

OAKLAND

**OAKLAND**

**PLANNING**

**CODE**

**1997**

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**A Codification of the General Planning Ordinances  
of the City of Oakland, California**

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**Beginning with Supplement No. 31,  
Supplemented by Municipal Code Corporation**

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**This Supplement brings the Code up to date through Ordinances that  
have become effective as of March 15, 2022.**

**Title 17 PLANNING**

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**Chapter 17.01 GENERAL PROVISIONS OF PLANNING CODE AND GENERAL PLAN CONFORMITY**

**Sections:**

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17.01.110 Proposals for which General Plan is silent or not clear on conformance.

17.01.120 Proposals clearly not in conformance with the General Plan or the Land Use Diagram.

**17.01.010 Title of Planning Code.**

This title shall be known as the Oakland Planning Code, may be cited as such, and will be referred to herein by such title or as "this Code."

(Ord. 12054 § 2 (part), 1998)

**17.01.020 Title of general provisions.**

The provisions of Chapters 17.01 through 17.05 shall be known as the General Provisions of the Planning Code.

(Ord. 12054 § 2 (part), 1998)

**17.01.030 Conformity with General Plan required.**

Except as otherwise provided by Section 17.01.040, no activities or facilities shall be established, substituted, expanded, constructed, altered, moved, painted, maintained, or otherwise changed, and no lot lines shall be created or changed, except in conformity with the Oakland General Plan. To the extent that there is an express conflict between the Oakland General Plan and the Zoning Regulations, this requirement shall supersede the requirement for conformity with the Zoning Regulations stipulated in Section 17.07.060 (formerly Section 17.02.060).

(Ord. 12054 § 2 (part), 1998)

**17.01.040 Exceptions to requirement for General Plan conformity.**

The provisions of this Chapter shall not be construed to preclude the operation, maintenance, and occupancy of any activity or facility that existed lawfully prior to the effective date of this Chapter. Such activities and facilities shall be subject to the Nonconforming Use Regulations in Chapter 17.114.

(Ord. 12054 § 2 (part), 1998)

**17.01.050 General Plan prevails over Planning Code and Subdivision Regulations.**

Until the Planning Code is fully updated, land use designations, zoning controls, and subdivision controls specified by the Planning Code and Subdivision Regulations shall apply, except where such action would expressly conflict with the Oakland General Plan. Where an express conflict does arise, the General Plan policies and land use designations shall apply. An "express conflict" shall be deemed to be any situation where a proposal clearly conforms with the General Plan but is not permitted by the portion of Zoning Regulations that have not been fully updated, or where a proposal clearly does not conform with the General Plan, but is permitted or conditionally permitted by the portion of Zoning Regulations that have not been fully updated. The provisions of Sections 17.01.070 through 17.01.080 shall be used to determine whether an express conflict exists and the provisions of Sections 17.01.100 through 17.01.120, as applicable, shall then be followed.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12054 § 2 (part), 1998)

**17.01.070 Determination of General Plan conformity by Director of City Planning.**

The Director of City Planning shall determine whether any specific proposal conforms to the General Plan. Any interested party may apply for a written General Plan conformity determination upon payment of a fee as prescribed in the city master fee schedule. Prior to making a decision, there shall be notice given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved pursuant to Section 17.134.040.

(Ord. 12514 § 2 (part), 2003; Ord. 12054 § 2 (part), 1998)

**17.01.080 Appeal of Director's determination.**

- A. Within ten (10) calendar days of a written determination by the Director of City Planning pursuant to Section 17.01.070, an appeal of such determination may be taken to the City Planning Commission by the applicant or any other interested party. Such appeal shall be accompanied by a fee as prescribed in the City master fee schedule, and shall be processed in accordance with the administrative appeal procedure in Chapter 17.132.
- B. Within ten (10) calendar days of a written determination by the Director of City Planning pursuant to Subsection 17.01.120.C. an appeal of such determination may be taken to the City Council by the applicant or any other interested party. Such appeal shall be accompanied by a fee as prescribed in the City master fee schedule. In event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Director and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Planning Director or

wherein his or her decision is not supported by the evidence in the record. Upon receipt of such appeal, the Council shall set the date for consideration thereof. After the hearing date is set, the Planning Director shall refer the matter to the Planning Commission for its review and advice. The Planning Commission shall consider the matter at its next available meeting. Such referral shall be only for the purpose of issue clarification and advice to the City Council. The City Clerk shall not less than seventeen (17) days prior to the Council hearing, give written notice of the date and place of the hearing on the appeal to the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate. In considering the appeal, the Council shall determine whether the proposal conforms to the provisions of Subsection 17.01.120.C., and may approve or disapprove the proposed determination. The decision of the City Council shall be made by resolution and shall be final.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12776 § 3, Exh. A (part), 2006; Ord. 12514 § 2 (part), 2003; Ord. 12054 § 2 (part), 1998)

#### **17.01.100 Proposals clearly in conformance with General Plan.**

- A. If Permitted or Conditionally Permitted by Zoning Regulations (No "Express Conflict"). Any proposal determined to clearly conform with the General Plan and which is permitted or conditionally permitted by the Zoning Regulations shall be processed in accordance with such code and/or regulations.
- B. If Not Permitted by the portion of Zoning Regulations not fully updated ("Express Conflict"). Any proposal determined to clearly conform with the General Plan and which is not permitted by the portion of Zoning Regulations not fully updated may be approved upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. Such use permit shall be processed as a minor conditional use permit or a major conditional use permit in conformance with the provisions of Chapter 17.134. A conditional use permit for such proposal may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in Section 17.134.050 and to the following additional use permit criteria:
  - 1. That the proposal is clearly appropriate in consideration of the characteristics of the proposal and the surrounding area;
  - 2. That the proposal is clearly consistent with the intent and desired character of the relevant land use classification or classifications of the General Plan and any associated policies;
  - 3. That the proposal will clearly promote implementation of the General Plan. Any such proposal shall be subject to the provisions of the "best fit zone" corresponding to the land use classification in which the proposal is located. If there is more than one "best fit zone," the Director of City Planning shall determine which zone to apply, with consideration given to the characteristics of the proposal and the surrounding area and any relevant provisions of the General Plan.
- C. Optional Rezoning in Lieu of Conditional Use Permit ("Express Conflict"). At his or her option, in lieu of the conditional use permit provided for by Subsection B. of this Section, the applicant may apply for a rezoning pursuant to the rezoning and law change procedure in Chapter 17.144. Any such rezoning shall be to the "best fit zone" or other possible zone corresponding to the land use classification in which the proposal is located. If such a rezoning is approved,



the proposal shall then be subject to all of the provisions of the new zone, including but not limited to, any required conditional use permit.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12054 § 2 (part), 1998)

