



Office of the City Manager

PUBLIC HEARING
December 13, 2022

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Jordan Klein, Director, Planning and Development Department
 Subject: Zoning Ordinance Amendments Making Technical Edits and Corrections to Berkeley Municipal Code (BMC) Title 23

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt the first reading of an Ordinance containing technical edits, corrections and other non-substantive amendments to the following sections of the Zoning Ordinance:

- BMC Section 23.108.020 (Zoning Districts)
- BMC Section 23.202.020 (Allowed Land Uses)
- BMC Section 23.202.140 (R-SMU District)
- BMC Section 23.204.150 (R-BMU District)
- BMC Section 23.204.020 (Allowed Land Uses)
- BMC Section 23.204.060 (C-U District)
- BMC Section 23.204.080 (C-E District)
- BMC Section 23.204.100 (C-SA District)
- BMC Section 23.206.040 (Use-Specific Regulations)
- BMC Section 23.406.050 (Variances)
- BMC Section 23.502.020 (Glossary)

FISCAL IMPACTS OF RECOMMENDATION

Adoption of the recommended amendments will not result in any costs or revenues to the City.

CURRENT SITUATION AND ITS EFFECTS

Improving the Zoning Ordinance supports the City's Strategic Plan goal to be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

On October 12, 2021, the City Council adopted a new Zoning Ordinance (Title 23 – Berkeley Municipal Code). This action was the culmination of the first comprehensive review of the Zoning Ordinance since 1999, rewording and reformatting Berkeley's land use regulations to make them easier to understand and administer. Aside from a

specific list of “consent changes” to maintain consistency with State law and codify existing practices, no substantive policy changes were included. The new Zoning Ordinance became effective December 1, 2021.

Since then, certain inconsistencies and inadvertent changes have come to light which need to be corrected to ensure that the Zoning Ordinance accurately reflects City Council policy. The ordinance included with this staff report would make 10 amendments / corrections to the new Zoning Ordinance. These are summarized below in **Table 1**.

Table 1. Recommended Zoning Ordinance Amendments

Subject/Section	Issue	Amendment
Sec 23.108.020 Zoning Districts	Two subsections of this section were inadvertently deleted in a previous zoning ordinance update.	Replace with original text.
Sec 23.202.020: Residential Districts <i>Allowed Land Uses</i>	A subsection of this section was inadvertently deleted in a previous zoning ordinance update.	Replace with original text.
Sec 23.202.140: R-SMU Zoning District	The title of the section is not correct; it refers to “Residential Southside District.”	Correct to read “Residential Southside <u>Mixed-Use</u> District.”
Sec 23.202.150.B.1: R-BMU Zoning District <i>Definitions</i>	The definition of Dwelling Units per Acre does not include the word “divided.”	Clarify that <i>1. Dwelling Units per Acre:</i> The quotient resulting from the total number of dwelling units on a site <u>divided</u> by the Lot Area.
Sec 23.202.150.F: R-BMU Zoning District <i>Allowed Land Uses Development Standards Public Space Design Preliminary Development Plan Final Development Pan</i>	Subsections include references to incorrect sections.	Correct numbering in references.
Sec 23.204.020: Commercial Districts <i>Allowed Land Uses</i>	Subsections include references to incorrect sections.	Correct numbering in references.

Subject/Section	Issue	Amendment
	Table states that Short Term Rentals are permitted in the C-N District	Clarify that Short Term Rentals are NP in the C-N District.
Sec 23.204.060: C-U District <i>Setback Standards</i>	Table indicates that Solar Access standards apply to lots on the south side of University.	Clarify that the standards apply to lots on the <u>north</u> side of University.
Sec 23.204.080: C-E District <i>Land Use Number and Size Limitation</i>	Table indicates that no permit is required for a Food Service Establishment in the C-E District.	Clarify that an AUP is required.
Sec 23.204.100: C-SA District <i>Modification for Mixed Use and Residential Projects</i>	Section incorrectly includes FAR as a development standard that can be modified with a UP.	Clarify that FAR cannot be modified with a UP.
Sec 23.206.040: Manufacturing Districts <i>Arts/Craft Studios</i>	Section incorrectly applies to M and MU-LI Districts.	Correct that section applies to M and <u>MM</u> Districts.
Sec 23.406.050: Variances <i>Findings for Approval</i>	Section incorrectly references a Use Permit Application.	Clarify that the section applies to a Variance.
Section 23.502.020 Glossary Research and Development	BMC does not include most recently-adopted definition of R&D.	Include most recent version.

BACKGROUND

At its meeting of October 19, 2022, the Planning Commission held a public hearing on the proposed amendments,¹ and recommended adoption by a vote of 7-0-1-0 (Moved by Ghosh, Seconded by Mikiten. Ayes: Ghosh, Hauser, Mikiten, Moore, Twu, Vincent, and Wiblin. Noes: None. Abstain: Oatfield. Absent: None).

When the new Zoning Ordinance was presented for adoption by the City Council in October, 2021, staff indicated that routine updates would follow periodically to correct unintended errors and make text edits. This is the fourth such package of amendments.

