



CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE, AS RECOMMENDED BY THE PLANNING COMMISSION:

(1) MAKING OMNIBUS AMENDMENTS TO THE OAKLAND TITLE 17 OF THE OAKLAND MUNICIPAL CODE (THE PLANNING CODE) TO EFFECTUATE THE OBJECTIVE DESIGN REVIEW PROCESS AND STREAMLINE SERVICES, INCLUDING BUT NOT LIMITED TO AMENDMENTS TO CHAPTER 17.136, DESIGN REVIEW AND DEMOLITION FINDINGS;

(2) AMENDING THE PLANNING CODE TO INCORPORATE VARIOUS CONFORMING CHANGES INCLUDING BUT NOT LIMITED TO REVISIONS TO DOWNTOWN SEA LEVEL RISE COMBINING ZONE CHANGES CONSISTENT WITH THE DOWNTOWN OAKLAND SPECIFIC PLAN;

(3) AMENDING THE CITY OF OAKLAND MASTER FEE SCHEDULE (ADOPTED BY ORDINANCE NO. 13799 C.M.S., AS AMENDED) TO ADD A FEE FOR MINISTERIAL DESIGN REVIEW; AND

(4) MAKING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS.

WHEREAS, on March 21, 2019, the City Council adopted Resolution No. 87579 C.M.S., which directed the Bureau of Planning to study and the Planning Commission to consider incentives for encouraging transit-oriented housing, including affordable housing, by streamlining the permitting process; and

WHEREAS, On March 16, 2021, the City Council adopted Resolution No. 88554 C.M.S., directing staff to address the limited availability of housing options, reduced housing affordability, exclusionary zoning, and the racial and economic segregation impacts of single-family-only zoning in the city; and

WHEREAS, on January 31, 2023, the City Council 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 proposes Action 3.4.8, Implement Objective Design Review standards, with the goal of streamlining approval of residential and mixed-use building types; and

WHEREAS, the 2023-2031 Housing Element proposes Action 3.2.1, Develop zoning standards to encourage missing middle and multi-unit housing types in currently single-family dominated neighborhoods with the additional goal that the City of Oakland (City) will work to reduce pre-development costs and expedite the planning approval process for missing middle housing types; and

WHEREAS, the 2023-2031 Housing Element also has Policy 3.6 Streamline the approvals of new housing which includes Action 3.6.1: Streamline the City permitting process, especially for low-income and nonprofit builders which includes the goal to identify actions to reduce costs and streamline the planning approval and building permit processes for small infill development; and

WHEREAS, as part of its Pro-Housing Designation, the City has committed to adopting Objective Design Standards and creating by-right approval processes for a wide range of housing projects; and

WHEREAS, the California State Legislature has enacted several housing laws intended to move cities toward streamlined review processes for housing developments, which laws include the Housing Accountability Act, California Government Code Section 65589.5, limiting the cities' ability to reject or reduce the density of housing development projects if the project meets all applicable, objective, general plan, zoning, subdivision, and design standards and criteria; and

WHEREAS, on September 26, 2023, the City Council held a duly noticed public hearing adopting Resolution No. 89907 C.M.S., adopting the Safety Element, Environmental Justice Element, and 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 Element; and

WHEREAS, the environmental impact report prepared for the General Plan Update Phase 1 project studied the impacts of adopting objective design review standards and amendments to the existing design review process and recommended measures to mitigate any environmental impacts of new development, which have subsequently been incorporated into the City's standard conditions of approval imposed on all City development processes that undergo design review; and

WHEREAS, City Staff have proposed adding a Ministerial Design Review process, and making related amendments to the Master Fee Schedule; and

WHEREAS, on October 2, 2024, at a duly noticed public hearing, the Oakland Planning Commission unanimously approved Objective Design Standards for 4-8 story multifamily and mixed-use development applicable to qualifying streamlined projects; and

WHEREAS, on June 4, 2025, at a duly noticed public hearing, the Oakland Planning Commission recommended that the City Council adopt amendments to the Planning Code Chapter 17.136 as well as amendments of various Planning Code chapters consistent with objective design review and the provision of streamlined services; 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** attached hereto. Additions to Title 17 of the Oakland Municipal Code are shown as underline and omissions are shown as ~~striketrough~~.

SECTION 3. Amendment of the Master Fee Schedule. The City of Oakland Master Fee Schedule is hereby amended pursuant to **Exhibit B** attached hereto and incorporated by reference herein. Additions are shown as underline and deletions are shown as ~~striketrough~~.

SECTION 4. California Environmental Quality Act (CEQA). The City Council finds and determines that the adoption of this Ordinance complies with CEQA. The proposal relies on the previously certified Environmental Impact Reports for: the Oakland 2045 General Plan Update - Phase 1 (2023); the Downtown Oakland Specific Plan (2024); the Coliseum Area Specific Plan (2015); Broadway Valdez Specific Plan (2014); West Oakland Specific Plan (2014); Central Estuary Area Plan (2013); Land Use and Transportation Element of the General Plan (1998); the Oakland Estuary Policy Plan (1998); and the North Oakland Hill Area Specific Plan (1986) (collectively, "EIRs"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).

SECTION 5. Direction to Environmental Review Officer to File Notice of Determination. 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 45 days from the date of final passage by the City Council but shall not apply to (a) building/construction related permits issued prior to the effective date and not yet expired; and (b) zoning applications deemed

or determined complete, approved pending appeal, or approved prior to the effective date. However, zoning applications deemed complete by the City prior to the date of final passage of this Ordinance may be processed under provisions of these Planning Code amendments if the applicant chooses to do so.

SECTION 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. 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 Ordinance. 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 9. 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 10. 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 - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG AND
PRESIDENT JENKINS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

NOTICE AND DIGEST

AN ORDINANCE, AS RECOMMENDED BY THE PLANNING COMMISSION:

(1) MAKING OMNIBUS AMENDMENTS TO THE OAKLAND TITLE 17 OF THE OAKLAND MUNICIPAL CODE (THE PLANNING CODE) TO EFFECTUATE THE OBJECTIVE DESIGN REVIEW PROCESS AND STREAMLINE SERVICES, INCLUDING BUT NOT LIMITED TO AMENDMENTS TO CHAPTER 17.136, DESIGN REVIEW AND DEMOLITION FINDINGS;

(2) AMENDING THE PLANNING CODE TO INCORPORATE VARIOUS CONFORMING CHANGES INCLUDING BUT NOT LIMITED TO REVISIONS TO DOWNTOWN SEA LEVEL RISE COMBINING ZONE CHANGES CONSISTENT WITH THE DOWNTOWN OAKLAND SPECIFIC PLAN;

(3) AMENDING THE CITY OF OAKLAND MASTER FEE SCHEDULE (ADOPTED BY ORDINANCE NO. 13799 C.M.S., AS AMENDED) TO ADD A FEE FOR MINISTERIAL DESIGN REVIEW; AND

(4) MAKING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS.

This Ordinance makes omnibus amendments to the Oakland Planning Code (Title 17) to effectuate the objective design review process and streamline services, including but not limited to amendments to Chapter 17.136, Design Review and Demolition findings. In addition, amending the Planning Code to incorporate various conforming changes including but not limited to revisions to Downtown Sea Level Rise Combining Zone changes consistent with the Downtown Oakland Specific Plan. This Ordinance also amends the City's Master Fee Schedule to add a fee for Ministerial Design Review. Finally, this Ordinance adopts various findings including findings related to exemptions under the California Environmental Quality Act.

EXHIBIT A: PLANNING CODE AMENDMENTS

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 17.09 DEFINITIONS

17.09.040 Definitions.

"By Right Residential Approval". "By Right Residential Approval" shall mean a ministerial approval process for specified residential projects in which the City shall not exercise subjective judgment in deciding whether and how to carry out or approve the project and shall apply property development standards and objective design review standards applicable to the underlying zoning designation and the S-13 and S-14 Combining Zones, if applicable. following apply:

- A. ~~The City shall not require a Conditional Use Permit, Planned Unit Development permit, or other discretionary permit of any kind. The project shall not require a discretionary permit and thus will not be subject to review under the California Environmental Quality Act.~~
- B. ~~The City shall not exercise any subjective judgment in deciding whether and how to carry out or approve the project and shall apply property development standards and objective design review standards applicable to the underlying zoning designation and the S-13 and S-14 Combining Zones, if applicable. The City shall maintain a list of publicly available applicable objective design review standards that may be amended from time to time.~~
- C. ~~The project shall not be subject to a public hearing of any type, and there shall be no right of appeal. However, an applicant may request at its sole discretion review before the Design Review Committee of the Planning Commission.~~
- D. ~~Prior to submitting an application for By Right Residential Approval, the applicant shall give notice of intention to apply for By Right Residential Approval by mail or delivery to all owners and occupants of real property in the city within three hundred (300) feet of the property involved, using language provided by the Planning Bureau.~~
- E. ~~The project shall be subject to any applicable City of Oakland standard conditions of approval, which shall be identified along with the decision letter issued for the project.~~
- F. ~~The project must demonstrate consistency with the Oakland Equitable Climate Action Plan (ECAP) through completion of an ECAP Consistency Checklist submitted concurrently with the development application.~~

"Director of City Planning" means the Planning Director or their designee.

"Objective Design Standards" means clear and measurable design review criteria, adopted by the City Planning Commission, that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant and the public official before submittal.

Chapter 17.11 OS OPEN SPACE ZONING REGULATIONS

17.11.060 Special provisions for permitted and conditionally permitted activities in the OS Zone.

The following table shall apply to those activities that are permitted and conditionally permitted within the OS Zone. The specified activities shall only be permitted or conditionally permitted in the types of parks indicated in the table. Permitted activities are noted with the letter "P." Uses requiring a Minor Conditional Use Permit are indicated with a star. Uses requiring a Major Conditional Use Permit are indicated with a solid diamond. In the event that no letter or symbol appears in the matrix cell, the use is not permitted.

	RSP	CP	NP	AMP	PMP	LP	SU	RCA	AF
<p>Legend:</p> <p>◆ = Major Conditional Use Permit Required</p> <p>* = Minor Conditional Use Permit Required</p> <p>P = Permitted</p> <p>L = Limitations or notes listed at the bottom of the table that activities are subject to</p> <p>No symbol=Not Permitted</p> <p>RSP (Region-Seeing Park); CP (Community Park); NP (Neighborhood Park); AMP (Active Mini-Park);</p> <p>PMP (Passive Mini-Park); LP (Linear Park); SU (Special Use Park);</p> <p>RCA (Resource Conservation Area); AF (Athletic Field Park)</p>									
ACCESSORY ACTIVITIES									
Fences, walls, or gates	*(L1)	*(L1)	*(L1)	*(L1)	*(L1)	*(L1)	*(L1)	*(L1)	*

Limitations on Table Above in Section 17.11.060:

L1. Exception. Fences, walls, and gates in the designated park types may be exempted from this Conditional Use Permit requirement if the City Administrator, or their designee, determines that it will increase safety and security, or could prevent a public safety hazard or damage to an environmentally sensitive area. The City Administrator, or their designee, is hereby authorized to institute standards consistent with this subsection to guide implementation of this exception.

Chapter 17.13 RH HILLSIDE RESIDENTIAL ZONES REGULATIONS

17.13.010 Title, intent, and description.

- B. Description of Zones. This Chapter establishes land use regulations for the following four (4) zones:
1. **RH-1 Hillside Residential - 1 Zone.** The intent of the RH-1 Zone is to create, maintain, and enhance areas for single-family dwellings living on lots of one acre or more, and is appropriate in portions of the Oakland Hills.
 2. **RH-2 Hillside Residential - 2 Zone.** The intent of the RH-2 Zone is to create, maintain, and enhance areas for single-family dwellings living on lots of at least twenty-five thousand (25,000) square feet, and is appropriate in portions of the Oakland Hills.
 3. **RH-3 Hillside Residential - 3 Zone.** The intent of the RH-3 Zone is to create, maintain, and enhance areas for single-family dwellings on lots of at least twelve thousand (12,000) square feet and is appropriate in portions of the Oakland Hills.
 4. **RH-4 Hillside Residential - 4 Zone.** The intent of the RH-4 Zone is to create, maintain, and enhance areas for one to two primary dwellings single family dwellings on lots of six thousand five hundred (6,500) to eight thousand (8,000) square feet and is typically appropriate in already developed areas of the Oakland Hills.

17.13.050 Property development standards.

- A. **Zone Specific Standards.** Table 17.13.03 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. "—" indicates that a standard is not required in the specified zone.

Table 17.13.03: Property Development Standards

Development Standards	Zones				Additional Regulations
	RH-1	RH-2	RH-3	RH-4	
Minimum Lot Dimensions					
Lot Width mean	100 ft.	100 ft.	90 ft.	45 ft.	1
Frontage	25 ft.	25 ft.	25 ft.	25 ft.	1
Lot area	43,560 sf.	25,000 sf.	12,000 sf.	6,500 sf. or 8,000 sf.	1, 2, 3
Maximum Permitted Residential Density	1 primary dwelling unit on any legal lot; per lot	1 primary dwelling unit on any legal lot; per lot	1 primary dwelling unit on any legal lot; per lot	1 primary dwelling unit on any legal lot; per lot 2 dwelling units on lots 8,000 sf. or greater	4, 18

Minimum Setbacks					
Minimum front (≤20% street-to-setback gradient)	25 ft.	25 ft.	20 ft.	20 ft.	4, 5, 6, 17
Minimum front (>20% street-to-setback gradient)	5 ft.	5 ft.	5 ft.	5 ft.	4, 5, 6, 7, 17
Minimum interior side (≤20% footprint slope)	6 ft.	6 ft.	6 ft.	5 ft.	4, 8, 9, 17
Minimum interior side (>20% footprint slope)	6 ft./15%	6 ft./15%	6 ft./10%	5 ft./10%	4, 8, 9, 17
Minimum street side	6 ft.	6 ft.	6 ft.	5 ft.	4, 5, 10, 17
Rear	35 ft.	30 ft.	25 ft.	20 ft.	4, 7, 10, 11, 17
Maximum Lot Coverage and Floor Area Ratio (FAR)	See Table 17.13.04				
Height Regulations for All Lots with a Footprint Slope of ≤20%					
Maximum wall height primary building	25 ft.	25 ft.	25 ft.	25 ft.	4, 13, 14
Maximum pitched roof height primary building	30 ft.	30 ft.	30 ft.	30 ft.	4, 13, 14
Maximum height for accessory structures	15 ft.	15 ft.	15 ft.	15 ft.	4, 13, 14
Height Regulations for all Lots with a Footprint Slope of >20%	See Table 17.13.05 for Height regulations for all lots with a footprint slope of >20%				4, 15
Minimum Parking	See Chapter 17.116 for automobile parking and Chapter 17.117 for bicycle parking requirements				4, 16
Minimum Open Space					
Group open space per Primary Unit	N/A	N/A	N/A	300 sf.	14
Group open space per Primary Unit when private open space substituted	N/A	N/A	N/A	100 sf.	14
Courtyard Regulations	See Section 17.108.120				

Additional Regulations for Table 17.13.03:

1. See Sections 17.106.010 and 17.106.020 for exceptions to lot development standard regulations. In the RH-3 Zone, the minimum average lot width of all lots within a subdivision shall be ninety (90) feet, and the minimum lot width of any individual lot within such subdivision shall be seventy-five (75) feet.

4. See Section 17.103.080 and Chapter 17.88 for development standards applicable to permitted Accessory Dwelling Units. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms.

14. Usable open space is only required on lots with two (2) or more primary living units, excluding any permitted Accessory Dwelling Units. Each one (1) square foot of private usable open space equals two (2) square feet towards the total usable open space requirement, except that actual group space shall be provided in the minimum amount specified in the table per dwelling unit, excluding any permitted Accessory Dwelling Units. All usable open space shall meet the standards contained in Chapter 17.126. In all RH Zones, if at least sixty percent (60%) of the buildings in the immediate context are no more than one (1) story in height, the maximum wall height shall be fifteen (15) feet within the front twelve (12) feet of buildable area. The immediate context shall consist of the five (5) closest lots on each side of the project site plus the ten (10) closest lots on the opposite side of the street; however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any approval of any variance, conditional use permit, design review, determination of exemption from design review, or other special zoning approval or, if no special zoning approval is required, part of any Planning Department approval of a building permit application.

18. A second primary unit may only be granted in the RH-4 Zone upon determination that:

- i) The project is not located within the S-9 Fire Safety Protection Combining Zone; and
- ii) The minimum pavement width along the entire length of the adjoining street is at least twenty-six (26) feet, and all streets connecting the lot to the nearest arterial street (as designated by the City of Oakland General Plan Land Use and Transportation Element) have a minimum pavement width of at least twenty-six (26) feet.

C. Height. Table 17.13.05 below prescribes height standards associated with different sloped lots. The numbers 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 footprint slope category.

Table 17.13.05 Height Regulations for all Lots with a Footprint Slope of >20%

Regulation	Downslope Lot Height Regulations With a Footprint Slope of:			Upslope Lot Height Regulations With a Footprint Slope of:	Additional Regulations
	>20% and ≤40%	>40% and ≤60%	>60%	>20%	
Maximum Height for Detached Accessory Structures	15 ft.	15 ft.	15 ft.	15 ft.	1

Maximum Wall Height Primary Building	30 ft. 32 ft.	32 ft. 34 ft.	34 ft. 36 ft.	30 ft. 32 ft.	1, 2
Maximum Wall Height Primary Building with a CUP	36 ft.	38 ft.	40 ft.	35 ft.	1
Maximum Pitched Roof Height Primary Building	34 ft. 36 ft.	36 ft. 38 ft.	38 ft. 40 ft.	34 ft. 35 ft.	1, 2
Maximum Height Above Edge of Pavement	18 ft.	18 ft.	18 ft.	N/A	1
Maximum Height Above the Ground Elevation at the Rear Setback Line	N/A	N/A	N/A	24 ft.	1
Maximum Height from Finished or Existing Grade (whichever is lower) Within 20' of the Front Property Line	N/A	N/A	N/A	24 ft.	1, 3

Additional Regulations for Table 17.13.05:

1. See Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits in certain situations.
2. On a downslope lot greater than forty percent (40%) footprint slope, the rear wall of an attached garage or carport may exceed the wall height and roof height by five (5) feet, but may not exceed eighteen (18) feet above ground elevation at edge of pavement, if the garage or carport conforms with all of the following criteria:
 - a. Maximum width is twenty-two (22) feet and maximum depth is twenty (20) feet; and
 - b. Garage or carport floor is at the same level as the edge of the street pavement resulting from the project at the center point of the driveway entrance or is at a lower level; and
 - c. Maximum height above the garage or carport floor is ten (10) feet for walls to the top of the plate or flat roof and twelve (12) feet for pitched roofs.

