



Planning Commission

AGENDA

REGULAR MEETING OF THE PLANNING COMMISSION

This meeting is held in a wheelchair accessible location.

[Click here to view the entire Agenda packet.](#)

Wednesday, October 3, 2018
7:00 PM

North Berkeley Senior Center
1901 Hearst Ave / MLK Jr. Way

See “MEETING PROCEDURES” below.

All written materials identified on this agenda are available on the Planning Commission webpage: <http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=13072>

PRELIMINARY MATTERS

- 1. Roll Call:** Pinto, Prakash, appointed by Councilmember Maio, District 1
Martinot, Steve, appointed by Councilmember Davila, District 2
Schildt, Christine, Chair, appointed by Councilmember Bartlett, District 3
Lacey, Mary Kay, appointed by Councilmember Harrison, District 4
Beach, Benjamin, appointed by, Councilmember Hahn, District 5
Kapla, Robb William, for Councilmember Wengraf, District 6
Fong, Benjamin, appointed by Councilmember Worthington, District 7
Vincent, Jeff, appointed by Councilmember Droste, District 8
Wrenn, Rob, Vice Chair, appointed by Mayor Arreguin
- 2. Order of Agenda:** The Commission may rearrange the agenda or place items on the Consent Calendar.
- 3. Public Comment:** Comments on subjects not included on the agenda. Speakers may comment on agenda items when the Commission hears those items. (See “Public Testimony Guidelines” below):
- 4. Planning Staff Report:** In addition to the items below, additional matters may be reported at the meeting. **Next Commission meeting: November 7, 2018**
- 5. Chairperson’s Report:** Report by Planning Commission Chair.
- 6. Committee Reports:** Reports by Commission committees or liaisons. In addition to the items below, additional matters may be reported at the meeting.
- 7. Approval of Minutes:** Approval of Draft Minutes from the meeting on September 5, 2018.
- 8. Future Agenda Items and Other Planning-Related Events:** None.

AGENDA ITEMS: All agenda items are for discussion and possible action. Public Hearing items require hearing prior to Commission action.

- 9. Action:** **Public Hearing: Zoning Ordinance Amendments Supporting Small Businesses**
Recommendation: Hold public hearing and consider Zoning Ordinance amendments recommended to support small businesses.
Written Materials: Attached.
Web Information: N/A.
Continued From: 7/18/18.
- 10. Discussion:** **Planning Commission 2018-2019 Work Plan**
Recommendation: Discuss Council's referral regarding Commission work plans and elect Commissioners to develop Planning Commission's 2018-2019 work plan.
Written Materials: Attached.
Web Information: N/A.
Continued From: N/A.
- 11. Action:** **Cannabis October Council Work Session**
Recommendation: Appoint a Commissioner to attend the Council's October 9, 2018 work session regarding cannabis ordinances and selection process.
Written Materials: Attached.
Web Information: N/A.
Continued From: N/A.
- 12. Discussion:** **Council Referral: Auto Sales in C-SA District**
Recommendation: Discuss referral.
Written Materials: Attached.
Web Information: N/A.
Continued From: N/A.

ADDITIONAL AGENDA ITEMS: In compliance with Brown Act regulations, no action may be taken on these items. However, discussion may occur at this meeting upon Commissioner request.

Information Items: None.

Communications: None.

Late Communications: None.

ADJOURNMENT

Meeting Procedures

Public Testimony Guidelines:

Speakers are customarily allotted up to three minutes each. The Commission Chair may limit the number of speakers and the length of time allowed to each speaker to ensure adequate time for all items on the Agenda. **To speak during Public Comment or during a Public Hearing, please line up behind the microphone.** Customarily, speakers are asked to address agenda items

when the items are before the Commission rather than during the general public comment period. Speakers are encouraged to submit comments in writing. See “Procedures for Correspondence to the Commissioners” below.

Consent Calendar Guidelines:

The Consent Calendar allows the Commission to take action with no discussion on projects to which no one objects. The Commission may place items on the Consent Calendar if no one present wishes to testify on an item. Anyone present who wishes to speak on an item should submit a speaker card prior to the start of the meeting, or raise his or her hand and advise the Chairperson, and the item will be pulled from the Consent Calendar for public comment and discussion prior to action.

Procedures for Correspondence to the Commissioners:

- To have materials included in the packet, the latest they can be submitted to the Commission Secretary is close of business (5:00 p.m.), on Tuesday, eight (8) days prior to the meeting date.
- To submit late materials for Staff to distribute at the Planning Commission meeting, those materials must be received by the Planning Commission Secretary, by 12:00 p.m. (noon), the day before the Planning Commission meeting.
- Members of the public may submit written comments at the Planning Commission meeting. To submit correspondence at the meeting, please provide 15 copies, and submit to the Planning Commission Secretary before the start time of the meeting.
- If correspondence is more than twenty (20) pages, requires printing of color pages, or includes pages larger than 8.5x11 inches, please provide 15 copies.
- Written comments/materials should be directed to the Planning Commission Secretary, at the Land Use Planning Division (Attn: Planning Commission Secretary).

Communications are Public Records: Communications to Berkeley boards, commissions, or committees are public records and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission, or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service, or in person, to the Secretary of the relevant board, commission, or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the Secretary to the relevant board, commission, or committee for further information.

Written material may be viewed in advance of the meeting at the Department of Planning & Development, Permit Service Center, **1947 Center Street, 3rd Floor**, during regular business hours, or at the Reference Desk, of the Main Branch Library, 2090 Kittredge St., or the West Berkeley Branch Library, 1125 University Ave., during regular library hours.

Note: If you object to a project or to any City action or procedure relating to the project application, any lawsuit which you may later file may be limited to those issues raised by you or someone else in the public hearing on the project, or in written communication delivered at or prior to the public hearing. The time limit within which to commence any lawsuit or legal challenge related to these applications is governed by Section 1094.6, of the Code of Civil Procedure, unless a shorter limitations period is specified by any other provision. Under Section 1094.6, any lawsuit

or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred.

Meeting Access: This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services Specialist, at 981-6418 (V) or 981-6347 (TDD), at least three (3) business days before the meeting date.

Please refrain from wearing scented products to public meetings.



Planning Commission

1 **DRAFT MINUTES OF THE REGULAR PLANNING COMMISSION MEETING**
 2 **September 5, 2018**

3 The meeting was called to order at 7:01 p.m.

4 **Location:** North Berkeley Senior Center, Berkeley, CA

5 **Commissioners Present:** Steve Martinot, Robb William Kapla, Christine Schildt, Jeff Vincent,
 6 Benjamin Fong, Prakash Pinto, Rob Wrenn, Benjamin Beach, Leah Simon-Weisberg (substitute
 7 for Mary Kay Lacey) (arrived at 7:09).

8 **Commissioners Absent:** Mary Kay Lacey (excused)

9 **Staff Present:** Secretary Alene Pearson, Sydney Stephenson, and Elizabeth Greene.

10 **ORDER OF AGENDA:** No changes.

11 **CONSENT CALENDAR:** None.

12 **PUBLIC COMMENT PERIOD:** No speakers.

13 **PLANNING STAFF REPORT:** Staff has provided a laminated Zoning Map for each
 14 Commissioner meeting. The next Commission meeting will be on October 3 with two items:
 15 public hearing for the small business package and formalized work plan report for the Planning
 16 Commission.

17 **COMMUNICATIONS IN PACKET:**

- 18 • 2018-09-05 – Marisa Kendall – Housing Reporter for East Bay Times – Information
- 19 Request
- 20 • 2018-09-05 – Rob Wrenn – Planning Commissioner – Memo with attachments for Item 9
- 21 • 2018-09-05 – Cal Dems – More Student Housing Now Support, Item 9
- 22 • 2018-09-05 – ASUC – Letter of Support More Student Housing Now Resolution, Item 9

23
 24 **LATE COMMUNICATIONS** (Received after the Packet deadline):

- 25 • 2018-09-05 – Aaron Eckhouse – Student Housing in the Southside, Item 9
- 26 • 2018-09-05 – Derek Sagehorn – Student Housing in the Southside, Item 9

27 **LATE COMMUNICATIONS** (Received and distributed at the meeting): None.

28 **CHAIR REPORT:** There has been no commission or subcommittee meeting since July. The
 29 Chair reported on the Ashby Bart Community meeting for public comment on the Adeline
 30 Corridor Project.

31 **COMMITTEE REPORT:** The second bundle of the Zoning Ordinance Revision Project (ZORP)
32 is being worked on by staff and the next subcommittee meeting shall be at the end of October or
33 beginning on November. The September 20 JSISHL committee meeting is cancelled.

34 **7. APPROVAL OF MINUTES:**

35 Motion/Second/Carried (Vincent/Schildt) to approve the Planning Commission Meeting
36 Minutes from July 18, 2018. Ayes: Martinot, Schildt, Fong, Kapla, Vincent, Beach. Noes: None.
37 Abstain: Pinto and Wrenn. Absent: Simon-Weisberg. (6-0-2-1)
38

39 **8. FUTURE AGENDA ITEMS AND OTHER PLANNING-RELATED EVENTS:** None.

40 **AGENDA ITEMS**

41 **9. Discussion: Student Housing in the Southside**

42 Staff presented the report by briefly reviewing the six related Council referrals, UC related
43 actions, and State regulations related to affordable student housing. The report included
44 analysis of six Council referrals related to affordable housing; the City Attorney’s analysis of
45 the possible local density bonus regulations; description of SB 1227 related to creating
46 affordable housing; and potential CEQA analysis that may be necessary to implement Zoning
47 changes. Staff identified five possible actions related to student housing in the Southside:

48 Short term:

- 49 1. Car-Free Housing
- 50 2. Community benefit
- 51 3. Convert commercial space
- 52 4. Implement SB 1227

53 Long-term

- 54 5. ZO changes to modify height and FAR

55
56 The Commission first discussed the City Attorney’s memo and requested that staff and the
57 City Attorney continue to explore the option of creating a local density bonus program with an
58 additional 15% density bonus. The Commission then discussed the five actions proposed by
59 staff, as well as the actions proposed by Commissioner Wrenn. Commissioner Wrenn’s memo
60 included: eliminating parking requirement in the R-S, upzoning R-3 parcels in the Southside
61 to R-S, and creating an additional 15% density bonus in the Southside. The Commission also
62 discussed connecting the actions discussed to incentives for affordable housing as much as
63 possible. The Planning Commission discussed the possibility of a supplemental EIR that would
64 have a shorter timeframe than two years, and the possibility of using the Council approved
65 \$45,000 for CEQA analysis of student housing zoning amendments. The Commission made
66 the following motion:
67

68 Motion/Second/Carried (Fong/Kapla) to give direction to staff to: 1) prioritize the car-free
69 housing and conversion of commercial space to residential actions and continue analyzing

70 the other three actions; 2) consider affordability incentives and requirements for all five
71 actions; 3) analyze Commissioner Wrenn's proposals; 4) explore expediting EIR and/or
72 supplemental EIR options; 5) analyze the in-lieu option and additional 15% for density
73 bonus; 6) encourage UC to build affordable student housing; and 7) prioritize actions that
74 take less time and money. Ayes: Martinot, Schildt, Fong, Kapla, Vincent, Wrenn, Beach
75 Simon-Weisberg, Pinto. Noes: None. Abstain: None. Absent: None. (9-0-0-0)
76

77 Public Comments: 26 speakers.

78 **10. Discussion: Referral Response: Amending Moderate Impact Home**
79 **Occupation Regulations**

80 Staff presented the Council referral related to Moderate-Impact Home Occupation and the
81 four additional amendments to the Home Occupations Chapter (BMC 23C.16) that staff
82 proposed. The Referral includes an amendment to reduce the level of discretion for
83 Moderate Impact Home Occupations that involve five or fewer customer or client visits per
84 day from UP to an AUP. The Use Permit would still be required for Moderate Impact Home
85 Occupations that involve more than 5 visits and storage or handling of goods on-site.

86 The four issues discussed in the report included:

- 87 1. Expanding customer/client visits to not only teaching-related Home Occupation (HO)
88 businesses. Two options were presented:
 - 89 ○ Allow five or fewer visits per day for Moderate-Impact HOs with an AUP
 - 90 ○ Allow four or fewer visits per day for Low-Impact HOs (with a ZC) and allow five
91 or more visits per day for Moderate Impact HOs (with an AUP)
- 92 2. Allow HO businesses in Accessory Buildings and Accessory Dwelling Units. The 20%
93 and 400 sq. ft. threshold would apply to ADUs but would not apply to Accessory
94 Buildings.
- 95 3. Allow handling, processing, and storage of goods on-site (except outdoors).
- 96 4. Reformat and restructure the chapter by consolidating information and requirements.

97 The Planning Commission discussed the four issues and proposals and provided staff with
98 direction and input. The Commission made the following motion:

99 Motion/Second/Carried (Schildt/Vincent) to request from staff to prepare Zoning language for
100 the Home Occupations chapter amendments including: 1) staff proposed option to allow four
101 or fewer visits per day for Low-Impact HOs (with a ZC) and allow five or more visits per day
102 for Moderate Impact HOs (with an AUP); 2) allow HO businesses in Accessory Buildings and
103 Accessory Dwelling units (making sure that HOs in ADUs are owner occupied) and
104 eliminating size threshold for Accessory Buildings; 3) allow handling, processing, and
105 storage of goods on-site (except outdoors); and 4) reformat and restructure the chapter by
106 consolidating information and requirements. Ayes: Martinot, Schildt, Fong, Kapla, Vincent,
107 Wrenn, Beach Simon-Weisberg, Pinto. Noes: None. Abstain: None. Absent: None. (9-0-0-0)

108

109 Public Comments: 1 speaker.

110 **The meeting was adjourned at 10:02 pm**

111 **Commissioners in attendance: 9 of 9**

112 **Members in the public in attendance: 46**

113 **Public Speakers: 27 speakers**

114 **Length of the meeting: 3 hour and 1 minute**

DRAFT



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: October 3, 2018

TO: Members of the Planning Commission

FROM: Alene Pearson, Principal Planner

SUBJECT: Public Hearing on Zoning Ordinance Amendments Supporting Small Businesses

SUMMARY

On June 20, 2018 and July 18, 2018, the Planning Commission considered a set of six City Council recommendations for Zoning Ordinance modifications that support Berkeley's small businesses. On July 18th, the Commission requested that a Public Hearing be set on October 3, 2018 to decide final direction on draft Zoning Ordinance amendments.

The list of amendments under consideration can be found in the September 21, 2018 Public Hearing Notice (*see Attachment 1*). Full red-lined text of draft Zoning Ordinance amendments is provided as *Attachment 2*. This report provides information requested by Commission, a summary of draft amendments, and questions for the Commission to consider. Direction given by the Planning Commission will provide information needed to finalize Zoning Ordinance amendments, which will be forwarded to City Council.

BACKGROUND

In April 2017, City Council referred to the City Manager development of programs and policies to support Berkeley's small businesses. The referral specifically called for streamlined zoning and permitting. Over the course of two meetings, Planning Commission considered recommendations, gave direction and asked staff to draft Zoning Ordinance amendments to be discussed at a Public Hearing. The Planning Commission also requested staff provide additional information on the following three subjects:

Parking Standards

Many cities' parking standards are based on the *Parking Generation Manual* published by the Institute of Transportation Engineers (ITE). Berkeley developed parking standards using this source in 1999 and landed on a base parking requirement of 1 space per 500 square feet (1:500) for most commercial uses and 1 space per 300 square feet (1:300) for Quick Service and Full Service Restaurants. The thought at the time was that restaurants generated more trips than generalized commercial businesses and therefore needed additional parking.

Over the last 20 years, climate awareness and improved public transportation options and experiences (e.g. real time arrival tracking etc.) have changed the way people travel. In recent years, adoption of bike-, car-, and ride-sharing has contributed to mode-shifts and reduced

Public Hearing on Zoning Ordinance Amendments to Support Small Businesses
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parking needs. Reduction in parking requirements may also be justified in walkable districts where patrons “park once and walk” to multiple destinations.

In trying to weigh the benefits of 1:500 versus 1:300 (as required with Recommendation 2), staff looked to neighboring cities, but found this approach problematic. Similar to Berkeley, most jurisdictions used earlier versions of ITE’s *Parking Generation Manual* or followed other neighboring jurisdiction’s standards. These comparisons created circular logic and did not illustrate any obvious best practices.

Levels of Discretion

The City of Berkeley has two types of Use Permits: Administrative Use Permits (AUPs) and Use Permits with a Public Hearing (UP(PH)s). AUPs and UP(PH)s are required (as designed in the Zoning Ordinance) for land uses that have the potential for negative impacts on surrounding neighborhoods. Permits can be approved if use is consistent with the purposes of the district and not detrimental to the neighborhood.

Both AUPs and UP(PH)s require noticing of neighbors, allow for public comment, and can be appealed. AUPs are reviewed and approved by staff. If an AUP is appealed, it goes to ZAB. ZAB’s decision on an AUP can be appealed to City Council. UP(PH)s are reviewed by the Zoning Adjustments Board and require a Public Hearing. ZAB’s decision can be appealed to City Council. AUPs can take approximately 2-8 months for approval. A UP(PH) can take between 6-24 months. An AUP can cost between \$1800 and \$3,300. A UP(PH) can cost between \$5,200 and \$7,000.

Permit Thresholds

Recommendations 2 and 5 require Planning Commission to evaluate permit thresholds¹ for certain commercial uses in select districts. Specifically, 1) condensing food service categories requires permit threshold modifications in C-DMU and C-E; and 2) modifying level of discretion for Commercial Recreation Centers (CRCs) from UP(PH) to Zoning Certificate (ZC) and AUP requires establishing new permitting thresholds.

The July 18, 2018 Staff Report (*see Attachment 3*) provides a table of average sizes of commercial spaces by district. This analysis (based on available information) showed that commercial spaces in Neighborhood Commercial districts ranged between 1,237 -- 1,520 square feet and commercial spaces in Avenue Commercial districts ranged between 1,472 – 3,577 square feet.

At the July 18, 2018 meeting, the Commission recommended applying C-DMU’s CRC permit thresholds to Avenue Commercial districts. The Commission was considering 3,000 to 5,000 square feet for the AUP-UP(PH) threshold for Neighborhood Commercial districts. Table 1 (below) provides examples of commercial spaces in Neighborhood Commercial districts that fall into this size range. This information is provided for illustrative purposes only and is meant to help visualize storefront sizes.

Table 1: Selected Commercial Spaces between 3000 and 5000 Square Feet

Zoning District	Property Address	Square Feet	Current Tennant (Q2 2018)
C-E	2887 College	3,231	Elmwood Laundry
C-E	2635 Ashby	3461	Donato & Co.
C-E	2959 College	3500	Wells Fargo Bank
C-NS	2100 Vine	3,306	Earthly Goods
C-NS	1475 Shattuck	3,350	Saul's Deli & Restaurant
C-NS	1491 Shattuck	4,918	Books Inc

¹ Permit thresholds are referred to throughout this report as the size in square feet that triggers a change in permit type (and level of discretion).

C-SA	2974 Sacramento	3,290	Sacramento Market
C-SA	3192 Adeline	3130	Firehouse Art Collective
C-SA	3250 Adeline	3,477	The Vault Cafe
C-SA	3215 Adeline	3,577	Washington Coin Wash
C-SO	1870 Solano (upper floor)	3,075	Old Republic Title Company
C-SO	1744 Solano	3,348	Pharmaca
C-SO	889 Ensenada Ave	3,500	Happy Hour Fitness

DISCUSSION

The Discussion section presents each of the six Recommendations in the context of:

- Existing Regulations
- Proposed Amendments (excerpts of code – see *Attachment 2* for full text)
- Reasoning
- Questions for Planning Commission

1. **Remove Requirement to Provide Incremental Change in Parking Spaces Associated with a Change of Use in the Commercial Districts**

Existing Regulations: The Zoning Ordinance currently requires new businesses to provide additional parking (“the incremental change in parking”) if a proposed use has a higher parking requirement than a previous use. This change is triggered solely by use and does not involve an increase in size of commercial space.

Proposed Amendments:

- In Chapter 23E.28 (Off-Street Parking and Transportation Services Fee), modify Section 23E.28.130 (Parking Requirements for Change of Use and Expansions of Buildings in the C, M, MM, MU and R-SMU Districts) to explicitly list districts requiring the incremental change in parking (i.e. M, MM, MU and R-SMU), thereby exempting C-districts. The following red-lined code excerpt from 23E.28.130 is provided as an example:
 - A. No change of use shall be required to meet the off-street parking requirements of either the district or this chapter unless 1) the structure has been expanded to include new floor are or 2) in the M, MM, MU and R-SMU Districts, the use is changed to one with a higher numerical parking standard than the district minimum.
- In Chapters 23E.36 (C-1), 23E.40 (C-N), 23E.48 (C-NS), 23E.52 (C-SA), 23E.60 (C-SO) and 23E.64 (C-W), modify Section 23E.XX.080.B (Parking – Number of Spaces) to remove “or change of use.” The following red-lined code excerpt from 23E.36.080 is provided as an example:
 - B. The district minimum standard parking requirement for commercial floor area is two spaces per 1,000 square feet of gross floor area. Uses listed in Table 23E.36.080 shall meet the requirements listed or the district minimum, whichever is more restrictive, for newly constructed floor area ~~or changes of use.~~

Reasoning: Finding additional off-street parking for existing commercial spaces is difficult and can require a parking waiver. Parking waivers are expensive and involve an AUP – adding time and money to the permitting process for businesses wanting to locate in existing commercial spaces. Removing the requirement for incremental parking associated with

change of use has the potential to reduce vacancies by making existing commercial spaces more attractive to small businesses.

QUESTION FOR PLANNING COMMISSION: Do the proposed draft amendments for Recommendation 1 reflect Planning Commission goals? If no, provide additional direction.

2. Condense Existing Food Service Categories (Carry Out, Quick Service, and Full Service) into a Single Category (Food Service Establishment)

Existing Regulations: The Zoning Ordinance currently splits food service into three categories: Carry Out Food Stores, Quick Service Restaurants or Full Service Restaurants. Parking standards, levels of discretion, permitting thresholds, and findings differ by category and by commercial district. See Attachment 3, Table 2 (Food Service Establishment Regulations) for a summary current regulations.

Proposed Amendments:

Note that collapsing food Service Categories creates four discrepancies in level of discretion that need to be addressed. Amendments resolve these issues as follows:

1. Reduce level of discretion in C-T for Quick Service Restaurants from UP(PH) to AUP if commercial space is greater than 1,500 square feet.
 2. Reduce level of discretion in C-W for Quick Service Restaurants from UP(PH) to AUP if commercial space is greater than 1,500 square feet.
 3. Reduce level of discretion in the C-W for Full Service Restaurants from UP(PH) to AUP if commercial space is over 2,500 square feet.
 4. Decrease the permit threshold that triggers an AUP in the C-DMU for Quick Service Restaurants and Carry Out Food Stores from 2,000 square feet to 4,000 square feet.
- In Chapters 23E.36 (C-1), 23E.40 (C-N), 23E.44 (C-E), 23E.48 (C-NS), 23E.52 (C-SA), 23E.56 (C-T), 23E.60 (C-SO), 23E.64 (C-W), and 23E.68 (C-DMU), modify Section 23E.XX.030.A (Uses Permitted Table) to 1) replace three existing food service categories with “food service establishment”; 2) add corresponding levels of discretion; and 3) delete references to parking standards in 23E.XX.080. See red-lined excerpt from 23E.40.030.A as an example:

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Food Service Establishments		
Carry Out Food Service Stores	AUP**	
Under 1,000 s.f.	ZC	
Over 1,000 s.f.	AUP**	
Quick Service Restaurants	AUP**	Subject to additional parking requirements under
Under 1,000 s.f.	ZC	Section 23E.40.080.B

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Full-Service Restaurants	AUP**	
Under 1,000 s.f.	ZC	

- In Chapters 23E.36 (C-1), 23E.40 (C-N), 23E.44 (C-E), 23E.48 (C-NS), 23E.52 (C-SA), 23E.56 (C-T), 23E.60 (C-SO), 23E.64 (C-W), and 23E.68 (C-DMU), modify Section 23E.XX.030.A (Uses Permitted Table) to replace “incidental to food service at quick and full service restaurants” with “incidental to seated food service”. Exact text may vary slightly, but will be similar to red-lined excerpt from 23E.40.030.A shown below:

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Alcoholic Beverage Service of beer and wine incidental to quick and full service restaurants <u>seated</u> food service at	AUP <u>ZC</u>	For on-site consumption only

- In Chapters 23E.36 (C-1), 23E.40 (C-N), 23E.44 (C-E), 23E.48 (C-NS), 23E.52 (C-SA), 23E.60 (C-SO), 23E.64 (C-W), and 23E.68 (C-DMU), modify Section 23E.XX.030.A (Uses Permitted Table) to delete references to “Quick and Full Service Restaurants” associated with Outdoor Café Seating. See red-lined excerpt from Table 23E.40.030.A as example:

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Outdoor Cafe Seating When seating not abutting R-District	ZC	Quick and Full-Service Restaurants only

Note that collapsing food Service Categories creates a discrepancy with respect to parking requirements for Food Service Categories. Amendments resolve this issue by reducing parking requirements from 1:300 to 1:500 for Quick Service and Full Service Restaurants in the Commercial districts.

- In Chapters 23E.36 (C-1), 23E.40 (C-N), 23E.48 (C-NS), 23E.52 (C-SA), 23E.60 (C-SO), and 23E.64 (C-W), modify Section 23E.XX.080.B (Parking – Number of Spaces Table or

Off-Street Parking and Loading Requirements Table) to delete “Quick or Full Service Restaurants” row. See red-lined excerpt from Table 23E.40.080 as an example:

Table 23E.40.080	
Parking Required	
Use	Number of spaces
Hospitals	One per each four beds plus one per each three employees
Libraries	One per 500 sq. ft. of floor area that is publicly accessible
Medical Practitioner Offices	One per 300 sq. ft. of floor area
Quick or Full Service Restaurants	One per 300 sq. ft. of floor area
Residential Uses, Nursing Homes	Refer to R-3 Standards, Section 23D.36.080

Note that collapsing food Service Categories creates a discrepancy with respect to 1,000 square foot limit that currently applies to Carry Out Food Stores and Quick Service Restaurants in C-E. Amendments resolve this issue as by removing the size limitation.

- In Chapters 23E.44 (C-E), modify Section 23E.44.040 (Numerical Limitations Table) to delete food service categories.

Table 23E.44.040			
Numerical Limitations			
Use	Number Limit	Size (sq. ft.)	Type of Permit
Art/Craft Shops, Gift/Novelty Shops, Jewelry/Watch Shops	No limit	1,500	Zoning Certificate
Bookstores, Periodical Stands	No limit	2,000	Zoning Certificate
Food Service Establishments:	25		
Carry Out Food Service		1,000	Subject to classifications listed in Table 23E.44.030
Quick Service Restaurants		1,000	
Full Service Restaurants		None	
Photocopy Stores, Printing, Fax, Magnetic Disk Reproduction Services	No limit	1,000	Zoning Certificate

- The following Sections explicitly reference one or more food service categories. Modifications remove these references, but maintain the intent of the Zoning Ordinance using alternate language. Code excerpts are provided below:

23E.52.030.A (Uses Permitted Table/Alcoholic Beverage Service)

No service of distilled alcoholic beverages is allowed along Adeline Street south of Ashby Avenue, except as incidental to ~~meals in Full-Service Restaurants only~~ seated food service; see Section 23D.52.060 D1.

23E.56.030.A (Uses Permitted Table/Alcoholic Beverage Service)

Service of distilled alcoholic beverages may be approved for ~~full-service restaurants only~~ seated food service

23E.60.030.A (Uses Permitted Table/Alcoholic Beverage Service)

Service of distilled alcoholic beverages may be approved for ~~full-service restaurants only~~ food service establishments providing seated food service; see Section 23E.60.060 D1

23E.52.060.D.1 (Use Limitations*)

The sale and service of distilled alcoholic beverages (hard liquor) is prohibited along Adeline Street, south of Ashby Avenue, except that such service may be allowed subject to obtaining a Use Permit for ~~full~~ seated food service ~~and onsite consumption restaurants~~ when such service is incidental to meals.

23E.56.060.C (Use Limitations*)

On-premises service and consumption of distilled alcoholic beverages shall be permitted with ~~in full-service restaurants~~ seated food service only.

23E.60.060.D.1 (Use Limitations*)

No on-premises service and consumption of distilled alcoholic beverages shall be allowed except ~~in full-service restaurants~~ with seated food service, and subject to obtaining a Use Permit.

23E.68.040.A.2 (Downtown Arts District Overlay)

The types of uses which would enhance the Arts District include ground floor retail uses which would contribute to the cultural vitality of the area, ~~full-and-quick-service restaurants~~ seated food service, and uses which provide pedestrian scale and siting.

23E.68.040.C (Downtown Arts District Overlay)

No ~~new carry-out food service store~~ food service establishment exclusively providing food for offsite consumption or office use located on the ground floor adjacent to a street frontage may be established within the Downtown Arts District Overlay, either as a new use or as a change of use, unless an Administrative Use Permit is approved by the Zoning Officer subject to the findings in Section 23E.68.090.C.

23E.68.090.C (Findings)

For each Administrative Use Permit obtained under Section 23E.68.040.C to allow a new food service establishment ~~carry-out food service store~~ exclusively providing food for offsite consumption or ground floor office use within the Downtown Arts District Overlay, the Zoning Officer must find that:

Section 23E.98.050 Definitions

Specialized food products and no more than 25% of retail space is devoted to one or more of the following Incidental Uses: owner operated and/or independent ~~Carry-Out Food and/or Quick-Service Restaurants~~ food service establishments selling food from local and regional producers and sales of Retail Products from local and regional produce.

- The following Sections relate to findings for Carry Out Food Stores or Quick Service Restaurants. Modifications remove references or specific findings:

23E.64.030.A (Uses Permitted Table/Food Service Categories)

Food service drive-through prohibited on San Pablo. See Section [23E.64.040.C](#) and E. ~~Also see Section [23E.64.090.H](#) for special findings~~

23E.64.090.H (Findings for Quick Service and Carry Out Food Stores):

Delete "H"

Reasoning: Food service categories were established to track quotas, which are no longer in effect. In most districts, levels of discretion and thresholds are consistent, eliminating the need for specific categories. In the instances where there are inconsistencies, staff has noted exceptions.

