

  
CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

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

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**AN ORDINANCE, AS RECOMMENDED BY THE CITY PLANNING COMMISSION:**

**1) AMENDING TITLE 17 OF THE OAKLAND MUNICIPAL CODE (THE PLANNING CODE), TO (A) EXPAND THE PEDESTRIAN-ORIENTED ACTIVITIES PERMITTED IN CHAPTER 17.101C (D-BV BROADWAY VALDEZ DISTRICT COMMERCIAL ZONES); (B) CLARIFY THE AFFORDABILITY THRESHOLDS IN CHAPTER 17.95 (S-13 AFFORDABLE HOUSING COMBINING ZONE); (C) REVISE THE REQUIRED MINIMUM DENSITIES, INCLUDING TO ALIGN WITH BASE ZONING DISTRICTS, AND TO CLARIFY THE DEFINITION OF DEVELOPMENT PROJECT, IN CHAPTER 17.96 (S-14 HOUSING SITES COMBINING ZONE); AND (D) PERMIT ARTISAN PRODUCTION COMMERCIAL ACTIVITIES AND INSTITUTE THE CENTRAL DISTRICT ENTERTAINMENT VENUE PERMIT IN CHAPTER 17.101G (D-LM LAKE MERRITT STATION AREA DISTRICT ZONES); AND**

**2) AMENDING THE PLANNING CODE TO INCORPORATE RELATED MISCELLANEOUS CHANGES TO CHAPTERS 17.95, 17.96, 17.101C, AND 17.101G; AND**

**3) MAKING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS.**

**WHEREAS**, on June 10, 2014, the City Council adopted the Broadway Valdez District Specific Plan (Resolution No. 85065 C.M.S.) and subsequently, on July 1, 2014, adopted amendments to the Planning Code (Ordinance No. 13241 C.M.S.), creating Chapter 17.101C D-BV Broadway Valdez District Commercial Zone Regulations; and

**WHEREAS**, the Broadway Valdez District Specific Plan set a goal to ensure that future development contributed to the creation of an attractive, pedestrian-oriented district characterized by high quality design and a distinctive sense of place; and

**WHEREAS**, the Broadway Valdez District Specific Plan was adopted as part of a citywide retail enhancement strategy to address \$1 billion in sales leakage to neighboring communities; and

**WHEREAS**, the U.S. Census Bureau estimates that sixteen percent (16%) of national retail sales in 2024 were from e-commerce, which is a significant increase from the estimate of six percent (6%) in 2014; and

**WHEREAS**, retail spaces in the Broadway Valdez District are experiencing high vacancies despite robust demand from small businesses; and

**WHEREAS**, on January 31, 2023, the City Council adopted the 2023-2031 Housing Element (Resolution No. 89565 C.M.S.); and

**WHEREAS**, on October 3, 2023, the City Council adopted amendments to the Planning Code (Ordinance No. 13763 C.M.S.), implementing actions in Phase 1 of the General Plan Update, which created: 1) Chapter 17.95 S-13 Affordable Housing Combining Zone Regulations; 2) Chapter 17.96 S-14 Housing Sites Combining Zone Regulations; and 3) a new commercial activity type in 17.10.378 Artisan Production Commercial Activities; and

**WHEREAS**, the provisions for Affordability Thresholds in Chapter 17.95 S-13 Affordable Housing Combining Zone, as originally written, proved ambiguous; and

**WHEREAS**, the provisions of 17.96 S-14 Housing Sites Combining Zone Regulations were inconsistent with the base zoning districts and proved too strict to facilitate affordable housing development; and

**WHEREAS**, on November 18, 2014, the City Council adopted the Lake Merritt Station Area Plan (Resolution No. 85276 C.M.S.) and subsequently, on December 9, 2014, adopted Ordinance No. 13276 C.M.S., amending the Planning Code to create Chapter 17.101G D-LM Lake Merritt Station Area District Zone Regulations; and

**WHEREAS**, permitting Artisan Production Commercial Activities in all D-LM zones would allow new, community-oriented small businesses to open in the Lake Merritt Station Area, including in Chinatown; and

**WHEREAS**, in summary, staff recommends amendments to the Oakland Planning Code that would expand the pedestrian-oriented activities permitted in the D-BV zones, clarify the affordability thresholds in the S-13 zone, revise the required minimum densities and in the S-14 zone, and add Artisan Production Commercial Activities and the Central District Entertainment Venue Permit in the D-LM zones.

**WHEREAS**, on March 19, 2025, at a duly noticed public hearing, the Planning Commission recommended approval of the proposed changes included in *Exhibits A through D*; and

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

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

**SECTION 2. Amendment of Oakland Planning Code.** The Oakland Planning Code (Title 17 of the Oakland Municipal Code) is hereby amended pursuant to *Exhibits A through D* attached hereto and incorporated by reference herein. Additions to Title 17 of the Oakland Planning Code are shown as underline and deletions are shown as ~~strikethrough~~.

**SECTION 3. California Environmental Quality Act.** The Council finds and determines that the adoption of this Ordinance complies with CEQA based on: (1) a determination that no further environmental review is required following the certified Oakland 2045 General Plan Update - Phase 1 Environmental Impact Report pursuant to Public Resources Code section 21166 and CEQA Guidelines Section 15162 or 15163; (2) a determination that no further environmental review is required following the certified Broadway Valdez District Specific Plan Environmental Impact Report pursuant to Public Resources Code section 21166 and CEQA Guidelines Section 15162 or 15163; (3) a determination that no further environmental review is required following the certified Lake Merritt Station Area Plan Environmental Impact Report pursuant to Public Resources Code section 21166 and CEQA Guidelines Section 15162 or 15163; (4) this proposal is exempt pursuant to CEQA Guidelines section 15183 (projects consistent with General Plan and zoning); and (5) this proposal is exempt pursuant to CEQA Guidelines Sections 15061(b)(3) (general rule, no significant effect on the environment). Each of these findings provide a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

**SECTION 4. Filing of Notice of Exemption/Notice of Determination.** The Environmental Review Officer, or designee, is directed to file a Notice of Exemption/Notice of Determination with the appropriate agencies.

