



**PORT OF OAKLAND**

**Land Use and Development Code  
for the**



June 2011

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### **Information Available on the Port of Oakland's website (per Section 5):**

[www.portofoakland.com/Doing\\_Business](http://www.portofoakland.com/Doing_Business)

- Development Permit application
- Variance application
- Use Consistency Determination application
- Administrative Appeal form
- Notices of Decision (As Applicable)
- Fee Schedule
- Aviation Easement

# **Section 1. Purpose and Use of the Land Use and Development Code**

## **1.1 The Port of Oakland's Land Use Authority**

The City of Oakland Charter grants land use jurisdiction to the Port of Oakland (Port)<sup>1</sup> for land within the “Port Area”<sup>2</sup>. The Port Area includes the Oakland International Airport, the Oakland Airport Business Park (a commercial area comprising approximately 400 acres located northwest of the Airport) and the seaport located west of Clay Street and highway I-880.

## **1.2 Oakland Airport Business Park Land Use and Development Code**

This Land Use and Development Code (Code) regulates the construction, alteration and operation of buildings and structures in the area designated as the Oakland Airport Business Park (Business Park)<sup>3</sup>, as depicted in Figure 1.1.

This Code ensures the orderly and appropriate development of the Business Park with land uses consistent with the City of Oakland General Plan, City of Oakland Charter, and the Alameda County Airport Land Use Compatibility Plan, and compatible with the operation and safety requirements of the Oakland International Airport.

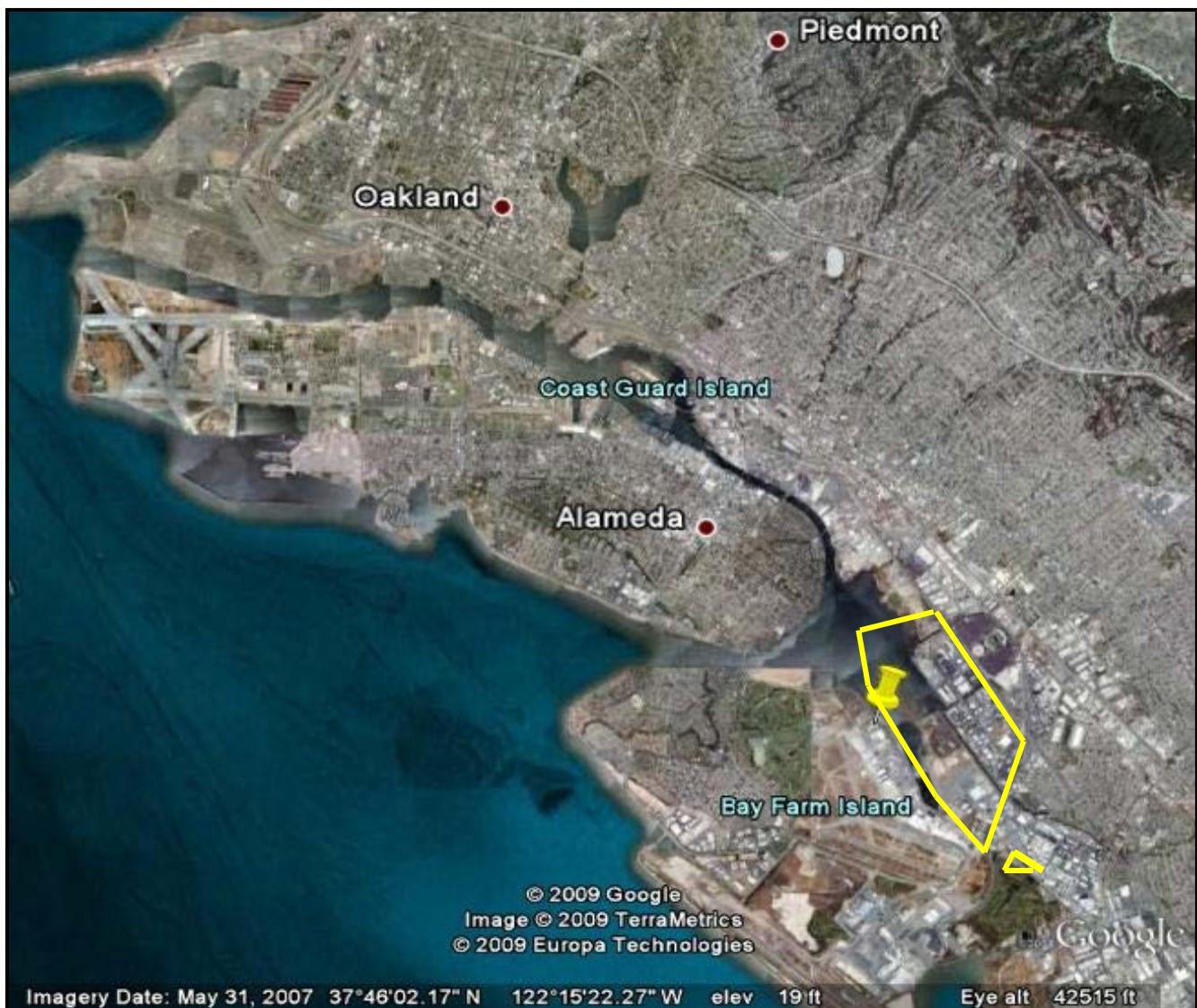
This Code replaces all previous codes and standards set by the Port for the Business Park. To the extent that provisions of this Code differ from prior Port ordinances, the provisions of this Code prevail.

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<sup>1</sup>As defined by Section 708 of Article VII of the City of Oakland Charter.

<sup>2</sup> As defined by Section 725 of Article VII of the City of Oakland Charter.

<sup>3</sup> As designated by Port Ordinance No. 3760 dated September 2, 2003, the Business Park encompasses all “property located in the “Port Area” of the City of Oakland, County of Alameda, State of California, bounded by the Freeway on the northeast, Hegenberger Road on the southeast, Doolittle Drive on the south, and the Port Area line and the Oakland-Alameda line on the north and west, excluding there from, however, any areas which the Board of Port Commissioners has relinquished control and jurisdiction by official action to change the Port Area. The parcels on either side of Doolittle Drive southeast of the intersection with Hegenberger Road within the Port Area are also included in the Business Park area and form the south and southwest boundary of the Business Park.”



**Figure 1.1 – Oakland Airport Business Park Vicinity Map**

### **1.3 Permit Process**

- A. Permit Required.** Any alteration of a structure or property within the Business Park requires issuance of a Development Permit from the Port. The Port Development<sup>4</sup> Permit substitutes for the City of Oakland zoning permit for properties in the Business Park. A tenant or private property owner must obtain a Port Development Permit before initiating any construction, extension, alteration, improvement, erection, remodel, or repair of any structure in the Business Park. For a graphic depiction of the Development Permit process, see Figure 5.1, Permit Process Chart.

Once a Development Permit approval is obtained, the applicant may also need to apply for a building permit from the City of Oakland prior to commencing work, as necessary and applicable in accordance with City laws and requirements. Where the subject property or project is subject to the jurisdiction of other governmental agencies, permits may also be required from such other agencies.

- B. Use Approval.** The Port does not issue “Use Permits” or “Conditional Use Permits.” All proposed uses are evaluated during the permit process and an approved Development Permit includes use approval. When no Development Permit is needed (See Section 5.2), the Port will make a use consistency determination to verify that an existing or proposed use meets the requirements of this Code, and issue a confirmation letter if needed or requested.
- C. Inspection.** The City of Oakland building inspector conducts most inspections during a construction project. Separate Port inspections may be required, or may be requested by the City building inspector. The Port may also initiate property inspections at any time to investigate suspected violations of this Code and, if necessary, require that violations be abated. Further information on Code enforcement is found in Section 5.8.

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<sup>4</sup> Also referred to as a Port Building Permit (in Ordinance No. 2083 and in the City of Oakland Charter).

## Section 2. Permitted Uses and Restrictions

### 2.1 Land Use Areas

The Business Park is divided into three main areas as shown on Figure 2.1 and described below:

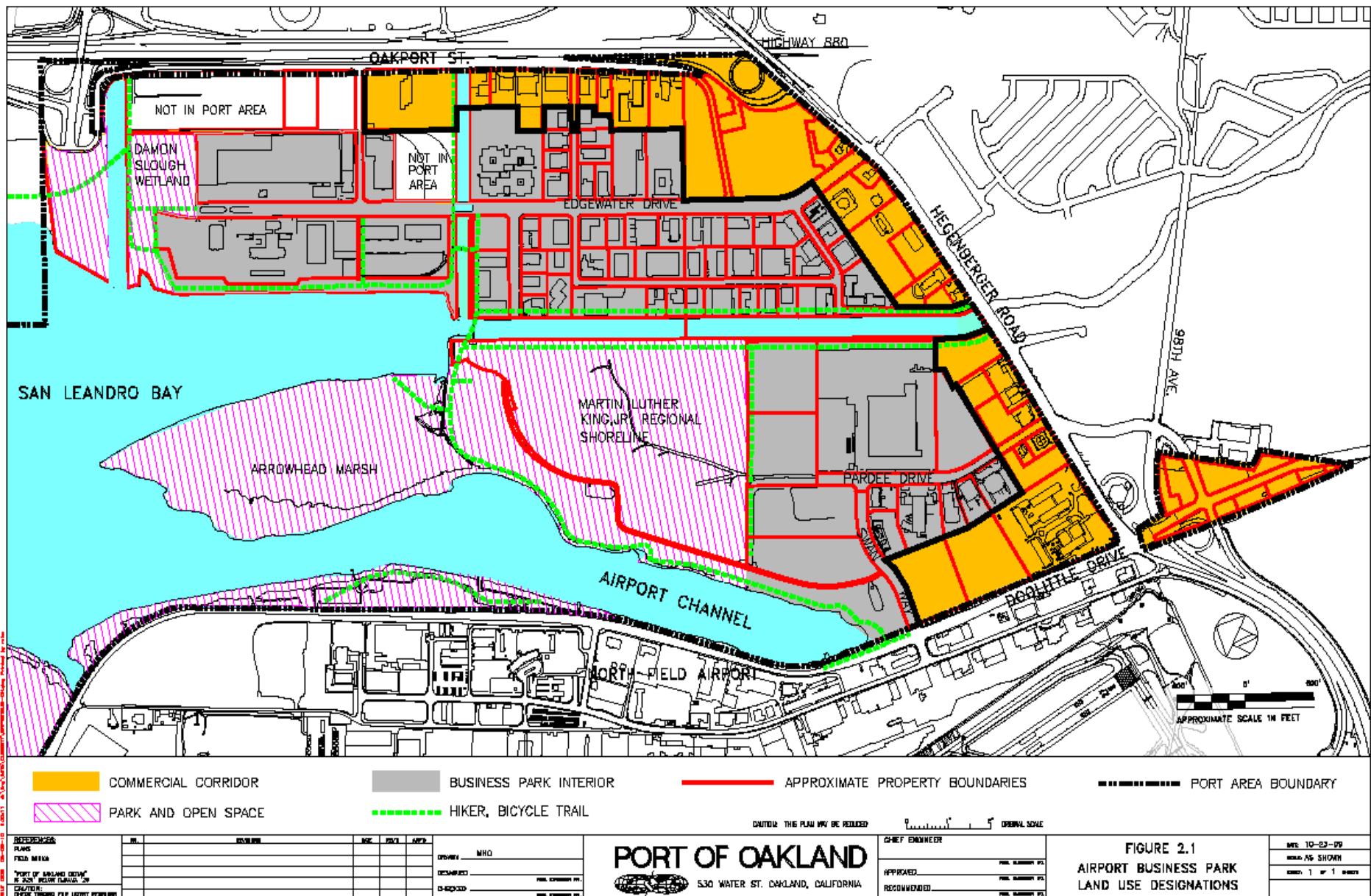
- A. **Commercial Corridor:** Lots with frontages on (or surrounded by property that fronts or has existing access easements to) Hegenberger Road, Oakport Street, and Doolittle Drive south of Swan Way are designated as the Commercial Corridor. Hegenberger Road and Doolittle Drive form the Airport Gateway under the City of Oakland's General Plan, which calls for Regional Commercial Uses. Oakport Street serves as the frontage road to I-880 and certain uses are permitted on properties with an Oakport Street frontage that are not permitted in the remainder of the Commercial Corridor.
- B. **Business Park Interior:** Lots without frontages on Hegenberger Road, Oakport Street, and Doolittle Drive south of Swan Way are designated as the Business Park Interior. This area consists of a mix of businesses serving local and regional customers, and includes light industrial, custom manufacturing, professional and personal services.
- C. **Park and Open Space:** Property currently used for recreational and open space. This includes upland areas and tidelands, sloughs and marshlands. The area is enhanced by the Martin Luther King Jr. Regional Shoreline Park, San Leandro Bay, and a network of pedestrian trails. Most of the park and open space is managed by the East Bay Regional Park District.

