

ORDINANCE NO. 7,850-N.S.

AMENDING TITLE 23 OF THE BERKELEY MUNICIPAL CODE TO CORRECT ERRORS AND MAKE NON-SUBSTANTIVE, TECHNICAL EDITS TO THE ZONING ORDINANCE

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

Section 1. That Berkeley Municipal Code Section 23.108.020 is amended as follows:

A. *Districts.* Berkeley is divided into districts as shown in Table 23.108-1: Zoning Districts. Unique regulations apply within each district as established in Chapters 23.202--23.208 (Zoning Districts).

Table 23.108-1. ZONING DISTRICTS

DISTRICT SYMBOL	NAME OF DISTRICT
<b>Residential Districts</b>	
R-1	Single-Family Residential
R-1A	Limited Two-family Residential
ES-R	Environmental Safety Residential
R-2	Restricted Two-family Residential
R-2A	Restricted Multiple-family Residential
R-3	Multiple-family Residential
R-4	Multi-family Residential
R-5	High Density Residential
R-S	Residential Southside
R-SMU	Residential Southside Mixed Use
R-BMU	Residential BART Mixed Use
<b>Commercial Districts</b>	
C-C	Corridor Commercial
C-U	University Avenue Commercial
C-N	Neighborhood Commercial

<b>DISTRICT SYMBOL</b>	<b>NAME OF DISTRICT</b>
C-E	Elmwood Commercial
C-NS	North Shattuck Commercial
C-SA	South Area Commercial
C-T	Telegraph Avenue Commercial
C-SO	Solano Avenue Commercial
C-DMU	Downtown Mixed-Use
C-W	West Berkeley Commercial
C-AC	Adeline Corridor Commercial
<b>Manufacturing Districts</b>	
M	Manufacturing
MM	Mixed Manufacturing
MU-LI	Mixed Use-Light Industrial
MU-R	Mixed Use-Residential
<b>Special Districts</b>	
SP	Specific Plan
U	Unclassified

B. *Undesignated Areas.* Any area not specifically designated as a district on the Zoning Map is subject to the Unclassified (U) district requirements.

C. *Overlay Zones.*

1. The Zoning Ordinance and Zoning Map include the overlay zones shown in Table 23.108-2: Overlay Zones. Overlay zones impose additional regulations on properties beyond what is required by the underlying district. As shown in Table 23.108-2: Overlay Zones, provisions for overlay zones that apply to two or more districts are located in Chapter 23.210 (Overlay Zones). Provisions for overlay zones that apply only in one district are located in the Zoning Ordinance chapter for that district.

TABLE 23.108-2: OVERLAY ZONES

OVERLAY ZONE SYMBOL	NAME OF OVERLAY ZONE	LOCATION IN ZONING ORDINANCE
<b>Overlay Zones that Apply in Two or More Districts</b>		
H	Hillside	23.210.020– Hillside Overlay Zone
C	Civic Center	23.210.030– Civic Center District Overlay Zone
<b>Overlay Zones that Apply in One District</b>		
DA	Downtown Arts	23.204.130– C-DMU Downtown Mixed-Use District (Arts Overlay District)

2. If the overlay zone applies a standard to a property that conflicts with the underlying district, the overlay zone standard governs. If the overlay zone is silent on a standard in the underlying district, the underlying district standard applies.

D. *Vacated Streets*. Where a public street or alley is officially vacated or abandoned, the land area of the street or alley acquires the district classification of the property to which it reverts.

Section 2. That Berkeley Municipal Code Section 23.202.020 is amended as follows:

23.202.020 Allowed Land Uses.

A. *Allowed Land Uses*. Table 23.202-1: Allowed Land Uses in Residential Districts identifies allowed land uses and required permits in the Residential Districts. All land uses are defined in Chapter 23.502--Glossary. Permit requirements are described in Chapter 23.406--Specific Permit Requirements.

B. *Unlisted Land Uses*. Any land use not listed in Table 23.202-1: Allowed Land Uses in Residential Districts is not permitted in the Residential District.

