CHAPTER 17.102 - ~~GENERAL~~ REGULATIONS APPLICABLE TO CERTAIN ACTIVITIES AND FACILITIES ~~ALL OR SEVERAL ZONES~~

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17.102.010 - Title, purpose, and applicability.

The provisions of this chapter and Chapters 17.104 through 17.108 shall be known as the ~~general~~ regulations applicable to certain activities and facilities. The purpose of these provisions is to set forth certain of the regulations which apply throughout the city or in several zones. These regulations shall apply in the zones and situations specified hereinafter.

(Prior planning code § 7000)

~~17.102.020 - Supplemental zoning provisions.~~

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

~~17.102.040 - Effect of prior permits.~~

~~A. Building and Sign Permits and Development Agreements. Whenever any subsisting building permit or sign permit has been lawfully issued beforehand, or whenever a subsisting development agreement has been approved beforehand under Section 17.102.310 and the development agreement procedure in Chapter 17.138, neither the original adoption of the zoning regulations nor the adoption of any subsequent rezoning or other amendment thereto shall prohibit the construction, other development or change, or use authorized by said permit or agreement. The uses as they result shall be deemed nonconforming uses and subject to the nonconforming use regulations in Chapter 17.114, except to the extent that they are authorized by a subsisting conditional use permit, development agreement, variance, or other special zoning approval.~~

B. Alcoholic Beverage Control Licenses. On premises for which a valid state of California Alcoholic Beverage Control license had been issued, and which premises had been used in the exercise of the rights and privileges conferred by the license at a time immediately prior to the effective date of the applicable provisions of Section 17.102.210, the premises may hereafter be used in the exercise of the same rights and privileges without requiring a conditional use permit or having to meet the provisions of the aforesaid section. Such use shall be deemed a nonconforming use and subject to the nonconforming use regulations, except as otherwise provided in Sections 17.114.020 and 17.114.030. For the purposes of this subsection, the word "premises" shall mean and include only the actual space within a building devoted to the sale of alcoholic beverages on said effective date.

(Prior planning code § 7003)

17.102.070 - Application of zoning regulations to lots divided by zone boundaries.

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

A. Application of All Regulations of One Zone to Existing Lot If Boundary Is Near Lot Line. If the lot was on the effective date of the zoning regulations, or of a subsequent rezoning or other amendment thereto resulting in division of the lot by a zone boundary, and the owner or developer of such lot, or of a portion or combination of such lot or lots, may at his or her option assume that all of the regulations applying in any zone covering fifty percent (50%) or more of the lot area apply to the entire lot or lots. However, this option shall not apply unless the entire lot or all such lots or parcel of land could be included in such zone by shifting the affected zone boundary by not more than thirty (30) feet, as measured perpendicularly to said boundary at any point.

B. Application of Regulations Where subsection A Is Inoperative. Wherever the provisions of subsection A of this section do not apply or the option provided therein is not exercised:

1. No activity type or facility type is allowed on any portion of the lot located in a zone where such type is not generally allowed, except for the accessory uses allowed by subsections (B)(2) and (B)(3) of this section.

2. Accessory off-street parking and loading may be located on the lot without regard for zone boundaries; provided that no parking or loading shall be located on any portion of the lot located in a zone where the principal activity served is not generally allowed, except as such parking is specifically allowed by the applicable individual zone regulations subject to the conditions set forth in Section 17.102.100; and further provided that parking and loading shall be subject to a conditional use permit requirement or other special controls on any portion of the lot located in any zone where such controls generally apply to parking or loading. The total amount of required parking and loading shall be calculated separately on the basis of the amount of the served use and the requirements applying in each zone; provided that the minimum size for which any parking or loading is required shall be deemed to be exceeded if it is exceeded by the total of such use on the entire lot.

3. Accessory landscaping, fences, screening or retaining walls, and usable open space may be located on the lot without regard for zone boundaries. The total amount of required usable open space shall be calculated separately on the basis of the number of living units, or amount of floor area, and the usable open space requirements in each zone; provided that where reference is made to the total number of living units on a lot, the number on the entire lot shall be considered.

4.The maximum permitted or conditionally permitted number of living units or floor-area ratio, if any, on the lot shall be calculated separately on the basis of the amount of lot area and the density ratio and floor-area ratio applying in each zone. The resulting maximum permitted or conditionally permitted total number of living units or amount of floor area may be distributed on the lot without regard for zone boundaries, except as otherwise provided in subsection (B)(1) of this section and except that the number of living units and amount of floor area within each zone shall not exceed the number or amount which would be allowed on the entire lot if it were completely within such zone.

~~5. The minimum lot area, width, and frontage requirements of the zone which covers the greater or greatest portion of the lot area of the lot shall apply to the entire lot. If the lot area is divided equally between two or more zones, the owner or developer of the lot may assume that the minimum lot area, width, and frontage requirements of either or any of such zones apply to the entire lot.~~

~~6.All regulations not covered above shall apply separately to the portion of the lot within each zone, provided that where reference is made in such regulation to the total quantity of living units or other unit of measurement on a lot, the quantity on the entire lot shall be considered.~~

~~C.Wherever a lot is divided by a boundary between height areas, the height line may be moved up to thirty (30) feet in any direction upon the granting of Regular Design Review approval (see Chapter 17.136 for the Regular Design Review process) to accommodate the site plan of a proposed development project. In addition to the general Design Review Criteria contained in Chapter 17.136, the proposal must meeting the following criteria:~~

~~1.The height line adjustment creates a more successful site plan in terms of open space, parking, or building location; and~~

~~2. Appropriate height transitions are incorporated into the building design and site plan to adjacent lower density residential properties that either share a parcel line or are across the street from the proposal.~~

~~17.102.080 - Permitted and conditionally permitted uses.~~

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

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

17.102.090 - ~~Conditional use permit for s~~Shared access facilities.

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

~~**17.102.100 - Conditions for accessory parking serving activities which are not themselves allowed.**~~

~~The following regulations shall apply to parking serving principal activities which are not themselves permitted, wherever such parking is listed in the applicable individual zone regulations as permitted or conditionally permitted subject to the conditions set forth in this section:~~

~~A. General Conditions. In all zones, such parking facilities shall be used for accessory parking only, with no sales, dead storage, repair work, dismantling, or servicing of any kind.~~

~~B. Conditions in Residential Zones. In all residential zones:~~

~~1. Such parking shall not in any case be located farther than one hundred fifty (150) feet, excluding the width of any intervening street, from the nearest boundary of any nonresidential zone, as measured perpendicularly from said boundary at any point; and~~

~~2. Such parking shall not be so located as to extend along any one side of any street farther into any residential zone than any residentially zoned lot which is in separate ownership and which has frontage on the same side of the same street as said parking, other than a lot developed only for parking; and~~

~~3. Such parking facilities shall be open only; and~~

~~4. All Signs serving such parking shall be subject to the limitations set forth in Section 17.104.010(G)(3).~~

~~(Prior planning code § 7011)~~

17.102.110 — ~~E~~Conditions for e~~E~~xpansion of use into adjacent zones.

The following ~~regulations~~standards and criteria shall apply when the applicable individual zone regulations conditionally permit activities that are prohibited in the subject zone, but permitted or conditionally permitted on nearby lots in an adjacent zone.

A. A conditional use permit for such a use may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and the following additional use permit criteria:

~~1. to activities which are conditionally permitted by the applicable individual zone regulations near a zone boundary and subject to the conditions set forth in this section:~~

~~A. Substantial Improvement in, or Superior, Environment. A conditional use permit for such a use may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and~~

1. ~~t~~That the location, size, design, and other characteristics of the entire use as proposed will substantially improve or provide superior environmental relationships among all uses in the immediate vicinity.

~~B~~2. ~~Preservation of Privacy. A conditional use permit for such a use may be granted only upon determination t~~That the design and site planning of all buildings, open areas, parking, service areas, paths, stairways, accessways, corridors, and balconies will be so designed as to not adversely affect the privacy, safety, or environmental amenities of adjacent properties.

3~~C~~. ~~Retention of Natural and Topographic Features. A conditional use permit for such a use may be granted only upon determination t~~That within the expansion area every reasonable effort will be undertaken to preserve natural grades, topographic features, watercourses, and significant landscape features.

B~~D~~. ~~Expansion of Use on Abutting Lot.~~ The following standards shall also apply:

1. Such uses shall be allowed only when they constitute an expansion of or are a part of an existing or proposed activity or facility which is located in or partially located in the adjacent zone, and is permitted or conditionally permitted therein. Such uses shall be allowed only on a lot, or one of a series of lots under one ownership, directly contiguous to the lot in the adjacent zone, with no intervening streets.

2. ~~E.~~ Maximum Distance from Zone Boundary. Such uses shall not extend more than one hundred fifty (150) feet into the zone, as measured perpendicularly from the zone boundary at any point.

~~F. Increased Off-Street Parking. Off-street parking shall be provided for the proposed development in an amount at least one hundred fifty percent (150%) of that required by the off-street parking requirements in Chapter 17.116~~

3. ~~G.~~ Height. Within the area of the allowed expansion, the maximum height of any building or facility shall not exceed the maximum height permitted on abutting lots.

4. ~~H.~~ Increased Yard Areas. The minimum yard depth or width, as the case may be, for buildings within the expansion area shall be no less than one hundred fifty percent (150%) of the yard depth or width, if any, required for uses on those properties abutting the expansion area.

5. ~~I.~~ Screening and Buffering. The exterior perimeter of the expansion area shall be provided with screening and buffering devices including, but not limited to, established trees.

6. ~~J.~~ Maximum Density. The number of living units on any lot or series of lots involved in the expansion of use shall be calculated separately on the basis of the amount of lot area and the density ratio applying in each of the affected zones. The maximum number of living units allowed in the proposed development shall not exceed the accumulative total resulting from adding the density calculations for each of the lot areas and zones involved in the expansion.

17.102.120 - ~~Restriction on r~~Removal of dirt or other minerals—Residential and S-1, S-2, S-3 and OS zones.

In all residential zones and in the S-1, S-2, S-3 and OS zones, no grading or excavation shall involve the removal of any soil, rock, sand, or other material for purposes of sale, fill, building, or other construction usage off the premises, ~~from which removed,~~ unless a conditional use permit ~~for such removal~~ is granted pursuant to the conditional use permit procedure in Chapter 17.134. However, excavations in any street, alley, or other public place and excavations for foundations, basements, or cellars for the erection of any buildings for which a building permit has been issued shall be exempt from the above restriction.

~~**17.102.130 - Time limit on operation of subdivision sales offices—Residential zones.**~~

~~In all residential zones, the conduct and maintenance of any real estate sales office which is incidental to the development of a subdivision shall be limited to a one-year period unless a conditional use permit for a longer time period is granted pursuant to the conditional use permit procedure in Chapter 17.134.~~

~~(Prior planning code § 7014)~~

17.102.140 - ~~Special regulations applying to p~~Private stables and corrals.

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

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

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

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

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

E. Screening. All open portions of such facilities shall be screened from abutting lots, streets, alleys, and paths, and from the private ways described in Section 17.106.020, by dense landscaping not less than five and one-half (5½) feet high and not less than three (3) feet wide or by a decorative screening fence or wall not less than five and one-half (5½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said chapter.

F. See Oakland Municipal Code (OMC) Chapter 6.04 for additional regulations for animal quarters.

17.102.160 - ~~Special regulations applying to a~~Adult entertainment activities.

A. Conditional Use Permit Requirement. Adult entertainment activities are not permitted in any zone except upon the granting of a conditional use permit pursuant to the criteria in subsection B of this section (which supersedes the general criteria in Section 17.134.050) and the conditional use procedure in Chapter 17.134.

B. Conditional Use Permit Criteria. A conditional use permit for an adult entertainment activity shall only be granted upon a determination that all of the following conditions are present notwithstanding any conflicting requirements contained elsewhere in the zoning regulations:

1. The requested use at the proposed location will not adversely affect the use of churches, temples or synagogues; public, parochial or private elementary, junior high or high schools; public parks and recreation centers; public or parochial playgrounds; residences; child care facilities; elderly residential care facilities; hospitals; medical clinics; colleges; or libraries, all within a five hundred (500) foot radius by engendering sounds, activities, visual depictions or advertisements that create an exterior atmosphere which unreasonably interferes with the operations of such surrounding uses.

2. The requested use at the proposed location is sufficiently buffered in relation to residentially zoned areas within the immediate vicinity such that any obtrusive or distracting environmental factors which may emanate from the use do not adversely affect said areas.

3. The exterior appearance of the structure will not be conspicuously of a lesser quality (i.e., with respect to such elements as building facade, lighting, and signage materials) than the exterior appearance of commercial structures already constructed or under construction within the immediate neighborhood or cause a substantial diminution or impairment of property values within the neighborhood.

4. The proposed use will not be inconsistent with the adopted general plan for the area.

5. The proposed site is adequate in size and shape to accommodate the parking and loading facilities, landscaping and other development features prescribed in the planning code or other City regulations or as is otherwise required in order to integrate said use with the uses in the surrounding area.

6. The proposed site is adequately served:

   a. By highways or streets of sufficient width and capacity to carry the kind and quantity of traffic and to accommodate the parking demand such use would generate; and

   b. By other public or private service facilities such as fire protection or trash collection services as are required.

C. Location.

1. No adult entertainment activity shall be located within, nor closer than one thousand (1,000) feet to, the boundary of any residential zone.

2. No adult entertainment activity shall be closer than three hundred (300) feet to any other adult entertainment activity except that this restriction shall not apply to any adult entertainment activity in an establishment devoted exclusively and on a full-time basis to such activity, which establishment was in existence on December 21, 1976 and operating under a valid City regulatory permit, where such a permit is required.

D. Discontinuance of Nonconforming Activities. See Section 17.114.090.

17.102.170 - ~~Special regulations applying to m~~Massage activities.

Massage activities as defined in the Oakland Municipal Code shall be subject to the regulations contained in the Oakland Municipal Code Section 5.36 as may be amended by the Oakland City Council.

17.102.190 - Joint Living and Work Quarters.

A. General Provisions. Joint living and work quarters are permitted in all zones where Residential Activities are permitted or conditionally permitted. In all zones where Residential Activities are not otherwise allowed by the applicable individual zone regulations, joint living and work quarters may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

B. Definition. Joint living and work quarters means residential occupancy by not more than four persons, maintaining a common household of one or more rooms or floors in a building originally designed for industrial or commercial occupancy which includes: (1) cooking space and sanitary facilities which satisfy the provisions of other applicable codes; and (2) adequate working space reserved for, and regularly used by, one or more persons residing therein.

C. Use Permit Criteria. A conditional use permit for joint living and work quarters may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure and to both of the following use permit criteria:

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

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

17.102.195 - Residentially-Oriented Joint Living and Working Quarters.

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

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

C. Conditions for Conversion.

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

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

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

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

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

2. New floor area may be created that is entirely within the existing building envelope; however, in no case shall the height, footprint, wall area, or other aspect of the exterior of the building proposed for conversion be expanded to accommodate Residentially-Oriented Joint Living and Working Quarters, except for dormers not exceeding the existing roof height and occupying no more than ten 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 non-residential occupancy to Residentially-Oriented Joint Living and Working Quarters and does not meet one or more of the requirements of Subsection (C)(1) above may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. A conditional use permit may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in conditional use permit procedure in Chapter 17.134 and to any and all applicable additional use permit criteria set forth in the particular individual zone regulations.

E. Non-applicability of certain requirements pertaining to dwelling units. In the area prescribed in Subsection (A), the conversion to Residentially-Oriented Joint Living and Working Quarters of a building or portion of a building that was originally designed for non-residential occupancy is not subject to the requirements for off-street parking in Section 17.116.020 (New Parking to Be Provided for New Living Units in Existing Facilities) and is not subject to the open space requirements for new residential dwelling units contained in the applicable zoning district or districts, but is subject to the requirements of subsection (C)(i) above for retention of existing parking and open space.

17.102.200 - ~~Conditional use permit required for p~~Pedestrian bridges constructed over city streets.

