining elements" are those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance. Any proposed addition or alteration determined to have a significant effect on a Local Register Property's character-defining elements shall be reviewed instead according to the ~~R~~egular design review procedure in Section 17.136.040. Any proposed addition involving an upper-story addition of more than two hundred fifty (250) square feet in floor area or footprint to a One-Family or Two-

to Four-Family Residential Facility or to any Building Facility in the HBX, D-CE-3, or D-CE-4 Zones that is determined eligible for Small Project Design Review ~~small project design review~~ and to not have a significant effect on the property's character-defining elements, shall be reviewed according to the Track Three procedure in Subsection 17.136.030.C.3.

- b. Decision by the Director of City Planning. The Director, or his or her designee, may approve or disapprove a Track Two proposal determined eligible for Small project design review and may require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to the applicable Small project design review criteria in Section 17.136.035.
  - c. The decision by the Director, or his or her designee, shall be final immediately and not appealable.
3. Track Three Procedure—Small Project Design Review Proposals Involving an Upper-Story Addition of More than Two Hundred Fifty (250) Square Feet in Floor Area or Footprint to a One-Family or Two- to Four-Family Residential Facility or an over eight (8) foot increase in the height of any Building Facility in the HBX Zones, not including allowed projections above the height limits listed in Section 17.108.030.
- b. At the time of Ssmall project design review application, the owner of the affected property, or his or her authorized agent, shall obtain from the City Planning and Building Department, a list of names and mailing addresses of all owners and occupants of ~~persons shown on the last available equalized assessment roll as owning~~ the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site; a notice poster to install on the project site; and a Notice to Neighboring Property Owners and Occupants form which includes the project description and contact information. Failure to send notice to any such owner where his or her address is not shown on the last available equalized assessment roll shall not invalidate the affected proceedings.
  - c. Prior to the subject application being deemed complete, the applicant shall install the notice poster provided at the time of application at a location on the project site that is clearly visible from the street, alley, or private way providing access to the subject lot; and provide by certified mail or delivery to all owners and occupants of ~~persons shown on the last available equalized assessment roll as owning~~ the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site, a copy of the completed project notice form, as well as a set of reduced plans (consisting of at least a site plan and building elevations that show all proposed exterior work).
  - d. All required posting of the site and notification of adjacent and across the street property owners and occupants shall be completed by the project applicant not less than ten (10) days prior to the earliest date for final decision on the application. During the required noticing period, the Planning and Building Department shall receive and consider comments from any interested party, as well as accept requests for a meeting with City Planning staff.

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

#### **17.136.038 Special project design review.**

- C. Procedures for Consideration—Special Project Design Review. The Director of City Planning shall consider an application for Special project design review according to the following Two-Track process, or if additional consideration is required, determine that the proposal shall be reviewed instead according to the Regular design review procedure in Section 17.136.040.
  - 1. Track One Procedure—Special Project Design Review Proposals Not Involving a Local Register Property:
    - b. At the time of Special project design review application, the owner of the affected property, or his or her authorized agent, shall obtain from the City Planning and Building Department, a list of names and mailing addresses of all owners and occupants of persons shown on the last available equalized assessment roll as owning the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site; a notice poster to install on the project site; and a Notice to Neighboring Property Owners and Occupants form which includes the project description and contact information. Failure to send notice to any such owner where his or her address is not shown on the last available equalized assessment roll shall not invalidate the affected proceedings.
    - c. Prior to the subject application being deemed complete, the applicant shall install the notice poster provided at the time of application at a location on the project site that is clearly visible from the street, alley, or private way providing access to the subject lot; and provide by certified mail or delivery to all owners and occupants of persons shown on the last available equalized assessment roll as owning the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site, a copy of the completed project notice form, as well as a set of reduced plans (consisting of at least a site plan and building elevations that show all proposed exterior work).
    - d. All required posting of the site and notification of adjacent and across the street property owners and occupants shall be completed by the project applicant not less than ten (10) days prior to the earliest date for final decision on the application. During the required noticing period, the Planning and Building Department shall receive and consider comments from any interested party.
  - 2. Track Two Procedure—Special Project Design Review Proposals Involving a Local Register Property:

- b. At the time of Special project design review application, the owner of the affected property, or his or her authorized agent, shall obtain from the City Planning and Building Department, a list of names and mailing addresses of all owners and occupants of persons shown on the last available equalized assessment roll as owning the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site; a notice poster to install on the project site; and a Notice to Neighboring Property Owners and Occupants form which includes the project description and contact information. Failure to send notice to any such owner where his or her address is not shown on the last available equalized assessment roll shall not invalidate the affected proceedings.
- c. Prior to the subject application being deemed complete, the applicant shall install the notice poster provided at the time of application at a location on the project site that is clearly visible from the street, alley, or private way providing access to the subject lot; and provide by certified mail or delivery to all owners and occupants of persons shown on the last available equalized assessment roll as owning the City of Oakland lot or lots adjacent to the project site and directly across the street abutting the project site, a copy of the completed project notice form, as well as a set of reduced plans (consisting of at least a site plan and building elevations that show all proposed exterior work).
- d. All required posting of the site and notification of adjacent and across the street property owners and occupants shall be completed by the project applicant not less than ten (10) days prior to the earliest date for final decision on the application. During the required noticing period, the Planning and Building Department shall receive and consider comments from any interested party.

#### **17.136.040 Regular Design Review.**

- A. Applicability. "Regular Design Review" shall apply to proposals that require design review pursuant to the zoning regulations of Title 17 of the Oakland Planning Code, but do not qualify for By-Right Residential Approval as set forth in Section 17.136.023, a design review exemption as set forth in Section 17.136.025, Small Project Design Review as set forth in Section 17.136.030, or Special Project Design Review as set forth in Section 17.136.038. Except as otherwise specified in Section 17.136.038 for Nonresidential Facilities in the D-CO-5, D-CO-6, CIX-1A, CIX-1B, CIX-1C, and CIX-1D Zones, projects requiring Regular Design Review include, but are not limited to, the following types of work:
  - 8. Exceptions to the parking accommodation requirements for One- and Two- to Four- Family Residential Facilities in Section 17.116.300;
- C. Procedure for Consideration of Regular Design Review Proposals which Involve an Initial Decision by the Director of City Planning—Decisions Not Ultimately Appealable to City Council.
  - 1. Decision by the Director of City Planning. An application for Regular Design Review that is not referred to the City Planning Commission for initial decision as specified in Section 17.136.040(D) shall be considered by the Director of City Planning.

2. Notification Procedures. Notice shall be given by posting an enlarged notice at a location on the project site that is clearly visible from the street, alley, or private way providing access to the subject lot. Notice shall also be given by mail or delivery to all owners and occupants ~~persons shown on the last available equalized assessment roll as owning real property in the City~~ within three hundred (300) feet of the project site; provided, however, that failure to send notice to any such owner where his or her address is not shown on the last available equalized assessment roll in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set for decision on the application by the Director. During the required noticing period, the planning and Building department shall receive and consider comments from any interested party.
- D. Procedure for Consideration of Regular Design Review Proposals which Involve an Initial Decision by the City Planning Commission—Decisions Ultimately Appealable to City Council.
2. Notification Procedures. Notice shall be given by posting an enlarged notice at a location on the project site that is clearly visible from the street, alley, or private way providing access to the subject lot. Notice shall also be given by mail or delivery to all owners and occupants ~~persons shown on the last available equalized assessment roll as owning real property in the City~~ within three hundred (300) feet of the project site; provided, however, that failure to send notice to any such owner where his or her address is not shown on the last available equalized assessment roll in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set for a hearing before the Commission. During the required noticing period, the planning and Building department shall receive and consider comments from any interested party.

