

Chapter 17.101G D-LM LAKE MERRITT STATION AREA DISTRICT ZONES REGULATIONS**Sections:**

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- 17.101G.060 Usable open space standards.
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- 17.101G.080 Other zoning provisions.

17.101G.010 Title, purpose, and applicability.

- A. Intent. The provisions of this Chapter shall be known as the D-LM Lake Merritt Station Area District Zones Regulations. The intent of the Lake Merritt Station Area District (D-LM) Zones is to implement the Lake Merritt Station Area Plan. Development in this zoning district shall be consistent with the Lake Merritt Station Area Plan, of a high quality design, and include active ground floor uses where appropriate and feasible. The objectives of the D-LM Lake Merritt Station Area District Zones are to:
1. Create a more active and vibrant Lake Merritt Station Area District to serve and attract residents, businesses, students, and visitors;
 2. Increase activity and vibrancy in the area by encouraging vital retail nodes that provide services, restaurants, and shopping opportunities;
 3. Improve connections between the Lake Merritt BART Station and major destinations outside the Station Area District;
 4. Improve safety and pedestrian-orientation;
 5. Accommodate the future population, including families;
 6. Increase the number of jobs and improve the local economy;
 7. Identify additional recreation and open space opportunities and improve existing resources; and
 8. Encourage and enhance a pedestrian-oriented streetscape.
- B. **Description of zones.** This Chapter establishes land use regulations for the following five (5) zones:
1. **D-LM-1 Lake Merritt Station Area District Mixed - 1 Residential Zone.** The intent of the D-LM-1 Zone is to create, maintain, and enhance areas of the Lake Merritt Station Area Plan District appropriate for high-density residential development with compatible Commercial Activities.
 2. **D-LM-2 Lake Merritt Station Area District Pedestrian - 2 Commercial Zone.** The intent of the D-LM-2 Zone is to create, maintain, and enhance areas of the Lake Merritt Station Area Plan District for ground-level, pedestrian-oriented, active storefront uses.

Upper story spaces are intended to be available for a wide range of Office and Residential Activities.

3. **D-LM-3 Lake Merritt Station Area District General - 3 Commercial Zone.** The intent of the D-LM-3 Zone is to create, maintain, and enhance areas of the Lake Merritt Station Area Plan District appropriate for a wide range of ground-floor Commercial Activities. Upper-story spaces are intended to be available for a wide range of Residential, Office, or other Commercial Activities.
 4. **D-LM-4 Lake Merritt Station Area District Mixed - 4 Commercial Zone.** The intent of the D-LM-4 Zone is to designate areas of the Lake Merritt Station Area Plan District appropriate for a wide range of Residential, Commercial, and compatible Light Industrial Activities.
 5. **D-LM-5 Lake Merritt Station Area District - 5 Institutional Zone.** The intent of the D-LM-5 Zone is to create, preserve, and enhance areas devoted primarily to major public and quasi-public facilities and auxiliary uses.
- C. **Definition of corridor types.** For the purposes of this Chapter only, the following definitions shall be utilized to apply special land use regulations and development standards to properties fronting the following two types of street corridors:
1. **Commercial Corridor.** The intent of regulations related to properties fronting “Commercial Corridors” is to maintain and promote an existing pattern of continuous ground floor Commercial Activities and Facilities along the subject corridor. The following streets are designated as Commercial Corridors: 14th Street (between Franklin and Oak Streets), 9th Street (between Broadway and Harrison Street, and between Madison and Fallon Streets), 8th Street (between Broadway and Harrison Street, and between Madison and Fallon Streets), Oak Street (between 8th and 9th Streets), Harrison Street (between 7th and 11th Streets), Webster Street (between 7th and 11th Streets), Franklin Street (between 7th and 11th Streets), and Broadway (between 7th and 10th Streets).
 2. **Transitional Commercial Corridor.** The intent of regulations related to properties fronting “Transitional Commercial Corridors” is to expand the amount of ground floor Commercial Activities and Facilities along the subject corridor. The following streets are designated as Transitional Commercial Corridors: International Boulevard (between 1st and 4th Avenues), East 12th Street (between 1st and 4th Avenues), 8th Street (between Harrison and Madison Streets), 9th Street (between Harrison and Madison Streets), 1st Avenue (between East 12th Street and International Boulevard), Oak Street (between 5th and 8th Streets, and between 9th and 14th Streets), Harrison Street (between 11th and 14th Streets), Webster Street (between 11th and 14th Streets, and between 5th and 7th Streets), Franklin Street (between 11th and 14th Streets, and between 5th and 7th Streets), and Broadway (between 5th and 7th Streets).