Table 23.202-1. ALLOWED LAND USES IN RESIDENTIAL DISTRICTS

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **--Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)	
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU*		
<b>Residential Uses</b>													
Accessory Dwelling Unit	See 23.306-- Accessory Dwelling Units		NP	See 23.306--Accessory Dwelling Units									
<b>Dwellings</b>													
Single-Family	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	NP	
Two-Family	NP	UP(P H)	NP	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	NP	
Multi-Family	NP	NP	NP	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	
Group Living Accommodation	NP	NP	NP	NP	NP	UP(P H)							
Senior Congregate Housing	NP	NP	NP	NP	See 23.302.070.H--Use-Specific Regulations								
Mixed-Use Residential	NP	NP	NP	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	
<b>Public and Quasi-Public Uses</b>													
Child Care Center	UP(P H)	UP(P H)	NP	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	
Club/Lodge	UP(P H)	UP(P H)	NP	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	
Columbaria	AUP*	AUP*	NP	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	NP	23.302.070.C--Use-Specific Regulations
Community Care Facility	See 23.202.040.A--Use-Specific Regulations												

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **--Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU*	
Community Center	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Emergency Shelter	NP	NP	NP	NP	NP	NP	See 23.308					
Family Day Care Home, Large	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Family Day Care Home, Small	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Hospital	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	NP	
Library	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Nursing Home	NP	NP	NP	--	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Park/Playground	ZC	ZC	UP	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Public Safety and Emergency Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Public Utility Substation/Tank	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Religious Assembly	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
School	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
<b>Commercial Uses</b>												

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **--Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)	
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU*		
Alcoholic Beverage Service	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH)*	23.310--Alcoholic Beverage Sales and Service
Food Products Store	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH)*	23.202.140. B.3--R-SMU Residential Southside District
Food Service Establishment	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH)*	23.302.070. E--Use-Specific Regulations
Group Class Instruction	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	23.202.150. C--R-BMU Residential BART Mixed Use District
Gym/Health Club	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	23.202.150. C--R-BMU Residential BART Mixed Use District
Hotel, Tourist	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP		
Laundromat and Cleaner	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	
Office	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)*		23.202.150. C--R-BMU

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **--Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU*	
												Residential BART Mixed Use District
Parking Lot/Structure	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	23.302.070. G-- Unenclosed Accessory Structures in Residential Districts 23.322.100- -On-site Loading Spaces
Personal and Household Service, General	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC*	23.202.140. B.2--R-SMU Residential Southside District
Retail, General	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	23.202.040. B--Use-Specific Regulations
Veterinary Clinic	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	
Theater	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	
Video Tape/Disk Rental	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	NP	

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **--Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	<b>RESIDENTIAL DISTRICTS</b>											<b>USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)</b>
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU*	
<b>Industrial and Heavy Commercial Uses</b>												
Commercial Excavation	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)
<b>Other Uses</b>												
Accessory Uses	See 23.302.020.A--General Use Regulations											
Art/Craft Studio	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC
ATM: Exterior and Attached to Bank or Interior or Exterior and Not With Bank	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP
Home Occupations	See 23.302.040--Home Occupations											
Live/Work	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)* 23.312--Live/Work
Public Market, Open Air	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP
Public Market, Enclosed	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP
Short-Term Rental	ZC*	ZC*	NP	ZC*	23.314--Short-Term Rentals							
Temporary Uses	See 23.302.030--Temporary Uses and Structures											
Urban Agriculture, Low-Impact	ZC*	ZC*	NP	ZC*	23.318--Urban Agriculture							

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	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU*	
Urban Agriculture, High-Impact	AUP*	AUP*	NP	AUP*	AUP*	23.318-- Urban Agriculture						
Wireless Telecommunication Facility	See 23.332--Wireless Communication Facilities											

C. *Use-Specific Regulations.* Uses subject to supplemental regulations are shown in Table 23.202-1: Allowed Land Uses in Residential Districts with an asterisk (\*) following the permit requirement (e.g., UP\*). The Use-Specific Regulations column in Table 23.202-1: Allowed Land Uses in Residential Districts identifies the location of these regulations in the Zoning Ordinance.