**17.01.110 Proposals for which General Plan is silent or not clear on conformance.**

- A. If Permitted or Conditionally Permitted by Zoning Regulations (No "Express Conflict"). Any proposal for which the General Plan is silent or not clear as regards conformity and which is permitted or conditionally permitted by the Zoning Regulations shall be processed in accordance with such code and/or regulations.
- B. If Not Permitted by Zoning Regulations (No "Express Conflict"). Any proposal for which the General Plan is silent or not clear as regards conformity, and which is not permitted by the Zoning Regulations shall be processed in accordance with such code and/or regulations. At his or her option, the applicant may modify the project to conform to the code and/or regulations, may apply for a variance pursuant to the variance procedure in Chapter 17.148, or may apply for a rezoning pursuant to the rezoning and law change procedure in Chapter 17.144. Any such rezoning shall be to the "best fit zone" or other possible zone corresponding to the land use classification in which the proposal is located. If such a rezoning is approved, the proposal shall then be subject to all of the provisions of the new zone, including but not limited to, any required conditional use permit.

(Ord. 12054 § 2 (part), 1998)

**17.01.120 Proposals clearly not in conformance with the General Plan or the Land Use Diagram.**

Any proposal determined to clearly not conform to the General Plan shall not be allowed and no application shall be accepted, nor shall any permits be approved or issued, for any such proposal, except as provided in this Section or in Section 17.01.040 or Section 17.01.070.

- A. If Permitted or Conditionally Permitted by Zoning Regulations ("Express Conflict"). At his or her option, the applicant may modify the project to conform to the General Plan, request a General Plan conformity determination from the Director of City Planning pursuant to Section 17.01.070, or may apply for a General Plan Amendment. If such amendment involves the land use classification, the amendment shall be to the land use classification corresponding to the "best fit zone" or other possible zone in which the proposal is located.
- B. If Not Permitted by Zoning Regulations (No "Express Conflict"). If proposal is not permitted under the Zoning Regulations, the applicant may apply for a rezoning pursuant to the rezoning and law change procedure in Chapter 17.144 in addition to a General Plan amendment. Any such rezoning shall be to the "best fit zone": or other possible zone corresponding to the land use classification of the associated General Plan amendment. If such a rezoning is approved, the proposal shall then be subject to all of the provisions of the new zone, including but not limited to, any required conditional use permit.
- C. If permitted or conditionally permitted by Zoning Regulations, and where determined by the Planning Director to be consistent with the surrounding land uses and appropriate for the area, notwithstanding that the project may not be consistent with the General Plan classification shown on the Land Use Diagram. It is recognized that the General Plan

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land uses have been broadly applied to areas without parcel by parcel specificity and that the Land Use Diagram details are largely illustrative of the Plan's written goals and policies. Because the Diagram is generalized, and does not necessarily depict the accuracy of each parcel or very small land areas, a determination of project consistency can be requested of the Director of City Planning. The applicant must demonstrate to the satisfaction of the Planning Director that the predominant use, or average density, is different from that shown on the Diagram and is appropriate for the area in question and that the project is in conformance with the written goals and policies of the General Plan. Written notice of the Director's determination shall be sent to all property owners within three hundred (300) feet of the property involved. The Director's determination may be appealed to the City Council pursuant to Section 17.01.080B.

(Ord. 12514 § 2 (part), 2003; Ord. 12054 § 2 (part), 1998)

## **Chapter 17.03 CITY PLANNING COMMISSION**

### **Sections:**

17.03.010 City Planning Commission, Landmarks Preservation Advisory Board and Board of Adjustments.

17.03.020 Preservation powers and duties of City Planning Commission.

17.03.030 Additional powers and duties of the City Planning Commission.

17.03.040 Residential Appeals Committee of the City Planning Commission

### **17.03.010 City Planning Commission, Landmarks Preservation Advisory Board and Board of Adjustments.**

- A. **City Planning Commission and Landmarks Preservation Advisory Board.** The membership and organization of the City Planning Commission and Landmarks Preservation Advisory Board, shall be as prescribed in this code and Ordinance Nos. 192 and 8883 C.M.S., as amended respectively, including, but not limited to the amendments made by Ordinance No. 6485 C.M.S., and their powers shall be as prescribed in said ordinances and in this code. Unless expressly stated therein, neither the adoption of this code nor any amendments thereto, nor the repeal of any ordinance, shall in any manner affect the organization of the City Planning Commission or Landmarks Preservation Advisory Board as existing on the effective date hereof. Unless expressly stated otherwise, all persons holding office on said Commission or Board under any provision repealed by the ordinance codified in this title shall continue to hold such office according to the former tenure thereof.
- B. **Abolition of Board of Adjustments.** The Board of Adjustments is abolished; provided, however, that all matters pending before the Board of Adjustments on the effective date of this Section shall be heard and determined by the Board, or by the City Council in cases of appeal, in the same manner in effect prior to the effective date.
- C. **Affirmative Action.** To the extent practicable, Commission and Board appointments shall be made in accordance with the City's affirmative action policies.
- D. **Geographic Diversity.** To the extent practicable, Commission and Board appointments shall reflect the geographical diversity of the City.
- E. **Councilmember Recommendations.** In making Commission and Board appointments, the Mayor shall accept for consideration recommendations for appointments offered by each Councilmember. Councilmembers must submit recommendations to the Mayor for consideration at least thirty (30) days prior to expiration of an existing Commission or Board member's term.
- F. **Staggered Terms.** Commencing with the effective date of the ordinance codified in this Section, Commission and Board members shall be appointed to staggered terms, such terms to commence upon the date of appointment, except that an appointment to fill a vacancy shall be only for the unexpired portion of the term.
- G. **Length of Terms.** Except for the initial appointments made immediately following passage of the ordinance codified in this Section, which may be for lesser terms of two (2) years or one (1) year in order to establish staggered terms pursuant to Subsection F. of this Section, all appointments shall be for a period of three (3) years.