**SECTION 5. No Conflict with Federal or State Law.** 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 6. Necessary to Serve Public Interest.** This Ordinance serves the public interest and is necessary to protect the health, safety and/or general welfare of the citizens of Oakland and is enacted pursuant to the City of Oakland's general police powers, Section 106 of the Charter of the City of Oakland, Government Code Section 65852.2, and Article XI, Sections 5 and 7 of the California Constitution.

**SECTION 7. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each

section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 8. Effective Date.** This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

**SECTION 9. Authorization to Make Technical Conforming Changes.** The City Council hereby authorizes the City Administrator to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors), prior to formal publication of the amendments in the Oakland Planning Code.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, HOUSTON, KAPLAN, RAMACHANDRAN, UNGER, AND  
PRESIDENT PRO TEMPORE GALLO

NOES –

ABSENT – COUNCIL PRESIDENT JENKINS (serving as Mayor pursuant to Charter Section 303)

ABSTENTION –

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

Date of Attestation: \_\_\_\_\_

## NOTICE AND DIGEST

**AN ORDINANCE, AS RECOMMENDED BY THE CITY PLANNING COMMISSION:**

**1) AMENDING TITLE 17 OF THE OAKLAND MUNICIPAL CODE (THE PLANNING CODE), TO (A) EXPAND THE PEDESTRIAN-ORIENTED ACTIVITIES PERMITTED IN CHAPTER 17.101C (D-BV BROADWAY VALDEZ DISTRICT COMMERCIAL ZONES); (B) CLARIFY THE AFFORDABILITY THRESHOLDS IN CHAPTER 17.95 (S-13 AFFORDABLE HOUSING COMBINING ZONE); (C) REVISE THE REQUIRED MINIMUM DENSITIES, INCLUDING TO ALIGN WITH BASE ZONING DISTRICTS, AND EXPAND ALLOWED TEMPORARY USES, IN CHAPTER 17.96 (S-14 HOUSING SITES COMBINING ZONE); AND (D) PERMIT ARTISAN PRODUCTION COMMERCIAL ACTIVITIES AND INSTITUTE THE CENTRAL DISTRICT ENTERTAINMENT VENUE PERMIT IN CHAPTER 17.101G (D-LM LAKE MERRITT STATION AREA DISTRICT ZONES); AND**

**2) AMENDING THE PLANNING CODE TO INCORPORATE RELATED MISCELLANEOUS CHANGES TO CHAPTERS 17.95, 17.96, 17.101C, AND 17.101G; AND**

**3) MAKING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS.**

The ordinance proposes revisions to Oakland Planning Code Chapters 17.101C, 17.95, 17.96, and 17.101G. The amendments would expand the pedestrian-oriented activities permitted in the D-BV zones, clarify the affordability thresholds in the S-13 zone, revise the required minimum densities and in the S-14 zone, and add Artisan Production Commercial Activities and the Central District Entertainment Venue Permit in the D-LM zones.

**EXHIBIT A:**  
**REVISIONS TO D-BV BROADWAY VALDEZ DISTRICT COMMERCIAL ZONES  
REGULATIONS**

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

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

**17.101C.010 - Title, intent, and description.**

**A. Title and Intent.** The intent of the D-BV Broadway Valdez District Commercial Zones is to implement the Broadway Valdez District Specific Plan. The Broadway Valdez District Specific Plan area is divided into two subareas: the Valdez Triangle and the North End. These regulations shall apply to the Broadway Valdez District (D-BV) Zones.

1. The intent for the Valdez Triangle subarea regulations is to:

- a. Create a recognized Oakland destination that provides a mix of uses that contributes to around-the-clock activity with people present both day and night, and on weekdays and weekends.
- b. Create a destination retail district that addresses the City's need for comparison goods shopping complemented with local-serving retail, dining, entertainment, office, and service uses.
- c. Encourage, support, and enhance a mix of small, medium, and large-scale retail, commercial, dining, entertainment, arts, cultural, office, residential, service, public plaza, and visitor uses.
- d. Encourage and enhance a pedestrian-oriented streetscape with street-fronting retail and complementary dining and entertainment uses.
- e. Establish a pedestrian, bicycle, and transit-oriented district that accommodates vehicular access.

2. The intent for the North End subarea regulations is to:

- a. Create an attractive, mixed-use boulevard that links the Downtown and Valdez Triangle areas to the Pill Hill, Piedmont, and North Broadway areas, and is integrated with the adjoining residential and health care-oriented neighborhoods.
- b. Encourage horizontally or vertically mixed-use development that complements the Valdez Triangle and addresses the needs of adjoining and nearby neighborhoods with the potential of serving some regional needs close to Interstate 580.
- c. Encourage uses that complement and support the adjoining medical centers, such as professional and medical office uses, medical supplies outlets, and visitor and workforce housing.

- d. Encourage existing and new automotive sales that incorporate an urban format with a showroom and repair shop providing car storage either in a structured garage or in an off-site location.

**B. Description of Zones.** This Chapter establishes land use regulations for the following four (4) zones:

1. **D-BV-1 Broadway Valdez District Retail Priority Sites– 1 Commercial Zone.** The intent of the D-BV-1 Zone is to establish Retail Priority Sites in the Broadway Valdez District Specific Plan Area in order to encourage a core of comparison goods retail with a combination of small-, medium-, and large-scale retail stores. Priority Sites 3 and 5 are further divided into subareas a, b, and c and Priority Site 4 into subareas a and b as shown in the Height Area Map. Each Retail Priority Site and subarea will have a specified minimum square footage of retail required prior to Residential or Transient Habitation Activities and Facilities being permitted.
2. **D-BV-2 Broadway Valdez District Retail– 2 Commercial Zone.** The intent of the D-BV-2 Zone is to create, maintain, and enhance areas of the Broadway Valdez District Specific Plan Area for ground-level retail, restaurants, entertainment, and art activities with pedestrian-oriented, active storefront uses. Upper-story spaces are intended to be available for a wide range of Office and Residential Activities.
3. **D-BV-3 Broadway Valdez District Mixed Use Boulevard– 3 Commercial Zone.** The D-BV-3 Zone is intended to create, maintain, and enhance areas with direct frontage and access along Broadway, 27<sup>th</sup> Street, Piedmont Avenue, and Harrison Street. A wider range of ground-floor office and other commercial activities are allowed than permitted in the D-BV-2 Zone with upper-story spaces intended to be available for a broad range of Residential, Office, or other Commercial Activities. Mixed uses can either be vertical and/or horizontal.
4. **D-BV-4 Broadway Valdez District Mixed Use– 4 Commercial Zone.** The D-BV-4 Zone is intended to create, maintain, and enhance areas that do not front Broadway, 27<sup>th</sup> Street, Piedmont Avenue, or Harrison Street, and allows the widest range of uses on the ground floor including both residential and commercial businesses. Upper-story spaces are intended to be available for a broad range of Residential or Commercial Activities.