Section 3. That the title of Berkeley Municipal Code 23.202.140 is amended as follows:

23.202.140 R-SMU Residential Southside Mixed Use District

Section 4. That the Berkeley Municipal Code 23.202.150.B.1 is amended as follows:

1. *Dwelling Units per Acre:* The quotient resulting from the total number of dwelling units on a site divided by the Lot Area.

Section 5. That Berkeley Municipal Code 23.202.150.C.1 is amended as follows:

1. *General.* See Section 23.202.020 (Allowed Land Uses), which indicates identified allowed land uses and which are prohibited.

(a) The initial establishment of a land use in a new building will follow the R-BMU Master Development Plan process outlined in Section 23.202.150.G below.

(b) The change of use of an existing building or portion of a building will require the permits indicated in Section 23.202.020 and Table 23.202-1 for the R-BMU District.

(c) Any use not listed in Table 23.202-1 for the R-BMU District can be approved through the Master Development Plan process outlined in Section 23.202.150.G below for the initial establishment of a land use in a new building.

(d) Uses subject to supplemental regulations are shown in Table 23.202-1 with an asterisk (\*) following the permit requirement (e.g., ZC\*). The Use-Specific Regulations column in Table 23.202-1 identifies the location of these regulations in the Zoning Ordinance.

Section 6. That Berkeley Municipal Code Section 23.202.150.F Table 23.202-27 is amended as follows:

Table 23.202-28 Permitted Street-Facing Ground Floor Uses

FRONTAGE LOCATIONS	PERMITTED STREET-FACING GROUND FLOOR USES
Along Ashby and MLK	Non-Residential Uses or non-residential accessory spaces to residential buildings, such as community rooms. At least 50% of the combined frontage of MLK and Ashby must include active ground -floor uses.[1] Active uses at corner locations are encouraged.
Along Adeline	Non-Residential Uses or non-residential accessory spaces to residential buildings, such as community rooms
Along Woolsey, Tremont [2], or fronting interior public spaces	Residential or Non-Residential Uses
Along Sacramento, along the Ohlone Greenway, or within 50 feet of any street corner	Residential or Non-Residential Uses
Along Delaware, Acton, or Virginia	Residential Uses
<p>[1] Active uses are commercial uses which generate regular and frequent foot traffic; such uses include businesses in the following use categories: Retail; Personal and Household Services; Food and Alcohol Service, and Entertainment.</p> <p>[2] Public entrances for non-residential uses fronting Tremont Street must be located on Woolsey Street.</p>	

Section 7. That Berkeley Municipal Code Section 23.202.150.F Table 23.202-28 is amended as follows:

Table 23.202-29 R-BMU Development Standards

		Supplemental Standards
Lot Area, Minimum	No Minimum	23.304.020

Private Usable Open Space, Minimum [1][2]		23.304.090
Per Dwelling Unit	40 sf/DU	23.304.090
Per Group Living Accommodation Resident	15 sf/resident	23.304.090
Public Open Space, Minimum		
Per Dwelling Unit	35 sf/DU	
Per Group Living Accommodation Resident	18 sf/resident	
Floor Area Ratio (FAR), Maximum	4.2	
Main Building height, Maximum [3]	80 feet and 7 stories	32.304.050
Residential Density, Minimum	75 dwelling units per acre	

**[1]** Private Usable Open Space may be provided as any combination of personal and common private space.

**[2]** 50% of the Private Usable Open Space requirement may be fulfilled through the provision of an equal amount of additional Public Open Space.

**[3]** Building Height Measurement: In the case of a roof with a parapet wall, building height shall be measured to the top of the roof and parapets may exceed the height limits by up to five feet by right.

Section 8. That Berkeley Municipal Code Section 23.202.150.F.3.b.iv is amended as follows:

iv. Adjacent publicly owned space may contribute to the minimum public space requirement for the project, if it is designed, integrated and maintained as part of the project and complies with all other requirements for public space design identified in this section 23.202.150(F)3(b).