17.101G.020 Required design review process and pre-application review.

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

- B. In addition to the design review criteria listed in Chapter 17.136, conformance with the “Design Guidelines for the Lake Merritt Station Area Plan” is required for any proposal in the D-LM Zones subject to the design review procedure in Chapter 17.136.
- C. Where there is a conflict between the design review criteria contained in Chapter 17.136 and the design review guidelines contained in the “Design Guidelines for the Lake Merritt Station Area Plan”, the design objectives in the “Design Guidelines for the Lake Merritt Station Area Plan” shall prevail.
- D. Pre-Application Review — Discretionary Approvals. Prior to any Planning application involving an Opportunity Site identified in the Lake Merritt Station Area Plan which requires one or more discretionary approvals (including but not limited to, Regular design review, conditional use permit, variance, and/or subdivision), the applicant, or his or her representative, shall submit for a pre-application review of the proposal by a representative of the City Planning Department. During the pre-application review, City staff will provide information about applicable Lake Merritt Station Area Plan objectives and design guidelines.

17.101G.030 Permitted and conditionally permitted activities.

Table 17.58.01 lists the permitted, conditionally permitted, and prohibited activities in the D-LM Zones. The descriptions of these activities are contained in Chapter 17.10.

"P" designates permitted activities in the corresponding zone.

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

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

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

Table 17.101G.01: Permitted and Conditionally Permitted Activities

Activities	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
Residential Activities						
Permanent	P(L1)	P(L1)	P(L1)	P(L1)	P	
Residential Care	P(L1)(L2)	P(L1)(L2)	P(L1)(L2)	P(L1)(L2)	P(L2)	17.103.010
Supportive Housing	P(L1)	P(L1)	P(L1)	P(L1)	P	
Transitional Housing	P(L1)	P(L1)	P(L1)	P(L1)	P	
Emergency Shelter	C(L1)(L2)	C(L1)(L2)	C(L1)(L2)	C(L1)(L2)	C(L2)	17.103.010
Semi-Transient	C(L1)	C(L1)	C(L1)	C(L1)	C	
Bed and Breakfast	P	P	P	P	P	17.10.125
Civic Activities						
Essential Service	P	P	P	P	P	

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Activities	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
Limited Child-Care Activities	P	P	P	P	P	
Community Assembly	P(L4) (L5)	P(L4) (L5)	P(L4) (L5)	P(L4) (L5)	P	
Recreational Assembly	P(L4) (L5)	P(L4) (L5)	P(L4) (L5)	P(L4) (L5)	P	
Community Education	P(L4) (L5)	P(L4) (L5)	P(L4) (L5)	P(L4) (L5)	P	
Nonassembly Cultural	P	P	P	P	P	
Administrative	P(L4) (L5)	P(L4) (L5)	P(L4) (L5)	P(L4) (L5)	P	
Health Care	C	C	C	C	C	
Special Health Care	—	C(L6)(L8)	C(L6)(L8)	C(L6)(L8)	C(L6)(L8)	17.103.020
Utility and Vehicular	C	C	C	C	C	
Extensive Impact	C	C	C	C	C	
Commercial Activities						
General Food Sales	P(L4)(L7)	P(L4)	P	P(L4)	P	
Full Service Restaurants	P	P	P	P	P	
Limited Service Restaurant and Cafe	P	P	P	P	P	
Fast-Food Restaurant	—	C	C	C	C	17.103.030 and 8.09
Convenience Market	C(L7)	C	C	C	C	17.103.030
Alcoholic Beverage Sales	C(L7)	C	C	C	C	17.103.030 and 17.114.030
Mechanical or Electronic Games	C	C	C	C	C	
Medical Service	P(L4) (L5)	P(L4) (L5)	P(L5)	P(L5)	P	
General Retail Sales	P	P	P	P	P	