In all zones, pedestrian bridges are permitted over city streets only upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

~~17.102.210 - Special regulations applying to Convenience Markets, Fast-Food Restaurants, certain establishments selling alcoholic beverages, providing mechanical or, and electronic games.~~

~~A. Use Permit Criteria for Fast-Food Restaurants, Convenience Markets, and Establishments Selling Alcoholic Beverages. A conditional use permit for any conditionally permitted Fast-Food Restaurant,~~

~~Convenience Market, or Alcoholic Beverage Sales Commercial Activity may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following additional use permit criteria:~~

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

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

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

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

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

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

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

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

~~B. Special Restrictions on Establishments Selling Alcoholic Beverages.~~

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

~~a. On-sale retail licenses located in the Central District (defined for the purposes of this Chapter) as within the boundaries of I-980 and Brush street to the west; both sides of 27th Street to the north; Harrison Street/Lake Merritt and the Lake Merritt Channel to the east; and the Estuary to the south); or~~

~~b. Off-sale retail licenses located in the Jack London district (defined for the purposes of this Chapter as within the boundaries of Martin Luther King Jr. Way to the west, I-880 to the north; the Lake Merritt Channel to the east; and the Estuary to the south); or~~

~~c. If the activity is in conjunction with a Full-Service Restaurant; or~~

~~d. Establishments with twenty-five (25) or more full-time equivalent (FTE) employees or a total floor area of twelve thousand (12,000) square feet or more.~~

~~2. Sale of alcoholic beverages in conjunction with a Full Service Restaurant and located within any of the following restricted street areas applied to a depth of two hundred (200) feet on each side of the identified streets and portions of streets, as measured perpendicularly from the right-of-way line thereof: International Boulevard; Foothill Boulevard; MacArthur Boulevard and West MacArthur Boulevard; that portion of San Pablo Avenue lying between Highway I-980 and I-580; that portion of Edes Avenue lying between Clara Street and Bergedo Drive, shall require a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134~~

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

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

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

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

4. In addition to the above criteria, projects outside the Central District and Hegenberger Corridor shall meet all of the following criteria to make a finding of Public Convenience or Necessity, with the exception of those projects that will result in twenty-five (25) or more full time equivalent (FTE) employees and will result in a total floor area of twelve thousand (12,000) square feet or more:

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

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

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

1. It shall not be located within three hundred (300) feet from any lot in a residential zone; or within one thousand (1,000) feet from the nearest regular entrance to or exit from any public playground or public, parochial, or private elementary, junior high, or high school.

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

D. Special Restrictions Applying to Fast-Food Restaurants.

1. No Fast-Food Restaurant Commercial Activity shall be located within a one thousand (1,000) foot radius of an existing or approved Fast-Food Restaurant, as measured from the center of the front property line of the proposed site, except in the Central District (defined for the purposes of this Chapter as within the boundaries of I-980 and Brush Street to the west; both sides of 27th Street to the North; Harrison Street/Lake Merritt and the Lake Merritt Channel to the east; and the Estuary to the south), within the main building of Shopping Center Facilities, and in the CR-1 Regional Commercial zone.

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

3. Access. Ingress and egress to Fast-Food Facilities shall be limited to commercial arterial streets rather than residential streets. No direct access shall be provided to adjacent residential streets which are

less than thirty-two (32) feet in pavement width. Exceptions to either of the requirements may be obtained where the City Traffic Engineer determines that compliance would deteriorate local circulation or jeopardize the public safety. Any such determination shall be stated in writing and shall be supported with findings. Driveway locations and widths and entrances and exits to Fast-Food Facilities shall be subject to the approval of the City Traffic Engineer.

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

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

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

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

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

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

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

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

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

A. Additional Use Permit Criteria. A conditional use permit for any conditionally permitted Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following additional use permit criteria:

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

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

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

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

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

B. Restriction on Overconcentration of Resident Care, Service-Enriched Permanent Housing, Transitional Housing, and Emergency Shelter Residential Activities. No Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility.

17.102.220 - Special regulations applying to mining and quarrying extractive activities.

Sections:

~~1.0~~	~~Purpose and Intent.~~
~~2.0~~	~~Definitions.~~
~~3.0~~	~~Incorporation by Reference.~~
~~4.0~~	~~Scope.~~
~~5.0~~	~~Vested Rights.~~
~~6.0~~	~~Process.~~
~~7.0~~	~~Standards for Reclamation.~~
~~8.0~~	~~Statement of Responsibility.~~
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~~10.0~~	~~Financial Assurances.~~
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14.0	Violations and Penalties.
15.0	Appeals.
16.0	Fees.
17.0	Severability.
18.0	Effective Date.

§ 1.0 Purpose and Intent.

The City of Oakland recognizes that, historically, the extraction of minerals has benefited the economic well-being of the city and the needs of society and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. The city also recognizes that surface mining within the city occurs in a diverse, established, urban environment, which presents unique health, safety and welfare issues and where geologic, topographic, climatic, biological, and other conditions are significantly different than in less urbanized areas. Therefore, reclamation operations and the applicable specifications, inspections, reporting, monitoring must be appropriate to the surrounding conditions.

The purpose and intent of this section is to regulate surface mining operations as required by California's Surface Mining and Reclamation Act of 1975 (Public Resources Code Sections 2710 et seq.), as amended, hereinafter referred to as "SMARA", Public Resources Code (PRC) Section 2207 (relating to annual reporting requirements), and State Mining and Geology Board regulations (hereinafter referred to as "State regulations") for surface mining and reclamation practice (California Code of Regulations [CCR], Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.), to ensure that:

(a) Reclamation activities eliminate hazards to public health and safety and restore mined lands to a standard that is safe, stable, and usable for development of reuses that will enhance the community;

(b) Adverse environmental effects are prevented or minimized in accordance with CEQA and other applicable requirements;

(c) Reclamation activities further adopted city goals, plans, policies, objectives and regulations, including, without limitation the city's General Plan;

(d) Reclamation activities appropriately consider values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.

§ 2.0 Definitions.

The definitions set forth in this section shall govern the construction of this chapter.

"Area of Regional Significance" means an area designated by the State Mining and Geology Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the State within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local significance.

"Area of Statewide Significance" means an area designated by the board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the State and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance.

"Approved Plan" means a land use and/or development plan and all conditions of approval and adopted mitigation measures, as approved by the city pursuant to Chapter 17 of the Oakland Municipal Code.

"Borrow Pits" mean excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.

"City" means City of Oakland.

"City Council" means City Council of the City of Oakland.

"Compatible Land Uses" means land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space.

"General Plan" means the General Plan of the City of Oakland.

"Haul Road" means a road along which material is transported from the area of excavation to the processing plant or stock pile area of the surface mining operation.

"Idle" means surface mining operations curtailed for a period of one year or more, by more than ninety (90) percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.

"Incompatible Land Uses" means land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial, and commercial.

"Mined Lands" mean the surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools or other materials or property which result from, or are used in, surface mining operations are located.

"Minerals" means any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

"Operator" means any person who is engaged in surface mining operations, or who contracts with others to conduct operations on his or her behalf, except a person who is engaged in surface mining operations as an employee with wages as his or her sole compensation.

"Reclamation" means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

"Reclamation Plan" means a plan for reclamation of mined lands as specified by SMARA.

"Stream Bed Skimming" means excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.

"Surface Mining Operations" means all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations include, but are not limited to, in place distillation or retorting or leaching, the production and disposal of mining waste, prospecting and exploratory activities, borrow pitting, streambed skimming, and segregation and stockpiling of mined materials (and recovery of same).

"Use Permit" means a conditional use permit or other land use permit for mining activities.

§ 3.0 Incorporation by Reference.

The provisions of SMARA (PRC § 2710 et seq.), PRC Section 2207, and State regulations CCR § 3500 et seq., as those provisions and regulations may be amended from time to time, are made a part this section by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this section are more restrictive than correlative State provisions, this section shall prevail.

§ 4.0 Scope.

Except as provided in this section, no person shall conduct surface mining operations unless a Reclamation Plan and financial assurances for reclamation have first been approved by the city. Any applicable exemption from this requirement does not automatically exempt or limit a project or activity from the application of other regulations, ordinances or policies of city, including but not limited to, the application of CEQA, the requirements of an Approved Plan or other permits, the payment of development impact fees, or the imposition of other dedications and exactions as may be permitted under the law. The provisions of this section shall apply to all lands within the city, public and private.

This section shall not apply to the following activities, subject to the above-referenced exceptions:

(a) Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.

(b) Onsite excavation and onsite earthmoving activities which are an integral and necessary part of an approved construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

(1) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency or agencies in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act ("CEQA", Public Resources Code, Division 13, § 21000 et seq.).

(2) The city's approval and CEQA review (if applicable) of the construction project included the onsite excavation and onsite earthmoving activities.

(3) The approved construction project is consistent with the General Plan and zoning of the site.

(4) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if the city determines, in its discretion, that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.

(c) Permitted operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:

(1) The plant site is located on lands designated for industrial or commercial uses in the city's general plan.

(2) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the city.

(3) None of the minerals being processed is being extracted onsite.

(4) All reclamation work has been completed pursuant to the approved Reclamation Plan for any mineral extraction activities that occurred onsite after January 1, 1976.

(d) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than one thousand (1,000) cubic yards in any one location of one acre or less.

(e) Surface mining operations that are required by federal law in order to protect a mining claim, as specified in Public Resources Code section 2714(e).

(f) Any other surface mining operations that the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.

(g) The solar evaporation of sea water or bay water for the production of salt and related minerals.

(h) Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters or other emergencies.

(i) Road construction and maintenance for timber or forest operations, as specified in Public Resources Code section 2714(j)(1); and

(j) Excavation, grading, or other earthmoving activities in an oil or gas field, as specified in Public Resources Code section 2714(k).

§ 5.0 Vested Rights.

No person who obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit to mine, so long as the vested right continues and as long as no substantial changes have been made in the mining operation except in accordance with SMARA, State regulations, this section and any other applicable requirements. Where a person with vested rights has continued surface mining in the same area subsequent to January 1, 1976, he shall obtain city approval of a Reclamation Plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense) between pre- and post-Act mining, the Reclamation Plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act (January 1, 1976), as determined by the city to be necessary or appropriate to accommodate reuse of the proposed site according to city plans, policies, ordinances, and other applicable requirements.

All other requirements of State law, this section or an approved plan shall apply to vested mining operations.

§ 6.0 Process.

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

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

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

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

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

(f) Prior to final approval of a Reclamation Plan, financial assurances (as provided in this Chapter), any amendments to the Reclamation Plan, existing financial assurances, or those financial assurances required as part of an Approved Plan, the City Council shall certify to the State Department of Conservation that the Reclamation Plan and/or financial assurance complies with the applicable requirements of State law, and submit the plan, assurance, or amendments to the State Department of Conservation for review.

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

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

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

§ 7.0 Standards for Reclamation.

(a) All Reclamation Plans shall comply with the provisions of SMARA (§ 2772 and § 2773) and State regulations (CCR § 3500-3505). Reclamation Plans approved after January 15, 1993, Reclamation Plans for proposed new mining operations, and any substantial amendments to previously approved Reclamation Plans, shall also comply with the requirements for reclamation performance standards (CCR § 3700-3713).

(b) The city may impose additional performance standards as developed either in review of individual projects, as warranted, through the formulation and adoption of citywide performance standards or through an Approved Plan.

(c) Reclamation activities shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation may also be required for mined lands that have been disturbed and that may be disturbed again in future operations. Reclamation may be done on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill, as approved by the city. Each phase of reclamation shall be specifically

described in the Reclamation Plan and shall include (a) the beginning and expected ending dates for each phase; (b) all reclamation activities required; (c) criteria for measuring completion of specific reclamation activities; and (d) estimated costs for completion of each phase of reclamation.

(d) The information, analysis and other specifications submitted as part of the Reclamation Plan shall demonstrate that the improvements and financial assurances are sufficient to reclaim the site in a condition that meets all applicable state and city standards, and that is appropriate for the proposed reuse of the site and consistent with the land use and other applicable policies of the General Plan.

§ 8.0 Statement of Responsibility.

The person submitting the Reclamation Plan shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the Reclamation Plan. Said statement shall be kept by the Planning Department in the mining operation's permanent record. Prior to sale or transfer of the operation, the new operator shall submit a signed statement of responsibility as well as evidence required to demonstrate the financial assurance requirement set forth in this section or the Planning Department for placement in the permanent record.

§ 9.0 Findings for Approval.

(a) Approved Plans. In addition to any findings required by the Approved Plan or for surface mining operations, a finding shall be included that the project complies with the provisions of SMARA and State regulations.

(b) Reclamation Plans. For Reclamation Plans, the following findings shall be required:

(1) That the Reclamation Plan complies with SMARA Sections 2772 and 2773, and any other applicable provisions;

(2) That the Reclamation Plan complies with applicable requirements of State regulations (CCR § 3500-3505, and § 3700-3713).

(3) That the Reclamation Plan and potential use of reclaimed land pursuant to the plan are consistent with this section, the city's General Plan and any applicable resource plan, element or an Approved Plan.

(4) That the Reclamation Plan has been reviewed pursuant to CEQA and the City's environmental review guidelines, and all significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible.

(5) That the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or that suitable off-site development will compensate for related disturbance to resource values.

(6) That the Reclamation Plan will restore the mined lands to a safe, stable and usable condition which is readily adaptable for alternative land uses consistent with the General Plan, and other city Approved Plans, policies, ordinances and regulations.

(7) That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that department. Where the city's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted.

§ 10.0 Financial Assurances.

(a) To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, the city shall require as a condition of approval security which will be released upon satisfactory performance. The applicant may pose security in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or other method acceptable to the city and the State Mining and Geology Board as specified in State regulations, and which the city determines are adequate to perform reclamation in accordance with the surface mining operation's approved Reclamation Plan and/or an Approved Plan. Financial assurances shall be made payable to city and the State Department of Conservation.

(b) Financial assurances will be required to ensure compliance with elements of the Reclamation Plan, including but not limited to, revegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures, if determined necessary by the Planning Department to comply with the requirements of an Approved Plan.

(c) Cost estimates for the financial assurance shall be submitted to the Planning Department for review and approval prior to the operator securing financial assurances. The Planning Director shall forward a copy of the cost estimates, together with any documentation received supporting the amount of the cost estimates, to the State Department of Conservation for review. If the State Department of Conservation does not comment within forty-five (45) days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless the City has reason to determine that additional costs may be incurred. The Planning Director shall have the discretion to approve the financial assurance if it meets the requirements of this Chapter, SMARA, State regulations and any requirements of an Approved Plan.

(d) The amount of the financial assurance shall be based upon the estimated costs of reclamation to a safe, stable and usable condition in accordance with an Approved Plan for the years or phases stipulated in the approved Reclamation Plan, including any maintenance of reclaimed areas as may be required, subject to adjustment for the actual amount required to reclaim lands disturbed by surface mining activities since January 1, 1976, and new lands to be disturbed in the upcoming year. Cost estimates should be prepared by a California registered Professional Engineer and/or other similarly licensed and qualified professionals retained by the operator and approved by the Planning Director. The estimated amount of the financial assurance shall be based on an analysis of physical activities necessary to implement the approved Reclamation Plan in accordance with an Approved Plan for the site, the unit costs for each of these activities, the number of units of each of these activities, and the actual administrative costs. Financial assurances to ensure Reclamation Plan implementation and compliance with revegetation, restoration of water bodies, restoration of aquatic or wildlife habitat, and any other applicable element of the approved Reclamation Plan shall be based upon cost estimates that include, but may not be limited to, labor, equipment, materials, mobilization of equipment, administration, monitoring, inspections and reasonable profit by a commercial operator other than the permittee. A contingency factor of ten percent (10%) shall be added to the cost of financial assurances.

(e) In projecting the costs of financial assurances, it shall be assumed without prejudice or insinuation that the surface mining operation could be abandoned by the operator and, consequently, the city or State Department of Conservation may need to contract with a third party commercial company for reclamation of the site.

(f) The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed (including any maintenance required).

(g) The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. The financial assurances shall include estimates to cover reclamation for existing conditions and anticipated activities during the upcoming year, excepting that the permittee may not claim credit for reclamation scheduled for completion during the coming year.

(h) Revisions to financial assurances shall be submitted to the Planning Director each year prior to the anniversary date for approval of the financial assurances. The financial assurance shall cover the cost of existing disturbance and anticipated activities for the next calendar year, including any required interim reclamation. If revisions to the financial assurances are not required, the operator shall explain, in writing, why revisions are not required.

§ 11.0 Interim Management Plans.

(a) Within ninety (90) days of a surface mining operation becoming idle, the operator shall submit to the Planning Department a proposed Interim Management Plan (IMP). The proposed IMP shall fully comply with the requirements of SMARA, including but not limited to all Approved Plan conditions, and shall provide measures the operator will implement to maintain the site in a stable condition, taking into

consideration public health and safety. The proposed IMP shall be submitted on forms provided by the Planning Department, and shall be processed as an amendment to the Reclamation Plan. IMPs shall not be considered a project for the purposes of environmental review.

(b) Financial assurances for idle operations shall be maintained as though the operation were active, or as otherwise approved through the idle mine's IMP.

(c) Upon receipt of a complete proposed IMP, the Planning Department shall forward the IMP to the State Department of Conservation for review. The IMP shall be submitted to the State Department of Conservation at least thirty (30) days prior to approval by the Planning Director.

(d) Within sixty (60) days of receipt of the proposed IMP, or a longer period mutually agreed upon by the Planning Director and the operator, the Planning Director shall review and approve or deny the IMP in accordance with this Chapter. The operator shall have thirty (30) days, or a longer period mutually agreed upon by the operator and the Planning Director, to submit a revised IMP. The Planning Director shall approve or deny the revised IMP within sixty (60) days of receipt. If the Planning Director denies the revised IMP, the operator may appeal that action to the City Council. The decision of the City Council shall be final.