Section 9. That Berkeley Municipal Code Section 23.202.150.F.3.c is amended as follows:

(c) *Rooftop Open Space.* Rooftops may be utilized as Private Usable Open Space or Public Open Space meeting the requirements of 23.202.150.F.3.a (Additional Open Space Requirements--Definitions). Rooftop space designated Public Open Space must also meet the requirements of 23.202.150.F.3.b (Public Space Design). No more than 25% of Public Open Space requirements can be

met with Rooftop Open Space, and such Public Open Space must be independently accessible from the public circulation network.

Section 10. That Berkeley Municipal Code Section 23.202.150.G.4.c is amended as follows:

(c) The Board shall determine whether the proposal conforms to the permit criteria set forth in Section 23.202.150.G.8, and may approve or disapprove the application and the accompanying Preliminary Development Plan or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria and regulations. In so doing, the Board may, in its discretion, authorize submission of the Final Development Plan in stages corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the Preliminary Development Plan and staged development schedule.

Section 11. That Berkeley Municipal Code Section 23.202.150.G.5.b is amended as follows:

(b) The public notice and hearing process for a Final Development Plan shall be the same as for Use Permits as defined in BMC Section 23.406.040, except that notice shall be mailed or delivered to all businesses, residents and owners of property located within five hundred (500) feet of the subject property.

Section 12. That Berkeley Municipal Code Section 23.202.150.G.7 is amended as follows:

7. *Appeal to Council.* The process for appeal to Council for a Master Development Permit, Preliminary Development Plan and/or Final Development Plan shall be the same as for Use Permits as defined in BMC Chapter 23.410.

Section 13. That Berkeley Municipal Code Section 23.204.020 Table 23.204-1 is amended as follows:

Table 23.204-1. Allowed Uses in Commercial Districts

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
<b>Residential Uses</b>												
Accessory Dwelling Unit	See 23.306--Accessory Dwelling Units											
Dwellings												
Single-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060 .B.3
Two-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060 .B.3
Multi-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060 .B.3
Group Living Accommodation	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060 .B.3
Hotel, Residential	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060 .B.3
Mixed-Use Residential	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	See Table 23.20 4-41	UP(PH)	23.204.060 .B.3; 23.204.100 .B.4
Senior Congregate Housing	See 23.302.070.H											
<b>Public and Quasi-Public Uses</b>												
Child Care Center	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Cemetery/Crematory/Mausoleum	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	
Club/Lodge	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	
Columbaria	See 23.302.070.C											

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	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Community Care Facility	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	ZC	AUP	
Community Center	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Emergency Shelter	See 23.308—Emergency Shelters		–	–	See 23.308 – Emergency Shelters							
Family Day Care Home, Large	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Family Day Care Home, Small	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Hospital	UP(PH)	UP(PH)	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	
Library	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Mortuaries and Crematories	UP(PH)	UP(PH)	NP	NP	NP	NP	NP	NP	NP	UP(PH)	NP	
Municipal Animal Shelter	–	–	–	–	–	–	–	–	–	–	--	
Nursing Home	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Park/Playground	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	AUP	ZC	
Public Safety and Emergency Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Public Utility Substation/Tank	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Religious Assembly	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	AUP	UP(PH)	

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	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
School	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
School, Vocational	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	UP(PH)	AUP	
<b>Retail Uses</b>												
Alcoholic Beverage Retail Sale	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	NP	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	23.204.060 .B.2; 23.310
Cannabis Retailer	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.320; 12.21; and 12.22
Cannabis Retailer, Delivery Only	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	--	23.320; 12.21; and 12.22
Firearm/Munitions Business	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	NP	UP(PH)	UP(PH)*	23.302.070 .D
Industrial and Mining Products	--	--	--	--	--	--	--	--	--	--	--	
Pawn Shop/Auction House	UP(PH)	--	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	
Pet Store	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	ZC [3]	UP(PH)	
Retail, General	ZC [1]	ZC [1]	ZC* [2]	ZC* [2]	ZC* [2]	ZC [1]	ZC	ZC* [2]	ZC	ZC* [3]	ZC*	23.204.040 .E (for department stores) 23.204.040 .F (for drug stores)

