

Zoning Topic: Recently Adopted Zoning Text Amendments Effective June 20, 2008

On May 20th 2008, the City Council adopted the zoning text amendments briefly described in this document. Typically, the zoning text amendments apply citywide, except for amendments to the S-8 zone. Most of the changes are non-substantive and relate to improving the consistency of the code, updating the use of terms, reformatting the code and simplifying language throughout the code. Other, more substantive changes described here include bringing the code into conformance with State law, improving the interpretability of the code and improving development standards.

Projects not affected by these code amendments include: 1) building/construction related permits already issued and not expired; 2) zoning applications approved by the city and not expired; 3) complete zoning applications or; 4) zoning applications that would otherwise be considered complete except for an environmental determination.

These changes supersede the current online version of the Planning Code and will not be represented in the online Planning Code for 3-6 months. Therefore, use the following link to view the zoning text amendments enacting Ordinance and the updated Planning Code (located on the Planning and Zoning website).

<http://www.oaklandnet.com/government/ceda/revise/planning.html>

Planning Code Chapters Amended (Note: other chapters were amended, however the changes were minor and are not described in this document. Refer to the enacting Ordinance for the complete list of chapters amended):

| | |
|---------------|---|
| 17.09 | Definitions |
| 17.34 | C-5 Neighborhood Commercial Zone Regulations |
| 17.65 | HBX Housing and Business Mix |
| 17.86 | S-8 Urban Street Combining Zone Regulations |
| 17.102 | General Regulations Applicable to All or Several Zones |
| 17.104 | General Limitations on Signs |
| 17.106 | General Lot, Density and Area Regulations |
| 17.108 | General Height, Yard, Court Regulations |
| 17.124 | Landscaping and Screening Standards |
| 17.134 | Conditional Use Permit Procedure |
| 17.142 | Planned Unit Development Regulations |

17.09 Definitions

- “Accessory structure” – included a new definition because currently no definition exists for “accessory structure,” despite it being used throughout the code.
- “Commercial zone,” “Industrial zone,” and “Residential zone” – revised the definition so that each zone fits into one of these categories.
- “Designated landmark” and “Designated landmark site” – updated references to special regulations for designated landmarks to the correct code section.
- “Floor area” – made a simple formatting change.
- “Front lot line” – revised the definition to provide more flexibility to determine the front lot line ensuring compatibility with the surrounding development patterns.
- “Local Register Property” and “Potential Designated Historic Property” – included acronyms next to spelled out words.
- “Living room” – replaced “dwelling unit” with “living unit” to use the appropriate terminology.
- “Potential Designated Historic Property” – include acronym next to the formal terms.

- “Private access easement” – replaced “dwelling unit” with “living unit” to use the appropriate terminology.
- “Slope, down” and “Slope, up” – provided a consistent way of determining properties considered “Slope, down” and “Slope, up.”
- “Street” – removed the word, “dedicated” from the street definition for broader application.

17.34 C-5 Neighborhood Commercial Zone Regulations

17.34.050 Permitted facilities

Added “One-Family Dwelling with Secondary Unit” to the list of permitted facilities.

17.65 HBX Housing and Business Mix Commercial Zone Regulations

17.65.070 Maximum density.

Made the density table more specific by including density standards for dwelling units and rooming units.

17.65.080 Maximum floor area ratio.

- HBX-2 – Slightly reduced the maximum FAR from 2.6 to 2.5, on streets less than 80 feet wide, so that the number is divisible by 0.5, consistent with the entire planning code. Reduced the maximum FAR from 3.4 to 3.0 on streets 80 feet or wider, to encourage more articulation in building form and reduce bulkiness of buildings.
- HBX-3 – The existing regulation in HBX-3 allows an FAR of 2.6 on narrow streets (less than 80 feet wide) and 3.4 on wider streets (wider than 80 feet). Staff removed the distinction in FAR between lots facing narrow streets and wide streets. Staff made a “by right” FAR of 2.5 and a conditionally permitted FAR of 3.0. The conditional use permit requires findings regarding building articulation and mitigation for neighboring single-family homes. This provides more flexibility for developers while protecting neighboring homes from light and shadow impacts and assuring that the additional bulk is scaled down through massing techniques.

17.65.100 Maximum height.

Subsection (A): Updated the table by increasing the maximum height in HBX-1 from 30 feet to 35 feet to allow a more prominent first floor. However, height above 30 feet on Lowell Street requires a CUP.