(e) The IMP may remain in effect for a period not to exceed five years, at which time the City Council may renew the IMP for another period not to exceed five years, or require the surface mining operator to commence reclamation in accordance with its approved Reclamation Plan.

§ 12.0 Annual Report Requirements.

Surface mining operators shall forward an annual surface mining report to the State Department of Conservation and to the City Planning Department on a date established by the State Department of Conservation, on forms furnished by the State Mining and Geology Board. New mining operations shall file an initial surface mining report and any applicable filing fees with the State Department of Conservation within thirty (30) days of permit approval, or before commencement of operations, whichever is sooner. Any applicable fees, together with a copy of the annual inspection report, shall be forwarded to the State Department of Conservation at the time of filing the annual surface mining report.

§ 13.0 Inspections.

The Planning Director, through the Building Department Inspection Services Division or other agency or other designee, shall arrange for inspection of a surface mining operation within six months of receipt of the Annual Report required in Section 12, to determine whether the surface mining operation is in compliance with applicable requirements, including, without limitation, the Approved Plan, Reclamation Plan, approved financial assurances, and State regulations. In no event shall less than one inspection be conducted in any calendar year. Said inspections may be made by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, or state-registered forester, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous twelve (12) months, or other qualified specialists, as selected by the Planning Director. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.

The Planning Department shall notify the State Department of Conservation within thirty (30) days of completion of the inspection that said inspection has been conducted, and shall forward a copy of said inspection notice and any supporting documentation to the mining operator. The operator shall be solely responsible for all costs of inspections required by the city in furtherance of this section in accordance with the city master fee schedule or other applicable fee agreements or requirements.

§ 14.0 Violations and Penalties.

If the Planning Director, through the Building Department Inspection Services Division or other designee, based upon an annual inspection or otherwise confirmed by an inspection of the mining operation, determines that a surface mining operation is not in compliance with this section, the Approved Plan, the Reclamation Plan or other applicable requirements, the city shall follow the procedures set forth in Public Resources Code, Sections 2774.1 and 2774.2 concerning violations and penalties.

§ 15.0 Appeals.

~~A decision by the City Council to either approve or deny a Reclamation Plan pursuant to this section shall be considered a final agency action.~~

~~§ 16.0 Fees.~~

~~The city shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this section and the State regulations, including but not limited to, processing of applications, annual reports, inspections, monitoring, enforcement and compliance. These fees may be set forth in the city master fee schedule; however, failure to include such fees in the master fee schedule shall not limit the city's ability to impose fees it determines are necessary or desirable to fulfill the purposes of this section, State regulations and other applicable requirements. Such fees shall be paid by the operator, as required by the city, at the time of filing of the Reclamation Plan application, as a part of a fee agreement through an Approved Plan or at such other times as are determined by the city to be appropriate in order to ensure that all reasonable costs of implementing this section are borne by the mining operator.~~

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

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

1. That the facility proposed for demolition or the living unit proposed for conversion is unoccupied and is, or is situated in, a residential building that has been found, determined, and declared to be substandard or unsafe pursuant to Section 15.08.350(B) of the Oakland Municipal Code; or
2. That a replacement rental unit, comparable in affordability and type to each unit proposed for demolition or conversion, will be added to the City's housing supply prior to the proposed demolition or conversion taking place; or
3. That the benefits to the City resulting from the proposed demolition or conversion will outweigh the loss of a unit from the City's housing supply; or
4. That the conversion will be an integral part of a rehabilitation project involving both residential and nonresidential activities, and that the rehabilitation project would not be economically feasible unless some nonresidential activity were permitted within it.

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

1. If a dwelling unit is to be converted, the tenant has been given a one hundred twenty (120) day written notice of the conversion. If a rooming unit is to be demolished or converted, the tenant, if a permanent tenant, has been given a seventy-five (75) day written notice of the demolition or conversion. All such written notices shall comply with the legal requirements for service by mail.
2. If a dwelling unit is to be converted, the tenant has been provided with a relocation allowance equal to one month's rent or five hundred dollars ($500.00), whichever is greater. If a rooming unit is to be demolished or converted, the owner of the building containing the unit to be demolished or converted has referred the tenant (if a permanent tenant) to a comparable, available unit; if a comparable unit is not available, the permanent tenant has been provided

with a relocation allowance equal to one month's rent or five hundred dollars ($500.00), whichever is greater.

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

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

17.102.240 - ~~Special regulations applying to m~~Microwave and satellite dishes over three (3) feet ~~one (1) meter~~ in diameter located in or near residential zones.

The following regulations shall apply to microwave and satellite dishes which are over three (3) feet ~~one (1) meter~~ in diameter, which are located in any residential zone or within one hundred fifty (150) feet from the nearest boundary of any residential zone, as measured perpendicularly from said boundary at any point:

~~**17.102.250 - Maximum density and floor-area ratio during construction.**~~

~~Whenever a new Residential Facility is constructed on any lot upon which there presently exists a Residential Facility, and such existing facility is retained and occupied temporarily pending completion of the new residential structure, the maximum density and floor-area ratio prescribed for such lot shall be computed upon the basis of the new facility only. However, such existing facility shall be vacated and demolished or removed within one (1) year after commencement of construction of the new facility unless the existing and new facility together shall conform to said maximum density and floor-area ratio requirements.~~

~~**17.102.260 - Occupancy of a dwelling unit.**~~

~~A Residential Facility, or portion thereof, shall be deemed to constitute a single dwelling unit only if it is occupied by a single-family or, where the facility occupied is a One-Family Dwelling, such family and not more than three (3) boarders, roomers, or lodgers where access to all rooms occupied by such boarders, roomers, or lodgers is had through the main entrance of the dwelling unit.~~

~~**17.102.265 - Occupancy of a One-Family Dwelling Residential Facility by a Residential Care Residential Activity.**~~

~~A Residential Care Residential Activity shall be deemed to occupy a One-Family Dwelling Residential Facility if it operates as a single housekeeping unit, as defined in Sec. 17.09.040, and the facility meets all of the characteristics of a One-Family Dwelling Residential Facility as defined in Section 17.10.640.~~

17.102.270 - An additional kitchen for a single dwelling unit.

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

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

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

C. That the additional kitchen is necessary to render habitable a living area occupied by one or more persons related by blood, marriage, or adoption to the resident family or collective household occupying the main portion of the dwelling unit.

However, a conditional use permit under this subsection shall not be granted in the RH zones or the RD-1 zone if the lot contains two (2) or more dwelling units.

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

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

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

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

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

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

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

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

~~**17.102.290 - Special regulations for Drive-Through Nonresidential Facilities.**~~

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

~~A. General Provisions/Use Permit Criteria. A Conditional Use Permit for a Drive-Through Nonresidential Facility may be granted only pursuant to the conditional use permit procedure in Chapter 17.134, and upon determination that the proposal, in addition to the general use permit criteria in that chapter, conforms to the additional use permit criteria set forth below:~~

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

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

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

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

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

17.102.300 - ~~Conditional use permit for d~~Dwelling units with five or more bedrooms.

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

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

1. That off-street parking for residents of the entire facility, including any existing facility and any proposed alteration or addition, is provided as specified in the zone or zones in which the facility is located, as set forth in Section 17.116.060.
2. That a minimum of one (1) off-street visitor parking space is provided for the entire facility;
3. That the parking spaces provided in accordance with criteria 1 and 2, and all associated driveways, maneuvering aisles, and other related features, comply with the standards for required parking and loading facilities applicable in the base zone in which the facility is located, as set forth in Sections 17.116.170 through 17.116.300.
4. That no required parking spaces are located other than on approved driveways between the front lot line and the front wall of the facility or its projection across the lot.
5. That the applicable requirements of the buffering regulations in Chapter 17.110 are met.

~~17.102.310 - Special regulations for certain projects with development agreements.~~

~~Any person having a legal or equitable interest in the real property involved may, upon approval pursuant to the development agreement procedure in Chapter 17.138, enter into a development agreement with the City for any specific development project which involves a total of at least four (4) acres of land area or five hundred thousand (500,000) square feet of floor area and is a project intended to be developed in stages, or which involves land sold or leased by the Redevelopment Agency of the City and is to be carried out by agreement with the Redevelopment Agency. The development agreement shall not be approved unless the project has received, or simultaneously receives, whatever major conditional use permit, preliminary planned unit development plan approval, and major variance it may otherwise require. For the duration of the particular agreement, and unless otherwise provided in the terms thereof, there shall be a contractual guarantee that the project covered by the agreement may be pursued under the applicable procedural criteria, if any, and other zoning regulations, and plans or other documents referred to by any such criteria, as they existed when the agreement was approved and notwithstanding any subsequent changes in said zoning regulations or documents. However, the agreement may also subject the proposal to special conditions to benefit or protect the City for entering into the development agreement. The conditions may include, but are not limited to, supplemental restrictions on kinds of uses, floor-area ratio, or density; special conditions or criteria for required subsequent zoning approvals, if any; and requirements for the reservation, dedication, or improvement of land for public purposes or accessible to the public.~~

17.102.320 - Conditional use permit for waiver of certain requirements in mini-lot developments.

A. Basic Provisions. Subject to the provisions of subsections B and C of this section, the maximum height and minimum yard, lot area, width, and frontage requirements otherwise applying to individual lots may be waived or modified within a mini-lot development, and floor area, parking, and other facilities may be located within said development without reference to lot lines, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination:

1. That there is adequate provision for maintenance of the open space and other facilities within the development; and

2. That the total development meets all the requirements that would apply to it if it were a single lot.

B. Zones in Which Requirements May Be Waived. A conditional use permit pursuant to subsection A of this section may be granted only in the S-1 or S-2 zone or in any residential or commercial zone other than RH zones or the RD-1 zone.

C. Maximum Size for Which Requirements May Be Waived. A conditional use permit pursuant to subsection A of this section may be granted only if the total land area of the mini-lot development is less than sixty thousand (60,000) square feet.

17.102.330 - Conditional use permit for waiver of certain requirements with parcel division between existing buildings.

Where any parcel containing two or more existing principal buildings is divided in accordance with the conditions stated in Section 17.106.010, those requirements specified there which would otherwise apply to the divided lots may be waived or modified upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. Granting of any such permit shall be subject to the use permit criteria prescribed by Section 17.106.010.

17.102.335 - Standards for Sidewalk Cafes.

A. Procedures for Construction of Sidewalk Cafe Facilities.

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

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

B. Standards for Sidewalk Cafes.

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

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

3. The operators/owners of Sidewalk Cafes shall defend, indemnify, and hold harmless the City of Oakland its agents, officers, and employees from any claim, action, or proceeding (including legal costs

~~and attorney's fees) against the City of Oakland, its agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the City Planning Department, Planning Commission, or City Council. The city shall promptly notify the applicant of any claim, action or proceeding and the city shall cooperate fully in such defense. The city may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.~~

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

17.102.340 - ~~Special regulations applying to e~~Electroplating activities in the ~~M-20, M-30, and M-40~~Industrial ~~z~~Zones.

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

17.102.350 - ~~Regulations applying to t~~Tobacco-oriented activities.

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

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

~~**17.102.360 - Secondary Units.**~~

~~A. Development Standards. The following regulations shall apply to the construction, establishment, or alteration of Secondary Units wherever permitted or conditionally permitted, as specified in each individual zone:~~

~~1. Other Uses on Property. A Secondary Unit shall only be permitted on a lot that contains only one other primary dwelling unit. A Secondary Unit may be approved and constructed at the same time or after the approval and construction of the primary dwelling unit.~~

~~2. Sale of Unit. A Secondary Unit shall not be sold separately from the primary dwelling on the same lot.~~

~~3. Owner Occupancy. The legal owner shall occupy either the primary dwelling or the Secondary Unit. Prior to issuance of a building permit for a Secondary Unit, the applicant shall record as a deed restriction in the Alameda County Recorder's Office, notice of this requirement, in a form prescribed by the Director of City Planning.~~

~~4. Maximum Permitted Floor Area. The floor area of a Secondary Unit shall not exceed nine hundred (900) square feet or fifty percent (50%) of the floor area of the primary dwelling, whichever is less, except that Secondary Units of up to five hundred (500) square feet in floor area are permitted regardless of the size of the primary dwelling.~~

~~5. Fire Flow and Water Pressure. A Secondary Unit may be permitted only if the fire flow and water pressure in the adjoining street meets the minimum requirements as determined by the Fire Marshal.~~

~~6. Emergency Access—Multiple Vehicular Outlets. A Secondary Unit may be permitted only on a lot which has frontage on a through street, or a dead-end street that has a total length of less than three hundred (300) feet. 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 private access easement is connected to said dead-end street.

7. Emergency Access—Minimum Pavement Width. A Secondary Unit may be permitted only if all streets connecting the lot to the nearest arterial street (as designated by the City of Oakland General Plan Land Use and Transportation Element) have a minimum pavement width of at least twenty-four (24) feet. The minimum pavement width limitation may be reduced to a minimum of twenty (20) feet, upon the granting of a conditional use permit, pursuant to the criteria in subsection B of this section, and the conditional use permit procedure in Chapter 17.134

8. Public Sanitary Sewer. A Secondary Unit may be permitted only if it is served by a public sanitary sewer.

9. Architectural Compatibility. The Secondary Unit shall be clearly subordinate to the primary dwelling unit in size and location. Also, the architectural design and materials of a Secondary Unit shall match or be visually compatible with that of the primary dwelling, including the architectural style, siding material, roof shape, roofing material, trim material and design, window types, window trim, and window sill detail.

10. Compliance with Building and Fire Codes. All Secondary Units shall comply with all other code and permit requirements imposed by all other affected departments, including but not limited to fire separation, sound separation, egress, utility access, and the requirement for a building permit.

11. Review Procedure. An application for a Secondary Unit of up to five hundred (500) square feet shall be granted ministerial approval as specified in Section 17.136.025 upon confirmation of compliance with all applicable zoning regulations, including but not limited to, all provisions in this Section. The five hundred (500) square-foot floor area threshold for a Secondary Unit may only be exceeded, up to a maximum of nine hundred (900) square feet or fifty percent (50%) of the floor area of the primary dwelling, whichever is less, upon the granting of small project design review, pursuant to the small project design review procedure in Section 17.136.030

B. Use permit criteria for Secondary Units accessed via narrow streets. A conditional use permit for a Secondary Unit accessed from the nearest arterial street via a street with a minimum pavement width of between twenty (20) and twenty-four (24) feet may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the general use permit procedure in Chapter 17.134 and to all of the following additional use permit criteria:

1. That there is adequate emergency access to the lot as determined by the Fire Marshall.

2. That the portions of the street that have a pavement width of less than twenty-four (24) feet are not located on a dead-end street.

3. That if on-street parking is permitted on portions of the street that have a pavement width of less than twenty-four (24) feet, that there exist a level and hard surface shoulders with a combined additional width of at least eight (8) feet.

4. That if on-street parking is prohibited on portions of the street that have a pavement width of less than twenty-four (24) feet, that the restricted parking areas are clearly marked with official City installed no-parking signs and/or red curbs, pursuant to the provisions of the Oakland Traffic Code (Title 10 of the Oakland Municipal Code).

17.102.370 - Conditional use permit for hotels and motels.

A. Use Permit Criteria for Hotel and Motel Uses. A conditional use permit for hotel and motel uses may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following additional use permit criteria:

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

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

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

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

b. A full service restaurant providing three meals per day; and

c. On-site recreational amenities, which may include an exercise room, swimming pool, and/or tennis courts.

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

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

b. Landscaping that creates a pleasant visual corridor along the primary streets with a variety of local species and high quality landscape materials;

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

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

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

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

g. Lighting standards for hotel buildings, grounds and parking lots shall not be overly bright and shall direct the downward placement of light.

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

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

17.102.380 - Special regulations applying to truck-related activities in the West Oakland Community Development District.

A. Use Permit Required. No Truck and Truck-related activity as described in Sections 17.10.470, 17.10.480, 17.10.490, and 17.10.500 shall be established or expanded in the West Oakland Community Development District except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134

B. "West Oakland Community Development District" is defined to include all areas between Interstate 980 to the east, 3rd Street to the south, Interstate 880 to the west, and Interstate 580 to the north.

C. The term "Truck" shall be defined as a "Commercial Vehicle" having a "Manufacturer's Gross Vehicle Weight Rating" exceeding ten thousand (10,000) pounds or a "Trailer," as those terms are defined in the California Vehicle Code.

17.102.390 - Regulations Applying to Special Health Care Civic Activities.

A. Additional Use Permit Criteria. A conditional use permit for any conditionally permitted Special Health Care Civic Activities may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following use permit criteria:

1. That each Special Health Care Civic activity be no located no less than 2,500 feet from the nearest Special Health Care Civic activity within the City of Oakland.