- H. 1. **Limit on Consecutive Terms.** Commencing with the effective date of the ordinance codified in this Section, no person shall serve more than two (2) consecutive terms as a member of the Commission or Board. Members of the Commission or Board sitting on the effective date of the ordinance codified in this Section shall not be appointed to serve more than one additional consecutive term as a member of the Commission or Board.
- 2. In the event an appointment to fill a vacancy has not occurred by the conclusion of a Commission or Board member's term, that member may continue to serve as a member of the Commission or Board during the following term in a holdover capacity for a period not to exceed one year, to allow for the appointment of a Commission or Board member to serve the remainder of such following term.
- I. **Removal.** To assure participation of Commission and Board members, attendance by the members of the Commission and Board at all regularly scheduled and special meetings of the Commission and Board shall be recorded, and such record shall be provided semiannually to the Office of the Mayor for review. A member may be removed pursuant to Section 601 of the City Charter. Cause for removal shall include, among other things, conviction of a felony, misconduct, incompetency, inattention to or inability to perform duties, absence from three (3) consecutive regular meetings, or, for members of the Commission's Residential Appeals Committee, absence from three (3) consecutive regular meetings of the Committee, except, in the case of absences, on account of illness or when absent from the City by permission of the Commission or Board.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12376 § 3 (part), 2001; Ord. 12054 § 1(d), 1998; Ord. 11776 §§ 1—3, 1995; prior planning code § 2)

**17.03.020 Preservation powers and duties of City Planning Commission.**

The City Planning Commission shall have and exercise the following powers. It shall be advised and assisted in the exercise of these powers by the Landmarks Preservation Advisory Board.

- A. **Regulatory Protection.** As specified in the Zoning Regulations, the Commission may recommend structures, other physical features, sites, and areas to be given regulatory protection, and in certain cases shall review development proposals where such protection has been established by the City Council.
- B. **Contracts with Property Owners.** The Commission may negotiate with owners of properties having special characteristics for, and may recommend to the City Council the approval of, contracts to restrict the use of such property and to retain such characteristics.
- C. **Recognition of Merit.** The Commission may establish and maintain a list of structures, other physical features, sites, and areas considered deserving of official recognition although not given regulatory protection. The list may also include facilities, sites, or areas which are given regulatory protection. The purposes of the list shall be to recognize the merit of and encourage the protection, enhancement, perpetuation, and use of such structures, other physical features, sites, and areas. For these purposes, the Commission may authorize such steps as it deems desirable, including but not limited to the issuance of certificates of recognition and the authorization of plaques. The Commission, through the Director of City Planning, shall coordinate these efforts with any similar efforts of appropriate governmental agencies and private groups interested in preservation.

- D. **Inventory and Evaluation.** The Commission may carry out or assist or encourage studies and programs designed to identify and evaluate structures, other physical features, sites, and areas which are worthy of preservation. It may inspect and investigate structures, other physical features, sites, and other areas which it has reason to believe may be worthy of preservation.
- E. **Consultation.** The Commission may consult with, advise, and consider the ideas and recommendations of civic groups, public agencies, and citizens interested in preservation.
- F. **Information and Advice.** The Commission may disseminate information to the public concerning worthy structures, other physical features, sites, and areas. It may encourage and advise property owners in the protection, enhancement, perpetuation, and use thereof.
- G. **Other Powers.** The Commission may consider methods other than those described above for encouraging and achieving preservation of worthy structures, other physical features, sites, and areas. It may explore means of financing the restoration or maintenance thereof. It may make appropriate recommendations on the general subject of preservation to the City Council, other public and private agencies and bodies, and the general public.
- H. **Relationship to Powers of Director of City Planning and Others.** This Section is not intended to restrict the powers and duties otherwise pertaining to the Director of City Planning, or to other city officers or bodies, in the field of preservation. They shall have the powers and duties assigned to them by the Zoning Regulations, by other codes and ordinances, by the City Charter, or by valid administrative authority.

(Ord. 12054 § 1(d), 1998; prior planning code § 3)

### 17.03.030 Additional powers and duties of the City Planning Commission.

In addition to the powers and duties of the City Planning Commission as specified at Sections 17.03.010 and 17.03.020, the City Planning Commission shall have and exercise the following powers and duties:

- A. **Guidelines.** The Commission may adopt, or may authorize the director of City Planning to adopt, reasonable guidelines for the administration, interpretation, or requirements of this code or portions of this code.
- B. **Status Reports.** The Commission shall submit regular status reports to the City Council committee designated as liaison to the Commission. The regular status reports must be submitted at least once a year, or more frequently if directed by the chairperson of the City Council committee to which the Commission reports.
- C. **Detailed Descriptions.** Status reports submitted in fulfillment of Subsection B. of this Section must include a detailed description of operating and staffing needs, to be developed and maintained by the department responsible for staffing and administration of the Commission.
- D. **City Council Goals.** Each year, the Commission shall review the annual goals and objectives of the City Council. Review of City Council goals and objectives shall be undertaken to provide the Commission the opportunity to better integrate the activities of the Commission with the city's overall goals and objectives.

- E. **City Council Approval of Standing Committees.** City Council approval must be obtained prior to the creation of any standing committee of the Commission. A proposal to create a standing committee of the Commission must include information regarding the costs associated with staffing the standing committee, and the costs of complying with noticing and reporting require resulting from the establishment of any such standing committee of the Commission.