QUESTIONS FOR PLANNING COMMISSION:

Reducing Discretion from UP(PH) to AUP: In three instances (in C-T and C-W) certain food service categories require UP(PH)s and therefore create a conflict in condensing food categories. Since the aim of this referral is to streamline permitting, staff used the lower level of discretion (AUPs – which still require neighbor noticing and are subject to appeal) in the draft Zoning Ordinance amendments in these districts. **Does the Commission agree with this approach? If not, provide alternate direction.**

Determining ZC-AUP threshold for Food Service Establishments in the C-DMU: Currently the permit threshold that triggers an AUP in the C-DMU for Quick Service Restaurants and Carry Out Food Stores is 2,000 square feet. The permit threshold that triggers an AUP for Full Service Restaurants is 4,000 square feet. Other commercial districts consistently have low ZC-AUP permit thresholds of either 1,000 square feet (Neighborhood Commercial) or 1,500 square feet (Avenue Commercial). However, the C-DMU is unique in its proximity to transit, UC Berkeley, the Civic Center Overlay, and the Arts District Overlay. It is also characterized by high density housing. **What ZC-AUP threshold does the Commission want to use for Food Service Establishments in the C-DMU?**

Removing 1:300 Parking Requirement for Food Service Establishments: Two food service categories (Quick Service Restaurants and Full Service Restaurants) require more parking than Carry Out Food Stores. As explained in this report, parking regulations were established in 1999 and may not reflect current needs and/or customer shopping patterns. Since the aim of this referral is to reduce barriers to small businesses, draft Zoning Ordinance amendments are written with 1:500 parking requirements for Food Service Establishments. **Does the Commission agree with this approach? If not, provide alternate direction.**

Removing 1,000 square foot Cap on Food Service Establishments in C-E: Currently in the Zoning Ordinance, Carry Out Food Stores and Quick Serve Restaurants in C-E cannot exceed 1,000 square feet without a variance. This regulation was established to preserve the character and quality of storefronts within the commercial district. This regulation does not apply to Full Service Restaurants. Currently 25 Food Service Establishments are allowed in the C-E. The draft Zoning Ordinance amendments propose to remove the 1,000 square foot limit, but keep the numerical limitation of 25 and the AUP requirement to locate a Food Service Establishments in the district. **Does the Commission agree with this approach? If not, provide alternate direction.**

In addition to the above, do the proposed draft amendments for Recommendation 2 reflect Planning Commission goals? If no, provide additional direction.

3. Standardize Change of Use Square Footage Thresholds in Commercial Districts

Existing Regulations: The Zoning Ordinance currently requires a UP(PH) for commercial businesses that establish in existing storefronts over a certain size that involve a change of use. Table 2 (below) lists Commercial districts and corresponding size thresholds that trigger a UP(PH):

Table 2: Permits Required for Commercial Change of Use

Zoning District	Commercial Space (square feet)	Existing
C-E, C-N, C-NS, C-SO	over 3,000	UPPH
C-1, C-SA	over 5,000	UPPH

Proposed Amendments:

- In Chapters 23E.36 (C-1), 23E.40 (C-N), 23E.44 (C-E), 23E.48 (C-NS), 23E.52 (C-SA), and 23E.60 (C-SO) modify the legend in Section 23E.XX.030.A (Uses Permitted Table) to reduce the level of discretion from UP(PH) to AUP for the size thresholds listed in the table above. See red-lined example from 23E.36.030.A:

Legend:	
ZC – Zoning Certificate	*Change of Use of floor area between 3,000 and 5,000 sq. ft. shall require an AUP; over 3,000 5,000 sq. ft. shall require an <u>AUP</u> UP(PH)
AUP – Administrative Use Permit	
UP(PH) – Use Permit, public hearing required	**Change of Use of floor area over 5,000 sq. ft. shall require an AUP UP(PH)
Prohibited – Use not permitted	

Reasoning: Analysis of district standards showed that existing regulations for change of use thresholds were consistent across Avenue Commercial districts and across Neighborhood Commercial districts (see Attachment 3 for details). Therefore the focus of this recommendation shifted to a helping small business owners by lowering the level of discretion from a UP(PH) to an AUP for commercial businesses moving into existing spaces. This change will shorten permitting timelines and reduce permit costs while still allowing interested parties to comment on applications and submit appeals.

QUESTION FOR PLANNING COMMISSION: Do the proposed draft amendments for Recommendation 3 reflect Planning Commission goals? If no, provide additional direction.

4. Reduce the Level of Discretion from a UPPH to an AUP when Establishing a “Use Deemed Compatible” in a Commercial District

Existing Regulations: The Zoning Officer can approve an unlisted use for a commercial business if the use is deemed compatible with the purposes of the district. The C-N, C-E, C-NS, C-SA and C-SO (all Neighborhood Commercial districts) require a UP(PH) to initiate this process. In all other districts, an AUP is required.

Proposed Amendments:

- In Chapters 23E.40 (C-N), 23E.44 (C-E), 23E.48 (C-NS), 23E.52 (C-SA), and 23E.60 (C-SO) modify Section 23E.XX.030.B to reduce level of discretion. See red-lined excerpt from 23E.40.030.B as an example:
 - B. Any Use not listed that is compatible with the purposes of the C-N District shall be permitted subject to securing an Administrative Use Permit. Any use that is not compatible with the purposes of the C-N District shall be prohibited

Reasoning: This modification creates consistency across all commercial districts and reduces the permit process for business owners. All new uses will be subject to discretionary review and neighbor noticing. Uses must be determined to be compatible with the unique purposes of the district. Note that with an AUP, the Zoning Officer’s decision would still be subject to appeal.

QUESTION FOR PLANNING COMMISSION: Do the proposed draft amendments for Recommendation 4 reflect Planning Commission goals? If no, provide additional direction.

5. Apply the Permitting Thresholds for Commercial Recreation Centers in the C-DMU to All Commercial Districts.

Current Regulations: Commercial Recreation Centers (CRCs) currently require a UP(PH) in all commercial districts, except in the C-T and the C-DMU. CRCs are allowed in the C-T (all sizes) with an AUP and 300 foot noticing to neighbors. In the C-DMU, the following regulations apply, as shown in Table 3:

Table 3: Permits Required for CRCs in the C-DMU

Size Threshold (square feet)	Permit Required
under 5,000	ZC
5,000 – 10,000	AUP
over 10,000	UPPH

Proposed Amendments:

- In Chapters 23E.36 (C-1), 23E-56 (C-T), and 23E.64 (C-W) – the Avenue Commercial districts -- modify Section 23E.XX.030.A (Uses Permitted Table/Commercial Recreation Row) to match C-DMU’s regulations. See red-lined excerpt from 23E.40.030.B as an example:

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Commercial Recreation Center	<u>UP(PH)</u>	<u>Outdoor use requires UP(PH)</u>

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
<u>Under 5,000 s.f.</u>	<u>ZC</u>	
<u>Between 5,000--10,000 s.f.</u>	<u>AUP</u>	
<u>Over 10,000 s.f.</u>	<u>UP(PH)</u>	

- In Chapters 23E.40 (C-N), 23E.44 (C-E), 23E.48 (C-NS), 23E.52 (C-SA), and 23E.60 (C-SO) modify Section 23E.XX.030.A (Uses Permitted Table/Commercial Recreation Center Row) where ZC-AUP permitting threshold is 1,500 square feet and AUP-UP(PH) permitting threshold is 5,000 square feet. See red-lined excerpt from 23E.40.030.B as an example:

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Commercial Recreation Center	UP(PH)	<u>Outdoor use requires UP(PH)</u>
<u>Under 1,500 s.f.</u>	<u>ZC</u>	
<u>Between 1,500--5,000 s.f.</u>	<u>AUP</u>	
<u>Over 5,000 s.f.</u>	<u>UP(PH)</u>	

Reasoning: Applying C-DMU’s permitting thresholds to Avenue Commercial districts and a lower permit threshold to Neighborhood Commercial districts (note 5,000 square feet is used in the draft Zoning Ordinance amendments) achieves consistency across districts with similar purposes and simplifies the permitting process for business owners. CRCs traditionally have low profit-margins and are operated independently. Reducing the level of discretion will help these smaller businesses establish in Berkeley. CRCs bring energy and foot traffic to commercial districts. This recommendation provides equity for business applicants by creating more location options (i.e. less competition for retail space) and helping with to distribute CRCs throughout the City.

QUESTION FOR PLANNING COMMISSION:

What AUP-UP(PH) threshold does the Planning Commission recommend for Neighborhood Commercial districts? See the *Threshold* discussion in the Background section of this report for more information.

Do the proposed draft amendments for Recommendation 5 reflect Planning Commission goals: If not, provide direction?

6. Allow the incidental service of beer and wine at food service establishments with a Zoning Certificate and conformance to performance standards.

Current Regulations: Currently, beer and wine incidental to seated food service requires an AUP in all commercial districts. AUPs require conditions of approval that outline operating procedures and expectations.

Proposed Amendments:

- In Chapters 23E.36 (C-1), 23E.40 (C-N), 23E.44 (C-E), 23E.48 (C-NS), 23E.52 (C-SA), 23E.56 (C-T), 23E.60 (C-SO), 23E.64 (C-W), and 23E.68 (C-DMU), modify Section 23E.XX.030.A (Uses Permitted Table) to lower the level of discretion from an AUP to a ZC for “Alcoholic Beverage Service of beer and wine incidental to seated food service.” Exact language may differ, but see red-lined excerpt from 23E.40.030.A as an example:

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Alcoholic Beverage Service of beer and wine incidental to seated food service at quick and full service restaurants	AUP ZC	For on-site consumption only

- In Chapters 23E.16 (Special Provisions) modify Section 23E.16.040.A (Alcoholic Beverages) to add performance standards to be applied with beer and wine service incidental to food service in Commercial districts. Full text of code is provided in Attachment 2. See red-lined excerpt from 23E.16.040.A to see how existing code has been modified to accommodate performance standards.
 - A. No alcoholic beverage sales or alcoholic beverage service may be commenced or increased in any way unless authorized by a Use Permit, except that:
 1. In C-prefixed districts, quick-service or full service food service establishments with incidental beer and/or wine service for seated, onsite consumption may be authorized by a Zoning Certificate subject to the following ALCOHOLIC BEVERAGE SERVICE performance standards:

<< see Attachment 2 for performance standards >>

2. In all other districts, food service establishments with incidental beer and/or wine service for seated, onsite consumption may be authorized by an Administrative Use Permit.

Reasoning: Applications for beer and wine are non-controversial and rarely denied. The conditions that are applied to this activity have been proven overtime to effectively limit detriment and will be codified in Section 23E.16.040 (Alcoholic Beverages).

QUESTION FOR PLANNING COMMISSION: *Do the proposed draft amendments for Recommendation 6 reflect Planning Commission goals? If no, provide additional direction.*

NEXT STEPS

Staff recommends that the Planning Commission hold a Public Hearing, take public comment, and provide final direction on draft Zoning Ordinance amendments that support small businesses by way of a vote.

ATTACHMENTS

1. September 21, 2018 Public Hearing Notice
2. Draft Zoning Ordinance Amendments
3. July 18, 2018 Staff Report



PLANNING COMMISSION

NOTICE OF PUBLIC HEARING

Consider Zoning Ordinance Amendments that Support Small Businesses by Modifying Parking Requirements, Levels of Discretion, Permitting Size Thresholds and Food Service Categories in Berkeley's Commercial Districts

Berkeley Municipal Code (BMC) Chapters 23E.16, 23E.36, 23E.40, 23E.44, 23E.48, 23E.52, 23E.56, 23E.60, 23E.64, 23E.68, and 23E.98

The Planning Commission, of the City of Berkeley, will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23A.20.30, on **Wednesday, October 3, 2018**, at the North Berkeley Senior Center, 1901 Hearst Ave. (at Martin Luther King, Jr. Way), Berkeley (wheelchair accessible). The meeting starts at 7:00 p.m.

PROJECT DESCRIPTION: The proposed amendments to Berkeley's Zoning Ordinance support small businesses by reducing parking requirements, levels of discretion, and permitting size thresholds for businesses in Commercial districts. Amendments also create a single food service category and provide performance standards for restaurants serving food or service beer and wine incidental to food service. Amendments recommended by Planning Commission respond to City Council's May 15, 2018, direction to make the zoning process for small businesses less complex and more efficient.

Full text of Zoning Ordinance Amendments can be found on the Planning Commission's homepage (https://www.cityofberkeley.info/Clerk/Commissions/Commissions_Planning_Commission_Homepage.a.spx). Changes to be considered apply only to Commercial districts and are summarized below:

- Remove incremental parking requirement associated with a change of use in existing commercial spaces. (*BMC Sections 23E.28.130, 23E.36.030.A, 23E.36.080.B, 23E.40.030.A, 23E.40.080.B, 23E.48.030.A, 23E.48.080.B, 23E.52.030.A, 23E.52.080.B, 23E.60.030.A, 23E.60.080.B, 23E.64.030.A, 23E.64.080*);
 - Condense three food service categories into one category. Consolidation requires reducing parking ratio from 1 space: 300 ft² to 1 space: 500 ft², removing the Use Permit with Public Hearing (UP(PH)) process for certain restaurants in C-T and C-W; modifying permitting threshold-size for certain restaurants in C-W and C-DMU; and removing the 1,000 ft² size-limit on certain restaurants in the C-E. (*BMC Sections 23E.36.030.A, 23E.36.080.B, 23E.40.030.A, 23E.40.080.B, 23E.44.030.A, 23E.44.040.A, 23E.48.030.A, 23E.48.080.B, 23E.52.030.A, 23E.52.060.D.1, 23E.52.080.B, 23E.56.030.A, 23E.56.060.C, 23E.60.030.A, 23E.60.060.D.1, 23E.60.080.B, 23E.64.030.A, 23E.64.080.B, 23E.64.090.H, 23E.68.030.A, 23E.68.040.A.2, 23E.68.090.C, 23E.98.050*);
- Reduce level of discretion associated with a change of use from UP(PH) to Administrative Use Permit (AUP) for certain uses. Changes apply to existing commercial spaces greater than 3,000 ft² in C-E, C-N, C-NS, C-SO and existing commercial spaces greater than 5,000 ft² in C-1 and C-SA. (*BMC Sections 23E.36.030, 23E.40.030, 23E.44.030, 23E.48.030, 23E.52.030, 23E.60.030*);

ZO AMENDMENTS THAT SUPPORT SMALL BUSINESSES

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NOTICE OF PUBLIC HEARING

Posted: September 22, 2018

- Reduce the level of discretion from a UP(PH) to an AUP when establishing a “Use Deemed Compatible” in C-E, C-N, C-NS, C-SA, C-SO. (*BMC Sections 23E.40.030.B, 23E.44.030.B, 23E.48.030.B, 23E.52.030.B, 23E.60.030.B*);
- Reduce level of discretion for Commercial Recreation Centers from UP(PH) to AUP or Zoning Certificate (ZC) depending on size and location of business. (*BMC Sections 23E.36.030.A, 23E.40.030.A, 23E.44.030.A, 23E.48.030.A, 23E.52.030.A, 23E.56.030.A, 23E.60.030.A, 23E.64.030.A*); and
- Allow incidental service of beer and wine at Food Service Establishments with a ZC and conformance to performance standards. Codify performance standards for beer/wine and food service. (*BMC Chapter 23E.16 and BMC Sections 23E.36.030.A, 23E.40.030.A, 23E.44.030.A, 23E.48.030.A, 23E.52.030.A, 23E.56.030.A, 23E.60.030.A, 23E.64.030.A, 23E.68.030.A*).

LOCATION: Affected districts include: C-1, C-E, C-N, C-NS, C-SA, C-SO, C-T, C-W, and C-DMU. The zoning map is available online: http://www.ci.berkeley.ca.us/uploadedFiles/IT/Level_3_-_General/Zoning%20Map%2036x36%2020050120.pdf

ENVIRONMENTAL REVIEW STATUS: The project is categorically exempt from the California Environmental Quality Act by Guidelines Section 15301 as a Class 1 project that pertains to the operation and permitting of existing facilities.

PUBLIC COMMENT

Comments may be made verbally at the public hearing and in writing before the hearing. Those wishing to speak at the hearing must submit a speaker card. Written comments concerning this project should be directed to:

Planning Commission
Alene Pearson, Secretary
Land Use Planning Division
1947 Center Street
Berkeley, CA 94704

Fax: (510) 981-7489
E-mail: apearson@cityofberkeley.info

To assure distribution to Commission members prior to the meeting, **correspondence must be received by 12:00 noon, eight (8) days before the meeting date.** Fifteen (15) copies must be submitted of any correspondence that requires color printing or pages larger than 8.5x11 inches.

COMMUNICATION ACCESS

To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice), or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability.

FURTHER INFORMATION

Questions should be directed to **Alene Pearson**, at (510) 981-7489, or apearson@cityofberkeley.info. Past and future agendas are also available on the Internet at: https://www.cityofberkeley.info/Clerk/Commissions/Commissions_Planing_Commission_Homepage.aspx

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

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23E. 16.040 Alcoholic Beverages

A. No alcoholic beverage sales or alcoholic beverage service may be commenced or increased in any way unless authorized by a Use Permit, except that:

1. In C-prefixed districts, quick-service or full service food service establishments with incidental beer and/or wine service for seated, onsite consumption may be authorized by a Zoning Certificate subject to the following ALCOHOLIC BEVERAGE SERVICE performance standards:

a. Licensing

- 1) The food service establishment shall comply with all applicable regulations of the California Department of Alcoholic Beverage Control; and
- 2) Any operator of the licensed establishment shall not have had a prior licensed establishment that was the subject of verified complaints or violations regarding alcohol, public safety or nuisance statutes or regulations prior to issuance or transfer of a business license at this location.

b. Service

- 3) Beer and wine beverage service shall be "incidental" to the primary food service use, as defined in Berkeley Municipal Code (BMC) Zoning Ordinance Section 23F.04.010 Definitions;
- 4) Beer and wine service incidental to seated food service shall only be allowed at a "bona fide eating place" making "actual and substantial sales of meals," as determined and required by the California Department of Alcohol Beverage Control (ABC);
- 5) The sale of beer and wine for off-site consumption is prohibited;
- 6) Employees shall not serve beer or wine to patrons who appear to be inebriated or otherwise unable to behave in an orderly manner upon consuming alcohol; and
- 7) All beer and wine served to patrons must be served in durable restaurant tableware. No beer or wine may be distributed in its original bottle or can, or in any other potentially disposable container.

c. Operations

- 1) The food service establishment must operate at least five days a week;
- 2) The service of beer and wine shall be limited to the restaurant's hours of operation;
- 3) At no time shall the operator rent the restaurant space to a third-party promoter;
- 4) The owner or operator of the establishment shall take reasonable measures to prevent disturbances by patrons in the immediate vicinity. Such measures shall include:
 - Signs reminding patrons of nearby residences and requests not to congregate or loiter near such residences nor operate vehicles in a noisy manner on residential streets.

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- 44 • Surveillance to public areas near the establishment, keep such areas free of
- 45 trash and litter, provide lighting, and otherwise attempt to prevent conduct
- 46 that might disturb the peace and quiet of residences in the vicinity.
- 47 5) The operator shall assume reasonable responsibility for ensuring that patrons do
- 48 not block the entrance or interfere with pedestrian activity on the adjacent public
- 49 sidewalk; and
- 50 6) The applicant shall establish cash handling procedures to reduce the likelihood of
- 51 robberies and theft.
- 52
- 53 d. Advertising
- 54 1) There shall be no exterior advertising or sign of any kind or type, including
- 55 advertising directed to the exterior from within, promoting or indicating the
- 56 availability of alcoholic beverages. Interior displays of alcoholic beverages or signs
- 57 which are clearly visible to the exterior shall constitute a violation of this code;
- 58 and
- 59 2) Neither alcohol-dispensing facilities nor sign(s) advertising alcoholic beverages
- 60 shall be visible from the public right-of-way.
- 61
- 62 e. Training
- 63 1) Crime Prevention through Environmental Design (CPTED) survey shall be
- 64 completed prior to commencing alcohol service; and
- 65 2) All employees selling and/or serving beer and wine, or directly supervising such
- 66 sales and/or service, shall comply with BMC 9.84.030 (Responsible Beverage
- 67 Service Training) and complete the Licensee Education on Alcohol and Drugs
- 68 (LEAD) program, or another equivalent program offered or certified by the
- 69 California Department of Alcoholic Beverage Control within 90 days of
- 70 employment at the establishment. Employees who have completed the course
- 71 within the last twelve (12) months shall be exempt from this requirement.
- 72
- 73 2. In all other districts, food service establishments with incidental beer and/or wine service for
- 74 seated, onsite consumption may be authorized by an Administrative Use Permit.
- 75

76 **23E.28.130 Parking Requirements for Change of Use and Expansions of Buildings in C,**
77 **M, MM, MU and R-SMU Districts**

- 78 A. No change of use shall be required to meet the off-street parking requirements of either the district or this
- 79 chapter unless 1) the structure has been expanded to include new floor are or 2) in the M, MM, MU and R-SMU
- 80 Districts, the use is changed to one with a higher numerical parking standard than the district minimum. When
- 81 the new use has the same or a lower numerical parking standard than the previous use, the new use shall not
- 82 be required to meet the off-street parking requirements of the district and this chapter.

- 83 B. No new floor area shall be created through building expansions, unless it satisfies the parking
- 84 requirements of the district and this chapter. However, the Zoning Officer may modify the parking requirements

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85 for new floor area for expansions of existing buildings with an Administrative Use Permit, subject to the findings
86 in Section [23E.28.140](#) or [23E.28.145](#).

87 C. ~~In the M, MM, MU and R-SMU districts, F~~for a change of use of existing floor area where the new use has
88 a higher numerical parking standard than the existing use as listed in the district provisions, the following
89 applies :

90 1. The new use must provide the incremental difference between the two numerical parking standards,
91 which must meet all other parking requirements.

92 2. A higher numerical parking standard may be reduced to the district minimum and other parking
93 requirements may be modified with an Administrative Use Permit, subject to the findings in
94 Section [23E.28.140](#) or [23E.28.145](#). If the new use requires a Use Permit, the Zoning Adjustments Board
95 shall approve, deny or modify the request, subject to the findings in Section [23E.28.140](#) or [23E.28.145](#). If
96 the numerical parking reduction is approved, no additional off-street parking is required. (Ord. 7210-NS
97 § 17, 2011; Ord. 7167-NS § 1, 2011; Ord. 6856-NS § 6 (part), 2005)

98

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

99 **C-1**

100 **23E.36.030 Uses Permitted**

101 A. The following table sets forth the permits required for each listed item. Each use or structure shall be
 102 subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a
 103 public hearing (UP(PH)) or is prohibited.

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Retail Sales		
All Retail Sales Uses, except those listed below	ZC*	As defined in Sub-title F, except otherwise listed (does not include Video Rental Stores)
Alcoholic Beverage Retail Sales including Liquor Stores and Wine Shops	UP(PH)	Includes sale for off-site consumption at restaurants Prohibited within the University Avenue Strategic Plan Overlay (unless in conjunction with a restaurant or general food product store)
Department Stores	ZC*	
Firearm/Munitions Businesses	UP(PH)	Prohibited on any property devoted to residential use
Pawn Shops, including Auction Houses	UP(PH)	Prohibited within the University Avenue Strategic Plan Overlay
Pet Stores, including Sales and Grooming of Animals (but not Boarding)	UP(PH)	
Smoke Shops	UP(PH)	Prohibited if within 1,400 feet of a school or public park
Personal and Household Services		
All Personal and Household Services, except those listed below	ZC*	As defined in Sub-title F, except those otherwise listed (does not include Massage)

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Laundromats	AUP**	
Veterinary Clinics, including Pet Hospitals	UP(PH)	
Offices		
Financial Services, Retail (Banks)	AUP**	
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC*	
Medical Practitioners, including Holistic Health and Mental Health Practitioners	ZC*	Subject to parking requirements; see Table 23E.36.080
Non-Chartered Financial Institutions	UP(PH)	Subject to additional requirements; see Table 23E.36.080
Other Professionals, and Government, Institutions, Utilities	ZC*	
Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses		
Adult-oriented Businesses	UP(PH)	Subject to additional requirements; see Section 23E.16.030
Alcoholic Beverage Service of beer and wine incidental to seated food service at quick and full service restaurants	AUP <u>ZC</u>	For on-site consumption only

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Alcoholic Beverage Service, including Bars, Cocktail Lounges, and Taverns	UP(PH)	Includes service of distilled spirits incidental to food service
Amusement Device Arcades	UP(PH)	Subject to additional requirements; see Section 23E.16.050
Commercial Recreation Center <u>Under 5,000 s.f.</u> <u>Between 5,000--10,000 s.f.</u> <u>Over 10,000 s.f.</u>	UP(PH) <u>ZC</u> <u>AUP</u> <u>UP(PH)</u>	<u>Outdoor use requires UP(PH)</u>
Dance, Exercise, Martial Arts and Music Studios	ZC*	
Entertainment Establishments, including Nightclubs	UP(PH)	
Food Service Establishments Carry-Out Food Service Stores Under 1,500 s.f. <u>Over 1,500 s.f.</u> Quick Service Restaurants <u>Under 1,500 s.f.</u> Full Service Restaurants <u>Under 1,500 s.f.</u>	AUP** ZC <u>AUP**</u> AUP** ZC AUP** ZC	<u>Food service establishments that exclusively sell food for offsite consumption are prohibited</u> at any location on University Avenue between Oxford Street and Martin Luther King Jr. Way until a Downtown Retail Plan is adopted by the City Council Subject to parking requirements; see Section 23E.36.080 Subject to parking requirements; see Section 23E.36.080
Group Class Instruction for Business, Vocational or Other Purposes	ZC*	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Gyms and Health Clubs Under 7,500 s.f.	AUP** ZC*	
Hotels, Tourist, including Inns, Bed and Breakfasts and Hostels	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Motels, Tourist	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Theaters, including Motion Pictures and Stage Performance	UP(PH)	
Automobile and Other Vehicle Oriented Uses		
Automobile Parts Stores	ZC*	Excluding service of auto parts. Prohibited within the University Avenue Strategic Plan Overlay
Automobile Repair and Service, including Parts Service	AUP**	Prohibited within the University Avenue Strategic Plan Overlay
Automobile Sales and Rentals	AUP**	Prohibited within the University Avenue Strategic Plan Overlay
Automobile Washes, Mechanical or Self-Service	UP(PH)	Prohibited within the University Avenue Strategic Plan Overlay
Automobile Wrecking Establishments	Prohibited	
Gasoline/Automobile Fuel Stations	UP(PH)	
Motorcycle Stores, including Sales and/or Service	UP(PH)	Prohibited within University Avenue Strategic Plan Overlay

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Recreational Vehicle and Trailers Sales and Rental, including Boats	AUP**	Prohibited within University Avenue Strategic Plan Overlay
Tire Sales/Service Stores	UP(PH)	Prohibited within University Avenue Strategic Plan Overlay
Parking, Outdoor and Exterior Service Window Uses		
Automatic Teller Machines	AUP	Exterior and when part of a Retail Financial Service
Drive-in Uses	UP(PH)	Providing service to customers in their cars. See definition in Subtitle F. Prohibited within University Avenue Strategic Plan Overlay
Activities or Storage outside of a building		
Not abutting R-District	AUP	
When abutting R-District	UP(PH)	
Parking Lots		
Five or fewer Off-street Parking Spaces	ZC	
More than five Off-street Parking Spaces	UP(PH)	
Recycling Redemption Centers	AUP	
Outdoor Cafe Seating		Quick and Full-Service Restaurants only
When seating not abutting R-District	ZC	
When seating abutting R-District	AUP	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Combination Commercial/Residential Uses		
Live/Work Units		
Not requiring a UP under Chapter 23E.20	ZC	
Requiring a UP under Chapter 23E.20	UP(PH)	
Mixed Use Developments (Residential/Commercial)	UP(PH)	Subject to Sections 23E.36.070.D and 23E.36.080.E . Within the University Avenue Strategic Plan Overlay areas, the following uses are not allowed on the ground floor of a Mixed Use building unless a Use Permit is issued pursuant to Sections 23E.36.090.A and B: residential units and uses (other than parking) which serve the residential uses, e.g., leasing and management of the building
Uses Incidental to a Permitted Use		
Amusement Devices (up to three)	AUP	
Food or Beverage for Immediate Consumption	ZC	
Live Entertainment		
Unamplified	ZC	
Amplified	AUP	
Manufacturing Uses	AUP	
Storage of Goods (over 25% of gross floor area)	AUP	
Wholesale Activities	AUP	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

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
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)	
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
Hospitals	UP(PH)	Subject to parking requirements; see Section 23E.36.080

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
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)	
Miscellaneous Uses		
Automatic Teller Machines	UP(PH)	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Circus or Carnival	UP(PH)	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	UP(PH)	
Emergency Shelter		See Chapter 23C.10 .
Up to 25 beds	ZC	
More than 25 beds	UP(PH)	
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing	AUP**	
Mortuaries	UP(PH)	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television, or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Warehouses or Storage including Mini-storage Warehouses	UP(PH)	Prohibited within the University Avenue Strategic Plan Overlay
Wireless Telecommunications Facilities		
Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site	AUP	Subject to the requirements of Section 23C.17.100

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Is Not Adjacent to a Residential District All Other Telecommunication Facilities	UP(PH)	Subject to the requirements and findings of Section 23C.17.100
Urban Agriculture Low-Impact Urban Agriculture (LIUA) High-Impact Urban Agriculture (HIUA)	ZC AUP	23C.26
Legend:		
ZC – Zoning Certificate AUP – Administrative Use Permit	*Change of Use of floor area between 3,000 and 5,000 sq. ft. shall require an AUP; over 3,000-5,000 sq. ft. shall require an AUP UP(PH)	
UP(PH) – Use Permit, public hearing required Prohibited – Use not permitted	**Change of Use of floor area over 5,000 sq. ft. shall require an AUP UP(PH)	

104

105 **23E.36.080 Parking -- Number of Spaces**

106 B. The district minimum standard parking requirement for commercial floor area is two spaces per 1,000
 107 square feet of gross floor area. Uses listed in Table [23E.36.080](#) shall meet the requirements listed or the district
 108 minimum, whichever is more restrictive, for newly constructed floor area ~~or changes of use.~~

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.36.080	
Parking Required	
Use	Number of spaces
Hospitals	One per each four beds plus one per each three employees
Hotels	One per each three guest/sleeping rooms or suites plus one per each three employees
Libraries	One per 500 sq. ft. of floor area that is publicly accessible
Medical Practitioner Offices	One per 300 sq. ft. of floor area
Motels	One per each guest/sleeping room plus one space for owner or manager*
Quick or Full Service Restaurants	One per 3/500 sq. ft. of floor area
Residential Uses, Nursing Homes	Refer to R-3 Standards, Section 23D.36.080
*Required parking shall be on same lot as building it serves.	