2. That each Special Health Care Civic activity be a minimum of 500 feet from the following activities:

- Schools K—12
- Licensed Transitional Housing
- Licensed Service Enriched Housing
- Licensed Emergency Shelters

3. That each Special Health Care Civic activity meet the following Performance Standards and that these performance standards be included as standard conditions of approval. These performance standards may be amended or expanded by the Planning Commission as they are applied to individual locations and projects:

- A lighting plan shall be reviewed and approved by the Zoning Administrator. Exterior lighting shall be provided on all frontages. Such lighting shall be designed to illuminate persons standing outside such that they can be identified 50 feet away. Exterior lighting shall be designed so as not to cast glare offsite.
- A plan for any exterior changes and signage shall be reviewed and approved by the Zoning Administrator.
- Storefronts shall have glass or transparent glazing in the windows. No more than 30 percent of any window area shall be covered by signs, banners, or opaque coverings of any kind.
- Final floor plans shall be reviewed and approved by the Zoning Administrator prior to issuance of building permits.
- Fenced yards shall be fenced with fencing a minimum of six feet tall. Such fencing shall be of an open design.
- One non-flammable trash container and ashtray shall be located in front of the facility for smokers.
- Clients shall not be allowed to loiter outside the building on the sidewalk or street. Clients waiting to be served shall be accommodated inside the building.
- Days and hours of operation shall be Monday through Friday, 8:00 a.m. to 6:00 p.m. Clients shall be discouraged from loitering prior to or after hours. At least one no loitering sign with letters at least two inches tall shall be installed and maintained where it will be visible to pedestrians in front of the property. These performance standards and any conditions of approval, days and hours of operation, phone contact, and after hours phone contacts shall be posted where visible to the public 24 hours a day.
- Graffiti shall be removed within 72 hours of application. No exterior pay telephones shall be installed.
- Litter shall removed at least two times daily or as needed from in front of and for 20 feet beyond the building along adjacent street(s). All "street furniture" such as crates or mattresses shall be removed daily or as needed.
- Prior to issuance of building permits or commencement of use, applicant shall submit a needle retrieval plan for all Special Health Care Civic activities that provide needle exchange services on site. The

~~plan shall, at a minimum, detail the protocol for the exchange of clean needles for dirty needles and for retrieving used needles within 300 feet of the site on a regular basis.~~

17.102.400 - Exterior security bars and related devices. ~~Special design requirements for lots that contain Residential Facilities and no Nonresidential Facilities~~

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

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

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

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

~~Exceptions: The maximum percentages of paved surfaces specified in this subsection A may be exceeded within unimproved rights-of-way in the following cases upon issuance of a private construction of public improvements (P-job) permit or if undertaken directly by the City or by a private contractor under contract to the City:~~

~~a. Roadway construction or widening;~~

~~b. Sidewalk construction or widening; and~~

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

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

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

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

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

~~17.102.420 - Special design requirements for lots located in a residential and commercial zones and the OS, S-1, S-2, S-3 and S-15 zones.~~

~~The provisions of this section apply to any lot located in a residential or commercial zone, or are in the OS, S-1, S-2, S-3, or S-15 zone.~~

~~A. Restriction on Barbed Wire and Razor Wire. In any location visible from the public right-of-way, no barbed wire or razor wire may be attached to the exterior of any building or similar facility. Other restrictions on barbed wire and razor wire are specified in Section 17.108.140~~

~~17.102.430 - Regulations applying to check cashier and/or check cashing activity.~~

~~A. Additional Use Permit Criteria. A conditional use permit for any conditionally permitted check cashier and or check cashing activity as defined in Section 17.10.365 of the Oakland Planning Code may~~

only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134, to any and all applicable use permit criteria set forth in the particular individual zone regulations. and to all of the following performance standards:

1. That each check cashier and or check cashing activity be located not less than one thousand (1,000) feet from the nearest check cashier and check cashing activity within the city of Oakland.

2. That each check cashier and or check cashing activity be a minimum of five hundred (500) feet from the following activities, which on the date of an application for check cashier and/or check cashing activity had a vested right under California law to operate:

a. Community education civic activities,

b. State or federally chartered bank, savings association, credit union, or industrial loan company,

c. Community assembly civic activities, or

d. Recreational assembly civic activities or

e. Alcoholic beverage sales commercial activities, excluding full service restaurants and alcoholic beverage sales commercial activities with twenty-five (25) or more full time equivalent (FTE) employees and a total floor area of twenty thousand (20,000) square feet or more. (Note that this precludes combining check cashing with alcoholic beverage sales commercial activities because alcoholic beverage sales commercial activities are always considered a primary activity and therefore subject to this distance standard).

3. That each check cashier and or check cashing activity meets the following performance standards and that these performance standards are included as standard conditions of approval. These performance standards may be amended or expanded by Staff and/or the Planning Commission as they are applied to individual locations and projects:

a. A lighting plan shall be reviewed and approved by the Zoning Administrator prior to issuing building permits and installed prior to establishing the activity. Exterior lighting shall be provided on all frontages. Such lighting shall be designed to illuminate persons standing outside such that they can be identified fifty (50) feet away. Exterior lighting shall be designed so as not to cast glare offsite.

b. Storefronts shall have glass or transparent glazing in the windows and doors. No more than ten (10) percent of any window or door area shall be covered by signs, banners, or opaque coverings of any kind so that law enforcement personnel will have clear view of the entire public area in the premises from the public sidewalk.

c. Days and hours of operation shall be, no earlier than 7:00 AM nor later than 7:00 PM Monday through Saturday. Patrons shall be discouraged from loitering prior to, during and/or after hours. At least one no loitering sign with letters at least two inches tall shall be installed and maintained where it will be most visible to pedestrians on each side of the building in which the activity is located including, but not limited to, street frontages and parking lots.

d. Graffiti shall be removed within seventy-two (72) hours of application.

e. No exterior pay telephones shall be permitted.

f. Litter shall be removed at least two times daily or as needed from in front of and for twenty (20) feet beyond the building along adjacent street(s). All "street furniture" such as crates or mattresses shall be removed daily or as needed.

g. The applicant shall post at least one certified uniformed security guard on duty at all times the business is open. The security guard shall patrol the interior and all exterior portions of the property under control of the owner or lessee including, but not limited to, parking lots and any open public spaces such as lobbies.

~~**17.102.440 - Special regulations for primary collection centers in all zones.**~~

~~A. Applicability. This Section applies to Primary Collection Centers, as defined in Section 17.10.585 "Recycling and Waste-Related Industrial Activities," that are located in any zone. Where there is any apparent conflict between these regulations and regulations contained elsewhere in this Title 17, and/or with conditions of approval, the more stringent shall govern.~~

~~B. Performance Standards. In addition to the performance standards set forth in Chapter 17.120, the performance standards specified in Subsection 17.73.035 B. shall be uniformly applied, as applicable, and the relief from the performance standards in Subsection 17.73.035 C. shall apply to all Primary Collection Centers.~~

17.102.450 - ~~Special regulations applying to l~~Laundromats.

The following regulations shall apply in all zones to ~~the Consumer Service Commercial Activity of~~ laundromats:

A. Conditional Use Permit Required. All new or expanded uses-laundromats shall be required to obtain a Conditional Use Permit as specified in Chapter 17.134

B. Restriction on Over-Concentration of Laundromats. No new or expanded laundromat use shall be located closer than five hundred (500) feet from any existing laundromat as measured by the closest radial distance between buildings.

C. Standards. The following standards shall apply to all new or expanded Laundromat uses:

1. On-Site Attendant. An employee shall be on the premises during all business hours.

2. Security Cameras. Security cameras shall be operated on the premises during all business hours and recordings shall be maintained for a minimum of seven days.

3. When located adjacent to or below a dwelling unit the following shall be minimized:

   a. Noise shall not exceed the limits set forth in Chapter 17.120, Performance Standards.

   b. Vibrations shall not exceed the limits set forth in Chapter 17.120, Performance Standards.

   c. Venting shall be directed away from residential dwelling units.

4. Transparency.

   a. A minimum of sixty ~~60~~ percent (60%) of the building facade along a street or streets shall be glass (windows and/or doors).

   b. Window Clarity. Ninety percent (90%) of area of windows shall remain clear to allow views into the commercial space.

5. Exterior Illumination. Outdoor lighting shall be attached to the exterior of the facility containing the laundromat establishment and operated after dusk so that the exterior of the premises are discernible.

6. Off-Site Impacts.

   a. Litter and debris shall be cleared from the premises and the adjacent right-of-way and sidewalks of the property at least once daily or as needed to maintain a litter free environment.

   b. Graffiti shall be removed from the exterior of the building within 72 hours of application.

   c. At least two "No Loitering" signs shall be posted on the building facade and other visible locations around the site. Signs shall be of a permanent nature and have letters a minimum of two inches in height. The owner, manager, and employees of this

establishment shall make appropriate efforts to discourage loitering from the premises including calling the police to ask that they remove loiters who refuse to leave. Persons loitering in the vicinity of the exterior of the establishment with no apparent business for more than ten minutes shall be asked to leave. Techniques discussed in the manual entitled "Loitering: Business and Community Based Solutions" shall be used.

Chapter 17.103 – SPECIAL REGULATIONS AND FINDINGS FOR CERTAIN USE CLASSIFICATIONS

Sections:

Article I –Residential Activities

17.103.010 - Residential Care, Service-Enriched Permanent Housing, Transitional Housing, and Emergency Shelter Residential Activities.

Article II - Civic Activities

17.103.020 - Special Health Care Civic Activities.

Article III - Commercial Activities

17.103.030 - Convenience Market and Fast-Food Restaurant, and Alcoholic Beverage Sales Commercial Activities.

17.103.040 - Check Cashier and Check Cashing Commercial Activities.

17.103.050 - Transient Habitation Commercial Activities.

Article IV - Industrial Activities

17.103.060 - Recycling and Waste-Related Industrial Activities -- Primary Recycling Collection Centers.

Article V –Agricultural and Extractive Activities

17.103.070 - Mining and Quarrying Extractive Activities.

Article VI –Residential Facilities

17.103.080 - One-Family Dwelling with Secondary Unit Residential Facilities.

Article VII –Nonresidential Facilities

17.103.090 - Sidewalk Café Nonresidential Facilities.

17.103.100 - Drive-Through Nonresidential Facilities.

Article IX –Sign Facilities

17.103.110 – Sign Facilities.

Article X –Telecommunications Facilities

17.103.120 – Telecommunications Facilities.

Article I –Residential Activities

17.103.010 - Residential Care, Service-Enriched Permanent Housing, Transitional Housing, and Emergency Shelter Residential Activities.

A. Additional Use Permit Criteria. A conditional use permit for any conditionally permitted Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following additional use permit criteria:

1. That staffing of the facility is in compliance with any State Licensing Agency requirements;
2. That if located in a residential zone, the operation of buses and vans to transport residents to and from off-site activities does not generate vehicular traffic substantially greater than that normally generated by Residential Activities in the surrounding area;
3. That if located in a residential zone, the on-street parking demand generated by the facility due to visitors is not substantially greater than that normally generated by the surrounding Residential Activities;
4. That if located in a residential zone, arrangements for delivery of goods are made within the hours that are compatible with and will not adversely affect the livability of the surrounding properties;
5. That the facility's program does not generate noise at levels that will adversely affect the livability of the surrounding properties.

B. Restriction on Overconcentration of Resident Care, Service-Enriched Permanent Housing, Transitional Housing, and Emergency Shelter Residential Activities. No Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility.

Article II - Civic Activities

17.103.020 – Special Health Care Civic Activities.

A. Additional Use Permit Criteria. A conditional use permit for any conditionally permitted Special Health Care Civic Activities may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following use permit criteria:

1. That each Special Health Care Civic activity be no located no less than two thousand five hundred (2,500) feet from the nearest Special Health Care Civic activity within the City of Oakland.

2. That each Special Health Care Civic activity be a minimum of five hundred (500) feet from the following activities:

   a) Schools K—12
   b) Licensed Transitional Housing
   c) Licensed Service Enriched Housing
   d) Licensed Emergency Shelters

3. That each Special Health Care Civic activity meets the following Performance Standards and that these performance standards be included as standard conditions of approval. These performance standards may be amended or expanded by the Planning Commission as they are applied to individual locations and projects:

   a) A lighting plan shall be reviewed and approved by the Zoning Administrator. Exterior lighting shall be provided on all frontages. Such lighting shall be designed to illuminate persons standing outside such that they can be identified fifty (50) feet away. Exterior lighting shall be designed so as not to cast glare offsite.
   b) A plan for any exterior changes and signage shall be reviewed and approved by the Zoning Administrator.
   c) Storefronts shall have glass or transparent glazing in the windows. No more than thirty percent (30%) of any window area shall be covered by signs, banners, or opaque coverings of any kind.
   d) Final floor plans shall be reviewed and approved by the Zoning Administrator prior to issuance of building permits.
   e) Fenced yards shall be fenced with fencing a minimum of six (6) feet tall. Such fencing shall be of an open design.
   f) One non-flammable trash container and ashtray shall be located in front of the facility for smokers.
   g) Clients shall not be allowed to loiter outside the building on the sidewalk or street. Clients waiting to be served shall be accommodated inside the building.
   h) Days and hours of operation shall be Monday through Friday, 8:00 a.m. to 6:00 p.m. Clients shall be discouraged from loitering prior to or after hours. At least one no loitering sign with letters at least two (2) inches tall shall be installed and maintained where it will be visible to pedestrians in front of the property. These performance standards and any conditions of approval, days and hours of operation, phone contact, and after hours phone contacts shall be posted where visible to the public 24 hours a day.
   i) Graffiti shall be removed within 72 hours of application. No exterior pay telephones shall be installed.
   j) Litter shall be removed at least two times daily or as needed from in front of and for twenty (20) feet beyond the building along adjacent street(s). All "street furniture" such as crates or mattresses shall be removed daily or as needed.
   k) Prior to issuance of building permits or commencement of use, applicant shall submit a needle retrieval plan for all Special Health Care Civic activities that provide needle exchange services on site. The plan shall, at a minimum, detail the protocol for the exchange of clean needles for dirty needles and for retrieving used needles within three hundred (300) feet of the site on a regular basis.

Article III - Commercial Activities

17.103.030 - Fast-Food Restaurant, Convenience Market, and Alcoholic Beverage Sales Commercial Activities.

A. Use Permit Criteria for Fast-Food Restaurants, Convenience Markets, and Establishments Selling Alcoholic Beverages. A conditional use permit for any conditionally permitted Fast-Food Restaurant, Convenience Market, or Alcoholic Beverage Sales Commercial Activity may be granted only upon

determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following additional use permit criteria:

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

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

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

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

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

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

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

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

B. Special Restrictions on Establishments Selling Alcoholic Beverages.

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

   a. On-sale retail licenses located in the Central District (defined for the purposes of this Chapter) as within the boundaries of I-980 and Brush street to the west; both sides of 27th Street to the north; Harrison Street/Lake Merritt and the Lake Merritt Channel to the east; and the Estuary to the south); or

   b. Off-sale retail licenses located in the Jack London district (defined for the purposes of this Chapter as within the boundaries of Martin Luther King Jr. Way to the west, I-880 to the north; the Lake Merritt Channel to the east; and the Estuary to the south); or

   c. If the activity is in conjunction with a Full-Service Restaurant Commercial Activity; or

   d. Establishments with twenty-five (25) or more full time equivalent (FTE) employees or a total floor area of twelve thousand (12,000) square feet or more.

2. Sale of alcoholic beverages in conjunction with a Full Service Restaurant Commercial Activity and located within any of the following restricted street areas applied to a depth of two hundred (200) feet on each side of the identified streets and portions of streets, as measured perpendicularly from the right-of-way line thereof: International Boulevard; Foothill Boulevard; MacArthur Boulevard and West MacArthur Boulevard; that portion of San Pablo Avenue lying between Highway I-980 and I-580; that portion of Edes Avenue lying between Clara Street and Bergedo Drive, shall require a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

3. In addition to the criteria prescribed elsewhere in the zoning regulations, a land use permit for an Alcoholic Beverage Sales Commercial Activity located within an Alcoholic Beverage Sales

license overconcentrated area shall only be granted, and a finding of Public Convenience or Necessity made, if the proposal conforms to all of the following three criteria:

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

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

c. That alcohol sales are customarily associated with, and are appropriate, incidental, and subordinate to, a principal activity on the lot.

4. In addition to the above criteria, projects outside the Central District and Hegenberger Corridor shall meet all of the following criteria to make a finding of Public Convenience or Necessity, with the exception of those projects that will result in twenty-five (25) or more full time equivalent (FTE) employees and will result in a total floor area of twelve thousand (12,000) square feet or more:

a. The proposed project is not within one thousand (1,000) feet of another alcohol outlet (not including Full Service Restaurant Commercial Activities), school, licensed day care center, public park or playground, churches, senior citizen facilities, and licensed alcohol or drug treatment facilities; and

b. Police department calls for service within the "beat" where the project is located do not exceed by twenty percent (20%), the average of calls for police service in police beats Citywide during the preceding one calendar year.