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Activities	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	—	
Consumer Service	P(L4) (L5) (L9)	P(L4) (L5) (L9)	P(L5) (L9)	P(L5) (L9)	P(L9)	
Consultative and Financial Service	P(L4) (L5)	P(L4) (L5)	P(L5)	P(L5)	P	
Check Cashier and Check Cashing	—	C(L10)	C(L10)	C(L10)	C(L10)	17.103.040
Consumer Cleaning and Repair Service	P(L4) (L5) (L7)	P(L5)	P(L5)	P(L5)	P	
Consumer Dry Cleaning Plant	C(L7)	C	C	C	C	
Group Assembly	C(L11)	P(L4) (L5) (L11)	P(L11)	P(L4) (L5) (L11)	P(L11)	
Personal Instruction and Improvement Services	P	P	P	P	P	
Administrative	P(L4) (L5)	P(L4) (L5)	P(L5)	P(L5)	P	
Business, Communication, and Media Services	P(L4) (L5) (L7)	P(L4) (L5)	P(L5)	P(L5)	P	
Broadcasting and Recording Services Commercial Activities	P(L4) (L5) (L7)	P(L4) (L5)	P(L5)	P(L5)	P	
Research Service	P(L4) (L5)	P(L4) (L5)	P(L5)	P(L5)	P	
General Wholesale Sales	—	—	—	C	—	
Transient Habitation	C	C	C	C	C	17.103.050
Building Material Sales	—	—	—	—	—	
Automobile and Other Light Vehicle Sales and Rental	—	—	—	C	—	

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Activities	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
Automobile and Other Light Vehicle Gas Station and Servicing	—	—	—	—	—	
Automobile and Other Light Vehicle Repair and Cleaning	—	—	—	C(L13)	—	
Taxi and Light Fleet-Based Services	—	—	—	C(L13)	—	
Automotive Fee Parking	C(L14)	C(L14)	C(L14)	C(L14)	C(L14)	17.103.055
Animal Boarding	—	—	—	—	—	
Animal Care	—	C	C	C	C	
Undertaking Service	—	—	—	C	—	
Industrial Activities						
Custom Manufacturing	—	C(L1)(L13)	—	C(L13)	—	
Light Manufacturing	—	—	—	— C(L13)	—	
General Manufacturing	—	—	—	—	—	
Heavy/High Impact	—	—	—	—	—	
Research and Development	—	—	C(L13)	C(L13)	—	
Construction Operations	—	—	—	—	—	
Warehousing, Storage, and Distribution-Related						
A. General Warehousing, Storage and Distribution	—	—	—	—	—	
B. General Outdoor Storage	—	—	—	—	—	

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Activities	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
C. Self- or Mini-Storage	—	—	—	—	—	
D. Container Storage	—	—	—	—	—	
E. Salvage/ Junk Yards	—	—	—	—	—	
Regional Freight and Transportation-Related						
All Regional Freight and Transportation-Related Activities	—	—	—	—	—	
Trucking and Truck-Related						
All Trucking and Truck-Related Activities	—	—	—	—	—	
Recycling and Waste-Related						
A. Satellite Recycling Collection Centers	—	—	—	—	—	
B. Primary Recycling Collection Centers	—	—	—	—	—	
Hazardous Materials Production, Storage, and Waste Management-Related	—	—	—	—	—	
Agriculture and Extractive Activities						
Limited Agriculture	P(L15)	P(L15)	P(L15)	P(L15)	P(L15)	
Extensive Agriculture	C(L16)	C(L16)	C(L16)	C(L16)	C(L16)	
Plant Nursery	—	—	—	—	—	
Mining and Quarrying	—	—	—	—	—	

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Activities	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
Accessory off-street parking serving prohibited activities	C	C	C	C	C	17.116.075
Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone	C	C	C	C	C	17.102.110

Limitations:

L1. These activities may not be located within thirty (30) feet of the front lot line on the ground floor of an existing principal building fronting a Commercial Corridor or within thirty (30) feet of the front lot line on the ground floor of a new principal building fronting a Transitional Commercial Corridor, as defined in Section 17.101G.010.C, with the exception of incidental pedestrian entrances that lead to one of these activities elsewhere in the building. See Section 17.101G.040 for limitations on the construction of new ground floor Residential Facilities.

L2. Residential Care is permitted if located in a One-Family Dwelling Residential Facility; conditionally permitted if located elsewhere (see Chapter 17.134 for the CUP procedure). No Residential Care or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility. See Section 17.103.010 for other regulations regarding Residential Care and Emergency Shelter Residential Activities.

L3. These activities may only be located above the ground floor of a building upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure).

L4. With the exception of parcels facing Broadway and 14th Street, the total linear frontage length devoted to these activities on the ground floor by any single establishment may only exceed twenty-five percent (25%) of the total linear frontage length from street corner to street corner upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure). Any single establishment may only exceed twelve thousand (12,000) square feet in floor area upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure).

