

EXHIBIT C:
REVISIONS TO S-14 HOUSING SITES COMBINING ZONE REGULATIONS

The Oakland Planning Code (Title 17 of the Oakland Municipal Code) is proposed to be amended as follows. Additions are shown in underline and deletions are shown in ~~strikethrough~~. Note that only the relevant code subsections being amended are included and unamended portions of tables are omitted.

Chapter 17.96 S-14 HOUSING SITES COMBINING ZONE REGULATIONS

17.96.010 Title, Purpose and Applicability.

The provisions of this Chapter shall be known as the S-14 Housing Sites Combining Zone Regulations. The Housing Sites Combining (S-14) Zone is intended to facilitate housing production on those sites that the City identified for housing pursuant to the 2023-2031 Housing Element. The S-14 Combining Zone seeks to ensure that sites within the S-14 Zone are developed with residential uses; and that projects that contribute toward meeting Oakland's needs for lower income housing receive By Right Residential Approval (as defined in Oakland Planning Code Section 17.09.040).

These regulations shall apply in the S-14 Combining Zone and where so stated herein shall supersede the regulations applying in the underlying zoning district with which the S-14 Zone is combined. Notwithstanding, for any parcel where the maximum allowable density of the underlying zoning district is less than the Realistic Capacity designated for the site as shown in the Housing Sites Inventory, then the underlying zoning district shall control.

17.96.020 Definitions.

The following definitions shall apply to this Chapter only.

Development Project. "Development Project" shall mean the process of changing the character of the land from its existing condition by constructing a fixed-foundation building or buildings on the land; by demolishing an existing building or buildings and constructing a new fixed-foundation building or buildings on the land; or by reusing through major physical alteration, an existing building or buildings for purposes other than the purpose for which it was originally built or designed. Development Project does not include the making of improvements, renovations, or updates to an existing building, the placement of temporary structures, or the physical alteration, other than fixed-foundation building construction, of the property outside of an existing building envelope.

Housing Sites Inventory. "Housing Sites Inventory" shall mean those sites listed in Tables C-5a, C-5b, and C-26 (Sheets "Table A" and "Table B") included in Appendix C of the City of Oakland 2023-2031 Housing Element, as may be

amended.

Majority Residential Use. “Majority Residential Use” shall mean a use consisting of residential units only, mixed use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential activity, or transitional or supportive housing.

Prior Housing Element Sites. “Prior Housing Element Sites” shall mean those sites included in the Housing Sites Inventory and also included in the previously adopted 2007-2014 or 2015-2023 Housing Elements, as identified in column O of Table C-26 of the City of Oakland 2023-2031 Housing Element as either “Used in Prior Housing Element – Non-Vacant” or “Used in Two Consecutive Prior Housing Elements – Vacant.”

Realistic Capacity. “Realistic Capacity” shall mean the projected residential development capacity, stated in terms of total probable number of dwelling units, capable of being achieved on the sites identified in the Housing Sites Inventory.

If the site is included in Sheet “Table A” of Table C-26, then the Realistic Capacity is identified in column S, “Total Capacity.”

If the site is included in Table C-5a, Table C-5b, or Sheet “Table B” of Table C-26, then the Realistic Capacity is the sum total of columns identifying the capacity of Extremely Low Income, Very Low Income, Low Income, Moderate Income, and Above Moderate Income, expressed as total dwelling unit count.

Where a site is designated in the Housing Sites Inventory as part of a consolidated site grouping, with the Realistic Capacity listed on only a subset of the consolidated sites, the Realistic Capacity for the site shall be proportional to the parcel size compared to the aggregated parcel size for the associated consolidated sites, rounded to the nearest whole number.

17.96.040 Required Majority Residential Use.

All **Development Projects** proposed in the S-14 Combining Zone must be a Majority Residential Use. For purposes of determining Majority Residential Use, only newly proposed Floor Area, and not existing Floor Area that will remain on the project site, will be considered.

Any **Development Project** proposed in the S-14 Combining Zone not providing a Majority Residential Use shall not be permitted.

