


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE, AS RECOMMENDED BY THE PLANNING COMMISSION, AMENDING TITLE 17 OF THE OAKLAND MUNICIPAL CODE (OAKLAND PLANNING CODE):

- 1) UPDATING THE ACCESSORY DWELLING UNIT REGULATIONS FOR CONSISTENCY WITH STATE LAW AND PROVIDING WRITTEN FINDINGS PURSUANT TO GOVERNMENT CODE 66326(B);**
- 2) REVISING DISCONTINUANCE STANDARDS FOR NONCONFORMING ACTIVITIES;**
- 3) REMOVING APPLICABILITY OF S-10 SCENIC ROUTE COMBINING ZONE DISCRETIONARY STANDARDS TO MINISTERIAL DESIGN REVIEW;**
- 4) PERMITTING RECREATIONAL ASSEMBLY ACTIVITIES IN THE WOOD STREET D-WS-9 ZONE;**
- 5) REVISING MINIMUM FRONT SETBACK IN D-CO-2 ZONE;**
- 6) REMOVING A REVIEW DEADLINE FROM DEVELOPMENT AGREEMENT PROCEDURE IN SECTION 17.138.030;**
- 7) REVISING UTILITY SCREENING STANDARDS IN SECTION 17.124.045;**
- 8) INCORPORATING CONFORMING AND CLERICAL REVISIONS; AND**
- 9) MAKING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS.**

WHEREAS, the City of Oakland (City) adopted its Accessory Dwelling Unit (ADU) Ordinance No. 13667 C.M.S on January 18, 2022; and

WHEREAS, the City adopted Ordinance No. 13800 C.M.S. on June 18, 2024, that updated the Oakland Planning Code to reflect changes in State law that occurred since the adoption of the City's ADU Ordinance in 2022 and to address written comments from the California Department

of Housing and Community Development (State HCD) regarding City's compliance with State ADU regulations; and

WHEREAS, the City adopted Ordinance No. 13856 C.M.S. on July 1, 2025, that updated the Oakland Planning Code to align with changes in State law that became effective in January 2025; and

WHEREAS, on December 10, 2025, the City received a second review and written Findings Letter from State HCD, stating some instances where State HCD alleged the City's ADU Ordinance does not comply with State ADU Law pursuant to Government Code, Title 7, Division 1, Chapter 13; and

WHEREAS, State HCD provided five written findings of instances where the Ordinance was not in compliance with State ADU Law; and

WHEREAS, on January 8, 2026, the City provided State HCD with a timely written Response Letter addressing each of the five findings that State HCD provided in the December 10, 2025 Findings Letter; and

WHEREAS, on April 20, 2026, City staff met and conferred with State HCD staff regarding two findings for which the City determined no amendments were necessary because the existing regulations comply with State law, specifically: (1) regulation of the ADUs in the S-9 Fire Protection Overlay Zone (S-9 Combining Zone); and (2) regulation of ADU placement on a lot, including placement in the front setback; and

WHEREAS, State HCD requested that the City either amend the ADU Ordinance to comply with State law, or adopt the Ordinance without changes and include findings explaining why the City believes the regulations comply with State law; and

WHEREAS, as required by State law, Staff has provided findings that the City's ADU Ordinance does comply with State ADU Law, including with respect to the two HCD Findings that the City does not provide responsive amendments per request in the State HCD findings Letter; and

WHEREAS, in regards to adopted ADU regulation in the S-9 Fire Protection Overlay Zone (S-9 Combining Zone), the City has previously adopted findings supporting the ADU regulations applicable to the S-9 Combining Zone pursuant to Government Code section 66326(b)(2)(B) through Ordinance No. 13677 C.M.S; and

WHEREAS, the City subsequently reaffirmed and expanded these findings in Ordinance No. 13800 C.M.S., adopted June 18, 2024, with the supporting Agenda Report for that hearing that further documents the basis for regulating ADUs in the S-9 Combining Zone; and

WHEREAS, the City's August 4, 2023 response letter to State HCD provides a detailed response to State HCD's concerns regarding fire hazard restrictions, including the Findings in Attachments A–G to that letter; and

WHEREAS, in its January 8, 2026 response letter to HCD, the City re-affirmed the findings it adopted in its August 4, 2023 response letter to HCD and hereby incorporates those findings as if fully set forth herein; and

WHEREAS, the City maintains that the S-9 Fire Protection Overlay Zone (S-9 Combining Zone) ADU regulations are essential to protect public safety including emergency access and evacuation in areas subject to elevated fire risk response and evacuation; and

WHEREAS, the City further maintains that it has complied with State law, Government Code section 66326(b)(2)(B), by adopting findings demonstrating that the S-9 Combining Zone ADU regulations are consistent with State law and necessary to protect public safety; and

WHEREAS, the City's adopted "order of preference" provision regulating of ADU placement on a lot establishing preferred locations (e.g., rear or side yards) does not prohibit front yard ADUs where no other compliant location exists; and

WHEREAS, if the only available location for a qualifying 800-square-foot ADU with minimum four-foot side and rear setbacks is in the front yard, the City will still permit an ADU in that location; and

WHEREAS, the City is including a finding in SECTION 2(b). Compliance with State Law and Findings to outline the reasons that the adopted "order of preference" provision is in full compliance with the State ADU Law; and

WHEREAS, Staff has prepared amendments to the Oakland Planning Code to address State HCD's remaining findings that bring the City's ADU regulations into compliance with State law; and

WHEREAS, the City periodically updates Title 17 of the Oakland Municipal Code (Oakland Planning Code) to improve clarity, consistency, and alignment with adopted policies and State law; and

WHEREAS, these amendments are intended to eliminate ambiguity, ensure objective standards where required, support equitable and community-serving development, and align regulations with current practice; and

WHEREAS, the City has identified several provisions in the Oakland Planning Code that require clarification, removal of outdated or inconsistent standards, or modification to better implement adopted policies and procedures; and

WHEREAS, the proposed amendments to the Oakland Planning Code have been coordinated with relevant City departments, including the Department of Race and Equity and the Department of Transportation, to ensure consistency with Citywide goals and adopted plans; and

WHEREAS, the proposed amendments to the Oakland Planning Code rely on previously certified Final Environmental Impact Reports (EIRs) and no further environmental review is

required under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21166 and Guidelines Section 15162 and 15164; and

WHEREAS, as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment); and

WHEREAS, On May 20, 2026, at a duly noticed public hearing, the Oakland Planning Commission recommended approval of the proposed changes to ADU regulations, other substantive Oakland Planning Code amendments, and other conforming clerical changes in various Chapters of the Oakland Planning Code.

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

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

SECTION 2. Compliance with State Law and Findings. The City Council finds that the City’s ADU Ordinance complies with State law, including with respect to Findings #2 and #5 identified in the California Department of Housing and Community Development’s (State HCD) December 10, 2025 Written Findings Letter, for which no amendments are proposed.

a. Regarding Finding #2, the City previously adopted findings supporting the ADU regulations applicable to the S-9 Overlay Zone through Ordinance No. 13677 C.M.S. and reaffirmed and expanded those findings through Ordinance No. 13800 C.M.S. The City also provided these findings to State HCD in both its August 4, 2023 and January 8, 2026 response letters to State HCD, and discussed them again during a meeting with State HCD on April 20, 2026. Those previously adopted findings are incorporated in this Ordinance in full as if fully set forth herein.

b. Regarding State HCD’s Finding #5 in response to the City’s “order of preference” provision regulating ADU placement in the front-yard setback, the City Council finds that the Planning Code provisions establishing an “order of preference” for ADU placement identify preferred siting locations, such as rear and side yards, but do not prohibit front-yard ADUs where no other compliant location exists. Government Code section 66321(b)(3) limits the City’s ability to apply development standards, including front setbacks, if they would prevent construction of a qualifying 800-square-foot ADU with minimum four-foot side and rear setbacks. This still allows the City to guide ADU siting when feasible alternatives exist outside of the front-yard setback. The Ordinance’s “order of preference” simply establishes preferred locations (e.g., rear or side yards), but does not prohibit front yard ADUs if no other compliant location is available. If the only available location is in the front yard, the City will permit an ADU in that location. As such, the City Council hereby finds that the City complies with Government Code section 66321(b)(3) by not prohibiting ADUs based on a front-yard setback requirement. To the contrary, it permits front-yard ADUs but only to the extent ADUs are not permitted elsewhere on the lot. Thus, the Council respectfully disagrees with HCD’s Finding #5. Pursuant to Government Code section

66326(b)(2)(B), the City Council hereby adopts this finding regarding consistency of these provisions with State ADU law.

SECTION 3. Amendment of Oakland Planning Code. The Oakland Planning Code (Title 17 of the Oakland Municipal Code) is hereby amended pursuant to *Exhibit A* attached hereto and incorporated by reference herein. Additions to the Oakland Planning Code are shown as underline and omissions are shown as ~~striketrough~~.

SECTION 4. California Environmental Quality Act. The City Council finds and determines the adoption of this Ordinance complies with CEQA because it relies on the previously certified Final Environmental Impact Reports for: the Oakland 2045 General Plan Update - Phase 1 (2023); the Coliseum Area Specific Plan (2105); Broadway Valdez Specific Plan (2014); West Oakland Specific Plan (2014); Central Estuary Area Plan (2013); Land Use and Transportation Element of the General Plan (1998); the Oakland Estuary Policy Plan (1998); the West Oakland, Central City East, Coliseum, and Oakland Army Base Redevelopment Areas; the 1998 Amendment to the Historic Preservation Element of the General Plan; and various Redevelopment Plan Final EIRs (collectively, "EIRs"). No further environmental review is required under CEQA Guidelines Sections 15162, 15163, 15164, and 15183. Moreover, as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning), 15061(b)(3) (general rule, no significant effect on the environment), 15301 (existing facilities), 15302 (reconstruction and rehabilitation) and 15303 (small structures). Each finding represents, both individually and collectively, a basis for CEQA clearance.

SECTION 5. 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, and an Environmental Declaration under the California Fish and Game Code (Section 711.4) with the County of Alameda.

SECTION 6. 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 7. 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 8. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the 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 9. 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 10. Applicability. The amendments to the Oakland Planning Code (Title 17 of the Oakland Municipal Code) shall apply to all development projects whether or not the application is deemed complete.

SECTION 11. Authorization to Make Technical Conforming Changes. The City Council hereby authorizes the City Administrator or designee 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, including but not limited to replacing the term “dwelling unit” with “living unit,” as appropriate, consistent with the amendments provide in *Exhibit A*.

SECTION 12. Transmittal to California Housing and Community Development Department. The City Clerk of the City of Oakland is hereby directed to transmit this Ordinance with Exhibits to the California Department of Housing and Community Development within sixty (60) days of adoption pursuant to Government Code Section 66326(a).

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG, AND
PRESIDENT JENKINS

NOES –

ABSENT –

ABSTENTION –

ATTEST:

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

AN ORDINANCE, AS RECOMMENDED BY THE PLANNING COMMISSION, AMENDING TITLE 17 OF THE OAKLAND MUNICIPAL CODE (OAKLAND PLANNING CODE):

- 1) UPDATING THE ACCESSORY DWELLING UNIT REGULATIONS FOR CONSISTENCY WITH STATE LAW AND PROVIDING WRITTEN FINDINGS PURSUANT TO GOVERNMENT CODE 66326(B);**
- 2) REVISING DISCONTINUANCE STANDARDS FOR NONCONFORMING ACTIVITIES;**
- 3) REMOVING APPLICABILITY OF S-10 SCENIC ROUTE COMBINING ZONE DISCRETIONARY STANDARDS TO MINISTERIAL DESIGN REVIEW;**
- 4) PERMITTING RECREATIONAL ASSEMBLY ACTIVITIES IN THE WOOD STREET D-WS-9 ZONE;**
- 5) REVISING MINIMUM FRONT SETBACK IN D-CO-2 ZONE;**
- 6) REMOVING A REVIEW DEADLINE FROM DEVELOPMENT AGREEMENT PROCEDURE IN SECTION 17.138.030;**
- 7) REVISING UTILITY SCREENING STANDARDS IN SECTION 17.124.045;**
- 8) INCORPORATING CONFORMING AND CLERICAL REVISIONS; AND**
- 9) MAKING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS.**

This Ordinance amends Title 17 of the Oakland Municipal Code (Oakland Planning Code) to (a) correct errors and inconsistencies, provide clarifications, and incorporate targeted substantive updates to address outstanding issues and keep the Oakland Planning Code current; and (b) brings Oakland's Accessory Dwelling Unit (ADU) regulations in conformance with State ADU Law (Gov. Code §§ 66310–66342) by incorporating previously adopted findings pursuant to Government Code Section 66326(b) and making additional findings.

Exhibits

Exhibit A: Proposed OMC Title 17 (Oakland Planning Code) Amendments

Exhibit A: 2026 Planning Code Amendments

The Oakland Planning Code (Title 17 of the Oakland Municipal Code) is 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.

Chapter 17.07 TITLE, PURPOSE, AND SCOPE OF THE ZONING REGULATIONS

17.07.060 Conformity with zoning regulations required.

Except as otherwise allowed by Subsections ~~A., B., and C.~~ below, Section 17.114.030 and by the Nonconforming Use regulations in Chapter 17.114, or as authorized under Section 17.138.015, the Development Agreement procedure in Chapter 17.138, or the Variance and Exception procedure in Chapter 17.148, no activities or facilities shall be established, substituted, expanded, constructed, altered, moved, maintained, or otherwise changed, and no lot lines shall be created or changed, except in conformity to the zoning regulations.

- A. Notwithstanding any contrary provisions in the zoning regulations or the Land Use and Transportation Element of the General Plan, for the duration of a state of emergency or local emergency (defined in California Government Code § 8558) or a shelter crisis (defined in Government Code §§ 8698.1 et seq.) declared by the City Council, Emergency Shelter Residential Activities, as defined in Section 17.10.118 of the Oakland Planning Code, and Emergency Housing and Emergency Housing Facilities, as defined in Section 15.04.3.2400 of the Oakland Building Code, shall be permitted by right with no discretionary approvals, including design review, on all properties owned or leased by the City that are designated by the City Administrator for use as temporary emergency housing sites. Facilities under this Subsection must meet the standards codified in Section 15.04.3.2400 of the Oakland Building Code, as may be amended. An informational report will be submitted to Planning Commission and City Council within ninety (90) days of the commencement of operation of each temporary emergency housing site authorized under this section. After the expiration of a declaration of a state of emergency, local emergency, or shelter crisis, all temporary uses permitted by this Section must be removed within ninety (90) days unless approved for continued use in conformity to the zoning regulations.

~~B. For the duration of a valid Temporary Recreational Vehicle (RV) Occupancy Permit issued pursuant to the Recreational Vehicle on Undeveloped Property Pilot Program described in Oakland Municipal Code (OMC) Chapter 5.72, the applicable regulations or requirements in OMC Chapter 5.72 shall prevail over the regulations or requirements in the Oakland Planning Code (Title 17); and Recreational Vehicles, as defined by Section 18010 of the California Health and Safety Code, that are occupied on private property pursuant to a valid Temporary RV Occupancy Permit shall be considered permitted Residential Facilities. Facilities subject to the Recreational Vehicle on Undeveloped Property Pilot Program must meet the standards codified in OMC Chapter 5.72, as may be amended. After the expiration of this Pilot Program in OMC Chapter 5.72, all permitted temporary uses must be removed no later than the termination of the Temporary RV Occupancy Permit issued prior to expiration of the Pilot Program, unless approved for continued use in conformity to the zoning regulations.~~

~~C. Notwithstanding any contrary provisions in the zoning regulations or the Land Use and~~

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~~Transportation Element of the General Plan, the permit requirements for Sidewalk Cafes as set forth in the individual Zoning Chapters and in Planning Code Section 17.103.090 and required off-street parking ratios for General Retail, Limited Service Restaurant and Full Service Restaurant Commercial Activities are suspended until July 1, 2023 unless further extended by City Council, to facilitate the expansion of Sidewalk Cafes, General Retail Commercial Activities, and Limited and Full Service Restaurants into open air spaces that allow for adequate social distancing pursuant to federal, state and local health guidelines. The applicable permit requirements and procedures for Sidewalk Cafes that expand into the public right-of-way, and General Retail Commercial Activities and Limited and Full Service Restaurants that expand to open spaces on private property are set forth in O.M.C. Chapter 8.62. This Subsection shall terminate on July 1, 2023 unless further extended by City Council.~~

Chapter 17.09 DEFINITIONS

17.09.040 Definitions.

"Floor Area":

1. "Floor area," for all projects except those with one or two dwelling living units on a lot, means the total of the gross horizontal areas of all floors, including usable basements, 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.
2. "Floor area," for all projects with one or two dwelling living units on a lot, means the total square footage of all levels of all buildings on the lot. Levels shall be measured horizontally from the outside surface of exterior walls and supporting columns. The amount of floor area in each building shall be determined by the following criteria:
 - a. Floor area shall include all enclosed shafts, including stairwells, ventilation shafts and similar vertical shafts; the floor area of such shafts shall consist of the horizontal projection into the shaft of surrounding floor area; and
 - b. Floor area shall not include:
 - i. Unenclosed living areas such as balconies, decks and porches;
 - ii. Carports that are unenclosed on two (2) or more sides;
 - iii. Up to four hundred forty (440) square feet within an attached or detached garage or carport that is enclosed on three (3) or more sides;
 - iv. Nonhabitable accessory structures of less than one hundred twenty (120) square feet;
 - v. Attics and basements, as defined in the Oakland Planning Code, that do not qualify as a story; and
 - vi. Finished and unfinished understories and basements if the height from finished grade at the exterior perimeter of the building to the finish floor elevation above is six (6) feet or less for at least fifty percent (50%) of the perimeter and does not exceed twelve (12) feet above grade at any point.

Chapter 17.17 RM MIXED HOUSING TYPE RESIDENTIAL ZONES REGULATIONS

Sections:

17.17.050 Property development standards.

17.17.050 Property development standards.

A. **Zone Specific Standards.** Table 17.17.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "N/A" designates the standard is not applicable to the specified zone.

Table 17.17.03: Property Development Standards

Development Standards	Zones				Additional Regulations
	RM-1	RM-2	RM-3	RM-4	
Minimum Lot Dimensions					
Lot Width mean	20 ft.	20 ft.	20 ft.	20 ft.	1
Frontage	20 ft.	20 ft.	20 ft.	20 ft.	1
Lot area	2,000 sf.	2,000 sf.	2,000 sf.	2,000 sf.	1
Maximum Residential Density					
Permitted density for Regular Dwelling Units, Rooming Units, and Efficiency Dwelling Units	1-2 units on any legal lot;	1-2 units on any legal lot;	1-2 units on any legal lot;	1-2 units on any legal lot;	2
	3 units on minimum 3,000 sf. lots;	3 units on minimum 3,000 sf. lots;	3 units on minimum 3,000 sf. lots;	3 units on minimum 3,000 sf. lots;	
	4 units on minimum 4,000 sf. lots;	4 units on minimum 4,000 sf. lots;	4 units on minimum 4,000 sf. lots;	4 units on minimum 4,000 sf. lots;	
	For 5 or more units – 1 unit per 1,750 sf. of lot area	For 5 or more units – 1 unit per 1,500 sf. of lot area	For 5 or more units – 1 unit per 1,250 sf. of lot area	For 5 or more units – 1 unit per 1,000 sf. of lot area	
Minimum Setbacks for Lots Equal to or Greater than 3,000 Square Feet					
Minimum front (≤20% street-to-setback gradient)	15 ft.	15 ft.	15 ft.	15 ft.	4, 5, 7, 18
Minimum front (>20% street-to-setback gradient)	5 ft.	5 ft.	5 ft.	5 ft.	4, 5, 6, 7, 18
Minimum interior side	4 ft.	4 ft.	4 ft.	4 ft.	1, 7, 8, 9, 18, 21
Minimum street side	4 ft.	4 ft.	4 ft.	4 ft.	1, 4, 7, 8, 10, 18

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Development Standards	Zones				Additional Regulations
	RM-1	RM-2	RM-3	RM-4	
Rear	10 ft.	10 ft.	10 ft.	10 ft.	1, 11, 18
Reduced Setbacks for Smaller Lots	See Table 17.17.04 for reduced setbacks for lots less than 3,000 square feet in size				1, 20
Maximum Floor Area Ratio (FAR) and Lot Coverage for 1 and 2 Units	See Table 17.17.05 for maximum FAR and lot coverage for one and two dwelling units, excluding any permitted Accessory Dwelling Units				1, 17, 19
Maximum Lot Coverage for 3 or More Units	N/A	N/A	N/A	N/A	17,19
Height Regulations for All Lots with a Footprint Slope of <20%					
Maximum wall height primary building	30 ft.	30 ft.	35 ft.	35 ft.	12, 13
Maximum pitched roof height primary building	35 ft.	35 ft.	35 ft.	35 ft.	12, 13
Maximum height for accessory structures	15 ft.	15 ft.	15 ft.	15 ft.	12
Minimum height of ground floor Nonresidential Facilities	15 ft.	15 ft.	15 ft.	15 ft.	20
Height Regulations for all Lots with a Footprint Slope of >20%	See Table 17.17.06 for Height regulations for all lots with a footprint slope of >20%				
Minimum Parking	See Chapter 17.116 for automobile parking and Chapter 17.117 for bicycle parking requirements				14, 15
Minimum Open Space					
Group open space per Regular Unit or Rooming Unit	75 sf.	75 sf.	75 sf.	75 sf.	16
Group open space per Regular Unit or Rooming Unit when private open space substituted	25 sf.	25 sf.	25 sf.	25 sf.	16

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Development Standards	Zones				Additional Regulations
	RM-1	RM-2	RM-3	RM-4	
Courtyard Regulations	See Section 17.108.120				

Additional Regulations for Table 17.17.03:

[REGULATIONS 1 – 15 OMITTED]

16. Usable open space is only required on lots with two (2) or more dwelling-living units, excluding any permitted Accessory Dwelling Units. Each one (1) square foot of private usable open space equals two (2) square feet towards the total usable open space requirement, except that actual group space shall be provided in the minimum amount specified in the table per dwelling-living unit, excluding any permitted Accessory Dwelling Units. All usable open space shall meet the standards contained in Chapter 17.126.

[REGULATIONS 17-21 OMITTED]

B. Reduced Setbacks for Smaller Lots. Table 17.17.04 below prescribes reduced setback standards for lots less than three thousand (3,000) square feet. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

Table 17.17.04 Reduced Setbacks for Lots Less than Three Thousand (3,000) Square Feet

Regulation	Lot Size	Additional Regulations
	< 3,000 sf.	
Minimum Setbacks		
Minimum front (≤20% street-to-setback gradient)	15 ft.	1, 2
Minimum front (>20% street-to-setback gradient)	5 ft.	1, 2
Minimum interior side	3 ft.	1, 2, 3, 4
Minimum street side	3 ft.	1, 2
Rear	10 ft.	1, 2, 3

Additional Regulations for Table 17.17.04:

[REGULATIONS 1 – 4 OMITTED]

C. Maximum Floor Area Ratio (FAR) and Lot Coverage for One and Two Dwelling Living Units Only. Table 17.17.05 below prescribes FAR and lot coverage standards for one and two dwelling-living units associated with the lot sizes listed, excluding any permitted Accessory Dwelling Units. The numbers in the "Additional Regulations" column refer to the regulations listed at the end of the Table.

Table 17.17.05 Maximum Floor Area Ratio (FAR) and Lot Coverage Regulations for One and Two Dwelling Living Units Only

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Regulation	Lot Size in Square Feet					Additional Regulations
	<6,000	≥6,000 and <12,000	≥12,000 and <25,000	≥25,000 and <43,560	≥43,560	
Maximum FAR for Lots with a Footprint Slope >20%	0.55	0.50	0.45	0.30	0.20	1, 2, 4
Maximum Lot Coverage (%)	55%	45%	30%	20%	15%	2, 3

Additional Regulations for Table 17.17.05:

[REGULATIONS 1 – 4 OMITTED]

Chapter 17.19 RU URBAN RESIDENTIAL ZONES REGULATIONS

17.19.050 Property development standards.

A. **Zone Specific Standards.** Table 17.19.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "N/A" designates a standard is not applicable to the specified zone.

Table 17.19.03: Property Development Standards

Development Standards	Zones					Additional Regulations
	RU-1	RU-2	RU-3	RU-4	RU-5	
Minimum Lot Dimensions						
Lot Width mean	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	1
Frontage	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	1
Lot area	2,500 sf.	2,500 sf.	4,000 sf.	4,000 sf.	4,000 sf.	1
Maximum Residential Density						
Permitted density for Regular Dwelling Units	1 unit per 1,000 sf. of lot area	1 unit per 750 sf. of lot area	1 unit per 450 sf. of lot area	See Table 17.19.04	See Table 17.19.04	2
Permitted density for Rooming Units	1 unit per 500 sf. of lot area	1 unit per 375 sf. of lot area	1 unit per 225 sf. of lot area	See Table 17.19.04	See Table 17.19.04	
Permitted density for Efficiency Dwelling Units	1 unit per 500 sf. of lot area	1 unit per 375 sf. of lot area	1 unit per 225 sf. of lot area	See Table 17.19.04	See Table 17.19.04	
Minimum Setbacks for Lots Equal to or Greater than 3,000 Square Feet						
Minimum front (≤20% street-to-setback gradient) for Residential Facilities	15 ft.	10 ft.	10 ft.	5 ft.	0 ft.	3, 4, 5, 6, 20
Minimum front (>20% street-to-setback gradient) for Residential Facilities	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	3, 4, 5, 6, 20
Minimum front for Commercial Facilities	10 ft.	10 ft.	5 ft.	0 ft.	0 ft.	3, 20
Minimum interior side	4 ft.	4 ft.	3 ft.	0 ft.	0 ft.	1, 3, 7, 8, 20, 21
Minimum street side	4 ft.	4 ft.	3 ft.	0 ft.	0 ft.	3, 4, 7, 9, 20
Rear (Residential Facilities)	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	1, 3, 7, 10, 11, 20

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Development Standards	Zones					Additional Regulations
	RU-1	RU-2	RU-3	RU-4	RU-5	
Rear (Nonresidential Facilities)	10 ft.	10 ft.	10 ft.	0/10 ft.	0/10 ft.	1, 3, 10, 11
Reduced Setbacks for Smaller Lots (Less than 3,000 Square Feet)						
Minimum interior side	3 ft.	3 ft.	0 ft.	N/A	N/A	1, 3, 8, 20, 21
Minimum street side	3 ft.	3 ft.	N/A	N/A	N/A	3, 4, 8, 20
Height Regulations						
Minimum height of ground floor Nonresidential Facilities	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	12
Minimum separation between the grade and ground floor living space	N/A	N/A	N/A	N/A	2.5 ft.	13
Maximum height primary building	45 ft.	55 ft.	65 ft.	See Table 17.19.04	See Table 17.19.04	14, 15
Maximum height for accessory structures	15 ft.	15 ft.	15 ft.	See Table 17.19.04	See Table 17.19.04	
Parking Requirements	See Chapter 17.116 for automobile parking and Chapter 17.117 for bicycle parking requirements					16, 17
Parking and driveway location requirements	No	No	No	Yes	Yes	18
Minimum Usable Open Space						
Group usable open space per Regular Dwelling Unit	75 sf.	75 sf.	75 sf.	See Table 17.19.04	See Table 17.19.04	19
Group usable open space per Regular Dwelling Unit when private open space is substituted	20 sf.	20 sf.	20 sf.	See Table 17.19.04	See Table 17.19.04	19
Group usable open space per Rooming Unit	38 sf.	38 sf.	38 sf.	See Table 17.19.04	See Table 17.19.04	19
Group usable open space per Rooming Unit when private open space substituted	10 sf.	10 sf.	10 sf.	See Table 17.19.04	See Table 17.19.04	19
Group usable open space per Efficiency Dwelling Unit	38 sf.	38 sf.	38 sf.	See Table 17.19.04	See Table 17.19.04	19

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Development Standards	Zones					Additional Regulations
	RU-1	RU-2	RU-3	RU-4	RU-5	
Group usable open space per Efficiency Dwelling Unit when private open space substituted	10 sf.	10 sf.	10 sf.	See Table 17.19.04	See Table 17.19.04	19
Courtyard Regulations	See Section 17.108.120					

Additional Regulations for Table 17.19.03:

[REGULATIONS 1 – 21 OMITTED]

- B. **Height, Floor Area Ratio (FAR), Density, and Open Space for the RU-4 and RU-5 Zones Only.** Table 17.19.04 below prescribes height, FAR, intensity, and open space standards associated with the Height Areas described in the Zoning Maps. The number designations in the "Additional Regulations" column refer to regulations below the table. "N/A" designates a regulation is not applicable to the specified Height Area.

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

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

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

Additional Regulations for Table 17.19.04:

[REGULATIONS 1 – 5 OMITTED]

6. Usable open space is only required on lots with two (2) or more dwelling living units, excluding any permitted Accessory Dwelling Units. Each one (1) square foot of private usable open space equals two (2) square feet towards the total usable open space requirement, except that actual group space shall be provided in the minimum amount specified in the table per dwelling living unit, excluding any permitted Accessory Dwelling Units. All usable open space shall meet the standards contained in Chapter 17.126.

