

ORDINANCE NO. 7,810-N.S.

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

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

Section 1. That Berkeley Municipal Code Section 23.326.030 is amended to read as follows:

23.326.030 Eliminating Dwelling Units through Demolition*A. Buildings with Two or More Units Constructed Before June 1980.*

1. *Applicability.* This subsection only applies to building with two or more units constructed before June 1980.

2. *Limitation.*

(a) Demolition is not allowed if:

- i. The building was removed from the rental market under the Ellis Act during the preceding five years; or
- ii. There have been verified cases of harassment or threatened or actual illegal eviction during the immediately preceding three years.

(b) Where allegations of harassment or threatened or actual illegal eviction are in dispute, either party may request a hearing before a Rent Board Hearing Examiner. The Rent Board Hearing Examiner will provide an assessment of the evidence and all available documentation to the ZAB. The ZAB shall determine whether harassment or threatened or actual illegal eviction occurred.

3. *Findings.* The ZAB may approve a Use Permit to demolish a building constructed before June 1980 on a property containing two or more dwelling units if any of the following are true:

(a) The building containing the units is hazardous or unusable and is infeasible to repair.

(b) The building containing the units will be moved to a different location within Berkeley with no net loss of units and no change in the affordability levels of the units.

(c) The demolition is necessary to permit construction of special housing needs facilities such as, but not limited to, childcare centers and affordable

housing developments that serve the greater good of the entire community.

(d) The demolition is necessary to permit construction approved pursuant to this chapter of at least the same number of dwelling units.

4. *Fee Required.*

(a) The applicant shall pay a fee for each unit demolished to mitigate the impact of the loss of affordable housing in Berkeley.

(b) The amount of the fee shall be set by resolution of the City Council.

(c) *In Lieu of a Fee.*

i. In lieu of paying the impact fee, the applicant may provide a designated unit in the new project at a below market rate to a qualifying household in perpetuity.

ii. The affordability level of the below market rent and the income level of the qualifying household shall be set by resolution of the City Council.

iii. The applicant shall enter into a regulatory agreement with the City of Berkeley to provide the in lieu units.

5. *Occupied Units.*

(a) *Applicability.*

i. The requirements in this subsection apply if units to be demolished are occupied.

ii. These requirements do not apply to tenants who move in after the application for demolition is submitted to the City if the owner informs each prospective tenant about the proposed demolition and that demolition constitutes good cause for eviction.

(b) *Notice.* The applicant shall provide all sitting tenants notice of the application to demolish the building no later than the date it is submitted to the City, including notice of their rights under Municipal Code Section 13.76 (Rent Stabilization and Eviction for Good Cause Program).

(c) *General Requirements.*

i. The applicant shall provide assistance with moving expenses equivalent to in Chapter 13.84 (Relocation Services and Payments for Residential Tenant Households).

ii. The applicant shall subsidize the rent differential for a comparable replacement unit, in the same neighborhood if feasible, until new units are ready for occupancy. Funding for the rent differential shall be guaranteed in a manner approved by the City.

iii. *Exception.* An applicant who proposes to construct a 100 percent affordable housing project is not required to comply with this subsection but must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended and the California Relocation Act (Government Code sections 7260 et seq.).

(d) *Sitting Tenants Rights.*

i. Sitting tenants who are displaced as a result of demolition shall be provided the right of first refusal to move into the new building.

ii. Tenants of units that are demolished shall have the right of first refusal to rent new below-market rate units designated to replace the units that were demolished, at the rent that would have applied if they had remained in place, as long as their tenancy continues.

iii. Income restrictions do not apply to displaced tenants.

iv. *Exception.*

(1) An applicant who proposes to construct a 100 percent affordable housing project is not required to comply with 23.326.030.A.4.a, b, and c, but must comply with the following requirement.

(2) Sitting tenants who are displaced as a result of demolition and who desire to return to the newly constructed building will be granted a right of first refusal subject to their ability to meet income qualifications and other applicable eligibility requirements when the new units are ready for occupancy.

Section 2. That Berkeley Municipal Code Section 23.204.020 Table 23.204-1 is amended to read as follows:

Table 23.204-1: Allowed Uses in the Commercial Districts

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Residential Uses												
Accessory Dwelling Unit	See 23.306—Accessory Dwelling Units											
Dwellings												
Single-Family	UP(H)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Two-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Multi-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Group Living Accommodation	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Hotel, Residential	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Mixed-Use Residential	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	See Table 23.204-41	UP(PH)	23.204.060.B.3; 23.204.100.B.4
Senior Congregate Housing	See 23.302.070.H											
Public and Quasi-Public Uses												
Child Care Center	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Cemetery/Crematory/Mausoleum	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	
Club/Lodge	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	
Columbaria	See 23.302.070.C											
Community Care Facility	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	ZC	AUP	
Community Center	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Emergency Shelter	See 0		--	--	See 0							
Family Day Care Home, Large	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Family Day Care Home, Small	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Hospital	UP(PH)	UP(PH)	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	
Library	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Mortuaries and Crematories	UP(PH)	UP(PH)	NP	NP	NP	NP	NP	NP	NP	UP(PH)	NP	
Municipal Animal Shelter	--	--	--	--	--	--	--	--	--	--	--	
Nursing Home	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Park/Playground	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	AUP	ZC	
Public Safety and Emergency Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Public Utility Substation/Tank	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Religious Assembly	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	AUP	UP(PH)	
School	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
School, Vocational	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	UP(PH)	AUP	
Retail Uses												
Alcoholic Beverage Retail Sale	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	NP	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	23.204.060.B.2; 23.310
Cannabis Retailer	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.320; 12.21; and 12.22

