APPROVED AS TO FORM AND LEGALITY
(Revised May 6, 2008)

INTRODUCED BY COUNCILMEMBER _____

FILED
OFFICE OF THE CITY CLERK
OAKLAND

City Attorney

OAKLAND CITY COUNCIL

ORDINANCE NO._____C.M.S.

AN ORDINANCE AMENDING THE OAKLAND PLANNING CODE TO UPDATE REFERENCES, IMPROVE CONSISTENCY AMONG CHAPTERS, CLARIFY LANGUAGE, AND MAKE OTHER MINOR PLANNING CODE REVISIONS (INCLUDING UPDATING DEVELOPMENT STANDARDS IN THE HBX ZONE, PERMITTED USES IN THE S-8 ZONING DESIGNATION; REVISING CONDITIONAL USE PERMIT CRITERIA FOR DWELLING UNITS WITH FIVE OR MORE BEDROOMS; AND INCREASING THE THRESHOLD BEFORE CERTAIN PROJECTS REQUIRE A MAJOR CONDITIONAL USE PERMIT IN THE R-36 AND R-40 ZONES)

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

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

WHEREAS, the Planning Code contains provisions that are inconsistent with State law; and

WHEREAS, the content of some chapters of the Planning Code does not achieve the purpose of the zone, as is the case in the S-8 zone. The purpose of the S-8 zone is to achieve an attractive pedestrian environment. However, some activities that would achieve this end are not outright permitted, instead they are conditionally permitted; and

WHEREAS, the landscaping and screening standards of the Planning Code require inadequate spacing standards for large trees; and

WHEREAS, outdated development standards have created unequal regulations; for example, parking requirements for developments with five or more bedrooms are onerous compared to different types of residential facilities in other parts of the zoning code. Likewise, front yard paving standards for interior and through lots are inflexible and limit needed street improvements; and

WHEREAS, existing regulations for major conditional use permits require laborious review of ordinary development proposals; and

WHEREAS, the development standards of the recently adopted HBX zone need refining due to the unanticipated problems with administering the regulations. The maximum floor area ratio, maximum height, and special regulations for HBX work/live are in need of modification; and

WHEREAS, on November 14, 2007, at a duly noticed meeting, the Zoning Update Committee recommended that the zoning text amendments be heard by the Planning Commission; and

WHEREAS, on January 9, 2008, at a duly noticed meeting, the Planning Commission recommended approval of the zoning text amendments; now, therefore,

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

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

Section 2. Prior to adopting this Ordinance, the City Council independently finds and determines that this action complies with CEQA because the City is relying on previously certified EIRs and no further environmental review is required under CEQA Guidelines sections 15162 and 15163. As a separate and independent basis, this Ordinance is also exempt under Sections 15061(b)(3), 15183, and/or Section 15273 of the State CEQA Guidelines. The Environmental Review Officer is directed to cause to be filed a Notice of Determination with the appropriate agencies.

Section 3. This Ordinance shall be effective 30 days from the date of final passage by the City Council, but shall not apply to (a) building/construction related permits already issued and not yet expired; (b) zoning applications approved by the City and not yet expired; (c) ~~or to zoning applications deemed~~ complete zoning applications or; (d) zoning applications that would otherwise be considered complete except for an environmental determination, ~~by the City~~ as of the date of final passage.

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

Section 5. The HBX Design Guidelines Manual is hereby amended as contained in **Exhibit B**, attached hereto and hereby incorporated by reference.

Section 6. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

Section 7. If any section, subsection, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of the remaining portions which shall remain in full effect.

Section 8. That the record before this Council relating to this Ordinance includes, without limitation, the following:

1. the application, including all accompanying maps and papers;

2. all relevant plans and maps;

3. all final staff reports, decision letters and other documentation and information produced by or on behalf of the City;

4. all oral and written evidence received by the City staff, Planning Commission and City Council before and during the public hearings on the application;

5. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan and the General Plan Conformity Guidelines; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations, Oakland Fire Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and, (e) all applicable state and federal laws, rules and regulations.

Section 9. That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, CA; and be it

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

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

DATE OF ATTESTATION: _____

MPU

EXHIBIT A
(*Revised* May 6, 2008)

Title 17

PLANNING

Additions are shown as underline and omissions are shown as ~~strikethrough~~. Additional changes made after the City Council review (May 6, 2008) are shown in grey on p.44 and p.103 of this exhibit.

Planning Code Chapters Amended:

Chapter 17.09	Definitions
Chapter 17.10	Use Classifications
Chapter 17.11A	R-1 One Acre Estate Residential Zone Regulations
Chapter 17.12	R-10 Estate Residential Zone Regulations
Chapter 17.14	R-20 Low Density Residential Zone Regulations
Chapter 17.16	One-Family Residential Zone Regulations
Chapter 17.18	R-35 Special One-Family Residential Zone Regulations
Chapter 17.20	R-36 Small Lot Residential Zone Regulations
Chapter 17.22	R-40 Garden Apartment Residential Zone Regulations
Chapter 17.24	R-50 Medium Density Residential Zone Regulations
Chapter 17.26	R-60 Medium-High Density Residential Zone Regulations
Chapter 17.28	R-70 High Density Residential Zone Regulations
Chapter 17.30	R-80 High-Rise Apartment Residential Zone Regulations
Chapter 17.32	R-90 Downtown Apartment Residential Zone Regulations
Chapter 17.34	C-5 Neighborhood Commercial Zone Regulations
Chapter 17.36	C-10 Local Retail Commercial Zone Regulations
Chapter 17.38	C-20 Shopping Center Commercial Zone Regulations
Chapter 17.40	C-25 Office Commercial Zone Regulations
Chapter 17.42	C-27 Village Commercial Zone Regulations
Chapter 17.44	C-28 Commercial Shopping District Zone Regulations
Chapter 17.46	C-30 District Thoroughfare Commercial Zone Regulations
Chapter 17.48	C-31 Special Retail Commercial Zone Regulations
Chapter 17.50	C-35 District Shopping Commercial Zone Regulations
Chapter 17.52	C-36 Gateway Boulevard Service Commercial Zone Regulations
Chapter 17.54	C-40 Community Thoroughfare Commercial Zone Regulations
Chapter 17.56	C-45 Community Shopping Commercial Zone Regulations
Chapter 17.58	C-51 Central Business Service Commercial Zone Regulations
Chapter 17.60	C-52 Old Oakland Commercial Zone Regulations
Chapter 17.62	C-55 Central Core Commercial Zone Regulations
Chapter 17.64	C-60 City Service Commercial Zone Regulations
Chapter 17.65	HBX Housing and Business Mix Commercial Zone Regulations
Chapter 17.74	S-1 Medical Center Zone Regulations
Chapter 17.76	S-2 Civic Center Zone Regulations
Chapter 17.86	S-8 Urban Street Combining Zone Regulations
Chapter 17.97	S-15 Transit Oriented Development Zone Regulations
Chapter 17.101	S-20 Historic Preservation District Combining Zone Regulations
Chapter 17.102	General Regulations Applicable to All or Several Zones
Chapter 17.104	General Limitations on Signs
Chapter 17.106	General Lot, Density, and Area Regulations
Chapter 17.107	Density Bonus and Incentive Procedure
Chapter 17.108	General Height, Yard, Court, and Fence Regulations

Chapter 17.09

DEFINITIONS

17.09.040 Definitions.

"Accessory structure" means a building or facility, other than a Sign, which is incidental to, and customarily associated with, a specified principal facility, and which meets the applicable ~~conditions~~regulations set forth in Title 17 of the Oakland Planning Code.

"Commercial zone" means any zone ~~the~~ with a name ~~of which~~that ends with the words "Commercial Zone Regulations." ~~begins with the letter "C."~~

"Designated landmark" means a facility, portion thereof, or group of facilities which has a special character, interest, or value and which has been established as a landmark pursuant to Section 17.136.070 ~~17.102.030~~ and the rezoning and law change procedure in Chapter 17.144.

"Designated landmark site" means a lot or other site which contains a designated landmark and which has been established pursuant to Section 17.136.070 ~~17.102.030~~ and the rezoning and law change procedure in Chapter 17.144.

"Floor Area"

1. **"Floor area,"** for all projects except those with one or two dwelling units on a lot, means the total of the gross horizontal areas of all floors, including usable basements and cellars, below the roof and within the outer surfaces of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the roof line of any building or portion thereof without walls, but excluding the following:

a. Areas used for off-street parking spaces or loading berths and driveways and maneuvering aisles relating thereto;

b. Areas which qualify as usable open space under the standards for required usable open space in Chapter 17.126;

c. In the case of Nonresidential Facilities: arcades, porticoes, and similar open areas which are located at or near street level, which are accessible to the general public, and which are not designed or used as sales, display, storage, service, or production areas.

"Front lot line" (see illustration I-2) means:

1. On an interior lot: any abutting street line, except where an interior lot has more than one abutting street line, the Director of City Planning shall select one of the street lines as the front lot line; such selection shall conform with any neighborhood patterns.

2. On a corner lot: the shorter of any adjacent two abutting street lines, or portions thereof, which intersect at an angle of not less than forty-five (45) degrees but not more than one hundred thirty-five (135) degrees; except that ~~provided that if such street lines, or portions thereof, are equal in length~~ the Director of City Planning ~~owner or developer of the lot~~ may select either as the front lot line to conform with any neighborhood patterns. If adjacent street lines, or portions thereof, of a corner lot intersect at an angle of less than forty-five (45) degrees, both such street lines or portions thereof shall be deemed front lot lines.

"Industrial zone" means any zone ~~the~~ with a name ~~of which~~that ends with the words "Industrial Zone Regulations." ~~begins with the letter "M."~~

"Living room" means the principal room designed for general living purposes in ~~dwelling~~ living unit. Every ~~dwelling~~ living unit shall be deemed to have a living room.

"Local Register Property" means any building, object, property or district listed in the City of Oakland's Local Register of Historical Resources, which includes all Landmarks, Designated Historic Properties, Heritage Properties, Study List Properties, Preservation Districts, and S-7 and S-20 Preservation Combining Zone Properties; and those Potential Designated Historic Properties (PDHPs) that are determined by the City's Cultural Heritage Survey to have an existing rating of "A" or "B", or to contribute or potentially contribute to an Area of Primary Importance (API).

"Potential Designated Historic Property" means any building or property that is determined by the City's Cultural Heritage Survey to have an existing rating of "A", "B", or "C", or to contribute or potentially contribute to an Area of Primary Importance (API) or an Area of Secondary Importance (ASI).

"Private access easement" means a privately owned and maintained right-of-way which provides vehicular access to each of not more than four lots. A private access easement allows the creation of no more than four lots without street frontage, each with vehicular access on the easement. The area designated for the private access easement shall be excluded in computing minimum lot areas. A private access easement shall be a part of one or more lots. At the discretion of the Director of Public Works, based on considerations described in the City Planning Commission guidelines, the street entrance portion of the private access easement may be located within the public right-of-way. Private access easements shall not be named. Addresses for the ~~dwelling~~ living units served by the easement shall conform to the address range of the street upon which the easement abuts.

"Residential zone" means any zone ~~the~~ with a name ~~of which~~ that ends with the words "Residential Zone Regualtions." ~~begins with the letter "R~~.

"Slope, Down" (Downslope) means a downhill angle or slant of a surface in relation to the elevation of the abutting street line.

"Slope, Up" (Upslope) means an uphill angle or slant of a surface in relation to the elevation of the abutting street line.

(Ord. 12675 § 3 (part), 2005; Ord. 12547 § 3 (part), 2003; Ord. 12376 § 3 (part), 2001; Ord. 12205 § 4 (part), 2000; Ord. 12199 § 3 (part), 2000; Ord. 12147 § 3 (part), 1999; Ord. 12138 § 4 (part), 1999; Ord. 12054 § 1(c), 1998; Ord. 11895 §§ 3--5, 1996; Ord. 11831 § 2, 1995; Ord. 11807 § 2, 1995; prior planning code §§ 2110--2130)

Chapter 17.10

USE CLASSIFICATIONS

~~**17.10.705 HBX Live/Work Facilities.**~~

~~**17.10.775 HBX Work/Live Facilities.**~~

17.10.700 Mobile Home Residential Facilities.

Mobile Home Residential Facilities include vehicular facilities which accommodate or are intended to accommodate Residential Activities and each of which contains ~~either a dwelling unit or a rooming unit~~a living unit. They also include certain facilities accessory to the above, as specified in Section 17.10.070. (Prior planning code § 2567)

~~**17.10.705 HBX Live/Work Facilities.**~~

~~HBX Live/Work Facilities include permanently fixed buildings, or those portions thereof, that accommodate or are intended to accommodate one or more HBX live/work units. (Ord. 12772 § 1 (part), 2006)~~

~~**17.10.775 HBX Work/Live Facilities.**~~

~~HBX Work/Live Facilities include permanently fixed buildings, or those portions thereof, each of which contains HBX work/live units. They also include certain facilities accessory to the above, as specified in Section 17.10.070. (Ord. 12772 § 1 (part), 2006)~~

Chapter 17.11A

R-1 ONE ACRE ESTATE RESIDENTIAL ZONE REGULATIONS

17.11A.160 Special regulations for large developments.

Large, integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~ 17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, in the R-1 zone certain of the regulations applying in said zone may be waived or modified. (Ord. 12376 § 3 (part), 2001: Ord. 12272 § 3 (part), 2000)

Chapter 17.12

R-10 ESTATE RESIDENTIAL ZONE REGULATIONS

17.12.160 Special regulations for large developments.

Large, integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, in the R-10 zone certain of the regulations applying in said zone may be waived or modified. (Ord. 12376 § 3 (part), 2001: prior planning code § 3273)

Chapter 17.14

R-20 LOW DENSITY RESIDENTIAL ZONE REGULATIONS

17.14.160 Special regulations for large developments.

Large, integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, in the R-20 zone certain of the other regulations applying in said zone may be waived or modified. (Ord. 12376 § 3 (part), 2001: prior planning code § 3373)

Chapter 17.16

R-30 ONE-FAMILY RESIDENTIAL ZONE REGULATIONS

17.16.160 Special regulations for large developments.

Large, integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the R-30 zone, and certain of the other regulations applying in said zone may be waived or modified.
(Ord. 12376 § 3 (part), 2001: prior planning code § 3473)

Chapter 17.18

R-35 SPECIAL ONE-FAMILY RESIDENTIAL ZONE REGULATIONS

17.18.130 Minimum yards and courts.

The following minimum yards shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. See also Section 17.108.020 for greater yard requirements applying to certain facilities which exceed the general maximum height prescribed in Section 17.18.130.

A. Front Yard. The minimum front yard depth on every lot shall be twenty (20) feet, except as a lesser depth is allowed by Section 17.108.050 on steep slopes and except that if adjacent lots abutting the side lot lines of the subject lot both contain principal Residential Facilities that have front yards with a depth of less than twenty (20) feet, buildings and other structures on the subject lot may be
located up to a line parallel to the front lot line and extended from the most forward projection of the principal Residential Facility on the adjacent lots having the deeper front yard depth, provided such projection is enclosed, has a wall height of at least eight feet, and has a width of at least five feet. (see illustration I-4e.)

B. Side Yard--Street Side of Corner Lot. The minimum side yard width on the street side of every corner lot shall be as prescribed in Section 17.108.060.

C. Side Yard--Interior Lot Line.

1. The minimum side yard width along each interior side lot line of every lot shall be five feet.

2. A side yard with a width greater than that required by subsection (C)(1) of this section shall be provided, when and as prescribed in Section 17.108.080, opposite a living room window which faces an interior side lot line and which is located on a lot containing Residential Facilities with a total of two ~~living~~ dwelling units.

D. Rear Yard. The minimum rear yard depth on every lot shall be fifteen (15) feet, except as a lesser depth is allowed by Section 17.108.110.

E. Courts. On each lot containing Residential Facilities with a total of two ~~living~~ dwelling units, courts shall be provided when and as required by Section 17.108.120. (Ord. 12376 § 3 (part), 2001: prior planning code § 3570)

17.18.150 Minimum usable open space.

On each lot containing Residential Facilities with a total of two ~~living~~ dwelling units, group usable open space shall be provided in the minimum amount of three hundred (300) square feet per dwelling unit. Private usable open space may be substituted for such group space in the ratio prescribed in Section 17.126.020, except that actual group space shall be provided in the minimum amount of one hundred (100) square feet per dwelling unit. On each such lot, some private usable open space shall be provided with each individual dwelling unit. All required space shall conform to the standards for required usable open space in Chapter 17.126. (Ord. 12376 § 3 (part), 2001: prior planning code § 3571)

17.18.170 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the R-35 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the R-35 zone, and certain of the other regulations applying in said zone may be waived or modified.

(Ord. 12376 § 3 (part), 2001: prior planning code § 3573)

Chapter 17.20

R-36 SMALL LOT RESIDENTIAL ZONE REGULATIONS

17.20.130 Minimum yards and courts.

The following minimum yards and courts shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. See also Section 17.108.020 for greater yards requirements applying to certain facilities which exceed the general maximum height prescribed in Section 17.20.120.

A. Lots Less Than Four Thousand (4,000) Square Feet in Size and/or Less Than Forty-Five (45) Feet in Width.

1. Front Yard. The minimum front yard depth on every lot shall be ten feet, except as a lesser depth is allowed by Section 17.108.050 on steep slopes and except that if adjacent lots abutting the side lot lines of the subject lot both contain principal Residential Facilities that have front yards with a depth of less than twenty (20) feet, buildings and other structures on the subject lot may be located up to a line parallel to the front lot line and extended from the most forward projection of the principal Residential Facility on the adjacent lots having the deeper front yard depth, provided such projection is enclosed, has a wall height of at least eight feet, and has a width of at least five feet (see illustration I-4e.).

2. Side Yard--Street Side of Corner lot. The minimum side yard width on the street side of every corner lot shall be as prescribed in Section 17.108.060.

3. Side Yard--Interior Lot Line. The minimum side yard width along each interior side lot line of every lot shall be three feet, except as a zero side-yard is allowed for proposals involving a One-Family Dwelling, or One-Family Dwelling with a Secondary Unit on each of two contiguous properties under common ownership.

4. Rear Yard. The minimum rear yard depth on every lot shall be fifteen (15) feet, except as a lesser depth is allowed by Section 17.108.110.

B. Lots Exceeding Four Thousand (4,000) Square Feet in Size.

1. Front Yard. The minimum front yard depth on every lot shall be twenty (20) feet, except as a lesser depth is allowed by Section 17.108.050 on steep lots and except that if adjacent lots abutting the side lot lines of the subject lot contain principal Residential Facilities that have front yards with a depth of less than twenty (20) feet, buildings and other structures on the subject lot may be located up to a line connecting the most forward projections of the principal Residential Facilities on the adjacent lots, provided such projections on the adjacent lots are enclosed, have a wall height of at least eight feet, and have a width of at least five feet. (See illustration I-4d.)

2. Side Yard--Street Side of Corner Lot. The minimum side yard width on the street side of every corner lot shall be as prescribed in Section 17.108.060.

3. Side Yard--Interior Lot Line.

a. The minimum side yard width along each interior side lot line of every lot shall be five feet.

b. A side yard with a width greater than that required by subsection (B)(3)(a) of this section shall be provided, when and as prescribed in Section 17.108.080, opposite a living room window which faces, an interior side lot line and which is located on a lot containing Residential Facilities with a total of two or more ~~living~~ dwelling units.

4. Rear Yard. The minimum rear yard depth on every lot shall be fifteen (15) feet, except as a lesser depth is allowed by Section 17.108.110.

5. Courts. On each lot containing Residential Facilities with a total of two or more ~~living~~ dwelling units, courts shall be provided when and as required by Section 17.108.120. (Ord. 12376 § 3 (part), 2001: Ord. 12199 § 3 (part), 2000; prior planning code § 3595)

17.20.150 Minimum usable open space.

On each lot containing Residential Facilities with a total of two or more ~~living~~ dwelling units, except in the case of a One-Family Dwelling with a Secondary Unit, group usable open shall be provided in the

minimum amount of three hundred (300) square feet per dwelling unit. Private usable open space may be substituted for such group space in the ratio prescribed in Section 17.126.020, except that actual group space shall be provided in the minimum amount of one hundred (100) square feet per dwelling unit. On each such lot, some private usable open space shall be provided with each individual dwelling unit. All required space shall conform to the standards for required usable open space in Chapter 17.126. (Ord. 12376 § 3 (part), 2001: Ord. 12199 § 3 (part), 2000: prior planning code § 3596)

17.20.170 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the R-36 zone, may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the R-36 zone, and certain of the other regulations applying in said zone may be waived or modified. (Prior planning code § 3598)

Chapter 17.22

R-40 GARDEN APARTMENT RESIDENTIAL ZONE REGULATIONS

17.22.110 Maximum residential density.

The maximum density of Residential Facilities shall be as set forth below. 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 or more bedrooms. No residential facility shall be permitted to have both an additional kitchen as provided for in Section 17.102.270B and a Secondary Unit.

A. Permitted Density. The numbers of dwelling units indicated in the following table are permitted on lots of the specified sizes:

Total Lot Area	Permitted Total Number of Dwelling Units
Less than 4,000 square feet, but only in the case of a lot which qualifies under Section 17.106.010 as an existing buildable parcel.	One primary dwelling unit, or one primary dwelling unit with one Secondary Unit, subject to the provisions specified in Section 17.102.360.
4,000--4,999 square feet, but only in the case of a lot that qualifies under Section 17.106.010 as an existing buildable parcel.	Two dwelling units.
5,000 or more square feet.	Two dwelling units.

B. Conditionally Permitted Density. A total of three or more dwelling units may be permitted on a lot, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, if the total lot area is not less than two thousand five hundred (2,500) square feet for each dwelling unit. The number of ~~living~~ dwelling units may also be increased, as prescribed in Section 17.106.060, in certain special housing.

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12501 § 33, 2003: Ord. 12199 § 5D (part), 2000; prior planning code § 3615)

17.22.140 Minimum yards and courts.

The following minimum yards and courts shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. See also Section 17.108.020 for greater yard requirements applying to certain facilities which exceed the general maximum height prescribed in Section 17.22.140.

A. Front Yard. The minimum front yard depth on every lot shall be twenty (20) feet, except as a lesser depth is allowed by Section 17.108.050 on steep slopes and except that if adjacent lots abutting the side lot lines of the subject lot both contain principal Residential Facilities that have front yards with a depth of less than twenty (20) feet, buildings and other structures on the subject lot may be located up to a line parallel to the front lot line and extended from the most forward projection of the principal Residential Facility on the adjacent lots having the deeper front yard depth, provided such projection is enclosed, has a wall height of at least eight feet, and has a width of at least five feet. (See illustration I-4e.)

B. Side Yard--Street Side of Corner Lot. The minimum side yard width on the street side of every corner lot shall be as prescribed in Section 17.05.060.

C. Side Yard--Interior Lot Line.

1. The minimum side yard width along each interior side lot line of every lot shall be five feet.

2. A side yard with a width greater than that required by subsection (C)(1) of this section shall be provided, when and as prescribed in Section 17.108.080, opposite a living room window which faces an interior side lot line and which is located on a lot containing Residential Facilities with a total of two or more ~~living~~ dwelling units.

D. Rear Yard. The minimum rear yard depth on every lot shall be fifteen (15) feet, except as a lesser depth is allowed by Section 17.108.110.

E. Courts. On each lot containing Residential Facilities with a total of two or ~~more~~ dwelling living units, courts shall be provided when and as required by Section 17.108.120. (Ord. 12376 § 3 (part), 2001: prior planning code § 3620)

17.22.160 Minimum usable open space.

On each lot containing Residential Facilities with a total of two or more ~~living~~ dwelling units, group usable open space shall be provided in the minimum amount of three hundred (300) square feet per dwelling unit. Private usable open space may be substituted for such group space in the ratio prescribed in Section 17.126.020, except that actual group space shall be provided in the minimum amount of one hundred (100) square feet per dwelling unit. On each such lot, some private usable open space shall be provided with each individual dwelling unit. All required space shall conform to the standards for required usable open space in Chapter 17.126. (Ord. 12376 § 3 (part), 2001: prior planning code § 3621)

17.22.180 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the R-40 zone, may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the R-40 zone, and certain of the other regulations applying in said zone may be waived or modified. (Ord. 12376 § 3 (part), 2001: prior planning code § 3623)

Chapter 17.24

R-50 MEDIUM DENSITY RESIDENTIAL ZONE REGULATIONS

17.24.110 Maximum residential density.

The maximum density of Residential Facilities shall be as set forth below. 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 or more bedrooms. No residential facility shall be permitted to have both an additional kitchen as provided for in Section 17.102.270B and a Secondary Unit.

A. Permitted Density. The numbers of dwelling units indicated in the following table are permitted on lots of the specified sizes:

Total Lot Area	Permitted Total Number of Dwelling Units
Less than 4,000 square feet, but only in the case of a lot which qualifies under Section 17.106.010 as an existing buildable parcel.	One primary dwelling unit, or one primary dwelling unit with one Secondary Unit, subject to the provisions specified in Section 17.102.360.
4,000 or more square feet.	Two dwelling units, or one primary dwelling unit with one Secondary Unit, subject to the provisions specified in Section 17.102.360.

B. Conditionally Permitted Density. On lots of the following sizes, the number of dwelling units allowed by subsection A of this section may be increased to not to exceed that indicated in the following table upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134:

Total Lot Area	Permitted Total Number of Dwelling Units
4,500--4,999 square feet.	Three dwelling units.
5,000--6,999 square feet.	Four dwelling units.
7,000--8,499 square feet.	Five dwelling units.
8,500--9,999 square feet.	Six dwelling units.
10,000 or more square feet.	One dwelling unit for each 1,500 square feet of total lot area, provided that an extra dwelling unit may be permitted if a remainder of 1,000 square feet or more is obtained after division of the total lot area by 1,500 square feet.

The number of ~~living~~ dwelling units may also be increased, as prescribed in Section 17.106.060, in certain special housing.

(Ord. 12501 § 37, 2003: Ord. 12199 § 5D (part), 2000; prior planning code § 3665)

17.24.140 Minimum yards and courts.

The following minimum yards and courts shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. See also Section 17.108.020 for greater yard requirements applying to certain facilities which exceed the general maximum height prescribed in Section 17.24.130.

A. Front Yard. The minimum front yard depth on every lot shall be fifteen (15) feet, except as a lesser depth is allowed by Section 17.108.050 on steep slopes and except that if adjacent lots abutting the side lot lines of the subject lot both contain principal Residential Facilities that have front yards with a depth of less than twenty (20) feet, buildings and other structures on the subject lot may be located up to a line parallel

to the front lot line and extended from the most forward projection of the principal Residential Facility on the adjacent lots having the deeper front yard depth, provided such projection is enclosed, has a wall height of at least eight feet, and has a width of at least five feet. (See illustration I-4e.)

B. Side Yard--Street Side of Corner Lot. The minimum side yard width on the street side of every corner lot shall be as prescribed in Section 17.108.060.

C. Side Yard--Interior Lot Line.

1. The minimum side yard width along each interior side lot line of every lot shall be four feet.

2. A side yard with a width greater than that required by subsection (C)(1) of this section shall be provided, when and as prescribed in Section 17.108.080, opposite a living room window which faces an interior side lot line and which is located on a lot containing Residential Facilities with a total of two or more ~~living~~ dwelling units.

D. Rear Yard. The minimum rear yard depth on every lot shall be fifteen (15) feet, except as a lesser depth is allowed by Section 17.108.110.

E. Courts. On each lot containing Residential Facilities with a total of two or more ~~living~~ dwelling units, courts shall be provided when and as required by Section 17.108.120.

(Prior planning code § 3670)

17.24.160 Minimum usable open space.

On each lot containing Residential Facilities with a total of two or more ~~living~~ dwelling units, group usable open space shall be provided for such facilities in the minimum amount of two hundred (200) square feet per dwelling unit. Private usable open space may be substituted for such group space in the ratio prescribed in Section 17.126.020, except that actual group space shall be provided in the minimum amount of seventy-five (75) square feet per dwelling unit. All required space shall conform to the standards for required usable open space in Chapter 17.126.

(Ord. 12376 § 3 (part), 2001: prior planning code § 3671)

17.24.180 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the R-50 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the R-50 zone, and certain of the other regulations applying in said zone may be waived or modified.

(Ord. 12376 § 3 (part), 2001: prior planning code § 3673)

Chapter 17.26

R-60 MEDIUM-HIGH DENSITY RESIDENTIAL ZONE REGULATIONS

17.26.170 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the R-60 zone, may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the R-60 zone, and certain of the other regulations applying in said zone may be waived or modified.