This Zoning Ordinance revision project was undertaken in response to a City Council referral from January 26, 2016, seeking changes to the ordinance for the benefit of

¹ Agenda-related materials for the October 19, 2022 Planning Commission meeting can be found at: https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-10-19%20PC%20Agenda%20Packet_bookmarked-zc.pdf

public understanding and staff implementation. With this fourth package of technical amendments to the new Zoning Ordinance, this referral has now been completed.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental and climate impacts or opportunities associated with the adoption of the proposed amendments.

RATIONALE FOR RECOMMENDATION

The proposed Zoning Ordinance amendments are required to ensure that the new Zoning Ordinance accurately reflects the prior ordinance and City Council policy, and does not contain any changes from the old Zoning Ordinance that were not specifically authorized by City Council.

ALTERNATIVE ACTIONS CONSIDERED

No alternatives were considered.

CONTACT PERSON

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Attachments:

- 1: Ordinance
- 2: Report to Planning Commission, October 19, 2022
- 3: Council referral from Jan. 26, 2016 to improve Zoning Ordinance usability
- 4: Public Hearing Notice

ORDINANCE NO. -N.S.

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

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

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

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

Table 23.108-1. ZONING DISTRICTS

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

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

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

C. Overlay Zones.

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

TABLE 23.108-2: OVERLAY ZONES

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

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

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

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

23.202.020 Allowed Land Uses.

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

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

Table 23.202-1. ALLOWED LAND USES IN RESIDENTIAL DISTRICTS

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

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	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU*	
Community Center	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Emergency Shelter	NP	NP	NP	NP	NP	NP	See 23.308					
Family Day Care Home, Large	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Family Day Care Home, Small	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Hospital	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	NP	
Library	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Nursing Home	NP	NP	NP	--	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Park/Playground	ZC	ZC	UP	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Public Safety and Emergency Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Public Utility Substation/Tank	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Religious Assembly	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
School	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Commercial Uses												

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	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU*		
Alcoholic Beverage Service	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH)*	23.310--Alcoholic Beverage Sales and Service
Food Products Store	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH)*	23.202.140. B.3--R-SMU Residential Southside District
Food Service Establishment	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH)*	23.302.070. E--Use-Specific Regulations
Group Class Instruction	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	23.202.150. C--R-BMU Residential BART Mixed Use District
Gym/Health Club	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	23.202.150. C--R-BMU Residential BART Mixed Use District
Hotel, Tourist	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP		
Laundromat and Cleaner	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	
Office	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)*		23.202.150. C--R-BMU

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

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	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU*		
Industrial and Heavy Commercial Uses													
Commercial Excavation	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)	UP(P H)		
Other Uses													
Accessory Uses	See 23.302.020.A--General Use Regulations												
Art/Craft Studio	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC	
ATM: Exterior and Attached to Bank or Interior or Exterior and Not With Bank	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Home Occupations	See 23.302.040--Home Occupations												
Live/Work	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(P H)* 23.312--Live/Work	
Public Market, Open Air	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Public Market, Enclosed	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Short-Term Rental	ZC*	ZC*	NP	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.314--Short-Term Rentals	
Temporary Uses	See 23.302.030--Temporary Uses and Structures												
Urban Agriculture, Low-Impact	ZC*	ZC*	NP	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.318--Urban Agriculture	

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **--Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)	
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU*		
Urban Agriculture, High-Impact	AUP*	AUP*	NP	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	23.318--Urban Agriculture
Wireless Telecommunication Facility	See 23.332--Wireless Communication Facilities												

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

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

23.202.140 R-SMU Residential Southside Mixed Use District

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

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

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

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

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

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

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

(d) Uses subject to supplemental regulations are shown in Table 23.202-1 with an asterisk (*) following the permit requirement (e.g., ZC*). The Use-Specific Regulations column in Table 23.204202-1 identifies the location of these regulations in the Zoning Ordinance.

Section 5. That Berkeley Municipal Code Section 23.202.150.F Table 23.202-27 is amended as follows:

Table 23.202-27-28 Permitted Street-Facing Ground Floor Uses

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

Section 6. That Berkeley Municipal Code Section 23.202.150.F Table 23.202-28 is amended as follows:

Table 23.202-28-29 R-BMU Development Standards

		Supplemental Standards
Lot Area, Minimum	No Minimum	23.304.020

Private Usable Open Space, Minimum [1][2]		23. 302 <u>304</u> .090
Per Dwelling Unit	40 sf/DU	23. 302 <u>304</u> .090
Per Group Living Accommodation Resident	15 sf/resident	23. 302 <u>304</u> .090
Public Open Space, Minimum		
Per Dwelling Unit	35 sf/DU	
Per Group Living Accommodation Resident	18 sf/resident	
Floor Area Ratio (FAR), Maximum	4.2	
Main Building height, Maximum [3]	80 feet and 7 stories	32.304.050
Residential Density, Minimum	75 dwelling units per acre	

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

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

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

Section 7. That Berkeley Municipal Code Section 23.202.150.F.3.b.iv is amended as follows:

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

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

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

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

Section 9. That Berkeley Municipal Code Section 23.202.150.G.4.c is amended as follows:

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

Section 10. That Berkeley Municipal Code Section 23.202.150.G.5.b is amended as follows:

(b) The public notice and hearing process for a Final Development Plan shall be the same as for Use Permits as defined in BMC Section ~~23B.3223.406.040~~, except that notice shall be mailed or delivered to all businesses, residents and owners of property located within five hundred (500) feet of the subject property.