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	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Cannabis Retailer, Delivery Only	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	--	23.320; 12.21; and 12.22
Firearm/Munitions Business	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	NP	UP(PH)	UP(PH)*	23.302.070.D
Industrial and Mining Products	--	--	--	--	--	--	--	--	--	--	--	
Pawn Shop/Auction House	UP(PH)	--	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	
Pet Store	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	ZC [3]	UP(PH)	
Retail, General	ZC [1]	ZC [1]	ZC* [2]	ZC* [2]	ZC* [2]	ZC [1]	ZC	ZC* [2]	ZC	ZC* [3]	ZC*	23.204.040.E (for department stores) 23.204.040.F (for drug stores)
Smoke Shop	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	NP	UP(PH)*	UP(PH)*	23.302.070.I
Personal and Household Service Uses												
Personal and Household Services, General	ZC [1]	ZC [1]	ZC [2]	ZC [2]	ZC [2]	ZC [1]	ZC	ZC [2]	ZC	ZC [5]	ZC	
Kennels and Pet Boarding	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	NP	
Laundromats and Cleaners	AUP	AUP	UP(PH)	UP(PH)	UP(PH)	AUP	AUP	UP(PH)	UP(PH)	AUP [4]	AUP	
Veterinary Clinic	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Video Tape/Disk Rental	ZC [1]	ZC [1]	ZC [2]	AUP	ZC [2]	--	ZC	ZC [2]	ZC	ZC [5]	NP	
Office Uses												
Business Support Services	ZC [1]	ZC [1]	ZC [2]	ZC [2]	ZC [2]	ZC [1]	ZC*	ZC [2]	ZC	ZC [5]	ZC [6]	23.204.110.B.6
Banks and Financial Services, Retail	AUP	AUP	UP(PH)	UP(PH)	UP(PH)	ZC [1]	AUP*	UP(PH)	ZC*	AUP	ZC	23.204.110.B.6; 23.204.130.B.3; 23.204.130.D.3
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC [1]	ZC [1]	ZC* [2]	ZC* [2]	ZC* [2]	ZC [1]	ZC*	ZC* [2]	ZC*	ZC [5]	ZC [6]	23.204.040.D; 23.204.110.B.6; 23.204.130.D.3
Medical Practitioners	ZC [1]	ZC [1]	AUP	NP	UP(PH)	ZC [1]	AUP*	UP(PH)	ZC*	ZC [5]	ZC [6]	23.204.040.D; 23.204.110.B.6; 23.204.130.D.3
Non-Chartered Financial Institutions	UP(PH)*	UP(PH)*	NP	NP	NP	UP(PH)*	UP(PH)*	NP	NP	UP(PH)*	UP(PH)	23.302.070.F 23.204.110.B.6
Office, Business and Professional	ZC [1]	ZC [1]	AUP*	AUP*	AUP*	ZC [1]	AUP*	AUP*	ZC*	ZC [5]	ZC [6]	23.204.040.B; 23.204.110.B.6; 23.204.130.D.3
Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses												
Adult-oriented Business	UP(PH)*	UP(PH)*	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH)*	NP	23.302.070.A
Amusement Device Arcade	UP(PH)*	UP(PH)*	NP	NP	NP	UP(PH)*	NP	NP	UP(PH)*	UP(PH)*	UP(PH)	23.302.070.B
Bar/Cocktail Lounge/Tavern	UP(PH)*	UP(PH)*	UP(PH)*	--	NP	UP(PH)*	UP(PH)*	NP	UP(PH)*	UP(PH)*	UP(PH)	23.204.100.B.3; 23.204.110.B.2; 23.310
Commercial Recreation Center	See 23.204.040.A											
Dance/Exercise/Martial Arts/Music Studio	ZC [1]	ZC [1]	ZC [2]	AUP	AUP [4]	ZC [1]	ZC	AUP	ZC	ZC [7]	ZC	
Entertainment Establishment	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Food Service Establishment	See 23.204.040.E											
Group Class Instruction	ZC [1]	ZC [1]	AUP	AUP	AUP*	ZC [1]	ZC*	AUP	ZC*	ZC	ZC	23.204.040.B
Gym/Health Club	See 23.204.040.C											
Hotels, Tourist	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Motels, Tourist	UP(PH)	UP(PH)	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	
Theater	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	NP	AUP	UP(PH)	UP(PH)	

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	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Vehicle Service and Sales Uses												
Alternative Fuel Station	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	NP*	UP(PH)	NP	AUP*	UP(PH)	23.204.110.B.4; 23.204.140.B.3
Electric Vehicle Charging Station	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP*	AUP	
Gasoline Fuel Stations	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	NP*	UP(PH)	NP	UP(PH)*	UP(PH)	23.204.140.B.3
Large Vehicle Sales and Rental	AUP	NP	NP	NP	NP	NP	NP	NP	NP	AUP* [8]	NP	23.204.140.B.3
Small Vehicle Sales and Service	AUP	NP	NP	NP	NP	UP(PH)*	NP	NP	UP(PH)	UP(PH)*	NP	23.204.100.B.5; 23.204.140.B.3
Tire Sales and Service	UP(PH)	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	NP	23.204.140.B.3
Vehicle Parts Store	ZC [1]	NP	ZC [2]	ZC [2]	ZC [2]	ZC [1]	ZC	ZC [2]	NP	AUP* [8]	ZC	
Vehicle Rentals	AUP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	AUP* [8]	NP	23.204.140.B.3
Vehicle Repair and Service	AUP	NP	NP	NP	NP	NP	NP	NP	NP	AUP* [8]	NP	
Vehicle Sales, New	AUP	NP	NP	NP	NP	UP(PH)*	NP	NP	UP(PH)	AUP* [8]	NP	23.204.100.B.5 23.204.140.B.3
Vehicle Sales, Used	AUP	NP	NP	NP	NP	UP(PH)*	NP	NP	UP(PH)	UP(PH)*	NP	23.204.100.B.5; 23.204.140.B.3; 23.204.140.D.4
Vehicle Wash	UP(PH)	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	NP	23.204.140.B.3
Vehicle Wrecking	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	
Industrial and Heavy Commercial Uses												
Bus/Cab/Truck/Public Utility Depot	--	--	--	--	--	--	--	--	--	--	--	
Commercial Excavation	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	--	NP	UP(PH)	
Contractors Yard	--	--	--	--	--	--	--	--	--	AUP	--	
Dry Cleaning and Laundry Plant	UP(PH)	UP(PH)	NP	--	UP(PH)	NP	NP	NP	UP(PH)	NP	NP	
Laboratory												
Commercial Physical or Biological	AUP	AUP	NP	NP	NP	NP	NP	NP	AUP	NP	NP	
Cannabis Testing	AUP	AUP	NP	NP	NP	NP	NP	NP	AUP	AUP [9]	NP	
Manufacturing												
Construction Products	--	--	--	--	--	--	--	--	--	UP(PH)	--	
Light Manufacturing	--	--	--	--	--	--	--	--	--	AUP [8]	--	
Pesticides/Herbicides/Fertilizers	--	--	--	--	--	--	--	--	--	UP(PH)	--	
Petroleum Refining and Products	--	--	--	--	--	--	--	--	--	UP(PH)	--	
Pharmaceuticals	--	--	--	--	--	--	--	--	--	UP(PH)	--	
Primary Production Manufacturing	--	--	--	--	NP	--	--	--	--	UP(PH)	--	
Semiconductors	--	--	--	--	NP	--	--	--	--	UP(PH)	--	
Material Recovery Enterprise	--	--	--	--	--	--	--	--	--	--	--	
Media Production	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	AUP	UP(PH)	23.204.130.B.4
Mini-storage	UP(PH)	NP	NP	NP	NP	NP	NP	--	UP(PH)	NP	NP	
Recycled Materials Processing	--	--	--	--	--	--	--	--	--	--	--	
Recycling Redemption Center	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	
Repair Service, Non-Vehicle	--	--	--	--	--	--	--	--	--	AUP	--	
Research and Development	--	--	--	--	--	--	--	--	--	AUP	--	