5. See Chapter 17.156 for Deemed Approved Alcoholic Beverage Sale regulations.

C. Special Restrictions Applying to Fast-Food Restaurants.

1. No Fast-Food Restaurant Commercial Activity shall be located within a one thousand (1,000) foot radius of an existing or approved Fast-Food Restaurant, as measured from the center of the front property line of the proposed site, except in the Central District (defined for the purposes of this Chapter as within the boundaries of I-980 and Brush Street to the west; both sides of 27th Street to the North; Harrison Street/Lake Merritt and the Lake Merritt Channel to the east; and the Estuary to the south), within the main building of Shopping Center Facilities, and in the CR-1 Regional Commercial zone.

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

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

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

5. Vacated/Abandoned Fast-Food Facilities. The project sponsor of a proposed Fast-Food Facility shall be required to obtain a performance bond, or other security acceptable to the City Attorney, to cover the cost of securing and maintaining the facility and site if it is abandoned or

vacated within a prescribed high-risk period. As used in this code, the words "abandoned" or "vacated" shall mean a facility that has not been operational for a period of thirty (30) consecutive days, except where nonoperation is the result of maintenance or renovation activity pursuant to valid City permits. The defined period of coverage is four (4) years following the obtaining of an occupancy permit. The bond may be renewed annually, and proof of renewal shall be forwarded to the Director of City Planning. The bond amount shall be determined by the City's Risk Manager and shall be adequate to defray expenses associated with the requirements outlined below. Monitoring and enforcement of the requirements set forth in this section shall be the responsibility of the Building Official, pursuant to Chapter 8.24 of the Oakland Municipal Code (O.M.C.) and those sections of the Oakland Building Code which are applicable.

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

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

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

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

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

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

17.103.040 – Check Cashier and Check Cashing Commercial Activities.

A. Additional Use Permit Criteria. A conditional use permit for any conditionally permitted Check Cashier and Check Cashing Commercial activity may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134, to any and all applicable use permit criteria set forth in the particular individual zone regulations. and to all of the following performance standards:

1. That each Check Cashier and Check Cashing Commercial activity be located not less than one thousand (1,000) feet from the nearest Check Cashier and Check Cashing Commercial activity within the city of Oakland.

2. That each Check Cashier and Check Cashing Commercial activity be a minimum of five hundred (500) feet from the following activities, which on the date of an application for Check Cashier and Check Cashing Commercial activity had a vested right under California law to operate:

   a. Community education civic activities,

   b. State or federally chartered bank, savings association, credit union, or industrial loan company,

   c. Community assembly civic activities, or

   d. Recreational assembly civic activities or

   e. Alcoholic beverage sales commercial activities, excluding full service restaurants and alcoholic beverage sales commercial activities with twenty-five (25) or more full time

equivalent (FTE) employees and a total floor area of twenty thousand (20,000) square feet or more. (Note that this precludes combining Check Cashier and Check Cashing Commercial activity with alcoholic beverage sales commercial activities because alcoholic beverage sales commercial activities are always considered a primary activity and therefore subject to this distance standard).

3. That each Check Cashier and Check Cashing Commercial activity meets the following performance standards and that these performance standards are included as standard conditions of approval. These performance standards may be amended or expanded by Staff and/or the Planning Commission as they are applied to individual locations and projects:

   a. A lighting plan shall be reviewed and approved by the Zoning Administrator prior to issuing building permits and installed prior to establishing the activity. Exterior lighting shall be provided on all frontages. Such lighting shall be designed to illuminate persons standing outside such that they can be identified fifty (50) feet away. Exterior lighting shall be designed so as not to cast glare offsite.

   b. Storefronts shall have glass or transparent glazing in the windows and doors. No more than ten percent (10%) of any window or door area shall be covered by signs, banners, or opaque coverings of any kind so that law enforcement personnel will have clear view of the entire public area in the premises from the public sidewalk.

   c. Days and hours of operation shall be, no earlier than 7:00 AM nor later than 7:00 PM Monday through Saturday. Patrons shall be discouraged from loitering prior to, during and/or after hours. At least one no loitering sign with letters at least two (2) inches tall shall be installed and maintained where it will be most visible to pedestrians on each side of the building in which the activity is located including, but not limited to, street frontages and parking lots.

   d. Graffiti shall be removed within seventy-two (72) hours of application.

   e. No exterior pay telephones shall be permitted.

   f. Litter shall be removed at least two times daily or as needed from in front of and for twenty (20) feet beyond the building along adjacent street(s). All "street furniture" such as crates or mattresses shall be removed daily or as needed.

   g. The applicant shall post at least one certified uniformed security guard on duty at all times the business is open. The security guard shall patrol the interior and all exterior portions of the property under control of the owner or lessee including, but not limited to, parking lots and any open public spaces such as lobbies.

17.103.050 Transient Habitation Commercial Activities.

A. A Conditional Use Permit for any Transient Habitation Commercial Activity may only be granted upon determination that the proposal conforms to the general use permit criteria (see Section 17.134.050) and to all of the following additional use permit criteria:

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

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

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

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

b. A full service restaurant providing three meals per day; and

c. On-site recreational amenities, which may include an exercise room, swimming pool, and/or tennis courts;

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

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

b. Landscaping that creates a pleasant visual corridor along the primary streets with a variety of local species and high quality landscape materials;

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

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

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

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

g. Lighting standards for hotel buildings, grounds and parking lots that are not ~~be~~ overly bright and direct the downward placement of light.

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

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

B. See Chapter 17.157 for Deemed Approved Hotel regulations.

Article IV –Industrial Activities

17.103.060 - Recycling and Waste-Related Industrial Activities -- Primary Recycling Collection Centers.

A. Applicability. This Section applies to Recycling and Waste-Related Industrial Activities -- Primary Collection Centers that are located in any zone. Where there is any apparent conflict between these regulations and regulations contained elsewhere in this Title 17, and/or with conditions of approval, the more stringent shall govern.

B. Performance Standards. In addition to the performance standards set forth in Chapter 17.120, the performance standards specified in Subsection 17.73.035.B. shall be uniformly applied, as applicable, and the relief from the performance standards in Subsection 17.73.035.C. shall apply to all Primary Collection Centers.

Article V –Agricultural and Extractive Activities

17.103.070 - Mining and Quarrying Extractive Activities.

See Chapter 17.155 for special regulations regarding Mining and Quarrying Extractive Activities.

Article VI –Residential Facilities

17.103.080 - One-Family Dwelling with Secondary Unit Residential Facilities.

A. Development Standards. The following regulations shall apply to the construction, establishment, or alteration of Secondary Units wherever permitted or conditionally permitted, as specified in each individual zone:

1. Other Uses on Property. A Secondary Unit shall only be permitted on a lot that contains only one other primary dwelling unit. A Secondary Unit may be approved and constructed at the same time or after the approval and construction of the primary dwelling unit.

2. Sale of Unit. A Secondary Unit shall not be sold separately from the primary dwelling on the same lot.

3. Owner Occupancy. The legal owner shall occupy either the primary dwelling or the Secondary Unit. Prior to issuance of a building permit for a Secondary Unit, the applicant shall record as a deed restriction in the Alameda County Recorder's Office, notice of this requirement, in a form prescribed by the Director of City Planning.

4. Maximum Permitted Floor Area. The floor area of a Secondary Unit shall not exceed nine hundred (900) square feet or fifty percent (50%) of the floor area of the primary dwelling, whichever is less, except that Secondary Units of up to five hundred (500) square feet in floor area are permitted regardless of the size of the primary dwelling.

5. Fire Flow and Water Pressure. A Secondary Unit may be permitted only if the fire flow and water pressure in the adjoining street meets the minimum requirements as determined by the Fire Marshal.

6. Emergency Access—Multiple Vehicular Outlets. A Secondary Unit may be permitted only on a lot which has frontage on a through street, or a dead-end street that has a total length of less than three hundred (300) feet. 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 private access easement is connected to said dead-end street.

7. Emergency Access—Minimum Pavement Width. A Secondary Unit may be permitted only if all streets connecting the lot to the nearest arterial street (as designated by the City of Oakland General Plan Land Use and Transportation Element) have a minimum pavement width of at least twenty-four (24) feet. The minimum pavement width limitation may be reduced to a minimum of twenty (20) feet, upon the granting of a conditional use permit, pursuant to the criteria in subsection B of this section, and the conditional use permit procedure in Chapter 17.134

8. Public Sanitary Sewer. A Secondary Unit may be permitted only if it is served by a public sanitary sewer.

9. Architectural Compatibility. The Secondary Unit shall be clearly subordinate to the primary dwelling unit in size and location. Also, the architectural design and materials of a Secondary Unit shall match or be visually compatible with that of the primary dwelling, including the

architectural style, siding material, roof shape, roofing material, trim material and design, window types, window trim, and window sill detail.

10. Compliance with Building and Fire Codes. All Secondary Units shall comply with all other code and permit requirements imposed by all other affected departments, including but not limited to fire separation, sound separation, egress, utility access, and the requirement for a building permit.

11. Review Procedure. An application for a Secondary Unit of up to five hundred (500) square feet shall be granted ministerial approval as specified in Section 17.136.025 upon confirmation of compliance with all applicable zoning regulations, including but not limited to, all provisions in this Section. The five hundred (500) square-foot floor area threshold for a Secondary Unit may only be exceeded, up to a maximum of nine hundred (900) square feet or fifty percent (50%) of the floor area of the primary dwelling, whichever is less, upon the granting of small project design review, pursuant to the small project design review procedure in Section 17.136.030.

B. Use permit criteria for Secondary Units accessed via narrow streets. A conditional use permit for a Secondary Unit accessed from the nearest arterial street via a street with a minimum pavement width of between twenty (20) and twenty-four (24) feet may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the general use permit procedure in Chapter 17.134 and to all of the following additional use permit criteria:

1. That there is adequate emergency access to the lot as determined by the Fire Marshall.

2. That the portions of the street that have a pavement width of less than twenty-four (24) feet are not located on a dead-end street.

3. That if on-street parking is permitted on portions of the street that have a pavement width of less than twenty-four (24) feet, that there exist a level and hard surface shoulders with a combined additional width of at least eight (8) feet.

4. That if on-street parking is prohibited on portions of the street that have a pavement width of less than twenty-four (24) feet, that the restricted parking areas are clearly marked with official City installed no-parking signs and/or red curbs, pursuant to the provisions of the Oakland Traffic Code (Title 10 of the Oakland Municipal Code).

Article VIII –Nonresidential Facilities

17.103.090 - Sidewalk Café Nonresidential Facilities.

A. Procedures for Construction of Sidewalk Cafe Facilities.

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

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

B. Standards for Sidewalk Cafes.

1. Sidewalk Cafes shall not encroach upon any public right-of-way unless a minimum of five and one-half (5½) feet of unobstructed improved sidewalk remains available for pedestrian purposes. The minimum distance shall be measured from the portion of the Sidewalk Cafe encroachment which is nearest to any obstruction within the sidewalk area. For purposes of the minimum clear path, parking meters, traffic signs, trees and all similar obstacles shall constitute obstruction.

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

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

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

17.103.100 - Drive-Through Nonresidential Facilities.

A. Conditional Use Permit for any Drive-Through Nonresidential Facility may only be granted upon determination that the proposal conforms to the general use permit criteria (see Section 17.134.050) and to all of the following additional use permit criteria:

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

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

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

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

C. Each vehicle space comprising a stacking or queuing lane for a drive-through window drive-through window in a Drive-Through Nonresidential Facility shall be a minimum of ten (10) feet in width by twenty (20) feet in length. Such a stacking or queuing lane shall have a minimum capacity of eight (8) vehicles.

Article IX –Sign Facilities

17.103.110 – Sign Facilities.

See Chapter 17.104 for special regulations regarding Sign Facilities.

Article X –Telecommunications Facilities

17.103.120 – Telecommunications Facilities.

See Chapter 17.128 for special regulations regarding Telecommunications Facilities.

17.104.020 - General limitations on signs—RU-4 and RU-5 zones, and all Commercial and Industrial zones and the RU-4 and RU-5 zones.

The following limitations shall apply to the specified signs in the RU-4 and RU-5 zones and all Commercial and Industrial zones, except as otherwise provided herein, and are in addition to the limitations, if any, prescribed for signs in the applicable individual zone regulations and development control maps:

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

B. Permitted Aggregate Sign Area.

1. In the RU-4 and RU-5 zones and all Commercial zones, the maximum aggregate area of display surface of all business, civic, and residential signs on any one lot shall be one square foot for each one foot of lot frontage in the case of an interior lot, or 0.5 square feet for each one foot of lot frontage in the case of a corner lot. The aggregate shall include only one face of a double-faced sign. The total amount of aggregate sign area shall not exceed two hundred (200) square feet on any one property. Exceptions to the total amount of aggregate sign area normally allowed on any one property may be approved pursuant to the regulations in Subsection B(3) below and to the small project design review procedure in Chapter 17.136.

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

3. Exception to Aggregate Sign Area Limits. The following exceptions to the aggregate sign area limits may be approved:

a. In cases in which the maximum aggregate sign area for a property is already being utilized by a portion of the existing tenant spaces in a multi-tenant building or complex, twenty (20) square feet of sign area for each tenant space in the multi-tenant building or complex without existing signage on site is allowed if approved pursuant to the small project design review procedure in Chapter 17.136.

b. Signs conforming to a Master Sign Program approved pursuant to Section 17.104.070.

F. Development Signs. In RU-4 and RU-5 zones and all Commercial and Industrial zones, the maximum aggregate area of display surface of all development signs on any one lot shall be either seventy-five (75) square feet or one square foot for each two (2) feet of street line abutting the lot, whichever is greater. However, a greater area of display surface may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

H. Signs Within One thousand (1,000) Feet of Rapid Transit Routes. Signs within one thousand (1,000) feet of the centerline of rapid transit routes shall be subject to the applicable limitations set forth in Sections 17.104.040 and 17.114.150.

J. Temporary Business Signs.

1. Size Allowed. Temporary signs are allowed in addition to permanent signs. The size of the temporary signs may not exceed the allowed square footage for permanent signs.

2. Allowed Time Limits.

   a. Grand Opening Signs. Temporary signs for the purpose of grand openings of a new business can be in place for a maximum of thirty (30) days. The installation date of the sign shall be placed on the sign to verify compliance with this regulation.

   b. Special Event Signs. Temporary signs for the purpose of special events may be placed on site a maximum of four (4) times per calendar year and a maximum of five (5) consecutive days per event.

3. Placement of Signs.

   a. Signs are allowed on private property only. Signs shall not he placed in public rights-of-way or at off-site locations.

   b. Signs must be affixed to a permanent structure.

4. Temporary signs shall not be illuminated.

5. Durable Materials Required. Signs shall be constructed of durable, rigid material suitable to the location and purpose. Only interior window signs may he made of nonrigid (e.g. paper) material.

6. Removal of Signs. Temporary signs and their components shall be promptly removed at the expiration of the time limits set forth above.

17.104.030 - General limitations on signs—S-1, S-2, S-3 and S-15 zones.

The following limitations shall apply to the specified signs in the S-1, S-2, S-3 and S-15 zones, and are in addition to the limitations, if any, prescribed for signs in the applicable individual zone regulations or development control maps:

B. Permitted Aggregate Sign Area. S-1, S-2, S-3 and S-15 Zones. The maximum aggregate area of display surface of all business, civic, and residential signs on any one lot shall be one square foot for each one foot of lot frontage in the case of an interior lot, or 0.5 square feet for each one foot of lot frontage in the case of a corner lot. The aggregate shall include only one face of a double-faced sign. The total amount of aggregate sign area shall not exceed two hundred (200) square feet on any one property. Exceptions to the total amount of aggregate sign area normally allowed on any one property may be approved pursuant to the regulations in Subsection B(1) below.

   1. Exception to Aggregate Sign Area Limits. The following exceptions to the aggregate sign area limits may be approved:

      a. In cases in which the maximum aggregate sign area for a property is already being utilized by a portion of the existing tenant spaces in a multi-tenant building or complex, twenty (20) square feet of sign area for each tenant space in the multi-tenant building or complex without existing signage on site is allowed if approved pursuant to the small project design review procedure in Chapter 17.136.

      b. Signs conforming to a Master Sign Program approved pursuant to Section 17.104.070.

F. Signs within One Thousand (1,000) Feet of Rapid Transit Routes. Signs within one thousand (1,000) feet of the centerline of rapid transit routes shall be subject to the applicable limitations set forth in Sections 17.104.040 and 17.114.150.

17.104.040 - Limitations on Signs within one thousand (1,000) feet of rapid transit routes.