**C. Description of Combining Zone.** This Chapter establishes land use regulations for the following combining zone:

1. **N North Large Development Site Combining Zone.** The intent of the N Combining Zone is to encourage more active commercial uses on those sites that have deeper lots that front along Broadway. Incentives for large developments are included. When a primary zone is combined with the N Combining Zone, the N Combining Zone permitted uses supersede those of the primary zone.

**17.101C.030 - Permitted and conditionally permitted activities.**

Table 17.101C.01 lists the permitted, conditionally permitted, and prohibited activities in the D-BV Zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

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

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

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

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

Activities	Base Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3	D-BV-4	N*	
<b>Civic Activities</b>						
Essential Service	P(L20)	P(L20)	P(L20)	<del>P(L23)</del>	P(L20)	
Limited Child-Care Activities	P(L4)	P(L4)	P(L4)	P	P(L6)	
Community Assembly	C(L4)	C	C	C	C	
Recreational Assembly	P	P	P	P	P	
Community Education	P(L4)	<del>P(L8)</del> (L5)	P(L5)	P	P	
Nonassembly Cultural	P	P	P	P	P	



Activities	Base Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3	D-BV-4	N*	
Administrative	P(L4)	P(L6)	P(L5)	P	P(L6)	
Health Care	C(L4)	P(L6)	P(L5)	P	P(L6)	
Special Health Care	—	—	C(L9)(L10)	C(L9)	C(L9)(L10)	17.103.020
Utility and Vehicular	C	C	C	C	C	
Extensive Impact	C	C	C	C	C	
<b>Commercial Activities</b>						
General Food Sales	<del>P(L11)</del> (L12)	P	P	P	P	
Full Service Restaurants	P(L12)	P	P	P	P	
Limited Service Restaurant and Cafe	P(L12)	P	P	P	P	
Fast-Food Restaurant	C(L12)	C	C	C	C	17.103.030 and 8.09
Convenience Market	—	C	C	C	—	17.103.030
Alcoholic Beverage Sales	C(L12)( <del>L24</del> )	C( <del>L24</del> )	C	C	C	17.103.030 and 17.114.030
Mechanical or Electronic Games	<del>—P(L12)</del>	<del>—P</del>	<del>—P</del>	<del>—P</del>	<del>—P</del>	
Medical Service	<del>P(L8)</del> (L12)(L25)	<del>P(L6)</del> (L25)	<del>P(L5)</del> (L25)	P	<del>P(L6)</del> (L25)	
General Retail Sales	P(L12)	P	P	P	P	
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	<del>—C</del>	
Consumer Service	<del>C(L11)</del> <del>P(L12)</del> (L13)	<del>P(L8)</del> (L13)	P(L13)	P(L13) <del>(L14)</del>	P	
Consultative and Financial Service	<del>P(L4)</del> (L12)	<del>P(L6)</del>	P	P	<del>P(L5)</del>	
Check Cashier and Check Cashing	—	—	—	—	—	
Consumer Cleaning and Repair Service	P(L14)	P(L14)	P(L14)	P(L14)	<del>P(L5)</del> (L14)	

Activities	Base Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3	D-BV-4	N*	
Consumer Dry Cleaning Plant	—	—	—	—	--	
<u>Artisan Production</u>	<u>P(L12)(L26)</u>	<u>P(L26)</u>	<u>P(L26)</u>	<u>P(L26)</u>	<u>P(L26)</u>	
Group Assembly	<del>C(L4)</del> <u>P(L12)(L14)(L15)</u>	<del>C</del> <u>P(L14)(L15)</u>	<del>C</del> <u>P(L14)(L15)</u>	<del>C</del> <u>P(L14)(L15)</u>	<del>C</del> <u>P(L14)(L15)</u>	
Personal Instruction and Improvement Services	<del>P(L8)</del> <u>(L12)</u>	<del>P(L8)</del>	P	P	<del>P(L5)</del>	
Administrative	P(L4)	P(L6)	P(L5)	P	P(L6)	
Business, Communication, and Media Services	<del>P(L8)</del> <u>(L12)</u>	<del>P(L8)</del>	P	P	<del>P(L5)</del>	
Broadcasting and Recording Services	<del>P(L8)</del> <u>(L5)</u>	<del>P(L6)</del> <u>(L5)</u>	P(L5)	P	<del>P(L6)</del> <u>(L5)</u>	
Research Service	P(L4)	P(L6)	P(L5)	P	P(L6)	
General Wholesale Sales	—	—	—	—	—	
Transient Habitation	C(L2)	C	C	—	C	17.103.050
Building Material Sales	—	—	—	—	—	
Automobile and Other Light Vehicle Sales and Rental	<del>C</del> <u>P(L12)(L16)</u>	<del>C</del> <u>P(L16)</u>	<del>C</del> <u>P(L16)</u>	<del>C</del> <u>P(L16)</u>	<del>C</del> <u>P(L16)</u>	
Automobile and Other Light Vehicle Gas Station and Servicing	—(L17)	—(L17)	<del>—</del> <u>(L17)C(L5)</u>	—(L17)	—(L17)	
Automobile and Other Light Vehicle Repair and Cleaning	—(L17)	—(L17) <u>(L18)</u>	C(L5)	—(L17)(L18)	—(L17) <u>(L18)</u>	
Taxi and Light Fleet-Based Services	—	—	—	—	—	
Automotive Fee Parking	P(L19)	P(L19)	P(L19)	P(L19)	P(L19)	
Animal Boarding	—	—	—	C	—	
Animal Care	<u>P(L25)</u> —	<u>P(L25)C(L10)</u>	<del>P(L5)</del> <u>(L25)</u>	P	<del>P(L6)</del> <u>(L25)</u>	
Undertaking Service	—	—	—	—	—	
<b>Industrial Activities</b>						
Custom Manufacturing	C(L11)	C	<del>P</del> <u>C(L5)</u>	<del>P(L8)</del> <u>C(L5)</u>	C	17.120

Activities	Base Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3	D-BV-4	N*	
Accessory off-street parking serving prohibited activities	C(L8L5)	C(L8L5)	C(L5)	C	C(L5)	<del>17.116.075</del>
Activities that are listed as prohibited or conditionally permitted on nearby lots in an adjacent zone	C(L8L5)	C(L8L5)	C(L5)	C	C(L5)	17.102.110

\*If the N Combining Zone, the N regulations supersede the base zone.