(Prior planning code § 3773)

Chapter 17.28

R-70 HIGH DENSITY RESIDENTIAL ZONE REGULATIONS

17.28.180 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the R-70 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the R-70 zone, and certain of the other regulations applying in said zone may be waived or modified. (Prior planning code § 3823)

Chapter 17.30

R-80 HIGH-RISE APARTMENT RESIDENTIAL ZONE REGULATIONS

17.30.200 Special regulations for mini-lot developments, planned unit developments, and large-scale developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the R-80 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the R-80 zone, and certain of the other regulations applying in said zone may be waived or modified.

C. Large-Scale Developments. No development which involves more than one hundred thousand (100,000) square feet of new floor area, or a new building or portion thereof of more than one hundred twenty (120) feet in height, shall be permitted except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. This requirement shall not apply to developments where a valid planned unit development permit is in effect.

(Prior planning code § 3873)

Chapter 17.32

R-90 DOWNTOWN APARTMENT RESIDENTIAL ZONE REGULATIONS

17.32.200 Special regulations for mini-lot developments, planned unit developments, and large-scale developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the R-90 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the R-90 zone, and certain of the other regulations applying in said zone may be waived or modified.

C. Large-Scale Developments. No development which involves more than one hundred thousand (100,000) square feet of new floor area, or a new building or portion thereof of more than one hundred twenty (120) feet in height, shall be permitted except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. This requirement shall not apply to developments where a valid planned unit development permit is in effect.

(Prior planning code § 3923)

Chapter 17.34

C-5 NEIGHBORHOOD COMMERCIAL ZONE REGULATIONS

17.34.050 Permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, are permitted, subject where applicable to the provisions of Section 17.42.080:

A. Residential Facilities:
- One-Family Dwelling
- One-Family Dwelling with Secondary Unit, subject to the provisions specified in Section 17.102.360
- Two-Family Dwelling
- Multifamily Dwelling
- ~~Rooming House~~

B. Nonresidential Facilities:
- Enclosed
- Sidewalk Cafes, subject to the provisions of Section 17.102.335

C. Signs:
- Residential
- Special
- Development
- Realty
- Civic
- Business

D. Telecommunications Facilities:
- Micro, except as provided in Chapter 17.128 and Section 17.134.020(A) (23)

(Ord. 12224 § 4 (part), 2000; Ord. 11904 § 5.34 (part), 1996; prior planning code § 4205)

17.34.060 Conditionally permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134:

~~A. Residential Facilities:~~

~~One-Family Dwelling with Secondary Unit, subject to the provisions specified in Section 17.102.360~~

~~B~~A. Nonresidential Facilities:

Open, limited to the following:

Off-street parking and loading facilities

Open-air dining facilities

Parks and plazas

~~C~~B. Telecommunications Facilities:

Mini

Macro

Monopole

(Ord. 12501 § 52, 2003: Ord. 12224 § 3 (part), 2000; Ord. 12199 § 4G, 2000; Ord. 11904 § 5.38 (part), 1996; prior planning code § 4206)

17.34.190 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-5 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the C-5 zone, and certain of the other regulations applying in said zone may be waived or modified.

(Prior planning code § 4223)

Chapter 17.36

C-10 LOCAL RETAIL COMMERCIAL ZONE REGULATIONS

17.36.180 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-10 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the C-10 zone, and certain of the other regulations applying in said zone may be waived or modified. (Prior planning code § 4273)

Chapter 17.38

C-20 SHOPPING CENTER COMMERCIAL ZONE REGULATIONS

17.38.110 Maximum residential density.

Residential uses shall be subject to the same maximum density and other related regulations as are set forth in Section 17.24.110 for the R-50 zone, except that no residential ~~living~~ dwelling units are permitted unless a conditional use permit is granted pursuant to the conditional use permit procedure in Chapter 17.134. (Prior planning code § 4315)

17.38.160 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-20 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the C-20 zone, and certain of the other regulations applying in said zone may be waived or modified. (Prior planning code § 4323)

Chapter 17.40

C-25 OFFICE COMMERCIAL ZONE REGULATIONS

17.40.200 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-25 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the C-25 zone, and certain of the other regulations applying in said zone may be waived or modified. (Prior planning code § 4373)

Chapter 17.42

C-27 VILLAGE COMMERCIAL ZONE REGULATIONS

17.42.190 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-27 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the C-27 zone, and certain of the other regulations applying in said zone may be waived or modified. (Prior planning code § 4423)

Chapter 17.44

C-28 COMMERCIAL SHOPPING DISTRICT ZONE REGULATIONS

17.44.200 Special regulations for mini-lot, planned unit developments, and bonuses for mixed use developments containing Residential and Commercial Activities, excluding joint living and work quarters.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-28 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they meet the minimum land area requirements of Section 17.22.030.

C. Mixed Use Developments Containing Residential and Commercial Activities, Excluding Joint Living and Work Quarters. To qualify as a mixed use development, a project must include at least twenty-five (25) percent of the number of residential units that would be permitted if the project were solely residential.

1. The following bonuses shall be permitted upon the granting of a conditional use permit pursuant to Section 17.44.110 and the conditional use permit procedure in Chapter 17.134:

a. Non-retail ground floor uses prohibited in Section 17.44.070B, not including residential, shall be allowed in instances where the residential uses are provided in the ratio of at least one square foot of residential use per one square foot of non-retail ground floor commercial use.

b. The standards of the S-12 residential parking combining zone regulations relating to reduction of aisle and stall width, and number of allowable compact spaces, shall be allowed for the residential portion of the mixed use project.

c. The minimum requirements for usable open space shall be reduced from one hundred fifty (150) square feet per unit to one hundred twenty (120) square feet of group open space per unit. Private usable open space may be substituted for such group space in the ratio prescribed in Section 17.126.020.

d. The total floor area of commercial and manufacturing activities by a single establishment may exceed seven thousand five hundred (7,500) square feet.

2. In addition to the bonuses listed in subsection (C)(1) of this section, the following bonuses shall be permitted on sites a minimum of one acre in size, upon the granting of a conditional use permit pursuant to Section 17.44.110 and the conditional use permit procedure in Chapter 17.134:

a. The total amount of required parking for the residential component of the mixed use development may be reduced by up to twenty-five (25) percent.

b. The maximum height of the project may be fifty-five (55) feet.

(Ord. 11892 § 3, 1996; prior planning code § 4448)

Chapter 17.46

C-30 DISTRICT THOROUGHFARE COMMERCIAL ZONE REGULATIONS

17.46.190 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-30 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the C-30 zone, and certain of the other regulations applying in said zone may be waived or modified. (Prior planning code § 4473)

Chapter 17.48

C-31 SPECIAL RETAIL COMMERCIAL ZONE REGULATIONS

17.48.180 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-31 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified herein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the C-31 zone, and certain of the other regulations applying in said zone may be waived or modified. (Prior planning code § 4498)

Chapter 17.50

C-35 DISTRICT SHOPPING COMMERCIAL ZONE REGULATIONS

17.50.200 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-35 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the C-35 zone, and certain of the other regulations applying in said zone may be waived or modified. (Prior planning code § 4523)

Chapter 17.52

C-36 GATEWAY BOULEVARD SERVICE COMMERCIAL ZONE REGULATIONS

17.52.190 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-36 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to such regulations, certain uses may be permitted in addition to those otherwise allowed in the C-36 zone, and certain of the other regulations applying in said zone may be waived or modified. (Ord. 12076 § 3 (part), 1998: prior planning code § 4548)

Chapter 17.54

C-40 COMMUNITY THOROUGHFARE COMMERCIAL ZONE REGULATIONS

17.54.190 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-40 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the C-40 zone, and certain of the other regulations applying in said zone may be waived or modified. (Prior planning code § 4573)

Chapter 17.56

C-45 COMMUNITY SHOPPING COMMERCIAL ZONE REGULATIONS

17.56.200 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-45 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the C-45 zone, and certain of the other regulations applying in said zone may be waived or modified. (Prior planning code § 4623)

Chapter 17.58

C-51 CENTRAL BUSINESS SERVICE COMMERCIAL ZONE REGULATIONS

17.58.200 Special regulations for mini-lot developments, planned unit developments, and large-scale developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-51 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the C-51 zone, and certain of the other regulations applying in said zone may be waived or modified.

C. Large-Scale Developments. No development which involves more than one hundred thousand (100,000) square feet of new floor area, or a new building or portion thereof of more than one hundred twenty (120) feet in height, shall be permitted except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. This requirement shall not apply to developments where a valid planned unit development permit is in effect. (Prior planning code § 4848)

Chapter 17.60

C-52 OLD OAKLAND COMMERCIAL ZONE REGULATIONS

17.60.190 Special regulations for mini-lot and planned unit developments.

A. Mini-lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-52 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the C-52 zone, and certain of the other regulations applying in said zone may be waived or modified. (Prior planning code § 4873)

Chapter 17.62

C-55 CENTRAL CORE COMMERCIAL ZONE REGULATIONS

17.62.200 Special regulations for mini-lot developments, planned unit developments, and large-scale developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-55 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the C-55 zone, and certain of the other regulations applying in said zone may be waived or modified.

C. Large-Scale Developments. No development which involves more than one hundred thousand (100,000) square feet of new floor area, or a new building or portion thereof of more than one hundred twenty (120) feet in height, shall be permitted except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. This requirement shall not apply to developments where a valid planned unit development permit is in effect. (Prior planning code § 4898)

Chapter 17.64

C-60 CITY SERVICE COMMERCIAL ZONE REGULATIONS

17.64.140 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-60 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the C-60 zone, and certain of the other regulations applying in said zone may be waived or modified. (Prior planning code § 4923)

Chapter 17.65

HBX HOUSING AND BUSINESS MIX COMMERCIAL ZONE REGULATIONS

Sections:

17.65.010 Title, purpose, and applicability.

The provisions of this chapter shall be known as the Housing and Business Mix Commercial Zones Regulations. This chapter establishes land use regulations for the HBX-1, HBX-2 and HBX-3 zones. The purposes of the Housing and Business Mix zones are to:

- Allow for mixed use districts that recognize both residential and business activities.
- Establish development standards that allow residential and business activities to compatibly co-exist.
- Provide a transition between industrial areas and residential neighborhoods.
- Encourage development that respects environmental quality and historic patterns of development.
- Foster a variety of small~~-~~, entrepreneurial~~-~~, and flexible home-based businesses.

Housing and Business Mix 1 (HBX-1) Zone. The HBX-1 zone is intended to provide development standards that provide for the compatible coexistence of industrial and heavy commercial activities and medium density residential development. This zone recognizes the equal importance of housing and business.

Housing and Business Mix 2 (HBX-2) Zone. The HBX-2 zone is intended to provide development standards for areas that have a mix of industrial, certain commercial and medium to high density residential development. This zone recognizes the equal importance of housing and business.

Housing and Business Mix 3 (HBX-3) Zone. The HBX~~-2~~-3 zone is intended to provide development standards for areas that have a mix of industrial, heavy commercial and higher density residential development. This zone is intended to promote housing with a strong presence of commercial and industrial activities. (Ord. 12772 § 1 (part), 2006)

17.65.030 Permitted, ~~and~~ conditionally permitted, and prohibited activities.

The following table lists the permitted, conditionally permitted, and prohibited activities in the HBX-1, HBX-2, and HBX-3 zones. The descriptions of these activities are contained in Chapter 17.10. A legally constructed facility shall be allowed to contain or be converted to contain any activities listed as permitted in the table below if they meet all applicable regulations.

"P" designates permitted activities in the corresponding zone.

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

"L" designates activities subject to certain limitations listed at the bottom of the table.

"--" designates uses that are prohibited in the corresponding zone.

Activity	Regulations			Additional Regulations
	HBX-1	HBX-2	HBX-3	
Residential Activities				
Permanent Residential	P	P	P	
Residential Care occupying a One-Family Dwelling Residential Facility	P	P	P	17.102.212
Residential Care not occupying a One-Family Dwelling Residential Facility	C	C	C	17.102.212
Service-Enriched Permanent Housing	C	C	C	17.102.212
Transitional Housing	C	C	C	17.102.212
Emergency Shelter	C	C	C	17.102.212
Semi-Transient Residential	C	C	C	17.102.212
Civic Activities				
Essential Service	C	C	C	
Limited Child-Care	P	P	P	
Community Assembly	P(L1)	P(L1)	P(L1)	
Community Education	C	C	C	
Nonassembly Cultural	P(L2)	P(L2)	P(L2)	
Administrative	P(L2)	P(L2)	P(L2)	
Health Care	C	C	C	
Special Health Care	C	C	C	17.102.410
Utility and Vehicular	C	C	C	
Extensive Impact	C	C	C	
Telecommunications	P	P	P	17.128
Commercial Activities				
General Food Sales	P(L3)	P(L3)	P(L3)	
Convenience Market	C	C	C	17.102.210
Fast-Food Restaurant	--	--	--	17.102.210
Alcoholic Beverage Sales	C	C	C	17.102.210
Convenience Sales and Service	P	P	P	
Mechanical or Electronic Games	C	C	C	17.102.210
Medical Service	P(L2)	P(L2)	P(L2)	
General Retail Sales	P	P	P	
Large-Scale Combined Retail and Grocery Sales	--	--	--	
General Personal Service	P	P	P	
Consultative and Financial Service	P(L2)	P(L2)	P(L2)	

Check Cashier and Check Cashing	--	--	--	17.102.430
Consumer Laundry and Repair Service	C	C	C	
Group Assembly	C	C	C	
Administrative	P(L2)	P(L2)	P(L2)	
Business and Communication Service	P	P	P	
Retail Business Supply	P	P	P	
Research Service	P(L2)(L4)	P(L2)(L4)	P(L2)(L4)	
General Wholesale Sales	P(L2)	P(L2)	P(L2)	
Transient Habitation	--	--	--	17.102.370
Construction Sales and Service	P(L5)	P(L5)	P(L5)	
Automotive Sales, Rental and Delivery	--	--	--	
Automotive Servicing	--(L6)	--	--	
Automotive Repair and Cleaning	--(L6)	--	--	
Automotive Fee Parking	--	--	--	
Transport and Warehousing	P(L7)	P(L7)	P(L7)	
Animal Care	C(L8)	C(L8)	C(L8)	
Undertaking Service	--	--	--	
Scrap Operation	--	--	--	17.102.210
Manufacturing Activities				
Custom Manufacturing	P(L2)	P(L2)	P(L2)	17.120
Light Manufacturing	P(L2)(L4)	P(L2)(L4)	P(L2)(L4)	17.120
General Manufacturing	--	--	--	
Heavy Manufacturing	--	--	--	
Small Scale Transfer and Storage Hazardous Waste Management	--	--	--	
Industrial Transfer/Storage Hazardous Waste Management	--	--	--	
Residuals Repositories Hazardous Waste Management	--	--	--	
Agricultural and Extractive Activities				
Plant Nursery	C	C	C	
Crop and Animal Raising	--	--	--	
Mining and Quarrying Extractive	--	--	--	
Accessory off-street parking serving prohibited activities	C	C	C	17.102.110
Additional activities which are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof	C	C	C	17.102.110

Limitations:

L1- The total floor area devoted to these activities by a single establishment shall only exceed ten thousand (10,000) square feet upon the granting of a conditional use permit (see Chapter 17.134).

L2- The total floor area devoted to these activities by a single establishment shall only exceed twenty-five thousand (25,000) square feet upon the granting of a conditional use permit (see Chapter 17.134).

L3- The total floor area devoted to a grocery store shall only exceed twenty-five thousand (25,000) square feet upon the granting of a conditional use permit (see Chapter 17.134). The total floor area devoted to a restaurant shall only exceed three thousand (3,000) square feet upon the granting of a conditional use permit (see Chapter 17.134).

L4- Not including accessory activities, this activity shall take place entirely within an enclosed building. Other outdoor activities shall only be permitted upon the granting of a conditional use permit (see Chapter 17.134).

L5- This activity shall is only permitted upon the granting of a conditional use permit (see Chapter 17.134) if it is the principal activity on a lot that is 25,000 square feet or larger or covers 25,000 square feet or more of lot area.

L6- Except on Lowell Street, a nonconforming Automotive Servicing or Automotive Repair and Cleaning Commercial Activity in the HBX-1 zone may be extended, and the facilities accommodating or serving such activity may be altered or otherwise changed upon the granting of a conditional use permit (see Chapter 17.134) and approval pursuant to the regular design review procedure (see Chapter 17.136). This conditional use permit and regular design review approval may be granted only upon determination that the proposal is adequately buffered from the street and surrounding residential activities through landscaping and fencing. See 17.114 for general regulations regarding nonconforming uses.

L7- Warehousing is permitted if the total floor area by a single establishment does not exceed twenty-five thousand (25,000) square feet. Floor areas over twenty-five thousand (25,000) square feet are only permitted upon the granting of a conditional use permit (see Chapter 17.134). Outdoor storage as a principal activity is only permitted upon the granting of a conditional use permit (see Chapter 17.134). Container storage, oil and gas storage, freight terminals, corporation yards, truck terminals, and truck services as primary activities are not permitted. Also, see Section 17.65.050 for special regulations regarding self storage establishments.

L8- Dog or cat kennels are not permitted.

17.65.040 Permitted and conditionally permitted facilities.

The following table lists ~~special~~ regulations relating to certain facilities. The descriptions of these facilities are contained in Chapter 17.10.

"P" indicates that the facility is permitted in the corresponding zone.

"C" indicates that the facility is only permitted upon the granting of a conditional use permit (see Chapter 17.134) in the corresponding zone.

"--" designates uses that are prohibited in the corresponding zone.

Facility Types	Zone			
	HBX-1	HBX-2	HBX-3	Additional Regulations
Residential Facilities				
One-Family Dwellings	P	P	P	
One-Family Dwelling with Secondary Unit	P	P	P	17.102.360
Two-Family Dwelling	P	P	P	
Multifamily Dwelling	P	P	P	
Rooming House	P	P	P	
Mobile Home	--	--	--	
~~HBX Live/Work Facility~~	~~P~~	~~P~~	~~P~~	~~17.65.170~~
Nonresidential Facilities				
Enclosed Nonresidential	P	P	P	
Open Nonresidential	C	C	C	
Sidewalk Café	P	P	P	17.102.335
Drive-In Nonresidential	P	P	P	
Drive-Through Nonresidential	C	C	C	17.102.290
Shopping Center ~~Facility~~	--	--	--	
~~HBX Live/Work Facility~~	~~P~~	~~P~~	~~P~~	~~17.65.160~~
Telecommunications Facilities				
Micro Telecommunications	P	P	P	17.128
Mini Telecommunications	P	P	P	17.128
Macro Telecommunications	C	C	C	17.128
Monopole Telecommunications	C	C	C	17.128
Tower Telecommunications	--	--	--	17.128
Sign Facilities				
Residential Signs	P	P	P	17.104
Special Signs	P	P	P	17.104

Development Signs	P	P	P	17.104
Realty Signs	P	P	P	17.104
Civic Signs	P	P	P	17.104
Business Signs	P	P	P	17.104
Advertising Signs	--	--	--	17.104

17.65.060 Minimum lot area width and frontage.

The following table contains the minimum lot area, width~~,~~ and frontage requirements for the zones in this chapter.

Standard	Zone		
	HBX-1	HBX-2	HBX-3
Minimum lot area	4,000 sf	4,000 sf	4,000 sf
Minimum lot width	35 ft	35 ft	35 ft
Minimum lot frontage	35 ft	35 ft	35 ft

Note:
See Sections 17.106.010 and 17.106.020 for exceptions to lot area, width and street frontage regulations. Lots that do not meet the standards described above may be developed if they meet the requirements described in Subsection 17.106.010A and all other applicable requirements.

(Ord. 12772 § 1 (part), 2006)

17.65.070 Maximum density.

The following table contains the maximum number of ~~residential~~ living units allowed per lot for the zones in this chapter.

	Zone		
Living Unit Type	HBX-1	HBX-2	HBX-3
Dwelling Unit	1,000 sf of lot area per unit	930 sf of lot area per unit	730 sf of lot area per unit
Rooming Unit	500 sf of lot area per unit	465 sf of lot area per unit	365 sf of lot area per unit

Notes:
1. See (1) Chapter 102.360 for regulations regarding secondary units; (2) Chapter 17.107 for affordable housing density incentives; and (3) Section 17.106.060 for increased density for senior housing.
2. New construction on a vacant lot that is greater than five thousand (5,000) square feet shall only result in a total of one unit on the lot upon the granting of a conditional use permit (see 17.134) in the HBX-2 and HBX-3 zones. This requirement does not apply to the expansion of the floor area or other alteration of an existing Single Family Dwelling.
3. See Section 17.65.090 for how to calculate density in mixed use projects.

(Ord. 12772 § 1 (part), 2006)

17.65.080 Maximum floor area ratio.

A. The following table contains the maximum floor area ratios (FARs) for all structures for the zones in this chapter.

Standard	Zone		
	HBX-1	HBX-2	HBX-3
~~When lot is abutting street right-of-way less than 80 ft. wide~~			
Maximum FAR	1.75	2.65 when lot abutting street right-of-way is less than 80 ft. wide; 3.0 otherwise.	2.65 permitted; 3.0 permitted upon the granting of a conditional use permit;
~~When lot is abutting street right-of-way 80 ft. wide or more~~			
~~Maximum FAR~~	~~1.75~~	~~3.4~~	~~3.4~~

Notes:

1. Under no circumstances shall a project exceed these FARs for all structures or the nonresidential FARs listed in subsection B.

~~2. See Section 17.65.110 for situations when exceeding the maximum FAR may be permitted.~~

~~3~~2. See Section 17.65.090 for how to calculate FAR in mixed use projects.

3. A conditional use permit for an FAR of 3.0 in the HBX-3 zone may only be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and to the following additional use permit criteria:

   A. That the scale of buildings is reduced through the articulation and massing of street facing *façades into a series of smaller forms.*

   B. That the additional floor area ratio does not significantly decrease the solar access of existing adjacent single family homes or duplexes to a degree greater than would be created if the facility were built according to the base FAR.

B. The following table contains the maximum floor area ratios (FARs) for nonresidential facilities for the zones in this chapter.

Standard	Zone		
	HBX-1	HBX-2	HBX-3
Nonresidential FAR	1.75	3.0	1.0

Notes:

1. *Under no circumstances shall a project exceed the nonresi*dential FAR listed in this table or the FAR for all structures in subsection A.

2. See Section 17.65.090 for how to calculate FAR in mixed use projects.

(Ord. 12772 § 1 (part), 2006)

17.65.100 Maximum height.

A. *The following table contains the maximum heights for the zones in this chapter.*

Standard	Zone		
	HBX-1	HBX-2	HBX-3
Maximum height	~~30~~ 35 ft.*	45 ft. when the lot abuts a street right of way that is less than 80 ft. wide; 55 ft. when the lot abuts a street right of way that is 80 ft. wide or more.	55 ft.

Notes:

1. Buildings shall have a thirty (30) foot maximum height at the setback line associated with any rear or interior side lot line that abut a lot in the R-1 through R-50 zones. This maximum height shall increase one foot for every foot of distance from this setback line. Also, see Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.
2. See ~~Section~~ subsection ~~17.65.110~~(B) for situations when exceeding these maximum heights may be permitted.

~~B. On Lowell Street any building height over thirty feet requires the granting of a conditional use permit (see 17.134).~~

~~(Ord. 12772 § 1 (part), 2006)~~

~~**17.65.110 Different maximum floor area ratio and height regulations in special situations.**~~

B. Structures that are: 1) on lots adjacent to, or directly across the street from a freeway right of way or Bay Area Rapid Transit (BART) right of way that contains above--ground tracks~~right-of-way~~; and 2) located within the closest 125 feet of the lot from the freeway or BART right of way are eligible for a seventy five (75) foot height limit. This additional height ~~A. Structures in the following locations may be constructed to a maximum height of 85 feet:~~

~~1. Anywhere on a lot that both: a) abuts a street right-of-way that is wider than 80 feet; and b) is 25,000 square feet or more; or~~

~~1~~2. ~~On lots adjacent to, or directly across the street from, a freeway right-of-way. On these lots, only the 125 feet of the lot closest to the freeway are eligible for the 85 foot maximum height.~~

~~B. For lots eligible for additional height under location 2. in subsection A, above, any floor area above the generally prescribed maximum height listed in Section 17.65.100 shall not be counted towards the maximum floor area ratio for all structures listed in Subsection 17.65.080A. However, any nonresidential floor area shall be counted towards the maximum nonresidential floor area ratio listed in Subsection 17.65.080B.~~

~~C. Any structure greater than the maximum FAR and height listed in Section 17.65.080 and Section 17.65.100, respectively,~~ is permitted only upon the granting of a conditional use permit (see Chapter 17.134) and approval pursuant to the regular design review procedure (see Chapter 17.136) and in conformance with the "Design Guidelines for the HBX zones" as a whole. In particular, the project shall conform to Guideline 4.6 of that document.(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12772 § 1 (part), 2006)

17.65.~~120~~110 Minimum yards and courts.

A. Minimum yards shall be consistent with the "Design Guidelines for the HBX zones" as adopted by the City Council.

B. A minimum ten (10) foot rear yard depth is required when a rear lot line abuts any portion of a lot in a residential zone. Also, see Section 17.108.110 for reduced required rear yard depth next to an alley.

C. See Section 17.108.080 for the required interior side yard width on a lot containing two or more living units and opposite a legally required living room window.

D. When the rear yard of a reversed corner lot abuts a key lot that is in a residential zone, the required street side yard width of the reversed corner lot is one-half of the minimum front yard depth required on the key lot (see illustration 1-12a).

E. Courts. On each lot containing a residential facility, courts shall be provided when and as required by Section 17.108.120.

17.65.~~130~~ 120 Minimum usable open space.

The following table contains the minimum usable open space requirements per dwelling unit for the zones in this chapter.

Zone		
HBX-1	**HBX-2**	**HBX-3**
200 sf/unit	150 sf/unit	150 sf/unit

Note:
Usable open space is only required on lots with two units or more, and not required for single family homes with secondary units. Each square foot of private usable open space equals two square feet towards the total usable open space requirement. All usable open space shall meet the standards contained in Chapter 17.126, except that group usable open space may be located anywhere on the lot. ~~and may be located entirely on the roof of any building on the site.~~

(Ord. 12772 § 1 (part), 2006)

17.65.~~140~~ 130 Landscaping, paving, and buffering.

A. Submittal and approval of a landscaping and buffering plan for the entire site is required for the establishment of a new building facility (see code section 17.09.040 for definition), excluding secondary units of five hundred (500) square feet or less, and for additions to existing building facilities of over five hundred (500) square feet. The landscaping and buffering plan shall contain the following:

1. Landscaping and buffering that is consistent with the "Design Guidelines for the HBX Zones" as adopted by the City Council;

2. An automatic system of irrigation for all landscaping shown in the plan;

3. A minimum of one (1) fifteen-gallon tree, or substantially equivalent landscaping as approved by the Director of City Planning, for every twenty-five (25) ~~twenty (20)~~ feet of street frontage or portion thereof. On streets with sidewalks where the distance from the face of the curb to the outer edge of the sidewalk is at least six and one-half (6 ½) feet, the trees shall be street trees to the satisfaction of the City's Tree Division.

4. At least one (1) fifteen (15) gallon tree in the parking lot for every six (6) parking spaces for projects that involve new or existing parking lots of 3,000 square feet or greater.

5. ~~At least five~~ A minimum of five (5) feet of landscaping shall be required adjacent ~~feet of distance from the parking lot~~ to the front and street side property lines ~~shall be required~~ for parking lots of three thousand (3,000) square feet or greater. Where parking stalls face into this required buffer area, the width of the required landscaping ~~area~~ shall be increased by two (2) feet unless wheel stops are installed.

~~B. The following table contains the maximum percent of surface area that may be paved in all street fronting yards located within fifteen (15) feet of the property line, excluding areas containing structures.~~

~~Type of lot~~	~~Maximum percent of surface in street fronting yards allowed to be paved~~	~~Notes~~
~~Corner lots~~	~~30 percent~~	
~~Through lots~~	~~40 percent for lots with 50 feet or less of street frontage, otherwise 25 percent.~~	

~~Interior lots~~	~~50 percent~~	

~~Note:~~

~~1. The maximum on interior lots that have fifty (50) feet or less street frontage may increase to seventy-five (75) percent if all driving surfaces are paved with permeable materials that allow landscaping on the driveway. To qualify for this bonus, the paving shall contain landscaping that is permanently maintained and includes a system of automatic irrigation.~~

(Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12772 § 1 (part), 2006)

17.65.~~150~~ 140 Outdoor storage.

The outdoor storage of materials shall not exceed sixteen (16) feet in height on a lot. Further, outdoor storage may not be higher than eight (8) feet if both: (1) the storage is within fifteen (15) feet from any property line of a lot containing residential activities and (2) the storage faces any windows of a residential facility. Outdoor storage may also not be higher than eight (8) feet if it is within fifteen (15) feet from the front property line. The height of all outdoor storage shall also be restricted according to the Fire Code regulations. Sites with outdoor storage shall be screened in conformance to the "Design Guidelines for the HBX zones" as adopted by the City Council. (Ord. 12772 § 1 (part), 2006)

17.65.~~160~~ 150 Special regulations for HBX ~~Work~~work/~~Live~~ live Facilities.