109

110

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

111 **C-N**

112 **23E.40.030 Uses Permitted**

113 A. The following table sets forth the permits required for each listed item. Each use or structure shall be
 114 subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a
 115 public hearing (UP(PH)) or is prohibited.

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Retail Sales		
All Retail Sales Uses, except those listed below	ZC*	As defined in Sub-title F, except otherwise listed. (Does not include Video Rental Stores)
Alcoholic Beverage Retail Sales including liquor stores and wine shops	UP(PH)	Includes sale for off-site consumption at restaurants
Department Stores Over 3,000 s.f.	AUP Prohibited	
Drugstores	ZC*	A new or expanded Drugstore is prohibited if it is over 5000 square feet in Gross Floor Area, and within 1000 feet of any property containing an existing Drugstore, as measured by a straight line from the nearest point of the property line of the parcel on which the Drugstore is proposed to the nearest point of the property line of the parcel on which the nearest Drugstore is located.
Firearm/Munitions Businesses	UP(PH)	Prohibited on any property devoted to residential use
Pawn Shops, including Auction Houses	Prohibited	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Pet Stores, including Sales and Grooming of Animals (but not Boarding)	UP(PH)	
Smoke Shops	UP(PH)	Prohibited if within 1,400 feet of a school or public park
Personal and Household Services		
All Personal and Household Services, except those listed below	ZC*	As defined in Sub-title F, except those otherwise listed (does not include Massage)
Laundromats	UP(PH)	
Veterinary Clinics, including Pet Hospitals	UP(PH)	
Offices		
Financial Services, Retail (Banks)	UP(PH)	
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC*	When located on the ground floor adjacent to a street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area
Non-Chartered Financial Institutions	Prohibited	
Medical Practitioners including Holistic Health and Mental Health Practitioners	AUP**	Subject to additional parking requirements under Section 23E.40.080.B

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Other Professionals and Government, Institutions, Utilities	AUP**	When located on the ground floor adjacent to a street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area
Food and Alcohol Service, Lodging, Entertainment and Assembly Uses		
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service of beer and wine incidental to <u>seated</u> food service <u>at quick and full-service restaurants</u>	<u>AUP</u> <u>ZC</u>	For on-site consumption only
Alcoholic Beverage Service, including Bars, Cocktail Lounges and Taverns	UP(PH)	Includes service of distilled spirits incidental to food service
Amusement Device Arcades	Prohibited	
Commercial Recreation Center <u>Under 1,500 s.f.</u> <u>Between 1,500--5,000 s.f.</u> <u>Over 5,000 s.f.</u>	UP(PH) <u>ZC</u> <u>AUP</u> <u>UP(PH)</u>	<u>Outdoor use requires UP(PH)</u>
Dance, Exercise, Martial Arts and Music Studios	ZC*	
Entertainment Establishments	UP(PH)	Includes Nightclubs

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Food Service Establishments		
Carry-Out Food Service Stores	AUP**	
Under 1,000 s.f.	ZC	
<u>Over 1,000 s.f.</u>	<u>AUP**</u>	
Quick Service Restaurants	AUP**	Subject to additional parking requirements under Section <u>23E.40.080-B</u>
Under 1,000 s.f.	ZC	
Full Service Restaurants	AUP**	
Under 1,000 s.f.	ZC	
Group Class Instruction for Business, Vocational or Other Purposes	AUP**	
Gyms and Health Clubs	ZC*	
Hotels, Tourist	UP(PH)	Includes Inns, Bed and Breakfasts and Hostels
Motels, Tourist	Prohibited	
Theaters	UP(PH)	Includes Motion Pictures and Stage Performance
Automobile and Other Vehicle Oriented Uses		
Automobile Parts Stores	ZC*	Excluding service of auto parts
Automobile Repair and Service	Prohibited	Includes Parts Service
Automobile Sales and Rentals	Prohibited	
Automobile Washes, Mechanical or Self-Service	Prohibited	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Automobile Wrecking Establishments	Prohibited	
Gasoline/Automobile Fuel Stations	UP(PH)	
Motorcycle Stores	Prohibited	Includes Sales and/or Service
Recreational Vehicle and Trailers Sales and Rental	Prohibited	Includes Boats
Tire Sales/Service Stores	Prohibited	
Parking, Outdoor and Exterior Service Window Uses		
Activities or Storage Outside of a building		
Not abutting R-District	AUP	
When abutting R-District	UP(PH)	
Automatic Teller Machines	UP(PH)	Exterior and when part of a Retail Financial Service
Drive-in Uses	Prohibited	Providing service to customers in their cars. See definition in Sub-title F
Parking Lots	UP(PH)	
Recycling Redemption Centers	AUP	
Outdoor Cafe Seating		Quick and Full Service Restaurants only
When seating not abutting R-District	ZC	
When seating abutting R-District	AUP	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Combination Commercial/Residential Uses		
Live/Work Units		
Not requiring a UP under Chapter 23E.20	ZC	
Requiring a UP under Chapter 23E.20	UP(PH)	
Mixed Use Developments (Residential/Commercial)	UP(PH)	Subject to the standards under Section 23E.40.070.D
Uses Incidental to a Permitted Use		
Amusement Devices (up to three)	UP(PH)	
Food or Beverage for Immediate Consumption	AUP	
Live Entertainment		
Unamplified	ZC	
Amplified	UP(PH)	
Manufacturing Uses	UP(PH)	
Storage of Goods (over 25% of gross floor area)	AUP	
Wholesale Activities	UP(PH)	
Uses Permitted in Residential Districts		

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

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)	
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
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

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
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)	
Miscellaneous Uses		
Automatic Teller Machines	UP(PH)	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Dry Cleaning and Laundry Plants	Prohibited	
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing	Prohibited	
Mortuaries	Prohibited	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Warehouses or Storage including Mini-storage Warehouses	Prohibited	
Wireless Telecommunications Facilities		
Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District	AUP	Subject to the requirements of Section 23C.17.100
All Other Telecommunication Facilities	UP(PH)	Subject to the requirements of Section 23C.17.100
Urban Agriculture		23C.26

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Low-Impact Urban Agriculture (LIUA)	ZC	
High-Impact Urban Agriculture (HIUA)	AUP	
Legend:		
ZC – Zoning Certificate AUP – Administrative Use Permit UP(PH) – Use Permit, public hearing required Prohibited – Use not permitted	*Change of Use of floor area between 2,000 and 3,000 sq. ft. shall require an AUP; over <u>2,000 3,000</u> sq. ft. shall require an <u>AUP, UP(PH)</u> **Change of Use of floor area over 3,000 sq. ft. shall require an <u>AUP UP(PH)</u>	

116 B. Any Use not listed that is compatible with the purposes of the C-N District shall be permitted subject to
 117 securing an Administrative Use Permit. Any use that is not compatible with the purposes of the C-N District
 118 shall be prohibited

119 **23E.40.080 Parking -- Number of Spaces**

120 B. The district minimum standard parking requirement for commercial floor area is two spaces per 1,000
 121 square feet of gross floor area. Uses listed in Table 23E.40.080 shall meet the requirements listed or the district
 122 minimum, whichever is more restrictive, for newly constructed floor area ~~or changes of use.~~

Table 23E.40.080	
Parking Required	
Use	Number of spaces
Hospitals	One per each four beds plus one per each three employees

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.40.080	
Parking Required	
Use	Number of spaces
Libraries	One per 500 sq. ft. of floor area that is publicly accessible
Medical Practitioner Offices	One per 300 sq. ft. of floor area
Quick or Full Service Restaurants	One per 300 sq. ft. of floor area
Residential Uses, Nursing Homes	Refer to R-3 Standards, Section 23D.36.080

123

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

124 **C-E**

125 **23E.44.030 Uses Permitted**

126 A. The following table sets forth the permits required for each listed item. Each use or structure shall be
 127 subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a
 128 public hearing (UP(PH)) or is prohibited.

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Retail Sales		
All Retail Sales Uses, except those listed below	ZC*	As defined in Sub-title F, except otherwise listed (does not include Video Rental Stores).
Alcoholic Beverage Retail Sales, including liquor stores and wine shops	UP(PH)	Includes sale for off-site consumption at restaurants
Department Stores Over 3,000 s.f.	ZC* Prohibited	
Drugstores	ZC*	A new or expanded Drugstore is prohibited if it is over 5000 square feet in Gross Floor Area, and within 1000 feet of any property containing an existing Drugstore, as measured by a straight line from the nearest point of the property line of the parcel on which the Drugstore is proposed to the nearest point of the property line of the parcel on which the nearest Drugstore is located.
Firearm/Munitions Businesses	UP(PH)	Prohibited on any property devoted to residential use
Pawn Shops, including Auction Houses	Prohibited	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Pet Stores, including Sales and Grooming of Animals	UP(PH)	Does not include boarding of animals
Smoke Shops	UP(PH)	Prohibited if within 1,400 feet of a school or public park
Personal and Household Services		
All Personal/Household Services, except those listed below	ZC*	As defined in Sub-title F, except those otherwise listed (does not include Massage).
Laundromats	UP(PH)	
Veterinary Clinics, including Pet Hospitals	UP(PH)	
Video Tape/Disk Rental Stores	AUP**	
Offices		
Financial Services, Retail (Banks)	UP(PH)	
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC*	When located on the ground floor adjacent to a street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area
Medical Practitioners	Prohibited	Including Holistic Health and Mental Health Practitioners
Non-Chartered Financial Institutions	Prohibited	
Other Professionals and Government, Institutions, Utilities	AUP**	When located on the ground floor adjacent to a street frontage, storefront windows required to include a window display or to be

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
		transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area
Food and Alcohol Service, Lodging, Entertainment and Assembly Uses		
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service	UP(PH)	Service of alcoholic beverages allowed only as incidental to food service in Food Service Establishments
Alcoholic Beverage Service of beer and wine incidental to seated food service at quick and full service restaurants	AUP ZC	For on-site consumption only
Amusement Device Arcades	Prohibited	
Commercial Recreation Center Under 1,500 s.f. Between 1,500--5,000 s.f. Over 5,000 s.f.	UP(PH) ZC AUP UP(PH)	Outdoor use requires UP(PH)
Dance, Exercise, Martial Arts and Music Studios	AUP**	
Entertainment Establishments, including Nightclubs	Prohibited	
Food Service Establishments: Carry-Out Food Service Stores Quick Service Restaurants Full Service Restaurants	AUP** AUP** AUP**	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Group Class Instruction for Business, Vocational or Other Purposes	AUP**	
Gyms and Health Clubs	AUP**	
Hotels, Tourist, including Inns, Bed and Breakfasts and Hostels	UP(PH)	
Motels, Tourist	Prohibited	
Theaters	UP(PH)	Including Motion Pictures and Stage Performance
Automobile and Other Vehicle Oriented Uses		
Automobile Parts Stores	ZC*	Excluding service of auto parts
Automobile Repair and Service, including Parts Service	Prohibited	
Automobile Sales and Rentals	Prohibited	
Automobile Washes, Mechanical or Self-Service	Prohibited	
Automobile Wrecking Establishments	Prohibited	
Gasoline/Automobile Fuel Stations	Prohibited	
Motorcycle Stores, including Sales and/or Service	Prohibited	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Recreational Vehicle and Trailers Sales and Rental, including Boats	Prohibited	
Tire Sales/Service Stores	Prohibited	
Parking, Outdoor and Exterior Service Window Uses		
Activities or Storage Outside of a building		
Not abutting R-District	AUP	
When abutting R-District	UP(PH)	
Automatic Teller Machines (exterior and when part of a Retail Financial Service)	UP(PH)	
Drive-in Uses	Prohibited	Providing service to customers in their cars. See definition in Subtitle F
Parking Lots	UP(PH)	
Recycling Redemption Centers	AUP	
Outdoor Cafe Seating		Quick and Full-Service Restaurants only
When seating not abutting R-District	ZC	
When seating abutting R-District	AUP	
Combination Commercial/Residential Uses		
Live/Work Units		

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Not requiring a UP under Chapter 23E.20	ZC	
Requiring a UP under Chapter 23E.20	UP(PH)	
Mixed Use Developments (Residential/Commercial)	UP(PH)	Subject to the standards under Section 23E.44.070.E
Uses Incidental to a Permitted Use		
Amusement Devices (up to three)	UP(PH)	
Food or Beverage for Immediate Consumption	UP(PH)	Treated as Food Service Establishment and subject to numerical limitations in Table 23E.44.040 . Incidental Food and Beverage for Immediate Consumption off the premises is permitted as an Accessory Use of a Food Product Store.
Live Entertainment		
Unamplified	ZC	
Amplified	Prohibited	
Manufacturing Uses	UP(PH)	
Storage of Goods (over 25% of gross floor area)	AUP	
Wholesale Activities	UP(PH)	
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

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)	
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
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
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)	
Miscellaneous Uses		
Automatic Teller Machines	Prohibited	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Dry Cleaning and Laundry Plants	Prohibited	
Emergency Shelter		See Chapter 23C.10 .
Up to 25 beds	ZC	
More than 25 beds	UP(PH)	
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing	Prohibited	
Mortuaries	Prohibited	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Warehouses or Storage including Mini-storage Warehouses	Prohibited	
Wireless Telecommunications Facilities		
Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District	AUP	Subject to the requirements and findings of Section 23C.17.100

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
All Other Telecommunication Facilities	UP(PH)	Subject to the requirements and findings of Section 23C.17.100
Urban Agriculture		23C.26
Low-Impact Urban Agriculture (LIUA)	ZC	
High-Impact Urban Agriculture (HIUA)	AUP	
Legend:		
ZC – Zoning Certificate	*Change of Use of floor area between 2,000 and 3,000 sq. ft. shall require an AUP; over 2,000 3,000 sq. ft. shall require an <u>AUP</u> UP(PH)	
AUP – Administrative Use Permit		
UP(PH) – Use Permit, public hearing required	**Change of Use of floor area over 3,000 sq. ft. shall require an <u>AUP</u> UP(PH)	
Prohibited – Use not permitted		

129 B. Any Use not listed that is compatible with the purposes of the C-E District shall be permitted subject to
 130 securing an Administrative Use Permit. Any Use that is not compatible with the purposes of the C-E District
 131 shall be prohibited.

132 **23E.44.040 Special Provisions -- Numerical Limitations**

133 A. Uses subject to numerical limitations as set forth in Table [23E.44.040](#) shall also be subject to the
 134 requirements of Section [23E.44.030](#). No such limitation may be exceeded unless the Board issues an
 135 Administrative Use Permit and makes the findings under Section [23E.44.090.C](#).

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.44.040			
Numerical Limitations			
Use	Number Limit	Size (sq. ft.)	Type of Permit
Art/Craft Shops, Gift/Novelty Shops, Jewelry/Watch Shops	No limit	1,500	Zoning Certificate
Bookstores, Periodical Stands	No limit	2,000	Zoning Certificate
Food Service Establishments:	25		
Carry-Out Food Service		1,000	Subject to classifications listed in <u>Table 23E.44.030</u>
Quick Service Restaurants		1,000	
Full Service Restaurants		None	
Photocopy Stores, Printing, Fax, Magnetic Disk Reproduction Services	No limit	1,000	Zoning Certificate

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DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

138 **C-NS**

139 **23E.48.030 Uses Permitted**

140 A. The following table sets forth the permits required for each listed item. Each use or structure shall be
 141 subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a
 142 public hearing (UP(PH)) or is prohibited.

Table 23E.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Retail Sales		
All Retail Sales Uses, except those listed below	ZC*	As defined in Sub-title F, except otherwise listed (does not include Video Rental Stores).
Alcoholic Beverage Retail Sales, including liquor stores and wine shops	UP(PH)	Includes sale for off-site consumption at restaurants
Department Stores Over 3,000 s.f.	ZC* Prohibited	
Drugstores	ZC*	A new or expanded Drugstore is prohibited if it is over 5000 square feet in Gross Floor Area, and within 1000 feet of any property containing an existing Drugstore, as measured by a straight line from the nearest point of the property line of the parcel on which the Drugstore is proposed to the nearest point of the property line of the parcel on which the nearest Drugstore is located.
Firearm/Munitions Businesses	UP(PH)	Prohibited on any property devoted to residential use
Pawn Shops, including Auction Houses	Prohibited	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Pet Stores, including Sales and Grooming of Animals (but not Boarding)	UP(PH)	
Smoke Shops	UP(PH)	Prohibited if within 1,400 feet of a school or public park
Personal and Household Services		
All Personal and Household Services, except those listed below	ZC*	As defined in Sub-title F, except those otherwise listed (does not include Massage)
Laundromats	UP(PH)	
Veterinary Clinics, including Pet Hospitals	UP(PH)	
Offices		
Financial Services, Retail (Banks)	UP(PH)	
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC*	When located on the ground floor adjacent to street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area
Medical Practitioners	UP(PH)	Including Holistic Health and Mental Health Practitioners. Subject to parking requirements; see Table 23E.48.080
Non-Chartered Financial Institutions	Prohibited	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Other Professionals and Government, Institutions, Utilities	AUP**	When located on the ground floor adjacent to street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area
Food and Alcohol Service, Lodging, Entertainment and Assembly Uses		
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service of beer and wine incidental to seated food service at quick and full service restaurants	AUP <u>ZC</u>	For on-site consumption only
Alcoholic Beverage Service (no Bars, Cocktail Lounges, or Taverns allowed)	UP(PH)	Service of distilled alcoholic beverages may be approved only for Full Service Restaurants
Amusement Device Arcades	Prohibited	
Commercial Recreation Center <u>Under 1,500 s.f.</u> <u>Between 1,500--5,000 s.f.</u> <u>Over 5,000 s.f.</u>	UP(PH) <u>ZC</u> <u>AUP</u> <u>UP(PH)</u>	<u>Outdoor use requires UP(PH)</u>
Dance, Exercise, Martial Arts and Music Studios	AUP**	
Entertainment Establishments, including Nightclubs	UP(PH)	
Food Service Establishments Carry-Out Food Service Stores Under 1,000 s.f.	AUP** ZC	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Over 1,000 s.f.	AUP**	
Quick Service Restaurants	AUP**	Subject to parking requirements; see Section 23E.48.080
Under 1,000 s.f.	ZC	
Full Service Restaurants	AUP**	
Under 1,000 s.f.	ZC	
Group Class Instruction for Business, Vocational or Other Purposes	AUP**	When located on the ground floor adjacent to street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area; not to exceed 2,500 sq. ft.
Gyms and Health Clubs	AUP**	
Hotels, Tourist, including Inns, Bed and Breakfasts and Hostels	UP(PH)	
Motels, Tourist	Prohibited	
Theaters, including Motion Pictures and Stage Performance	Prohibited	
Automobile and Other Vehicle Oriented Uses		
Automobile Parts Stores	ZC*	Excluding service of auto parts
Automobile Repair and Service, including Parts Service	Prohibited	
Automobile Sales and Rentals	Prohibited	
Automobile Washes, Mechanical or Self-Service	Prohibited	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Automobile Wrecking Establishments	Prohibited	
Gasoline/Automobile Fuel Stations	UP(PH)	
Motorcycle Stores, including Sales and/or Service	Prohibited	
Recreational Vehicle and Trailers Sales and Rental, including Boats	Prohibited	
Tire Sales/Service Stores	Prohibited	
Parking, Outdoor and Exterior Service Window Uses		
Activities or Storage Outside of a building		
Not abutting R-District	AUP	
When abutting R-District	UP(PH)	
Automatic Teller Machines	AUP	Exterior and when part of a Retail Financial Service
Drive-in Uses	UP(PH)	Providing service to customers in their cars. See definition in Subtitle F
Parking Lots	UP(PH)	
Recycling Redemption Centers	AUP	
Outdoor Cafe Seating		Quick and Full-Service Restaurants only
When seating not abutting R-District	ZC	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
When seating abutting R-District	AUP	
Combination Commercial/Residential Uses		
Live/Work Units		
Not requiring a UP under Chapter 23E.20	ZC	
Requiring a UP under Chapter 23E.20	UP(PH)	
Mixed Use Developments (Residential/Commercial)	UP(PH)	Subject to the standards under Sections 23E.48.070.E and 23E.48.080.D
Uses Incidental to a Permitted Use		
Amusement Devices (up to three)	UP(PH)	
Food or Beverage for Immediate Consumption	UP(PH)	
Live Entertainment		
Unamplified	ZC	
Amplified	UP(PH)	
Manufacturing Uses	Prohibited	
Storage of Goods (over 25% of gross floor area)	AUP	
Wholesale Activities	Prohibited	
Uses Permitted in Residential Districts		

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.48.030		
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 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)	
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
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
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)	
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)	
Miscellaneous Uses		
Automatic Teller Machines	UP(PH)	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	
Commercial Excavations	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Dry Cleaning and Laundry Plants	UP(PH)	
Emergency Shelter		See Chapter 23C.10 .
Up to 25 beds	ZC	
More than 25 beds	UP(PH)	
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing	Prohibited	
Mortuaries	Prohibited	
Radio, Television, or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Public Utility Substations, Tanks	UP(PH)	
Warehouses or Storage including Mini-storage Warehouses	Prohibited	
Wireless Telecommunications Facilities		
Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District	AUP	Subject to the requirements and findings of Section 23C.17.100

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
All Other Telecommunication Facilities	UP(PH)	Subject to the requirements and findings of Section 23C.17.100
Urban Agriculture		23C.26
Low-Impact Urban Agriculture (LIUA)	ZC	
High-Impact Urban Agriculture (HIUA)	AUP	
Legend:		
ZC – Zoning Certificate	* Change of Use of floor area between 2,000 and 3,000 sq. ft. shall require an AUP; over 2,000 3,000 sq. ft. shall require an <u>AUP UP(PH)</u>	
AUP – Administrative Use Permit		
UP(PH) – Use Permit, public hearing required	** Change of Use of floor area over 3,000 sq. ft. shall require an <u>AUP UP(PH)</u>	
Prohibited – Use not permitted		

143 B. Any use not listed that is compatible with the purposes of the C-NS District shall be permitted subject to
 144 securing an Administrative Use Permit. Any Use that is not compatible with the purposes of the C-NS District
 145 shall be prohibited.

146 **23E.48.080 Parking -- Number of Spaces**

147 B. The district minimum standard parking requirement for commercial floor area is two spaces per 1,000
 148 square feet of gross floor area. Uses listed in Table [23E.48.080](#) shall meet the requirements listed or the district
 149 minimum, whichever is more restrictive, for newly constructed floor area ~~or changes of use.~~

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.48.080	
Parking Required	
Use	Number of spaces
Libraries	One per 500 sq. ft. of floor area that is publicly accessible
Medical Practitioner Offices	One per 300 sq. ft. of floor area
Quick or Full Service Restaurants	One per 300 sq. ft. of floor area
Residential Uses, Nursing Homes	Refer to R-3 Standards, Section 23D.36.080

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151

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

152 **C-SA**

153 **23E.52.030 Uses Permitted**

154 A. The following table sets forth the permits required for each listed item. Each use or structure shall be
 155 subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a
 156 public hearing (UP(PH)) or is prohibited.

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Retail Sales		
All Retail Sales Uses, except those listed below	ZC*	As defined in Sub-title F, except otherwise listed (does not include Video Rental Stores)
Alcoholic Beverage Retail Sales, including liquor stores and wine shops	UP(PH)	Includes sale for off-site consumption at restaurants No sales of distilled alcoholic beverages are allowed along Adeline Street south of Ashby Avenue
Department Stores Over 3,000 s.f.	ZC* UP(PH)	
Firearm/Munitions Businesses	UP(PH)	Prohibited on any property devoted to residential use
Pawn Shops	Prohibited	Including Auction Houses
Pet Stores	UP(PH)	Including Sales and Grooming of Animals (but not Boarding)
Smoke Shops	UP(PH)	Prohibited if within 1,400 feet of a school or public park
Personal and Household Services		
All Personal and Household Services, except those listed below	ZC*	As defined in Sub-title F, except those otherwise listed (does not include Massage)
Laundromats	AUP**	
Veterinary Clinics	UP(PH)	Including Pet Hospitals

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Offices		
Financial Services, Retail (Banks)	ZC*	
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC*	
Medical Practitioners, including Holistic Health and Mental Health Practitioners	ZC*	Subject to parking requirements; see Table 23E.52.080
Non-Chartered Financial Institutions	UP(PH)	Subject to additional requirements; see Section 23E.16.080
Other Professionals and Government, Institutions, Utilities	ZC*	
Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses		
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service of beer and wine incidental to <u>seated</u> food service at quick and full service restaurants	AUP <u>ZC</u>	For on-site consumption only
Alcoholic Beverage Service, including Bars, Cocktail Lounges and Taverns	UP(PH)	Includes service of distilled spirits incidental to food service. No service of distilled alcoholic beverages is allowed along Adeline Street south of Ashby Avenue, except as incidental to meals in Full Service Restaurants only <u>seated food service; see Section 23D.52.060 D1</u>
		No service of distilled alcoholic beverages is allowed along Adeline Street south of Ashby Avenue, except as incidental to meals in Full Service Restaurants only

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Amusement Device Arcades	UP(PH)	Subject to additional requirements; see Section 23E.16.050
Commercial Recreation Center Under 1,500 s.f. Between 1,500--5,000 s.f. Over 5,000 s.f.	UP(PH) ZC AUP UP(PH)	Outdoor use requires UP(PH)
Dance, Exercise, Martial Arts and Music Studios	ZC*	
Entertainment Establishments	UP(PH)	Including Nightclubs
Food Service Establishments Carry-Out Food Service Stores Under 1,000 s.f. Over 1,000 s.f. Quick Service Restaurants Under 1,000 s.f. Full Service Restaurants Under 1,000 s.f.	AUP** ZC AUP** AUP** ZC AUP** ZC	Subject to parking requirements; see Table 23E.52.080
Group Class Instruction for Business, Vocational or Other Purposes	ZC*	
Gyms and Health Clubs	ZC*	
Hotels, Tourist	UP(PH)	Including Inns, Bed and Breakfasts and Hostels
Motels, Tourist	Prohibited	
Theaters	UP(PH)	Including Motion Pictures and Stage Performance
Automobile and Other Vehicle Oriented Uses		

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Automobile Parts Stores	ZC*	Excluding service of auto parts
Automobile and Motorcycle Repair and Service, including Parts Service	Prohibited	
Automobile and Motorcycle Sales Exclusively indoor operations With outdoor activities	ZC* UP(PH)	Subject to additional requirements, see 23E.52.070.F . Uses with outdoor activities limited to the Dealership Overlay Area by Section 23E.52.060.E .
Automobile and Motorcycle Rentals	Prohibited	
Automobile Washes, Mechanical or Self-Service	Prohibited	
Automobile Wrecking Establishments	Prohibited	
Gasoline/Automobile Fuel Stations	UP(PH)	
Recreational Vehicle and Trailers Sales and Rental	Prohibited	Including Boats
Tire Sales/Service Stores	Prohibited	
Parking, Outdoor and Exterior Service Window Uses		
Activities or Storage Outside of a building Not abutting R-District	AUP	
When abutting R-District	UP(PH)	
Automatic Teller Machines	AUP	Exterior and when part of a Retail Financial Service
Drive-in Uses	UP(PH)	Which provide service to customers in their cars; see definition in Sub-title 23F

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Parking Lots, Parking Structures	UP(PH)	
Recycling Redemption Centers	AUP	
Outdoor Cafe Seating		Quick and Full-Service Restaurants only
When seating not abutting R-District	ZC	
When seating abutting R-District	AUP	
Combination Commercial/Residential Uses		
Live/Work Units	UP(PH)	Subject to the standards of Chapter 23E.20
Mixed Use Developments		
(Residential/Commercial) of less than 5,000 sq. ft.	ZC	Subject to the standards of Section 23E.52.070.D.1 through 6
(Residential/Commercial) of 5,000 sq. or more	UP(PH)	Subject to the standards of Section 23E.52.070.D.7
Uses Incidental to a Permitted Use		
Amusement Devices (up to three)	UP(PH)	
Food or Beverage for Immediate Consumption	ZC	
Live Entertainment		
Unamplified	ZC	
Amplified	AUP	
Manufacturing Uses	AUP	
Storage of Goods (over 25% of gross floor area)	AUP	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Wholesale Activities	AUP	
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)	
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
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.52.080

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
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)	
Miscellaneous Uses		
Automatic Teller Machines	UP(PH)	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	Prohibited	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Emergency Shelter Up to 25 beds More than 25 beds	ZC UP(PH)	See Chapter 23C.10 .
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing	Prohibited	
Mortuaries	Prohibited	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Warehouses or Storage, including Mini-storage Warehouses	Prohibited	
Wireless Telecommunications Facilities Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District All Other Telecommunication Facilities	AUP UP(PH)	Subject to the requirements and findings of Section 23C.17.100 Subject to the requirements and findings of Section 23C.17.100
Urban Agriculture Low-Impact Urban Agriculture (LIUA)	ZC	23C.26

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
High-Impact Urban Agriculture (HIUA)	AUP	
Legend:		
ZC – Zoning Certificate	*Change of Use of floor area between 3,000 and 5,000 sq. ft. shall require an AUP; over 3,000 5,000 sq. ft. shall require an <u>AUP UP(PH)</u>	
AUP – Administrative Use Permit		
UP(PH) – Use Permit, public hearing required	**Change of Use of floor area over 5,000 sq. ft. shall require an <u>AUP UP(PH)</u>	
Prohibited – Use not permitted		

157 B. Any use not listed that is compatible with the purposes of the C-SA District shall be permitted subject to
 158 securing an Administrative Use Permit. Any use that is not compatible with the purposes of the C-SA District
 159 shall be prohibited.