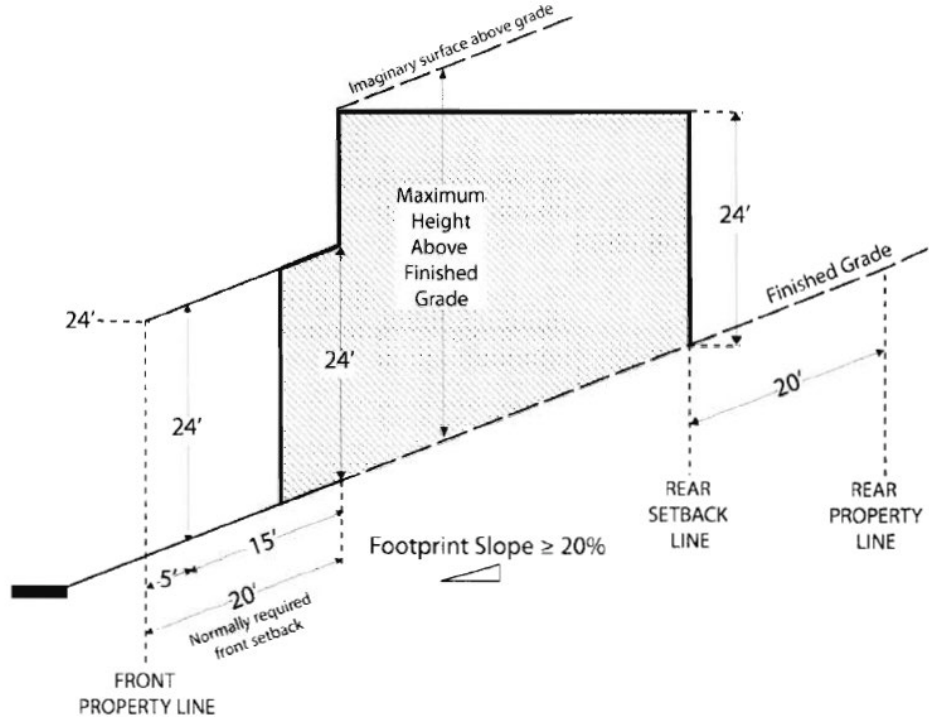
See Illustration for Table 17.13.05 [Additional Regulation 2], below.

3. The building height is measured from finished or existing grade, whichever is lower.

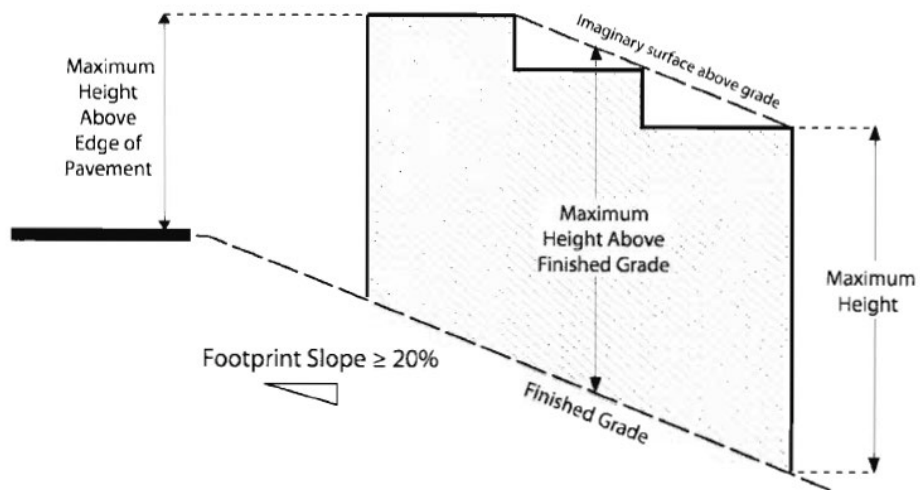
Illustration for Table 17.13.05 [Additional Regulation 2]

*for illustration purposes only

Upslope



Downslope



Chapter 17.15 RD DETACHED UNIT RESIDENTIAL ZONE REGULATIONS

17.15.050 Property development standards.

- A. **Zone Specific Standards.** Table 17.15.03 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" indicates that a standard is not applicable in the specified zone.

Table 17.15.03: Property Development Standards

Development Standards	Zone	Additional Regulations
	RD	
Minimum Setbacks for lots Equal to or Greater than 3,000 Square Feet in Size		
Minimum front (≤20% street-to-setback gradient)	15 ft.	6, 8, 18, 20
Minimum front (>20% street-to-setback gradient)	5 ft.	6, 7, 8, 18, 20
Minimum interior side	4 ft.	1, 9, 10, 18, 20, 21
Minimum street side	4 ft.	1, 8, 9, 11, 18, 20
Rear	10 ft.	1, 9, 12, 13, 18

Additional Regulations for Table 17.15.03:

8. On lots with only Residential Facilities, paved surfaces within required street-fronting yards, and any unimproved rights-of-way of adjacent streets, shall be limited to fifty percent (50%) on interior lots and thirty percent (30%) on corner lots. Exceptions: The maximum percentages of paved surfaces specified in this additional regulation may be exceeded within unimproved rights-of-way in the following cases upon issuance of a private construction of public improvements (P-job) permit or if undertaken directly by the City or by a private contractor under contract to the City:

a. Roadway construction or widening; and

b. Sidewalk construction or widening; and

c. Any work pursuant to an approved final map, parcel map or final development plan pursuant to a Planned Unit Development (PUD) permit.

For purposes of this additional regulation, an unimproved right-of-way is the portion of a street or alley right-of-way that is not paved.

Chapter 17.19 RU URBAN RESIDENTIAL ZONES REGULATIONS

17.19.050 Property development standards.

**Table 17.19.04 Height, Floor Area Ratio (FAR), Density, and Open Space
Regulations for the RU-4 and RU-5 Zones Only**

Regulation	Height Area						Additional Regulations
	35	45	55	65	95	125	
Maximum Height	35 ft.	45 ft.	55 ft.	65 ft.	95 ft.	125 ft.	1, 2
Height Minimum							
Permitted height minimum	N/A	N/A	35 ft.	35 ft.	45 ft.	55 ft.	3
Conditionally permitted height minimum	N/A	N/A	25 ft.	25 ft.	35 ft.	45 ft.	3
Regulation	Height Area						Additional Regulations
	35	45	55	65	95	125	
Maximum Residential Density (square feet of lot area required per dwelling unit)							
Regular Dwelling Units	500 sf.	400 sf.	350 sf.	300 sf.	200 sf.	200 sf.	4, 5
Rooming Units	250 sf.	200 sf.	175 sf.	150 sf.	100 sf.	100 sf.	4, 5
Efficiency Dwelling Units	250 sf.	200 sf.	175 sf.	150 sf.	100 sf.	100 sf.	4, 5
Maximum Nonresidential FAR	2.0	2.5	3.0	3.0	4.0	4.0	4, 5
Maximum Number of Stories (not including underground construction)	3	4	5	6	8	12	
Minimum Usable Open Space							
Group usable open space per Regular Dwelling Unit	75 sf.	75 sf.	75 sf.	75 sf.	75 sf.	75 sf.	6
Group usable open space per Regular Dwelling Unit when private open space substituted	20 sf.	20 sf.	20 sf.	20 sf.	20 sf.	20 sf.	6

Group usable open space per Rooming Unit	38 sf.	38 sf.	<u>38 sf.</u>	38 sf.	38 sf.	38 sf.	6
Group usable open space per Rooming Unit when private open space is substituted	10 sf.	10 sf.	<u>10 sf.</u>	10 sf.	10 sf.	10 sf.	6
Group usable open space per Efficiency Dwelling Unit	38 sf.	38 sf.	<u>38 sf.</u>	38 sf.	38 sf.	38 sf.	6
Group usable open space per Efficiency Dwelling Unit when private open space is substituted	10 sf.	10 sf.	<u>10 sf.</u>	10 sf.	10 sf.	10 sf.	6

Chapter 17.65 HBX HOUSING AND BUSINESS MIX COMMERCIAL ZONES REGULATIONS

17.65.020 Required design review process.

- A. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.
- B. Conformance to the "HBX Design Guideline Manual" is required for any change to the exterior of a building that requires a building permit in the HBX Zones.
- C. Where there is a conflict between the design review criteria ~~contained in Section 17.136.070 specified in Chapter 17.136 and~~ the design objectives contained in the "HBX Design Guideline Manual", the design objectives in the "HBX Design Guideline Manual" shall prevail.

17.65.150 Special regulations for HBX Work/Live units.

- A. For HBX ~~Work/Live work/live~~ units, residential and nonresidential floor areas shall be designated according to the following standards:
 - 1. Residential floor area shall be considered areas containing bedrooms, sleeping areas, and kitchens (not including kitchenettes).
 - 2. Nonresidential floor area shall include floor areas designated for working.
 - 3. The floor area of stairs and balconies shall not be considered floor area for the purpose of this Subsection.
 - 4. The floor area between residential rooms that will commonly be used for residential activities and foot traffic such as the corridors and areas between bedrooms, kitchens, residentially designated bathrooms, and other similar areas shall be considered residential floor area.
 - 5. The floor area of bathrooms shall be counted as residential or nonresidential based on whether it is most conveniently accessed from the residential or nonresidential portion of the unit. If there is only one (1) bathroom in the unit, one-half ($\frac{1}{2}$) of the bathroom shall be considered residential floor area and one-half ($\frac{1}{2}$) shall be considered nonresidential floor area;
 - 6. In kitchens open to non-residential floor area, counters, cabinets, sink and appliances and the floor area that is four (4) feet in front of these items shall be considered residential floor area.
 - 7. If any part of a loft or mezzanine is designated as residential space, then the entire loft or mezzanine space shall be considered residential floor area.
 - 8. The Planning Director shall determine the floor area designation when the above standards do not clearly apply.
- B. Each ground floor HBX ~~Work/Live work/live~~ unit shall have at least one (1) public entrance that is directly adjacent to nonresidential floor area. A visitor traveling through this business

entrance shall not be required to pass through any residential floor area in order to enter into the nonresidential area of the unit.

- C. Each unit shall contain at least one (1) tenant that operates a business within that unit. That tenant shall possess a valid and active City of Oakland Business Tax Certificate to operate a business out of the unit.
- D. For any HBX Work/Live unit, a statement of disclosure shall be: (1) provided to prospective owners or tenants before a unit or property is rented, leased, or sold; and (2) in any covenant, conditions, and restrictions associated with a facility. This statement of disclosure shall contain the following acknowledgments:
 - 1. The unit is in a Nonresidential Facility that allows commercial and/or light industrial activities that may generate odors, truck traffic, vibrations, noise and other impacts at levels and during hours that residents may find disturbing.
 - 2. Each unit shall contain at least one (1) tenant that operates a business within that unit. This tenant must possess an active City of Oakland Business Tax Certificate for the operation out of the unit.
- E. Each building with an HBX **Work/Live work/live** unit shall contain a sign that: (1) is permanently posted; (2) is at a common location where it can be frequently seen by all tenants such as a mailbox, lobby, or entrance area; (3) is made of durable material; and (4) has a minimum dimension of nine (9) by eleven (11) inches and lettering at least one-half (½) an inch tall. This sign shall contain the following language; "This development contains work/live units. As such, please anticipate the possibility of odors, truck traffic, noise or other impacts at levels and hours that residents may find disturbing." Further, City of Oakland regulations require that each unit have a tenant that: (1) operates a business from that unit, and (2) possesses an active City of Oakland Business Tax Certificate for this business.
- F. HBX Work/Live units are Nonresidential Facilities and counted towards the nonresidential floor area ratio, not the residential density.
- G. **Design Review requirement.** Establishment of an HBX Work/Live unit shall conform to the design review criteria set forth in Chapter 17.136, and **if Regular Design Review is applicable,** to all of the following additional criteria:
 - 1. That the exterior of a new building containing primarily HBX Work/Live units has a commercial or industrial appearance. This includes, but is not necessarily limited to, the use of nonresidential building styles or other techniques.
 - 2. That a building containing HBX Work/Live units has Nonresidential Activities and nonresidential floor area on the ground floor or level and at street fronting elevations.
 - 3. That units on the ground floor or level of a building have nonresidential floor area that is directly accessible from and oriented towards the street.
 - 4. That units on the ground floor or level of a building have a business presence on the street. This includes, but is not necessarily limited to, providing storefront style windows, roll-up doors, a business door oriented towards the street, a sign or other means that identifies the business on the door and elsewhere, a prominent ground floor height, or other techniques.
 - 5. That the layout of nonresidential floor areas within a unit provides a functional open area for working activities.
 - 6. That the floor and site plan for the project include an adequate provision for the delivery of items required for a variety of businesses. This may include, but is not necessarily

limited to, the following:

- a. Service elevators designed to carry and move oversized items,
 - b. Stairwells wide and/or straight enough to deliver large items,
 - c. Loading areas located near stairs and/or elevators and
 - d. Wide corridors for the movement of oversized items.
7. That the floor and site plan for the project provide units that are easily identified as businesses and conveniently accessible by clients, employees, and other business visitors.

17.65.160 Special regulations for HBX Live/Work units.

- A. **Definition.** "HBX Live/Work unit" means a room or suite of rooms that are internally connected maintaining a common household that includes: (1) cooking space and sanitary facilities that satisfy the provisions of other applicable codes; and (2) adequate working space reserved for, and regularly used by, one or more persons residing therein. An HBX Live/Work-live/work unit accommodates both Residential and Nonresidential Activities. An HBX Live/Work-live/work unit meets all applicable regulations contained in this Section.
- J. **Design Review requirement.** Establishment of an HBX Work/Live unit shall conform to the design review criteria set forth in Chapter 17.136, and if Regular Design Review is applicable, to all of the following additional criteria:
1. That the layout of nonresidential floor areas within a unit provides a functional and bona fide open area for working activities;
 2. That, where appropriate for the type of businesses anticipated in the development, the floor and site plan for the project include an adequate provision for the delivery of items required for a variety of businesses. This may include, but is not necessarily limited to, the following:
 - a. Service elevators designed to carry and move oversized items,
 - b. Stairwells wide and/or straight enough to deliver large items,
 - c. Loading areas located near stairs and/or elevators and
 - d. Wide corridors for the movement of oversized items.

Chapter 17.72 M-40 INDUSTRIAL ZONE REGULATIONS

17.72.020 Required design review process.

- A. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Residential Facility, Designated Historic Property, Potentially Designated Historic Property, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.
- B. 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.

Chapter 17.73 CIX, IG AND IO INDUSTRIAL ZONES REGULATIONS

17.73.015 Required design review process.

- D. Establishment of a Work/Live unit **in the CIX, IG, and IO Industrial Zones** shall only be permitted upon determination that the proposal conforms to the Regular **Design Review** ~~design review~~ criteria set forth in the Regular Design Review procedure in Chapter 17.136 and to all of the additional criteria set forth in Subsection 17.73.040.D.

17.73.020 Permitted and conditionally permitted activities and facilities.

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

"P" designates permitted activities and facilities in the corresponding zone.

"C" designates activities and facilities that are permitted only upon the granting of a conditional use permit (see Chapter 17.134) in the corresponding zone.

"L" designates activities and facilities subject to certain limitations listed at the bottom of the Table.

"—" designates activities and facilities that are prohibited in the corresponding zone.

Table 17.73.020: Permitted and Conditionally Permitted Activities and Facilities

Activity Types	Base Zones								Combining Zone	Additional Regulations
	CIX-1A	CIX-1B	CIX-1C	CIX-1D	CIX-1	CIX-2	IG	IO	T*	
Commercial Activities										
Personal Instruction and Improvement Services	P(L9)	P(L9)	P(L9)	P(L9)	P(L9)	P(L9)	P(L9)	C		
Administrative	P	P	P	P	P	P	P(L10) (L9)	P		
Business, Communication, and Media Service	P	P	P	P	P	P	P	P		
Industrial Activities										

Recycling and Waste-Related:										
A. Satellite Recycling Collection Centers	C	C	C	C	C	C	C	C		
B. Primary Recycling Collection Centers	—	—	—	—	C(L11) (L1)	C(L11) (L1)	P(L12)	—	—	See Section 17.73.0 35 and 17.103.06 0 17.103.06 5

Limitations on Table 17.73.020:

L1. All new Residential Activities are prohibited in the CIX, IG, and IO Zones, except that Emergency Shelters are permitted by-right on properties owned by churches, temples, synagogues, and other similar places of worship approved for Community Assembly Civic Activities; and within those portions of the 3rd Street corridor, East 12th Street corridor and Coliseum Way area described in Section 17.103.015(A)(5)(6)(8) respectively and subject to the development standards in Section 17.103.015(B); and conversion of an existing Transient Habitation Commercial Activity in the CIX-2 Zone into a Permanent Residential, Residential Care, Supportive Housing, or Transitional Housing Residential Activity may be permitted through a Conditional Use Permit in any portion of the CIX-2 Zone not located within one thousand five hundred (1,500) feet of Hegenberger Road. A Conditional Use Permit for such residential conversion of an existing Transient Habitation Commercial Activity in the CIX-2 Zone may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the Conditional Use Permit procedure in Chapter 17.134 and to the following additional criteria:

- a. That the proposal involves housing that is only for one or more underserved populations, including but not limited to, low-income households, seniors, or veterans.

L9. A Conditional Use Permit is required for entertainment, educational and athletic uses (see Chapter 17.134 for the CUP procedure). Also, no new or expanded Adult Entertainment Activity shall be located closer than one thousand (1,000) feet to the boundary of any Residential Zone or three hundred (300) feet from any other Adult Entertainment Activity. See Section 17.102.160 for further regulations regarding Adult Entertainment Activities.

L10. In the IG Zone, Administrative activities are only permitted if accessory to an approved Industrial Activity and are limited to no more than twenty percent (20%) of total floor area.

L11. Prohibited if located within six hundred (600) feet of a Residential Zone; a Conditional Use Permit containing requirements no less stringent than the performance standards set out in Section 17.73.035 is required if located beyond six hundred (600) feet of a Residential Zone boundary.

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

C. Conditional Use Permit required.

1. Establishment of a Work/Live unit in the CIX, IG, and IO Industrial Zones is only permitted upon determination that the proposal conforms to the Conditional Use Permit criteria set forth in the Conditional Use Permit procedure in Chapter 17.134 and to one or both of the following additional use permit criteria:
 - a. The project is in the CIX Zones, and involves conversion of an existing building originally designed for Commercial or Industrial Activities located within three hundred (300) feet of a Residential Zone;
 - b. The project is in the CIX, IG, or IO Zones, and involves conversion of an existing building originally designed for Commercial or Industrial Activities and there are existing artist and/or artisan residents who meet the requirements of Zoning Code Bulletin regarding "Live/Work" (issued August 29, 2001 and amended August 23, 2004).