#### Limitations on Table 17.101C.01:

#### [L1-3 OMITTED]

**L4.** These activities are not permitted if located on the ground floor of a building and within thirty (30) feet of the principal street frontage; incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this restriction.

**L5.** If located on the ground floor of a building and within thirty (30) feet from any street-abutting property line facing 23rd Street, 24th Street, 27th Street, Broadway, 27th Street, or Piedmont Avenue, or Valdez Street, these activities are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement. In addition to the CUP criteria contained in Section 17.134.050 these ground-floor ~~activities~~ activities must also meet each of the following additional criteria:

- ~~1. The proposal will not detract from the character desired for the area;~~
- ~~2.~~ 12. The proposal will not impair a generally continuous wall of building facades;
- ~~3.~~ 23. The proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage;
- ~~4.~~ 34. The proposal will not interfere with the movement of people along an important pedestrian street; ~~and~~
- ~~4. The proposal will conform to the Design Guidelines for the Broadway Valdez Specific Plan Area; and~~
5. The proposal will conform in all significant respects with the Broadway Valdez District Specific Plan.

**L6.** These activities are prohibited if located on the ground floor of a building and within thirty (30) feet from any street-abutting property line facing Broadway or Valdez Street. Incidental pedestrian entrances that lead to one of these activities in stories above the ground floor are exempt from this restriction.

**L7.** Emergency Shelters are permitted by-right on properties owned by churches, temples, synagogues, and other similar places of worship approved for Community Assembly Civic Activities; and within the portion of the Webster Street area described in Section 17.103.015(A)(3)

and subject to the development standards in Sections 17.103.010 and 17.103.015; prohibited if located elsewhere in the zone.

~~L8. These activities are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when located on the ground floor of a building and within thirty (30) feet of the principal street frontage. Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement. In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground floor activities must also meet each of the additional criteria contained in L5.~~

**L9.** These activities are limited to areas north of Hawthorne Street and west of Broadway. No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity, or five hundred (500) feet from any K-12 school or Licensed Emergency Shelters. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

**L10.** These activities are prohibited if located on the ground floor of a building and within thirty (30) feet from any street-abutting property line facing Broadway. Incidental pedestrian entrances that lead to one of these activities in stories above the ground floor are exempt from this restriction. If these activities are located above the ground floor or beyond thirty (30) feet of Broadway they are only permitted upon the granting of a Conditional Use Permit (CUP) (see Chapter 17.134 for the CUP procedure), and shall conform to the CUP criteria contained in Section 17.134.050.

**L11.** If greater than five thousand (5,000) square feet of floor area, these activities are not allowed in new construction unless combined within a retail project that meets the requirements of Section 17.101C.050C and Section 17.101C.050D.

**L12.** Only these activities can be counted towards the minimum retail floor area that is required to develop Residential Facilities pursuant to Sections 17.101C.050C and 17.101C.050D. ~~For General Food Sales Commercial Activities, no more than five thousand (5,000) square feet can be counted toward the minimum retail area; for Group Assembly Commercial Activities, only a movie or other theatre, fitness club, exercise studio, yoga studio, martial arts space, bowling alley, or night club that is above the ground floor can be counted toward the minimum retail area; for Automobile and Other Light Vehicle Sales and Rental Commercial Activities, only the interior showroom space can be counted toward the residential bonus threshold (space for auto repair, interior/outdoor inventory storage, and outdoor sales is not included). For pharmacies that fall within the General Retail Sales Commercial Activities: (a) if the retail component of the store is predominantly comparison goods, then the activity is permitted and counts toward the minimum retail floor area that is required in order to develop Residential Facilities; (b) if the retail component~~

~~of the store is predominantly convenience goods, then the activity does not count toward the minimum retail floor area that is required in order to develop Residential Facilities and is only permitted upon the granting of a Conditional Use Permit (CUP) (see Chapter 17.134 for the CUP procedure), and shall conform to the CUP criteria contained in Section 17.134.050. As described in the Broadway Valdez District Specific Plan and as further determined by the Planning Director: comparison goods include items such as clothing, jewelry, toys, books, sporting goods, home furnishings, appliances, and electronics; and convenience goods include items such as groceries, toiletries, alcoholic and soft drinks, tobacco products, candy, magazines, and newspapers.~~

**L13.** See Section 17.102.170 for special regulations relating to massage services and Section 17.102.450 for special regulations relating to laundromats.

**L14.** With the exception of parcels facing Broadway, ~~t~~The total floor area devoted to these activities on the ground floor by any single establishment may only exceed ten thousand (10,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). However, the total floor area devoted to Consumer Cleaning and Repair on the ground floor may only exceed five thousand (5,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground floor activities must also meet the additional criteria contained in L5.

**L15.** No new or expanded Adult Entertainment Activity shall be located closer than one thousand (1,000) feet to the boundary of any Residential Zone or three hundred (300) feet from any other Adult Entertainment Activity. See Section 17.102.160 for further regulations regarding Adult Entertainment Activities.