### 2.2 Permitted Uses

Subject to restrictions set forth in this section, each site in the Commercial Corridor and Business Park Interior areas shall be used for the primary land uses specified in Table 2.1, including the construction, extension, alteration, improvement, erection, remodeling, demolition or repair of any facility. Certain uses are permitted only if restrictions described in Section 2.3 are met. Non-permitted uses are listed in Table 2.1 and further described in Section 2.4. Definitions of uses listed in Table 2.1 are provided in the Appendix (A.2 Land Use Definitions). Uses incidental to the primary use are considered accessory uses, as described in Section 2.5.

Properties located in the Park and Open Space area are limited to open space and recreational uses and may include accessory uses such as beverage and food concessions, storage and service areas, and parking, among others.

Uses permitted in the Business Park Interior will be permitted in the Commercial Corridor where the proposed use is set back a minimum of 200 feet from Hegenberger Road, Oakport Street or Doolittle Drive.



**Figure 2.1 – Airport Business Park Land Use Designations**

**Table 2.1 - Permitted Land Uses**

Uses	Areas	
	Commercial Corridor	Business Park Interior
1. Administrative	P	P
2. Adult Education/Vocational Training	P	P
3. Agriculture, Indoor	NP	P
4. Alcoholic Beverage Sales	PC(2.3A)	PC(2.3A)
5. Animal Breeding and Care	NP	NP
6. Automotive Fee Parking	NP	PC(2.3B)
7. Automotive Sales, Rental, Services or Brokerage	PC (2.3B.2)	NP
8. Automotive Servicing and Repair	PC (2.3B.3)	NP
9. Business Communication and Media Services	P	P
10. Community Assembly	NP	PC(2.3C)
11. Construction Operations	PC (2.3D)	PC (2.3D)
12. Construction Sales and Service	PC (2.3D)	PC (2.3D)
13. Consultative and Financial Service	P	NP
14. Convenience Market	P	NP
15. Custom Manufacturing	PC (2.3E)	P
16. Fast-Food Restaurant	PC (2.3F.1)	NP
17. Full Service Restaurant	P	NP
18. General Education	NP	NP
19. General Food Sales/Restaurants	P	PC (2.3F.2)

Uses	Areas	
	Commercial Corridor	Business Park Interior
20. General Manufacturing	NP	NP
21. General Retail Sales	P	NP
22. General Wholesale	PC(2.3.E)	P
23. Group Assembly	PC (2.3G)	NP
24. Health Care	NP	NP
25. Heavy Manufacturing	NP	NP
26. Large-Scale Combined Retail and Grocery Sales	P	NP
27. Light Manufacturing	PC (2.3E)	P
28. Mechanical or Electronic Games	NP	NP
29. Medical Service	P	PC (2.3H)
30. Personal Instruction and Improvement	P	P
31. Recycling and Waste Management	NP	PC (2.3I)
32. Repair Services	NP	P
33. Research and Development	NP	P
34. Retail Business Supply	P	NP
35. Retail Sales and Service	P	NP
36. Telecommunications	PC(2.3J)	PC (2.3J)
37. Transient Lodging	PC(2.3K)	NP
38. Trucking and Truck-Related Freight	NP	P
39. Trucking and Truck-Related Sales or Services	PC(2.3L)	NP

Uses	Areas	
	Commercial Corridor	Business Park Interior
40. Undertaking Services	NP	NP
41. Utility and Public Service	P	P
42. Warehousing, Storage, and Distribution	PC(2.3M)	PC(2.3M)

P	=	Permitted
PC (x)	=	Permitted conditionally with restrictions described in Section 2.3
NP	=	Not Permitted

## 2.3 Restrictions on Certain Permitted Uses

The following uses are permitted subject to the stated restrictions:

**A. Alcoholic Beverage Sales:** This use must be approved by the Port as part of a separate process prior to application to the State Alcoholic Beverage Commission. Off-sale (sale for off-site consumption) alcoholic beverage licenses, and on-sale (sale for on-site consumption) licenses not associated with a “full service” restaurant are subject to a Port finding of “public convenience or necessity” as required by the State of California. No off-sale license shall be allowed in the Business Park Interior except for wholesale sales.

### B. Automotive

**B.1 Automotive Fee Parking:** A property owner may lease surplus parking to another business within the Business Park, only with prior approval of the Port after demonstrating that leased parking is not needed by on-site businesses. Such leased parking must not be considered a primary use on the property.

**B.2 Automotive Sales, Rental, Services, or Brokerage:** No restrictions apply on properties with an Oakport Street frontage. For properties with a Hegenberger Road frontage, this use is permitted only where vehicles are stored and displayed indoors. However, outdoor storage and display is permitted for up to 21 days a year as part of special outdoor promotional events.

**B.3 Automotive Servicing and Repair:** This use is allowed on properties with an Oakport Street frontage. Such activities shall be contained within a building, and outdoor storage is limited under Section 4.4 of this code.

- C. Community Assembly:** This use is generally not permitted in the Business Park, except that private clubs and park-related activities are permitted under certain conditions. Private clubs are permitted only for the express purpose of fostering business and community relationships, where membership is open only to a select qualified group. A process for membership approval must be in place that prohibits instant membership, i.e. no “pay-at-the-door” memberships will be permitted. Activities in public parks are limited to those that are permitted under the conditions of approval establishing such parks.

- D. Construction Operations and Construction Sales and Service:** This use is allowed at any location in the Business Park Interior or with an Oakport Street frontage if the activity is limited to one of the following uses:

1. Contractor offices supporting business functions where no sale of materials takes place. (This restriction does not prohibit sale of materials as part of a construction contract where materials are supplied by the contractor. Storage activities are allowed as accessory uses per Section 2.5.c, and must meet the requirements of Section 4.4.)
2. Sale of materials and or products used in construction where retail sale to non-contractors or building professionals comprises less than 10% of the total sales for the location. This retail sales restriction does not apply to properties with an Oakport frontage.

- E. Custom Manufacturing, Light Manufacturing and General Wholesale:** Custom and Light Manufacturing and General Wholesale activities are permitted on properties with an Oakport Street frontage.

**F. Restaurants**

**F1. Fast-Food Restaurant:** All disposable items shall be imprinted with the name of the restaurant. The applicant shall provide a site plan showing location(s) of recycling and debris containers. The applicant shall provide an operation plan including hours of operation, security, and litter removal. Where a drive-through window is proposed, the site plan shall also show traffic circulation from the street and within the site. If proposing a new fast-food restaurant, potential traffic impacts shall be analyzed in a study by a traffic engineer subject to approval by the Permit Coordinator.

**F2. General Food Sales/Restaurants:** Restaurants are permitted as General Food Sales activities in the Business Park Interior only when the primary customers are occupants or visitors to the Business Park. Subject to Port approved modifications, hours should be limited to 7 AM to 6 PM Monday through Saturday. (An example of

an approved business would be a cafeteria in an office complex or a small sandwich shop in part of building. Such uses may not have retail signs (see Section 4.2.).)

- G. Group Assembly:** Group Assembly is permitted only in the Commercial Corridor. Prior to Port consideration of this activity, potential traffic impacts shall be analyzed in a study by a traffic engineer subject to approval by the Permit Coordinator.
- H. Medical Services:** Medical Services will be allowed on the odd side of Edgewater Drive on the parcels directly opposite from the Commercial Corridor Parcels, from the intersection with Oakport Street to Hegenberger Road (8105 Edgewater and up.)
- I. Recycling and Waste Management:** These facilities are permitted only when the applicant can demonstrate to the satisfaction of the Port, that all potential impacts will be contained on site within a building or fenced **outside storage** area, in compliance with Section 4.4 this Code. Odors and sound shall not be detectable from neighboring sites. Debris from the site or transport vehicles shall not migrate off the site. Potential traffic impacts shall be analyzed in a study by a traffic engineer subject to approval by the Permit Coordinator. Satellite centers < 500 square feet are allowed anywhere in the Business Park provided they are maintained and free of debris.
- J. Telecommunications Facilities:** Telecommunications facilities meeting the requirements of the Federal Communications Commission are permitted anywhere in the Business Park if they meet the design standards in Section 4.3.
- K. Transient Lodging:** Transient Lodging (otherwise known as hotels, motels, or inns) is permitted only on sites with access from Hegenberger Road. Such activities are only permitted where the facility meets the standards of a full service hotel defined as a minimum of one hundred (100) sleeping rooms, containing a full service restaurant providing three meals per day and room service, and including at least one indoor and one outdoor recreational amenity.
- L. Trucking and Truck Related Sales or Services:** Truck and Other Heavy Vehicle Sales or Services may be permitted along Oakport Street only, and nowhere else in the Commercial Corridor.
- M. Warehousing, Storage, and Distribution:** For all areas of the Business Park, storage uses meeting Part (C) of the definition in Appendix A, i.e mini or self-storage, will be allowed except for parcels with a Hegenberger Road frontage. In no case will such use be allowed within 300 feet of the Hegenberger Road right-of-way. This does not apply to any parcel deemed to be within the Regional Commercial area of the Oakland General Plan.

For the Business Park Interior, only Warehousing, Storage and Distribution activities may be permitted that meet Part (A) of the definition for this activity in Appendix A. This essentially limits the activity to storage within a building with limited accessory outdoor storage for this area.

## **2.4 Non-Permitted Uses**

Residential uses (including live/work space) and other uses not specified in Table 2.1 are not permitted in the Business Park. Specifically, uses not permitted as defined in Appendix A include, but are not limited to the following:

- Animal Breeding and Care
- Automotive Fee Parking
- General Education
- General Manufacturing
- Health Care
- Heavy Manufacturing
- Mechanical or Electronic Games
- Undertaking Services

## **2.5 Accessory Uses**

Accessory uses are subordinate or incidental to the primary permitted use. They support the primary function, but might not be allowed as a primary use. The following accessory uses shall only be permitted in conjunction with primary permitted uses.

- a. Off-street parking and loading facilities serving a primary use, only if they are reserved for the employees, patrons, or service people utilizing the principal facility;
- b. Open areas devoted to decorative paving or to swimming pools or other outdoor private permanent recreational facilities located on the same lot as a principal facility;
- c. Storage and service areas and accessory buildings, other than those listed elsewhere in this section, if serving a principal facility on the same lot; provided that such facilities are enclosed according to the standard of Section 4.4.
- d. Temporary construction yards and similar facilities which are necessary and incidental to development of facilities on the same lot, or on another of several lots being developed at the same time;
- e. Temporary real estate sales office which is necessary and incidental to, and located on the site of, a commercial subdivision being developed into five or more lots.
- f. On-site retail sales in the Business Park Interior if the volume of on-site sales is < 10% of total company sales, or less than 20% of the area is devoted to on-site retail sales.

## **2.6 Legal Non-Conforming Lots, Uses and Structures**

All lots, uses and structures in the Business Park must conform with the standards set forth in this Code. However, if an existing lot, use or structure was lawfully established before January 1, 2011 and in existence or operation on January 1, 2011, such lot, use or structure will be allowed to continue in legal existence or operation, provided there is no change of use or substantial physical expansion of the use on the property. In the event of any proposed change of use or substantial physical expansion of the use, such use shall conform to the requirements of this Code.

