

Proposed Deletion of Chapter 17.101.C. D-BR Broadway Retail Frontage District Interim Combining Zone Regulations (to be replaced with Attachment E.5)

Deletions to the chapter are in ~~strikeout~~.

~~Chapter 17.101C D-BR BROADWAY RETAIL FRONTAGE DISTRICT INTERIM COMBINING ZONE REGULATIONS~~

~~Sections:~~

~~17.101C.010 Title, purpose, and applicability.~~

~~17.101C.020 Expiration for D-BR zone.~~

~~17.101C.030 Zones with which the D-BR zone may be combined.~~

~~17.101C.040 Relationship to base zone.~~

~~17.101C.050 Required design review process.~~

~~17.101C.060 Permitted and conditionally permitted activities.~~

~~17.101C.065 Micro living quarters.~~

~~17.101C.070 Special regulations regarding facilities on the ground level of principal facilities.~~

~~17.101C.080 Special ground floor height regulation.~~

~~17.101C.090 Building location.~~

~~17.101C.100 Special regulations applying to new construction over 10,000 square feet.~~

~~17.101C.010 Title, purpose, and applicability.~~

~~The provisions of this chapter shall be known as the D-BR Broadway Retail Frontage District Interim Combining Zone Regulations. The D-BR Zone is intended to create, preserve, and enhance ground-level retail opportunities within the Broadway/Valdez Retail District area north of the Central Business District. These interim regulations anticipate the adoption of more comprehensive and detailed regulations and a plan to attract retail opportunities within the Broadway/Valdez Retail District area.~~

~~(Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

~~17.101C.020 Expiration for D-BR zone.~~

~~The regulations contained in the D-BR Zone shall remain in place and be effective until the City Council adopts a specific plan and new zoning regulations for the Broadway/Valdez Retail District.~~

~~(Ord. No. 13151, § 2(Exh. A), 2-5-2013; Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

~~17.101C.030 Zones with which the D-BR zone may be combined.~~

~~The D-BR Zone may be combined with any other zone.~~

~~(Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

~~17.101C.040 Relationship to base zone.~~

~~The regulations in the D-BR Zone are supplementary to the regulations applying in the zone or zones with which the D-BR Zone is combined. Whenever any provision of the D-BR Zone imposes overlapping or contradictory regulations with those contained in the applicable base zone, or contains restrictions covering any of the same subject matter, the provision within the D-BR Zone shall control, except as otherwise expressly provided in the zoning regulations.~~

~~(Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

~~17.101C.050 Required design review process.~~

~~Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, Telecommunications Facility, Sign, or other associated structure shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.~~

~~(Ord. No. 13151, § 2(Exh. A), 2-5-2013; Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

~~17.101C.060 Permitted and conditionally permitted activities.~~

~~Table 17.101C.01 lists activities permitted, conditionally permitted, and prohibited in the D-BR Zone. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.~~

~~"P" designates permitted activities in the corresponding zone.~~

~~"C" designates activities that are permitted only upon the granting of a conditional use permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).~~

~~"L" designates activities subject to certain limitations or notes listed at the bottom of the table.~~

~~"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.~~

Table 17.101C.01 Permitted and Conditionally Permitted Activities

Activities	D-BR Zone	Additional Regulations
Residential Activities		
—Permanent Residential	C(L1)	
—Residential Care	P(L1)(L2)	<u>17.103.010</u>
—Service-Enriched Permanent Housing	C(L1)	<u>17.103.010</u>
—Transitional Housing	C(L1)	<u>17.103.010</u>

—Emergency Shelter	—	<u>17.103.010</u>
—Semi-Transient Residential	—	<u>17.103.010</u>
—Bed and Breakfast		
Civic Activities		
—Essential Service	P	
—Limited Child Care	C(L1)	
—Community Assembly	C(L1)	
—Recreational Assembly	C(L1)	
—Community Education	P(L1)	
—Nonassembly Cultural	P	
—Administrative	P(L1)	
—Health Care	C	
—Special Health Care	—	<u>17.103.020</u>
—Utility and Vehicular	—	
—Extensive Impact	—	
Commercial Activities		
—General Food Sales	P	
—Full Service Restaurant	P	
—Limited Service Restaurant and Cafe	P	
—Convenience Market	C	<u>17.103.030</u>