L5. If located on a Commercial Corridor, as defined in Section 17.101G.010.C with the exception of 8th, 9th, Franklin, Webster and Harrison Streets between 7th, 10th, Broadway and Harrison Streets, and both on the ground floor of a building and within thirty (30) feet from any street-abutting property line, these activities are only permitted upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure). If located on 8th, 9th, Franklin, Webster and Harrison Streets between 7th, 10th, Broadway and Harrison Streets, and both on the ground floor of a building and within thirty (30) feet from any street-abutting property line, any single

establishment may only exceed five thousand (5,000) square feet upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure). Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this conditional use permit requirement. In addition to the criteria contained in Section 17.134.050, these conditionally permitted ground floor proposals must also meet each of the following criteria:

- a. The proposal will not impair a generally continuous wall of building facades;
- b. The proposal will not weaken the concentration and continuity of retail facilities at ground-level, and will not impair the retention or creation of an important shopping frontage; and
- c. The proposal will not interfere with the movement of people along an important pedestrian street.

L6. These activities are only permitted upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, when these activities are located within thirty (30) feet of the front of the ground floor of the principal building (with the exception of incidental pedestrian entrances that lead to one of these activities elsewhere in the building) the proposed activities must also meet the criteria contained in Note L5, above.

L7. These activities may only be located on or below the ground floor of a building with the following exceptions:

- a. If the floor area devoted to the activity is less than two thousand (2,000) square feet and the activity takes place in a Local Register property, then the activity is permitted above the ground floor upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP process).
- b. An activity located on the ground floor may extend to the second floor of a building if each: 1) the floor area devoted to Nonresidential Activities in the building is less than the floor area devoted to Residential Activities; 2) the activity on the second floor is the same as, or accessory to, the ground floor activity and part of the same business or establishment; and 3) there is a direct internal connection between the ground floor and the second story activities.

L8. No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity, or five hundred (500) feet from any K-12 school or Licensed Emergency Shelters. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

L9. See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

L10. No new or expanded Check Cashier and Check Cashing Commercial Activity shall be located closer than one thousand (1,000) feet from any other such activity or five hundred (500) feet from any Community Education, Community Assembly, or Recreational Assembly Civic Activity; State or Federally chartered bank, savings association, credit union, or industrial loan company; or certain Alcoholic Beverage Sales Commercial Activities. See Section 17.103.040 for further regulations regarding Check Cashier and Check Cashing Commercial Activities.

L11. No new or expanded Adult Entertainment Activity shall be located closer than one thousand (1,000) feet to the boundary of any Residential Zone or three hundred (300) feet from any other Adult Entertainment Activity. See Section 17.102.160 for further regulations regarding Adult Entertainment Activities.

L12. The total floor area devoted to these activities by any single establishment shall not exceed three thousand (3,000) square feet.

L13. These activities, including accessory activities, are only allowed to be performed indoors. This requirement includes, but is not limited to: vehicles stored before and after servicing, general storage, vehicle and other repair, and automotive cleaning. This requirement excludes parking for customers currently at the business and automotive fueling.

L14. Auto fee parking is permitted upon the granting of conditional use permit (see Chapter 17.134 for the CUP procedure) if it is located in either a parking structure or in a below grade parking lot. Auto fee parking is otherwise prohibited.

L15. Limited Agriculture is permitted outright if the activity occupies less than one (1) acre of land area and any sales area is less than one thousand (1,000) square feet; conditionally permitted if the activity is larger in either land or sales area (see Chapter 17.134 for the CUP procedure).

L16. Extensive Agriculture is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, this activity must meet the following use permit criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic.

17.101G.040 Permitted and conditionally permitted facilities.

Table 17.101G.02 lists the permitted, conditionally permitted, and prohibited facilities in the D-LM Zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

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

"L" designates facilities subject to certain limitations listed at the bottom of the Table.

"—" designates facilities that are prohibited

Table 17.101G.02: Permitted and Conditionally Permitted Facilities

Facilities	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
Residential Facilities						
One-Family Dwellings	—(L1)	—(L1)	—(L1)	—(L1)	—(L1)	
One-Family Dwelling with Secondary Unit	—(L5)	—(L5)	—(L5)	—(L5)	—(L5)	17.103.080
Two-Family Dwelling	P	P(L5)	P(L5)	P(L5)	P(L5)	
Multifamily Dwelling	P	P	P	P	P	
Rooming House	P	P	P	P	P	