Chapter 17.33 CN NEIGHBORHOOD CENTER COMMERCIAL ZONES REGULATIONS

Sections:

- 17.33.010 Title, intent, and description.
- 17.33.020 Required design review process.
- 17.33.030 Permitted and conditionally permitted activities.
- 17.33.040 Permitted and conditionally permitted facilities.
- 17.33.050 Property development standards.
- 17.33.060 Special regulations for Planned Unit Developments.
- 17.33.070 Other zoning provisions.

17.33.030 Permitted and conditionally permitted activities.

Table 17.33.01 lists the permitted, conditionally permitted, and prohibited activities in the CN 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 17.33.01: Permitted and Conditionally Permitted Activities

Activities	Zones				Additional Regulations
	CN-1	CN-2	CN-3	CN-4	
Residential Activities					
Permanent	P(L3)	P(L3)	P(L3)	P(L3)	
Residential Care	P(L1)(L3)	P(L1)(L3)	P(L1)(L3)	P(L1)(L3)	17.103.010
Supportive Housing	P(L3)	P(L3)	P(L3)	P(L3)	
Transitional Housing	P(L3)	P(L3)	P(L3)	P(L3)	
Emergency Shelter	P(L1)(L3) (L5)	P(L1)(L3) (L5)	P(L1)(L3) (L5)	P(L1)(L3) (L5)	17.103.010 17.103.015
Semi-Transient	—	—	P(L3)	P(L3)	
Bed and Breakfast	C(L3)(L4)	C(L3)(L4)	C(L3)	C(L3)	
Civic Activities					
Essential Service	P	P	P	P	
Limited Child-Care Activities	P	P	P	P	
Community Assembly	C(L4)	C(L4)	P(L6)	P(L6)	
Recreational Assembly	P	P	P	P	
Community Education	C(L4)	C(L4)	C(L4)	C	
Nonassembly Cultural	P(L6)	P(L6)	P(L6)	P(L6)	

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Activities	Zones				Additional Regulations
	CN-1	CN-2	CN-3	CN-4	
Administrative	P(L2)	P(L2)	P(L6)	P(L6)	
Health Care	C(L4)	C(L4)	C(L4)	C	
Special Health Care	C(L4)(L7)	C(L4)(L7)	C(L4)(L7)	C(L7)	17.103.020
Utility and Vehicular	C(L4)	C(L4)	C(L4)	C	
Extensive Impact	C(L4)	C(L4)	C(L4)	C	
Commercial Activities					
General Food Sales	P(L9)	P(L9)	P(L9)	P(L9)	
Full Service Restaurants	P	P	P	P	
Limited Service Restaurant and Cafe	P	P	P	P	
Fast-Food Restaurant	C(L4)	C(L4)	C(L4)	C	17.103.030 and 8.09
Convenience Market	C(L4)	C(L4)	C(L4)	C	17.103.030
Alcoholic Beverage Sales	C	C	C	C	17.103.030 and 17.114.030
Mechanical or Electronic Games	P(L6)	P(L6)	P(L6)	P(L6)	
Medical Service	P(L8)	P(L8)	P(L8)	P(L8)	
General Retail Sales	P(L9)	P(L9)	P(L9)	P(L9)	
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	
Consumer Service	P(L10)	P(L10)	P(L10)	P(L10)	
Consultative and Financial Service	P(L11)	P(L11)	P(L6)	P(L6)	
Check Cashier and Check Cashing	—	—	—	—	
Consumer Cleaning and Repair Service	P	P	P	P	
Artisan Production	P(L19)	P(L19)	P	P	
Consumer Dry Cleaning Plant	C(L4)	C(L4)	C(L4)	C	
Group Assembly	P(L12)(L13)(L14)	P(L12)(L13)(L14)	P(L12)(L13)(L14)	P(L12)(L13)(L14)	
Personal Instruction and Improvement Services	P	P	P	P	
Administrative	P(L2)	P(L2)	P(L6)	P(L6)	
Business, Communication, and Media Services	P(L6)	P(L6)	P(L6)	P(L6)	
Broadcasting and Recording Services	P(L2)(L13)(L14)	P(L2)(L13)(L14)	P(L13)(L14)	P(L13)(L14)	
Research Service	P(L2)	P(L2)	P(L6)	P(L6)	
General Wholesale Sales	—	—	—	—	
Transient Habitation	C	C	C	C	17.103.050
Building Material Sales	—	—	—	—	

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Activities	Zones				Additional Regulations
	CN-1	CN-2	CN-3	CN-4	
Automobile and Other Light Vehicle Sales and Rental	—	—	—	—	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	—	C	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	—	—	
Taxi and Light Fleet-Based Services	—	—	—	—	
Automotive Fee Parking	C(L4)(L18)	C(L4)(L18)	C(L4)(L18)	C(L18)	17.103.055
Animal Boarding	—	—	—	—	
Animal Care	P(L8)	P(L8)	P(L8)	P(L8)	
Undertaking Service	—	—	—	—	
Industrial Activities					
Custom Manufacturing	C(L4)	C(L4)	C	C	
Light Manufacturing	—	—	—	—	
General Manufacturing	—	—	—	—	
Heavy/High Impact	—	—	—	—	
Research and Development	—	—	—	—	
Construction Operations	—	—	—	—	
Warehousing, Storage, and Distribution					
A. General Warehousing, Storage and Distribution	—	—	—	—	
B. General Outdoor Storage	—	—	—	—	
C. Self- or Mini-Storage	—	—	—	—	
D. Container Storage	—	—	—	—	
E. Salvage/Junk Yards	—	—	—	—	
Regional Freight Transportation	—	—	—	—	
Trucking and Truck-Related	—	—	—	—	
Recycling and Waste-Related					
A. Satellite Recycling Collection Centers	—(L17)	—(L17)	—(L17)	—(L17)	
B. Primary Recycling Collection Centers	—	—	—	—	
Hazardous Materials Production, Storage, and Waste Management-Related	—	—	—	—	
Agriculture and Extractive Activities					
Limited Agriculture	P(L15)	P(L15)	P(L15)	P(L15)	
Extensive Agriculture	C(L16)	C(L16)	C(L16)	C(L16)	
Plant Nursery	C(L4)	C(L4)	C(L4)	C	

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Activities	Zones				Additional Regulations
	CN-1	CN-2	CN-3	CN-4	
Mining and Quarrying	—	—	—	—	
Accessory off-street parking serving prohibited activities	C(L4)	C(L4)	C(L4)	C	17.116.175
Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone	C(L4)	C(L4)	C(L4)	C	17.102.110

Limitations on Table 17.33.01:

[L1 – L5 OMITTED]

L6. The total floor area devoted to these activities on the ground floor by any single establishment shall only exceed **ten** thousand (10,000) 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 criteria contained in L4, above.

Chapter 17.65 HBX HOUSING AND BUSINESS MIX COMMERCIAL ZONES REGULATIONS

17.65.120 Minimum usable open space.

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

Regulation	Zones				Notes
	HBX-1	HBX-2	HBX-3	HBX-4	
Minimum Usable Open Space					
Group usable open space per Regular Dwelling Unit	100 sf.	100 sf.	100 sf.	100 sf.	1, 2
Group usable open space per Regular Dwelling Unit when private open space substituted	25 sf.	25 sf.	25 sf.	25 sf.	1, 2
Group usable open space per Rooming Unit	50 sf.	50 sf.	50 sf.	50 sf.	1, 2
Group usable open space per Rooming Unit when private open space is substituted	10 sf.	10 sf.	10 sf.	10 sf.	1, 2
Group usable open space per Efficiency Dwelling Unit	50 sf.	50 sf.	50 sf.	50 sf.	1, 2
Group usable open space per Efficiency Dwelling Unit when private open space is substituted	10 sf.	10 sf.	10 sf.	10 sf.	1, 2

Notes:

- Usable open space is only required on lots with two (2) or more living units, excluding any permitted Accessory Dwelling Units.
- Each one (1) square foot of private usable open space equals two (2) square feet towards the total usable open space requirement. 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.

Zone			
HBX-1	HBX-2	HBX-3	HBX-4
100 sf./unit	100 sf./unit	100 sf./unit	100 sf./unit

Notes:

Usable open space is only required on lots with two (2) or more dwelling units, excluding any permitted Accessory Dwelling Units. Each one (1) square foot of private usable open space equals two (2) square feet towards the total usable open space requirement. 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.

Chapter 17.88 S-9 FIRE SAFETY PROTECTION COMBINING ZONE REGULATIONS

Sections:

17.88.010 Title, Purpose and Applicability.

17.88.020 Findings.

17.88.030 Definitions.

17.88.040 Zones with which the S-9 Zone may be combined.

17.88.050 Prohibited land uses.

17.88.010 Title, Purpose and Applicability.

The intent of the S-9 Fire Safety Protection Combining Zone is to promote the public health, safety and welfare by ensuring that activities and facilities that are located, in whole or part, within or adjacent to Very High Fire Hazard Severity Zones (VHFHSZs) as defined in Section 17.88.030(A), and accessed from streets that are less than twenty-six (26) feet in width at any point or cul-de-sacs that do not meet emergency access standards, develop in such a manner as not to be a serious threat to public health or safety.

S-9 Fire Safety Protection Combining Zone is mapped using the following criteria:

- A. Lots located, in whole or part, within or adjacent to VHFHSZs and one of the following criteria is met:
- B. The lot is accessed by streets connecting the lot to the nearest arterial street (as designated by the City of Oakland General Plan Land Use and Transportation Element) with a pavement width of less than twenty-six (26) feet at any point; or
- C. Where a lot is located on a dead-end street that has a total length of six hundred (600) feet or longer from the nearest intersection. For the purposes of this Subsection, the total length of a dead-end street shall be the distance from the intersection with the nearest through street to the farthest opposite end of the street right-of-way, or private access easement (as defined by Section 16.32.010 of the Oakland Municipal Code) if the shared access facility/private access easement is connected to said dead-end street.

17.88.020 Findings.

- A. Portions of Oakland that are within the VHFHSZ include areas of Oakland Hills that suffered from the devastating Oakland firestorm in 1991.
- B. California's fire risk appears to grow each year as a result of the climate change with higher temperatures and an increase in drought conditions.
- C. Evolving data from recent wildfires display new extreme fire behavior not observed by the OFD previously.
- D. During recent wildfires in California people perished in their cars on blocked roads because they could not escape in time.
- E. New mapping and evacuation software management tools available to Oakland Fire Department (OFD) show that current road and intersection capacity in VHFHSZ is not adequate for the existing population in the events of mass emergency evacuations, additional units and vehicles within the VHFHSZ will increase the evacuation problem.

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OFD indicates that roads within VHFHSZ are likely to develop “choke points” during emergency evacuations, thereby blocking the free flow of traffic throughout the VHFHSZ.

- F. Physical dimensions of streets (width and cul-de-sac length) along with the number of vehicles in VHFHSZ are the two largest factors during emergency evacuations that contribute to developing of the “choke points.”
- G. Streets that are less than twenty-six (26) feet wide or dead-end streets that are longer than six hundred (600) feet do not meet minimum emergency access standards as specified in Municipal Code Section 16.16.025(C)(1), and are at high risk of being blocked during emergency evacuations as well as blocking access for emergency vehicles to respond to emergencies.
- H. Oakland Local Hazard Mitigation Plan points out existing vulnerable and isolated populations in VHFHSZ areas.
- I. Oakland Vegetation Management Report underscores the fact that the area within the VHFHSZ is susceptible to large-scale, high intensity, and rapidly spreading wildfires because of the VHFHSZ unique combination of topography, vegetation, prolonged droughts, winds, and other climatic conditions.

17.88.030 Definitions.

For the purposes of this regulation, the following definitions apply:

- A. **Very High Fire Hazard Severity Zones.** Very High Fire Hazard Severity Zones are those areas identified by: 1) the California Department of Forestry and Fire Protection (CAL FIRE) within Local Responsibility Areas (LRA), including the City of Oakland and 2) City of Oakland, as authorized by Government Code Section 51179. Mapping of Very High Fire Hazard Severity Zones (VHFHSZ) is based on data and models of potential fuels over a given time horizon and their associated expected fire behavior and burn probabilities to quantify the likelihood of vegetation fire exposure to buildings.

17.88.040 Zones with which the S-9 Zone may be combined.

The S-9 Zone may be combined with any other zone.

17.88.050 Prohibited land uses.

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

- A. The following Accessory Dwelling Units (ADUs) as defined in Sections 17.09.040 and 17.103.080:
 - 1. One Family, Two- to Four-Family, and Multifamily Category One Accessory Dwelling Units that are conversions of space outside the envelope of an existing Residential Facility;
 - 2. More than one Two- to Four-Family or, Multifamily Category One Accessory Dwelling Unit that is within the existing envelope of an existing Residential Facility per lot;
 - 3. One Family, Two- to Four-Family, and Multifamily Category Two Accessory Dwelling Units;
 - 4. Two- to Four-Family and Multifamily Category Three Accessory Dwelling Units.

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- B. Except for one (1) ADU specified in 1, 2, or 3 above is allowed in lieu of a Category One interior ADU if the following conditions are met:
1. At least one (1) additional off-street parking space is created on the lot for the ADU in addition to any regularly required off-street parking spaces for the primary Residential Facility. Also, any lost parking spaces must be replaced on the lot; or
 2. Approved application for Reasonable Accommodation Request pursuant to Chapter 17.131 due to a disability of an ADU occupant or a need to accommodate a live-in caregiver for a person with disability. The Reasonable Accommodation Request must include a reason for the exception. No additional ADU parking is required, but any lost parking spaces must be replaced elsewhere on the lot.

Chapter 17.78 S-3 RESEARCH CENTER COMMERCIAL ZONE REGULATIONS

Sections:

17.78.070 Special regulations applying to the conversion of a dwelling-living unit to a Nonresidential Activity.

17.78.130 Minimum yards.

17.78.150 Maximum residential density.

17.78.160 Minimum usable open space.

17.78.070 Special regulations applying to the conversion of a dwelling-living unit to a Nonresidential Activity.

See Section 17.102.230.

17.78.130 Minimum yards.

The following minimum yards shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130:

- A. Front Yard. The minimum front yard depth on every lot shall be twenty (20) feet.
- B. Side Yard—Street Side of Corner Lot. The minimum side yard width on the street side of every corner lot shall be twenty (20) feet.
- C. Side Yard—Interior Lot Line. The minimum width of the side yard along any single interior side lot line of any lot shall be twenty (20) feet.
- D. Rear Yard. The minimum rear yard depth on every lot shall be twenty (20) feet, except that the minimum rear yard depth shall be thirty (30) feet along any portion of a rear lot line which abuts a lot in any Residential Zone.

17.78.150 Maximum residential density.

The maximum density of Residential Facilities shall be as set forth below, subject to the provisions of Section 17.106.030 with respect to maximum density on lots containing both Residential and Nonresidential Facilities. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms. No residential facility shall be permitted to have both an additional kitchen as provided for in Section 17.102.270.B and a Secondary Unit.

A. Permitted Density.

- 1. Regular Dwelling Units. One (1) Regular Dwelling Unit is permitted for each three hundred (300) square feet of lot area, provided that one extra such unit is permitted if a remainder of two hundred (200) square feet or more is obtained after division of the lot area by three hundred (300) square feet.
- 2. Efficiency Dwelling Units. One (1) Efficiency Dwelling Unit is permitted for each one hundred fifty (150) square feet of lot area, provided that one extra such unit is permitted if a remainder of one hundred (100) square feet or more is obtained after division of the

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lot area by one hundred fifty (150) square feet.

3. Rooming Units. One (1) Rooming Unit is permitted for each one hundred fifty (150) square feet of lot area, provided that one extra such unit is permitted if a remainder of one hundred (100) square feet or more is obtained after division of the lot area by one hundred fifty (150) square feet.
 4. Combination of different types of living units. For a combination of different types of living units, the total required lot area shall be the sum of the above requirements for each. The number of living units permitted heretofore may be exceeded by ten percent (10%) on any corner lot, and may also be exceeded by ten percent (10%) on any lot which faces or abuts a public park at least as wide as the lot.
 5. One-Family Dwellings and Two- to Four-Family Dwellings. A One-Family Dwelling or Two- to Four-Family Dwelling is permitted on any lot which qualifies under Section 17.106.010 as an existing buildable parcel and that contains no other dwelling-living units. See Section 17.103.080 and Chapter 17.88 for regulations regarding permitted Accessory Dwelling Units.
- B. Increased Density Allowed in Certain Situations. The number of living units permitted by Subsection A. of this Section may be increased by not to exceed fifty percent (50%) upon the granting of a Conditional Use Permit pursuant to the Conditional Use Permit procedure in Chapter 17.134, in each of the following situations:
1. In the case of a Residential Facility with more than four (4) stories containing living units, subject to the provisions of Section 17.106.040;
 2. Upon the acquisition of development rights from nearby lots, subject to the provisions of Section 17.106.050.

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

17.78.160 Minimum usable open space.

On each lot containing Residential Facilities with a total of two (2) or more dwelling-living units, excluding any permitted Accessory Dwelling Units, group usable open space shall be provided for such facilities in the minimum amount of seventy-five (75) square feet per Regular Dwelling Unit, plus thirty-eight (38) square feet per Rooming Unit or Efficiency Dwelling Unit. Private usable open space may be substituted for such group space in the ratio prescribed in Section 17.126.020. All required space shall conform to the standards for required usable open space in Chapter 17.126.

Chapter 17.90 S-10 SCENIC ROUTE COMBINING ZONE REGULATIONS

Sections:

17.90.050 Design review criteria.

17.90.070 Restriction of height on downslope lots.

17.90.080 Conditional use permit for waiver of certain requirements in the Shepherd Canyon Corridor.

17.90.050 Design review criteria.

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

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

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

17.92.040 Siting of units on certain properties.

On the properties for which the Site Development Map of the North Oakland Hill Area Specific Plan depicts siting of dwelling-living units, those facilities shall be located only at those approximate locations. However, a minor conditional use permit for an alternative development scheme may be granted pursuant to the conditional use permit procedure in Chapter 17.134 upon determination that the alternative scheme would serve the goals of the North Oakland Hill Area Specific Plan as well as, or better than, the pattern depicted on the Site Development Map.

17.92.050 Design review criteria.

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

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

17.92.060 Limitations on residential density.

- A. Overall Density. The maximum overall number of dwelling-living units within any development

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shall be as prescribed in the applicable base zone.

- B. Number of Units Per Unsubdivided Lot. An unsubdivided lot may not have more dwelling living units when subdivided than are permitted per lot by the applicable base zone.

17.92.070 Waiver of certain requirements through Regular Design Review.

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

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

Chapter 17.96 S-14 HOUSING SITES COMBINING ZONE REGULATIONS

Sections:

17.96.020 Definitions.

17.96.050 Minimum Densities.

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-living 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-living 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.

17.96.050 Minimum Densities.

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

- A. Except as provided under Subsections 17.96.050.B and 17.96.050.C, all Development Projects proposed in the S-14 Combining Zone shall include a residential unit count that equals no less than seventy percent (70%) of the Realistic Capacity designated for the site as shown in the Housing Sites Inventory.
- B. A proposed Development Project 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, shall include a residential unit count that equals no less than fifty percent (50%) of the Realistic Capacity designated 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 maximum residential density allowed in** 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.

Chapter 17.97 S-15 TRANSIT-ORIENTED DEVELOPMENT COMMERCIAL ZONE REGULATIONS

17.97.035 Special regulations applying to mixed-use developments on Bay Area Rapid Transit (BART) stations on sites with one (1) acre or more land area.

No mixed-use developments that include Bay Area Rapid Transit (BART) stations located on sites with one (1) acre or more land area shall be permitted except upon the granting of a conditional use permit pursuant to Section 17.97.25 and the conditional use permit procedure in Chapter 17.134 or upon the granting of a Planned Unit Development permit pursuant to Chapters 17.140 and 17.142, 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 the following professionals 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. Electrical 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 applicable specifications of the ~~Electrical Department~~ City of Oakland. See additional Utility Specifications under Section 17.124.045.
- 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 percent (150%) 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.

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

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

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

Regulation	Height Area									Additional Regulations
	35	45	55	65	95	100	125	175	250	

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Maximum Height	35 ft.	45 ft.	55 ft.	65 ft. 75 ft. if on BART - owned parcel subject to AB2923 (2018)	95 ft.	100 ft.	125 ft.	175 ft.	250 ft.	1, 2
Height Minimum										
Permitted height minimum	N/A	N/A	35 ft.	35 ft.	45 ft.	45 ft.	55-ft.	55 ft.	55 ft.	3
Conditionally permitted height minimum	N/A	N/A	25 ft.	25 ft.	35 ft.	35 ft.	45 ft.	45 ft.	45 ft.	3
Maximum Residential Density (square feet of lot area required per dwelling unit)										
Regular Dwelling Units	550	450	350	350	200	200	200	200	200	4, 5
Rooming Units	275	225	175	175	100	100	100	100	100	4, 5
Efficiency Dwelling Units	275	225	175	175	100	100	100	100	100	4, 5
Maximum Nonresidential FAR	2.0	2.5	3.0	3.0	4.5	5.0	5.0	5.0	5.0	4, 5
Maximum number of stories (not including underground construction)	3	4	5	6 7 stories if on BART-owned parcel subject to AB2923 (2018)	8	9	12	17	2425	
Minimum Usable Open Space										
Group usable open space per Regular Dwelling Unit	75	75	75	75	75	75	75	75	75	6

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Group usable open space per Regular Dwelling Unit when private open space substituted	20	20	20	20	20	15	15	15	15	6
Group usable open space per Rooming Unit	38	38	38	38	38	38	38	38	38	6
Group usable open space per Rooming Unit when private open space is substituted	10	10	10	10	10	8	8	8	8	6
Group usable open space per Efficiency Dwelling Unit	38	38	38	38	38	38	38	38	38	6
Group usable open space per Efficiency Dwelling Unit when private open space is substituted	10	10	10	10	10	8	8	8	8	6

Additional Regulations for Table 17.97.04:

[REGULATIONS 1 – 5 OMITTED]

6. Usable open space is only required on lots with two (2) or more dwelling living units, excluding any permitted Accessory Dwelling Units. Each one (1) square foot of private usable open space equals two (2) square feet towards the total usable open space requirement, except that actual group space shall be provided in the minimum amount specified in the table per dwelling living unit, excluding any permitted Accessory Dwelling Units. All usable open space shall meet the standards contained in Chapter 17.126.

Chapter 17.100B S-20 HISTORIC PRESERVATION DISTRICT COMBINING ZONE REGULATIONS

17.100B.080 Duty to keep in good repair.

Except as otherwise authorized under Sections 17.100B.030 and ~~17.100B.070, 17.136.075,~~ 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.

Chapter 17.101A D-WS WOOD STREET DISTRICT ZONES REGULATIONS

Sections:

17.101A.020 Permitted and conditionally permitted activities.

17.101A.030 Property development standards.

17.101A.020 Permitted and conditionally permitted activities.

Table 17.101A.01 lists the permitted, conditionally permitted, and prohibited activities in the D-WS 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 D-WS Zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use permit (CUP) in the corresponding D-WS 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 17.101A.01: Permitted and Conditionally Permitted Activities

Activities	Zones									Additional Regulations
	D-WS-1	D-WS-2	D-WS-3	D-WS-4	D-WS-5	D-WS-6	D-WS-7	D-WS-8	D-WS-9	
Residential Activities										
Permanent	P	P	P	P	—	P	P	P	—	
Residential Care	P(L1)	P(L1)	P(L1)	P(L1)	—	P(L1)	P(L1)	P(L1)	—	17.103.010
Supportive Housing	P	P	P	P	—	P	P	P	—	
Transitional Housing	P	P	P	P	—	P	P	P	—	
Emergency Shelter	P(L1)	P(L1)	P(L1)	P(L1)	—	P(L1)	P(L1)	P(L1)	—	17.103.010 17.103.015
Semi- Transient	—	—	—	—	—	—	—	—	—	
Bed and Breakfast										17.10.125
Civic Activities										
Essential Service	P (L13)	P (L13)	P (L13)	P (L13)	P (L13)	P (L13)	P (L13)	P (L13)	P (L13)	
Limited Child-Care	—	P	—	P	P	P	—	P	—	
Community Assembly	—	P(L2)	—	P(L2)	P	P(L2)	—	P(L2)	C (L12)	
Recreational Assembly	—	—	—	—	P	—	—	—	CP (L12)	

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Activities	Zones									Additional Regulations
	D-WS-1	D-WS-2	D-WS-3	D-WS-4	D-WS-5	D-WS-6	D-WS-7	D-WS-8	D-WS-9	
Community Education	C	C	C	C	C	C	C	C	C	
Nonassembly Cultural	—	P	—	P	P	P	—	P	—	
Administrative	—	P(L3)	—	P(L3)	P	P(L3)	—	P	—	
Health Care	—	P(L3)	—	C	C	C	—	P	—	
Special Health Care	—	—	—	—	—	—	—	—	—	17.103.020
Utility and Vehicular	—	P(L4)	—	P(L4)	P(L4)	P(L3)	—	P(L4)	—	
Extensive Impact	—	—	—	—	—	—	—	—	—	
Commercial Activities										
General Food Sales	—	P(L5)	—	P(L5)	P	P(L5)	—	P(L5)	—	
Full Service Restaurant	—	P	—	P	P	P	—	P	—	
Limited Service Restaurant and Cafe	—	P	—	P	P	P	—	P	—	
Fast Food Restaurant	—	—	—	C	C	C	—	C	—	17.103.030 and 8.09
Convenience Market	—	C(L6)	—	C(L6)	C(L6)	C(L6)	—	C(L6)	—	17.103.030
Alcoholic Beverage Sales	—	C(L7)	—	C(L7)	C(L7)	C(L7)	—	C(L7)	—	17.103.030 and 17.114.030
Mechanical or Electronic Games	—	—	—	—	—	—	—	—	—	
Medical Service	—	P(L8)	—	P(L8)	P(L8)	P(L8)	—	P(L8)	—	
General Retail Sales	—	P(L3)	—	P(L3)	P	P	—	P	—	
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	—	—	—	—	—	
Consumer Service	—	P(L3)	—	P(L3)	P(L3)	P(L3)	—	P	—	
Consultative and Financial Service	—	P(L3)	—	P(L3)	P(L3)	P(L3)	—	P	—	

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Activities	Zones									Additional Regulations
	D-WS-1	D-WS-2	D-WS-3	D-WS-4	D-WS-5	D-WS-6	D-WS-7	D-WS-8	D-WS-9	
Check Cashier and Check Cashing	—	—	—	—	—	—	—	—	—	17.103.040
Consumer Cleaning and Repair Service	—	P(L3)	—	P(L3)	P(L3)	P(L3)	—	P	—	
Consumer Dry Cleaning Plant	—	—	—	—	—	—	—	—	—	
Artisan Production	—	P(L3)	—	P(L3)	P(L3)	P(L3)	—	P	—	
Group Assembly	—	—	—	—	C	—	—	P	C (L12)	
Personal Instruction and Improvement Services	—	P(L3)	—	P(L3)	P(L3)	P(L3)	—	P	—	
Administrative	—	P(L3)	—	P(L3)	P	P	—	P	—	
Business, Communication, and Media Service	—	C	—	C	C	C	—	P	—	
Broadcasting and Recording Service	—	C	—	C	C	C	—	P	—	
Research Service	—	C (L11)	—	—	C	—	—	P	—	
General Wholesale Sales	—	C (L11)	—	—	—	—	—	P	—	
Transient Habitation	—	—	—	—	—	—	—	C	—	17.103.050
Building Material Sales	—	P (L10)	—	P (L10)	P (L10)	P (L10)	—	P	—	
Automobile and Other Light Vehicle Sales and Rental	—	—	—	—	—	—	—	—	—	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	—	—	—	—	—	—	—	

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Activities	Zones									Additional Regulations
	D-WS-1	D-WS-2	D-WS-3	D-WS-4	D-WS-5	D-WS-6	D-WS-7	D-WS-8	D-WS-9	
Automotive and Other Light Vehicle Repair and Cleaning	—	—	—	—	—	—	—	—	—	
Taxi and Light Fleet- Based Services	—	—	—	—	—	—	—	—	—	
Automotive Fee Parking	—	—	—	—	—	—	—	—	—	17.103.055
Animal Care	—	—	—	—	—	—	—	—	—	
Animal Boarding	—	—	—	—	—	—	—	—	—	
Undertaking Service	—	—	—	—	—	—	—	—	—	
Industrial Activities										
Custom Manufacturing	—	P (L16)	—	C	C	C	—	C	—	
Light Manufacturing	—	C	—	—	C	—	—	C	—	
General Manufacturing	—	—	—	—	—	—	—	—	—	
Heavy/High Impact Manufacturing	—	—	—	—	—	—	—	—	—	
Research and Development	—	—	—	—	—	—	—	—	—	
Construction Operations	—	P (L10)	—	P (L10)	P (L10)	P (L10)	—	P (L10)	—	
Warehousing, Storage and Distribution-Related:										
A. General Warehousing, Storage and Distribution	—	C (L11)	—	—	—	—	—	—	—	
B. General Outdoor Storage	—	—	—	—	—	—	—	—	—	
C. Self- or Mini-Storage	—	—	—	—	—	—	—	—	—	
D. Container Storage	—	—	—	—	—	—	—	—	—	
E. Automotive Salvage and Junk Yards	—	—	—	—	—	—	—	—	—	

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Activities	Zones									Additional Regulations
	D-WS-1	D-WS-2	D-WS-3	D-WS-4	D-WS-5	D-WS-6	D-WS-7	D-WS-8	D-WS-9	
Regional Freight Transportation:	—	—	—	—	—	—	—	—	—	
Trucking and Truck-Related:	—	—	—	—	—	—	—	—	—	
Recycling and Waste-Related:										
A. Satellite Recycling Collection Centers	—	—	—	—	—	—	—	—	—	
B. Primary Recycling Collection Centers	—	—	—	—	—	—	—	—	—	
Hazardous Materials Production, Storage & and Waste Management-Related	—	—	—	—	—	—	—	—	—	
Agricultural and Extractive Activities										
Plant Nursery	—	—	—	—	—	P (L14)	P (L14)	—	P (L14)	
Limited Agriculture	P (L14)	P (L14)	P (L14)	P (L14)	P(L14)	P (L14)	P (L14)	P (L14)	P (L14)	
Extensive Agriculture	C (L15)	C (L15)	C (L15)	C (L15)	C(L15)	C (L15)	C (L15)	C (L15)	C (L15)	
Mining and Quarrying Extractive	—	—	—	—	—	—	—	—	—	
Accessory off-street parking serving prohibited activities	—	—	—	—	—	—	—	—	—	17.116.175

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Activities	Zones									Additional Regulations
	D-WS-1	D-WS-2	D-WS-3	D-WS-4	D-WS-5	D-WS-6	D-WS-7	D-WS-8	D-WS-9	
Additional activities that are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof	—	—	—	—	—	—	—	—	—	17.102.110

17.101A.030 Property development standards.

