

## Proposed Industrial Lands Regulatory Updates: Frequently Asked Questions (FAQ)

See the project [website](#) for an overview of the proposed draft amendments to the City's industrial land regulations that will strengthen industrial land protections and reduce emissions exposure in the near-term.

*Note: The responses here are based on the current version of the proposal which may be adjusted to reflect community feedback.*

### GENERAL

**1. Why is this effort taking place ahead of the comprehensive industrial lands policy update to take place as part of the upcoming General Plan Update?**

This effort is intended to be a near-term strategy to both: 1) respond to concerns regarding mounting pressures on industrial land; and 2) continue citywide implementation of emissions exposure reduction strategies identified in the West Oakland Community Action Plan.

**2. How does this proposal connect to the General Plan Update?**

The General Plan Update is a comprehensive planning effort that will build on the City's existing efforts and initiatives. The near-term policies in this proposal will be expanded upon and added to during the General Plan Update.

**3. Approximately how much industrial land is affected by the proposal to require a conditional use permit (CUP) for heavy industrial truck-intensive activities within 500 feet of zones that allow residential?**

Approximately 1,100 acres (16 percent of industrial land) would fall within the CUP requirement. View our [interactive map](#) to explore more. Here are brief [directions](#) for using the interactive map.

**4. How was the 500 feet distance requirement between heavy industrial activities and residential uses selected?**

The City has developed this proposal in close coordination with the Bay Area Air Quality Management District. Studies show that emission concentrations generally decrease by more than 50% within about 200 meters (~600 feet) of a roadway.<sup>1</sup>

**5. Will there be new policies for residential uses already in or next to heavy impact industrial areas (e.g. strengthened air filtration systems for residential units)?**

Such policies are already in place within the City's Standard Conditions of Approval (SCA). SCA-AIR-24: Exposure to Air Pollution (Toxic Air Contaminants) require new residential uses (and new or expanded schools, daycare centers, parks, nursing homes, or medical facilities) within 1,000 feet of certain sources of pollution, such as a major rail or truck yard, to implement certain air pollution reduction measures.

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<sup>1</sup> Karner et al., "Near-roadway air quality: synthesizing the findings from real-world data," *Environ. Sci. Technol.*, 2010, 44, 5334-5344., <https://doi.org/10.1021/es100008x>.

Some examples of health risk reduction measures for project applicants to include in their project include:

- Installation of air filter devices rated MERV-13 (MERV-16 for projects located in the West Oakland Specific Plan) or higher, with an ongoing maintenance plan for HVAC air filtration system.
- Planting trees and/or vegetation between sensitive receptors and pollution source, if feasible.
- The project must be designed to locate sensitive receptors as far away as feasible from the source(s) of air pollution. Operable windows, balconies, and building air intakes shall be located as far away from these sources as feasible. If near a distribution center, residents must be located as far away as feasible from a loading dock or where trucks concentrate to deliver goods.

For the full detail of the SCAs, please click [here](#).

The West Oakland Specific Plan includes a Supplemental SCA-AIR-24: Exposure to Air Pollution (Toxic Air Contaminants) that requires additional air quality best management practices for “future discretionary development projects that would place new sensitive receptors in areas subject to cancer risks and exposure to diesel PM concentrations that exceed applicable thresholds.” See the [West Oakland Specific Plan Standard Conditions of Approval/Mitigation Monitoring and Reporting Program \(SCAMMRP\)](#) for more detail.

Other Specific Plans, such as the Coliseum, Downtown Oakland, and Central Estuary Specific Plans, also refer to SCA-AIR-24: Exposure to Air Pollution (Toxic Air Contaminants) for mitigating air quality impacts of new development.

**6. Will the near-term industrial lands update include additional restrictions on residential uses within 500 feet of industrial uses (beyond the Standard Conditions of Approval – see FAQ 5 above)?**

As part of the General Plan comprehensive industrial lands update, further restrictions on new residential development near existing industrial uses will be explored, which could include disclosure statements (to mitigate potential conflicts between industrial and non-industrial users in which future residents acknowledge the presence of noise, glare, fumes, truck operations, etc.) which would be recorded as a covenant when new buildings are developed, or existing buildings are rehabbed.

**7. How does the proposed Port Prime Lands Overlay relate to the Howard Terminal project?**

The Port of Oakland has signed an exclusive negotiating agreement with the Oakland A’s to consider the use of the Howard Terminal property for non-industrial purposes, so the Howard Terminal property is not included in the proposed Port Prime Lands Overlay. This near-term update does not change the General Plan nor zoning designation for the Howard Terminal site. For more information about the Howard Terminal project, see the Port’s [FAQ](#).

## CONDITIONAL USE PERMIT SPECIFICS<sup>2</sup>

### 8. When does the CUP apply?

The proposed Conditional Use Permit (CUP) requirement would only apply to new heavy-impact truck-intensive industrial businesses within 500-feet of zones that permit residential uses. The uses are: General Manufacturing; Heavy/High Impact Manufacturing; Construction Operations; General Warehousing, Storage and Distribution; Container Storage; Regional Freight Transportation - Rail Yards; Trucking and Truck-Related; and Recycling and Waste-Related Activities.

