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City Attorney's Office

# OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBERS ABEL GUILLÉN AND DAN KALB

**RESOLUTION TO ISSUE AN OFFICIAL STATEMENT OF  
POLICY RELATED TO IMPLEMENTING OAKLAND MUNICIPAL  
CODE § 5.92.050(F) AND OAKLAND PLANNING CODE §  
17.103.050 REGARDING CONDITIONAL USE PERMIT  
APPLICATIONS FOR TRANSIENT HABITATION  
DEVELOPMENT OPERATIONS**

**WHEREAS**, Oakland is facing a widening crisis of income inequality, a lack of sufficient affordable housing, and displacement of working-class residents and communities of color; and

**WHEREAS**, the quality of the jobs provided by the economic development currently occurring in Oakland will have a significant effect on whether this crisis is mitigated or exacerbated; and

**WHEREAS**, economic development, including hotel development, has the potential to provide a large number of jobs with good wages and benefits, but also conversely can generate a large number of poverty-wage jobs; and

**WHEREAS**, the Oakland Municipal Code § 5.92.050(F), authorizes City officials, to the maximum extent permitted by law, to consider an employer's record of noncompliance with the Oakland Minimum Wage, (including, without limitation, provisions for Paid Sick Leave) in making decisions about land use approvals and other entitlements to expand or operate within the City; and

**WHEREAS**, Section 17.103.050 of the Oakland Planning Code requires that a Conditional Use Permit for a hotel or motel may be granted only if "the proposal considers the impact of the employees of the hotel or motel on the demand in Oakland for housing, public transit and social services"; now, therefore, be it

**RESOLVED:** That the Oakland City Council intends and desires to ensure that detailed, thorough and deliberate consideration is given to the factors set forth in Municipal Code § 5.92.050(f) and Planning Code § 17.103.050; and be it

**FURTHER RESOLVED:** That prior to approving or recommending an application for a Major or Minor Conditional Use Permit or Major Variance for any hotel or motel, the Department of Planning and Building shall require the applicant to provide the following information:

1. A business plan that includes the anticipated wages and benefits that will be paid to the hotel's or motel's employees;
2. An economic analysis of the impact of the hotel's or motel's employees on the demand in the City for housing, public transit, and social services, taking into account the anticipated wages and benefits in the business plan; and
3. A sworn certification that the foregoing information is complete, true and correct; and be it

**FURTHER RESOLVED:** That prior to approving or recommending approval of an application for a Major or Minor Conditional Use Permit or Major Variance for any hotel or motel, the Department of Planning and Building should consider the following:

1. Whether the applicant's business plan demonstrates the applicant's commitment and ability to comply with the Oakland Minimum Wage Law, (including without limitation, provisions for Paid Sick Leave) in implementing the project;
2. What impact employees of the hotel or motel will have on the demand in Oakland for housing, public transit, and social services;
3. Whether anticipated wages and benefits in the applicant's business plan will enable hotel's or motel's employees to reside in Oakland, including in neighborhoods accessible to the hotel or motel by foot or public transportation; and
4. Whether the anticipated wages and benefits in the applicant's business plan are such that employees will be eligible for public subsidies for housing, food, transportation and other necessities.

**FURTHER RESOLVED:** That the Oakland City Council hereby requests that the City Planning Commission initiate action to amend Chapter 17.134.020 of the Oakland Planning Code as indicated in Attachment A, adding category g. Transient Habitation Commercial activities with more than 25 sleeping rooms, to the list of planning activities requiring a Major or Minor Conditional Use Permit or Major Variance.