A. ~~A.~~ Definition. An "HBX work/live unit" means a room or suite of rooms that are internally connected maintaining a common household that includes (1) cooking space and sanitary facilities that satisfy the provisions of other applicable codes and (2) adequate working space reserved for, and regularly used by, one or more persons residing therein. An HBX work/live unit accommodates both residential and nonresidential activities but emphasizes the accommodation of commercial activities. An HBX work/live unit meets all applicable regulations contained in this section.

B. The establishment of an HBX work/live unit is permitted in the HBX zones if it meets and is consistent with the regulations and definitions contained in this section.

C. Regulations in this section do not super-sede regulations contained in Section 17.102.190 relating to the conversion of buildings originally designed for commercial or industrial activities into joint living and working quarters.

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

Standard	Requirement		Notes
Activities allowed in an HBX work/live unit	Same permitted and conditionally permitted activities as described in Section 17.65.030 and any activity that would qualify as a home occupation in a residential facility (See Chapter 17.112)		
Required parking	One parking space per unit plus one additional unassigned visitor or employee parking space per five HBX work/live units		1
Required loading	**Square feet of facility**	**Requirement**	~~2~~
	Less than 25,000 square feet	No berth required	
	25,000--69,999 square feet	One berth	
	70,000--130,000 square feet	Two berths	
	Each additional 200,000 square feet	One additional berth	
Required usable open space	75 square feet of usable open space per unit		~~3~~2
Minimum size of unit	No individual unit shall be less than eight hundred (800) square feet of floor area~~1,000 square feet~~		~~4~~

Notes:

1. See Chapter 17.116 for other off-street parking standards.

~~2. Chapter 17.116 contains other off-street loading standards. However, 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 regular design review requirement shall supersede the requirement for a conditional use permit stated in Section 17.116.220.~~

~~3~~2. All required usable open space shall meet the usable open standards contained in Chapter 17. 126, except that all usable open space for HBX work/live units may be provided above ground. Further, each square foot of private usable open space equals two square feet towards the total usable open space requirement.

~~4. See subsection P for exceptions to this requirement.~~

E. Each new HBX work/live unit shall qualify as at least one of the following Unit Types:

Unit Type	Maximum residential floor area	Special requirements	Separation between residential and nonresidential floor area
Type 1	One-third	None	Nonresidential floor area and residential floor area shall be located on separate floors (including mezzanines) or be separated by an interior wall (see Note 1, below, for an exception for kitchens).
Type 2	45 percent	There must be two entrances into the unit, one adjacent to the residential space, the other adjacent to the nonresidential space; the nonresidential entrance must be clearly designated as a business entrance separate from the residential entrance and be directly accessible by the public.	Nonresidential floor area and residential floor area shall be located on separate floors (including mezzanines) or be separated by an interior wall (see Note 1, below, for an exception for kitchens).
Type 3	55 percent	1. The majority of the nonresidential floor area for the unit must be at a public street level and directly accessible to the street; 2. The unit must have no residential floor area at the ground level; and 3. The ground floor entrance must be clearly designated as a business entrance.	Nonresidential floor area and residential floor area shall be located on separate floors (including mezzanines).

Note:
In Types 1 and 2, a kitchen may be open to non-residential floor area if the kitchen is adjacent to and directly accessible from a residential floor area or stairs that lead to residential floor area. In these unpartitioned kitchens, the kitchen is only required to be separated from the nonresidential floor area by a partition that can be opened and closed. The counters, cabinets, sink and appliances in the area that will function as a kitchen and the floor area that is four feet in front of these items shall be considered residential floor area.

~~C. At least two thirds of the floor area for each HBX work/live unit shall be designated for and devoted to nonresidential activities, with two exceptions:~~

~~1. Up to half of the floor area of the unit may be devoted to residential floor area if each of the following are true:~~

~~a. The majority of the nonresidential floor area for the unit is at a public street level and directly accessible to the public street~~

~~b. The unit has no residential floor area at the ground level and~~

~~c. The ground floor entrance is clearly designated as a business entrance.~~

~~2. Up to forty five (45) percent of the floor area of a unit may be devoted to residential floor area if there are two (2) entrances into a unit, one adjacent to the residential space, the other adjacent to the nonresidential space. To qualify for this additional floor area, the nonresidential entrance shall be clearly designated as a business entrance separate from the residential entrance and be directly accessible by the public.~~

~~D~~F. All required plans for the creation of HBX ~~Work~~work/~~Live~~ live ~~Facilities~~ 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.

~~E~~G. For HBX 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 according to the following rules:

a. If there is only one bathroom in the unit, half of the bathroom shall be considered residential floor area and half shall be considered nonresidential floor area;

b. If there is more than one bathroom in a unit the rules in the following table shall apply:

Bathroom access	Floor area calculation of bathroom
Bathroom can only be accessed through residential floor area	All of bathroom shall be considered residential floor area
Bathroom can be directly accessed from both nonresidential and residential floor area	Half of bathroom shall be considered residential floor area, the other half nonresidential floor area.
Bathroom can only be accessed through nonresidential floor area	All of bathroom shall be considered nonresidential floor area. However, if all bathrooms in the unit require access through nonresidential floor area, then at least one bathroom shall be considered residential floor area. In this case, the bathroom that is closest to or most conveniently accessed from residential floor area shall be designated as residential floor area.

6. In unpartitioned kitchens (see footnote 1 of the table contained in subsection E), the counters, cabinets, sink and appliances in the area that will function as a kitchen and the floor area that is four 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 according to rules above, then the entire loft or mezzanine space shall be considered residential floor area.

8. The Planning Director shall determine the designation of the floor area when the above standards do not clearly do so.

~~F. Nonresidential floor area and residential floor area shall be located on separate floors (including mezzanines) or be separated by an interior wall. However, a kitchen may be open to a non-residential floor area if either:~~

~~a. It is on a different floor (including mezzanines) as the rest of the residential floor area; or~~

~~b. The kitchen is adjacent to and directly accessible from a residential floor area.~~

~~In these unpartitioned kitchens, the following areas shall be considered to be residential floor area: the counters, cabinets, sink and appliances in the area that will function as a kitchen and the floor area that is four feet in front of these items.~~

~~G.~~ H. Each HBX work/live unit shall contain no more than one fully equipped kitchen. An HBX work/live unit may contain a second kitchenette to serve the nonresidential floor area. For the purposes of this section a kitchenette shall be considered a space with a counter that is no more than twenty (20) square feet, a sink, and an area for a refrigerator. No stovetop or oven (excluding microwave ovens) shall

be permitted in a kitchenette.

~~H~~I. Each HBX work/live unit shall have at least one 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.

~~I~~J. Any building permit plans for the construction or establishment of HBX ~~Work~~work/~~Live~~ live ~~Facilities~~ units shall (1) clearly state that the proposal includes work/live ~~facilities~~ units and (2) label the units intended to be work/live units as work/live units. This requirement is to assure the City applies building codes appropriate for a work/live ~~facility~~unit.

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

~~K~~L. For any HBX ~~Work~~work/~~Live~~ live ~~Facility~~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 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.

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

~~M~~N. HBX ~~Work~~work/~~Live~~ live ~~Facilities~~ units ~~shall be considered a~~are nonresidential facilities and counted towards the nonresidential floor area ratio, not the residential density.

~~N~~O. The development of HBX work/live units in an HBX zone shall not be considered adding housing units to the City's rental supply and does not create "conversion rights" under the City's condominium conversion ordinance, Chapter 16.36. The development standards for HBX work/live units are not intended to be a circumvention of the requirements of the City's condominium conversion ordinance, Chapter 16.36.

~~O. Twenty-five (25) percent of the number of HBX work/live units in a building shall qualify for certain exceptions to the standards contained in this section. An HBX work/live unit shall only qualify for the exceptions if both:~~

~~a. More than seventy-five (75) percent of the total floor of the building containing the unit is devoted to nonresidential facilities and~~

~~b. The unit proposed for the exceptions are not on the ground floor of a building.~~

~~These exceptions shall only include the following:~~

~~1. A unit does not need to have a floor area of at least 1,000 square feet. However the floor area of the unit shall not be greater than 800 square feet;~~

~~2. No unassigned visitor parking spaces are required; and~~

~~3. The maximum amount of floor area of a unit designated for residential activities is raised to no more than fifty (50) percent.~~

P. Regular Design Review Criteria. Regular design review approval for HBX ~~Work~~work/~~Live~~ live ~~Facilities~~ 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 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. These units shall have a significant ground floor street presence. The floor area facing the streets shall contain nonresidential activities and a depth of at least 20 feet for lots more than 35 feet wide, 15 feet otherwise. This ground level shall be either part of a larger HBX work/live Type 3 unit or its own independent commercial space;

~~;~~ 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, interior space visible to 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;

5. That the layout of nonresidential floor areas within a unit provides a functional and bona fide 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. (Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12772 § 1 (part), 2006)

17.65.~~170~~160 Special regulations for HBX ~~Live~~live/~~Work~~work ~~Facilities~~units.

A. ~~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 unit accommodates both residential and nonresidential activities. An HBX live/work unit meets all applicable regulations contained in this section.

B. The establishment of an HBX live/work unit is permitted in the HBX zones if it meets and is consistent with the regulations and definitions contained in this section.

C. Regulations in this section do not supercede regulations contained in Section 17.102.190 relating to the conversion of buildings originally designed for commercial or industrial activities into joint living and working quarters.

~~B.~~ D. Activity, parking, loading, open space, and unit size standards. The following table contains the activities allowed in an HBX live/work unit, the minimum size of an HBX live/work unit, and the loading and open space for each HBX live/work unit:

Standard	Requirement		Note
Activities allowed in an HBX live/work unit	Same permitted and conditionally permitted activities as described in Section 17.65.030 and any activity that would qualify as a home occupation in a residential facility (See Chapter 17.112)		
Required parking	One parking space per unit		1
Required loading	**Square feet of facility**	**Requirement**	2
	Less than 50,000 square feet	No berth required	
	50,000--149,999 square feet	One berth	

	150,000--299,999 square feet	Two berths	
	Each additional 300,000 square feet	One additional berth	
Permitted density	Same as Section 17.65.070		
Required usable open space	*Same as Section 17.65.130*		

Notes:

1. See Chapter 17.116 for other off-street parking standards.

2. Chapter 17.116 contains other off-street loading standards. However. 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 supercede the requirement for a conditional use permit stated in Section 17.116.220.

~~C~~E. The amount of floor area in an HBX live/work unit designated for and devoted to residential is not restricted.

~~D~~F. Any building permit plans for the construction of HBX ~~Live~~live/~~Work~~ work ~~Facilities~~ units shall (1) clearly state that the proposal includes live/work facilities and (2) label the units intended to be live/work units. This requirement is to assure the City applies building codes appropriate for a live/work facility.

~~E~~G. For any HBX Live/Work Facility 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 an acknowledgment that the property is in a 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.

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

~~G~~I. HBX ~~Live~~live/~~Work~~ work ~~Facilities~~ units ~~shall be considered~~ are residential facilities, shall be counted towards the residential density, not the nonresidential floor area ratio, and may create "conversion rights" under the City's condominium conversion ordinance, Chapter 16.36. The same requirements contained in the City's condominium conversion ordinance that relate to residential units shall apply to HBX live/work units.

~~H~~J. Regular Design Review Criteria. Regular design review approval for HBX 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. (Ord. 12776 § 3, Exh. A (part), 2006: Ord. 12772 § 1 (part), 2006)

17.65.~~180~~ 170 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain regulations otherwise applying to individual lots in the HBX-l, HBX-2 and HBX-3 zones may be waived or modified when and as prescribed in

Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the HBX-1, HBX-2 and HBX-3 zones, and certain of the other regulations applying in said zones may be waived or modified. (Ord. 12772 § 1 (part), 2006)

17.65.~~190~~180 Other zoning provisions.

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

B. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112.

C. Nonconforming Uses. Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.114.

D. General Provisions. The general exceptions and other regulations set forth in Chapter 17.102 shall apply in the in the HBX-1, HBX-2 and HBX-3 zones.

E. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the HBX-1, HBX-2 and HBX-3 zones. (Ord. 12772 § 1 (part), 2006)

Chapter 17.74

S-1 MEDICAL CENTER ZONE REGULATIONS

17.74.180 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the S-1 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the S-1 zone, and certain of the other regulations applying in said zone may be waived or modified. (Prior planning code § 6123)

Chapter 17.76

S-2 CIVIC CENTER ZONE REGULATIONS

17.76.200 Special regulations for mini-lot developments, planned unit developments, and large-scale developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the S-2 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter ~~17.122~~17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the S-2 zone, and certain of the other regulations applying in said zone may be waived or modified.

C. Large-Scale Developments. No development which involves more than one hundred thousand (100,000) square feet of new floor area, or a new building or portion thereof of more than one hundred twenty (120) feet in height, shall be permitted except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. This requirement shall not apply to development where a valid planned unit development permit is in effect. (Prior planning code § 6173)

Chapter 17.86

S-8 URBAN STREET COMBINING ZONE REGULATIONS

Sections:

17.86.020 Zones with which the S-8 zone may be combined.

The S-8 zone may be combined with any ~~other~~ commercial zone. (Prior planning code § 6451)

17.86.030 Duplicated regulation.

Whenever any provision of the S-8 combining zoning regulations imposes overlapping or contradictory regulations with those contained in the applicable base zone, or contains restrictions covering any of the same subject matter, the provision within the S-8 combining zone shall control, except as otherwise expressly provided in the zoning regulations.

17.86.~~030~~040 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility (see code section 17.09.040 for definition), ~~Mixed Use Development,~~ 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 additional provisions in Section 17.86.110, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.
(Ord. 12606 Att. A (part), 2004: prior planning code § 6452)

17.86.~~040~~050 Permitted activities in front twenty feet of ground floor.

Only the following activities shall be located on the ground floor of any building within the first twenty (20) feet thereof facing the abutting street or streets, except as otherwise provided in Sections 17.86.050 and 17.86.080 and except that pedestrian entrances to activities elsewhere in the building may occupy not more than one-third of the face of the building as measured parallel to the street line or lines:

A. Civic Activities:
   - Essential Service

B. Commercial Activities:
   - General Food Sales
   - Convenience Sales and Service
   - Medical Service
   - General Retail Sales
   - General Personal Service
   - Consultative and Financial Service
   - Consumer Laundry and Repair Service
   - Retail Business Supply

Business and Communication Service
(Prior planning code § 6453)

17.86.~~050~~060 Conditionally permitted activities in front twenty feet of ground floor.

Where otherwise allowed by the zones with which the S-8 zone is combined, the following activities may be located on the ground floor of a building within the first twenty (20) feet thereof facing the abutting street or streets upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134:

A. Civic Activities:
- Community Assembly
- Nonassembly Cultural
- Administrative
- Utility and Vehicular
- Extensive Impact

B. Commercial Activities:
- ~~General Food Sales~~
- Convenience Market
- Fast-Food Restaurant
- Alcoholic Beverage Sales
- Mechanical or Electronic Games, subject to the provisions of Section 17.102.210C
- Group Assembly
- Administrative
- ~~Business and Communication Service~~
- Research Service
- General Wholesale Sales
- Transient Habitation
- Automotive Fee Parking, subject to the provisions of Section 17.86.080.

(Prior planning code § 6454)

~~**17.86.060 Permitted facilities at ground level.**~~

~~Only the following facilities shall be located on the ground level of any lot, except as otherwise provided in Section 17.86.070:~~

~~A. Nonresidential Facilities:~~
- ~~Enclosed~~

~~B. Signs:~~
- ~~Residential~~
- ~~Special~~
- ~~Development~~
- ~~Realty~~
- ~~Civic~~
- ~~Business~~

~~(Prior planning code § 6455)~~

~~**17.86.070 Conditionally permitted facilities at ground level.**~~

~~The following facilities may be located on the ground level of a lot upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134:~~

~~A. Nonresidential Facilities:~~
- ~~Open, limited to the following:~~
- ~~Off-street parking facilities, subject to the provisions of Section 17.86.080~~
- ~~Open air dining facilities~~
- ~~Parks and plazas~~
- ~~Sidewalk Cafes~~

~~(Prior planning code § 6456)~~

17.86.~~080~~070 Restrictions on parking and loading at ground level.

A. Parking Areas. No off-street parking area shall be located on the ground level of any lot, except ~~that a temporary parking lot may be permitted~~ upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 ~~and subject to the following provisions:~~

~~1. That the permit shall have an automatic termination date not later than one year after the effective date of its granting;~~

~~2. That any continuation of the parking lot thereafter shall require a new permit.~~

B. Driveways and Loading Areas. No driveway or off-street loading area shall be located on the ~~ground level of any lot~~principal street, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure. (Prior planning code § 6457)

17.86.~~090~~080 Prohibitions on advertising signs

No Advertising Sign shall be located in the S-8 zone. (Prior planning code § 6458)

17.86.~~100~~090 Use permit criteria.

A conditional use permit for any use under Sections 17.86.050, 17.86.070, or 17.86.080 may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and to the following additional use permit criteria:

A. That the proposal will not detract from the compact, urban character of the area;

B. That the proposal will not impair a generally continuous wall of building facades;

C. That the proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not break up an important shopping frontage;

D. That the proposal will not interfere with the movement of people along an important pedestrian street if alternative access is available;

E. That the proposal will conform in all significant respects with any applicable district plan which has been adopted by the City Council. (Prior planning code § 6461)

17.86.~~110~~100 Design review criteria.

In the S-8 zone, proposals requiring regular design review approval pursuant to Section 17.86.030 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:

A. That the proposal will be of a quality and character ~~compatible with an atmosphere of quality and refined architectural taste~~ appropriate to a highly urban commercial center;

B. That the design of ground-level facilities ~~will be interesting to pedestrians and~~ will preserve, and where possible enhance, the basic continuity of key shopping frontages;

C. That the building facade and other walls will be considered and treated as a whole, and in relationship to adjoining buildings;

D. That all Signs will be harmonious with the architectural design of the building and adjacent buildings, and will not cover or detract from the building's significant ~~desirable~~ architectural features. (Prior planning code § 6462)

Chapter 17.97

S-15 TRANSIT ORIENTED DEVELOPMENT ZONE REGULATIONS

17.97.030 Special regulations applying to mixed-use developments on Bay Area Rapid Transit (BART) stations on sites with one acre or more land area.

No mixed-use developments that include Bay Area Rapid Transit (BART) stations located on sites with one acre or more land area shall be permitted except upon the granting of a conditional use permit pursuant to Section 17.97.100 and the conditional use permit procedure in Chapter 17.134 or upon the granting of a planned unit development permit pursuant to Chapters ~~17.122~~17.142 and 17.140, and shall be subject to the following special regulations:

A. Intermodal Activities and Pedestrian Plaza. Developments should incorporate multiple forms of public transportation and a pedestrian plaza.

B. Professional Design. The application shall utilize ~~certify that talents of~~ the following professionals ~~will be utilized at some stage~~ in the design process for the development:

1. An architect licensed by the state of California; and

2. A landscape architect licensed by the state of California, or an urban planner holding or capable of holding membership in the American Institute of Certified Planners.

C. Undergrounding of Utilities. All electric and telephone facilities; fire alarm conduits; street light wiring; and other wiring, conduits, and similar facilities shall be placed underground by the developer as required by the city. Electric and telephone facilities shall be installed in accordance with standard specifications of the serving utilities. Street lighting and fire alarm facilities shall be installed in accordance with standard specifications of the Electrical Department.

D. Performance Bonds. The City Planning Commission or, on appeal, the City Council may, as a condition of approval of any said development, require a cash bond or surety bond for the completion of all or specified parts of the development deemed to be essential to the achievement of the purposes set forth in Section 17.97.010. The bond shall be in a form approved by the City Attorney, in a sum of one hundred fifty (150) percent of the estimated cost of the work, and conditioned upon the faithful performance of the work specified within the time specified. This requirement shall not apply if evidence is provided to the city which indicates that alternative bonding or other assurances have been secured by the Bay Area Rapid Transit District. (Ord. 11892 § 4 (part), 1996: prior planning code § 6852)

17.97.200 Special regulations for large scale developments.

No development which involves more than one hundred thousand (100,000) square feet of a 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 and Section 17.97.100, or upon the granting of a planned unit development approval pursuant to Chapters ~~17.122~~17.142 and 17.140. (Ord. 11892 § 4 (part), 1996: prior planning code § 6875)

Chapter 17.~~101~~100

S-20 HISTORIC PRESERVATION DISTRICT COMBINING ZONE REGULATIONS

Sections:

17.~~101~~100.010 Title, purpose, and applicability.

The provisions of this chapter shall be known as the S-20 historic preservation district combining zone regulations. The S-20 zone is intended to preserve and enhance the cultural, educational, aesthetic, environmental, and economic value of structures, other physical facilities, sites, and areas of special importance due to historical association, basic architectural merit, the embodiment of a style or special type of construction, or other special character, interest, or value, and is typically appropriate to selected older locations in the city. The S-20 zone is similar to the S-7 preservation combining zone, but is designed for larger areas, often with a large number of residential properties that may not be individually eligible for landmark designation but which as a whole constitute a historic district. The S-20 zone provides generally more expeditious review procedures than those provided in the S-7 zone. These regulations shall apply in the S-20 zone, and are supplementary to the provisions of Section 17.102.030 for designated landmarks and to the other regulations applying in the zones with which the S-20 zone is combined; if a property is both a landmark and located in the S-20 zone and is therefore subject to both landmark and S-20 regulations, the stricter regulations prevail. (Ord. 12513 Attach. A (part), 2003)

17.~~101~~100.020 Zones with which the S-20 zone may be combined.

The S-20 zone may be combined with any other zone. (Ord. 12513 Attach. A (part), 2003)

17.~~101~~100.030 Required design review process.

A. Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, (see code section 17.09.040 for definition), ~~Mixed Use Development,~~ 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 additional provisions in Sections 17.~~101~~100.050, 17.~~101~~100.060, and 17.~~101~~100.070; the Telecommunications regulations in Chapter 17.128; or the Sign regulations in Chapter 17.104.

B. Except as specified in subsection C, no demolition or removal of any structure or portion thereof that is a "contributor" or "potential contributor" to the S-20 Historic Preservation District, as determined by the City's Historical and Architectural Inventory (Cultural Heritage Survey) shall be permitted unless plans for the proposal have been approved pursuant to the regular design review procedure in Chapter 17.136 and the additional provisions in Sections 17.~~101~~100.050, 17.~~101~~100.060, and 17.~~101~~100.070.

C. Exceptions--Demolition. After notice to the Director of City Planning, demolition or removal of a structure or portion thereof shall be permitted without design review approval upon a determination by the Building Official or the City Council that immediate demolition is necessary to protect the public health or safety, or after expiration of the periods of postponement referred to in Section 17.~~101~~100.070.

D. Landmarks Referral. If an application is for 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 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.~~101~~100.050 Design review criteria.

In the S-20 zone, proposals requiring regular review approval pursuant to Section 17.~~101~~100.030 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:

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 S-20 historic preservation district or of neighboring facilities. Consideration shall be given to the desired overall character of any such area or grouping of facilities, including all design elements or effects specified in subsection (A) above; and

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. (Ord. 12513 Attach. A (part), 2003)

17.~~101~~100.060 Criteria for demolition or removal.

Except as otherwise specified in subsection C of 17.~~101~~100.030, no structure or portion thereof that is a "contributor" or "potential contributor" to the S-20 Historic Preservation District, as determined by the City's Cultural Heritage Survey, shall be removed or demolished unless plans for the proposal have been approved pursuant to the regular design review procedure in Chapter 17.136 and to the following additional criteria set forth in subsections A and B below, or to one or both of the criteria set forth in subsection C below:

A. That the affected structure or portion thereof is not considered irreplaceable in terms of its visual, cultural, or educational value to the area or community; and

B. That the proposed demolition or removal will not substantially impair the visual, architectural, or historic value of the total setting or character of the S-20 historic preservation district or of neighboring facilities; or

C. If the proposal does not meet criteria under subsections A and B, then it must meet one or both of the following criteria:

1. That the structure of portion thereof is in such physical condition that it is not architecturally feasible to preserve or restore it, or

2. That, considering the economic feasibility of preserving or restoring the structure or portion thereof, and balancing the interest of the public in preservation or restoration and the interest of the owner of the property in its utilization, approval is required by considerations of equity. (Ord. 12513 Attach. A (part), 2003)

17.~~101~~100.070 Postponement of demolition or removal.

A. Initial One Hundred Twenty (120) -Day Postponement. If an application for approval of demolition or removal of a structure or portion thereof, pursuant to Sections 17.~~101~~100.030 and 17.~~101~~100.060, is denied, the issuance of a permit for demolition or removal shall be deferred for a period of

one hundred twenty (120) days, beginning upon the initial denial by the reviewing officer or body. During the period of postponement, the Director of City Planning or the City Planning Commission, with the advice and assistance of the Landmarks Preservation Advisory Board, shall explore all means by which the affected structure or portion thereof may be preserved or restored, with the agreement of the owner or through eminent domain.

B. Possible One Hundred Twenty (120) -Day Extension. The reviewing officer or body from whose decision the denial of the application became final may, after holding a public hearing, extend the initial postponement for not more than one hundred twenty (120) additional days. Notice of the hearing shall be given by the posting an enlarged notice on the premises of the subject property involved and by mail or delivery to the applicant, to all parties who have commented on the initial application, and to other interested parties as deemed appropriate. All such notices shall be given not less than seventeen (17)days prior to the date set for the hearing. The decision to extend the postponement can only be made between the 30th and 90th days, inclusive, of the initial one hundred twenty (120) day period. Extension shall be made only upon evidence that substantial progress has been made toward securing the preservation or restoration of the structure or portion thereof. If the applicant has not exhausted all appeals under Sections 17.136.080 and 17.136.090 from the denial of the application, the decision to extend the postponement is appealable under the provisions of Sections 17.136.080 and 17.136.090 to those bodies to whom appeal had not been taken from the initial denial of the application. (Ord. 12513 Attach. A (part), 2003)

17.~~101~~100.080 Duty to keep in good repair.

Except as otherwise authorized under Sections 17.~~101~~100.030 and 17.~~101~~100.070, the owner, lessee, or other person in actual charge of each structure in the S-20 zone shall keep in good repair all of the exterior, as well as all interior portions whose maintenance is necessary to prevent deterioration and decay of the exterior. (Ord. 12513 Attach. A (part), 2003)

Chapter 17.102

GENERAL REGULATIONS APPLICABLE TO ALL OR SEVERAL ZONES

Sections:

17.102.020 Supplemental zoning provisions.

The definitions, special use classification rules, and other provisions set forth in Chapters 17.07, 17.09 and 17.10; the provisions of Section 17.108.130; the nonconforming use regulations in Chapter 17.114; the rezoning, variance, and other provisions set forth in Chapters 17.130 through 17.152; and the provisions of the zoning maps in Chapter 17.154 shall apply throughout the city. The provisions of the performance standards in Chapter 17.120 and the planned unit development regulations in Chapter ~~17.122~~17.142 shall apply in the zones and situations specified in said chapters. The provisions of development control maps are in addition to, or supersede when so specified, the regulations applying in the zones covering the same areas. (Prior planning code § 7001)

17.102.070 Application of zoning 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. (See illustration I-7.) 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 ~~continuously thereafter has been, of record,~~ 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 (50) percent 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 thirty (30) feet, as measured perpendicularly to said boundary at any point.

B. Application of Regulations Where subsection A Is Inoperative. (See illustration I-8.) 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 17.102.100; 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 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. (Prior planning code § 7006)

17.102.080 Permitted and conditionally permitted uses.

A. Other Uses Prohibited. Except as otherwise provided in Sections 17.102.040 and 17.102.070, the nonconforming use regulations in Chapter 17.114, and the planned unit development regulations in Chapter ~~17.122~~17.142, or as authorized under Section 17.102.310, the development agreement procedure in Chapter 17.138, or the variance procedure in Chapter 17.148, no land shall be improved or used for any activity or facility which is not listed as permitted or conditionally permitted in the applicable individual zone regulations or development control maps.

B. Relationship Between Activities and Facilities. A use must qualify under the zoning regulations both as an activity and as a facility. A permitted or conditionally permitted activity may be accommodated or served only by a permitted facility or, upon the granting of a conditional use permit, by a conditionally permitted facility; and a permitted or conditionally permitted facility may accommodate or serve, or be designed to accommodate or serve, only a permitted activity or, upon the granting of a conditional use permit, a conditionally permitted activity. (Prior planning code § 7008)

17.102.090 Conditional use permit for shared access facilities.

A. Use Permit Required. A shared access facility shall be allowed only upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

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

1. Compliance with Guidelines. Each shared access facility proposal shall be in compliance with the City Planning Commission guidelines for development and evaluation of shared access facilities.