160 **23E.52.060 Use Limitations***

161 D. Adult-oriented Businesses are prohibited. Alcoholic Beverage Sales or Service Uses, Amusement
 162 Arcades, Live/Work Uses, and Non-Chartered Financial Institutions shall be subject to the requirements of
 163 Chapters 23E.16 and 23E.20 and the following requirement:

164 1. The sale and service of distilled alcoholic beverages (hard liquor) is prohibited along Adeline Street,
 165 south of Ashby Avenue, except that such service may be allowed subject to obtaining a Use Permit for
 166 ~~full seated food~~ service ~~and onsite consumption restaurants~~ when such service is incidental to meals.

167 **23E.52.080 Parking -- Number of Spaces**

168 B. The district minimum standard parking requirement for commercial floor area is two spaces per 1,000
 169 square feet of gross floor area. Uses listed in Table 23E.52.080 shall meet the requirements listed or the district
 170 minimum, whichever is more restrictive, for newly constructed floor area ~~or changes of use.~~

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.52.080	
Parking Required	
Use	Number of spaces
Libraries	One per 500 sq. ft. of floor area that is publicly accessible
Medical Practitioner Offices	One per 300 sq. ft. of floor area
Quick or Full Service Restaurants	One per 300 sq. ft. of floor area
Residential Uses, Nursing Homes	Refer to R-4 Standards, Section 23D.40.080
Automobile and Motorcycle Sales	One per 1,000 sq. ft. of floor area

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DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

173 **C-T**

174 **23E.56.030 Uses Permitted**

175 A. The following table sets forth the permits required for each listed item. Each use or structure shall be
 176 subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a
 177 public hearing (UP(PH)), or is Prohibited. See also Section [23E.56.070.C](#) for restrictions on usage of upper
 178 floors.

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Retail Sales		
All Retail Sales Uses, except those listed below	ZC	As defined in Sub-title 23F , except otherwise listed (does not include Video Rental Stores)
Alcoholic Beverage Retail Sales including liquor stores and wine shops	Prohibited	Includes sale for off-site consumption at restaurants
Department Stores Over 3,000 s.f.	ZC UP(PH)	
Drug Paraphernalia (any use involving the sale or distribution thereof)	Prohibited	As defined in California Health and Safety Code Section 11364.5(d)
Firearm/Munitions Businesses	UP(PH)	Prohibited on any property devoted to residential use
Pawn Shops	Prohibited	Including Auction Houses
Pet Stores	UP(PH)	Including Sales and Grooming of Animals (but not Boarding)
Smoke Shops	UP(PH)	Prohibited if within 1,400 feet of a school or public park
Personal and Household Services		

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
All Personal and Household Services, except those listed below	ZC	As defined in Sub-title 23F , except those otherwise listed (does not include Massage).
Laundromats	AUP*	
Veterinary Clinics	UP(PH)	Including Pet Hospitals
Offices		
Financial Services, Retail (Banks)	AUP*	
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC	Subject to restrictions above the ground floor except on Bancroft Way; see Section 23E.56.070 . When located on the ground floor adjacent to street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area.
Medical Practitioners, including Holistic Health and Mental Health Practitioners	AUP*	Subject to restrictions above the ground floor except on Bancroft Way; see Section 23E.56.070.C . When located on the ground floor adjacent to street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area.
Non-Chartered Financial Institutions	UP(PH)	Subject to additional requirements; see Section 23E.16.080
Other Professionals and Government, Institutions, Utilities	AUP*	Subject to restrictions above the ground floor except on Bancroft Way; see Section 23E.56.070.C . When located on the ground floor adjacent to street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area.

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Food and Alcohol Service, Lodging, Entertainment and Assembly Uses		
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service of beer and wine incidental to seated food service at quick and full service restaurants	AUP ZC	For on-site consumption only
Alcoholic Beverage Service, including Bars, Cocktail Lounges and Taverns	UP(PH)	For on-site consumption only Service of distilled alcoholic beverages may be approved for full service restaurants only <u>seated food service</u>
Amusement Device Arcades	Prohibited	
Commercial Recreation Center <u>Under 5,000 s.f.</u> <u>Between 5,000--10,000 s.f.</u> <u>Over 10,000 s.f.</u>	AUP* ZC AUP* UP(PH)	<u>Outdoor use requires UP(PH)</u>
Dance, Exercise, Martial Arts and Music Studios	ZC	
Entertainment Establishments	UP(PH)	Including Nightclubs
Food Service Establishments Carry Out Food Service Stores Under 1,500 s.f. Over 1,500 s.f. Quick Service Restaurants Under 1,500 s.f. Full Service Restaurants Under 1,500 s.f.	AUP* ZC AUP* UP(PH) ZC AUP* ZC	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Group Class Instruction for Business, Vocational or Other Purposes	ZC	Prohibited on ground floor adjacent to street frontage
Gyms and Health Clubs	ZC	
Hotels, Tourist, including Inns, Bed and Breakfasts and Hostels	UP(PH)	
Motels, Tourist	Prohibited	
Theaters, including Motion Pictures and Stage Performance	UP(PH)	
Automobile and Other Vehicle Oriented Uses		
Automobile Parts Stores	ZC	Excluding service of auto parts
Automobile Repair and Service	Prohibited	
Automobile Sales and Rentals	Prohibited	
Automobile Washes, Mechanical or Self-Service	Prohibited	
Automobile Wrecking Establishments	Prohibited	
Automobile/Motorcycle Parts Service	UP(PH)	
Gasoline/Automobile Fuel Stations	Prohibited	Except when located in a parking structure
Motorcycle Stores	Prohibited	Including Sales and/or Service
Recreational Vehicle and Trailers Sales and Rental, including Boats	Prohibited	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Tire Sales/Service Stores	Prohibited	
Parking, Outdoor and Exterior Service Window Uses		
Activities or Storage Outside of a building		
Not abutting R- District	AUP*	
When abutting R- District	UP(PH)	
Automatic Teller Machines	AUP*	Exterior and when part of a Retail Financial Service
Drive-in Uses	Prohibited	Which provide service to customers in their cars. See definition in Sub-title 23F
Parking Lots	Prohibited	
Parking Structures	UP(PH)	
Recycling Redemption Centers	AUP*	
Combination Commercial/Residential Uses		
Live/Work Units		
Not requiring a UP under Chapter 23E.20	ZC	
Requiring a UP under Chapter 23E.20	UP(PH)	
Mixed Use Developments (Residential/Commercial)	UP(PH)	Subject to Section 23E.56.070.E
Uses Incidental to a Permitted Use		
Amusement Devices (up to 3)	AUP*	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Food or Beverage for Immediate Consumption	AUP*	
Live Entertainment Unamplified	AUP* ZC	
Manufacturing Uses	AUP*	
Storage of Goods (over 25% of gross floor area)	AUP*	
Wholesale Activities	AUP*	
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)	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
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
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)	
Miscellaneous Uses		
Automatic Teller Machines	UP(PH)	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Cemeteries, Crematories, Mausoleums	Prohibited	
Circus or Carnival	UP(PH)	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	Prohibited	
Emergency Shelter Up to 25 beds More than 25 beds	 ZC UP(PH)	See Chapter 23C.10 .
Kennels or Pet Boarding	Prohibited	
Laboratories	Prohibited	Except photographic processing laboratories
Mortuaries	Prohibited	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Warehouses or Storage, including Mini-storage Warehouses	Prohibited	
Wireless Telecommunications Facilities		

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District	AUP	Subject to the requirements and findings of Section 23C.17.100
All Other Telecommunication Facilities	UP(PH)	Subject to the requirements and findings of Section 23C.17.100
Urban Agriculture		23C.26
Low-Impact Urban Agriculture (LIUA)	ZC	
High-Impact Urban Agriculture (HIUA)	AUP	
Legend:		
ZC – Zoning Certificate AUP – Administrative Use Permit * UP(PH) – Use Permit, public hearing required Prohibited – Use not permitted	* For the purposes of the C-T zoning district, uses established by AUP require public notification of a decision within a 300-foot radius of the subject property.	

179 **23E.56.060 Use Limitations***

180 C. On-premises service and consumption of distilled alcoholic beverages shall be permitted ~~with in full~~
 181 ~~service restaurants~~ seated food service only.

182

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

183 **C-SO**

184 **23E.60.030 Uses Permitted**

185 A. The following table sets forth the permits required for each listed item. Each use or structure shall be
 186 subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a
 187 public hearing (UP(PH)) or is prohibited.

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Retail Sales		
All Retail Sales Uses, except those listed below	ZC*	As defined in Sub-title F, except otherwise listed (does not include Video Rental Stores)
Alcoholic Beverage Retail Sales, including liquor stores and wine shops	UP(PH)	Includes sale for off-site consumption at restaurants
Department Stores Over 3,000 s.f.	ZC* Prohibited	
Drugstores	ZC*	A new or expanded Drugstore is prohibited if it is over 5000 square feet in Gross Floor Area, and within 1000 feet of any property containing an existing Drugstore, as measured by a straight line from the nearest point of the property line of the parcel on which the Drugstore is proposed to the nearest point of the property line of the parcel on which the nearest Drugstore is located.
Firearm/Munitions Businesses	UP(PH)	Prohibited on any property devoted to residential use
Pawn Shops	Prohibited	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Pet Stores including Sales and Grooming of Animals (but not Boarding)	UP(PH)	
Smoke Shops	UP(PH)	Prohibited if within 1,400 feet of a school or public park
Personal and Household Services		
All Personal and Household Services, except those listed below	ZC*	As defined in Sub-title F, except those otherwise listed (does not include Massage)
Laundromats	UP(PH)	
Veterinary Clinics	UP(PH)	Including Pet Hospitals
Offices		
Financial Services, Retail (Banks)	UP(PH)	
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC*	When located on the ground floor adjacent to a street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area
Medical Practitioners, including Holistic Health & Mental Health Practitioners	UP(PH)	Subject to parking requirements; see Section 23E.60.080
Non-Chartered Financial Institutions	Prohibited	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Other Professionals, and Government, Institutions, Utilities	AUP**	When located on the ground floor adjacent to a street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area
Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses		
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service of beer and wine incidental to seated food service at quick and full service restaurants	AUP <u>ZC</u>	For on-site consumption only
Alcoholic Beverage Service (no Bars, Cocktail Lounges, & Taverns)	UP(PH)	Service of distilled alcoholic beverages may be approved for full service restaurants only food service establishments providing <u>seated food service</u> ; see <u>Section 23E.60.060 D1</u>
Amusement Device Arcades	Prohibited	
Commercial Recreation Center <u>Under 1,500 s.f.</u> <u>Between 1,500--5,000 s.f.</u> <u>Over 5,000 s.f.</u>	UP(PH) <u>ZC</u> <u>AUP</u> <u>UP(PH)</u>	<u>Outdoor use requires UP(PH)</u>
Dance, Exercise, Martial Arts and Music Studios	AUP**	
Entertainment Establishments	UP(PH)	Including Nightclubs
Food Service Establishments Carry-Out Food Service Stores Under 1,000 s.f. <u>Over 1,000 s.f.</u>	AUP** ZC <u>AUP**</u>	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Quick Service Restaurants	AUP**	Subject to parking requirements; see Section 23E.60.080
Under 1,000 s.f.	ZC	
Full Service Restaurants	AUP**	
Under 1,000 s.f.	ZC	
Group Class Instruction for Business, Vocational or Other Purposes	AUP**	
Gyms and Health Clubs	AUP**	
Hotels, Tourist	UP(PH)	Including Inns, Bed and Breakfasts and Hostels, subject to parking requirements; see Section 23E.60.080
Motels, Tourist	Prohibited	
Theaters	Prohibited	Including Motion Pictures and Stage Performance
Automobile and Other Vehicle Oriented Uses		
Automobile Parts Stores	ZC*	Excluding service of auto parts
Automobile Repair and Service, including Parts Service	Prohibited	
Automobile Sales and Rentals	Prohibited	
Automobile Washes, Mechanical or Self-Service	Prohibited	
Automobile Wrecking Establishments	Prohibited	
Gasoline/Automobile Fuel Stations	UP(PH)	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Motorcycle Stores (sales or service)	Prohibited	
Recreational Vehicle and Trailers Sales and Rental, including Boats	Prohibited	
Tire Sales/Service Stores	Prohibited	
Parking, Outdoor and Exterior Service Window Uses		
Activities or Storage Outside of a building		
Not abutting R-District	AUP	
When abutting R-District	UP(PH)	
Automatic Teller Machines (exterior and when part of a Retail Financial Service)	AUP	Limited to 2 machines and only when off-street parking is provided
Drive-in Uses	UP(PH)	Which provide service to customers in their cars. See definition in Sub-title 23F
Parking Lots		
5 or fewer Off-street Parking Spaces	AUP	
More than 5 Off-street Parking Spaces	UP(PH)	
Recycling Redemption Centers	AUP	
Outdoor Cafe Seating		Quick and Full-Service Restaurants only

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
When seating not abutting R-District	ZC	
When seating abutting R-District	AUP	
Combination Commercial/Residential Uses		
Live/Work Units		
Not requiring a UP under Chapter 23E.20	ZC	
Requiring a UP under Chapter 23E.20	UP(PH)	
Mixed Use Developments (Residential/Commercial)	UP(PH)	Subject to Section 23E.60.070.E
Uses Incidental to a Permitted Use		
Amusement Devices (up to three)	UP(PH)	
Food or Beverage for Immediate Consumption	UP(PH)	
Live Entertainment		Also subject to the limitations under Section 23E.60.060.D.2
Unamplified	ZC	
Amplified	AUP	
Manufacturing Uses	AUP	
Storage of Goods (over 25% of gross floor area)	AUP	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Wholesale Activities	AUP	
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)	
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
Hospitals	Prohibited	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
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)	
Miscellaneous Uses		
Automatic Teller Machines	Prohibited	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Circus or Carnival	UP(PH)	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	Prohibited	
Emergency Shelter Up to 25 beds More than 25 beds	ZC UP(PH)	See Chapter 23C.10 .
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing	Prohibited	Except medical office laboratories
Mortuaries	Prohibited	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Wireless Telecommunications Facilities Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District	AUP	Subject to the requirements and findings of Section 23C.17.100

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
All Other Telecommunication Facilities	UP(PH)	Subject to the requirements and findings of Section 23C.17.100
Urban Agriculture		23C.26
Low-Impact Urban Agriculture (LIUA)	ZC	
High-Impact Urban Agriculture (HIUA)	AUP	
Legend:		
ZC – Zoning Certificate	*Change of Use of floor area between over 2,000 and 3,000 sq. ft. shall require an AUP; over 3,000 sq. ft. shall require a UP(PH)	
AUP – Administrative Use Permit		
UP(PH) – Use Permit, public hearing required	**Change of Use of floor area over 3,000 sq. ft. shall require an AUP UP(PH)	
Prohibited – Use not permitted		

188 B. Any use not listed that is compatible with the purposes of the C-SO District shall be permitted subject to
 189 securing an [Administrative](#) Use Permit. Any use that is not compatible with the purposes of the C-SO District
 190 shall be prohibited.

191 **23E.60.060 Use Limitations***

192 D. Adult-oriented Businesses are not permitted, as the entire District is within the location limitations of
 193 Section [23E.16.030](#). Amusement Arcades and Non-Chartered Financial Institutions are not permitted in this
 194 District. Live/Work Uses shall be subject to the requirements of Chapter [23E.20](#), in addition to the requirements
 195 of this District. Alcoholic Beverage Service uses, except as provided for below, are not permitted:

196 1. No on-premises service and consumption of distilled alcoholic beverages shall be allowed except ~~in~~
 197 ~~full-service restaurants with seated food service~~, and subject to obtaining a Use Permit.

198 **23E.60.080 Parking -- Number of Spaces**

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

199 B. The district minimum standard parking requirement for commercial floor area is two spaces per 1,000
 200 square feet of gross floor area. Uses listed in Table [23E.60.080](#) shall meet the requirements listed or the district
 201 minimum, whichever is more restrictive, for newly constructed floor area ~~or changes of use~~.

Table 23E.60.080	
Parking Required	
Use	Number of spaces
Libraries	One per 500 sq. ft. of floor area that is publicly accessible
Medical Practitioner Offices	One per 300 sq. ft. of floor area
Quick or Full Service Restaurants	One per 300 sq. ft. of floor area
Residential Uses, Nursing Homes	Refer to R-3 Standards, Section 23D.36.080

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203

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

204 **C-W**

205 **23E.64.030 Uses Permitted**

206 A. The following table sets forth the Permit required for each listed item. Each use or structure shall be
 207 subject to a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public
 208 hearing (UP(PH)) or is prohibited.

Table 23E.64.030				
Use and Required Permits				
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)			Special Requirements (if any)
Retail Sales				
Retail uses as defined in Sub-title 23F , except otherwise listed.				
	Under 3,500	3,500- 7,500	7,500 or more	
All Retail Sales Uses, except those specified below	ZC	AUP	UP(PH)**	**Except when part of a combination commercial/residential use; see Mixed Use Development heading
Alcoholic Beverage Retail Sales, including liquor stores and wine shops	UP(PH)			Includes sale for off-site consumption at restaurants
Firearm/Munitions Businesses	UP(PH)			Prohibited on any property devoted to residential use
Pawn Shops, including Auction Houses	UP(PH)			
Smoke Shops	UP(PH)			Prohibited if within 1,400 feet of a school or public park
Personal and Household Services				

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.64.030				
Use and Required Permits				
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)			Special Requirements (if any)
	Under 3,000	3,000-5,000	5,000 or more	
All Personal/Household Services, except as specified below	ZC	AUP	UP(PH)	As defined in Sub-title 23F , unless otherwise specified
Laundromats and Cleaners	AUP		UP(PH)	Dry Cleaning plants prohibited
Veterinary Clinics	UP(PH)			
Office Uses				
Office uses other than banks prohibited on ground floors in designated nodes.				
	Under 3,000	3,000-5,000	5,000 or more	
All Office Uses, except those specified below	ZC	AUP	UP(PH)	
Business Support Services	ZC	AUP	UP(PH)	See definition in Sub-title F for permitted uses
Financial Services, Retail (Banks)	AUP			
Medical Practitioners, including Holistic Health and Mental Health Practitioners	ZC	AUP	UP(PH)	Subject to parking requirements under Section 23E.64.080.F
Non-Chartered Financial Institutions	UP(PH)			Subject to additional requirements; see Section 23E.16.080
Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses				

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Adult-oriented Businesses	UP(PH)	Prohibited on lots with frontage on San Pablo Ave. Other locations subject to distance requirements of Section 23E.16.030
Alcoholic Beverage Service of beer and wine incidental to seated food service at quick and full service restaurants	AUP ZC	For on-site consumption only
Alcoholic Beverage Service	UP(PH)	Including Bars, Cocktail Lounges and Taverns. Also includes service of distilled spirits incidental to food service
Amusement Device Arcades	UP(PH)	Subject to additional requirements; see Section 23E.16.050
Commercial Recreation Center Under 5,000 s.f. Between 5,000--10,000 s.f. Over 10,000 s.f.	UP(PH) ZC AUP UP(PH)	Outdoor use requires UP(PH)
Dance, Exercise, Martial Arts and Music Studios	ZC	UP(PH) if 7,500 or more sq. ft.
Entertainment Establishments	UP(PH)	Includes Nightclubs
Food Service Establishments		

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Carry-Out Food Service Stores Under 1,500 s.f. Over 1,500 s.f.	AUP ZC AUP	Food service drive-through prohibited on San Pablo. See Section 23E.64.040.C and E. Also see Section 23E.64.090.H for special findings
Quick Service Restaurants Under 1,500 s.f.	AUP ZC	Food service drive-through prohibited on San Pablo. See Section 23E.64.040.C and E. Also see Section 23E.64.090.H for special findings
Full Service Restaurants Under 1,500 s.f. 1,501-2,500 s.f. Over 2,501 s.f.	- ZC AUP UP(PH)	Subject to additional parking requirements; see Section 23E.64.080.F
Group Class Instruction for Business, Vocational, or Other Purposes	ZC	
Gyms and Health Clubs	ZC	UP(PH) if 7,500 or more sq. ft.
Hotels, Tourist, including Inns, Bed and Breakfasts, and Hostels	UP(PH)	Subject to parking requirements; see Section 23E.64.080.F
Motels, Tourist	UP(PH)	Subject to parking requirements; see Section 23E.64.080.F
Theaters, including Motion Pictures and Stage Performance	UP(PH)	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.64.030			
Use and Required Permits			
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)		Special Requirements (if any)
Automobile and Other Vehicle Oriented Uses			
On lots with frontage on San Pablo Avenue, changes of use from uses other than Automobile and Other Vehicle Oriented Uses prohibited, as provided in Section 23E.64.060 .E. Auto parts sales is a retail use.			
	Less than 5,000 sq. ft. floor area and less than 10,000 sq. ft. of lot area	Either 5,000 or more sq. ft. of floor area; or 10,000 or more sq. ft. of lot area	
Automobile and Truck Rentals	AUP	UP(PH)	Prohibited in designated nodes
Automobile Repair and Service, including Parts Service	AUP	UP(PH)	
Automobile Restoration, Antique and Classic Cars	AUP	UP(PH)	
Automobile Sales	AUP	UP(PH)	
Automobile Used Car Establishments	UP(PH)		Prohibited in designated nodes unless principally in buildings
Automobile Washes, Mechanical or Self-Service	UP(PH)		Prohibited in designated nodes

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Automobile Wrecking Establishments	Prohibited	
Gasoline/Automobile Fuel Stations	UP(PH)	
Motorcycle Stores, including Sales, Parts and/or Service	UP(PH)	
Recreational Vehicle and Trailers Sales and Rental, including Boats	AUP UP(PH)	
Tire Sales/Service Stores	UP(PH)	Prohibited in designated nodes; see Section 23E.64.050.C
Parking, Outdoor and Exterior Service Window Uses		
Activities or Storage outside of a building When not abutting R-District and using 10,000 sq. ft. or less of lot area When abutting R-District or 10,000 sq. ft. of lot area or more	AUP UP(PH)	Activities must be permitted or incidental to permitted use in the District
Automatic Teller Machines	AUP	Exterior and when part of a Retail Financial Service
Drive-in uses	Prohibited	Providing service to customers in their cars

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Open Air Markets	UP(PH)	Prohibited in designated nodes. See Section 23E.64.050.C
Parking Lots		
10 or fewer spaces	AUP	
11 or more spaces	UP(PH)	
Recycling Redemption Centers	AUP	
Outdoor Cafe Seating		Quick and Full-Service Restaurants only
When seating not abutting R-District	ZC	
When seating abutting R-District	AUP	
Combination Commercial/Residential and other Mixed Uses		
The area within a Live/Work Unit, including both residential and non-residential space, shall be not less than 800 sq. ft. A UP(PH) is required in some cases; see Chapter 23E.20 .		
Live/Work Units		
9 or fewer	AUP	If not changed from a dwelling unit
10 or more	UP(PH)	And/or if changed from a dwelling unit
Mixed Use Developments		
Incorporating residential and retail; where the	AUP if less than 20,000 sq. ft. floor area	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
retail space comprises at least 15% but not more than 33% of the floor area Other Mixed Use Developments incorporating residential use and other permitted uses	UP(PH) if 20,000 sq. ft. or more floor area ZC if less than 5,000 sq. ft.	AUP if 5,000-9,000 sq. ft.
Uses Incidental to a Permitted Use		
Amusement Devices (up to 3)	AUP	
Food or Beverage for Immediate Consumption	ZC	
Live Entertainment Unamplified Amplified	ZC UP(PH)	See performance standards in Section 23E.64.070.E
Storage of Goods (over 25% of gross floor area)	AUP	
Residential and Related Uses		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
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
Additions, Major Residential	AUP	See definition in Sub-title 23F . Subject to required finding under Section 23E.64.090.G
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Day Care		
Small Family Day Care Homes of 8 or fewer children	ZC	
Large Family Day Care Homes of 9 to 14 children	AUP	
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 23E.64.070

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

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		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	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	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	AUP	
Schools, Public or Private	UP(PH)	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Senior Congregate Housing		
Six or fewer persons	ZC	Changes of use from an existing dwelling unit
Seven or more persons	AUP	
New Construction	UP(PH)	
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
Miscellaneous Uses		
Automatic Teller Machines	AUP	When not part of a Retail Financial Service
Cafeteria, Employee or Residential	AUP	
Cemeteries and Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	Prohibited in designated nodes. See Section 23E.64.050.C

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Commercial Excavation	Prohibited	Including earth, gravel, minerals or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	Prohibited	
Emergency Shelter Up to 25 beds More than 25 beds	ZC UP(PH)	See Chapter 23C.10 .
Kennels or Pet Boarding	UP(PH)	Prohibited on ground floor in designated node
Laboratories, Commercial Physical or Biological	Prohibited	See Section 23E.64.030.C
Laboratories, Testing	AUP if less than 10,000 sq. ft. UP(PH) if more than 10,000 sq. ft.	
Mortuaries and Crematories	UP(PH)	
Public Utility Substations, Buildings, Tanks	UP(PH)	Prohibited in designated node. See Section 23E.64.050.C
Radio, Television, or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	Prohibited on ground floor in designated node. See Section 23E.64.050.C
Wireless Telecommunications Facilities		

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District	AUP	Subject to the requirements and findings of Section 23C.17.100
All Other Telecommunication Facilities	UP(PH)	Subject to the requirements and findings of Section 23C.17.100
Urban Agriculture		23C.26
Low-Impact Urban Agriculture (LIUA)	ZC	
High-Impact Urban Agriculture (HIUA)	ZUP	
Light Manufacturing and Wholesale Trade Uses		
Manufacturing uses prohibited on ground floors in designated nodes. See Section 23E.64.050.C		
Light Manufacturing and Wholesale Trade Uses 5,000 or less sq. ft.	AUP	
5,000 sq. ft. or more	UP(PH)	
All Other Manufacturing Uses	UP(PH)	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Warehouses or Storage (including Mini-storage Warehouses)	Prohibited	
Legend:		
ZC – Zoning Certificate	UP(PH) – Use Permit, public hearing required	
AUP – Administrative Use Permit	Prohibited – Use not permitted	

209 **23E.64.080 Off-Street Parking and Loading Requirements**

210 B. The district minimum standard parking requirement for commercial floor area is two spaces per 1,000
 211 square feet of gross floor area. Uses listed in Table [23E.64.080](#) shall meet the requirements listed, for newly
 212 constructed floor area ~~or changes of use~~, except as otherwise modified in this subsection, and Subsections F
 213 through I below.

Table 23E.64.080	
Parking Required*	
Use	Number of spaces
Dormitories, Fraternity and Sorority Houses, Rooming and Boarding Houses and Senior Congregate Housing	One per each five residents; plus one for manager
Dwelling Units	One per unit, except as modified by provisions for shared parking in Section 23E.64.080.G ; 75% less for Seniors (see below)
Hospitals	One per each four beds; plus one per each three employees

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Table 23E.64.080	
Parking Required*	
Use	Number of spaces
Hotels	One per each three guest/sleeping rooms or suites; plus one per each three employees
Libraries	One per 500 sq. ft. of floor area that is publicly accessible
Live/Work Units	One per unit, provided, however, that if any workers and/or clients are permitted in any work area, there shall be one additional parking space for the first 1,000 sq. ft. of work area, one further parking space for each additional 750 sq. ft. and subject to any additional requirements for parking pursuant to Section 23E.20.040.B
Manufacturing uses (assembly, production, storage and testing space only)	One per 1,000 sq. ft. of floor area
Medical Practitioner Offices	One per 300 sq. ft. of floor area
Motels	One per each guest/sleeping room; plus one space for owner or manager**
Quick or Full Service Restaurants	One per 300 sq. ft. of floor area
Wholesale Trade	One per 1,000 sq. ft. of floor area
*See Subsection J for substitutions of up to 10% with bicycle/motorcycle parking	
**Required parking shall be on the same lot as the building it serves	

214 **23E.64.090 Findings**

215 ~~H. — Before approving a Use Permit for a Carry Out Food Store or Quick Service Restaurant on a lot with~~
 216 ~~frontage on San Pablo Avenue, the Zoning Adjustments Board shall make the findings contained in~~
 217 ~~Section [23B.32.040](#) as well as the findings that:~~

218 ~~1. — The project does not conflict with the goals and policies of the C-W District; and~~

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

- 219 ~~2.—The location, size, appearance and signage of the proposed use will not adversely affect the San~~
220 ~~Pablo Avenue Corridor; and~~
- 221 ~~3.—The project supports pedestrian-oriented development; and~~
- 222 ~~4.—The project is designed to protect the residential character of surrounding neighborhoods from the~~
223 ~~adverse impacts of fast food development, including, but not limited to: increased traffic, litter, and noise.~~
- 224 ~~5.—For projects which include construction of new buildings, the board shall also make the findings that~~
225 ~~the project design:~~
- 226 ~~a.—Provides intensity of development which does not underutilize the property; especially at or~~
227 ~~near intersections of major streets; and~~
- 228 ~~b.—Provides pedestrian scale and siting; and~~
- 229 ~~c.—Incorporates continuity in street facades. (Ord. 6675-NS § 3, 2002; Ord. 6478-NS § 4 (part),~~
230 ~~1999)~~
- 231

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232 **C-DMU**

233 **23E.68.030 Uses Permitted**

234 A. The following table identifies permitted, permissible, and prohibited uses and sets forth the Permit required
 235 for each allowed use. Each use and structure shall be subject to either a Zoning Certificate (ZC), an
 236 Administrative Use Permit (AUP), a Use Permit approved after a Public Hearing (UP/PH), or is prohibited. Uses
 237 within the Downtown Arts District Overlay area (ADO) are also subject to Section [23E.68.040](#).

Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
Retail Sales		
All Retail Sales Uses, except those listed below	ZC	As defined in Sub-title 23F , except otherwise listed
Alcoholic Beverage Retail Sales, including liquor stores and wine shops	UP(PH)	Includes sale for off-site consumption at restaurants
Department Stores	AUP	
Under 10,000 s.f.	ZC	
Firearm/Munitions Businesses	Prohibited	
Pawn Shops, including Auction Houses	UP(PH)	
Pet Stores, including Sales and Grooming of Animals (but not Boarding)	UP(PH)	
Smoke Shops	Prohibited	
Personal and Household Services		

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Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
All Personal and Household Services, except those listed below	ZC	As defined in Sub-title 23F , except those otherwise listed (does not include Massage)
Laundromats	UP(PH)	
Veterinary Clinics	UP(PH)	Including Pet Hospitals
Offices		
Financial Services, Retail (Banks) Under 7,500 s.f. Within the A.D.O.	AUP ZC AUP	Within the Arts District Overlay, see Section 23E.68.040
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents Within the A.D.O.	ZC AUP	Subject to additional requirements; see Section 23E.68.060.E Within the Arts District Overlay, see Section 23E.68.040
Medical Practitioners Within the A.D.O.	ZC AUP	Including Holistic Health and Mental Health Practitioners Within the Arts District Overlay, see Section 23E.68.040
Non-Chartered Financial Institutions	Prohibited	
Other Professionals and Government, Institutions, Utilities Within the A.D.O.	ZC AUP	Subject to additional requirements; see Section 23E.68.060.E Within the Arts District Overlay, see Section 23E.68.040
Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses		
Adult-Oriented Businesses	UP(PH)	Subject to additional requirements; see Section 23E.16.030 Prohibited on Public Serving Frontages
Alcoholic Beverage Service of beer and wine incidental to <u>seated</u> food	AUP ZC	For on-site consumption only

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
service at quick and full service restaurants		
Alcoholic Beverage Service, including Bars, Cocktail Lounges, and Taverns	UP(PH)	Includes service of distilled spirits incidental to food service.
Amusement Device Arcades	UP(PH)	Subject to additional requirements; see Section 23E.16.050
Commercial Recreation Center Under 5,000 s.f. Between 5,000--10,000 s.f. Over 10,000 s.f.	ZC AUP UP(PH)	Outdoor use requires UP(PH)
Dance, Exercise, Martial Arts and Music Studios	ZC	
Entertainment Establishments	UP(PH)	Including Nightclubs
Food Service Establishments: Carry-Out Food Service Stores Under 2,000 <u>4,000 s.f.</u> <u>Over 4,000 s.f.</u> Within the A.D.O.	AUP ZC AUP AUP	Within the Arts District Overlay, see Section 23E.68.040 See Alcoholic Beverage Service above
Quick Service Restaurants Under 2,000 s.f.	AUP ZC	See Alcoholic Beverage Service above
Full Service Restaurants Under 4,000 s.f.	AUP ZC	See Alcoholic Beverage Service above

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Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
Group Class Instruction for Business, Vocational or Other Purposes	ZC	Subject to additional requirements; see Section 23E.68.060.E
Gyms and Health Clubs Under 7,500 s.f.	AUP ZC	Subject to additional requirements; see Section 23E.68.060.E
Hotels, Tourist, including Inns, Bed and Breakfasts and Hostels	UP(PH)	
Motels, Tourist	UP(PH)	
Theaters, including Motion Pictures and Stage Performance	AUP	
Automobile and Other Vehicle-Oriented Uses		
Automobile Parts Stores	Prohibited	
Automobile Repair and Service	Prohibited	
Automobile Sales and Rentals, and motorcycle stores	UP(PH)	
Automobile Washes, Mechanical or Self-Service	Prohibited	
Automobile Wrecking Establishments	Prohibited	
Gasoline/Automobile Fuel Stations	Prohibited	
Recreational Vehicle and Trailers Sales and Rental	Prohibited	Including Boats
Tire Sales/Service Stores	Prohibited	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
Parking, Outdoor and Exterior Service Window Uses		
Activities or Storage Outside of a building:		
When not abutting R-District	AUP	
When abutting R-District	UP(PH)	
Drive-in uses	Prohibited	
Surface Parking Lots:		
Eight (8) or fewer Off-street Parking Spaces	AUP	
More than eight (8) Off-street Parking Spaces	Prohibited	
Parking Structures	UP(PH)	
Recycling Redemption Centers	AUP	
Outdoor Cafe Seating		Quick and Full-Service Restaurants only
When seating not abutting R-District	ZC	
When seating abutting R-District	AUP	
Combination Commercial/Residential Uses		
Live/Work Units		
Not requiring a UP under Chapter 23E.20	ZC	
Requiring a UP under Chapter 23E.20	UP(PH)	

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Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
Mixed Use Developments (e.g. Residential/Commercial; Hotel/Other Commercial; Office/Other Commercial)	UP(PH)	Subject to additional requirements; see Section 23E.68.060.F Subject to Section 23E.68.070
Uses Incidental to a Permitted Use		
Amusement Devices (up to three)	AUP	
Food or Beverage for Immediate Consumption	ZC	
Live Entertainment Unamplified	ZC	
Amplified	AUP	
Manufacturing Uses	AUP	
Storage of Goods (over 25% of gross floor area)	AUP	
Wholesale Activities	AUP	
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	As per R-5 District	See Table 23D.44.030

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
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	
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
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 Six or fewer people	ZC	Change of use of an existing dwelling unit

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Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
Seven or more persons	AUP	
New Construction	UP(PH)	Subject to Section 23E.68.070
Miscellaneous Uses		
Automatic Teller Machines When not a Part of a Retail Financial Service		
Exterior	UP(PH)	
Interior	AUP	
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building.
Circus or Carnival	UP(PH)	
Dry Cleaning and Laundry Plants	UP(PH)	
Emergency Shelter		See Chapter 23C.10 .
Up to 60 beds	ZC	
More than 60 beds	UP(PH)	
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing	AUP	
Mortuaries	UP(PH)	
Public Utility Substations, Tanks	UP(PH)	

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
Radio, Television or Audio/Sound Recording Studios Broadcast Studios	AUP UP(PH)	
Warehouses or Storage including Mini-storage Warehouses	UP(PH)	
Wireless Telecommunications Facilities Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District All Other Telecommunication Facilities	AUP UP(PH)	Subject to the requirements and findings of Section 23C.17.100 Subject to the requirements and findings of Section 23C.17.100
Urban Agriculture		23C.26
Low-Impact Urban Agriculture (LIUA)	ZC	
High-Impact Urban Agriculture (HIUA)	AUP	
Legend:		
ZC -- Zoning Certificate		
AUP -- Administrative Use Permit		
UP(PH) -- Use Permit, public hearing required		

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

238 **23E.68.040 Downtown Arts District Overlay**

239 A. The City Council finds and declares that:

240 1. The purpose of the Downtown Arts District Overlay is to create a core of cultural activities and
241 supportive retail and commercial uses which would generate more pedestrian vitality in the downtown,
242 promote Berkeley’s regional leadership in the arts, and encourage broader economic revitalization of the
243 area.

244 2. To this end, the use and appearance of ground floor spaces in the Downtown Arts District are
245 important to the success of the City’s plans for the area, since these spaces define the ambiance and
246 character of the area for pedestrians. The types of uses which would enhance the Arts District include
247 ground floor retail uses which would contribute to the cultural vitality of the area, ~~full- and quick-service~~
248 ~~restaurants~~ seated food service, and uses which provide pedestrian scale and siting. Desirable new
249 development would include projects which fully utilize the development potential of the property and
250 incorporate continuity in street facades. Uses such as food uses with seating, art galleries, bookstores
251 and other culturally compatible and pedestrian-oriented uses will contribute to the area’s economic
252 vitality.

253 B. Downtown Arts District Overlay shall be abbreviated as “ADO.” Said overlay district shall consist of:

254 1. All buildings with street frontage on Addison Street between Shattuck Avenue and Milvia Street; and

255 2. All buildings with street frontage on the two blocks along the southbound west wing of Shattuck
256 Avenue between University Avenue and Center Street, and all addresses on the east side of Milvia
257 Street between University Avenue and Center Street.

258 3. These proposed boundaries are as set forth in the map on file with the City Clerk and incorporated
259 by reference herein.

260 C. No ~~new carry-out food service store~~ food service establishment exclusively providing food for offsite
261 consumption or office use located on the ground floor adjacent to a street frontage may be established
262 within the Downtown Arts District Overlay, either as a new use or as a change of use, unless an
263 Administrative Use Permit is approved by the Zoning Officer subject to the findings in
264 Section 23E.68.090.C. (Ord. 7229-NS § 1 (part), 2012)

265 **23E.68.090 Findings**

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266 C. For each Administrative Use Permit obtained under Section [23E.68.040](#).C to allow a [new food service](#)
267 [establishment carry-out food service store exclusively providing food for offsite consumption](#) or ground floor
268 office use within the Downtown Arts District Overlay, the Zoning Officer must find that:

269 1. The project meets the purposes of the Arts Overlay District as set forth in Section [23E.68.040](#); and

270 2. The location, size, type, appearance, and signage of the proposed use will:

271 a. Animate and enhance the pedestrian experience on the street; and

272 b. Be generally open to the public evenings and on weekends, whenever practicable

273

274 **Section 23E.98.050 Definitions**

275 The following definitions are applicable only in the Civic Center District Overlay:

276 Live Performance Theatre: An establishment that has a permanent stage for the presentation of live
277 performances and entertainment and which contains an audience viewing hall or room with fixed seats.

278 Museum: A non-profit, permanent institution in the service of society and its development, open to the
279 public, which acquires, conserves, researches, communicates and exhibits the tangible and intangible
280 heritage of humanity and its environment for the purposes of education, study and enjoyment.

281 Public Market: An open air or enclosed marketplace, including a farmer's market, with multiple owner
282 operated and/or independent merchants selling retail food items and handcrafted goods from local and
283 regional producers, so long as 75% or more of retail space is devoted to the sale of General or
284 Specialized food products and no more than 25% of retail space is devoted to one or more of the
285 following Incidental Uses: owner operated and/or independent ~~Carry Out Food and/or Quick Service~~
286 ~~Restaurants~~ [food service establishments](#) selling food from local and regional producers and sales of
287 Retail Products from local and regional produce. (Ord. 7370-NS § 1 (part), 2014)

288

DRAFT ZONING ORDINANCE AMENDMENTS TO SUPPORT SMALL BUSINESSES

289



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: July 18, 2018
TO: Members of the Planning Commission
FROM: Alene Pearson, Principal Planner
SUBJECT: Analysis and Options Related to Small Business Support Recommendations

SUMMARY

On June 20, 2018, the Planning Commission considered a set of six recommendations for Zoning Ordinance modifications that support Berkeley's small businesses (*see Attachment 1: Planning Commission Staff Report*). Recommendations simplify and shorten the permitting process for new and existing small businesses. The Planning Commission considered all recommendations and requested that a Public Hearing be set on July 18, 2018 to review Zoning Ordinance amendments -- to be drafted by staff -- on three of the six recommendations.

While drafting Zoning Ordinance amendments, staff recognized that proposed modifications required further analysis and discussion by the Planning Commission. This report provides analysis of all six recommendations and includes the following information to help inform the Commission's discussion:

- Zoning Ordinance language and tables summarizing zoning regulations;
- Background and analysis of existing zoning regulations; and
- Options for translating recommendations into Zoning Ordinance amendments.

Direction given by the Planning Commission will provide information needed to draft Zoning Ordinance amendments to be considered at a Public Hearing on October 3, 2018.

BACKGROUND

The six recommendations in this report focus on permitted uses, levels of discretion, parking requirements, and size thresholds for businesses in the commercial districts. Recommendations have been shared with the community as described below.

Outreach:

The six recommendations discussed in this report were presented to the Planning Commission on June 20, 2018. Prior to that meeting, these ideas were presented by the Planning Department Director and the Economic Development Manager at the Downtown Berkeley Association board meeting on May 24, 2018 and the Telegraph Business District (TBID) board meeting on June 12, 2018. Recommendations were also shared with Berkeley Business District

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Network (which includes representatives from all of the individual business improvement districts and business associations in Berkeley) on May 24, 2018. Other members of the Economic Development Business Services staff shared and discussed the recommendations in detail with the Solano Business Improvement District (BID) Advisory Board on May 8th 2018, the North Shattuck BID Board on April 19, 2018, with the Gilman Merchants group on June 13, 2018, the Elmwood Merchants Association Meeting (BID Board) at an evening business roundtable on May 17, 2018 and on two occasions at the Lorin Business Association (LBA) first in April of 2018, and again at the group’s most recent meeting on June 14, 2018. At the Planning Commission meeting on June 20th, representatives from the TBID, LBA and Bay Area Organization of Black Owned Businesses (BAOBOB) spoke in support of the six recommendations.

Commercial Districts:

Berkeley’s General Plan provides three land use designations that support commercial activities. Within these three designations, there are nine commercial zoning districts as shown in Table 1:

Table 1: General Plan Designations and Zoning Ordinance Land Use Districts

Land Use Designation	Zoning District	District Title
Neighborhood Commercial	C-E	Elmwood Commercial
	C-N	Neighborhood Commercial
	C-NS	North Shattuck Commercial
	C-SA*	South Area Commercial
	C-SO	Solano Avenue Commercial
Avenue Commercial	C-1	General Commercial
	C-SA*	South Area Commercial
	C-T	Telegraph Avenue Commercial
	C-W	West Berkeley Commercial
Downtown	C-DMU	Downtown Mixed Use

* Portions of the C-SA are included in both the Neighborhood Commercial and Avenue Commercial General Plan designations.

Permitted Uses:

Each zoning district has a unique set of regulations that pertain to allowable development standards and permitted uses. The Zoning Ordinance Revision Project (ZORP) will develop master use tables and development standard tables across all districts by early 2019 – an effort that could lead to new, uniform standards. In advance of that effort, the recommendations in this report aim to modify certain regulations and simplify definitions in the commercial districts that will provide immediate benefits to Berkeley’s small business community.

Levels of Discretion:

All businesses in the City of Berkeley are required to be in conformance with the uses permitted in the Zoning Ordinance. Some uses are allowed by-right and are issued a Zoning Certificate (ZC) without public review or noticing. Other uses require discretionary review and are required to proceed through staff review and/or public review prior to receiving an Administrative Use Permit (AUP) or Use Permit with Public Hearing (UPPH)¹.

¹ Timelines and cost for these different types of land use permits can be found via this link: https://www.cityofberkeley.info/Planning_and_Development/Home/Types_of_Land_Use_Permits.aspx:

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Size Thresholds and Average Commercial Space Sizes:

Table 2 provides average size (in square feet) of commercial spaces in most of the City’s commercial zoning districts².

Table 2: Average Size of Commercial Spaces by District

Land Use Designation	Zoning District	Area Covered	Average Size of Commercial Space (square feet)
Neighborhood Commercial	C-E	Elmwood District	1,426
	C-NS	North Shattuck Avenue	1,520
	C-SA	Sacramento Street	1,274
	C-SO	Solano Avenue	1,237*
Avenue Commercial	C-1	University Avenue	2,252
	C-SA	Lorin District	2,118
	C-SA	South Shattuck Avenue	3,577**
	C-T	Telegraph Avenue	1,742
	C-W	San Pablo Avenue	2,879
Downtown	C-DMU	Downtown	2,314

* Average square footage does not include the former Oaks Theater (~10,447 sq. ft.).

** Value not statistically significant: square footage only provided for 33 of 81 businesses.

Note that Commercial Neighborhood zoning districts generally have an average size of less than 2,000 square feet and Avenue Commercial zoning districts generally have an average size of less than 3,000 square feet. This information can be referred to when considering size thresholds and commercial space sizes discussed in this report.

DISCUSSION

The Planning Commission considered six recommendations related to permitting processes for small businesses. In this section, each recommendation is presented for discussion with background information that provides context, options to consider, staff’s reasoning for option(s), and questions for the Planning Commission to discuss.

1. Remove Requirement to Provide Incremental Change in Parking Spaces Associated with a Change of Use in the Commercial Districts

Background: Different commercial uses generate different levels of customer activity. Existing parking requirements were developed to reflect parking needs associated with activity level. The Zoning Ordinance requires new businesses to provide additional parking (“the incremental change in parking”) if a proposed use has a higher parking requirement than the prior use. This change is triggered solely by use and does not involve an increase in size of commercial space. If the applicant can’t provide additional parking, they can apply for a parking waiver via the AUP process. See Table 3 for details.

² The City maintains a database of commercial businesses. This database is updated twice annually and is accurate to the extent that field observations, permit records, and information provided to the City by commercial listing services are correct.

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Table 3: Parking Required with Change of Use in Existing Commercial Spaces

Land Use Designation	Zoning District	Parking Required for Medical Practitioners and Medical Offices	Parking Required for Quick or Full Service Restaurants	Parking Required for All Other Uses
Neighborhood Commercial	C-E	1 per 500 sq. ft. (if over 6,000 sq. ft.)	1 per 500 sq. ft. (if over 6,000 sq. ft.)	1 per 500 sq. ft. (if over 6,000 sq. ft.)
	C-N	1 per 300 sq. ft.	1 per 300 sq. ft.	1 per 500 sq. ft.
	C-NS	1 per 300 sq. ft.	1 per 300 sq. ft.	1 per 500 sq. ft.
	C-SA	1 per 300 sq. ft.	1 per 300 sq. ft.	1 per 500 sq. ft.
	C-SO	1 per 300 sq. ft.	1 per 300 sq. ft.	1 per 500 sq. ft.
Avenue Commercial	C-1	1 per 300 sq. ft.	1 per 300 sq. ft.	1 per 500 sq. ft.
	C-T	NA	NA	NA
	C-W	1 per 300 sq. ft.	1 per 300 sq. ft.	1 per 500 sq. ft.
Downtown	C-DMU	1 per 667 sq. ft.	1 per 667 sq. ft.	1 per 667 sq. ft.

HYPOTHETICAL EXAMPLE: An existing retail clothing store in a 1,500 square foot commercial space closes. A food service establishment wants to open at this same location with no changes to store area. Per the current code requirements, two additional parking spaces would be required to support the new use. If off-street parking can't be provided, the new business must apply for a "parking waiver" through the AUP process

Recommended Option 1:

Remove requirement for incremental change in parking associated with change of use in all commercial districts, but leave parking requirements for new floor area unchanged. Reasoning: Most commercial buildings were created without providing off street parking, and the sites typically do not have room to provide parking onsite. Also, it is difficult for businesses to locate additional parking off-site that is not already needed for other uses as required parking. For a new business to open, these conditions leave a parking waiver as the only option to allow a business to open and to comply with the Zoning Ordinance.

QUESTION FOR PLANNING COMMISSION: Does this option reflect the desired direction of the Planning Commission? If no, provide alternate option.

2. Condense Existing Food Service Categories (Carry Out, Quick Service, and Full Service) into a Single Category (Food Service Establishment)

Background: Currently, food service establishments are categorized as carry out, quick service or full service. These categories were established when the Zoning Ordinance had quotas for types of food service establishments. Quotas are no longer in effect; however, these categories currently have different regulations for parking and for permits. See Attachment 2 (*Food Service Establishment Regulations*) for details.

Recommended Option 1:

Collapse three food service categories into one category. Food service categories were used to maintain quotas, which are no longer tracked. This option will simplify the Zoning Ordinance, but requires consideration of two additional modifications and may require additional outreach:

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Parking Requirements: Quick service and full-service restaurants require 1 parking space per 300 square feet. Carry out food service is subject to the district minimum, which is 1 parking space per 500 square feet. **Creating one food service category requires a decision about which parking requirement to carry forward: 1 space per 300 square feet or 1 space per 500 square feet.**

Level of Discretion/Size Thresholds: Permits required for food establishments vary by size in C-1, C-DMU, C-T and C-W. For example:

- Quick service restaurants that are greater than 1,500 square feet require a UPPH in the C-T and an AUP in the C-1.
- Full service restaurants require an AUP in the C-1 and C-T if they are greater than 1,500 square feet, an AUP in the C-W if they are between 1,500 and 2,500 square feet, and an AUP in the C-DMU if they are greater than 4,000 square feet.

Creating one food service category requires a decision about appropriate level of discretion and/or size threshold to carry forward.

Alternate Option 2:

Collapse restaurant types in C-1, C-N, C-NS, C-SA, C-T and C-SO, maintaining level of discretion associated with commercial space. Reasoning: Collapsing the restaurant classification in these six districts is straightforward: the level of discretion associated with the size of the commercial space is consistent across all three classifications (ZC if less than 1,000 square feet and AUP if greater than 1,000 square feet). This option begins to simplify the code and does not change levels of discretion. The parking requirement question in Recommended Option 1 would still need to be considered.

QUESTION FOR PLANNING COMMISSION: *Do either of these options – with modifications – reflect the desired direction of the Planning Commission? If no, what other options should be pursued?*

3. Standardize Change of Use Square Footage Thresholds in Commercial Districts

Background: Change of use in a commercial district can require an increased level of discretion. Level of discretion is based on the existing size of the commercial space. See Table 4 for details.

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Table 4: Permits Required with Change of Use in Existing Commercial Spaces

Land Use Designation	Zoning District	Commercial Space (square feet)	Permit Currently Required	Option 1	Option 2
Neighborhood Commercial	C-E	under 2,000	ZC	ZC	ZC
	C-N	2,000 - 3,000	AUP	AUP	ZC
	C-NS C-SO	over 3,000	UPPH	AUP	AUP
Avenue Commercial	C-1 C-SA	under 3,000	ZC	ZC	ZC
		3,000 - 5,000	AUP	AUP	ZC
		over 5,000	UPPH	AUP	AUP
	C-W (uses other than retail)	under 3,000	ZC	ZC	ZC
		3,000 - 5,000	AUP	AUP	ZC
		over 5,000	UPPH	AUP	AUP
	C-W (retail)	under 3,500	ZC	ZC	ZC
		3,500 - 7,500	AUP	AUP	ZC
		over 7,500	UPPH	AUP	AUP
	C-T	NA	NA	NA	NA
Downtown	C-DMU	NA	NA	NA	NA

Note that Neighborhood Commercial zoning districts have lower thresholds than Avenue Commercial zoning districts. Thresholds reflect the average commercial space size per district, as presented in the Background section of this report. Levels of discretion increase as commercial spaces get larger.

HYPOTHETICAL EXAMPLE: A real estate office in the C-N wants to locate in a commercial space previously occupied by a pet store. Per current regulations, the change of use would require a(n):

- ZC if the commercial space is less than 2,000 square feet;
- AUP if the commercial space is 2,500 square feet; or
- UPPH if the commercial space is over 3,000 square feet.

Recommended Option 1:

Lower the level of discretion associated with a change of use from a UPPH to an AUP in all relevant districts (see bold text in Table 4). Reasoning: This option maintains consistency with the types of projects currently subject to discretionary review, but lowers the level of review to support small businesses. An AUP retains the ability for interested parties to comment on the application and submit an appeal. Add standard conditions of approval as performance standards to the Zoning Ordinance for any use that would be allowed with a ZC.

Alternate Option 2:

In addition to Recommended Option 1, lower the level of discretion associated with a change of use from an AUP to a ZC in all relevant districts (see bold text in Table 4). Reasoning: This option maintains discretionary review for projects in large³ commercial spaces and lowers the level of review to support small businesses. An AUP retains the ability for interested parties to

³ The term “large” refers to the third size-tier in the Use and Required Permit tables of the Zoning Ordinance.

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comment on the application and submit an appeal. Add standard conditions of approval as performance standards to the Zoning Ordinance for any use that would be allowed with a ZC.

QUESTION FOR PLANNING COMMISSION: Do either of these options reflect the desired direction of the Planning Commission? If yes, which one? If not, provide alternate option.

4. Reduce the Level of Discretion from a UPPH to an AUP when Establishing a “Use Deemed Compatible” in a Commercial District

Background: The Zoning Officer can approve an unlisted use for a commercial business if that use is deemed compatible with the purposes of the district. The C-N, C-E, C-NS, C-SA and C-SO (all Neighborhood Commercial zoning districts) require a UPPH to initiate this process. See Table 5 for details.

Table 5: Permits Required when Establishing a “Use Deemed Compatible”

Land Use Designation	Zoning District	Permit Currently Required	Option 1
Neighborhood Commercial	C-E	UPPH	AUP
	C-N	UPPH	AUP
	C-NS	UPPH	AUP
	C-SA	UPPH	AUP
	C-SO	UPPH	AUP
Avenue Commercial	C-1	AUP	AUP
	C-T	AUP	AUP
	C-W	AUP	AUP
Downtown	C-DMU	AUP	AUP

Recommended Option 1:

Lower the level of discretion for approval of a “use deemed compatible” from UPPH to AUP (see bold text in Table 5). Reasoning: This option will create consistency across all zoning districts. All new uses will be subject to review and public noticing and uses must be determined to be compatible with the unique purposes of the district. Note that with an AUP, the Zoning Officer’s decision would still be subject to appeal.

QUESTION FOR PLANNING COMMISSION: Does this option reflect the desired direction of the Planning Commission? If no, provide alternate guidance.

5. Apply the Permitting Thresholds for Commercial Recreation Centers in the C-DMU to All Commercial Districts.

Background: Commercial Recreation Centers are defined in the Zoning Ordinance as follows:

Commercial Recreation Center: Any establishment other than a theater at which recreation facilities are offered or amusement devices provided to the public as a principal commercial activity of such establishment. This may include, but is not limited to, bingo parlors, bowling alleys, skating rinks, billiard or pool halls, miniature golf courses and amusement device arcades.

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Commercial Recreation Centers (CRC) currently require a Use Permit in all commercial zoning districts, regardless of commercial space size, except in the C-T and the C-DMU. CRCs are allowed in the C-T (all sizes) with an AUP and 300 foot noticing to neighbors. In the C-DMU, the following regulations apply, as shown in Table 6:

Table 6: Permits Required for CRCs in the C-DMU

Size Threshold (square feet)	Permit Required
under 5,000	ZC
5,000 – 10,000	AUP
over 10,000	UPPH

An example of a recently approved CRC is *Draw* -- a bar and pool hall at 64 Shattuck Square. At the June 20th Planning Commission Meeting, “escape rooms” were mentioned as a new business type that falls under this classification. In staff’s opinion, CRCs offer unique recreational experiences and serve as regional attractions.

Recommended Option 1:

Apply C-DMU’s regulations to CRCs in the Avenue Commercial districts (C-1, C-T, C-W).

Reasoning: Option 1 allows CRCs with a lower level of discretion in commercial zoning districts that support regionally-serving businesses.

Recommended Option 2a:

Allow CRCs in the Neighborhood Commercial zoning districts with a ZC if facility is under 1,500 square feet, and an AUP if facility is between 1,500 and 5,000 square feet. Add a reference to “neighborhood-serving commercial development” in the findings for CRCs in Neighborhood Commercial districts. Reasoning: Allows CRCs to locate in all Commercial districts with lower levels of discretion. Proposed clarification of findings will ensure that CRCs meet the purposes of the districts where they locate.

Alternate Option 2b:

Allow CRCs in the Neighborhood Commercial zoning districts with a ZC if facility is under 1,500 square feet, and an AUP if facility is between 1,500 and 3,000 square feet. Add a reference to “neighborhood-serving commercial development” in the findings for CRCs in Neighborhood Commercial districts. Reasoning: Same as Recommendation Option 2a, but lowers the threshold size that triggers a UPPH to align with the average size of commercial spaces in the Commercial Neighborhood districts. See the Background section for more information on average size of commercial spaces. Proposed clarification of findings will ensure that CRCs meet the purposes of the districts where they locate.

QUESTION FOR PLANNING COMMISSION: *Do any of these options reflect the desired direction of the Planning Commission? If yes, which one? If no, provide alternate option.*

6. Allow the incidental service of beer and wine at food service establishments with a Zoning Certificate and conformance to performance standards.

Background: Beer and wine service incidental to seated food service at a quick or full service restaurant currently requires an AUP in all commercial districts. AUPs allow public notice, referral to the BPD for comment, and this activity is subject to conditions of approval to ensure the use does not create detriment.

Analysis and Options Related to Small Business Support Recommendations
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Recommended Option 1:

Lower the level of discretion from an AUP to a ZC for beer and wine service for incidental seated food service. Add standard conditions of approval as performance standards to the Zoning Ordinance for beer and wine service incidental to seated food service. Create a new ZC form (ZC-REST) that lists performance standards. Reasoning: Applications for beer and wine are non-controversial and rarely denied. The conditions that are applied to this activity have become standardized, and have proven overtime to be effective to limit detriment. Option 1 creates a more expeditious, cost-effective and certain process for business owners.

QUESTION FOR PLANNING COMMISSION: Does this option reflect the desired direction of the Planning Commission? If no, provide guidance on alternate option.

NEXT STEPS

Staff recommends that the Planning Commission discuss and provide feedback on the options presented in this staff report. Based on Planning Commission's feedback, staff will draft Zoning Ordinance amendments and set a public hearing on October 3, 2018.

Attachments

1. Planning Commission Staff Report
2. Table of Food Service Establishment Regulations



Item 9
June 20, 2018

Planning and Development Department

STAFF REPORT

DATE: June 20, 2018

TO: Members of the Planning Commission

FROM: Timothy Burroughs, Director, Planning & Development Department
Jordan Klein, Economic Development Manager

SUBJECT: Modifications to the Zoning Ordinance to Support Small Businesses

INTRODUCTION

In April 2017, City Council referred to the City Manager the development of programs and policies to support Berkeley’s small businesses, including “streamlining of zoning, permitting and licensing requirements and processes.” Among the strategies that Council asked staff to analyze and implement were processes “for small/local businesses and not-for-profits [that] reduce associated costs and delays, and, where appropriate, provide less onerous levels of review.”¹ In the Council’s annual referral prioritization process conducted in May 2017, this “Small Business Support Package” item was ranked as the Council’s top priority among the referrals not pertaining to housing.

Staff from the Office of Economic Development (OED) and the Planning Department have worked together to identify six potential modifications to the Zoning Ordinance to make the zoning review process for small businesses less complex and more efficient. Council affirmed this policy direction with a unanimous vote at their meeting on May 15, 2018 to refer the following six recommendations to the Planning Commission for consideration²:

- 1) Remove the parking requirement for a change of use for qualifying projects in C-prefixed districts;
- 2) Condense food services categories (i.e., quick serve, carry out and full service) to a single category and impose performance standards in cases where there would not otherwise be conditions of approval;

¹ See [Small Business Support Package](#), adopted by Berkeley City Council, Item 41, April 25, 2017.

² See [Referral Response: Modifications to the Zoning Ordinance to Support Small Business](#), adopted by Berkeley City Council, Item 9, May 15, 2018.