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	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Services to Buildings and Dwellings	--	--	--	--	--	--	--	--	--	AUP	--	
Warehouse	UP(PH)	NP	NP	NP	NP	NP	NP	--	UP(PH)	NP	NP	
Warehouse-Based Non-Store Retailer	--	--	--	--	--	--	--	--	--	--	--	
Wholesale Trade	--	--	--	--	--	--	--	--	--	AUP [8]	--	
Incidental Uses												
Amusement Devices	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	UP(PH)	23.302.070.B
Alcoholic Beverage Service	See 23.310											
Cafeteria, On-Site	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	AUP	UP(PH)	
Columbaria	See 23.302.070.C											
Food and Beverage for Immediate Consumption	ZC	ZC	AUP	UP(PH)	UP(PH)	ZC	AUP	UP(PH)	ZC	ZC	ZC	
Food Service Establishment	See 23.302.070.E											
Live Entertainment	See 23.302.020.D											
Manufacturing	AUP	AUP	UP(PH)	UP(PH)	NP	UP(PH)	AUP	AUP	AUP	AUP	AUP	
Retail Sale of Goods Manufactured On-Site	ZC [1]	ZC [1]	ZC [2]	ZC [2]	ZC [2]	ZC [1]	ZC	ZC [2]	ZC	AUP	ZC	
Storage of Goods (>25% gross floor area)	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP	23.302.020.C
Wholesale Activities	AUP*	AUP*	UP(PH)*	UP(PH)*	NP	AUP*	AUP*	AUP*	AUP*	AUP	AUP	23.204.080.B.3
Other Miscellaneous Uses												
Art/Craft Studio	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	ZC [8]	
ATM, Exterior and Attached to Bank	AUP	AUP	AUP	UP(PH)	AUP	AUP	AUP	AUP*	AUP	AUP	AUP	23.204.120.B.2
ATM, Interior or Exterior and Not With Bank	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)*	AUP	UP(PH)	23.204.130.B.2
Circus/Carnival	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Drive-in Uses	UP(PH)	NP	NP	NP	UP(PH)	UP(PH)	NP	UP(PH)	NP	NP	UP(PH)	
Home Occupations	See 23.302.040											
Live/Work	See 23.312											
Parking Lot/Structure	See 23.302.070.G											
Public Market, Open Air	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	UP(PH)	AUP	
Public Market, Enclosed	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP [9]	AUP	
Short-Term Rental	See 23.314			NP	See 23.314			NP	See 23.314			NP
Urban Agriculture, Low-Impact	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC	ZC	23.318
Urban Agriculture, High-Impact	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP	AUP	23.318
Wireless Telecommunication Facility	See 23.332—Wireless Communication Facilities											
Notes: [1] Change of use of floor area over 3,000 square feet requires an AUP. Change of use of floor area over 2,000 square feet requires an AUP. Requires an AUP for uses 3,500 sq. ft. to 7,500 square feet. Requires a Use Permit for uses more than 7,500 sq. ft. Requires a Use Permit if 5,000 sq. ft. or more. Requires an AUP for uses 3,000 sq. ft. to 5,000 square feet. Requires a Use Permit for uses more than 5,000 sq. ft. Requires an AUP for uses 2,500 sq. ft. or greater or 50 ft. wide or greater on Shattuck, between Ward and Russell; Adeline between Russell and the City boundary; on Ashby, east of Adeline; or on the north side of Ashby, west of Adeline. Requires a Use Permit if 7,500 square feet or more. Require a Use Permit if either 5,000 sq. ft. or more of floor area or 10,000 square feet or more of lot area. Requires a Use Permit if more than 10,000 sq. ft.												

Section 3. That Berkeley Municipal Code 23.204.100.B.5 is hereby amended to read:

5. Vehicle Sales.

a. **Applicability.**

- i.* In the C-SA district, small vehicle service is not permitted. Small vehicle sales that are exclusively indoor operations are permitted with a Zoning Certificate. Otherwise, a Use Permit is required.
- ii.* All new or relocated vehicle sales uses in the C-SA district shall be exclusively indoor operations with no outdoor activities and shall comply with the requirements of this subsection.
- iii.* Expansions or modifications of existing vehicle sales are:
 1. Encouraged to comply with standards in Paragraph b (Standards) below where feasible; and
 2. Shall not increase or exacerbate a non-conformity standards in Paragraph b (Standards).

b. **Standards.**

- i.* **Street Frontage.** Outdoor vehicle display is permitted only along Shattuck Avenue and Adeline Street and is limited to 30 percent of the lot frontage on those streets.
- ii.* **Area for Outdoor Uses.** 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;
- iii.* **Service Entries.** 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.
- iv.* **Transparency.** 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 facade shall be comprised of clear glass.
- v.* **Repair Activities.** All vehicle repair activities shall be conducted indoors.
- vi.* **Noise.** All noise-generating equipment and activities, such as vehicle repair, shall be shielded by noise-attenuating materials. Outdoor amplification is not permitted.

vii. Lighting. 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.

viii. Vehicle Storage. No vehicles shall be stored in the public right-of-way.