The following limitations shall apply in all zones, within one thousand (1,000) feet of the centerline of every rapid transit route, after the date of official determination thereof and except where the route is

underground. The distance shall be measured perpendicularly from said centerline, i.e., at right angles to said centerline. These provisions shall not prohibit a sign identifying an on-premises business or naming the product manufactured thereon, except to the extent of requiring design review approval.

A. Design Review for Certain New or Altered Signs the Advertising Material of Which Is Primarily Viewable from the Transit Route.

1. No sign the advertising material of which is or has become primarily viewable by the passengers on the transit route shall be constructed, established, reoriented, changed as to illumination, or otherwise altered or painted a new color unless plans for such Sign have been approved pursuant to the regular design review procedure in Chapter 17.136.

2. The Director of City Planning shall determine which signs are or have become primarily viewable by the passengers on the transit route, subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132.

17.104.070 - Master Sign Programs.

C. Review of individual signs upon approval of a Master Sign Program. Once a Master Sign Program is approved for any multi-tenant building or complex, the following provisions shall apply:

1. Sign applications determined to conform to the provisions of an approved Master Sign Program shall be exempt from design review as is otherwise specified in Chapter 17.136.

2. Sign applications determined to not conform to an approved Master Sign Program may only be granted upon approval of a revision to the original Master Sign Program conditional use permit.

17.106.030 - Maximum density and floor-area ratio on lots containing both Residential and Nonresidential Facilities.

A. Portion of Lot Area Used in Computing Density in the Central Business District and Jack London District. For mixed use projects in the Central Business District ~~CBD zones~~ and Jack London district, the allowable intensity of development shall be measured according to both the maximum nonresidential Floor Area Ratio (FAR) allowed by the zone and the maximum residential density allowed by the zone. The total lot area shall be used as a basis for computing both the maximum nonresidential FAR and the maximum residential density. ~~may be measured according to the maximum FAR allowed by the zone without a separate residential density calculation, provided the maximum number of units pursuant to the residential density allowed by the General Plan and Estuary Policy Plan is not exceeded.~~ (The Central Business District is that area identified as part of the Land Use and Transportation Element Land Use Diagram of the General Plan. The Jack London district is that area identified as part of the Estuary Policy Plan and adopted as part of the General Plan~~.~~).

B. Portion of Lot Area Used in Computing Density in Areas other than the Central Business District and Jack London District. For mixed use projects located in areas other than the Central Business District ~~CBD zones~~ and Jack London district, in which a maximum Floor Area Ratio (FAR) is generally prescribed for Nonresidential Facilities, no portion of lot area used to meet the density requirements for a Residential Facility shall be used as a basis for computing, through such Floor Area Ratio, the maximum amount of floor area for any Nonresidential Facility on the same lot, unless the total nonresidential floor area on the lot is less than three thousand (3,000) square feet.

C. Different Floor-Area Ratios. In all zones in which the maximum Floor-Area Ratio (FAR) generally prescribed for Residential Facilities is different from that for Nonresidential Facilities, the overall maximum Floor-Area Ratio of any lot containing both Residential and Nonresidential Facilities shall be the greater of the two prescribed Floor-Area Ratios. However, the total floor area actually devoted to each class of facility shall not exceed the maximum ratio prescribed for that class.

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

A conditional use permit for an increase in the number of living units or Floor-Area Ratio (FAR) upon acquisition of nearby development rights, wherever such increase is provided for in the applicable individual zone regulations, may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and to all of the following additional use permit criteria:

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

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

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

17.107.020 - Definitions.

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

1. Where units are targeted as being affordable to low income households, housing costs for rental units must be equal to or less than thirty percent (30%) of the gross monthly income, adjusted for household size, of sixty percent (60%) of the median income for the Oakland PMSA. Housing costs for for-sale units must be equal to or less than thirty ~~(30)~~ percent (30%) of the gross monthly income, adjusted for household size, of seventy percent (70%) of the median income.

2. Where units are targeted as being affordable to very low income households, housing costs for rental units and for for-sale units must be equal to or less than thirty percent (30%) of the gross monthly income, adjusted for household size, of fifty percent (50%) of the median income for the Oakland PMSA.

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

E. Moderate, Low and Very Low Income Households. "Moderate, low and very low income households" means those households whose income matches levels determined periodically by the U.S. Department of Housing and Urban Development, based on the Oakland Primary Metropolitan Statistical Area (PMSA) median income levels by family size, under which:

1. "Moderate income" is defined as greater than eighty percent (80%) to one ~~-~~ hundred ~~-~~ twenty (120) percent of median income.

2. "Low income" is defined as greater than fifty percent (50%) to eighty percent (80%) of median income.

3. "Very low income" is defined as less than fifty percent (50%) of median income.

17.107.040 - Findings required.

A. Density Bonus.

Whenever action is taken on an application for design review of a housing development of at least five units which also seeks approval of a density bonus, the city shall grant the applicant a density bonus and, unless findings justifying the denial of an incentive are adopted, one density incentive, as set forth in Section 17.107.020(C), if the applicant proposes to build one of the following. Nothing in this section shall preclude the requirement for design review as provided for in the individual zone regulations:

1. Where the request is for a density bonus of twenty-five ~~(25)~~ percent (25%), or less if requested by the applicant, and the applicant proposes that:

   a. Twenty ~~(20)~~ percent (20%) of the total housing units shall be affordable to low income households; or

b. Ten ~~(10)~~ percent (10%) of the total housing units shall be affordable to very low income households; or

c. Fifty ~~(50)~~ percent (50%) of the total housing units shall be affordable to qualifying residents as defined in Section 51.3 of the Civil Code (senior citizens); or

d. Fifty ~~(50)~~ percent (50%) of the total housing units are affordable to moderate income households and an additional ten percent of the total housing units are affordable to low income households and the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 except that the density bonus cannot exceed the maximum density in the General Plan.

2. Where the request is for a density bonus of ten ~~(10)~~ percent (10%), or less if requested by the applicant, and the project is a residential condominium development, and twenty ~~(20)~~ percent (20%) of the total housing units are and will continue to be affordable to moderate income households.

3. Where the request is for a density bonus of greater than twenty-five ~~(25)~~ percent (25%), but not more than one hundred ~~(100)~~ percent (100%), the reviewing body shall find that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and that the proposal provides additional housing units that are affordable to very low income, low income or moderate income households, beyond the minimum requirements described above, proportional to the additional density bonus. Proposals for senior citizen housing projects that conform to the requirements of Section 17.106.060 may request a total density bonus, over the allowable base density, of up to one hundred (100) percent.

Sections:

17.108.010 - Height restrictions on lots abutting property in an RH, RD, or RM zone.

17.108.020 - Different maximum height in certain situations.

17.108.030 - Allowed projections above height limits.

17.108.080 - Minimum side yard opposite living room windows.

17.108.120 - Minimum court between opposite walls on same lot.

17.108.130 - Exceptions to required openness of minimum yards and courts.

17.108.140 - Fences, dense hedges, barrier, and similar freestanding walls.

17.108.150 - Retaining walls

17.108.030 - Allowed projections above height limits.

The height restrictions prescribed for facilities in the applicable individual zone regulations and development control maps and in Sections 17.108.010 and 17.108.020 may be exceeded in accordance with the following table. However, facilities within required minimum yards and courts shall also be subject to the applicable provisions of Section 17.108.130.

Facilities Allowed Above the Prescribed Height	Restrictions on Facility, or Portion Thereof, Above the Prescribed Height		
	Maximum Aggregate Coverage of the Building's Horizontal Area (If on a Building)	Maximum Vertical Projection Above the Prescribed Height	Minimum Horizontal Distance from any Abutting Residentially Zoned Lot
A. Chimneys, ventilators, plumbing vent stacks, water tanks, cooling towers, machinery rooms, and other equipment and appurtenances which are not provided for elsewhere in this section. (For screening around these, see below.)	Ten percent (10%) ~~percent~~, minus any percentage covered pursuant to subsection B of this section.	Ten (10) feet, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134	Fifteen (15) feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four (4) feet.
B. Elevator or stair towers; penthouses, excluding those containing any living unit; stage or scenery lofts in theatres or performance venues; skylights and dormer windows located on principal and accessory Nonresidential Facilities; and rooftop fenced or walled spaces which do not qualify elsewhere in this section.	Ten percent (10%) ~~percent~~, minus any percentage covered pursuant to subsection A of this section.	Twelve (12) feet, except upon the granting of a conditional use permit.	Ten (10) feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four (4) feet.
C. Skylights, dormers and gable ends up to fifteen (15) feet in width located on principal and accessory Residential Facilities, except accessory facilities permitted in minimum yards or courts pursuant to Section 17.108.130K.	Ten percent (10%) ~~percent~~, minus any percentage covered pursuant to subsection A of this section.	Ten (10) feet for dormers and gable ends and one foot for skylights, but in all cases, no higher than the maximum height of the roof section on which they are located, except that skylights on a flat roof (slope 1:12 or less) may extend one (1) foot above the roof	Ten (10) feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four (4) feet.
D. Decorative features such as spires, bell towers, domes, cupolas, obelisks, and monuments.	Ten percent (10%) ~~percent~~, minus any percentage covered pursuant to	Fifteen (15) feet, except upon the granting of a conditional use permit.	Fifteen (15) feet, except upon the granting of a conditional use permit; but no restriction if the vertical

	subsection A or B of this section.		projection above the prescribed height does not exceed four (4) feet.
E. Fire escapes, catwalks, and open railings required by law.	No restriction.	No restriction.	No restriction.
F. Rooftop recreational, observation, seating, outdoor dining, clothesline, and parking facilities, unroofed themselves except for incidental sunshades, wind-screens, and similar devices; rooftop landscaping, other than trees; and unroofed open stairs and rooftop open fencing which do not qualify elsewhere in this section.	No restriction.	Ten (10) feet, except upon the granting of a conditional use permit.	Fifteen (15) feet, except upon the granting of a conditional use permit; but no restriction if the vertical projection above the prescribed height does not exceed four (4) feet.
G. Eaves, awnings, balconies, open stairs, and similar lateral extensions of a building, where the prescribed height is expressed as a ratio to some horizontal setback.	No restriction.	Four (4) feet in the case of Section 17.108.010 and eight (8) feet otherwise.	No restriction.
H. Microwave and satellite dishes which are over ~~one (1) meter~~three (3) feet in diameter and located in any residential zone or within one hundred fifty (150) feet from the nearest boundary of any residential zone, subject where applicable to the provisions of Section 17.102.240	Ten percent (10%) ~~percent~~ minus any percentage covered pursuant to subsection A or B of this section.	Seven (7) feet, except upon the granting of a conditional use permit.	Ten (10) feet, except upon the granting of a conditional use permit.
I. Radio and television masts antennas, other than micro-wave and satellite dishes.	No restriction.	Fifteen (15) feet, except upon the granting of a conditional use permit.	Five (5) feet, except upon the granting of conditional use permit.
J. Trees; flagpoles; weather vanes; microwave and satellite dishes which are one (1) meter or less in diameter; and utility poles and lines.	No restriction.	No restriction.	No restriction.
K. Special Signs; and other Signs if flat against the surface of a facility authorized above.	No special restriction, but subject to the regular height and other limitations applicable to Signs.	No special restriction, but subject to the regular height and other limitations applicable to Signs.	No special restriction, but subject to the regular height and other limitations applicable to Signs.

Any conditional use permit under subsection H of this section shall be subject to the same use permit criteria as are prescribed in Section 17.102.240.

17.108.080 - Minimum side yard opposite living room windows.

On each lot containing Residential Facilities with a total of two or more living units, except in the case of a One-Family Dwelling with Secondary Unit, a side yard with the minimum width prescribed hereinafter shall be provided opposite any legally required window of a living room in a Residential Facility wherever such window faces any interior side lot line of such lot, other than a lot line abutting an alley, path, or public park. The side yard prescribed by this section is not required on other lots or in other situations. Such yard shall have a minimum width of eight (8) feet, plus two (2) feet for each story at or above the level of the aforesaid window; provided, however, that such side yard width shall not be required to exceed ten percent (10%) ~~percent~~ of the lot width in the RU-3, RU-4, RU-5, R-80, CN, CC, C-40, C-45, CBD, S-1, S-2, S-15, and D-KP zones and fifteen percent (15%) of the lot width in all other zones, except that in no case shall such side yard width be less than five (5) feet. The side yard required by this section shall be provided opposite the legally required window and opposite that portion of the wall containing

such window, or of any extension of such wall on the same lot, for a distance of not less than eight (8) feet in both directions from the centerline of such legally required window, and at and above finished grade or the floor level of the lowest story containing such a window, whichever level is higher. Such yard shall be provided unobstructed except for the accessory structures or the other facilities allowed therein by Section 17.108.130.

17.108.130 - Exceptions to required openness of minimum yards and courts.

Every part of each required minimum yard and court shall be open and unobstructed from finished grade, or where applicable from such other specified level at which the yard or court is required, to the sky except for the facilities allowed in the yard or court by the following table. Furthermore, in no case shall more than fifty percent (50%) of the horizontal area of any required minimum rear yard be covered by any facilities, other than trees, which extend more than six (6) feet above the level at which the rear yard is required. Wherever a yard is required only for a particular facility, it may be provided at the level of the lowest story containing such facility; provided that where such facility is a Residential Facility, such level shall be that of the lowest story, or portion thereof, containing any living unit. Where the height of facilities within minimum yards or courts is not specifically further limited by the following table, the facilities shall conform to the regular height restrictions, if any, applicable to facilities where they are located. Facilities within minimum yards and courts shall also be subject to any applicable screening requirements or other controls prescribed by the buffering regulations in Chapter 17.110 or by the pertinent development control maps or individual zone regulations, which in some zones require that minimum front yards, or side yards on the street side of a corner lot, be landscaped.

Facilities	**Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)**				
	Front Yard	**Side Yard on Street Side of Corner Lot**	**Side Yard Along Interior Side Lot Line**	**Rear Yard (But see coverage limit in first paragraph.)**	**Court**
T. Retaining walls; and earthen mounds, embankments, and other fill.	In any yard or court, provided that such facilities comply with the provision of Section 17.108.150. ~~17.102.400(E).~~				

17.108.140 - Fences, dense hedges, barrier, and similar freestanding walls.

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. In the locations specified below, the height of any fence, dense hedge, or barrier or similar freestanding wall, but excluding retaining walls, shall not exceed the following:

a. In any minimum front yard, or any minimum side yard on the street side of a corner lot: forty two (42) inches, except that six (6) feet is permitted in the following cases:

i. In the portions of street side yards located within the greater of the following distances, from the rear lot line:

a) Thirty-five (35) feet from the rear lot line;

b) The distance between the rear lot line and a line that is perpendicular to the street side lot line and that extends to the rearmost enclosed portion of the primary building on the lot; or

ii. Upon the granting of small project design review pursuant to the small project 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 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. Materials. The following materials are restricted in constructing or rebuilding walls or fences:

a. Barbed wire or razor wire is not allowed to be used in fences.~~, see also Section 17.102.420.~~

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-2, S-3, and S-15 zones. The provisions of this subsection apply to all properties ~~fences, dense hedges, barrier and similar freestanding walls, but excluding retaining walls,~~ located ~~with~~ in all commercial zones and in the OS, S-1, S-2, S-3, and S-15 zones.

1. Height:

a. The height of any fence, dense hedge, barrier or similar freestanding wall located within ten (10) feet of any abutting property located in a residential zone shall not exceed eight (8) feet. A fence higher than eight (8) feet but no more than ten (10) feet may only be permitted in these locations upon the granting of small project design review pursuant to the small project 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 shall be ten (10) feet.

2. Restricted materials. In any location visible from the adjacent public right of way, no barbed wire or razor wire shall be permitted as part of or attached to fences or walls, or attached to the exterior of any building or similar facility.~~, see also Section 17.102.420.~~

a. Exceptions: Fences enclosing the following activities shall be exempted from the above limitation on barbed wire and razor wire where the Director of City Planning determines that trespassing could present a public safety hazard and/or disruption of public utility, transportation, or communication services:

i. Public utility installations, including but not limited to electrical substations and gas substations.

ii. Rights of way and transit routes.

D. Industrial zones. The provisions of this subsection apply to all properties ~~fences, dense hedges, barrier and similar freestanding walls~~ located ~~with~~ in all industrial zoning districts.

1. Height:

a. The maximum height of any fence, dense hedge, barrier or similar freestanding wall located within ten (10) feet of any abutting property located within a residential zone shall be eight (8) feet. A fence higher than eight (8) feet but no more than ten (10) feet may only be permitted in these locations upon the granting of small project design review pursuant to the small project design review procedure in Chapter 17.136.

17.110.040 - Special buffering requirements.

A. Open Storage Areas on Same Lot as Residential Facility—Screening Required Within Three Years. In all zones, on any lot which contains both a Residential Facility and any area devoted to open storage or display of goods or materials, said open storage or display area shall be screened from all abutting lots, streets, alleys, and paths, and private streets or other ways described in Section 17.106.020, by dense landscaping not less than five and one-half (5½) feet high and not less than three (3) feet wide, or by a decorative screening fence or wall not less than five and one-half (5½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said chapter. Existing open storage and display areas on such lots shall either be removed or provided with the above prescribed screening within three years after the effective date of the zoning regulations.