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Smoke Shop	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	NP	UP(PH)*	UP(PH)*	23.302.070 .I
<b>Personal and Household Service Uses</b>												
Personal and Household Services, General	ZC [1]	ZC [1]	ZC [2]	ZC [2]	ZC [2]	ZC [1]	ZC	ZC [2]	ZC	ZC [5]	ZC	
Kennels and Pet Boarding	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	NP	
Laundromats and Cleaners	AUP	AUP	UP(PH)	UP(PH)	UP(PH)	AUP	AUP	UP(PH)	UP(PH)	AUP [4]	AUP	
Veterinary Clinic	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Video Tape/Disk Rental	ZC [1]	ZC [1]	ZC [2]	AUP	ZC [2]	-	ZC	ZC [2]	ZC	ZC [5]	NP	
<b>Office Uses</b>												
Business Support Services	ZC [1]	ZC [1]	ZC [2]	ZC [2]	ZC [2]	ZC [1]	ZC*	ZC [2]	ZC	ZC [5]	ZC [6]	23.204.110 .B.6
Banks and Financial Services, Retail	AUP	AUP	UP(PH)	UP(PH)	UP(PH)	ZC [1]	AUP*	UP(PH)	ZC*	AUP	ZC	23.204.110 .B.6; 23.204.130 .B.3; 23.204.130 .D.3
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC [1]	ZC [1]	ZC* [2]	ZC* [2]	ZC* [2]	ZC [1]	ZC*	ZC* [2]	ZC*	ZC [5]	ZC [6]	23.204.040 .D; 23.204.110 .B.6; 23.204.130 .D.3

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	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Medical Practitioners	ZC [1]	ZC [1]	AUP	NP	UP(PH)	ZC [1]	AUP*	UP(PH)	ZC*	ZC [5]	ZC [6]	23.204.040.D; 23.204.110.B.6; 23.204.130.D.3
Non-Chartered Financial Institutions	UP(PH)*	UP(PH)*	NP	NP	NP	UP(PH)*	UP(PH)*	NP	NP	UP(PH)*	UP(PH)	23.302.070.F 23.204.110.B.6
Office, Business and Professional	ZC [1]	ZC [1]	AUP*	AUP*	AUP*	ZC [1]	AUP*	AUP*	ZC*	ZC [5]	ZC [6]	23.204.040.B; 23.204.110.B.6; 23.204.130.D.3
<b>Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses</b>												
Adult-oriented Business	UP(PH)*	UP(PH)*	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH)*	NP	23.302.070.A
Amusement Device Arcade	See 23.204.040.A											23.302.070.B
Bar/Cocktail Lounge/Tavern	UP(PH)*	UP(PH)*	UP(PH)*	-	NP	UP(PH)*	UP(PH)*	NP	UP(PH)*	UP(PH)*	UP(PH)	23.204.100.B.3; 23.204.110.B.2; 23.310
Commercial Recreation Center	See 23.204.040.A											
Dance/Exercise/Martial Arts/Music Studio	ZC [1]	ZC [1]	ZC [2]	AUP	AUP [4]	ZC [1]	ZC	AUP	ZC	ZC [7]	ZC	