2. Public Safety. The width of a shared access facility shall be adequate to ensure unimpeded emergency and nonemergency ingress and egress at all times. Additionally, the shared access facility shall conform to city standards for roadway layout and design.

3. Aesthetics. A shared access facility shall be designed to provide the environmentally superior alternative to other approaches for the development of the property and shall be designed to be visually compatible with its surroundings, as set forth in the City Planning Commission guidelines; necessary retaining walls shall not be of excessive height and shall not be visibly obtrusive, as such are defined in the City Planning Commission guidelines.

4. On-Going Owner Responsibility. Applicants for a shared access facility shall submit, for approval, an agreement for access facility maintenance, parking restrictions, and landscape maintenance. Upon staff approval, the proposed agreement shall be recorded by the applicant within thirty (30) days with the Alameda County Recorder. In addition, applicants for a shared access facility shall provide documentation of continuing liability insurance coverage. Documentation of insurance coverage shall include the written undertaking of each insurer to give the city thirty (30) days' prior written notice of cancellation, termination, or material change of such insurance coverage.

5. Certification. Prior to construction, applicants for a shared access facility shall retain a California registered professional civil engineer to certify, upon completion, that the access facility was constructed in accordance with the approved plans and construction standards. This requirement may be modified or waived at the discretion of the Director of Public Works, based on the topography or geotechnical considerations. An applicant may also be required to show assurance of performance bonding for grading and other associated improvements. In addition, prior to the installation of landscaping, an applicant shall retain a landscape architect or other qualified individual to certify, upon completion, that landscaping was installed in accordance with the approved landscape plan. (Prior planning code § 7010)

17.102.140 Special regulations applying to private stables and corrals.

The following regulations shall apply in all zones to private stables, corrals, and similar facilities and to the keeping or training of horses, mules, or donkeys as an accessory activity:

A. Conditional Use Permit Requirement. Such uses are permitted only upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

B. Maximum Number of Animals. No more than three (3) such horses, mules, or donkeys shall be kept or trained on any single lot.

C. Minimum Lot Area. Such uses shall not in any case be located on any lot having a lot area of less than twenty-five thousand (25,000) square feet.

D. Location on Lot. No such stable, corral, or paddock shall be located within thirty (30) feet from any lot line.

E. Screening. All open portions of such facilities shall be screened from abutting lots, streets, alleys, and paths, and from the private ways described in Section 17.106.020, by dense landscaping not less than five and one-half (5 ½) feet high and not less than three (3) feet wide or by a decorative screening ~~solid or grille, lumber or masonry~~ fence or wall not less than five and one-half (5 ½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said chapter. (Prior planning code § 7015)

17.102.190 Joint Lliving and Wwork Qquarters.

A. General Provisions. Joint Lliving and Wwork Qquarters are permitted in all zones where *Residential Activities are permitted or conditionally permitted. In all zones where Residential Activities are* not otherwise allowed by the applicable individual zone regulations, Jjoint Lliving and Wwork Qquarters may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. In any zone, projects involving exterior alterations shall be subject to the design review procedure in Chapter 17.136.

B. Definition. Joint Lliving and Wwork Qquarters means residential occupancy by ~~not more than four persons~~one or more persons living together as a single housekeeping unit, maintaining a common household of one or more rooms or floors in a building that is at least ten (10) years old and was originally designed for industrial or commercial occupancy. Each Joint Living and Work Quarter ~~which~~ includes: (1) cooking space and sanitary facilities which satisfy the provisions of other applicable codes; and (2) adequate working space reserved for, and regularly used by, one or more persons residing therein.

C. New Floor Area. New floor area may be created that is entirely within the existing building envelope; however, in no case shall the height, footprint, wall area, or other aspect of the exterior of the building proposed for conversion be expanded to accommodate Joint Living and Work Quarters, except to allow dormers not exceeding the existing roof height and occupying no more than ten (10) percent of the roof area, and incremental appurtenances such as elevator shafts, skylights, rooftop gardens, or other facilities listed in Section 17.108.130. In the S-16 Industrial-Residential Transition Combining Zone, Jjoint Lliving and Wwork Qquarters may also be allowed in new construction.

~~C~~D. Use Permit Criteria. A conditional use permit for Jjoint Lliving and Wwork Qquarters 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:

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

2. That the workers and others living there will not be subject to unreasonable noise, odors, vibration, or other potentially harmful environmental conditions. (Ord. 12289 § 4 (part), 2000; prior planning code § 7020)

17.102.195 Residentially-Oriented Joint Living and Working Quarters.

A. Area of applicability. The provisions of Section 17.102.195 apply to the area bounded by Highway 980/Brush Street, the Estuary shoreline, the Lake Merritt/Estuary channel, the western shore of Lake Merritt, and 27th Street.

B. Definition. Residentially-Oriented Joint Living and Working Quarters means residential occupancy by one or more persons maintaining a common household of one or more rooms in a building originally designed for non-residential occupancy which includes cooking space and sanitary facilities which satisfy the provisions of other applicable municipal codes. A Residentially-Oriented Joint Living and Working Quarter consists of a designated residential area and a designated work area. However, the definitions applied by City Council Resolution Number 68518 C.M.S that apply to "Joint Live/Work Space" including criteria that define space requirements are not applicable to Residentially-Oriented Joint Living and Working Quarters.

C. Conditions for conversion.

1. In the area prescribed in Subsection (A), an existing building or portion of a building that was originally designed for non-residential occupancy can be converted to Residentially-Oriented Joint Living and Working Quarters as long as each of the following standards is met:

a. The total number of Residentially-Oriented Joint Living and Working Quarter units on the subject property after the conversion will not exceed the maximum number of residential units permitted by the underlying zone.

b. All existing on-site parking spaces are retained for use by the residents, unless existing on-site parking exceeds required parking for all activities on the lot, in which case the number of parking spaces shall not be reduced below the number of spaces prescribed in Chapter 17.116 for all activities on the lot.

c. All open space associated with the building is retained for use by the residents, unless existing open space exceeds the requirement for of the applicable zone or zones.

d. All existing ground-floor commercial space is retained for commercial activities.

2. New floor area may be created that is entirely within the existing building envelope; however, ~~I~~in no case shall the height, footprint, wall area, or other aspect of the exterior of the building proposed for conversion be expanded to accommodate Residentially-Oriented Joint Living and Working Quarters, except for dormers not exceeding the existing roof height and occupying no more than ten (10) percent of the roof area, and incremental appurtenances such as elevator shafts, skylights, rooftop gardens, or other facilities listed in Section 17.108.130.

3. If a project is located within the ~~S-4,~~ S-7~~, or S-8~~ zone and involves exterior alterations, the design review requirements of that ~~those~~ zones shall apply (Sections ~~17.80.030,~~ 17.84.030~~,~~ and 17.84.040~~,~~ ~~17.86.030~~).

4. In any zone, ~~any~~ projects involving ~~over one hundred thousand (100,000) square feet of floor area and involving~~ exterior alterations shall be subject to the ~~a~~ design review procedure in Chapter 17.136.

D. Conditional use permit required in certain instances. In the area prescribed in Subsection A, a project that involves the conversion of an existing building or portion of a building that was originally designed for non-residential occupancy to Residentially-Oriented Joint Living and Working Quarters and does not meet one or more of the requirements of Subsection (C)(1) above may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. A conditional use permit may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in conditional use permit procedure in Chapter 17.134 and to any and all applicable use permit criteria set forth in the particular individual zone regulations.

E. Non-applicability of certain requirements pertaining to dwelling units. In the area prescribed in Subsection (A), the conversion to Residentially-Oriented Joint Living and Working Quarters of a building or portion of a building that was originally designed for non-residential occupancy is not subject to the requirements for off-street parking in Section 17.116.020 (New Parking to Be Provided for New Living Units in

Existing Facilities) and is not subject to the open space requirements for new residential dwelling units contained in the applicable zoning district or districts, but is subject to the requirements of subsection (C)e(i) above for retention of existing parking and open space (Ord. 12456 § 3 (part), 2003)

17.102.210 Special regulations applying to Convenience Markets, Fast-Food Restaurants, certain establishments selling alcoholic beverages, providing mechanical or electronic games, and Transport and Warehousing Storage of abandoned, dismantled or inoperable vehicles, machinery, equipment, and of construction, grading, and demolition materials and Scrap Operation.

A. Use Permit Criteria for Convenience Markets, Fast-Food Restaurants, and Establishments Selling Alcoholic Beverages. A conditional use permit for any conditionally permitted Convenience Market, Fast-Food Restaurant, or Alcoholic Beverage Sales Commercial Activity 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, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following additional use permit criteria:

1. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable, with consideration to be given to the area's function and character, problems of crime and loitering, and traffic problems and capacity;

2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds;

3. That the proposal will not interfere with the movement of people along an important pedestrian street;

4. That the proposed development will be of an architectural and visual quality and character which harmonizes with, or where appropriate enhances, the surrounding area;

5. That the design will avoid unduly large or obtrusive Signs, bleak unlandscaped parking areas, and an overall garish impression

6. That adequate litter receptacles will be provided where appropriate;

7. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, it will be limited in hours of operation, or designed or operated, so as to avoid disruption of residents' sleep between the hours of ten (10) p.m. and seven (7) a.m. The same criteria shall apply to all conditional use permits required by subsection B of this section for sale of alcoholic beverages at full-service restaurants.

8. That proposals for new Fast-Food Restaurants must substantially comply with the provisions of the Oakland City Planning Commission "Fast-Food Restaurant--Guidelines for Development and Evaluation" (OCPD 100-18).

B. Special Restrictions on Establishments Selling Alcoholic Beverages.

1. No Alcoholic Beverage Sales Commercial Activity shall be located closer than one thousand (1,000) feet to any other Alcoholic Beverage Sales Commercial Activity, except:

a. On-sale retail licenses located in the central district (defined as within the boundaries of I-980 and Brush street to the west; 27th Street to the north; Harrison Street/Lake Merritt and the Lake Merritt Channel to the east; and the Estuary to the south); or

b. *If the activity is in conjunction with a Full-Service Restaurant; or*

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

2. Alcoholic Beverage Sales Activities in conjunction with a Full Service Restaurant and located within any of the following areas applied to a depth of two hundred (200) feet on each side of the identified streets and portions of streets, as measured perpendicularly from the right-of-way line thereof: E. 14th Street; Foothill Boulevard; MacArthur Boulevard and West MacArthur Boulevard; that portion of San Pablo Avenue lying north of 16th Street; that portion of Edes Avenue lying between Clara Street and Bergedo Drive, shall require a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

3. In addition to the criteria prescribed elsewhere in the zoning regulations, a land use permit for an Alcoholic Beverage Sales Activity located within an Alcoholic Beverage Sales license overconcentrated area shall be granted and a finding of Public Convenience or Necessity made only if the proposal conforms to all of the following three criteria:

a. That a community need for the project is clearly demonstrated. To demonstrate community need, the applicant shall document in writing, specifically how the project would serve an unmet or underserved need or population within the overall Oakland community or the community in which the project is located, and how the proposed project would enhance physical accessibility to needed goods or services that the project would provide, including, but not limited to alcohol; and

b. That the overall project will have a positive influence on the quality of life for the community in which it is located, providing economic benefits that outweigh anticipated negative impacts, and that will not result in a significant increase in calls for police service; and

c. That alcohol sales are typically a part of this type of business in the City of Oakland (for example and not by way of limitation, alcohol sales in a laundromat would not meet this criteria).

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

a. The proposed project is not within one thousand (1,000) feet of another alcohol outlet (except full service restaurants), school, licensed day care center, public park or playground, churches, senior citizen facilities, and licensed alcohol or drug treatment facilities; and

b. Police department calls for service within the "beat" where the project is located do not exceed by twenty (20) percent, the average of calls for police service in police beats citywide during the preceding twelve (12) months.

C. Special Restrictions on Provision of Mechanical or Electronic Games in Certain Cases. The following regulations shall apply to the provision of pinball machines, video game devices, or other mechanical or electronic games, as defined in the Oakland Municipal Code, within any kind of place of business where the games can be played or operated by the public or by customers; provided, however, that these regulations shall not apply to the provision of a total of fewer than three mechanical or electronic games in any single place of business, except where the games provide the main or primary source of income for the proprietor; and further provided that these regulations shall not apply to the provision of any number of such games in any pool or billiard room or bowling alley for which a permit is required pursuant to Chapter 5.02 of the municipal code and from which persons under eighteen (18) are barred at all times by the owner or operator, nor in any premises which are licensed by the State Department of Alcoholic Beverage Control for on-sale consumption of alcoholic beverages and which do not lawfully allow minors:

1. It shall not be located in any residential zone nor in the M-10, S-1, S-2, or S-3 zone.

2. It is not permitted except upon the granting of a conditional use permit in any commercial zone other than the C-60 zone.

3. It shall not be located:

a. Within three hundred (300) feet from any lot in a residential zone; nor

b. Within one thousand (1,000) feet from the nearest regular entrance to or exit from any public playground or public, parochial, or private elementary, junior high, or high school.

These distances shall be measured horizontally in the most direct pedestrian route along or across any street or streets, alleys, or paths, or private ways described in Section 17.106.020, leading to the closest regular entrance to the actual space devoted to said games.

D. Special Restrictions Applying to Fast-Food Restaurants.

1. No Fast-Food Restaurant Commercial Activity shall be located within a one thousand (1,000) foot radius of an existing or approved Fast-Food Restaurant, as measured from the center of the front property line of the proposed site, except in the central business district (defined as within the boundaries of I-980 and Brush Street to the west; 27th Street to the North; Harrison Street/Lake Merritt and the Lake Merritt Channel to the east; and the Estuary to the south), within the main building of Shopping Center Facilities, and in the C-36 boulevard service commercial zone.

2. Fast-Food Restaurants with Drive-Through Facilities shall not be located within five hundred (500) feet of a public or private elementary school, park, or playground, measured perpendicularly from the street right-of-way.

3. Access. Ingress and egress to Fast-Food Facilities shall be limited to commercial arterial streets rather than residential streets. No direct access shall be provided to adjacent residential streets which are less than thirty-two (32) feet in pavement width. Exceptions to either of the requirements may be obtained where the City Traffic Engineer determines that compliance would deteriorate local circulation or jeopardize the public safety. Any such determination shall be stated in writing and shall be supported with findings. Driveway locations and widths and entrances and exits to Fast-Food Facilities shall be subject to the approval of the City Traffic Engineer.

4. Trash and Litter. Disposable containers, wrappers and napkins utilized by Fast-Food Restaurants shall be imprinted with the restaurant name or logo.

5. Vacated/Abandoned Fast-Food Facilities. The project sponsor of a proposed Fast-Food Facility shall be required to obtain a performance bond, or other security acceptable to the City Attorney, to cover the cost of securing and maintaining the facility and site if it is abandoned or vacated within a prescribed high-risk period. As used in this code, the words "abandoned" or "vacated" shall mean a facility that has not been operational for a period of thirty (30) consecutive days, except where nonoperation is the result of maintenance or renovation activity pursuant to valid city permits. The defined period of coverage is four (4) years following the obtaining of an occupancy permit. The bond may be renewed annually, and proof of renewal shall be forwarded to the Director of City Planning. The bond amount shall be determined by the city's Risk Manager and shall be adequate to defray expenses associated with the requirements outlined below. Monitoring and enforcement of the requirements set forth in this section shall be the responsibility of the Housing Manager of the Department of Housing Conservation, pursuant to Chapter 8.24 of the Oakland Municipal Code and those sections of the Oakland Housing Code which are applicable.

If a Fast-Food Facility has been vacated or abandoned for more than thirty (30) consecutive days, the project sponsor shall be required to comply with the following requirements, pursuant to the relevant cited city, county and state codes:

a. Enclose the property with a security fence and secure the facility;

b. Post signs indicating that vehicular parking and storage are prohibited on the site (10.16.070 O.T.C. and 22658 C.V.C), and that violators will be cited, and vehicles towed at the owner's expense, and that it is unlawful to litter or dump waste on the site (Sections 374b.5 C.P.C. and 374b C.P.C.). All signs shall conform to the limitations on signs for the specific zone and shall be weatherproof and of appropriate size and standard design for the particular function;

c. Install and maintain security lighting as appropriate and required by the Oakland Police Department;

d. Keep the site free of handbills, posters and graffiti and clear of litter and debris pursuant to Section 8.38.160 of the O.M.C.;

e. Maintain existing landscaping and keep the site free of overgrown vegetation.

E. Special Restrictions on Transport and Warehousing storage of abandoned, dismantled or inoperable vehicles, machinery, equipment and of construction, grading and demolition materials, and Scrap Operation (these provisions would not apply to the storage or parking of operable recreational vehicles, operable automobiles, public parking facilities, or parking for active establishments, e.g., auto dealerships). (Ord. 12241 § 3 (part), 2000; Ord. 12224 § 5, 2000; Ord. 11958 § 9, 1996; amended during 1997 codification; Ord. 11831 §§ 3, 4, 1995; prior planning code § 7023)

17.102.212 Special Regulations Applying to Residential Care, Service-Enriched Permanent Housing, Transitional Housing, and Emergency Shelter Residential Activities.

A. Additional Use Permit Criteria. A conditional use permit for any conditionally permitted Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity 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, to any and all applicable use per-

mit criteria set forth in the particular individual zone regulations, and to all of the following additional use permit criteria:

1. That staffing of the facility is in compliance with any State Licensing Agency requirements;

2. That if located in a residential zone, the operation of buses and vans to transport residents to and from off-site activities does not generate vehicular traffic substantially greater than that normally generated by Residential Activities in the surrounding area;

3. That if located in a residential zone, the on-street parking demand generated by the facility due to visitors is not substantially greater than that normally generated by the surrounding Residential Activities;

4. That if located in a residential zone, arrangements for delivery of goods are made within the hours that are compatible with and will not adversely affect the livability of the surrounding properties;

5. That the facility's program does not generate noise at levels that will adversely affect the livability of the surrounding properties.

B. Restriction on Overconcentration of Resident Care, Service-Enriched Permanent Housing, Transitional Housing, and Emergency Shelter Residential Activities. No Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. (Ord. 12225 § 2, 2000; Ord. 12138 § 4 (part), 1999)

17.102.220 Surface Mining and Reclamation.

§ 6.0 Process.

(a) Applications under the requirement for an Approved Plan or Reclamation Plan for surface mining or land reclamation projects shall include, at a minimum, each of the elements required by SMARA (§ 2772-2773) and State regulations, and any other requirements determined, in the discretion of the Planning Director or designee, to be necessary or appropriate to facilitate an evaluation of the proposed Reclamation Plan.

(b) Within thirty (30) days of the acceptance of a complete application for a Reclamation Plan or as a requirement of an Approved Plan for surface mining operations and/or a Reclamation Plan, the Planning Department shall notify the State Department of Conservation of the filing of the application(s). Whenever mining operations are proposed in the one hundred (100) year flood plain of any stream, as shown in Zone A of the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency ("FEMA"), and within one mile, upstream or downstream, of any state highway bridge, the Planning Department shall also notify the State Department of Transportation ("Caltrans") that the application has been received.

(c) The Planning Department shall process the application(s) in accordance with the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) and the City's environmental review guidelines.

(d) Subsequent to the appropriate environmental review, the Planning Department shall prepare a staff report with recommendations for consideration by the City Planning Commission. The City Planning Commission shall hold at least one noticed public hearing on Use Permit and/or Reclamation Plan. Notice shall be given by mail or delivery to all persons shown on the last available equalized assessment role as owning real property in the city limits within three hundred feet (300 feet) of the property involved. All such notices shall be given not less than seventeen (17) ~~ten (10)~~ days prior to the date set for the hearing. At the conclusion of such hearing or hearings, the Planning Commission shall recommend to the City Council that it should approve, approve with changes, or deny the subject Reclamation Plan and/or Use Permit.

(e) The City Council shall hold at least one noticed public hearing on a Use Permit and/or Reclamation Plan. Notice shall be given by mail or delivery to all persons shown on the last available equalized assessment role as owning real property in the city limits within three hundred feet (300 feet) of the property involved. All such notice shall be given not less than seventeen (17) ~~ten~~ days prior to the date set for the hearing.

(f) Prior to final approval of a Reclamation Plan, financial assurances (as provided in this Chapter), any amendments to the Reclamation Plan, existing financial assurances; or those financial assurances

required as part of an Approved Plan, the City Council shall certify to the State Department of Conservation that the Reclamation Plan and/or financial assurance complies with the applicable requirements of State law, and submit the plan, assurance, or amendments to the State Department of Conservation for review.

Pursuant to PRC § 2774(d), the State Department of Conservation shall be given thirty (30) days to review and comment on the Reclamation Plan and forty-five (45) days to review and comment on the financial assurance. The Planning Department shall evaluate written comments received, if any, from the State Department of Conservation during the comment periods. Staff shall prepare a response describing the disposition of the major issues raised by the State for the City Council's approval. In particular, when the Planning Department's position is at variance with the recommendations and objections raised in the State's comments, the response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the Planning Department shall be promptly forwarded to the operator/applicant.

(g) The City Council shall then take action to approve, conditionally approve, or deny Use Permit and/or Reclamation Plan, and to approve the financial assurances pursuant to PRC § 2770(d) or any other requirement of an Approved Plan.

(h) The Planning Department shall forward a copy of each approved Use Permit for mining operations, an Approved Plan and/or approved Reclamation Plan, and a copy of the approved financial assurances to the State Department of Conservation. By July 1 of each year, the Planning Department shall submit to the State Department of Conservation for each active or idle mining operation a copy of the Approved Plan, or Reclamation Plan amendments, as applicable, or a statement that there have been no changes during the previous year.

17.102.230 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a Nonresidential Activity--Nonresidential zones.

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

1. That the facility proposed for demolition or the living unit proposed for conversion is unoccupied and is, or is situated in, a residential building that has been found, determined, and declared to be substandard or unsafe pursuant to Section 15.08.350(B) of the Oakland Housing Code; or

2. That a replacement rental unit, comparable in affordability and type to each unit proposed for demolition or conversion, will be added to the city's housing supply prior to the proposed demolition or conversion taking place; or

3. That the benefits to the city resulting from the proposed demolition or conversion will outweigh the loss of a unit from the city's housing supply; or

4. That the conversion will be an integral part of a rehabilitation project involving both residential and nonresidential activities, and that the rehabilitation project would not be economically feasible unless some nonresidential activity were permitted within it.

B. Tenant Assistance. Upon the granting of a conditional use permit for the demolition of a facility containing rooming units or for the conversion of a living unit to a nonresidential activity, the actual demolition or conversion cannot take place until the following have occurred:

1. If a dwelling unit is to be converted, the tenant has been given a one hundred twenty (120) day written notice of the conversion. If a rooming unit is to be demolished or converted, the tenant, if a permanent tenant, has been given a seventy-five (75) day written notice of the demolition or conversion. All such written notices shall comply with the legal requirements for service by mail.

2. If a dwelling unit is to be converted, the tenant has been provided with a relocation allowance equal to one month's rent or five hundred dollars ($500.00), whichever is greater. If a rooming unit is to be demolished or converted, the owner of the building containing the unit to be demolished or converted has referred the tenant (if a permanent tenant) to a comparable, available unit; if a comparable unit is not available, the permanent tenant has been provided with a relocation allowance equal to one month's rent or five hundred dollars ($500.00), whichever is greater.

3. The Director of City Planning has been provided with proof that the above actions have been taken.

(As used in this section, a permanent tenant of a rooming unit is defined as a tenant maintaining occupancy for six (6) months or more at a hotel or motel where the innkeeper does not retain a right of access and control of the unit and where the hotel or motel does not provide or offer all of the following services to all of the residents: safe deposit boxes for personal property; central telephone service; central dining; maid, mail, room, and recreational service; and occupancy for periods of less than seven (7) days.) (Amended during 1997 codification; prior planning code § 7026)

17.102.270 An additional kitchens for a single dwelling unit.

An additional kitchen for a single dwelling unit in any Residential Facility may be permitted, without thereby creating an additional dwelling unit, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, and upon determination that ~~one of~~ all of the following conditions set forth below exist~~s~~:

A. That the additional kitchen shall be located within the same residential structure as the existing kitchen and ~~will~~ solely constitute an additional service facility for the resident household, family or its temporary guests.~~;~~

B. That the additional kitchen ~~and~~ shall not serve as a basis for permanent habitation of an extra household or family on the premises, or the creation of an additional dwelling unit on the premises.~~;~~

~~B~~C. That the additional kitchen is necessary to render habitable a living area occupied by one or more ~~not more than two~~ persons~~: 1. Related~~ related by blood, marriage, or adoption to the resident family or collective household occupying the main portion of the dwelling unit.~~; or~~

~~2. Who form a collective household with the resident family or collective household occupying the main portion of the dwelling unit; or~~

~~3. Employed on the premises by the resident family or collective household occupying the main portion of the dwelling unit.~~

However, ~~a conditional use permit under this subsection shall not be granted for a period longer than two years; and an extension of time, not to exceed two years for each extension, shall require a new application. Furthermore,~~ a conditional use permit under this subsection shall not be granted in the R-1, R-10, R-20, and R-30 zone if the lot contains two (2) or more dwelling units. (Ord. 12272 § 4 (part), 2000; prior planning code § 7032)

17.102.280 Rules for determining the number of habitable rooms in Residential Facilities.

The total number of habitable rooms in a Residential Facility shall be determined by adding together all rooms in all dwelling units in the facility, in accordance with the rules of subsections A through F of this section. In a case where application of these rules results in more than one possible interpretation of the total number of rooms, or where these rules appear to contradict each other, the interpretation resulting in the greatest number of rooms shall be used. For purposes of this section, a "kitchen" shall be deemed to include the floor area within three (3) feet directly in front of all kitchen counters, cabinets, major appliances, and other fixtures.

A. Except as specified in subsections B through F of this section, a space which meets the definition of "habitable room" at Section 17.09.040, which is entirely enclosed by floor to ceiling partitions, and which is connected to other rooms or spaces by doorways or open archways shall count as one room.

B. A habitable room of less than fifty (50) square feet shall count as half a room.

C. A habitable room larger than four hundred (400) square feet shall count as one room for each four hundred (400) square feet or fraction thereof.

D. Spaces which are not separated by floor to ceiling partitions but whose floor levels differ by more than one foot and which are intended to be used for different functions shall count as separate rooms.

E. A kitchen area of a least fifty (50) square feet which is not entirely enclosed by floor to ceiling partitions shall count as a separate room.

F. A kitchen area of less than fifty (50) square feet whose floor perimeter is at least fifty (50) percent enclosed by any combination of partitions, counters, cabinets, major appliances, and other similar space dividers shall count as half a room; if not so enclosed, it shall not count as a separate room. (Prior planning code § 7033)

17.102.290 Special regulations for Drive-Through Nonresidential Facilities.

The following regulations shall apply to Drive-Through Nonresidential Facilities wherever permitted:

A. General Provisions/Use Permit Criteria. A Drive-Through Nonresidential Facility shall be permitted in all commercial and industrial zones, except the C-5, C-10, C-27, C-31, and C-52 zones, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, and upon determination that the proposal, in addition to the general use permit criteria in that chapter, conforms to the additional use permit criteria set forth below:

1. That the proposed facility will not impair a generally continuous wall of building facades;

2. That the proposed facility will not result in weakening the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of a shopping frontage;

3. That the proposed facility will not directly result in a significant reduction in the circulation level of service of adjacent streets.

B. Standards. A driveway serving as a vehicle stacking or queuing lane for a drive-through window shall be separated from parking areas and shall not be the only entry or exit lane on the premises. Such facility shall be so situated that any vehicle overflow from it shall not spill onto public streets or the major circulation aisles of any parking lot. Such facility shall have durable, all-weather surface; shall have reasonable disposal of surface waters by grading and drainage; and shall be permanently maintained in good condition.

C. Dimensions. Each vehicle space comprising a stacking or queuing lane for a drive-through window shall be a minimum of ten (10) feet in width by twenty (20) feet in length. Such a stacking or queuing lane shall have a maximum capacity of eight (8) vehicles. (Prior planning code § 7034)

17.102.300 Conditional use permit for dwelling units with five or more bedrooms.

A. Use Permit Required. No existing Residential Facility shall be altered, through additions, division of existing rooms, or other means, so as to create a total of five (5) or more bedrooms in any dwelling unit except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

B. Owner Occupants Exempt. The provisions of this section shall not apply to the alteration of any existing dwelling unit which is occupied by the legal owner of the property on the filing date of the application for the building permit to alter the dwelling unit, and which has been continuously occupied by the same legal owner for a period of at least one (1) year prior to that date. The burden of proof of owner occupancy shall be on the applicant and shall be verified by at least two forms of proof of continual owner occupancy covering the required time period, one of which shall be a valid homeowner's exemption issued by the Alameda County Assessor or other equivalent proof of owner occupancy.