—Fast Food Restaurant	C	
—Alcoholic Beverage Sales	C	17.103.030 and 17.114.030
—Mechanical or Electronic Games	—	
—Medical Service	P(L3)	
—General Retail Sales	P	
—Large Scale Combined Retail and Grocery Sales	—	
—Consumer Service	P(L4)	
—Consultative and Financial Service	P	
—Check Cashier and Check Cashing	—	
—Consumer Cleaning and Repair Service	P	
—Consumer Dry Cleaning Plant	C	
—Group Assembly	C(L5)	
—Personal Instruction and Improvement and Small Scale Entertainment	C	
—Administrative	P(L1)	
—Business, Communication, and Media Service	P	
—Broadcasting and Recording Service	P	
—Retail Business Activity	C	
—Research Center	—	
—General Wholesale Sales	—	

—Transient Habitation	—	<u>17.103.050</u>
—Building Material Sales	—	
—Automobile and Other Light Vehicle Sales and Rental	€	
—Automobile and Other Light Vehicle Gas Station and Servicing	—(L6)	<u>17.114.050 (A)</u>
—Automotive and Other Light Vehicle Repair and Cleaning	—(L6)	<u>17.114.050 (A)</u>
—Taxi and Light Fleet-Based Service	—	
—Automotive Fee Parking	€	
—Animal Care	€	
—Animal Boarding	€	
—Undertaking Service	—	
—Scrap Operation	—	
Industrial Activities	All Industrial Activities prohibited in these zones	
Agricultural and Extractive Activities	All Agricultural and Extractive Activities prohibited in these zones	
Off-street parking serving activities other than those listed above or in <u>Section 17.74.030</u>, subject to the conditions set forth in <u>Section 17.116.075</u>	€	17.116.075
Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone	€	<u>17.102.110</u>

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Limitations:

~~L1. 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. See Section 17.102.212 for other regulations regarding these activities.~~

~~L2. Residential Care is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when not located in a One-Family Dwelling Residential Facility. 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.~~

~~L3. These activities may only be located on the ground floor of a building on a lot that has a property line abutting the Broadway or 27th Street right-of-way upon the granting of a conditional use permit (see Chapter 17.134), and shall conform to the additional criteria contained in Section 17.25.030. However, incidental pedestrian entrances that lead to one of these activities in stories above the ground floor are permitted without the granting of a conditional use permit.~~

~~L4. See Section 17.102.170 for special regulations relating to massage services. Also no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.~~

~~L5. No new or expanded adult entertainment activity shall be located closer than one thousand (1,000) feet to the boundary of any residential zone or three hundred (300) feet from any other adult entertainment activity. See Section 17.102.160 for further regulations regarding adult entertainment activities.~~

~~L6. Reestablishment of a discontinued, legal non-conforming Automobile and Other Light Vehicle Gas Station and Servicing activity and/or an Automotive and Other Light Vehicle Repair and Cleaning activity may only occur no later than six (6) months after discontinuation of such a activity, per Subsection 17.114.050.A.~~

~~(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13151, § 2(Exh. A), 2-5-2013; Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

17.101C.065 Micro living quarters.

~~A. Definition. For the purposes of the D-BR interim combining zone chapter only, the following definition is added as a facility type. Definitions for other facility types are contained in Chapter 17.10~~

~~1. "Micro-Living Quarters" mean one or more rooms located in a multiple-tenant building having an average net floor area of one hundred seventy-five (175) square feet, but a minimum size of one hundred fifty (150) square feet of net floor area, and occupied by a permanent residential activity. Bathroom facilities, which include toilet and sink, as well as shower and/or bathtub, are required to be located within each individual Micro-Living Quarter. Cooking facilities are not required to be located within each individual Micro-Living Quarter, as long as shared kitchen facilities are provided within close proximity on the same building floor. The maximum number of Micro-Living Quarters within a building shall not be regulated by residential density limits in the corresponding zone, but instead shall be established through the application of the Micro Living Quarters required average size (one hundred seventy five (175) square feet); the Floor Area Ratio (FAR) limits specified in the corresponding zone that normally apply only to non-residential facilities; all other applicable development regulations establishing the buildable envelope in the corresponding zone including, but not limited to, maximum height and minimum setbacks; and the requirements of the Building and Fire Codes.~~

~~a. As an exception to the regulations specified elsewhere in the Planning Code, including but not limited to Section 17.102.190, and to the special regulations in Section 17.101C.070 regarding facilities on the ground level of principal facilities, new "work/live" units may be permitted as an accessory facility on the ground floor only of a principal facility containing~~

~~Micro-Living Quarters upon the granting of a conditional use permit for such Micro-Living Quarters facility. Such accessory ground floor "work/live" units must meet all applicable regulations contained in this subsection.~~