- 3) Standardize square footage thresholds that trigger various permits for “changes of use” and food service across all C-prefixed districts;
- 4) Standardize “uses deemed compatible” across all C-prefixed districts to the same level of discretionary review;
- 5) Expand the “commercial recreation” thresholds adopted for the Downtown across other C-prefixed districts; and
- 6) Allow the incidental service of beer and wine at a food service establishment via a Zoning Certificate (ZC) in C- prefixed districts, and impose performance standards where there would not otherwise be conditions of approval.

At tonight’s meeting, staff is seeking input from the Planning Commission on each proposed change. At subsequent meetings and Public Hearings, the Planning Commission will be asked to review and provide feedback on draft Zoning Ordinance amendments. Future Public Hearings will also provide opportunities for additional feedback from small business owners, citizens, neighborhood associations, and commercial district groups as well.

BACKGROUND

Since its last major overhaul in 1999, the Zoning Ordinance has been updated at least 14 times to reflect new approaches to land use and changes in the ways businesses function and residents view their community. Independent of the ongoing targeted Zoning Ordinance Revision Project (ZORP), additional updates are needed today to reflect our continually changing city and to streamline the zoning permit review process for our business community. Staff has observed that it is particularly difficult for smaller, independently-owned businesses to navigate the permit review process and the associated timelines and expense.³ When asked how the City can improve its services for small businesses, in interviews, surveys, and at the December 2017 small business forum hosted by OED, respondents consistently cited “streamline permitting and zoning” as their top choice.

Proposed modifications are designed with consideration of the unique needs and challenges of small businesses. Over the first quarter of 2018, OED and Planning Department staff collaborated to identify potential modifications to the Zoning Ordinance that will streamline the review process for small businesses, while maintaining sufficient guidelines and discretion over impacts to neighboring businesses and residents. Staff consulted with business district network leaders, and numerous individual owners and operators of Berkeley’s small businesses and also considered recent experiences of business owners that decided *not* to locate or expand in Berkeley.

Consequently, the six proposed modifications to the Zoning Ordinance are an important component of a broader effort to improve customer service and achieve Berkeley’s strategic plan goals of fostering a sustainable, locally-based economy⁴ while honoring

³ See, [Economic Development Worksession: Small Business Support](#) (pages 4 and 5) and accompanying [presentation](#) (pages 13 and 14), Berkeley City Council, January 16, 2018.

⁴ See *City of Berkeley 2018-2019 Strategic Plan*, adopted by Berkeley City Council, January 16, 2018.

the City's commitment to public participation. The goal of these zoning changes is to improve and simplify the permitting experience for small businesses, which can in turn enhance the quality of commercial district offerings, help fill vacant storefronts, and generate more local and sustainable economic opportunities. Staff aimed to identify and streamline the particular controls that lengthen the review process for desired and noncontroversial uses. In addition, the recommendations are consistent with the stated purpose of each of the commercial districts.⁵

PROPOSED AMENDMENTS

Discussion and details of the six draft Zoning Ordinance amendments are presented below. For each amendment, staff has provided background information, recommendation, and rationale of the change.

1. Remove the parking requirement for a change of use for qualifying projects in C-prefixed districts.

Background: Currently, when a change of use occurs in a commercial district (e.g., from retail to food service or medical office) without any increase in square footage or change to the building exterior, the new use is required to provide the incremental difference between the two numerical parking standards. If an applicant does not (or cannot) provide additional parking, they can apply for a parking waiver via an Administrative Use Permit (AUP). Typically, parking waiver applications have come from small-scale, individually operated medical practitioners or food service providers without the capital on hand to withstand uncertainty and time delays during the startup process.

Recommendation: Remove parking minimum requirement for commercial changes of use, and adopt a definition of 'qualifying projects' to include: commercial changes of use with no external changes to the building or increase in floor area (save for a sign replacement or reasonable accommodations for ADA access) and/or changes of use beneath square footage thresholds of 5,000 and 10,000 square feet.

Rationale: Studies show that parking minimums induce demand for trips via single occupancy vehicles⁶, which is counter to the City's environmental goals and best practices in planning and economic development. Employing parking minimums is an outdated practice and has been dispensed with in some of Berkeley's neighboring jurisdictions (e.g., Albany, Oakland), putting our City at a competitive disadvantage. This change would be necessary to facilitate changes of commercial uses in commercial districts and will shorten the length of time for a business to become established (by not requiring an AUP, which is approximately 5-6 months

⁵ See, City of Berkeley Municipal Code, *C-SA South Area Commercial 23E.52.020 Purposes*, including goals such as: "increase the opportunities for the establishment of businesses which are owned and operated by local residents, provide locations for both community-serving and regional-serving businesses, particularly those which reflect the culture of the surrounding area, encourage the location of a wide variety of community-oriented retail goods and services in South Berkeley" and *C-E Elmwood Commercial District Provisions 23E.44.020 Purposes*, including "providing locations for retail goods and service establishments to serve surrounding neighborhoods, and permitting other uses which serve this objective."

⁶ See: Eric Jaffe, [The Strongest Case Yet That Excessive Parking Causes More Driving](#), Citylab, January 12, 2016 and Christopher McCahill et al, [Effects of Parking Provision on Automobile Use in Cities](#), Transportation Research Record, Journal of the Transportation Research Board, Vol. 2543, 2016.

and \$1,200 in expense) and simultaneously reducing commercial vacancy during turnovers.

2. Condense three food service categories to one “food service establishment” classification.

Background: The Zoning Ordinance currently includes three restaurant categories: carry out, quick and full service. These categories were created when the City adopted the 1999 update to the Zoning Ordinance, which condensed several additional food categories into the categories that exist now. The expanded categories originated in the early 1980s to support commercial district-specific quotas. In 2015, the quotas themselves were removed in all commercial districts (save for the Elmwood which still maintains a cap on the total number of food establishments, but no distinctions by type). Currently, the application of these categories for prospective food purveyors can cause confusion for the public, and difficulty for businesses that seek to slightly adapt their business model.

Recommendation: Condense the three food service categories to one ‘food service establishment’ classification. Along with the text amendment to the definitions section of the Zoning Ordinance, staff recommends that the Zoning Ordinance be amended to impose performance standards for food service, which will include concepts previously articulated in the findings or ‘conditions of approval’ section of the AUP or Use Permit with a Public Hearing (UPPH) (see Attachment 2: Draft Performance Standards for Food Service).

Rationale: The existing three restaurant categories (carry out, quick and full service) reflect the commercial quota system which has not been in place since 2015. One condensed category reduces confusion and provides clarity for potential food service purveyors and permitting staff alike, and can eliminate unintended barriers for businesses seeking to adapt or expand.

3. Standardize change of use square footage thresholds in C-prefixed districts.

Background: Currently in some C-prefixed districts, a change of use between 3,000-5,000 square feet necessitates an AUP. In other C-prefixed districts, a change of use between 2,000-3,000 square feet requires an AUP and a UPPH for greater than 3,000 square feet. This requirement adds additional requirements (and time) to the new use (and user) that is predicated on the previous use.

Recommendation: Standardize the change of use thresholds by either eliminating or raising the square footage threshold to be the same for all C- prefixed districts.

Rationale: A commercial change of use requirement based on square footage is atypical in this region, which could put Berkeley at a competitive disadvantage. This change promotes equitable business opportunities across all commercial districts by standardizing the level of discretionary review (and therefore equalizing the amount of money and time it takes for a business to get established or expand throughout all of Berkeley.)

4. Standardize “uses deemed compatible” across all C-prefixed districts to the same level of discretionary review.

Background: The use table in C-prefixed districts is typically followed by a clause indicating that “any use not listed that is compatible with the purposes of [the district] shall be permitted subject to securing [an AUP or a UP].” The level of discretionary review varies by district. Staff has observed that this clause is especially relevant to businesses with hybrid business models, where the secondary use is not necessarily included among the listed incidental uses. Staff has observed an increase in business models that employ a combination of retail and/or food consumption with entertainment, recreational activities, or other complementary uses. As the prevalence of online purchases for soft goods increases, these new, creative, experiential commercial uses are increasingly critical to the vitality and sustainability of neighborhood commercial districts.

Recommendation: Amend the “uses deemed compatible” process for any C-prefixed District that requires a Use Permit to instead only require an AUP. Staff believes that this approach will continue to serve the community as the same standards for review apply to the AUP process, which is also subject to appeal.

Rationale: This modification will allow the Zoning Ordinance to better accommodate businesses whose models were not previously anticipated, and eliminate unintended barriers for desired uses.

5. Expand the commercial recreation designation requirements adopted in the C-DMU (2016) across all C-prefixed districts.

Background: Commercial recreation includes “any establishment other than a theater at which recreation facilities are offered or amusement devices provided to the public as a principal commercial activity of such establishment.” This category includes, for example, bocce, ‘escape rooms’, and indoor miniature golf. As competition from the Internet grows, these ‘experiential’ entertainment uses are increasingly important to the health of commercial districts. Currently, establishing a commercial recreation use in any district except C-DMU is subject to a (UPPH) or prohibited outright.

Recommendation: Staff recommends reducing the level of discretionary review for commercial recreation uses across all C-prefixed districts in the same manner that was approved in the Downtown Core District (C-DMU) in 2016.⁷ These levels are listed in the table below:

Area	Discretionary Permit
Under 5,000 ft ²	ZC
Between 5,000 – 10,000 ft ²	AUP
Over 10,000 ft ²	UPPH

⁷ See: Berkeley City Council, [Commercial Recreation Center Uses in the Downtown Mixed Use Zoning District \(C-DMU\); Amending BMC Chapters 23E.68 and 23F.04](#), March 15, 2016.

Rationale: Staff expects that interest in establishing commercial recreation will continue to grow. Easing regulatory restrictions on commercial recreation centers in all districts will serve and strengthen the community and could potentially eliminate the need for neighborhood consumers to drive to recreational entertainment, thus reducing vehicle miles traveled (VMT) locally. This amendment will lower barriers for these establishments while retaining the appropriate level of discretion for larger spaces.

6. Allow the incidental service of beer and wine at a food service establishment via a ZC, and add standard conditions of approval as performance standards in the Zoning Ordinance.

Background: Currently, an operator of a food service establishment must obtain a Tier 4 AUP (approximately two to five months and \$1,890 in fees) to serve beer and wine. This review process is separate and in addition to the review required by the Alcohol Beverage Control (ABC), the state agency regulating the sale, service, and production of alcohol.

Recommendation: Adopt revised text to Chapter 23E.16.040 (*Alcoholic Beverages*). Along with the text amendment, staff recommends that the Zoning Ordinance be amended to impose performance standards for beer and wine service incidental to food service, which will include concepts that might have previously been articulated in the findings or 'conditions of approval' section of the AUP or UP (see Attachment 3: Draft Performance Standards for Beer and Wine Service Incidental to Food Service). Staff seeks the Commission's feedback on the content and enforcement mechanism of the performance standards.

Rationale: By easing the regulatory process (but not the content) for the service of beer and wine incidental to food service at food establishments, this amendment reduces the length, expense and uncertainty of the entitlement process for food service purveyors, and it provides a service that is commonly provided with these uses.

DISCUSSION

The following questions are for Planning Commission's consideration based on the information provided in this report and on Planning Commission's discussion:

1. ***Do you have feedback on the six proposed Zoning Ordinance modifications to support small businesses from City Council referral of May 15, 2018?***
 - a. ***For elimination of the parking requirement, how should the requirements for qualifying projects be defined (Recommendation 1)?***
 - b. ***How should the thresholds for discretionary review of change of use be set (Recommendation 3)?***
 - c. ***Feedback on reduced discretion for incidental beer and wine service (Recommendation 6)?***

- 2. Will Planning Commission set a public hearing on July 18, 2018 to discuss recommended actions and draft Zoning Ordinance amendments related to City Council's Small Business Support Package referral?***

CONCLUSION

The Zoning Ordinance modifications proposed in this report simplify the permitting process for small businesses. The amendments are designed specifically to support small independent business and non-profit operators seeking to invest and activate Berkeley's commercial districts. Proposed modifications will help establish businesses that provide the community with needed goods and services and reflect the requests and policy direction set by the City Council. After receiving direction from the Planning Commission, staff will return with detailed draft Zoning Ordinance amendments for consideration at a public hearing.

ATTACHMENTS

1. Referral Response: Modifications to the Zoning Ordinance to Support Small Business, May 15, 2018.
2. Draft Performance Standards for Food Service
3. Draft Performance Standards for Beer and Wine Service Incidental to Food Service

Attachment 2 -- Food Service Establishment Regulations

Land Use Designation	Zoning District	Type	Threshold	Permit
Neighborhood Commercial	C-N	Carry Out	< 1,000 sq. ft.	ZC
			> 1,000 sq. ft.	AUP
		Quick Service	< 1,000 sq. ft.	ZC
			> 1,000 sq. ft.	AUP
		Full Service	< 1,000 sq. ft.	ZC
			> 1,000 sq. ft.	AUP
	C-NS	Carry Out	< 1,000 sq. ft.	ZC
			> 1,000 sq. ft.	AUP
		Quick Service	< 1,000 sq. ft.	ZC
			> 1,000 sq. ft.	AUP
		Full Service	< 1,000 sq. ft.	ZC
			> 1,000 sq. ft.	AUP
	C-SA	Carry Out	< 1,000 sq. ft.	ZC
			> 1,000 sq. ft.	AUP
		Quick Service	< 1,000 sq. ft.	ZC
			> 1,000 sq. ft.	AUP
		Full Service	< 1,000 sq. ft.	ZC
			> 1,000 sq. ft.	AUP
	C-SO	Carry Out	< 1,000 sq. ft.	ZC
			> 1,000 sq. ft.	AUP
		Quick Service	< 1,000 sq. ft.	ZC
			> 1,000 sq. ft.	AUP
		Full Service	< 1,000 sq. ft.	ZC
			> 1,000 sq. ft.	AUP
C-E*	Carry Out	1,000 sq. ft. max	AUP	
	Quick Service	1,000 sq. ft. max	AUP	
	Full Service		AUP	
Avenue Commercial	C-1	Carry Out	< 1,500 sq. ft.	ZC
			> 1,500 sq. ft.	AUP
		Quick Service	< 1,500 sq. ft.	ZC
			> 1,500 sq. ft.	AUP
		Full Service	< 1,500 sq. ft.	ZC
			> 1,500 sq. ft.	AUP
	C-T	Carry Out	< 1,500 sq. ft.	ZC
			> 1,500 sq. ft.	AUP
		Quick Service	< 1,500 sq. ft.	ZC
			> 1,500 sq. ft.	UPPH
		Full Service	< 1,500 sq. ft.	ZC
			> 1,500 sq. ft.	AUP
	C-W	Carry Out	< 1,500 sq. ft.	ZC
			> 1,500 sq. ft.	AUP
		Quick Service	< 1,500 sq. ft.	ZC
			> 1,500 sq. ft.	UPPH
		Full Service	< 1,500 sq. ft.	ZC
			1,501-2,500 sq. ft.	AUP
> 2,501 sq. ft.	UP(PH)			

Attachment 2 -- Food Service Establishment Regulations

Item 10 Attachment 2
 Planning Commission
 July 18, 2018

Land Use Designation	Zoning District	Type	Threshold	Permit
Downtown	C-DMU	Carry Out	< 2,000 sq. ft.	ZC
			> 2,000 sq. ft.	AUP
			Within A.D.O.	AUP
		Quick Service	< 2,000 sq. ft.	ZC
			> 2,000 sq. ft.	AUP
		Full Service	< 4,000 sq. ft.	ZC
> 4,000 sq. ft.	AUP			
Mixed Use	MU-LI	Carry Out	< 5,000 sq. ft.	AUP
			> 5,000 sq. ft.	UP(PH)
		Quick Service	< 5,000 sq. ft.	AUP
			> 5,000 sq. ft.	UP(PH)
	Full Service	--	UP(PH)	
	MU-R	Carry Out	< 5,000 sq. ft.	AUP
			> 5,000 sq. ft.	UP(PH)
		Quick Service	< 5,000 sq. ft.	AUP
> 5,000 sq. ft.			UP(PH)	
Full Service	--	UP(PH)		

* C-E has a limit of 25 food service establishments within the district



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: October 3, 2018
TO: Members of the Planning Commission
FROM: Sydney Stephenson, Assistant Planner
SUBJECT: Planning Commission FY 2018-2019 Work Plan

RECOMMENDATION

Staff recommends that the Planning Commission discuss the following requirements of an annual work plan and decide the next steps for producing the Planning Commission's 2018-2019 Work Plan.

1. Commission Mission Statement
2. Strategic Issue Areas
3. Activities, Outputs, and Outcomes
4. Resources

BACKGROUND

In 2016, the Council adopted direction to the Commissions to submit an annual work plan at the beginning of each fiscal year (Attachment 1). On July 10, 2018, the Council approved an item requesting consolidation of all City work plans in one place for easy access for staff, the public, and elected officials (Attachment 2 and Link 1).

The Council referral lays out what information each work plan shall contain: resources, program activities, outputs, and outcomes. Planning staff recommends that the Planning Commission review examples from other Commissions. Attachments 3 and 4 are examples of work plans from the Energy Commission and the Transportation Commission, see also Link 1 for all work plans on uploaded to the Berkeley website.

Due to the large number of referrals the Planning Commission has received in recent years, the Commission has used a more flexible format work plan format (a "project matrix") that categorized referrals, referenced Council's priorities, and estimated staff level of effort and potential timelines. The Planning Commission routinely revisits the "project matrix" every three to six months to ensure workload aligns with the Council's Prioritized Referral List and Housing Action Plan Referral list. This process has been very useful and the "project matrix" has been shared widely with the public, city staff and elected and appointed officials. However, in order to be consistent with the Council's work

plan referral, the Planning Commission must submit a formal 2018-2019 Work Plan memo to Council. This memo can include the “project matrix, but will need to include additional work plan elements. The Discussion section of this report will outline what is needed and will provide an opportunity for the Commission to discuss.

DISCUSSION

Development of the Planning Commission’s 2018-2019 work plan requires a review of current work, the prioritized Council referrals, goals of the Commission, and resources. The Discussion section of this report includes ideas and examples of how to present the Planning Commission’s work plan to the Council.

Commission Mission Statement

The current Planning Commission’s mission statement reads: “The Commission recommends modifications to the City of Berkeley General Plan and related policy documents. All Zoning Ordinance amendments are developed through this Commission and recommended to the City Council. Other purviews include subdivision map consideration and review and comments on substantial projects from surrounding jurisdictions” (see Link 2).

Planning Commission Action: Staff asks that the Planning Commission review the Mission Statement and consider their roles and responsibilities in the context of this direction from Council.

Strategic Issue Areas

The Strategic Issue Areas section of the work plan should include the key issues the Commission wants to address and where each referral falls within the key issues. At previous Planning Commission meetings this year, the Commissioners discussed general issues they wanted to focus on, including streamlining the permitting process for housing and prioritizing affordable housing. Staff has identified five topics as common themes from the current list of referrals (Attachment 5), including affordable housing referrals; density bonus referrals; other housing referrals; and business related referrals. The referral list also includes a few miscellaneous referrals that do not fit within these themes, as well as referrals that are new and are not ranked yet. There are a handful of referrals that relate to more than one of the identified themes. For example the Student Housing referrals could be placed in the density bonus category, but also in the affordable housing category.

Planning Commission Action: Staff asks that the Planning Commission review the strategic issues areas identified by staff and confirm they appropriately capture the common themes of the referrals.

Work Plan Formant and Content

The Activities, Outputs, and Outcomes section of the work plan should include the referrals and projects the Planning Commission is or will be working on. Staff recommends presenting the work plan in a table similar to the format used by the

Transportation Commission. Attachment 6 presents a table template with the following column titles: *Referrals*, *Ranking*, *Resources*, *Activities*, *Outputs*, and *Outcomes*.

- The first column, *Referrals*, will include the referrals grouped into the common themes listed in the Strategic Issue Areas section of this report. The list of common themes above are staff recommendations, but the Planning Commission can move referrals around or create different common themes to sort the referrals.
- The second column will include the referrals' RRV (Council's Reweighted Range Voting) and/or the HAP (Housing Action Plan) numbers. The majority of the current referrals were started prior to the last Council's RRV process in June 2018. Thus, the *Ranking* column will have 'started' for referrals that were not included in the RRV process, or 'not ranked' for referrals that were developed after the RRV process.
- The third column, *Resources*, will include information regarding who will work on the referrals, and if there are any other resources required for the referrals. All of the referrals and project required staff time to research, develop Zoning Ordinance language, and write staff reports. Some referrals also might require funding, for example the San Pablo Avenue Specific Plan is a larger project which will require additional funding.
- The fourth column, *Activities*, will include the required tasks and actions for the Planning Commission. For example, most of the referrals will require the Planning Commission to review the policies or Zoning Ordinance language developed by staff and provide direction and feedback. This column could also include any Subcommittee work, like the JSISHL (Joint Subcommittee on Implementation of the State Housing Laws) and the ZORP subcommittee (Zoning Ordinance Revision Project).
- The fifth column, *Outputs*, will include the direct results of the Commission's activities. For example, the majority of the referrals will required the Planning Commission to make recommendations on Ordinances and Planning documents to send to the Council.
- The last column, *Outcomes*, will circle back to the referral goals but shall include more specific results. The outcomes shall include the benefits to the City and the community. An example of an outcome could be: "streamlined permit for ADUs."

Planning Commission Action: Staff asks that the Planning Commission review the template of the work plan and confirm that it appropriately represents what the Council requested in their referral.

NEXT STEPS

As explained in Council's work plan referral, Planning Commission members (and not staff) are asked to write the work plan memo to City Council. Staff recommends that the

Planning Commission elect two Commissioners or create a subcommittee of three Commissioners to complete the Planning Commission's 2018-2019 Work Plan table (Attachment 6) and draft a short memo – similar to the examples provided – that can be submitted to Council and uploaded on the City's website. The draft work plan memo will need to be returned to the Planning Commission for approval prior to Council submission by the end of 2018.

ATTACHMENTS

1. Commission Work Plan Referral – July 19, 2016
2. Consolidate Commission Work Plans in one place Referral – July 10, 2018
3. Transportation Commission 2017-2018 Work Plan
4. Energy Commission 2018-2019 Work Plan
5. Planning Commission Referrals (project matrix and referral list)
6. Planning Commission 2018-2019 Work Plan Table template

LINKS

1. [Board and Commission Work Plans Webpage](#)
2. [Planning Commission Webpage](#)



Lori Droste, District 8
Susan Wengraf, District 6

CONSENT CALENDAR
July 19, 2016

TO: Honorable Mayor and City Council
FROM: Councilmembers Lori Droste, Susan Wengraf,
Linda Maio, and Kriss Worthington
SUBJECT: Commission Work Plans

RECOMMENDATION

Commissions—with the exception of the Board of Library Trustees, Design Review Committee, and the Zoning Adjustments Board—will submit a work plan detailing its goals and objectives for the year. Plans will be submitted at the start of the fiscal year, annually.

FINANCIAL IMPLICATIONS

Although additional staff time will be needed to assist commissions in drafting work plans, staff time will be reduced overall if misaligned commission referrals are reduced. In addition, if boards and commissions do not direct city staff to perform research, gather information, or otherwise engage in activities involving projects or matters that are not aligned with the City’s Strategic Plan, staff will be able to make more efficient use of their time.

BACKGROUND

The City of Berkeley is in the process of introducing its first strategic plan. To ensure that Berkeley’s commissions are in alignment with the overall mission of the City, commissions should submit annual work plans. Each work plan should contain the following information:

1. Commission mission statement
2. What are the commission’s goals? In order to achieve these objectives, please specify:
 - a. Resources
 - i. What specific resources are needed and available to achieve desired change? (i.e. staff time, \$, time, materials, equipment)
 - b. Program activities
 - i. What will the commission do with its resources?
 - ii. Processes, tools, events, technology, actions that are employed to bring about the intended objectives.

Commission Work Plans

CONSENT CALENDAR
July 19, 2016

- c. Output(s)
 - i. What will be the direct results of commission activities?
 - ii. How much will be done? (i.e. Number of forums/meetings held, # of participants reached, etc.)
- d. Outcomes
 - i. The specific changes desired/achieved in the short-term (1-3 years) and long-term (4-6 years)

Outcomes should be measurable, action-oriented, and realistic (W. K Kellogg Foundation, 2004).

ENVIRONMENTAL SUSTAINABILITY

Not applicable

CONTACT PERSON

Lori Droste, City Councilmember District 8, 510-981-7180
Susan Wengraf, City Councilmember District 6, 510-981-7160

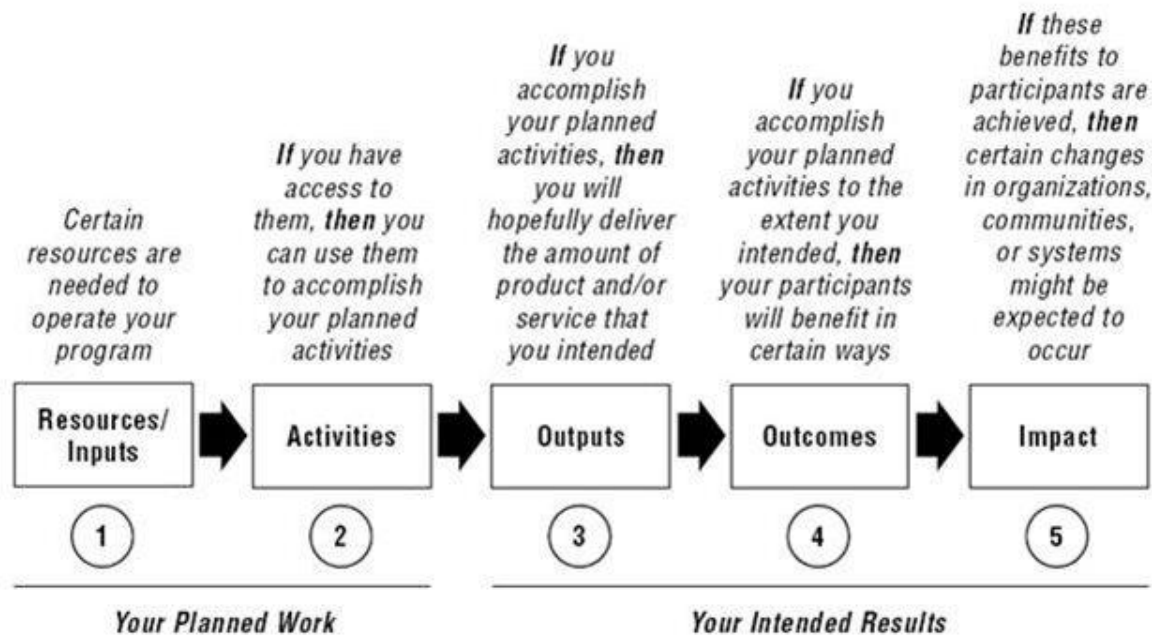
Attachments:

1: Logic Model Summary (W.K. Kellogg Foundation)

Logic Model Summary

A logic model brings program concepts and dreams to life. It lets stakeholders try an idea on for size and apply theories to a model or picture of how the program would function.

The program logic model is defined as a picture of how your organization does its work – the theory and assumptions underlying the program. A program logic model links outcomes (both short- and long-term) with program activities/processes and the theoretical assumptions/principles of the program.



The Basic Logic Model components shown above are defined below. These components illustrate the connection between your planned work and your intended results.

They are depicted numerically by steps 1 through 5.

YOUR PLANNED WORK describes what resources you think you need to implement your program and what you intend to do.

Commission Work Plans

CONSENT CALENDAR
July 19, 2016

1. Resources include the human, financial, organizational, and community resources a program has available to direct toward doing the work. Sometimes this component is referred to as Inputs.

2. Program Activities are what the program does with the resources. Activities are the processes, tools, events, technology, and actions that are an intentional part of the program implementation. These interventions are used to bring about the intended program changes or results.

YOUR INTENDED RESULTS include all of the program's desired results (outputs, outcomes, and impact).

3. Outputs are the direct products of program activities and may include types, levels and targets of services to be delivered by the program.

4. Outcomes are the specific changes in program participants' behavior, knowledge, skills, status and level of functioning. Short-term outcomes should be attainable within 1 to 3 years, while longer-term outcomes should be achievable within a 4 to 6 year timeframe. The logical progression from short-term to long-term outcomes should be reflected in impact occurring within about 7 to 10 years.

5. Impact is the fundamental intended or unintended change occurring in organizations, communities or systems as a result of program activities within 7 to 10 years. In the current model of WKKF (W.K. Kellogg Foundation) grantmaking and evaluation, impact often occurs after the conclusion of project funding.

Compiled from:
W.K. Kellogg Foundation. "Logic Model Development Guide." (2004)



Susan Wengraf
Councilmember District 6

CONSENT CALENDAR
July 10, 2018

To: Honorable Mayor and Members of the City Council
From: Councilmembers Wengraf, Hahn, and Droste
Subject: Referral to City Manager to consolidate all City Commission Workplans in one place for easy access for staff, the public, and elected officials.

RECOMMENDATION

Make a referral to the City Manager to consolidate all City Commission Workplans in one place for easy (electronic) access for staff, the public, and elected officials.

FINANCIAL IMPLICATIONS

Minimal – staff time.

BACKGROUND

On July 19, 2016 Council voted to have all City Commissions, with the exception of BOLT, ZAB, and Design Review Committee, submit an annual workplan at the beginning of each fiscal year.

Currently workplans are posted on the Commission’s webpage. Workplans should be consolidated in one place to simplify Council’s and the public’s access to the proposed annual work of each Commission.

ENVIRONMENTAL SUSTAINABILITY

No impact

CONTACT PERSON

Councilmember Wengraf Council District 6 510-981-7160

Attachments:

- 1: [Commission Work Plan Council Item July 19, 2016](#)
- 2: [City Clerk's Reminder of Workplan to Commission Secretaries](#)



Transportation Commission

INFORMATION CALENDAR
October 31, 2017

To: Honorable Mayor and Members of the City Council
From: Transportation Commission
Submitted by: Ghanya Thomas, Chairperson, Transportation Commission
Subject: Annual Work Plan for Transportation Commission

INTRODUCTION

The Transportation Commission (TC) hereby submits its work plan for Fiscal Year 2018, pursuant to the Berkeley City Council’s 2016 direction.