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

1. That off-street parking for residents of the entire facility, including any existing facility and any proposed alteration or addition, is provided as specified in the zone or zones in which the facility is lo-

cated, as set forth in Section 17.116.060; ~~subsection (C)(1)(a) or (b) of this section, whichever results in the greater number of parking spaces:~~

~~a. One space for each three habitable rooms in the facility, as determined in accordance with Section 17.102.280 and rounded to a whole number in accordance with the rules of Section 17.116.050, or~~

~~b. The number of spaces required in the zone or zones in which the facility is located, as set forth in Section 17.116.060;~~

2. That ~~off-street parking for visitors of the entire facility, including any existing facility and any proposed alteration or addition, is provided in the amount of 0.2 spaces per dwelling unit, rounded to a whole number in accordance with the rules of Section 17.116.050, or~~ a minimum of one (1) off-street visitor parking space is provided for the entire facility; ~~whichever is greater;~~

3. That the parking spaces provided in accordance with criteria 1 and 2, and all associated driveways, maneuvering aisles, and other related features, comply with the standards for required parking and loading facilities applicable in the base zone in which the facility is located, as set forth in Sections 17.116.170 through 17.116.290;

4. That no required parking spaces are located other than on approved driveways between the front lot line and the front wall of the facility or its projection across the lot~~, except on steep lots where the difference in elevation of finished grade between the midpoint of the front lot line and the farthest opposite point of the lot depth exceeds a gradient of twenty (20) percent;~~.

~~5. That at least fifty (50) percent of the area between the rear lot line and the rear wall of the facility or its projection across the lot is not used for parking spaces, driveways, maneuvering aisles, or other related features, and meets the standards for group usable open space at Section 17.126.030;~~

~~5~~6. That the applicable requirements of the buffering regulations in Chapter 17.110 are met. (Prior planning code § 7035)

17.102.335 Standards for Sidewalk Cafes.

A. Procedures for Construction of Sidewalk Cafe Facilities.

1. Not withstanding any design review requirement of the particular zone, Sidewalk Cafes that have a maximum of five (5) tables and no more than fifteen (15) chairs and/or will not have any permanent structures in the public right of way, are allowed by right subject to the standards required in subsection B of this section.

2. Sidewalk Cafes that have more than five (5) tables/fifteen (15) chairs and/or have a permanent structure in the public right of way are subject to small project design review in Section 17.136.030.

B. Standards for Sidewalk Cafes.

1. Sidewalk Cafes shall not encroach upon any public right-of-way unless a minimum of five (5) ~~six and one-half~~ feet of unobstructed improved sidewalk remains available for pedestrian purposes. The minimum distance shall be measured from the portion of the Sidewalk Cafe encroachment which is nearest to any obstruction within the sidewalk area. For purposes of the minimum clear path, parking meters, traffic signs, trees and all similar obstacles shall constitute obstruction.

2. Operators/owners of Sidewalk Cafes shall obtain an encroachment permit from the city's Building Services Division, and shall comply with all requirements imposed by other affected departments. The encroachment permit shall include language that a waste receptacle be placed outside, all garbage/litter associated with Sidewalk Cafes must be removed within twenty-four (24) hours, and a requirement to obtain liability insurance. The city shall be named as an additional insured and the amount of the insurance shall be determined by the city's Risk Manager.

3. The operators/owners of Sidewalk Cafes shall defend, indemnify, and hold harmless the City of Oakland its agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, its agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the City Planning Department, Planning Commission, or City Council. The city shall promptly notify the applicant of any claim, action or proceeding and the city shall cooperate fully in such defense. The city may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

4. The operator/owners of Sidewalk Cafes shall continually bus tables and provide a final cleanup at the end of the business day that will include litter pickup one hundred (100) feet in each direction from the site. (Ord. 12224 § 6, 2000)

17.102.340 Special regulations applying to electroplating activities in the M-20, M-30, and M-40 zones.

A. Distance Standards. No electroplating activity shall be located nor expanded within one thousand (1,000) feet from the boundary of any other zone except the M-20, M-30, or M-40 zone, nor from any area designated "Resource Conservation Area" or "Park and Urban Open Space" in the Oakland General Plan.

B. Use Permit Criteria for Electroplating Activities. A conditional use permit for an electroplating activity 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, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following additional use permit criteria:

1. That the proposal will not adversely affect any residences; child care centers; shopping areas; churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; hospitals, convalescent homes, rest homes, or nursing homes; or public or parochial playgrounds; all located within one thousand (1,000) feet of the activity; and

2. That the proposed development will be of an architectural and visual quality and character which harmonizes with, or where appropriate enhances, the surrounding area;

3. That a Hazardous Materials Business Plan and California Accidental Release Plan has been reviewed and approved by the city prior to approval of the conditional use permit;

4. That the facility has been designed to minimize impacts to surrounding properties, and that the site design has been approved by the City of Oakland Fire Services Agency, Office of Emergency Services prior to approval of the conditional use permit.

C. Expansion of Existing Facilities. No existing electroplating activity shall be expanded without the approval of a conditional use permit, pursuant to subsection B above and any relevant provisions of the provided further that no such expansion shall be permitted in any case if the distance standards of subsection A above are not met. For purposes of this section, "expansion" shall mean any alteration or extension as stipulated in the nonconforming use regulations in Chapter 17.114, any increase in the volume of hazardous chemical used or stored on the site as indicated in the Hazardous Materials Business Plan filed with the City of Oakland Fire Services Agency, Office of Emergency Services; any increase in the floor area or site area of the facility; or any increase in the volume of goods produced by the electroplating activity, as determined by the Zoning Administrator from any relevant records. (Ord. 12147 § 3 (part), 1999)

17.102.350 Regulations applying to tobacco-oriented activities.

A. Conditional Use Permit Requirement for Tobacco-Oriented Activities. Such uses are permitted only upon the granting of a conditional use permit pursuant to Sections 17.134 and to the following additional use permit criteria:

1. No tobacco-oriented activity shall be located within, nor closer than one-thousand (1,000) feet to the boundary of a ~~an~~ residential zone, school, public library, park or playground, recreation center or licensed daycare facility.

(Ord. 12205 § 4 (part), 2000)

17.102.370 Conditional use permit for hotels and motels.

A. Use Permit Criteria for Hotel and Motel Uses. A conditional use permit for hotel and motel uses 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, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following additional use permit criteria:

1. That the proposal is located in downtown, along the waterfront, near the airport, or along the I-880 freeway, and/or in an area with a concentration of amenities for hotel patrons, including restaurant, retail, recreation, open space and exercise facilities, and is well-served by public transit;

2. That the proposal considers the impact of the employees of the hotel or motel on the demand in the city for housing, public transit, and social services;

3. That the proposal is consistent with the goal of attracting first-class, luxury hotels in downtown, along the waterfront, near the airport, or along the I-880 freeway which provide:

~~(a)~~ a. ~~A~~a minimum of one hundred (100) sleeping rooms;

~~(b)~~ b. ~~A~~a full service restaurant providing three meals per day; and

~~(c)~~ c. ~~O~~on-site recreational amenities, which may include an exercise room, swimming pool, and/or tennis courts;

4. That the proposed development will be of an architectural and visual quality and character which harmonizes and enhances the surrounding area, and that such design includes:

~~(a)~~ a. ~~S~~site planning that insures appropriate access and circulation, locates building entries which face the primary street, provides a consistent development pattern along the primary street, and insures a design that promotes safety for its users;

~~(b)~~ b. ~~L~~landscaping that creates a pleasant visual corridor along the primary streets with a variety of local species and high quality landscape materials;

~~(c)~~ c. ~~S~~signage that is integrated and consistent with the building design and promotes the building entry, is consistent with the desired character of the area, and does not detract from the overall streetscape;

~~(d)~~ d. ~~T~~the majority of the parking to the rear of the site and where appropriate is provided within a structured parking facility that is consistent, compatible and integrated into the overall development;

~~(e)~~ e. ~~A~~appropriate design treatment for ventilation of room units as well as structured parking areas; and prominent entry features that may include attractive porte-cocheres;

~~(f)~~ f. ~~B~~building design that enhances the building's quality with strong architectural statements, high quality materials particularly at the pedestrian level and appropriate attention to detail;

~~(g)~~ g. ~~L~~lighting standards for hotel buildings, grounds and parking lots shall not be overly bright and shall direct the downward placement of light;

5. That the proposed development provides adequately buffered loading areas and to the extent possible, are located on secondary streets;

6. The proposed operator of the facility shall be identified as part of the project description at the time of application.

(Ord. 12266 § 5 (part), 2000)

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

The provisions of this section apply to lots containing Residential Facilities and no Nonresidential Facilities.

A. Limitations on Paving in Street-Fronting Yards. Paved surfaces within required street-fronting yards, and any unimproved rights-of-way of adjacent streets, shall be limited to the following:

1. All lots other than corner lots: ~~and through lots:~~ fifty (50) percent maximum paved surface;

2. Corner lots: thirty (30) percent maximum paved surface.; ~~and~~

~~3. Through lots: twenty-five (25) percent maximum paved surface.~~

Exceptions: The maximum percentages of paved surfaces specified in this subsection A 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; ~~up to a maximum roadway width of twenty-eight (28) feet;~~

b. Sidewalk construction or widening; ~~up to a maximum sidewalk width of six feet;~~ and

c. Any work pursuant to an approved final map, parcel map or final development plan pursuant to a planned unit development permit.

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

~~The provisions of this section apply to lots containing Residential Facilities and no Nonresidential Facilities.~~

B. Screening of Utility Meters. All utility meters shall either be located within a box set within a building, located on a non-street facing elevation, or screened with vegetation.

C. Screening of Trash Containers. All trash containers shall be located in a storage area that is screened from the street and adjacent properties by a wall, fence, or dense landscaping with a minimum height of four (4) feet.

D. Restrictions on exterior security bars and related devices. Exterior security bars and grills are not permitted on windows, doors, or porch enclosures that are located on a street-facing elevation of primary Residential Facilities unless the Director of City Planning determines that the proposed bars or grills are consistent with the architectural style of the building. Removal of such bars or grills shall be a condition of the granting of all conditional use permits, variances, design reviews and other special zoning approvals involving changes to the elevation on which the bars or grills are located unless the bars or grills have been shown to be architecturally consistent with the architectural style of the building.

E. Retaining Walls.

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

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

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

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

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

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

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

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

3. Retaining walls visible from the street or adjacent lots shall be surfaced with a decorative material, treatment or finish, such as stained or stuccoed concrete, decorative concrete block, wood, stone or masonry, or other decorative material, treatment or finish approved by the Director of City Planning. For purposes of this section, "visible from the street or adjacent lots" refers to any portion of a wall that is not located behind buildings, other permanent structures, or existing grade in such a manner as to visually screen the wall from adjacent lots, and from the street, alley, or private way providing access to the subject lot. (Ord. 12533 § 3 (part), 2003; Ord. 12406 (part), 2002: Ord. 12376 (part), 2001)

17.104

GENERAL LIMITATION ON SIGNS

17.104.020 General limitations on signs--Commercial and industrial zones.

The following limitations shall apply to the specified signs in all commercial and industrial zones, except as otherwise provided herein, and are in addition to the limitations, if any, prescribed for signs in the applicable individual zone regulations and development control maps:

A. Design Review. No business, civic, or residential sign shall be constructed or established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136.

B. Permitted Aggregate Sign Area.

1. ~~C-5, C-10, C-20, C-25, C-27, C-28, C-30, C-31, C-35, C-40, C-45, C-51, C-52, C-55 and C-60 Zones.~~ In all commercial zones, ~~The~~ the maximum aggregate area of display surface of all business, civic, and residential signs on any one lot shall be one square foot for each one foot of lot frontage in the case of an interior lot, or 0.5 square feet for each one foot of lot frontage in the case of a corner lot. The aggregate shall include only one face of a double-faced sign. The total amount of aggregate sign area shall not exceed two hundred (200) square feet on any one property. Exceptions to the total amount of aggregate sign area normally allowed on any one property may be approved pursuant to the regulations in Subsection B(3) below and to the small project design review procedure in Chapter 17.136.

2. ~~M-10, M-20, M-30 and M-40 Zones.~~ In all manufacturing zones, ~~The~~ the maximum aggregate area of display surface of all business, civic and residential signs on any one lot shall be one square foot for each one foot of lot frontage in the case of an interior lot, or 0.5 square feet for each one foot of lot frontage in the case of a corner lot. The aggregate shall include only one face of a double-faced sign. The total amount of aggregate sign area shall not exceed three hundred (300) square feet on any one property. Exceptions to the total amount of aggregate sign area normally allowed on any one property may be approved pursuant to the regulations in Subsection B(3) below and to the small project design review procedure in Chapter 17.136.

3. Exception to Aggregate Sign Area Limits. In cases in which the maximum aggregate sign area for a property is already being utilized by a portion of the existing tenant spaces in a multi-tenant building or complex, the following exception to the maximum aggregate sign area may be approved pursuant to the small project design review procedure in Chapter 17.136:

a. Twenty (20) square feet of sign area for each tenant space in the multi-tenant building or complex without existing signage on site.

C. Maximum Height.

1. Attached Signs. The maximum height of any sign that is attached to a building may not exceed the height of the building wall that it is attached to.

2. Freestanding Signs. ~~The maximum height of any freestanding sign in the C-5, C-10, C-20, C-25, C-27, C-28, C-31, C-36, C-45, C-51, C-52, C-55, C-60 and M-10 Zones is ten (10) feet.~~ The maximum height of any freestanding sign in the C-30, C-35, C-40, M-20, M-30 and M-40 zones is twenty (20) feet. The maximum height in all other Commercial and Manufacturing zones is ten (10) feet.

Chapter 17.106

GENERAL LOT, DENSITY, AND AREA REGULATIONS

17.106.010 Lot area and width exceptions.

The minimum lot area and lot width requirements prescribed in the applicable individual zone regulations shall be subject to the following exceptions:

A. *Existing Substandard Parcel.* ~~in Separate Ownership.~~ Any existing substandard parcel of contiguous land may be developed as a lot if such parcel ~~was, on the effective date of the zoning regulations, or of any subsequent rezoning or other amendment thereto which makes the parcel fail to meet such requirements, and continuously thereafter has been, of record in single or unified ownership separate from that of any abutting property, and if such parcel~~ existed lawfully under the previous zoning controls.

B. Division of Parcel with Existing Buildings. Where a parcel contains two or more existing principal buildings which existed lawfully under the previous zoning controls, said parcel may be divided into two or more lots which do not have the minimum lot area, and minimum frontage, yards, open space, and parking requirements otherwise applying to the divided lots may be waived or modified upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. Each resulting lot shall accommodate at least one existing principal building and each lot shall have frontage on a street. A conditional use permit may be granted only upon determination that the proposal conforms to the general use permit criteria in Chapter 17.134 and to the following special criteria:

1. That all principal structures existed lawfully under the previous zoning controls, and are habitable or in sound condition;

2. That the proposal will not result in a lot which is so small, so shaped, or so situated that it would be impractical for subsequent permitted uses;

3. That the proposal will maintain ~~result in a reasonable~~ the existing amount of usable open space and off-street parking spaces for any Residential Facilities involved. (Prior planning code § 7050)

17.106.020 Exceptions to street frontage requirement.

Notwithstanding the requirements prescribed in the applicable individual zone regulations with respect to minimum frontage upon a street, a lot which does not meet such requirements may be created and/or developed in each of the following situations:

A. If it has a frontage of not less than twenty-five (25) feet upon an undedicated vehicular way, other than one similar in function to an alley or path, which has a right-of-way not less than forty (40) feet in width and which was shown on the sewer maps on file with the City Engineer on the effective date of the zoning regulations;

B. If it is served by a private access easement approved pursuant to the real estate subdivision regulations and subject to the provisions of Section 17.102.090;

C. If it consists of a parcel of contiguous land which ~~was on the effective date of the zoning regulations, or of any subsequent rezoning or other amendment thereto which makes such parcel fail to meet such requirements, and continuously thereafter has been, of record in single or unified ownership separate from that of any abutting property, and if such parcel~~ existed lawfully under the previous zoning controls;

D. If it meets the same conditions as are prescribed in Section 17.106.010 for lot area and width exceptions;

E. With the exception of subsections B and C of this section, nothing in this section shall exempt parcels in the S-11 zone from any street frontage requirement. (Prior planning code § 7051)

17.106.040 Use permit criteria for increased density or floor-area ratio for high-rise Residential Facilities.

A conditional use permit for an increase in the number of living units or floor-area ratio for a Residential Facility with more than four (4) stories containing living units, wherever such increase is provided for

in the applicable individual zone regulations, 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 all of the following additional use permit criteria:

A. That openness of development, limitation of site coverage, and the design of the facilities effectively compensate for the potential effect of the added structural bulk upon adjoining properties and the surrounding area;

B. That the shape and siting of the facilities are such as to minimize blocking of views or sunlight from adjoining lots or from other Residential Facilities in the surrounding area;

C. That usable open space is provided substantially in excess of the amount otherwise required. (Prior planning code § 7057)

17.106.050 Use permit criteria for increased density or floor-area ratio with acquisition of abutting development rights.

A conditional use permit for an increase in the number of living units or floor-area ratio upon acquisition of nearby development rights, wherever such increase is provided for in the applicable individual zone regulations, 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 all of the following additional use permit criteria:

A. That the applicant has acquired development rights from the owners of abutting lots, restricting the number of living units or the amount of floor area which may be developed thereon so long as the facilities proposed by the applicant are in existence;

B. That the owners of all such abutting lots shall prepare and execute an agreement, approved as to form and legality by the City Attorney and filed with the Alameda County Recorder, incorporating such restriction;

C. That the resultant reduction in potential number of living units or amount of floor area on the abutting lots is sufficient in amount and is so located as to cause the net effect upon the surrounding neighborhood to be substantially equivalent to that of the development which would be allowable otherwise. (Prior planning code § 7058)

17.106.060 Increased number of living units in senior citizen housing.

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

A. That such occupancy is guaranteed, for a period of not less than fifty (50) years, by appropriate conditions incorporated into the permit;

B. That the impact of the proposed facilities will be substantially equivalent to that produced by the kind of development otherwise allowed within the applicable zone, with consideration being given to the types and rentals of the living units, the probable number of residents therein, and the demand for public facilities and services generated. (Prior planning code § 7059)

Chapter 17.107

DENSITY BONUS AND INCENTIVE PROCEDURE

17.107.080 Administrative fee for target ~~dwelling~~ living units.

17.107.010 Title, purpose, and applicability.

The provisions of this chapter shall be known as the density bonus and incentive procedure for affordable housing. The purpose of these provisions is to prescribe the procedure for the granting of a density bonus and incentive(s), under specified conditions, to encourage the provision of affordable housing. The density bonus ordinance codified in this chapter is intended to comply with the State Density Bonus Law, Government Code Section 65915, which provides that a local government shall grant a density bonus and an additional concession, or financially equivalent incentive(s), to a developer of a housing development agreeing to construct a specified percentage of housing for low income households, very low income households or senior citizens. This procedure shall apply to all proposals to create five or more ~~dwelling~~ living units in which the developer is requesting the density bonus. (Ord. 12331 § 2 (part), 2001)

17.107.020 Definitions.

A. Affordable Housing. "Affordable housing" shall mean that the relevant housing is available on terms such that the housing costs are less than a specified percentage of the gross income of households within a particular income category (adjusted for household size, depending on the number of bedrooms in the ~~dwelling~~ living unit) as determined for the Oakland Primary Metropolitan Statistical Area (PMSA). For a rental unit, housing costs include rent and a reasonable allowance for utilities. For a for-sale unit, housing costs include loan principal, loan interest, property and mortgage insurance, property taxes, home owners' association dues and a reasonable allowance for utilities.

1. Where units are targeted as being affordable to low income households, housing costs for rental units must be equal to or less than thirty (30) percent of the gross monthly income, adjusted for household size, of sixty (60) percent of the median income for the Oakland PMSA. Housing costs for for-sale units must be equal to or less than thirty (30) percent of the gross monthly income, adjusted for household size, of seventy (70) percent of the median income.
2. Where units are targeted as being affordable to very low income households, housing costs for rental units and for for-sale units must be equal to or less than thirty (30) percent of the gross monthly income, adjusted for household size, of fifty (50) percent of the median income for the Oakland PMSA.
3. Where units are targeted as being affordable to moderate income households, housing costs for rental units must be equal to or less than thirty (30) percent of the gross monthly income, adjusted for household size, of one hundred twenty (120) percent of the median income for the Oakland PMSA. Housing costs for for-sale units must be equal to or less than thirty-five (35) percent of the gross monthly income, adjusted for household size, of one hundred twenty (120) percent of the median income.

B. Density Bonus. A "density bonus" is a density increase over the otherwise maximum permitted residential density. For purposes of this chapter, the density bonus shall not be included when determining the number of target units that must be affordable to the relevant income group. When awarding multiple density bonuses, such as for senior citizens housing, the amount of each density bonus shall be determined based on the allowable base density, exclusive of any bonuses. In no event may the city grant a density bonus which would result in the project exceeding the general plan density maximum unless the project proposes to provide at least (1) twenty (20) percent of the total units of a housing development for lower income households, or (2) ten (10) percent of the total units of a housing development for very low income households, or (3) fifty (50) percent of the total ~~dwelling~~ living units of a housing development for qualifying residents (seniors) or (4) at least twenty (20) percent of the total units of a residential condominium housing development for moderate income households. When calculating the final unit count allowed with the density bonus, any fractional remainders shall be rounded up to the nearest whole number.

C. Density Incentive. A "density incentive" is a benefit offered by the city to facilitate construction of eligible projects as defined by the provisions of this chapter and is limited to the relaxation of one of the following standards in order to allow utilization of a density bonus:
1. Required off-street parking;
2. Required setbacks;
3. Maximum building height;
4. Required open space;
5. Maximum floor-area ratio;
6. Minimum lot area.

D. "Economically feasible" means that a housing development can be built with a reasonable rate of return. The housing developer's financial ability to build the project shall not be a factor.

E. Moderate, Low and Very Low Income Households. "Moderate, low and very low income households" means those households whose income matches levels determined periodically by the U.S. Department of Housing and Urban Development, based on the Oakland Primary Metropolitan Statistical Area (PMSA) median income levels by family size, under which:
1. "Moderate income" is defined as greater than eighty (80) percent to one hundred twenty (120) percent of median income.
2. "Low income" is defined as greater than fifty (50) percent to eighty (80) percent of median income.
3. "Very low income" is defined as less than fifty (50) percent of median income.

F. Target ~~Dwelling~~ Living Unit. A "target ~~dwelling~~ living unit" is a ~~dwelling~~ living unit that will be offered for rent or sale exclusively to and which and which shall be affordable to the designated income group or senior citizens.

G. Housing Development. A "housing development" is as defined in California Government Code Section 65915(g). (Ord. 12501 § 74, 2003: Ord. 12331 § 2 (part), 2001)

17.107.030 Application.

A developer may submit to the Director of City Planning a preliminary proposal for the development of housing and utilization of the density bonus procedure pursuant to this chapter prior to the submittal of any formal application. The city shall, within thirty (30) days of receipt of a written proposal, notify the housing developer in writing of its local density procedures. The housing developer shall show that any requested incentives are necessary to make the affordable units economically feasible.

A formal request for a density bonus and related incentive(s) shall be included in the application for design review for a housing development and shall be processed and considered as part of same. The application for a density bonus and related incentive(s) shall include:

A. A written statement specifying the desired density increase, incentive requested and the type, location, size and construction scheduling of all ~~dwelling~~ living units;

17.107.050 Eligibility requirements.

Only those households meeting the standards for very low income, low income, moderate income or senior citizens shall be eligible to occupy target ~~dwelling~~ living units.
(Ord. 12331 § 2 (part), 2001)

17.107.060 Density bonus resale agreement.

All buyers of for-sale target ~~dwelling~~ living units shall enter into a density bonus resale agreement with the city prior to purchasing the unit or property. The resale agreement shall specify that the title to the subject property or unit may not be transferred without prior approval of the city.
(Ord. 12331 § 2 (part), 2001)

17.107.070 Management and monitoring.

Rental target ~~dwelling~~ living units shall be managed/operated by the developer or agent. Each developer of rental target ~~dwelling~~ living units shall submit an annual report to the city identifying which units are target ~~dwelling~~ living units, the monthly rent, vacancy information, monthly income for tenants of each target rental ~~dwelling~~ living unit throughout the prior year, and other information required by the city, while ensuring the privacy of the tenant.

(Ord. 12331 § 2 (part), 2001)

17.107.080 Administrative fee for target ~~dwelling~~ living units.

The city shall establish an administrative fee for city monitoring of target ~~dwelling~~ living units, the amount to be established by the City Council, for target ~~dwelling~~ living units, to be paid prior to the issuance of building permit(s).

(Ord. 12331 § 2 (part), 2001)

Chapter 17.108

GENERAL HEIGHT, YARD, AND COURT REGULATIONS

17.108.060 Minimum side yard on street side of corner lot--Residential zones.

(See illustration I-13.)

A. **Where There Is a Key Lot in a Residential Zone.** In all residential zones, on every corner lot which abuts to the rear a key lot which is in a residential zone, there shall be provided on the street side of such corner lot a side yard with a minimum width equal to one-half (½) of the minimum front yard depth required on the key lot and no less than the minimum side yard width required along an interior side lot line of the corner lot. However, such side yard shall not be required in the R-80 and R-90 zones, nor be required to exceed five (5) feet in width in any other residential zone, to the extent that it would reduce to less than twenty-five (25) feet the buildable width of any corner lot, ~~which was on the effective date of the zoning regulations, or of any subsequent rezoning or other amendment thereto which increased applicable side yard requirements, and continuously thereafter has been, of record in single or unified ownership separate from that of any abutting property, and which lot existed lawfully under the previous zoning controls.~~ Such yard shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. See also Section 17.110.040C for special controls on location of detached accessory buildings on such corner lots.

B. **Where There Is No Key Lot in a Residential Zone.** In all residential zones, on every corner lot which does not abut to the rear a key lot which is in a residential zone, the required minimum side yard width on the street side of such corner lot shall be the same as that, if any, generally required along each interior side lot line of every lot in the same zone; provided, however, that such minimum width shall be five (5) feet in the R-60 and R-70 zones. However, such side yard shall not be required to exceed five (5) feet in width to the extent that it would reduce to less than twenty-five (25) feet the buildable width of any corner lot, ~~which was on the effective date of the zoning regulations, or of any subsequent rezoning or other amendment thereto which increased applicable side yard requirements, and continuously thereafter has been, of record in single or unified ownership separate from that of any abutting property, and which existed lawfully under the previous zoning controls.~~ Such yard shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130. (Ord. 12406 § 4 (part), 2002; Ord. 12376 § 3 (part), 2001: prior planning code § 7080)

Chapter 17.110

BUFFERING REGULATIONS

17.110.020 General buffering requirements--Residential and S-1, S-2, S-3, S-13, S-15 and OS zones.

(See illustration I-16.) The following regulations shall apply in all residential zones and in the S-1, S-2, S-3, S-13, S-15 and OS zones, and are in addition to the provisions set forth in Section 17.110.040:

A. Screening and Setback of Open Parking and Loading Areas. The following requirements shall apply in said zones to all open off-street parking areas located on any lot containing three (3) or more independent parking spaces, except in the case of a One-Family Dwelling with Secondary Unit, and to all open off-street loading areas on any lot:

1. Such parking and loading areas shall be screened from all abutting lots, except where a maneuvering aisle is shared with the abutting lot in the manner described in Section 17.116.170, by dense landscaping not less than five and one-half (5 ½) feet high and not less than three (3) feet wide, or by a ~~solid lumber of masonry~~ decorative screening fence or wall not less than five and one-half (5 ½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said chapter.

2. Such parking and loading areas shall be screened from all abutting streets, alleys, ~~and~~ paths, and private streets or other ways described in Section 17.106.020, by dense landscaping not less than three and one-half (3 ½) feet high and not less than three (3) feet wide, or by a ~~solid or grille, lumber or masonry~~ decorative screening fence or wall not less than three and one-half (3 ½) feet high, subject to the standards for required landscaping and screening and the exceptions stated in said chapter.

3. No unroofed parking space or loading berth on such lots shall be located within five feet from any street line or alley.

B. Screening of Open Storage Areas. All open storage of boats, trailers, building materials, appliances, and similar materials shall be screened from all abutting lots, and streets, alleys, and paths, and private streets or other ways described in Section 17.106.020, by dense landscaping not less than five and one-half (5 ½) feet high and not less than three (3) feet high, or by a ~~solid lumber of masonry~~ decorative screening fence or wall not less than five and one-half (5 ½) feet high, subject to the standards for required landscaping and screening and the exceptions stated therein.

C. Control on Artificial Illumination of Parking and Loading Areas. Artificial illumination of all off-street parking areas located on any lot containing three or more parking spaces and all off-street parking areas, and of driveways related thereto, except in the case of a One-Family Dwelling with Secondary Unit, shall be nonflashing and shall be directed away from all abutting lots and from any on-site residential living units so as to eliminate objectionable glare.

