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Chapter 17.101

SD SPECIAL DISTRICT COMBINING ZONE REGULATIONS

Article I SD-TEM Temescal District Combining Zone Regulations

17.101.010 Title, purpose, and applicability.

17.101.020 Zones with which the N-1 zone may be combined.

17.101.030 Duplicated Regulation.

17.101.040 Design Guidelines.

17.101.050 Special regulations regarding nonresidential facilities on the ground level of principal buildings.

17.101.060 Maximum residential density.

17.101.070 Maximum height.

17.101.080 Exceptions to bonuses.

17.101.090 Special regulations for neighborhood character defining historic buildings.

SD-TEM Temescal District Combining Zone Regulations

17.101.010 Title, purpose, and applicability.

The provisions of Article I of this chapter shall be known as the SD-TEM Temescal District combining zone regulations. The SD-TEM zone is intended to create, preserve and enhance a balance of pedestrian-oriented activities, transit opportunities, and concentrated development on the portions of Shattuck Avenue, Telegraph Avenue, 51st Street, 52nd Street, and Claremont Avenue within the Temescal neighborhood of Oakland; and to preserve and enhance the cultural, aesthetic, and economic value of the structures and sites within the neighborhood with special importance due to historical association or basic architectural merit. The Temescal District Combining Zone (SD-TEM) is separated into four sub-areas: Temescal-1 (SD-TEM-1), Temescal-2 (SD-TEM-2), Temescal-3 (SD-TEM-3), and Temescal-4 (SD-TEM-4). These four (4) subareas within the Temescal District Combining Zone are designated on the City's zoning maps.

17.101.020 Zones with which the SD-TEM zone may be combined.

The SD-TEM overlay zone may be combined with any base zone in the Temescal neighborhood of Oakland.

17.101.030 Duplicated Regulation.

Whenever any provision of the SD-TEM combining zoning regulations 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 which is more restrictive or imposes higher standards shall control, except as otherwise expressly provided in the zoning regulations.

17.101.040 Design Guidelines.

Conformance to the "Temescal District Design Guidelines" is required for either of the following types of projects:

A. Projects requiring Regular Design Review approval; and

B. A change to the exterior of a "neighborhood character defining historic building" visible from the public right of way that requires a building permit.

17.101.050 Special regulations regarding nonresidential facilities on the ground level of principal buildings.

DRAFT

The ground level facades of new principal buildings in the SD-TEM-3 and SD-TEM-4 sub-areas on lots that have fifty (50) feet or more of street frontage shall contain nonresidential facilities. These nonresidential facilities shall predominate on the ground level of the front façade and be at least twenty (20) feet in depth. Joint living and working quarters shall not fulfill the requirements of this section. The nonresidential facilities required by this section shall have a store front appearance defined by the following design elements:

1. An ample amount of street-facing ground level building facade must be comprised of clear, non-reflective windows that allow views of indoor commercial space.
2. A prominent entrance feature facing either Shattuck or Telegraph Avenues; and
3. An area designated for signage; and
4. A design consistent with Guideline xx of the Temescal Neighborhood Design Guidelines.

17.101.060 Maximum residential density.

- A. The regulations in this section supercede the regulations contained in Section 17.44.140.
- B. The following table contains the maximum number of residential units allowed per lot for the each of the sub-areas.

Standard	All Sub-areas
Square feet of lot area required per unit	450 ft
Minimum remainder required for one additional unit after dividing the lot area by the required lot area per unit	300 ft

Notes

1. See 1) 17.102.xx for affordable housing density incentives; 2) 17.102.xx for increased density for senior housing; 3) 17.102.xx for maximum density on lots containing both residential nonresidential facilities; and 3) 17.102.xx for regulations regarding secondary units. Also, see 17.106.030 for how to calculate density in mixed use projects.
2. The permitted density may be exceeded by not more than 10 percent for a lot that is either: 1) on a street corner, or 2) faces or abuts a public park at least as wide as the lot. The permitted density for a lot that both: 1) faces or abuts a public park, and 2) is on a corner may be increased by 20 percent.
3. In the SD-TEM-3 and SD-TEM-4 sub-areas, see 17.44.200 to increase the permitted density by thirty (30) percent in a mixed use development.
4. The permitted density may be exceeded by not more than 10 percent for a lot that is either: 1) on a street corner, or 2) faces or abuts a public park at least as wide as the lot. The permitted density for a lot that both: 1) faces or abuts a public park, and 2) is on a corner may be increased by 20 percent.