(Ord. 12054 § 1(d), 1998; Ord. 11776 § 4, 1995: prior planning code § 4)

#### **17.03.040 Residential Appeals Committee of the City Planning Commission**

There is created a Residential Appeals Committee of the City Planning Commission consisting of three (3) members of the Commission. The Committee shall decide all appeals of decisions by the Director of City Planning as set forth in the Zoning Regulations. The method for appointing Committee members and the length of Committee members' terms shall be as set forth in the Commission's Rules of Procedure.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12376 § 3 (part), 2001)

**Chapter 17.05 LANDMARKS PRESERVATION ADVISORY BOARD**

**Sections:**

17.05.010 Creation and membership.

17.05.020 Terms.

17.05.030 Vacancies.

17.05.040 Removal.

17.05.050 Compensation.

17.05.060 Organization and rules.

17.05.070 Meetings.

17.05.080 Auxiliary committees and staffing.

17.05.090 Powers and duties.

17.05.100 Additional duties.

**17.05.010 Creation and membership.**

There is created a Landmarks Preservation Advisory Board. It shall consist of seven (7) members appointed by the Mayor subject to the affirmative vote of five (5) or more members of the City Council. In making appointments, the Mayor may consult persons and organizations interested in landmarks or historic preservation. The members shall include at least one architect; one landscape architect or city planner; one person having extensive knowledge of Oakland history, or of relevant architectural history; and one real estate broker or other person with significant experience in the financing or management of real estate.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12054 § 1(e), 1998; prior planning code § 5(a))

**17.05.020 Terms.**

Of the original appointments, two shall be for a one-year term, two shall be for a two-year term, and three shall be for a three-year term. After the expiration of the original terms, all appointments, other than those to fill a vacancy, shall be for three-year terms.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(b))

**17.05.030 Vacancies.**

Vacancies shall be filled for any unexpired term in the same manner as the original appointments were made.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(c))

**17.05.040 Removal.**

Any member of the Board may be removed for cause, after hearing, by the affirmative vote of six (6) or more members of the City Council.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12054 § 1(e), 1998; prior planning code § 5(d))

**17.05.050 Compensation.**

The Board members shall serve without compensation. However, necessary actual travel and other expenses shall be reimbursed them, when the city's interests shall so require, if such is authorized by the City Council.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(e))

**17.05.060 Organization and rules.**

The Board shall elect a chairperson and vice-chairperson from its own membership, and shall select a secretary who may be a member of the city staff. The Board shall establish rules and regulations for its own organization, procedure, and meetings.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(f))

**17.05.070 Meetings.**

All meetings shall be open to the public, and interested persons shall be given reasonable opportunity to be heard.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(g))

**17.05.080 Auxiliary committees and staffing.**

The Board shall make every effort to obtain assistance from, and to work with, private groups and citizens interested in preservation. It may designate auxiliary committees to assist it. The Board may seek staff assistance from the City Administrator or the City Council.

(Ord. 12776 § 3, Exh. A (part), 2006; Ord. 12054 § 1(e), 1998; prior planning code § 5(h))

**17.05.090 Powers and duties.**

The Board shall advise and assist the City Planning Commission and the Director of City Planning, as well as other public agencies, civic groups, and the general public, on the matters described in Section 17.03.020.

(Ord. 12054 § 1(e), 1998; prior planning code § 5(i))

**17.05.100 Additional duties.**

A. The Board shall submit regular status reports to the City Council committee designated as liaison to the Board. The regular status reports must be submitted at least once a year, or



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more frequently if directed by the chairperson of the City Council committee to which the Board reports.

- B. Status reports submitted in fulfillment of the requirements of this code must include a detailed description of operating and staffing needs, to be developed and maintained by the department responsible for staffing and administration of the Board.
- C. Each year, the Board shall review the annual goals and objectives of the City Council. Review of City Council goals and objectives shall be undertaken to provide the Board the opportunity to better integrate the activities of the Board with the city's overall goals and objectives.
- D. City Council approval must be obtained prior to the creation of any standing committee of the Board. A proposal to create a standing committee of the Board must include information regarding the costs associated with staffing the standing committee, and the costs of complying with noticing and reporting requirements resulting from the establishment of any such standing committee of the Board.

(Ord. 11776 § 5, 1995: prior planning code § 5(j))

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

**Sections:**

- 17.07.010 Title, purpose, and applicability.
- 17.07.020 Title of zoning regulations.
- 17.07.030 Purposes of zoning regulations.
- 17.07.040 Applicability of zoning regulations.
- 17.07.050 Effect of development control maps.
- 17.07.060 Conformity with zoning regulations required.
- 17.07.065 Permitted and conditionally permitted uses.
- 17.07.070 Minimum requirements.

**17.07.010 Title, purpose, and applicability.**

The provisions of this Chapter shall be known as the Title and Scope of the Zoning Regulations. The purpose of these provisions is to specify the title, purposes, and applicability of the zoning regulations and to require conformity to said regulations. These provisions shall apply to the entire zoning regulations.

(Ord. 12054 § 1(a), 1998; prior planning code § 2000)

**17.07.020 Title of zoning regulations.**

The provisions of Chapters 17.07 through 17.158 shall be known as the Zoning Regulations.

(Ord. No. 13090, § 4(Exh. A), 10-4-2011; Ord. 12054 § 1(a, b), 1998; prior planning code § 2001)

**17.07.030 Purposes of zoning regulations.**

The general purposes of the zoning regulations are to protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare and to achieve the following objectives:

- A. To promote the achievement of the proposals, policies and objectives of the Oakland General Plan;
- B. To advance Oakland's position as a regional center of commerce, industry, recreation, and culture;
- C. To protect residential, commercial, industrial, and civic areas from the intrusion of incompatible uses, and to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services;