#### **17.136.050 Regular design review criteria.**

Regular design review approval may be granted only if the proposal conforms to all of the following general design review criteria, as well as to any and all other applicable design review criteria:

- A. For Residential Facilities.
  1. That the proposed design will create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures;:-
  2. ~~That the proposed design will protect, preserve, or enhance desirable neighborhood characteristics;~~
  23. That the proposed design will be sensitive to the topography and landscape;:-
  34. That, if situated on a hill, the design and massing of the proposed building relates to the grade of the hill;
  45. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.

### **17.136.080 Appeal to Planning Commission—Regular design review.**

Within ten (10) calendar days after the date of initial decision by the Director of City Planning on an application for Regular design review under the procedure specified in Subsection 17.136.040.C, an appeal from said decision may be taken to the City Planning Commission by the applicant, the Landmarks Preservation Advisory Board, or any other interested party. In the case of appeals involving One-Family or Two- to Four-Family ~~one- or two-unit~~ Residential Facilities, the appeal shall be considered by the Commission's Residential Appeals Committee. In the event the last day of appeal falls on a weekend or holiday when City offices are closed, the next date offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City Planning and Building Department and shall be filed with such Department, along with the appropriate fees required by the City's Master Fee Schedule. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director or wherein his or her decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to the Director of City Planning prior to the close of the written public comment period on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues and/or evidence during the appeal and/or in court. The appeal is not de novo. Upon receipt of such appeal, the Secretary of the City Planning Commission shall set the time for consideration thereof. Not less than seventeen (17) days prior to the date of the Commission's or Committee's consideration of the appeal, ~~the Secretary shall give~~ shall be given to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented to the Director of City Planning prior to the close of the written public comment period for the underlying decision being appealed, as the appeal is not de novo. The appellant shall not be permitted to present any other issues and/or evidence (written, oral, or otherwise) during the appeal process. In considering the appeal, the Commission or, if applicable, the Committee shall determine whether the proposal conforms to the applicable design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The Commission or, if applicable, the Committee may seek the advice of outside design professionals. The decision of the Commission or, if applicable, the Committee on a proposal being considered under the procedure specified in Subsection 17.136.040.C. shall be final immediately and is not ultimately appealable to the City Council.

### **17.136.090 Appeal to City Council—Regular design review.**

Within ten (10) calendar days after the date of initial decision by the City Planning Commission on an application for Regular design review under the procedure specified in Subsection 17.136.040.D, an appeal from said decision may be taken to the City Council by the applicant, the Landmarks Preservation Advisory Board, or any other interested party. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. No such appeal to the City

Council is allowable under the procedure specified in Subsection 17.136.040.C. Such appeal shall be made on a form prescribed by the Planning Director and shall be filed with the Planning and Building Department, along with the appropriate fees required by the City's Master Fee Schedule. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, previously presented to City Planning Commission prior to the close of its public hearing on the item, which supports the basis of the appeal; failure to do so will preclude the appellant from raising such issues and/or evidence during the appeal and/or in court. The appeal is not de novo. Upon receipt of the appeal, the Council shall set the date for consideration thereof. After setting the hearing date, the Council, prior to hearing the appeal, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal.

The City Clerk shall notify the Secretary of the City Planning Commission of the date set for consideration thereof; ~~and said Secretary shall, N~~not less than seventeen (17) days prior thereto, ~~give~~ written notice shall be given to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal. During the hearing on the appeal, the appellant will be limited to issues and/or evidence presented prior to the close of the City Planning Commission's public hearing on the item, in accordance with the above procedures, as the appeal is not de novo. The appellant shall not be permitted to present any other issues and/or evidence (written, oral, or otherwise) during the appeal process. In considering the appeal, the Council shall determine whether the proposal conforms to the applicable design review criteria, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The decision of the City Council shall be made by resolution and shall be final.