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Facilities	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
Mobile Home	—	—	—	—	—	
Nonresidential Facilities						
Enclosed Nonresidential	P(L3)	P(L3)	P(L3)	P(L3)	P	
Open Nonresidential	C(L4)	C(L4)	C(L4)	C(L4)	C(L4)	
Sidewalk Cafe	P	P	P	P	P	17.103.090
Drive-In Nonresidential	—	—	—	C	C	
Drive-Through Nonresidential	—	—	—	C(L2)	C(L2)	17.103.100
Telecommunications Facilities						
Micro Telecommunications	C	P	P	P	P	17.128
Mini Telecommunications	C	P	P	P	P	17.128
Macro Telecommunications	C	C	C	C	C	17.128
Monopole Telecommunications	—	—	—	C	C	17.128
Tower Telecommunications	—	—	—	—	—	17.128
Sign Facilities						
Residential Signs	P	P	P	P	P	17.104
Special Signs	P	P	P	P	P	17.104
Development Signs	P	P	P	P	P	17.104
Realty Signs	P	P	P	P	P	17.104
Civic Signs	P	P	P	P	P	17.104
Business Signs	P	P	P	P	P	17.104
Advertising Signs	—	—	—	—	—	17.104

Limitations:

L1. See Chapter 17.114, Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities.

L2. No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

L3. New construction of a Nonresidential Facility shall be required to incorporate ground floor commercial space that conforms to the design standards in Table 17.101G.03 if:

a. The facility fronts onto a: (1) "Transitional Commercial Corridor", as identified in Section 17.101G.010.C, is more than thirty-five (35) feet wide, and is either within a Lake Merritt Station Area Plan Opportunity Site or on a corner lot; or

b. The facility fronts onto a: (2) "Commercial Corridor", as identified in Section 17.101G.010.C, and is more than thirty-five (35) feet wide.

L4. No Conditional Use Permit (CUP) is required for Open Nonresidential Facilities to accommodate Civic Activities, Limited Agriculture, seasonal sales, or special events.

L5. A Secondary Unit that meets all requirements set forth in Section 17.103.080 is permitted in conjunction with an existing One-Family Dwelling. Also, a Two-Family Dwelling that meets all applicable requirements set forth in the Planning and Building Codes is permitted if it is the result of an approved conversion of an existing One-Family Dwelling.

17.101G.050 Property development standards.

A. Zone Specific Standards. Table 17.58.03 below prescribes development standards specific to individual zones. The number designations in the right-hand column refer to the additional regulations listed at the end of the Table. "N/A" designates the standard is not applicable to the specified zone.

Table 17.101G.03: Property Development Standards

Development Standards	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
Minimum Lot Dimensions						
Width	25 ft.	25 ft.	50 ft.	50 ft.	50 ft.	1
Frontage	25 ft.	25 ft.	50 ft.	50 ft.	50 ft.	1
Lot area	4,000 sf.	4,000 sf.	7,500 sf.	7,500 sf.	7,500 sf.	1
Minimum/Maximum Setbacks						
Minimum front	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	2
Maximum front and street side for the first story	N/A	5 ft.	5 ft.	10 ft.	N/A	3
Maximum front and street side for the second and third stories or	N/A	5 ft.	5 ft.	N/A	N/A	3

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Development Standards	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
thirty-five (35) feet, whatever is lower						
Minimum interior side	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	
Minimum corner side	0 ft.	0 ft.	0 ft.	0 ft.	0 ft.	
Rear	10 ft.	0 ft.	0 ft.	0 ft.	0 ft.	
Average minimum setback from the Lake Merritt Estuary Channel	60 ft.	60 ft.	60 ft.	60 ft.	60 ft.	4
Design Regulations						
Ground floor commercial facade transparency	55%	65%	55%	55%	55%	5
Minimum height of ground floor Nonresidential Facilities	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	6
Minimum width of storefronts	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	7
Minimum separation between the grade and ground floor living space	2.5 ft.	N/A	N/A	2.5 ft.	N/A	8

Additional Regulations:

1. See Section 17.106.010 and 17.106.020 for exceptions to lot area, width and street frontage regulations.
2. See Section 17.108.040 for the minimum front yard setback when fifty percent (50%) or more of the frontage on the same block and side of the street is in a Residential Zone.
3. The following notes apply to the maximum yard requirements:
 - a. The requirements only apply to the construction of new principal buildings and to no more than two property lines. One of these property lines shall abut the principal street.
 - b. The requirements do not apply to lots containing Recreational Assembly, Community Education, Utility and Vehicular, or Extensive Impact Civic Activities or Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities as principal activities.
 - c. These maximum yards apply to seventy-five percent (75%) of the street frontage on the principal street and fifty percent (50%) on other streets, if any. All percentages, however, may be reduced to fifty percent (50%) upon the granting of regular design review (see Chapter 17.136 for the design review procedure). In addition to the criteria contained in 17.136.050, the proposal must also meet each of the following criteria:
 - i. Any additional yard area abutting the principal street is designed to accommodate publicly accessible plazas, sidewalk cafes, or restaurants;