### 9. Does the CUP apply to existing businesses?

Existing truck-intensive businesses that are within 500 feet of zones that permit residential uses and do not have a CUP can continue their pre-existing operation and can maintain their business but would be treated as a legal nonconforming activity. No substitution or change in activity or alteration to the facility could occur unless otherwise specifically authorized. The Oakland Planning Code, Chapter 17.114, provides more detail on allowed modifications for nonconforming existing activities. An existing business that intends to seek modifications to their existing property may trigger the need for a CUP.

### 10. If an existing business wants to expand, but its warehouses and loading docks are already built, how can it meet the CUP criteria around site design (such as location of loading docks and vents away from nearby residential uses)?

The business will need to identify the actions it will take to reduce impacts (such as using electric trucks, or special filters on vents or other innovations that will reduce emissions). The City invites existing businesses that desire to expand or modify operations to work closely with the City and Bay Area Air Quality Management District to implement effective renovations and solutions that meet the CUP criteria.

### 11. Will businesses with all electric fleets be subject to the CUP requirement?

Yes. While electric vehicles are a great part of a mitigation strategy, criteria within the CUP are intended to look holistically at site design and operation in order to mitigate negative impacts to adjacent residential uses.

### 12. Does the requirement for a CUP apply to a change of ownership?

A legal nonconforming activity has the right to continue its existing operation but cannot replace an existing activity with a new activity or change the nature of its existing activity. A legal nonconforming activity can undergo a change of ownership, tenancy, or management so long as the previous line of business is substantially unchanged and has operated continuously. However, if the heavy-impact truck-intensive business is voluntarily closed for any period of time, whether by a new or existing owner, the property will lose its legal non-conforming status and would need to apply for a CUP as applicable.

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<sup>2</sup> CUP proposal: require a CUP for heavy-impact industrial activities within 500 feet of residential uses.

## GLOSSARY OF TERMS

- **“Activity”** refers to the type of operation or function being performed by a business at a specific location. Types of activities – including residential, civic, commercial, and industrial activities – are defined under Planning Code Chapter 17.10”).<sup>3</sup>
- **“Conditional Use Permit”** is the type of permit that may be issued for the accommodation of uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings, through review and, where necessary, the imposition of special conditions of approval.<sup>4</sup>
- **“Electric fleet”** Electrifying the medium/heavy-duty fleet reduces air pollutants, saves money on fuel and maintenance costs, and improves community health. Alameda county has among the highest volumes of commercial truck traffic in California.<sup>5</sup>
- **“Discretionary Action”** means an action which requires the exercise of judgment or deliberation when the decision-making body decides to approve or disapprove a particular activity, as distinguished from situations where the decision-making body merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations. See Section 17.158.190 for discretionary actions typically processed by the city.<sup>6</sup>
- **“Facility”** means a structure or open area (i.e., where an “activity” occurs).<sup>7</sup>
- **“Non-conforming Activity”** means an activity which, under the zoning regulations, is not itself a permitted activity where it is located or does not conform to requirements applying to activities.<sup>8</sup>
- **“Standard Conditions of Approval”** The City of Oakland has developed Standard Conditions of Approval (SCAs) which are development standards to reduce one or more harmful environmental effects (examples of uniformly applied standards include noise regulations, dust control, stormwater run-off, etc.). These standards help to achieve consistency between projects with similar characteristics that adhere to the site's zoning or community plan designation. SCAs streamline development review.<sup>9</sup>
- **“Sensitive Receptors”** include children, older adults, individuals with respiratory illnesses, and others who are at a heightened risk of negative health outcomes due to exposure to air pollution. The locations where there are likely to be a significant number of sensitive receptors are sensitive receptor locations, which may include hospitals, schools, daycare facilities, elderly housing and convalescent facilities.<sup>10</sup>

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<sup>3</sup> [Oakland Planning Code](#), Chapter 17.09.

<sup>4</sup> [Oakland Planning Code](#), Chapter 17.134.010.

<sup>5</sup> East Bay Community Energy, “Business Programs Switch Fleets to Electric and Save,” [Web](#).

<sup>6</sup> [Oakland Planning Code](#), Section 17.158.090.

<sup>7</sup> [Oakland Planning Code](#), Chapter 17.09.

<sup>8</sup> [Oakland Planning Code](#), Section 17.114.020.

<sup>9</sup> City of Oakland, [Standard Conditions of Approval](#).

<sup>10</sup> California Air Resources Board, “Sensitive Receptor Assessment,” [Web](#).

- **“Toxic Air Contaminants”** are air pollutants “which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health.”<sup>11</sup> More information is available on the [CARB website](#).

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<sup>11</sup> California Health and Safety Code, [Section 39655](#).