#### **17.136.100 Adherence to approved plans.**

- A. A design review approval shall be subject to the plans and other conditions upon the basis of which it was granted. Except as indicated in Subsection B. below or u~~Unless~~ a different termination date is prescribed, the approval shall terminate ~~three (3)~~ two (2) years from the effective date of its granting unless, within such period, all necessary permits for construction, alteration, ~~painting~~, demolition, or removal, as the case may be, have been filed with the Planning and Building Department and diligently pursued towards completion. issued within such period. Upon written request and payment of appropriate fees submitted no later than the expiration date of this approval, the Zoning Manager, or his or her designee, may grant up to a two-year extension of this date, with additional extensions subject to approval by the original reviewing officer or body. ~~However, such period of time may be extended by the original reviewing officer or body, upon application filed at any time before said period has expired.~~ Expiration of any necessary building permit for the project may invalidate the design review

approval if ~~such~~ said approval or extension period has also expired. If litigation is filed challenging this approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

B. In order to support implementation of the City’s 2023-2031 Housing Element, the following shall supersede the applicable provisions in Subsection A. for the time period of January 31, 2023 to January 31, 2031:

1. A design review approval granted for the creation of residential units between January 31, 2023 and January 31, 2026 shall terminate five (5) years from the effective date of its granting unless all necessary permits for construction, alteration, demolition, or removal, as the case may be, have been filed with the Planning and Building Department and diligently pursued towards completion within such period. Upon written request and payment of appropriate fees submitted no later than the expiration date of this approval, the Zoning Manager, or his or her designee, may grant up to a three-year extension of this date; and
2. A design review approval granted before January 31, 2023 for the creation of residential units that has not expired before that date shall be granted an automatic extension to January 31, 2028. Upon written request and payment of appropriate fees submitted no later than the expiration date of this approval, the Zoning Manager, or his or her designee, may grant up to a three-year extension of this date.

## **Chapter 17.138 DEVELOPMENT AGREEMENT PROCEDURE**

### **Sections:**

17.138.040 Council action.

#### **17.138.040 Council action.**

The City Clerk shall notify the Secretary of the City Planning Commission of the date set for consideration thereof. ~~and said Secretary shall give n~~ Notice of the hearing shall be given by mail or delivery to the applicant, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing. The Council shall review the recommendation of the Commission and shall determine whether the proposal conforms to the criterion set forth in Section 17.138.050, and may approve or disapprove the proposed development agreement, or approve it subject to changes therein or conditions of approval, giving consideration to the factors set forth in Section 17.138.060. If the Council approves the development agreement or approves it subject to changes or conditions, it shall do so by ordinance and the agreement shall be effective upon the effective date of the ordinance. In any case, the decision of the Council shall be final.