Section 11. That Berkeley Municipal Code Section 23.202.150.G.7 is amended as follows:

7. *Appeal to Council.* The process for appeal to Council for a Master Development Permit, Preliminary Development Plan and/or Final Development Plan shall be the same as for Use Permits as defined in BMC ~~Section Chapter 23B.3223.410~~.

Section 12. That Berkeley Municipal Code Section 23.204.020 Table 23.204-1- is amended as follows:

Table 23.204-1-. Allowed Uses in Commercial Districts

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Residential Uses												
Accessory Dwelling Unit	See 23.306--Accessory Dwelling Units											
Dwellings												
Single-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060 .B.3
Two-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060 .B.3
Multi-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060 .B.3
Group Living Accommodation	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060 .B.3
Hotel, Residential	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060 .B.3
Mixed-Use Residential	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	See Table 23.204-41	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											

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	
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 023.308—Emergency Shelters		–	–	See 23.308 – Emergency Shelters							
Family Day Care Home, Large	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Family Day Care Home, Small	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Hospital	UP(PH)	UP(PH)	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	
Library	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Mortuaries and Crematories	UP(PH)	UP(PH)	NP	NP	NP	NP	NP	NP	NP	UP(PH)	NP	
Municipal Animal Shelter	–	–	–	–	–	–	–	–	–	–	--	
Nursing Home	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Park/Playground	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	AUP	ZC	
Public Safety and Emergency Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Public Utility Substation/Tank	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Religious Assembly	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	AUP	UP(PH)	

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	
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
Cannabis Retailer, Delivery Only	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	--	23.320; 12.21; and 12.22
Firearm/Munitions Business	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	NP	UP(PH)	UP(PH)*	23.302.070 .D
Industrial and Mining Products	--	--	--	--	--	--	--	--	--	--	--	
Pawn Shop/Auction House	UP(PH)	--	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	
Pet Store	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	ZC [3]	UP(PH)	
Retail, General	ZC [1]	ZC [1]	ZC* [2]	ZC* [2]	ZC* [2]	ZC [1]	ZC	ZC* [2]	ZC	ZC* [3]	ZC*	23.204.040 .E (for department stores) 23.204.040 .F (for drug stores)

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Smoke Shop	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	NP	UP(PH)*	UP(PH)*	23.302.070 .1
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

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	
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	See 23.204.040.A											23.302.070.B
Bar/Cocktail Lounge/Tavern	UP(PH)*	UP(PH)*	UP(PH)*	-	NP	UP(PH)*	UP(PH)*	NP	UP(PH)*	UP(PH)*	UP(PH)	23.204.100.B.3; 23.204.110.B.2; 23.310
Commercial Recreation Center	See 23.204.040.A											
Dance/Exercise/Martial Arts/Music Studio	ZC [1]	ZC [1]	ZC [2]	AUP	AUP [4]	ZC [1]	ZC	AUP	ZC	ZC [7]	ZC	

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	
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 23.204.040302.070.E											
Group Class Instruction	ZC [1]	ZC [1]	AUP	AUP	AUP*	ZC [1]	ZC*	AUP	ZC*	ZC	ZC	23.204.040.B
Gym/Health Club	See 23.204.040.C											
Hotels, Tourist	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Motels, Tourist	UP(PH)	UP(PH)	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	
Theater	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	NP	AUP	UP(PH)	UP(PH)	
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

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	
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	

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

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	
Research and Development	-	-	-	-	-	-	-	-	-	--	--	
Services to Buildings and Dwellings	-	-	-	-	-	-	-	-	-	AUP	--	
Warehouse	UP(PH)	NP	NP	NP	NP	NP	NP	-	UP(PH)	NP	NP	
Warehouse-Based Non-Store Retailer	-	-	-	-	-	-	-	-	-	-	--	
Wholesale Trade	-	-	-	-	--	-	-	-	-	AUP [8]	--	
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	

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	
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 [6]	
ATM, Exterior and Attached to Bank	AUP	AUP	AUP	UP(PH)	AUP	AUP	AUP	AUP*	AUP	AUP	AUP	23.204.120.B.2
ATM, Interior or Exterior and Not With Bank	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)*	AUP	UP(PH)	23.204.130.B.2
Circus/Carnival	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Drive-in Uses	UP(PH)	NP	NP	NP	UP(PH)	UP(PH)	NP	UP(PH)	NP	NP	UP(PH)	
Home Occupations	See 23.302.040											
Live/Work	See 23.312											
Parking Lot/Structure	See 23.302.070.G											
Public Market, Open Air	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	UP(PH)	AUP	
Public Market, Enclosed	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP [9]	AUP	
Short-Term Rental	See 23.314	NP	NP	See 23.314				NP	See 23.314		NP	
Urban Agriculture, Low-Impact	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC	ZC	23.318
Urban Agriculture, High-Impact	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP	AUP	23.318

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	
Wireless Telecommunication Facility	See 23.332--Wireless Communication Facilities										

Notes:

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

Section 13. That Berkeley Municipal Code Section 23.204.060.D.1 Table 23.204-12 is amended as follows:

Table 23.204-12. C-U SETBACK STANDARDS

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

Notes:

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

Section 14. That Berkeley Municipal Code Section 23.204.080.B Table 23.204-20 is amended as follows:

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

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

Notes:

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

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

Section 14. That Berkeley Municipal Code Section 23.204.100.D.2 is amended as follows:

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

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

Section 15. That Berkeley Municipal Code Section 23.206.040.A is amended as follows:

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

Section 16. That Berkeley Municipal Code Section 23.406.050.F.2 is amended as follows:

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

Section 17. That Berkeley Municipal Code Section 23.502.020.R.8 is amended as follows:

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: 1) industrial, biological or scientific research; and/or 2) product or process design, development, prototyping, and or testing. This may include labs, offices, warehousing, and light manufacturing functions as part of the overall Research and Development use.; and limited manufacturing necessary for the production of prototypes.