- c. **Modification of Standards.** The Zoning Officer may allow modification to standards in Paragraph c (Standards) above with an AUP upon finding that the modification:
 - i. Is necessary to facilitate incorporation of an existing structure;
 - ii. Achieve greater consistency with the surrounding street pattern;
 - iii. Buffers impacts to an adjacent residential district; or
 - iv. Is needed to accommodate dealership operations.

Section 4. That the Berkeley Municipal Code 23.204.100 Table 23.204-28 is hereby amended to read:

Table 23.204-28: C-SA Maximum Building Heights

Building Land Use	Maximum Height	
	Subarea 1	Subarea 2
Non-Residential Uses	36 ft and 3 stories	24 ft and 2 stories
Mixed Use and Residential Only	60 ft and 5 stories [1]	36 ft and 3 stories [1]
[1] In mixed-use buildings, the third story and above must be used for residential purposes entirely.		

Section 5. That Berkeley Municipal Code 23.204.100 Figure 23.204-3 is hereby amended to read:



Section 6. That Berkeley Municipal Code Section 23.204.110 Table 23.204-33 is amended to read as follows:

Table 23.204-33: C-T Allowed Heights and FAR Increases

Project Location	Allowed Increase	
	Height	FAR
South of Dwight Way	65 ft. and 5 stories	No increase allowed
North of Dwight Way	75 ft.	6.0

Section 7. That Berkeley Municipal Code Section 23.204.130 Table 23.204-39 is amended to read as follows:

Table 23.204-39: C-DMU Setback Standards

PORTION OF BUILDING AT HEIGHT OF:	FRONT	MINIMUM INTERIOR SIDE		MINIMUM REAR
		65' AND LESS FROM LOT FRONTAGE	OVER 65' FROM LOT FRONTAGE	
Zero to 20 feet	No minimum. 5 ft. max.	No minimum		
21 feet to 75 feet	No minimum.	No minimum		5 ft.
76 feet to 120 feet	15 ft. min.	5 ft.		15 ft.
Over 120 feet	15 ft. min.			15 ft.

Section 8. That Berkeley Municipal Code Section 23.204.140 Table 23.204-42 is amended to read as follows:

Table 23.204-42: C-W Development Standards

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area Minimum		23.304.020– Lot Requirements
New Lots	No minimum	
Per Group Living Accommodation Resident		23.304.090– Usable Open Space
Usable Open Space, Minimum		
Per Dwelling Unit or Live/Work Unit	40 sq. ft.	
Per Group Living Accommodation Resident	No minimum	
Floor Area Ratio, Maximum		3.0

Main Building Height, Minimum	No minimum	
Main Building Height, Maximum	40 ft. and 3 stories [1,2]	23.304.050– Building Height
Lot Line Setbacks, Minimum		23.304.030– Setbacks
Abutting/Confronting a Non-residential District	No minimum	
Abutting/Confronting a Residential District	See 23.304.030.C.2	
Building Separation, Minimum	No minimum	
Lot Coverage, Maximum	100%	23.304.120– Lot Coverage
<p>Notes:</p> <p>[1] 50 ft. and 4 stories allowed for mixed-use projects. The fourth floor must be used for residential or live/work purposes.</p> <p>[2] On Assessor Parcel Numbers 054-1763-001-03, 054-1763-010-00 and 054-1763-003-03 the maximum height is 50 feet and 4 stories.</p>		

Section 9. That Berkeley Municipal Code Section 23.206.020 Table 23.206-1 is amended to read:

Table 23.206-1 Allowed Uses in Manufacturing Districts

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	MANUFACTURING DISTRICTS				Use-Specific Standards Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	M	MM	MU-LI	MU-R	
Residential Uses					
Accessory Dwelling Unit	NP	NP	NP	See 23.306	
Dwellings					
Single-Family	NP	NP	NP	AUP*	23.206.090.B.8
Two Family	NP	NP	NP	AUP*	23.206.090.B.8
Multi-Family	NP	NP	NP	UP(PH)*	23.206.090.B.7&8
Group Living Accommodation	NP	NP	NP	UP(PH)*	23.206.090.B.8
Hotel, Residential	NP	NP	NP	NP	
Mixed-Use Residential	NP	NP	NP	UP(PH)*	23.206.090.B.8&9
Senior Congregate Housing	NP	NP	NP	See 23.302.040.H	
Public and Quasi-Public Uses					
Child Care Center	NP	NP	AUP*	UP(PH)*	23.206.040.B&C
Cemetery/Crematory/Mausoleum	NP	NP	NP	NP	
Club/Lodge	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)	23.206.040.E
Columbaria	NP	NP	NP	–	
Community Care Facility	NP	NP	NP	ZC*	23.206.090.B.3
Community Center	NP	NP	NP	UP(PH)	
Emergency Shelter	NP	NP	NP	–	