## **Chapter 17.140 PLANNED UNIT DEVELOPMENT PROCEDURE**

### **Sections:**

17.140.040 Submission of final development plan.

17.140.110 Adherence to approved plan, and modification thereof.

### **17.140.040 Submission of final development plan.**

- A. Except as indicated in Subsection B. below or unless a different termination date is prescribed, the applicant shall file with the Planning and Building Department a final plan for the entire development within three (3) years after the approval or modified approval of a preliminary development plan, or when submission in stages has been authorized pursuant to Section 17.140.030, for the first unit of the development. The final plan shall conform in all major respects with the approved preliminary development plan. The final plan shall include all information included in the preliminary development plan plus the following: the location of water, sewerage, and drainage facilities; detailed building and landscaping plans and elevations; the character and location of signs; plans for street improvements; and grading or earth-moving plans. The final plan shall be sufficiently detailed to indicate fully the ultimate operation and appearance of the development. Copies of legal documents required for dedication or reservation of group or common spaces, for the creation of nonprofit homes' association, or for performance bonds, shall also be submitted.
- B. In order to support implementation of the City's 2023-2031 Housing Element, the following shall supersede the applicable provisions in Subsection A. for the time period of January 31, 2023 to January 31, 2031:
1. Any preliminary development plan granted between January 31, 2023 and January 31, 2026 that involves the creation of residential units shall terminate five (5) years from the effective date of its granting unless, within such period, the applicant files with the Planning and Building Department a final plan for the entire development, or when submission in stages has been authorized pursuant to Section 17.140.030, for the first unit of the development. Upon written request and payment of appropriate fees submitted no later than the expiration date of this approval, the Zoning Manager, or his or her designee, may grant up to a three-year extension of this date; and
  2. Any preliminary development plan granted before January 31, 2023 that involves the creation of residential units that has not expired before that date shall be granted an automatic extension to January 31, 2028, along with all associated final plans. The applicant shall file with the Planning and Building Department a final plan for the entire development within such approval period, or when submission in stages has been authorized pursuant to Section 17.140.030, for the first unit of the development. Upon written request and payment of appropriate fees submitted no later than the expiration date of this approval, the Zoning Manager, or his or her designee, may grant up to a three-year extension of this date.

### **17.140.110 Adherence to approved plan, and modification thereof.**

The applicant shall agree in writing to be bound, for himself or herself and his or her successors in interest, by the conditions prescribed for approval of a Planned Unit Development. The approved final plan and stage development schedule shall control the issuance of all building permits and shall restrict the nature, location, and design of all uses. Minor changes in an approved preliminary or final development plan may be approved by the Director of City Planning if such changes are consistent with the purposes and general character of the development plan. Proposed extensions to the ~~three-year~~ time limit imposed by Section 17.140.040, upon application filed at any time before said period has expired, shall be referred to the City Planning Commission, and the Commission may approve, modify, or deny such proposals. The decision of the Commission is appealable to the City Council. All other modifications, including revisions of the stage development schedule, shall be processed in the same manner as the original application and shall be subject to the same procedural requirements.

## **Chapter 17.142 PLANNED UNIT DEVELOPMENT REGULATIONS**

### **Sections:**

Article II - Planned Unit Developments

### **Article II Planned Unit Developments**

17.142.080 Zones in which bonuses may be granted.

### **17.142.080 Zones in which bonuses may be granted.**

The bonuses set forth in Section 17.142.100 may, upon approval pursuant thereto and except as otherwise specified therein, be permitted for a Planned Unit Development in any Residential or Commercial Zone, or in the S-1, S-2, S-3, S-15, or D-CO-1 Zones.

## **Chapter 17.148 VARIANCE AND EXCEPTION PROCEDURE**

### **Sections:**

17.148.120 Termination of a Variance related to an activity

### **17.148.120 Termination of a Variance related to an activity**

A. A Variance granted pursuant to the provisions of this Chapter that permits an otherwise prohibited activity shall not be of any force or effect if the following is true:

With the exception of closures required to repair damage or destruction to the facility containing the activity, the subject activity is nonresidential and has ceased, or has been suspended, for a consecutive period of three (3) ~~two (2)~~ or more years. In the M, CIX, IG, IO, D-CE-5, D-CE-6, D-CO-5, and D-CO-6 Zones, the subject Truck-

Intensive Industrial Activity (as defined in Section 17.103.065) has ceased, or has been suspended, for a consecutive period of six (6) or more months.

- B. A single, one-year extension of the period described in subsection (A) may be granted by, and at the discretion of, the Planning Director, or his or her designee. The request for the extension shall be: 1) in writing, 2) made by the applicant or owner of the subject site, and 3) made prior to the three (3) ~~two (2)~~-year period described in subsection (A). Notwithstanding the above, no extension request shall be granted for Truck-Intensive Industrial Activities (as defined in Section 17.103.065) in the M, CIX, IG, IO, D-CE-5, D-CE-6, D-CO-5, and D-CO-6 Zones.