Section 18: 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.



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: October 19, 2022

TO: Members of the Planning Commission

FROM: Justin Horner, Associate Planner

SUBJECT: Public Hearing on Zoning Ordinance Amendments that Address Technical Edits and Corrections to Berkeley Municipal Code (BMC) Title 23 – Package #4

RECOMMENDATION:

Conduct a public hearing to discuss amendments to the following sections of the Berkeley Municipal Code (BMC) and make a recommendation to City Council to approve the amendments.

- BMC Section 23.108.020 (Zoning Districts)
- BMC Section 23.202.020 (Allowed Land Uses)
- BMC Section 23.202.140 (R-SMU District)
- BMC Section 23.204.150 (R-BMU District)
- BMC Section 23.204.020 (Allowed Land Uses)
- BMC Section 23.204.060 (C-U District)
- BMC Section 23.204.080 (C-E District)
- BMC Section 23.204.100 (C-SA District)
- BMC Section 23.206.040 (Use-Specific Regulations)
- BMC Section 23.406.050 (Variances)

BACKGROUND

On October 12, 2021, the City Council passed Ordinance No. 7,787-NS, which repealed the then-existing Title 23 of the Berkeley Municipal Code and zoning maps (“the old Zoning Ordinance”) and adopted a new Title 23 of the Berkeley Municipal Code and zoning maps (“the new Zoning Ordinance”). The new Zoning Ordinance became effective December 1, 2021.

The new Zoning Ordinance was created as a customer service improvement and was limited in scope to changes that reorganized and reformatted Title 23 to make the City’s zoning code easier to understand and administer. Minor “consent changes” were approved by City Council where changes were needed to bring the Ordinance into compliance with State law or to codify prior zoning interpretations (*Attachment 2*). Other than the “consent changes”, no substantive changes were intended by City Council.

As part of City Council's approval action, staff was directed to regularly return to the Planning Commission and City Council with amendments necessary to maintain the integrity of the new Zoning Ordinance. Amendments presented under this direction should be for the purposes of clarifying the new Zoning Ordinance, fixing mistakes in transcription and correcting unintentional errors. Substantive changes in planning policy are not to be included in this set of routine amendments, but should be presented as separate Zoning Ordinance amendments, consistent with BMC Chapter 23.412 (Zoning Ordinance Amendments).

On June 28, 2022, the City Council adopted Ordinance No. 7,815-NS, which established the Residential BART Mixed Use (R-BMU) District. In the process of codifying the adopted ordinance, a few technical errors were identified. These are also included in this report, as they are corrections of unintentional errors and do not constitute substantive policy changes, similar to the technical edits identified within the new Zoning Ordinance.

PROPOSED ZONING ORDINANCE AMENDMENTS

Since the new Zoning Ordinance came into effect on December 1, 2021, a number of clean-up amendments have been identified. The project team anticipated technical edits and corrections during the roll-out of the new Zoning Ordinance and was prepared with an efficient process and schedule for addressing these requests. This report is the product of that process and is labeled "Package #4" because it is the fourth set of edits to come before Planning Commission.

The proposed Zoning Ordinance amendments are presented in two categories. The first category includes an amendment that requires an explanation or justification. This amendment is presented below with information on what was in the old Zoning Ordinance, what is in the new Zoning Ordinance, and a recommended amendment. The second category includes technical edits such as spelling, punctuation or grammatical errors, simple corrections or inaccurate references. These amendments are summarized in *Table 1: Text Edits and Other Routine Amendments*.

This will be the last package of clean-up amendments the Planning Commission will be asked to consider. Future technical edits will be bundled with subsequent zoning ordinance amendments to streamline the use of City resources and reduce the likelihood of errors resulting from a high volume of concurrent changes.

Category One Zoning Ordinance Amendment

1. BMC Section 23.204.100 (C-SA Zoning District)

Old Zoning Ordinance: Section 23E.52.070.D.5 of the old Zoning Ordinance included provisions to modify development standards in the C-SA with a Use Permit. These standards included height, lot coverage and setbacks. However, there was no provision to modify Floor Area Ratio (FAR).

New Zoning Ordinance: Section 23.204.100.D.2 includes the following language:

2. *Modification for Mixed Use and Residential Projects.* The ZAB may modify development standards in Table 23.204-27, Table 23.204-28, and Table 23.204-29, and Table 23.204-30 for a mixed-use or residential-only project with a Use Permit.

Table 23.204-27 (C-SA Development Standards) includes a maximum Floor Area Ratio standard. The inclusion of Table 23.204-27 implies that maximum FAR can be modified.