17.65.110 Different maximum floor area ratio and height regulation in special situations.

Staff has deleted this section which allowed for 85 foot tall buildings on lots greater than 25,000 square feet and on streets 80 feet or wider because staff believes this allows buildings to be built that are out of scale with the existing neighborhood. The remaining part of this section regarding height on lots next to freeways was moved to 17.65.100 so that all height regulations are included in the same section.

17.65.130 Landscaping, paving and buffering.

Subsection (A) (3): Increased the spacing of large trees from 20 to 25 feet for consistency with the planning code.

Subsection (A) (5): Slightly reworded this subsection to indicate that it expresses the minimum requirements for landscaping near parking lots.

Subsection (B): This section refers to the maximum percentage of surface area that may be paved in all street fronting yards. Staff has deleted this subsection to create greater flexibility and to accommodate more variety in site plans. Furthermore, HBX Design Guidelines already contain landscaping requirements with a similar intent.

17.65.150 Special regulations for HBX work/live units.

This section provides standards for “HBX work/live units,” a facility type only found in the HBX zone.

- Moved the definition of HBX work/live units from the Use Classifications chapter and placed the definition in this section because HBX work/live is only discussed in this chapter, therefore it is not necessary to include its definition in the Use Classifications chapter.
- Subsection (D): Updated the table by reducing the minimum size of a unit from 1000 to 800 square feet. The reduction in unit size makes units more affordable for small businesses and artists and allows for a greater variety of unit mixes
- Subsection (E): Restated, in table form, the existing regulations for HBX work/live unit types.
- Subsection (G) (4-8): Refined the standards for determining residential and non-residential floor area in HBX work/live units.
- Subsection (P) (2): Refined the standards that require HBX work/live facilities to have a substantial ground floor nonresidential presence. This change provides more certainty for developers, direction for staff and assures HBX work/live units have a commercial component.

17.65.160 Special regulations for HBX live/work units.

Staff has added the definition of HBX live/work to this section since it was removed from the Use Classifications chapter.

17.86 S-8 Urban Street Combining Zone Regulations

17.86.050 Permitted activities in front twenty feet of ground floor. & 17.86.060 conditionally permitted activities in front twenty feet of ground floor.

“General Food Sales” (i.e., restaurants and grocery stores) and “Business and Communication Services” (i.e., copy shops and brokerage firms) are outright permitted (instead of conditionally permitted).

17.86.070 Restrictions on parking and loading at ground level.

Staff has removed the reference to a temporary parking lot and specified that driveway and loading areas should not be located on the principal street unless a CUP is granted.

17.86.090 Use permit criteria.

Subsection (D): Included language specifying that the pedestrian traffic on Broadway should not be disrupted if alternate vehicle access is available.

17.86.100 Design review criteria.

Staff has rephrased language to make the regulations more easily interpretable and objective.

17.102 General Regulations Applicable to All or Several Zones

17.102.190 Joint Living and Work Quarters.

Subsection (A) specified that in any zone, projects involving exterior alterations are subject to design review.

Subsection (B) redefined joint living and work quarters (i.e., live/work units) residential occupancy standards by eliminating a maximum number of occupants. The old language included a maximum number of occupants of four; however staff feels no compelling reason to require a certain number of residents in a joint living and work quarter. Additionally, specified that the commercial building had to be at least ten years old and originally designed for commercial occupancy.

Subsection (C) specifies that new floor area can be created in the existing building envelope, except that 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 Joint Living and Work Quarters, except to allow certain architectural features.

17.102.195 Residentially-Oriented Joint Living and Working Quarters.

Subsection (C) (2) included language that 1) specifies that new floor area may be created that is entirely within the existing building envelope and 2) provides flexibility for the rehabilitation of older buildings downtown and allows mezzanines commonly found in live/work loft units.

17.102.230 Special Regulations applying to the demolition of a facility containing rooming units or the conversion of a facility containing rooming units to a Nonresidential Activity—Nonresidential zones.

Staff has specified that one and two unit facilities are exempt from the requirements of obtaining a CUP to convert to a nonresidential use. This provision allows single family detached units to convert to commercial uses, which serves to incubate new businesses and entrepreneurial spirit.

17.102.270 An additional kitchen for a dwelling unit.

This section provides standards for when a kitchen is allowed without creating a new unit. The following list summarizes staff's changes.