- ii. The proposal will not impair a generally continuous wall of building facades;
 - iii. The proposal will not weaken the concentration and continuity of retail facilities at ground-level, and will not impair the retention or creation of an important shopping frontage; and
 - iv. The proposal will not interfere with the movement of people along an important pedestrian street.
- d. The maximum yard requirements above the ground floor may be waived upon the granting of a conditional use permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, the proposal must also meet each of the following criteria:
- i. It infeasible to both accommodate the use proposed for the space and meet the maximum yard requirement;
 - ii. The proposal will not weaken the street definition provided by buildings with reduced setbacks; and
 - iii. The proposal will not interrupt a continuity of 2nd and 3rd story facades on the street that have minimal front yard setbacks.

4. This regulation is the average setback distance, measured from the mean high tide line, along the total length of channel frontage involved in a project, with a minimum setback at any point of forty (40) feet.

5. This percentage of transparency is only required for principal buildings that include ground floor Nonresidential Facilities, and only applies to the facade facing the principal street. On all other street facing facades, the requirement is one-half (½) the standard for the facade facing the principal street. The area of required transparency is between two (2) feet and nine (9) feet in height of the ground floor and must be comprised of clear, non-reflective windows that allow views out of indoor commercial space or lobbies. Glass block does not qualify as a transparent window. Exceptions to this regulation may be allowed by the Planning Director for unique facilities such as convention centers, gymnasiums, parks, gas stations, theaters and other similar facilities.

6. This height is required for new principal buildings and is measured from the sidewalk grade to the second story floor.

7. This regulation only applies to new construction of ground floor storefronts as part of a mixed use development project. Also see Lake Merritt Station Area Plan Design Guidelines for further guidance.

8. This regulation only applies to ground floor living space located within fifteen (15) feet of a street frontage.

B. **Height, Bulk, and Intensity Area Specific Standards.** Table 17.101G.04 below prescribes height, bulk, and intensity standards associated with the height/bulk/intensity areas described in the Zoning Maps. The numbers in the right-hand column refer to the additional regulations listed at the end of the Table. "N/A" designates the regulation is not applicable to the specified Height/Bulk/Intensity Area.

Table 17.101G.04 Height, Density, Bulk, and Tower Regulations

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Regulation	Height/Bulk/Intensity Areas				Notes
	LM-45	LM-85	LM-175	LM-275	
Maximum Height					
Building Base	45 ft.	45 ft.	45 ft. base; 85 ft. base upon granting of CUP and additional findings in Note 2.a, b, c	45 ft. base; 85 ft. base upon granting of CUP and additional findings in Note 2.a, b, c	1
Maximum Height Total	45 ft.	85 ft.	175 ft.	275 ft.	2
Height Area Exceptions Allowed With Conditional Use Permit (CUP)	N/A	LM-175 standards allowed for 5 bldgs. total (2 on east side and 3 on west side of Lake Merritt Channel); LM-275 standards allowed for 3 bldgs. total (1 on east side and 2 on west side of Lake Merritt Channel)	LM-275 standards allowed for 3 bldgs. total	Not applicable	2
Minimum Height					
New principal buildings	25 ft.	35 ft.	35 ft.	35 ft.	3
Maximum Residential Density (Square Feet of Lot Area Required Per Unit)					
Dwelling unit	450	225	110	110	2, 4
Rooming unit	225	110	55	55	2, 4
Maximum Nonresidential Intensity (Floor Area Ratio)					

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Regulation	Height/Bulk/Intensity Areas				Notes
	LM-45	LM-85	LM-175	LM-275	
Maximum Nonresidential Floor Area Ratio (FAR)	2.5	5	8	12	2, 4
Tower Regulations					
Setback of Tower from Building Base	N/A	0 ft., for buildings not exceeding 85 ft. in height 10 ft., along at least 50% of the perimeter length of base for buildings exceeding 85 ft. in height	20 ft., along at least 50% of the perimeter length of the building base; 10 ft., along at least 50% of the perimeter length of base upon granting of CUP and additional findings in Note 2.a, b, c	20 ft., along at least 50% of the perimeter length of the building base; 10 ft., along at least 50% of the perimeter length of base upon granting of CUP and additional findings in Note 2.a, b, c	See additional CUP findings in Note 2 below
Maximum average per story lot coverage above building base	N/A	N/A	65% of site area or 10,000 sf, whichever is greater	75% of site area or 10,000 sf, whichever is greater	2, 5
Maximum tower elevation length	N/A	N/A	150 ft.	150 ft.	2, 5
Maximum diagonal length	N/A	N/A	180 ft.	180 ft.	2, 5
Minimum distance between towers on the same lot	N/A	N/A	50 ft.	50 ft.	2