The TC’s mission is to provide guidance and facilitate public input to the City’s Transportation Division on transportation issues, including citywide transportation planning, traffic engineering, parking, bicycle and pedestrian planning, and alternative transportation programs. The TC helps with the Transportation Division’s work with neighborhood organizations, community groups, and local business associations, as the Division develops short and long-range policy recommendations and directs program implementation to support a safe, efficient transportation environment in Berkeley.

The FY 2018 TC Work Plan shows its intended work in (a) tracking ongoing transportation projects, and (b) identified work items that have been requested by council or residents, that have been identified by the commission, or require further research and analysis prior to council recommendation.

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

POSSIBLE FUTURE ACTION

Not applicable.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Not applicable.

CONTACT PERSON

Farid Javandel, Commission Secretary, Manager, Department of Public Works
Transportation Division (510) 981-7061

Attachments:

- 1: Transportation Commission 2017-18 Work Plan Updated July 2017

Transportation Commission 2017-2018 Work Plan
 Updated: July 2017

Mission: Advises the Council on transportation policies, facilities, and services.

Goals- Ongoing projects	Resources	Program activities	Outputs	Outcomes
Hearst Ave Complete streets project (lessons learned)	Staff time to gather completed project & other related data	Commission will review outcomes & efficiencies	Commission recommendations to Council	Better coordination, improved project delivery systems
Downtown Projects Bundle: Center Street Garage, Downtown Plaza, Parking Apps, Shattuck Reconfiguration	Staff updates	Scope review & Project status	Commission recommendations to Council	Successful project delivery
goBerkeley Program	Staff updates	Public meetings	Policy guidance	
I-80 Gilman Interchange & Ped Overcrossing Project Northwest Berkeley	Staff updates	Public meetings	Policy guidance on technical decisions	Successful project delivery
Safe Routes to Schools Projects	Staff updates	Public meetings	Ped Subcommittee Assignments	Successful project delivery
4th Bore Mitigations: Ashby/Hwy 13 projects (completion Dec 2017)	Staff updates	Monitor project status	Communication to stakeholders	Successful completion of all projects 2017
Bike Share Program	Staff time to gather completed project & other related data	Policy Guidance on technical decisions	If needed make recommendations to Council	Successful Bike Share Program; Launch in July 2017
Adeline Corridor Specific Plan (grant planning)	Staff updates	Coordination between Berkeley BEST Plan & Adeline Specific Plan	Guidance on successful funding opportunities	Ensure successful grant funding \$ and encourage equitable stakeholder involvement
Key Line (Shattuck-Adeline- Bay Bridge) Greenway Private initiative	Staff will advise when grant funding is received	Monitor private scoping activities	If needed make recommendations to Council	Encourage equitable stakeholder involvement
Grants- Annual Updates; Comprehensive discussion of all grant applications (includes Measure BB Grants)	Staff updates	Commission will review language to improve outcomes	Policy guidance on technical decisions	Ensure successful grant funding \$
Traffic Calming – Update w/ annual table of projects	Staff updates	Policy guidance on technical decisions	If needed make recommendations to Council	Successful delivery of calm streets
ACTC annual report showing Meas. BB fund distribution (May 2017 and every January)	Staff Updates	Policy guidance on technical decisions	Funding transparency	Successful project funding \$

Transportation Commission 2017-2018 Work Plan

Goals - TC Work Items	Resources	Program Activities	Outputs	Outcomes
Review Traffic Collision Reports and Annual Safety Goals (Work: Vision Zero Policy Development)	Assign to Ped subcommittee	Public meetings	If needed make recommendations to Council	Adoption of Vision Zero policy
Two-way Telegraph Avenue & Southside (Complete Streets)	Staff Updates	Policy guidance on language	If needed make recommendations to Council	
Coordinate with Public Works Commission on Annual Paving Plan and opportunities for developing Complete Streets	Coordination between Public Works & TC Chairs	Commission will review design to improve coordination	If needed make recommendations to Council	Coordinate street repair & design changes
Bike Plan Implementation	Assigned to Bike subcommittee	Review of bike grant funding	Consultation with staff	Bike project funding \$
Sidewalk Repair and Accessibility +Disability concerns	Refer to the Ped subcommittee w/ Recommendations from PW & Disability Commissions	Policy guidance on technical decisions	If needed make recommendations to Council	Better and safer sidewalks
Utility Undergrounding- Coordination with PWC	Assign TC rep to attend PWC meetings	Updates from TC Rep	If needed make recommendations to Council	Comprehensive utility undergrounding policy
Update Complete Streets Policy (CS) /Transit, Bike, Ped First policy	Assigned to subcommittee	Scope review and project delivery	If needed make recommendations to Council	Consistent application / definition of CS policy
Prioritize Citywide access to schools policy	Assign to subcommittee	Review existing system deficiencies	If needed make recommendations to Council	Safe access to schools
Simplify parking removal discussion and policy	Assign to subcommittee	Research to gather data & policy information	If needed make recommendations to Council	Simplify parking policies
Speed Cameras - CVC Change: Recommendation to Council to communicate to State	Assign ad hoc subcommittee		Make recommendations to Council	
Level of Service vs. Vehicle Miles Traveled – Policy	Assign ad hoc subcommittee Coordinate w/ PW		If needed make recommendations to Council	Reducing the state's level of greenhouse gas & other environmental impacts
Project Delivery Strategy -Projects+ Funding + Staff Capacity; Develop recommendations to Council	Assign ad hoc subcommittee			Completed May 2017

Transportation Commission 2017-2018 Work Plan

Walking Distance Wayfinding Signs (Pedestrian Plan)	Assign ad hoc subcommittee	Refer to Pedestrian Subcommittee	If needed make recommendations to Council	Criteria for where signs would be placed
Pedestrian Plan Update	Assigned to Ped subcommittee	Public meetings	Commission recommendations to Council	Comprehensive Pedestrian Plan
Sanctuary Transit Policy (BART)	Commission rep drafted language	Agenda during TC meeting	Commission recommendations to Council	Completed May 2017
Autonomous Vehicles	Assign ad hoc subcommittee		Make recommendations to Council	
Telegraph Avenue Loading Zone Policy	Assign to ad hoc subcommittee	Public meetings	Make recommendations to Council	



Energy Commission

INFORMATION CALENDAR
September 13, 2018

To: Honorable Mayor and Members of the City Council
From: Energy Commission
Submitted by: Ryan Bell, Chairperson, Energy Commission
Subject: Berkeley Energy Commission Workplan for 2018-2019

INTRODUCTION

The members of the Energy Commission developed the Berkeley Energy Commission’s Workplan for 2017-2018 in consultation with City staff to ensure alignment of existing efforts to implement the Climate Action Plan and other priorities through the promotion of clean energy, giving priority to existing referrals to the Commission from the City Council.

CURRENT SITUATION AND ITS EFFECTS

In 2016, the City Council directed all commissions to submit work plans to the City Council at the beginning of each fiscal year. At its meeting of May 23, 2018, the Energy Commission voted to adopt this work plan and send it to City Council. [Vote: 4-0-0-5; Ayes: Bell, Leger, Schlachter, Stromberg. Noes: None. Abstain: None. Absent: Luce, Jouglu. Leave of Absence: Bernhardt, Elmallah, Weems.]

BACKGROUND

The Berkeley Energy Commission is charged with advising the City Council on matters related to energy conservation and alternative energy development in the City of Berkeley. To fulfill this mission, the energy commission proposes taking action in the following strategic areas over the next year:

- Promoting energy efficiency in the built environment
- Promoting the use of clean, renewable, energy
- Reducing transportation energy use
- Advancing municipal building upgrades and renewable energy installation

The attached workplan outlines the specific activities and deliverables the Energy Commission will work on over the next year.

ENVIRONMENTAL SUSTAINABILITY

The Energy Commission’s Work Plan helps advance energy efficiency, clean energy, and the City’s greenhouse gas reduction goals.

Berkeley Energy Commission Workplan for 2018-2019

INFORMATION CALENDAR
September 13, 2018

POSSIBLE FUTURE ACTION

The Commission may make additions or changes to the workplan as opportunities arise and referrals are made from City Council.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There will be no expected financial impact of adopting the Energy Commission's work plan, beyond some minimal staff time for City employees to prepare updates and presentations for the Commission on City programs. In the long run, the activities outlined in this plan could save the City money decreased energy costs.

CONTACT PERSON

Billi Romain, Commission Secretary, Department of Planning and Development, (510) 981-7432

Attachments:

1: Berkeley Energy Commission's 2018-19 Work Plan

June 27, 2018

Berkeley Energy Commission's 2018-19 Work Plan

MISSION

The Berkeley Energy Commission advises the City Council on climate protection, energy conservation and alternative energy development in Berkeley.

STRATEGIC ISSUE AREAS

To carry out its mission, the Energy Commission will work in the following areas over the next year:

- Promoting energy efficiency in the built environment
- Promoting the use of clean, renewable, energy
- Reducing transportation energy use
- Advancing municipal building upgrades and renewable energy installation

ACTIVITIES

Within each of these strategic issue areas, the Commission will focus on the following specific activities over the next year.

Strategic Issue Area: Promoting clean energy and energy efficiency in the built environment

1. Advance Berkeley's codes, policies, and programs for promoting building efficiency and green building practices
 - *Deliverables:*
 - Review, enhance, and help promote the City's suite of approaches for implementing the Deep Green Building program, including considerations of embodied energy and toxics.
 - Review and suggest improvements for implementing and tracking the Building Energy Savings Ordinance.
 - Promote building electrification and replacing natural gas space and water heating with electric heat pumps through developing reach codes and hosting education workshops.
 - *Lead Commissioner:* Leger, Elmallah, Stromberg
 - *Timing:* Ongoing
2. Track energy resources available to disadvantaged communities
 - *Deliverables:* Investigate ways to increase opportunities to improve energy efficiency and access to alternative fuel and power sources in Berkeley's disadvantaged communities.
 - *Lead Commissioner:* Bell
 - *Timing:* Ongoing

Strategic Issue Area: Promoting the use of local renewable energy

3. Track the development of East Bay Community Energy (EBCE)
 - *Deliverables:* Track EBCE's rollout and provide comments on their programs, electricity mix, default offerings, opportunities to advance City priorities.
 - *Lead Commissioner:* Stromberg, Bernhardt
 - *Timing:* Ongoing

June 27, 2018

Strategic Issue Area: Reducing transportation energy use4. Evaluate electric vehicle infrastructure programs

- *Deliverables:* Evaluate the potential for increasing electric vehicle charging through city code. Assist city staff with the development of the city's electric vehicle action plan. Review best practices and infrastructure innovations to promote electric vehicle adoption.
- *Lead Commissioner:* Weems, Schlachter
- *Timing:* Summer and Fall 2018

5. Track other alternative fuel technologies and infrastructure issues to that could reduce vehicle use

- *Deliverables:* Investigate opportunities for transitioning to electric buses and provide recommendations on other topics as they arise.
- *Lead Commissioner:* Bernhardt, Schlachter
- *Timing:* Ongoing

Strategic Issue Area: Advancing municipal building upgrades and renewable energy installation6. Provide input and guidance into the Berkeley Energy Assurance Transformation (BEAT Micro-grid) Project

- *Deliverables:* Input and guidance provided on the project, including comments to staff on the draft report to the CEC, as well as providing input into subsequent grants and projects.
- *Lead Commissioner:* Bell
- *Timing:* Spring - summer 2018

Other topic areas followed by the Energy Commission

- Berkeley's Climate Action Plan, its impact, and opportunities for improvement
- Energy efficiency and alternative energy strategies in municipal projects

IMPACTS

1 – 3 years: Accelerated reductions in greenhouse gas emissions, so that Berkeley achieves its 2020 Climate Action Plan goal of reducing greenhouse gas emissions 33% below 2000 levels while avoiding unintended side effects.

4 – 6 years: Accelerated reductions in greenhouse gas emissions so that Berkeley is on track to achieve its 2050 Climate Action Plan goal of reducing greenhouse gas emissions 80% below 2000 levels while avoiding unintended side effects.

RESOURCES NEEDED

The Energy Commission does not anticipate any additional resources needed beyond the staff time required to provide updates on the activities in this work plan that overlap with their regular duties.

Planning Commission & Policy Group Work Plan
 Land Use Planning Division

Blue = 2018 RRV Red = Short Term

DESCRIPTION	RANKING		Look Up (Row # in PC Referral Table)
	RRV	HAP	
Affordable Housing Referrals			
Adeline Community Benefits/ Land Value Capture	10		23
Green Affordable Housing	started	12, 17	7
Streamline Permitting for Affordable Housing (JSISHL)	started	12	9, ST1
Student Housing Package	started, 56, 16, 25	4	12, 18, 28, 39
Density Bonus Referrals			
Develop Community Benefits with C-T development standards (see Student Housing Package)	started		12
Create pilot program for in-lieu fees for City Density Bonus (see Student Housing Package)	56	3	18
Revise General Plan & Zoning Ord. to add written standards	started	5	22
Amend Zoning Ord. to increase max height by 20' and adjust FAR in area bounded by Bancroft, College, and Fulton (see Student Housing Package)	16		28
Other Housing Related Referrals			
ADUs in very high fire zones	43		32
Housing Linkage Fees	started	8	25
Junior ADUs	20		17
Research Tiny Homes, YSA Tiny Homes	63		37
Business Related Referrals			
Commercial Square Footage in C-E	59		15
Expand boundaries of Downtown Arts District	17		14
Flexible Ground Floor Uses	started, 25	18	16
Moderate Impact Home Occupations	started		1
Small Business Package	started		40
Miscellaneous Referrals			
Air Pollution	27 (CEAC)		20
Comprehensive Cannabis Ordinance	started, started, started		4, 24, 44
Health Equity and Innovation District	49		35
Lower discretion for internal remodeling	15		31
San Pablo Ave Specific Area Plan	23		5
Toxic Remediation Regulations	started		2
Zoning Ordinance Revision Project Phase 1 & Phase 2	started		10
Reclassify 1050 Paker from MU-LI to C-W	57		30
New and Not Ranked Referrals			
ADU Ordinance Updates	NR		45, 48
C-SA Car Sales	NR		43
Green Development Standards in C-DMU	NR		6, 11
Inclusionary Units in Live-Work	NR		46
Mini-Dorm Updates	NR		47

Abbreviations: HAP = Housing Action Plan JSISHL: Joint Subcommittee on Implementation of State Housing Laws
 cc = City Council sc = Sub Committee of the Planning Commission pc = Planning Commission ph = Public Hearing at
 ws = worksession AH = Affordable Housing ADU = Accessory Dwelling Unit NR = Not Ranked RRV = Reweighted Range

REFERRAL TRACKING, Planning Dept.

Updated 9/14/18

#	Open general referrals from Council	Original Sponsor	RRV?	Background	Planning Division
1	Classify Home Occupation Activities receiving five or fewer visits per year as "Moderate Impact"	CM Maio	started	Referral from 12/6/11.	LUP
2	Amend Zoning Code to facilitate remediation of toxic conditions in manufacturing districts	CMs Moore and Wozniak	started	Referral from 5/1/12.	LUP
3	Give Zoning discretion to deny new permits to individuals with outstanding code violations at other Berkeley sites	HAC	41	Referral from 9/9/14.	LUP, BSD
4	Referral to PlanComm to amend Zoning Ord to expand Medical Cannabis Cultivation beyond the M District	MCC	started	Referral from 11/18/14.	LUP
5	Initiate an area planning process with community outreach re future development on San Pablo Ave.	CMs Moore and Maio	23	Referral from 7/14/15.	LUP
6	Referral to City Manager, PlanComm, CEAC to consider requiring Green Storm water Infrastructure systems on all new large residential and commercial developments	CM Arreguin	started	Referral from 9/15/15.	LUP, TMD
7	"Green Affordable Housing": Consider revisions to parking requirements and project approval processes	CM Droste	started	Referral from 10/27/15.	LUP
8	Create new position of Housing Inspection and Community Services Manager	CM Arreguin	started	Referral from 12/1/15. revised/expanded on 6/27/17.	BSD
9	Referral to streamline permit process for housing projects which include > 50% affordable units (and other conditions)	CM Worthington	started	Referral from 1/19/16	LUP
10	Changes to Zoning Ordinance and other practices to improve Land Use Permit process	PDD-- C.Johnson	started	Direction from Council per staff request 1/26/16.	LUP
11	Referral to PlanComm, CEAC, Energy Comm to create Citywide Green Devt standards by extending C-DMU Green Building reqmts to all commercial districts	CM Arreguin	started	Referral from 4/26/16.	LUP, TMD, OESD
12	Referral to City Manager to develop Community Benefits in association with Telegraph (C-T) District dev't standards	CM Worthington	started	Referral from 7/12/16.	LUP
13	Improve customer service in PSC, including web-based solutions, better materials, case management for apps, etc	CM Arreguin	started	Referral from 7/19/16.	BSD
14	Referral to Planning Comm to consider expanding boundaries of Downtown Arts District and add allowable ground floor uses	Mayor Bates	17	Referral from 10/18/16.	LUP
15	Review square footage limits for certain business types in Elmwood under BMC 23E.44.040	Council	59	Referral from 10/18/16 during discussion on Elmwood business quotas	LUP
16	Referral to Planning Comm to amend Zoning Ord to allow non-commercial ground floor uses	CM Worthington	started	Referral from 4/4/17. Duplicate of previous referral from CM Wengraf 1/20/15	LUP
17	Referral to Planning Comm to draft an Ordinance to allow "Junior ADUs"	CMs Wengraf, Droste	20	Referral from 5/2/17.	LUP
18	Refer to PlanComm, HAC, CM: Create pilot program for a City Density Bonus in Telegraph Commercial district, to generate in-lieu fees to use to build housing. Consider feasibility of requiring one FT apprentice for every \$3M construction costs.	CMs Worthington and Bartlett	56	Referral from 5/30/17	LUP
19	Referral to City Manager and EnergyComm to develop an Ord requiring EV charging infrastructure (as defined) on all new buildings	CM Bartlett	34	Referral from 6/13/17.	OESD
20	Referral to PlanComm to consider new Standard Condition of Approval to mitigate effects from outdoor air pollution on Indoor Air Quality	CEAC	27	Referral from 7/11/17.	LUP
21	Referral to CEAC to consider a South Berkeley Cigarette Butt Litter Prevention program	CM Bartlett	54	Referral from 7/11/17.	TMD
22	Referral to CM-PC-ZAB-DRC: Revise General Plan and Zoning Ord to add written standards re: 1. Density by parcel; 2. Healthy/safety detriments; 3. Design review; and 4. View/shadow impacts	Mayor Arreguin	started	Referral from 7/11/17.	LUP
23	Referral to City Manager and Plan Comm to create a zoning overlay for Adeline Corridor area, with regulations to be adopted for purposes of setting processes to reach Community Benefits Agreements	CM Bartlett	10	Referral from 7/25/17.	LUP
24	Refer to PlanComm and CannaComm to create Ord to clarify City policy on cannabis re existing retail plant nurseries	CM Worthington	started	Referral from 7/25/17.	LUP
25	Return with Ord to waive mitigation/impact fees for Housing Trust fund projects, analyze other poss fee waivers, and send letter to BUSD encouraging same with its fees	CM Hahn	31	Referral from 9/12/17.	LUP
26	Referral to CEAC and City Manager to consider ordinance banning idling of vehicle engines	CM Bartlett	58	Referral from 9/12/17.	TMD
27	Referral to Health Comm and CEAC to consider Ord to ban use of receipt paper which includes BPA or other phenols	CM Davila	Comm	Referral from 10/17/17, amended to include refer to CEAC as well as HealthComm	TMD
28	Referral to CityMgr and PlanComm to amend Zoning Ord to increase max height by 20' and adjust FAR in area bounded by Bancroft, College, Dwight and Fulton	CM Worthington	16	Referral from 10/31/17.	LUP
29	Refer to CM and HAC to create a 2nd Dwelling Unit/ADU Pilot program to house homeless	CM Bartlett	13	Referral from 12/19/17.	LUP

REFERRAL TRACKING, Planning Dept.

Updated 9/14/18

30	Referral to PlanComm to reclassify portion of site at 1050 Parker/2621 Tenth from MU-LI to C-W West Berkeley Commercial, and return to Council by 3/27/18.	Mayor Arreguin	57	Referral from 12/19/17.	LUP
31	Refer to PlannComm allowing certain internal remodeling activities with an AUP, rather than a UP, when existing non-conforming max lot coverage would not be increased	CM Maio	15	Referral from 2/27/18.	LUP
32	Refer to PlannComm to consider steps to address public safety issues raised by ADUs in Very High Fire Hazard zones	LUP--	43	Referral from 2/27/18 under Item 22b re urban fire safety	LUP
33	Refer to Energy Comm to develop strategies and Draft EV Plan to encourage greater EV usage	CM Wengraf	35	Referral from 3/13/18.	OESD
34	Referral to CM and DisabilComm to revise City Elevator Ord to address concerns of disabled community	CM Worthington	6	Referral from 3/13/18.	BSD
35	Referral to PlanComm, two other Comms, and the City Manager to establish a "Health Equity + Innovation District"	CM Bartlett	Comm	Referral from 3/27/18	LUP?
36	Referral to CEAC to assess capacity to join outreach program re harmful plastic microfibers; staff to write letter to EBMUD reporting out CEAC info and asking re water sourcing, copy letter to Council as	CM Harrison	***	Referral from 4/24/18	TMD
37	Referral to CM for any "additional work beyond normal dev't review process" for proposed YSA Tiny Homes Village project	CM Bartlett	63	Referral from 4/24/18; see also annotated agenda	BSD/LUP
38	Refer to staff to develop policies to incentivize residential energy efficiency and electrification, in support of CAP goals. \$50K also referred to budget process to support this work	EnergyComm	22	Referral from 4/24/18; see also annotated agenda	OESD
39	Refer to CM and PlanComm to consider allowing conversion of commercial space to residential uses, in area bounded by College, Fulton, Bancroft, and Dwight	CM Worthington	25	Referral from 5/1/18; see also annotated agenda	LUP
40	Referral to PlanComm to consider Zoning Ord modifications to make zoning review process more clear and streamlined for small businesses	Econ Devt + PDD; FYI LUP	***	Referral from 5/15/18	LUP
41	Refer to the Energy Comm and Transportation Comm steps to make Berkeley a Fossil Fuel Free City (see numerous details)	CM Davila	***	Referral from 6/12/18; see annotated agenda for details	OESD
42	Refer to Energy Comm to study and report back on making Berkeley a "Carbon Sink" (under item declaring Climate Emergency)	CM Davila	***	Referral from 6/12/18; see annotated agenda for details	OESD
43	Refer to PlannComm and Adeline Corridor Process an Ord to prohibit new auto sales and auto uses in C-SA zones	Mayor Arreguin	***	Referral from 7/10/18; see annotated agenda for additional direction.	LUP
44	Ord allowing previously approved plant nurseries in area between San Pablo, Sixth, University and Dwight to become retail cannabis nurseries	CM Worthington	***	Referral from 7/31/18. City Atty to determine if PlanComm consider req'd first. If not, to AgCmte to sched. See also annotated Ag.	LUP
45	Request for Council to include input from disability community and others regarding ADU accessibility requirements before next ADU Ord revisions	Disability Comm	***	Referral from 9/13/18.	LUP
46	Referral to Planning Comm to consider revising Zoning Ord Secs 23C and 23E to make inclusionary housing requirements for Live/Work units consistent with other unit types	CM Harrison	***	Referral from 9/13/18.	LUP
47	Referral to PlanComm to consider changes to Zoning and Mini-Dorms Ords to give flexibility for accessory buildings in some cases	CM Wengraf	***	Referral from 9/13/18; also see supplemental memo.	LUP
48	Refer to PlannComm additional revisions to ADU Ordinance	CM Hahn	***	Referral from 9/13/18; also see amendments per annotated agenda.	LUP
ST1	Referral to CM, PlanComm: Return by July 2018 with ZO amend to allow ministerial approval of zoning-compliant Affordable Housing projects. Include appeal options, community meeting reqmts	CM Droste	Short Term	Referral from 12/5/17. Staff to report back by July 2018	LUP

Ranking legend:

- **##s** are rankings per most recent Council RRV, spring 2017
- **"started"** is a referral on which substantive work began before last Council RRV, thus not subject to re-ranking
- **"*****"** are unranked referrals, either adopted after the last RRV date, or directed exclusively to Commissions

REFERRALS	RANKING* - RRV & HAP	RESOURCES	ACTIVITIES	OUTPUTS	OUTCOMES
Affordable Housing Referrals					
Adeline Community Benefits/Land Value Capture	10	Adeline consultant Staff time			
Green Affordable Housing	started	Staff time to write staff reports and zoning language			
Streamline Permitting for Affordable Housing (JSISHL)	started	JSISHL Subcommittee Staff time to write staff reports	JSISHL will review state housing laws, provide recommendations, and review any new Zoning Lanuage	JSISHL will make recommendations to the Council and the Planning Commission regarding direction on referrals	Create more affordable housing by creating streamlined permitting process for affordable housing developments
Student Housing Package	16, 56, and two started referrals	Staff time to write staff reports Consultant for CEQA analysis			
Density Bonus Referrals					
Develop Community Benefits with C-T development standards (see Student Housing Package)	started	Staff time to write staff reports			
Create pilot program for in-lieu fees for City Density Bonus (see Student Housing Package)	56	Staff time to write staff reports			
Revise General Plan & Zoning Ord. to add written standards including density standards for parcels	started	Consultant Staff time			
Amend Zoning Ord. to increase max height by 20' and adjust FAR in area bounded by Bancroft, College, and Fulton (see Student Housing Package)	16	Staff time to write staff reports			
Other Housing Referrals					
ADUs in very high fire zones	43	Staff time to write staff reports			
Housing Linkage Fees	started (short-term)	Consultant Staff time			
Junior ADUs	20	Staff time to write staff reports			
Research Tiny Homes, YSA Tiny Homes	63	Staff time to write staff reports			
Business Referrals					
Commercial Square Footage in C-E	59	Staff time to write staff reports			
Expand boundaries of Downtown Arts District	17	Staff time to write staff reports			
Flexible Ground Floor Uses	25 and one started referral	Staff time to write staff reports			
Moderate Impact Home Occupations	started	Staff time to write staff reports			
Small Business Package	started	LUP & OED staff time to write staff reports and zoning language			
Miscellaneous Referrals					
Air Pollution (CEAC)	27	CEAC Staff time			
Comprehensive Cannabis Ordinance	3 started referrals	Cannabis Commission Staff time to write Zoning language and staff reports	Commission will review language and provide feedback	Commission makes recommendations to Council	Develop Zoning language for the Comprehensive Cannabis Ordinance to allow for adult-use and medicinal cannabis businesses
Health Equity and Innovation District	49	Staff time to write staff reports			
Lower discretion for internal remodeling	14	Staff time to write staff reports			
San Pablo Ave Specific Area Plan	23	Funding Staff time Consultant? Subcommittee?			
Toxic Remediation Regulations	started	Staff time to write staff reports			
Zoning Ordinance Revision Project Phase 1 & Phase 2	started	Consultant ZORP Subcommittee Staff time			
Reclassify 1050 Paker from MU-LI to C-W	57	Staff time and ZAB			

* "started" is a referral on which substantive work began before last Council RRV, thus not subject to re-ranking

TO: Planning Commission

FROM: Elizabeth Greene, Senior Planner

SUBJECT: Council work session on cannabis ordinances and selection process

DATE: October 3, 2018

Recommendation:

Staff recommends that the Commission appoint a commissioner to attend the Council's October 9, 2018 work session regarding cannabis ordinances and selection process.

Background:

Cannabis laws in California have changed significantly in recent years. In particular, adult use of cannabis is now legal and a statewide regulatory framework has been developed to manage both the medicinal and adult use cannabis industry. Draft state regulations were published in December of 2017 and final regulations are expected by the end of 2018.

In parallel, a team of City staff is preparing draft ordinances to the Berkeley Municipal Code (BMC) and Zoning Ordinance to address these new state regulations, as well as a selection process for retailers and large cultivators. In early 2018, the first draft of these documents was reviewed by three city commissions: Cannabis Commission, Community Health Commission and the Planning Commission. The Planning Commission reviewed changes to the Zoning Ordinance on February 21, 2018 and its recommendations were forwarded to the Council (see attachment).

The Council considered a summary of the draft ordinances and selection process, as well as commission recommendations, at the March 20, 2018 work session. At that time, the Council asked staff to bring back additional information from the state and local jurisdictions to consider alongside the draft ordinances. The Council also suggested that a member of each commission providing recommendations attend the next work session to respond to any Council questions about the recommendations.

The next work session is scheduled for October 9, 2018. The Council will review the additional information and give direction on next steps for the cannabis ordinances, focusing on the following key issues:

- Quotas for retail cannabis businesses;
- Buffers between cannabis retailers;
- Approval process for cannabis businesses (i.e., levels of discretion);
- Integrating equity into Berkeley cannabis policies;
- Retail nurseries; and
- Residential collectives.

The Council will not make any decisions at this meeting, but will provide guidance so staff can develop final cannabis ordinance language for commission and City Council review.