17.101.070 Maximum height.

- A. The regulations in this section supercede the regulations contained in Section 17.44.160.
- B. The following regulations correspond to the height map shown in subsection D.

Standard	Area designation on height map	
	A	B
Permitted maximum height	45 ft	35 ft
Conditionally permitted maximum height	55 ft	45 ft

Notes:

1. A 30 foot maximum height is permitted at the setback line associated with any rear or interior side lot line that abuts a lot in the R-1 through R-50 zones. This maximum height shall increase one foot for every foot of distance from this setback line.
2. See 17.108.xx for allowed projections above height limits and 17.108.020 for increased height limits for civic buildings.
3. A conditional use permit for construction above the generally permitted height shall only be granted if a project includes both:
 - a. A stepback of at least ten feet from the base of the building; and

DRAFT

- b. The proposal includes a community benefit plan that includes a significant contribution to the public right of way or community. The following contributions can include, but are not limited to, the following:
- Public art;
 - Promotion and funding of transportation alternatives, such as car sharing, bicycling, and use of public transportation;
 - Streetscape improvements that exceed any minimum required, such as the inclusion of widened sidewalks, public seating and/or intersection bulb-outs;
 - Affordable housing;
 - Public park improvements; and
 - Non-street front commercial space dedicated to community and cultural organizations.

Any improvement to the right of way requires review and approval from the City of Oakland Public Works Agency.

C. The following regulations apply to construction on lots that face Shattuck Avenue, Telegraph Avenue, 51st Street, and Claremont Avenue:

1. The minimum height for newly constructed principal facilities shall be two stories above ground. This regulation does not apply to additions to existing buildings.

2. The minimum height for the ground floor of newly constructed principal facilities, excluding one or two unit residential buildings, shall be twelve (12) feet. This regulation does not apply to additions to existing buildings.

D. The following height map corresponds with the height limits contained in subsection A:

HEIGHT MAP HERE

17.101.080 Exceptions to bonuses.

The bonuses described in Section 17.44.200 shall only be available for projects in the SD-TEM-1, SD-TEM-3 and SD-TEM-4 sub-areas. These bonuses shall not be available for projects in the SD-TEM-2 sub-area.

17.101.090 Special regulations for neighborhood character defining historic buildings.

A. Definition. A “neighborhood character defining historic building” means a building that has each of the following characteristics:

1. The building is in the Temescal District Zone (SD-TEM);
2. The building has been rated “A”, “B”, or “C” by the Oakland Cultural Heritage Survey;
3. The building has architectural elements, scale, and/or rhythm that, along with other historic buildings in the neighborhood, contribute to a desirable neighborhood character and context;
4. The building can be feasibly incorporated into a development that is consistent with the associated General Plan land use designation, and other applicable portions of the General Plan;
5. The building has distinctive and intact architectural detailing; and
6. The building is not an immediate hazard to public health or safety as determined by the Building Official.

B. Designation. The office of Oakland Cultural Heritage Survey shall develop a list of potential neighborhood character defining historic buildings as described in subsection A. All properties nominated for listing as neighborhood character defining historic buildings shall be considered by the City Planning Commission after receiving a recommendation from the Landmarks Board. The Planning Commission shall hold a public hearing on the proposal. The Planning Commission may designate as a “neighborhood character defining historic building” any facility, portion thereof, or group of facilities which has special character, interest, or value of any of the types referred to in subsection A of this Section.

DRAFT

C. Notification Procedures. Notice shall be given by posting an enlarged notice at a location on the project site that is clearly visible from the street, alley, or private way providing access to the subject lot. Notice shall also be 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 project site; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date set, as the case may be, for decision on the application by the Director, or prior to the date set for a hearing before the Commission, if such is to be held. During the required noticing period, the planning department shall receive and consider comments from any interested party.

D. Finality of Decision. The initial decision of the Commission shall become final ten days after the date of decision unless appealed to the City Council in accordance with Section 17.136.090. In the event that the last day 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.