- Subsection (A): Clarified existing language that states the additional kitchen must be located within an existing single dwelling unit and serve the resident household.
- Subsection (B): Specified that the kitchen shall not be inhabited by an extra household or create an additional dwelling unit on the premises.
- Subsection (C): Added this subsection to clarify the amount of people served by the additional kitchen facility and the ways in which the people served by the additional kitchen must be related to the resident household.
- Specified that no conditional use permit will be granted in the R-1, R-10, R-20, and R-30 zone if the lot contains two or more dwelling units.

17.102.300 Conditional use permit for dwelling units with five or more bedrooms.

This section provides special standards for homes proposed to contain five or more bedrooms. The following list contains staff's changes.

- Subsection (C) (1): Created more feasible regulations by requiring the same number of resident parking spaces applicable to residential facilities in other parts of the zoning code.
- Subsection (C) (2): Simplified the calculation of visitor parking spaces by replacing, "...0.2 spaces per dwelling unit.." with "...a minimum of one (1) off-street visitor parking space..." thereby creating a more realistic standard for visitor parking for residential facilities.
- Subsection (C) (4): Changed language to make the regulation more flexible. Instead of no parking spaces between the front lot line and the facility, language is inserted to indicate that parking on approved driveways within the front lot line and the facility is allowed.
- Subsection (C) (5): This section requires one parking space for each three habitable rooms. Staff has deleted this subsection because this regulation unfairly placed an extra limitation on dwellings with five or more bedrooms.

17.102.335 Standards for Sidewalk Cafes.

Staff has reduced the amount of unobstructed encroachment into the public right-of-ways allowed by sidewalk cafes from six and one half feet to five feet which is consistent with the city's Public Works standard.

17.102.400 Special design requirements for lots that contain Residential Facilities and no Nonresidential Facilities.

This change made the regulation of front yard paving on interior and through lots the same.

Subsection (3) (a) and (b): Expanded exceptions to landscaping in the public right-of-way in order to provide flexibility for street improvements by removing the 25% maximum paved surface requirement on through lots.

17.104 General Limitation on Signs

17.104.020 General limitations on signs—Commercial and industrial zones.

Staff has updated the reference to commercial and manufacturing zones for consistency with the revised definitions in the Definitions chapter.

17.106 General Lot, Density, and Area Regulations

17.106.010 Lot area and width exceptions.

Throughout this chapter staff removed the provision that required that two adjacent substandard lots owned by the same person are automatically merged into one lot. Under state law however, a city cannot require this merger unless specific procedures are contained in the subdivision regulations. No such regulations are in place.

17.106.020 Exceptions to street frontage requirement.

Subsection (C): Like the change in 17.106.010 subsection (A), this section contains a forced merger provision. As stated, this is not consistent with state law. Therefore, staff has removed these provisions.

Subsection (E): Included language that provides specific exceptions to development in the S-11 zone. The exceptions include circumstances under which a lot may be developed in the S-11 zone despite it not meeting the minimum street frontage requirements.

17.108 General Height, Yard, Court Regulations

17.108.060 Minimum side yard on street side of corner lot—Residential zones.

Subsection (A) and (B): Like the change in 17.106.010 subsection (A), this section contains a forced merger provision. As stated, this is not consistent with state law. Therefore, staff has removed these provisions.

17.124 Landscaping and Screening Standards

17.124.030 Residential landscape requirements for street frontages.

Staff has increased the distance large trees must be planted from 20 feet to 25 feet. The increased distance reduces crowding of trees and allows canopies to fully develop.

17.134 Conditional Use Permit Procedure

17.134.020 Definition of major and minor conditional use permits.

Subsection (A): Clarified the definition of a major and minor conditional use permit. The definition states that this section is only relevant if a conditional use permit is required in some other part of the code.

- Subsection (A) (1) (c) (i): Deleted this subsection so that two or more dwellings in R-35 would require a minor conditional use permit rather than a major conditional use permit. This is consistent with the intent of the R-35 zone.
- Subsection (A) (3) (b): Increased the square footage of commercial or manufacturing activity in a residential zone requiring a major conditional use permit from 1,500 to 5,000. This is to encourage urban residential sections of the city to become viable commercial areas and reduce the workload of the Planning Commission.

17.142 Planned Unit Development Regulations

17.142.100 Bonuses

Subsection (D) (1): Included language that specifically permits in-law units in Planned Unit Developments. This recommendation is consistent with state law and the rest of the zoning code.