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

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

Chapter 17.114 - NONCONFORMING USES
Sections:

Article I - General Provisions

17.114.010 - Title, purpose, and applicability.

17.114.020 - Definitions.

17.114.030 - Effect of Prior permits.

17.114.040 - Right to continue nonconforming use, subject to limitations.

Article II - Nonconforming Activities

17.114.050 - Nonconforming activity—Discontinuance.

17.114.060 - Nonconforming activity—Damage or destruction.

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—Discontinuance required within one year.

Article III - Nonconforming Facilities

17.114.110 - Nonconforming facility—Allowed alterations.

17.114.120 - Nonconforming facility—Damage or destruction.

17.114.130 - Nonconforming open storage on same lot as Residential Facility—Screening required within three years.

17.114.140 - Nonconforming open storage in CN, CR-1 and M-20 zones—Screening required within three years.

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

17.114.160 - Reserved.

17.114.170 - Nonconforming Signs in CN-1 zone—Removal required.

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

17.114.030 - Effect of Prior permits.

A. Fundamental Vested Rights Not Abrogated By Code Adoption or Amendment. The adoption of, or amendment to, the Planning Code (Chapter 17), including without limitation, ordinances enacted pursuant to Oakland City Charter Section 213 (Emergency Ordinances) and/or ordinances enacted pursuant Government Code Section 65858 (Urgency Measure/moratoria), shall not abrogate any fundamental vested rights established pursuant to State law, including, without limitation, those established pursuant to the prior valid adoption and execution of a development agreement under Section 17.138.015 and the development agreement procedure in Chapter 17.138. Absent the prior establishment of such vested rights, any Planning Code adoption or amendment shall apply.

B. Alcoholic Beverage Control Licenses. On premises for which a valid state of California Alcoholic Beverage Control license had been issued, and which premises had been used in the exercise of the rights and privileges conferred by the license at a time immediately prior to the effective date of the applicable provisions of Section 17.103.030, the premises may hereafter be used in the exercise of the same rights and privileges without requiring a conditional use permit or having to meet the provisions of the aforesaid section. The uses as they result that do not conform to the zoning regulations shall be deemed a nonconforming use and subject to the nonconforming use regulations, except as otherwise provided in Sections 17.114.020 and 17.114.030. For the purposes of this subsection, the word "premises" shall mean and include only the actual space within a building devoted to the sale of alcoholic beverages on said effective date.

~~A. Building and Sign Permits and Development Agreements. As specified in Sections 17.102.040 and 17.102.310, uses may in certain cases be established, constructed, altered, extended, substituted, moved, or otherwise changed on the basis of building or sign permits or development agreements although the zoning regulations or a rezoning or other amendment thereto would otherwise prohibit such use, development, or change.~~

~~B. Alcoholic Beverage Control Licenses. Notwithstanding the provisions of the nonconforming use regulations, said provisions shall not apply to the extent that they would preclude the exercise of the same rights and privileges as those conferred by a valid state of California Alcoholic Beverage Control license for premises which had been used in the exercise of such rights and privileges at a time immediately prior to the effective date of the applicable provisions of Section 17.102.210. For the purposes of this Subsection, the word "premises" shall mean and include only the actual space within a building devoted to the sale of alcoholic beverage.~~

(Prior planning code § 7402)

17.114.040 - Right to continue nonconforming use, subject to limitations.

A. Right to Continue. A nonconforming use which is in existence on the effective date of the zoning regulations or of any subsequent rezoning or other amendment thereto which makes such use nonconforming, and which existed lawfully under the previous zoning controls, or which is subsequently developed or changed pursuant to Section 17.114.030, may thereafter be continued and maintained indefinitely, and the rights to such use shall run with the land, except as otherwise specified in the nonconforming use regulations. However, no substitution, extension, or other change in activities and no alteration or other change in facilities is permitted except as otherwise provided in Section 17.114.030 and except as specifically provided hereinafter.

B. Limitation on Right to Continue Nonconforming Auto and Truck Related Activities in All Districts. As used in regards to all such nonconforming auto and truck related activities, the word "activity" refers solely to the unique function or operation occurring on the affected property, and does not refer to any other activity within an activity type with which that activity is grouped. Any right to substitute,

extend or alter an existing auto or truck related activity refers solely to the specific existing function or operation, and does not provide any right to substitute, extend or alter that activity with any other type of activity within the activity type with which the activity is grouped.

Article II - Nonconforming Activities

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) the sale of alcoholic beverages at any full-service restaurant in a location described by Section ~~17.102.210~~ 17.103.030(B), or 3) an Automotive Servicing or Automotive Repair and Cleaning Activity in the D-BR ~~S-5~~ Zone, 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 year, or occupies less than four hundred (400) square feet of floor area and hereafter discontinues active operation for a continuous period of six 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 Section 17.114.070A, 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.

B. Whenever an Alcoholic Beverage Sales Commercial Activity, or sale of alcoholic beverages at any full-service restaurant in a location described by Section ~~17.102.210~~ 17.103.030(B), discontinues active operation for more than ninety (90) days or ceases to be licensed by the State Department of Alcoholic Beverage Control, it may be resumed only 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 Section 17.114.070A. Section 17.114.060 shall also apply.

C. Whenever an Automotive Servicing or Automotive Repair and Cleaning Activity in the D-BR Zone discontinues active operation for more than six (6) months, it may be resumed only 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 Section 17.114.070(A). Section 17.114.060 shall also apply.

17.114.060 - Nonconforming activity—Damage or destruction.

A. Nonconforming Nonresidential Activities. Facilities accommodating or serving any nonconforming nonresidential activity which are damaged or destroyed to the extent of not more than seventy-five percent (75%) may be restored to their prior condition and occupancy. If such damage or destruction exceeds seventy-five percent (75%), the facilities may thereafter only be restored to accommodate or serve the prior nonconforming activity upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

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, S-2, or S-3 zone.	Any such Industrial Activity where it is not a permitted or conditionally permitted activity.	Any 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)
	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)
	~~Transport and Warehousing~~	~~(see below)~~
	Animal Care	(see below)
	Animal Boarding	(see below)
	Undertaking Service	(see below)
	Scrap Operation	(see below)
		Any 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 and Small Scale Entertainment	(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)
	Consultative and Financial Service	(see below)
	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 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 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 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. Further, no change shall be made in any nonconforming activity involving the sale of alcoholic beverages at a full service restaurant in any location described by Section ~~17.102.210~~ 17.103.030(B)(2), which change requires obtaining a different type of alcoholic beverage sale retail license from the state of California Department of Alcoholic Beverage Control, unless a conditional use permit is granted pursuant to the conditional use permit procedure in Chapter 17.134.
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.

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 ~~(20)~~ percent (20%) of that already existing. See 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.

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 ~~17.102.100~~ 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.

17.114.100 - Nonconforming scrap operation commercial 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 a nonconforming activity, all nonconforming Scrap Operation Commercial 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

17.114.110 - Nonconforming facility—Allowed alterations.

A. When Occupied by Conforming Activity. Except as otherwise provided in Section 17.114.120, a nonconforming facility which accommodates or serves a conforming activity may be altered or otherwise changed, and the lot lines of the lot containing it may be changed, in any way which does not create any new nonconformity or increase the degree of any existing nonconforming with respect to any requirement applying to facilities. Any new, relocated, or wholly reconstructed part of a facility shall itself conform to all applicable such requirements. Nonconforming Residential Facilities containing a total of more than one living unit on a lot, when located in a zone where only one living unit is permitted on a lot, shall be subject to the requirements generally applying in the RU-2 zone with respect to side yards opposite living room windows; courts; and usable open space. Nonconforming Nonresidential Facilities which are not themselves permitted facility types in the zone where they are located shall not be increased in floor area or overall outside dimensions; relocated, except to remove a nonconformity; or wholly reconstructed.

B. When Occupied by Nonconforming Activity. Except as otherwise provided in Section 17.114.120, a nonconforming facility which accommodates or serves a nonconforming activity may be altered or otherwise changed, and the lot lines of the lot containing it may be changed, subject to the conditions of Section 17.114.080 as well as those of subsection A of this section. In such a case, new Signs of a type not otherwise permitted may be developed as authorized by subsections A and B of Section 17.114.080.

C. Conversion from Advertising Sign in the CN, CR-1, or S-15 zones. No nonconforming Advertising Sign in the CN, CR-1, or S-15 zones shall be converted, by change of copy or otherwise, to any other type of Sign unless the entire Sign as converted meets all the requirements of said zone for a new Sign, including design review approval.

D. Conversion from Advertising Sign Within One Thousand (1,000) Feet of, and Primarily Viewable from, Rapid Transit Route. No Advertising Sign shall be converted, to any other type of Sign unless the Sign as converted is approved, in a content-neutral manner, pursuant to the design review procedure in Chapter 17.136 and the provisions of Section 17.104.040A.

17.114.120 - Nonconforming facility—Damage or destruction.

A. Nonconforming Nonresidential Facilities. Nonconforming nonresidential facilities which are damaged or destroyed to the extent of not more than seventy-five percent (75%) may be restored to their prior condition and occupancy. If such damage or destruction exceeds seventy-five percent (75%), the facilities may thereafter only be restored to their prior condition upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

17.114.130 - Nonconforming open storage on same lot as Residential Facility—Screening required within three years.

On any lot containing a Residential Facility, any open area which is devoted to storage or display of goods or materials shall, within three (3) years after the effective date of the zoning regulations, be either removed or made to conform to the applicable screening requirements of Section 17.110.040A.

(Prior planning code § 7432)

17.114.140 - Nonconforming open storage in CN, CR-1 and M-20 zones—Screening required within three years.

In the CN, CR-1, and M-20 zones, all open storage areas shall, within three (3) years after inclusion in said zones, be either removed or made to conform to the screening requirements of Section 17.110.040B.

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 which is painted, or consists of a poster affixed, directly 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.

17.114.170 - Nonconforming Signs in CN-1 zone—Removal required.

A. Basic Requirements. Within the time periods indicated below for the specified categories, and except as otherwise provided in subsection B of this section, all nonconforming Signs shall be removed, relocated, or otherwise changed so as to conform. See also Section 17.114.110C.

Category	Time Period
Any pennants, streamers, propellers, and similar devices.	One (1) year after inclusion in the CN-1 zone.

Any other Sign which is nonconforming with respect to any provision of Section 17.148.110	Three (3) years after inclusion in the CN-1 zone.

The Director's determination shall be subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132.

Chapter 17.116 - OFF-STREET PARKING AND LOADING REQUIREMENTS
Sections:

Article I - General Provisions

17.116.010 - Title, purpose, and applicability.

17.116.020 - Effect on new and existing uses.

17.116.030 - More than one activity on a lot.

17.116.040 - Determination by Director of City Planning.

Article II - Off-Street Parking Requirements

17.116.050 - Calculation rules.

17.116.060 - Off-street parking—Residential Activities.

17.116.070 - Off-street parking—Civic Activities.

17.116.080 - Off-street parking—Commercial Activities.

17.116.090 - Off-street parking—Industrial Activities.

17.116.100 - Off-street parking—Agricultural and Extractive Activities.

17.116.110 - Special exemptions to parking requirements.

Article III - Off-Street Loading Requirements

17.116.120 - Off-street loading—Residential Activities.

17.116.130 - Off-street loading—Civic Activities.

17.116.140 - Off-street loading—Commercial Activities.

17.116.150 - Off-street loading—Industrial Activities.

17.116.160 - Off-street loading—Agricultural and Extractive Activities.

Article IV - Standards for Required Parking and Loading Facilities

17.116.170 - Property on which parking and loading must be provided.

17.116.175 – Standards and criteria for accessory parking that serves a prohibited activity.

17.116.180 - Conditions for off-street parking or loading.

17.116.190 - Utilization of off-street parking and loading facilities.

17.116.200 - Parking space dimensions.

17.116.210 - Driveways and maneuvering aisles for parking.

17.116.220 - Loading berth dimensions.

17.116.230 - Driveways and maneuvering aisles for loading.

17.116.240 - Tandem spaces and berths.

17.116.250 - Maximum backing distance.

17.116.260 - Surfacing and grade of parking and loading facilities.

17.116.270 - Screening and setback of parking and loading areas.

17.116.280 - Control on artificial illumination of parking and loading facilities.

17.116.290 - Special requirements applying in some zones.

17.116.300 - Parking accommodation requirements for one- and two-family residential facilities.

17.116.020 - Effect on new and existing uses.

(See illustrations I-19a, b.)

A. New Parking and Loading to Be Provided for New Facilities and Additions to Existing Facilities. Except as otherwise provided in Section ~~s 17.102.040~~17.114.030 and ~~17.102.310~~ Chapter 17.138, new off-street parking and loading as prescribed hereafter shall be provided for activities occupying facilities, or portions thereof, which are constructed, established, wholly reconstructed, or moved onto a new lot after the effective date of the zoning regulations, or of a subsequent rezoning or other amendment thereto establishing or increasing parking or loading requirements for such activities, except to the extent that existing parking or loading exceeds such requirements for any existing facilities. The required amount of new parking and loading shall be based on the cumulative increase in floor area, or other applicable unit of measurement prescribed hereafter, after said effective date; provided, however, that for an activity occupying a facility existing on said effective date, new parking shall be required for said increase to the extent that the total of such existing facility and the added facilities exceeds any minimum size hereafter prescribed for which any parking is required for such activity.

17.116.060 - Off-street parking—Residential Activities.

A. Permanent and Semi-Transient Residential Activities. Except as otherwise provided in Section 17.44.200, Chapter 17.94, Sections 17.102.300, 17.116.020, 17.116.030, and 17.116.110, and subject to the calculation rules set forth in Section 17.116.050, the following amounts of off-street parking are required for all Permanent and Semi-Transient Residential Activities when located in the indicated zones and occupying the specified facilities and shall be developed and maintained pursuant to the provisions of Article IV of this chapter:

Residential Facility Type	Zone	Requirement
One-Family Dwelling.	RH and RD zones, except when combined with the S-12 zone.	Two (2) spaces for each dwelling unit; however, in the S-11 zone, the requirement shall be one space per bedroom with a minimum of two (2) spaces per dwelling unit and a maximum requirement of four (4) spaces per dwelling unit.
	RM-1, except when combined with the S-12 zone.	One and one-half (1½) spaces for each dwelling unit.
	RM-2 zone	One (1) space for each dwelling unit when lot is less than 4,000 square feet in size and/or 45 feet in width, except when combined with the S-12 zone. One and

		one-half (1½) spaces for each dwelling unit when lot is 4,000 square feet or more in size and/or 45 feet in width, except when combined with the S-12 zone.
	CBD-P zone (when combined with the S-7 zone), except when combined with the S-12 zone.	No spaces required.
	S-15 zone, except when combined with the S-12 zone.	One-half (½)-space for dwelling unit.
	Any other zone, except when combined with the S-12 zone.	One (1) space for each dwelling unit.
	Any zone combined with the S-12 zone.	See Section 17.94.040.
One-Family Dwelling with Secondary Unit.	RH, RD, RM-1, and RM-2 zones, except when combined with the S-12 zone.	One (1) space for the secondary unit unless the lot already contains a total of at least three (3) spaces; however, in the S-11 zone the requirement shall be one (1) space for each bedroom in any secondary unit, up to a maximum requirement of two (2) spaces per secondary unit. See Section ~~17.102.360~~ 17.103.080.
	All other zones, except when combined with the S-12 zone.	One (1) space for the secondary unit unless the lot already contains a total of at least two (2) spaces; however, in the S-11 zone the requirement shall be one (1) space for each bedroom in any secondary unit, up to a maximum requirement of two (2) spaces per secondary unit. See Section ~~17.102.360~~ 17.103.080.
	Any zone combined with the S-12 zone.	See Section 17.94.040.
Two-Family Dwelling, Multifamily Dwelling.	RD-2, RM-1, RM-2 zones, except when combined with the S-12 zone.	One and one-half (1½) spaces for each dwelling unit.
	CBD-P zone (when combined with the S-7 zone), except when combined with the S-12 zone.	No spaces required.
	S-15 zone, except when combined with the S-12 zone.	One-half (½) space for each dwelling unit.
	Any other zone, except when combined with the S-12 zone.	One (1) space for each dwelling unit.
	Any zone combined with the S-12 zone.	See Section 17.94.040.
Rooming House.	CBD-P zone (when combined with the S-7 zone).	No spaces required.
	Any other zone.	One (1) space for each two rooming units.
Mobile Home.	CBD-P zone (when combined with the S-7 zone).	No spaces required.
	Any other zone.	One (1) space for each living unit plus one (1) additional space for each four living units.
Bed and Breakfast	Any zone.	One (1) space for each two units plus the required parking for a One-Family dwelling in the underlying zone.

