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SUPPLEMENTAL AGENDA MATERIAL

for Supplemental Packet 2

- Meeting Date:** February 9, 2021
- Item Number:** 15
- Item Description:** Revisions to Referral Response: Amendments to the Home Occupations Ordinance; Amending BMC Sub-Titles 23C, 23D, 23E, and 23F
- Submitted by:** Councilmembers Sophie Hahn, Susan Wengraf and Kate Harrison

This supplemental proposes a few changes to (1) clarify language to achieve the same/intended outcomes as proposed and (2) bring in Class III Home Occupations – a new and more impactful category of Home Occupations not previously allowed in homes - on a phased basis.

Berkeley’s Home Occupations are currently severely restricted, resulting in many occupations being conducted “under the radar,” without permits or effective oversight, and without paying taxes to the City of Berkeley. In response, the Planning Commission has proposed a wide expansion of home occupations, including broadening the types of activities permitted, the intensity of activities allowed, and the areas in which Home Occupations of all levels of intensity can be undertaken. We strongly support this broadening of HOs, but feel additional clarification is warranted to ensure the health and safety of people living in and around units where HOs take place, clarify expectations around shipping and receiving/coming and going of goods and customers, and to clarify or strengthen a few additional elements.

With regard to the new and most impactful class of Home Occupations, Class III, this Supplemental suggests Class III uses initially be allowed only in Commercial and Manufacturing districts, with a report to Council in 3-5 years and consideration of the possibility of expanding Class III uses to Residential districts at that time.

The recommendation is proposed to be amended as follows (see underlined language):

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt the first reading of an Ordinance amending the Zoning Ordinance to streamline the permitting process for Home Occupations and amending Berkeley Municipal Code Chapter 23C.16 Home Occupations, Chapter 23E.84 MU-R Mixed Use-Residential District Provisions, Chapter 23F.04 Definitions, and Use Tables in Applicable Zoning Districts; and

Refer to the City Manager to return to the City Council within 3-5 years a report on the implementation of the newly streamlined Home Occupations Ordinance and recommendations regarding potential expansion of Class III Home Occupations to Residential zones, and to propose any and all other changes and updates which may be warranted, based on the first few years' of experience under the new Ordinance.

The Ordinance language is proposed to be changed as shown in the attached redlined document. Changes address:

1. Clarification that toxic and hazardous materials of any kind cannot be used in a home occupation if, as used and/or stored for the Home Occupation, they could cause harm to people or animals within or beyond the unit.
2. Clarification regarding impacts and allowances related to shipping and receiving, and customer visits.
3. Addition of streets in the H overlay 26 feet or narrower as not-allowing customer visits, along with E-SR, to provide consistency with other Ordinances that seek to limit congestion on streets in the highest fire hazard areas with very narrow streets.
4. Additional small/clarifying changes as shown. Note that all changes proposed by this supplemental are also flagged and explained with a note in the

margin, so they are easier to distinguish from the original and supplemental redlines provided by staff.

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 23C.16 AND AMENDING BERKELEY MUNICIPAL CODE SECTIONS 23E.84.090, 23D.16.030, 23D.20.030, 23D.28.030, 23D.32.030, 23D.36.030, 23D.40.030, 23D.44.030, 23D.48.030, 23D.52.030, 23E.64.030, 23E.84.030, AND 23F.04.10 TO MODIFY THE HOME OCCUPATIONS ORDINANCE.

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Chapter 23C.16 [Home Occupations] is amended as follows:

Chapter 23C.16: Home Occupations

Sections:

23C.16.010 ~~General Requirements Home Occupations~~

23C.16.020 ~~Permit Requirements Home Occupations Classifications Low Impact Home Occupations Permitted by Right Subject to Business License~~

23C.16.030 ~~Findings Moderate Impact Home Occupations Subject to Use Permit~~

23C.16.040 Complaints and Imposition of Conditions

~~23C.16.050 Home Occupation in Rental Unit~~

~~23C.16.060 Medical Cannabis Residential Cultivation~~

23C.16.010 General Requirements ~~Home Occupations~~

A. The establishment of a Home Occupation in compliance with this Chapter shall not be considered a Change of Use of a ~~Dwelling Unit primary residence~~, but rather shall be considered a lawful Incidental Use thereof.

B. Home Occupations are subject to the following requirements:

~~No Home Occupation which involves a Firearm/Munitions Business may be allowed.~~

1. A Home Occupation is allowed as an incidental use within a Dwelling Unit, Accessory Dwelling Unit, Accessory Building, or Group Living Accommodation room.

2. No Firearm/Munitions Business may operate as a Home Occupation.

3. Customer visits are not allowed in the ES-R District ~~or in the H Overlay on streets of 26 feet or less in width.~~

Commented [SH1]: Check language from Parking item and use the same.

4. A Home Occupation may occupy no more than the greater of: 400 square feet or 20 percent of the gross floor area of the Dwelling Unit, Accessory Dwelling Unit, Accessory Building, or Group Living Accommodation room from which it operates.

5. Only residents of the subject Dwelling Unit, Accessory Dwelling Unit or Group Living Accommodation room, who live in the unit or room full time, may operate a Home Occupation business.

6. Customer visits may occur only between the hours of 10 a.m. and 8 p.m.

7. Storage, services, or repairs and other business activities, other than permitted arrival and departure of customers and goods in transit, may not be conducted outdoors.