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

Table 17.101A.02 – Property Development Standards

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

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Development Standards	Zones									Additional Regulations
	D-WS-1	D-WS-2	D-WS-3	D-WS-4	D-WS-5	D-WS-6	D-WS-7	D-WS-8	D-WS-9	
Minimum Permitted Density for Regular Dwelling Units	1 unit per 2,000 sf. of lot area	1 unit per 2,000 sf. of lot area	1 unit per 2,000 sf. of lot area	1 unit per 2,000 sf. of lot area	N/A	1 unit per 1,000 sf. of lot area (44 Dwelling Units /Acre)	1 unit per 1,000 sf. of lot area	1 unit per 1,000 sf. of lot area	N/A	1
Maximum Nonresidential Floor Area Ratio (FAR)										
Max. FAR for Nonresidential Uses	N/A	1.4	N/A	2.0	2.0	2.0	N/A	3.0	N/A	3, 6, 7
Maximum Floor Area for Nonresidential Uses										
Max. Floor Area for Nonresidential Uses (sq. ft.)	0 sf.	221,000 sf.	0 sf.	40,000 sf.	70,000 sf.	6,000 sf.	0 sf.	258,000 sf.	N/A	3, 6, 7
Maximum Height										
Max. Height	65 ft.	65 ft.	50 ft.	50 ft.		65 ft.	90 ft.	90 ft.	N/A	2
Minimum Street Setbacks										
Wood Street	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	N/A	4, 8
12th Street	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	N/A	4, 8
Frontage Road	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	N/A	4, 8
14th Street	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	N/A	4, 8
Public Access Areas	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	N/A	4, 8
Minimum Interior Setbacks										

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Development Standards	Zones									Additional Regulations
	D-WS-1	D-WS-2	D-WS-3	D-WS-4	D-WS-5	D-WS-6	D-WS-7	D-WS-8	D-WS-9	
Min. Interior Setbacks	5 ft.	5 ft.	10 ft.	5 ft.	5 ft.	5 ft.	0 ft.	0 ft.	N/A	4, 8
Minimum Usable Open Space										
Group Usable Open Space per Dwelling Living Unit (DU)	100 sf.	75 sf.	100 sf.	100 sf.	N/A	75 sf.	75 sf.	50 sf.	N/A	5
Parking Requirements										
Required Parking for All Uses	See Chapter 17.116 for automobile parking and Chapter 17.117 for bicycle parking requirements									

Additional Regulations for Table 17.101A.02:

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

[REGULATIONS 2 – 8 OMITTED]

Chapter 17.101H D-CO COLISEUM AREA DISTRICT ZONES REGULATIONS

Sections:

17.101H.040 Permitted and conditionally permitted facilities.

17.101H.050 Property development standards.

17.101H.060 Special regulations applying to mixed-use developments on Bay Area Rapid Transit (BART) stations on sites with one (1) acre or more land area.

17.101H.040 Permitted and conditionally permitted facilities.

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

"P" designates permitted facilities in the corresponding zone.

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

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

"—" designates facilities that are prohibited.

Table 17.101H.02: Permitted and Conditionally Permitted Facilities

Facilities	Zones						Additional Regulations
	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	
Residential Facilities							
One-Family Dwelling	—(L4)	—(L4)	—	—	—	—	17.103.080
Two- to Four-Family Dwelling	P(L5)	P(L5)	—	C(L5)	—	—	17.103.080
Multifamily Dwelling	P(L5)	P(L5)	—	C(L5)	—	—	17.103.080
Rooming House	—	—	—	—	—	—	
Vehicular	P	P	—	C	—	—	17.103.080 17.103.085
Nonresidential Facilities							
Enclosed Nonresidential	P	P	P	P	P	P	
Open Nonresidential	C(L1)	P	P	C(L1)	P	P	
Sidewalk Cafe	P	P	P	P	C	C	17.103.090
Drive-In	—	C	C	—	—	—	
Drive-Through	—	C(L2)	C(L2)	—	—	—	17.103.100
Telecommunications Facilities							
Micro Telecommunications	P(L3)	P(L3)	P(L3)	P(L3)	P(L3)	P(L3)	17.128
Mini Telecommunications	P(L3)	P(L3)	P(L3)	P(L3)	P(L3)	P(L3)	17.128
Macro Telecommunications	C	C	C	C	C	C	17.128

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Facilities	Zones						Additional Regulations
	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	
Monopole Telecommunications	C	C	C	C	C	C	17.128
Tower Telecommunications	—	—	—	—	—	—	17.128
Sign Facilities							
Residential Signs	P	P	—	P	—	—	17.104
Special Signs	P	P	P	P	P	P	17.104
Development Signs	P	P	P	P	P	P	17.104
Realty Signs	P	P	P	P	P	P	17.104
Civic Signs	P	P	P	P	P	P	17.104
Business Signs	P	P	P	P	P	P	17.104
Advertising Signs	—	—(L6)	—	—	—	—	17.104

Limitations on Table 17.101H.02:

[L1 – L4 OMITTED]

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

L6. General Advertising signs are not permitted except: 1) as otherwise provided for in Section 17.104.060, and 2) for those facilities approved pursuant to the design review procedure in Chapter 17.136 associated with naming rights and/or sponsorships related to stadiums and performance venues.

17.101H.050 Property development standards.

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

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Table 17.101H.03 Property Development Standards

Development Standards	Zones						Additional Regulations
	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	
Minimum Lot Dimensions							
Lot Width mean	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	1
Frontage	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	1
Lot area	4,000 sf.	5,000 sf.	5,000 sf.	5,000 sf.	10,000 sf.	10,000 sf.	1
Minimum/Maximum Setbacks							
Minimum front	0 ft.	0/10 ft.	10 ft.	0 ft.	10 ft.	10 ft.	2, 10
Minimum interior side	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	2, 10
Minimum street side of a corner lot	0 ft.	0 ft.	0 ft.	0 ft.	10 ft.	10 ft.	2, 10
Rear (Residential Facilities)	10 ft.	10 ft.	N/A	10 ft.	N/A	N/A	2, 3, 10
Rear (Nonresidential Facilities)	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	3, 10
Height Regulations							
Maximum height	159 ft.	159 ft.	100 ft./145 ft.	100 ft.	100 ft.	100 ft.	4, 5, 6 Exceptions to the maximum height in the D-CO Zones may only be allowed pursuant to

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Development Standards	Zones						Additional Regulations
	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	
							the additional regulations in this Table
Fence heights & other regulations	See Chapter 17.108.140 for standards applicable to fences, dense hedges, barriers, & free standing walls.						
Maximum Residential Density (square feet of lot area required per dwelling unit)							
Regular Dwelling Units	130	130	N/A	260	N/A	N/A	
Rooming Units	65	65	N/A	130	N/A	N/A	
Efficiency Dwelling Units	65	65	N/A	130	N/A	N/A	
Maximum Nonresidential Intensity (Floor Area Ratio)							
Maximum Nonresidential Floor Area Ratio (FAR)	8.0	8.0	6.0	5.0	4.0	4.0	
Minimum Usable Open Space							
Usable Open Space per Regular Dwelling Unit	75 sf.	75 sf.	N/A	75 sf.	N/A	N/A	
Usable open space per Rooming Unit	38 sf.	38 sf.	N/A	38 sf.	N/A	N/A	
Usable open space per	38 sf.	38 sf.	N/A	38 sf.	N/A	N/A	

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Development Standards	Zones						Additional Regulations
	D-CO-1	D-CO-2	D-CO-3	D-CO-4	D-CO-5	D-CO-6	
Efficiency Dwelling Unit							
Minimum Parking and Loading Requirements	See Chapter 17.116 for automobile parking and loading regulations; and Chapter 17.117 for bicycle parking regulations						
Courtyard Regulations	See Sec. 17.108.120	See Sec. 17.108.120	N/A	See Sec. 17.108.120	N/A	N/A	
Landscaping Regulations							
Site landscaping (% of entire lot area)	See Chs.17.110 and 17.124	See Chs. 17.110 and 17.124	5%	See Chs. 17.110 and 17.124	5%	5%	7, 8, 9
Parking lot landscaping (% of parking lot area)	See Chs.17.110 and 17.124	See Chs. 17.110 and 17.124	10%	See Chs. 17.110 and 17.124	10%	10%	7, 8

Additional Regulations for Table 17.101H.03:

1. See Section 17.106.010 and 17.106.020 for exceptions to lot area, lot width mean, and street frontage regulations.
2. In the **D-CO-2**, D-CO-3, D-CO-5 and D-CO-6 Zones, a minimum front yard setback area of ten (10) feet shall apply to frontages adjacent to the Hegenberger Road and Oakport Street right-of-way. **In the D-CO-2 Zone when a front lot line is not adjacent to the Hegenberger Road or Oakport Street right-of-way, there is no required front setback.** This minimum front yard shall be developed as open landscaped areas, including but not limited to lawn, ground cover, shrubs, trees, and decorative paving materials, subject to the standards for required landscaping and screening in Chapter 17.124. In the D-CO-1, D-CO-2, and D-CO-4 Zones, see Section 17.108.080 for the required interior side and rear yard setbacks on a lot containing two (2) or more living units and opposite a legally required living room window.

[REGULATIONS 3 – 10 OMITTED]

17.101H.060 Special regulations applying to mixed-use developments on Bay Area Rapid Transit (BART) stations on sites with one (1) acre or more land area.

No mixed-use developments that include Bay Area Rapid Transit (BART) stations located on sites with one (1) acre or more land area shall be permitted except upon the granting of a conditional use permit pursuant to Section 17.101H.070 and the conditional use permit procedure in Chapter 17.134 or upon the granting of a Planned Unit Development (PUD) permit pursuant to Chapters 17.140 and 17.142, 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 the following professionals 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. Electrical and telephone facilities shall be installed in accordance with standard applicable specifications of the serving utilities. Street lighting and fire alarm facilities shall be installed in accordance with standard specifications of the ~~Electrical Department City of Oakland. See additional Utility Specifications under Section 17.124.045.~~
- 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 17.101H.060. The bond shall be in a form approved by the City Attorney, in a sum of one hundred fifty percent (150%) 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.

Chapter 17.101K D-DT DOWNTOWN DISTRICT ZONES REGULATIONS

17.101K.100 – Base Height and Intensity Standards

Base Height and Intensity Standards. Table 17.101K.05 below prescribes height and intensity standards in the D-DT Zones for projects not participating in the Zoning Incentive Program (ZIP), which is described in Section 17.101K.110. The numbers in the right-hand column refer to the additional regulations listed at the end of the Table. "N/A" designates the regulation is not applicable to the specified Height and Intensity Area.

The base height and intensity standards may be exceeded through the ZIP and/or through State Density Bonus Law (CA Gov't Code Section 65915 et seq.). Refer to Section 17.101K.110 for the D-DT Zoning ZIP Height and Intensity Regulations, which specify the maximum amount of development if a project participates in the ZIP. Refer to Section 17.107.040 for the City's Density Bonus regulations.

Table 17.101K.05 Base Height and Intensity Regulations, Height and Intensity Areas 1-11

Regulation	Base Height and Intensity Area (HIA)											Notes
	1	2	3	4	5	6	7	8	9	10	11	
Maximum Density (Square Feet of Lot Area Required Per Unit)												
Regular Dwelling units	1,000	900	450	300	1,000 300	450 300	260	250	250	225	110	1, 2
Rooming Units	500	450	225	150	500 150	225 150	130	125	125	110	55	1, 2
Efficiency Dwelling Units	500	450	225	150	500 150	225 150	130	125	125	110	55	1, 2
Maximum Nonresidential Floor Area Ratio	1.0	2.0	2.5	2.0	3.5	5.0	7.0	5.0	5.0	5.0	7.5	2
Maximum Height	45 ft.	45 ft.	45 ft.	45 ft.	55 ft.	65 ft.	65 ft.	65 ft.	95 ft. 75 ft.	95 ft.	95 ft.	3, 4
Minimum Height	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	45 ft.	45 ft.	
Building Base Regulations												
Minimum Base Height	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Maximum Base Height	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Maximum front and street side setback for each story	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Tower Regulations												

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Regulation	Base Height and Intensity Area (HIA)											Notes
	1	2	3	4	5	6	7	8	9	10	11	
Average per story lot coverage for nonresidential buildings	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Average per story lot coverage for residential buildings	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Maximum elevation length for residential towers	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Maximum diagonal length for residential towers	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Minimum distance between towers on the same lot for residential towers	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Minimum front and street side setback from the façade of the base	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Table 17.101K.05 (continued), Height and Intensity Areas 12-19

Regulation	Base Height and Intensity Area									Notes
	12	13	14	15	16	17	18	19		
Maximum Density (Square Feet of Lot Area Required Per Unit)										
Regular Dwelling units	N/A	250	110	110	100	90	90	90	90	1, 2
Rooming Units	N/A	125	55	55	50	45	45	45	45	1, 2
Efficiency Dwelling Units	N/A	125	55	55	50	45	45	45	45	1, 2

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Regulation	Base Height and Intensity Area								Notes
	12	13	14	15	16	17	18	19	
Maximum Nonresidential Floor Area Ratio	7.5	5.0	8.0	12.0	14.0	17.0	20.0	20.0	2
Maximum Height	95 ft.	135 ft.	175 ft.	175 ft.	275 ft.	275 ft.	450 ft.	No Limit	3, 4
Minimum Height	N/A	110 ft.	65 ft.	65 ft.	65 ft.	65 ft.	110 ft.	110 ft.	4, 5, 6, 7
Building Base Regulations									
Minimum Base Height	N/A	45 ft.	45 ft.	45 ft.	55 ft.	55 ft.	65 ft.	65 ft.	7, 8
Maximum Base Height	N/A	65 ft.	95 ft.	95 ft.	95 ft.	95 ft.	95 ft.	95 ft.	
Maximum front and street side setback for each story	N/A	Same as maximum ground floor front and street side setbacks in Table 17.101K.04							9
Tower Regulations									
Average per story lot coverage for nonresidential buildings	N/A	80% of site area or 30,000 sf., whichever is greater	80% of site area or 30,000 sf., whichever is greater	80% of site area or 30,000 sf., whichever is greater	80% of site area or 30,000 sf., whichever is greater	80% of site area or 30,000 sf., whichever is greater	80% of site area or 30,000 sf., whichever is greater	85% of site area or 40,000 sf., whichever is greater	10, 11, 12, 13
Average per story lot coverage for residential buildings	N/A	70% of site area or 15,000 sf., whichever is greater	70% of site area or 15,000 sf., whichever is greater	70% of site area or 15,000 sf., whichever is greater	75% of site area or 15,000 sf., whichever is greater	75% of site area or 15,000 sf., whichever is greater	75% of site area or 20,000 sf., whichever is greater	85% of site area or 25,000 sf., whichever is greater	10, 11, 12, 13
Maximum elevation length for residential towers	N/A	150 ft.	150 ft.	150 ft.	150 ft.	150 ft.	175 ft.	200 ft.	
Maximum diagonal length for residential towers	N/A	180 ft.	180 ft.	180 ft.	200 ft.	200 ft.	210 ft.	235 ft.	
Minimum distance between	N/A	40 ft.	40 ft.	40 ft.	40 ft.	40 ft.	40 ft.	40 ft.	

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Regulation	Base Height and Intensity Area								Notes	
	12	13	14	15	16	17	18	19		
towers on the same lot for residential towers										
Minimum stepback from base on two facades for residential towers	N/A	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10, 12, 14, 15

Notes:

[NOTES 1 – 15 OMITTED]

17.101K.110 – Zoning Incentive Program (ZIP)

Zoning Incentives in Exchange for Community Benefits. Under the Zoning Incentive Program (ZIP), projects may exceed the base height and intensity standards in Section 17.101K.100 up to the standards described in Subsection A., provided they contribute the benefits described in Subsection B. Projects may only participate in the ZIP if they are in one of the ZIP areas designated in the Zoning Map.

A. Maximum Height, Density, Tower, and Building Base regulations under the ZIP. Table 17.101K.06 shows the maximum permitted height and intensity in each ZIP Height and Intensity Area for projects participating in the ZIP. These ZIP Height and Intensity Areas are designated on the Zoning Map. ZIP Height and Intensity Area maximums may only be exceeded if the applicant utilizes the State Density Bonus Law or the City’s Density Bonus regulations. If an applicant chooses to utilize both the ZIP and the State Density Bonus Law, the State Density Bonus is calculated from the density established through the ZIP.

Table 17.101K.06: Maximum Height and Intensity in the ZIP Areas

Regulation	Zoning Incentive Program (ZIP) Height and Intensity Areas (HIA)									Notes
	A (same as Base HIA 8)	B (same as Base HIA 11)	C	D (same as Base HIA 15)	E (same as Base HIA 16)	F (same as Base HIA 17)	G (same as Base HIA 18)	H	I	
Maximum Density (Square Feet of Lot Area Required Per Unit)										
Regular Dwelling Units	250	110	200	110	100	90	90	80	60	1,2
Rooming Units	125	55	100	55	50	45	45	40	30	1,2
Efficiency Dwelling Units	125	55	100	55	50	45	45	40	30	1,2

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Regulation	Zoning Incentive Program (ZIP) Height and Intensity Areas (HIA)									Notes
	A (same as Base HIA 8)	B (same as Base HIA 11)	C	D (same as Base HIA 15)	E (same as Base HIA 16)	F (same as Base HIA 17)	G (same as Base HIA 18)	H	I	
Maximum Non-Residential FAR	5.0	7.5	7.5	12.0	14.0	17.0	20.0	22.0	30.0	2
Maximum Height	65 ft.	95 ft.	95 ft.	175 ft.	275 ft.	275 ft.	450 ft.	No height limit	No height limit	3
Minimum Height (ft)	N/A	45 ft.	45 ft.	65 ft.	65 ft.	65 ft.	110 ft.	110 ft.	110 ft.	4, 5, 6, 7
Building Base Regulations										
Minimum Base Height	N/A	N/A	N/A	45 ft.	55 ft.	55 ft.	65 ft.	65 ft.	65 ft.	7, 8
Maximum Base Height	N/A	N/A	N/A	95 ft.	95 ft.	95 ft.	95 ft.	95 ft.	95 ft.	
Maximum front and street side setback for each story	N/A	N/A	N/A	Same as maximum ground floor front and street side setbacks in Table 17.101K.04						9
Tower Regulations										
Average per story lot coverage for non-residential buildings	N/A	N/A	N/A	80% of site area or 30,000 sf., whichever is greater	80% of site area or 30,000 sf., whichever is greater	80% of site area or 30,000 sf., whichever is greater	80% of site area or 30,000 sf., whichever is greater	85% of site area or 40,000 sf., whichever is greater	85% of site area or 40,000 sf., whichever is greater	10, 11, 12, 13
Average per story lot coverage for residential buildings	N/A	N/A	N/A	70% of site area or 15,000 sf., whichever is greater	75% of site area or 15,000 sf., whichever is greater	75% of site area or 15,000 sf., whichever is greater	75% of site area or 20,000 sf., whichever is greater	85% of site area or 25,000 sf., whichever is greater	85% of site area or 25,000 sf., whichever is greater	10, 11, 12, 13
Maximum elevation length for	N/A	N/A	N/A	150 ft.	150 ft.	150 ft.	175 ft.	175 ft.	200 ft.	

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Regulation	Zoning Incentive Program (ZIP) Height and Intensity Areas (HIA)									Notes
	A (same as Base HIA 8)	B (same as Base HIA 11)	C	D (same as Base HIA 15)	E (same as Base HIA 16)	F (same as Base HIA 17)	G (same as Base HIA 18)	H	I	
residential towers										
Maximum diagonal length for residential towers	N/A	N/A	N/A	180 ft.	200 ft.	200 ft.	210 ft.	210 ft.	225 ft.	
Minimum distance between towers on the same lot for residential towers	N/A	N/A	N/A	40 ft.	40 ft.	40 ft.	40 ft.	40 ft.	40 ft.	
Minimum stepback from base on two facades	N/A	N/A	N/A	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10, 12, 14, 15

Notes:

[NOTES 1 – 15 OMITTED]

B. Community Benefit Contributions.

1. In order to qualify for the ZIP to exceed the normally required base maximum height and intensity requirements contained in Table 17.101K.05, applicants must provide the community benefits and comply with the requirements of this Subsection. An applicant may provide any combination of the benefits identified in this Subsection.
2. The amount of community benefits and/or fees required per incentive depends on in which ZIP Benefit Area the project is located and whether the project is receiving a residential incentive (increase in maximum permitted dwelling living units) or a commercial incentive (increase in maximum permitted nonresidential floor area). The Residential and Commercial ZIP Benefit Areas are designated on the Zoning Maps.
3. The increase in the maximum permitted dwelling living units and/or nonresidential floor area depends on the amount of community benefits and/or ZIP fees provided, as shown in Tables 17.101K.07 and 17.101K.08. Regardless of the community benefit contribution, the number of dwelling living units or amount of nonresidential floor area cannot exceed the maximums prescribed in Subsection A (Table 17.101K.06).
4. The applicant shall provide one or more of the community benefits described in Subsections a(i-iv) to participate in the ZIP. The additional development potential earned by providing these community benefits is in Tables 17.101K.07 and 17.101K.08.
 - a. Types of Community Benefits

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- i. Funding for Affordable Housing, Infrastructure Improvements, and Employment Training. Fees charged to a developer placed as allocated below in the following funds for the following purposes:
 1. Fifty percent (50%) of the contribution goes into the Affordable Housing Trust Fund as described in OMC Chapter 15.72;
 2. Twenty-five percent (25%) of the contribution goes into the Economic and Workforce Development Miscellaneous Fee Revenue Account to provide employment training and services, prioritizing residents harmed by racial income and unemployment disparities. Fifty percent (50%) of these funds are dedicated for construction training and apprenticeships programs.
 3. Twenty-five percent (25%) of the contribution goes into the Economic and Workforce Development Miscellaneous Fee Revenue Account to provide the Downtown improvements. This funding shall be used to implement public streetscape, open space, and/or flood control improvements that are consistent with the Downtown Oakland Specific Plan.
 - ii. Below-Market Commercial Space. On site, ground floor space provided at fifty (50) percent of market rental rate for qualified retail, commercial, arts, and non-profit tenants that meet the City's tenaning priorities for tenants that achieve the City's goals to reduce racial inequities. In the BAMBD Arts and Culture Combining Zone (see Section 17.101K.010), such tenants should also meet the intent of the district. A development requires a minimum of five hundred (500) square feet of commercial space to qualify for this incentive. In all such cases the applicant shall execute a written agreement with the City setting forth the square footage of all such affordable commercial space, restricting the occupancy and rent or sale price of such space, and setting forth other terms and conditions as required for ensuring compliance with this Section. Commercial space shall remain affordable for fifty-five (55) years or for the life of the development project, whichever is greater. Said agreement shall be recorded against the commercial space as covenants running with the land, senior in priority to any private liens or encumbrances, and shall be enforceable by the City against the applicant or the applicant's successors-in-interest to the property for the full affordability term. Additional restrictions, deeds of trust, rights of first refusal, or other instruments may be required by the City Administrator as reasonably needed to enforce these restrictions.
 - iii. Public Restrooms. On-site, ground floor, gender-neutral restroom facilities that are open to the public at least between 8:30am and 6:00pm each day of the week.
 - iv. Streetscape, Open Space, and Flood Control Improvements. Public streetscape and/or open space improvements, provided by the developer, that are consistent with improvements called for in the Downtown Oakland Specific Plan. These improvements shall not include those generally required as part of a project approval in the D-DT Zone. The benefit may include pedestrian right-of-way and open space improvements such as plaza construction, landscaping, tree planting, and public art installation, plazas, street furniture, and other items that create an inviting public realm and, where applicable, support the development of cultural districts. Improvements may also include the implementation of flood control improvements in the Sea Level Rise Combining Zone that serve areas beyond the project site.
- b. Tables 17.101K.07 and 17.101K.08, below, contain the residential and nonresidential development potential, respectively, earned beyond the base amount (i.e., additional dwelling living units and/or nonresidential floor area) by providing community benefits. The stated amount of benefit earns either the additional residential units described in Table 17.101K.07 or the

additional nonresidential floor area described in Table 17.101K.08, or a combination of these. However, the stated amount of benefit-cannot be “double counted” to earn the full amount of both residential and commercial benefits. For instance, providing 100 square feet of Below-Market Commercial Space can earn 1.3 additional dwelling living units over the base permitted in Area R-A or 1,318 square feet of additional nonresidential floor area over the base permitted in Area C-A, but not both.

Table 17.101K.07 Residential ZIP Benefits: Community Benefits Required to Earn Additional Residential Units, by ZIP Benefit Area

Benefit Increment Provided	Number of Dwelling Units Permitted Above the Base		
	Benefit Area R-A	Benefit Area R-B	Area R-C
\$15,000 Funding for Affordable Housing, Infrastructure Improvements and Employment Training (See Notes 1., 2., 3., and 8)	0.7 additional market-rate dwelling living units above the base maximum	1.0 additional market-rate dwelling living units above the base maximum	1.25 additional market-rate dwelling living units above the base maximum
100 Square Feet of Below-Market Commercial Space (See Notes 2., 3., 4., and 8)	1.3 dwelling living units	1.9 dwelling living units	2.4 dwelling living units
Two or More Public Restrooms (See Notes 5, 6., and 8)	41 dwelling living units	60 dwelling living units	75 dwelling living units
\$150,000 in Streetscape, Open Space, and Flood Control Improvements (See Notes 2, 3, 7., and 8)	7 dwelling living units	10 dwelling living units	12.5 dwelling living units

Notes:

1. Additional dwelling living units are only permitted for each increment of \$15,000 spent on Affordable Housing, Infrastructure Improvements and Employment Training. For instance, \$20,000 worth of Affordable Housing, Infrastructure Improvements and Employment Training in a project does not provide any more dwelling living units above the base than \$15,000. Providing an additional benefit would require an increment of at least \$15,000 worth of additional funding.
2. Every July 1st beginning on July 1, 2024, the amount of benefit for these items shall be adjusted upward annually at the rate of inflation in accordance with the percentage increase from January to January in the building cost index published by Marshall and Swift, or if such index ceases to be published, by an equivalent index chosen by the City Administrator, with appropriate adjustments for regional and local construction costs, as necessary. The adjustment shall be automatically effective regardless of whether the Master Fee Schedule has been amended to reflect the adjustment.
3. When the amount of Funding for Funding for Affordable Housing, Infrastructure Improvements and Employment Training, Below-Market Commercial Space, or Streetscape, Open Space, and Floor Control Improvements results in a fractional number of additional dwelling units permitted above the base, the number of units permitted above the base is rounded up to the nearest whole number.