(Ord. 12501 § 77, 2003: Ord. 12078 § 5 (part), 1998; Ord. 11892 § 9, 1996: prior planning code § 7110)

17.110.030 General buffering requirements--Commercial and industrial zones.

(See illustration I-17.) The following regulations shall apply in all commercial and industrial zones, and are in addition to the provisions set forth in Section 17.110.040:

A. Screening Along Entire Lot Line Abutting Residential Zone If Lot in Commercial or Industrial Zone Is Occupied by Commercial, Manufacturing, or Agricultural or Extractive Activities. Wherever any lot which is located in any commercial or industrial zone and which is occupied by Commercial, Manufacturing, or Agricultural or Extractive Activities abuts a lot located in any residential zone, it shall be screened from the residentially zoned lot, along the entire abutting lot line except where a driveway or maneuvering aisle is shared with the abutting lot in the manner described in Section 17.116.170, by dense landscaping not less than five and one-half feet (5 ½) high and not less than three (3) feet wide, or by a ~~solid lumber or masonry~~ decorative screening fence or wall not less than five and one-half (5 ½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said chapter.

B. Screening of Open Parking, Loading, and Storage Areas in Certain Situations. All open off-street parking areas located on any lot containing three or more parking spaces, and all open off-street loading, storage, sales, display, service, and processing areas on any lot, shall be:

1. Screened from any Residential Facilities located on any abutting lot, except where a maneuvering aisle is shared with the abutting lot in the manner described in Section 17.116.170, by dense landscaping not less than five and one-half (5 ½) feet high and not less than three (3) feet wide, or by a ~~solid lumber or masonry~~ decorative screening fence or wall not less than five and one-half (5 ½) feet high, subject to the standards for required landscaping and screening and the exceptions stated therein; and

2. Screened from any abutting lot located in any residential zone, except where a maneuvering aisle is shared with the abutting lot in the manner described in Section 17.116.170, by dense landscaping not less than five and one-half (5 ½) feet high and not less than three (3) feet wide, or by a ~~solid lumber or masonry~~ decorative screening fence or wall not less than five and one-half (5 ½) feet high, subject to the standards for required landscaping and screening and the exceptions stated therein; and

3. Except in the case of sales, display, or service areas occupied by Automotive Servicing Commercial Activities, screened from that portion of any street, alley, or path, or private street or other way described in Section 17.106.020, directly across which or within one hundred fifty (150) feet, as measured parallel to the centerline of such public or private way, along which there is a lot in any residential zone, by dense landscaping not less than three and one-half (3 ½) feet high and not less than three (3) feet wide, or by a ~~solid or grille, lumber or masonry~~ decorative screening fence or wall not less than three and one half (3 ½) feet high, subject to the standards for required landscaping and screening and the exceptions stated therein.

C. Restrictions on Storage, Repair, and Production in Certain Required Yards. See subsections H and K of Section 17.108.130.

D. Control on Artificial Illumination in Certain Situations. All artificial illumination which is readily visible from any of the Residential Facilities or residentially zoned lots referred to in subsection B of this section shall be nonflashing and shall be directed away from said facilities and lots so as to eliminate objectionable glare. (Prior planning code § 7111)

17.110.040 Special buffering requirements.

A. *Open Storage Areas on Same Lot as Residential Facility--Screening Required Within Three Years.* In all zones, on any lot which contains both a Residential Facility and any area devoted to open storage or display of goods or materials, said open storage or display area shall be screened from all abutting lots, streets, alleys, and paths, and private streets or other ways described in Section 17.106.020, by dense landscaping not less than five and one-half (5 ½) feet high and not less than three (3) feet wide, or by a ~~solid lumber or masonry~~ decorative screening fence or wall not less than five and one-half (5 ½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said chapter. Existing open storage and display areas on such lots shall either be removed or provided with the above prescribed screening within three years after the effective date of the zoning regulations.

B. Screening of Open Parking, Loading, and Storage Areas in C-25, C-27, C-28, C-31, C-36, M-10, M-20, S-13, and S-15 zones. In the C-25, C-27, C-28, C-31, C-36, M-10, M-20, S-13, and S-15 zones, open parking, loading, and storage areas shall be subject to the same screening and setback requirements as are set forth in subsections A and B of Section 17.110.020. Existing nonconforming storage areas in said zones shall be subject to the provisions of Section 17.114.140.

C. Location of Detached Accessory Buildings on Corner Lot Abutting a Key Lot in a Residential Zone. (See illustrations I-13 and I-17.) In all zones, on any reversed corner lot which abuts a key lot located in any residential zone, no detached accessory building shall be located within five (5) feet from the abutting side lot line of the key lot. No detached accessory building on such lot shall be located closer to the street line on which the key lot fronts than a distance equal to the minimum front yard depth required on the key lot, unless the accessory building is at least thirty-five (35) feet from the side lot line of the key lot. An accessory building shall be considered detached from any principal building on the same lot if the only roofed attachment thereto consists of a breezeway or similar structure exceeding neither twelve (12) feet in height nor eight (8) feet in width.

D. Other Provisions. Also applicable are the special provisions, if any, set forth in the applicable individual zone regulations and development control maps with respect to landscaping and screening and controls on parking, loading, and other specified uses; the requirements set forth in Section 17.102.140 for stables, corrals, and similar facilities; and the screening and other standards prescribed for required usable open space in the standards for required usable open space in Chapter 17.126. (Ord. 11892 § 10, 1996; prior planning code § 7115)

Chapter 17.112

HOME OCCUPATION REGULATIONS

17.112.030 Exclusions.

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

A. Introductory service;

B. Teaching of organized classes totaling more than six persons at a time;

C. Accommodation of more than three paying guests within a One-Family Dwelling Residential Facility, or of any number of paying guests within a ~~dwelling~~ living unit in any other type of Residential Facility;

D. Operation of a beauty parlor with more than two hairdrying machines;

E. Maintenance of a construction contractor's storage or construction yard or garage;

F. Care, treatment, or boarding of animals for profit. (Prior planning code § 7302)

17.112.050 Required approval.

No home occupation shall be permitted unless the Director of City Planning certifies that it will conform to the home occupation regulations. The Director may fix a termination date upon a home occupation in order to affect ~~effect~~ a periodic review thereof. The Director's determination shall be subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132. (Prior planning code § 7304)

Chapter 17.118

RECYCLING SPACE ALLOCATION REQUIREMENTS

17.118.020 Affected projects.

The following development projects shall provide adequate, accessible, and convenient areas for collecting and loading recyclable materials:

A. Any new residential development of five units or more where solid waste is collected and loaded in a location serving five (5) or more living units, or new commercial or industrial development including marinas, for which a building permit is required, and said permit application is submitted on or after the effective date of these regulations;

B. Any new public facility where solid waste is collected and loaded and any improvements made to areas of an existing public facility used for collecting and loading solid waste;

C. Any existing residential development project of five units or more where solid waste is collected and loaded in a location serving five (5) or more living units, or existing commercial or industrial development including marinas, for which an application for a building permit is submitted on or after September 1, 1994 for an alteration(s) which adds thirty (30) percent or more to the existing gross floor area of the development project;

D. Any existing residential development project of five (5) units or more where solid waste is collected and loaded in a location serving five or more living units, or existing commercial or industrial development or marina, for which multiple applications for building permits are submitted within a twelve (12) month period on or after September 1, 1994, which collectively add thirty (30) percent or more to the existing gross floor area of the development project;

E. Any existing residential development project of five (5) units or more where solid waste is collected and loaded in a location serving five (5) or more living units, or existing commercial or industrial development or marina, occupied by multiple tenants, one of which submits within a twelve (12) month period an application or a series of applications for building permits for alterations which singly or collectively add thirty (30) percent or more to the existing floor area of that portion of the project which said tenant leases. In such cases, adequate areas for the collection and loading of recyclable materials adequate in number and capacity to serve that portion of the development project said tenant leases shall be provided. (Ord. 11807 § 1 (part), 1995: prior planning code § 7601)

Chapter 17.120

PERFORMANCE STANDARDS

17.120.050 Noise.

All activities shall be so operated that the noise level inherently and regularly generated by these activities across real property lines shall not exceed the applicable values indicated in subsection A, B, or C as modified where applicable by the adjustments indicated in subsection D, E, or F. Further noise restrictions are outlined in Section 8.18.010 of the Oakland Municipal Code.

A. Residential and Civic Noise Level Standards. The noise level received by any legal residential activity, school, child care, health care or nursing home, public open space, and similarly sensitive land use shall not exceed the following:

MAXIMUM ALLOWABLE RECEIVING NOISE LEVEL STANDARDS, dBA

Cumulative Number of Minutes in Either the Daytime or Nighttime One Hour Time Period	Daytime 7 a.m. to 10 p.m.	Nighttime 10 p.m. to 7. a.m.
20	60	45
10	65	50
5	70	55
1	75	60
0	80	65

B. Commercial Noise Level Standards. The noise level received by any commercial land use shall not exceed the following:

MAXIMUM ALLOWABLE RECEIVING NOISE LEVEL STANDARDS, dBA

Cumulative Number of Minutes in Either the Daytime or Nighttime One Hour Time Period	Anytime
20	65
10	70
5	75
1	80
0	85

C. Manufacturing, Agricultural and Extractive Noise Level Standards. The noise level received by any manufacturing or mining and quarrying land use shall not exceed the following:

MAXIMUM ALLOWABLE RECEIVING NOISE LEVEL STANDARDS, dBA

Cumulative Number of Minutes in Any One Hour Time Period	Anytime
20	70
10	75
5	80
1	85

Cumulative Number of Minutes in Any One Hour Time Period	Anytime
0	90

D. In the event the measured ambient noise level exceeds the applicable noise level standard in any category above, the stated applicable noise level shall be adjusted so as to equal the ambient noise level.

E. Each of the noise level standards specified above in subsections A, B, and C shall be reduced by five dBA for a simple tone noise such as a whine, screech, or hum, noise consisting primarily of speech or music, or for recurring impulse noise such as hammering or riveting.

F. Legal Nonconforming Residential Facilities. The applicable receiving noise level standard under subsection A of this section shall be increased by five dBA for legal nonconforming residential facilities located in the M-30, M-40, or any other zone as provided in Section 17.114.010.

G. Noise Measurement Procedures. Utilizing the "A" weighing scale of the sound level meter and the "slow" meter response (use "fast" response for impulsive type sounds), the noise level shall be measured at a position or positions at any point on the receiver's property. In general, the microphone shall be located four (4) to five (5) feet above the ground; ten (10) feet or more from the nearest reflective surface, where possible. However, in those cases where another elevation is deemed appropriate, the latter shall be utilized. If the noise complaint is related to interior noise levels, interior noise measurements shall be made within the affected residential unit. The measurements shall be made at a point at least four (4) feet from the wall, ceiling or floor nearest the noise source, with windows in the normal seasonal configuration.

H. Temporary Construction or Demolition Which Exceed the Following Noise Level Standards.

1. The daytime noise level received by any residential, commercial, or industrial land use which is produced by any nonscheduled, intermittent, short-term construction or demolition operation (less than ten (10) days) or by any repetitively scheduled and relatively long-term construction or demolition operation (ten (10) days or more) shall not exceed:

MAXIMUM ALLOWABLE RECEIVING NOISE LEVEL STANDARDS, dBA

	Daily 7 a.m. to 7 p.m.	Weekends 9 a.m. to 8 p.m.
Short-Term Operation		
Residential	80	65
Commercial, Industrial	85	70
Long-Term Operation		
Residential	65	55
Commercial, Industrial	70	60

2. The nighttime noise level received by any land use and produced by any construction or demolition activity between weekday hours of seven (7) p.m. and seven (7) a.m. or between eight (8) p.m. and nine (9) a.m. on weekends and federal holidays shall not exceed the applicable nighttime noise level standards outlined in this section.

I. Residential Air Conditioning Units and Refrigeration Systems. The exterior noise level associated with a residential air conditioning unit or refrigeration systems shall not exceed fifty (50) dBA, with the exception that systems installed prior to the effective date of this section shall not exceed fifty-five (55) dBA.

J. Commercial Refrigeration Units. Stationary and mobile commercial refrigeration units shall not produce a noise level greater than the noise level standards set forth in this section. Between the hours of ten (10) p.m. and seven (7) a.m., a mobile refrigeration unit shall not be located within two hundred (200) feet of any legally occupied residential facility unless such unit is within an enclosure which reduces the noise level outside the enclosure to no more than sixty (60) dBA and reduces vibration to a level below the vibration perception threshold set forth in Section 17.120.060.

K. Commercial Exhaust Systems. Unnecessary noise caused by exhaust from ventilation units, or other air control device shall not produce a noise level greater than the noise level standards set forth in this

section between the hours of ten (10) p.m. and seven (7) a.m. and shall not be located within two hundred (200) feet of any legally occupied residential facility unless such unit is within an enclosure which reduces the noise level outside the enclosure to no more than sixty (60) dBA and reduces vibration to a level below the vibration perception threshold set forth in Section 17.120.060. (Ord. 11895 § 7, 1996: prior planning code § 7710)

Chapter 17.122

PLANNED UNIT DEVELOPMENT REGULATIONS

Sections:

17.122.010 Title, purposes, and applicability.

The provisions of this chapter shall be known as the planned unit development regulations. The purposes of these regulations are to encourage the appropriate development of tracts of land sufficiently large to allow comprehensive planning, and to provide flexibility in the application of certain regulations in a manner consistent with the general purposes of the zoning regulations, thereby promoting a harmonious variety of uses, the economy of shared services and facilities, compatibility with surrounding areas, and the creation of attractive, healthful, efficient, and stable environments for living, shopping, or working. These regulations shall apply to all large, integrated developments for which a planned unit development permit is required by Section 17.122.030. (Prior planning code § 7800)

17.122.020 Definition of planned unit development.

A **"planned unit development"** is a large, integrated development adhering to a comprehensive plan and located on a single tract of land, or on two or more tracts of land which may be separated only by a street or other right-of-way. (Prior planning code § 7801)

17.122.030 Developments for which approval is required.

The following developments are permitted only upon the granting of a planned unit development permit pursuant to the planned unit development procedure in Chapter 17.140. Other large, integrated developments are permitted without such a permit, but shall be subject to all regulations generally applying in the zone in which they are located.

A. Any planned unit development incorporating any of the bonuses set forth in Section 17.122.100;

B. Any integrated development which is primarily designed for or occupied by Commercial Activities, which is located in any commercial zone, and which is developed under unified control, in accordance with a comprehensive plan, on a single tract with sixty thousand (60,000) square feet or more of land area, or on two or more tracts which total such area and which are separated only by a street or other right-of-way. (Prior planning code § 7802)

17.122.040 Ownership and division of land.

If any of the bonuses set forth in Section 17.122.100 are proposed for a development, the tract or tracts of land included in such development must be in one ownership or control or the subject of a joint application by the owners of all the property included. The holder of a written option to purchase, any governmental agency, including the Redevelopment Agency of the city, or a redeveloper under contract with the Redevelopment Agency shall be deemed the owner of such land for the purposes of this section. Unless other-

wise provided as a condition for approval of a planned unit development permit, the permittee may divide and transfer units of any development for which a permit is required by Section 17.122.030. The transferee shall complete each such unit, and use and maintain it, in strict conformance with the approved permit and development plan. (Prior planning code § 7803)

17.122.050 Professional design.

If any of the bonuses set forth in Section 17.122.100 are proposed for a planned unit development, the application for a planned unit development permit pursuant to said section shall certify that the talents of the following professionals will be utilized at some stage in the design process for the development:

A. An architect licensed by the state of California; and

B. A landscape architect licensed by the state of California, or an urban planner holding or capable of holding membership in the American Institute of Certified Planners. (Prior planning code § 7804)

17.122.060 Dedication of public facilities and maintenance of open space.

The City Planning Commission or, on appeal, the City Council may, as a condition of approval of any development for which a permit is required by Section 17.122.030, require that suitable areas for schools, parks, or playgrounds be set aside, improved, and dedicated for public use, or be permanently reserved for the owners, residents, employees, or patrons of the development. Whenever group or common open space is provided, the Commission or the Council, as the case may be, may require that an association of owners or tenants be created for the purpose of maintaining such open space. Such an association, if required, may undertake other functions. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessments levied to maintain said open space for the purposes intended. The period of existence of such association shall be not less than twenty (20) years, and it shall continue thereafter until a majority vote of the members shall terminate it. (Prior planning code § 7805)

17.122.070 Performance bonds.

The City Planning Commission or, on appeal, the City Council may, as a condition of approval of any development for which a permit is required by Section 17.122.030, require a cash bond or surety bond for the completion of all or specified parts of the development deemed to be essential to the achievement of the purposes set forth in Section 17.122.010. The bond shall be in a form approved by the City Attorney, in a sum of one hundred (100) percent of the estimated cost of the work, and conditioned upon the faithful performance of the work specified within the time specified. (Prior planning code § 7806)

17.122.080 Zones in which bonuses may be granted.

The bonuses set forth in Section 17.122.100 may, upon approval pursuant thereto and except as otherwise specified therein, be permitted for a planned unit development in any residential or commercial zone or in the S-1, S-2 or S-15 zone. (Ord. 11892 § 19, 1996: prior planning code § 7810)

17.122.090 Minimum size for which bonuses may be granted.

The minimum total land area of any planned unit development incorporating any of the bonuses set forth in Section 17.122.100 shall be four acres in the R-1, R-10, R-20, and R-30 zones, and sixty thousand (60,000) square feet in all other zones except the C-20 zone. In the C-20 zone, the minimum total land area shall be four acres for any planned unit development incorporating any of the bonuses set forth in Section 17.122.100(E), and sixty thousand (60,000) square feet for any other planned unit development incorporating any of the bonuses set forth in Section 17.122.100. (Ord. 12272 § 4 (part), 2000: prior planning code § 7811)

17.122.100 Bonuses.

For planned unit developments qualifying under Sections 17.122.080 and 17.122.090, the following exceptions to otherwise applicable regulations may be permitted upon the granting of a planned unit development permit pursuant to the planned unit development procedure in Chapter 17.140:

A. Additional Permitted Activities Where Increase in Overall Density or Floor Area Ratio Is Proposed. Except in the R-1, R-10, R-20, and R-30 zones, the following activities, as described in the use

~~classifications in Chapter 17.10, may be permitted in a planned unit development incorporating an increase in overall density or floor area ratio pursuant to subsection E of this section, in addition to the activities generally permitted in the zone where the development is located:~~

~~1. Residential Activities:~~

~~Permanent~~

~~2. Civic Activities:~~

~~Limited Child Care~~

~~Community Education~~

~~3. Commercial Activities, provided that such activities shall not occupy in the aggregate more than four percent of the total floor area in such development, provided that the maximum floor area devoted to such activities by any single establishment shall be three hundred (3,000) square feet, and further provided that such activities shall not be permitted at all in any such development which has an overall density in Residential Facilities of less than forty (40) dwelling units per net residential acre (excluding streets and other rights of way):~~

~~General Food Sales~~

~~Convenience Market~~

~~Fast Food Restaurant~~

~~Alcoholic Beverage Sales~~

~~Convenience Sales and Service~~

~~Medical Service~~

~~B. Further Additional Permitted Activities Where No Increase in Overall Density or Floor Area Ratio Is Proposed. Except in the R-1, R-10, R-20, and R-30 zones, the following activities, as described in the use classifications, may be permitted in a planned unit development for which no increase in overall density or floor area ratio is proposed pursuant to subsection E of this section, in addition to the activities listed in subsection A of this section and in addition to the activities generally permitted in the zone in which the development is located. The special limitations prescribed in subsection (A)(3) of this section with respect to location and amount of floor area devoted to Commercial Activities shall not apply in such a development.~~

~~1. Residential Activities:~~

~~Semi-Transient~~

~~2. Civic Activities:~~

~~Nursing Home~~

~~Community Assembly~~

~~Nonassembly Cultural~~

~~Administrative~~

~~Utility and Vehicular~~

~~3. Commercial Activities:~~

~~Mechanical or Electronic Games~~

~~General Retail Sales~~

~~General Personal Service~~

~~Consultative and Financial Service~~

~~Consumer Laundry and Repair Service~~

~~Group Assembly~~

~~Administrative~~

~~Business and Communication Service~~

~~Retail Business Supply~~

~~Research Service~~

~~General Wholesale Sales~~

~~Automotive Servicing~~

~~Automotive Fee Parking~~

~~Animal Care~~

~~4. Manufacturing Activities:~~

~~Custom~~

C. Additional Permitted Facilities in R-30 Zone. In the R-30 zone the following facilities, as described in the use classifications, may be permitted in addition to the facilities otherwise permitted in said zone, provided that at least fifty (50) percent of the dwelling units in the total development shall be One-Family Dwellings:

1. Residential Facilities:

One-Family Dwelling with Secondary Unit

Two-Family Dwelling

Multifamily Dwelling

D. Additional Permitted Facilities in Other Zones. Except in the R-1, R-10, R-20, and R-30 zones, the following facilities, as described in the use classifications, may be permitted in addition to the facilities otherwise permitted in the zone in which the development is located:

1. Residential Facilities:

One-Family Dwelling

Two-Family Dwelling

Multifamily Dwelling

Rooming House

2. Nonresidential Facilities:

Open

Drive-In

3. Signs:

Residential

Business

E. Increase in Overall Density or Floor Area Ratio.

1. Except in the R-1, R-10, R-20, and R-30 zones and except in a development incorporating the bonuses specified in subsection B of this section, the maximum overall number of living units in Residential Facilities and the maximum overall floor area ratio, if any, otherwise permitted or conditionally permitted in the zone in which the development is located may be increased by up to thirty-three (33) percent if the development contains a combination of two or more of the following dwelling types and if not more than two-thirds of the total number of living units are included in any one of such types:

a. Detached buildings each containing only one dwelling unit;

b. Town house or similar one-family semi-detached or attached buildings each containing only one dwelling unit;

c. Buildings each containing two dwelling units;

d. Buildings each containing more than two dwelling units.

2. Except in the R-1, R-10, R-20, and R-30 zones and except in a development incorporating the bonuses specified in subsection B of this section, the maximum overall number of living units in Residential Facilities and the maximum overall floor area ratio, if any, otherwise permitted or conditionally permitted in the zone in which the development is located may be increased by up to twenty-five (25) percent in a development other than one described in subsection (E)(1) of this section.

F. Distribution of Facilities Without Reference to Lot or Block Line. The overall number of living units and amount of floor area, off-street parking and loading facilities, usable open space, and landscaping and screening may be located within the development without reference to lot lines or blocks, except as otherwise provided in Section 17.122.110(I) and except that required parking spaces serving Residential Activities shall be located within two hundred (200) feet of the building containing the living units served.

G. Waiver or Reduction of Yard and Other Dimensional Requirements. Except as otherwise provided in Section 17.122.110(E), the minimum lot area, width, and frontage; height; and yard requirements otherwise applying may be waived or modified for the purpose of promoting an integrated site plan.

H. Limitations on Signs. Except in the R-1, R-10, R-20, and R-30 zones and except in a development incorporating an increase in density or floor area ratio pursuant to subsection E of this section, Signs may be developed subject to the limitations prescribed therefor in the C-20 zone rather than those in the zone in which the development is located. (Ord. 12272 § 4 (part), 2000; prior planning code § 7812)

17.122.110 Development standards.

The following regulations shall apply to all developments for which a permit is required by Section 17.122.030:

A. Density and Floor Area Ratio Calculation. The maximum overall number of living units in Residential Facilities and the maximum overall floor area ratio, if any, shall be based on the land area within the development, excluding the following:

1. Publicly dedicated streets, freeways, alleys, and paths;

2. When computing density for Residential Facilities in the R-1, R-10, R-20, R-30, R-35, R-36, R-40, R-50, C-10, C-20, or C-60 zone, the following:

a. Land, other than public housing sites, which is publicly owned or reserved for public ownership,

b. Land which is specifically devoted to or intended for Nonresidential Facilities.

B. Density in the R-1, R-10, R-20, and R-30 Zones. In the R-1 and R-10 zones, the maximum number of dwelling units shall be one unit for each twenty-five thousand (25,000) square feet of land area as described in subsection A of this section. In the R-20 zone, the maximum number of dwelling units shall be one unit for each twelve thousand (12,000) square feet of land area as described in subsection A of this section. In the R-30 zone, the maximum number of dwelling units shall be one unit for each five thousand (5,000) square feet of land area as described in subsection A of this section.

C. Height in the R-30 Zone. In the R-30 zone, no building shall exceed fifty (50) feet in height, except as would otherwise be allowed by Section 17.108.020(A) and except for the same projections as are allowed by Section 17.108.030.

D. Performance Standards. Any Commercial or Manufacturing Activities in the development shall be subject to the applicable provisions of the performance standards in Chapter 17.120.

E. Yards and Courts. Yards and courts shall be provided of such depth and width as to provide the same minimum separation between walls of Residential Facilities or between such facilities and the walls of other facilities, regardless of whether such walls are on the same or on separate lots, as is generally required in the R-60 zone for courts between such walls when located on the same lot.

F. Usable Open Space. In the R-1, R-10 and R-20 zones, two hundred (200) square feet of group usable open space per dwelling unit and three hundred (300) square feet of private usable open space per dwelling unit shall be provided for Residential Facilities; and in the R-30 zone, two hundred (200) square feet of group usable open space per dwelling unit and one hundred (100) square feet of private usable open space per dwelling unit shall be provided for Residential Facilities. In any other zone, in any development incorporating an increase in overall density or floor area ratio pursuant to Section 17.122.100(E), group usable open space shall be provided for Residential Facilities in the minimum amount of two hundred (200) square feet per dwelling unit. Except as otherwise provided in Section 17.122.100(F), all required usable open space shall conform to the standards for required usable open space in Chapter 17.126, and private usable open space may be substituted for required group space in the ratio prescribed in said chapter.

G. Undergrounding of Utilities. In any development which is primarily designed for or occupied by Residential Activities, all electric and telephone facilities; fire alarm conduits; streetlight wiring; and other wiring, conduits, and similar facilities shall be placed underground by the developer. Electric and telephone facilities shall be installed in accordance with standard specifications of the serving utilities. Street lighting and fire alarm facilities shall be installed in accordance with standard specifications of the Electrical Department.

H. Other Regulations. Except as otherwise provided in Section 17.122.100 and in this section, and except as more restrictive regulations may be prescribed pursuant to Section 17.122.060 or otherwise as a condition of approval of a planned unit development permit pursuant to Section 17.122.030, the development shall be subject to the regulations generally applying in the zone in which it is located and the provisions of Section 17.108.080.

I. Developments Divided by Boundaries. Any development which is divided by a boundary between zones shall be subject as if it were a single lot to the provisions of subsections (B)(2), (3), and (4) of Section 17.102.070 with respect to calculation of required parking, loading, and usable open space; calcula-

~~tion of maximum number of living units or floor area ratio; and distribution of the resulting number of living units or amount of floor area. (Ord. 12272 § 4 (part), 2000; prior planning code § 7813)~~

Chapter 17.124

LANDSCAPING AND SCREENING STANDARDS

17.124.030 Residential landscape requirements for street frontages.

(See illustration I-21b.) All areas between a primary Residential Facility and abutting street lines shall be fully landscaped, plus any unpaved areas of abutting rights-of-way of improved streets or alleys, provided, however, on streets without sidewalks, an unplanted strip of land five (5) feet in width shall be provided within the right-of-way along the edge of the pavement or face of curb, whichever is applicable. Existing plant materials may be incorporated into the proposed landscaping if approved by the Director of City Planning.

In addition to the general landscaping requirements set forth above, a minimum of one (1) fifteen-gallon tree, or substantially equivalent landscaping consistent with city policy and as approved by the Director of City Planning, shall be provided for every ~~twenty (20) feet of street frontage or portion thereof and, if a curbside planting strip exists, for every~~ twenty-five (25) feet of street frontage. On streets with sidewalks where the distance from the face of the curb to the outer edge of the sidewalk is at least six and one-half (6 ½) feet, the trees to be provided shall include street trees to the satisfaction of the Director of Parks and Recreation. (Ord. 12376 § 3 (part), 2001)

17.124.040 Residential landscape requirements for downslope lots.

(See illustration I-21b.) On downslope lots where the height of the rear elevation of the primary Residential Facility exceeds twenty-eight (28) feet, landscaping shall be planted to screen the rear face of the building and shall be:

A. Planted to number a minimum of one (1) fifteen-gallon tree or five (5) five-gallon shrubs, or substantially equivalent landscaping as approved by the Director of City Planning for each fifteen (15) feet of lot width, measured at the rear face of the residence; and

B. Selected and maintained such that it is sufficient in size within five (5) years of planting to screen the lower ten (10) feet of the structure. (Ord. 12376 § 3 (part), 2001)

17.124.070 Required materials and opacity.

Required landscaping, fences, and walls shall be composed of the materials prescribed in other provisions of the zoning regulations.