8. A Home Occupation shall not involve hazardous materials or waste as defined by Section 15.08.060, or any other materials or waste, whether perceptible or not, that as used or stored for purposes of the Home Occupation, might cause harm to people or animals within the residential unit or property or across party walls of a multi-unit building, or beyond the lot line.

9. A Home Occupation shall not create offensive or objectionable noise, vibration, odors, smoke, heat, dirt, or electrical or other disturbance perceptible by the average person beyond the unit in which the Home Occupation is permitted lot line, or party walls of multi-unit building, of the subject premises.

10. No on-site signs, including signs on vehicles regularly parked on or in front of the premises, identifying or advertising the Home Occupation, are allowed.

11. The operator of a Home Occupation shall pay gross receipts taxes pursuant to the City's business license tax ordinance as set forth in Chapter 9.04.

4-12. A lessee in possession of a property may apply for a Permit without the property owner's signature; however Home Occupations are not exempt from conditions in rental and lease agreements which may limit or prohibit Home Occupations.

Commented [SH2]: Reflects clarification received from staff in a written response to questions about the intent of this element.

Commented [SH3]: This ensures that sales and other business activities not listed also must take place indoors. The only thing allowed outside is for people and goods to come and go from the premises.

Commented [SH4]: This catch-all ensures that nothing toxic or harmful is allowed with a Home Occupation, no matter what. These occupations are not taking place in commercial buildings. They are taking place within living spaces, within buildings, and on and adjacent to properties where people live, including babies, children, pregnant women, people with health issues, etc. We want to be sure we have the power to say "no" to things that could be harmful to residents or pets/wildlife in the same unit or building, in another building, and on the same property or another.

Commented [SH5]: This is about things that are "annoying," not necessarily toxic or harmful. As written, it only applied to things annoying beyond the lot line or "party walls" but didn't take into account detached units on the same parcel/lot, or people living in the room next door in a GLA.

Commented [SH6]: Other jurisdictions include this, and it closes a potential loophole around signs "on site"

Commented [SH7]: Providing a stronger suggestion to look at your rental agreement. Language is a little vague without this.

~~C. No Home Occupation which involves customer visits may be allowed in the ES-R District.~~

23C.16.020 Permit Requirements Low Impact Home Occupations Permitted by Right Subject to Business License(See 23F.04 for Home Occupation definitions.)

A. A Class I Home Occupation is allowed subject to a Zoning Certificate.

B. A Class II Home Occupation is allowed subject to issuance of an Administrative Use Permit.

C. A Class III Home Occupation is allowed subject to issuance of a Use Permit (Public Hearing).

~~A Home Occupation which meets all of the following conditions shall be allowed by right in any Dwelling Unit or Group Living Accommodation room, subject to the payment of gross receipts tax pursuant to the City's business license tax ordinance as set forth in Chapter 9.04.~~

~~A.— Such Home Occupations must:~~

- ~~1.— Be conducted entirely within the dwelling unit or group living accommodation room;~~
- ~~2.— Occupy less than four hundred (400) square feet and less than twenty percent (20%) of the dwelling unit or group living accommodation room;~~

~~B.— Such home occupations may not:~~

- ~~1.— Involve customer visits to the subject premises;~~
- ~~2.— Involve storage, service, repair, handling or transport of goods or products on or at the subject premises;~~
- ~~3.— Involve hazardous materials or processes; or~~
- ~~4.— Create offensive or objectionable noise, vibration, odors, heat, dirt or electrical disturbance perceptible by the average person beyond the lot line or party walls of multi-unit building, of the subject premises.~~

23C.16.030 Findings- Moderate Impact Home Occupations Subject to Use Permit

In addition to the findings set forth in Section 23B.28.050 and Section 23B.32.040, in order to approve an Administrative Use Permit for a Class II Home Occupation or a Use Permit (Public Hearing) for a Class III Home Occupation, the Zoning Officer or Board must find, based on the circumstances of the specific use and property:

1. The degree of customer visits will not cause a significant detrimental impact on the availability of parking spaces in the immediate vicinity of the Home Occupation; and
2. The degree of shipping and delivery activity to and from the subject residence will not involve impacts significantly different from what is normally expected in the area in which the Home Occupation is located or cause a significant detrimental impact on pedestrian and bicyclist safety or the availability of parking spaces in the immediate vicinity of the Home Occupation; and
3. If the proposed Home Occupation will require a loading space on a regular basis, such loading space will be available on the subject property or the use of an on-street loading space will not cause a significant detrimental impact on pedestrian and bicyclist safety or the availability of parking spaces in the immediate vicinity of the Home Occupation.

A. A teaching-related home occupation which meets all of the following conditions shall be allowed subject to issuance of an Administrative Use Permit and subject to payment of gross receipts tax pursuant to the City's business license tax ordinance as set forth in Chapter 9.04.

1. Such Home Occupations must:

- a. Be conducted entirely within the dwelling unit or group living accommodation room;
- b. Operate within the hours of 10 a.m. and 10 p.m.; and
- c. Occupy less than 400 square feet and less than 20% of the dwelling unit or group living accommodation room;

2. Such home occupations may not:

- a. Involve more than four students at a time;
- b. Involve storage, service, repair, handling or transport of goods or products on or at the subject premises;
- c. Involve hazardous materials, or processes; or

Commented [SH8]: Depending on whether this is a commercial or residential area, for example, a semi-type truck for deliveries or shipping might not be appropriate. Given that people now send and receive packages, food deliveries, etc. on a regular basis, the HO could still do a decent amount of shipping and receiving, just not of a nature or volume significantly different from what is expected in that area. Note that the HO can receive and ship from an off-site location, by picking up and dropping things off themselves at USPS, UPS or Fed Ex locations, or similar shipping services.