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4. Additional dwelling living units are only permitted for each increment of 100 Square Feet of Below-Market Commercial Space. For instance, 150 square feet of Below-Market Commercial Space in a project does not allow any more dwelling living units above the base than 100 square feet. Additional benefits would require an increment of at least 100 more square feet.
5. The additional dwelling living units above the base shown in this row of the table is the maximum permitted for providing public restrooms, regardless of the number of public restrooms provided.
6. Every July 1st beginning on July 1, 2024, the number of additional units permitted through providing two public restrooms shall be adjusted downward annually at the rate of inflation in accordance with the percentage increase from January to January in the building cost index published by Marshall and Swift, or if such index ceases to be published, by an equivalent index chosen by the City Administrator, with appropriate adjustments for regional and local construction costs, as necessary. The adjustment shall be automatically effective regardless of whether the Master Fee Schedule has been amended to reflect the adjustment.
7. Additional dwelling living units are only permitted for each increment of \$150,000 of investment in Streetscape, Open Space, and Flood Control Improvements. For instance, \$200,000 worth of improvements does not allow any more dwelling living units above the base than \$150,000. Additional benefits would require an additional increment of at least \$150,000.
8. See Section 15.72.100(B)5 for Affordable Housing Impact Fees requirements when using the Zoning Incentive Program.

Table 17.101K.08 Non-Residential ZIP Benefits: Community Benefits Required to Earn Additional Nonresidential Floor Area, by ZIP Benefit Area

Benefit Increment Provided	Square Feet of Nonresidential Floor Area Earned Above the Base Maximum		
	Benefit Area C-A	Benefit Area C-B	Benefit Area C-C
\$15,000 of Funding for Affordable Housing, Infrastructure Improvements, and Employment Training (See Note 1., 2.)	682 sf. of nonresidential floor area above the base maximum	1,000 sf. of nonresidential floor area above the base maximum	1,250 sf. of nonresidential floor area above the base maximum
100 Square Feet of Below-Market Commercial Space (See Notes 2., 3.)	1,318 sf.	1,933 sf.	2,417 sf.
Two or More Public Restrooms (See Notes 2., 4., 5.)	40,909 sf.	60,000 sf.	75,000 sf.
\$150,000 in Streetscape, Open Space, and Flood Control Improvements (See Notes 2, 6)	6,820 sf.	10,000 sf.	12,500 sf

Notes
[NOTES 1 – 6 OMITTED]

17.101K.120 – Increased density and floor area ratio through the transfer of development rights in the D-DT Zones.

A. Definitions. The following definitions shall apply to this Section:

1. “Development Rights” means the maximum allowed dwelling living units and floor area established in the zoning regulations for a specific lot.
2. “Net Development Rights” means the difference between: 1) the development rights on a lot, and 2) the existing floor area and number of dwelling living units on the same lot. For example, if the underlying zoning permits a maximum of fifty (50) dwelling living units on a lot, and the same lot contains forty (40) dwelling living units, then the net development rights for density available for transfer is ten (10) dwelling living units.
3. “Transfer of Development Rights (TDR)” means the transfer of some or all of the net development rights from a sending site to a designated receiving site, resulting in an increase in the number of dwelling living units and/or amount of floor area than would otherwise be permitted at the receiving site. For example, a transfer of development rights for number of dwelling living units has occurred if the sending site described in definition (2), above, transfers all its net development rights to allow a receiving site to construct ten (10) dwelling living units more than normally permitted in the zoning regulations. In this case, the sending site would not be permitted to contain more than the existing forty (40) dwelling living units, because it transferred the site’s net development rights to the receiving site.
4. Receiving Site. A development site that receives net development rights from a sending site.
5. Sending Site. A lot that sends some or all its net development rights to another proposed development site.

- B. A transfer of development rights from a sending site to a receiving site in a D-DT Zone is only permitted if it meets the requirements of this section. This section shall supersede the regulations contained in Section 17.106.050.
- C. Development rights from a single sending site may be transferred as a group to a single receiving site or in separate increments to several receiving sites. Development rights may be transferred from the original owner of the development rights to either: 1) the owner of a receiving site, or 2) to an entity(s) that holds them for subsequent transfer to the owner(s) of a receiving site(s).
- D. Prior to the transfer of development rights, the owner of the sending site shall submit for approval by the Bureau of Planning, in consultation with the Office of Cultural Heritage Survey, a maintenance plan. The plan shall describe any proposed preservation work that guarantees the maintenance and upkeep of the sending site. This plan shall include:
 1. A plan for the ongoing maintenance for the sending site, including clearing any outstanding Notices of Violation;
 2. Information regarding the nature and cost of any preservation work to be conducted on the sending site, including information about any required seismic, life safety, or disability access work; and
 3. Any other information that the Bureau of Planning requires to determine compliance to this subsection.
- E. For any transfers of development rights, the owners of the sending site shall prepare and execute an agreement, approved as to form and legality by the City Attorney and filed

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with the Alameda County Recorder under the addresses of both the receiving and sending sites, incorporating the restricted development rights at the sending site, the plan described in Subsection D, and the expanded development rights at the receiving site.

- F. After the transfer of development rights, the principal building(s) on the sending site shall not be demolished unless there is an imminent danger to health and safety as determined by the Building Official.
- G. Characteristics of the sending and receiving sites.
 - 1. Both the receiving and sending sites must be within a D-DT Zone.
 - 2. The sending site shall be at least one of the following: 1) a Designated Historic Property (DHP); 2) a Potentially Designated Historic Property (PDHP) that contributes to an Area of Secondary Importance (ASI) or Area of Primary Importance (API); or 3) a property rated "A" or "B" by the Office of the Cultural Heritage Survey.
 - 3. The receiving site shall be neither: 1) a Designated Historic Property (DHP); 2) a Potentially Designated Historic Property (PDHP) that contributes to an Area of Secondary Importance (ASI) or Area of Primary Importance (API); nor 3) a property rated "A" or "B" by the Office of the Cultural Heritage Survey.
 - 4. A receiving site being granted additional density over the base must be in a location that permits Residential Facilities, and a receiving site being granted additional nonresidential floor area over the base must be at a location that permits Enclosed Nonresidential Facilities.
- H. Relationship to the Zoning Incentive Program and the State Density Bonus Law.
 - 1. The number of units and/or floor area greater than what is permitted under the base density at a receiving site achieved through a transfer of development rights shall not be more than half of the maximum of what could be achieved through the D-DT Zoning Incentive Program (see Section 17.101K.110 for the ZIP regulations) . For example, if the ZIP allows twenty (20) more units and fifty thousand (50,000) more square feet than what is normally allowed by the base intensity regulations at a site, then the maximum a transfer of development rights can achieve is ten (10) units and twenty-five thousand (25,000) square feet over what is allowed under the base intensity at the site.
 - 2. The intensity achieved through the TDR program plus the intensity achieved under the ZIP shall not exceed the maximum permitted under the ZIP.
 - 3. If an applicant chooses to utilize both the TDR program and the State Density Bonus Law, the State Density Bonus is calculated from the new base density established through the TDR, plus any additional development generated under the Zoning Incentive Program.
- I. Construction at a receiving site above the maximum height that is permitted in the applicable base zone are only permitted upon the granting of Regular Design Review Approval. This increase over the maximum height shall meet both of the following requirements:
 - a. The additional height shall be limited to only that required to physically accommodate the transferred net development rights. The additional height required to accommodate the transferred development rights shall be based on the average size of the dwelling living units (including common hallways) at the sending site and the nonresidential floor area transferred to the receiving site.

17.101K.130 – General Design Standards

A. The following regulations apply to newly constructed principal buildings, with the exception of new industrial buildings **and any projects subject to adopted Objective Design Standards.**

1. Ground Floor Treatment

- a. Entrance. Buildings shall have at least one prominent pedestrian entrance on the ground floor facing and oriented toward the street on the principal street façade (see Section 17.101K.080 for how to identify the principal street). Entrances at building corners facing both the principal street and a secondary street may be used to satisfy this requirement. Building entrances include doors to one or more shops, businesses, lobbies, or living units. Entrances shall be made prominent through some combination of change in material, an awning above a door, additional detailing and transparency surrounding the entrance, stairs leading to the door, and other features. The entrance for Nonresidential Facilities shall be at grade. Entrances shall be recessed at least three (3) feet from the façade of all buildings.
- b. Ground Floor Materials. All ground-floor building materials shall be durable, of high quality, and display a sense of permanence. Such materials include stone, poured concrete, tile, brick, metal panel systems, glass, and/or other similar materials.
- c. Distinguishing Ground Floor. The ground level of the building shall be designed to enhance the visual experience for pedestrians and distinguish it from upper stories. This shall be achieved by designing a ground floor facade that is distinct from the rest of the building through some combination of two or more of the following: change of material, enhanced detailing, cornices, awnings, canopies, and/or other elements.
- d. Ground Floor Commercial Façade Elements. For buildings with ground floor commercial space, the ground floor shall be modulated into a regular cadence of storefront-sized windows and entrances and contain a window base or kickplate, and transom windows. The design of these elements shall be consistent with the style of the building. Ground floor commercial facades shall be within five (5) feet of the front property line.
- e. Active Space Requirement. Parking spaces; locker areas; utility, storage, and trash rooms; and similar non-active spaces shall not be located within thirty (30) feet from the principal ground floor street facade, except for incidental entrances to such activities elsewhere in the building. Exceptions to this requirement can be made through the Design Review Procedure (See Chapter 17.136). Proposals requiring Regular Design Review approval may only be granted upon determination that the proposal conforms to the criteria contained in Section 17.136.050, and to both of the following additional criteria:
 - i. There is no other feasible location for the non-active space and the amount of non-active space in the front thirty (30) feet of the building is minimized to the maximum amount practically achievable; and
 - ii. When feasible, active space is placed between the non-active space and the street.
- f. Trash and Storage. Trash and storage shall be in the garage, underground, or be otherwise concealed from view of the public right-of-way. Trash and storage shall not be placed adjacent to the principal street facade unless the proposal is on an interior lot (see Section 17.101K.080 for how to identify the principal street).
- g. Utilities. Backflow prevention devices and utility meters shall not be placed on the principal street façade unless the proposal is on an interior lot (see Section 17.101K.080 for how to identify the principal street). These elements shall be placed in a building alcove, underground, landscaped area, or utility room, and completely screened from view from the public right-of-way unless required otherwise by a department of the City. Whenever feasible, transformers shall be placed out of public view and not on the principal street facade.

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If this is infeasible, transformers shall be screened by landscaping. Transformers shall never be placed above ground in the right-of-way.

- h. **Parking and Loading Access Location.** Access to parking and loading facilities through driveways, garage doors, or other means shall not be from the principal street when alternative access is feasible from a secondary street facade or an alley (see Section 17.101K.080 for how to identify the principal street). Open parking areas shall not be located between the sidewalk and a principal building.
2. **Base Design.**
 - a. **Transition to Historic Buildings.** The design of the building base shall create a transition to adjacent lower scale Designated Historic Properties (DHPs) and Potentially Designated Historic Properties (PDHPs). This shall be accomplished through matching cornice lines, floor heights and other building elements, and creating volumes at the façade of the base that relate to the scale of the historic building.
 - b. **Building Base Articulation.** The façade(s) of the base that are more than seventy-five (75) feet in width and visible from the street shall use both vertical and horizontal plane offsets, articulations, and material changes that create shadow and relief.
 - c. For buildings with a clear pattern of individual ground floor residential unit entrances: wherever feasible, articulate and modulate the principal facade of the building base to correspond to the entrances.
 - d. **Windows and Façade Treatment.** Each building base façade facing a street shall contain windows. Expanses of solid walls without windows on these facades shall not exceed ten (10) feet in width. However, wider solid walls required by the Building Code for structural purposes are permitted.
 - e. For corner buildings, design the building base to emphasize the intersection of two streets right-of-ways that are both eighty (80) feet or wider in width through a combination of building corner architectural detailing such as added transparency, particularly floor to ceiling windows, a corner entrances, articulation, and high-quality materials, and chamfering the corner.
 - f. Parking, loading, or circulation located above the ground floor shall be lined by habitable floor area along all street frontages. If the applicant demonstrates that this is not feasible, parking, loading or circulation located above the ground floor shall be screened from the street with a façade treatment that is integrated into the design of the building façade(s).
 3. **Tower Design.** The following standards apply to towers, which is defined as construction above the base of a building.
 - a. Each façade shall include some combination of fenestration, sculpting, volumes, articulation, and/or material patterns to reduce the perception of building mass and avoid the appearance of repeated identical floors.
 - b. For tower facades over one-hundred and fifty (150) feet in width, provide a change in massing by providing one or more articulations, setbacks, or notches greater than twenty (20) feet wide and ten (10) feet deep to reduce apparent building bulk.
 - c. **Design Integration with Base.** Vertically integrate with and/or extend design elements of a tower to building the base façade facing the street. This technique shall be used to avoid the appearance of towers being isolated from the street and the base.
 - d. **Windows.** Each visible tower facade shall contain windows, including façades facing interior and rear property lines. Expanses of solid walls without windows that are visible from the street shall not exceed twenty (20) feet in width.

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- e. Building Terminus. The top of buildings shall include elements that provide a distinct visual terminus. The visual terminus shall be integrated into the overall architectural design concept of the building as seen in the skyline. Examples include, but are not limited to, curvilinear or stepped forms that soften the truncated tops of buildings, cornices, symmetric volumes toward the middle of the roof, and other architectural forms. These rooftop elements shall be sized, shaped, and sited to also screen all rooftop mechanical equipment from view.
4. General building design requirements.
- a. Massing. The mass of buildings shall be broken up into smaller forms to reduce the scale and enhance the visual interest of the streetscape. The massing requirements contained in this section shall be applied on all visible facades and achieved through a coordinated combination of two or more of the following: changes in plane, sculpting, building articulation, varied materials, contrasting window patterns and treatments, varying roof heights, separating upper-story floor area into two or more towers, contrasting colors, a distinct base, middle, and top, or other methods.
 - b. Heavily tinted bronze, black, or gray glass shall not predominate on or be a signature feature of facades.

Chapter 17.102 REGULATIONS APPLICABLE TO CERTAIN ACTIVITIES AND FACILITIES

Sections:

17.102.195 Residentially-Oriented Joint Living and Working Quarters.

17.102.230 Conversion of a dwelling living unit to a Nonresidential Activity.

17.102.420—17.102.430 Reserved.

17.102.440 Crematories.

17.102.450 Laundromats.

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 or floors in an existing building that is at least ten (10) years old and originally designed for non-residential occupancy. Each Residentially-Oriented Joint Living and Working Quarter 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, 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

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existing roof height and occupying no more than ten percent (10%) 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-7 Zone and involves exterior alterations, the design review requirements of that zone shall apply (see Sections 17.84.030 and 17.84.040).
 4. In any zone, projects involving exterior alterations shall be subject to the 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 nonresidential 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 additional use permit criteria set forth in the particular individual zone regulations.
- E. Non-Applicability of Certain Requirements Pertaining to Dwelling-Living 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 nonresidential 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-living units contained in the applicable zoning district or districts, but is subject to the requirements of Subsection C.1. above for retention of existing parking and open space.

17.102.230 Conversion of a dwelling living unit to a Nonresidential Activity.

- A. Conditional Use Permit Requirement. The conversion of a dwelling living unit, other than those considered Residential Hotel Units which are subject to the provisions of Chapter 17.153, from its present or last previous use by a Permanent Residential Activity or a Semi-Transient Residential Activity to its use by a Nonresidential Activity is only permitted upon the granting of a Conditional Use Permit pursuant to the Conditional Use Permit procedure in Chapter 17.134. The only exception to this requirement are conversions in the HBX Zones. Such permit may be granted only upon determination that the proposed 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. The dwelling living unit proposed for conversion is unoccupied, or is situated in a residential building that has been found, determined, and declared to be substandard or unsafe pursuant to Subsection 15.08.350(B) of the Oakland Municipal Code; or
 2. A replacement unit, equivalent in affordability and type to each unit proposed for conversion, will be added to the City's housing supply prior to the proposed conversion taking place.
- B. Tenant Assistance. Upon the granting of a Conditional Use Permit for the conversion of a dwelling living unit to a Nonresidential Activity, the actual conversion cannot take place until the following have occurred:
1. Any tenant has been given a one hundred twenty (120) day written notice of the

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conversion. All such written notices shall comply with the legal requirements for service by mail.

2. The owner of the building containing the dwelling-living unit to be converted has referred the tenant to an equivalent unit; if an equivalent unit is not available or if the tenant chooses not to live in the equivalent dwelling-living unit, the tenant has been provided with a relocation allowance, as specified in Sections 8.22.450 and 8.22.820 of the Oakland Municipal Code, including any additional payments for tenant households that contain members who qualify as lower income, elderly, disabled and/or minor children, as set forth in Oakland Municipal Code Sections 8.22.450(B) and 8.22.820.
3. The Director of City Planning has been provided with proof that the above actions have been taken.

Chapter 17.103 SPECIAL REGULATIONS AND FINDINGS FOR CERTAIN USE CLASSIFICATIONS

17.103.080 Accessory Dwelling Units in conjunction with One-Family, Two- to Four-Family, and Multifamily Dwelling Residential Facilities.

The following regulations shall apply to the construction, establishment, or alteration of Accessory Dwelling Units (ADUs), as those dwelling unit types are defined in Chapter 17.09:

A. Regulations Applying to All Accessory Dwelling Units.

1. **Ministerial Approval.** An application for an Accessory Dwelling Unit (ADU) shall be granted ministerial approval when it complies with all applicable zoning regulations, including but not limited to all provisions in this Section (17.103.080) and in Planning Code Chapter 17.88, unless the application is part of a proposal that separately requires discretionary review; in which case, the review time for the ADU application can be extended to coincide with the review time of the associated discretionary permit.
2. **No Short-Term Rental of ADUs.** Rental of an ADU shall only be for a term of longer than thirty (30) consecutive days.
3. **Sale of Unit.** An Accessory Dwelling Unit shall not be sold separately from the primary Residential Facility on the same lot unless otherwise permitted under State law, and except for under the provisions outlined in Government Code section 66341.
4. **Replacement Parking.** If a covered or uncovered parking space is removed to construct an Accessory Dwelling Unit, no replacement parking is required.
5. **Compliance with all Code and Permit Requirements Imposed by other Applicable City Departments.** Unless specified otherwise in local code or State law, an Accessory Dwelling Unit shall comply with all code and permit requirements imposed by other applicable City departments, including but not limited to the requirement for a building permit.
6. **Permitted Locations for ADUs.** Subject to restrictions set forth in Chapter 17.88 and Section 17.103.080(A)(8) of this Chapter, ADUs are permitted on lots in zoning districts that permit Permanent Residential Activities, and in conjunction with an existing or proposed primary Residential Facility.
7. **Restriction of ADUs in Certain Locations Based on Traffic Flow and Public Safety.**
See Chapter 17.88 for limitations on ADUs in the S-9 Fire Safety Protection Combining Zone.

Development of ADUs is restricted with certain exceptions specified in Chapter 17.88 to one (1) interior conversion Category One ADU within the existing envelope of a primary structure or one (1) Junior Accessory Dwelling Unit (Junior ADU or JADU) per One-Family, Two- to Four-Family, or Multifamily lot. See the S-9 Fire Safety Protection Combining Zone Map Overlay (“Overlay Zone”) Map to determine if the lot where the ADU is proposed is within the S-9 Zone.
8. **Kitchens.** Each ADU and JADU shall have a kitchen that is independent from the primary Residential Facility, and includes all of the following: a sink, cooking facility with appliances, a food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the dwelling unit. A JADU is required to contain at least an efficiency kitchen, which shall include a cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size

of the JADU.

9. **Entrance for ADU and JADU.** A separate exterior entrance that is independent from the primary Residential Facility is required for each ADU and JADU. ~~An exterior stairway proposed to serve an ADU or JADU on a second story or higher shall not be visible from the front public right of way.~~
10. **Objective Design Standards for Properties Listed in the California Register of Historic Resources.**
 - a. Attached and detached Category Two and/or converted Category One ADUs located at the front or side of a main building and ~~visible from the front public right of way~~ shall incorporate the same roof pitch, visually matching ~~existing or original~~ exterior wall material, ~~and predominant~~ door, ~~and~~ window trim, sill, recess, and style as the primary dwelling structure, with an option of approving different finishes or styles through the Small Project Design Review process as set forth in Section 17.136.030. ADUs of these types that are located to the rear of a main building are not subject to this design standard or alternative review process.
 - b. Attached or detached garages located to the front or side of a main building and converted to ADUs shall replace the garage doors with visually ~~similar matching~~ exterior wall materials and door and window trim as the primary Residential Facility, with an option of approving different finishes or styles through the Small Project Design Review process as set forth in Section 17.136.030. Attached or detached garages located to the rear of a main building and converted to ADUs are not subject to this design standard or alternative review process.
 - c. This subsection 10 (ten) does not apply to ADUs built pursuant to CA Government Code §66323.
11. **Balconies and Decks.** Category Two ADUs and Category One ADU conversions that include expansion of existing building envelope shall not contain upper story balconies, decks, or rooftop terraces if the proposed elements do not meet the established requirements of the underlying zone.
12. **California Register Properties.** For ADUs proposed for a California Register Property, the following shall apply:
 - a. Placement of an ADU in front of a main building on a California Register Property is only allowed if the lot conditions or requirements preclude an ADU of a minimum allowed size (established by Tables 17.103.01 and 17.103.02) anywhere else on the lot.
 - b. Any new attached or detached ADU on a California Register Property shall be located in the following order of preference:
 - i. First, behind the main structure;
 - ii. Next, to the side of the main structure;
 - iii. Last, in front of the main building.
 - c. ~~A consultation with Historic Preservation Staff is required for Category One and/or Category Two ADUs on a California Register Property visible from the public right of way. Such consultation shall not preclude the need for ministerial approval of an ADU that meets the standards of Government Code section 66323.~~ The Planning Director or his or her designee is authorized to develop objective design standards for the development of ADUs in historic districts or on California Register Property to ensure preservation of historic resources.

- d. This subsection 12 (twelve) does not apply to ADUs built pursuant to CA Government Code §66323.
13. **Planned Unit Developments (PUDs).** ADUs proposed on Planned Unit Developments (PUDs) must comply with requirements of Chapter 17.142 and Section 17.103.080.
14. **Planning Code Amnesty and Enforcement Delay of Building Code for ADUs that Do Not Have Prior Planning or Building Approval.**
- a. Existing Accessory Dwelling Units built and occupied without prior Planning or Building approval shall be referred to in this section as "Unpermitted Accessory Dwelling Units."
- b. The owner of an Unpermitted Accessory Dwelling Unit has a right to request: (1) amnesty from any violation of a zoning standard under the Planning Code if the Unpermitted Accessory Dwelling Unit was established and occupied prior to January 1, 2021; and (2) delay in enforcement of the Building Code, and local amendments thereof, as adopted under O.M.C. Title 15 if the Unpermitted Accessory Dwelling Unit was built prior to the effective date of this Section.
- c. The Planning Code amnesty and enforcement delay programs provided in this Section are available to any property owner whose Unpermitted Accessory Dwelling Unit meets the program requirements provided within this Section. The City shall not deny a permit for an unpermitted ADU that was constructed prior to January 1, 2021 due to either of the following: (1) the ADU is in violation of the building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code, or (2) the ADU does not comply with Section 65852.2 66323 or any local ordinance regulating ADUs. However, a local agency may deny a permit for an Accessory Dwelling Unit if the local agency makes a finding that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure.
- d. Until January 1, 2030, any notice to correct a violation of any provision of the Planning or Building Code building standards pursuant to Oakland Municipal Code (O.M.C.) Titles 15 or 17 that is issued to an owner of an Unpermitted Accessory Dwelling Unit built before the effective date of this Section shall contain a statement that the owner of the Unpermitted Accessory Dwelling Unit has a right to request: (1) amnesty from any violation of a zoning standard under the Planning Code that would preclude the preservation of an Unpermitted Accessory Dwelling Unit that was established and occupied prior to January 1, 2021; and (2) delay in enforcement of the Building Code, and local amendments thereof, as adopted under O.M.C. Title 15 if the Unpermitted Accessory Dwelling Unit was built prior to the effective date of this Section. Said notice shall also inform the owner that any penalties arising out of any zoning or building violations shall be waived leading up to the zoning amnesty and during the term of the Building Code enforcement delay. The applicant shall bear the burden of proof in establishing the date when the Unpermitted Accessory Dwelling Unit was established and occupied for the Planning Code amnesty program, or when the building was built for the Building Code enforcement delay.
- e. The owner of an Unpermitted Accessory Dwelling Unit that can provide suitable proof that said unit was established and occupied prior to January 1, 2021 may, in the form and manner prescribed by the Planning and Building Director or his or her designee, submit an application to the Planning and Building Director or his or her designee requesting that the Unpermitted Accessory Dwelling Unit obtain amnesty from any violation of the City's zoning standards that would preclude the preservation of the Unpermitted Accessory Dwelling Unit. In addition, the owner of said unit may also request delay in enforcement of a Building Code violation if the Unpermitted Accessory

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Dwelling Unit was built prior to the effective date of this Section. The Building Code enforcement delay shall be for a period of no more than five (5) years on the basis that correcting the violation is not necessary to protect the public health and safety.

- f. The applicant’s amnesty request to resolve violations of zoning standards shall be processed as specified in Planning Code Chapter 17.136, but shall not be available to Unpermitted Accessory Dwelling Units: (1) that are located in the City’s S-9 Zone; or (2) where the owner cannot establish that the Unpermitted Accessory Dwelling Unit was established and occupied prior to January 1, 2021.
- g. The Planning and Building Director or his or her designee shall grant the owner’s Building Code enforcement delay request if the Planning and Building Director or his or her designee determines that correcting the Building Code violation is not necessary to protect the public health and safety. In making this determination, the Planning and Building Director or his or her designee shall consult with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Government Code Section 13146.
- h. Any Building Code enforcement delay shall remain in effect no later than January 1, 2035, and as of that date is repealed.

B. Property Development Standards applying to One-Family ADUs

Table 17.103.01 below describes the property development standards which apply to the specified types of One-Family ADUs. The different types of ADUs are defined in Chapter 17.09. The number designations in the "Notes" column refer to the regulations listed at the end of the Table. "N/A" designates the standard is not applicable to the specified ADU type.

Table 17.103.01: Property Development Standards applying to One-Family ADUs.

Development Standards	Types of One-Family ADUs			Notes
	Junior ADU	One-Family ADU Category 1	One-Family ADU Category 2	
Maximum Number	1 per lot.	1 per lot.	1 per lot.	1
Minimum Size (in square feet [sf.] Floor Area	Must meet, at a minimum, Efficiency Unit Building Code Standards.	Must meet, at a minimum, Efficiency Unit Building Code Standards.	Must meet, at a minimum, Efficiency Unit Building Code Standards.	2

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Development Standards	Types of One-Family ADUs			Notes
	Junior ADU	One-Family ADU Category 1	One-Family ADU Category 2	
Maximum Size	500 sf.	N/A. Size is limited by existing building envelope plus 150 sf. for ingress and egress.	For detached: 850 sf. for studio or 1-bedroom. 1,000 sf. for 2-bedroom or more. For attached: Whichever is greater: 850 sf. for studio or 1-bedroom, and 1,000 sf. For a 2-bedroom or more; or 50% of floor area of primary residence, but shall not exceed 1,200 sf.	3, 4
Expansion for Egress and Ingress	N/A	Maximum allowed = 150 sf.	N/A.	4, 5
Maximum Height	N/A	Established by the development standards of the underlying zoning district.	The height shall not exceed 20 feet unless the ADU meets the setback requirements of the underlying zone. In this case, the maximum height is controlled by the underlying zoning district regulations, but in no case shall the maximum height be less than 16 feet.	5, 6
Side and Rear Setbacks	N/A.	N/A.	4 feet or the regularly required setback, whichever is less, but in no case shall the setback be less than 3 feet from the side or rear lot line.	5, 6
Front Setback	Established by the development standards of the underlying zoning district, except when lot conditions preclude creating one ADU of no more than 850 sf. and no more than 18 feet in height anywhere else on the lot.			5, 6
Lot Coverage, Rear Setback Coverage, Floor Area Ratio (FAR)	New ADUs must be consistent with the regulations contained in the underlying zone, except the following shall be permitted regardless of these requirements: One JADU; and One ADU of no more than 850 sf. and no more than 18 feet in height with at least 4 foot side and rear yard setbacks.			5, 6
Open Space	No new open space required.			5, 6

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Development Standards	Types of One-Family ADUs			Notes
	Junior ADU	One-Family ADU Category 1	One-Family ADU Category 2	
Parking for ADUs	None Required	None required if located: a) within ½-mile walking distance of a public transit stop; b) on any lot within a City of Oakland Area of Primary Importance (API) or Secondary Importance (ASI), as defined in the General Plan’s Historic Preservation Element; c) in areas where parking permits are required but not offered to occupants of ADUs; d) where there is a carshare vehicle within one block of the ADU, or e) when the ADU is part of the proposed or existing primary residence or an accessory structure. Otherwise: One (1) space per ADU, which can be tandem.		6, 7
Owner Occupancy	Owner must occupy the JADU or the primary residence	N/A.	N/A.	8
Bathroom	May have private bathroom; or bathroom facilities may be shared with the primary Residential Facility.	Must contain their own private bathroom facilities.		9

Notes for Table 17.103.01:

1. A homeowner may create one (1) Category One ADU, one (1) Category Two ADU, and one (1) JADU, in any order, totaling up to three (3) units.
2. At least a minimum square-footage that permits an Efficiency Dwelling Unit as defined in the California Building Code.
3. The maximum size is inclusive of any allowed expansion of existing building envelope of up to one hundred and fifty (150) square feet for the purpose of ingress and egress. For a Category 1 ADU, expansion of an existing structure that is greater than one hundred and fifty (150) sf., the maximum total size, inclusive of the addition is eight hundred and fifty (850) sf. for a studio or one-bedroom or one thousand (1,000) sf. for two-bedroom or more and the expansion must meet the setbacks.
4. For demolition of an existing accessory structure that is reconstructed in the same location and to the same dimensions, there is an allowed addition for ingress and egress of up to one hundred and fifty (150) sf. For demolitions of an existing accessory structure that is reconstructed in the same location and expanded beyond one hundred and fifty (150) sf., the entire structure must be built in compliance with setbacks for Category Two ADU.
5. If the ADU requires an expansion of up to one hundred and fifty (150) square feet for the exclusive purpose of accommodating ingress and egress to the ADU, such expansion may not: (a) exceed a height eighteen (18) feet, except if the underlying zone permits.
6. One-Family Category One ADUs and JADUs are allowed even if the existing facility to be converted or rebuilt does not meet the underlying zone’s current development standards,

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such as height limits, floor area ratios, lot coverage or setbacks.