## Section 3. Development Standards

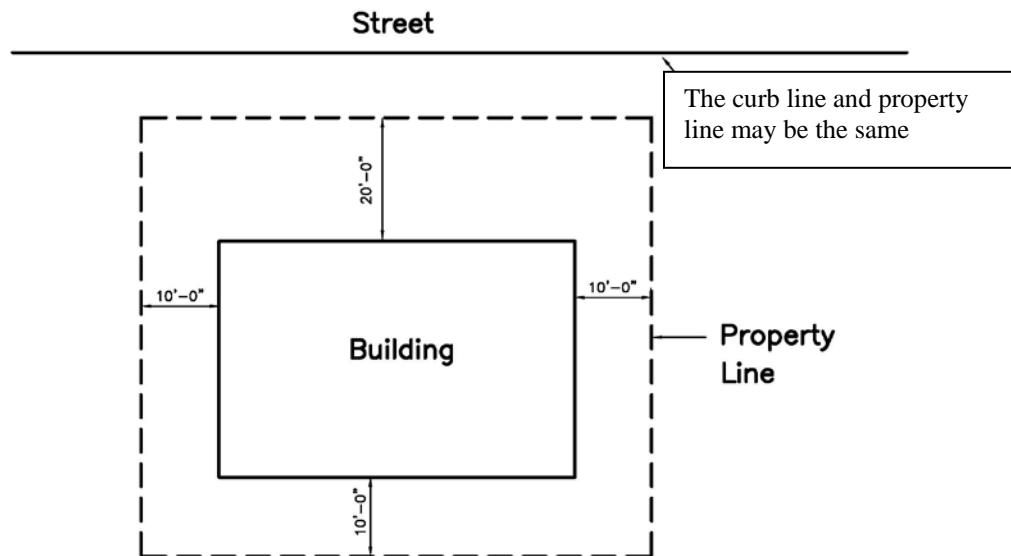
The following standards pertain to physical site development in the Business Park.

### 3.1 Building Setback

- A. Setback Requirements:** No buildings or structures shall be constructed, erected or placed within stated distances from the respective property lines on the site.

**Figure 3.1 Setback Requirements**

Each Landowner in the Business Park shall comply with the following setbacks:



*Front: 20 feet minimum  
35 feet minimum on Edgewater Drive*

*Side: 10 feet minimum*

*Rear: 10 feet minimum*

- B. Multiple Buildings:** When more than one building fronting on a street is located on the same lot, each building shall be setback from the front property line by twenty (20) feet (35 feet from Edgewater Drive) and from other buildings and property lines by ten (10) feet.

**C. Corner Lots:** Corner lots will conform to the front setbacks of each of the adjacent streets. On corner lots no property boundary line is to be considered as a rear lot line. Corner lots are considered to have two fronts and two sides.

### **3.2 Floor Area Ratio**

The maximum Floor Area Ratio is set by the City of Oakland General Plan.

### **3.3 Minimum Lot Size**

Except for existing legal non-conforming lots, no lot shall be less than one (1) acre in ground area. Any existing legal non-conforming lot shall have been lawfully created on or before the date of adoption of this Code.

### **3.4 Landscaping**

Landowners, at their own cost and expense, shall landscape, plant, and maintain landscaping and planting in accordance with the following requirements:

The front setback area of a property must be completely landscaped from the curb line to the setback line except for sidewalks and driveways. Side lot setback areas are to be landscaped or paved. All landscaped areas shall be kept clean and free from weeds and debris at all times by the Landowner. In addition, plant materials, earth mounds and/or architectural screens shall, to the maximum extent feasible, conceal from public view those areas used for parking, storage, and loading. Use of methods to conserve water and drought-tolerant plants are encouraged.

A minimum of one 24-inch or greater container size specimen tree for each fifty (50) linear feet of street frontage of the premises shall be planted in the landscaped areas forward of the building line at the time of building construction in accordance with Port-approved landscaping plans. All other plant materials shall provide adequate screening within three years after installation. Employee and visitor parking areas shall be landscaped on the periphery and in the interior of the lot, and landscaped in a manner to clearly demarcate the vehicular and pedestrian entrances to the site and/or facility.

The entire area, as well as any area under option, is to be kept clean and free from weeds and debris at all times, and this applies also to any easement area between the curb or curb line and the leased or conveyed premises, or any other easements on the property. Planted areas shall always be maintained in a healthy and weed-free condition.

### **3.5 Parking**

**A. General Requirements:** Parking shall be provided on site for each use within the Business Park to adequately serve employees, service personnel, and visitors. There will be no on-street parking permitted at any time in the Business Park. The Landowner shall, at his or her own cost and expense, provide lighted off-street parking facilities on the premises for employees, customers, and visitors. Off-site parking may

be allowed to meet a portion of the employee parking requirement if the Port can make the findings that a) the off-site parking is not needed by the provider, and b) the Landowner or Tenant has an agreement with the provider for at least a one year.

Parking shall be setback from the front property line by 20 feet on all streets, except that parking may be permitted between 5 and 20 feet of the front property line adjacent to driveway(s) with Port approval. No more than 20% of the front setback area may be used for parking and vehicle circulation. A six-foot wide sidewalk must be shown on the site plan. If no sidewalk is required or proposed, the portion of the sidewalk adjacent to spaces in the front setback and across the driveway must be constructed as part of the improvements.

On-site areas used for parking, including any truck parking areas, shall be paved with a dust-free all weather surface, be graded to drain all surface water to catchment areas within the site, and of strength adequate for the traffic expected. This area shall be adequately landscaped and screened as much as possible with the intent of obscuring the view of the parking from the street and public ways. This can be accomplished with planting, fencing and architectural features. The intent is to provide visual interest that distracts from, or breaks up the view of the large parking areas, not necessarily to completely block the view.

- B. Parking Space Requirement:** The applicant shall furnish evidence that sufficient parking exists for the type of building and proposed use. The Port may require the applicant to prepare a parking study completed by a qualified architect or engineer that evaluates demand and use patterns to determine the number of spaces necessary to serve the business. No use shall be made of any site that will demand parking in excess of the parking spaces available thereon unless off-site parking arrangements are made and approved by the Port.

If a site specific parking study has not been prepared, then the parking requirement will be calculated using the formulas in this paragraph. (See Section C below for Hotel/Motel uses). Each site must provide a minimum of 0.83 parking stalls for each full and part time person to be employed on the premises plus adequate visitor parking; or 2.4 parking spaces for each one thousand (1,000) square feet of gross floor area of the proposed building (see Table 3.1 Sample Calculations for Parking Stall Requirements). **The employee plus visitor formula will be used whenever the number of employees is known.** Visitor parking will be assumed to be 10% of employee parking if otherwise unknown. These general parking requirements may be supplemented or replaced by parking requirements set forth in other sections.

- C. Hotel/Motel Parking Requirements:** Guest parking shall be provided at the rate of one (1) parking stall per one (1) sleeping room assuming eighty percent (80%) occupancy. In addition, employee parking shall be computed at the rate of one (1) employee per thirteen (13) sleeping rooms, and three (3) parking stalls shall be provided for every four (4) employees. Management personnel shall have one (1) parking stall per one (1) employee (see Table 3.1).

Parking requirements for associated meeting rooms/banquet facilities shall be based on the total seating capacity and shall be calculated at the rate of one (1) parking stall per three (3) seats. Employee parking shall be provided based on sixty percent (60%) occupancy with seven (7) employees per one hundred (100) seats and one (1) parking stall per two (2) employees. These requirements are in addition to requirements applicable to guest parking, as described above.

The following table provides sample calculations to determine applicable parking stall requirements.

**Table 3.1 – Sample Calculations for Parking Stall Requirements**

REQUIREMENT	EXAMPLE	PARKING STALLS
<b>General Requirements (Except Hotel/Motel):</b>		
.83 stall per employee + visitor parking*	100 employees x .83 = 83 stalls Estimate 10% of above = 8	83 9
	PREFERRED METHOD	TOTAL: <b>92</b>
<b>OR</b> 2.4 per 1000 square feet floor area	40,000 sq.ft. = 40 x 2.4 = 24	<b>96</b>
<b>Hotel/Motel:</b> (Sample for 200 room hotel with 2 managers and 100 seat banquet room)		
1 stall per room at 80% occupancy + 3 stalls per 4 employees (1 employee per 13 rooms) + 1 stall per manager + 1 stall per 3 seats in banquet/meeting rooms + 1 stall per 2 banquet employees (7 employees per(100 x .6) / 7 = 60/7 = 9 / 2 100 seats at 60% occupancy)	1 x 200 rooms x 80% 200/13 = (16 employees /4) x 3 1 x 2 1 x (100/3) = 1 x 34 100 seats at 60% occupancy	160 12 2 34 5
	TOTAL: <b>213</b>	

NOTE: All results will be rounded up to the next whole number.

\* Visitor parking is based on the actual need of the proposed business. This will be estimated at 10% of employee parking stalls unless an individualized assessment is available.

### 3.6 Truck Loading

The loading or unloading of trucks on streets in the Business Park is prohibited and trucks being loaded or unloaded may not project onto any street. Truck doors and loading docks are not permitted facing Hegenberger Road; structures facing Hegenberger Road must have truck loading doors at the sides or rear of the building. Suitable screening of truck doors from the frontage street of any site must be provided.

Truck doors and docks are permitted to face streets other than Hegenberger Road provided they are screened from view by an architecturally acceptable fence or wall located on or to

the rear of the front setback line. Details, length and location of such fence or wall shall be subject to Port approval.

### **3.7 Driveway Curb Cuts**

All driveway curb cuts shall be at least twenty five (25) feet distant from the next closest driveways on the same street. Driveways shall be a minimum of twelve (12) feet in width for one-way traffic and twenty six (26) feet for two-way traffic. The maximum permitted curb cut shall be thirty five (35) feet wide. The direction of traffic flow shall also be clearly marked on the paved surface. All proposed driveways shall conform to City of Oakland Municipal Code requirements for the construction and repair of sidewalks, driveways, and curbs.

### **3.8 Sidewalks**

A six (6)-foot wide concrete sidewalk along existing street frontages shall be provided in all new construction.

For existing developments where a substantial modification is anticipated in excess of \$50,000, a six (6)-foot wide concrete sidewalk shall be required along the entire street frontage of the property. Where there is a planter strip adjacent to the curb and a six (6)-foot sidewalk would be impractical to be installed, a concrete walkway of six (6)-foot minimum in width at an alternate location within the front setback area shall be provided subject to approval by the Port. All construction of sidewalks shall be constructed to connect with similar improvements, if any, at the property lines.

### **3.9 Fences**

Fences may be constructed anywhere in the side and rear setback, but not in the front setback. Fences six (6) feet or higher require a Development Permit. No fence over 10 feet high shall be permitted.

### **3.10 Temporary Structures**

Trailers, portable container-type storage structures, and prefabricated office structures will not be allowed except for limited duration uses or during construction of a development, subject to approval by the Port.

### **3.11 Alternative Energy**

Based on the California Global Solutions Act of 2006, and renewable portfolio standards, energy efficiency and the use of alternative energy sources are encouraged.

### **3.12 Nuisance Control**

No industry, business, or firm whose operation produces odors, fumes, smoke, dust, noise, vibration, interference with radio communication, or air pollution in amounts which the Port or other applicable governmental or regulatory entities finds to be objectionable, or whose operation is considered to be hazardous by reason of danger of fire, radioactivity, or explosion, shall be permitted in the Business Park.

### **3.13 Compliance with Laws and Regulations**

The development and operation of all facilities and uses within the Business Park shall be subject to the laws and regulations of all applicable government and regulatory agencies, including but not limited to:

- Port of Oakland
- City of Oakland
- County of Alameda
- Alameda County Airport Land Use Commission
- Bay Area Air Quality Management District
- San Francisco Bay Conservation and Development Commission
- San Francisco Bay Regional Water Quality Control Board
- State Water Resources Control Board
- California Department of Fish and Game
- California Department of Toxics and Substance Control
- State Lands Commission
- State Alcoholic Beverage Commission
- Federal Aviation Administration
- United States Army Corps of Engineers

Development Permits shall also include conditions of approval appropriate to safeguard the public health, safety, and welfare among other matters. Furthermore, development within the Business Park may be subject to environmental review under the California Environmental Quality Act (CEQA).