~~d. Create offensive or objectionable noise, vibration, odors, heat, dirt or electrical disturbance perceptible by the average person beyond that lot line or party walls of multi-unit buildings, or the subject premises.~~

~~B. All other home occupations that involve customer visits, or products on the subject premises, as set forth in Sections 23C.16.020.B.1 and 23C.16.020.B.2, may be authorized only by a Use Permit and public hearing, and are subject to the payment of gross receipts tax pursuant to the City's business license tax ordinance as set forth in Chapter 9.04.~~

23C.16.040 Complaints and Imposition of Conditions

~~A. Complaints regarding low impact Home Occupations are subject to review, the imposition of conditions, or revocation may be made to the Zoning Officer for review and enforcement action.~~

~~B. If written complaints that include factual information on detrimental effects to the neighborhood~~

~~A. Violations may be addressed by issuing an administrative citation pursuant to Chapter 1.28.~~

~~B. The Zoning Officer shall review documented complaints, business operations, and other factors when reviewing from a Home Occupation are received, the Board may schedule a public hearing to review the Home Occupation. After such hearing the Board may approve a Use Permit to impose conditions upon Class I and II the Home Occupations, and may impose conditions as may be necessary to prevent detrimental effects or may initiate revocation proceedings, or may revoke the permit in the event adequate conditions of approval are not available.~~

~~—The Zoning Adjustments Board shall review documented complaints, business operations, and other factors when reviewing Class III Home Occupations and may impose conditions as may be necessary to prevent detrimental effects, or may revoke the permit in the event adequate conditions of approval are not available.~~

~~—Furthermore, the City may address violations by sending an administrative citation issued pursuant to Chapter 1.28.~~

~~23C.16.050 Home Occupation in Rental Unit~~

~~Any application for a Home Occupation may be filed by a lessee in possession of the property without the consent of the owner of record of the legal title and the application may be accepted without such owner's signature. In the case of a home occupation which requires a Use Permit, the owner shall be given notice of the proposed home occupation, in conformance with Section 23B.32.020.D.~~

~~23C.16.060 Medical Cannabis Residential Cultivation~~

~~No Use Permit shall be required for qualified patients to cultivate medical cannabis in their residence or on their residential property.~~

Section 2. That Berkeley Municipal Code Section 23E.84.090 [Findings] is amended as follows:

23E.84.090 Findings

A. In order to approve any Use Permit under this chapter the Zoning Officer or Board must make the finding required by Section 23B.32.040. The Zoning Officer or Board must also make the findings required by the following paragraphs of this section to the extent applicable:

B. A proposed use or structure must:

1. Be consistent with the purposes of the District;
2. Be consistent with the normal use and operation of surrounding uses and buildings, including residential and industrial buildings;
3. Be consistent with the adopted West Berkeley Plan;
4. Not be likely, under reasonably foreseeable circumstances, to either induce or contribute to a cumulative change of use in buildings away from residential; live/work; light industrial, or arts and crafts uses;
5. Be designed in such a manner to be supportive of the character and purposes of the District; and
6. Be able to meet any applicable performance standards as described in Section 23E.84.070.H.

C. In order to approve a Use Permit under Section 23E.84.040, the Zoning Officer or Board must find that the space formerly occupied by the protected use has been replaced with a comparable space in the West Berkeley Plan area, which is reserved for use by any protected use in the same category:

1. For purposes of this section, such replacement space shall not qualify for exemption under Section 23E.84.040.1 or by reason of having been established after July 6, 1989;

2. In considering whether a project will be detrimental, consideration shall be limited to the potential detriment associated with the new use, and dislocation of any specific previous occupant or use shall not be a basis for finding detriment.

D. In order to approve a Use Permit for the establishment or expansion of Live/Work Units in this District, the Zoning Officer or Board must make all applicable findings for approval of Live/Work Units required by Section 23E.20.090 and must also make the following findings:

1. Establishment of Live/Work Unit will not interfere with the lawful operation of manufacturers and other industries existing in or adjacent to the District, and will not impede the lawful future establishment of manufacturers and other industries permitted under the West Berkeley Plan;

2. The applicant has recorded with the County Recorder a statement acknowledging that the Live/Work Unit is being established in a District where manufacturers and other industries operate lawfully and that they will not seek to impede their lawful operation. In addition, the applicant will require any tenants to sign such a statement, and require all persons purchasing Live/Work Units to sign and record such a statement;

3. If the applicant is proposing to change one or more dwelling units to Live/Work Units, that the elimination of dwelling unit(s) and the change of use would not be materially detrimental to the housing needs and public interest of the affected neighborhood and the City.

E. In order to approve a Use Permit for a change of use from manufacturing, wholesale trade, or warehouse space to another use, the Zoning Officer or Board must make both of the following findings:

1. The change of use of the space will not have a materially detrimental impact on the character of the MU-R District as a light industrial district, with particular reference to the character of the blocks and parts of blocks in the part of the District that is contiguous with the site;

2. Appropriate mitigation pursuant to a payment schedule adopted by resolution has been made for loss of the manufacturing space through providing such space elsewhere in Berkeley, through payment into the West Berkeley Building Acquisition Fund, or by other appropriate means as determined by the Zoning Officer or the Board. However, no mitigation shall be required for manufacturing, warehousing, or wholesale trade space which is less than or equal to 25% of the floor area currently or most recently used for manufacturing, warehousing or wholesale trade.