7. For replacement parking regulations, see 17.103.080(A)(4).
8. Owner occupancy is not required if the owner is another governmental agency, land trust, or nonprofit housing organization.
9. If JADU shares bathroom with the primary Residential Facility, an internal connection must be provided.

C. Property Development Standards applying to ADUs for Two- to Four-Family and Multifamily Facilities

Table 17.103.02 below, describes the property development standards, which apply to the types of ADUs permitted with Two- to Four-Family and Multifamily Facilities. The different types of ADUs are defined in Chapter 17.09. The number designations in the "Notes" column refer to the regulations listed at the end of the Table. "N/A" designates the standard is not applicable to the specified ADU type.

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Table 17.103.02: Property Development Standards applying to Two- to Four-Family and Multifamily ADUs

Development Standards	Types of Two- to Four-Family and Multifamily ADUs			Notes
	Category 1 ADU for Existing Two-to Four-Family and Multifamily Buildings	Category 2 ADU for Existing and Proposed Two-to-Four-Family and Multifamily Buildings	Category 3 ADU for Existing and Proposed Two-to-Four-Family and Multifamily Buildings	
Maximum Number	1 or up to 25% of existing units, whichever is greater, per Two- to Four-Family or Multifamily Facility. For the purposes of the 25% limitation, a unit is considered existing if it has received its certificate of occupancy.	Existing Two- to Four Family or Multifamily Facility: No more than 8 per lot. Proposed Two- to Four-Family or Multifamily Facility: No more than 2 per lot.	Only 1 per lot.	1, 2, 3
Minimum Size (Floor Area)	Must meet, at a minimum, Efficiency Unit Building Code Standards.			4
Maximum Size	For Interior Conversion: size is limited by the existing building envelope.	N/A.	850 sf. for studio or one-bedroom; 1,000 sf. for 2-bedrooms or more	5
Maximum Height	Established by the base zone.	The height shall not exceed 18 feet unless the ADU meets the setback requirements of the underlying zone. In this case, the maximum height is established by the base zone. An additional two (2) feet in height is allowed to align roof pitch of ADU with the roof pitch of the primary dwelling.	Established by the base zone.	6

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Development Standards	Types of Two- to Four-Family and Multifamily ADUs			Notes
	Category 1 ADU for Existing Two-to Four-Family and Multifamily Buildings	Category 2 ADU for Existing and Proposed Two-to-Four-Family and Multifamily Buildings	Category 3 ADU for Existing and Proposed Two-to-Four-Family and Multifamily Buildings	
Lot Coverage, Rear Setback Coverage	N/A.	N/A.	N/A.	6
Front Setback	N/A.	Established by the base zone, except if lot conditions preclude creating no more than the number of ADUs allowed, as stated above.	Established by the base zone, except to create one ADU of no more than 850 sf. for studio or one-bedroom; 1,000 sf. for 2-bedrooms or more.	
Floor Area Ratio (FAR)	N/A.	Established by the base zone, except if lot conditions preclude creating no more than the number of ADUs allowed, as stated above.	Must be consistent with the regulations contained in the underlying zoning district, except to establish one ADU of no more than 850 sf. for studio or one-bedroom; 1,000 sf. for 2-bedrooms or more.	6
Side and Rear Setbacks	4 feet, or the regularly required setback, whichever is less, but in no case shall be less than 3 feet from the side or rear lot line. For Internal: N/A.			6

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Development Standards	Types of Two- to Four-Family and Multifamily ADUs			Notes
	Category 1 ADU for Existing Two-to Four-Family and Multifamily Buildings	Category 2 ADU for Existing and Proposed Two-to-Four-Family and Multifamily Buildings	Category 3 ADU for Existing and Proposed Two-to-Four-Family and Multifamily Buildings	
Open Space	N/A.	Established by the base zone, except if lot conditions preclude creating no more than the number of ADUs allowed, as stated above.	No new open space required. However, required open space for existing units, as established by the base zone must be maintained, except to establish one ADU of no more than 850 sf. in total footprint for studio or one-bedroom; 1,000 sf. for 2-bedrooms or more.	
Parking for ADUs	One (1) space; OR none if located: a) within ½-mile walking distance of public transit stop; b) on any lot within a City of Oakland Area of Primary Importance (API) or Secondary Importance (ASI), as defined in the General Plan’s Historic Preservation Element; c) in areas where parking permits are required but not offered to occupants of ADUs; d) where there is a carshare vehicle within one block of the ADU; or e) when the ADU is part of the proposed or existing primary residence or an accessory structure.			7
Owner Occupancy	Not required.			
Bathroom	Each unit must have a private bathroom.			

Notes for Table 17.103.02:

1. On a lot with an existing multifamily dwelling, the total number of ADUs is not more than eight (8), but ADUS must not outnumber the number of units in the main building.
2. All calculations that result in a fractional number shall be rounded up to the nearest whole number. A lot may contain both Category One and Category Two ADUs.
3. For Category 1 ADUs, non-livable space does not include detached accessory structures, existing residential units, commercial space, laundry rooms or any other finished spaces that are meant to be occupied by people and used communally.
4. At least a minimum square footage that permits an Efficiency Dwelling Unit as defined in Chapter 17.09 and in the California Building Code.
5. Category Two ADUs must meet lot coverage and open space requirements set forth in this

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table.

6. Two- to Four-Family and Multifamily Category One ADUs are allowed even if the existing space to be converted or rebuilt does not meet the underlying zone's current development standards, such as height limits, floor area ratios, lot coverage or setbacks. **Notwithstanding, in the S-9 Zone, maximum ADU height is capped at sixteen (16) feet.**

7. For replacement parking regulations, see 17.103.080(A)(4).

Chapter 17.107 DENSITY BONUS AND INCENTIVE PROCEDURE AND REGULATIONS

Sections:

- 17.107.020 Definitions.
- 17.107.030 Application.
- 17.107.040 Density bonus.
- 17.107.045 Replacement units.
- 17.107.060 Child care facilities.
- 17.107.110 Continued affordability requirements.
- 17.107.112 Density bonus equity share agreement.

17.107.020 Definitions.

- A. **Affordable Housing.** “Affordable housing” shall mean that the relevant housing is available and restricted to occupancy at an affordable housing cost or an affordable rent to moderate income households, low income households, or very low income households.
- B. **Affordable Housing Cost.** “Affordable housing cost” shall have the same meaning as provided in Section 50052.5 of the California Health and Safety Code and its implementing regulations. Affordable housing cost includes loan principal, loan interest, property and mortgage insurance, property taxes, home owners’ association dues and a reasonable allowance for utilities.
- C. **Affordable Rent.** “Affordable rent” shall have the same meaning as provided in Section 50053 of the California Health and Safety Code and its implementing regulations. Affordable rent includes rent and a reasonable allowance for utilities.
- D. **Child Care Facility.** “Child Care Facility,” as used in this Chapter, shall mean a child day care facility other than a family day care home, including but not limited to, infant centers, preschools, extended day care facilities, and school-age child care centers.
- E. **Concession.** “Concession” shall have the same meaning as Incentive, as defined below.
- F. **Density Bonus.** “Density bonus” has the same meaning as provided in California Government Code Section 65915 and shall mean a density increase over the otherwise maximum allowable residential density as of the date a density bonus application is received, or, if elected by the developer, a lesser percentage of density increase, including, but not limited to, no increase in density. The density bonus units shall not be included when determining the number of target living units that must be affordable to the relevant income group. For purposes of this definition, unless otherwise specified in the specific plan or its implementing zoning regulations, where a specific plan includes a separate provision that allows for a density bonus, including through a Conditional Use Permit, a developer cannot receive a density bonus under both this Chapter and under the specific plan.
- G. **Developer.** “Developer” shall mean the owner or owner’s authorized agent, or other person, including a lessee, having the right under the Oakland zoning ordinance, to make an application for development approvals for the development, or redevelopment, of a housing development project.
- H. **Development Standard.** “Development standard” shall mean a site or construction

condition, including, but not limited to, a height or story limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio, that applies to a residential development pursuant to any ordinance, General Plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

I. Economically Feasible is not a term defined in State Density Bonus law, but for purpose of any cross-references to other chapters of the Municipal Code, it shall mean that a housing development can be built with a reasonable rate of return as shown in proforma financial statements.

- J. **Incentive.** “Incentive” has the same meaning as provided in California Government Code Section 65915 and shall mean a reduction in site development standards or a modification to a requirement of the Oakland Planning Code so long as the requested reduction or modification both exceeds the minimum building standards approved by the California Building Standards Commission that would otherwise be required and results in identifiable and actual cost reductions to provide for affordable rent or affordable housing costs. Incentives do not include the provision of direct financial incentives for the housing development, including the provision of City-owned land or the waiver of fees or dedication requirements, the modification of any City of Oakland Standard Conditions of Approval, or modification of any mitigation measures required by the California Environmental Quality Act.
- K. **Major Transit Stop.** “Major transit stop” shall have the same meaning as defined in subdivision (b) of Section 21155 of the California Public Resources Code.
- L. **Maximum Allowable Residential Density.** “Maximum allowable residential density” has the same meaning as provided in California Government Code Section 65915 and shall mean the maximum density allowed in the zoning district applicable to the site proposed for the residential housing development as specified under the Oakland Planning Code; or, if a range of density is permitted, the maximum allowable density allowed in the zoning district applicable to the site proposed for the residential housing development as specified under the Oakland Planning Code. If the density allowed in the applicable zoning district is inconsistent with the density allowed in the applicable land use designation under the Land Use and Transportation Element of the Oakland General Plan, the General Plan density shall prevail.
- M. **Moderate, Low and Very Low Income Households.** “Moderate, low and very low income households” shall mean 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 as defined in Section 50093 of the California Health and Safety Code and its implementing regulations;
 2. “Low income” is as defined in Section 50079.5 of the California Health and Safety Code and its implementing regulations;
 3. “Very low income” is as defined in Section 50105 of the California Health and Safety Code and its implementing regulations.
- N. **Residential Housing Development.** “Residential housing development” for purposes of this Chapter, has the same meaning as “housing development” as provided in California Government Code Section 65915 and shall mean a project involving the construction of five (5) or more residential dwelling-living units, including mixed-use developments, excluding any units permitted by the density bonus awarded pursuant to this Chapter.

- O. **Senior Citizen Housing Development.** “Senior citizen housing development” shall mean the development, substantial rehabilitation, or substantial renovation of at least thirty-five (35) dwelling-living units reserved for senior citizens, where each unit houses at least one person fifty-five (55) years of age or older, and/or a qualified permanent resident, as described in Section 51.3 of the California Civil Code; further, it shall also mean a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the California Civil Code.
- P. **Target Living Unit.** “Target living unit” shall mean a dwelling-living unit within a residential housing development that will be offered for rent or sale exclusively to the designated income group or other category listed in Section 17.107.040 and which shall be available at an affordable rent or affordable housing cost.
- Q. **Total Base Dwelling Units.** “Total base dwelling-living units” shall mean the total number of residential units proposed by the developer, including target living units but not including any dwelling-living units added by a density bonus, which shall not exceed the maximum allowable residential density.

17.107.030 Application.

- A. A developer seeking a density bonus shall file an application with the Oakland Planning Bureau for a density bonus and/or incentive(s) and waiver(s), using the form prescribed by the Director of Planning. An application for a density bonus and/or related incentive(s) and waiver(s) shall be submitted concurrently with the application for a planning entitlement for a housing development and shall be processed and considered as part of the same.
- B. The density bonus application shall be accompanied by such information including, but not limited to, site and building plans, drawings and elevations, and operational data, as may be required to permit the review of the proposal in the context of the required findings, and any additional information deemed necessary by the Director of Planning to permit the review of the proposal in the context of the required findings.
- C. No density bonus application shall be determined to be complete until the following have been provided:
 - 1. A written statement specifying the total base dwelling-living units, target living units, desired density bonus, incentive(s) and/or waiver(s) requested, and the type, location, size and construction scheduling of all living units;
 - 2. Payment of all fees for the application as set forth in the Master Fee Schedule;
 - 3. If an incentive is requested, a narrative explanation as to the actual cost reduction achieved, stated in a dollar amount, and how the cost reduction would result in identifiable and actual cost reductions to provide for affordable rent or affordable housing costs for the target living units;
 - 4. If a waiver is requested, a narrative and diagrammatic explanation demonstrating that the application of any development standard for which a waiver is requested would have the effect of physically precluding the construction of the development at the density and with the incentives permitted by this Chapter. Information should include narrative descriptions, analyses, and architectural diagrams that clearly articulate how many units would be lost due to the application of the specific development standard(s). Where more than one waiver is sought, the application should clearly demonstrate why the waivers are cumulatively necessary to prevent a development standard from physically precluding the construction of the development.

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5. If an incentive or waiver is requested, submittal of information sufficient to allow the City to assess whether any of the requested incentive(s) or waiver(s) will have a specific adverse impact on any real property that is listed in the California Register of Historical Resources, or if there is such an impact, an analysis of potential methods to satisfactorily mitigate or avoid the specific adverse impact without rendering the residential housing development unaffordable to moderate-, low-, and very low-income households, and the feasibility of such methods.
6. If the application is for approval of mixed use where the mix of uses would not otherwise be allowed, evidence that the proposed non-residential use will reduce the cost of the residential housing development and that the non-residential use is compatible with the proposed residential housing development and other existing or planned development in the area where the proposed residential housing development will be located.
7. Information determined necessary to demonstrate compliance with the replacement unit provisions described in section 17.107.045 and Government Code section 65915(c)(3), including a narrative description of any prior residential use of the property and supporting documentation.
8. Any other such information as may be required to permit the review of the proposal in the context of the required findings, as requested by the Director of City Planning.

17.107.040 Density Bonus.

- A. The City shall grant one density bonus, the amount of which shall not exceed the amounts specified in the tables below, and, if requested, incentives in accordance with Section 17.107.080, waivers in accordance with Section 17.107.095, and parking ratio reductions in accordance with Section 17.107.120, when a developer agrees to construct a residential housing development with at least any one of the following categories:
 1. Category 1 - Ten percent (10%) of the total base dwelling units of a residential housing development are made available as affordable housing for low income households; or
 2. Category 2 - Five percent (5%) of the total base dwelling-living units of a residential housing development are made available as affordable housing for very low income households; or
 3. Category 3 - A senior citizen housing development; or
 4. Category 4 - Ten percent (10%) of the total base dwelling-living units of a residential housing development are sold at affordable housing cost to persons and families of a low or moderate income, provided that all units in the development are offered to the public for purchase and not as rental units, except that a density bonus may also be granted for moderate-income rental units if and to the extent otherwise provided in the City of Oakland Affordable Housing Impact Fee Ordinance, Oakland Municipal Code Chapter 15.72; or
 5. Category 5 - Ten percent (10%) of the total base dwelling-living units of a residential housing development are made available as affordable housing for transitional foster use, as defined in Section 66025.9 of the California Education Code, disabled veterans, as defined in Section 18541 of the California Government Code, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units described in this subparagraph shall be provided at the same affordability level as very low income units; or

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6. Category 6 - Twenty percent (20%) of the total base dwelling-living units are made available as affordable housing for lower income students in a student housing development that meets all of the requirements contained in subdivision (b)(1)(F) of California Government Code Section 65915; or
 7. Category 7 - One hundred percent (100%) of all dwelling-living units, including total base dwelling-living units and density bonus units but exclusive of a manager's unit or units, of a residential housing development are made available as affordable housing for lower income households, except that up to twenty percent (20%) of the dwelling-living units, including total based dwelling units and density bonus units may be made available for moderate income households.
- B. For residential housing developments meeting Category 1 above, the density bonus shall be calculated as indicated in Table 17.107.01:

Table 17.107.01: Density Bonus for Providing Units for Low Income Households

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35
21	38.75
22	42.5
23	46.75
24	50

Source: California Government Code, Section 65915(f)(1).

- C. For residential housing developments meeting Category 2 in Subsection A. above, the density bonus shall be calculated as indicated in Table 17.107.02:

Table 17.107.02: Density Bonus for Providing Units for Very Low Income Households

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5

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11	35
12	38.75
13	42.5
14	46.25
15	50

Source: California Government Code, Section 65915(f)(2).

D. For senior citizen housing developments meeting Category 3 in Subsection A. above, the density bonus shall be twenty percent (20%) of the number of senior housing units. Any density bonus granted under this Chapter shall be separate from, and not combined with, the City of Oakland Senior Housing Density Bonus which, if a conditional use permit is approved, permits an increase of seventy-five percent (75%) more senior housing units than are permitted by zoning, as described in Section 17.106.060.

E. For residential housing developments meeting Category 4 in Subsection A. above, the density bonus shall be calculated as indicated in Table 17.107.03.

Table 17.107.03: Density Bonus for Providing Units for Moderate-Income Households

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33

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39	34
40	35
41	38.75
42	42.5
43	46.25
44	50

Source: California Government Code, Section 65915(f)(4).

- F. For transitional housing developments meeting Category 5 in Subsection A. above, the density bonus shall be twenty percent (20%) of the number of units of the type giving rise to a density bonus under Category 5.
- G. For student housing developments meeting Category 6 in Subsection A. above, the density bonus shall be thirty-five percent (35%) of the number of total student housing units.
- H. For housing developments meeting Category 7 in Subsection A. above, the following shall apply:
 - 1. Except as otherwise provided in Subsection H.2. below, the density bonus shall be eighty percent (80%) of the number of units for lower income households.
 - 2. If the residential housing development is located within one-half mile of a major transit stop, the developer may seek a waiver requesting that no maximum controls on density apply and shall also receive a height increase of up to three additional stories or 33 feet. A qualifying residential housing development seeking a waiver from any maximum controls on density shall not be eligible for, and shall not receive, any additional waivers.
 - 3. Rents for all **dwelling-living** units in housing developments meeting Category 7, including the density bonus units, shall be set such that the rent for at least twenty percent (20%) of the **dwelling-living** units are set at an affordable rent, as defined in Section 50053 of the Health and Safety Code, and the rent for the remaining units in the housing development are set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.
- I. The developer shall elect whether the density bonus shall be awarded on the basis of Category 1, 2, 3, 4, 5, 6, or 7 in Subsection A. above. The developer may elect to accept a lesser percentage of density bonus, including no increase in density. All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a General Plan amendment, zoning change, or other discretionary approval. The density bonus shall not be included when determining the number of target living units that must be affordable to the relevant income group.
- J. Determination of the number of target living units required to be included in an eligible residential housing development and the number of density bonus units shall be calculated as follows:
 - 1. Prior to submission of a density bonus application, the developer shall review the applicable zoning standards in the Oakland Planning Code and the instructions included on the supplemental application for density bonus to determine the maximum

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allowable residential density for the site proposed for the residential housing development.

2. The developer shall then provide information on the proposed total base dwelling-living units and the category in Subsection A. above under which the developer proposes for the density bonus to be awarded. The developer shall state how many of the proposed total base dwelling-living units will meet the requirements of the category selected.
3. The developer shall then provide information regarding any dwelling-living units currently existing at the site proposed for the residential housing development as determined by staff as necessary to ensure no replacement units must be included prior to eligibility for a density bonus and related incentive(s) and waiver(s), as described further in Section 17.107.045.
4. The developer shall then calculate the density bonus for which its proposed residential housing development is eligible by multiplying the percentage of bonus units as described in Subsections B, C, D, E, G, and H above by the proposed total base dwelling-living units, rounding up the product. For Category 5, the percentage of bonus units shall be multiplied by the number of the type of units giving rise to the density bonus only, as described in Subsection F.
5. The developer shall then state whether it elects to include a lesser number of density bonus units in the proposed residential housing development, including the possibility of no density bonus units.

17.107.045 – Replacement units.

- A. A developer shall be ineligible for a density bonus or any other incentives or waivers if the residential housing development is proposed on any property that includes a parcel or parcels on which rental dwelling-living units are or, if the dwelling-living units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control, including but not limited to California anti-rent gouging protections (California Civil Code Section 1947.12) and the Oakland Rent Adjustment Ordinance (Oakland Municipal Code Sections 8.22.10 through 8.22.250); or occupied by lower or very low income households.
- B. Notwithstanding Subsection A. above, a developer shall remain eligible for a density bonus and related incentive(s) and waiver(s) if the conditions described in Subsection A. apply, the proposed residential housing development replaces those units, and either of the following applies:
 1. The proposed residential housing development, inclusive of the units replaced pursuant to this section, contains affordable units at the percentages set forth in Section 17.107.040.
 2. Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.
- C. For purposes of this section, "replace" shall mean either of the following:
 1. If any dwelling-living units described in Subsection A. are occupied on the date of application, the proposed residential housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the

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- household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied the units in the same proportion of lower income renter households to all renter households within the City of Oakland as determined by the most recently available data from the United States Department of Housing and Urban Development's ("HUD's") Comprehensive Housing Affordability Strategy database. For unoccupied dwelling-living units described in Subsection A. in a development with occupied units, the proposed residential housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttable presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction as determined by the most recently available data from HUD's Comprehensive Housing Affordability Strategy database.
2. If all dwelling-living units described in Subsection A. have been vacated or demolished within the five-year period preceding the date of application, the proposed residential housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time. If the income category of the household in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low income renter households occupied the units in the same proportion of low-income and very low income renter households to all renter households within the City of Oakland as determined by the most recently available data from HUD's Comprehensive Housing Affordability Strategy database.
 3. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling-living units, these units shall be subject to a recorded affordability restriction for 55 years. If the proposed development is for-sale units, the units replaced shall be subject to the provisions of paragraph (2) of subsection (c) of Government Code Section 65915.
 4. For purposes of this Section, "equivalent size" means that the replacement units contain at least the same total number of bedrooms, total number of bathrooms, and total square footage as the units being replaced. For purposes of replacing a unit in the form of a single-family home, "equivalent size" shall not require that the replacement unit include the same total square footage as the unit being replaced but still must contain at least the same total number of bedrooms and total number of bathrooms.
 5. For purposes of this Section, the income category of the current or last household in occupancy shall be considered not known and the rebuttable presumptions above shall apply only when the developer includes as part of the density bonus application documentation, supported by a signed affidavit under penalty of perjury, of good faith efforts to determine the income category of that household. Documentation can include, but is not limited to, correspondence with the property management company, correspondence with the previous property owner, correspondence with existing tenants, or individual lease documentation and attachments. Documentation shall be redacted to protect tenant's personal identifiable information. If the developer does not provide any documentation evidencing that the income category of the current or last household in occupancy is not known or does not provide a signed affidavit, it shall be

rebuttably presumed that very low income renter households occupied the units.

- D. For any dwelling-living unit described in Subsection A that the developer proposes to replace, the developer shall comply with all applicable requirements of Chapter 8.22, Residential Rent Adjustments and Evictions, including but not limited to relocation assistance. The developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the satisfaction of the Director of Planning that the developer has provided relocation assistance to all displaced tenants consistent with the Oakland Uniform Relocation Ordinance and California Government Code Section 66300.

17.107.060 Child Care Facilities.

- A. Residential Development. When a developer proposes to construct a residential housing development that conforms to the requirements of Section 17.107.040 (i.e. a density bonus), and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the residential housing development, the City shall grant either of the following:
 - 1. An additional density bonus that is an amount of square feet of residential space that is equal to, or greater than, the amount of square feet in the child care facility; or
 - 2. An additional incentive approved by the City that would contribute significantly to the economic feasibility of the construction of the child care facility.
- B. Requirements. The City shall require, as a condition of approving the residential housing development, that the following occur:
 - 1. The child care facility shall remain in operation for a period of time that is as long as, or longer than, the period of time during which the affordable housing units are required to remain affordable pursuant to this article; and
 - 2. Of the children who attend the child care facility, the children of very low income households, lower income households, moderate income households shall equal a percentage that is equal to, or greater than, the percentage of dwelling-living units that are made affordable to very low income households, lower income households, or families of moderate income households pursuant to Section 17.107.040.
- C. Commercial or Industrial Development. California Government Code (Section 65917.5) permits a density bonus when a child care facility is installed, operated and maintained in a commercial or industrial project, over the otherwise maximum allowable density or floor area ratio permitted under Oakland Planning Code and Land Use and Transportation Element of the Oakland General Plan. For purposes of this section only, "child care facility" means a facility installed, operated, and maintained under this Section for the nonresidential care of children as defined under applicable State licensing requirements for the facility. The density bonus shall be calculated as follows:
 - 1. A maximum of five (5) square feet of floor area for each one square foot of floor area contained in the child care facility for existing structures.
 - 2. A maximum of ten (10) square feet of floor area for each one square foot of floor area contained in the child care facility for new structures.

For purposes of calculating the density or floor area bonus under this Section, both indoor and outdoor square footage requirements for the child care facility as set forth in applicable State child care licensing requirements shall be included in the floor area of the child care facility.

- D. Notwithstanding any requirement of this Section, the City shall not be required to provide a density or floor area bonus or incentive for a child care facility if it finds, based upon

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substantial evidence, that the community has adequate child care facilities. Further, the provisions of California Government Code Section 65917.5 (Subsections c—e) shall apply in Oakland.

17.107.110 Continued affordability requirements.

- A. Where a developer proposes to provide target living units as rental units, all approvals for any affordable housing applications that include a density bonus and/or density incentive(s) shall be conditioned to ensure the continued affordability of the target living units that are part of the approvals for a period of not less than fifty-five (55) years, or a longer period of time if required by the construction or mortgage financing assistance program mortgage insurance program, or rental subsidy program, and their occupancy shall be restricted only to residents who satisfy the affordability requirements for the target living units. Prior to submittal of a construction-related permit, the developer shall enter into a regulatory agreement with the City, the terms of which shall be consistent with the City's model documents, as may be amended from time to time, and shall be reviewed and revised as appropriate by the Housing and Community Development Department (Housing Development Services Division). The regulatory agreement shall contain restrictive covenants to ensure the continued affordability of rental target **dwelling-living** units at the specified rent level for a period of not less than fifty-five (55) years and shall restrict the occupancy of those units only to residents who satisfy eligibility standards and the affordability requirements as approved for the approved residential housing development. The regulatory agreement shall be recorded with the Alameda County Recorder's Office as an encumbrance against the property, and a copy of the recorded agreement shall be provided to and retained by the City. The regulatory agreement shall not be subordinated in priority to any other lien interest in the property.
- B. Where a developer proposes to provide target living units as ownership units, all approvals for any affordable housing applications that include a density bonus and/or incentive(s) shall be conditioned to ensure that the restricted target living units comply with the City of Oakland Affordable Homeownership Development Program Guidelines. Developer shall pay a one-time fee to determine the eligibility of each initial homebuyer. The developer shall provide for initial homebuyer education to apprise buyers of the long-term affordability restrictions applicable to the targeted **dwelling-living** units, and shall submit information regarding the initial homebuyer's income, household size, and other funding sources to the City of Oakland Housing and Community Development Department for review and approval. If a potential initial homebuyer does not meet the City of Oakland's underwriting requirements, then the proposed homebuyer will not be allowed to purchase the home, and the developer will be required to find a qualified substitute buyer. The developer shall also be required to submit to the City evidence that all initial homebuyers of for-sale target **dwelling-living** units have entered into a density bonus equity share agreement prior to purchasing the unit or property, and the grant deed conveying title to the unit to the initial homebuyer shall reference the equity share agreement. Prior to submittal of a construction-related permit, the developer shall enter into an affordability agreement with the City, the terms of which shall be consistent with the City's model documents, as may be amended from time to time, and shall be reviewed and revised as appropriate by the Housing and Community Development Department (Housing Development Services Division). The affordability agreement shall contain restrictive covenants to provide that target living units are offered at an affordable housing cost and that only households that meet the eligibility standards for the target living units and agree to execute an equity share agreement with the City are eligible to occupy the target living units. The affordability agreement shall be recorded with the Alameda County Recorder's Office as an

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encumbrance against the property, and a copy of the recorded agreement shall be provided to and retained by the City. The affordability agreement shall not be subordinated in priority to any other lien interest in the property.