Proposed Amendment: Amend Section 23.204.100.D.2 as follows:

2. *Modification for Mixed Use and Residential Projects.* The ZAB may modify development standards in Table 23.204-27, Table 23.204-28, and Table 23.204-29, and Table 23.204-30—**excluding Floor Area Ratio (FAR)**--for a mixed-use or residential-only project with a Use Permit.

Category Two Zoning Ordinance Amendments

The following table includes minor text edits, along with a rationale for each edit.

Table 1: Text Edits and Other Routine Amendments

Zoning Ordinance Section	Proposed Amendment	Rationale																					
23.108.020 (Zoning Districts)	<p>Add back the following text:</p> <p>B. Undesignated Areas. Any area not specifically designated as a district on the Zoning Map is subject to the Unclassified (U) district requirements.</p> <p>C. Overlay Zones.</p> <ol style="list-style-type: none"> 5. The Zoning Ordinance and Zoning Map include the overlay zones shown in Error! Reference source not found. Overlay zones impose additional regulations on properties beyond what is required by the underlying district. 3. As shown in Error! Reference source not found., provisions for overlay zones that apply to two or more districts are located in Chapter 23.210 (Error! Reference source not found.). Provisions for overlay zones that apply only in one district are located in the Zoning Ordinance chapter for that district. <p>Table Error! No text of specified style in document.-1: Overlay Zones</p> <table border="1"> <thead> <tr> <th>OVERLAY ZONE SYMBOL</th> <th>NAME OF OVERLAY ZONE</th> <th>LOCATION IN ZONING ORDINANCE</th> </tr> </thead> <tbody> <tr> <td colspan="3">Overlay Zones that Apply in Two or More Districts</td> </tr> <tr> <td>H</td> <td>Hillside</td> <td>Error! Reference source not found.Error! Reference source not found.</td> </tr> <tr> <td>C</td> <td>Civic Center</td> <td>Error! Reference source not found.Error! Reference source not found.</td> </tr> <tr> <td colspan="3">Overlay Zones that Apply in One District</td> </tr> <tr> <td>D</td> <td>Dealership</td> <td>Error! Reference source not found..B.5Error! Reference source not found. (Automobile/Motorcycle Sales)</td> </tr> <tr> <td>DA</td> <td>Downtown Arts</td> <td>Error! Reference source not found.Error! Reference source not found. (Arts Overlay District)</td> </tr> </tbody> </table> <ol style="list-style-type: none"> 4. If the overlay zone applies a standard to a property that conflicts with the underlying district, the overlay zone standard governs. If the overlay zone is silent on a standard in the underlying district, the underlying district standard applies. 	OVERLAY ZONE SYMBOL	NAME OF OVERLAY ZONE	LOCATION IN ZONING ORDINANCE	Overlay Zones that Apply in Two or More Districts			H	Hillside	Error! Reference source not found. Error! Reference source not found.	C	Civic Center	Error! Reference source not found. Error! Reference source not found.	Overlay Zones that Apply in One District			D	Dealership	Error! Reference source not found. .B.5 Error! Reference source not found. (Automobile/Motorcycle Sales)	DA	Downtown Arts	Error! Reference source not found. Error! Reference source not found. (Arts Overlay District)	Inadvertent deletion in previous zoning amendment package.
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	<p>D. Vacated Streets. Where a public street or alley is officially vacated or abandoned, the land area of the street or alley acquires the district classification of the property to which it reverts.</p>							
23.202.020 (Allowed Land Uses – Residential)	<p>Add back the following text:</p> <p>C. Use-Specific Regulations. Uses subject to supplemental regulations are shown in Error! Reference source not found. with an asterisk (*) following the permit requirement (e.g., UP*). The Use-Specific Regulations column in Error! Reference source not found. identifies the location of these regulations in the Zoning Ordinance.</p>	Inadvertent deletion in previous zoning amendment package.						
23.202.140 (R-SMU District)	<p>Revise title to read:</p> <p>23.202.140 R-SMU Residential Southside <u>Mixed-Use</u> District</p>	Correction						
23.202.150.B.1 (R-BMU District -- Definitions)	<p>Revise as follows:</p> <p>1. <i>Dwelling Units per Acre:</i> The quotient resulting from the total number of dwelling units on a site divided by the Lot Area.</p>	Clarification						
23.202.150.C.1 (R-BMU District -- Allowed Land Uses)	<p>Revise to read as follows:</p> <p>C. Allowed Land Uses.</p> <p>1. <i>General.</i> See Section 23.202.020 (Allowed Land Uses), which indicates identified allowed land uses and which are prohibited.</p> <p>(a) The initial establishment of a land use in a new building will follow the R-BMU Master Development Plan process outlined in Section 23.202.150.<u>G</u> below.</p> <p>(b) The change of use of an existing building or portion of a building will require the permits indicated in Section 23.202.020 and Table 23.202-1 for the R-BMU District.</p> <p>(c) Any use not listed in Table 23.202-1 for the R-BMU District can be approved through the Master Development Plan process outlined in Section 23.202.150.<u>G</u> below for the initial establishment of a land use in a new building.</p> <p>(d) Uses subject to supplemental regulations are shown in Table 23.202-1 with an asterisk (*) following the permit requirement (e.g., ZC*). The Use-Specific Regulations column in Table 23.202-1 identifies the location of these regulations in the Zoning Ordinance.</p>	Incorrect references						
23.202.150.F Table 23.202-28 (R-BMU District – Development Standards)	<p>Revise table 23.202-287 to read:</p> <p>Table 23.202-28: R-BMU Development Standards</p> <table border="1"> <thead> <tr> <th colspan="2"></th> <th>Supplemental Standards</th> </tr> </thead> <tbody> <tr> <td>Lot Area, Minimum</td> <td>No Minimum</td> <td>23.304.020</td> </tr> </tbody> </table>			Supplemental Standards	Lot Area, Minimum	No Minimum	23.304.020	
		Supplemental Standards						
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23.202.150.F.3.b.iv (R-BMU District – Public Space Design)	<p>Revise the subsection to read:</p> <p>iv. Adjacent publicly owned space may contribute to the minimum public space requirement for the project, if it is designed, integrated and maintained as part of the project and complies with all other requirements for public space design identified in this section 23.202.150(F)3(b).</p>																												
23.202.150.F.3.c (R-BMU District – Public Space Design)	<p>Revise the subsection to read:</p> <p>(c) <i>Rooftop Open Space</i>. Rooftops may be utilized as Private Usable Open Space or Public Open Space meeting the requirements of 23.202.150.F.3 (Additional Open Space Requirements--Definitions). Rooftop space designated Public Open Space must also meet the requirements of 23.202.150.F.3.B (Public Space Design). No more than 25% of Public Open Space requirements can be met with Rooftop Open Space, and such Public Open Space must be independently accessible from the public circulation network.</p>																												
23.202.150.G.4.c (R-BMU District – Preliminary Development Plan)	<p>Revise the subsection to read:</p> <p>(c) The Board shall determine whether the proposal conforms to the permit criteria set forth in Section 23.202.150.G.8, and may approve or disapprove the application and the accompanying Preliminary Development Plan or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria and regulations. In so doing, the Board may, in its discretion, authorize submission of the Final Development Plan in stages corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the Preliminary Development Plan and staged development schedule.</p>	Incorrect references																											
23.202.150.G.5.b	<p>Revise the subsection to read:</p>																												