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	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Entertainment Establishment	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Food Service Establishment	See 23.302.070.E											
Group Class Instruction	ZC [1]	ZC [1]	AUP	AUP	AUP*	ZC [1]	ZC*	AUP	ZC*	ZC	ZC	23.204.040.B
Gym/Health Club	See 23.204.040.C											
Hotels, Tourist	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Motels, Tourist	UP(PH)	UP(PH)	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	
Theater	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	NP	AUP	UP(PH)	UP(PH)	
<b>Vehicle Service and Sales Uses</b>												
Alternative Fuel Station	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	NP*	UP(PH)	NP	AUP*	UP(PH)	23.204.110.B.4; 23.204.140.B.3
Electric Vehicle Charging Station	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP*	AUP	
Gasoline Fuel Stations	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	NP*	UP(PH)	NP	UP(PH)*	UP(PH)	23.204.140.B.3
Large Vehicle Sales and Rental	AUP	NP	NP	NP	NP	NP	NP	NP	NP	AUP* [8]	NP	23.204.140.B.3
Small Vehicle Sales and Service	AUP	NP	NP	NP	NP	UP(PH)*	NP	NP	UP(PH)	UP(PH)*	NP	23.204.100.B.5; 23.204.140.B.3
Tire Sales and Service	UP(PH)	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	NP	23.204.140.B.3

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	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Vehicle Parts Store	ZC [1]	NP	ZC [2]	ZC [2]	ZC [2]	ZC [1]	ZC	ZC [2]	NP	AUP* [8]	ZC	
Vehicle Rentals	AUP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	AUP* [8]	NP	23.204.140 .B.3
Vehicle Repair and Service	AUP	NP	NP	NP	NP	NP	NP	NP	NP	AUP* [8]	NP	
Vehicle Sales, New	AUP	NP	NP	NP	NP	UP(PH)*	NP	NP	UP(PH)	AUP* [8]	NP	23.204.100 .B.5 23.204.140 .B.3
Vehicle Sales, Used	AUP	NP	NP	NP	NP	UP(PH)*	NP	NP	UP(PH)	UP(PH)*	NP	23.204.100 .B.5; 23.204.140 .B.3; 23.204.140 .D.4
Vehicle Wash	UP(PH)	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	NP	23.204.140 .B.3
Vehicle Wrecking	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	
<b>Industrial and Heavy Commercial Uses</b>												
Bus/Cab/Truck/Public Utility Depot	--	--	--	--	--	--	--	--	--	--	--	
Commercial Excavation	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	--	NP	UP(PH)	
Contractors Yard	--	--	--	--	--	--	--	--	--	AUP	--	
Dry Cleaning and Laundry Plant	UP(PH)	UP(PH)	NP	--	UP(PH)	NP	NP	NP	UP(PH)	NP	NP	
Laboratory												
Commercial Physical or Biological	AUP	AUP	NP	NP	NP	NP	NP	NP	AUP	NP	NP	

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	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Cannabis Testing	AUP	AUP	NP	NP	NP	NP	NP	NP	AUP	AUP [9]	NP	
Manufacturing												
Construction Products	--	--	--	--		--	--	--	--	UP(PH)	--	
Light Manufacturing	--	--	--	--		--	--	--	--	AUP [8]	--	
Pesticides/Herbicides/Fertilizers	--	--	--	--		--	--	--	--	UP(PH)	--	
Petroleum Refining and Products	--	--	--	--		--	--	--	--	UP(PH)	--	
Pharmaceuticals	--	--	--	--		--	--	--	--	UP(PH)	--	
Primary Production Manufacturing	--	--	--	--	NP	--	--	--	--	UP(PH)	--	
Semiconductors	--	--	--	--	NP	--	--	--	--	UP(PH)	--	
Material Recovery Enterprise	--	--	--	--	--	--	--	--	--	--	--	
Media Production	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	AUP	UP(PH)	23.204.130 .B.4
Mini-storage	UP(PH)	NP	NP	NP	NP	NP	NP	--	UP(PH)	NP	NP	
Recycled Materials Processing	--	--	--	--	--	--	--	--	--	--	--	
Recycling Redemption Center	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	
Repair Service, Non-Vehicle	--	--	--	--	--	--	--	--	--	AUP	--	