- C. The regulatory agreement or affordability agreement, as applicable, shall include at a minimum all of the following:
1. The total number of dwelling-living units approved for the residential housing development;
 2. The total number of target living units approved for the residential housing development;
 3. A description of the household income group to be accommodated by the restricted affordable units and the standard for determining the corresponding affordable rent or affordable housing cost;
- D. If the site proposed for the residential housing development has an approved condominium map and the developer chooses to rent the target living units at initial occupancy, the target living units cannot convert to ownership during the term of the regulatory agreement, even if the market-rate units in the residential housing development convert to ownership.

17.107.112 Density bonus equity share agreement.

All buyers of for-sale target living units shall enter into a density bonus equity share agreement with the City prior to purchasing the unit or property. The equity share agreement shall specify that the title to the subject property or unit may not be transferred without prior approval of the City. The owner of the for-sale target living unit may not rent out the unit, and the unit must remain owner occupied. Following City approval, the developer shall record the equity share agreement against the parcel containing the target dwelling-living unit, as well as a Deed of Trust and Request for Notice in the event of default, sale, or refinancing, with the Alameda County Recorder's Office, and shall provide a copy of the recorded equity share agreement to the City.

Chapter 17.108 GENERAL HEIGHT, YARD, AND COURT REGULATIONS

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

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

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exempted from the above limitation on barbed wire, razor wire, or electrified wire for the duration of the permitted construction activity if the Director of City Planning, or his or her designee, determines that it will increase safety and security or that trespassing could present a public safety hazard. The Director of City Planning, or his or her designee, is hereby authorized to institute standards consistent with this subsection to guide implementation of this exception.

- b. Chain link fencing is not allowed to exceed forty-two (42) inches in height in the following locations:
 - i. Street-fronting yards; or
 - ii. Interior side yards if closer to the front lot line than the front wall of the primary Residential Facility.
 - c. Plain concrete blocks are not allowed as a fencing material unless capped and finished with stucco or other material approved by the Director of City Planning.
- C. Commercial Zones and in the OS, S-1, S-3, D-CO-1, and S-15 Zones. The provisions of this Subsection apply to all properties located in all Commercial Zones and in the OS, S-1, S-3, D-CO-1, and S-15 Zones.
- 1. Height.
 - a. The maximum height allowed by right of any fence, dense hedge, barrier, or similar freestanding wall located within ten (10) feet of the public right-of-way or any abutting property located in a Residential or Open Space Zone is eight (8) feet. A fence higher than eight (8) feet but no more than ten (10) feet may only be permitted in these locations if installed with additional landscape screening and upon the granting of Design Review pursuant to the Design Review procedure in Chapter 17.136.
 - b. The maximum height of any fence, dense hedge, barrier, or similar freestanding wall elsewhere on a lot is ten (10) feet.
 - 2. Restricted Materials. In any location visible from the adjacent public right-of-way, no barbed wire, razor wire, or electrified wire shall be permitted as part of or attached to fences or walls or attached to the exterior of any building or similar facility.
 - a. Exceptions. Fences or walls shall be exempted from the above limitation on barbed wire, razor wire, or electrified wire where the Director of City Planning, or his or her designee, determines that it will increase safety and security or that trespassing could present a public safety hazard. The Director of City Planning, or his or her designee, is hereby authorized to institute standards consistent with this subsection to guide implementation of this exception.
- D. Industrial Zones. The provisions of this Subsection apply to all properties in all Industrial Zones.
- 1. Height.
 - a. The maximum height allowed by right of any fence, dense hedge, barrier, or similar freestanding wall located within ten (10) feet of the public right-of-way is eight (8) feet. A fence higher than eight (8) feet but no more than twelve (12) feet may only be permitted in these locations if installed with additional landscape screening and upon the granting of Design Review pursuant to the Design Review procedure in Chapter 17.136.
 - b. The minimum height of any fence, dense hedge, barrier, or similar freestanding wall

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located within ten (10) feet of any abutting property in a Residential or Open Space Zone shall be eight (8) feet. Any fence, dense hedge, or barrier or similar freestanding wall higher than eight (8) feet but no more than twelve (12) feet may only be permitted in these locations if installed with additional landscape screening and upon the granting of Design Review pursuant to the Design Review procedure in Chapter 17.136.

- c. Any fence, dense hedge, barrier, or similar freestanding wall located elsewhere on a lot in an Industrial Zone may only be permitted to exceed twelve (12) feet in height if installed with additional landscape screening and upon the granting of Design Review pursuant to the Design Review procedure in Chapter 17.136.

Chapter 17.114 NONCONFORMING USES

Article II Nonconforming Activities

17.114.050 Nonconforming Activity—Discontinuance.

17.114.070 Nonconforming Activity—Allowed substitutions and other changes in activity.

17.114.080 Nonconforming Activity—Allowed alterations and extensions.

17.114.090 Nonconforming **Massage Service and** Adult Entertainment Activities—
Discontinuance required within one year.

17.114.100 Nonconforming **Scrap Operation Commercial Activities Salvage/Junk Yards
Industrial Activities**—Discontinuance required within one year.

17.114.050 Nonconforming Activity—Discontinuance.

- A. Activity Nonconforming Because It Is Not a Permitted Activity. Other than: 1) an Alcoholic Beverage Sales Commercial Activity, 2) an Automotive Servicing or Automotive Repair and Cleaning Activity in the D-BV Zones, or 3) Truck-Intensive Industrial Activities as defined in Section 17.103.065, Trucking and Truck-Related Industrial Activities, and Recycling and Waste-Related Industrial Activities in the M-40, CIX, IG, IO, D-DT-JLI, D-CE-5, D-CE-6, D-CO-5, and D- CO-6 Zones, whenever an activity that is nonconforming wholly or partly because it is not itself a permitted activity where it is located, occupies four hundred (400) square feet or more of floor area and hereafter discontinues active operation for a continuous period of one (1) year, or occupies less than four hundred (400) square feet of floor area and hereafter discontinues active operation for a continuous period of six (6) months, and the facilities accommodating or serving such activity are not utilized for another activity during such period, said facilities may thereafter be utilized only for a normally permitted or conditionally permitted activity pursuant to Subsection 17.114.070.A., except the former activity may be resumed after a longer period upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.
- A. Whenever a nonconforming Alcoholic Beverage Sales Commercial Activity discontinues active operation for more than ninety (90) days or ceases to be licensed by the State Department of Alcoholic Beverage Control, it may only be resumed upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. However, if another activity has replaced it, the former activity may thereafter be resumed if and only if such resumption would constitute an allowable change under Subsection 17.114.070.A. Section 17.114.060 shall also apply.
- B. Whenever a nonconforming Automotive Servicing or Automotive Repair and Cleaning Activity in the D-BV Zones discontinues active operation for more than six (6) months, it may only be resumed upon the granting of a conditional use permit pursuant to the conditional use permit

procedure in Chapter 17.134. However, if another activity has replaced it, the former activity may thereafter be resumed if and only if such resumption would constitute an allowable change under Subsection 17.114.070.A. Section 17.114.060 shall also apply.

- C. Whenever a nonconforming Truck-Intensive Industrial ~~Activities Activity~~ (as defined in Section 17.103.065), Trucking and Truck-Related Industrial Activity, or Recycling and Waste-Related Industrial Activity in the M-40, CIX, IG, IO, D-CE-5, D-CE-6, D-CO-5, and D-CO-6 Zones discontinues active operation ~~of the nonconforming subject activity~~ for more than ~~zero (0) days, based on purposeful abandonment, sixty (60) days,~~ the right to continue the nonconforming use shall expire immediately upon ~~the conclusion of such period of~~ discontinuance of use. However, if another activity has replaced it, the former activity may thereafter only be resumed if and only if such resumption would constitute an allowable change under Subsection 17.114.070.A. Section 17.114.060 shall also apply.
- D. Activity Nonconforming for Other Reasons. A nonconforming activity which is itself a permitted activity where it is located, and which is nonconforming only as to applicable off-street parking or loading requirements, performance standards, or other requirements applying to activities, may be resumed regardless of the period during which it may have discontinued active operation. However, if another activity has replaced it, the former activity may thereafter be resumed only if such resumption would constitute an allowable change under Section 17.114.070B. Section 17.114.060 shall also apply.

17.114.070 Nonconforming Activity—Allowed substitutions and other changes in activity.

- A. **Activity Nonconforming Because It Is Not a Permitted Activity.** The activities specified in the following table may be substituted for any of the indicated activities which is nonconforming wholly or partly because it is not itself a permitted activity where it is located:

Zone	Prior Nonconforming Activity	Activity Which May be Substituted for Prior Activity, Subject to the Provisions Listed Below This Table
Any zone.	Any such activity.	Any activity otherwise permitted or, upon the granting of a Conditional Use Permit pursuant to the Conditional Use Permit procedure in Chapter 17.134, any activity otherwise conditionally permitted in the same location.
Any Residential Zone or S-1 or S-3 Zone.	Any such Industrial Activity where it is not a permitted or conditionally permitted activity.	Any Commercial Activity permitted in the CN-4 Zone.
	The following such Commercial Activities where they are not a permitted or conditionally permitted activity:	
	Research Service	(see below)
	General Wholesale Sales	(see below)

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	Building Material Sales	(see below)
	Automobile and Other Light Vehicle Sales and Rental	(see below)
	Automotive and Other Light Vehicle Repair and Cleaning	(see below)
	Taxi and Light Fleet-Based Service	(see below)
	Animal Care	(see below)
	Animal Boarding	(see below)
	Undertaking Service	(see below)
	Scrap Operation	(see below)

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Zone	Prior Nonconforming Activity	Activity Which May be Substituted for Prior Activity, Subject to the Provisions Listed Below This Table
		Any Commercial Activity permitted in the CC-2 Zone.
	The following such Commercial Activities where they are not a permitted or conditionally permitted activity:	
	General Food Sales	(see below)
	Full Service Restaurant	(see below)
	Limited Service Restaurant and Cafe	(see below)
	Fast-Food Restaurant	(see below)
	Convenience Market	(see below)
	Alcoholic Beverage Sales	(see below)
	Mechanical or Electronic Games	(see below)
	General Retail Sales	(see below)
	Consumer Service	(see below)
	Consumer Cleaning and Repair Service	(see below)
	Consumer Dry Cleaning Plant	(see below)
	Group Assembly	(see below)
	Personal Instruction and Improvement Services	(see below)
	Business, Communication, and Media Service	(see below)
	Broadcasting and Recording Service	(see below)
		Any Commercial Activity permitted in the CN-4 Zone.
	The following such Commercial Activities where they are not a permitted or conditionally permitted activities:	
	Medical Service	(see below)

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	Consultative and Financial Service	(see below)
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Zone	Prior Nonconforming Activity	Activity Which May be Substituted for Prior Activity, Subject to the Provisions Listed Below This Table
	Administrative	(see below)
		Administrative Civic Activities. Administrative Commercial Activities. Medical Service. Consultative and Financial Service.
	Any other Commercial Activity where it is not a permitted or conditionally permitted activity.	Any Commercial Activity permitted in the CC-2 Zone.
Any Commercial Zone.	Any such Commercial or Industrial Activity where it is not a permitted or conditionally permitted activity.	Any Commercial Activity permitted in the CC-2 Zone.
Any Industrial Zone.	Any such Commercial or Industrial Activity where it is not a permitted or conditionally permitted activity.	Any Commercial Activity permitted in the CC-2 Zone.

Changes that do not constitute substitutions may be made in any activity which is nonconforming wholly or partly because it is not itself a permitted activity where it is located. The above substitutions and other changes may be made without regard for requirements on off-street parking and loading, conduct of activities within enclosed buildings, means of customer access, and total floor area which normally apply to activities, except as otherwise provided in Section 17.116.020C. However:

1. If the nonconforming activity is itself conditionally permitted where it is located, no substitution or other change shall be made in it which would conflict with, or further conflict with, any requirement on off-street parking or loading, conduct of activities within enclosed buildings, means of customer access, or total floor area which normally applies to activities. (Changes which are allowed by Section 17.116.020B shall not be deemed to conflict or further conflict with the parking or loading requirements).
2. Conversions of **dwelling-living** units to use by a Nonresidential Activity shall be subject, where applicable, to the provisions of Section 17.102.230
3. If the nonconforming activity is located at ground level on any lot in the CN-1 or CN-2 Zone, no change shall be made in the nature of the particular activity, except when the result is itself permitted in the same location, unless a Conditional Use Permit is granted pursuant to the Conditional Use Permit procedure. This does not restrict a change in ownership, tenancy, or management where the previous line of business or other function is not changed.
4. For any nonconforming Alcoholic Beverage Sales Commercial Activity presently located in any zone in which it is not a permitted activity, no change shall be made in the activity which change requires obtaining a different type of alcoholic beverage sale retail license

from the state of California Department of Alcoholic Beverage Control.

5. No substitution or other change shall be made in any nonconforming activity which would conflict, or further conflict, with any applicable provision of the performance standards in Chapter 17.120, or of any kind of requirement not mentioned hereinabove which applies to activities.
6. In cases of discontinuance, damage, or destruction, the pertinent provisions of Sections 17.114.050 or 17.114.060 shall also apply.

If the activity resulting from a change allowed above is not a normally permitted and otherwise conforming activity, and is not authorized by a Conditional Use Permit or other special zoning approval, it shall be deemed a nonconforming activity and changes in it shall be subject to this Section.

- B. Activity Nonconforming for Other Reasons.** Except as otherwise provided in Sections 17.114.050 and 17.114.060, an activity which is itself permitted or, upon the granting of a conditional use permit pursuant to the conditional use permit procedure, an activity which is itself conditionally permitted may be substituted for any activity which is itself a permitted activity where it is located and which is nonconforming only as to applicable off-street parking or loading requirements, performance standards, or other requirements applying to activities. Changes other than substitutions may also be made in such activities. However, no substitution or other change shall be made which would create any new nonconformity, or increase any existing nonconforming, with respect to said requirements. (Changes which are allowed by Section 17.116.020.B shall not be deemed to conflict or further conflict with the parking or loading requirements.) If the activity resulting from the change does not meet such requirements, and is not authorized by a conditional use permit or other special zoning approval, it shall be deemed nonconforming and changes in it shall be subject to this Subsection.

17.114.080 Nonconforming Activity—Allowed alterations and extensions.

- A. Nonresidential Activity Nonconforming Because It Is Not a Permitted Activity.** Except as otherwise provided in Section 17.114.060, a Nonresidential Activity which is nonconforming wholly or partly because it is not itself a permitted activity where it is located may be extended, and the facilities accommodating or serving such activity may be altered or otherwise changed, subject to the requirements normally applying to uses where the activity is located and subject to the following provisions and exceptions:
1. Except as otherwise provided in Subsection (A)(3) of this Section, the floor area and overall outside dimensions of any building, or portion thereof, devoted to such activity shall not be increased; no open parking, loading, sales, display, service, production, or storage area accommodating or serving such activity shall be relocated or increased in size; and no such building or open area shall be wholly reconstructed. However, in the case of an establishment classified as an Alcoholic Beverage Sales Commercial Activity, the total floor area, open areas, or outside building dimensions occupied by the establishment may be increased as long as the amount of space actually devoted to the sale of alcoholic beverages is not increased by more than twenty percent (20%) of that already existing. See Tables 17.15.01 (L4), 17.17.01 (L4), and 17.19.01 (L7) for restrictions to this allowable expansion in the RD, RM, and RU Zones.

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2. In the case of an establishment classified as an Alcoholic Beverage Sales Commercial Activity, the percentage of actual floor area devoted to the sale of alcoholic beverages shall not be increased by more than twenty percent (20%) of that already existing, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.
 3. New, wholly reconstructed, enlarged, or relocated structures or open areas devoted to off-street parking or loading serving such activity may be provided wherever Automotive Fee Parking Commercial Activities are permitted or, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, wherever Automotive Fee Parking Commercial Activities are conditionally permitted. In Residential Zones, such facilities for off-street parking may be provided in the situations, and subject to the conditions, prescribed in Section 17.116.075.
 4. New Signs may be provided for such activity, but the aggregate area of display surface of all Signs serving such activity shall not be increased. All Signs shall be subject to the limitations, other than aggregate area of display surface, normally applying to Signs where they are located.
 5. During any five-year period, beginning on or after the effective date of the zoning regulations or of any subsequent rezoning or other amendment thereto which makes such activity thus nonconforming, the aggregate cost of all alterations for which a building or sign permit is required, and which are intended for any activity subject to this Subsection, shall not exceed twenty-five percent (25%) of the replacement cost, as estimated by the Building Services Department, of the facilities accommodating or serving such activity at the beginning of said period. However, the cost of alterations ordered by any governmental agency or permitted by Section 17.114.060 shall be exempt from said maximum cost.
 6. No facility accommodating a nonconforming Automobile and Other Light Vehicle Gas Station and Servicing or Automotive and Other Light Vehicle Repair and Cleaning Commercial Activity shall be altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136.
 7. A nonconforming Automobile and Other Light Vehicle Gas Station and Servicing or Automotive and Other Light Vehicle 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 in Chapter 17.136. This conditional use permit and 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.
- B. Residential Activity Nonconforming Because It Is Not a Permitted Activity.** Except as otherwise provided in Section 17.114.060, a Residential Activity which is nonconforming wholly or partly because it is not itself a permitted activity where it is located may be extended, and the facilities accommodating or serving such activity may be altered or otherwise changed, subject to the following provisions:
1. The number of living units shall not be increased.
 2. The amount of added or wholly reconstructed floor area devoted to such activity shall not exceed in the aggregate twenty percent (20%) of that already existing on the affected lot. If a new or wholly reconstructed floor area is developed, usable open space shall be provided for all living units on the lot in the amount required in the RU-2 Zone.

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3. Existing usable open space shall not be reduced below, or if already less than shall not be reduced further below, the usable open space requirements applying in the RU-2 Zone.
4. All alterations and other changes shall conform to, or not further conflict with, the minimum yard and court and maximum height requirements and the limitations on Signs generally applying in the RM-3 Zone, as well as to the requirements generally applying to uses where the activity is actually located.

C. **Activity Nonconforming for Other Reasons.** Except as otherwise provided in Section 17.114.060, any activity which is itself a permitted activity where it is located and which is nonconforming only as to off-street parking or loading requirements, performance standards, or other requirements applying to activities may be extended, and the facilities accommodating or serving such activity may be altered or otherwise changed, in any way which does not result in a greater degree of nonconformity with respect to such requirements and which conforms to the requirements normally applying to uses where the activity is located.

17.114.090 Nonconforming ~~Message Service and~~ Adult Entertainment Activities—Discontinuance required within one year.

Within one (1) year after the effective dates of Sections 17.102.160, 17.102.170 and 17.148.050, all previously legal but now nonconforming Adult Entertainment ~~and Message Service~~ Activities shall be discontinued or shall be brought into full conformance with said sections except that such activities may continue for up to an additional two (2) years upon the granting of a conditional use permit, pursuant to Section 17.102.160B and the conditional use permit procedure in Chapter 17.134, and upon a determination that the activity is obligated under a written lease at the nonconforming location which exceeds one (1) year from the effective dates of Sections 17.102.160, 17.102.170 and 17.148.050 or that the activity has incurred such an investment of money in leasehold or other improvements such that a longer period is necessary to prevent undue financial hardship.

17.114.100 Nonconforming ~~Scrap Operation Commercial Activities Salvage/Junk Yards Industrial Activities~~—Discontinuance required within one year.

Within one (1) year after the effective date of this Section or of any subsequent rezoning which makes an existing ~~Scrap Operation Commercial Activity Salvage/Junk Yards Industrial Activity~~ a nonconforming activity, all nonconforming ~~Scrap Operation Commercial Activities Salvage/Junk Yards Industrial Activities~~ located within a Residential Zone or within one hundred (100) feet of a Residential Zone and which wholly or partially occupy an open facility shall be discontinued or may continue only upon the granting of a conditional use permit, pursuant to the conditional use permit procedure in Chapter 17.134; provided, however, that if the proposal does not conform to the use permit criteria at Section 17.134.050, but as an alternative a finding is made that the activity involves investment of money in leasehold or improvements such that a longer period is necessary to prevent undue financial hardship, then a conditional use permit shall be granted for a period not to exceed two (2) additional years.

Article III Nonconforming Facilities

17.114.150 Nonconforming Sign within 1,000 feet of, and primarily viewable from, rapid transit route— Removal required for certain categories.

17.114.180 Nonconforming Signs in CR-1 Zone—Removal required for certain categories.

17.114.150 Nonconforming Sign within 1,000 feet of, and primarily viewable from, rapid transit route—Removal required for certain categories.

A. **Basic Requirements.** Within the indicated time periods, and except as otherwise provided in Subsection B. of this Section, all nonconforming Signs in the following categories which are located within one thousand (1,000) feet of the centerline of a rapid transit route shall be removed, relocated, or otherwise changed so as to conform:

Category	Time Period
Any Business Sign which is painted, or consists of a poster affixed, directly affixed on a building wall or fence; for which design review is prescribed by Section 17.104.040A; and which is or has become primarily viewable by the passengers on the transit route.	Three (3) years after the effective date of Section 17.104.040 (that date was April 8, 1971) or three (3) years after the date of official determination of the transit route, whichever occurs later.

The Director of City Planning shall determine which Signs are or have become so viewable, subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132.

B. **Exception.** Any Sign listed in Subsection A. of this Section may be retained permanently if it is approved pursuant to the design review procedures in Chapter 17.136 and the provisions of Section 17.104.040.A.

17.114.180 Nonconforming Signs in CR-1 Zone—Removal required for certain categories.

Within three (3) years after inclusion in the CR-1 Zone, all nonconforming pennants, streamers, propellers, and similar devices shall be removed, relocated, or otherwise changed so as to conform.

Chapter 17.116 OFF-STREET PARKING AND LOADING REQUIREMENTS

17.116.105 Special regulations in the D-DT and D-LM Zones.

The following regulations shall apply to new Multifamily Residential Facilities of five (5) or more dwelling units in the D-DT and D-LM Zones.

A. Car-Share Parking Spaces.

1. Car-share parking spaces shall be provided in the amount specified in the Table below.

Number of Dwelling Units	Number of Required Car Share Parking Spaces
Less than 50 units.	No spaces required.
50 – 200 units.	One (1) space.
201 – 400 units.	Two (2) spaces.
Each additional 200 units.	One (1) additional space.

- a. Required car-share space(s) shall be made available through one of the following two means: A private car-share, operated by the property owner or homeowners association, provided within the development. In this case, each private car-share space shall be assigned to a vehicle owned and maintained by the property owner or homeowners association for the use of residents within the development; or
 - b. At no cost, providing a parking space to a public car-share organization for purposes of providing car-share services for its car-share service subscribers. The car-share spaces may be provided on the building site or on another site within six hundred (600) feet of the building site. All car-share vehicles shall be accessible to both non-resident and resident subscribers.
2. A private car share (option 2(b), above) shall be provided if a public car share operator cannot make use of a public car share space.
 3. A notice describing the requirement for car-sharing spaces shall be permanently posted in a common area of the building such as a lobby or mailroom that is clearly visible to residents.
 4. All car-share parking spaces shall be counted toward the minimum and maximum required parking spaces.
- B. Transit Passes.** The property owner or homeowners association shall make permanently available a monthly transit benefit to each dwelling living unit in an amount equal to either one-half the price of an Adult 31-Day AC Transit Pass or an AC Transit EasyPass. This benefit shall be placed on a Regional Transit Connection Clipper Card. A notice describing this transit benefit shall be permanently posted in a common area of the building such as a lobby or mailroom that is clearly visible to residents.

17.116.110 Special parking exemptions and reductions.

The provisions of this Section apply to all facilities and zones in all or specified zones.

- A. Reduction for Senior Citizen Housing.** The number of parking spaces prescribed in Section 17.116.060 shall be reduced by seventy-five percent (75%) for each dwelling living unit that is regularly occupied by at least one individual who is at least fifty-five (55) years of age or older

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or is physically handicapped regardless of age.

- B. **Affordable Housing.** Affordable housing units restricted for extremely low, very low, low, and moderate income households, (as defined in California Government Code Section 50052.5 and in Oakland Planning Code Section 17.107.020) shall have no minimum parking requirement.
- C. **Parking Reduction through Demand Management Measures.** The following are the percentages that parking requirements are reduced for Two- to Four-Family and Multifamily Dwelling Residential Facilities located outside of the S-9 Fire Safety Protection Combining Zone through implementation of the listed parking demand management measures. The parking reduction percentages for the demand management measures described below can be added together to create a greater parking reduction. A notice describing the demand management measure(s) required shall be permanently posted in a common area of the building such as a lobby or mailroom that is clearly visible to residents.

Chapter 17.117 BICYCLE PARKING REQUIREMENTS

17.117.090 Required bicycle parking—Residential Activities.

Subject to the calculation rules set forth in Section 17.117.080, the following minimum amounts of bicycle parking are required for all Residential Activities and shall be developed and maintained pursuant to the provisions of Article II of this Chapter (If the property is a BART owned parcel subject to Assembly Bill (AB) 2923 (2018), the minimum number of secure (long-term) bicycle parking spaces shall be one space per dwelling living unit):

Type of Activity	Long-term Bicycle Parking Requirement	Short-term Bicycle Parking Requirement
Permanent and Semi-Transient Residential Activities occupying the specified facilities:		
Type of Activity	Long-term Bicycle Parking Requirement	Short-term Bicycle Parking Requirement
1) One-Family Dwelling.	No spaces required.	No spaces required.
2) Two- to Four-Family Dwelling.	No spaces required.	No spaces required.
3) Multifamily Dwelling.		
a) With private garage for each unit.	No spaces required.	1 space for each 20 dwelling units. For D-BV Zones, 1 space for each 15 dwelling units. Minimum citywide requirement is 2 spaces.
b) Without private garage for each unit.	1 space for each 4 dwelling units. For D- BV Zones, 1 space for each 2 dwelling units. Minimum citywide requirement is 2 spaces.	1 space for each 20 dwelling units. For D-BV Zones, 1 space for each 15 dwelling units. Minimum citywide requirement is 2 spaces.
c) Senior Housing.	1 space for each 10 dwelling units. Minimum requirement is 2 spaces.	1 space for each 20 dwelling units. Minimum requirement is 2 spaces.
4) Rooming House.	1 space for each 8 residents. Minimum requirement is 2 spaces.	No spaces required.
5) Vehicular.	No spaces required.	No spaces required.
Residential Care, Supportive Housing, Transitional Housing, and Emergency Shelter Residential Activities occupying the specified facilities:		
6) Residential Care.	1 space for each 20 employees or 1 space for each 70,000 square feet, whichever is greater. Minimum requirement is 2 spaces.	2 spaces.

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7) Supportive Housing.	1 space for each 20 employees or 1 space for each 70,000 square feet, whichever is greater. Minimum requirement is 2 spaces.	2 spaces.
8) Transitional Housing.	1 space for each 20 employees or 1 space for each 70,000 square feet, whichever is greater. Minimum requirement is 2 spaces.	2 spaces.
9) Emergency Shelter Residential.	1 space for each 20 employees or 1 space for each 70,000 square feet, whichever is greater. Minimum requirement is 2 spaces.	1 space for each 5,000 square feet of floor area. Minimum requirement is 2 spaces.

Chapter 17.122 REPLACEMENT HOUSING UNIT REGULATIONS

Sections:

- 17.122.020 – Definitions.
- 17.122.030 – Applicability.
- 17.122.035 – Restrictions.
- 17.122.040 – Replacement of Protected Units.
- 17.122.050 – Notice to Existing Occupants and Prospective Tenants.
- 17.122.060 – Unit Inventory.
- 17.122.070 – Right of First Refusal.

17.122.020 - Definitions.

For purposes of this Chapter only, the following definitions shall apply:

“Developer.” Developer means the owner or owner’s authorized agent, or other person, including a lessee, having the right under the Oakland Zoning Regulations, to make an application for development. It shall also include any successor in interest thereto.

“Demolition of Protected Units.” Demolition of Protected Units means any action that results in the elimination of, or reduction in the number of bedrooms in, one or more existing Protected Units, including but not limited to the razing, tearing down or wrecking of any facility, structure or building, the conversion of existing Protected Units into non-residential uses, the conversion of existing Protected Units into unprotected Dwelling-Living Units, and subdivisions through existing structures that would place each existing Protected Unit on separate parcels. Notwithstanding the above, applications for condominium conversion in the City of Oakland shall be regulated pursuant to Oakland Municipal Code Chapter 16.36 in lieu of compliance with this Chapter.

“Equivalent Size.” Equivalent Size means that each Replacement Deed-Restricted Units contains at least the same number of bedrooms as the Dwelling-Living Unit being Replaced. Replacement Deed-Restricted Units in newly constructed buildings must also contain at least ninety (90) percent of the square footage of the Dwelling-Living Unit being Replaced.