D. Design review required. Establishment of a Work/Live unit in the CIX, IG, and IO Industrial Zones shall conform to the Regular Design Review design review criteria set forth in the design review procedure in Chapter 17.136, and if Regular Design Review is applicable, to all of the following additional criteria:

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

Chapter 17.84 S-7 PRESERVATION COMBINING ZONE REGULATIONS

17.84.040 Design review criteria for construction or alteration.

In the S-7 Zone, proposals requiring Regular ~~Design Review design review~~ approval pursuant to Section 17.84.030 may be granted only upon determination that the proposal conforms to the Regular ~~Design Review design review~~ criteria set forth in the design review procedure in Chapter 17.136 and to all of the following additional design review criteria:

- A. That the proposal will not substantially impair the visual, architectural, or historic value of the affected site or facility. Consideration shall be given to design, form, scale, color, materials, texture, lighting, detailing and ornamentation, landscaping, Signs, and any other relevant design element or effect, and, where applicable, the relation of the above to the original design of the affected facility.
- B. That the proposed development will not substantially impair the visual, architectural, or historic value of the total setting or character of the surrounding area or of neighboring facilities. Consideration shall be given to integration with, and subordination to, the desired overall character of any such area or grouping of facilities. All design elements or effects specified in Subsection A. of this Section shall be so considered.
- C. That the proposal conforms with the Design Guidelines for Landmarks and Preservation Districts as adopted by the City Planning Commission and, as applicable for certain federally-related projects, with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Chapter 17.90 S-10 SCENIC ROUTE COMBINING ZONE REGULATIONS

17.90.040 Restriction on driveway access.

No driveway shall have access to Grizzly Peak Boulevard, Skyline Boulevard, Tunnel Road, or Shepherd Canyon Road, ~~unless: except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination:~~

- A. ~~That vehicular~~ Vehicular access cannot reasonably be provided from a different street or other way; and
- B. ~~That every~~ Every reasonable effort has been made to share means of vehicular access with abutting properties.

~~However, a conditional use permit is not required in cases where site development and design review approval authorizing the driveway access has been granted pursuant to Sections 17.92.030 and 17.92.050.~~

17.90.050 Design review criteria.

In the S-10 Zone, proposals requiring Ministerial or Regular Design Review ~~design review~~ approval pursuant to Section 17.90.030 may be granted only upon determination that the proposal conforms to the Ministerial or Regular Design Review ~~design review~~ criteria set forth in the design review procedure in Chapter 17.136 and to both of the following additional criteria:

- A. That the siting, grading, and design will, to the maximum extent feasible, preserve existing live trees and other desirable natural features;
- B. That the proposed development will, as far as practicable, maintain existing vistas or panoramas which can be seen from the abutting public road and maintain the visual value of the total setting or character of the surrounding area.

Chapter 17.92 S-11 SITE DEVELOPMENT AND DESIGN REVIEW COMBINING ZONE REGULATIONS

Sections:

17.92.050 Design review criteria.

17.92.070 Waiver of certain requirements through ~~Regular Design Review.~~ ~~regular design review.~~

17.92.050 Design review criteria.

In the S-11 Zone, proposals requiring ~~Ministerial or~~ Regular ~~Design Review~~ ~~design review~~ approval pursuant to Section 17.92.030 may be granted only upon determination that the proposal conforms to the ~~Ministerial or~~ Regular ~~Design Review~~ ~~design review~~ criteria set forth in the design review procedure in Chapter 17.136 and to the following additional criteria:

- A. That the siting, clearing, landscaping, and other relevant features of the proposal will conform in all significant respects with the Vegetation Management Prescriptions of the North Oakland Hill Area Specific Plan;
- B. That the proposal will conform in all significant respects with the Site Development Map of the North Oakland Hill Area Specific Plan with respect to the protection of view corridors and vegetation masses;
- C. That, after due consideration has been given to other criteria, any proposed vehicular access will be provided at the safest point of entry from the appropriate street;
- D. That the proposal will duly take into account any special geotechnical or similar constraint affecting the property;
- E. That the proposal will involve the minimum possible amount of grading, consistent with the attainment of other criteria set forth in this Section, and that an acceptable grading and/or erosion and sedimentation control plan, where required, has been or will be submitted;
- ~~F. That, in conjunction with criterion E, of this Section, retaining walls of excessive height and/or length will be avoided. Projects involving retaining walls over eight (8) feet in height and/or grading or removal of material in excess of five hundred (500) cubic yards shall be referred to the Director of City Planning for Regular design review pursuant to Chapter 17.136;~~
- ~~F.~~ ~~G.~~ That fire hydrants will be provided consistent with the City of Oakland Fire Prevention Bureau's requirements;
- ~~G.~~ ~~H.~~ That, where feasible, solar orientation and energy conservation techniques will be suitably incorporated ~~into in~~ the overall design;
- ~~H.~~ ~~I.~~ That if the proposal involves developing dwelling units on a property for which the Site Development Map of the North Oakland Hill Area Specific Plan depicts siting of those facilities, the provisions of Section 17.92.040 will be met;
- ~~I.~~ ~~J.~~ That if the proposal involves creating driveway access to Grizzly Peak Boulevard, Skyline Boulevard, Tunnel Road, or Shepherd Canyon Road, it will meet the same criteria as are specified in Subsections A. and B. of Section 17.90.040.

17.92.070 Waiver of certain requirements through Regular Design Review. ~~regular design review.~~

- A. Reduction of Yard Requirements. Upon approval pursuant to Sections 17.92.030 and 17.92.050, the side yard may be varied within the following limits:

The side of a dwelling unit may be as close as six (6) feet to the side of an adjoining dwelling unit provided that its opposite side is separated from the side of other adjoining dwelling units by at least two (2) times the side yard normally required for a dwelling unit within that zone.

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

17.101C.025 - Special regulations for Large-Scale Developments.

17.101C.025 - 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 seventy-five (275) 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 (PUD) procedure (see Chapter 17.140 for the PUD procedure).

Chapter 17.101E D-CE CENTRAL ESTUARY DISTRICT ZONES REGULATIONS

17.101E.040 Permitted and conditionally permitted facilities.

For the purposes of this Chapter only, the following definitions are added as facility types. Definitions for the other facility types listed in Table 17.101E.02 are contained in the Oakland Planning Code Chapter 17.10.

A. Definitions.

1. **"Live/Work"** means a room or suite of rooms that are internally connected maintaining a common household that includes: (a) cooking space and sanitary facilities that satisfy the provisions of other applicable codes; and (b) adequate working space reserved for, and regularly used by, one or more persons residing therein. A Live/Work unit is intended to accommodate both Residential and Nonresidential Activities.
2. **"Work/Live"** means a room or suite of rooms that are internally connected maintaining a common household that includes: (a) cooking space and sanitary facilities that satisfy the provisions of other applicable codes, and (b) adequate working space reserved for, and regularly used by, one or more persons residing therein. A Work/Live unit is intended to accommodate a primary Nonresidential Activity with an accessory residential component.

Table 17.101E.02 lists the permitted, conditionally permitted, and prohibited facilities in the D-CE Zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the Table.

"—" designates facilities that are prohibited.

Table 17.101E.02: Permitted and Conditionally Permitted Facilities

Facilities	Zones						Additional Regulations
	D-CE-1	D-CE-2	D-CE-3	D-CE-4	D-CE-5	D-CE-6	
Residential Facilities							
One-Family Dwelling	—(L1)	—(L1)	P(L5)	—(L1)	—(L1)	—(L1)	17.103.080
Two- to Four-Family Dwelling	—(L1)	—(L1)	P(L5)	—(L1)	—(L1)	—(L1)	17.103.080
Multifamily Dwelling	—(L1)	—(L1)	P(L5)	P(L5)	—(L1)	—(L1)	17.103.080
Rooming House	—(L1)	—(L1)	P	P	—(L1)	—(L1)	
Vehicular	—(L1)	—(L1)	P	—(L1)	—(L1)	—(L1)	17.103.080 17.103.085
Live/Work	—	—	P	P	—	—	

Nonresidential Facilities							
Enclosed Nonresidential	P	P	P	P	P	P	
Open Nonresidential	P	P	C(L4)	C(L4)	P	P	
Work/Live	—	—	P	P	C	—	
Sidewalk Cafe	P	P	P	P	CP	—	17.103.090
Drive-In	C	C	—	C	—	—	
Drive-Through	C	C	—	C(L2)	C	C	17.103.100
Telecommunications Facilities							
Micro Telecommunications	C	P(L3)	C	C	P(L3)	P(L3)	17.128
Mini Telecommunications	C	P(L3)	C	C	P(L3)	P(L3)	17.128
Macro Telecommunications	C	C	C	C	C	P(L3)	17.128
Monopole Telecommunications	C	C	C	C	C	P(L3)	17.128
Tower Telecommunications	—	—	—	—	—	P(L3)	17.128
Sign Facilities							
Residential Signs	—	—	P	P	—	—	17.104
Special Signs	P	P	P	P	P	P	17.104
Development Signs	P	P	P	P	P	—	17.104
Realty Signs	P	P	P	P	P	P	17.104
Civic Signs	P	P	P	P	P	P	17.104
Business Signs	P	P	P	P	P	P	17.104
Advertising Signs	—	—	—	—	—	—	17.104

Limitations on Table 17.101E.02:

L1. See Chapter 17.114 - Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities, provided, however, that Accessory Dwelling Units are permitted in the D-CE-4 Zone when there is an existing primary Residential Facility on a lot, subject to the provisions of Section 17.103.080 and Chapter 17.88.

L2. Drive through facilities are not allowed to locate between the front property line and the building.

L3. See Section 17.128.025 for restrictions on Telecommunication Facilities near residential or D-CE-3 and D-CE-4 Zones.

L4. No Conditional Use Permit (CUP) is required for Open Nonresidential Facilities to accommodate Civic Activities, Limited Agriculture, seasonal sales, or special events.

L5. See Section 17.103.080 and Chapter 17.88 for regulations regarding permitted Accessory Dwelling Units.

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
Landscaping Regulations See also "Design Guidelines for the Central Estuary" Section 3.8 and 5							
Site Landscaping (including parking lot)	See Chapters 17.110, and 17.124 for buffering, landscaping and screening standards.						13, 14, 15
Site landscaping (% of lot area)	See Chapters 17.110, and 17.124				5%	5%	14
Parking lot landscaping (% of lot area)	See Chapters 17.110, and 17.124				10%	10%	14
Driveway and Site Access Regulations See also "Design Guidelines for the Central Estuary" Sections 3.4 and 3.7.							
Minimum Distance of driveway or site access from any Residential or Open Space Zone boundary	See Section 17.116.210.				50 ft.	50 ft.	16
Driveway Width Maximum	See Section 17.116.210.				35 ft.	35 ft.	17
Pedestrian Walkway	N/A	N/A	N/A	N/A	Required	Required	18
Frontage Type Standards	See Table 17.101E.05. See also "Design Guidelines for the Central Estuary" Section 4.1.						

Additional Regulations for Table 17.101E.03:

8. In the D-CE-5 and D-CE-6 Zones, this regulation applies to all property lines which directly abut a Residential or Open Space Zone, except those fronting a public street. Buffering requirements also apply to: a) new development; or expansion of an industrial or commercial building by more than twenty percent (20%) of total floor area, or b) addition or expansion of an existing building so that the lot coverage exceeds thirty-five percent (35%), whichever is greatest. The planting requirement may be reduced but not eliminated if appropriate and approved by the Planning Director. The ~~twelve (12) foot~~ maximum fence height may only be achieved with additional screening. The fence or wall design shall be approved by the Planning Director. See also "Design Guidelines for the Central Estuary", Section 3.8 and 4.1.

14. In the D-CE-5 and D-CE-6 Zones, the following landscape requirements apply:

a. Submittal and approval of a landscape plan for the entire site and street frontage is required for the establishment of a new Nonresidential Facility and for additions to Nonresidential Facilities of over one thousand (1,000) square feet (see Section 17.124.025). A minimum of five percent (5%) of the lot area shall be landscaped. Landscaping and buffering must be consistent with guidelines in the "Design Guidelines for the Central Estuary", Section 3.8.

b. ~~Required p~~Parking lot landscaping: For all lots associated with construction of more than twenty-five thousand (25,000) square feet of new floor area, a minimum of ten percent (10%) of ~~any surface~~ parking lot area shall be landscaped accompanied by an irrigation system that is permanent, below grade and activated by automatic timing controls; permeable surfacing in lieu of irrigated landscaping may be provided if approved through design review procedure in Chapter 17.136. Shade trees shall be provided at a ratio of one (1) tree for every ten (10) spaces throughout the parking lot. Parking lots located adjacent to a public right-of-way shall include screening consistent with the landscaping and buffering guidelines in the "Design Guidelines for the Central Estuary".

16. In the D-CE-5 and D-CE-6 Zones, the site and driveway access requirement applies to new development; or expansion of industrial or commercial buildings by more than twenty percent (20%) ~~of total~~ 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; and all new driveway projects. This requirement may be waived administratively if such distance requirement will impede direct access to a rail line. Also applicable are the provisions of Chapter 17.116.

17. In the D-CE-5 and D-CE-6 Zones, a driveway shall not exceed thirty-five (35) feet in width without obtaining approval from the ~~Engineering~~ Department of ~~Transportation Building Services~~ through the Driveway Appeal Process. Also applicable are the provisions of Chapter 17.116.

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

C. **Design review requirement.** Establishment of a Work/Live unit shall conform to the design review criteria set forth in the design review procedure in Chapter 17.136, and ~~if Regular Design Review is applicable,~~ to all of the following additional criteria:

1. That the exterior of a new building containing primarily Work/Live units in the Industrial Zones has a commercial or industrial appearance. This includes, but is not necessarily limited to, the use of nonresidential building styles or other techniques;
2. That units on the ground floor level of a building have a business presence on the street.

This includes, but is not necessarily limited to, providing roll-up doors at the street or storefront style windows that allow interior space to be visible from the street, a business door that is oriented towards the street, a sign or other means that identifies the business on the door and elsewhere, a prominent ground floor height, or other techniques;

3. That the layout of nonresidential floor areas within a unit provides a functional and bona fide open area for working activities;
4. That the floor and site plan for the project include an adequate provision for the delivery of items required for a variety of businesses. This may include, but is not necessarily limited to, the following:
 - a. Service elevators designed to carry and move oversized items;
 - b. Stairwells wide and/or straight enough to deliver large items;
 - c. Loading areas located near stairs and/or elevators;
 - d. Wide corridors for the movement of oversized items; and
 - e. That the floor and site plan for the project provide units that are easily identified as businesses and conveniently accessible by clients, employees and other business visitors.

- 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.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

"N/A" designates the regulation is not applicable to the specified zone.

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	
Activities Allowed							
Work/Live - new construction	—	—	P	P	—	—	
Work/Live - conversion of existing building	—	—	P	P	C	—	1

Activities allowed in a Work/Live unit	N/A	N/A	Same permitted and conditionally permitted activities as described in Section 17.101E.030	Same permitted and conditionally permitted activities as described in Section 17.101E.030	Same permitted and conditionally permitted activities as described in Section 17.101E.030	N/A	
Minimum Size of Work/Live Unit	N/A	N/A	800 sf.	800 sf.	800 sf.	N/A	
Maximum Nonresidential FAR - See Design Guidelines Section 4.3.	N/A	N/A	3.0	3.0	N/A	N/A	2
Work/Live Unit Type Permitted See Table 17.101E.07 for definitions of the different types of Work/Live units.							
Type 1	—	—	P	P	C	—	3
Type 2	—	—	P	P	—	—	3
Minimum Usable Open Space - See also "Design Guidelines for the Central Estuary" Section 3.10.							
Group Usable Open Space per Work/Live Unit	N/A	N/A	75 sf.	75 sf.	N/A	N/A	4
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	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	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	N/A	N/A	5

			Resources Code. See Chapter 17.116 for other parking requirements	Resources Code. See Chapter 17.116 for other parking requirements			
Required Bicycle Parking with Private Garage							
Short-term space per 20 Work/Live units	N/A	N/A	1	1	N/A	N/A	6
Minimum short-term spaces	N/A	N/A	2	2	N/A	N/A	6
Required Bicycle Parking without Private Garage							
Short-term space per 20 Work/ Live units and long-term space per 4 units	N/A	N/A	1	1	N/A	N/A	6
Minimum short-term spaces and minimum long-term spaces	N/A	N/A	2	2	N/A	N/A	6
Required Loading - See also "Design Guidelines for the Central Estuary" Section 3.6							
Less than 50,000 sf.	N/A	N/A	No berth	No berth	N/A	N/A	5, 7
50,000 – 199,000 sf.	N/A	N/A	1 berth	1 berth	N/A	N/A	5, 7
200,000 sf. or more	N/A	N/A	2 berths	2 berths	N/A	N/A	5, 7
Public Entrance to Nonresidential Floor Area	N/A	N/A	Yes	Yes	Yes	N/A	8

Additional Regulations for Table 17.101E.06:

1. Use Permit Criteria. A Conditional Use Permit for a **D-CE** Work/Live unit may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the Conditional Use Permit procedure in Chapter 17.134 and to both of the following additional use permit criteria:

- a.** That the workers and others living there will not interfere with, nor impair, the purposes of the particular zone; and

b. That the workers and others living there will not be subject to unreasonable noise, odors, vibration or other potentially harmful environmental conditions.

3. See Table 17.101E.07 for definitions of the different types of **D-CE** Work/Live units.

5. Parking and loading standards shall apply to new construction and additions only. No additional parking or loading is required for **D-CE** Work/Live 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. See Chapter 17.116 for other off-street parking and loading standards.

E. Table 17.101E.07 below describes the different types of **D-CE** Work/Live units. Each new Work/Live unit shall qualify as at least one of the following Unit Types:

Table 17.101E.07 Definitions of the Different Types of **D-CE Work/Live Units**

Additional Regulations for Table 17.101E.07:

5. All required plans for the creation of **D-CE** Work/Live units shall: (1) delineate areas designated to contain Residential Activities and areas designated to contain Nonresidential Activities, and (2) contain a table showing the square footage of each unit devoted to Residential and Nonresidential Activities.

F. Additional Regulations for all **D-CE** Work/Live units.

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

D. Design Review requirement. Establishment of a Live/Work unit in the D-CE-3 and D-CE-4 Zones shall conform to the design review criteria set forth in Chapter 17.136, and to all of the following additional criteria: ~~Regular Design Review Required. Regular design review approval for D-CE-3 and D-CE-4 Live/Work units may be granted only upon determination that the proposal conforms to the regular design review criteria set forth in the design review procedure in Chapter 17.136 and to all of the following additional criteria:~~

1. That the layout of nonresidential floor areas within a unit provides a functional and bona fide open area for working activities;
2. That, where appropriate for the type of businesses anticipated in the development, the floor and site plan for the project include an adequate provision for the delivery of items required for a variety of businesses. This may include, but is not necessarily limited to, the following:
 - a. Service elevators designed to carry and move oversized items;
 - b. Stairwells wide and/or straight enough to deliver large items;
 - c. Loading areas located near stairs and/or elevators; and
 - d. Wide corridors for the movement of oversized items.

- B. Table 17.101E.08 below prescribes special regulations for **D-CE** Live/Work units **in the D-CE-3 and D-CE-4 Zones**. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

"N/A" designates the regulation is not applicable to the specified zone.