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	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Research and Development	-	-	-	-	-	-	-	-	-	--	--	
Services to Buildings and Dwellings	-	-	-	-	-	-	-	-	-	AUP	--	
Warehouse	UP(PH)	NP	NP	NP	NP	NP	NP	-	UP(PH)	NP	NP	
Warehouse-Based Non-Store Retailer	-	-	-	-	-	-	-	-	-	-	--	
Wholesale Trade	-	-	-	-	--	-	-	-	-	AUP [8]	--	
<b>Incidental Uses</b>												
Amusement Devices	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	UP(PH)	23.302.070.B
Alcoholic Beverage Service	See 23.310											
Cafeteria, On-Site	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	AUP	UP(PH)	
Columbaria	See 23.302.070.C											
Food and Beverage for Immediate Consumption	ZC	ZC	AUP	UP(PH)	UP(PH)	ZC	AUP	UP(PH)	ZC	ZC	ZC	
Food Service Establishment	See 23.302.070.E											
Live Entertainment	See 23.302.020.D											
Manufacturing	AUP	AUP	UP(PH)	UP(PH)	NP	UP(PH)	AUP	AUP	AUP	AUP	AUP	
Retail Sale of Goods Manufactured On-Site	ZC [1]	ZC [1]	ZC [2]	ZC [2]	ZC [2]	ZC [1]	ZC	ZC [2]	ZC	AUP	ZC	

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	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Storage of Goods (>25% gross floor area)	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP	23.302.020.C
Wholesale Activities	AUP*	AUP*	UP(PH)*	UP(PH)*	NP	AUP*	AUP*	AUP*	AUP*	AUP	AUP	23.204.080.B.3
<b>Other Miscellaneous Uses</b>												
Art/Craft Studio	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	ZC [6]	
ATM, Exterior and Attached to Bank	AUP	AUP	AUP	UP(PH)	AUP	AUP	AUP	AUP*	AUP	AUP	AUP	23.204.120.B.2
ATM, Interior or Exterior and Not With Bank	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)*	AUP	UP(PH)	23.204.130.B.2
Circus/Carnival	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Drive-in Uses	UP(PH)	NP	NP	NP	UP(PH)	UP(PH)	NP	UP(PH)	NP	NP	UP(PH)	
Home Occupations	See 23.302.040											
Live/Work	See 23.312											
Parking Lot/Structure	See 23.302.070.G											
Public Market, Open Air	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	UP(PH)	AUP	
Public Market, Enclosed	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP [9]	AUP	
Short-Term Rental	See 23.314		NP	NP	See 23.314			NP	See 23.314		NP	
Urban Agriculture, Low-Impact	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC	ZC	23.318
Urban Agriculture, High-Impact	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP	AUP	23.318

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	<b>C-C</b>	<b>C-U</b>	<b>C-N</b>	<b>C-E</b>	<b>C-NS</b>	<b>C-SA</b>	<b>C-T</b>	<b>C-SO</b>	<b>C-DMU</b>	<b>C-W</b>	
Wireless Telecommunication Facility	See 23.332--Wireless Communication Facilities										

Notes:

- [1] Change of use of floor area over 3,000 square feet requires an AUP.
- [2] Change of use of floor area over 2,000 square feet requires an AUP.
- [3] Requires an AUP for uses 3,500 sq. ft. to 7,500 square feet. Requires a Use Permit for uses more than 7,500 sq. ft.
- [4] Requires a Use Permit if 5,000 sq. ft. or more.
- [5] Requires an AUP for uses 3,000 sq. ft. to 5,000 square feet. Requires a Use Permit for uses more than 5,000 sq. ft.
- [6] Requires an AUP for uses 2,500 sq. ft. or greater or 50 ft. wide or greater on Shattuck, between Ward and Russell; Adeline between Russell and the City boundary; on Ashby, east of Adeline; or on the north side of Ashby, west of Adeline.
- [7] Requires a Use Permit if 7,500 square feet or more.
- [8] Requires a Use Permit if either 5,000 sq. ft. or more of floor area or 10,000 square feet or more of lot area.
- [9] Requires a Use Permit if more than 10,000 sq. ft.