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	MANUFACTURING DISTRICTS				Use-Specific Standards Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	M	MM	MU-LI	MU-R	
Family Day Care Home, Large	NP	NP	ZC*	AUP*	23.206.040.C
Family Day Care Home, Small	NP	NP	ZC*	ZC*	23.206.040.C
Hospital	NP	NP	NP	NP	
Library	NP	NP	NP	UP(PH)	
Mortuaries and Crematories	NP	NP	NP	UP(PH)*	23.206.090.B.6
Municipal Animal Shelter	UP(PH)	UP(PH)	UP(PH)	–	
Nursing Home	NP	NP	NP	UP(PH)	
Park/Playground	NP	NP	NP	UP(PH)*	23.206.040.C
Public Safety and Emergency Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Public Utility Substation/Tank	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Religious Assembly	NP	NP	NP	UP(PH)	
School	NP	NP	NP	UP(PH)*	23.206.040.C
School, Vocational	NP	NP	ZC* [1]	UP(PH)	23.206.080.B.12
Retail Uses					
Alcoholic Beverage Retail Sale	NP	NP	UP(PH)* [2]	NP *	23.206.080.B.3; 23.206.090.B.2; 23.310
Firearm/Munitions Business	NP	NP	NP	NP	
Industrial and Mining Products	AUP [2]	AUP [2]	AUP [4]	NP	
Pawn Shop/Auction House	NP	NP	NP	NP	
Pet Store	NP	NP –	NP	NP	
Retail, General	NP	NP	AUP* [5]	AUP* [3]	23.206.080.B.6; 23.206.090.B.4
Smoke Shop	NP	NP	NP	NP	
Personal and Household Service Uses					
Personal and Household Services, General	NP	NP	NP	AUP	
Kennels and Pet Boarding	NP	NP	NP	UP(PH)	
Laundromats and Cleaners	NP	NP	NP	AUP	
Veterinary Clinic	NP	NP	NP	UP(PH)	
Video Tape/Disk Rental	NP	NP	NP	NP	
Office Uses					
Business Support Services	NP	NP	AUP [6]	AUP [3]	
Banks and Financial Services, Retail	NP	NP	–	NP	
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	NP	NP	–	–	
Medical Practitioners	NP	NP	NP	AUP [3]	
Non-Chartered Financial Institutions	NP	NP	–	–	
Office, Business and Professional	NP	ZC* [4]	AUP [4]	AUP [3]	23.206.070.B.2
Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses					
Adult-oriented Business	-	-	NP	NP	
Amusement Device Arcade	NP	NP	–	NP	

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	M	MM	MU-LI	MU-R	
Bar/Cocktail Lounge/Tavern	NP	NP	-	-	
Commercial Recreation Center	NP	NP	-	NP	
Dance/Exercise/Martial Arts/Music Studio	NP	NP	-	UP(PH)	
Entertainment Establishment	NP	NP	-	UP(PH)	
Food Service Establishment	See 23.302.040.E				
Group Class Instruction	NP	NP	-	UP(PH)	
Gym/Health Club	NP	NP	-	NP	
Hotel, Tourist	NP	NP	NP	NP	
Motel, Tourist	NP	NP	NP	NP	
Theater	NP	NP	UP(PH)*	NP	23.206.080.B.10
Vehicle Service and Sale Uses					
Alternative Fuel Station	AUP [4]	AUP [4]	AUP [4]	AUP	
Gasoline/Vehicle Fuel Station	NP	NP	NP	NP	
Large Vehicle Sales and Rental	-	NP	AUP [4]	NP	
Small Vehicle Sales and Rental	-	NP	NP	NP	
Tire Sales and Service	-	-	-	NP	
Vehicle Parts Store	NP	NP	NP	UP(PH)	
Vehicle Repair and Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Vehicle Rentals	NP	-	-	NP	
Vehicle Sales, New	AUP* [7]	NP	NP	NP	23.206.060.B.3
Vehicle Sales, Used	AUP* [7]	NP	NP	NP	23.206.060.B.3
Vehicle Wash	NP	NP	NP	NP	
Vehicle Wrecking	AUP [7]	AUP [4]	AUP* [4]	NP	23.206.080.B.11
Industrial and Heavy Commercial Uses					
Bus/Cab/Truck/Public Utility Depot	AUP [8]	AUP [8]	AUP* [4]	UP(PH)	23.206.080.B.4
Commercial Excavation	UP(PH)	UP(PH)	UP(PH)	NP	
Contractors Yard	AUP [7]	AUP [7]	AUP [4]	UP(PH)	
Dry Cleaning and Laundry Plant	ZC* [9]	ZC [9]	ZC [1]	UP(PH)	23.206.060.B.2
Laboratory					
Commercial Physical or Biological	NP	AUP [4]	UP(PH)*	NP	23.206.080.B.5
Cannabis Testing	NP	AUP [4]	UP(PH)	NP	
Manufacturing					
Construction Products	ZC* [9]	ZC* [9]	UP(PH)*	NP	
Light Manufacturing	ZC* [7]	ZC* [7]	ZC* [1]	AUP* [3]	23.206.090.B.5
Pesticides/Herbicides/Fertilizers	NP	NP	NP	-	
Petroleum Refining and Products	NP	NP	NP	-	
Pharmaceuticals	AUP [4]	AUP [4]	AUP* [4]	-	23.206.080.B.7
Primary Production Manufacturing	AUP [4]	AUP [4]	NP	NP	
Semiconductors	UP(PH)	UP(PH)	NP	-	
Material Recovery Enterprise	-	-	UP(PH)	-	
Media Production	ZC [10]	ZC [10]	ZC [10]	AUP [11]	