F. In order to approve a Permit for the establishment or expansion of a food service use, the Zoning Officer or Board must find that the establishment of the food service use, given its size, location, physical appearance and other relevant characteristics, will not have a significant detrimental impact on the industrial or residential character of the area. In order to approve an Administrative Use Permit for a Food Service Establishment less than 5,000 square feet, the Zoning Officer must find that a substantial portion of the food consists of goods manufactured on site.

G. In order to approve an [Administrative Use Permit](#) or Use Permit for ~~the establishment or expansion of a Home Occupation~~ with customer visits and/or [shipping and handling](#) of goods, the Zoning Officer or Board ~~must~~ must find:

~~1. The degree of customer visits and/or handling of goods, taken as a whole, will not cause a significant detrimental impact on the availability of parking spaces in the location the home occupation is being established;~~

~~2. If the proposed home occupation will require loading space on a regular basis, such loading space will be available on the subject property, or that the use of on-street loading space will not cause a significant detrimental impact on the availability of parking spaces or on traffic flow in the location the home occupation is being established.~~ make the findings set forth in Section [23C.16.030](#).

H. In order to approve a Use Permit for the establishment or expansion of a school, child care center, or recreational or educational facility to be used by children, the Zoning Officer or Board must make all of the following findings:

1. Development of the school, child care center, or recreational facility to be used by children is not, in the particular circumstances of the project, incompatible with adjacent and nearby uses;
2. An appropriate risk analysis or risk assessment, as defined by the City, has been made and has shown that there is not significant risk to children in the use from other activities near the site;
3. The applicants have made adequate provisions to ensure that all parents of students or children in the school, child care center, or recreational facility to be used by children will be notified in writing (on a form approved by the City) that the school is in the West Berkeley Plan MU-R District, and that light manufacturing is a permitted activity in the District and that Primary Production Manufacturing or Construction Products Manufacturing may be permitted uses in adjacent districts, including a requirement that each parent will indicate that they have read and understood this information by means of a written statement returned to the school or child care center and available for review.

I. In order to approve a Use Permit for the establishment or expansion of a mixed use containing a residential use the Zoning Officer or Board must find that the specific combination of residential and non-residential use proposed by the applicant will not be hazardous or detrimental, either to persons living and/or working on the site, or to persons living or working in its vicinity.

J. In order to approve a Use Permit for the substitution of bicycle and/or motorcycle parking under Section 23E.84.080.F, the Zoning Officer or Board must find that the substitution will not lead to an undue shortage of automobile parking spaces and that it can be reasonably expected that there will be demand for the bicycle and/or motorcycle parking spaces.

K. In order to approve a Use Permit for the establishment or expansion of a manufacturing use abutting one or more dwelling units located in the MU-R District, the Zoning Officer or Board must find:

1. The manufacturer is capable of meeting all applicable performance standards; and

2. Conditions of the Use Permit will specify all reasonable steps to minimize noise, odors, dust, vibration, glare and any other potential impacts on the abutting dwelling units.

L. 1. To deny a Use Permit to establish one or more dwelling units the Board must find that the proposed residential use would unreasonably interfere with existing or reasonably foreseeable adjacent land uses in the M and/or MM District, or that the existing or reasonably foreseeable adjacent land uses in the M and/or MM District would have a material adverse effect on the proposed residential use. The owner(s) of record of the residential property shall also record an acknowledgement that existing or reasonably foreseeable adjacent land uses in the M and/or MM District may create noise, dust, odors, light/glare, and other impacts that shall not be considered a nuisance if they are developed and conducted pursuant to the standards of the District.

2. To deny an Administrative Use Permit for a major residential addition, the Zoning Officer must find that the proposed addition would unreasonably interfere with existing or reasonably foreseeable adjacent land uses in the M and/or MM District, or that the existing or reasonably foreseeable adjacent land uses in the M and/or MM District would have a material adverse effect on the use of the proposed addition. The owner(s) of record of the residential property shall also record an acknowledgement that existing or reasonably foreseeable adjacent land uses in the M and/or MM District may create noise, dust, odors, light/glare, and other impacts that shall not be considered a nuisance if they are developed and conducted pursuant to the standards of the District. (Ord. 7358-NS § 9, 2014; Ord. 7323-NS § 9, 2014; Ord. 7167-NS §§ 25 – 27, 2011; Ord. 6478-NS § 4 (part), 1999)

Section 3. That Berkeley Municipal Code Section 23F.04.010 is amended to revise the definitions of “Home Occupation” and “Home Occupation, Teaching-Related” as follows:

23F.04.010 Definitions

Home Occupation: A business use conducted on ~~residential~~ property developed with Residential use, which is incidental and secondary to the Residential use, does not change the residential character thereof, is limited so as not to substantially reduce the Residential use of the legally established dwelling, Accessory Dwelling Unit, Accessory Building, or Group Living Accommodation room and is operated only by the residents ~~inhabitants~~ of the subject residence. There are three classification of Home Occupations. For the purposes of this section, a “customer”

is considered a single paying customer, but may include more than one person receiving the services at the same time:

1. **Class I Home Occupation** - Involves no more than five customer visits per day, with no more than one customer persons receiving services at a time. This class does not allow shipping of finished goods directly from the subject residence.
2. **Class II Home Occupation** - Involves no more than ten customer visits per day, with no more than four customer persons receiving services at a time and no more than one non-resident engaging in business-related activities on-site. This class does not allow shipping of finished goods directly from the subject residence.
3. **Class III Home Occupation** - Involves more than ten customer visits per day, with no more than four customer persons receiving services at a time and no more than one non-resident engaging in business-related activities on-site and/or involves shipping of finished goods directly from the subject residence.
4. **Home Occupation, Teaching-Related:** A home-based business as defined under the Home Occupation definition that provides academic and/or artistic tutoring or lessons, excluding schools, studios and conservatories.