- ~~i. Work/Live space shall be considered Commercially Oriented Joint Living and Working Quarters under the Building Code. Any building permit plans for the construction or establishment of Work/Live units shall: (1) clearly state that the proposal includes Commercially Oriented Joint Living and Working Quarters, and (2) label the units intended to be these units as Commercially Oriented Joint Living and Working Quarters. This requirement is to assure the City applies building codes that allow commercial activities in Work/Live units.~~
- ~~ii. Work/Live units are nonresidential facilities and count towards the nonresidential floor area ratio (FAR), not the residential density.~~
- ~~iii. The Work/Live units on the ground floor level of a building shall have a business presence on the street. This includes, but is not necessarily limited to, providing storefront-style windows that allow interior space to be visible from the street, a business door that is oriented towards the street, a sign or other means that identifies the business on the door and elsewhere, a prominent ground floor height, or other techniques.~~
- ~~iv. Each Work/Live unit shall have at least one public entrance that is directly adjacent to nonresidential floor area. A visitor entering this business entrance shall not be required to pass through any residential floor area in order to enter into the nonresidential area of the work/live unit.~~
- ~~v. The layout of each Work/Live unit shall have a maximum of one-third (1/3) residential floor area (which is considered areas containing bedrooms, sleeping areas, kitchen areas, bathrooms, and hallways serving such areas), and two-thirds (2/3) non-residential floor area (which is considered areas designated for working). Non-residential floor area and residential floor area shall be separated by an interior wall, or a partition that can be opened and closed.~~
- ~~vi. Each Work/Live unit shall contain at least one tenant that operates a business within that unit. That tenant shall possess a valid and active City of Oakland Business Tax Certificate to operate a business out of the unit.~~

~~B. General Provisions. Micro-Living Quarters may only be permitted upon the granting of a Conditional Use Permit (CUP) pursuant to the Conditional Use Permit procedure in Chapter 17.134; and may only be located in the Micro-Living Quarters Pilot Program Area, which is defined for the purposes of this chapter only as the portion of D-BR interim combining zone area bound by the Broadway, 26th Street, Valdez Street, and 23rd Street rights-of-way.~~

- ~~1. The number of off-street parking spaces, bicycle parking, and amount of open space required for Micro-Living Quarters shall be based on the requirements for a comparative rooming house residential facility type in the corresponding zone.~~
 - ~~a. Due to the location of the Micro-Living Quarters Pilot Program Area within a one-quarter (¼) mile of a BART station, an AC Transit trunk line, the B on Broadway shuttle, as well as park and publicly accessible open space areas, the parking and open space requirements for Micro-Living Quarters may be reduced, modified, or waived by the Director of City Planning or approving body, subject to the provisions in Subsection 2b below.~~
 - ~~b. Any determination on a waiver or reduction in the parking requirement; or reduction or modification to the open space requirement, including but not limited to allowing any amount of the open space to be located on the roof, shall be based upon finding as part of the conditional use permit procedure specified in Subsection C below that:~~
 - ~~i. Any waiver or reduction in off-street parking requirements would not substantially contribute to traffic congestion or impair the efficiency of on-street parking; and~~

- ~~ii. One or more of the following substitutions for car parking or combination thereof may be used, as prescribed by the Director of City Planning or approving body:~~
 - ~~aa. Bicycle parking above existing City requirements;~~
 - ~~bb. Assistance with public transportation passes for residents;~~
 - ~~cc. Providing access to car-share on site or nearby;~~
 - ~~dd. Other transit-oriented measures to support alternative modes of travel other than by car; and~~
 - ~~iii. The provision for sunlight, fresh air, and usable open space on site or in close vicinity would be sufficient to ensure a desirable living arrangement.~~
 - ~~2. Micro Living Quarters shall only be allowed as part of an application for new construction of a multi-tenant building, or alteration of an existing Potentially Designated Historic Property (PDHP) or property listed in the City of Oakland's Local Register of Historical Resources as defined in Policy 3.8 of Oakland's General Plan Historic Preservation Element that is a nonresidential facility or multifamily dwelling residential facility.~~
 - ~~3. Shared recreational area, with seating or other similar amenities, shall be required in the interior of the Micro Living Quarter building equaling a minimum of five (5) square feet per individual Micro Living Quarter or two hundred fifty (250) square feet, whichever is greater. A shared kitchen may be open to shared recreation area if it is adjacent to and directly accessible from such shared kitchen facilities. Kitchen counters, cabinets, sinks and appliances, and the floor area that encompasses an assemblage of these items shall not be included in the calculation of minimum required shared recreational area. Shared laundry facilities or other similar utilitarian spaces shall also not be included in the calculation of minimum required shared recreational area. The minimum width in this shared recreational area shall be twelve (12) feet. The interior shared recreational area shall be accessible to all tenants of the Micro Living Quarter building.~~
 - ~~4. All common space including but not limited to shared kitchens, interior recreational area, and outdoor open space, shall be maintained by the building management company.~~
 - ~~5. Demolition of a property listed in the City of Oakland's Local Register of Historical Resources as defined in Policy 3.8 of Oakland's General Plan Historic Preservation Element is not allowed in order to build Micro Living Quarters.~~
 - ~~C. Use Permit Criteria. A conditional use permit for Micro Living Quarters 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, and to the following additional use permit criteria:~~
 - ~~1. That the proposal will not detract from the character desired for the area;~~
 - ~~2. That the proposal will not impair a generally continuous wall of building facades;~~
 - ~~3. That the proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage;~~
 - ~~4. That the proposal will not interfere with the movement of people along an important pedestrian street; and~~
 - ~~5. That the proposal will conform in all significant respects with any applicable district plan which has been adopted by the City Council.~~
- ~~(Ord. No. 13151, § 2(Exh. A), 2-5-2013)~~