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	M	MM	MU-LI	MU-R	
Mini-storage	NP	NP	NP	NP	
Recycled Materials Processing	ZC* [9]	ZC* [9]	UP(PH)*	–	23.206.040.H; 23.206.080.B.9
Recycling Redemption Center	AUP [7]	ZC [9]	UP(PH)*	AUP	23.206.080.B.9
Repair Service, Non-Vehicle	ZC* [9]	ZC* [9]	ZC* [1]	AUP	23.206.040.G
Research and Development	-	ZC [12]	ZC [12]	–	
Services to Buildings and Dwellings	AUP	AUP	AUP	AUP	
Warehouse	ZC [9]	ZC [9]	ZC [1]	UP(PH)	
Warehouse-Based Non-Store Retailer	ZC [9]	ZC [9]	ZC [1]	–	
Wholesale Trade	ZC [9]	ZC [9]	ZC* [1]	AUP [3]	23.206.080.B.13
Incidental Uses					
Amusement Devices	NP	NP	AUP	AUP	
Alcoholic Beverage Service	See 23.310				
Cafeteria, On-Site	ZC [2]	AUP [2]	ZC [2]	AUP	
Child Care Center	NP	NP	See 23.206.040.B		
Columbaria	–	–	–	–	
Food and Beverage for Immediate Consumption	–	AUP [2]	–	–	
Food Service Establishment	AUP [2]	-	AUP [2]	AUP	
Home Occupations	NP	NP	NP	See 23.206.040	
Live Entertainment	NP	NP	UP(PH)*	UP(PH)*	23.302.020.D
Retail Sales of Goods Manufactured On-Site	AUP* [13]	AUP* [14]	AUP* [14]	AUP*	23.206.040.I
Storage of Goods Manufactured On-Site (>25% gross floor area)	ZC	ZC	ZC	AUP	
Wholesale Activities	ZC	ZC	ZC	AUP	
Other Miscellaneous Uses					
Art/Craft Studio	ZC* [10]	ZC [10]	ZC* [10]	AUP [11]	23.206.040.A
ATM, Exterior and Attached to Bank	AUP	AUP	-	AUP	
ATM, Interior or Exterior and Not With Bank	AUP	AUP	AUP	AUP	
Circus/Carnival	NP	NP	UP(PH)*	UP(PH)	23.206.040.D
Drive-in Uses	NP	NP	NP	NP	
Live/Work	NP	NP	See 23.312		
Parking Lot/Structure	See 23.302.070.G				
Public Market, Open Air	–	–	UP(PH)* [15]	–	23.206.080.B.8
Public Market, Enclosed	–	–	AUP [5]	–	
Short-Term Rental	-	-	-	ZC*	23.314
Urban Agriculture, Low-Impact	ZC	ZC	ZC	ZC	
Urban Agriculture, High-Impact	AUP	AUP	AUP	AUP	
Notes: [1] Requires an AUP for uses 20,000 sq. ft. to 30,000 square feet. Requires a Use Permit for uses more than 30,000 sq. ft. [2] Not permitted 20,000 sq. ft. or more. [3] Requires a Use Permit if 5,000 sq. ft. or more [4] Requires a Use Permit for uses more than 20,000 sq. ft.					

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	MANUFACTURING DISTRICTS				Use-Specific Standards Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	M	MM	MU-LI	MU-R	
[5] Not permitted over 2,000 sq. ft. [6] Not permitted over 3,000 sq. ft. [7] Requires a Use Permit for uses more than 40,000 sq. ft. [8] Requires a Use Permit for uses 20,000 sq. ft. to 40,000 square feet. [9] Requires an AUP for uses 20,000 sq. ft. to 40,000 square feet. Requires a Use Permit for uses more than 40,000 sq. ft. [10] Requires an AUP for uses 10,000 sq. ft. to 20,000 square feet. Requires a Use Permit for uses more than 20,000 sq. ft. [11] Allowed with Zoning Certificate if under 1,000 sq. ft.. Requires Use Permit if over 20,000 sq. ft. [12] Requires an AUP for uses more than 20,000 sq. ft. [13] Not permitted 1,500 sq. ft. or more. [14] Requires a Use Permit for sales area 1,501 to 3,000 sq. ft. Not permitted over 3,000 sq. ft. [15] Requires Use Permit for markets over 5,000 sq. ft.					

Section 10. That Berkeley Municipal Code Section 23.302.040.A is hereby amended to read as follows:

23.302.040 – Home Occupations

A. **Permits Required.** Table 23.302-4 shows permits required for home occupations.

TABLE 23.302-4: PERMIT REQUIREMENTS FOR HOME OCCUPATIONS

HOME OCCUPATION	PERMIT REQUIRED
Class I	ZC
Class II	AUP
In the Hillside Overlay	Not Permitted
ES-R District	Not Permitted
Class III	
All Commercial Districts and MU-R District	UP (PH)
All other Districts, and in the Hillside Overlay	Not Permitted

1. **Additional Findings -- Class II and Class III Home Occupations.** To approve an AUP for a Class II home occupation or a Use Permit for a Class III home occupation, the Zoning Officer or the ZAB must make the permit findings in Section 23.406 (Specific Permit Requirements) and find that, based on the circumstances of the specific use and property:
 - a. The degree of customer visits will not cause a significant detrimental impact on the availability of parking spaces in the immediate vicinity of the home occupation; and

- b. The degree of shipping and delivery activity to and from the subject residence will be compatible with surrounding residential uses and will not cause a significant detrimental impact on pedestrian and bicyclist safety or the availability of parking spaces in the immediate vicinity of the home occupation; and
- c. If the proposed home occupation will require a loading space on a regular basis, such loading space will be available on the subject property or the use of an on-street loading space will not cause a significant detrimental impact on pedestrian and bicyclist safety or the availability of parking spaces in the immediate vicinity of the home occupation; and
- d. The degree of customer visits and shipping and delivery activities shall not cause a detrimental impact to public safety, as determined by the Fire Marshall.

Section 11. That Berkeley Municipal Code Section 23.304.060 is amended to read as follows:

23.304.060 – Accessory Buildings and Enclosed Accessory Structures

- A. **Applicability.** This section applies to accessory buildings and enclosed accessory structures as defined in 23.502 (Glossary). See Section 23.304.070 (Unenclosed Accessory Structures in Residential Districts) and Section 23.304.080 (Fences) and for requirements that apply to other unenclosed accessory structures and fences.
- B. **All Districts.**
 - 1. **Attached or Close to Main Building.** An accessory building or enclosed accessory structure, other than a subterranean structure, that is attached to or within 3 feet of a wall of a main building, is considered a part of the main building for the purposes of setback requirements.
 - 2. **Demolition.** See 23.326.030.C (Accessory Buildings) and 23.326.070.B (Accessory Buildings) for permits required to demolish accessory buildings.
- C. **Residential Districts.**
 - 1. **Permits Required.** Table 23.304-6 shows permits required for accessory buildings and accessory structures in Residential Districts.

TABLE 23.304-6: PERMIT REQUIREMENTS FOR ACCESSORY BUILDINGS AND ENCLOSED ACCESSORY STRUCTURES

District Location and Building/Structure Type	Permit Required
All Residential Districts Except ES-R	

New accessory buildings	AUP
Alterations to existing accessory buildings	ZC
Enclosed accessory structures on a lot with a main building	ZC
Enclosed accessory structures on a vacant lot without a main building	AUP
Horse stables	AUP [1]
Accessory buildings and structures with Urban Agriculture	ZC
ES-R District	
Under 100 sq. ft.	ZC
100 sq. ft. or more	UP(PH)
On a vacant lot without a main building	UP(PH)
Notes:	
[1] Horse stables are not permitted in the R-S and R-SMU districts	

2. Development and Use Standards.

- a. Development Standards.** Table 23.304-7 shows development standards for accessory buildings and enclosed accessory structures in Residential Districts.