Attachment: Matrix of Commission Cannabis Recommendations

Existing and Proposed Cannabis Regulations

Topic	Subtopic	Staff Proposed Regulations (Ordinance)	Cannabis Commission (5 mtgs, see dates below)	Planning Commission (2-21-18)	Community Health Commission (3-22-18)
Retail: Medicinal Use	Location	All C-prefixed Districts (ZO 23C.25.010.F)	Agree with staff (3-15-18)	Agree with staff	No recommendation
	Quota limit	Quota (ZO 23C.25.010.F)	No quota requirement (2-1-18) (Recommended limit of 32 in selection process discussion – 3-1-18)	Quota by zoning district, limited to 18. But requested Council to refer back to PC consideration of quotas for methods of distribution.	Either 1) No additional Retailers OR 2) 1-2 new Retailers, restricted to equity applicants
	Buffer	600' from schools and other cannabis Retailers (ZO 23C.25.010.B). 10-9-18 – Staff is also recommending a 600-foot buffer from five city-run community centers and the city-run skate park.	Agree with staff and interested in creating different buffers for businesses selling non-smokable products (2-1-18, 3-15-18) No review of community center and skate park recommendation.	Agree with staff and requested Council to refer back to PC consideration of buffers for methods of distribution. No review of community center and skate park recommendation.	1,000 feet from K-12 schools, junior colleges, colleges, universities, day care centers, parks, youth centers and libraries. No review of community center and skate park recommendation.
	Security	Requirements for video cameras, alarms, lighting, security guards, bars on windows (if no guards after business hours), secure storage of product and cash, encourage transactions other than cash whenever feasible, with addition that any State requirements that are	Agree with staff (2-1-18)	Not in Zoning Ordinance.	No recommendation

Existing and Proposed Cannabis Regulations

Topic	Subtopic	Staff Proposed Regulations (Ordinance)	Cannabis Commission (5 mtgs, see dates below)	Planning Commission (2-21-18)	Community Health Commission (3-22-18)
		stricter will apply (BMC 12.21.040.G)			
	On-site consumption	Language clarified to specifically allow non-combustible consumption at Retailers which allow customer visits. Removed language about smoking of cannabis within 50 feet of a Retailer (BMC 12.21.040.I and 12.22.040.G)	Agree with staff (3-15-18)	Not in Zoning Ordinance	Prohibit on-site consumption of recreational cannabis.
	Level of discretion	ZC and possible selection process	Agree with staff (3-15-18)	Agree with staff, and requested Council to refer back to PC consideration of buffers for methods of distribution.	Conditional Use Permit (equivalent to a Use Permit)
	Free cannabis for low-income patients	Medicinal Cannabis Retailers must provide at least 2% of product sold to low-income Patients (BMC 12.22.I.6)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No cannabis shall be provided for less than the listed price.
	Selection process	TBD, see Selection Process section (under Other topic)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Delivery regulations	Same delivery regulations as for delivery-only	Agree with staff (3-15-18)	Not in Zoning Ordinance	Only allow delivery of medicinal cannabis

Existing and Proposed Cannabis Regulations

Topic	Subtopic	Staff Proposed Regulations (Ordinance)	Cannabis Commission (5 mtgs, see dates below)	Planning Commission (2-21-18)	Community Health Commission (3-22-18)
		dispensaries (BMC 12.22.040.H)			
Retail: Adult Use (No current regs. Proposed regs same as medicinal, except as shown)	Location	All C-prefixed districts (ZO 23C.25.010.G)	Agree with staff (3-15-18)	Agree with staff	No recommendation
	Quota limit	Quota by zoning district, number not defined (Included in Medicinal Retailer quota) (ZO 23C.25.010.G)	No quota (2-1-18) (Recommended limit of 32 in selection process discussion – 3-1-18)	Quota by zoning district, limited to 12 (not included with Medicinal Retailer quota). See request regarding quotas under Medicinal Retailers.	Either 3) No additional Retailers OR 4) 1-2 new Retailers, restricted to equity applicants
	Level of discretion	ZC and possible selection process	Agree with staff (3-15-18)	Agree with staff. See request regarding levels of discretion under Medicinal Retailers.	Conditional Use Permit (equivalent to a Use Permit)
Retail: Delivery-only (“Existing regs” are those proposed by Cann Comm and Planning Comm)	Location	All C-prefixed districts (not on ground floor adjacent to street frontage) and in M-prefixed districts as an ancillary use to another cannabis business (recommended by staff) (ZO 23C.25.010.H.2)	Agree with staff (3-15-18)	Agree with staff	No recommendation
	Quota limit	None (ZO 23C.25.010.H.1)	No quota (agrees with current staff recommendation) (2-1-18)	10 or greater (staff’s recommendation at time of meeting)	No comment on number, but should be restricted to medicinal cannabis deliveries
	Buffer	600’ from schools and other cannabis Retailers (ZO 23C.25.010.B)	300’ from schools, no buffer from other Retailers (2-1-18)	Agree with staff	No recommendation

Existing and Proposed Cannabis Regulations

Topic	Subtopic	Staff Proposed Regulations (Ordinance)	Cannabis Commission (5 mtgs, see dates below)	Planning Commission (2-21-18)	Community Health Commission (3-22-18)
	Level of discretion	ZC and possible selection process	Agree with staff (3-15-18)	Agree with staff	No recommendation
	Selection process	Same selection process as other Retailers	Agree with staff (3-15-18)		No recommendation
Delivery-specific requirements		Same, but deliveries can only be to a residence. Regulations will apply to any Retailer making deliveries to patients. (BMC 12.22.040.H)	Agree with staff (3-15-18)		No recommendation

Existing and Proposed Cannabis Regulations

Topic	Subtopic	Staff Proposed Regulations (Ordinance)	Cannabis Commission (6 mtgs, see dates below)	Planning Commission (2-21-18) (only reviewed Zoning Ordinance language)	Community Health Commission (3-22-18)
Cultivation	Location	M District (ZO 23C.25.020.A)	All M-prefixed districts with a ZC, and in other districts on a case-by-case basis for equity or pre-existing businesses (2-22-18)	Agree with staff	No comments on cultivation businesses
	Size	Same maximum size, but measured by canopy area (ZO 23C.25.020.A.3)	Agree with staff (2-22-18)	Not in Zoning Ordinance	
	Quota limit	180,000 sf cap still applies. Numeric limit of 6 for businesses between 10,001 sf and 22,000 sf. No numeric limit for businesses under 10,000 sf, but 180,000 cap applies (ZO 23C.25.020.A.4, 5 and 6)	Agree with staff (2-22-18)	Agree with staff	
	Buffer	300' away from schools with K-12 students (ZO 23C.25.020.C)	Agree with staff (2-22-18)	Agree with staff	
	Security	Same, with addition that any State requirements that are stricter will apply (BMC 12.21.040.G)	Agree with staff, except remove requirement for security guards (3-15-18)	Not in Zoning Ordinance	
	On-site consumption	Same, except remove BMC 12.25.050.G.4 (BMC 12.21.040.I and 12.22.040.G)	Agree with staff (2-22-18)	Not in Zoning Ordinance	

Existing and Proposed Cannabis Regulations

	Level of discretion	ZC and selection process if large cultivator	Agree with staff (3-15-18)	Agree with staff	
	Selection process	Yes for cultivators 10,000 of canopy area or greater. No selection process for smaller cultivators.	Agree with staff (3-15-18)	Not in Zoning Ordinance	
	Nurseries	Businesses applying for a State Nursery permit must obtain the specific permits required for cultivation use at the site. (BMC 12.21.020 (definition))	No recommendation – waiting for more information from State (5-3-18)	Agree with staff. Rec Council refer back to PC to allow incidental cannabis sales of clones and seed at existing ornamental nurseries.	

Existing and Proposed Cannabis Regulations

Topic	Subtopic	Staff Proposed Regulations (Ordinance)	Cannabis Commission (6 mtgs, see dates below)	Planning Commission (2-21-18)	Community Health Commission (recommendations expected 3-22-18)
Manufacturing	Location	Same as non-cannabis light manufacturers (ZO 23C.25.030)	Agree with staff (4-5-18)	Agree with staff	No comments on manufacturing businesses
	Quota limit	No quota (not mentioned)	Agree with staff (4-5-18)	Agree with staff	
	Buffer	300' away from schools with K-12 students (ZO 23C.25.020.B)	Agree with staff (4-5-18)	Agree with staff	
	Security	Same as dispensaries, cultivators and distributors for security, lighting, alarm system, storage of product and cash. No local requirement for guards and cameras. (BMC 12.21.040.G)	Agree with staff, except remove requirement for security guards (3-15-18)	Not in Zoning Ordinance	
	On-site consumption	Only permitted at Retailers (BMC 12.22.040.G.2)	Agree with staff (4-5-18)	Not in Zoning Ordinance	
	Level of discretion	ZC	Agree with staff (4-5-18)	Agree with staff	
Testing Labs (same as Manufacturing, except as shown)	Location, changing location, expansion	Same (ZO 23C.25.030)	Remove requirement for security guards (3-15-18).	Agree with staff	No comments on Testing Labs
Distributor (same as	Security	Same as Retailer and Cultivator (BMC 12.21.040.G)	Agree with staff, except remove requirement for	Not in Zoning Ordinance	No comments on Distributors

Existing and Proposed Cannabis Regulations

Manufacturing, except as shown)			security guards (3-15-18)		
	Location, changing location expansion	Same as non-cannabis Wholesale Use (ZO 23C.25.030)	Agree with staff (4-5-18)	Agree with staff	
Microbusiness		No specific microbusiness license – business could operate as microbusinesses subject to meeting the requirements of each activity conducted on the premises	Agree with staff (3-15-18)	Not in Zoning Ordinance	No comments on Microbusinesses

Existing and Proposed Cannabis Regulations

Topic	Subtopic	Staff Proposed Regulations (Ordinance)	Cannabis Commission (6 mtgs, see dates below)	Planning Commission (2-21-18)	Community Health Commission (3-22-18)
General for all businesses	New definitions	Added new definitions to address new State regulations (BMC 12.21.020)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Revised definitions	Revised definitions to address new State regulations (BMC 12.21.020)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Patient requirements and physician recommendations	Remove references to membership requirements, including BMC 12.23.030.B and D, and 12.27.050.D (BMC 12.21.040)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Ownership/profit status	Removed both requirements	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Background checks	Removed requirement – defer to State.	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Odor control	Odor control plan language added (BMC 12.21.040.E)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Non-diversion plan	Expanded to all Cannabis Businesses (BMC 12.21.040.F)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Neighborhood compatibility	Expanded to all Cannabis Businesses, with no requirements for guards at Manufacturers and Testing Labs. Retailers shall provide Police and nearby residents contact	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation

Existing and Proposed Cannabis Regulations

Topic	Subtopic	Staff Proposed Regulations (Ordinance)	Cannabis Commission (6 mtgs, see dates below)	Planning Commission (2-21-18)	Community Health Commission (3-22-18)
		information for the business. Remove hours of operations for Dispensaries. (BMC 12.21.040.H)			
	Security	Expanded to all Cannabis Businesses, with no requirements for guards and bars on windows at Manufacturers and Testing Labs (BMC 12.21.040.G)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Sale/consumption of tobacco and alcohol	Not permitted at any Cannabis Business per state law (BMC 12.21.040.I)	Agree with staff (3-15-18)	Not in Zoning Ordinance	Agree with staff
	Consumption of cannabis by patients	Add language about consumption being prohibited in public places. Remove language about smoking prohibition within 50' of Dispensaries (BMC 12.21.040.I, 12.22.040.G)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Accessibility	Same; add language that expansions of existing businesses must meet ADA requirements (BMC 12.22.040.E)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Exterior signage	Allow for customer-serving retail at half of amount allowed per other retail requirements; delivery-	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation

Existing and Proposed Cannabis Regulations

Topic	Subtopic	Staff Proposed Regulations (Ordinance)	Cannabis Commission (6 mtgs, see dates below)	Planning Commission (2-21-18)	Community Health Commission (3-22-18)
		only Retail subject to Business complex sign standards; limit other non-customer businesses to 12 square feet (BMC 12.21.040.J, 20.40)			
	Records/reporting requirements	Expanded to all cannabis businesses. Removed reference to not-for-profit status, and reporting of convictions. (BMC 12.21.050)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Ranking and Allocation	Expanded to all Retailers and Major Cultivators. Minor changes to language. (BMC 12.22.020)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Confidentiality of information	Same, but remove language regarding Medical membership records (BMC 12.21.070)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Authority of City Manager	Added subsection to allow City Manager to require businesses to obtain operating permits from Fire, Toxics and other divisions as necessary to ensure public safety. (BMC 12.21.080, 12.22.160)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Abatement of violations	Same (BMC 12.21.090)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation

Existing and Proposed Cannabis Regulations

Topic	Subtopic	Staff Proposed Regulations (Ordinance)	Cannabis Commission (6 mtgs, see dates below)	Planning Commission (2-21-18)	Community Health Commission (3-22-18)
	Fees	Same (BMC 12.21.100 12.22.150)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Severability	Same (BMC 12.21.110, 12.22.170)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
Other					
	Use tables	Cannabis uses shown in use tables (Non-Residential District Uses Tables in the ZO)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Growing in backyards	Not mentioned, allowed per State law	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Billboards and other advertising	Prohibited in publicly visible locations, except on commercial vehicles used to transport cannabis product.	Agree with staff (3-15-18)	Not in Zoning Ordinance	No advertising in any publicly visible location within 1,400 feet of the perimeter of any school.
	Lounges	Staff recommends considering the use a Retail (storefront) use, which would need a Retailer license (BMC 12.22.040.G)	Agree with staff (3-15-18)	Not in Zoning Ordinance	Prohibit any on-site consumption of recreational cannabis
	Temporary events	Prohibited (BMC 12.22.100)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Residential collectives	Prohibited after 1-9-19 per State. Can continue until that time under existing residential collective	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation

Existing and Proposed Cannabis Regulations

Topic	Subtopic	Staff Proposed Regulations (Ordinance)	Cannabis Commission (6 mtgs, see dates below)	Planning Commission (2-21-18)	Community Health Commission (3-22-18)
		regulations(BMC 12.22.120-140)			
	Selection Process (equity, community benefit requirements, etc.)	No recommendation. Provided options for quotas by zoning districts, no selection process or lottery selection, modify buffers if no selection process, releasing quota slots in batches, allocate first slots to equity candidates, create an Equity Fund.	Create process for store front Retailers and large Cultivators that allocates half the slots to equity businesses, with lottery process to select candidates. Equity businesses defined as businesses owned by a majority (51%) of persons who have been impacted (directly or generationally) by War on Drugs (history of cannabis or cannabis-related convictions/citations), with some consideration given for low-income status. Create Equity Fund to support equity businesses. (3-15-18)	Not in Zoning Ordinance	No recommendation
	Not-for-profit	Only collectives must operate on a not-for-profit basis. (12.22.130.D)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation

Existing and Proposed Cannabis Regulations

Topic	Subtopic	Staff Proposed Regulations (Ordinance)	Cannabis Commission (6 mtgs, see dates below)	Planning Commission (2-21-18)	Community Health Commission (3-22-18)
	Operating Permit	Operating permits for all cannabis businesses may be required by the City Manager (12.21.080.C and 12.22.160.C)	Agree with staff (3-15-18)	Not in Zoning Ordinance	No recommendation
	Restrictions on products sold by Retailers	No recommendation – follow state law		Not in Zoning Ordinance	Products that are attractive to children or youth, with a characterizing flavor, with high THC content, or that could be easily confused with a commercially available, non-cannabis food. Retailers would also be restricted to sell no more than 10 product variations of edible cannabis products.
	Warnings on packaging	No recommendation – follow state law		Not in Zoning Ordinance	Provide exit packaging regarding pregnancy, breastfeeding, driving under the influence, impact on brain development, schizophrenia and breathing problems.
	Warnings in stores	Provide in-store warnings related to driving under the influence, no testing	Agree with staff (3-15-18)	Not in Zoning Ordinance	Provide in-store warnings related to pregnancy,

Existing and Proposed Cannabis Regulations

Topic	Subtopic	Staff Proposed Regulations (Ordinance)	Cannabis Commission (6 mtgs, see dates below)	Planning Commission (2-21-18)	Community Health Commission (3-22-18)
		for product efficacy or health risks, restriction to medicinal cannabis to persons who are patients, prohibition of diversion of product, no sales of adult use cannabis to persons under 21.			breastfeeding, driving under the influence, impacts on brain development, schizophrenia, breathing problems, and possible legal implications of possession by immigrants, parolees and persons ages 18 – 20.

From: Steve Martinot <martinot4@gmail.com>
Sent: Tuesday, September 11, 2018 8:35 PM
To: Pearson, Alene; Chris Schildt
Subject: Renewed request for agendizing new zoning overlay for south Berkeley

Hi, Alene,

I would like to renew my request that the issue of a new zoning overlay for south Berkeley, as was referred to the Planning Commission by City Council, be put on the agenda soon.

The main reason the neighborhood is concerned about the Honda dealership and the permission given auto service centers by the existing zoning overlay, is that Honda has a larger operation than they originally outlined for the City Council and the ZAB, and are looking to expand. Insofar as the neighborhood has been against permitting Honda to set up shop along Shattuck Ave. in the first place, it is now doubly concerned about the possibility of expansion of the auto service center from its present size and operation. This would logically mean the removal of nearby stores, such as Sconehege, and expansion into surrounding open spaces.

This is in addition to the fact that the neighborhood was never given a chance to voice its concerns publicly or debate the issue when the present overlay was under consideration by City Council,

Since neither the city nor Honda has been interested in giving the neighborhood a voice in this issue, it should at least behoove the Planning Commission to hold a public hearing on it, and make some recommendations to City Council that represent the community.

I therefore ask you to please put the issue of a new zoning overlay for that area on the Planning Commission agenda soon, so that we can give the neighborhood a voice, and not be running roughshod over the interests of the community.

Steve Martinot

PS: please distribute this message, along with the one I sent you earlier, to the entire Commission.

From: Steve Martinot <martinot4@gmail.com>
Sent: Tuesday, July 31, 2018 12:03 PM
To: Pearson, Alene
Cc: Chris Schildt
Subject: An agenda request

Dear Alene,

In the context of the recent presentations by Alisa Shen to the Planning Commission about the development of an Adeline Corridor Plan, there is an auxiliary issue relating to the topic that I would like to bring to your attention.

As you are no doubt aware, a Zoning Overlay was passed by City Council a couple of years ago granting Honda access to the zone C-SA as an auto sales and service enterprise to be located at the former Any Mountain and Berkeley Bowl site on Shattuck Ave. As you may be aware, there has been (up to the present) some serious objection by the surrounding neighborhood to Honda's proposed operations at that site. Pursuant to those objections, organizations of neighbors have been requesting a zoning ordinance that would prohibit new auto uses and sales in the C-SA zone.

On July 10, 2018, City Council passed a resolution to refer this matter to the Planning Commission. In its recommendation, City Council states it wishes the Planning Commission "to develop an ordinance that would prohibit new auto uses and sales in C-SA zones."

I am writing to you now, in the interest of various neighborhood groups, to request that this matter be brought to the Planning Commission as soon as possible. I realize that our next meeting of the Commission will be in September. But I think that if this issue could be included in the Commission agenda as soon as we reconvene, it would be a service to the community. Thank you,

Respectfully,

Steve Martinot

Planning Commissioner



Berkeley City Council

ACTION CALENDAR
July 10, 2018
(Continued from June 12, 2018)

To: Honorable Members of the City Council

From: Mayor Jesse Arreguin and Councilmembers Ben Bartlett and Sophie Hahn

Subject: Auto Sales in Commercial South Area (C-SA) Zones

RECOMMENDATION

Refer to the Planning Commission and the Adeline Corridor Planning Process to develop an ordinance that would prohibit new auto uses and auto sales in C-SA zones.

BACKGROUND

In the early 1990s, automotive sales in Commercial South Area (C-SA) zones were prohibited, however, existing dealerships were considered legal non-conforming uses. The C-SA district is located in south Berkeley and includes Adeline Street and Shattuck Avenue from Dwight Way to the city border, Ashby Avenue between Martin Luther King Jr. Way and Lorina Street, Alcatraz Avenue from west of King Street to east of Dover Street, and Sacramento Street from Oregon Street to Alcatraz/city border.

Plans for a mixed-use development on the site of Berkeley Honda at Shattuck/Parker were announced in 2008. After discussing the allowance of new auto uses in C-SA areas with stakeholders for several years, an amendment to the Berkeley Municipal Code under Ordinance No. 7,304-N.S was enacted in July 2013. This amendment addressed Berkeley Honda's desire to stay in close proximity to other existing dealerships in lieu of relocating to other areas of the City where auto uses are allowed, such as West Berkeley. As a result of this ordinance change, Berkeley Honda was able to move a couple of blocks south from its old site to its current location at the former Any Mountain and Berkeley Bowl site.

With the Honda relocation complete, many of the amendments passed in 2013 have now served their purpose and are no longer needed. In addition, dealerships and the ancillary use of auto repair have increased parking demands both for visitors and auto repair staging. The dealership parking demands combined with new development projects that contain limited parking capacity have significant impact on dense neighborhoods that are historically "under-parked".

The Planning Commission was charged with developing Ordinance No. 7,304-N.S in 2011 and currently the City is undertaking a community engagement process in the development of a new plan for the Adeline Corridor. Suggested amendments have

Auto Sales in Commercial South Area (C-SA) Zones

ACTION CALENDAR
July 10, 2018

been submitted by the neighborhoods for consideration and are included as Attachment 2.

FINANCIAL IMPLICATIONS

Staff time

ENVIRONMENTAL SUSTAINABILITY

Prohibiting new auto uses is consistent with the goals of the Berkeley Climate Action Plan.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

- 1: Ordinance No. 7,304-N.S.
- 2: Neighborhood suggested amendment

ORDINANCE NO. 7,304–N.S.

AMENDING THE C-SA DISTRICT TO ALLOW SALE OF AUTOMOBILES AND MOTORCYCLES WITH OUTDOOR ACTIVITIES IN THE DEALERSHIP OVERLAY AREA AND INDOOR-ONLY OPERATIONS THROUGHOUT THE DISTRICT; AMENDING BERKELEY MUNICIPAL CODE CHAPTER 23E.52 AND SECTION 23F.04.010

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

Section 1. That the “Automobile and Other Vehicle Oriented Uses” section of Berkeley Municipal Code Table 23E.52.030 is amended to read as follows:

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Automobile and Other Vehicle Oriented Uses		
Automobile Parts Stores	ZC*	Excluding service of auto parts
Automobile and Motorcycle Repair and Service, including Parts Service	Prohibited	
Automobile and Motorcycle Sales Exclusively indoor operations With outdoor activities	ZC* UP(PH)	Subject to additional requirements, see 23E.52.070.F. Uses with outdoor activities limited to the Dealership Overlay Area by Section 23E.52.060.E.
Automobile and Motorcycle Rentals	Prohibited	
Automobile Washes, Mechanical or Self-Service	Prohibited	
Automobile Wrecking Establishments	Prohibited	
Gasoline/Automobile Fuel Stations	UP(PH)	
Recreational Vehicle and Trailers Sales and Rental	Prohibited	Including Boats
Tire Sales/Service Stores	Prohibited	

Section 2. That a new subdivision (E) is added to Berkeley Municipal Code section 23E.52.060 to read as follows:

- E. New or relocated automobile or motorcycle sales uses with outdoor activities, including but not limited to storage and display of vehicle inventory, shall be limited to the Dealership Overlay Area, which includes all lots with a frontage on Adeline Street, Shattuck Avenue or Ashby Avenue between Dwight Way and the south side of Alcatraz Street, with the exceptions of the Ashby BART Station block and all lots confronting this block and lots with frontage exclusively on Shattuck Avenue south of Ashby Avenue.

Section 3. That Berkeley Municipal Code subdivision 23E.52.070.B is amended to read as follows:

B. The height for a Main Building shall not exceed the following limits, and shall satisfy the following requirements:

1. For those blocks and portions of blocks of the District adjacent to Shattuck Avenue between Dwight Way on the north and Parker Street on the south:

<u>Use Type</u>	<u>Height (ft.)</u>	<u>Stories (number)</u>
Commercial only	36	3
Mixed Use*	60	5*
Other uses	36	3
Residential only	60	5
*In Mixed Use buildings, the third, fourth and fifth floors shall be used for residential purposes entirely.		

2. For those portions of the District adjacent to Shattuck Avenue between Parker Street on the north and Ward Street on the south, and those properties bounded by Adeline Street, Shattuck Avenue, and Russell Street:

<u>Use Type</u>	<u>Height (ft.)</u>	<u>Stories (number)</u>
Commercial only	24	2
Mixed Use*	50	4*
Other uses	24	2
Residential only	50	4
*In Mixed Use buildings, the third and fourth floors shall be used for residential purposes entirely.		

3. For all other properties classified in the District:

<u>Use Type</u>	<u>Height (ft.)</u>	<u>Stories (number)</u>
Commercial only	24	2
Mixed Use*	36	3*
Other uses	24	2
Residential only	36	3
*In Mixed Use buildings, the third floor shall be used for residential purposes entirely.		

Section 4. That a new subdivision (F) is added to Berkeley Municipal Code section 23E.52.070 to read as follows:

F. New or relocated automobile or motorcycle sales uses are subject to the following standards. Expansions or modifications of existing uses are encouraged to meet these standards where feasible and shall not worsen a non-conformity with these standards. These standards may be modified by an AUP subject to Section 23E.52.090.E.

1. Outdoor vehicle display shall only be permitted along Shattuck Avenue and Adeline Street and shall be limited to 30 percent of the lot frontage on those streets;
2. A maximum of 40 percent of the lot area may be used for outdoor uses, including but not limited to vehicle display and storage. Adequate landscaping and/or fencing shall be used to filter the view of outdoor uses from the adjacent right-of-way and abutting properties, with the exception of outdoor vehicle display;
3. Vehicle and repair service entries may not exceed 20 percent of the primary lot frontage, no entrance may exceed a width of 20 feet. The primary street frontage is the frontage towards which the primary building entrance is oriented;
4. At least 60 percent of any new building shall be within 10 feet of the right of way along the primary street frontage and 60 percent of the street-facing façade shall be comprised of clear glass;
5. All vehicle repair activities shall be conducted indoors;
6. All noise-generating equipment and activities, such as vehicle repair, shall be shielded by noise-attenuating materials; outdoor amplification is prohibited;
7. Exterior light standards and fixtures shall not be taller than 20 feet, shall achieve uniform light coverage and minimize glare, shall use light cutoffs to control light spillover onto adjacent properties and urban sky glow, and shall use low energy light fixtures consistent with the City's goals for energy efficiency; and
8. No vehicles shall be stored in the public-right-of way.

Section 5. That Berkeley Municipal Code Table 23E.52.080 is amended to read as follows:

Table 23E.52.080	
Parking Required	
Use	Number of spaces
Libraries	One per 500 sq. ft. of floor area that is publicly accessible
Medical Practitioner Offices	One per 300 sq. ft. of floor area
Quick or Full Service Restaurants	One per 300 sq. ft. of floor area
Residential Uses, Nursing Homes	Refer to R-4 Standards, Section 23D.40.080
Automobile and Motorcycle Sales	One per 1,000 sq. ft. of floor area

Section 6. That a new subdivision (E) is added to Berkeley Municipal Code section 23E.52.090 to read as follows:

E. The Zoning Officer may approve a modification of the standards applicable to new or relocated automobile or motorcycle sales uses if it finds that doing so is necessary to facilitate incorporation of an existing structure, to achieve greater consistency with the surrounding street pattern, to buffer impacts to an adjacent residential district, or to accommodate dealership operations.

Section 7. That Berkeley Municipal Code Section 23F.04.010 is amended to include the definitions of "Automobile Sales" and "Motorcycle and small vehicle sales" as follows:

Automobile Sales: An establishment which sells, or leases long-term, new, used or pre-owned automobiles or trucks; restored vintage, specialty, or antique automobiles or trucks; or automobiles or trucks refurbished for alternative fuels (alternative to conventional gasoline). Ancillary uses and services that are supporting of an automobile sales use may include the sale and installation of automobile parts, accessories and equipment; repair, maintenance, bodywork and other service of automobiles; loaning of vehicles to service patrons; storage of vehicles outdoors; and automobile washes.

Motorcycle and small vehicle sales: An establishment which sells, or leases long-term, new, used or pre-owned, motorized vehicles other than passenger automobiles and trucks, which are characterized by fewer than four wheels or a minimal frame, including but not limited to motorcycles, scooters, three-wheel motorcycles, electric carts, electric scooters, and such vehicles design or refurbished for alternative fuels/power sources (alternative to conventional gasoline).

Section 8. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 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 July 2, 2013 this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

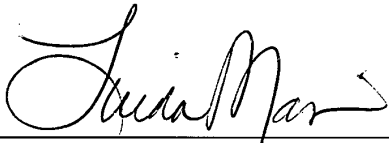
Absent: None.

At a regular meeting of the Council of the City of Berkeley held on July 16, 2013, this Ordinance was adopted by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington and Wozniak.

Noes: None.

Absent: Bates.


Linda Maio, Mayor Pro Tempore

ATTEST: 
Mark Numainville, CMC, City Clerk

Date signed: July 22, 2013

**Proposal for Eliminating Auto Uses in the C-SA Zone
Submitted to Mayor Jesse Arreguin by the 2777 Shattuck Neighbors**

Contacts: Marianne Sluis (510) 704-9534, mqlsluis@mac.com
Christina Oatfield (415) 828-5627, christinaoatfield@gmail.com

OPTIONAL LEGISLATIVE INTENT LANGUAGE:

Whereas, auto sales are generally not consistent with other types of retail uses and are generally not permitted in commercial retail districts in Berkeley.

Whereas, auto sales and service uses do not promote a pedestrian-friendly environment and the City has repeatedly determined that pedestrian safety and character is important in Berkeley neighborhoods and commercial areas.

Whereas, auto sales with semi-industrial uses such as repair are not appropriate in Berkeley neighborhoods where the pedestrian experience should be the priority.

Whereas, auto uses in the C-SA district are inconsistent with numerous city plans, including the Pedestrian Master Plan, the Bicycle Plan, the South Shattuck Strategic Plan, the Climate Action Plan, and the General Plan.

ORDINANCE LANGUAGE:

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

Table 23E.52.030:

That the "Automobile and Other Vehicle Oriented Uses" section of Berkeley Municipal Code Table 23E.52.030 is amended to read as follows:

[insert table revised as follows: Under Automobile and Other Vehicle Oriented Uses, change "Automobile and Motorcycle Sales..." to "Prohibited" for both types of sales (indoor and outdoor).]

23E.52.060:

That subdivision E under section 23E.52.060 is replaced with the following:

1. A use classified as an Automobile or Other Vehicle-Oriented Use may only be established on a site which was legally used or approved for use as an Automobile or Other Vehicle Oriented Use (such sites are hereinafter designated as automotive sites).
2. On an automotive site, if the automotive use is discontinued for any period it may not be re-established.

23E.52.070:

Subdivision F is replaced by the following:

no expansions or modifications of existing automobile or motorcycle sales uses are permitted.

Table 23E.52.080:

That the last line of Table 23E.52.080 regarding "Automobile and Motorcycle Sales" is removed.

23E.52.090:

That subdivision E is removed from section 23E.52.090.

Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 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.