## Section 4. Design Standards

The following standards pertain to the design of structures within the Business Park.

### 4.1 Architectural Design

- A. Permit Review:** All structures shall be architecturally designed to create an aesthetically pleasing appearance compatible with the surrounding setting. Standards of design and construction are subject to review by the Chief Engineer or such other designee of the Executive Director, in consultation with the applicant, pursuant to such standards as set forth in this section. The Port reserves the right to reject plans for or request changes to any proposed structure, site plan or landscaping plan.
- B. Architecture Treatment:** Enhanced architectural treatment of walls facing streets and public ways will be required and other walls of buildings shall be color treated and finished in a compatible manner. Walls consisting of any one type of building material shall incorporate, and be integrated with, other accent materials to avoid monotony in appearance. Additions to existing buildings shall match or be compatible with the architectural style of the existing structure.
- C. Fences:** Any security and all other fences and walls constructed by the Landowner must conform to the applicable front setback requirement for the property. Fences may, however, be located in areas between the property line and the required side and rear lot setback line. All fences shall be subject to Port approval as to architectural treatment, type, and location prior to erection. Generally, solid fences or wrought iron fences shall be required. All street-facing fences and walls shall be composed of metal, stone, or stone-composite materials. Chain-link is not allowed for front street-facing fences. Where chain-link is approved for other fences it shall be treated with inserts.
- D. Mechanical, Electrical and Plumbing Equipment:** All mechanical equipment, including electrical and gas meters, shall be architecturally screened from view and electrical transformers shall be either undergrounded, enclosed within the building, or placed behind the building so as not to be visible from streets and public ways. Plumbing vents and ducts which penetrate a roof shall be grouped together as much as feasible and all rooftop mechanical and electrical equipment shall be screened in such a manner that they become an integral part of the building design and are screened from view at ground level.
- E. Height:** The height limit for any building in the Business Park shall be the maximum height allowed by the Federal Aviation Administration (FAA) that does not place any restrictions on aviation activities at the Oakland International Airport. Approval will not be given for the construction or placement of any building, structure, or other site improvement (including landscaping) at any height if, upon review by the FAA, it is determined that the building, structure, or improvement would be a hazard to air navigation. See [www.faa.gov](http://www.faa.gov) for FAA Form 7460 (Notice of Proposed Construction or Alteration).

## 4.2 Signs

This Code establishes standards for Business, Directional, Realty, and Special signs. (Advertising signs including billboards that identify or advertise businesses, goods or services located at offsite locations are not allowed under this Code.) No signs, placards, posters, sandwich boards, banners or other unapproved advertisements shall be allowed in the public sidewalk areas or median strips at any time, and may be removed by the Port without warning.

**A. Business Signs:** Business signs are permanent signs used to identify the business or businesses on a site. Signs shall be attached to the face of the structure, or erected upon the premises, tastefully designed, compatible with the size and design of the building, and only identify the tenant or tenants of the building.

Development Permit applications for Business signs shall be submitted to the Port for approval prior to installation and shall include:

- Drawings and/or photographs showing proposed text, colors, size and details of construction and installation;
- Site plan; and,
- An inventory of existing site signs including size, type and location.

Only “wall”, “free-standing”, and “blade” signs shall be permitted in the Business Park (flashing, rotating, animated, or billboard-type signs are not permitted). (See Figure 4.1 Sign Photographs.)

1. Wall signs are those signs that are applied to, or mounted on the wall or surface of a building or a structure, the display surface of which is parallel to the supporting surface. No sign shall be directly painted on walls and/or roof of a building or a structure without specific approval by the Port. Such approval will only be given if the sign is tastefully designed and applied with durable weather resistant materials. No sign shall be permitted to extend above the roof or parapet line of a building. Signs may be placed on not more than two building frontages.
2. Free-standing signs are signs that are supported by one or more uprights, poles, or braces in or on the ground. Free-standing signs shall be limited to a maximum of four (4) feet in height above highest adjacent grade within the Business Park Interior and shall be limited to a maximum of ten (10) feet in height in the Commercial Corridor. Free standing signs may be located within the front setback area.
3. Blade Signs are signs that are mounted perpendicular to the wall, and can be attached to the wall or an overhang structure. They are primarily used for buildings or sites with multiple tenants to identify the location of each tenant within a complex, or to mark an entrance that is parallel to the visitor’s approach. Blade

signs are limited to a maximum 12 square feet each, unless otherwise approved by the Port.

4. A retail sign is a Business sign that has the added purpose of attracting new customers or drive-by drop-ins, whereas a non-retail Business sign simply marks the location for customers already destined for that business. Retail signs generally have more color and illumination, and may include pictures or logos that describe the business activities. For example, a non-retail Business blade sign might be painted or carved wood without illumination, whereas a retail blade sign would be illuminated with color. Retail signs are not allowed in the Business Park Interior.
5. The total area of Business signs on any one building frontage shall be limited to a maximum display surface allowing one (1) square foot for each foot of street frontage abutting a lot, or one half (0.5) square foot for each foot of street frontage on corner lots, but not exceeding one hundred (100) square feet in any one sign or a maximum of two hundred (200) square feet for all signs on the premises.
6. Where the overall signage limit has been reached by a portion of existing tenants in a multi-tenant site, tenants without signage will be allowed 20 square feet each over the aggregate limit.



Wall sign (non-retail)

Blade sign  
(retail)



Free-standing sign  
Business Park Interior  
(non-retail)



Free-standing sign  
Commercial Corridor  
(retail)

**Figure 4.1 Business Sign Photographs**

- B. Directional Signs:** Directional signs are signs that direct pedestrian or vehicle traffic within a site, and generally do not require a permit. Directional signs such as “enter”, “shipping”, etc., are allowed adjacent to each driveway, but shall not exceed four (4) feet in height above grade and ten (10) square feet in surface area. Approval of larger signs requires Port approval (a development permit).
- C. Realty Signs:** **Realty signs including** “For Sale” and “For Lease” signs are typically short term signs placed on a building or site to inform potential purchasers or tenants of availability. These signs do not require a permit. No more than one “For Sale” or “For Lease”, or similar sign shall be permitted on any individual site at any time except that up to two signs will be allowed for multi-tenant sites. No such sign shall exceed thirty two (32) square feet in area. No such sign shall be equipped for illumination by interior or exterior light sources. Such signs shall include no more than a brief description of the premises to be sold or leased and the name, trademark, address and telephone number of the owners, brokers, or other person offering the premises. All “For Sale” or “For Lease” or similar signs shall be removed upon sale or lease of the building or building site. Any sign not conforming to this subsection shall be promptly removed upon written notice from the Permit Coordinator. More than one sign per lot and/or a sign larger than 32 square feet will require a permit.
- D. Special Signs:** Special signs are those placed to mark special events or to display non-advertising messages for a short duration. These signs do not require a permit, but the Port may require removal if the sign violates this Code or if the Port determines that the sign(s) are detrimental to the character of the Business Park. Such signs are limited to a two-week display period, up to four times per year, except that “grand opening” signs may be displayed for up to one month.

#### 4.3 Antennas and Microwave Dishes

Antennas and microwave dishes are permitted as governed by the Federal Communications Commission.

- A. Roof-mounted:** Roof-mounted antennas shall be installed in such a way as to avoid using guy wires for support. Roof-mounted dishes, as well as braces and struts used for support of the antennas shall be screened from view when viewed from the ground level. Antennas shall be painted a neutral color to reduce visibility and adverse visual impact.
- B. Ground-mounted:** Ground-mounted dishes and/or antennas shall be placed on a concrete pad within a fenced enclosure and shall be landscaped around the periphery.
- C. Associated utilities:** All electrical and telephone connections shall be through the conduits or connection of the existing utilities in the building. Emergency generators, if any are required, shall be installed within the building.

- D.** All receiving and/or transmitting systems shall insure that there is no electronic interference between the system, and commercial radio and television transmission or civilian aeronautical communication.
- E.** Poles or towers that will be visible from the public way must be designed to blend with the environment. This could include the use of designed camouflage including “tree” poles.

#### **4.4 Outside Storage**

Storage of material, supplies, products, equipment or other personal property will be permitted on any site outside a permanent structure, only under the following conditions:

- A. Placement:** The storage area shall be confined to the rear portion of the property, and shall not extend closer to the street than the front of the main building; and
- B. Screening:** The storage area shall be screened from view by a masonry wall or other approved screening, six (6) feet in height or rising two (2) feet above the stored goods, whichever is higher, provided no such wall or screen shall exceed ten (10) feet in height.

#### **4.5 Maintenance**

The Landowners shall at all times maintain in good order, repair and condition all structures, fences, signs, walks, driveways and paved areas, lawns and landscaping on each site, and maintain in first-class condition all exterior painted surfaces and repaint such surfaces as often as required. It is the Port’s compelling interest to preserve existing structures and to maintain an aesthetically pleasing appearance compatible with the surrounding setting and consistent with this Code.

# **Section 5. Code Administration**

## **5.1 Compliance**

All structures and uses within the Business Park must comply with the terms of this Code. No person may construct or alter any structure or property or establish or alter any land use within the Business Park without first applying for and securing from the Port a Development Permit in accordance with the terms of this Code. Certain limited improvements are exempt from the Development Permit requirement (Section 5.2). Where a proposed alteration in land use is unaccompanied by an alteration in structure or property, such alteration in land use may be approved upon issuance of a Use Consistency Determination (Section 5.4). Any person failing to comply with the terms of this Code, including a failure to secure a Development Permit or Use Consistency Determination, will be subject to Code enforcement (Section 5.8).

## **5.2 Improvements Exempt from the Development Permit Requirement**

This Code's Development Permit requirement does not extend to the following categories of construction work:

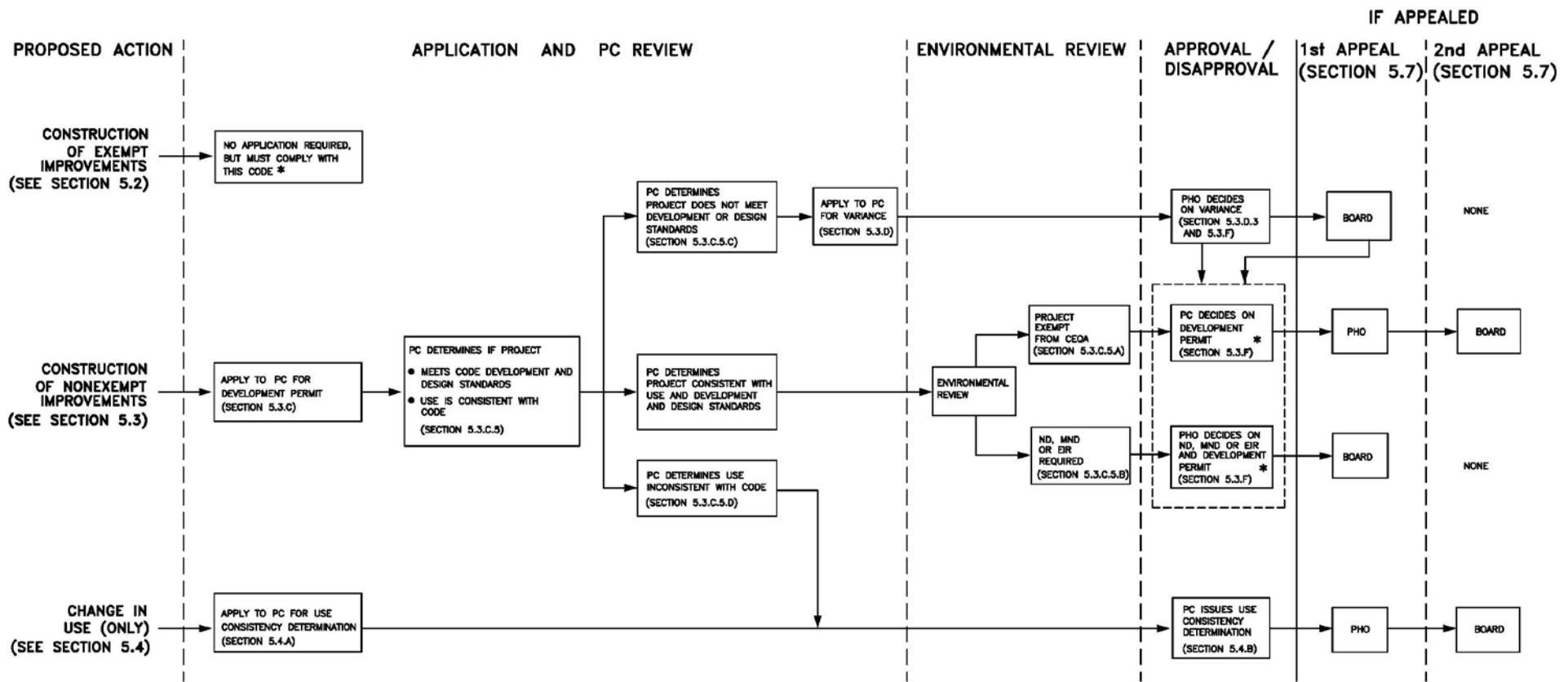
1. Work exempt from the City of Oakland's building permit requirements (for assistance see [www.oaklandnet.com/government/ceda/revised/buildser/whenneed.htm](http://www.oaklandnet.com/government/ceda/revised/buildser/whenneed.htm) or contact the City of Oakland Building Department).
2. Modifications made solely to the interior of an existing structure where no change in use occurs.
3. Repairs and in-kind replacement of exterior building components (e.g., doors, windows, roof, siding, etc.)
4. Erection or modification of signs meeting the following criteria:
  - a. Business signs: Replacement of a sign face copy or a new sign face within an existing sign frame;
  - b. Realty, Directional and Special signs: Installation, alteration or removal of Realty, Directional, or Special signs provided the requirements of Section 4.2 are met.