(R-BMU District – Final Development Plan)	(b) The public notice and hearing process for a Final Development Plan shall be the same as for Use Permits as defined in BMC Section 23.406.040 , except that notice shall be mailed or delivered to all businesses, residents and owners of property located within five hundred (500) feet of the subject property.																					
23.202.150.G.7 (R-BMU District – Final Development Plan)	Revise the subsection to read: <i>7. Appeal to Council.</i> The process for appeal to Council for a Master Development Permit, Preliminary Development Plan and/or Final Development Plan shall be the same as for Use Permits as defined in BMC Section 23.410 .	Incorrect reference																				
23.204.020 Table 23.204-1 (Allowed Uses Table – Commercial Districts)	In the C-C, residential uses are permitted with a UP(PH)	Missing letter																				
	Add reference for Emergency Shelters: “ See 23.308 – Emergency Shelters ”	Missing reference																				
	Revise table to indicate that users should see 23.302.070.E for regulations regarding Food Service Establishments	Incorrect reference																				
	Amend table to reflect that Short-Term Rentals are Not Permitted (NP) in the C-N district.	Correction																				
23.204.060.D.5 Table 23.204-12 (C-U District – Setback Standards)	Revise table to indicate that lots on south north side of University Avenue are subject to Solar Access standards.	Corrections																				
23.204.080.B Table 23.204-20 (C-E District – C-E Land Use Number and Size Limitation)	Revise table to read:																					
	<table border="1"> <thead> <tr> <th>Use</th> <th>Number Limit</th> <th>Maximum Size</th> <th>Permit Required</th> </tr> </thead> <tbody> <tr> <td>Art Craft Shops, Gift/Novelty Shops, Jewelry/Watch Shops</td> <td>No limit</td> <td>1,500 sq ft</td> <td>ZC</td> </tr> <tr> <td>Bookstores, Periodical Stands</td> <td>No limit</td> <td>2,000 sq ft</td> <td>ZC</td> </tr> <tr> <td>Food Service Establishments [1]</td> <td>25 total</td> <td>No max.</td> <td>No permit required AUP</td> </tr> <tr> <td>Photocopy Stores, Printing, Fax, Magnetic Disk Reproduction Services</td> <td>No limit</td> <td>1,000 sq ft</td> <td>ZC</td> </tr> </tbody> </table>		Use	Number Limit	Maximum Size	Permit Required	Art Craft Shops, Gift/Novelty Shops, Jewelry/Watch Shops	No limit	1,500 sq ft	ZC	Bookstores, Periodical Stands	No limit	2,000 sq ft	ZC	Food Service Establishments [1]	25 total	No max.	No permit required AUP	Photocopy Stores, Printing, Fax, Magnetic Disk Reproduction Services	No limit	1,000 sq ft	ZC
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23.206.040.A (Art/Craft Studios in the M and MU-LI Districts)	Revise section to read: <i>A. Art/Craft Studios in the M and MU-LI MM Districts.</i> Art/craft studios are allowed in the M and MU-LI MM districts only as workspaces. Live/work is not permitted.																					
23.406.050.F.2 (Variances – Findings for Approval)	Revise subsection to read: <i>2. The ZAB shall deny a Use Permit application Variance if it determines that it is unable to make any of the required findings. (Ord. 7787-NS § 2 (Exh. A), 2021)</i>	Correction																				

NEXT STEPS

Staff recommends that the Planning Commission hold a public hearing, receive public testimony, and recommend to City Council adoption of the proposed Zoning Ordinance amendments. Adoption of the proposed Zoning Ordinance amendments would also constitute a closing of a City Council referral from January 26, 2016 (*Attachment 4*).