~~17.101C.070 Special regulations regarding facilities on the ground level of principal facilities.~~

- ~~A. This section shall only apply to lots that have a property line abutting either the Broadway, Valdez Street, 23rd Street, 24th Street, 26th Street, 27th Street, or Bay Place right-of-way.~~
- ~~B. For the purposes of this section, the front of a building on lots abutting more than one street shall be that side facing the most prominent street. The following is a ranking of the prominence of streets in the D-BR Zone, from most prominent to least prominent: Broadway, 27th Street, Bay Place, Valdez Street, 24th Street, Webster Street, Harrison Street, 23rd Street, 26th Street, and then all other streets.~~
- ~~C. Except upon the granting of a conditional use permit (see Subsection E of this section), only principal nonresidential facilities (excluding joint living and working quarters) shall be located within the front thirty (30) feet of the ground floor of any new principal facility located on a corner lot that abuts the Broadway right-of-way.~~
- ~~D. Except upon the granting of a conditional use permit (see Subsection E), only principal non-residential facilities (excluding joint living and working quarters) and a maximum one driveway shall be located within the front thirty (30) feet of the ground floor of any new principal facility located on an interior lot that abuts the Broadway right-of-way. This driveway shall be a maximum nineteen (19) feet in width and lead to parking that is at least thirty (30) feet from the front of the building.~~
- ~~E. Upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, twenty percent (20%) of the width of the front thirty (30) feet of the ground floor of a new principal facility may contain required parking. This conditional use permit 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 criterion:~~
- ~~1. That the requirements contained in subsections C or D of this section are infeasible due to lot dimensions, topographic features, or other site constraints.~~
- ~~F. The ground level of Broadway facing facades of new principal facilities shall have a store front appearance defined by at least the following design elements:~~
- ~~1. An ample amount of street facing ground level building facade comprised of clear, non-reflective windows that allow views of indoor commercial space. This includes:~~
 - ~~a. A minimum of sixty percent (60%) of the front building facade between three and one-half (3½) feet and ten (10) feet in height comprised of clear, non-reflective windows that allow views of indoor commercial space or product display areas. The total area of the front building facade shall not include the area with the driveway;~~
 - ~~b. The bottom of any window or product display window being no more than four (4) feet above the abutting sidewalk; and~~
 - ~~c. Product display windows used to satisfy that are a minimum height of four and one-half (4½) feet and internally lighted.~~
 - ~~2. A prominent and primary entrance feature facing Broadway; and~~
 - ~~3. An area designated for signage.~~

~~(Ord. No. 13151, § 2(Exh. A), 2-5-2013; Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

~~17.101C.080 Special ground floor height regulation.~~

~~The minimum height from the sidewalk grade to the ground floor ceiling of newly constructed principal facilities shall be fourteen (14) feet. This regulation does not apply to additions to existing buildings.~~

~~(Ord. No. 13151, § 2(Exh. A), 2-5-2013; Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

~~17.101C.090 Building location.~~

~~The entire building facade that faces Broadway shall be located within five (5) feet of the sidewalk. This standard shall not apply to plazas, recessed entrances, parks, or space designed to accommodate sidewalk seating areas for restaurants, cafes, and similar businesses. No more than fifty percent (50%) of a building frontage shall qualify for the exception for plazas, recessed entrances, or sidewalk seating areas.~~

~~(Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

~~17.101C.100 Special regulations applying to new construction over 10,000 square feet.~~

~~New construction shall only exceed ten thousand (10,000) square feet upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.~~

~~(Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

FOOTNOTE(S):

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~~**Editor's note**—Ord. No. 13059, § 2(Exh. A), adopted March 1, 2011, amended Chapter 17.101C in its entirety to read as herein set out. Formerly, Chapter 17.101C pertained to D-BR Broadway retail frontage interim combining district zone regulations and derived from Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. [\(Back\)](#)~~