TABLE 23.304-7: ACCESSORY BUILDING AND ENCLOSED ACCESSORY STRUCTURE STANDARDS IN RESIDENTIAL DISTRICTS

Building/Structure Feature	Standards
Average Height, Maximum	
Less than 4 ft. from lot line	10 ft.
4 ft. to less than 10 ft. from lot line	12 ft.
10 ft. or more from lot line	24 ft.
Setbacks, Minimum	
Front of Interior Lot	50% of lot dept
Front of Through Lot	25% of lot dept
Front of Corner Lot	The setback existing or required on the adjacent lot, whichever is smaller, and the existing setback of main building on the lot
Street Side, Corner Lot	The existing setback of main building on the lot
Interior Side	4 ft. for building/structures within 75 feet of front lot line; as required by Berkeley Building Code for buildings/structures 75 feet or more from front lot line

Edge of Alley	5 ft.
Building Length [1]	24 ft.
<u>Notes:</u> [1] Applies to building walls generally parallel to a side lot line.	

b. Deviation from Standards.

- i.* In all Residential Districts except for the ES-R district, the Zoning Officer may approve an AUP to allow an accessory building or enclosed accessory structure to deviate from the standards in Table 23.304-7. In the ES-R district, deviations require ZAB approval of a Use Permit.
 - ii.* To approve the deviation, the review authority must find that the proposed building or structure will not be detrimental to the light, air, privacy, and view of adjacent properties.
- c. Bathroom and Kitchen Facilities.** An accessory building may contain a full bathroom, including handwashing sink, toilet, and tub or shower, as well as cooking facilities, as long as the cooking facilities do not constitute a kitchen.
- d. Rentals.** An accessory building may be rented only as a short-term rental as allowed in Section 23.314—Short-Term Rentals.

3. Rebuilding and Replacement.

- a.** Notwithstanding the setback standards in this section and the coverage area standards in Chapter 23.202—Residential Districts, an accessory building or enclosed accessory structure may be constructed to replace a pre-existing lawful accessory building or enclosed accessory structure, if the replacement building or structure is in the same location and has the same or smaller footprint as the previous structure. However, any such replacement structure may not exceed the average height as the previous building or structure; otherwise an AUP is required.
- b.** Such replacement buildings and structures are permitted as of right only if an application for a building permit for their construction is submitted at the same time as an application for a building permit for the demolition of the pre-existing building or structure.
- c.** The demolition of any accessory building proposed for replacement under this section is subject to Municipal Code Chapter 3.24 (Landmark Preservation Commission

Section 12. That Berkeley Municipal Code Section 23.322.030 Table 23.322-1 is amended to read as follows:

Table 23.322-1 Required Off-Street Parking in Residential Districts

Land Use	Number of Required Off-street Parking Spaces
Residential Uses	
Accessory Dwelling Unit	See Chapter 23.306
Dwellings, including Group Living Accommodations	<p>R-3, R-4, and R-5 Districts (1-9 units): If located on a roadway less than 26 feet in width in the Hillside Overlay: 1 per unit.</p> <p>R-3, R-4, and R-5 District (10 or more units): If located on a roadway less than 26 feet in width in the Hillside Overlay: 1 per 1,000 sq ft of gross floor area.</p> <p>ES-R: 1 per 1,000 sq ft of gross floor area or one per bedroom, whichever is greater.</p> <p>All Other Districts: If located on a roadway less than 26 feet in width in the Hillside Overlay: 1 per unit</p> <p>All Other Locations: None required</p>
Dormitories, Fraternity and Sorority Houses, Rooming & Boarding Houses, Senior Congregate Housing	<p>If located on a roadway less than 26 feet in width in the Hillside Overlay: 1 per each 5 residents, plus 1 for manager.</p> <p>All Other Locations: None required.</p>
Rental of Rooms	<p>ES-R: 1 per each roomer or boarder, in addition to any required parking for Dwellings.</p> <p>All Other Districts: If located on a roadway less than 26 feet in width in the Hillside Overlay: 1 per each two roomers.</p> <p>All Other Locations: None required</p>
Non-Residential Uses	
All non-residential uses except uses listed below	<p>R-SMU District: 1 per 1,000 sq. ft.</p> <p>All Other Residential Districts: See 23.322.030.A.2</p>
Community Care Facility	One per two non-resident employees
Food Service Establishment	1 per 300 sq. ft.
Hospital	<p>R-SMU District: 1 per 1,000 sq. ft.</p> <p>All Other Residential Districts: 1 per each 4 beds plus 1 per each 3 employees</p>
Library	1 per 500 sq. ft. of publicly accessible floor area
Nursing Home	1 per 3 employees
Medical Practitioners	1 per 300 sq. ft.
Non-Medical Offices	<p>R-SMU District: 1 per 1,000 sq. ft.</p> <p>All Other Residential Districts: 1 per 400 sq. ft.</p>
Hotels, Tourist	1 per 3 guest/sleeping rooms or suites plus 1 per 3 employees

Section 13. That Berkeley Municipal Code Section 23.502.020.F is amended to read as follows:

F. "F" Terms.

1. **Facade.** Those portions of a building, including exterior walls, porches, chimneys, balconies, parapets and roof portions, which are visible from a public right-of-way or an adjacent building.
2. **Family.** See Household.
3. **Family Day Care Home.** An establishment providing day care for 14 or fewer children in a dwelling unit as licensed by the California Department of Social Services. A family day care homes must be incidental to a residential use. The day care operator must live in the primary dwelling on the lot.
 - a. **Small Family Day Care Home.** A family day care home for eight or fewer children, including children who live at the home.
 - b. **Large Family Day Care Home.** A family day care home for nine to fourteen children, including children who live at the home.
4. **Fence.** A structure made of wood, metal, masonry or other material forming a physical barrier which supports no load other than its own weight, or a hedge, which is designed to delineate, screen or enclose a lot, yard, open space area or other land area.
5. **Firearm/Munitions Businesses.** Any establishment which sells, transfers, leases or offers for sale, transfer or lease any gun, ammunition, munitions, gun powder, bullets, ordnance, or other firearm or firearm parts or supplies.
6. **Floor Area, Gross.** See 23.106.030– Floor Area, Gross.
7. **Floor Area, Leasable.** See 23.106.040– Floor Area, Leasable.
8. **Floor Area Ratio (FAR).** See 23.106.050– Floor Area Ratio.
9. **Food Product Store.** A retail products store selling foods primarily intended to be taken to another location to be prepared and consumed, and the incidental preparation of food or beverages for immediate consumption off the premises.
10. **Food and Beverage for Immediate Consumption.** The sale of food or non-alcoholic beverages for immediate consumption not on the premises.
11. **Food Service Establishments.** An establishment which in whole or in part prepares food or beverages for immediate consumption on or off the premises.
 - a. **Carry Out Food Store:** A store which serves food or non-alcoholic beverages for immediate consumption not on the premises, but usually in the vicinity of the store. This use is usually characterized as an establishment which serves food altered in texture and/or temperature on a customer-

demand basis, puts such food in non-sealed packages or edible containers, requires payment for such food before consumption, and provides no seating or other physical accommodations for on- premises dining. Examples of this use include delicatessens and other stores without seating which sell doughnuts, croissants, ice cream, frozen yogurt, cookies, whole pizzas and sandwiches. This use excludes bakeries and food products stores.

- b. **Quick Service Restaurant:** An establishment which serves food or beverages for immediate consumption either on the premises, or to be taken out for consumption elsewhere. This use is usually characterized as an establishment in which food is cooked on a customer-demand basis, payment is required before consumption, limited or no able service is provided (no waiters), and seating or other physical accommodations for on- premises customer dining is provided. Examples of this use include establishments selling primarily hamburgers or other hot or cold sandwiches, hot dogs, tacos and burritos, pizza slices, fried chicken, or fish and chips.
- c. **Full-Service Restaurant:** An establishment which serves food or beverages for immediate consumption primarily on the premises, with only a minor portion, if any, of the food being taken out of the establishment. This use is characterized as an establishment in which food is cooked or prepared on the premises on a customer-demand basis, which requires payment after consumption, and provides seating and tables for on-premises customer dining with table service (waiters).

12. **Fraternity House.** A building used for group living accommodations by an organization recognized by the University of California at Berkeley or other institution of higher learning.

13. **Front Wall.** The wall of the building nearest the front lot line.

Section 14. That Berkeley Municipal Code Section 23.502.020.R is amended to read as follows:

R. "R" Terms.

- 1. **Rear Main Building.** A main building situated behind another main building existing or proposed on a parcel located in the R-1A district.
- 2. **Receiving Lot.** See Lot, Receiving.
- 3. **Recycled Materials Processing.** A facility that receives and processes recyclable materials. Processing means preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing.

4. **Recycling Redemption Center.** A facility, use, or structure for the collection of recyclable goods, including beverage containers and newspapers.
5. **Related Equipment.** All equipment necessary for or related to the provision of personal wireless services. Such equipment may include, but is not limited to, cable, conduit and connectors, equipment pads, equipment shelters, cabinets, buildings and access ladders.
6. **Religious Assembly.** A building or space primarily used for an assembly of persons to conduct worship or other religious ceremonies, including, but not limited to, churches, synagogues, temples, mosques or shrines.
7. **Repair Service, Non-Vehicle.** An establishment that provides repair and maintenance services for household appliance, home electronics, office equipment, furniture and other similar items. Excludes vehicle repair.
8. **Research and Development.** An establishment comprised of laboratory or other non-office space, which is engaged in one or more of the following activities: industrial, biological or scientific research; product design; development and testing; and limited manufacturing necessary for the production of prototypes.
9. **Resident.** A person whose primary residence is in Berkeley.
10. **Residential Care Facility.** See Community Care Facility.
11. **Residential Hotel.** See Hotel, Residential.
12. **Residential Addition.** See Addition, Residential.
13. **Residential Districts.** The districts listed under the Residential Districts heading in Table 23.108-1: Zoning Districts.
14. **Residential Hotel Room.** A room which is:
 - a. Used, designed, or intended to be used for sleeping for a period of 14 consecutive days or more;
 - b. Not a complete dwelling unit, as defined in this chapter; and
 - c. Not a Tourist Hotel Room, as defined in this chapter.
15. **Residential Use.** Any legal use of a property as a place of residence, including but not limited to dwelling units, group living accommodations, and residential hotels.
16. **Retail, General.** A retail establishment engaged in the sales of personal, consumer, or household items to the customers who will use such items. This use includes antique stores, art galleries, arts and crafts supply stores, bicycle shops, building materials and garden supplies stores, clothing stores, computer stores, cosmetic/personal care items, department stores, drug paraphernalia stores, drug stores, fabric, textile and sewing supply shops, flower and plant

stores, food product stores, furniture stores, garden supply stores, nurseries, gift/novelty shops, household hardware and housewares stores, household electronics/electrical stores, jewelry/watch shops, linen shops includes bedding, musical instruments and materials stores, office supply stores, paint stores, photography equipment supply stores, secondhand stores, sporting goods stores, stationery, cards and paper goods stores toy stores and variety stores. This use excludes video rental stores, service of vehicle parts, and firearm/munition sales.

17. **Retaining Wall.** A wall designed to contain and resist the lateral displacement of soil and of which such soil is at a higher elevation on one side of the wall.
18. **Review Authority.** The City official or body responsible for approving or denying a permit application or other form of requested approval under the Zoning Ordinance.
19. **Rooming House.** A building used for residential purposes, other than a hotel, where lodging for 5 or more persons, who are not living as a single household, is provided for compensation, whether direct or indirect. In determining the number of persons lodging in a rooming house, all residents shall be counted, including those acting as manager, landlord, landlady or building superintendent. See also Boarding House.

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

At a regular meeting of the Council of the City of Berkeley held on April 26, 2022, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Absent: None.