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	
Required Loading See also "Design Guidelines for the Central Estuary" Section 3.6			
Less than 50,000 sf.	No berth	No berth	2,4
50,000 - 149,999 sf.	1 berth	1 berth	2,4
150,000 sf. or more	2 berths	2 berths	2,4

Additional Regulations for Table 17.101E.08:

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

17.101G.070 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 seventy-five (275) 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 (PUD) procedure (see Chapter 17.140 for the PUD procedure). ~~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 17.101K D-DT DOWNTOWN DISTRICT ZONES REGULATIONS

Article II - Special Permit Requirements

No development that involves more than two hundred thousand (200,000) square feet of new floor area (when not combined with the S-7 Zone), or a new building or portion thereof of more than two hundred seventy-five (275) 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 (PUD) procedure (see Chapter 17.140 for the PUD procedure).

Article III – Use Requirements

17.101K.070 – Special Regulations for D-DT Work/Live Nonresidential Facilities.

- F. Design Review requirement. Establishment of D-DT Work/Live Unit shall conform to the design review criteria set forth in Chapter 17.136, and to all of the following additional criteria: Regular Design Review required. Establishment of a D-DT Work/Live Unit are only permitted upon determination that the proposal conforms to the Regular Design Review criteria set forth in the Design Review Procedure in Chapter 17.136 and to each of the following additional criteria:
1. Units on the ground-floor level of a building have a business presence on the street, including signage. For units in Commercial Zones, this includes a storefront-style façade as described in 17.101K.130(d). For units in Industrial Zones, this includes extra wide entrances and, if feasible, roll-up doors. For units in Residential Zones, this includes a business door that is oriented towards the street.
 2. The layout of nonresidential floor areas within a Work/Live Unit provides a functional open area for working activities.
 3. The floor and site plan for the project includes an adequate provision for the delivery of items required for a variety of businesses, including artist's work. This may include, but is not necessarily limited to, the following:
 - a. Service elevators designed to carry and move oversized items;
 - b. Extra-large slop sinks;
 - c. Doors, corridors, and stairwells wide and/or straight enough to deliver large items; and
 - d. Loading areas located near stairs and/or elevators;

Article IV – Development and Design Standards

17.101K.090 – Lot, Setback, and Ground Floor Requirements

Table 17.101K.04 below prescribes development standards specific to individual zones. The number designations in the right-hand column refer to the additional regulations listed at the end of the Table. "N/A" designates the standard is not applicable to the specified zone.

Table 17.101K.04 Development Standards for Downtown District Zones

	Base Zones										Combining Zone	Notes
	D-DT-P	D-DT-C	D-DT-CX	D-DT-R	D-DT-RX	D-DT-CPW	D-DT-CW	D-DT-AG	D-DT-PM	D-DT-JLI	Employment Priority*	
Minimum Parcel Requirements												
Lot Width Mean	50 ft.	50 ft.	25 50-ft.	25 ft.	25 ft.	50 ft.	50 ft.	25 ft.	50 ft.	50 ft.	100 ft.	1
Frontage	50 ft.	50 ft.	25 50-ft.	25 ft.	25 ft.	50 ft.	50 ft.	25 ft.	50 ft.	50 ft.	100 ft.	1
Lot Area	7,500 sf.	7,500 sf.	3,000 7,500-sf.	3,000 sf.	3,000 sf.	20,000 sf.	7,500 sf.	3,000 sf.	7,500 sf.	7,500 sf.	30,000 sf	1
Minimum and Maximum Setbacks												
Minimum front setback	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	2, 3, 4, 5
Maximum front and street side setback for the ground floor	5 ft.	5 ft.	5/10 ft.	N/A	5/10 ft.	5/10 ft.	5 ft.	5 ft.	5 ft.	N/A	10 ft.	6
Minimum interior side setback	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	
Minimum street side setback	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	2, 4, 5
Rear setback	0 ft.	0 ft.	0 ft.	10 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0/10 ft.	0 ft.	2, 4, 5, 7
Ground Floor Requirements												
Minimum façade transparency for ground floor Nonresidential Facilities	65%	55%	55%	55%	55%	55%	65%	55%	55%	N/A	65%	8, 9
Minimum height of ground floor Nonresidential Facilities	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	N/A	15 ft.	10

Article V – D-DT Combining Zones

17.101K.180 – Sea Level Rise Combining Zone.

- A. The regulations of this section apply to areas designated to be within the Sea Level Rise Combining Zone (D-DT-SLR Combining Zone) on the Zoning Map. The intent of the Zone is described in Section 17.101K.010.
- B. Developments that include the construction of any new principal building within the Sea Level Rise Combining Zone shall be required to submit a Sea Level Rise Adaptation Plan (SLRAP) for: 1) the review and approval of the Director of Planning or their designee, and 2) implementation by the applicant.
- C. The SLRAP shall be written by a licensed civil engineer or architect approved and managed by the Director of Planning or their designee.
- D. The SLRAP shall describe in a written report required site-specific measures to adapt to changes in projected rising sea level and related groundwater intrusion through the year 2100, 2050, including methods to protect human life and health; protect property; minimize the need for rescue and relief efforts associated with flooding; minimize prolonged evacuations and business interruptions due to flooding; and minimize damage to surrounding public utilities and infrastructure. All structures and infrastructure elements must be designed to be resilient to flood impacts.
- E. The SLRAP shall consider site-predicted base flood elevations, projected inundation levels through the year 2100, storm surge, and groundwater table changes, and any other relevant items.
- F. Where physically feasible, tThe minimum height of the finished floor of the bottom story of new buildings shall be at least twelve (12) twenty-four (24) inches higher than the future projected potential inundation level. Only nonhabitable spaces, including but not limited to parking and storage are permitted below this finished floor; and this under-floor area shall include openings that easily allow water to flow into and out of the space. Other resiliency measures may include adding fill to elevate the site and any access drive, anchoring the building, siting the building in areas least vulnerable to flooding, and locating utilities outside predicted inundation areas.

Chapter 17.108 GENERAL HEIGHT, YARD, AND COURT REGULATIONS

Sections:

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

- A. Compliance with Oakland Traffic Code. Notwithstanding other provisions of the Oakland Planning Code, all fences, dense hedges, barriers, and similar freestanding walls shall comply with the applicable provisions of Chapter 10.60 of the Oakland Traffic Code, entitled "Vision Obscurements at Intersections".
- B. Residential Zones and Residential Facilities. The provisions of this Section apply to all properties located in all Residential Zones, and to all properties located in any zone containing Residential Facilities.
 - 1. Height. Except as specified in Subsection B.2, in In the locations specified below, the height of any fence, dense hedge, or barrier or similar freestanding wall, but excluding retaining walls, shall not exceed the following:
 - a. In any minimum front yard, or any minimum side yard on the street side of a corner lot: forty-two (42) inches, except that six (6) feet is permitted in the following cases:
 - i. In the portions of street side yards located within the greater of the following distances, from the rear lot line:
 - a) Thirty-five (35) feet from the rear lot line;
 - b) The distance between the rear lot line and a line that is perpendicular to the street side lot line and that extends to the rearmost enclosed portion of the primary building on the lot; or
 - ii. Upon the granting of design review pursuant to the design review procedure in Chapter 17.136.
 - b. In any minimum rear yard if within ten (10) feet of a street line that abuts the lot: six (6) feet.
 - c. In any other minimum yard or court: eight (8) feet; and
 - d. One (1) entry gateway, trellis or other entry structure may be permitted in the required front setback area of each lot provided the maximum height or width of the facility does not exceed ten (10) feet.
 - 2. Exception. Any fence, dense hedge, barrier, or similar freestanding wall enclosing Nonresidential Activities and Facilities in a Residential Zone, including but not limited to schools, golf courses, cemeteries, and civic uses, shall be exempted from the above limitations on height and instead be subject to the Commercial Zones fence height limitations in Section 17.108.140.C. Any such 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 may only be permitted upon the granting of design review pursuant to the design review procedure in Chapter 17.136.
 - 32. Restricted Materials. The following materials are restricted in constructing or rebuilding walls or fences:
 - a. Barbed wire, razor wire, or electrified wire is not allowed to be used in fences.

- i. Exception. Fences or walls enclosing building construction sites may be exempted from the above limitation on barbed wire, razor wire, or electrified wire for the duration of the permitted construction activity if the Director of City Planning, or his or her designee, determines that it will increase safety and security or that trespassing could present a public safety hazard. The Director of City Planning, or his or her designee, is hereby authorized to institute standards consistent with this subsection to guide implementation of this exception.
- b. Chain link fencing is not allowed to exceed forty-two (42) inches in height in the following locations:
 - i. Street-fronting yards; or
 - ii. Interior side yards if closer to the front lot line than the front wall of the primary Residential Facility.
- c. Plain concrete blocks are not allowed as a fencing material unless capped and finished with stucco or other material approved by the Director of City Planning.

17.108.150 Retaining walls.

- A. No retaining wall shall exceed ~~eight (8) six (6)~~ feet in height, except in the following cases:
 - 1. Retaining walls flanking driveways that are nineteen (19) feet or less in width on lots with a street-to-setback gradient of twenty percent (20%) or more may exceed ~~eight (8) six (6)~~ feet in height if both of the following provisos are met:
 - a. The garage floor is at the highest possible elevation based on the maximum driveway slopes permitted by Subsection 17.116.260.A.; and
 - b. The top of the retaining wall is no higher than necessary to retain the existing grade at the top of the wall.
 - 2. Retaining walls not flanking driveways may also exceed ~~eight (8) six (6)~~ feet in height upon the granting of design review, pursuant to the design review procedure in Section 17.136 and if both of the following provisos are met:
 - a. The top of the retaining wall is no higher than necessary to retain the existing grade at the top of the wall, and
 - b. The retaining wall is located behind buildings, other permanent structures, or existing grade in such a manner as to visually screen the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot. Whenever buildings or other permanent structures on the subject lot block most, but not all, visibility of the retaining wall, dense landscaping shall be installed and maintained to screen the remaining views of the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot.
- B. Multiple retaining walls shall be separated by a distance of at least four (4) feet between the exposed faces of each wall.
- C. Retaining walls visible from the street or adjacent lots shall be surfaced with a decorative material, treatment or finish, such as stained or stuccoed concrete, decorative concrete block, wood, stone or masonry, or other decorative material, treatment or finish approved by the Director of City Planning. For purposes of this Section, "visible from the street or adjacent lots" refers to any portion of a wall that is not located behind buildings, other permanent

structures, or existing grade in such a manner as to visually screen the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot.

Chapter 17.116 OFF-STREET PARKING AND LOADING REQUIREMENTS

Sections:

Article V - Standards for ~~Required~~ Parking and Loading Facilities

Article V Standards for ~~Required~~ Parking and Loading Facilities

17.116.200 Parking space dimensions.

The provisions of this Section shall apply to all activities in all zones except Residential Activities occupying One-Family, Two- to Four-Family, or Multifamily Residential Facilities located within the S-12 Residential Parking Combining Zone, where the provisions of Section 17.94.060 shall apply. All parking spaces shall have the minimum dimensions set forth below and shall be provided, where necessary, with driveways and maneuvering aisles as set forth in Section 17.116.210.

- A. Compact and intermediate parking spaces shall count toward the off-street parking requirements if located on a lot containing a total of two (2) or more required spaces in the following cases:
 - 1. On such a lot, up to fifty percent (50%) of the required parking spaces may be compact spaces, provided that at least fifty percent (50%) of the required spaces are regular and/or handicapped spaces; or
 - 2. Alternatively, up to seventy-five percent (75%) of the required spaces may be intermediate spaces, provided that if any required spaces are compact spaces, an equal or greater number of the required spaces shall be regular and/or handicapped spaces.
- B. Regular Parking Spaces. A regular parking space shall be not less than eighteen (18) feet long and eight and one-half feet (8½) wide for all parking patterns except parallel parking. For parallel parking, a regular parking space shall be not less than twenty-two (22) feet long and eight (8) feet wide.
- C. Intermediate Parking Spaces. An intermediate parking space shall be not less than sixteen and one-half (16½) feet long and eight (8) feet wide for all parking patterns except parallel parking. For parallel parking, an intermediate parking space shall be not less than twenty and one-half (20½) feet long and seven and one-half (7½) feet wide.
- D. Compact Parking Spaces. A compact parking space shall be not less than fifteen (15) feet long and seven and one-half (7½) feet wide for all parking patterns except parallel parking. For parallel parking, a compact parking space shall be not less than nineteen (19) feet long and seven (7) feet wide.
- E. Posts and Other Obstructions. For ~~required~~ parking spaces that are at an angle of between sixty (60) degrees and ninety (90) degrees, the ~~required~~ parking space widths specified above shall be increased by one (1) foot for each long side of a parking space that abuts a wall or other similar obstruction. However, this additional width is not required for posts and other similar structural members, provided that:
 - 1. Such ~~required~~ parking space is a regular space or, if the City Traffic Engineer determines that sufficient maneuvering area is present for an intermediate or compact space; and
 - 2. Such post or other similar structural member is located at least three (3) feet but not more than five (5) feet from the maneuvering aisle or located not more than four (4) feet from the end of the parking space opposite the maneuvering aisle; and

3. Such post or other similar structural member does not impede pedestrian access to vehicle parking in the space; and
4. Such posts and other similar structural members shall be located on one side only of a ~~required~~ parking space.

17.116.210 Driveways and maneuvering aisles for parking.

Where necessary, maneuvering aisles and driveways shall be provided of such design and arrangement as to provide adequate ingress to and egress from all ~~required~~ parking spaces. (See also Sections 17.94.070, 17.94.080, 17.116.240, 17.116.250, and 17.116.260.) Except within the S-12 Residential Parking Combining Zone, where the provisions of Section 17.94.080 shall apply, and for shared access facilities, where the provisions of Section 17.102.090 shall apply, an onsite driveway serving any ~~required~~ off-street parking area shall have a minimum width of nine (9) feet. Driveways serving ~~One-Family Residential Facilities with one (1) or two (2) dwelling units~~ on one lot shall be not more than nineteen (19) feet in width for the front twenty (20) feet of the lot, with a curb cut no more than nineteen (19) feet in width, and shall be limited to one driveway and one driveway curb cut per lot frontage. Driveways serving ~~Two- to Four-Family or Multifamily Residential Facilities on~~ one lot ~~or serving any of several adjacent lots under the same ownership~~ shall be separated edge-to-edge by at least twenty-five (25) feet; where curbs exist, the separation shall be by at least twenty-five (25) feet of full vertical curb. Driveways serving adjacent lots ~~under different ownership~~ shall be separated edge-to-edge by at least ten (10) feet; where curbs exist, the separation shall be by at least ten (10) feet of full vertical curb.

- A. Maneuvering Aisle Width. Except for activities occupying Residential Facilities located within the S-12 Residential Parking Combining Zone, where the provisions of Section 17.94.070 shall apply, maneuvering aisles necessary for access into and out of ~~off-street required~~ parking spaces shall have the following minimum widths, whether serving regular, intermediate, or compact parking spaces:
 1. Where parking is parallel: eleven (11) feet;
 2. Where parking is at an angle of forty-five (45) degrees or less: twelve (12) feet;
 3. Where parking is at an angle of sixty (60) degrees or less but more than forty-five (45) degrees: fifteen (15) feet;
 4. Where parking is at an angle of seventy-five (75) degrees or less but more than sixty (60) degrees: eighteen (18) feet;
 5. Where parking is at an angle of ninety (90) degrees or less but more than seventy-five (75) degrees:
 - a. Twenty-one (21) feet for Residential Facilities; and
 - b. Twenty-three (23) feet for Nonresidential Facilities.

17.116.260 Surfacing and grade of parking and loading facilities.

- A. Slopes. The maximum slope of any ~~required~~ maneuvering aisle, parking space, or loading berth shall be ten percent (10%). The maximum slope of any ~~required~~ driveway shall be twenty-five percent (25%). For all driveways, extending from streets without curbs, gutters or sidewalks, the first five (5) feet of the driveway shall be level with the edge of the pavement. For driveways less than fifteen (15) feet in length, the maximum slope for other than the first five (5) feet shall be ten percent (10%). For driveways fifteen (15) feet or more in length but

less than twenty-five (25) feet, the maximum slope for the first ten (10) feet of driveway beyond the level portion shall be ten percent (10%) and the maximum slope of the remainder shall be fifteen percent (15%). For driveways twenty-five (25) feet or more in length, the maximum slope for the first ten (10) feet of driveway beyond the level portion shall be ten percent (10%), the maximum slope for the final ten (10) feet shall be fifteen percent (15%), and the maximum slope for the portion between shall be twenty-five percent (25%). For downslope driveways leading to garages, the final two (2) feet shall be level or upslope not exceeding five percent (5%).

- B. Surfacing. All ~~required~~ parking and loading facilities shall have a durable, dustless, all-weather surface; shall have satisfactory disposal of surface waters by grading and drainage; and shall be permanently maintained in good condition. All driveways with a slope of twenty percent (20%) or more shall have a serrated concrete surface or other surface providing a similar level of traction.
- C. Design for Runoff. All ~~required~~ off-street parking facilities located on any lot containing three (3) or more ~~required~~ spaces, and all ~~required~~ off-street loading facilities on any lot, shall be so designed that surface water will not drain over any sidewalk.
- D. For all other activities for which loading facilities are required: thirty-three (33) feet long, twelve (12) feet wide, and fourteen (14) feet high.

17.116.300 Parking accommodation requirements for One-Family and Two- to Four- Family Residential Facilities.

The provisions of this Section apply to lots containing One-Family Dwelling or Two- to Four-Family Dwelling Residential Facilities. Exceptions to the provisions of this Section may be approved pursuant to the design review procedure in Chapter 17.136.

A. ~~Required~~ Parking location.

- 1) This subsection applies to lots where both:
 - i. At least sixty percent (60%) of the buildings in the immediate context have ~~required~~ parking located to the rear or side at a depth of at least twenty-five (25) feet from the front lot line; and
 - ii. The difference in elevation of existing grade between the midpoint of the front lot line and the farthest opposite point of the lot depth is not twenty percent (20%) or greater.
- 2) For the lots described in Subsection 17.116.300(A)(1), the entirety of ~~any required~~ garages, carports or ~~any~~ uncovered ~~required~~ parking spaces shall be located at one of the following locations:
 - 1. To the rear or side of any primary Residential Facility; or
 - 2. In the case of uncovered parking, closer to an interior side lot line than the principal facility.

The immediate context shall consist of the five (5) closest lots on each side of the project site plus the ten (10) closest lots on the opposite side of the street; however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of ~~any~~ approval of any ~~required~~ garage, carport, or uncovered parking space. Lots with a front lot line width of less than thirty-five (35) feet are exempt from this ~~requirement Subsection~~ if the garage, carport or uncovered parking space dimensions facing the front lot line equal less than fifty (50) percent of the building elevation facing the front lot line.