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- D. To provide for desirable, appropriately located living areas in a variety of dwelling types and at a wide range of population densities, with adequate provision for sunlight, fresh air, and usable open space;
- E. To ensure preservation of adequate space for commercial, industrial, and other activities necessary for a healthy economy;
- F. To promote safe, fast, and efficient movement of people and goods, and the provision of adequate off-street parking and loading;
- G. To achieve excellence and originality of design in all future developments and to preserve the natural beauty of Oakland's setting;
- H. To promote the growth of productivity of the Oakland economy;
- I. To stabilize expectations regarding future development of Oakland, thereby providing a basis for wise decisions with respect to such development;
- J. To secure equity among individuals in the utilization of their property;
- K. To promote an attractive urban environment which will enhance the City's economic potential and encourage decisions to make investments, do business, shop, and live within Oakland;
- L. To especially protect and improve the appearance and orderliness of major trafficways and transit lines and views therefrom, thereby increasing the enjoyment of travel, reducing traffic hazards, and enhancing the image of Oakland derived by residents, businesspeople, commuters, visitors, and potential investors;
- M. To protect the very substantial public investment in, and the character and dignity of, public buildings, open spaces, thoroughfares, and rapid transit lines;
- N. To encourage a maximum of planting and other amenities, and a minimum of excessively intrusive signs, overhead utility lines, and other environmental clutter;
- O. To encourage Signs which are in scale and harmony with surrounding uses, which are visually subordinate to the on-site and nearby buildings, which are themselves well designed, and which have good spacing and design relationships to other Signs;
- P. To prevent the unnecessary destruction or impairment of structures, other physical features, sites, and areas of special character or special historical, cultural, educational, architectural, aesthetic, or environmental interest or value and to achieve the following purposes:
  - 1. The protection, enhancement, perpetuation, and use of structures and other physical features, sites, and areas that are reminders of past eras, events, and persons important in local, state, or national history, or which provide significant examples of architectural styles of the past or are landmarks in the history of architecture, or which are unique and irreplaceable assets to the City and its neighborhoods, or which provide for this and future generations examples of the physical surroundings in which past generations lived,
  - 2. The development and maintenance of appropriate settings and environment for such structures, and other physical features, on such sites, and in such areas,
  - 3. The enhancement of property values, the stabilization of neighborhoods and areas of the City, the increase of economic and financial benefits to the City and its inhabitants, and the promotion of tourist trade and interest,

4. The preservation and encouragement of a City of varied architectural styles, reflecting the distinct phases of its cultural, social, economic, political, and architectural history,
5. The enrichment of human life in its educational and cultural dimensions in order to serve spiritual as well as material needs, by fostering knowledge of the living heritage of the past.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12054 § 1(a), 1998; prior planning code § 2002)

#### **17.07.040 Applicability of zoning regulations.**

- A. **To Which Property Applicable.** The zoning regulations shall apply, to the extent permissible under other laws, to all property within the City of Oakland, and to property outside Oakland to the extent provided in Subsection B. of this Section, regardless of whether such property is in private or public ownership.
- B. **Rezoning of Land Outside City Limits.** Pursuant to the applicable procedures set forth in Chapters 17.130 through 17.152, territory outside the City limits may be placed in appropriate zones, may be included on development control maps, or facilities thereon may be designated landmarks and landmark sites, and proposed planned unit developments or uses may be considered and action taken thereon. The zoning provisions and requirements so established shall become applicable at the same time that the annexation of such territory becomes effective.
- C. **Duplicated or Conflicting Regulation or Restriction.** Where any provision, condition or requirement imposed by, or pursuant to, the zoning regulations and any other provision of any other applicable law, ordinance, resolution, rule or regulation, whether set forth in, or pursuant to, this Code, the Oakland Building Code or Oakland Housing Code, or in any other law, ordinance, resolution, rule, regulation, term, or requirement, imposes overlapping or contradictory regulations, or contains restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards shall control, except as otherwise expressly provided in the zoning regulations or elsewhere in the Oakland Municipal Code. No provision of this Code shall be construed to abrogate, annul or impair any restriction covering any of the same subject matter that is more restrictive or imposes higher development standards except as otherwise expressly provided in the zoning regulations.
- D. **Private Agreements.** The zoning regulations are not intended to abrogate, annul, or impair any easement, covenant, or other agreement between parties, including but not limited to homeowners association's Covenants, Conditions, and Restrictions (CC&Rs). However, where the zoning regulations impose a greater restriction or higher standard than that required by such agreement, the zoning regulations shall control, except as otherwise authorized under the development agreement procedure in Chapter 17.138.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12054 § 1(a), 1998; prior planning code § 2003)

#### **17.07.050 Effect of development control maps.**

Development control maps and all notations, references, and regulations shown therewith shall be considered part of the zoning regulations. Development control maps may include, but are not limited to, regulations intended to carry out any plan respecting location or type of

activities; height, bulk, siting, or design of structures; location or design of open areas and landscaping; and other comparable regulations. In case of conflict with any other provision of the zoning regulations, the development control map shall take precedence, except as otherwise authorized under the development agreement procedure in Chapter 17.138.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12054 § 1(a), 1998; prior planning code § 2004)

#### **17.07.060 Conformity with zoning regulations required.**

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

- A. Notwithstanding any contrary provisions in the zoning regulations or the Land Use and Transportation Element of the General Plan, for the duration of a state of emergency or local emergency (defined in California Government Code § 8558) or a shelter crisis (defined in Government Code §§ 8698.1 et seq.) declared by the City Council, Emergency Shelter Residential Activities, as defined in Section 17.10.118 of the Oakland Planning Code, and Emergency Housing and Emergency Housing Facilities, as defined in Section 15.04.3.2400 of the Oakland Building Code, shall be permitted by right with no discretionary approvals, including design review, on all properties owned or leased by the City that are designated by the City Administrator for use as temporary emergency housing sites. Facilities under this Subsection must meet the standards codified in Section 15.04.3.2400 of the Oakland Building Code, as may be amended. An informational report will be submitted to Planning Commission and City Council within ninety (90) days of the commencement of operation of each temporary emergency housing site authorized under this section. After the expiration of a declaration of a state of emergency, local emergency, or shelter crisis, all temporary uses permitted by this Section must be removed within ninety (90) days unless approved for continued use in conformity to the zoning regulations.
- B. For the duration of a valid Temporary Recreational Vehicle (RV) Occupancy Permit issued pursuant to the Recreational Vehicle on Undeveloped Property Pilot Program described in Oakland Municipal Code (OMC) Chapter 5.72, the applicable regulations or requirements in OMC Chapter 5.72 shall prevail over the regulations or requirements in the Oakland Planning Code (Title 17); and Recreational Vehicles, as defined by Section 18010 of the California Health and Safety Code, that are occupied on private property pursuant to a valid Temporary RV Occupancy Permit shall be considered permitted Residential Facilities. Facilities subject to the Recreational Vehicle on Undeveloped Property Pilot Program must meet the standards codified in OMC Chapter 5.72, as may be amended. After the expiration of this Pilot Program in OMC Chapter 5.72, all permitted temporary uses must be removed no later than the termination of the Temporary RV Occupancy Permit issued prior to expiration of the Pilot Program, unless approved for continued use in conformity to the zoning regulations.
- C. Notwithstanding any contrary provisions in the zoning regulations or the Land Use and Transportation Element of the General Plan, the permit requirements for Sidewalk Cafes as set forth in the individual Zoning Chapters and in Planning Code Section 17.103.090