**FURTHER RESOLVED:** That the Oakland City Council hereby requests that, in addition to initiating action on the aforementioned amendment to Chapter 17.134.020, the City Planning Commission consider an amendment to section

17.58.01 of the Oakland Planning Code to make the status of Transient Habitation Commercial activities in the CBD-C zone consistent with other zones in the Central Business District and throughout the City.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES -

NOES -

ABSENT -

ABSTENTION -

ATTEST

\_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council of the

City of Oakland, California

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## ATTACHMENT A

### 17.134.020 Definition of major and minor conditional use permits.

A. Major Conditional Use Permit. A conditional use permit is considered a major conditional use permit if it involves any of the following:

1. Thresholds. Any project requiring a conditional use permit that meets any of the following size thresholds:
  - a. The actual project site (including only portions of the lot actually affected by the project) exceeds one (1) acre;
  - b. Nonresidential projects involving twenty-five thousand (25,000) square feet or more of floor area, except in the R-80, CBD-R, CBD-P (when not combined with the S-7 Zone), CBD-C, CBD-X, S-2, S-15, D-CO, or D-LM Zones;
  - c. Residential projects requiring a conditional use permit for density resulting in a total number of living units as follows:
    - i. Three (3) or more dwelling units in the RM-2 Zone,
    - ii. Seven (7) or more dwelling units in the RM-3 or RM-4 Zone.
  - d. Residential projects requiring a conditional use permit to exceed the basic or permitted density which results in seven (7) or more living units in the RU or CBD-R Zone.
  - e. Large Scale Developments. Any development which is located in the R-80, CBD-R, CBD-P (when not combined with the S-7 Zone), CBD-C, CBD-X, S-2, S-15, D-CO, or D-LM Zone and results in more than one hundred thousand (100,000) square feet of new floor area.
  - f. Projects that request to be considered for an exception to the D-LM Height/Bulk/Intensity Area standards.
  - g. Transient Habitation Commercial activities with more than 25 sleeping rooms.
2. Uses. Any project requiring a conditional use permit 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 percent (20%):
  - a. Activities:
    - i. Residential Care Residential,
    - ii. Service Enriched Housing Residential,
    - iii. Transitional Housing Residential,
    - iv. Emergency Shelter Residential,
    - v. Extensive Impact Civic,
    - vi. Fast-food Restaurant Commercial,
    - vii. Convenience Market Commercial,
    - viii. Alcoholic Beverage Sales Commercial or sale of alcoholic beverages at any full-service restaurant in a location described by Subsection 17.103.030.B,
    - ix. Heavy/High Impact Industrial,
    - x. Small Scale Transfer and Storage Hazardous Waste Management,

- xi. Industrial Transfer/Storage Hazardous Waste Management,
  - xii. Mining and Quarrying Extractive,
  - xiii. Special Health Care Civic Activities.
- b. Facilities:
- i. Drive-Through,
  - ii. Advertising Sign, except when the facility meets the requirements of Section 17.11.090.
3. Special Situations. Any project requiring a conditional use permit that involves any of the following situations:
- a. A project requiring development of an Environmental Impact Report (EIR);
  - b. A single establishment containing a Commercial or Industrial Activity, or portion thereof, which is located in any Residential zone and occupies more than 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, CBD-P, CBD-C, CBD-X, S-2, and D-LM Zones serving fifty (50) or more vehicles;
  - d. ~~Transient Habitation Commercial Activities in the C-40 and C-45 Zones;~~
  - ed. Monopole Telecommunications Facilities in, or within three hundred (300) feet of the boundary of, any Residential or HBX Zone;
  - fe. A project in the OS Zone listed as requiring a major conditional use permit in Chapter 17.11;
  - gf. A electroplating activity as defined in Section 17.09.040 subject to the provisions of Section 17.102.340;
  - hg. A Telecommunications Facility in or within one hundred (100) feet of the boundary of any Residential zone, HBX Zone, or the D-CE-3 or D-CE-4 Zone;
  - ih. A Telecommunications Facility whose antennas and equipment are not fully concealed from view within three hundred (300) feet of the boundary of the RH, RD, RM, RU-1, or RU-2 Zones, HBX Zone, or the D-CE-3 or D-CE-4 Zone.
- 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, except for 17.134.020 A.1.g.

## ATTACHMENT B

### 17.58.040 Permitted and conditionally permitted activities

Table 17.58.01: Permitted and Conditionally Permitted Activities

Activities	CBD-R	CBD-P	CBD-C	CBD-X	Additional regulations
...					
Transient habitation	C	C(L6)	PC	C	17.103.050

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