Commented [SH9]: This allows a total of up to 20 people per day, coming and going in five groups. Could be a parent with several unrelated kids having a music lesson, a family or couple getting therapy, etc.

Commented [SH10]: Clarifies that you can ship, just not directly from the residence. You can bring goods/boxes to and from an off-site shipping facility like the Post Office or UPS/Fed Ex shipping store.

Section 4. That the "Accessory Uses and Structures" section of Table 23D.16.030 in Chapter 23D.16 Section 23D.16.030 of the Berkeley Municipal Code is amended to read as follows:

23D.16.030 Uses Permitted

Table 23D.16.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter <u>23D.08</u>
If has either habitable space and/or exceeds the requirements under Chapter <u>23D.08</u>	AUP	

Table 23D.16.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to <u>23C.26</u> , <u>23D.08.010</u> , <u>23D.08.020</u> , <u>23D.08.050</u> , and <u>23D.08.060</u>
Accessory Dwelling Units in compliance with Section <u>23C.24.050</u>	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section <u>23C.24.050</u>	AUP	Subject to making applicable findings in Section <u>23C.24.070</u>
Short-Term Rental	ZC	Subject to requirements of Chapter <u>23C.22</u>
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
If six ft. or less in height	ZC	
Exceed six ft. in height	AUP	In required setbacks
Home Occupations		<u>Subject to the requirements of Chapter 23C.16</u>
Low Impact Class I	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related Class II	AUP	Subject to the requirements of Section <u>23C.16.030-A</u>
Moderate Impact Class III	UP(PH)	Subject to the requirements of Section <u>23C.16.030-B</u>

Commented [SH11]: Removes Class III from R-districts – for now. After a few years under the new ordinance language, Class III may be expanded to Residential districts. This strike-through is repeated for all R districts (below) except MUR, and is not shown for Commercial and M districts.

Table 23D.16.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Hot Tubs, Jacuzzis, Spas	AUP	See Section <u>23D.08.060.C</u>
Stables for Horses	AUP	

Section 5. That the “Accessory Uses and Structures” section of Table 23D.20.030 in Chapter 23D.20 Section 23D.20.030 of the Berkeley Municipal Code is amended to read as follows:

23D.20.030 Uses Permitted

Table 23D.20.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter <u>23D.08</u>
If has either habitable space and/or exceeds the requirements under Chapter <u>23D.08</u>	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to <u>23C.26</u> , <u>23D.08.010</u> , <u>23D.08.020</u> , <u>23D.08.050</u> , and <u>23D.08.060</u>
Accessory Dwelling Units in compliance with Section <u>23C.24.050</u>	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section <u>23C.24.050</u>	AUP	Subject to making applicable findings in Section <u>23C.24.070</u>

Table 23D.20.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Short-Term Rental	ZC	Subject to requirements of Chapter <u>23C.22</u>
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required yards
Home Occupations		Subject to the requirements of Chapter 23C.16
Low Impact Class I	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related Class II	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact Class III	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section <u>23D.08.060.C</u>
Stables for Horses	AUP	

Section 6. That the “Accessory Uses and Structures” section of Table 23D.28.030 in Chapter 23D.28 Section 23D.28.030 of the Berkeley Municipal Code is amended to read as follows:

23D.28.030 Uses Permitted

Table 23D.28.030

Use and Required Permits

Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter <u>23D.08</u>
If has either habitable space and/or exceeds the requirements under Chapter <u>23D.08</u>	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to <u>23C.26</u> , <u>23D.08.010</u> , <u>23D.08.020</u> , <u>23D.08.050</u> , and <u>23D.08.060</u>
Accessory Dwelling Units in compliance with Section <u>23C.24.050</u>	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section <u>23C.24.050</u>	AUP	Subject to making applicable findings in Section <u>23C.24.070</u>
Short-Term Rental	ZC	Subject to requirements of Chapter <u>23C.22</u>
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks

Table 23D.28.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Home Occupations		Subject to the requirements of Chapter 23C.16
Low Impact Class I	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related Class II	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact Class III	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	

Section 7. That the "Accessory Uses and Structures" section of Table 23D.32.030 in Chapter 23D.32 Section 23D.32.030 of the Berkeley Municipal Code is amended to read as follows:

23D.32.030 Uses Permitted

Table 23D.32.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter <u>23D.08</u>
If has either habitable space and/or exceeds the requirements under Chapter <u>23D.08</u>	AUP	

Table 23D.32.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		Subject to the requirements of Chapter 23C.16
Low Impact Class I	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related Class II	AUP	Subject to the requirements of Section 23C.16.030.A

Table 23D.32.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Moderate Impact Class III	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section <u>23D.08.060.C</u>
Stables for Horses	AUP	