**Section 14.** That Berkeley Municipal Code Section 23.204.060.D.1 Table 23.204-12 is amended as follows:

Table 23.204-12. C-U SETBACK STANDARDS

LOT LINE & PROJECT CONDITIONS	REQUIRED SETBACK
Front	
Ground-floor non-residential uses fronting University Avenue	Average 2 ft. 2 ft. at all sidewalk pedestrian entries
Ground-floor residential uses fronting University Avenue	Average 2 ft. Maximum 10 ft.[1]
Fronting a street other than University Avenue and confronting a non-residential district	No min.
Rear	
Lots on south side of University Avenue abutting lot in residential district	Average 20 ft. [2] [3]
Lots on north side of University Avenue	See 23.204.060.D.5--C-U University Commercial District (Solar Access)
All other lots	10 ft. or 10% of lot depth, whichever is greater
Interior Side	No minimum
Street Side	2 ft. average
All setbacks for lots on South Side of University Avenue fronting a street other than University Avenue	As required by 23.304.030.C.2--Setbacks (Lots Adjacent to Residential Districts) [4]

Notes:

- [1] A maximum setback of 10 feet is only permitted for landscaping that enhances the streetscape and provides privacy for residential units on the first floor.
- [2] Rear setback area must be greater than or equal to the width of the lot in feet multiplied by 20 feet.
- [3] See 23.304.030.C.2.b for allowed reductions.
- [4] If a lot fronting a side street is consolidated into a single project with the adjacent University Avenue-fronting lot, the project must conform to the setback standards in this table.

Section 15. That Berkeley Municipal Code Section 23.204.080.B Table 23.204-20 is amended as follows:

Table 23.204-20. C-E LAND USE NUMBER AND SIZE LIMITATIONS

USE	NUMBER LIMIT	MAXIMUM SIZE	PERMIT REQUIRED
Art/Craft Shops, Gift/Novelty Shops, Jewelry/Watch Shops	No limit	1,500 sq. ft.	ZC
Bookstores, Periodical Stands	No limit	2,000 sq. ft.	ZC
Food Service Establishments [1]	25 total	No max.	AUP
Photocopy Stores, Printing, Fax, Magnetic Disk Reproduction Services	No limit	1,000 sq. ft.	ZC

Notes:

[1] Excludes food service uses accessory to a food product store. Secondary food service uses associated with all other principal uses are subject to limitations in Table 23.204-20.

[2] Change of use of over 3,000 square feet requires Use Permit.

Section 16. That Berkeley Municipal Code Section 23.204.100.D.2 is amended as follows:

2. Modification for Mixed Use and Residential Projects. The ZAB may modify development standards in Table 23.204-27, Table 23.204-28, and Table 23.204-29, and Table 23.204-30 – excluding FAR – for a mixed-use or residential-only project with a Use Permit, upon making one of the following findings:

- (a) The project encourages utilization of public transit and existing off-street parking facilities in the area of the proposed building;
- (b) The modification allows consistency with the building setbacks existing in the immediate area where a residential building setback would not serve a useful purpose;
- (c) The modification facilitates the construction of affordable housing as defined by the U.S. Department of Housing and Urban Development (HUD) Guidelines; or
- (d) The modification provides consistency with the purposes of the district as listed in Section 23.204.100.A (District Purpose).

Section 17. That Berkeley Municipal Code Section 23.206.040.A is amended as follows:

A. *Art/Craft Studios in the M and MM Districts.* Art/craft studios are allowed in the M and MM districts only as workspaces. Live/work is not permitted.

Section 18. That Berkeley Municipal Code Section 23.406.050.F.2 is amended as follows:

2. The ZAB shall deny a Variance if it determines that it is unable to make any of the required findings.

Section 19. That Berkeley Municipal Code Section 23.502.020.R.8 is amended as follows:

8. *Research and Development.* An establishment engaged in the following activities: 1) industrial, biological or scientific research; and/or 2) product or process design, development, prototyping, or testing. This may include labs, offices, warehousing, and light manufacturing functions as part of the overall Research and Development use.

Section 20: 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.

At a regular meeting of the Council of the City of Berkeley held on December 13, 2022, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Hahn, Harrison, Humbert, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.