ATTACHMENTS

1. Ordinance – Zoning Ordinance Amendments
2. Consent Changes Matrix

Public Hearing on Zoning Ordinance Technical Edits & Corrections
Page 7 of 7

3. Public Hearing Notice
4. January 26, 2016. Berkeley City Council Referral. *Customer Service Improvements to Land Use Permit Process.*

ORDINANCE NO. -N.S.

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

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

Section 1. That Berkeley Municipal Code Section 23.108.020 Table 23.204-8 is amended as follows:

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

Table 23.108-1. ZONING DISTRICTS

DISTRICT SYMBOL	NAME OF DISTRICT
Residential Districts	
R-1	Single-Family Residential
R-1A	Limited Two-family Residential
ES-R	Environmental Safety Residential
R-2	Restricted Two-family Residential
R-2A	Restricted Multiple-family Residential
R-3	Multiple-family Residential
R-4	Multi-family Residential
R-5	High Density Residential
R-S	Residential Southside

DISTRICT SYMBOL	NAME OF DISTRICT
R-SMU	Residential Southside Mixed Use
R-BMU	Residential BART Mixed Use
Commercial Districts	
C-C	Corridor Commercial
C-U	University Avenue Commercial
C-N	Neighborhood Commercial
C-E	Elmwood Commercial
C-NS	North Shattuck Commercial
C-SA	South Area Commercial
C-T	Telegraph Avenue Commercial
C-SO	Solano Avenue Commercial
C-DMU	Downtown Mixed-Use
C-W	West Berkeley Commercial
C-AC	Adeline Corridor Commercial
Manufacturing Districts	
M	Manufacturing
MM	Mixed Manufacturing
MU-LI	Mixed Use-Light Industrial

DISTRICT SYMBOL	NAME OF DISTRICT
MU-R	Mixed Use-Residential
Special Districts	
SP	Specific Plan
U	Unclassified

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

C. Overlay Zones.

1. The Zoning Ordinance and Zoning Map include the overlay zones shown in

2. Table Error! No text of specified style in document.-1: Overlay Zones. Overlay zones impose additional regulations on properties beyond what is required by the underlying district.

3. As shown in

4. Table Error! No text of specified style in document.-1: Overlay Zones, provisions for overlay zones that apply to two or more districts are located in Chapter 23.210 (Error! Reference source not found.). Provisions for overlay zones that apply only in one district are located in the Zoning Ordinance chapter for that district.

TABLE Error! NO TEXT OF SPECIFIED STYLE IN DOCUMENT.-1: OVERLAY ZONES

<u>OVERLAY ZONE SYMBOL</u>	<u>NAME OF OVERLAY ZONE</u>	<u>LOCATION IN ZONING ORDINANCE</u>
<u>Overlay Zones that Apply in Two or More Districts</u>		
<u>H</u>	<u>Hillside</u>	Error! Reference source not found.Error! Reference source not found.

<u>C</u>	<u>Civic Center</u>	Error! Reference source not found. Error! Reference source not found.
<u>Overlay Zones that Apply in One District</u>		
<u>D</u>	<u>Dealership</u>	Error! Reference source not found. <u>B.5</u> Error! Reference source not found. <u>(Automobile/Motorcycle Sales)</u>
<u>DA</u>	<u>Downtown Arts</u>	Error! Reference source not found. Error! Reference source not found. <u>(Arts Overlay District)</u>

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

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

Section 2. That Berkeley Municipal Code Section 23.202.020 is amended to add the following:

C. Use-Specific Regulations. Uses subject to supplemental regulations are shown in **Error! Reference source not found.** with an asterisk (*) following the permit requirement (e.g., UP*). The Use-Specific Regulations column in **Error! Reference source not found.** identifies the location of these regulations in the Zoning Ordinance.

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

23.202.140 R-SMU Residential Southside Mixed Use District

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

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

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

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

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

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

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

(d) Uses subject to supplemental regulations are shown in Table 23.202-1 with an asterisk (*) following the permit requirement (e.g., ZC*). The Use-Specific Regulations column in Table 23.~~204202~~-1 identifies the location of these regulations in the Zoning Ordinance.