However, the Port may require a Development Permit for any work initiated as a result of an enforcement action. All improvements, repairs and maintenance must comply with this Code, whether or not a Development Permit is required for the work.

## **5.3 Development Permit Process**

This Section establishes the permitting process to construct or alter a structure or property or to alter a land use within the Business Park. A graphic depiction of the permitting process is presented in Figure 5.1 – Permit Process Chart.

## FIGURE 5.1 PERMIT PROCESS CHART



PROCESS CHART FOR ILLUSTRATIVE PURPOSE ONLY

KEY:  
 PC – PERMIT COORDINATOR  
 PHO – PERMIT HEARING OFFICER(S)  
 BOARD – BOARD OF PORT COMMISSIONERS  
 CBC – CALIFORNIA BUILDING CODE

CEQA – CALIFORNIA ENVIRONMENTAL QUALITY ACT  
 EIR – ENVIRONMENTAL IMPACT REPORT  
 MND – MITIGATED NEGATIVE DECLARATION  
 ND – NEGATIVE DECLARATION

\* CITY OF OAKLAND BUILDING PERMIT MAY BE REQUIRED PRIOR TO CONSTRUCTION

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- A. Alterations to Structures:** No person may construct, extend, alter, improve, erect, remodel, or repair any structure within the Business Park without first applying for and securing a Development Permit.
- B. Alterations to Land Use:** No person may alter or change the use of any land within the Business Park without first applying for and securing either:
  - 1. A Development Permit where alterations to structures are also proposed; or,
  - 2. A Use Consistency Determination where no alterations to structures are proposed.
- C. Development Permit Applications:** The application for a Development Permit may be found at [www.portofoakland.com](http://www.portofoakland.com), or obtained in hardcopy from the Port's Permit Coordinator.
  - 1. Pre-Application Meetings.** Prior to completing the application, applicants are encouraged to attend a pre-application meeting with the Permit Coordinator. Meetings are encouraged to understand the necessary information and associated fees required to complete the application. In some cases, the alterations to structures proposed may be exempt from the Development Permit requirements and the Permit Coordinator may determine that an application is unnecessary.
  - 2. Application Submittal.** The application should be completed as fully as possible. Completed applications, including required submittals, should be submitted to the Permit Coordinator at the Port of Oakland offices located at 530 Water Street, 2<sup>nd</sup> floor, Oakland, or by email to [permitcoordinator@portoakland.com](mailto:permitcoordinator@portoakland.com).

Applications should be accompanied by the applicable application fees at the time of submittal. The Port's application fee schedule may be found at [www.portofoakland.com](http://www.portofoakland.com).

  - 3. Incomplete Applications.** Upon submittal of a Development Permit application, the Permit Coordinator will review the application for completeness. If a submitted application is found to be incomplete, the Permit Coordinator will contact the applicant to request additional information or submittals before processing the application.
  - 4. Complete Applications.** Upon determining that the application is complete, the Permit Coordinator will determine:
    - a. Whether the proposed alteration of structures or property is consistent with the Development and Design Standards (Sections 3 and 4);

- b. Whether the proposed land use is consistent with Permitted Uses (Section 2); and,
- c. Whether the proposed project is exempt from environmental review under the California Environmental Quality Act (CEQA).

## 5. Permit Coordinator's Determination.

- a. **Where the Permit Coordinator determines the project is consistent with Development, Design and Use standards and is exempt from CEQA**, the Permit Coordinator may approve the project subject to conditions of approval (Section 5.6) based on written findings, or disapprove the project based on written findings (Section 5). The Permit Coordinator's approval or disapproval is subject to administrative appeal as set forth in Section 5.7. Prior to commencing work under an approved Development Permit, the project proponent may also need to obtain permits or approvals from the City of Oakland (Section 5.3I) or other regulatory agencies.
- b. **Where the Permit Coordinator determines the project is consistent with Development, Design and Use standards but is not exempt from environmental review under CEQA**, the Permit Coordinator will require that the applicant prepare an Initial Study and a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report under CEQA (Section 5.3E), as appropriate. This determination is not appealable.
- c. **Where the Permit Coordinator determines the project is inconsistent with Development or Design standards**, the Permit Coordinator will require that the applicant either modify the project to comply with the Development or Design standards and reapply, or apply for a Variance (Section 5.3D). This determination is not appealable.
- d. **Where the Permit Coordinator determines the proposed land use is inconsistent with Permitted Uses**, the Permit Coordinator will disapprove the application. The Permit Coordinator's disapproval is subject to administrative appeal as set forth in Section 5.7. The applicant may choose to revise the application to meet this Code and resubmit without penalty.

**D. Variances:** Where the Permit Coordinator determines that the proposed project is inconsistent with Development or Design Standards, the project may not be approved without a variance approved by the Port.

1. **Variance Applications.** The application for a variance may be found at [www.portofoakland.com](http://www.portofoakland.com), or obtained in hard copy from the Port's Permit Coordinator. Variance applications should be accompanied by the applicable application fees at the time of submittal.

- 2. Evidence Supporting a Variance.** As part of the variance application, the applicant must present substantial evidence justifying issuance of the variance, including evidence that the following findings may be made:

  - a. That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of this Code will deprive such property of privileges enjoyed by other property in the Business Park within the same area of land use designation, as shown in Figure 2.1;
  - b. That granting of the variance will be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the Business Park within the same area of land use designation, as shown in Figure 2.1; and,
  - c. That granting of the variance will not authorize a use or activity which is not otherwise allowed within the applicable land use designation of the Business Park.

- 3. Variance Consideration Process.** Upon submittal of a completed variance application, the Port will consider approval of the variance based on written findings. The Port's approval or disapproval of a variance is subject to administrative appeal as set forth in Section 5.7.

- E. Environmental Review:** Where the Permit Coordinator has determined that the proposed project is subject to environmental review under CEQA, the applicant must prepare an Initial Study or a Negative Declaration (ND), Mitigated Negative Declaration (MND), or Environmental Impact Report (EIR), as determined by the Port.

- 1. Initial Study.** The scope of environmental review will be determined by the Port based on the analysis contained in the Initial Study. The Initial Study must be prepared by the applicant or its consultant, at the applicant's sole cost, but at the Port's direction. The individual(s) preparing the Initial Study and ND, MND, or EIR must be a Port-approved CEQA document preparer. Port approval may not be unreasonably withheld. The Initial Study must meet the requirements of CEQA. Submittal of the Initial Study shall be accompanied by the applicable environmental review fees at the time of submittal.
- 2. Preparation of Administrative Drafts.** Based on the analysis contained in the Initial Study, the Port will require that a ND, MND, or EIR be prepared by the applicant or its consultant at the applicant's sole cost, but at the Port's direction. The applicant is encouraged to work closely with the Port's environmental staff in developing its first administrative draft CEQA document. Because the Port must adopt or certify the ND, MND, or EIR, and because the Port must exercise its

independent judgment in so doing, the Port will not approve for release an environmental document that it determines, in its sole discretion, is inadequate under CEQA. For this reason, depending on the quality and sufficiency of the administrative draft document, multiple administrative drafts may be required prior to release for public review. As part of, or in addition to, the applicable Port fees, the applicant must reimburse the Port for its environmental review services, including environmental and legal staff time and, where their engagement is deemed necessary by the Port, costs attributable to Port consultants and outside CEQA counsel.

3. **Circulation of Environmental Documents.** Once the ND, MND, or Draft EIR is completed, it must be circulated to the public subject to specific notice, comment, and hearing procedures under CEQA. Should comments be received from the public requiring responses under CEQA, the applicant or its consultant shall prepare responses to comments, including the preparation of additional environmental documents, analyses, studies, or other work products, at the applicant's sole cost, but under the Port's direction. Again, the applicant must reimburse the Port for its environmental review services.
4. **Approval of Final Environmental Documents.** Upon finalization of the ND, MND, or EIR, the environmental document may be approved by the Port along with the proposed Development Permit or Variance based on written findings (Section 5.5). The Port's approval (or disapproval) of the Development Permit or Variance covered by such environmental document is subject to administrative appeal as set forth in Section 5.7. The Port will file a Notice of Determination with Alameda County within 5 working days after final approval by the Port.

- F. Development Permit, Variance, and Environmental Approvals.** Based upon written findings as set forth in Section 5.7, and subject to conditions of approval as set forth in Section 5.6, the following actions shall be taken for each entitlement by the following bodies, upon notice and a hearing as applicable:

**Table 5.1**  
**Approval Chart**

Entitlement	Hearing Required?	Approving Body
Variance	Yes	Permit Hearing Officer(s)
Development Permit (Exempt from CEQA)	No	Permit Coordinator
Development Permit (ND, MND, or EIR)	Yes	Permit Hearing Officer(s)

The decisions of the Permit Coordinator and the Permit Hearing Officer(s) (the Executive Director of the Port and/or his or her designee(s)) are subject to administrative appeal as set forth in Section 5.7. Absent an administrative appeal, or

upon exhaustion of administrative appeals, Development Permit, Variance, and environmental approvals or disapprovals shall become final at the end of the 14th day after a Notice of Decision is issued for such approval. Regardless of whether a Notice of Decision was issued or issued timely, such approval shall become final in no event later than 30 days after such approval, absent an administrative appeal or upon exhaustion of administrative appeals. (Note: Already stated below.)

- G. Scope, Expiration, and Extension of Approved Development Permits.** Any approved Development Permit shall be subject to the plans, scope of improvements, and conditions of approval upon which it was granted. Unless a different termination date is prescribed, a final approved Development Permit shall terminate one (1) year from the date of the development approval unless actual construction or alteration has commenced and continues to be diligently pursued. The termination date for a Development Permit may be extended by the Port body that originally approved the Development Permit upon application in writing to such body prior to the termination of such permit. Applications for such an extension should be accompanied by the applicable application fees at the time of submittal. Approval of a Development Permit extension must be based on written findings, as set forth in Section 5.5, and may be subject to conditions of approval, as discussed in Section 5.6. The approval or disapproval of a Development Permit extension shall be subject to the same administrative appeal remedies available at the time the Development Permit was initially approved.
- H. Revocation of Development Permits.** Where a Development Permit has been approved, such permit may be revoked upon: violation of any provision of this Code, a failure to comply with any prescribed condition of approval, a failure to pay any necessary fee, or a failure to commence or to diligently pursue the construction or alteration activities authorized under the Development Permit within one (1) year from the date of the development approval. The revocation of a Development Permit shall be subject to the same administrative appeal remedies available at the time the Development Permit was initially approved.
- I. City of Oakland Building Permit.** Prior to commencing work under an approved Development Permit, the project proponent may also be required to obtain a building permit or other permits and approvals from the City of Oakland. The City Building Department will review the work for consistency with the adopted version of the California Building Code. City permits may also be necessary from the Fire Marshal for high rise, assembly, and other types of projects. Work in the public right-of-way may also be subject to City of Oakland Permits. The City of Oakland may also impose other permit requirements. These permits do not supersede the Port's land use jurisdiction.