- B. Garage or Carport Recessed from Front of Residence in Certain Cases. When an attached or detached garage or carport is not subject to Subsection A. of this Section and is located on lots with a street-to-setback gradient of twenty percent (20%) or less and where the face of the primary Residential Facility, including projections at least eight (8) feet in height and five (5) feet in width, such as covered porches and bay windows, is within twenty-five (25) feet of the front lot line, at least one of the following requirements shall apply:
1. The front of the garage or carport shall be set back a minimum of five (5) feet from such face; or
 2. If the garage or carport is located below living space, either:
 - a. The front of the garage or carport shall be set back at least eighteen (18) inches from the upper level living space; or
 - b. The garage door shall be recessed at least six (6) inches from the surrounding exterior wall surfaces.
- C. Maximum Widths of Garages and Carports. Garages and carports shall have a maximum width of twenty-two (22) feet if the front of the garage or carport is located within thirty (30) feet of a street line and shall have a maximum width of thirty (30) feet if located elsewhere. In addition, all attached garages and carports shall have a maximum width not to exceed fifty percent (50%) of the total width of the primary Residential Facility if the front of the garage or carport is located within thirty (30) feet of a street line.
- D. Parking Restricted to Garages, Carports, Uncovered ~~Required~~ Parking Spaces or Driveways. Parking on a lot containing primary Residential Facilities may take place only in garages, carports, uncovered ~~required~~ parking spaces in permitted locations, or approved driveways.

Chapter 17.134 CONDITIONAL USE PERMIT PROCEDURE

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:
1. **Thresholds.** Any project requiring a Conditional Use Permit that meets any of the following size thresholds:
 - a. The actual project site (including only portions of the lot actually affected by the project) exceeds one (1) acre;
 - b. Nonresidential projects involving more than twenty-five thousand (25,000) square feet of floor area, except in the D-DT (when not combined with the S-7 Zone), S-15, D-BV, D-CO, or D-LM Zones;
 - c. Large-Scale Developments.
 - i. Any development not involving one hundred percent (100%) affordable housing units, other than manager's units, which is located in the S-15, ~~or D-CO, or D-LM~~ Zones, and results in more than one hundred thousand (100,000) square feet of new floor area;
 - ii. Any development not involving one hundred percent (100%) affordable housing units, other than manager's units, which is located in the D-DT, ~~D-BV, or D-LM~~ Zones (when not combined with the S-7 Zone), and results in 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)~~ **two hundred seventy-five (275)** feet in height.

Chapter 17.135 SPECIAL USE PERMIT REVIEW PROCEDURE FOR THE OS ZONE

17.135.030 Procedure for consideration.

No **conditionally permitted** 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:

- A. Pre-development Neighborhood Meeting. At the discretion of the Director of Parks, Recreation, and Cultural Affairs, a neighborhood meeting may be convened in the vicinity of the park or open space land affected by the proposed change in use or improvement. If such a meeting is held, notice shall be given 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 posted 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. Administrative Project Review. Once preliminary community feedback has been received and considered, the project sponsor shall submit a request to the Director of City Planning, including a project description and cost estimate. The Director shall coordinate preliminary review of the project with the project's operating department and any other City department or agency likely to be interested or involved in the execution, operation, or maintenance of the project. These requirements shall include, but are not limited to, formal CEQA review of the proposed change in use or improvement. A written summary of comments shall be prepared prior to the scheduling of the public hearing.
- C. Public Hearing. A public hearing shall be required for any **conditionally permitted** 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 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. 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.
- b. The PRAC shall schedule its public hearing **within forty five (45) days** after

receiving the application for consideration. The PRAC shall make a recommendation to the Planning Commission at the conclusion of the hearing. ~~In the event the PRAC has not acted on the application within forty five (45) days, the project shall automatically be forwarded to the City Planning Commission.~~

- 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.

17.135.040 Referral to Landmarks Preservation Advisory Board.

Any project in the OS Zone requiring a ~~Major or Minor Conditional Use Permit~~ ~~major or minor conditional use permit~~ shall be subject to review by the Landmarks Preservation Advisory Board (LPAB) if that project is located:

- A. Within the S-7 Zone;
- B. On a site that could potentially impact a structure, site, or feature that is listed on the State or National Registers, or that has been formally designated as an Oakland landmark.

For projects requiring a ~~Minor Conditional Use Permit~~ ~~minor conditional use permit~~, this review shall be made after the public hearing of the Parks and Recreation Advisory Commission and before the final decision of the Director of City Planning. For projects requiring a ~~Major Conditional Use Permit~~ ~~major conditional use permit~~, this review shall be made after the public hearing of the Parks and Recreation Advisory Commission and before the public hearing of the City Planning Commission. The Landmarks Preservation Advisory Board may recommend modifications to the project that it deems necessary to ensure that the historic value of the structure, site, or feature is not adversely impacted. ~~If no action is taken by the Landmarks Preservation Advisory Board within thirty (30) days of its receipt of the application, the project will be forwarded to the Planning Commission (for major conditional use permits) or the Director of City Planning (for minor conditional use permits).~~

Chapter 17.136 DESIGN REVIEW PROCEDURE

Sections:

17.136.020 Application.

~~17.136.023 Projects subject to By Right Residential Approval~~

17.136.025 Exemptions from design review.

17.136.030 ~~Small Project Design Review. project design review.~~

17.136.035 ~~Small Project Design Review criteria. project design review criteria.~~

17.136.038 ~~Ministerial Design Review. Special project design review.~~

17.136.040 ~~Regular Design Review. design review.~~

17.136.050 ~~Regular Design Review criteria. design review criteria.~~

17.136.055 Special regulations for historic properties in the Downtown District (D-DT) and the Lake Merritt Station Area District (D-LM) Zones.

17.136.060 Review by Landmarks Board in certain cases.

17.136.070 Special regulations for designated landmarks.

17.136.075 Regulations for demolition or removal of ~~CIX-1A zoned properties,~~ Designated Historic Properties, and Potentially Designated Historic Properties.

17.136.080 Appeal to Planning Commission—Regular ~~Design Review. design review.~~

17.136.090 Appeal to City Council—Regular ~~Design Review. design review.~~

17.136.100 Adherence to approved plans.

17.136.120 Design review related to ~~Conditional Use Permit, conditional use permit,~~ Planned Unit Development, variance, or subdivision.

17.136.130 Limitation on resubmission—Small ~~Project Design Review. project design review and Special project design review.~~

17.136.020 Application.

A. Application for Design Review. Application for design review shall be made by the owner of the affected property, or ~~his or her~~ their authorized agent, on a form prescribed by the City Planning and Building Department and shall be filed with such Department. The application shall be accompanied by such information as may be required to allow applicable criteria to be applied to the proposal, and by the fee prescribed in the city master fee schedule. Such information may include, but is not limited to, site and building plans, elevations, and relationships to adjacent properties.

B. Professional Design. All applications for Design Review involving: a) the creation of more than ten (10) new dwelling units outside any existing building envelope, excluding any permitted Accessory Dwelling Units, or b) the creation of one or more new dwelling units with a footprint

slope that exceeds twenty percent (20%) shall utilize the following professional in the design process for the development:

1. An architect licensed by the State of California.

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; and shall instead be subject to the By Right Residential Approval procedure as defined in Section 17.09.040.

17.136.25 Exemptions from design review.

A. Applicability. A proposal will be exempt from design review if it meets each of the provisions set forth below. The types of work listed under the categories provided in Subsections B. through E. are exempt from design review if they meet the limitations described therein and do not trigger the exceptions to the exemptions listed in Subsection F. All such determinations that a proposal is exempt from design review are final and not appealable.

1. The proposal is limited to one or more of the types of work listed as exempt from design review in Section 17.136.025B;
2. The proposal does not require Design Review, Conditional Use Permit or Variance, pursuant to the zoning regulations of Title 17 of the Oakland Planning Code;
3. The proposal is determined exempt from the California Environmental Quality Act (CEQA);
4. All exterior treatments visually match the existing or historical design of the building; and
5. The proposal will not have a significant effect on the structure's character-defining elements. "Character-defining elements" are those features of design, materials, workmanship, setting, location, and association that identify a structure as representative of its period and contribute to its visual distinction or historical significance.

B. Definition. The following types of work are exempt from design review, pursuant to all provisions in Section 17.136.025(A): 1. Additions or Alterations.

a. Projects not requiring 1. Additions that do not require a building permit, except if otherwise specified below;

b. Repair or replacement 2. Repair, replacement, or alterations of existing building components in a manner that visually matches the existing or historical design of the structure;

c. After notice to the Director of City Planning, demolition or removal of either:

- i) Structures declared to be unsafe by the Building Official or the City Council. "Unsafe structures" means structures found by the Building Official or the City Council, to require immediate issuance of a demolition permit to protect the public health and safety; or

ii) Structures declared to be a public nuisance by the Building Official or City Council that are not Designated Historic Properties or Potentially Designated Historic Properties.

d. Except as specified in Section 17.136.030, 3. Accessory Dwelling Units that conform to all regulations in Section 17.103.080 and Chapter 17.88;

a. The Accessory Dwelling Unit must conform to the regulations in Section 17.103.080 and Chapter 17.88;

b. This exemption is not applicable to Accessory Dwelling Units that fall under Small Project Design Review as described in Section 17.136.030.

e. ~~Floor area additions~~ 4. Additions or alterations within the existing building envelope not involving the creation or removal of a dwelling unit;

a. This exemption includes garage, basement, and attic conversions;

f. ~~Except as otherwise specified in Subsection B.1.g for Nonresidential Facilities in the D-DT-JLI, D-CO-5, D-CO-6, CIX-1A, CIX-1B, CIX-1C and CIX-1D Zones, additions not involving the creation of a dwelling unit that are outside the existing building envelope and equal no more than ten percent (10%) of the total floor area or footprint on site;~~ 5. Floor area or footprint additions outside the existing building envelope that meet the following criteria:

a. The addition shall not involve the creation of a dwelling unit;

b. The addition must visually match the existing design of the structure;

c. In all zones, the addition must not be greater than ten percent (10%) of the total floor area or footprint on site. If the existing total floor area or footprint on site is less than two thousand five hundred (2,500) square feet, then the floor area addition may be up to two hundred fifty (250) square feet.

i. Porches, decks, and balconies that are less than thirty (30) inches above finished grade do not count as footprint and thus would not count toward the addition calculation. See definition of "Footprint" in Section 17.09.040 for further detail.

g. ~~For Nonresidential Facilities in d. In~~ the D-DT-JLI, D-CO-5, D-CO-6, CIX-1A, CIX-1B, CIX-1C and CIX-1D Zones, additions that are outside the existing building envelope and equal no more to Nonresidential Facilities may exceed the standard listed in subsection c. above but must not be greater than fifty percent (50%) of the total floor area or footprint on site or five thousand (5,000) three thousand (3,000)-square feet, whichever is less;

h. ~~For Commercial, Civic, or Industrial Facilities and the Nonresidential Portions of Mixed-Use Development Projects, any addition or alteration on a roof that does not project above the existing parapet walls~~ 6. An addition or alteration not projecting above existing parapet walls on the roof of Commercial, Civic, or Industrial Facilities and the Nonresidential Portions of Mixed-Use Development Projects;

~~and any~~ 7. An addition or alteration not otherwise exempt which is used as a loading dock, recycling area, utility area, or similar open structure addition;

~~that is~~ a. The addition must be no higher than six (6) feet above finished

grade.

~~less than~~ b. The addition must be five hundred (500) square feet or less in floor area or footprint.

~~and is~~ c. The addition must be visually screened from neighboring properties.

~~such exemptions shall only permitted where the proposal conforms d.~~
The addition must conform with all Buffering regulations in Chapter 17.110 and all Performance Standards in Chapter 17.120.

~~i.~~ 8. Areas of porch, deck or balcony with a surface that is less than thirty (30) inches above finished grade.

C. Demolitions.

1. Demolition or removal of structures declared unsafe by the Building Official or City Council:

a. For this criterion, an “unsafe structure” means the structure requires immediate issuance of a demolition permit to protect the public health and safety.

b. The Building Official or City Council declaration shall be evidenced in writing and provided to the Director of City Planning.

2. Demolition or removal of structures declared to be a public nuisance by the Building Official or City Council:

a. This exemption is not applicable to structures that are either Designated Historic Properties or Potentially Designated Historic Properties.

b. For this criterion, a “nuisance structure” means the structure constitutes a threat to health and safety that does not require immediate issuance of a demolition permit to protect the public health and safety.

c. The Building Official or City Council declaration shall be evidenced in writing and provided to the Director of City Planning.

2-D. Signs.

~~a.~~ 1. A change of sign face copy or new sign face within an existing Advertisement Sign or a change of sign face copy within Business or Civic Sign structures;

~~so long as the~~ a. The structure and framework of the sign must remain unchanged and the new sign face duplicates the colors of the original or, in the case of an internally illuminated sign, the letter copy is light in color and the background is dark;

~~b.~~ 2. Installation, alteration or removal of Realty Signs, Development Signs, holiday decorations, displays behind a display window and, except as otherwise provided in Section 17.114.120(C), for mere changes of copy, including cutouts, on Signs which customarily involve periodic changes of copy;

~~c.~~ 3. New or modified Signs conforming to an approved Master Sign Program, pursuant to Section 17.104.070.

3-E. Other Projects.

~~a.~~ 1. Sidewalk Cafes in the public right-of-way, pursuant to Section 17.103.090;

~~b. Solar Power Production Equipment.~~ 2. The installation of Solar Power Production

Equipment ~~is exempt from design review~~ within any zoning district;

~~e. 3.~~ 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. 4.~~ Electrical Vehicle Charging Stations or other similar facilities;

~~e. 5.~~ Microwave and Satellite Dishes that are three (3) feet or less in diameter.

F. Exceptions to the Listed Exemptions.

1. A proposal that meets one or more of the categories above, but includes additional components that do not fit in the categories above, is not exempt from design review.

2. A proposal that additionally requires a Conditional Use Permit or Variance is not exempt from design review.

3. A proposal that meets one of the categories above will ordinarily be categorically exempt from the California Environmental Quality Act (CEQA) as an existing facility (CEQA Guidelines Section 15301), replacement or reconstruction (CEQA Guidelines Section 15302), or new construction or conversion of small structures (CEQA Guidelines Section 15303). To the extent a CEQA categorical or statutory exemption does not apply, the proposal is not exempt from design review.

a. This ineligibility includes situations where the proposal will have a significant effect on a historic resource'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.

17.136.30 Small ~~P~~project ~~D~~esign ~~R~~eview.

A. Applicability. The types of work listed under the categories provided in Subsections B through G are subject to Small Project Design Review if they meet the limitations described therein and do not trigger the exceptions to the exemptions listed in Subsection H. "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 ~~Ministerial~~ 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:

1. The proposal is limited to one or more of the types of work listed as a "Small Project" in Section 17.136.030(B);

2. The proposal does not require a ~~Conditional Use Permit~~ conditional use permit or variance, pursuant to the zoning regulations in of Title 17 of the Oakland Planning Code (Title 17);

3. The proposal is determined exempt from the California Environmental Quality Act (CEQA); and

4. The proposal will not 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.

B. Definition of "Small Project". Small Projects are limited to one or more of the following types of work:

1. Additions or Alterations.

- a. 1. Repair or replacement of existing building components in a manner that is compatible with, but not necessarily identical to visually matching, the property's existing or historical design;

- b. Except as otherwise specified in Sections 17.136.025, 17.136.038, 17.136.040, and 17.136.075, demolition or removal of structures not involving a Designated Historic Property or Potential Designated Historic Property, on a site where the zoning regulations require design review to alter the exterior appearance of the applicable building facility, regardless of whether the owner intends to create a surface parking lot or a vacant lot pursuant to Oakland Municipal Code Section 15.36.080;

- c. Except as otherwise specified in Sections 17.136.025 and 17.136.038 for Nonresidential Facilities in the D-DT-JLI, D-CO-5, D-CO-6, CIX-1A, CIX-1B, CIX-1C and CIX-1D Zones, 2. Floor area additions not involving that do not involve the creation of a dwelling unit that are outside the existing building envelope, and equal more than ten percent (10%) of the total floor area or footprint on site, but do not exceed one thousand (1,000) square feet or one hundred percent (100%) of the total floor area or footprint on site, whichever is less exceed the applicable design review exemption thresholds established in Section 17.136.025(B);

- d. For Commercial, Civic, or Industrial Facilities and the non-residential portions of mixed-use development projects, changes 3. Changes to storefronts or street-fronting facades in Commercial, Civic, or Industrial Facilities and the non-residential portions of mixed-use development projects, such as:

- (i) a. replacement or construction of doors, windows; bulkheads and nonstructural wall infill, or

- (ii) b. restoration of documented historic fabric;

- e. 4. Accessory Dwelling Units that meeting one of the following criteria:

- 1) a. Accessory Dwelling Units that do not conform with objective design standards established by the Planning Director or his or her their designee pursuant to Section 17.103.080.A.11-17.103.080.A.10 proposed in front or on a side of the primary structure; or

- 2) b. Accessory Dwelling Units that were established and occupied without Planning or Building approval prior to January 1, 2021, and request a waiver of any provision of the underlying zoning or applicable development standards that would preclude the preservation of said unit, pursuant to Section 17.103.080.A.15-17.103.080.A.14;

- f. Other than Accessory Dwelling Units, the 5. The creation of new living units, live/work units, or work/live units entirely within an existing building envelope;

- a. This type of work does not apply to lots on a lot that is not located within the CIX, IG, or IO Industrial Zones or the S-9 Fire Safety Protection Combining Zone.

- b. This type of work does not include Accessory Dwelling Units.

C. New Construction.

1. New Construction of principal Nonresidential Facilities that do not exceed five thousand (5,000) square feet of total floor area and located in the following zones:

a. Commercial Zones: CN, CC, CR, HBX, S-1, S-3, S-15, D-BV, D-KP, D-LM, D-CE, D-CO, and D-DT.

b. Industrial Zones: CIX-1A, CIX-1B, CIX-1C, and CIX-1D.

D. Demolition.

1. Except as otherwise specified in this Chapter, demolition of any structures not involving a Designated Historic Property or Potential Designated Historic Property, on a site where the zoning regulations require design review to alter the exterior appearance of the applicable building facility, regardless of whether the owner intends to create a surface parking lot or a vacant lot pursuant to Oakland Municipal Code Section 15.36.080:

2. Alterations within the existing building envelope which involve the removal of a dwelling unit:

a. The proposed demolition or removal of any protected units, as defined in Chapter 17.122, shall additionally be subject to the requirements of Chapter 17.122.

2.E. Fences, barriers, and similar freestanding walls.

a. 1. For Residential Zones and Residential Facilities, ~~any:~~ Any fence, barrier, or similar freestanding wall exceeding forty-two (42) inches in height in the front yard and street-side yards, but not exceeding six (6) feet in height:

a. ~~See, pursuant to~~ Section 17.108.140.B.1 for applicable design requirements.;

2. For Nonresidential Activities and Facilities in a Residential Zone: 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.B.2;

a. Examples of eligible Nonresidential Activities and Facilities include but are not limited to schools, golf courses, cemeteries, and civic uses.

b. 3. For Commercial ~~and Industrial~~ Zones and ~~in the OS~~, S-1, ~~S-2~~, S-3, S-15, and D-CO-1 Zones,; Any ~~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. 4. For Industrial Zones, ~~any:~~ 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.

a. Any fence, dense hedge, barrier, or similar freestanding wall located elsewhere on a lot in any 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.F. Signs.

a.1. New or modified Signs, excluding Signs requiring Regular Design Review, Conditional Use Permit or Variance, pursuant to the zoning regulations in the Oakland Planning Code (Title 17); and Signs conforming to an approved Master Sign Program, pursuant to Section 17.104.070;

b.2. New or modified awnings or other similar facilities;

c. Color changes to Signs, awnings or other similar facilities;

d. Installation of flags or banners having any permanent structure within the public right of way, pursuant to the same regulations for sidewalk cafes in Section 17.103.090.B.