Section 8. That the "Accessory Uses and Structures" section of Table 23D.36.030 in Chapter 23D.36 Section 23D.36.030 of the Berkeley Municipal Code is amended to read as follows:

23D.36.030 Uses Permitted

Table 23D.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter <u>23D.08</u>
If has either habitable space and/or exceeds the requirements under Chapter <u>23D.08</u>	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to <u>23C.26</u> , <u>23D.08.010</u> , <u>23D.08.020</u> , <u>23D.08.050</u> , and <u>23D.08.060</u>

Table 23D.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		Subject to the requirements of Chapter 23C.16
Low Impact Class I	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related Class II	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact Class III	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	

Section 9. That the "Accessory Uses and Structures" section of Table 23D.40.030 in Chapter 23D.40 Section 23D.40.030 of the Berkeley Municipal Code is amended to read as follows:

23D.40.030 Uses Permitted

Table 23D.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter <u>23D.08</u>
If has either habitable space and/or exceeds the requirements under Chapter <u>23D.08</u>	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to <u>23C.26</u> , <u>23D.08.010</u> , <u>23D.08.020</u> , <u>23D.08.050</u> , and <u>23D.08.060</u> .
Accessory Dwelling Units in compliance with Section <u>23C.24.050</u>	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section <u>23C.24.050</u>	AUP	Subject to making of applicable findings set forth in Section <u>23C.24.070</u>
Short-Term Rental	ZC	Subject to requirements of Chapter <u>23C.22</u>
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences Six ft. or less in height	ZC	

Table 23D.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		Subject to the requirements of Chapter 23C.16
Low Impact Class I	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related Class II	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact Class III	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	
Stores and Shops (Incidental to another Use)	UP(PH)	Contained within a building with no street access and no displays or merchandise visible from the street

Section 10. That the "Accessory Uses and Structures" section of Table 23D.44.030 in Chapter 23D.44 Section 23D.44.030 of the Berkeley Municipal Code is amended to read as follows:

23D.44.030 Uses Permitted

Table 23D.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		

Table 23D.44.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings set forth in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
Six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		Subject to the requirements of Chapter 23C.16

Table 23D.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Low Impact Class I	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related Class II	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact Class III	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section <u>23D.08.060.C</u>
Stables for Horses	AUP	
Stores and Shops (Incidental to another Use)	UP(PH)	Contained within a building with no street access and no displays or merchandise visible from the street

Section 11. That the "Accessory Uses and Structures" section of Table 23D.48.030 in Chapter 23D.48 Section 23D.48.030 of the Berkeley Municipal Code is amended to read as follows:

23D.48.030 Uses Permitted

Table 23D.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter <u>23D.08</u>

Table 23D.48.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
If has either habitable space and/or exceeds the requirements under Chapter <u>23D.08</u>	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to <u>23C.26</u> , <u>23D.08.010</u> , <u>23D.08.020</u> , <u>23D.08.050</u> , and <u>23D.08.060</u>
Accessory Dwelling Units in compliance with Section <u>23C.24.050</u>	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section <u>23C.24.050</u>	AUP	Subject to making applicable findings set forth in Section <u>23C.24.070</u>
Short-Term Rental	ZC	Subject to requirements of Chapter <u>23C.22</u>
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
Six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations Low Impact Class I	ZC	Subject to the requirements of Chapter 23C.16 If the requirements of Section 23C.16.020 are met

Table 23D.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Moderate Impact, teaching-related <u>Class II</u>	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact <u>Class III</u>	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section <u>23D.08.060.C</u>
Stables for Horses	Prohibited	
Stores and Shops (Incidental to another Use)	UP(PH)	Contained within a building with no street access and no displays or merchandise visible from the street

Section 12. That the "Accessory Uses and Structures" section of Table 23D.52.030 in Chapter 23D.52 Section 23D.52.030 of the Berkeley Municipal Code is amended to read as follows:

23D.52.030 Uses Permitted

Table 23D.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter <u>23D.08</u>
If has either habitable space and/or exceeds the requirements under Chapter <u>23D.08</u>	AUP	

Table 23D.52.030

Use and Required Permits

Use	Classification	Special Requirements (if any)
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings set forth in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
Six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		Subject to the requirements of Chapter 23C.16
Low Impact Class I	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related Class II	AUP	Subject to the requirements of Section 23C.16.030.A

Table 23D.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Moderate Impact Class III	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	Prohibited	
Stores and Shops (Incidental to another Use)	UP(PH)	Contained within a building with no street access and no displays or merchandise visible from the street

Section 13. That the “Uses Permitted in Residential Districts” section of Table 23E.36.030 in Chapter 23E.36 Section 23E.36.030 of the Berkeley Municipal Code is amended to read as follows:

23E.36.030 Uses Permitted

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030

Table 23E.36.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.36.070.E . Residential-only projects are prohibited within the University Avenue Node Overlay areas, and permitted within University Avenue Overlay Mixed Use areas
Group Living Accommodations subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.36.070.E
Home Occupations		Subject to the requirements of Chapter 23C.16
Class I	ZC	
Class II	AUP	
Class III	UP(PH)	
Hospitals	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Changes of use from an existing dwelling unit
Six or fewer people	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

Section 14. That the “Uses Permitted in Residential Districts” section of Table 23E.40.030 in Chapter 23E.40 Section 23E.40.030 of the Berkeley Municipal Code is amended to read as follows:

23E.40.030 Uses Permitted

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		

Table 23E.40.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agricultures	ZC	23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.40.070.E
Group Living Accommodations subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.40.070.E Subject to the requirements of Chapter 23C.16
Home Occupations		
Class I	ZC	
Class II	AUP	

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Class III	UP(PH)	
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.40.080.B
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.40.080.B
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Changes of use from an existing dwelling unit
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

Section 15. That the “Uses Permitted in Residential Districts” section of Table 23E.44.030 in Chapter 23E.44 Section 23E.44.030 of the Berkeley Municipal Code is amended to read as follows:

23E.44.030 Uses Permitted

Table 23E.44.030

Use and Required Permits

Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.44.070.F
Group Living Accommodations, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.44.070.F
Home Occupations		Subject to the requirements of Chapter 23C.16
Class I	ZC	
Class II	AUP	

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Class III	UP(PH)	
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements under Section 23E.44.080
Nursing Homes	UP(PH)	Subject to parking requirements under Section 23E.44.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Changes of use from an existing dwelling unit
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

Section 16. That the “Uses Permitted in Residential Districts” section of Table 23E.48.030 in Chapter 23E.48 Section 23E.48.030 of the Berkeley Municipal Code is amended to read as follows:

23E.48.030 Uses Permitted

Table 23E.48.030

Use and Required Permits

Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	Prohibited	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.48.070.F
Group Living Accommodations, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.48.070.F
Home Occupations Class I	ZC	Subject to the requirements of Chapter 23C.16

Table 23E.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Class II	AUP	
Class III	UP(PH)	
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.48.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.48.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	Change of use from an existing dwelling unit
Senior Congregate Housing		
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

Section 17. That the "Uses Permitted in Residential Districts" section of Table 23E.52.030 in Chapter 23E.52 Section 23E.52.030 of the Berkeley Municipal Code is amended to read as follows:

23E.52.030 Uses Permitted

Table 23E.52.030

Use and Required Permits

Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.52.070.E
Group Living Accommodations subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.52.070.E
Home Occupations Class I	ZC	Subject to the requirements of Chapter 23C.16

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Class II	AUP	
Class III	UP(PH)	
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.52.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.52.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Change of use from an existing dwelling unit
Six or fewer people	ZC	
Seven or more people	AUP	
New construction	UP(PH)	

Section 18. That the “Uses Permitted in Residential Districts” section of Table 23E.56.030 in Chapter 23E.56 Section 23E.56.030 of the Berkeley Municipal Code is amended to read as follows:

23E.56.030 Uses Permitted

Table 23E.56.030

Use and Required Permits

Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.56.070.E
Group Living Accommodations subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.56.070.E
Home Occupations Class I	ZC	Subject to the requirements of Chapter 23C.16

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Class II	AUP	
Class III	UP(PH)	
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	
Nursing Homes	UP(PH)	
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Change of use from an existing dwelling unit
Six or fewer people	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

Section 19. That the "Uses Permitted in Residential Districts" section of Table 23E.60.030 in Chapter 23E.60 Section 23E.60.030 of the Berkeley Municipal Code is amended to read as follows:

23E.60.030 Uses Permitted

Table 23E.60.030

Use and Required Permits

Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	Prohibited	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.60.070.F
Group Living Accommodations, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.60.070.F
Home Occupations		Subject to the requirements of Chapter 23C.16
Class I	ZC	
Class II	AUP	

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Class III	UP(PH)	
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.60.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.60.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Change of use from an existing dwelling unit
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

Section 20. That the “Residential and Related Uses” section of Table 23E.64.030 in Chapter 23E.64 Section 23E.64.030 of the Berkeley Municipal Code is amended to read as follows:

23E.64.030 Uses Permitted

Table 23E.64.030

Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Residential and Related Uses		
Accessory Dwelling Unit in compliance with Section <u>23C.24.050</u>	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section <u>23C.24.050</u>	AUP	Subject to making applicable findings in Section <u>23C.24.070</u>
Additions, Major Residential	AUP	See definition in Sub-title <u>23E</u> . Subject to required finding under Section <u>23E.64.090.G</u>
Short-Term Rental	ZC	Subject to requirements of Chapter <u>23C.22</u>
Child Care; Family Daycare Home (Small or Large)	ZC	
Child Care Centers	UP(PH)	
Clubs, Lodges	UP(PH)	
Community Care Facilities/Homes	ZC	
Community Centers	UP(PH)	
Dwelling Units	UP(PH)	Subject to Development Standards under Section <u>23E.64.070</u>

Table 23E.64.030

Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Group Living Accommodations	UP(PH)	Subject to Development Standards under Section 23E.64.070
Home Occupations		Subject to the requirements of Chapter 23C.16
Low Impact Class I	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related Class II	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact Class III	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hospitals	UP(PH)	Subject to parking requirements; see Section 23E.64.080.F
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.070.C
Hotels, Residential, including Single Room Occupancy (SRO)	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.64.080.F
Nursing Homes	UP(PH)	
Parks and Playgrounds	AUP	

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	AUP	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing Six or fewer persons Seven or more persons New Construction	ZC AUP UP(PH)	Changes of use from an existing dwelling unit
All other Residential Accessory Structures and Uses not listed	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060

Section 21. That the "Residential and Related Uses" section of Table 23E.68.030 in Chapter 23E.68 Section 23E.68.030 of the Berkeley Municipal Code is amended to read as follows:

23E.68.030 Uses Permitted

Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
Uses Permitted in Residential Districts		