## **5.4 Use Consistency Determinations**

Where an applicant seeks to alter or change the use of any land within the Business Park and no accompanying alteration of a structure is proposed, the applicant must first apply for and secure a Use Consistency Determination.

- A. Application Submittal.** The Use Consistency Determination application should be completed as fully as possible. Completed applications, including required submittals, should be submitted to the Permit Coordinator at 530 Water Street, 2<sup>nd</sup> floor, Oakland or by email to [permitcoordinator@portoakland.com](mailto:permitcoordinator@portoakland.com). Applications should be accompanied by the applicable application fees at the time of submittal.
- B. Permit Coordinator's Determination.** Based upon written findings (Section 5.5), the Permit Coordinator will determine whether the proposed land use is consistent with the Permitted Uses. A Use Consistency determination by the Permit Coordinator is subject to administrative appeal as set forth in Section 5.7.

## **5.5 Findings**

Use Consistency Determinations and approvals or disapprovals of Development Permits, Development Permit extensions and revocations, Variances, and the approval of environmental documents must be supported by substantial evidence and based upon written findings, including an evaluation of the following:

- A. Consistency Determination Findings.** The Port may issue a land use consistency determination, either as submitted or as modified, only upon finding that:
  1. The proposed use is consistent with the purposes, restrictions, and regulations of this Code as it applies to the land use area of the Business Park in which such use is proposed to be located.
  2. The proposed use will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons working in the Business Park or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.
  3. The proposed use will neither interfere with the operations of Oakland International Airport nor enable the establishment of uses that may be incompatible with the potential imposition of noise, light, smoke, air currents, electronic or other emissions, vibrations, discomfort, and/or inconvenience resulting from airport operations.
- B. General Development Permit Findings.** The Port may approve an application for a Development Permit, either as submitted or as modified, only upon finding that:

1. The proposed project will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons working in the Business Park or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.
2. The proposed project is consistent with the City of Oakland's General Plan.
3. The proposed project complies with provisions of this Code.
4. The proposed project has been adequately evaluated under CEQA.
5. The proposed project has been approved, or has a reasonable chance of being approved, by all outside agencies having jurisdiction over the project, including but not limited to: the City of Oakland, FAA, Regional Water Quality Control Board, Airport Land Use Commission, Alameda County Health Department, and State Lands Commission.
6. The proposed project will neither interfere with the operations of Oakland International Airport nor enable the establishment of uses that may be incompatible with the potential imposition of noise, light, smoke, air currents, electronic or other emissions, vibrations, discomfort, and/or inconvenience resulting from airport operations.
7. The Port has attached such conditions to issuance of the Development Permit as it deems reasonable or necessary to achieve the purposes of this Code, to reduce or to mitigate environmental impacts, and to address the project's anticipated burden on the Business Park and the Port, and which otherwise promote the health, safety, and welfare of the surrounding community.

**C. Specific Development Permit Findings.** In addition to the General Findings required above, the Port may approve an application for a Development Permit within a specific land use area of the Business Park, either as submitted or as modified, only upon finding that:

1. For projects proposed in the Commercial Corridor, such projects are consistent with the purposes, use restrictions and development and design standards established by this Code for the Commercial Corridor area.
2. For projects proposed in the Business Park Interior, such projects are consistent with the purposes, use restrictions and development and design standards established by this Code for the Business Park Interior area.
3. For projects proposed in the Park and Open Space, such projects are consistent with the purposes, use restrictions and development and design standards established by this Code for the Park and Open Space area.

**D. Extension of Approved Development Permit Findings.** An application for an extension of the life of an approved Development Permit may be approved, subject to payment of applicable fees and imposition of conditions, upon a finding that the extension will not create or perpetuate a situation imminently dangerous to life or property. Such an application for extension may be denied upon a finding that such extension would not meet any of the general or specific findings necessary to approve a Development Permit.

**E. Revocation of Approved Development Permit Findings.** An approved Development Permit may be revoked upon a finding that any one of the following has occurred:

1. The holder of the Development Permit has failed to comply with one or more of the conditions attached to the approved permit.
2. The use, structure or building permitted has been substantially expanded or changed in character beyond that set forth in the approved permit.
3. The holder of the Development Permit has failed to diligently pursue development of the project or use authorized by the approved permit.

**F. Variances.** Variances from the development or design standards (but not the use restrictions) of this Code may be granted only upon finding that:

1. That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of this Code will deprive such property of privileges enjoyed by other property in the Business Park within the same area of land use designation, as shown in Figure 2.1;
2. That granting of the variance will be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the Business Park within the same area of land use designation, as shown in Figure 2.1; and,
3. That granting of the variance will not authorize a use or activity which is not otherwise allowed within the applicable land use designation of the Business Park.
4. The proposed variance will neither interfere with the operations of Oakland International Airport nor enable the establishment of uses that may be incompatible with the potential imposition of noise, light, smoke, air currents, electronic or other emissions, vibrations, discomfort, and/or inconvenience resulting from airport operations.
5. The Port has attached such conditions to approval of the variance as it deems reasonable or necessary to achieve the purposes of this Code, to reduce or to

mitigate environmental impacts, and to address the project's anticipated burden on the Business Park and the Port, and which otherwise promote the health, safety, and welfare of the surrounding community.

## **5.6 Conditions of Approval**

The Port may attach conditions of approval as it deems reasonable or necessary to achieve the purposes of this Code, to reduce or to mitigate environmental impacts, to address the project's anticipated burden on the Business Park and the Port, and/or which otherwise promote public health, safety and welfare. The standard conditions of approval in Appendix B apply to each project. Other specific conditions will be added based on the findings and details of each project. The combined standard and specific conditions will be known as the conditions of approval for the project, and must be incorporated into the approved plan set.

## **5.7 Administrative Appeals**

- A. Administrative Appeal Form.** Any person or entity aggrieved by Port approval or disapproval of a Use Consistency Determination, Development Permit, Variance or environmental document pursuant to this Code, may appeal such decision by submitting an Administrative Appeal Form to the Permit Coordinator. The Administrative Appeal Form may be found at [www.portofoakland.com](http://www.portofoakland.com), or may be obtained in hardcopy from the Port's Permit Coordinator.
- B. Appeal Limitations Period.** The Administrative Appeal Form must be filed by the end of the 14th day after the Notice of Decision is issued for the subject approval or disapproval. When a Notice of Decision is not issued within 15 days of the subject approval or disapproval, the Administrative Appeal Form must be filed by the end of the 30th day after the subject approval or disapproval. Late filed Administrative Appeal Forms shall be of no effect and shall be deemed null and void.
- C. Failure to File an Administrative Appeal.** Any failure to exhaust all administrative appeals hereunder shall be a complete bar to judicial review. No approval or disapproval under this Code shall be ripe for adjudication by any court unless and until the Board of Port Commissioners has reviewed and acted upon the approval or disapproval.
- D. Administrative Appeal Fee.** The Administrative Appeal Form must be accompanied by the applicable administrative appeal fees at the time of submittal. Failure to pay the requisite administrative appeal fee at the time of submittal of the Administrative Appeal Form shall invalidate the administrative appeal and the submitted Administrative Appeal Form shall be deemed null and void.
- E. Basis and Scope of Administrative Appeal.** The submitted Administrative Appeal Form must clearly and concisely set forth the grounds upon which the administrative appeal is based. On administrative review, the appeal will be deemed to concern

solely those issues raised in the Administrative Appeal Form. Failure to raise issues in the Administrative Appeal Form shall be deemed a waiver of such issues on appeal and upon any subsequent judicial review.

**1. Takings.** If a ground of the administrative appeal is that the Port's actions constituted a taking of property under the California or United States Constitutions, that ground and all evidence (including specific financial data and analyses, if any) and argument in support thereof shall be clearly stated as a separate ground of the appeal, or it shall be waived. If specific evidence is not presented as part of the appeal, the takings claim shall be waived, and the administrative appellant shall be deemed to have waived any claim to sworn testimony and cross-examination. This requirement shall apply to appeals on the ground that the Port's decision or any condition imposed by the Port denied the applicant any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constituted a taking of property for public use without just compensation.

**F. Notice and Administrative Review.** Notices of Decision for Port actions shall be issued and administrative review of administrative appeals shall be conducted as set forth in Table 5.2, below:

**Table 5.2**  
**Notice and Appeal Chart**

Decision	Approving Body	Notice of Decision distributed to:	Appeal to:	2nd Appeal to:
Use Consistency Determination	Permit Coordinator	Applicant Port website	Permit Hearing Officer(s)	Board of Port Commissioners
Variance	Permit Hearing Officer(s)	Newspaper, Applicant, Owner, Owners w/in 300 feet. Port website	Board of Port Commissioners	None
Development Permit (Exempt from CEQA)	Permit Coordinator	Applicant Port website	Permit Hearing Officer(s)	Board of Port Commissioners
Development Permit (ND, MND, or EIR)	Permit Hearing Officer(s)	Applicant, Electronic Distribution List Port website	Board of Port Commissioners	None

## **5.8 Enforcement**

Any violation of this Code is deemed a public nuisance. Suspected violations can be reported to [permitcoordinator@portoakland.com](mailto:permitcoordinator@portoakland.com).

- A. Notice of Violation.** Prior to taking any action to abate a public nuisance under this Code, the Port shall provide notice to the person(s) causing or responsible for the nuisance and a reasonable opportunity to cure and correct or otherwise abate the nuisance. Any violation of this Code that is not resolved after such notice and opportunity to cure, may be caused to be abated by the Port.
- B. Port Abatement.** The Port Attorney may, at his or her discretion or upon order of the Board of Port Commissioners, commence any action or proceeding for the abatement and removal and injunction of violations of this Code in any manner provided by law or equity. Where the Port is the prevailing party in any action to abate a nuisance under this Code, the Port shall recover its attorney's fees and costs, including an amount attributable to the fees and costs of the Port Attorney. In addition to civil litigation, remedies available to the Port Attorney include, but are not limited to:
  - 1. Administrative Penalties.** The Port Attorney may impose an administrative penalty of up to \$10,000 jointly and severally on the person(s) responsible for any nuisance and/or the property owner, and/or may impose a condition that the property owners pay the costs of all Port services (including but not limited to engineering services and Port Attorney costs) necessary to abate such public nuisances.
  - 2. Nuisance Abatement Liens.** The Port Attorney may cause to be recorded a nuisance abatement lien against the property on which the nuisance is maintained and a personal obligation against the property owner in accordance with California Government Code Section 38771 et seq., Civil Code Section 3494, Code of Civil Procedure Section 731, or other lawful authority, to recover the costs of any nuisance abatement effected by the Port, including litigation costs and fees.
  - 3. Criminal Prosecution.** The knowing violation or maintenance of a violation of any provision of this Code shall be deemed a misdemeanor. Any person convicted of a misdemeanor under this Code shall be punished by a fine of not more than five hundred dollars (\$500.00), or by imprisonment not to exceed six months, or by both such fine and imprisonment. Each and every day during any portion of which any violation of any provision of this Code is committed, continued or permitted shall be deemed a separate offense, and may be punished accordingly.
- C. Private Right of Action.** Any Landowner in the Business Park may bring a private action for injunctive and compensatory relief to prevent or remedy a public nuisance as defined in this Code. No action may be brought under this Section unless and until

the prospective plaintiff has given the Port and the prospective defendant at least 30 days written notice of the alleged public nuisance and the Port has declined to initiate proceedings under this Section within that period, or after initiation, has failed to diligently prosecute. In any action prosecuted under this Section a prevailing plaintiff may recover reasonable attorney's fees costs.