“Protected Unit.” Protected Unit means a Dwelling-Living Unit, regardless of condition or zoning status, that meets any of the following:

1. A rental Dwelling-Living Unit that is currently subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to Lower Income Households; is currently subject to any other form of rent or price control, including Oakland Municipal Code Section 8.22.010 *et seq.* and the California Tenant Protection Act of 2019, as subsequently amended; or was subject to the above in the five-year period preceding the submittal of an application for development approvals, regardless of whether the unit has been vacated or demolished;
2. A rental Dwelling-Living Unit that is occupied by a Lower Income Household or was occupied by a Lower Income Household in the five year-period preceding the submittal of an application for development approvals, regardless of whether the unit has been vacated or demolished;
3. A rental Dwelling-Living Unit that has been withdrawn from rent or lease pursuant to the Ellis Act, Government Code Section 7060 *et seq.* in the ten-year period preceding the submittal of an application for development approvals.

“Replacement Deed-Restricted Unit.” Replacement Deed-Restricted Unit means a dwelling living unit that fulfills the obligation to Replace, as defined in Section 17.122.040, a Protected Unit.

17.122.030 – Applicability.

- A. The requirements of this Chapter shall apply to any development project that is proposed on any property that includes a parcel or parcels on which a dwelling living unit is located or was located in the ten (10) years preceding application submittal.
- B. Notwithstanding the above, this Chapter shall not apply to a development project proposed on a property that includes a parcel or parcels on which a dwelling living unit is located, or was located, in the ten (10) years preceding application submittal only if all of the following conditions exist:
 - 1. The development project proposes an Industrial Activity.
 - 2. The property is entirely within a zone that does not allow Residential Activities.
 - 3. The zoning applicable to the property that does not allow Residential Activities was adopted prior to January 1, 2022.
 - 4. The dwelling living units that are or were located on the property are not Work/Live units.
 - 5. The dwelling living units that are or were located on the property are or were unpermitted.
- C. A development project that is proposed to legalize unpermitted units that are subject to a code enforcement action may exceed the maximum allowable density of the applicable zoning designation but must still comply with this Chapter and Chapter 8.22, as applicable and are subject to the following:
 - 1. All units that are in excess of the maximum allowable density, with exception of units received pursuant to the Density Bonus Ordinance (Chapter 17.107), shall be deed restricted and made available to low-income households for fifty-five (55) years or the life of the project, whichever is longer.
 - 2. The previously unpermitted units shall remain rent controlled if the units were previously subject to rent control and the units shall be treated as Replacement Deed-Restricted Units if the project includes Demolition of Protected Units. The Developer shall comply with the Just Cause for Eviction Ordinance.
 - 3. The project must comply with all code requirements, including but not limited to the requirement for a building permit and compliance with the Building Code, but may request a waiver of Planning Code development standards of the underlying zone if the standard would physically preclude the proposal to legalize the unpermitted unit. The City may deny the waiver request if the City makes a finding that denying the waiver is necessary to protect the health and safety of the public or occupants of the structure.
 - 4. This right shall never be used more than one time per parcel.
 - 5. Notwithstanding the above, this subsection C shall not preclude an applicant from

applying for a Rezoning or Variance.

- D. Where a conflict exists between the requirements in this Chapter and the applicable requirements contained in California Government Code Title 7, Division 1, Chapter 12, Article 2 (Section 66300.5 et seq.), the applicable requirements of the Government Code shall prevail unless the requirements of this Chapter are more protective of Lower Income households or provide greater relocation assistance to displaced households.
- E. This Chapter does not confer additional legal protections upon an unlawful occupant of a Protected Unit.
- F. The right of first refusal described in Section 17.122.070 does not apply to an occupant of a short-term residential rental that is rented for a period of fewer than thirty (30) days.

17.122.035 – Restrictions.

- A. Demolition of dwelling-living units, whether or not Protected Units, shall be prohibited in the following circumstances:
 - 1. The demolition is proposed in furtherance of a housing development project that creates fewer dwelling-living units than the greatest number of dwelling-living units that existed on the project site within the last five (5) years.
 - 2. There have been any adjudicated cases evidencing tenant harassment or illegal eviction during the application process prior to the issuance of the demolition or building permit or during the five-year period prior to application submittal.
 - 3. A prior entitlement at the project site was denied or voided within the past five (5) years based on documentation in the Unit Inventory, prepared pursuant to Section 17.122.060, that a unit became vacant by unlawful means.

17.122.040 – Replacement of Protected Units.

- A. The City shall not approve any demolition permit, building permit, or land use entitlement issued under these Zoning Regulations, including any change of use that requires a zoning clearance, for a development project that proposes the Demolition of Protected Units unless the development project Replaces all Protected Units, the Developer provides notice in compliance with Section 17.122.050, the Developer includes with their application a Unit Inventory in compliance with Section 17.122.060, the Developer commits to providing rights of first refusal to occupants of Protected Units in compliance with Section 17.122.070, and the proposal otherwise fully complies with this Chapter.
- B. For purposes of this Chapter only, “Replace” shall mean either of the following:
 - 1. If any Protected Units have been occupied at any time during the five-year period preceding the date of application, the proposed development shall include residential uses that provide at least the same number of units as those demolished as part of the Demolition of Protected Units, of Equivalent Size, to be made available as Affordable Housing occupied by persons and families in the same or lower income category as those households currently or last in occupancy of the Protected Units. If the income category

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of the current or last household in occupancy is not known, it shall be rebuttably presumed Lower Income Households occupied these units in the same proportion of Lower Income renter households to all renter households within the City of Oakland, as determined using the most recently available data for renter income distribution in the City of Oakland from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database.

2. If all Protected Units have been vacated or demolished within the five-year period preceding the date of application, the proposed development shall include residential uses that provide at least the same number of **Dwelling-Living** Units of Equivalent Size as existed at the highpoint of those **Dwelling-Living** Units in the five-year period preceding the application to be made available as Affordable Housing occupied by persons and families in the same or lower income category as those persons and families in occupancy at that time. If the income category of the current or last household in occupancy is not known, it shall be rebuttably presumed Low Income and Very Low Income Households occupied these units in the same proportion of Low Income and Very Low Income renter households to all renter households within the City of Oakland, as determined using the most recently available data for renter income distribution in the City of Oakland from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database.
 3. For any Protected Unit that is or was subject to any other form of rent or price control within the five-year period preceding the application and was last occupied by persons or families above lower income (or was presumed to be occupied by persons or families above lower income using the formulas provided in paragraphs 1 and 2), the Replacement Deed-Restricted Unit must be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families.
- C. All Replacement Deed-Restricted Unit calculations resulting in fractional units shall be rounded up to the next whole number.
- D. Documentation of a legally binding commitment, recorded against the property, to construct Replacement Deed-Restricted Units in accordance with this Chapter shall be a required condition prior to issuance of any demolition, grading, or building permit.
- E. For any unit that the Developer proposes to Replace, the Developer shall comply with all applicable requirements of Chapter 8.22, Residential Rent Adjustment and Evictions, including but not limited to, relocation assistance and registration and reporting obligations under Section 8.22.510. Where the provisions of State law provide the right to evict existing occupants, the Developer must comply with the following provisions:
1. If in any circumstances the Developer causes the existing occupants of any Protected Units that are Lower Income Households to relocate in a manner that does not obligate the Developer to provide relocation payments under Oakland Municipal Code Chapter 8.22 or Chapter 15.60, the Developer shall comply with any obligation as provided in California Government Code Section 66300.6, subsection (b)(4)(A) to provide relocation benefits equivalent to the relocation benefits required to be paid by public entities pursuant to California Government Code Title 1, Division 7, Chapter 16 (commencing with Section 7260).
 2. A Developer shall comply with provisions of Government Code Section 66300.6, subsection (b)(3) to allow any existing occupant to occupy their units until six months or

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less before the start of construction activities; to provide notice at least six months in advance of the date that existing occupants must vacate; and to allow existing occupants who were required to leave to return to their unit at their prior rental rate if the demolition does not proceed and the property is returned to the rental market. This subsection does not serve to create a new just cause for eviction, does not waive the Developer's obligation to comply with all applicable requirements of Chapter 8.22, and does not compel an occupant to remain in the unit until six months before the start of construction activities. In any circumstances where the Developer provides such notice, the notice shall also state that the notice does not serve as an eviction notice. A Developer who enters into a Move Out Agreement consistent with Article VI of Chapter 8.22 with an occupant is not subject to this requirement since the occupant is not being compelled to move out.

- F. If the Developer is proposing a non-residential project, the Developer shall demonstrate that they have acquired sufficient Replacement Unit Rights as part of their development application.
1. "Replacement Unit Rights" are generated by a project which adds housing units to the City's housing supply, and one (1) Replacement Unit Right is equivalent to one (1) housing unit within such a project.
 2. Replacement Unit Rights may be generated by a separate project either undertaken by the Developer or undertaken by others from whom the Developer has obtained or acquired such "rights" in a legally binding manner by a recorded document to be approved by the City.
 3. A project generating Replacement Unit Rights must be located within the City of Oakland.
 4. Once the Replacement Deed-Restricted Units have been developed or secured, a regulatory agreement that restricts the appropriate number, size and affordability levels of Replacement Deed-Restricted Units must be approved by the City and recorded on the housing development prior to issuance of the first construction-related permit for the non-residential project. Where the project is changing the use from residential without associated construction, the regulatory agreement must be recorded before the City will issue the Planning approval for the change of use. At the time of issuance of the construction-related permit or change of use permit for the non-residential project, the replacement housing must be under construction or completed within the last twelve (12) months and the Developer must have (a) recorded the required regulatory agreement approved by the City and (b) provided a signed agreement that any existing occupants will be provided the right of first refusal in the new development in accordance with the requirements of this Chapter.
 5. The Replacement Deed-Restricted Units provided through Replacement Unit Rights must otherwise meet the affordability and Equivalent Size requirements specified in this section and shall be subject to the right of first refusal provisions provided in Section 17.122.070.
 6. No Replacement Unit Rights shall be generated by a project or specific parts of a project which: (a) are intended to become the property of the Oakland Housing Authority, (b) receive financial assistance from the City or the Oakland Redevelopment Successor Agency, or (c) are located on property that was purchased or leased from a public or quasi-public agency.

17.122.050 – Notice to Existing Occupants and Prospective Tenants.

If any Protected Unit in a building subject to a proposal for the Demolition of Protected Units is occupied thirty (30) days prior to the submittal of an application for development, the following requirements shall apply. If a rental agreement was negotiated in a language other than English, all required written notices referred to in this section must be issued in that language and in English. For each application, all documents referred to in this section shall be reviewed by the Planning and Building Department as to form, correctness, and completeness. The Planning and Building Department may create forms to assist Developers in providing these notices, in which case the Developer shall use the forms created. If the documents provided do not meet the requirements of this section, including if the documents were dated fewer than thirty (30) days ago, the Planning and Building Department shall ministerially reject the application without prejudice for the Developer to resubmit after adequate and compliant thirty- (30) day notice is provided.

- A. Preliminary Notice to Existing Occupants Prior to Filing an Application for Development. At least thirty (30) days prior to submitting an application for development, and not more than sixty (60) days prior, the Developer shall provide all existing occupants of the building notice of the proposed application for development. Notice shall be given by posting in a conspicuous place outside the premises of the subject unit involved in the proposed application. Notice shall also be given by mail to the existing occupants and shall be deemed satisfied if it complies with the legal requirements for service by mail pursuant to California Code of Civil Procedure Section 1013. The application for development shall include documentation that the existing occupant notice requirements were met. The notice shall include the following:
1. Notice of the owner's plans to file an application to redevelop the property.
 2. Information on how the occupants' existing unit will be affected by the development.
 3. The following language in at least fourteen (14) point bold face type: "This notice is not an eviction notice. It is not a notice that you must leave the building or that your tenancy is being ended."
 4. Notice of the fact that as part of the process to redevelop the property, the property owner may offer an incentive to the occupant to move, such as a monetary payment or alternative housing options, that the occupant is not required to agree to move, and that the City of Oakland has a Tenant Move Out Agreement Ordinance, with a link to that Ordinance (currently Article VI of Chapter 8.22 of the Oakland Municipal Code).
 5. Information on the right of first refusal provisions under Section 17.122.070 including notice that the occupants may be entitled to a right of first refusal; information on the income threshold for lower income households to qualify for the right of first refusal; a signature line for acknowledgement of the right of first refusal, a checkbox option for opting in to the right of first refusal, and contact information to be used for purposes of the right of first refusal. Contact information shall include an email address. If an occupant does not have an email address, contact information shall include a phone number for the occupant of the unit proposed to be demolished.
 6. Information regarding the existing occupants' rights pursuant to Section 17.122.040(E),

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if applicable.

7. Information on how the occupant can contact the City in the event that their contact information changes.
 8. Notice that the owner will inform the occupant of the filing for an application for development at the time that the application for development is filed, and a clear statement that if the occupant moves out before the application for development is filed, that they will be ineligible for the right of first refusal.
- B. Notice to Prospective Tenants. Commencing at a date not less than thirty (30) days prior to the submittal of an application for development, the Developer shall give notice to each person applying after such date for rental of a Dwelling-Living Unit in the building. This notice must be provided to the prospective tenant prior to the acceptance of any rent or deposit from the prospective tenant and prior to the execution of any rental agreement. The notice shall include the following:
1. Notice of the owner's filing or plans to file an application to redevelop the property.
 2. Information on how the existing unit proposed to be let to the prospective tenant will be affected by the development.
 3. Notice of the fact that as part of the process to redevelop the property the property owner may offer an incentive to the tenant to move, such as a monetary payment or alternative housing options, that the prospective tenant is not required to agree to move, and that the City of Oakland has a Tenant Move Out Agreement Ordinance, with a link to that Ordinance (currently Article VI of Chapter 8.22 of the Oakland Municipal Code).
 4. Information on the right of first refusal provisions under Section 17.122.070 including notice that the prospective tenant may be entitled to a right of first refusal; information on the income threshold for lower income households to qualify for the right of first refusal; a signature line for acknowledgement of the right of first refusal, a checkbox option for opting in to the right of first refusal, and contact information to be used for purposes of the right of first refusal.
 5. Contact information shall include an email address. If an occupant does not have an email address, contact information shall include a phone number for the occupant of the unit proposed to be demolished.
 6. Information regarding the existing occupants' rights pursuant to Section 17.122.040(E), if applicable.
 7. Information on how the occupant can contact the City in the event that their contact information changes.
 8. Notice that the owner will inform the occupant of the filing for an application for development at the time that the application for development is filed, and a clear statement that if the occupant moves out before the application for development is filed, that they will be ineligible for the right of first refusal.
- C. The Developer shall subsequently notify all persons who received notice under Subsections A and B above of the filing for an application for development within seven (7) days of the

filing of the application for development.

17.122.060 – Unit Inventory.

- A. As part of the application submittal, the Developer shall submit a Unit Inventory that accounts for all Dwelling-Living Units, including any unpermitted units, that are proposed to be affected by the proposal. For each affected Dwelling-Living Unit in the building(s), the Unit Inventory must show compliance with the annual registration and reporting obligations under Section 8.22.510, if applicable, and must state the occupancy status as of the date of application, the name of the current or most recent occupants, the household size, the household income of the current or most recent occupants, or statement that such household income is not known and could not be determined after making good faith efforts to determine the household income, number of bedrooms and square footage of the unit, evidence of compliance with the noticing requirements described in Section 17.122.050, and information for each unit on whether the occupant is eligible for and has opted in to being contacted about the right of first refusal upon completion of the development. If the occupant is eligible and has opted in to being contacted, the Unit Inventory shall include the contact information provided by the occupant.
1. If a vacant Dwelling-Living Unit has been occupied at any time during the five-year period preceding the submittal of the application, the Unit Inventory shall fully describe the lawful process and timeline by which the Dwelling-Living Unit became vacant. If the Unit Inventory documents an unlawful process by which the unit became vacant during the five-year period, or the applicant fails to provide documentation listed under Section 17.122.060.E to show that all previously occupied units became vacant by lawful means, the permit application shall be denied. Notwithstanding the above, a Developer shall be excused of the requirement to document the process by which a unit became vacant if they establish, through evidence submitted with the Unit Inventory, that the Dwelling-Living Unit at issue was vacant at the time that the Developer purchased the property and that they have undertaken good faith but unsuccessful efforts to gather information about the prior tenant from the previous owner.
 2. If a Dwelling-Living Unit is occupied, the Unit Inventory must include a statement acknowledging that the desire to redevelop the property is not a just cause for eviction of that Dwelling-Living Unit under the City of Oakland Just Cause Ordinance and acknowledging that causing a unit to become vacant by unlawful means shall be a basis for voiding the entitlement and denial of the demolition permit, grading permit, and/or building permit.
- B. Prior to issuance of a demolition permit, grading permit, or building permit, the Developer shall prepare a first addendum to the Unit Inventory that reports on the status of each affected Dwelling-Living Unit in the building(s). The first addendum shall list the last time each Dwelling-Living Unit was occupied, and the monthly rental price last charged for the Dwelling-Living Unit. For each Dwelling-Living Unit previously reported in the Unit Inventory as occupied, the Developer shall provide substantial evidence and affirm that the Dwelling-Living Unit is vacant in compliance with applicable laws, such as Oakland Municipal Code Section 8.22.300 et seq., Oakland Municipal Code Section 8.22.400 et seq., and/or and state law. If the Unit Inventory documents that a unit has become vacant by unlawful means, or the applicant fails to provide documentation listed under Section 17.122.060.E to show that all previously occupied units became vacant by lawful means, the demolition permit, grading permit, and/or building permit shall be denied and the entitlement shall be voided. The entitlement shall include a condition of approval consistent with this paragraph.

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- C. Prior to issuance of a temporary certificate of occupancy or certificate of occupancy, the Developer shall prepare a second addendum to the Unit Inventory that describes, for each qualifying prior occupant, compliance with the right of first refusal requirements, as applicable, as further described in Section 17.122.070.
- D. It shall be a violation of this Chapter to include false information on a submitted Unit Inventory or addenda thereto, subject to remedies provided under Section 17.122.080. Submittal of false information for each unit shall constitute a separate violation.
- E. In submitting Unit Inventories and addenda thereto, the Developer shall provide the following:
 - 1. For each ~~Dwelling-Living~~ Unit where Developer asserts the occupant vacated the ~~Dwelling-Living~~ Unit pursuant to a valid termination notice that complies with the Oakland Just Cause for Eviction Ordinance, Oakland Municipal Code Section 8.22.300 et seq., documentation of all notices terminating tenancy and accompanying materials issued to the occupant.
 - 2. For each ~~Dwelling-Living~~ Unit where Developer asserts the occupant vacated the ~~Dwelling-Living~~ Unit pursuant to a valid termination notice that complies with Oakland Municipal Code Section 8.22.400 et seq. (Ellis Act Ordinance), documentation of the notice to Rent Adjustment Program of intent to withdraw and all notices terminating tenancy and accompanying materials issued to the occupant.
 - 3. For each ~~Dwelling-Living~~ Unit where Developer asserts the occupant vacated the ~~Dwelling-Living~~ Unit pursuant to an agreement that fully complies with the Oakland Tenant Move Out Agreement Ordinance, Oakland Municipal Code Section 8.22.700 et seq., evidence that the Developer has filed with the Rent Adjustment Program a Property Owner Certification prior to entering Move Out negotiations, and an executed Move-Out Agreement.
 - 4. For each ~~Dwelling-Living~~ Unit where Developer asserts the occupant voluntarily vacated the ~~Dwelling-Living~~ Unit with no undue pressure, coercion, harassment, or misrepresentations of law or fact from the landlord or their agent, a certification under penalty of perjury with a description of the means by which the occupant vacated the unit along with any supporting documentation including correspondence from the occupant.
 - 5. If any relocation payments were required under any article of Oakland Municipal Code Chapter 8.22, or if any relocation payments were voluntarily provided, a description and documentation of such relocation payments.

17.122.070 – Right of First Refusal.

- A. Upon completion of the Replacement Deed-Restricted Units, occupants of Protected Units who were Lower Income Households in possession of the Protected Unit on the date the application to develop was submitted to the Planning and Building Department shall have the right of first refusal to rent a new ~~Dwelling-Living~~ Unit of Equivalent Size in the housing development affordable to the household at an Affordable Rent for the Lower Income category which corresponds to their income or, if the new units are sold, at an Affordable Housing Cost.

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1. This subparagraph shall not apply if the development project involving the Demolition of Protected Units consists of a single residential unit located on a site with a single Protected Unit.
 2. A household that is otherwise eligible for the right of first refusal under this subsection A may be required to certify their household income and fulfill other eligibility requirements. If the household is no longer eligible because of an increase in household income, the developer shall not be excused of the obligation under this Chapter and under the executed regulatory agreement to make the unit available to a lower income household. If the completed project includes a deed-restricted moderate-income unit for which the household is eligible, the developer shall extend the right of first refusal to the household for that moderate-income unit. Otherwise, the developer shall offer a unit at market rent or market price to that household who holds a right of first refusal but who is no longer eligible for an affordable unit.
 3. An occupant who agreed to enter into a move out agreement and who otherwise is entitled to a right of first refusal pursuant to this Chapter shall remain entitled to the right of first refusal.
- B. In cases where a Developer has constructed a housing development in which 100 percent of the Dwelling-Living Units, exclusive of manager's units, are reserved for Lower Income households, occupants of Protected Units who were in possession at the date the application to develop was submitted to the Planning and Building Department shall be granted a right of first refusal for a unit at the newly constructed building subject to their ability to meet income qualifications and other applicable eligibility requirements when the new Dwelling Living Units are ready for occupancy. However, in no case shall a returning occupant with a right of first refusal be denied a Replacement Deed-Restricted Unit because their household income is too low to qualify or because the occupant fails to meet eligibility criteria based on immigration status.
- C. Where an occupant has a right of first refusal pursuant to this section, the Developer shall notify the occupant at least sixty (60) days in advance of the issuance of a temporary certificate of occupancy or certificate of occupancy for the building in which the unit is located. The City shall provide the list of contact information based on information provided by prior occupants as included in the Unit Inventory, the addenda thereto, and any additional contact information received by the City, if any.

The notice must include the following information:

1. The fact that the new units have been completed.
2. Information on the square footage and number of bedrooms in the unit being made available.
3. Information on whether units are available for rent or for purchase.
4. Information on the former occupant's entitlement to reoccupy the building based on the household income status.
5. A table listing income thresholds and the rent or purchase price not to exceed based on household size.

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6. Notice that if the occupant wishes to claim a unit in the new building, that they must reply within thirty (30) days of receipt of the notice.
 7. If available for rent, notice that if the prior occupant chooses to claim a new unit for rent, it will be held for the prior occupant for sixty (60) days from the date of reply.
 8. If available for purchase, notice that if the prior occupant chooses to claim a new unit for purchase, they must enter into a contract for purchase no later than ninety (90) days after the sales program begins.
- D. In the case of rental of a new Dwelling-Living Unit, within thirty (30) days of receipt of the notice of availability, a prior occupant must notify the prospective landlord if they wish to rent the new Dwelling-Living Unit. The landlord must hold the Dwelling-Living Unit vacant at no cost to the prior occupant for sixty (60) days from the date the prior occupant's written notice of its intent to reoccupy the rental unit is received. The lease agreement for the new rental unit shall contain substantially the same terms as the lease for the Protected Unit, except where otherwise required by law.
- E. In the case of a prior occupant's purchase of a new Dwelling-Living Unit, the prior occupant shall have the option to purchase a new Dwelling-Living Unit at an Affordable Housing Cost for the lower income category which corresponds to their income and upon the same or more favorable terms and conditions that such Dwelling-Living Units are initially offered to the general public. Such right shall run for at least ninety (90) days from the date the sales program begins so long as the prior occupant is notified of their right to purchase in accordance with this section.

Chapter 17.124 LANDSCAPING AND SCREENING STANDARDS**Sections:**

17.124.020 Required landscape plan for new residential units and certain additions to Residential Facilities.

17.124.045 Trash and Utility Screening.

17.124.020 Required landscape plan for new residential units and certain additions to Residential Facilities.

Excluding permitted Accessory Dwelling Units, submittal and approval of a landscape plan for the entire site is required for the establishment of a new residential unit outside any existing building envelope, and for additions to Residential Facilities of over one thousand (1,000) square feet. The landscape plan and the plant materials installed pursuant to the plan shall conform with all provisions of this Chapter, Title 12 Street, Sidewalks and Public Spaces, and the following:

- A. Landscape plans for projects involving grading, rear walls on downslope lots requiring conformity with the screening requirements in Section 17.124.040, or vegetation management prescriptions in the S-11 Zone shall show proposed landscape treatments for all graded areas, rear wall treatments, and vegetation management prescriptions.
- B. Within the portions of Oakland northeast of the line formed by State Highway 13 and continued southerly by Interstate 580, south of its intersection with State Highway 13, all plant materials on submitted landscape plans shall be fire resistant and, to the satisfaction of the Director of City Planning, a substantial portion of the planted area shown on submitted landscape plans shall be drought tolerant plant materials. The City Planning ~~Bureau Department~~ shall maintain lists of plant materials considered fire resistant and drought tolerant.
- C. All landscape plans shall show proposed methods of irrigation. The methods shall ensure adequate irrigation of all plant materials for at least one growing season.

17.124.045 Trash and Utility Screening.

- A. Screening of Utility Meters. All utility meters shall be located either: 1) within a box set within a building or in the ground; 2) on a non-street facing elevation; or, if locations 1 and 2 are not feasible, 3) on a street-facing elevation, but only if completely screened from view from the public right-of-way.
- B. 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.
- C. For properties located on Commercial Corridors, BART Stations and on streets adjacent to BART stations, or within the Central District, transformers shall not be located within the building's primary frontage. In these instances, transformers shall be placed within subsurface vaults within the public sidewalks. For properties that contain multiple frontages, transformers shall be placed within transformer rooms located on secondary streets if space is available. If enough space is not available to accommodate all required transformers along the secondary frontage, then additional required transformers shall be placed within subsurface vaults within the public sidewalks. If the undergrounding of utilities required by a development project necessitates undergrounding of additional utility infrastructure that serves off-site properties, the required transformers serving those properties shall also be installed within subsurface vaults located in the public sidewalk. If the City's Department of

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Transportation cannot approve the placement of transformers, vaults, or other utility infrastructure within the public sidewalk based on Federal Public Right of Way Accessibility Guidelines or City of Oakland Standards, then the requirements of this subsection shall not apply.

Chapter 17.128 TELECOMMUNICATIONS REGULATIONS

17.128.025 Restrictions on Telecommunications Facilities.

- A. Any Telecommunications Facility shall not be permitted in, or within one hundred (100) feet of the boundary of, any Residential Zone, HBX Zone, or D-CE-3 or D-CE-4 Zone, except upon the granting of a Conditional Use Permit pursuant to the conditional use permit procedure in Chapter 17.134.
- B. Any Monopole Telecommunications Facilities shall not be permitted in, or within three hundred (300) feet of the boundary of, any Residential Zone, HBX Zone, or D-CE-3 or D-CE-4 Zone, except upon the granting of a Major Conditional Use Permit pursuant to the conditional use permit procedure in Chapter 17.134.
- C. Any Telecommunications Facility whose antennas and equipment are not fully concealed from view shall not be permitted within three hundred (300) feet of the boundary of Residential Zones RH-1 through RU-1 inclusive, any HBX Zone, or D-CE-3 or D-CE-4 Zone, except upon the granting of a Conditional Use Permit pursuant to the conditional use permit procedure in Chapter 17.134.

Chapter 17.134 CONDITIONAL USE PERMIT PROCEDURE

17.134.110 Conditional use permit related to planned unit development or subdivision.

Whenever a conditional use permit is required for a proposal also requiring a planned unit development permit, application for the use permit shall be included in the application for the planned unit development permit and shall be processed and considered as part of same. Whenever a conditional use permit is required within a proposed subdivision, the application for the use permit ~~may shall~~ be submitted with the tentative map or tentative parcel map required by the Oakland Municipal Code, and ~~may shall~~ be processed and considered therewith. In either case, however, the reviewing officer or body shall, in considering such a use permit, determine whether the proposal conforms to all the applicable use permit criteria.

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 ~~rehearing. 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.

17.134.130 Termination of a Conditional Use Permit

- A. A Conditional Use Permit (CUP) granted pursuant to the provisions of this Chapter that permits an activity shall not be of any force or effect if the following is true:
 1. With the exception of closures required to repair damage or destruction, ~~or to make needed upgrades~~ to the facility containing the activity, the subject activity is nonresidential and has ceased, or has been suspended, for a consecutive period of three (3) or more years. In the M-40, CIX, IG, IO, D-DT-JLI, D-CE-5, D-CE-6, D-CO-5, and D-CO-6 Zones, the subject Truck-Intensive Industrial Activity (as defined in Section 17.103.065) has ceased, or has been suspended, for a consecutive period of six (6) or more months.
- B. A single, one-year extension of the period described in subsection (A) may be granted by, and at the discretion of, the Director of the Bureau of Planning, or his or her designee. The request for the extension shall be: 1) in writing, 2) made by the applicant or owner of the subject site, and 3) made prior to the three (3) year period described in subsection (A). Notwithstanding the above, no extension request shall be granted for Truck-Intensive Industrial Activities (as defined in Section 17.103.065) in the M-40,
- C. CIX, IG, IO, D-DT-JLI, D-CE-5, D-CE- 6, D-CO-5, and D-CO-6 Zones.