Notes:

1. See Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.
2. Height Area Exceptions. In Height/Bulk/Intensity Areas LM-85 and LM-175, a limited number of buildings, as prescribed above in Table 17.101G.04, may be allowed to utilize the same

height/bulk/intensity standards that typically apply to either Height/Bulk/Intensity Area LM-175 or LM-275 upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and to the following additional use permit criteria:

- a. The proposal is consistent with the intent and desired land use character identified in the Lake Merritt Station Area Plan and its associated policies;
- b. The proposal will promote implementation of the Lake Merritt Station Area Plan; and
- c. The proposal is consistent with the desired visual character described in the Lake Merritt Station Area Plan and Lake Merritt Station Area Design Guidelines, with consideration given to the existing character of the site and surrounding area.

The following application process for a height area exception shall be followed:

- i. Applications for any of the limited number of allowed height area exceptions prescribed in Table 17.101G.04 shall be reviewed on a first come, first served basis.
 - ii. A project shall secure a position as one of the specified height area exceptions following final Conditional Use Permit approval. Such Conditional Use Permits shall include a condition of approval that establishes a schedule for: submittal of a building permit application, timely response to plan check comments, payment of building permit fees such that a building permit can be issued, and commencement of construction. The process for allowing extension of the timeline requirements, if any, shall be specified in the condition.
 - iii. Failure of a permittee to strictly comply with the schedule established by the Conditional Use Permit shall be grounds for revocation of the Conditional Use Permit pursuant to Chapter 17.134.
3. This minimum height excludes the height of the allowed projections into the height limit contained in Section 17.108.030.
4. For mixed use projects in the D-LM Zones, the allowable intensity of development shall be measured according to both the maximum nonresidential Floor Area Ratio (FAR) allowed by the zone and the maximum residential density allowed by the zone. The total lot area shall be used as a basis for computing both the maximum nonresidential FAR and the maximum residential density.
5. The maximum tower elevation length, diagonal length, and average per story lot coverage above the building base may be increased by up to thirty percent (30%) upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and to the following additional use permit criteria:
- a. The proposal will result in a signature building within the neighborhood, City, or region based on qualities, including but not limited to, exterior visual quality, craftsmanship, detailing, and high quality and durable materials.

17.101G.060 Usable open space standards.

- A. **General.** This Section contains the usable open space standards and requirements for residential development in the D-LM Zones. These requirements shall supersede those in Chapter 17.126.

B. Definitions of D-LM usable open space types. The following includes a list of available usable open space types eligible to fulfill the usable space requirements of this Chapter and the definitions of these types of open space:

1. **"Private Usable Open Space"**. Private usable open space is accessible from a single unit and may be provided in a combination of recessed and projecting exterior spaces.
2. **"Public Ground-Floor Plaza"**. Public ground-floor plazas (plazas) are group usable open space (see Section 17.127.030) located at street-level and adjacent to the building frontage. Plazas shall be publicly accessible during daylight hours and are maintained by the property owner. Plazas shall be landscaped and include pedestrian and other amenities, such as benches, fountains and special paving.
3. **"Rooftop Open Space"**. Rooftop open space, a type of group usable open space, includes gardens, decks, swimming pools, spas and landscaping located on the rooftop and accessible to all tenants.
4. **"Courtyard"**. A courtyard is a type of group usable open space that can be located anywhere within the subject property.
5. **"Off-Site Open Space"**. Off-site open spaces are group usable open space at street-floor or podium-level within one thousand (1,000) feet of a residential development. Off-site open spaces shall be publicly accessible during daylight hours and are maintained by the property owner.
6. **"Community Room"**. Community room can be located anywhere on the subject property and shall be available for use by all members of said residential development.

C. Standards. All required usable open space shall be permanently maintained and shall conform to the following standards:

1. **Area.** On each lot containing Residential Facilities with a total of two (2) or more living units, usable open space shall be provided for such facilities at the following rates:

Table 17.101G.05: Required Amounts of Usable Open Space

Type of Living Unit	Minimum Open Space Area Required
Senior Housing Unit	Thirty-eight (38) square feet per unit
Affordable Housing Unit	Sixty (60) square feet per unit
Rooming Unit	Thirty-eight (38) square feet per unit
Residential Unit within a Building on the Local Register of Historic Resources	Thirty-eight (38) square feet per unit
Other Residential Unit	Seventy-five (75) square feet per unit