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

(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. 12054 § 1(a), 1998; prior planning code § 2010)

**17.07.065 Permitted and conditionally permitted uses.**

- A. **Other Uses Prohibited.** Except as otherwise provided in Sections 17.114.030 and 17.154.060, the nonconforming use regulations in Chapter 17.114, and the planned unit development regulations in Chapter 17.142, or as authorized under Section 17.138.015, 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.

(Ord. No. 13172, § 3(Exh. A), 7-2-2013)

**17.07.070 Minimum requirements.**

In their interpretation and application, the provisions of the zoning regulations shall be considered the minimum requirements necessary to accomplish the purposes set forth in Section 17.02.030.

(Ord. 12054 § 1(a), 1998; prior planning code § 2011)

## **Chapter 17.09 DEFINITIONS**

### **Sections:**

17.09.010 Title, purpose, and applicability.

17.09.020 General rules for construction of language.

17.09.030 Use classifications.

17.09.040 Definitions.

17.09.050 Special definitions for projects in the Open Space (OS) Zone.

### **17.09.010 Title, purpose, and applicability.**

The provisions of this Chapter shall be known as the Definitions. The purpose of these provisions is to promote consistency and precision in the interpretation of the zoning regulations. The meaning and construction of words and phrases as hereinafter set forth shall apply throughout the zoning regulations, except where the context of such words or phrases clearly indicates a different meaning or construction.

(Ord. 12054 § 1(c), 1998; prior planning code § 2100)

### **17.09.020 General rules for construction of language.**

The following general rules of construction shall apply to the textual provisions of the zoning regulations:

- A. The particular shall control the general.
- B. In case of any difference of meaning or implication between the text of any provision and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is discretionary.
- D. The word "permitted" means permitted without the requirement for a conditional use permit but subject to all applicable regulations.
- E. The words "conditionally permitted" mean permitted subject to the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and subject to all other applicable regulations.
- F. Words used in the present tense include the future, and words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- G. The words "activities" and "facilities" mean and include any part thereof.
- H. Unless the context clearly indicates to the contrary, the following conjunctions shall be interpreted as follows:
  1. "And" indicates that all connected items or provisions shall apply.
  2. "Or" indicates that the connected items or provisions may apply singly or in any combination.

3. "Either...or" indicates that the connected items or provisions shall apply singly but not in combination.
- I. All public officials, bodies, and agencies to which reference is made are those of the city of Oakland unless otherwise indicated.
- J. The word "city" means the City of Oakland.

(Ord. 12054 § 1(c), 1998; prior planning code § 2101)

**17.09.030 Use classifications.**

Activity types and facility types, the names of which always start with capital letters, are described in the use classifications in Chapter 17.10.

(Ord. 12054 § 1(c), 1998; prior planning code § 2102)

**17.09.040 Definitions.**

**"A' weighted sound level"** means the total sound level in decibels of all sound as measured with a sound level meter with a reference pressure of twenty (20) micropascals using the 'A' weighted network (scale) at slow response. The unit of measurement shall be defined as dBA or dB(a).

**"Access facility width"** means the width of the paved roadway surface curb-to-curb or edge-to-edge, exclusive of shoulders.

**"Accessory activity"** means an activity which is incidental to, and customarily associated with, a specified principal activity, and which meets the applicable conditions set forth in Section 17.10.040.

**"Accessory Dwelling Unit" or "ADU"** means an interior, attached or detached dwelling unit that is accessory to a proposed or existing primary Residential Facility located on the same lot; provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation; meets the standards and criteria of Section 17.103.080 and Chapter 17.88; and conforms to one or more of the following permitted ADU types:

- A. **"Junior Accessory Dwelling Unit" or "JADU"** means an Accessory Dwelling Unit that is contained entirely within the building envelope of an existing or proposed One-Family Residential Facility. It may include separate sanitation facilities or may share sanitation facilities with the primary Residential Facility, but must contain an efficiency kitchen. A JADU is not allowed as a conversion of detached or attached accessory structures. Owner occupancy is required in either the JADU or the primary Residential Facility. The owner of the JADU is required to record a deed restriction setting forth this requirement.
- B. **"One-Family Category One ADU"** means an Accessory Dwelling Unit that is a conversion of space within an existing One-Family Residential Facility or an associated legally existing accessory structure, or an existing associated accessory structure that is rebuilt pursuant to the requirements set forth in Table 17.103.01.
- C. **"One-Family Category Two ADU"** means a newly constructed attached or detached Accessory Dwelling Unit on a lot with an existing or proposed One-Family Dwelling Residential Facility. A One-Family Category Two ADU may include an exterior addition to



an existing primary One-Family Residential Facility for the purposes of accommodating the ADU.

- D. **“Multifamily Category One ADU”** means an Accessory Dwelling Unit that is a conversion of a legally existing, non-habitable space, such as storage rooms, boiler rooms, passageways, attics, basements, or garages located within legally existing portions of Two-Family or Multifamily Dwelling Facilities. Non-habitable space does not include detached accessory structures, existing residential units, commercial space, community rooms, gyms, laundry rooms or any finished spaces that are meant to be occupied by people and used communally.
- E. **“Multifamily Category Two ADU”** means a newly constructed detached Accessory Dwelling Unit, or a conversion of a legally existing detached accessory structure, on a lot with existing Two-Family or Multifamily Dwelling Facilities. A converted detached Category Two ADU(s) is either: (a) within the building envelope of an existing detached accessory structure and involves no expansion of existing building envelope; or (b) within a rebuilt detached accessory structure built in the same location and to the same exterior dimension as the existing detached accessory structure(s).
- F. **“Multifamily Category Three ADU”** means a newly constructed ADU that is interior or attached to a primary structure, or a conversion of a legally existing attached accessory structure that is rebuilt pursuant to the requirements set forth in Table 17.103.02, or a combination of both new construction and conversion for the purposes of creating only one ADU on the lot.