E. The issuance of a demolition permit for any neighborhood character defining historic building, or portion thereof, shall require the granting of a conditional use permit (see Chapter 17.134). This requirement for a conditional use permit does not supercede any requirements for the demolition of any historic building contained in the planning code or the General Plan. A conditional use permit under this section may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and to the following additional use permit criteria::

1. That the public benefits of the proposed replacement project are significant and outweigh the benefit of retaining the original structure;

2. That it is not economically feasible to preserve at least the façade of the neighborhood character defining historic building. Demonstrating this infeasibility may require analysis of a financial pro forma of the project; and

3. That the design quality, craftsmanship, detailing, and building materials of the proposed replacement project are equal to or greater than that of the building to be demolished; and that the proposed replacement project contains a similar level of the Temescal District's design vocabulary as the building being demolished (see Guidelines xx and xx of the Temescal District Design Guidelines for the elements of Temescal District's design vocabulary).

F. Upon the granting a conditional use permit, the bonuses listed in Section 17.44.210B shall also be permitted for any new development in the Temescal District Zone (SD-TEM) that includes the preservation of a façade of a neighborhood character defining building.

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Changes To:

Chapter 17.44

C-28 COMMERCIAL SHOPPING DISTRICT ZONE REGULATIONS

17.44.200 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain of the regulations otherwise applying to individual lots in the C-28 zone may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter 17.122 if they meet the minimum land area requirements of Section 17.22.030.

17.44.210 Bonuses for mixed use developments

A. The bonuses listed in subsection B may be permitted for mixed use developments that have each of the following characteristics:

1. The development contains at least twenty (20) percent of the number of residential units that would be permitted if the project were solely residential;

2. The ground level façade of the development that faces the principal street shall predominantly contain nonresidential facilities that are at least twenty (20) feet in depth. Joint living and working quarters do not qualify as nonresidential facilities for the purpose of this subsection;

3. The development is on a site that has at least fifty (50) feet or more of street frontage; and

4. The proposal includes a community benefit plan that includes a significant contribution to the public right of way or community. The following contributions can include, but are not limited to, the following:

- Public art;
- Promotion and funding of transportation alternatives, such as car sharing, bicycling, and use of public transportation;
- Streetscape improvements that exceed any minimum required, such as the inclusion of widened sidewalks, public seating and/or intersection bulb-outs;
- Affordable housing;
- Public park improvements; and
- Non-street front commercial space dedicated to community and cultural organizations.

Any improvement to the right of way requires review and approval from the City of Oakland Public Works Agency.

Pursuant to the regulations in section 17.101.090, the bonuses listed in subsection B may also be permitted for new developments in the Temescal District Zone (SD-TEM) that include the preservation of a façade of a neighborhood character defining historic building.

B. The following bonuses shall be permitted upon the granting of a conditional use permit (see 17.134) for projects that have the characteristics listed in subsection A:

1. The standards of the S-12 residential parking combining zone regulations relating to reduction of aisle and stall width, and number of allowable compact spaces, may be allowed for the project;

DRAFT

2. The minimum requirements for usable open space may be reduced from one hundred fifty (150) square feet per dwelling unit to one-hundred (100) square feet of group open space per dwelling unit;

3. The total amount of required parking for the project may be reduced by up to twenty-five (25) percent;

4. The maximum height of the project may be increased to 55 feet or the maximum height allowed by any applicable height map or overlay district, whichever is less; and

5. The permitted density and nonresidential floor area ratio may be increased by up to thirty (30) percent, but shall not exceed any maximum density and/or nonresidential floor area ratio allowed by the General Plan. This increase in permitted density and/or nonresidential floor area ratio shall not be used as the basis for a height variance.

17.44.220 Other zoning provisions.

A. Parking and Loading. Except as provided in Section 17.44.200(C)(2)(a), off-street parking and loading shall be provided as prescribed in the off-street parking and loading requirements in Chapter 17.116.

B. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112.

C. Nonconforming Uses. Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.114.

D. General Provisions. The general exceptions and other regulations set forth in Chapter 17.102 shall apply in the C-28 zone.

E. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in C-28 zone. (Amended during 1997 codification; Ord. 11807 § 3 (part), 1995; prior planning code § 4449)