4.G. Other Projects.

a.1. Exceptions to the parking accommodation requirements for One-Family and Two-to Four-Family Residential Facilities in Section 17.116.300-;

2. Retaining walls exceeding eight (8) feet in height meeting the provisions in Section 17.108.150;

3. Alterations to Existing Telecommunications Facilities, pursuant to all regulations in Chapter 17.128:

a. At an existing Micro Facility, the installation of new or replacement antennas that are concealed from view, consistent with the definition of "Micro" Facility in Section 17.10.870;

b. At an existing Mini Facility, the installation of new or replacement antennas that are concealed from view, consistent with the definition of "Mini" Facility in Section 17.10.880;

c. Repair or replacement of existing equipment ancillary to the transmission and reception of voice and data via radio frequencies. Such equipment may include, but is not limited to, cabinet, cable, conduit, and connectors.

H. Exceptions to Eligibility for Small Project Design Review. Small Project Design Review proposals shall meet all of the following provisions:

1. A proposal that meets one or more of the types of work listed as a "Small Project" above, but includes additional components that do not fit in the categories above is not eligible for Small Project Design Review;

2. A proposal that additionally requires a Conditional Use Permit or Variance is not eligible for Small Project Design Review;

3. A proposal that consists of one or more of the types of work above will ordinarily be categorically exempt from the California Environmental Quality Act (CEQA) as an existing facility (CEQA Guidelines Section 15301), replacement or reconstruction (CEQA Guidelines Section 15302), or new construction or conversion of small structures (CEQA

Guidelines Section 15303). To the extent a CEQA categorical or statutory exemption does not apply, the proposal is not eligible for Small Project Design Review.

a. This ineligibility includes situations where the proposal will have a significant effect on a historic resource'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 Regular Design Review procedure in Section 17.136.040.

C.I. Procedures for Consideration—Small Project Design Review. The Director of City Planning may, at ~~his or her~~ **their** discretion, consider an application for Small Project Design Review according to the following Two-Track process, or if additional consideration is required, determine that the proposal shall be reviewed according to the Regular **Design Review** ~~design review~~ procedure in Section 17.136.040.

1. Track One Procedure—Small Project Design Review Proposals Not Involving a Local Register Property:

a. The Director of City Planning, or ~~his or her~~ **their** designee, shall determine whether the proposal meets the requirements for Small Project Design Review as set forth in this Section.

b. Decision by the Director of City Planning. The Director, or ~~his or her~~ **their** designee, may approve or disapprove a Track One 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~~ **their** designee, shall be final immediately and not appealable.

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 Regular **Design Review** ~~design review~~ procedure in Section 17.136.040.

b. Decision by the Director of City Planning. The Director, or ~~his or her~~ **their** designee, may approve or disapprove a Track Two proposal determined eligible for **Small Project Design Review** ~~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** ~~project design review~~ criteria in Section 17.136.035.

c. The decision by the Director, or ~~his or her~~ their designee, shall be final immediately and not appealable.

17.136.035 Small ~~P~~roject ~~D~~esign ~~R~~eview criteria.

A Small ~~Project Design Review~~ project design review approval shall be granted for proposals that conform to each of the applicable criteria set forth in Subdivisions (1), (2), and (3) below, and if also applicable, to the criteria in Subdivision (4), below:

1. That for Nonresidential Facilities and the nonresidential portions of Mixed Use Development projects, the proposed ~~project design~~ project design conforms with the adopted ~~design review checklist~~ design review checklist criteria for ~~Nonresidential Facilities~~, as may be amended;
2. That for Residential Facilities with one (1) ~~to four (4) or two (2)~~ primary dwelling units and the residential portions of Mixed Use Development projects with ~~one (1) to four (4) or two (2)~~ primary dwelling units, the proposed ~~project design~~ project design conforms with the adopted ~~design review checklist~~ design review checklist criteria for facilities with ~~1-42~~ primary dwelling units, as may be amended;
3. That for Residential Facilities with ~~five (5) three (3) or more~~ dwelling living units and the residential portions of Mixed Use Development projects with ~~five (5) three (3) or more~~ dwelling units, the proposed ~~project design~~ project design conforms with the adopted ~~design review checklist~~ design review checklist criteria for facilities with ~~five (5) three (3) or more~~ dwelling living units, as may be amended;
4. That for Local Register Properties, the proposed project will not substantially impair the visual, architectural, or historic value of the affected site or facility.

17.136.038 Ministerial Design Review.

A. Applicability. The following projects shall be subject to the Ministerial Design Review process specified in Section 17.136.038(B):

1. Projects eligible for By Right Residential Approval under Planning Code Chapters 17.95 or 17.96;
2. Projects for Affordable Housing where one hundred percent (100%) of the housing units, other than manager's units, are restricted to very low-, low-, or moderate-income households, and not proposed on a site with a City or State landmark, listed on the National Register, or within an S-7 or S-20 Zone;
3. Residential projects required by state law to be subject to a ministerial design review process, including but not limited to:
 - a. SB 35 ministerial approval under Government Code Section 65913.4;
 - b. SB 684 streamlining of up to ten new home ownership units under Government Code Sections 65852.28 and 66499.41;
 - c. AB 2162 streamlined approval of Supportive housing under Government Code Section 65650 et seq.;
 - d. SB 9 ministerial approval of two lots under Government Code Sections 65852.21 and 66411.7; and
 - e. AB 2011 streamlining of Affordable Housing under Government Code Section 65912.100.

4. Projects not requiring or requesting any Conditional Use Permit, Variance, Planned Unit Development, or Development Agreement, and involving the creation of no more than thirty (30) new dwelling, Work/Live, or Live/Work units outside any existing building envelope, or adding units to a property outside any existing building envelope for a total of no more than thirty (30) such units on site, excluding any permitted Accessory Dwelling Units;
 5. Notwithstanding the project categories above, the following project types are not eligible for Ministerial Design Review:
 - a. Proposed development projects accessed by Panoramic Way, Panoramic Place, Dwight Way, Dwight Place, and Bancroft Place;
 - b. One-Family Dwellings proposed within the area mapped as critical habitat for endangered species by the U.S. Fish and Wildlife Service; and
 - c. Projects proposed on a site with a City or State landmark, listed on the National Register, or within an S-7 or S-20 Zone;
- B. Procedures for Consideration—Ministerial Design Review. The Director of City Planning, or their designee, shall consider an application for Ministerial Design Review according to the following process.
1. Projects qualifying for Ministerial Design Review as set forth in Section 17.136.038(A) do not require a discretionary approval of any kind pursuant to the zoning regulations in the Oakland Planning Code (Title 17), including but not limited to a Conditional Use Permit, Variance, or Planned Unit Development permit, and thus are not be subject to review under the California Environmental Quality Act.
 2. Prior to submitting an application for Ministerial Design Review, the applicant shall give notice of intention to apply for Ministerial Design Review by mail or delivery to all owners and occupants of real property in the city within three hundred (300) feet of the property involved, using language provided by the Planning Bureau. This requirement does not apply to projects that are thirty (30) units or less in size.
 3. The project must demonstrate consistency with the Oakland Equitable Climate Action Plan (ECAP) through completion of an ECAP Consistency Checklist submitted concurrently with the development application.
 4. The project shall not be subject to a public hearing of any type.
 5. The project shall be subject to any applicable City of Oakland standard conditions of approval, which shall be identified along with the decision letter issued for the project.
 6. The decision by the Director or their designee shall be final immediately and not appealable.
- C. Design Review Criteria—Ministerial Design Review. The City shall not exercise subjective judgment in deciding whether and how to carry out or approve the project. A Ministerial Design Review approval shall be granted for proposals that conform with the property development standards and objective design standards applicable to the underlying zoning designation and any combining zones, including, but not limited to the S-13 and S-14 Combining Zones, if applicable. The City shall maintain a list of publicly available applicable objective design standards that may be amended from time to time.

17.136.038 Special project design review.

- A. Applicability. "Special Project Design Review" shall apply to Nonresidential Facilities in the D-CO-5, D-CO-6, CIX-1A, CIX-1B, CIX-1C and CIX-1D Zones that require design review pursuant to the zoning regulations of Title 17 of the Oakland Planning Code, but do not qualify for design review exemption as set forth in Section 17.136.025 or Small project design review as set forth in Section 17.136.030; or require Regular Design Review as either determined by the Director of City Planning or as set forth in Section 17.136.075 and Chapter 17.73.

"Special Project Design Review" proposals shall meet all of the following provisions:

1. The proposal is limited to one or more of the types of work listed as a "Special Project" in Section 17.136.038(B);
2. The proposal does not require a conditional use permit or variance, pursuant to the zoning regulations of Title 17 of the Oakland Planning Code;
3. The proposal is determined exempt from the California Environmental Quality Act (CEQA); and
4. The proposal does not involve the demolition or removal of structures on a site in the CIX-1A Zone as specified in Section 17.136.075, regardless of whether the owner intends to create a surface parking lot or a vacant lot pursuant to Section 15.36.080.

- B. Definition of "Special Project". Special Projects are limited to one or more of the following types of work:

1. Cumulative additions to Non-residential Facilities in the D-CO-5, D-CO-6, CIX-1A, CIX-1B, CIX-1C, and CIX-1D Zones over a three (3) year period that are outside the existing building envelope and exceed three thousand (3,000) square feet or fifty percent (50%) of the total floor area or footprint on site, whichever is less;
2. New construction of principal Non-residential Facilities in the D-CO-5, D-CO-6, CIX-1A, CIX-1B, CIX-1C, and CIX-1D Zones.

- 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:

- a. The Director of City Planning, or his or her designee, shall determine whether the proposal meets the requirements for Special project design review as set forth in this Section.
- 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 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 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.
- e. Decision by the Director of City Planning. The Director, or his or her designee, may approve or disapprove a Track One proposal determined eligible for Special 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 Special project design review criteria in Section 17.136.038(D).
- f. The decision by the Director, or his or her designee, shall be final immediately and not appealable.

2. Track Two Procedure Special 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 proposal 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 proposal determined to have a significant effect on a Local Register Property's character defining elements shall be reviewed instead according to the Regular design review procedure in Section 17.136.040.
- 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 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 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.

e. 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 Special 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 Special project design review criteria in Section 17.136.038(D).

f. The decision by the Director, or his or her designee, shall be final immediately and not appealable.

D. Design Review Criteria—Special Project Design Review. A Special project design review approval shall be granted for proposals that conform with the adopted checklist criteria for Non-residential Facilities in the Coliseum Specific Plan Area D-CO-5 and D-CO-6 Zones or West Oakland Specific Plan Area CIX-1A, CIX-1B, CIX-1C and CIX-1D Zones, as may be amended, based on applicable design review guidelines or criteria which have been adopted by the Planning Commission or City Council as part of the Coliseum Area Specific Plan or the West Oakland Specific Plan.

17.136.040 Regular Design Review.

A. Applicability. "Regular Design Review" shall apply to proposals that require design review pursuant to the zoning regulations in of Title 17 of the Oakland Planning Code (Title 17), 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 Ministerial 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-DT-JLI, 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:

1. Any proposal involving one or more of the facility, activity, building, structure, or development types that require design review pursuant to the zoning regulations in the Oakland Planning Code (Title 17), but does 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 Ministerial Special Project Design Review as set forth in Section 17.136.038;
2. Any construction, addition or alteration of structures requiring a Conditional Use Permit or variance, pursuant to the zoning regulations in the Oakland Planning Code (Title 17);
3. The creation of one (1) or two (2) new dwelling units outside any existing building envelope, excluding any permitted Accessory Dwelling Units;
34. The creation of three (3) or more than thirty (30) new dwelling units outside any existing building envelope, or adding units to a property outside any existing building envelope for a total of three (3) or more than thirty (30) dwelling units on site, excluding any permitted Accessory Dwelling Units;
45. New construction of principal Nonresidential Facilities facilities in the HBX or D-CE Zones in the CN, CC, CR, HBX, S-1, S-3, S-15, D-BV, D-KP, D-LM, D-CE, D-CO, and D-DT Commercial Zones and in the CIX-1A, CIX-1B, CIX-1C, and CIX-1D Industrial Zones that exceed five thousand (5,000) square feet of total floor area;

5. Except as otherwise specified below in Subsection 6. for any CIX, IG, or IO Work/Live units, the creation of more than thirty (30) new Work/Live or Live/Work units outside any existing building envelope, or adding units to a property outside any existing building envelope for a total of more than thirty (30) such units on site;
 6. The creation of new HBX Work/Live or Live/Work units outside any existing building envelope (see Sections 17.65.160 and 17.65.170); new D-CE Work/Live or Live/Work units outside any existing building envelope (see Sections 17.101E.070 and 17.101E.080); or any new CIX, IG, or IO Work/Live units (see Section 17.73.040). In the CIX, IG, and IO Zones, this requirement shall apply for both: a) the conversion of existing facilities in the CIX, IG, and IO Zones to contain any of these unit types, and b) the construction of new buildings in the CIX, IG, IO, HBX, and D-CE Zones that contain any of these unit types;
 7. 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, additions not involving the creation of a dwelling unit that are outside the existing building envelope and exceed one thousand (1,000) square feet or one hundred percent (100%) of the total floor area or footprint on site, whichever is less;
 78. New or modified Signs not qualifying for a design review exemption as set forth in Section 17.136.025 or Small Project Design Review as set forth in Section 17.136.030;
 89. Proposals for new or modified Telecommunications Facilities, pursuant to Chapter 17.128, but excluding those alterations to existing Telecommunications Facilities listed as a Small Project in Subsection 17.136.030.B.;
 10. Demolition or removal of any structure, or portion thereof, where the replacement project requires Regular Design Review, Conditional Use Permit or Variance;
 - 9.11. With the exception of structures declared to be unsafe by the Building Official or City Council, demolition or removal of any Designated Historic Property (DHP), or Potential Designated Historic Property (PDHP), or structure in the CIX-1A Zone pursuant to Section 17.136.075 regardless of whether the owner intends to create a surface parking lot or a vacant lot pursuant to Oakland Municipal Code Section 15.36.080;
 - 10.12. Proposals involving five (5) or more Vehicular Residential Facilities;
 11. The construction, establishment or expansion of facilities in the M-40, CIX-2, IG, and IO Zones located within six hundred (600) feet of any Residential Zone boundary accommodating one or more of the following activities:
 - a. Automobile and Other Light Vehicle Gas Station and Servicing Activity;
 - b. Automobile and Other Light Vehicle Repair and Cleaning Activity;
 - c. Freight/Truck Terminal;
 - d. Truck Yard;
 - e. Truck Weigh Stations;
 - f. Truck and Other Heavy Vehicle Sales, Rental, and Leasing;
 - g. Truck and Other Heavy Vehicle Service, Repair, and Refueling.
- B. Pre-Application Review—Regular Design Review. Prior to application for Regular Design Review, any applicant or his or her, their representative seeking early project feedback may submit for a pre-application review of the proposal by a representative of the City Planning

and Building Department. For projects of a larger scale or involving a significant policy issue, the Director of City Planning may, at ~~his or her~~ their discretion, request that an applicant or ~~his or her~~ their representative submit for a pre-application review of the proposal. During a pre-application review, the City representative will provide information about applicable design review criteria and pertinent procedures, including the opportunity for advice from outside design professionals. Where appropriate the City representative may also informally discuss possible design solutions, point out potential neighborhood concerns, and mention local organizations which the applicant is encouraged to contact before finalizing the proposal.

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 within three hundred (300) feet of the project site; provided, however, that failure to send notice to any such owner where ~~his or her~~ their address is not shown on the last available equalized assessment roll 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.
3. The Director or the applicant may seek the advice of outside design professionals. Any interested party must enter into the record any issues and/or evidence to the Director prior to the close of the written public comment period for ~~his or her~~ their consideration; failure to do so will preclude the party from raising such issues during the appeal hearing and/or in court. The Director 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 ~~his or her~~ their judgment necessary to ensure conformity to said criteria.
4. Finality of Decision. A decision by the Director shall become final ten (10) calendar days after the date of initial decision unless appealed to the City Planning Commission or the Commission's Residential Appeals Committee in accordance with Section 17.136.080. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Director prior to the close of the written public comment period. In the event that 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. Appeals considered by the City Planning Commission or the Commission's Residential Appeals Committee under the procedures specified in Section 17.136.080 shall be final immediately and are not ultimately appealable to the City Council.

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.

1. Decision by the City Planning Commission. The Director of City Planning may, at ~~his or her~~ their discretion, refer an application for Regular Design Review to the City Planning Commission for an initial decision rather than acting on it ~~himself or herself~~ themselves. In this case, the application shall still be considered a minor permit, but shall be processed

according to the procedure in this Subsection. In these instances, any other minor permits associated with the application shall be considered concurrently by the Planning Commission, pursuant to Section 17.130.090. However, if the project involves a ~~Mmajor~~ Vvariance or ~~Mmajor~~ Conditional Use Permit; ~~conditional use permit~~; requires an Environmental Impact Report (EIR); or results in more than: a) two hundred thousand (200,000) square feet of new nonresidential floor area in the D-DT, D-BV, or D-LM Zones; b) one hundred thousand (100,000) square feet of new nonresidential floor area in the S-15 or D-CO Zones; or c) twenty-five thousand (25,000) square feet of new nonresidential floor area and is located in any other zone, other than the D-DT (when not combined with the S-7 Zone or in the D-DT-JLI Zone) D-LM, D-CO, or S-15 Zones, the Director of City Planning shall refer the application to the City Planning Commission for an initial decision rather than acting on it ~~himself or herself themselves~~.

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 within three hundred (300) feet of the project site; provided, however, that failure to send notice to any such owner where ~~his or her their~~ address is not shown on the last available equalized assessment roll 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.
 3. The Planning Commission may seek the advice of outside design professionals. While the hearing is open, any interested party must enter into the record any issues and/or oral, written, and/or documentary evidence to the Commission for its consideration; failure to do so will preclude the party from raising such issues and/or evidence during the appeal hearing and/or in court. The Commission 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 ~~his or her their~~ or its judgment necessary to ensure conformity to said criteria.
 4. Finality of Decision. The initial decision of the Planning Commission shall become final ten (10) days after the date of decision unless appealed to the City Council in accordance with Section 17.136.090. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Commission prior to the close of the Commission's public hearing on the matter, in accordance with the above procedures. In the event that the last day 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.
- E. Alternative Notification Procedures. If the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement the procedures set forth in Subsections C. and D. of this Section.