Table 23E.68.030

Use and Required Permits		
Use	Classification	Special Requirements
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	As per R-5 District	See Table 23D.44.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26 , 23D.08.010 , 23D.08.020 , 23D.08.050 , and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	AUP	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, including multifamily developments	UP(PH)	Subject to the standards under Section 23E.68.060.F
Group Living Accommodations subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.68.060.F
Home Occupations Class I	ZC	Subject to the requirements of Chapter 23C.16

Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
Class II	AUP	
Class III	UP(PH)	
Hospitals	UP(PH)	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	Subject to Section 23E.68.060.F
Libraries	UP(PH)	
Nursing Homes	UP(PH)	
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Change of use of an existing dwelling unit
Six or fewer people	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	Subject to Section 23E.68.070

Section 22. That the "Residential and Related Uses" section of Table 23E.84.030 in Chapter 23E.84 Section 23E.84.030 of the Berkeley Municipal Code is amended to read as follows:

23E.84.030 Uses Permitted

Table 23E.84.030		
Use and Required Permits		
Uses	Permit Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Residential and Related Uses		
Accessory Dwelling Unit in compliance with Section <u>23C.24.050</u>	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section <u>23C.24.050</u>	AUP	Subject to making applicable findings in Section <u>23C.24.070</u>
Additions, Major Residential	AUP	See Definition in Sub-title <u>23E</u> . Subject to finding required under <u>23E.84.090.L</u> ; see limitations on location in Section <u>23E.84.060.G</u>
Short-Term Rental	ZC	Subject to requirements of Chapter <u>23C.22</u>
Child Care Centers	UP(PH)	Subject to the findings in Section <u>23E.84.090.H</u>
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Care Facilities/Homes (Changes of Use)	ZC	Subject to parking requirements; see Section <u>23E.84.080.B</u>
Community Centers	UP(PH)	
Dwelling Units		See limitation on location in Section <u>23E.84.060.G</u> . Subject to development

Table 23E.84.030

Use and Required Permits		
Uses	Permit Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
		standards of Section <u>23E.84.070</u> and parking requirements in Section <u>23E.84.080.B</u>
1 – 4 Units	AUP	
5+ Units	UP(PH)	
Group Living Accommodations, subject to R-3 District Standards	UP(PH)	See limitations on location in Section <u>23E.84.060.G</u>
Home Occupations		Subject to the requirements of Chapter 23C.16
Low Impact Class I	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related Class II	AUP	Subject to the requirements of Section <u>23C.16.030.A</u>
Moderate Impact Class III	UP(PH)	Subject to the requirements of Section <u>23C.16.030.B</u>
Hospitals	Prohibited	
Hotels, Residential	Prohibited	
Hot Tubs, Jacuzzis, Spas	AUP	See Section <u>23D.08.060.C</u>
Libraries	UP(PH)	Subject to additional parking requirements; see Section <u>23E.84.080.B</u>
Nursing Homes	UP(PH)	Subject to additional parking requirements; see Section <u>23E.84.080.B</u>

Table 23E.84.030		
Use and Required Permits		
Uses	Permit Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Parks, Playgrounds, and outdoor recreation facilities	UP(PH)	If the park, playground, or outdoor recreation facility is likely to be used by children, subject to the finding under <u>23E.84.090.H</u>
Public Safety and Emergency Services	UP(PH)	
Public Utilities Substations, Buildings, Tanks	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private and Other Educational Institutions	UP(PH)	Subject to the findings in Section <u>23E.84.090.H</u>
Senior Congregate Housing Six or fewer persons Seven or more persons New Construction	ZC AUP UP(PH)	Changes of use from an existing dwelling unit
Accessory Buildings and Structures with Urban Agriculture	ZC	Subject to <u>23C.26</u> , <u>23D.08.010</u> , <u>23D.08.020</u> , <u>23D.08.050</u> , and <u>23D.08.060</u>

Section 23. That the “Accessory Uses and Structures” section of Table 23D.24.030 in Chapter 23D.24 Section 23D.24.030 of the Berkeley Municipal Code is amended to read as follows:

Table 23D.24.030

Use and Required Permits

Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures		
Under 100 sq. ft.	ZC	Must satisfy the requirements of Chapter 23D.08
100 or more sq. ft.	UP(PH)	If has either habitable space and/or exceeds the requirements of Chapter 23D.08
Located on a vacant lot without a Main Building	UP(PH)	
Accessory Dwelling Units		
Child Care: Family Daycare Homes (Small or Large)	ZC	
Fences		
Four ft. or less in height	ZC	
Exceeding four ft. in height	AUP	Subject to Fire Department review and comment
Home Occupations		
<u>Class I</u>	<u>ZC</u>	<u>Subject to the requirements of Chapter 23C.16</u>
<u>Low Impact</u>	<u>AUP</u>	<u>If the requirements of Section 23C.16.020 are met</u>
<u>Moderate Impact</u>	<u>UP(PH)</u>	<u>Subject to the requirements of Section 23C.16.030, except that no</u>

Table 23D.24.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
		non-resident employees or customer visits are allowed in ES-R District
Hot Tubs, Jacuzzis, Spas or Swimming Pools	UP(PH)	See Section 23D.08.060.C
Rental of Rooms	UP(PH)	Not to exceed four persons. Occupancy of a single dwelling unit by a single household as defined in Subtitle 23F is permitted
Stables for Horses	AUP	

Section 24. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.