**L16.** Showrooms associated with these activities must be enclosed. Auto service is only allowed as an accessory activity. ~~These activities are only permitted upon the granting of a Conditional Use Permit. In addition to the CUP criteria in Section 17.134.050, t~~These Automobile and Other Light Vehicle Sales and Rental activities must meet each of the following additional criteria:

1. That there will be no outside inventory lots;
2. That auto inventory will be stored either:
  - a. inside or on top of the dealership building; or
  - b. located at an offsite location that is outside of the D-BV-1, D-BV-2, or D-BV-3 Zones;  
or
  - c. within an existing structured parking facility that is within the D-BV-1, D-BV-2, or D-BV-3 Zones; or within a new structured parking facility that is within the D-BV-3 Zone;
- ~~3. That the proposal will not detract from the character desired for the area;~~
3. ~~4.~~ That the proposal will not impair a generally continuous wall of building facades;
4. ~~5.~~ That the proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage;
5. ~~6.~~ That the proposal will not interfere with the movement of people along an important pedestrian street;
6. The proposal will conform to the Design Guidelines for the Broadway Valdez Specific Plan Area; and
7. That the proposal will conform in all significant respects with the Broadway Valdez District Specific Plan.

**L17.** Reestablishment of a discontinued, legal non-conforming Automobile and Other Light Vehicle Gas Station and Servicing ~~activity~~ and/or ~~an~~ Automotive and Other Light Vehicle Repair and Cleaning Commercial Activity may only occur no later than six (6) months after discontinuation of such an activity, per Section 17.114.050(A).

**L18.** ~~The An~~ auto showroom for an approved Automobile and Other Light Vehicle Sales and Rental Commercial Activity and its accessory Automotive and Other Light Vehicle Repair and Cleaning ~~automotive repair~~ activity are permitted to be on separate lots upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, the project must also meet each of the following criteria:

1. The auto repair facility is at, or between, 24<sup>th</sup>26<sup>th</sup> Street and I-580, and the auto showroom is on Broadway;
2. With the exception of the building addition described in criteria 3 below, the auto repair activity is within an existing Nonresidential Ffacility;
3. The amount of added floor area devoted to the auto repair activity does not exceed twenty percent (20%) of that already existing on the affected lot; and
4. All overnight storage (including inoperable vehicle storage) and auto repair takes place indoors.

**L19.** Automotive Fee Parking is permitted when located on a lot containing a ~~principle~~ principal facility. ~~Automotive Fee Parking is also permitted~~ or in a multi-story parking garage to serve nearby businesses upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground floor activities must also meet each of the additional criteria contained in L5.

**[L20-22 OMITTED]**

**L23.** ~~Community Gardens are permitted if they do not include any livestock production or the cultivation of animals and/or animal products by agricultural methods, except for bee keeping involving no more than three (3) hives.~~

**L24.** Any on-sale and/or off-sale of alcoholic beverages in conjunction with an approved arts, entertainment, or cultural use in these zones does not require a Conditional Use Permit (CUP), but instead shall obtain a Central District Entertainment Venue Permit as described in Oakland Municipal Code Chapter 5.12. Arts, entertainment, and cultural uses include, but are not limited to: bars, cabarets, night clubs, pool halls, bowling alleys, mini-golf, mechanical or electronic games, museums, art galleries, barber shops or salons, nail salons, performing arts centers, auditoriums, theaters, and other similar venues. Any alcoholic beverages sales in conjunction with an approved arts, entertainment, or cultural use must conform to all applicable regulations, including but not limited to, Oakland Municipal Code Chapter 5.12.

**L25.** The total floor area devoted to these activities on the ground floor by any single establishment may only exceed five thousand (5,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground floor activities must also meet the additional criteria contained in L5. See Table 17.101C.03, additional regulation 15, for regulations regarding special ground floor transparency requirements for Medical Service and Animal Care Commercial Activities.

**L26.** During operating hours, ground floor Artisan Production Commercial Activities shall be open

to the public to purchase and view items produced on site. On other floors, these activities shall either be open to the public during operating hours or available by appointment to view and purchase items produced on site.

**17.101C.040 - Permitted and conditionally permitted facilities.**

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

"P" designates permitted facilities in the corresponding zone.

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

"—" designates facilities that are prohibited.

**Table 17.101C.02: Permitted and Conditionally Permitted Facilities**

Facilities	Base Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3	D-BV-4	N	
<b>Residential Facilities</b>						
Two- to Four-Family Dwelling	—(L1)	—(L1)	—(L1)	P(L3)(L11)	—(L1)	17.103.080

\*In the N Combining Zone, the N regulations supersede the base zone.

**Limitations on Table 17.101C.02:**

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

**[L2 OMITTED]**

~~**L3.** Construction of new ground floor Residential Facilities is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement.~~

**[L4-10 OMITTED]**

**L11.** See Section 17.103.080 and Chapter 17.88 for regulations regarding permitted Accessory Dwelling Units.



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

- A. **Zone Specific Standards.** Table 17.101C.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "—" indicates that a standard is not required in the specified zone.

**Table 17.101C.03: Property Development Standards**

Development Standards	Base Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3	D-BV-4	N	
<b>Minimum Lot Dimensions</b>						
Lot area	10,000 sf.	7,500 sf.	4,000 sf.	4,000 <u>sf.</u>	10,000 sf.	1
<b>Design Regulations</b>						
Minimum façade transparency of ground floor Nonresidential Facilities	55%	55%	55%	N/A	55%	10, <u>15</u>
<b>Minimum Required Parking</b>	See Chapter 17.116 for automobile parking regulations; and Section <u>and</u> 17.116.110(l) for additional parking regulations for the D-BV Zones. See Chapter 17.117 for bicycle parking regulations.					

\*In the N Combining Zone, the N regulations supersede the base zone.