17.136.050 Regular Ddesign Rreview criteria.

- A. Regular Design Review Criteria – Objective Design Standards Review. Housing Development Projects, as defined in California Government Code, that do not require any Conditional Use Permit, Variance, Planned Unit Development, or Development Agreement, shall be approved through objective design standards review. The City shall not exercise subjective judgment in deciding whether and how to carry out or approve the project. An

Objective Design Standards Review approval shall be granted for proposals that conform with the property development standards and objective design standards applicable to the underlying zoning designation and any combining zones. The City shall maintain a list of publicly available applicable objective design standards that may be amended from time to time. In addition, the proposed design must conform in all significant respects with the Oakland General Plan and with any district plan, or development control map which have been adopted by the Planning Commission or City Council.

B. Regular Design Review Criteria – Discretionary Design Review. For all other Regular Design Review Projects that do not qualify for subsection A. above, 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:

1.A. For Residential Facilities.

- a.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;
- b.2.** That the proposed design will be sensitive to the topography and landscape;
- c.3.** That, if situated on a hill, the design and massing of the proposed building relates to the grade of the hill;
- d.4.** 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.

2.B. For Nonresidential Facilities and Signs.

- a.1.** That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design which have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.136.060;
- b.2.** That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area;
- c.3.** 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.

3.C. For Local Register Properties that are not Landmarks or located in the S-7 or S-20 Zone:

- a.4.** That for additions or alterations, the proposal will not substantially impair the visual, architectural, or historic value of the affected site or facility. Consideration shall be given to design, form, scale, materials, texture, lighting, landscaping, Signs, and any other relevant design element or effect, and, where applicable, the relation of the above to the original design of the affected facility.

4.D. For Potential Designated Historic Properties that are not Local Register Properties:
That for additions or alterations,

- a.4.** The design matches or is compatible with, but not necessarily identical to, the property's existing or historical design; or
- b.2.** The proposed design comprehensively modifies and is at least equal in quality to the existing design and is compatible with the character of the neighborhood; or
- c.3.** The existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

5.E. For Retaining Walls:

- a.4.** That the retaining wall is consistent with the overall building and site design and respects the natural landscape and topography of the site and surrounding areas;
- b.2.** That the retaining wall is responsive to human scale, avoiding large, blank, uninterrupted or undesigned vertical surfaces;
- c.3.** That the retaining wall respects the natural topography, avoiding obvious scars on the land;
- d.4.** 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.

17.136.055 Special regulations for historic properties in the Downtown District (D-DT) and the Lake Merritt Station Area District (D-LM) Zones.

- A. The provisions of this Section shall only apply to proposals in the Downtown District (D-DT) and the Lake Merritt Station Area District (D-LM) Zones **that require Regular Design Review approval.**
- B. Findings.
 - 1. Any exterior alteration to a character-defining element of a Designated Historic Property (DHP) or Potentially Designated Historic Property (PDHP) that: 1) does not match its exterior historical materials or appearance, and 2) is part of the existing building (not part of any proposed addition) shall be required to meet any applicable criteria in Chapter 17.136 and meet findings (a) and (b), below. The determination of whether a project meets these findings requires consultation with Historic Preservation staff.
 - a. Any replacements of exterior character-defining elements are required because repair is not feasible. "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; and
 - b. Consultation with Historic Preservation staff has determined that any replacement or repair that differs from the original feature is compatible with the character of the building, Area of Primary Importance (API) or Area of Secondary Importance (ASI), if applicable, and retains the character-defining appearance of the feature.
 - 2. Approval of applications for projects in an API that require Regular Design Review approval may be granted only upon determination that the proposal conforms to any applicable criteria in Chapter 17.136 and to the following additional criteria:

- a. Any proposed new construction is compatible with the existing API in terms of massing, siting, rhythm, composition, patterns of openings, quality of material, and intensity of detailing;
 - b. New street frontage has forms that reflect the widths and rhythm of the facades on the street, and entrances that reflect the patterns on the street;
 - c. The proposal provides high visual interest that either reflects the level and quality of visual interest of the API contributors or otherwise enhances the visual interest of the API;
 - d. The proposal is consistent with the visual cohesiveness of the API. For the purpose of this finding, visual cohesiveness is the architectural character, the sum of all visual aspects, features, and materials that defines the API. A new structure contributes to the visual cohesiveness of a district if it relates to the design characteristics of a historic district while also conveying its own time. New construction may do so by drawing upon some basic building features, such as the way in which a building is located on its site, the manner in which it relates to the street, its basic mass, form, direction or orientation (horizontal vs. vertical), recesses and projections, quality of materials, patterns of openings and level of detailing. When some combination of these design variables are arranged in a new building to relate to those seen traditionally in the area, but integral to the design and character of the proposed new construction, visual cohesiveness results;
 - e. Where height is a character-defining element of the API, there are height transitions to any neighboring contributing historic buildings. "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. APIs with a character-defining height and their character-defining height level are designated on the zoning maps; and
 - f. For additions, the proposal meets either: 1) Secretary of Interior's standards for the treatment of historic resources; 2) a finding that the proposal will not adversely affect the character of the property or API; or, 3) upon the granting of a conditional use permit, (see Chapter 17.134 for the CUP procedure) and a hearing in front of the Landmarks Preservation Advisory Board for its recommendations, a project meets the additional findings in Subsection g., below.
 - g. For construction of new principal buildings:
 - i. The project will not cause the API to lose its status as an API;
 - ii. The proposal will result in a building or addition with exterior visual quality, craftsmanship, detailing, and high quality and durable materials that is at least equal to that of the API contributors; and
 - iii. The proposal contains elements that relate to the character-defining height of the API, if any, through the use of a combination of upper story setbacks, window patterns, change of materials, prominent cornice lines, or other techniques. APIs with a character-defining height and their character-defining height level are designated on the zoning maps.
3. Approval of an application for a project that requires Regular Design Review Approval involving a DHP or PDHP outside of an API may be granted only upon determination that the proposal conforms to any applicable criteria in Chapter 17.136 and either meets each criteria (a), (b), and (c), or only (d), below:

- a. Any proposed new construction is compatible with the existing district and/or building in terms of massing, siting, rhythm, composition, patterns of openings, quality of material, and intensity of detailing;
- b. The proposal reflects the quality and visual interest of the building and/or ASI, or otherwise enhances the visual interest of the building or ASI;
- c. The proposal does not disqualify an ASI as an ASI; and
- d. If a project does not meet either finding (a), (b), or (c), above, approval of applications for projects may still be granted, but only after a hearing in front of the Landmarks Preservation Advisory Board for its recommendations and determination that the proposal meets the following criteria: The proposal will result in a signature building within the neighborhood, City, or region based on qualities including, but not necessarily limited to, exterior visual quality, craftsmanship, detailing, and high quality and durable materials.

C. Required Hearings in Front of the Landmarks Preservation Advisory Board (LPAB).

- 1. Prior to project approval, the following projects require a hearing in front of the LPAB for its recommendations and/or advice to the decision-making body:
 - a. Any construction of a new principal building in an API that requires Regular Design Review approval;
 - ~~b. An addition to an API contributor when required by Subsection 17.136.055.B.2.f.~~
 - ~~be.~~ With the exception of additions that do not require Regular Design Review approval and are not visible from a street or other public area, projects in an API that would result in a building taller than the character-defining height of the district, if any. Districts with a character-defining height and their character-defining height levels are designated on the zoning maps. An addition is considered "visible from a street or other public area" if it is located within the "critical design area," defined as the area within forty (40) feet of any street line, public alley, public path, park or other public area.
 - ~~cd.~~ New construction or an addition to a building when required by Subsection 17.136.055.B.3.d.
 - ~~de.~~ Any proposal that requires Regular Design Review approval located in the S-7 Zone, on a designated landmark site, or involving a Local Register Property, that requires Regular Design Review approval.

17.136.060 Review by Landmarks Board in certain cases.

- A. Whenever an application is for Regular Design Review ~~regular design review~~ in the S-7 Zone, or on a designated landmark site, the Director of City Planning shall refer the proposal to the Landmarks Preservation Advisory Board for its recommendations.
- B. Whenever an application is for Regular Design Review ~~regular design review~~ in the S-20 Zone, and the Director of City Planning determines that a proposed addition or alteration will have a significant effect on the property's character-defining elements that are visible from a street or other public area, the Director may, at his or her ~~their~~ discretion, refer the project to the Landmarks Preservation Advisory Board for its recommendations. "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. An addition or alteration is normally considered "visible from a street or other public area" if it affects a street face or public face of the facility or is otherwise located within the "critical design area," defined as the area within forty (40) feet of any street line, public alley, public path, park or other public area.

17.136.070 Special regulations for designated landmarks.

- A. **Designation.** In any zone, the City Council may designate as a landmark any facility, portion thereof, or group of facilities which has special character, interest, or value of any of the types referred to in Section 17.07.030P. The designating ordinance for each landmark shall include a description of the characteristics of the landmark which justify its designation and a clear description of the particular features that should be preserved. Each ordinance shall also include the location and boundaries of a landmark site, which shall be the lot, or other appropriate immediate setting, containing the landmark. Designation of each landmark and landmark site shall be pursuant to the rezoning and law change procedure in Chapter 17.144.
- B. **Design Review for Construction or Alteration.** Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Telecommunications Facility, Sign, or other associated structure on any designated landmark site shall be constructed or established, or altered in such a manner as to affect exterior appearance unless plans for the proposal have been approved pursuant to the design review procedure in this Chapter and the applicable provisions of this Section. Furthermore, for a publicly-owned landmark, the designating ordinance may require such approval of proposed changes to major interior architectural features.
- C. **Regular Design Review Criteria.** Proposals involving designated landmarks that require Regular ~~Design Review design review~~ approval may be granted only upon determination that the proposal conforms to the Regular ~~Design Review design review~~ criteria set forth in Section 17.136.050 and to the additional criteria set forth below in Subdivisions 1, 2 and 3 or to one or both of the criteria set forth in Subdivision 4:
 - 1. That the proposal will not adversely affect the exterior features of the designated landmark nor, when subject to control as specified in the designating ordinance for a publicly-owned landmark, its major interior architectural features;
 - 2. That the proposal will not adversely affect the special character, interest, or value of the landmark and its site, as viewed both in themselves and in their setting;
 - 3. That the proposal conforms with the Design Guidelines for Landmarks and Preservation Districts as adopted by the City Planning Commission and, as applicable for certain federally-related projects, with the Secretary of the Interior's Standards for the Treatment of Historic Properties;
 - 4. If the proposal does not conform to the criteria set forth in Subdivisions 1, 2 and 3:
 - i. That the designated landmark or portion thereof is in such condition that it is not architecturally feasible to preserve or restore it, or
 - ii. That, considering the economic feasibility of alternatives to the proposal, and balancing the interest of the public in protecting the designated landmark or portion thereof, and the interest of the owner of the landmark site in the utilization thereof, approval is required by considerations of equity.
- D. **Duty to Keep in Good Repair.** Except as otherwise authorized under Subsections B. and of this Section, the owner, lessee, or other person in actual charge of each designated landmark

shall keep good repair all of the exterior portions thereof, all of the interior portions thereof when subject to control as specified in the designating ordinance, and all interior portions thereof the maintenance of which is necessary to prevent deterioration and decay of any exterior portion.

17.136.075 Regulations for demolition or removal of CIX-1A-zoned properties, Designated Historic Properties, and Potentially Designated Historic Properties.

- A. With the exception of structures declared to be unsafe a public nuisance by the Building Official or City Council, Regular Design Review of the demolition or removal of a Designated Historic Property (DHP) or Potentially Designated Historic Property (PDHP) shall only be approved after the Regular Design Review of a replacement project at the subject site has been approved; An unsafe structure means a structure found by the Building Official or City Council to require immediate issuance of a demolition permit to protect the public health and safety. however, Ddemolition of nuisance structures that are Designated Historic Properties or Potentially Designated Historic Properties must still undergo Regular Design Review for demolition as required by this Chapter. For this criterion, a nuisance structure constitutes a threat to health and safety that does not require immediate issuance of a demolition permit to address the threat.
- B. Regular Design Review approval for the demolition or removal of any Landmark, Heritage Property, structure rated "A" or "B" by the Oakland Cultural Heritage Survey, and structure on the City's Preservation Study List that are not in an S-7 or S-20 Zone, or Area of Primary Importance (API) as determined by the Oakland Cultural Heritage Survey may be granted only if the proposal conforms to the Regular Design Review design review criteria, all other applicable design review criteria, and the following additional criteria:
1. The applicant demonstrates that: a) the existing property has no reasonable use or cannot generate a reasonable economic return and that the development replacing it will provide such use or generate such return, or b) the applicant demonstrates that the structure constitutes a public nuisance hazard—and is economically infeasible to rehabilitate on its present site. For this finding, a nuisance structure hazard—constitutes a threat to health and safety that is not immediate;
 2. If a replacement project facility is required by Subsection 17.136.075.A., the design quality of the replacement project facility is equal or superior to that of the existing facility; and
 3. It is economically, functionally, architecturally, or structurally infeasible to incorporate the historic structure into the proposed development.
- C. Regular Design Review Approval for the demolition or removal of any structure in the CIX-1A Zone, or an S-7 or S-20 Zone, or an Area of Primary Importance (API) as determined by the Oakland Cultural Heritage Survey may be granted only if the proposal conforms to the general design review criteria, all other applicable design review criteria, and the following additional criteria:
1. For the demolition of structures in the CIX-1A Zone; or contributors to an S-7 Zone, S-20 Zone, or API:
 - a. The applicant demonstrates that: i) the existing property has no reasonable use or cannot generate a reasonable economic return and that the development replacing it will provide such use or generates such return, or ii) the applicant demonstrates that the structure constitutes a public nuisance hazard—and is economically infeasible

to rehabilitate on its present site. For this criterion, a nuisance structure hazard constitutes a threat to health and safety that is not immediate; and

- b. It is economically, functionally, architecturally, or structurally infeasible to incorporate the historic structure, or existing structure in the CIX-1A Zone, into the proposed development.

2. For the demolition of noncontributors to an S-7 Zone, S-20 Zone, or API: i) the The existing structure is either: i) seriously deteriorated or a public nuisance. For this finding, a nuisance structure constitutes a threat to health and safety that is not immediate; or ii) the public benefits of the proposed replacement project outweigh the benefit of retaining the original structure; or iii) ii) the existing design is undistinguished and does not warrant retention. For this finding, a hazard constitutes a threat to health and safety that is not immediate;

3. For the demolition of any structure in an S-7 Zone, S-20 Zone, or API:

- a. The design quality of the replacement project structure is equal or / superior to that of the existing structure; and
- b. The design of the replacement project is compatible with the character of the district, and there is no erosion of design quality at the replacement project site and in the surrounding area. This includes, but is not necessarily limited to, the following additional findings:
 - i. The replacement project is compatible with the district in terms of massing, siting, rhythm, composition, patterns of openings, quality of material, and intensity of detailing;
 - ii. New street frontage includes forms that reflect the widths and rhythm of the facades on the street and entrances that reflect the patterns on the street;
 - iii. The replacement project provides high visual interest that either reflects the level and quality of visual interest of the district contributors or otherwise enhances the visual interest of the district;
 - iv. If the design contrasts the new to the historic character, the replacement project enriches the historic character of the district;
 - v. The replacement project is consistent with the visual cohesiveness of the district. For the purpose of this item, visual cohesiveness is the architectural character, the sum of all visual aspects, features, and materials that defines the district. A new structure contributes to the visual cohesiveness of a district if it relates to the design characteristics of a historic district. New construction may do so by drawing upon some basic building features, such as the way in which a building is located on its site, the manner in which it relates to the street, its basic mass, form, direction or orientation (horizontal vs. vertical), recesses and projections, quality of materials, patterns of openings and level of detailing. When a combination of some of these design variables are arranged in a new building to relate to those seen traditionally in the area, but integral to the design and character of the proposed new construction, visual cohesiveness results; and
 - vi. The replacement project will not cause the district to lose its current historic status.

D. Regular Design Review Approval for the demolition or removal of any structure rated "C" by

the Oakland Cultural Heritage Survey or contributes to an Area of Secondary Importance (ASI) as determined by the Oakland Cultural Heritage Survey may be granted only if the proposal conforms to the general design review criteria, all other applicable design review criteria, and to either: 1., 2., or 3., below:

1. The design quality of the proposed replacement project is at least equal to that of the original structure and the proposed replacement project is compatible with the character of the neighborhood; or
 2. The public benefits of the proposed replacement project outweigh the benefit of retaining the original structure and the proposed replacement project is compatible with the character of the neighborhood; or
 3. The existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.
- E. For proposals that have received Design Review approval pursuant to this Section, the issuance of a demolition permit for any structure or portion thereof may be postponed by the Director of City Planning for a period not to exceed one hundred twenty (120) days from the date of application for such permit. The Director may do so upon determination that the structure or portion thereof is listed as a Local Register Property, or is on a study list of facilities under serious study by the Landmarks Preservation Advisory Board, the City Planning Commission, or the Director, for possible landmark designation under Section 17.136.070 or for other appropriate action to preserve it. During the period of postponement, the Board, the Commission, or the Director shall explore means for preserving or restoring the structure or portion thereof. However, demolition may not be postponed under this Section if, after notice to the Director of City Planning, the **Planning and Building Services Department, the Housing Conservation Division**, their respective appeals boards, or the City Council determines that **the structure is unsafe and** immediate demolition is necessary to protect the public health or safety. Any determination made by the Director of City Planning under this Section **not involving an unsafe structure** may be appealed pursuant to the administrative appeal procedure in Chapter 17.132.

17.136.080 Appeal to Planning Commission—Regular **Design Review. design review.**

- A.** Within ten (10) calendar days after the date of initial decision by the Director of City Planning on an application for **Regular Design Review 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 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.
- B.** 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.
- C.** 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 their** 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 the appeal the Planning Director may review the appeal and independently determine that a clear procedural error has occurred, in which case the Planning Director may remand the item to staff to cure the error in lieu of holding a hearing.

- D. 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, 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.
- E. 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.
- F. 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, design review.

- A. Within ten (10) calendar days after the date of initial decision by the City Planning Commission on an application for Regular Design Review 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.
- B. 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.
- C. 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.

- D. 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. Not less than seventeen (17) days prior thereto, 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.
- E. 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.
- F. The decision of the City Council shall be made by resolution and shall be final.

17.136.130 Limitation on resubmission—~~Small Project Design Review. project design review and Special project design review.~~

Whenever an application for ~~Small Project Design Review project design review or Special project design review~~ has been denied by the Director of City Planning, no Small ~~Project Design Review project design review application or Special project design review~~ application for essentially the same proposal affecting the same property, or any portion thereof, shall be filed within one (1) year after the date of denial; provided, however, that such proposal may be resubmitted as an application for Regular ~~Design Review. design review.~~

The limitation of this Section on resubmitting an application for Small ~~Project Design Review project design review or Special project design review~~ shall not apply in instances where the applicant can show, on the face of any subsequent application, changed circumstances sufficient to justify reconsideration of denial of the original application for Small ~~Project Design Review. project design review or Special project design review.~~ Applications pursuant to this Section shall be considered by the Director of City Planning, ~~or their designee.~~ A determination by the Director shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission. In 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. Any such decision by the Planning Commission shall be final.