Notwithstanding the above, a **Development Project** proposed in the S-14 Combining Zone that is not a Majority Residential Use may be permitted if the applicant can demonstrate one of the following:

- A. The proposal includes a total residential unit count that equals no less than one hundred percent (100%) of the Realistic Capacity designated for the site as shown in the Housing Sites Inventory;

- B. The proposal is a non-residential development that is coordinated with the development of a site under the same ownership that is within ¼ mile of the proposed development's site and that when the square footage of both developments are considered together meets the definition of a Majority Residential Use. For purposes of this section, "coordinated" shall mean that the Realistic Capacity applicable to the non-residential development will be applied to the newly identified site for purposes of determining minimum densities under Section 17.96.050, and the developer of the proposed non-residential development has either applied for planning entitlements for the residential development or has entered into an agreement, provided to the City, for partnered housing with a residential developer. Such agreement shall identify the Realistic Capacity and minimum density for the site and identify how the non-residential developer will contribute to affordable housing. The development standards applicable to the residential site must be sufficient to accommodate the applied Realistic Capacity. Affordable housing may be contributed by the non-residential developer through the donation of the property to the residential developer or through a cash payment to the residential developer that shall be used toward the cost of constructing the residential project. If a building permit has not been issued for the residential development, the City may withhold issuance of building permits for the non-residential development until building permits for the residential development are issued. If the residential development does not commence construction, the City may withhold certificates of occupancy for the non-residential development until the construction of the residential development is commenced.
- C. The proposal is a use on government-owned property that is not a disposition under the Surplus Lands Act or that is otherwise exempt from the Surplus Lands Act. Notwithstanding Section 17.96.050, such uses are also exempt from minimum residential density requirements.
- D. The proposal is an Emergency Shelter Residential Activity and/or Emergency Housing Facility permitted pursuant to Section 17.07.060.A.

17.96.050 Minimum Densities.

All **Ddevelopment Pprojects** proposed in the S-14 Combining Zone must comply with the minimum residential density requirements described in this section. Any project proposed in the S-14 Zone not providing the minimum required residential density shall not be permitted.

- A. **Except as provided under Subsections 17.96.050.B and 17.96.050.C, all All Ddevelopment Pprojects** proposed in the S-14 Combining Zone shall include a residential unit count that equals no less than **seventy-five percent (75%)seventy percent (70%)** of the Realistic Capacity designated for the site as shown in the Housing Sites Inventory.
- B. **Notwithstanding the above, a A** proposed **Ddevelopment Pprojects** in which one hundred percent (100%) of the residential units are reserved for moderate-, low-, and very low-income households, other than

manager's units, ~~may propose shall include~~ a residential unit count that ~~is equals no~~ less than ~~seventy-five-fifty~~ percent (75.5%) of the Realistic Capacity designated for the site ~~so long as the residential unit count equals no less than one hundred percent (100%) of the lower income capacity for the site~~ as shown in the Housing Sites Inventory.

C. ~~Where a conflict exists between the minimum residential density standards set forth in the S-14 Combining Zone and the underlying zoning district, the Development Project shall include a residential unit count that equals no less than ninety percent (90%) of the maximum density permitted in the underlying zoning district. If the underlying zoning district does not permit Permanent Residential Activities, then the requirements of this Chapter 17.96 shall not apply.~~

17.96.060 By Right Residential Approval for Prior Housing Element Sites.

If a project is proposed on a Prior Housing Element Sites parcel and at least twenty percent (20%) of the project's units will be made available to lower-income households, the project shall be ~~subject to eligible for~~ By Right Residential Approval, as defined in Oakland Planning Code Section 17.09.040.

17.96.070 By Right Residential Approval for Sites not used in Prior Housing Elements.

If a project is proposed on a parcel included in the Housing Sites Inventory and is not a Prior Housing Element Sites parcel, the project shall be ~~subject to eligible for~~ By Right Residential Approval if the project proposes at least as many lower- and moderate-income units as shown in the Housing Sites Inventory, the project overall proposes at least as many total units as described as the Realistic Capacity for the parcel ~~(or where a conflict exists between the Realistic Capacity described for the parcel and the underlying zoning district, at least ninety percent (90%) of the maximum density permitted in the underlying zoning district),~~ and the project satisfies at least one of the following conditions:

- A. At least twenty percent (20%) of the total housing units are restricted to very low- income households; ~~or~~
- B. At least twenty-five percent (25%) of the total housing units are restricted to any combination of very low- and lower-income households; ~~or~~
- C. At least forty percent (40%) of the total housing units are restricted to any combination of very low-, low-, and moderate-income households.

Notwithstanding the above, a project shall not be eligible for By Right Residential Approval under this section if the project proposes development in phases or proposes more than one hundred thousand (100,000) square feet of ~~new~~ floor area, unless one hundred percent (100%) of the housing units, other than manager's units, are restricted to very low-, low- and moderate-income residents.