**Additional Regulations for Table 17.101C.03:**

1. See Sections 17.106.010 and 17.106.020 for exceptions to lot development standard regulations.

**[2 OMITTED]**

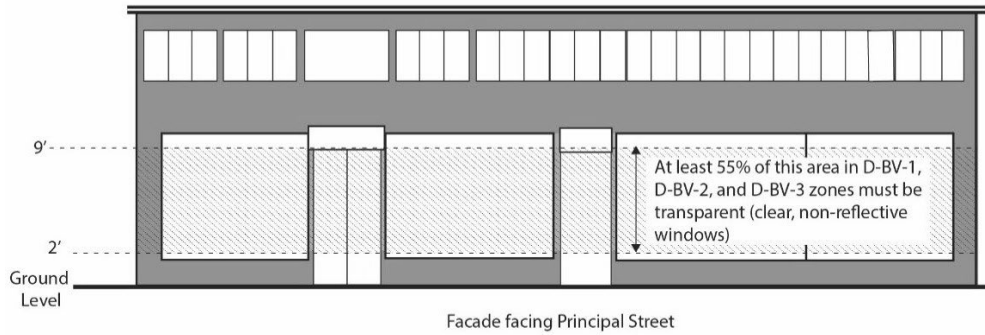
3. The minimum front yard required in the N Combining Zone is four (4) feet from Broadway if the rest of the block fronting Broadway is either vacant or has at least a four (4) foot front setback. Otherwise, the front setback shall equal the setback of the existing building on the adjacent lot.

**[4-9 OMITTED]**

10. This percentage of transparency is only required for principal buildings that include ground-floor Nonresidential Facilities, and only applies to the facade facing the principal street. The regulations only apply to facades located within twenty (20) feet of a street frontage. The area of required transparency is between two (2) feet and nine (9) feet in height of the ground floor and must be comprised of clear, non-reflective windows that allow views out of indoor activity space or lobbies (see Illustration for Table 17.101C.03 [Additional Regulation 10], below). Areas required for garage doors shall not be included in the calculation of facade area (see Note 12 for limitations on the location of parking access). Glass block does not qualify as a transparent window. Exceptions to this regulation may be allowed by the Planning Director for unique

facilities such as convention centers, gymnasiums, parks, gas stations, theaters, and other similar facilities.

Illustration for Table 17.101C.03 [Additional Regulation 10]  
\*for illustration purposes only



**[11-14 OMITTED]**

- 15.** For ground floor Medical Service and Animal Care Commercial Activities, this level of transparency shall apply to the street-fronting adjacent spaces, such as reception, lobby, and waiting areas. Medical treatment rooms shall not face the street.

- C. Retail Priority Sites Minimum Square Footage of Retail Area for Residential Facilities Bonus.** Table 17.101C.05 below prescribes the minimum square footage of retail area required for each Retail Priority Site before a Residential or Transient Habitation Activity or Facility, or taller Nonresidential or Mixed Use Facility is allowed. The number designations in the "Additional Regulations" column refer to regulations below the table.

<b>Table 17.101C.05 Retail Priority Sites Minimum Square Footage of Retail Area for Residential Facilities Bonus</b>					
<b>Regulation</b>	<b>Minimum Retail Area (SF) Required to Develop Residential Facilities Bonus</b>				<b>Additional Regulations</b>
	<b>50% of Retail Priority Site Area</b>	<b>Retail SF/ Residential Unit Bonus</b>	<b>60% of Retail Priority Site Area</b>	<b>Retail SF/ Residential Unit Bonus</b>	
<b>Retail Priority Site 1</b>	38,706 sf	125 Retail SF	46,447 sf	100 Retail SF	1, 2, 3, 4, 5, 6
<b>Retail Priority Site 2</b>	15,572 sf	125 Retail SF	18,686 sf	100 Retail SF	1, 2, 3, 4, 5, 6
<b>Retail Priority Site 3</b>					
3 (a)	22,745 sf	125 Retail SF	27,293 sf	100 Retail SF	1, 2, 3, 4, 5, 6
3 (b)	22,388sf	125 Retail SF	26,865 sf	100 Retail SF	1, 2, 3, 4, 5, 6
3 (c)	17,738sf	125 Retail SF	21,285 sf	100 Retail SF	1, 2, 3, 4, 5, 6
3 (a) and (b)	45,133 sf	125 Retail SF	54,158 sf	100 Retail SF	1, 2, 3, 4, 5, 6
3 (b) and (c)	40,126 sf	125 Retail SF	48,150 sf	100 Retail SF	1, 2, 3, 4, 5, 6
<b>Retail Priority Site 4</b>					
4 (a)	23,465 sf	125 Retail SF	28,157 sf	100 Retail SF	1, 2, 3, 4, 5, 6
4 (b)	54,567 sf	125 Retail SF	65,480 sf	100 Retail SF	1, 2, 3, 4, 5, 6
4 (a) and (b)	78,032 sf	125 Retail SF	93,637 sf	100 Retail SF	1, 2, 3, 4, 5, 6
<b>Retail Priority Site 5</b>					
5 (a)	45,905 sf	125 Retail SF	55,086 sf	100 Retail SF	1, 2, 3, 4, 5, 6
5 (b)	26,769 sf	125 Retail SF	32,122 sf	100 Retail SF	1, 2, 3, 4, 5, 6
5 (c)	21,935 sf	125 Retail SF	26,322 sf	100 Retail SF	1, 2, 3, 4, 5, 6
5 (a) and (b)	72,674 sf	125 Retail SF	87,208 sf	100 Retail SF	1, 2, 3, 4, 5, 6
5 (b) and (c)	48,704 sf	125 Retail SF	58,444 sf	100 Retail SF	1, 2, 3, 4, 5, 6
5 (a), (b), and (c)	94,609 sf	125 Retail SF	113,530 sf	100 Retail SF	1, 2, 3, 4, 5, 6

**Additional Regulations for Table 17.101C.05:**

[1 OMITTED]

2. The following are regulations for retail square footage minimums:
  - i. The following contribute to the retail square footage minimums:
    1. Retail floor area (see Limitation ~~L11L12~~ in Table 17.101C.01 for all of the complementary activities that count as retail floor area);
    2. Internal pedestrian stairs, corridors, and circulation;
    3. Ground-floor public plaza/open space located on-site or adjacent off-site.
  - ii. Utilization of existing buildings towards new retail floor area can count toward the retail square footage. In the case of a CEQA Historic Resource:
    1. New retail square footage in a CEQA Historic Resource can count double towards the retail square footage required to obtain a residential bonus; or
    2. If a CEQA Historic Resource is maintained and not used for retail, the area of its footprint can be deducted from the overall square footage of the Retail Priority Site in determining the square footage of retail required.
  - iii. Square footage of the following do not count towards the retail square footage minimum:
    1. Loading dock;
    2. Parking;
    3. Driveways, ramps, and circulation for cars and trucks.