Chapter 17.140 PLANNED UNIT DEVELOPMENT PROCEDURE

Sections:

17.140.020 Application.

17.140.030 Preliminary Planning Commission action.

17.140.040 Submission of final development plan.

17.140.050 City Engineer's report.

17.140.060 Appeal to Planning Commission of final development plan.

17.140.060 Final Planning Commission action.

17.140.070 Appeal to **City Council of preliminary development plan.**

17.140.020 Application.

Application for a Planned Unit Development (PUD) permit shall be made by the owner of the affected property or **his or her** authorized agent, or by another party described in Section 17.142.040, on a form prescribed by the City Planning and Building Department and shall be filed with such Department. The application shall be accompanied by the fee prescribed in the fee schedule in Chapter 17.150, and by the following:

- A. A preliminary development plan of the entire development showing streets, driveways, sidewalks and pedestrian ways, and off-street parking and loading areas; location and approximate dimensions of structures; utilization of structures, including activities and the number of living units; estimated population; reservations for public uses, including schools, parks, playgrounds, and other open spaces; major landscaping features; relevant operational data; and drawings and elevations clearly establishing the scale, character, and relationship of buildings, streets, and open spaces. Such development plan shall include maps and information on the surrounding area within one hundred (100) feet of the development. All elements listed in this paragraph shall be characterized as existing or proposed, and sufficiently detailed to indicate intent and impact. In the case of a development intended to be constructed over a period of more than four (4) years, the design and arrangement of those portions of the project to be constructed more than four (4) years in the future may be shown in generalized, schematic fashion;
- B. A tabulation of the land area to be devoted to various uses, a tabulation of gross floor area to be devoted to various uses, and a calculation of the average residential density per net acre and per net residential acre;
- C. A stage development demonstrating that the developer intends to commence construction **within a timeline prescribed in Section 17.140.040, one (1) year** after the approval of the final development plan and will proceed diligently to completion;
- D. If it is proposed that the final development plan will be submitted in stages, a schedule for submission thereof.

17.140.030 Preliminary Planning Commission action.

An application for a **preliminary development plan for a** Planned Unit Development (PUD) permit shall be considered by the City Planning Commission which shall hold a public hearing on

the application. Notice of the hearing shall be given by posting an enlarged notice on the premises of the subject property. Notice of the hearing shall also be given by mail or delivery to all owners and occupants of real property within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where ~~his or her~~ their address is not shown on the last available equalized assessment roll 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. If, however, the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement these procedures. While the hearing is open, any interested party must enter into the record any issues and/or oral, written, and/or documentary evidence to the Commission for its consideration; failure to do so will preclude the party from raising such issues and/or evidence during the appeal hearing and/or in court. The Commission shall determine whether the proposal conforms to the permit criteria set forth in Section 17.140.080 and to the Planned Unit Development regulations in Chapter 17.142, and may approve or disapprove the application and the accompanying preliminary development plan or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to carry out the purposes of the zoning regulations and ensure conformity to said criteria. In so doing, the Commission may, in its discretion, authorize submission of the final development plan in stages corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the preliminary development plan and stage development schedule. The determination of the Commission shall become final ten (10) calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.140.070. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Commission prior to the close of the Commission's public hearing on the matter, in accordance with the above procedures. 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.

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.

1. Decision by the Director of City Planning. An application for a final development plan as specified in Section 17.040.040(A) shall be considered by the Director of City Planning, or his her designee.
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 within three hundred (300) feet of the project site; provided, however, that failure to send notice to any such owner where their address is not shown on the last

available equalized assessment roll 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. Any interested party must enter into the record any issues and/or evidence to the Director prior to the close of the written public comment period for their consideration; failure to do so will preclude the party from raising such issues during any appeal hearing and/or in court.

3. The Director shall determine whether the final plan proposal conforms to the applicable preliminary development plan, and may approve or disapprove the proposal or require such changes therein or impose such reasonable conditions of approval as are in their judgment necessary to ensure conformity to said preliminary plan.

4. Finality of Decision. A decision by the Director shall become final ten (10) calendar days after the date of initial decision unless appealed to the City Planning Commission in accordance with Section 17.140.060. Any party seeking to appeal the determination will be limited to issues and/or evidence presented to the Director prior to the close of the written public comment period. In the event that 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. Appeals considered by the City Planning Commission under the procedures specified in this section shall be final immediately and are not ultimately appealable to the City Council.

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~~ their 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~~ their designee, may grant up to a three-year extension of this date.

17.140.050 City Engineer's report.

Within thirty (30) days after the filing of the final development plan, the City Planning Commission shall forward such development plan and the original application to the City Engineer for review of public improvements, including streets, sewers, and drainage. The Commission shall not act on a final development plan until it has first received a report from the City Engineer ~~or~~

until more than thirty (30) days have elapsed since the plan and application were sent to the City Engineer, whichever is the shorter period.

17.140.060 Appeal to Planning Commission of final development plan.

- A. Within ten (10) calendar days after the date of initial decision by the Director of City Planning on an application for a final development plan under the procedure specified in Subsection 17.140.040.A, an appeal from said decision may be taken to the City Planning Commission by the applicant or any other interested party. 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.
- B. Such appeal shall be made on a form prescribed by the Planning and Building Department and shall be filed with such Department, along with the appropriate fees required by the City's Master Fee Schedule.
- C. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director or wherein their 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.
- D. 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 consideration of the appeal, 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.
- E. 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.
- F. The decision of the Commission on a proposal being considered under the procedure specified in Subsection 17.140.040.A. shall be final immediately and is not ultimately appealable to the City Council.

17.140.060 Final Planning Commission action.

~~Within ten (10) calendar days after the date of a decision by the City Planning Commission on an application for approval of a preliminary or final development plan, or for modification or amendment of any such plan, an appeal from said decision may be taken to the City Council by the applicant, the permit holder, 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. 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 such 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. Not less than seventeen (17) days prior thereto, 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 criteria and standards, and may approve or disapprove the proposed development or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to carry out the purposes of the zoning regulations and ensure conformity to said criteria. The decision of the City Council shall be made by resolution and shall be final.~~

17.140.070 Appeal to City Council of preliminary development plan.

- A. Within ten (10) calendar days after the date of a decision by the City Planning Commission on an application for approval of a preliminary ~~or final~~ development plan under the procedure specified in Subsection 17.140.030, or for modification or amendment of any such plan, an appeal from said decision may be taken to the City Council by the applicant, the permit holder, 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.
- B. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the Planning and Building Department, along with the appropriate fees required by the City's Master Fee Schedule.

- C. 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.
- D. Upon receipt of such 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 receipt of said appeal and of the date set for consideration thereof. Not less than seventeen (17) days prior thereto, 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.
- E. 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 criteria and standards, and may approve or disapprove the proposed development or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to carry out the purposes of the zoning regulations and ensure conformity to said criteria.
- F. The decision of the City Council shall be made by resolution and shall be final.

Chapter 17.150 FEE SCHEDULE

Sections:

17.150.010 Title, purpose, and applicability.

17.150.020 Master fee schedule.

17.150.030 Application or Appeal Fee Refunds.

17.150.010 Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Fee Schedule. The purpose of these provisions is to prescribe the fees for the filing of applications for, or making appeals under, the procedures of the zoning regulations; and to set forth the City's refund policy for Planning applications and appeals that result in circumstances where the fee amount paid is in excess of the reasonable value of services rendered to the applicant due to the limited circumstances where there is an early withdrawal of the application, overpayment due to mistake, applications entered or applied-for in error, or other circumstances where the fees paid are not in accordance with the Master Fee Schedule. This fee schedule shall apply to all such Planning application and appeal filings.

17.150.020 Master fee schedule.

Fees, and regulations pertaining to fees, for the filing of applications and appeals shall be in accordance with the city City's master fee schedule.

17.150.030 Application or Appeal Fee Refunds.

- A. The City Administrator or their designee may authorize and initiate the refunding of the overpayment of any fee paid pursuant to an application or appeal made under this Title when such overpayment was made due to clerical error, system error or arithmetic miscalculation and such error or miscalculation has been demonstrated to the satisfaction of the City Administrator or their designee.
- B. Other than refunds identified in Subsection A, the City Administrator or their designee shall not authorize the refunding of any fee paid after a decision has been issued on a Planning application or appeal in accordance with this Title.
- C. The City Administrator or their designee may authorize the refunding of not more than eighty percent (80%) of the fee paid when a Planning application or appeal is withdrawn or canceled before any decision has been issued in accordance with this Title. If staff review work has been initiated prior to the refund request, the maximum percentage of the fees authorized to be refunded by the City Administrator or their designee shall be further reduced based on the number of hours already expended by City staff in the review of the subject Planning application or appeal.
- D. Other than refunds identified in Subsection A, the City Administrator or their designee shall not authorize the refunding of any fee paid except upon written application filed by the original permittee or appellant no later than three hundred sixty-five (365) days after the date of the fee payment.
- E. An applicant's refund request shall not be used to administratively challenge the

reasonableness of any fee listed under the City's Master Fee Schedule since the Master Fee Schedule is legislatively approved by the City Council.

F. The City Administrator or their designee is authorized to develop the Planning Bureau's fee refund application and to promulgate any rules or regulations regarding refunds that are consistent with and in furtherance of the provisions of this Section.

G. An applicant for a fee refund shall be charged a fee in accordance with the Master Fee Schedule for the processing and consideration of their refund request.

Chapter 17.154 ZONING MAPS

17.154.060 Application of regulations to lots divided by zone boundaries.

Wherever it is found, after applying the rules set forth in Section 17.154.050 for interpretation of zone boundaries, that any lot is divided by a boundary between zones, the provisions of the zoning regulations shall apply as follows to such lot:

- A. Application of All Regulations of One Zone to Existing Lot If Boundary Is Near Lot Line. If the lot was on the effective date of the zoning regulations, or of a subsequent rezoning or other amendment thereto resulting in division of the lot by a zone boundary, and the owner or developer of such lot, or of a portion or combination of such lot or lots, may at his or her option assume that all of the regulations applying in any zone covering fifty percent (50%) or more of the lot area apply to the entire lot or lots. However, this option shall not apply unless the entire lot or all such lots or parcel of land could be included in such zone by shifting the affected zone boundary by not more than ~~fifty (50) thirty (30)~~ feet, as measured perpendicularly to said boundary at any point.
- B. Application of Regulations Where Subsection A. is Inoperative. Wherever the provisions of Subsection A. of this Section do not apply or the option provided therein is not exercised:
 1. No activity type or facility type is allowed on any portion of the lot located in a zone where such type is not generally allowed, except for the accessory uses allowed by Subsections B.2. and B.3. of this Section.
 2. Accessory off-street parking and loading may be located on the lot without regard for zone boundaries; provided that no parking or loading shall be located on any portion of the lot located in a zone where the principal activity served is not generally allowed, except as such parking is specifically allowed by the applicable individual zone regulations subject to the conditions set forth in Section ~~17.116.075;~~ 17.116.175; and further provided that parking and loading shall be subject to a conditional use permit requirement or other special controls on any portion of the lot located in any zone where such controls generally apply to parking or loading. The total amount of required parking and loading shall be calculated separately on the basis of the amount of the served use and the requirements applying in each zone; provided that the minimum size for which any parking or loading is required shall be deemed to be exceeded if it is exceeded by the total of such use on the entire lot.
 3. Accessory landscaping, fences, screening or retaining walls, and usable open space may be located on the lot without regard for zone boundaries. The total amount of required usable open space shall be calculated separately on the basis of the number of living units, or amount of floor area, and the usable open space requirements in each zone; provided that where reference is made to the total number of living units on a lot, the number on the entire lot shall be considered.
 4. The maximum permitted or conditionally permitted number of living units or Floor-Area Ratio, if any, on the lot shall be calculated separately on the basis of the amount of lot area and the density ratio and Floor-Area Ratio applying in each zone. The resulting maximum permitted or conditionally permitted total number of living units or amount of floor area may be distributed on the lot without regard for zone boundaries, except as otherwise provided in Subsection B.1. of this Section and except that the number of living units and amount of floor area within each zone

shall not exceed the number or amount which would be allowed on the entire lot if it were completely within such zone.

5. The minimum lot area, width, and frontage requirements of the zone which covers the greater or greatest portion of the lot area of the lot shall apply to the entire lot. If the lot area is divided equally between two (2) or more zones, the owner or developer of the lot may assume that the minimum lot area, width, and frontage requirements of either or any of such zones apply to the entire lot.
 6. All regulations not covered above shall apply separately to the portion of the lot within each zone, provided that where reference is made in such regulation to the total quantity of living units or other unit of measurement on a lot, the quantity on the entire lot shall be considered.
- C. Wherever a lot is divided by a boundary between height areas, the height area line may be moved up to ~~fifty (50) thirty (30)~~ feet in any direction upon the granting of Regular Design Review approval (see Chapter 17.136 for the Regular Design Review process) to accommodate the site plan of a proposed development project. In addition to the general Design Review Criteria contained in Chapter 17.136, the proposal must meet the following additional criteria:
1. The height area line adjustment creates a more successful site plan in terms of open space, parking, or building location; and
 2. Appropriate height transitions are incorporated into the building design and site plan to adjacent lower density residential properties that either share a parcel line or are across the street from the proposal.

Chapter 17.158 ENVIRONMENTAL REVIEW REGULATIONS

Part 2 California Environmental Quality Act ("CEQA") Procedures

Article 2.1 General Provisions

17.158.180 Ministerial actions.

Ministerial actions typically processed by the City include, but are not limited to:

- A. Issuance of building, plumbing, mechanical, and electrical permits;
- B. Issuance of sign and banner permits;
- C. Issuance of sewer permits;
- D. Issuance of sidewalk, driveway, curb, and gutter permits;
- E. Issuance of ministerial demolition permits, as defined in Chapter 15.36 of the Oakland Municipal Code, except where either the demolition or replacement project requires any discretionary approvals, pursuant to the zoning regulations in Title 17 of the Oakland Planning Code (Title 17);
- F. Issuance of reroofing permits;
- G. Issuance of pest control permits;
- H. Approval of individual utility service connections or disconnections;
- I. Approval of final subdivision maps;
- J. Approval of parcel map waivers, including lot line adjustments and lot combinations;
- K. Approval of Ministerial Design Reviews and dDesign review exemptions, as defined in Chapter 17.136 of the Oakland Planning Code;
- L. Issuance of business licenses and payment of business taxes;
- M. Granting of permits by the Police and Fire Departments;
- N. Approval of Minor Zoning Exceptions, as defined in Chapter 17.148 of the Oakland Planning Code;
- O. Approval of tentative parcel and tract maps associated with SB 684 streamlining of up to ten (10) new home ownership units under Government Code Sections 65852.28 and 66499.41.

17.158.190 Discretionary actions.

Discretionary actions typically processed by the City include, but are not limited to:

- A. Certain approvals granted under the zoning regulations, including but not limited to:
 - 1. Conditional Use Permits;
 - 2. Small Project Design Review, as defined in Chapter 17.136 of the Oakland Planning Code;
 - 3. Special Project Design Review, as defined in Chapter 17.136 of the Oakland

OAKLAND

Planning Code;

34. Regular Design Review, as defined in Section 17.136.050(B) Chapter 17.136 of the Oakland Planning Code;
45. Development Agreements;
56. Planned Unit Developments;
67. Rezoning;
78. Variances.

B. Certain approvals granted under the subdivision regulations, including but not limited to:

1. Private access easements;
2. Tentative parcel maps, except as associated with SB 684 streamlining of up to ten (10) new home ownership units under Government Code Sections 65852.28 and 66499.41;
3. Tentative tract maps, except as associated with SB 684 streamlining of up to ten (10) new home ownership units under Government Code Sections 65852.28 and 66499.41.

C. Certain permits issued under other City codes, regulations, and ordinances, including but not limited to:

1. Discretionary demolition permits, as defined in Chapter 15.36 of the Oakland Municipal Code, and as related to any demolition or removal of structures on a site where the zoning regulations requires design review to alter the exterior appearance of the applicable building facility, regardless of whether the owner intends to create a surface parking lot or a vacant lot pursuant to Oakland Municipal Code Section 15.36.080;
2. Encroachment permits;
3. Excavation permits;
4. Grading permits;
5. House moving permits;
6. Obstruction permits;
7. Permits for private construction of public improvements ("P-job" permits);
8. Special activity permits issued by the City Administrator;
9. Tree removal permits.

D. Amendments to the zoning regulations, subdivision regulations, other codes and regulations governing the issuance of discretionary permits, or the Oakland General Plan.

E. Projects sponsored or assisted by the City or the Redevelopment Agency.



City of Oakland
Master Fee Schedule
Effective July 1, 2025

PLANNING & BUILDING
DEPARTMENT

Exhibit B

FEE DESCRIPTION	FEE UNIT	Proposed 2025-26	Proposed 2025-26	% Change	Justification for Fee Change	Coding Block where Revenue Is Received Only for Significant Revenue Sources				
		Fee	Unit			Fund	Org	Acct	Project	Program
PLANNING & ZONING										
A. APPLICATIONS UNDER THE OAKLAND ZONING REGULATIONS										
1. Major Conditional Use Permit										
a. Report Fee	9,740.11 Report					2415	84229	42511	1000018	SC10
2. Major Variance										
a. Report Fee	10,535.79 Report					2415	84229	42511	1000018	SC10
3. Rezoning										
a. Rezoning	6,393.29 Report					2415	84229	42511	1000018	SC10
4. Planned Unit Development (Preliminary)										
a. Basic Fee	24,904.97 Report					2415	84229	42511	1000018	SC10
b. Plus Per 10,000 Sq. Ft. of Site Area Over Four (4) Acres	104.77 10,000 Sq. Ft.					2415	84229	42511	1000018	SC10
c. Plus per Sq. Ft. of Floor Area	0.09 Square Foot					2415	84229	42511	1000018	SC10
5. Planned Unit Development (Final)										
a. Basic Fee	19,987.70 Report					2415	84229	42511	1000018	SC10
b. Plus per Sq. Ft. of Floor Area	0.09 Square Foot					2415	84229	42511	1000018	SC10
6. Minor Variance										
a. Report Fee	4,584.06 Report					2415	84229	42511	1000018	SC10
7. Minor Conditional Use Permit										
a. Report Fee	4,584.06 Report					2415	84229	42511	1000018	SC10
8. Regular Design Review										
Design Review in the S-7 or S-20 zones										
a. Report Fee - Minor Project	4,363.28 Report					2415	84229	42511	1000018	SC10
b. Report Fee - Major Project	8,444.73 Report					2415	84229	42511	1000018	SC10
8a. Ministerial Project Design Review										
a. Report Fee	4,363.28 Report	4,363.28	Report		New Ministerial Design Review Using Objective Design Standards	2415	84229	42511	1000018	SC10