**"Accessory facility"** means a facility, other than a Sign, which is incidental to, and customarily associated with, a specified principal facility, and which meets the applicable conditions set forth in Section 17.10.070.

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

**"Activity"** means the performance of a function or operation.

**"Activity type"** means a type of activity which is specially described as such by the use classifications in Chapter 17.10 on the basis of common functional characteristics and similar effects on other uses, and which is designated throughout the zoning regulations by a special name each word of which starts with a capital letter.

**"Adult entertainment activity"** means any commercial activity, whether conducted intermittently or full-time, which primarily involves the sale, display, exhibition, or viewing of books, magazines, films, photographs, or other materials, distinguished or characterized by an emphasis on matter depicting, describing, or relating to human sex acts, or by emphasis on male or female genitals, buttocks, or female breasts.

**"Alcoholic beverage"** means alcohol, spirits, liquor, wine, beer, or any liquid or solid containing alcohol, spirits, wine, or beer, which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

**"Alcoholic beverage license overconcentrated areas"** means a police beat with crime rates that exceed the City median by twenty (20) percent or more or a census tract in which the per capita number of on-sale or off-sale retail Alcoholic Beverage Sales licenses exceeds the Alameda County median.

**"Alley"** means a dedicated public way intended primarily to provide secondary vehicular access to abutting properties.

**"Alteration"** means any enlargement; addition; demolition; removal; relocation; repair; remodeling; change in number of living units; development of or change in an open area; development of or change in a Sign, by painting or otherwise; or other change in a facility, but excluding painting except as provided above for Signs, and ordinary maintenance for which no building permit is required.

**"Ambient noise level"** means the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding any alleged offensive noise. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location.

**"Area Damaged by the 1991 Firestorm"** means all of that area situated: beginning at the intersection of Claremont Avenue and the westerly line of the University of California, Berkeley campus, thence southerly along said westerly property line of the University of California campus to Grizzly Peak Boulevard; thence southeasterly on Grizzly Peak Boulevard to the most westerly line of the Robert Sibley Volcanic Regional Preserve; thence due south to Skyline Boulevard; thence westerly on Skyline Boulevard to Broadway Terrace; thence southwest on Broadway Terrace to Farallon Way; thence southwest on Farallon Way and the extension of Farallon Way to Pinehaven Road; thence westerly on Pinehaven Road to Broadway Terrace; thence southerly on Broadway Terrace to Uranus Avenue; thence east on Uranus Avenue to Sherwood Drive; thence south on Sherwood Drive to Taurus Avenue; thence west on Taurus Avenue approximately six hundred fifty (650) feet to a path connecting Taurus Avenue and Capricorn Avenue; thence south along said path to Capricorn Avenue; thence south on Capricorn Avenue to Florence Terrace; thence north and west on Florence Terrace and an extension of Florence Terrace across Highway 13 to Estates Drive; thence west on Estates Drive to Masonic Avenue; thence south on Masonic Avenue to Amy Drive; thence southwest on Amy Drive to Harbord Drive; thence southeast on Harbord Drive to Maxwellton Road; thence southwest on Maxwellton Road to the Oakland-Piedmont border; thence northwest along said Oakland-Piedmont border to Clarewood Drive; thence northwest on Clarewood Drive to Broadway Terrace; thence west on Broadway Terrace to Margarido Drive; thence north and east on Margarido Drive to Rockridge Boulevard South; thence west on Rockridge Boulevard South to Rockridge Boulevard; thence west on Rockridge Boulevard to Broadway; thence north on Broadway to Golden Gate Avenue; thence north on Golden Gate Avenue to Chabot Road; thence along the extension of Golden Gate Avenue to the Oakland-Berkeley border; thence along said Oakland-Berkeley border to the intersection of said Oakland-Berkeley border with Claremont Avenue; thence northeast on Claremont Avenue to the point of beginning.

**"Area of Primary Importance"** or **"API"** means an area as defined by the Historic Preservation Element of the General Plan.

**"Area of Secondary Importance"** or **"ASI"** means an area as defined by the Historic Preservation Element of the General Plan.

**"Attic"** means a space between the roof framing and the floor of such space and which is excluded from the definition of "story."

**"Base of a building"** or **"building base"** means that portion of a building immediately above finished grade to the maximum total base height as described in an individual zoning designation.

**"Basement"** means the area below the lowest level of a building and which is excluded from the definition of "story."

**"Bedroom"** means any habitable room, regardless of its designation on building plans, which meets both of the following criteria:

1. The room may legally function as a bedroom in that it complies with, or is required by the Building Official to comply with, all applicable laws and regulations pertaining to sleeping rooms, including, but not limited to, the requirements of the Oakland Building Code for light and ventilation in habitable rooms and emergency egress from sleeping rooms; and the Oakland Housing Code definition of "sleeping room."
2. The room may logically function as a bedroom, with consideration given to its function and physical relationship to the remainder of the living unit.

**"Berth"** means an area, exclusive of docks, designated to accommodate a motor vehicle during loading or unloading of goods.

**"Buildable area"** means the portions of a lot on which a building can be located as defined by the minimum setbacks, if any, and all other applicable provisions of this code.

**"Buildable envelope"** means the volume of space for buildings and other structures as defined by the minimum setbacks and the maximum allowable height.

**"Building"** means a structure having a roof supported by columns or walls.

**"Building Envelope"** means the exterior surface of a building, consisting of such elements as the foundation, walls, windows, roof, doors, floors, and other attached features. An increase in the building envelope shall be defined as an increase in the exterior size, footprint, or height of a building; or the enclosure or conversion into living area of any open balcony, deck, porch, or unenclosed understory.