Chapter 17.136 DESIGN REVIEW PROCEDURE

Sections:

- 17.136.020 Application.
- 17.136.025 Exemptions from design review.
- 17.136.030 Small Project Design Review.
- 17.136.035 Small Project Design Review criteria.
- 17.136.038 Ministerial Design Review.
- 17.136.040 Regular Design Review.
- 17.136.120 Design review related to Conditional Use Permit, Planned Unit Development, variance, or subdivision.

17.136.020 Application.

- A. Application for Design Review. Application for design review shall be made by the owner of the affected property, or their authorized agent, on a form prescribed by the Planning and Building Department and shall be filed with such Department. The application shall be accompanied by such information as may be required to allow applicable criteria to be applied to the proposal, and by the fee prescribed in the city master fee schedule. Such information may include, but is not limited to, site and building plans, elevations, and relationships to adjacent properties.
- B. Professional Design. All applications for Design Review involving: a) the creation of more than ten (10) new dwelling-living units outside any existing building envelope, excluding any permitted Accessory Dwelling Units, or b) the creation of one or more new dwelling-living units with a footprint slope that exceeds twenty (20%) shall utilize the following professional in the design process for the development:
 - 1. An architect licensed by the State of California.

17.136.025 Exemptions from design review.

- A. Applicability. The types of work listed under the categories provided in Subsections B through E. are exempt from design review if they meet the limitations described therein and do not trigger the exceptions to the exemptions listed in Subsection F. All determinations that a proposal is exempt from design review are final and not appealable.
- B. Additions or Alterations.
 - 1. Additions that do not require a building permit;
 - 2. Repair, replacement, or alterations of existing building components in a manner that visually matches the existing or historical design of the structure;
 - 3. Accessory Dwelling Units;
 - a. The Accessory Dwelling Unit must conform to the regulations in Section 17.103.080 and Chapter 17.88;
 - b. This exemption is not applicable to Accessor Dwelling Units that fall under Small Project Design Review as described in Section 17.136.030.

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4. Additions or alterations within the existing building envelope not involving the creation or removal of a dwelling-living unit;
 - a. This exemption includes garage, basement, and attic conversions;
 5. Floor area or footprint additions outside the existing building envelope that meet the following criteria:
 - a. The addition shall not involve the creation of a dwelling-living unit
 - b. The addition must visually match the existing design of the structure;
 - c. In all zones, the addition must not be greater than ten percent (10%) of the total floor area or footprint on site. If the existing total floor area or footprint on site is less than two thousand five hundred (2,500) square feet, then the floor area addition may be up to two hundred (250) square feet.
 - i) Porches, decks, and balconies that are less than thirty (30) inches above finished grade do not count as footprint and thus would not count toward the addition calculation. See definition of "footprint" in Section 17.09.040 for further detail.
 - d. In the D-DT-JLI, D-CO-5, D-CO-6, CIX-1A, CIX-1B, CIX-1C and CIX-1D Zones, additions to Nonresidential Facilities may exceed the standard listed in subsection c. above but must not be greater than fifty percent (50%) of the total floor area or footprint on site or five thousand (5,000) square feet, whichever is less;
 6. An addition or alteration not projecting above existing parapet walls on the roof of Commercial, Civic, or Industrial Facilities and the Nonresidential Portions of Mixed-Use Development Projects;
 7. An addition or alteration used as a loading dock, recycling area, utility area, or similar open structure addition;
 - a. The addition must be no higher than six (6) feet above finished grade.
 - b. The addition must be five hundred (500) square feet or less in floor area or footprint.
 - c. The addition must be visually screened from neighboring properties.
 - d. The addition must conform with all Buffering regulations in Chapter 17.110 and all Performance Standards in Chapter 17.120.
 8. Areas of porch, deck or balcony with a surface that is less than thirty (30) inches above finished grade.
- C. Demolitions
1. Demolition or removal of structures declared unsafe by the Building Official or City Council;
 - a. For this criterion, an "unsafe structure" means the structure requires immediate issuance of a demolition permit to protect the public health and safety.
 - b. The Building Official or City Council declaration shall be evidenced in writing and provided to the Director of City Planning.
 2. Demolition or removal of structures declared to be a public nuisance by the Building Official or City Council;
 - a. This exemption is not applicable to structures that are either Designated Historic

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Properties or Potentially Designated Historic Properties.

- b. For this criterion, a “nuisance structure” means the structure constitutes a threat to health and safety that does not require immediate issuance of a demolition to protect the public health and safety.
- c. The Building Official or City Council declaration shall be evidenced in writing and provided to the Director of City of Planning.

D. Signs.

1. A change of sign face copy or new sign face within an existing Advertisement Sign or a change of sign face copy within Business or Civic Sign structures;
 - a. The structure and framework of the sign must remain unchanged
2. Installation, alteration or removal of Realty Signs, Development Signs, holiday decorations, displays behind a display window and, except as otherwise provided in Section 17.114.120(C), for mere changes of copy, including cutouts, on Signs which customarily involve periodic changes of copy;
3. New or modified Signs conforming to an approved Master Sign Program, pursuant to Section 17.104.070.

E. Other Projects.

1. Sidewalk Cafes in the public right-of-way, pursuant to Section 17.103.090;
2. The installation of Solar Power Production Equipment within any zoning district;
3. Projects involving no more than four (4) Vehicular Residential Facilities pursuant to Section 17.103.085, and projects involving any number of Vehicular Residential Facilities when occupied by an Emergency Shelter Residential Activity and located in an area where Emergency Shelter Residential Activities are permitted by-right pursuant to Section 17.103.015;
4. Electrical Vehicle Charging Stations or other similar facilities.
5. Microwave and Satellite Dishes that are three (3) feet or less in diameter.

F. Exceptions to the Listed Exemptions.

1. A proposal that meets one or more of the categories above, but includes additional components that do not fit in the categories above, is not exempt from design review.
2. A proposal that additionally requires a Conditional Use Permit or Variance is not exempt from design review.
3. A proposal that meets one of the categories above will ordinarily be categorically exempt from the California Environmental Quality Act (CEQA) as an existing facility (CEQA Guidelines Section 15301), replacement or reconstruction (CEQA Guidelines Section 15302), or new construction or conversion of small structures (CEQA Guidelines 15303). To the extent a CEQA categorical or statutory exemption does not apply, the proposal is not exempt from design review.
 - a. This ineligibility includes situations where the proposal will have a significant effect on a historic resource’s character-defining elements. “Character-defining elements” are those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance.

17.136.030 Small Project Design Review.

- A. Applicability. The types of work listed under the categories provided in Subsections B through G are subject to Small Project Design Review if they meet the limitations described therein and do not trigger exceptions to the exemptions listed in Subsection H. Small Project Design Review shall apply to proposals that do not qualify for an exemption from design review as set forth in Section 17.136.025 or Ministerial Design Review as set forth in Section 17.136.038.
- B. Additions or Alterations.
1. Repair or replacement of existing building components in a manner that is compatible with, but not necessarily visually matching, the property's existing or historical design;
 2. Floor area additions that do not involve the creation of a dwelling-living unit, are outside the existing building envelope, and exceed the applicable design review exemption thresholds established in Section 17.136.025(B).
 3. Changes to storefronts or street-fronting facades in Commercial, Civic, or Industrial Facilities and the non-residential portions of mixed-use development projects, such as:
 - a. replacement or construction of doors, windows; bulkheads and nonstructural wall infill, or
 - b. restoration of documented historic fabric.
 4. Accessory Dwelling Units meeting one of the following criteria:
 - a. Accessory Dwelling Units that do not conform with objective design standards established by the Planning Director or their designee pursuant to Section 17.103.080.A.10 proposed in front or on a side of the primary structure; or
 - b. Accessory Dwelling Units that were established and occupied without Planning or Building approval prior to January 1, 2021, and request a waiver of any provision of the underlying zoning or applicable development standards that would preclude the preservation of said unit, pursuant to Section 17.103.080.A.14.
 5. The creation of new living units, live/work units, or work/live units entirely within an existing building envelope;
 - a. This type of work does not apply to lots located within the CIX, IG, or IO Industrial Zones or the S-9 Fire Safety Protection Combining Zone.
 - b. This type of work does not include Accessory Dwelling Units.
- C. New Construction.
1. New Construction of principal Nonresidential Facilities do not exceed five thousand (5,000) square feet of total floor area and located in the following zones:
 - a. Commercial Zones: CN, CC, CR, HBX, S-1, S-3, S-15, D-BV, D-KP, D-LM, D-CE, D-CO, and D-DT.
 - b. Industrial Zones: CIX-1A, CIX-1B, CIX-1C, and CIX-1D.
- D. Demolition.
1. Except as otherwise specified in this Chapter, demolition of any structures not involving a Designated Historic Property (DHP) or Potential Designated Historic Property (PDHP) on a site where the zoning regulations require design review to alter the exterior appearance of the applicable building facility, regardless of whether the owner intends to create a surface parking

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lot or a vacant lot pursuant to Oakland Municipal Code Section 15.36.080;

2. Alterations within the existing building envelope which involve the removal of a dwelling living unit;
 - a. The proposed demolition or removal of any protected units, as defined in Chapter 17.122, shall additionally be subject to the requirements of Chapter 17.122.

E. Fences, barriers, and similar freestanding walls.

1. For Residential Zones and Residential Facilities: Any fence, barrier, or similar freestanding wall exceeding forty-two (42) inches in height in the front yard and street-side yards, but not exceeding six (6) feet in height;
 - a. See Section 17.108.140.B1 for applicable design requirements.
2. For Nonresidential Activities and Facilities in a Residential Zone: Any fence, barrier, or similar freestanding wall exceeding eight (8) feet in height within ten (10) feet of the public right-of-way or any abutting property in a Residential or Open Space Zone, but not exceeding ten (10) feet in height, pursuant to Section 17.108.140.B.2;
 - a. Examples of eligible Nonresidential Activities and Facilities include but are not limited to schools, golf courses, cemeteries, and civic uses.
3. For Commercial Zones and in the OS, S-1, S-3, S-15, and D-CO-1 Zones: Any fence, barrier, or similar freestanding wall exceeding eight (8) feet in height within ten (10) feet of the public right-of-way or any abutting property in a Residential or Open Space Zone, but not exceeding ten (10) feet in height, pursuant to Section 17.108.140.
4. For Industrial Zones: Any fence, barrier, or similar freestanding wall exceeding eight (8) feet in height within ten (10) feet of the public right-of-way or any abutting property in a Residential or Open Space Zone, but not exceeding twelve (12) feet in height, pursuant to Section 17.108.140.
 - a. Any fence, dense hedge, barrier, or similar freestanding wall located elsewhere on a lot in an Industrial Zone may only be permitted to exceed twelve (12) feet in height if installed with additional landscape screening and upon the granting of Small Project Design Review pursuant to the Design Review procedure in Section 17.136.030(C).

F. Signs.

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

G. Other Projects.

1. Exceptions to the parking accommodation requirements for One-Family and Two-to Four-Family Residential Facilities in Section 17.116.300;
2. Retaining walls exceeding eight (8) feet in height meeting the provisions in Section 17.108.150;
3. Alterations to Existing Telecommunications Facilities, pursuant to all regulations in Chapter 17.128;
 - a. At an existing Micro Facility, the installation of new or replacement antennas

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that are concealed from view, consistent with the definition of “Micro” Facility in Section 17.10.880;

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

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

4. Community Education Civic Activities that do not trigger a Conditional Use Permit, but do require review and approval of a Pick-Up and Drop-Off Management Plan, as specified in the individual zoning district regulations;

5. Group Assembly Commercial Activities that do not trigger a Conditional Use Permit, but do require review and approval of a Operational Noise Plan, as specified in the individual zoning district regulation.

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

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

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

3. A proposal that consists of one or more of the types of work above will ordinarily be categorically exempt from the California Environmental Quality Act (CEQA) as an existing facility (CEQA Guidelines Section 15301), replacement or reconstruction (CEQA Guidelines Section 15302), or new construction or conversion of small structures (CEQA Guidelines Section 15303). To the extent a CEQA categorical exemption or statutory exemption does not apply, the proposal is not eligible for Small Project Design Review.

a. This ineligibility includes situations where the proposal will have a significant effect on a historic resource’s character-defining elements. “Character-defining elements” are those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance. Any proposed addition or alteration determined to have a significant effect on a Local Register Property’s character-defining elements shall be reviewed instead according to the Regular Design Review procedure in Section 17.136.040.

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

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

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

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- b. Decision by the Director of City Planning. The Director, or their designee, may approve or disapprove a Track One proposal determined eligible for Small Project Design Review and may require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to the applicable Small Project Design Review criteria in Section 17.136.035.
 - c. The decision by the Director, or their designee, shall be final immediately and not appealable.
2. Track Two Procedure—Small Project Design Review Proposals Involving a Local Register Property:
- a. The Director of City Planning, in concert with the City of Oakland's Historic Preservation staff, shall determine whether a proposed addition or alteration involving a Local Register Property will have a significant effect on the property's character-defining elements. "Character-defining elements" are those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance. Any proposed addition or alteration determined to have a significant effect on a Local Register Property's character-defining elements shall be reviewed instead according to the Regular Design Review procedure in Section 17.136.040.
 - b. Decision by the Director of City Planning. The Director, or their designee, may approve or disapprove a Track Two proposal determined eligible for Small Project Design Review and may require such changes therein or impose such reasonable conditions of approval as are in his or her judgment necessary to ensure conformity to the applicable Small Project Design Review criteria in Section 17.136.035.
 - c. The decision by the Director, or their designee, shall be final immediately and not appealable.

17.136.035 Small Project Design Review criteria.

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

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

17.136.038 Ministerial Design Review

- A. Applicability. The following projects shall be subject to the Ministerial Design Review process specified in Section 17.136.038(B):
1. Projects eligible for By Right Residential Approval under Planning Code Chapters 17.95 or 17.96
 2. Projects for Affordable Housing where one hundred percent (100%) of the housing units, other than the manager's units, are restricted to very low-, low-, or moderate-income households, and not proposed on a site with a City or State landmark, listed on the National Register, or within the S-7 or S-20 Zone;
 3. Residential projects required by state law to be subject to a ministerial design review process, including but not limited to:
 - a. SB 35 ministerial approval under Government Code Section 65913.4;
 - b. SB 684 streamlining of up to ten new home ownership units under Government Code Sections 65852.28 and 66499.41;
 - c. AB 2162 streamlined approval of Supportive housing under Government Code Section 65650 et seq.;
 - d. SB 9 ministerial approval of two lots under Government Code Sections 65852.21 and 66411.7; and
 - e. AB 2011 streamlining of Affordable Housing under Government Code Section 65912.100.
 4. Projects not requiring or requesting any Conditional Use Permit, Variance, Planned Unit Development, or Development Agreement, and involving the creation of no more than thirty (30) new dwelling-living, Work/Live, or Live/Work units outside any existing building envelope, or adding units to a property outside any existing building envelope for a total of no more than thirty (30) such units on site, excluding any permitted Accessory Dwelling Units;
 5. Notwithstanding the project categories above, the following project types are not eligible for Ministerial Design Review:
 - a. Proposed development projects accessed by Panoramic Way, Panoramic Place, Dwight Way, Dwight Place, and Bancroft Place;
 - b. One-Family Dwellings proposed within the area mapped as critical habitat for endangered species by the U.S. Fish and Wildlife Service; and
 - c. Projects proposed on a site with a City or State landmark, listed on the National Register, or within an S-7 or S-20 Zone;
- B. Procedures for Consideration—Ministerial Design Review. The Director of City Planning, or their designee, shall consider an application for Ministerial Design Review according to the following process.
1. Projects qualifying for Ministerial Design Review as set forth in Section 17.136.038(A) do not require a discretionary approval of any kind pursuant to the zoning regulations in the Oakland Planning Code (Title 17), including but not limited to a Conditional Use Permit, Variance, or Planned Unit Development permit, and thus are not be subject to review under the California Environmental Quality Act.

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2. Prior to submitting an application for Ministerial Design Review, the applicant shall give notice of intention to apply for Ministerial Design Review by mail or delivery to all owners and occupants of real property in the city within three hundred (300) feet of the property involved, using language provided by the Planning Bureau. This requirement does not apply to projects that are thirty (30) units or less in size.
 3. The project must demonstrate consistency with the Oakland Equitable Climate Action Plan (ECAP) through completion of an ECAP Consistency Checklist submitted concurrently with the development application.
 4. The project shall not be subject to a public hearing of any type.
 5. The project shall be subject to any applicable City of Oakland standard conditions of approval, which shall be identified along with the decision letter issued for the project.
 6. The decision by the Director or their designee shall be final immediately and not appealable.
- C. Design Review Criteria—Ministerial Design Review. The City shall not exercise subjective judgment in deciding whether and how to carry out or approve the project. A Ministerial Design Review approval shall be granted for proposals that conform with the property development standards and objective design standards applicable to the underlying zoning designation and any combining zones, including, but not limited to the S-13 and S-14 Combining Zones, if applicable. The City shall maintain a list of publicly available applicable objective design standards that may be amended from time to time.

17.136.040 Regular Design Review.

- A. Applicability. "Regular Design Review" shall apply to proposals that require design review pursuant to the zoning regulations in the Oakland Planning Code (Title 17), but do not qualify for a design review exemption as set forth in Section 17.136.025, Small Project Design Review as set forth in Section 17.136.030, or Ministerial Design Review as set forth in Section 17.136.038. Projects requiring Regular Design Review include, but are not limited to, the following types of work:
1. Any proposal involving one or more of the facility, activity, building, structure, or development types that require design review pursuant to the zoning regulations in the Oakland Planning Code (Title 17), but does not qualify for a design review exemption as set forth in Section 17.136.025, Small Project Design Review as set forth in Section 17.136.030, or Ministerial Design Review as set forth in Section 17.136.038;
 2. Any construction, addition or alteration of structures requiring a Conditional Use Permit or variance, pursuant to the zoning regulations in the Oakland Planning Code (Title 17);
 3. The creation of more than thirty (30) new **dwelling-living** units outside any existing building envelope, or adding units to a property outside any existing building envelope for a total of more than thirty (30) **dwelling-living** units on site, excluding any permitted Accessory Dwelling Units;
 4. New construction of principal Nonresidential Facilities in the CN, CC, CR, HBX, S-1, S-3, S-15, D-BV, D-KP, D-LM, D-CE, D-CO, and D-DT Commercial Zones and in the CIX-1A, CIX-1B, CIX-1C, and CIX-1D Industrial Zones that exceed five thousand (5,000) square feet of total floor area.
 5. Except as otherwise specified below in Subsection 6. for any CIX, IG, or IO Work/Live

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units, the creation of more than thirty (30) new Work/Live or Live/Work units outside any existing building envelope, or adding units to a property outside any existing building envelope for a total of more than thirty (30) such units on site;

6. The creation of any new CIX, IG, or IO Work/Live units (see Section 17.73.040). In the CIX, IG, and IO Zones, this requirement shall apply for both: a) the conversion of existing facilities to contain these unit types, and b) the construction of new buildings that contain these unit types;
7. New or modified Signs not qualifying for a design review exemption as set forth in Section 17.136.025 or Small Project Design Review as set forth in Section 17.136.030;
8. Proposals for new or modified Telecommunications Facilities, pursuant to Chapter 17.128, but excluding those alterations to existing Telecommunications Facilities listed as a Small Project in Subsection 17.136.030.B.;
9. With the exception of structures declared to be unsafe by the Building Official or City Council, demolition or removal of any Designated Historic Property (DHP) or Potential Designated Historic Property (PDHP), regardless of whether the owner intends to create a surface parking lot or a vacant lot pursuant to Oakland Municipal Code 15.36.080;
10. Proposals involving five (5) or more Vehicular Residential Facilities;
11. The construction, establishment or expansion of facilities in the M-40, CIX-2, IG, and IO Zones located within six hundred (600) feet of any Residential Zone boundary accommodating one or more of the following activities:
 - a. Automobile and Other Light Vehicle Gas Station and Servicing Activity;
 - b. Automobile and Other Light Vehicle Repair and Cleaning Activity;
 - c. Freight/Truck Terminal;
 - d. Truck Yard;
 - e. Truck Weigh Stations;
 - f. Truck and Other Heavy Vehicle Sales, Rental, and Leasing;
 - g. Truck and Other Heavy Vehicle Service, Repair, and Refueling.

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

- A. Whenever design review approval is required for a proposal also requiring one or more other discretionary **Planning** permits, such as a Conditional Use Permit, Planned Unit Development permit, or variance, the application for design review shall be submitted with the application for said other permit and shall be processed and considered as part of the same proposal. The reviewing officer or body shall, in considering the design review aspects of the proposal, determine whether it conforms to all the applicable design review criteria. Decisions on the design review aspects of a proposal also requiring one or more other discretionary **Planning** permits ~~such as a Minor Conditional Use Permit or Minor Variance~~, shall still be appealable within ten (10) calendar days after the date of decision to the City Planning Commission or City Council to the extent such appeal would otherwise be allowed under Sections 17.136.080 and 17.136.090. 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.

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- B. Whenever design review approval is required for a proposal also requiring subdivision approval, the application for design review approval shall be submitted with the tentative map or tentative parcel map required by the Oakland Municipal Code, and shall be subject to all the separate procedure and criteria pertaining to design review.

Chapter 17.138 DEVELOPMENT AGREEMENT PROCEDURE

Sections:

17.138.030 Planning Commission action.

17.138.100 Development agreement related to other special zoning approval ~~or subdivision~~.

17.138.030 Planning Commission action.

An application for a development agreement shall be considered by the City Planning Commission which shall hold a public hearing on the application. Notice of the hearing shall be given by posting an enlarged notice on the premises of the subject property. Notice of the hearing shall also be given by mail or delivery to all ~~owners and occupants of real property in the City persons shown on the last available equalized assessment roll as owning real property~~ within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in such 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 criterion set forth in Section 17.138.050, and may recommend approval or disapproval of the application, or recommend its approval subject to changes in the development agreement or conditions of approval, giving consideration to the factors set forth in Section 17.138.060. ~~Should a decision not be rendered within sixty (60) days after the filing, the application shall be deemed approved except when, pursuant to the California Environmental Quality Act, an environmental document is required prior to decision, in which case should a decision not be rendered within sixty (60) days after final action on the environmental document, the application shall be deemed approved. In any case, however, the date by which a decision must be rendered may be extended by agreement between the Director of City Planning or the City Planning Commission and the applicant.~~ The Commission shall, within ten days of its decision, forward its recommendations to the City Council.

17.138.100 Development agreement related to other special zoning approval ~~or subdivision~~.

Whenever a development agreement is proposed for a project which requires additional planned unit development or other special zoning approval, ~~or subdivision approval,~~ the application for the development agreement may be substituted with the application for said approval, but shall nonetheless be subject to all the separate procedure, and criterion and factors, pertaining to review of development agreements.

Chapter 17.142 PLANNED UNIT DEVELOPMENT REGULATIONS

17.142.100 Bonuses.

For Planned Unit Developments qualifying under Sections 17.142.080 and 17.142.090, 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 (FAR) Is Proposed. Except in the RH 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. Civic Activities:

Limited Child-Care

Community Education

2. Commercial Activities, provided that such activities shall not occupy in the aggregate more than five percent (5%) of the total floor area in such development, and further provided that the maximum floor area devoted to such activities by any single establishment shall be three thousand (3,000) square feet:

General Food Sales

Full Service Restaurant

Limited Service Restaurant and Cafe

Fast-Food Restaurant

Convenience Market

Alcoholic Beverage Sales

Consumer Service (see Section 17.102.170 for special regulations relating to massage services and Section 17.102.450 for special regulations related to laundromats)

Medical Service

- B. Further Additional Permitted Activities Where No Increase in Overall Density or Floor-Area Ratio Is Proposed. Except in the RH 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.

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1. Residential Activities:
 - Semi-Transient
 2. Civic Activities:
 - Health Care (Nursing Home)
 - Recreational Assembly
 - Nonassembly Cultural
 - Administrative
 - Utility and Vehicular
 3. Commercial Activities:
 - Mechanical or Electronic Games
 - General Retail Sales
 - Consumer Service (see Section 17.102.170 for special regulations relating to massage services and Section 17.102.450 for special regulations related to laundromats)
 - Consultative and Financial Service
 - Consumer Cleaning and Repair Service
 - Group Assembly
 - Personal Instruction and Improvement Services
 - Administrative
 - Business, Communication, and Media Service
 - Broadcasting and Recording Service
 - Research Service
 - General Wholesale Sales
 - Automobile and Other Light Vehicle Gas Station and Servicing
 - Automotive Fee Parking
 - Animal Care
 - Animal Boarding
 4. Industrial Activities:
 - Custom Manufacturing
- C. Additional Permitted Facilities in the RH Zones without the S-9 Combining Zone. In the RH Zones without the S-9 Combining Zone, the following facilities, as described in the use classifications, may be permitted in addition to the facilities otherwise permitted in

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said zone, provided that at least fifty percent (50%) of the dwelling-living units in the total development shall be One-Family Dwellings:

1. Residential Facilities:

Two- to Four-Family Dwelling

Multifamily Dwelling

D. Additional Permitted Facilities in Other Zones. Except in the RH Zones with the S-9 Combining Zone, 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- to Four-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 RH Zones with the S-9 Combining Zone, 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 percent (33%) if the overall development contains a combination of two (2) or more of the following dwelling types and if not more than three-fourths (3/4) of the total number of living units are included in any one of such types:

a. Detached buildings each containing only one living unit;

b. Town house or similar semi-detached or attached buildings each containing only one (1) or two (2) living units;

c. Buildings each containing two (2) to four(4) living units;

d. Buildings each containing five (5) or more living units.

2. Except in the RH Zones with the S-9 Combining Zone, 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 percent (25%) in a development other than one described in Subsection E.1. of this Section.

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- 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 Subsection 17.142.110.I and except that any provided 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 Subsection 17.142.110.C, 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 RH 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 CC-2 Zone rather than those in the zone in which the development is located.

17.142.110 Development standards.

The following regulations shall apply to all developments for which a permit is required by Section 17.142.030:

- A. Density and Floor-Area Ratio (FAR) 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 land area, including but not limited to streets, freeways, alleys, parks, and paths.
- B. Density in the RH Zones. In the RH Zones, the maximum number of dwelling-living units shall be as prescribed in said zones.
- C. Height in the RH Zones. In the RH Zones, no building shall exceed the normally required maximum height, except as would otherwise be allowed by Subsection 17.108.020.A and except for the same projections as are allowed by Section 17.108.030.
- D. Performance Standards. Any Commercial or Industrial Activities in the development shall be subject to the applicable provisions of the performance standards in Chapter 17.120.
- E. Yards and Courts. Subject to the provisions of this article, the minimum yard and court requirements otherwise applying to individual lots may be waived or modified within a PUD, and other facilities may be located within said development without reference to lot lines.
- F. Usable Open Space. In the RH-1, RH-2 and RH-3 Zones, two hundred (200) square feet of group usable open space per dwelling-living unit and one hundred (100) square feet of private usable open space per dwelling-living unit shall be provided for Residential Facilities. In any other zone, developments incorporating an increase in overall density or Floor-Area Ratio pursuant to Subsection 17.142.100.E shall provide usable open space for Residential Facilities in the amount required in the individual zoning chapters and in Chapter 17.126, and private usable open space may be substituted for required group space in the ratio prescribed in said chapters.
- 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;

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streetlight wiring; and other wiring, conduits, and similar facilities shall be placed underground by the developer. Electrical 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 applicable specifications of the Electrical Department City of Oakland. See additional Utility Specifications under section 17.124.045.

- H. Other Regulations. Except as otherwise provided in Section 17.142.100 and in this Section, and except as more restrictive regulations may be prescribed pursuant to Section 17.142.060 or otherwise as a condition of approval of a Planned Unit Development permit pursuant to Section 17.142.030, 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 17.154.060 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.

Chapter 17.157 DEEMED APPROVED HOTEL AND ROOMING HOUSE REGULATIONS

17.157.030 Applicability of Deemed Approved Hotel regulations.

- A. To Which Property Applicable. The Deemed Approved Hotel regulations shall apply, to the extent permissible under other laws, to all Legal Nonconforming Hotels and Rooming Houses within the city.
- B. Duplicated Regulation. Whenever any provisions of the Deemed Approved Hotel regulations and any other provision of law, whether set forth in this code, or in any other law, ordinance, or resolution of any kind, imposes overlapping or contradictory regulations, or contains restrictions covering any same subject matter, that provision which is more restrictive or imposes higher standards shall control, except as otherwise expressly provided in the Deemed Approved Hotel regulations.
- C. Relationship to the Zoning Regulations. The Nonconforming Use provisions of the zoning regulations including, but not limited to, **OPC Oakland Planning Code (OPC)** Sections 17.114.020, 17.114.070(A)(4), **and** 17.114.080(A) (1) and (2), shall apply to the Deemed Approved Hotel regulations.