A. Where trees are required, they shall be of a species, degree of maturity, and spacing prescribed by the Director of City Planning, subject to the right of appeal from such determination pursuant to the administrative appeal procedure in Chapter 17.132.

B. Where dense landscaping to a specified height is prescribed, the landscaping shall be of a type which will provide a year-round barrier to the prescribed height, and shall be so spaced that vision of objects on the opposite side is effectively eliminated.

C. Where a grille fence or wall is prescribed, it shall have a uniform screen or other open-work design, with an opacity of not less than twenty-five (25) and not more than seventy-five (75) percent. (Ord. 12376 § 3 (part), 2001: prior planning code § 8102)

17.124.100 Exceptions to requirements.

The landscaping and screening requirements set forth in other provisions of the zoning regulations shall be subject to the following exceptions:

A. Equivalent Screening on Abutting Lot. Prescribed fences, walls, or dense landscaping need not be provided along a lot line if a building, fence, wall, or dense landscaping of at least equivalent height, opacity, and maintenance exists immediately abutting and on the opposite side of said lot line.

B. Window on Abutting Lot. Prescribed fences, walls, or dense landscaping need not be higher than three and one-half (3 ½) feet when located opposite and within three (3) feet of any window in a Resi-

dential Facility on an abutting lot, other than a window in a basement or cellar, or within three (3) feet of any portion of the same story of the wall containing such window and lying within ten (10) feet in either direction from said window. Landscaping or a fence or wall shall be considered opposite such a window or portion of wall whenever it would be intersected by a horizontal plane drawn from the wall perpendicularly to the window.

C. Adjacent to Excavated Parking or Other Area. Where a parking, loading, storage, or similar area, or usable open space, is excavated below adjoining finished grade, the depth of excavation may be deducted there from the prescribed height of fences, walls, or landscaping required to screen the area or space.

D. Height Within Required Minimum Yard or Court. Required fences, walls, or dense landscaping need not be higher than three and one-half (3 ½) feet in that portion of any required minimum yard which lies within ten (10) feet of any street line. The height of fences, walls, and dense landscaping shall be limited within all required minimum yards and courts by the applicable provisions of Section 17.108.140.

E. General Exceptions to Prescribed Heights. The prescribed heights of dense landscaping shall indicate the height to be attained within three (3) years after planting. The height at time of planting may be not more than two (2) feet lower for dense landscaping required to be taller than five (5) feet, and not more than one (1) foot lower for dense landscaping for which a height of less than five (5) feet is prescribed. An earthen berm not taller than two (2) feet may count toward the prescribed height of any fence, wall, or dense landscaping. (Ord. 12553 § 3 (part), 2003; Ord. 12376 § 3 (part), 2001: prior planning code § 8110)

Chapter 17.128

TELECOMMUNICATIONS REGULATIONS

17.128.050 Micro Facilities.

A. General Development Standards for Micro Facilities.

1. The Micro Facilities shall be located on existing buildings, poles or other existing support structures.

2. Antennas may not project more than one (1) foot above the top of the structure and there may be no more than six (6) antennas per site. Antennas are exempt from the height limitation of the zone in which they are located. Structures which are nonconforming with respect to height, may be used for omni directional antennas providing they do not exceed four (4) feet above the existing structure. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

3. The equipment cabinet must be concealed from public view or placed underground. The cabinet must be regularly maintained.

4. The applicant shall submit written documentation demonstrating that the emissions from the proposed project are within the limits set by the Federal Communications Commission.

B. **Design Review Criteria for Micro Facilities.** In addition to the design review criteria listed in Chapter 17.136, the following specific additional criteria must be met when design review is required before an application can be granted:

1. Antennas should be painted and/or textured to match the existing structure.

2. Antennas mounted on architecturally significant structures or significant architectural details of the building should be covered by appropriate casings which are manufactured to match existing architectural features found on the building.

3. Where feasible, antennas can be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.

4. That all reasonable means of reducing public access to the antennas and equipment has been made, including, but not limited to, placement in or on buildings or structures, fencing, anti-climbing measures and anti-tampering devices.

C. **Conditional Use Permit Criteria for Micro Facilities.** In addition to the conditional use criteria listed in Chapter 17.134, the following specific additional criteria must be met before a conditional use permit can be granted:

1. The project must be demonstrated to have no visual impact.

2. The project must meet the special design review criteria listed in subsection B of this section.

(Ord. 11904 § 5.01 (part), 1996: prior planning code § 8505)

17.128.080 Monopoles.

A. General Development Standards for Monopoles.

1. Applicant and owner shall allow other future wireless communications companies including public and quasi-public agencies using similar technology to collocate antenna equipment and facilities on the monopole unless specific technical or other constraints, subject to independent verification, at the applicant's expense, at the discretion of the City of Oakland Zoning Manager, prohibit said collocation. Applicant and other wireless carriers shall provide a mechanism for the construction and maintenance of shared facilities and infrastructure and shall provide for equitable sharing of cost in accordance with industry standards. Construction of future facilities shall not interrupt or interfere with the continuous operation of applicant's facilities.

2. The equipment shelter or cabinet must be concealed from public view or made compatible with the architecture of the surrounding structures or placed underground. The shelter or cabinet must be regularly maintained.

3. When a monopole is in a residential zone or adjacent to a residential use, it must be set back from the nearest residential lot line a distance at least equal to its total height.

4. Monopolar structure and connecting appurtenances shall not exceed eighty (80) feet in zones M-30 and M-40, C-35 through C-60, with design review and M-20 with a conditional use permit. Monopoles are permitted up to a height of forty-five (45) feet in all other zones with a conditional use permit.

5. The applicant shall submit written documentation demonstrating that the emissions from the proposed project are within the limits set by the Federal Communications Commission.

6. Antennas may not extend more than fifteen (15) feet above their supporting structure.

B. **Design Review Criteria for Monopoles.** In addition to the design review criteria listed in Chapter 17.136, the following specific additional criteria must be met when design review is required before an application can be granted:

1. Collocation is to be encouraged when it will decrease visual impact and collocation is to be discouraged when it will increase negative visual impact.

2. Monopoles should not be sited to create visual clutter or negatively affect specific views.

3. Monopoles shall be screened from the public view wherever possible.

4. The equipment shelter or cabinet must be concealed from public view or made compatible with the architecture of the surrounding structures or placed underground. The shelter or cabinet must be regularly maintained.

5. Site location and development shall preserve the preexisting character of the surrounding buildings and land uses and the zone district as much as possible. Wireless communication towers shall be integrated through location and design to blend in with the existing characteristics of the site to the extent practical. Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area.

6. That all reasonable means of reducing public access to the antennas and equipment has been made, including, but not limited to, placement in or on buildings or structures, fencing, anti-climbing measures and anti-tampering devices.

C. **Conditional Use Permit Criteria for Monopoles.** In addition to the conditional use criteria listed in Chapter 17.134, the following specific additional criteria must be met before a conditional use permit can be granted:

1. The project must meet the special design review criteria listed in subsection B of this section.

2. Monopoles should not be located any closer than one thousand five hundred (1,500) feet from existing monopoles unless technologically required or visually preferable.

3. The proposed project must not disrupt the overall community character.

4. If a major conditional use permit is required, the Planning Director or the Planning Commission may request independent expert review regarding site location, collocation and facility configuration. Any party may request that the Planning Commission consider making such request for independent expert review.

a. If there is any objection to the appointment of an independent expert engineer, the applicant must notify the Planning Director within ten (10) days of the Commission request. The Commission will hear arguments regarding the need for the independent expert and the applicant's objection to having one appointed. The Commission will rule as to whether an independent expert should be appointed.

b. Should the Commission appoint an independent expert, the Commission will direct the Planning Director to pick an expert from a panel of licensed engineers, a list of which will be compiled, updated and maintained by the Planning Department.

c. No expert on the panel will be allowed to review any materials or investigate any application without first signing an agreement under penalty of perjury that the expert will keep confidential any and all information learned during the investigation of the application. No personnel currently employed by a telecommunication company are eligible for inclusion on the list.

d. An applicant may elect to keep confidential any proprietary information during the expert's investigation. However, if an applicant does so elect to keep confidential various items of proprietary information, that applicant may not introduce the confidential proprietary information for the first time before the Commission in support of the application.

e. The Commission shall require that the independent expert prepare the report in a timely fashion so that it will be available to the public prior to any public hearing on the application.

f. Should the Commission appoint an independent expert, the expert's fees will be paid by the applicant through the application fee, imposed by the city. (Ord. 12272 § 4 (part), 2000; Ord. 12237 § 4 (part), 2000; Ord. 11904 § 5.01 (part), 1996: prior planning code § 8508)

Chapter 17.134

CONDITIONAL USE PERMIT PROCEDURE

17.134.020 Definition of major and minor conditional use permits.

A. Major Conditional Use Permit. A ~~major~~ conditional use permit is ~~one that~~ considered a major conditional use permit if it involves any of the following:

1. Thresholds. Any project 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 acre;

b. Nonresidential projects involving twenty-five thousand (25,000) square feet or more of floor area, except in the R-80, R-90, C-51, C-55, S-2, or S-15 zones;

c. Residential projects requiring a conditional use permit for density resulting in a total number of ~~dwelling~~ living units as follows:

~~i. Two (2) or more dwelling units in the R-35 zone, except in the case of a Secondary Unit,~~

~~ii.~~ Three or more dwelling units in the R-36 or R-40 zone,

~~iii~~ii. Seven (7) or more dwelling units in the R-50 zone.

d. Residential projects requiring a conditional use permit to exceed the basic or permitted density resulting in 7 or more ~~dwelling~~ living units in the R-60, R-70, R-80, or R-90 zone.

e. Large Scale Developments. Any development which is located in the R-80, R-90, C-51, C-55, S-2, or S-15 zone and results in more than one hundred thousand (100,000) square feet of new floor area, or a new building, or portion thereof, of more than one hundred twenty (120) feet in height.

2. Uses. Any project that involves any of the following activity or facility types except where the proposal involves only accessory parking, the resumption of a discontinued nonconforming activity, or an addition to an existing activity which does not increase the existing floor area by more than twenty (20) percent:

a. Activities:

i. Residential Care Residential,

ii. Service Enriched Housing Residential,

iii. Transitional Housing Residential,

iv. Emergency Shelter Residential,

v. Extensive Impact Civic,

vi. Convenience Market Commercial,

vii. Fast-food Restaurant Commercial,

viii. Alcoholic Beverage Sales Commercial or sale of alcoholic beverages at any full-service restaurant in a location described by Section 17.102.210(B),

ix. Heavy Manufacturing,

x. Small Scale Transfer and Storage Hazardous Waste Management,

xi. Industrial Transfer/Storage Hazardous Waste Management,

xii. Mining and Quarrying Extractive;

b. Facilities:

i. Drive-Through,

ii. Advertising Sign, except when the facility meets the requirements of Section 17.11.090.

iii. Special Health Care Civic Activities.

3. Special Situations. Any project that involves any of the following situations:

a. Any project that requires development of an Environmental Impact Report;

b. Any single establishment containing a Commercial or Manufacturing Activity, or portion thereof, which is located in any residential zone and occupies more than ~~one thousand five hundred (1,500)~~five thousand (5,000) square feet of floor area, except where the proposal involves only the resumption of a nonconforming activity;

c. Off-Street Parking Facilities in the C-40, C-51, C-52 and S-2 zones serving fifty (50) or more vehicles;

d. Transient Habitation Commercial Activities in the C-40 and C-45 zones;

e. Monopole Telecommunications Facilities in, or within three hundred (300) feet of the boundary of, any residential zone;

f. Any project in the OS zone listed as requiring a major conditional use permit in Chapter 17.11;

g. Any electroplating activity as defined in Section 17.09.040 subject to the provisions of Section 17.102.340;

h. Any conditional use permit application referred by the Director of City Planning to the City Planning Commission for decision pursuant to Section 17.134.040(B)(1);

i. Any Telecommunications Facility in or within one hundred (100) feet of the boundary of any residential zone;

j. Any Telecommunications Facility whose antennas and equipment are not fully concealed from view within three hundred (300) feet of the boundary of residential zones R-1 through R-60 inclusive.

B. Minor Conditional Use Permit. A minor conditional use permit is a conditional use permit which does not involve any of the purposes listed in subsection A of this section.

(Ord. 12501 § 80, 2003: Ord. 12450 § 19, 2002; Ord. 12350 § 3 (part), 2001; Ord. 12272 § 4 (part), 2000; Ord. 12237 § 4, 2000; Ord. 12234 § 4, 2000; Ord. 12224 § 7, 2000; Ord. 12205 § 4 (part), 2000; Ord. 12199 § 9 (part), 2000; Ord. 12138 § 4 (part), 1999; Ord. 12078 § 5 (part), 1998; Ord. 12072 § 12, 1998; Ord. 12016 § 2 (part), 1997; Ord. 11904 § 5.91, 1996; Ord. 11892 § 21, 1996; Ord. 11539 § 2, 1993; prior planning code § 9201)

17.134.040 Procedures for consideration.

A. Major Conditional Use Permits.

1. In All Zones. An application for a major conditional use 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 involved in the application. Notice of the hearing shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing. The Commission shall determine whether the proposal conforms to the general use permit criteria set forth in Section 17.134.050 and to other applicable use permit criteria, and may grant or deny the application for the proposed conditional use permit or require such changes or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. 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 17.134.070. 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.

2. Alcoholic Beverage Sales Activities in Alcoholic Beverage Sales License Overconcentrated Areas. In addition to following the provisions of subsection (A)(1) of this section, the City Planning Commission shall also determine whether the proposal conforms to the criteria for findings of "Public Convenience and Necessity" set forth in Section 17.102.210(B)(3).

3. In the OS Zone. Applications for conditional use permits in the OS zone shall be subject to the special use permit review procedure for the OS zone established in Chapter 17.135.

B. Minor Conditional Use Permits.

1. In All Zones. An application for a minor conditional use permit shall be considered by the Director of City Planning. However, the Director may, at his or her discretion, refer the application to the City Planning Commission for decision rather than acting on it himself or herself. In this case, the application shall be processed as a major conditional use permit pursuant to subsection A of this section. At his or her discretion, an administrative hearing may be held. Notice shall be given by posting an enlarged notice on premises

of the subject property involved in the application; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing, if such is to be held, or, if not, for decision on the application by the Director. The Director shall determine whether the proposal conforms to the general use permit criteria set forth in Section 17.134.050 and to other applicable use permit criteria, and may grant or deny the application for the proposed conditional use permit or require such changes in the proposed use or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to said criteria. The determination of the Director of City Planning shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.134.060. In those cases which are referred to the Commission by the Planning Director, the decision of the Commission shall become final ten (10) days after the date of decision unless appealed to the City Council in accordance with Section 17.134.070. 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.

2. In the OS Zone. Applications for conditional use permits in the OS zone shall be subject to the special use permit review procedure for the OS zone established in Chapter 17.135.

C. 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 A and B of this section. (Ord. 12237 § 4 (part), 2000; Ord. 12073 § 5 (part), 1998; Ord. 11904 §§ 5.92, 5.93, 1996; Ord. 11831 § 5, 1995; prior planning code § 9203)

17.134.060 Appeal to Planning Commission--Minor conditional use permits.

Within ten (10) calendar days after the date of a decision by the Director of City Planning on an application for a minor conditional use permit, an appeal from said decision may be taken to the City Planning Commission by the applicant or any other interested party. In the case of appeals involving one- or two-unit Residential Facilities, the appeal shall be considered by the Commission's Residential Appeals Committee. 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. Such appeal shall be made on a form prescribed by the City Planning Department and shall be filed with such Department. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director or wherein his or her decision is not supported by the evidence in the record. Upon receipt of the appeal, the Secretary of the City Planning Commission shall set the date for consideration thereof; which in the case of applications limited to one- or two-unit Residential Facilities, shall be the date of the Committee's next regularly scheduled meeting following the thirtieth day after the appeal is filed. Not less than seventeen (17) days prior to the date of the Commission's or Committee's consideration of the appeal, the Secretary shall give written notice 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. In considering the appeal, the Commission or, if applicable, the Committee shall determine whether the proposal conforms to the general use permit criteria set forth in Section 17.134.050 and to any other applicable use permit criteria, and may grant or deny a permit or require such changes in the proposed use or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The decision of the Commission or, if applicable, the Committee shall be final. (Ord. 12376 § 3 (part), 2001: prior planning code § 9205)

17.134.070 Appeal to Council--Major conditional use permits.

A. With the exceptions of appeal for adult entertainment activities, appeals to the City Council shall be governed by the following:

Within ten (10) calendar days after the date of a decision by the City Planning Commission on an application for a major conditional use permit, an appeal from said decision may be taken to the City Council by

the applicant, the permit holder, or any other interested party. 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. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk. 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. 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 receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) days prior thereto, give written notice 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. In considering the appeal, the Council shall determine whether the proposed use conforms to the applicable use permit criteria, and may grant or deny a permit or require such changes in the proposed use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said criteria. The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided.

B. Appeals to the City Council relating to adult entertainment activities shall be governed by the following:

Within ten (10) calendar days after the date of a decision by the City Planning Commission on an application for a major conditional use permit, an appeal from said decision may be taken to the City Council by the applicant, the permit holder, or any other interested party. 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. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk. 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. Upon receipt of the appeal, the Council shall set the date for consideration thereof. 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; and said Secretary shall, not less than seventeen (17) days prior thereto, give written notice 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. In considering the appeal, the council shall determine whether the proposed use conforms to the applicable special use permit criteria, and shall grant the permit if it determines that all the said criteria are present or require such chances in the proposed use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said criteria. The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided. In any event, however, the City Council must decide the appeal within sixty (60) days of the appeal being filed. (Ord. 12199 § 9 (part), 2000; prior planning code § 9206)

17.134.120 Limitation on resubmission.

Whenever an application for a major conditional use permit has been denied by the City Council or denied by the Planning Commission and the applicant fails to file a timely appeal with the City Council, no such application for essentially the same proposal affecting the same property, or any portion thereof, shall be

filed within one year after the date of denial. This section shall not apply in instances where the applicant can show, on the face of any subsequent application, changed circumstances sufficient to justify a reheating. Applications for hearing pursuant to this section shall be considered by the Director of City Planning. 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 City Planning Commission shall be final. (Prior planning code § 9210)

Chapter 17.140

PLANNED UNIT DEVELOPMENT PROCEDURE

17.140.010 Title, purpose, and applicability.

The provisions of this chapter shall be known as the planned unit development procedure. The purpose of these provisions is to prescribe the procedure for the review of planned unit developments and to encourage those which are appropriately designed and located. This procedure shall apply to all proposed developments for which a permit is required by Section 17.142.030. ~~17.122.030.~~ Whenever such a development is subject to the real estate subdivision regulations, this procedure shall be complied with, and, in addition thereto, such regulations. (Prior planning code § 9400)

17.140.020 Application.

Application for a planned unit development 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, ~~17.122.040,~~ on a form prescribed by the City Planning 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 years, the design and arrangement of those portions of the project to be constructed more than four 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 one 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. (Prior planning code § 9401)

17.140.030 Preliminary Planning Commission action.

An application for a planned unit development 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 persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. *All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing.* If, however, the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement these procedures. 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 ~~17.122~~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 ensure conformity to said criteria and regulations. In so doing, the Com-

mission 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. 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. (Prior planning code § 9402)

17.140.040 Submission of final development plan.

Within one (1) year after the approval or modified approval of a preliminary development plan, the applicant shall file with the City Planning 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. 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. If the final plan, meeting the requirements stated in this section, is not submitted within one (1) year after the date of approval or modified approval of the preliminary development plan, whether approved by operation of law or otherwise, the preliminary development plan shall be considered void. (Ord. 11828 § 2, 1995: prior planning code § 9403)

17.140.060 Final Planning Commission action.

Upon receipt of the final development plan, the City Planning Commission shall examine such plan and determine whether it conforms to all applicable criteria and standards and whether it conforms in all substantial respects to the previously approved preliminary development plan, or, in the case of the design and arrangement of those portions of the plan shown in generalized, schematic fashion, whether it conforms to applicable design review criteria. After receiving a final development plan which includes design and arrangement of portions of the project shown in generalized, schematic fashion on the preliminary development plan, the Commission shall hold a public hearing before taking action. Notice of the hearing shall be given in the same manner as set forth in Section 17.140.030. The Commission may grant or deny a planned unit development permit or require such changes in the proposed development or impose such conditions of approval as are in its judgment necessary to ensure conformity to the applicable criteria and standards. In so doing, the Commission may permit the applicant to revise the plan and resubmit it as a final development plan within thirty (30) days. If the Commission does not grant such permission, the decision 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. 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. (Prior planning code § 9405)

17.140.070 Appeal to Council.

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 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 Commission and shall be filed with the City Clerk. 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. 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; and said Secretary shall, not less than seventeen (17) days prior thereto, give written notice 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. 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 ensure conformity to said criteria and standards. The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided. (Prior planning code § 9406)

17.140.080 Permit criteria.

A planned unit development permit may be granted only if it is found that the development (including conditions imposed under the authority of Sections 17.142.060 ~~17.122.060~~ and 17.140.030) conforms to all of the following criteria, as well as to the planned unit development regulations in Chapter ~~17.122~~17.142:

A. That the location, design, size, and uses are consistent with the Oakland ~~Comprehensive~~ General Plan and with any other applicable plan, development control map, or ordinance adopted by the City Council;

B. That the location, design, and size are such that the development can be well integrated with its surroundings, and, in the case of a departure in character from surrounding uses, that the location and design will adequately reduce the impact of the development;

C. That the location, design, size, and uses are such that traffic generated by the development can be accommodated safely and without congestion on major streets and will avoid traversing other local streets;

D. That the location, design, size, and uses are such that the residents or establishments to be accommodated will be adequately served by existing or proposed facilities and services;

E. That the location, design, size, and uses will result in an attractive, healthful, efficient, and stable environment for living, shopping, or working, the beneficial effects of which environment could not otherwise be achieved under the zoning regulations;

F. That the development will be well integrated into its setting, will not require excessive earth moving or destroy desirable natural features, will not be visually obtrusive and will harmonize with surrounding areas and facilities, will not substantially harm major views for surrounding residents, and will provide sufficient buffering in the form of spatial separation, vegetation, topographic features, or other devices. (Prior planning code § 9407)

Chapter 17.~~122~~142

PLANNED UNIT DEVELOPMENT REGULATIONS

Sections:

17.~~122~~142.010 Title, purposes, and applicability.

The provisions of this chapter shall be known as the planned unit development regulations. The purposes of these regulations are to encourage the appropriate development of tracts of land sufficiently large to allow comprehensive planning, and to provide flexibility in the application of certain regulations in a manner consistent with the general purposes of the zoning regulations, thereby promoting a harmonious variety of uses, the economy of shared services and facilities, compatibility with surrounding areas, and the creation of attractive, healthful, efficient, and stable environments for living, shopping, or working. These regulations shall apply to all large, integrated developments for which a planned unit development permit is required by Section 17.~~122~~142.030. (Prior planning code § 7800)

17.~~122~~142.020 Definition of planned unit development.

A **"planned unit development"** is a large, integrated development adhering to a comprehensive plan and located on a single tract of land, or on two or more tracts of land which may be separated only by a street or other right-of-way. (Prior planning code § 7801)

17.~~122~~142.030 Developments for which approval is required.

The following developments are permitted only upon the granting of a planned unit development permit pursuant to the planned unit development procedure in Chapter 17.140. Other large, integrated developments are permitted without such a permit, but shall be subject to all regulations generally applying in the zone in which they are located.

A. Any planned unit development incorporating any of the bonuses set forth in Section 17.~~122~~142.100;

B. Any integrated development which is primarily designed for or occupied by Commercial Activities, which is located in any commercial zone, and which is developed under unified control, in accordance with a comprehensive plan, on a single tract with sixty thousand (60,000) square feet or more of land area, or on two or more tracts which total such area and which are separated only by a street or other right-of-way. (Prior planning code § 7802)

17.~~122~~142.040 Ownership and division of land.

If any of the bonuses set forth in Section 17.~~122~~142.100 are proposed for a development, the tract or tracts of land included in such development must be in one ownership or control or the subject of a joint application by the owners of all the property included. The holder of a written option to purchase; any governmental agency, including the Redevelopment Agency of the city; or a redeveloper under contract with the Redevelopment Agency shall be deemed the owner of such land for the purposes of this section. Unless other-

wise provided as a condition for approval of a planned unit development permit, the permittee may divide and transfer units of any development for which a permit is required by Section 17.~~122~~142.030. The transferee shall complete each such unit, and use and maintain it, in strict conformance with the approved permit and development plan. (Prior planning code § 7803)

17.~~122~~142.050 Professional design.

If any of the bonuses set forth in Section 17.~~122~~142.100 are proposed for a planned unit development, the application for a planned unit development permit pursuant to said section shall utilize ~~certify that the talents of~~ the following professionals ~~will be utilized at some stage~~ in the design process for the development:

A. An architect licensed by the state of California; and

B. A landscape architect licensed by the state of California, or an urban planner holding or capable of holding membership in the American Institute of Certified Planners. (Prior planning code § 7804)

17.~~122~~142.060 Dedication of public facilities and maintenance of open space.

The City Planning Commission or, on appeal, the City Council may, as a condition of approval of any development for which a permit is required by Section 17.~~122~~142.030, require that suitable areas for schools, parks, or playgrounds be set aside, improved, and dedicated for public use, or be permanently reserved for the owners, residents, employees, or patrons of the development. Whenever group or common open space is provided, the Commission or the Council, as the case may be, may require that an association of owners or tenants be created for the purpose of maintaining such open space. Such an association, if required, may undertake other functions. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessments levied to maintain said open space for the purposes intended. The period of existence of such association shall be not less than twenty (20) years, and it shall continue thereafter until a majority vote of the members shall terminate it. (Prior planning code § 7805)

17.~~122~~142.070 Performance bonds.

The City Planning Commission or, on appeal, the City Council may, as a condition of approval of any development for which a permit is required by Section 17.~~122~~142.030, require a cash bond or surety bond for the completion of all or specified parts of the development deemed to be essential to the achievement of the purposes set forth in Section 17.~~122~~142.010. The bond shall be in a form approved by the City Attorney, in a sum of one hundred (100) percent of the estimated cost of the work, and conditioned upon the faithful performance of the work specified within the time specified. (Prior planning code § 7806)

17.~~122~~142.080 Zones in which bonuses may be granted.

The bonuses set forth in Section 17.~~122~~142.100 may, upon approval pursuant thereto and except as otherwise specified therein, be permitted for a planned unit development in any residential or commercial zone or in the S-1, S-2 or S-15 zone. (Ord. 11892 § 19, 1996: prior planning code § 7810)

17.~~122~~142.090 Minimum size for which bonuses may be granted.

The minimum total land area of any planned unit development incorporating any of the bonuses set forth in Section 17.~~122~~142.100 shall be four (4) acres in the R-1, R-10, R-20, and R-30 zones, and sixty thousand (60,000) square feet in all other zones except the C-20 zone. In the C-20 zone, the minimum total land area shall be four (4) acres for any planned unit development incorporating any of the bonuses set forth in Section 17.~~122~~142.100(E), and sixty thousand (60,000) square feet for any other planned unit development incorporating any of the bonuses set forth in Section 17.~~122~~142.100. (Ord. 12272 § 4 (part), 2000: prior planning code § 7811)

17.~~122~~142.100 Bonuses.

For planned unit developments qualifying under Sections 17.~~122~~142.080 and 17.~~122~~142.090, the following exceptions to otherwise applicable regulations may be permitted upon the granting of a planned unit development permit pursuant to the planned unit development procedure in Chapter 17.140:

A. Additional Permitted Activities Where Increase in Overall Density or Floor-Area Ratio Is Proposed. Except in the R-1, R-10, R-20, and R-30 zones, the following activities, as described in the use classifications in Chapter 17.10, may be permitted in a planned unit development incorporating an increase in overall density or floor-area ratio pursuant to subsection E of this section, in addition to the activities generally permitted in the zone where the development is located:

1. Residential Activities:
   Permanent
2. Civic Activities:
   Limited Child-Care
   Community Education
3. Commercial Activities, provided that such activities shall not occupy in the aggregate more than four (4) percent of the total floor area in such development, provided that the maximum floor area devoted to such activities by any single establishment shall be three hundred (3,000) square feet, and further provided that such activities shall not be permitted at all in any such development which has an overall density in Residential Facilities of less than forty (40) ~~dwelling~~ living units per net residential acre (excluding streets and other rights-of-way):
   General Food Sales
   Convenience Market
   Fast-Food Restaurant
   Alcoholic Beverage Sales
   Convenience Sales and Service
   Medical Service

B. Further Additional Permitted Activities Where No Increase in Overall Density or Floor-Area Ratio Is Proposed. Except in the R-1, R-10, R-20, and R-30 zones, the following activities, as described in the use classifications, may be permitted in a planned unit development for which no increase in overall density or floor-area ratio is proposed pursuant to subsection E of this section, in addition to the activities listed in subsection A of this section and in addition to the activities generally permitted in the zone in which the development is located. The special limitations prescribed in subsection (A)(3) of this section with respect to location and amount of floor area devoted to Commercial Activities shall not apply in such a development.