**[3-6 OMITTED]**

**EXHIBIT B:**  
**REVISIONS TO S-13 AFFORDABLE HOUSING COMBINING ZONE  
REGULATIONS**

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

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

**17.95.020 Affordability Thresholds**

By Right Residential Approval (as defined in Oakland Planning Code Section 17.09.040) under the S-13 Combining Zone shall apply to either of the following:

(A) ~~Developments~~ that include one hundred percent (100%) affordable housing units, other than manager's units, (as defined in Oakland Planning Code Section 17.09.040), restricted to extremely low-, very low-, low-, and/or moderate-income households (as defined in California Health and Safety Code Sections 50093, 50105, and 50106, and in Oakland Planning Code Section 17.09.040); or

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

(A) (1) At least twenty percent (20%) of the housing units are restricted to very low-income or ~~lower~~-income households; and

(B) (2) At least twenty percent (20%) of the housing units are restricted to moderate-income households.

**17.95.070 Additional Incentives.**

In addition to the automatic relaxation of property development standards as described in Section 17.95.060, an applicant utilizing the By Right Residential Approval provisions under this chapter for a qualifying affordable housing project may submit to the city a proposal for up to three additional development incentives that contribute significantly to the economic feasibility of the construction of affordable housing. The requested incentive(s) shall not pertain to the allowable height or setbacks of the proposal but may otherwise pertain to any applicable objective development standard in the Planning Code. The applicant must include in the incentive proposal documentation that the granting of the incentive provides identifiable and actual cost reductions to the project. Incentive requests complying with the requirements of this section shall be granted unless the City establishes

that the incentive would have a specific adverse impact on public health and safety or would be contrary to state or federal law.

**EXHIBIT C:**  
**REVISIONS TO S-14 HOUSING SITES COMBINING ZONE REGULATIONS**

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

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

**17.96.010 Title, Purpose and Applicability.**

The provisions of this Chapter shall be known as the S-14 Housing Sites Combining Zone Regulations. The Housing Sites Combining (S-14) Zone is intended to facilitate housing production on those sites that the City identified for housing pursuant to the 2023-2031 Housing Element. The S-14 Combining Zone seeks to ensure that sites within the S-14 Zone are developed with residential uses; and that projects that contribute toward meeting Oakland's needs for lower income housing receive By Right Residential Approval (as defined in Oakland Planning Code Section 17.09.040).

These regulations shall apply in the S-14 Combining Zone and where so stated herein shall supersede the regulations applying in the underlying zoning district with which the S-14 Zone is combined. Notwithstanding, for any parcel where the maximum allowable density of the underlying zoning district is less than the Realistic Capacity designated for the site as shown in the Housing Sites Inventory, then the underlying zoning district shall control.

**17.96.020 Definitions.**

The following definitions shall apply to this Chapter only.

**Development Project.** “Development Project” shall mean the process of changing the character of the land from its existing condition by constructing a fixed-foundation building or buildings on the land; by demolishing an existing building or buildings and constructing a new fixed-foundation building or buildings on the land; or by reusing through major physical alteration, an existing building or buildings for purposes other than the purpose for which it was originally built or designed. Development Project does not include the making of improvements, renovations, or updates to an existing building, the placement of temporary structures, or the physical alteration, other than fixed-foundation building construction, of the property outside of an existing building envelope.

**Housing Sites Inventory.** “Housing Sites Inventory” shall mean those sites listed in Tables C-5a, C-5b, and C-26 (Sheets “Table A” and “Table B”) included in Appendix C of the City of Oakland 2023-2031 Housing Element, as may be



amended.

**Majority Residential Use.** “Majority Residential Use” shall mean a use consisting of residential units only, mixed use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential activity, or transitional or supportive housing.

**Prior Housing Element Sites.** “Prior Housing Element Sites” shall mean those sites included in the Housing Sites Inventory and also included in the previously adopted 2007-2014 or 2015-2023 Housing Elements, as identified in column O of Table C-26 of the City of Oakland 2023-2031 Housing Element as either “Used in Prior Housing Element – Non-Vacant” or “Used in Two Consecutive Prior Housing Elements – Vacant.”

**Realistic Capacity.** “Realistic Capacity” shall mean the projected residential development capacity, stated in terms of total probable number of dwelling units, capable of being achieved on the sites identified in the Housing Sites Inventory.

If the site is included in Sheet “Table A” of Table C-26, then the Realistic Capacity is identified in column S, “Total Capacity.”

If the site is included in Table C-5a, Table C-5b, or Sheet “Table B” of Table C-26, then the Realistic Capacity is the sum total of columns identifying the capacity of Extremely Low Income, Very Low Income, Low Income, Moderate Income, and Above Moderate Income, expressed as total dwelling unit count.

Where a site is designated in the Housing Sites Inventory as part of a consolidated site grouping, with the Realistic Capacity listed on only a subset of the consolidated sites, the Realistic Capacity for the site shall be proportional to the parcel size compared to the aggregated parcel size for the associated consolidated sites, rounded to the nearest whole number.

#### **17.96.040 Required Majority Residential Use.**

All Ddevelopment Pproject proposed in the S-14 Combining Zone must be a Majority Residential Use. For purposes of determining Majority Residential Use, only newly proposed Floor Area, and not existing Floor Area that will remain on the project site, will be considered.

Any Ddevelopment Pproject proposed in the S-14 Combining Zone not providing a Majority Residential Use shall not be permitted.