# Appendix A: Definitions

While the Port Attorney shall be afforded deference in interpreting the provisions of this Code, the following definitions are meant to clarify terms used in this Code. Where reasonable, the plain meaning set forth in Webster's Dictionary for any term not defined below shall control.

## A.1 General Definitions

**Accessory Activities:** See Section 2.5.

**Activity:** Activity means the performance of a function or operation. "Activity" is synonymous with "Use." Activities are the terms used in this Code to describe the business functions or uses at a particular site. Each business will be characterized by the primary activity from this Code that best describes the main use, as well as secondary and accessory activities. Refer to Section 1.4 for further definition and process for use or activity approval.

**Facility:** The building, structure, or other human-made improvements that support an activity. A facility may serve more than one activity, or may be specific to a certain activity.

**Landowner:** Landowner is to be interpreted broadly and is meant to include any applicant for a Development Permit, Use Consistency Determination, Variance or other approval under this Code as well as owners, tenants, lessees, users, permittees and occupants of real property in the Business Park. Landowner shall never be interpreted to include the Port, but it shall refer to and include tenants, lessees, users, permittees and occupants of Port-owned or administered lands.

## A.2 Land Use Definitions

**Administrative:** The executive, management, administrative, and clerical activities of public, private, and parochial institutions, and public utility administrative offices. Administrative uses shall include union halls and other general office uses.

**Adult Education/Vocational Training:** Support services provided for independent living skills development including self-improvement education, employment and job training for off-site residents.

**Agriculture, Indoor:** On-site indoor production of plant products including the raising of plant crops.

**Alcoholic Beverage Sales:** The retail sale, for on- or off-premises consumption, of liquor, beer, wine, or other alcoholic beverages, but exclude full-service restaurants.

**Animal Breeding and Care:** Breeding facilities, veterinarian offices, and pet hotels where pets, livestock or wild animals are cared for as either office visit or for boarding.

**Automotive Fee Parking:** The parking and storage of motor vehicles on a fee basis, other than the operation of parking facilities for the exclusive use of on-site visitors.

**Automotive Sales, Rental, Services and Brokerage:** The retail or wholesale sale or rental, from the premises, of motor vehicles, with incidental maintenance. Motor vehicles include any passenger vehicle or light truck with a gross vehicle weight under 14,000 pounds including motorcycles, cars, sport utility vehicles, light (pick up) trucks, vans, boats and recreational vehicles. Smaller facilities, where the capacity for on-site storage is not more than five vehicles, will be considered General Wholesale if the public is not invited to drop-in for on-site sales.

**Automotive Servicing and Repair:** The sale, from the premises, of goods and the provision of services which are generally required in the operation and maintenance of automotive vehicles and the fulfilling of motorist needs, including sale of petroleum products together with sale and servicing of tires, batteries, automotive accessories, and replacement items, lubricating services, and performance of minor repairs, major repair or painting of motor vehicles, including body work and installation of major accessories, as well as the washing and polishing of motor vehicles. Smaller facilities, where the capacity for service is not more than two vehicles, will be considered Custom Manufacturing if the public is not invited to drop-in for service.

**Business and Communication Service:** The provision, primarily to firms rather than to individuals, of services of a clerical, goods brokerage, communication, or minor processing nature, including multi-copy and blueprinting services; but exclude printing of books, other than pamphlets and small reports for another firm, and the storage of goods, other than small samples, for sale.

**Community Assembly:** The activities typically performed by, or at, the following institutions or installations.

- A. Churches, temples, and synagogues having an assembly room capacity of 20 or more;
- B. Food service and other concessions located within public parks;
- C. Public, parochial, and private nonprofit clubs, lodges, meeting halls, and recreation centers;
- D. Public and parochial playgrounds and playing fields;
- E. Temporary nonprofit festivals;
- F. Basketball courts, tennis courts, handball courts, lawn bowling, and similar outdoor park and recreational facilities;
- G. Public, parochial, and private nonprofit gymnasiums;
- H. Community swimming and wading pools, and other water play features;
- I. Picnic areas.

**Construction Operations:** Enclosed and unenclosed facilities and accessory yards for construction and incidental storage activities and/or fabrication activities performed by construction contractors on lots other than construction sites.

This classification includes, but is not limited to, the storage and custom cutting of stone for off-site applications, roofing and plumbing component storage and equipment storage for environmental contractors.

**Construction Sales and Service:** Construction and incidental storage activities performed by construction contractors on lots other than construction sites, as well as the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures, other than paint, fixtures, and hardware.

**Consultative and Financial Service:** The provision of financial, insurance, and real estate brokerage services, as well as the provision of advice, designs, information, or consultation of a professional nature. Offices for such services where the public is not invited for drop-in service is considered an Administrative use.

**Convenience Market:** The retail sale of food, beverages, and small personal convenience items, primarily for off-premises consumption and typically found in establishments with long or late hours of operation and a relatively small building.

**Custom Manufacturing:** The small-scale production of artisan and/or custom products. This activity typically includes the production of finished parts or products by hand, involving the use of hand tools and small scale equipment within enclosed buildings. Custom Manufacturing Industrial Activities do not produce noise, vibration, air pollution, fire hazard or noxious emission that will disturb or endanger neighboring properties.

This classification includes, but is not limited to, the production of:

- A. Beverages (including alcoholic) and food (excluding the production of highly pungent, odor-causing items, such as vinegar and yeast) with ten thousand (10,000) square feet or less of floor area;
- B. Cameras and photographic equipment;
- C. Custom sign making;
- D. Custom clothing;
- E. Custom furniture building and refinishing;
- F. Professional, scientific, measuring, and control instruments;
- G. Musical instruments;

- H. Medical, dental, optical, and orthopedic instruments and appliances, and similar items;
- I. Handicraft, art objects, and jewelry.

**Fast-Food Restaurant:** The retail sale of ready-to-eat prepared foods and beverages, for on- or off-premises consumption, whenever the foods and beverages are available upon a short waiting time and are primarily served in or on disposable wrappers, containers, or plates. Fast-Food Restaurants may also exhibit other design and operating characteristics, including: (A) a limited menu; (B) food that is typically ordered and served at a service counter; (C) food that is paid for prior to consumption; (D) the facility in which the activity/use is occurring provides a take-out counter space and space for customer queuing. The sale of ready-to-consume prepared foods from trucks (“Vehicular Food Vending”) is not considered a Fast-Food Restaurant Commercial Activities.

**Full Service Restaurant:** A restaurant where customers are served while seated, and order from a menu that provides enough choices to allow the customer to order a full meal. Such an establishment shall obtain at least 60% of its revenues from food service, and no more than 40% of its revenue from alcoholic beverage sales. The sale or service of sandwiches (whether prepared in an on-site kitchen or made elsewhere and heated on the premises) or snack foods shall not constitute a full-service restaurant.

**General Education:** The activities typically performed by the following institutions.

- A. Public, parochial, and private nursery schools and kindergartens;
- B. Public, parochial, and private elementary, junior high, and high schools.

**General Food Sales/Restaurants:** The retail sale, from the premises, of food or beverages for home consumption, as well as the retail sale of prepared food or beverages for on-premises consumption, except where more clearly described by another activity in this section, such as Alcoholic Beverage Sales, Convenience Market, or Fast Food Restaurant.

**General Manufacturing:** Manufacturing, compounding, processing, assembling, packaging or treatment of products from extracted, raw, recycled or secondary materials; they may have some or all activities conducted outdoors. This classification excludes all activities under Intermediate Recycling Processing Facilities. The Port may place an activity that otherwise fits this description, but does not produce noise, vibration, air pollution, fire hazard or noxious emission that will violate standards by any other federal, State or local standards into the Light Manufacturing Industrial Activities classification.

The classification includes, but is not limited to:

- A. Chemical manufacturing (except for the chemical products listed under Heavy/High Impact Manufacturing);
- B. Glass manufacturing;

- C. Metal foundries;
- D. Paper finishing;
- E. Pipe production facilities;
- F. Textile mills;
- G. Tire retreading and recapping;
- H. Wood product manufacturing.

**General Retail Sales:** The retail sale or rental from the premises, primarily for personal or household use, of goods consisting primarily of items including food and beverages and convenience items; but exclude sale or rental of motor vehicles, except for parts and accessories, and sale of materials used in construction of buildings or other structures, except for paint, fixtures, and hardware.

**General Wholesale:** The storage and sale, from the premises, of goods to other firms for resale, as well as the storage of goods on the premises and their transfer to retail outlets of the same firm; but exclude sale or storage of motor vehicles, except for parts and accessories, and sale or storage of materials used in construction of buildings or other structures, except for paint, fixtures, and hardware. Sale of motor vehicles, where the capacity for on-site storage is not more than five vehicles, will be considered General Wholesale if the public is not invited to drop-in for on-site sales.

**Group Assembly:** The provision of cultural, entertainment, educational, and athletic services, other than those classified as Community Assembly, to assembled groups of spectators or participants. These activities are generally pay-at-the-door businesses, and include night clubs, sports arenas, ice skating rinks, and conference centers. Gyms, yoga studios, etc. over 2,000 square feet and meeting rooms or assembly areas holding 100 or more people are considered Group Assembly.

**Health Care:** All activities which primarily provide medical care and supervision other than those defined under Medical Services, and are typically performed by the following institutions.

- A. Health clinics;
- B. Hospitals;
- C. Skilled nursing, extended care, residential care (including facilities licensed for six or fewer residents), and assisted living facilities, all of which provide medical care on site;
- D. Nonresidential centers providing psychological or family counseling and mental hygiene services to individuals or groups;
- E. Support services which include regular individualized case management for both on-site and off-site residents in conjunction with Service-Enriched Permanent Housing and Transitional Housing Residential Activities;
- F. Facilities which provide inpatient and/or outpatient medical and/or psychological treatment for mental illness, substance and alcohol abuse and addiction;
- G. State licensed “Adult Day Care Facilities” and “Adult Day Support Centers”.

**Heavy Manufacturing:** High impact or hazardous manufacturing processes including but not limited to:

- A. Any manufacturing use with large-scale facilities for outdoor oil and gas storage;
- B. Any biotechnology research, development or production activities involving materials defined by the National Institute of Health as Risk Group 4 or Restricted Agents (commonly known as "bio-safety level 4");
- C. Battery manufacturing and storage;
- D. Lime and gypsum products manufacturing;
- E. Non-ferrous metals production, processing, smelting and refining;
- F. Painting, coating and adhesive manufacturing;
- G. Synthetic dye and pigment manufacturing;
- H. Urethane and other open-cell foam product manufacturing;
- I. Petroleum and coal products manufacturing and refining;
- J. Primary metal smelting;
- K. Vinegar, yeast and other pungent, odor-causing items production;
- L. Leather tanning;
- M. Cement and asphalt manufacturing;
- N. Explosives manufacturing;
- O. Fertilizer and other agricultural chemical manufacturing.

**Large-Scale Combined Retail and Grocery Sales:** The retail sale from the premises of goods and merchandise, primarily for personal or household use, from stores whose total sales floor area exceeds 100,000 square feet, and which devote more than 10% of sales floor area to the sale of non-taxable merchandise, but exclude wholesale clubs or other establishments selling primarily bulk merchandise and charging membership dues or otherwise restricting merchandise sales to customers paying a periodic access fee. This classification excludes the sale or rental of motor vehicles, except for parts and accessories, and the sale of materials used in construction of buildings or other structures, except for paint, fixtures, and hardware.

**Light Manufacturing :** The manufacturing, compounding, processing, assembling, packaging, or treatment of components or products, primarily from previously prepared materials, and typically within enclosed buildings. Light Manufacturing Activities do not produce noise, vibration, air pollution, fire hazard or noxious emission that will disturb or endanger neighboring properties.

This classification includes, but is not limited to, the production or assembly of:

- A. Production apparel manufacturing;
- B. Computer and electronic products;
- C. Pharmaceutical products;
- D. Beverages (including alcoholic) and food (excluding the production of highly pungent, odor-causing items, such as vinegar and yeast) with ten thousand (10,000) square feet or more of floor area;
- E. Electrical equipment, appliances, and components;
- F. Furniture and related products;
- G. Pharmaceutical production;
- H. Sporting and athletic goods

**Live/Work Space:** Live/Work is a use that combines residential and business uses in the same building or tenant space. For the purpose of this Code, a use that includes residential space in any proportion is considered “residential”.