1. Residential Activities:
   Semi-Transient
2. Civic Activities:
   Nursing Home
   Community Assembly
   Nonassembly Cultural
   Administrative
   Utility and Vehicular
3. Commercial Activities:
   Mechanical or Electronic Games
   General Retail Sales
   General Personal Service
   Consultative and Financial Service
   Consumer Laundry and Repair Service
   Group Assembly
   Administrative
   Business and Communication Service
   Retail Business Supply
   Research Service

General Wholesale Sales
Automotive Servicing
Automotive Fee Parking
Animal Care

4. Manufacturing Activities:
Custom

C. Additional Permitted Facilities in R-30 Zone. In the R-30 zone the following facilities, as described in the use classifications, may be permitted in addition to the facilities otherwise permitted in said zone, provided that at least fifty (50) percent of the dwelling units in the total development shall be One-Family Dwellings:

1. Residential Facilities:
One-Family Dwelling with Secondary Unit
Two-Family Dwelling
Multifamily Dwelling

D. Additional Permitted Facilities in Other Zones. Except in the R-1, R-10, R-20, and R-30 zones, the following facilities, as described in the use classifications, may be permitted in addition to the facilities otherwise permitted in the zone in which the development is located:

1. Residential Facilities:
One-Family Dwelling
One-Family Dwelling with Secondary Unit
Two-Family Dwelling
Multifamily Dwelling
Rooming House

2. Nonresidential Facilities:
Open
Drive-In

3. Signs:
Residential
Business

E. Increase in Overall Density or Floor-Area Ratio.

1. Except in the R-1, R-10, R-20, and R-30 zones and except in a development incorporating the bonuses specified in subsection B of this section, the maximum overall number of living units in Residential Facilities and the maximum overall floor-area ratio, if any, otherwise permitted or conditionally permitted in the zone in which the development is located may be increased by up to thirty-three (33) percent if the development contains a combination of two (2) or more of the following dwelling types and if not more than two-thirds (2/3) of the total number of living units are included in any one of such types:

a. Detached buildings each containing only one ~~dwelling~~ living unit;

b. Town house or similar one-family semi-detached or attached buildings each containing only one ~~dwelling~~ living unit;

c. Buildings each containing two ~~dwelling~~ living units;

d. Buildings each containing more than two ~~dwelling~~ living units.

2. Except in the R-1, R-10, R-20, and R-30 zones and except in a development incorporating the bonuses specified in subsection B of this section, the maximum overall number of living units in Residential Facilities and the maximum overall floor-area ratio, if any, otherwise permitted or conditionally permitted in the zone in which the development is located may be increased by up to twenty-five (25) percent in a development other than one described in subsection (E)(1) of this section.

F. Distribution of Facilities w~~W~~ithout Reference to Lot or Block Line. The overall number of living units and amount of floor area, off-street parking and loading facilities, usable open space, and landscaping and screening may be located within the development without reference to lot lines or blocks, except as otherwise provided in Section 17.~~122~~142.110(I) and except that required parking spaces serving Residential Activities shall be located within two hundred (200) feet of the building containing the living units served.

G. Waiver or Reduction of Yard and Other Dimensional Requirements. Except as otherwise provided in Section 17.~~122~~142.110(E), the minimum lot area, width, and frontage; height; and yard requirements otherwise applying may be waived or modified for the purpose of promoting an integrated site plan.

H. Limitations on Signs. Except in the R-1, R-10, R-20, and R-30 zones and except in a development incorporating an increase in density or floor-area ratio pursuant to subsection E of this section, Signs may be developed subject to the limitations prescribed therefor in the C-20 zone rather than those in the zone in which the development is located. (Ord. 12272 § 4 (part), 2000; prior planning code § 7812)

17.~~122~~142.110 Development standards.

The following regulations shall apply to all developments for which a permit is required by Section 17.~~122~~142.030:

A. Density and Floor-Area Ratio Calculation. The maximum overall number of living units in Residential Facilities and the maximum overall floor-area ratio, if any, shall be based on the land area within the development, excluding the following:

1. Publicly dedicated streets, freeways, alleys, and paths;

2. When computing density for Residential Facilities in the R-1, R-10, R-20, R-30, R-35, R-36, R-40, R-50, C-10, C-20, or C-60 zone, the following:

a. Land, other than public housing sites, which is publicly owned or reserved for public ownership,

b. Land which is specifically devoted to or intended for Nonresidential Facilities.

B. Density in the R-1, R-10, R-20, and R-30 Zones. In the R-1 and R-10 zones, the maximum number of dwelling units shall be one unit for each twenty-five thousand (25,000) square feet of land area as described in subsection A of this section. In the R-20 zone, the maximum number of dwelling units shall be one unit for each twelve thousand (12,000) square feet of land area as described in subsection A of this section. In the R-30 zone, the maximum number of dwelling units shall be one unit for each five thousand (5,000) square feet of land area as described in subsection A of this section.

C. Height in the R-30 Zone. In the R-30 zone, no building shall exceed fifty (50) feet in height, except as would otherwise be allowed by Section 17.108.020(A) and except for the same projections as are allowed by Section 17.108.030.

D. Performance Standards. Any Commercial or Manufacturing Activities in the development shall be subject to the applicable provisions of the performance standards in Chapter 17.120.

E. Yards and Courts. Yards and courts shall be provided of such depth and width as to provide the same minimum separation between walls of Residential Facilities or between such facilities and the walls of other facilities, regardless of whether such walls are on the same or on separate lots, as is generally required in the R-60 zone for courts between such walls when located on the same lot.

F. Usable Open Space. In the R-1, R-10 and R-20 zones, two hundred (200) square feet of group usable open space per dwelling unit and three hundred (300) square feet of private usable open space per dwelling unit shall be provided for Residential Facilities; and in the R-30 zone, two hundred (200) square feet of group usable open space per dwelling unit and one hundred (100) square feet of private usable open space per dwelling unit shall be provided for Residential Facilities. In any other zone, in any development incorporating an increase in overall density or floor-area ratio pursuant to Section 17.~~122~~142.100(E), group usable open space shall be provided for Residential Facilities in the minimum amount of two hundred (200) square feet per dwelling unit. Except as otherwise provided in Section 17.~~122~~142.100(F), all required usable open space shall conform to the standards for required usable open space in Chapter 17.126, and private usable open space may be substituted for required group space in the ratio prescribed in said chapter.

G. *Undergrounding of Utilities. In any development which is primarily designed for or occupied* by Residential Activities, all electric and telephone facilities; fire alarm conduits; streetlight wiring; and other wiring, conduits, and similar facilities shall be placed underground by the developer. Electric and telephone facilities shall be installed in accordance with standard specifications of the serving utilities. Street lighting and fire alarm facilities shall be installed in accordance with standard specifications of the Electrical Department.

H. Other Regulations. Except as otherwise provided in Section 17.~~122~~142.100 and in this section, and except as more restrictive regulations may be prescribed pursuant to Section 17.~~122~~142.060 or otherwise as a condition of approval of a planned unit development permit pursuant to Section 17.~~122~~142.030, the development shall be subject to the regulations generally applying in the zone in which it is located and the provisions of Section 17.108.080.

I. Developments Divided by Boundaries. Any development which is divided by a boundary between zones shall be subject as if it were a single lot to the provisions of subsections (B)(2), (3), and (4) of Section 17.102.070 with respect to calculation of required parking, loading, and usable open space; calculation of maximum number of living units or floor-area ratio; and distribution of the resulting number of living units or amount of floor area. (Ord. 12272 § 4 (part), 2000; prior planning code § 7813)

Chapter 17.144

REZONING AND LAW CHANGE PROCEDURE

17.144.060 Planning Commission action on private party application.

In the case of private party initiation, the City Planning Commission shall hold a public hearing on the application within sixty (60) days after the date of 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 persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date 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. Within sixty (60) days following Commission action on any environmental document which may be required pursuant to the California Environmental Quality Act in connection with the proposal, the Commission shall make a decision on the application; provided that the Commission may, with the consent of the applicant, defer action until necessary studies or plans shall have been completed for the area. The Commission shall consider whether the existing zone or regulations are inadequate or otherwise contrary to the public interest, and may approve, modify, or disapprove the application. In case of approval or modified approval, the Commission shall forward its recommendation to the City Council for appropriate action. In case of denial of a private party application, the decision of the Commission shall become final ten (10) calendar days after the date of the decision unless appealed to the City Council in accordance with Section 17.144.070. 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. (Prior planning code § 9505)

17.144.070 Appeal to Council by private party.

Within ten (10) calendar days after the date of an adverse decision by the City Planning Commission on a private party application, an appeal from said decision may be taken to the City Council by the applicant. 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. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed the Commission erred in its decision. The appeal shall be considered in accordance with Section 17.144.090. (Prior planning code § 9506)

17.144.080 Planning Commission action on Commission or Landmarks Board proposal.

In the case of initiation by the City Planning Commission or the Landmarks Preservation Advisory Board, the Commission shall, within a reasonable period of time, hold a public hearing on the proposal. Notice of the hearing shall be given in the same manner as set forth in Section 17.144.060. In addition, notice of the hearing shall be mailed or delivered not less than seventeen (17) days prior to the date set for the hearing to the owners of all real property included in the proposal as shown on the last available equalized assessment roll; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. If, however, the conditions as set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement these procedures. When the proposal involves changing the text of the zoning regulations, notice of the hearing shall be given in the official newspaper of the city at least seventeen (17) ~~ten~~ days prior to the date set for the hearing. Within sixty (60) days following Commission action on any environmental document which may be required pursuant to the California Environmental Quality Act in connection with the proposal, the Commission shall make a decision on the proposal; provided that the Commission may defer action until completion of such studies or plans as may be necessary to determine the advisability of the proposal. The Commission shall con-

sider whether the existing zone or regulations are inadequate or otherwise contrary to the public interest, and may approve, modify, or disapprove the proposal. The Commission shall, in every case, make a recommendation to the City Council for appropriate action.
(Prior planning code § 9507)

17.144.090 Council action.

Upon receipt of an appeal by a private party, or upon receipt of a recommendation from the City Planning Commission, the City Council shall set the date for consideration of the matter. After setting the hearing date, the Council, prior to hearing the appeal or recommendation, 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 scheduled 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. In the case of receipt of a recommendation from the City Planning Commission, the City Clerk shall notify the Secretary of the City Planning Commission of the date set for consideration thereof; and said Secretary shall give notice of the hearing by mail or delivery to all parties who have commented on the matter and to other interested parties as deemed appropriate. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing.

In the case of an appeal by a private party, the City Clerk shall notify the Secretary of the City Planning Commission of the receipt of the appeal and of the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) ~~ten~~ days prior thereto, give written notice 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. Upon an appeal by a private party, or upon the receipt of a recommendation from the City Planning Commission, the Council may approve, modify, or reverse the decision or may approve, modify, or disapprove the Commission's recommendations, as the case may be. The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided.
(Prior planning code § 9508)

Chapter 17.152

ENFORCEMENT

17.152.080 Investigation of revocation complaints.

Upon receiving a revocation complaint from the public, city official, or city employee that a violation of the zoning regulations, any prescribed condition of approval or public nuisance exists on or is emanating from any property that is the subject of a zoning permit issued pursuant to one of the sections of the Zoning Regulations listed in Section 17.152.070, the City Planning Director shall cause said complaint to be reviewed by the City Attorney and investigated by a City Planner. The City Planning Director, within ten (10) days of receiving any such complaint, shall send a copy of the complaint to the property owner and permit holder, if the latter is different from the property owner. The City Planner, with advice from the City Attorney, shall determine in writing whether sufficient evidence exists to set a revocation hearing. Sufficient evidence exists if there is substantial evidence that a violation of the zoning regulations, any prescribed condition of approval or public nuisance exists on, or is emanating from any property that is the subject of a Zoning permit issued pursuant to one of the sections of the Zoning Regulations listed in Section 17.152.070. Copies of the determination shall be sent to the complainant, the property owner, permit holder, if the latter is different from the property owner, any affected neighborhood group(s) and any other person who has requested notice of any action on that complaint or that address and, as soon as the same becomes technologically feasible, posted on the city's web site.

Revocation complaints shall be reviewed, investigated and a determination regarding setting a hearing shall be made by the City Planner within twenty (20) days of the date the revocation complaint is received by the Planning Department. If no decision regarding setting a public hearing is made within the required twenty (20) day period, the complainant, within ten (10) days of the date the city's determination was required to be made, may make a written demand to the City Planning Director that a hearing be set. Upon receipt of any such demand, the City Planning Director immediately shall set the matter for hearing before a Hearing Officer at the next available date. The matter shall then be heard and decided by the Hearing Officer in the same manner and time that appeals are heard.

If a determination is made that sufficient evidence does not exist to set a revocation hearing, the complainant, within ten (10) days of the date of the City's determination, may appeal the City Planner's determination to a City Hearing Officer. If no proper appeal is made, the City Planner's decision shall be final. Upon receipt of any such appeal, the matter shall be scheduled before the Hearing Officer at the next available date and the Hearing Officer shall determine whether sufficient evidence exists to set a revocation hearing and may grant or deny the appeal. The Hearing Officer in making his/her decision on the appeal shall not be required to hear witnesses or accept new evidence not considered by the City Planner.

In all cases the Hearing Officer's decision on the appeal shall be made within twenty (20) days of the date of the appeal and shall be final. If the appeal is granted, the matter shall be returned to the City Planning Director for public hearing scheduling before a different hearing officer. The City Planning Director shall set the matter for hearing at the next available hearing date. If the appeal is denied, or the City Planner's determination is sustained, the Hearing Officer's decision shall be final and not appealable. In each instance, the Hearing Officer's determination shall be in writing and shall be supported by findings. (Ord. 12233 § 3 (part), 2000)

17.152.100 Notice.

Not less than seventeen (17) days prior to the revocation hearing, the City Planner shall give written notice to the complainant, property owner, and permit holder, if the latter is different from the property owner, of the date, time and place of the revocation hearing. The time and place of the revocation hearing shall be set, if at all possible, between seven (7) p.m. and ten (10) p.m. during the week. Notice also shall be given to other interested individuals, entities and neighborhood organizations that have requested notification, and to similar individuals and groups, as the City Planner deems necessary. The revocation administrative record shall be

mailed with the notice to the property owner and permit holder. Notice also shall be appropriately posted on the property that is the subject of the revocation proceedings. All posted and mailed notices to individuals and entities other than the owner and permit holder shall indicate the availability of the revocation administrative record. Notice by mail is deemed given on the date it is properly addressed and placed in the U.S. mail system. At the discretion of the Hearing Officer, and upon a good cause request by the city, the revocation administrative record may be amended. (Ord. 12233 § 3 (part), 2000)

17.152.120 Revocation hearing.

The revocation hearing shall be conducted by the Hearing Officer appointed by the Planning Director. Formal rules of evidence shall not apply to the conduct of the hearing. Witnesses may be sworn at the discretion of the Hearing Officer. The Hearing Officer, for good cause, shall have the authority and discretion to permit examination of witnesses. The city's case shall be presented to the Hearing Officer by a Deputy City Attorney and a City Planner. The property owner, permit holder and other interested individuals or entities may be represented by counsel at the hearing.

The revocation hearing shall be public and members of the public shall be given a reasonable opportunity to testify and present evidence. Evidence may be submitted in writing to the Hearing Officer by any interested individual or entity. Copies of written evidence submitted to the Hearing Officer shall be provided to any individual or entity requesting copies. The hearing may be continued from time-to-time. The continued hearing time, if at all possible, also shall be set between seven (7) p.m. and ten (10) p.m. during the week. (Ord. 12233 § 3 (part), 2000)

17.152.130 *Hearing Officer's decision.*

The decision of the Hearing Officer shall be in writing and shall be supported by findings. The Hearing Officer's decision shall be made within thirty (30) days of the date the hearing is opened by the Hearing Officer, unless an extension is granted in writing by the complainant, property owner and permit holder. If a decision is not made by the Hearing Officer within thirty (30) days, any interested individual or entity, within ten (10) days of the date the Hearing Officer was required to make a decision, may lodge a letter of complaint with the City Planning Commission. There shall be no fee for this letter complaint. The Commission shall, upon receipt of the Complaint, order the hearing to be completed and a written decision rendered within ten (10) days of the date of the Commission's order. Copies of the decision shall be sent to the complainant, the property owner, permit holder, if the latter is different from the property owner, any affected neighborhood group(s) and any other individual or entity who has requested notice of any action on that complaint or that address and, as soon as the same becomes technologically feasible, posted on the city's web site. The Hearing Officer's decision shall become final ten (10) calendar days after the date of the decision, unless appealed to the City Planning Commission in accordance with Section 17.152.150. In the event 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. (Ord. 12233 § 3 (part), 2000)

17.152.160 Procedure on appeal to City Planning Commission.

A. In its review of the appeal, the City Planning Commission shall consider whether:

1. There were procedural or substantive errors by the Hearing Officer;
2. The decision is supported by sufficient evidence;
3. Sufficient findings were made by the Hearing Officer; or,
4. There was other error or abuse of discretion by the Hearing Officer.

The City Planning Commission may sustain, modify or overturn the Hearing Officer's decision. The Commission's decision shall be in writing and shall be supported by findings. The Commission's decision on the appeal shall be made within thirty (30) days of the date the appeal is made. The appeal shall be considered made on the date it is received by the city.

B. In conducting the appeal, the City Planning Commission shall be authorized to not allow any individual or entity to introduce new written, recorded or photographic evidence on appeal, unless it is shown by substantial evidence that the new evidence was improperly excluded by the Hearing Officer, or, with due diligence, the new evidence could not have been presented to the Hearing Officer. Individuals will not be al-

lowed to call witnesses or present new testimonial evidence at the appeal hearing. However, in compliance with the Commission's standard rules, individuals and entities will be allowed to speak to the staff report. The Commission shall be authorized to limit the time spent on each appeal. The Commission also shall be authorized to refer the entire matter and/or any new evidence back to the Hearing Officer for findings of fact and recommendations. If such referral occurs, the Commission shall retain jurisdiction over the matter. The Commission's decision on the appeal shall be appealable to the City Council. The Commission's decision shall be final, unless appealed to the City Council within ten (10) days of the date of the decision.

C. Subject to the extensions allowed by this code, if no decision is made by the Commission within the required thirty (30) day period, any interested individual or entity may appeal the Hearing Officer's decision to the City Council within ten (10) days of the date the Commission was required to make a decision. If no appeal is made within the required ten day period, the Hearing Officer's decision shall be considered final. If an appeal is properly made to the City Council, the City Council shall hear the appeal in the same manner it would hear an appeal from the City Planning Commission. (Ord. 12233 § 3 (part), 2000)

Chapter 17.156

DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS

17.156.140 Procedure for consideration of violations to performance standards.

Upon receiving a complaint from the public, Police Department, or any other interested party that a Deemed Approved Activity is in violation of the performance standards at Section 17.156.090, and once it is determined by the city that violations appear to be occurring, then the Deemed Approved Status of the Deemed Approved Activity in question shall be reviewed by the Administrative Hearing Officer at a public hearing. Notification of the public hearing shall be in accordance with Section 17.156.180.

The purpose of the public hearing is to receive testimony on whether the operating methods of the Deemed Approved Activity are causing undue negative impacts in the surrounding area. At the public hearing, the Administrative Hearing Officer shall determine whether the Deemed Approved Activity conforms to the Deemed Approved Performance Standards set forth in Section 17.156.090 and to any other applicable criteria, and may continue the Deemed Approved Status for the activity in question or require such changes or impose such reasonable Conditions of Approval as are in the judgment of the Administrative Hearing Officer necessary to ensure conformity to said criteria and such conditions shall be based on the evidence before the Officer. The decision of the Officer shall be based upon information compiled by staff and testimony from the business owner and all other interested parties. New conditions of approval shall be made a part of the Deemed Approved Status and the Deemed Approved Activity shall be required to comply with these conditions. The determination of the Officer shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.156.160. (Ord. 11624 § 2, 1993: prior planning code § 15340)

17.156.150 Procedure for consideration of violations to conditions of approval.

In the event of a violation of any of the provisions set forth in Sections 17.156.010 through 17.156.140 of these regulations, or upon evidence that there has been a failure to comply with any prescribed condition of approval, the Officer may hold a public hearing. Notification of the public hearing shall be in accordance with Section 17.156.180.

The purpose of this public hearing is to receive testimony and determine whether violations to any conditions of approval attached to the site have occurred. The Officer may add to or amend the existing conditions of approval based upon the evidence presented; or alternatively may revoke the Deemed Approved Activity's Deemed Approved Status. The determination of the Administrative Hearing Officer shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.156.160. The decision of the Planning Commission shall be final unless appealed to the City Council in accordance with Section 17.156.170. (Ord. 11624 § 2, 1993: prior planning code § 15350)

17.156.160 Appeal to Planning Commission.

Within ten (10) calendar days after imposition of conditions of approval on a Deemed Approved Activity or the revocation of Deemed Approved Status, an appeal may be taken to the City Planning Commission by the Deemed Approved Activity owner 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 city. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Officer or wherein its decision is not supported by the evidence in the record. The appeal shall be accompanied by such information as may be required to facilitate review. Upon receipt of the appeal and the required appeal fee in accordance with Section 17.156.190, the Secretary to the Planning Commission shall set the date for consideration thereof. The Administrative Hearing Officer shall, not less than seventeen (17) days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; the 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 appropriate, of the date and place of the hearing on the appeal.

In considering the appeal, the Planning Commission shall determine whether the established use conforms to the applicable Deemed Approved performance standards and/or conditions of approval, and may continue or revoke a Deemed Approved Status; or require such changes in the existing use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said performance standards.

The Planning Commission shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Commission is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Commission thereafter until decided. The decision of the Planning Commission on the appeal to the conditions of approval imposed by the Administrative Hearing Officer shall be final. (Ord. 11624 § 2, 1993: prior planning code § 15360)

17.156.170 Appeal on the revocation of a Deemed Approved Status to the City Council.

Within ten (10) calendar days after the date of a decision by the City Planning Commission to revoke a Deemed Approved Status, an appeal from said decision may be taken to the City Council by any interested party. 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. Such appeal shall be made on a form prescribed by the Planning Commission and shall be filed with the City Clerk. 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. Upon receipt of the appeal and an appeal fee in accordance with Section 17.156.190, the Council shall set the date for consideration thereof. 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; and said Secretary shall, not less than seventeen (17) ~~ten~~ days prior thereto, give written notice to: the owner of the Deemed Approved Activity; the property owner; 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 time, date and place of the hearing on the appeal. In considering the appeal, the Council shall determine whether the Deemed Approved Activity conforms to the applicable Deemed Approved performance standards, and may approve or disapprove the revocation or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said standards.

The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided. (Ord. 11624 § 2, 1993: prior planning code § 15370)

Chapter 17.157

DEEMED APPROVED HOTEL AND ROOMING HOUSE REGULATIONS

17.157.110 Procedure for consideration of violations to performance standards.

As a result of an annual or bi-annual inspection pursuant to OMC Section 8.030.60B or upon receiving a complaint from the public, Police Department, or any other interested party that a Deemed Approved Hotel Activity is in violation of the performance standards at Section 17.157.060, and once it is determined by the city that violations appear to be occurring, then the Deemed Approved Status of the Deemed Approved Hotel Activity in question shall be reviewed by the Administrative Hearing Officer at a public hearing. Notification of the public hearing shall be in accordance with Section 17.157.150.

The purpose of the public hearing is to receive testimony on whether the operating methods of the Deemed Approved Hotel Activity is in violation of the performance standards at Section 17.157.060, are causing undue negative impacts in the surrounding area, and/or whether the property is not being maintained in a manner to be habitable by guests or residents. At the public hearing, the Administrative Hearing Officer shall determine whether the Deemed Approved Activity conforms to the Deemed Approved Performance Standards set forth in Section 17.157.060 and to any other applicable criteria, and may continue the Deemed Approved Status for the activity in question or require such changes or impose such reasonable Conditions of Approval as are in the judgment of the Administrative Hearing Officer necessary to ensure conformity with said criteria and such conditions shall be based on the evidence before the Officer. The decision of the Officer shall be based upon information compiled by staff and testimony from the business owner and all other interested parties. New conditions of approval shall be made a part of the Deemed Approved Status and the Deemed Approved Hotel Activity shall be required to comply with these conditions. The determination of the Officer shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.157.130. (Ord. 12137 § 2 (part), 1999)

17.157.120 Procedure for consideration of violations of conditions of approval.

In the event of a violation of any of the provisions set forth in Sections 17.157.010 through 17.157.110 of these regulations, or upon evidence that there has been a failure to comply with any prescribed condition of approval, the Officer may hold a public hearing. Notification of the public hearing shall be in accordance with Section 17.157.150.

The purpose of this public hearing is to receive testimony and determine whether violations to any conditions of approval attached to the site have occurred. The officer may add to or amend the existing conditions of approval based upon the evidence presented; or alternatively may revoke the Deemed Approved Hotel Activity's Deemed Approved Status. The determination of the Administrative Hearing Officer shall become final ten (10) calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 17.157.130. The decision of the City Planning Commission shall be final unless appealed to the City Council in accordance with Section 17.157.140. (Ord. 12137 § 2 (part), 1999)

17.157.130 Appeal to City Planning Commission.

Within ten (10) calendar days after imposition of conditions of approval on a Deemed Approved Hotel Activity or the revocation of Deemed Approved Status, an appeal may be taken to the City Planning Commission by the Deemed Approved Activity owner or any other interested party. In the event the last date of appeal falls on a weekend or a 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 city. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Officer or wherein its decision is not supported by the evidence in the record. The appeal shall be accompanied by such information as may be required to facilitate review. Upon receipt of the appeal and the required appeal fee in accordance with Section 17.157.160 the Secretary of the City Planning Commission shall set a date for consideration thereof. The Secretary of the City Planning Commission shall, not less than seventeen (17) days

prior thereto, give written notice to: the owner of the Deemed Approved Hotel Activity; the property owner; the appellant in those cases where the appellant is not the owner; the 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 appropriate, of the date and place of the hearing on the appeal.

In considering the appeal, the City Planning Commission shall determine whether the Deemed Approved Hotel Activity conforms to the applicable Deemed Approved performance standards and/or conditions of approval, and may continue or revoke a Deemed Approved Status; or require such changes in the existing use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said performance standards.

The City Planning Commission shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Commission is unable to decide on the appeal at that meeting, it shall appear for a vote on each regular meeting of the Commission thereafter until decided. The decision of the City Planning Commission on the appeal to the conditions of approval imposed by the Administrative Hearing Officer shall be final. (Ord. 12137 § 2 (part), 1999)

17.157.140 Appeal on the revocation of a Deemed Approved Status to the City Council.

Within ten (10) calendar days after the date of a decision by the City Planning Commission to revoke a Deemed Approved Status, an appeal from said decision may be taken to the city Council by any interested party. In the event the last date of appeal falls on a weekend or a 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 City Planning Commission and shall be filed with the City Clerk. 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. Upon receipt of the appeal and an appeal fee in accordance with Section 17.157.160, the Council shall set the date for consideration thereof. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and the date set for consideration thereof; and said Secretary shall, not less than seventeen (17) ~~ten~~ days prior thereto, give written notice to: the owner of the Deemed Approved Hotel Activity; the property owner; the appellant in those cases where the appellant is not the owner; the 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 appropriate, of the date and place of the hearing on the appeal.

In considering the appeal, the Council shall determine whether the Deemed Approved Hotel Activity conforms to the applicable Deemed Approved performance standards and/or conditions of approval, and may approve or disapprove the revocation of the Deemed Approved Status; or require such changes to the existing use or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said performance standards.

The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing on the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided. (Ord. 12137 § 2 (part), 1999)

Chapter 17.158

ENVIRONMENTAL REVIEW REGULATIONS

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;

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. Small project design review, as defined in Chapter 17.136 of the Oakland Planning Code;~~

~~L~~K. Design review exemptions, as defined in Chapter 17.136 of the Oakland Planning Code;

~~M~~L. Issuance of business licenses and payment of business taxes;

~~N~~M. Granting of permits by the Police and Fire Departments. (Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11766 § 2 (part), 1994: prior planning code § 1140)

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;

~~2~~3. Regular design review~~,~~; as defined in Chapter 17.136 of the Oakland Planning Code;

~~3~~4. Development agreements;

~~4~~5. Planned unit developments;

~~5~~6. Rezonings;

~~6~~7. Variances.

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

1. Private access easements;

2. Tentative parcel maps;

3. Tentative tract maps.

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;

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. (Ord. 12776 § 3, Exh. A (part), 2006: Ord. 11766 § 2 (part), 1994: prior planning code § 1150)