**"Building Facility"** means any structure, open area, or object which accommodates or is intended to accommodate Residential, Civic, Commercial, Industrial and/or Mixed Use Activities. Building Facilities also include such facilities as are customarily associated with, and are appropriate, incidental, and subordinate to Residential, Civic, Commercial, Industrial and/or Mixed Use Activities.

**"Building Front"** see front of building.

**"Building length"** means a plan dimension parallel to an exterior wall or walls. This measurement is equal to the horizontal dimension of the corresponding elevation of the building or structure at a given level.

**"Car-share, public"** means a service that provides an integrated citywide network of neighborhood-based motor vehicles available to members by reservation on an hourly basis or in smaller intervals.

**"Car-share, private"** means a service provided within a development that provides motor vehicles available only to occupants and only on an hourly basis or in smaller intervals.

**"Character-defining elements"** means those features of design, materials, workmanship, setting, location, and association that identify a property as representative of its period and contribute to its visual distinction or historical significance.

**"Collective household"** means a group of at least two, but not more than five, persons who are unrelated by blood, marriage, or adoption, living together as an independent housekeeping unit.

**"Commercial Zone"** means any zone with a name that contains the words "Commercial Zone."

**"Common driveway"** means a driveway having a width of no less than twelve (12) feet and providing a shared access alternative to, and across existing legal lots which have street frontage, regardless of lot ownership. At the discretion of the Director of Public Works, based on considerations described in the City Planning Commission guidelines, the street entrance portion of the common driveway may be located within the public right-of-way. In calculating aggregate residential density, the area of the common driveway shall be excluded from the total area of the lots crossed by the common driveway.

**"Corner lot"** (see illustration I-1) means a lot bounded on two or more adjacent sides by streets, by private ways described in Section 17.106.020, or by portions of such streets or ways, having an angle of intersection of one hundred thirty-five (135) degrees or less.

**"Court"** means an area between two walls on the same lot, measured for a specified distance, in a horizontal plane, perpendicularly from either of such walls; located on the same lot as said walls; and open and unobstructed except for the facilities allowed therein by Section 17.108.130.

**"Day"** means calendar day.

**"Decibel (dB)"** means a unit for measuring the amplitude of sounds, equal to twenty (20) times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals.

**"Dependent loading berth"** means a loading berth that can only be accessed by driving across another parking space or loading berth. (See also "Independent loading berth" and "Tandem loading berth" in this Section.)

**"Dependent parking space"** means a parking space that can only be accessed by driving across another parking space or loading berth. (See also "Independent parking space" and "Tandem parking" in this Section.)

**"Designated Historic Properties"** means landmarks, contributors or potential contributors to Preservation Districts, or Heritage Properties.

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

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

**"Development control map"** means a map or set of maps, with supporting text, regulating the precise location, height, bulk, design, or nature of activities or facilities.

**"Display surface (area of)"** means the area of the smallest plane figure which can be made to include all of the idea, advertisement, identification, or information intended to be conveyed by a Sign, including any trim or other material or color forming an integral part of the display or used to differentiate the Sign from the background against which it is placed, but excluding uprights or other structural members which are not a part of the display. With respect to multifaced Signs, the area of all such faces shall be included except where the context refers to only one face.

**"Diagonal length"** means a horizontal plan dimension between the two most separated points on the exterior walls at a given level of a building or structure.

**"Dormer"** means a roofed structure projecting from a sloping roof and containing a window or ventilating louver.

**"Driveway"** means the way or means of vehicular access from that portion of a street used for vehicular travel to the parking, loading, or other vehicular activity on the adjacent property, including the portion of the sidewalk lying within said way or means of access. (Note that this differs from the definition of "Driveway" at Section 12.04.240 of the Oakland Municipal Code, which only includes that portion lying within the street right-of-way.)

**"Dwelling unit"** means a room or suite of rooms including only one kitchen, except as otherwise provided in Section 17.102.270, and designed or occupied as separate living quarters for one person or 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.

**"Earthen berm"** means a mound or embankment of earth, together with necessary retaining structures.

**"Edge of the pavement"** means the edge of that part of a street, alley, or private access easement described in Section 17.106.020, having an improved surface used for vehicle travel and parking, including gutters, but not including a raised curb or sidewalk.

**"Efficiency Dwelling Unit"** means a dwelling unit containing only a single habitable room other than a kitchen and containing a total floor area of four hundred (400) square feet or less.

**"Electroplating activity"** means the electrochemical process of depositing a thin metallic coating of one metal on top of a different metal by passing an electrical current into a piece of metal immersed in chemical solutions comprised of caustics, acids, cyanides or other bonding chemicals, and causing a metallic coating to bond with the object to be plated. Such activities are classified as General Manufacturing Industrial Activities and are subject to the provisions of Section 17.102.340.

**"Enclosed retaining wall"** means a retaining wall located on a lot such that it is visually shielded by other permanent structures and cannot be seen from public streets and adjacent lots.

**"Existing grade"** means the natural grade or the revised grade due to prior development of a lot.

**"Facility"** means a structure, open area, or other physical contrivance or object.

**"Facility Type"** means a type of facility which is specially described as such by the use classifications in Chapter 17.10 on the basis of common functional characteristics and similar effects on other uses, and which is designated throughout the zoning regulations by a special name each word of which starts with a capital letter.

**"Family"** means one person, or a group of people living together as a single housekeeping unit, together with any incidental domestic servants and temporary nonpaying guests.

**"Family foster care home"** means a Residential Activity providing twenty-four (24) hour care for six (6) or fewer foster children in a Residential Facility that is the residence of the foster parents, including their family, in whose care the foster children have been placed.

**"Finished grade"** means:

1. Natural grade exterior to all buildings or structures created by any proposed development in all those situations not covered by Subsection 2. of this definition;
2. A revised grade exterior to all buildings or structures created by any proposed development where the revised grade is achieved under a City grading permit, subdivision approval, or conditional use permit or other special zoning approval, or through officially approved work in a public right-of-way.