17.116.070 - Off-street parking—Civic Activities.

Except as otherwise provided in Sections 17.44.200, 17.116.020, 17.116.030, and 17.116.110, and subject to the calculation rules set forth in Section 17.116.050, the following amounts of off-street parking are required for the specified Civic Activities when located in the indicated zones and occupying facilities of the specified sizes or having the indicated numbers of employees or doctors, and shall be developed and maintained pursuant to the provisions of Article IV of this chapter: (See illustration I-18.)

Civic Activity	Zone	Minimum Total Size for Which Parking Required	Requirement
A. Essential Service. Limited Childcare.	S-15 zone.	—	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	—	No spaces required.
B. Community Assembly and Recreational Assembly: playgrounds and playing fields; concessions located in public parks; temporary nonprofit festivals.	CBD-P zone (when combined with the S-7 zone).	—	No spaces required.
	S-15 zone.	—	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
Private non-profit clubs and lodges.	S-15 zone.	—	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	—	No spaces required.
Churches and all other.	CBD-P zone (when combined with the S-7 zone).	—	No spaces required.
	C-45, CBD-P (except when combined with the S-7 zone), CBD-C, CBD-X, and S-2 zones.	10,000 square feet of floor area.	One (1) space for each 20 seats or for each 150 square feet area where seats are not fixed, in principal meeting rooms.
	CN zones	Total of 75 seats or 750 square feet of floor area where seats are not fixed, in principal meeting rooms.	One (1) space for each 15 seats, or for each 100 square feet of floor area where seats are not fixed, in principal meeting rooms.
	S-15 zone.	—	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	Total of 75 seats, or 750 square feet of floor area where seats are not fixed in principal meeting rooms.	One (1) space for each 10 seats, or for each 100 square feet of floor area where seats are not fixed, in principal meeting rooms.
C. Community Education: high schools.	CBD-P, CBD-C, and CBD-X zones.	-	No spaces required.
	S-15 zone.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	One (1) space for each three employees plus one space for each 10 students of planned capacity.
a~~A~~ll others.	CBD-P, CBD-C, and CBD-X zones.	-	No spaces required.

	S-15 zone.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	One (1) space for each three employees.
D. Nonassembly Cultural Administrative.	CBD-P, CBD-C, and CBD-X zones	-	No spaces required.
	C-45, and S-2 zones.	10,000 square feet of floor area.	One (1) space for each 1,400 square feet of floor area.
	CN zones	3,000 square feet of floor area.	One (1) space for each 900 square feet of floor area.
	S-15 zone	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	3,000 square feet of floor area.	One (1) space for each 600 square feet of floor area.
E. Health Care: hospitals.	CBD-P zone (only when combined with the S-7 zone)	-	No spaces required.
	C-45, CBD-P (only if not combined with the S-7 zone), CBD-C, CBD-X, and S-2 zones.	No minimum	One (1) space for each staff or regular visiting doctor.
	S-15 zone.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	One (1) space for each four beds, plus one space for each four employees other than doctors, plus one space for each staff or regular visiting doctor.
~~c~~Clinics.	CBD-P zone (only when combined with the S-7 zone)	-	No spaces required.
	C-45, CBD-P (only when not combined with the S-7 zone), CBD-C, CBD-X, and S-2 zones.	No minimum.	One (1) space for each staff or regular visiting doctor.
	S-15 zone.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	Three (3) spaces for each staff or regular visiting doctor plus one (1) space for reach two other employees.
~~a~~All other.	CBD-P zone (only when combined with the S-7 zone).	-	No spaces required.
	C-45, CBD-P (only when not combined with the S-7 zone), CBD-C, CBD-X, and S-2 zones.	No minimum.	One (1) space for each staff or regular visiting doctor.
	S-15 zone.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	One (1) space for each six beds, plus

			one space for each four employees other than doctors, plus one space for each staff or regular visiting doctor.
F. Utility and Vehicular.	CDB-P, CBD-C, and CBD-X zones.	-	No spaces required.
	C-45, and S-2 zones.	10,000 square feet of floor area.	One (1) space for each vehicle used in connection with the activities.
	S-15 zone.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	3,000 square feet of floor area.	One (1) space for each three employees plus one space for each vehicle used in connection with the activities.
G. Extensive Impact: colleges and universities.	CBD-P, CBD-C, and CBD-X zones.	-	No spaces required.
	S-15 zone.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	One (1) space for each three employees plus one space for each six students of planned capacity.
a<u>A</u>ll other.	CBD-P zone (only when combined with the S-7 zone)	-	No spaces required.
	S-15 zone.	-	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040
	Any other zone.	No minimum.	A number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.116.040

17.116.175 – Standards and criteria for accessory parking that serves a prohibited activity.

The following regulations shall apply to parking serving principal activities which are not themselves permitted, wherever such parking is listed in the applicable individual zone regulations as permitted or conditionally permitted. Approval of a permit for such accessory parking is subject to the conditions set forth in this section:

A. General Conditions. In all zones, such parking facilities shall be used for accessory parking only, with no sales, dead storage, repair work, dismantling, or servicing of any kind.

B. Conditions in Residential Zones. In all residential zones:

1. Such parking shall not in any case be located farther than one hundred fifty (150) feet, excluding the width of any intervening street, from the nearest boundary of any nonresidential zone, as measured perpendicularly from said boundary at any point; and

2. Such parking shall not be so located as to extend along any one side of any street farther into any residential zone than any residentially zoned lot which is in separate ownership and which has frontage on the same side of the same street as said parking, other than a lot developed only for parking; and

3. Such parking facilities shall be open only; and

4. All Signs serving such parking shall be subject to the limitations set forth in Section 17.104.010(G)(3).

17.116.290 - Special requirements applying in some zones.

B. In the S-15 zone:

1. Location of Parking. All off-street parking may be provided anywhere on the lot, or on a separate lot which is not in common ownership with the subject lot, provided that a long-term lease agreement or comparable binding agreement is provided, pursuant to Section 17.116.180.
2. Parking Serving Nonresidential Uses. Off-street parking serving nonresidential uses may only be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedures in Chapter 17.134.
3. Ground Floor Parking and Loading. Off-street parking, loading, and driveway located within twenty (20) feet from all pedestrian walkways and plazas may only be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedures in Chapter 17.134 and Section 17.100.100.
4. Provisions for Shared Parking. Off-street parking may be shared amongst daytime activities between the hours of business operation and between the hours of nighttime activities. The number of required parking spaces for daytime use may be transferable to required parking or nighttime use, provided that a long-term lease agreement or comparable binding agreement is provided, pursuant to Section 17.116.180.
5. Exceptions to Parking Requirement. The number of parking spaces provided may exceed the number required upon the granting of a conditional use permit pursuant to Section 17.100.100 and the conditional use permit procedure in Chapter 17.134.

17.117.020 - Bicycle parking required for new and existing uses.

B. Bicycle Parking Shall be Provided for Remodels. "Remodel" means any proposed physical improvement of an existing structure which requires a building permit but does not include New Facilities or Additions to Existing Facilities.

1. Remodel projects that are over ten thousand (10,000) square feet and have an estimated construction cost, excluding seismic retrofit costs, greater than $250,000.00 shall provide the number of short-term bicycle parking spaces prescribed in Sections 17.117.090 to 17.117.120. This amount shall be adjusted to account for changes in the Building Cost Index for the San Francisco Bay Region, as reported in the Engineering News Record. The adjustment shall be made annually, starting in 2009, no sooner than one year from adoption.

2. Remodel projects that are over fifty thousand (50,000) square feet and have an estimated construction cost, excluding seismic retrofit costs, over $1,000,000.00 shall provide, in addition to short-term bicycle parking, the number of long-term bicycle parking spaces and shower and locker facilities prescribed in Sections 17.117.090 to 17.117.130. This amount shall be adjusted to account for changes in the Building Cost Index for the San Francisco Bay Region, as reported in the Engineering News Record. The adjustment shall be made annually, starting in 2009, no sooner than one year from adoption.

17.120.020 - Existing activities.

Activities existing on the effective date of the zoning regulations, or of a subsequent rezoning or other amendment thereto applying more restrictive performance standards to such activities, shall not be required to change their operations to comply with the performance standards. However, their operations shall not be so changed as to result in a greater degree of nonconformity with respect to such standards, except as otherwise authorized under ~~Section 17.102.310 and~~ the development agreement procedure in Chapter 17.138. For existing activities meeting the definition specified in Section 17.114.080C., an expansion greater than twenty percent (20%) of production (e.g. non-administrative) floor area is one example of a change in operations that shall be considered an increase in the degree of nonconformity.

17.120.050 - Noise.

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

J. Commercial Exhaust Systems. Unnecessary noise caused by exhaust from ventilation units, or other air control device shall not produce a noise level greater than the noise level standards set forth in this section between the hours of ten p.m. and seven a.m. and shall not be located within two hundred (200) feet of any residential zone boundary unless such unit is within an enclosure which reduces the noise level outside the enclosure to no more than sixty (60) dBA and reduces vibration to a level below the vibration perception threshold set forth in Section 17.120.060.

Chapter 17.124 - LANDSCAPING AND SCREENING STANDARDS

Sections:

17.124.010 - Title, purpose, and applicability.

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

17.124.025 - Required landscape plan for new Nonresidential Facilities and certain additions to Nonresidential Facilities.

17.124.030 - Residential landscape requirements for street frontages.

17.124.040 - Residential landscape requirements for downslope lots.

17.124.045 - Trash and Utility Screening

17.124.050 - Assurance of landscaping completion.

17.124.060 - Maintenance.

17.124.070 - Required materials and opacity.

17.124.080 - Combination of materials.

17.124.090 - Reference level for prescribed heights.

17.124.100 - Exceptions to requirements.

17.124.110 - Frequently planted tree species list for Oakland.

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

Submittal and approval of a landscape plan for the entire site is required for the establishment of a new residential unit, excluding secondary units of five hundred (500) square feet or less, and for additions to Residential Facilities of over five hundred (500) 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.

17.124.025 - Required landscape plan for new Nonresidential Facilities and certain additions to Nonresidential Facilities.

Submittal and approval of a landscape plan for the entire site and street frontage is required for the establishment of a new Nonresidential Facility and for additions to Nonresidential Facilities of over one thousand (1,000) square feet. 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 standards for required landscaping and screening, including the following:

17.124.045 - Trash and Utility Screening

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

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.

17.124.100 - Exceptions to requirements.

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

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

B. Window on Abutting Lot. Prescribed fences, walls, or dense landscaping need not be higher than three and one-half (3½) feet when located opposite and within three (3) feet of any window in a Residential Facility on an abutting lot, other than a window in a basement or cellar, or within three feet of any portion of the same story of the wall containing such window and lying within ten feet in either direction from said window. Landscaping or a fence or wall shall be considered opposite such a window or portion of wall whenever it would be intersected by a horizontal plane drawn from the wall perpendicularly to the window.

C. Adjacent to Excavated Parking or Other Area. Where a parking, loading, storage, or similar area, or usable open space, is excavated below adjoining finished grade, the depth of excavation may be deducted there from the prescribed height of fences, walls, or landscaping required to screen the area or space.

D. Height Within Required Minimum Yard or Court. Required fences, walls, or dense landscaping need not be higher than three and one-half (3½) feet in that portion of any required minimum yard which lies within ten (10) feet of any street line. The height of fences, walls, and dense landscaping shall be limited within all required minimum yards and courts by the applicable provisions of Section 17.108.140

E. General Exceptions to Prescribed Heights. The prescribed heights of dense landscaping shall indicate the height to be attained within three (3) years after planting. The height at time of planting may be not more than two (2) feet lower for dense landscaping required to be taller than five (5) feet, and not more than one (1) foot lower for dense landscaping for which a height of less than five (5) feet is prescribed. An earthen berm not taller than two (2) feet may count toward the prescribed height of any fence, wall, or dense landscaping.

17.124.110 - Frequently planted tree species list for Oakland.

			1	2
No.	**Botanical Name**	**Common Name**	**Size**	**H × S**
1.	Arbutus unedo	Strawberry Tree	S	25×25
2.	Cercis canadensis	Eastern Redbud	S	25×25
3.	Lagerstroemia indica X L. fauriei	Crape Myrtle	S	30×20
4.	Photinia fraseri	Photinia	S	20×15
5.	Prunus cerasifera 'Thundercloud'	Purple Leaf Plum	S	30×20
6.	Pyrus kawakamii	Evergreen Pear	S	25×30
7.	Rhus lancea	African Sumac	S	20×20
8.	Tristania laurina 'Elegant'	Water Gum	S	25×20
9.	Acer buergeranum	Trident Maple	M	30×25

10.	Aesculus carnea 'Briotii'	Red Horsechestnut	M	40×35
11	Eriobotrya deflexa	Bronze Loquat	M	20×20
12.	Geijera parviflora	Australian Willow	M	30×30
13	Ginkgo biloba 'Saratoga' or 'Autumn Gold'	Maidenhair Tree	M	35×30
14	Koelreuteria bipinnata	Chinese Flame Tree	M	30×30
15.	Koelreuteria paniculata	Golden Rain Tree	M	30×30
16	Laurus nobilis 'Saratoga'	Saratoga Laurel	M	40×20
17	Magnolia grandiflora 'Saint Mary'	Saint Mary Magnolia	M	20×20
18.	Maytenus boaria 'Green Showers'	Mayten Tree	M	30×25
19.	Metrosideros excelsus	New Zealand Christmas Tree	M	30×30
20.	Olea europa 'Swan Hill'	Olive	M	40×40
21.	Pyrus calleryana 'Aristocrat'	Aristocrat Pear	M	40×30
22.	Carpinus betulus 'Fastigiata'	European Hornbem	L	50×40
23.	Fraxinus oxycarpa 'Raywood'	Raywood Ash	L	35×25
24.	Gliditsia triacanthos inermis 'Shademaster'	Thornless Honey Locust	L	40×30
25.	Nyssa sylvatica	Sour Gum or Tupelo	L	50×25
26.	Pistacia chinensis 'Keith Davey' or 'Pearl Street'	Chinese Pistache	L	50×30
27.	Platanus acerifolia 'Yarwood'	London Plane	L	70×50
28.	Podocarpus gracilior	African Fern Pine	L	30×20
29.	Quercus rubra	Red Oak	L	50×40
30.	Quercus coccinea	Scarlet Oak	L	75×50

1. Size: (S) Small, (M) Medium, (L) Large
2. H × S: Height by Spread

17.126.040 - Private usable open space.

All required private usable open space shall be permanently maintained; shall be located, except as otherwise provided in subsection B of this section, on the same lot as the living unit it serves; and shall conform to the following standards:

A. Usability. A surface shall be provided which prevents dust and allows convenient use for outdoor activities. Such surface shall be any practicable combination of lawn, garden, flagstone, wood planking, concrete, asphalt, or other serviceable, dustfree surfacing. Slope shall not exceed ten percent (10%). Off-street parking and loading areas, driveways, and service areas shall not be counted as usable open space. Adequate safety railings or other protective devices shall be erected wherever necessary for space on a roof or balcony, but shall not be more than the minimum height required by the Oakland Building Code.

B. Location. The space may be located anywhere on the lot, except that ground-level space shall not be located in a required minimum front yard and except that above-ground-level space shall not be located within five (5) feet of an interior side lot line. Above-ground-level space may be counted even though it projects beyond a street line. All spaces shall be adjacent to, and not more than four (4) feet above or below the floor level of, the living unit served.

C. Size and Shape. An area of contiguous ground-level space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than ten (10) feet. An area of above-ground-level space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than five (5) feet. When space is located on a roof, the area occupied by vents or other structures which do not enhance usability of the space shall not be counted toward the above dimension.

D. Accessibility. The space shall be accessible to only one living unit by a doorway to a habitable room or hallway.

E. Openness. There shall be no obstructions over ground-level space except for devices to enhance its usability and except that not more than fifty percent (50%) of the space may be covered by a private balcony projecting from a higher story. Above-ground-level space shall have at least one exterior side open and unobstructed, except for incidental railings or balustrades, for eight (8) feet above its floor level.

F. Enclosure. Ground-level space shall be screened from abutting lots, streets, alleys, and paths, from abutting private ways described in Section 17.106.020, and from other areas on the same lot by a building wall, by dense landscaping not less than five and one-half (5½) feet high and not less than three (3) feet wide, or by a solid or grille, lumber or masonry fence or wall not less than five and one-half (5½) feet high, subject to the standards for required landscaping and screening in Chapter 17.124 and the exceptions stated in said chapter. However, when such screening would impair a beneficial outward and open orientation or view, with no building located opposite and within fifty (50) feet from such required screening, as measured perpendicularly therefrom in a horizontal plane, the above prescribed height may be reduced to three and one-half (3½) feet. Fences and walls shall not be so constructed as to interfere with the access required by applicable fire prevention regulations.