**Mechanical or Electronic Games:** The provision of pinball machines, video game devices, or other mechanical or electronic games, as defined in the Oakland Municipal Code, where the games can be played or operated by the public or by customers; but exclude the provision of such games in a pool- or billiard room or bowling alley for which a permit is required pursuant to Chapter 5.02 of the municipal code and from which persons under eighteen (18) years of age are barred at all times by the owner or operator, or in premises which are licensed by the State Department of Alcoholic Beverage Control for on-sale consumption of alcoholic beverages and which do not lawfully allow minors.

**Medical Service:** The provision of therapeutic, preventive, or corrective personal treatment services by physicians, dentists, and other practitioners, as well as the provision of medical testing and analysis services.

**Personal Instruction and Improvement:** Informational, instructional, personal and other similar services performed by professional and licensed practitioners, business typically performed by appointment only. Gyms, yoga studios, etc. under 2,000 square feet are considered to be Personal Instruction and Improvement.

**Recycling and Waste Management:** Recycling collection, intermediate processing, and other activities related to the storage and processing of used and waste materials.

- A. Satellite Recycling Collection Centers. An activity accepting recyclable non-hazardous materials directly from the public by donation, redemption, or purchase at facilities less than five hundred (500) square feet in area that generally do not use power-driven processing equipment.

Satellite collection centers may include mobile recycling units, bulk reverse vending machines, kiosk type units, and/or unattended containers placed for the donation of recyclable materials. These facilities are generally located in or associated with supermarkets and shopping centers. Most, though not all, satellite collection centers are set up pursuant to requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986, which requires establishment of such centers in all “Convenience Zones” in California, defined as the area within ½ mile of all supermarkets, to collect beverage containers made from materials such as aluminum, glass, plastic and bimetal for recycling.

- B. Primary Recycling Collection Centers. An activity accepting recyclable non-hazardous materials by donation, redemption, or purchase at facilities occupying an area of more than five hundred (500) square feet that are not operated incidental to a host use and that may have a permanent building. Primary collection centers typically use power-driven equipment to sort and condense material for shipment to an intermediate processor or other user. Primary collection centers may have a combination of outdoor processing and storage.
- C. Intermediate Recycling Processing Facility. An activity serving as a collection point for receiving, processing, storage, and distribution of large quantities of recyclable materials delivered from recycling collection centers or other sources. Processing of most or all material typically occurs inside a building, using mechanical and/or chemical processing equipment to alter the physical form of incoming material. Processed materials may be stored in outdoor areas prior to sale to manufacturers or other end users. Intermediate processing facilities do not accept materials from but may sell goods to the public. This classification does not include facilities that handle or process hazardous materials and solid waste facilities and transfer stations.

**Repair Service:** The cleaning or repair of personal apparel and household appliances, furniture, and similar items, but exclude repair of motor vehicles and of structures.

**Research and Development:** Scientific research for the design, development, engineering, and testing of high technology electronic, industrial or scientific products in advance of full-scale manufacturing of final products, other than medical testing and analysis and routine product testing, which is offered as a service or which is conducted by and for a private profit-oriented firm, other than a public utility firm. The only manufacturing uses in this classification consist of the creation of prototype products, plans, or designs for the primary purpose of research, development, or evaluation, rather than sale. This classification excludes manufacturing uses, wholesale and storage uses, repair and retail sales; this classification also excludes the on-site production of products for sale and biotechnology laboratories approved for National Institute of Health experiments using Risk Group 4 or Restricted Agents (commonly known as “bio-safety level 4”). This classification includes, but is not limited to biotechnology firms, “clean-tech”/energy, environmental, electronic research firms, or pharmaceutical research laboratories.

**Retail Business Supply:** The retail sale or rental from the premises, primarily to firms and other organizations using the goods rather than to individuals, of office equipment and supplies and similar goods, together with the provision of incidental maintenance services; but exclude sale or rental of motor vehicles, except for parts and accessories, and sale of materials used in construction of buildings or other structures, except for paint, fixtures, and hardware.

**Retail Sales and Service:** The retail sale, from the premises, of drugs and other frequently needed small personal convenience items such as toiletries, tobacco, and magazines, as well as the provision of personal convenience services which are typically needed frequently or recurrently, such as barber and beauty care; and include shoe shining and operation of self-service laundromats and laundry or dry cleaning pick-up stations but exclude other apparel cleaning and repair services.

**Telecommunications:** The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

**Transient Lodging:** As distinguished from residential occupancy, allows lodging of transient guests on a daily basis.

**Trucking and Truck-Related:** The provision of freight handling and shipping services by trucks as well as parking, maintenance and services for trucks and other heavy vehicles and equipment.

#### **Freight:**

- A. Freight/Truck Terminal: The accommodation of local or worldwide freight by truck. This classification includes facilities used primarily for transfer, breaking-down, and/or consolidation of freight, as well as parking and dispatch of trucks.
- B. Truck Yard: Parking, dispatch, refueling and incidental repair of trucks, buses, or other fleets of heavy vehicles, where there is no on-site freight storage or transfer. This classification includes corporation yards operated by public and private towing operations. This classification does not include local courier and delivery services; or towing operations as an accessory activity to automotive repair and cleaning.
- C. Truck Weigh Stations: The weighing of commercial trucks in truck weighing facilities, except as incidental to an approved activity.

#### **Sales or Services:**

- D. Truck and Other Heavy Vehicle Sales, Rental and Leasing: Sales, rental and leasing of medium and heavy trucks, truck tractors, construction or agricultural equipment, buses, commercial boats, heavy equipment, and other commercial vehicles that have gross vehicle weight ratings greater than fourteen thousand (14,000) pounds, including the sale, installation, accessory repair and servicing of related equipment

- and parts. This classification does not include vehicle dismantling or salvage and tire re-treading or recapping
- E. Truck and Other Heavy Vehicle Service, Repair, and Refueling: Repair, fueling, and other servicing of medium and heavy trucks, truck tractors construction or agricultural equipment, buses, boats, heavy equipment, and similar vehicles that generally have gross vehicle weights greater than fourteen thousand (14,000) pounds, including the sale, installation and servicing of related equipment and parts. This classification includes fueling stations, repair shops, body and fender shops, wheel and brake shops, engine repair and rebuilding, welding, major painting service, tire sales and installation, and upholstery shops for trucks and other heavy vehicles. This classification does not include vehicle dismantling or salvage.

**Undertaking Services:** The preparation of dead bodies for burial or cremation, including the provision for visitations and/or services.

**Utility and Public Service:** The maintenance and operation of the following installations, including certain activities accessory thereto:

- A. **Electric, gas, and telephone distribution lines and poles, and water, storm drainage, and sewer lines, with incidental appurtenances thereto;**
- B. Electrical substations;
- C. Gas substations;
- D. Newsracks;
- E. Police stations and fire stations;
- F. Private streets;
- G. Public polling places;
- H. Freeways, rapid transit routes, streets, alleys, and paths, but excluding uses on, under, or over such ways which uses are not customarily appurtenant thereto;
- I. Post offices, but excluding major mail-processing centers.
- J. Public and public utility corporation or truck yards;
- K. Radio and television transmission stations;
- L. Stormwater detention ponds and facilities.

**Warehousing, Storage, and Distribution:** This includes five (5) subclassifications as described below:

- A. **General Warehousing, Storage and Distribution:** The warehousing and storage, primarily within enclosed buildings, of commercial goods (other than primary storage of hazardous materials), and the associated distribution activities that occur on-site prior to delivery of goods to wholesale and retail outlets or direct shipment to customers. These activities may also include ancillary truck parking and dispatching; and accessory outdoor storage areas where outdoor storage, not including parking and loading areas, does not occupy more than thirty percent (30%) of the total site area, and meets the design and location criteria under Section 4.4.

This classification includes, but is not limited to, wholesale distributors of large furnishings, food products and auto parts.

- B. **General Outdoor Storage:** Outdoor storage activities include principal outdoor storage of items for more than twenty-four (24) hours where such storage activities occupy more than thirty percent (30%) of the site area. The principal storage of goods and materials, equipment or vehicles; as well as the storage of operating equipment for warehouses, such as forklifts, pallets, and racks. This classification excludes outdoor storage uses that are more specifically described in this chapter, including, but not limited to container storage, salvage and junk yards and oil and gas storage.

This classification includes but is not limited to construction trailers, outdoor sheds or accessory portable structures, or secondary sites for storage of building materials that are not for resale on-site.

- C. **Self or Mini Storage:** Self- or mini storage consists of storage in small individual spaces, that are exclusively and directly accessible to a specific tenant, offered on a monthly or other limited basis, and available to the general public.
- D. **Container Storage:** Container Storage includes the storage, repair, and “pre-tripping” of shipping containers including refrigerated shipping containers on open lots. Includes minor repair and cleaning of containers and may include the rehabilitation of containers for other uses.
- E. **Automotive Salvage/Junk Yards:** Storage and dismantling of vehicles and equipment for sale of parts.

## **Appendix B: Conditions of Approval**

The Port may attach conditions of approval as it deems reasonable or necessary to achieve the purposes of this Code, to reduce or to mitigate environmental impacts, to address the project's anticipated burden on the Business Park and the Port, and/or which otherwise promote public health, safety and welfare. Other specific conditions will be added based on the findings and details of each project. The combined standard and specific conditions will be known as the conditions of approval for the project, and must be incorporated into the approved plan set.

The "applicant" is the primary contact for the project representing the occupant of the property, under the authority of the property owner if different. The applicant is responsible for communicating these conditions along with any other requirements to the property owner, construction contractor, and all parties acting on behalf of the applicant to complete the permitted project, and each will be held responsible for meeting the standard and specific conditions of approval. The following standard conditions of approval apply to each project.

### **Standard Conditions of Approval**

1. All conditions of approval shall be printed on the final permit set of plans.
2. The project shall conform to the Port-stamped approved plans, including the conditions of approval, unless otherwise approved by the Port. The applicant is responsible for including all details agreed upon, or conditions made by the Port, during the approval process. Failure to include any such details will not exempt the applicant from including them at a later time. The applicant is responsible for obtaining approval from the Port for any changes prior to construction.
3. The use shall be fully described on the plans and is deemed approved by the Port approval stamp. Any modifications or clarifications will be included in the Specific Conditions. Any changes from the approved plans must be approved in writing by the Port.
4. The applicant shall confirm that an aviation easement in favor of Oakland International Airport in a form approved by the Port Attorney has been recorded on the subject property. If not, the applicant shall grant and record an aviation easement.
5. The applicant shall make improvements for sidewalk(s) as required. Such improvements shall be included in the approved plans, unless otherwise specified in the Specific Conditions.
6. The applicant shall meet all conditions and requirements of all outside agencies having jurisdiction over the project, including but not limited to: the City of Oakland, Federal Aviation Administration, Regional Water Quality Control Board, Airport Land Use Commission, Alameda County Health Department, and State Lands Commission. The applicant shall report any conflicts with Port requirements to the Port prior to construction. Any such conflicts must be resolved by the applicant to the satisfaction of the Port and the outside agency involved.

7. The applicant shall agree to comply with the Land Use and Development Code for the Oakland Airport Business Park and consents to the enforcement procedures set forth in section 5.8 of this Code.
8. The applicant shall comply with the requirements of all environmental documents prepared under the California Environmental Quality Act applicable to the subject project including mitigation and monitoring requirements approved for the Development Permit.
9. The applicant shall defend, indemnify, and hold harmless the Port and its agents, officers, and employees from any claim, action or proceeding against the Port or its agents, officers or employees to attack, set aside, void, annul, or invalidate any Port approval concerning the subject project provided that the Port has promptly notified the Applicant of any such claim, action or proceeding and cooperates in the defense. Counsel retained in such defense shall be subject to the mutual approval of the Applicant and the Port. The Applicant shall reimburse the Port for its reasonable attorney and consultant fees incurred in such defense including amounts attributable to the Port Attorney's legal services.
10. The Applicant shall comply with applicable stormwater quality requirements including Low Impact Development site design.