2. **Size and Shape.** An area of contiguous space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than the dimensions shown in the following table:

Table 17.101G.06: Required Dimensions of Usable Open Space

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Type of Usable Open Space	Minimum Dimension or Size	Notes
Private	10 ft. for space on the ground floor, no dimensional requirement elsewhere.	
Public Ground-Floor Plaza	10 ft.	
Rooftop	15 ft.	Areas occupied by vents or other structures which do not enhance usability of the space shall not be counted toward this dimension.
Courtyard	15 ft.	
Off-Site Open Space	10 ft.	
Community Room	250 square feet	

3. **Openness.** Except for indoor Community Rooms, there shall be no obstructions above the space except for devices to enhance its usability, such as pergola or awning structures. There shall be no obstructions over ground-level private usable open space except that not more than fifty percent (50%) of the space may be covered by a private balcony projecting from a higher story. Above-ground-level private usable open space shall have at least one exterior side open and unobstructed, except for incidental railings or balustrades, for eight (8) feet above its floor level.
 4. **Location.** Required usable open space may be located anywhere on the lot except that not more than fifty percent (50%) of the required area may be located on the uppermost roof of any building. There is no limitation on rooftop open space on rooftop podiums that are not the uppermost roof of a building.
 5. **Usability.** A surface shall be provided which prevents dust and allows convenient use for outdoor activities. Such surface shall be any practicable combination of lawn, garden, flagstone, wood planking, concrete, asphalt or other serviceable, dust-free surfacing. Slope shall not exceed ten percent (10%). Off-street parking and loading areas, driveways, and service areas shall not be counted as usable open space. Adequate safety railings or other protective devices shall be erected whenever necessary for space on a roof, but shall not be more than four (4) feet high.
 6. **Accessibility.** Usable open space, other than private usable open space, shall be accessible to all the living units on the lot. It shall be served by any stairway or other accessway qualifying under the Oakland Building Code as an egress facility from a habitable room. Private usable open space may be located anywhere on the lot except that ground-level space shall not be located in a required minimum front yard and except that above-ground-level space shall not be located within five feet of an interior side lot line. Above-ground-level space may be counted even though it projects beyond a street line. All private usable open space shall be adjacent to, and not more than four feet above or below the floor level of, the living unit served. Private usable open space shall be accessible to only one living unit by a doorway to a habitable room or hallway.
- D. Landscaping requirements. At least fifty percent (50%) of rooftop or courtyard usable open space area shall include landscaping enhancements. At least thirty percent (30%) of public ground floor plaza shall include landscaping enhancements. Landscaping enhancements shall consist of permanent features, such as trees, shrubbery, decorative planting containers,

fountains, boulders or artwork (sculptures, etc.) The remainder of the space shall include user amenities such as seating, decorative paving, sidewalk cafes, or playground structures.

- E. In-Lieu Fee. The open space requirements of this Section may be reduced or waived upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and payment of an in-lieu fee to the City of Oakland to be used to pay for new public open space/plaza(s) or existing public open space/plaza(s) improvements. The open space in-lieu fee shall be as set forth in the Master Fee Schedule. Open space in-lieu fees shall be deposited with the City of Oakland prior to issuance of a building permit. An open space in-lieu fee may be refunded, without interest, to the person who made such payment, or his assignee or designee, if additional open space is provided for such building so as to satisfy the open space requirement for which the in-lieu payment was made. To obtain a refund, the required open space must be in place prior to issuance of a certificate of occupancy and before funds are spent or committed by the City.
- F. Variances. Notwithstanding anything to the contrary contained in the Planning Code, variances may not be granted relating to (a) a reduction and/or elimination of any open space; or (b) a reduction and/or elimination of any open space serving any activity, or if already less than currently required open space, shall not be reduced further below the requirements prescribed for such activity in this Chapter. The granting of a CUP (see Chapter 17.134 for the CUP procedure) and payment of the in-lieu fee shall be the sole means of reducing or eliminating open space.

17.101G.070 Special regulations for large-scale developments.

No development which involves more than one hundred thousand (100,000) square feet of new floor area shall be permitted except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

17.101G.080 Other zoning provisions.

- A. Parking and Loading. Off-street parking and loading shall be provided as prescribed in the off-street parking and loading requirements in Chapter 17.116.
- B. Bicycle Parking. Bicycle parking shall be provided as prescribed in the bicycle parking regulations in Chapter 17.117.
- C. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112.
- D. Nonconforming Uses. Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.114.
- E. General Provisions. The general exceptions and other regulations set forth in Chapter 17.102 shall apply in the D-LM Zones.
- F. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the D-LM Zones.