Notwithstanding the above, a Ddevelopment Pproject proposed in the S-14 Combining Zone that is not a Majority Residential Use may be permitted if the applicant can demonstrate one of the following:

- A. The proposal includes a total residential unit count that equals no less than one hundred percent (100%) of the Realistic Capacity designated for the site as shown in the Housing Sites Inventory;

- B. The proposal is a non-residential development that is coordinated with the development of a site under the same ownership that is within ¼ mile of the proposed development's site and that when the square footage of both developments are considered together meets the definition of a Majority Residential Use. For purposes of this section, "coordinated" shall mean that the Realistic Capacity applicable to the non-residential development will be applied to the newly identified site for purposes of determining minimum densities under Section 17.96.050, and the developer of the proposed non-residential development has either applied for planning entitlements for the residential development or has entered into an agreement, provided to the City, for partnered housing with a residential developer. Such agreement shall identify the Realistic Capacity and minimum density for the site and identify how the non-residential developer will contribute to affordable housing. The development standards applicable to the residential site must be sufficient to accommodate the applied Realistic Capacity. Affordable housing may be contributed by the non-residential developer through the donation of the property to the residential developer or through a cash payment to the residential developer that shall be used toward the cost of constructing the residential project. If a building permit has not been issued for the residential development, the City may withhold issuance of building permits for the non-residential development until building permits for the residential development are issued. If the residential development does not commence construction, the City may withhold certificates of occupancy for the non-residential development until the construction of the residential development is commenced.
- C. The proposal is a use on government-owned property that is not a disposition under the Surplus Lands Act or that is otherwise exempt from the Surplus Lands Act. Notwithstanding Section 17.96.050, such uses are also exempt from minimum residential density requirements.
- D. The proposal is an Emergency Shelter Residential Activity and/or Emergency Housing Facility permitted pursuant to Section 17.07.060.A.

**17.96.050 Minimum Densities.**

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

- A. Except as provided under Subsections 17.96.050.B and 17.96.050.C, all All-Ddevelopment Pprojects proposed in the S-14 Combining Zone shall include a residential unit count that equals no less than ~~seventy-five percent (75%)~~ seventy percent (70%) of the Realistic Capacity designated for the site as shown in the Housing Sites Inventory.
- B. ~~Notwithstanding the above, a~~ A proposed Ddevelopment Pprojects in which one hundred percent (100%) of the residential units are reserved for moderate-, low-, and very low-income households, other than

manager's units, ~~may propose shall include~~ a residential unit count that ~~is equals no~~ less than ~~seventy-five-fifty~~ percent (75%) of the Realistic Capacity designated for the site ~~so long as the residential unit count equals no less than one hundred percent (100%) of the lower income capacity for the site~~ as shown in the Housing Sites Inventory.

C. Where a conflict exists between the minimum residential density standards set forth in the S-14 Combining Zone and the underlying zoning district, the Development Project shall include a residential unit count that equals no less than ninety percent (90%) of the maximum density permitted in the underlying zoning district. If the underlying zoning district does not permit Permanent Residential Activities, then the requirements of this Chapter 17.96 shall not apply.

#### **17.96.060 By Right Residential Approval for Prior Housing Element Sites.**

If a project is proposed on a Prior Housing Element Sites parcel and at least twenty percent (20%) of the project's units will be made available to lower-income households, the project shall be ~~subject to eligible for~~ By Right Residential Approval, as defined in Oakland Planning Code Section 17.09.040.

#### **17.96.070 By Right Residential Approval for Sites not used in Prior Housing Elements.**

If a project is proposed on a parcel included in the Housing Sites Inventory and is not a Prior Housing Element Sites parcel, the project shall be ~~subject to eligible for~~ By Right Residential Approval if the project proposes at least as many lower- and moderate-income units as shown in the Housing Sites Inventory, the project overall proposes at least as many total units as described as the Realistic Capacity for the parcel (or where a conflict exists between the Realistic Capacity described for the parcel and the underlying zoning district, at least ninety percent (90%) of the maximum density permitted in the underlying zoning district), and the project satisfies at least one of the following conditions:

- A. At least twenty percent (20%) of the total housing units are restricted to very low- income households; or
- B. At least twenty-five percent (25%) of the total housing units are restricted to any combination of very low- and lower-income households; or
- C. At least forty percent (40%) of the total housing units are restricted to any combination of very low-, low-, and moderate-income households.

Notwithstanding the above, a project shall not be eligible for By Right Residential Approval under this section if the project proposes development in phases or proposes more than one hundred thousand (100,000) square feet of new floor area, unless one hundred percent (100%) of the housing units, other than manager's units, are restricted to very low-, low- and moderate-income residents.



EXHIBIT D:  
REVISIONS TO D-LM LAKE MERRITT STATION AREA DISTRICT ZONES REGULATIONS

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

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

**7.101G.030 Permitted and conditionally permitted activities.**

Table 17.101G.01 lists the permitted, conditionally permitted, and prohibited activities in the D- LM Zones. The descriptions of these activities are contained in Chapter 17.10.

"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 for the CUP procedure) in the corresponding zone.

"L" designates activities subject to certain limitations or notes listed at the bottom of the Table.

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

Activities	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
<b>Commercial Activities</b>						
Alcoholic Beverage Sales	C(L7)	<u>C(L17)</u>	<u>C(L17)</u>	<u>C(L17)</u>	C	17.103.030 and 17.114.030
<u>Artisan Production</u>	<u>P(L18)</u>	<u>P(L18)</u>	<u>P(L18)</u>	<u>P(L18)</u>	<u>P(L18)</u>	

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

**L7.** These activities may only be located on or below the ground floor of a building with the following exceptions:

- a. If the floor area devoted to the activity is less than three thousand (3,000) square feet; and
- b. An activity located on the ground floor may extend to the second floor of a building if the activity on the second floor is the same as, or accessory to, the ground floor activity and part of the same business or establishment; and there is a direct internal connection between the ground floor and the second story activities.

**L17.** Any on-sale and/or off-sale of alcoholic beverages in conjunction with an approved arts, entertainment, or cultural use in these zones does not require a Conditional Use Permit (CUP), but instead shall obtain a Central District Entertainment Venue Permit as described in Oakland Municipal Code Chapter 5.12. Arts, entertainment, and cultural uses include, but are not limited to: bars, cabarets, night clubs, pool halls, bowling alleys, mini-golf, mechanical or electronic games, museums, art galleries, barber shops or salons, nail salons, performing arts centers, auditoriums, theaters, and other similar venues. Any alcoholic beverages sales in conjunction with an approved arts, entertainment, or cultural use must conform to all applicable regulations.

including but not limited to, Oakland Municipal Code Chapter 5.12.

**L18. During operating hours, ground floor Artisan Production Commercial Activities shall be open to the public to purchase and view items produced on site. On other floors, these activities shall either be open to the public during operating hours or available by appointment to view and purchase items produced on site.**