Section 6. That Berkeley Municipal Code Section 23.304.150.F Table 23.202-28 is amended as follows:

		Supplemental Standards
Lot Area, Minimum	No Minimum	23.304.020
Private Usable Open Space, Minimum [1][2]		23. 302304 .090
Per Dwelling Unit	40 sf/DU	23. 302304 .090
Per Group Living Accommodation Resident	15 sf/resident	23. 302304 .090

Public Open Space, Minimum		
Per Dwelling Unit	35 sf/DU	
Per Group Living Accommodation Resident	18 sf/resident	
Floor Area Ratio (FAR), Maximum	4.2	
Main Building height, Maximum [3]	80 feet and 7 stories	32.304.050
Residential Density, Minimum	75 dwelling units per acre	
<p>[1] Private Usable Open Space may be provided as any combination of personal and common private space.</p> <p>[2] 50% of the Private Usable Open Space requirement may be fulfilled through the provision of an equal amount of additional Public Open Space.</p> <p>[3] Building Height Measurement: In the case of a roof with a parapet wall, building height shall be measured to the top of the roof and parapets may exceed the height limits by up to five feet by right.</p>		

Section 7. That Berkeley Municipal Code Section 23.202.150.F.3.b.iv is amended as follows:

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

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

- (c) *Rooftop Open Space.* Rooftops may be utilized as Private Usable Open Space or Public Open Space meeting the requirements of 23.202.150.~~AE~~.3 (Additional Open Space Requirements--Definitions). Rooftop space

designated Public Open Space must also meet the requirements of 23.202.150.AE.3.B (Public Space Design). No more than 25% of Public Open Space requirements can be met with Rooftop Open Space, and such Public Open Space must be independently accessible from the public circulation network.

Section 9. That Berkeley Municipal Code Section 23.202.150.G.4.c is amended as follows:

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

Section 10. That Berkeley Municipal Code Section 23.202.150.G.5.b is amended as follows:

(b) The public notice and hearing process for a Final Development Plan shall be the same as for Use Permits as defined in BMC Section ~~23B.3223.406.040~~, except that notice shall be mailed or delivered to all businesses, residents and owners of property located within five hundred (500) feet of the subject property.

Section 11. That Berkeley Municipal Code Section 23.202.150.G.7 is amended as follows:

7. *Appeal to Council.* The process for appeal to Council for a Master Development Permit, Preliminary Development Plan and/or Final Development Plan shall be the same as for Use Permits as defined in BMC Section ~~23B.3223.410~~.

Section 12. That Berkeley Municipal Code Section 23.204.020 Table 23.204-1 is amended as follows:

Table 23.204-1 . Allowed Uses in Commercial Districts

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Residential Uses												
Accessory Dwelling Unit	See 23.306--Accessory Dwelling Units											
Dwellings												
Single-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Two-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Multi-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Group Living Accommodation	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Hotel, Residential	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Mixed-Use Residential	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	See Table 23.204- 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)	

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	
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 23.308 – Emergency Shelters		–	–	See 23.308 – Emergency Shelters							
Family Day Care Home, Large	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Family Day Care Home, Small	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Hospital	UP(PH)	UP(PH)	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	
Library	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Mortuaries and Crematories	UP(PH)	UP(PH)	NP	NP	NP	NP	NP	NP	NP	UP(PH)	NP	
Municipal Animal Shelter	–	–	–	–	–	–	–	–	–	–	--	
Nursing Home	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Park/Playground	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	AUP	ZC	
Public Safety and Emergency Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Public Utility Substation/Tank	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Religious Assembly	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	AUP	UP(PH)	

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	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
School	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
School, Vocational	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	UP(PH)	AUP	
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
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												

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	
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

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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	
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)	

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	
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)	--	

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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	
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	-	-	-	-	-	-	-	-	-	--	--	
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)	

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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	
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 [6]	
ATM, Exterior and Attached to Bank	AUP	AUP	AUP	UP(PH)	AUP	AUP	AUP	AUP*	AUP	AUP	AUP	23.204.120.B.2
ATM, Interior or Exterior and Not With Bank	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)*	AUP	UP(PH)	23.204.130.B.2
Circus/Carnival	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Drive-in Uses	UP(PH)	NP	NP	NP	UP(PH)	UP(PH)	NP	UP(PH)	NP	NP	UP(PH)	

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	
Home Occupations	See 23.302.040											
Live/Work	See 23.312											
Parking Lot/Structure	See 23.302.070.G											
Public Market, Open Air	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	UP(PH)	AUP	
Public Market, Enclosed	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP [9]	AUP	
Short-Term Rental	See 23.314		NP	NP	See 23.314			NP	See 23.314		NP	
Urban Agriculture, Low-Impact	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC	ZC	23.318
Urban Agriculture, High-Impact	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP	AUP	23.318
Wireless Telecommunication Facility	See 23.332--Wireless Communication Facilities											

Notes:

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

Section 13. That Berkeley Municipal Code Section 23.204.060.D.5 Table 23.204-12 is amended as follows:

Table 23.204-12. C-U SETBACK STANDARDS

LOT LINE & PROJECT CONDITIONS	REQUIRED SETBACK
Front	
Ground-floor non-residential uses fronting University Avenue	Average 2 ft. 2 ft. at all sidewalk pedestrian entries
Ground-floor residential uses fronting University Avenue	Average 2 ft. Maximum 10 ft.[1]
Fronting a street other than University Avenue and confronting a non-residential district	No min.
Rear	
Lots on south side of University Avenue abutting lot in residential district	Average 20 ft. [2] [3]
Lots on south -north side of University Avenue	See 23.204.060.D.5 [WG1]--C-U University Commercial District (Solar Access)
All other lots	10 ft. or 10% of lot depth, whichever is greater
Interior Side	No minimum
Street Side	2 ft. average
All setbacks for lots on South Side of University Avenue fronting a street other than University Avenue	As required by 23.304.030.C.2 --Setbacks (Lots Adjacent to Residential Districts) [4]

Notes:

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

27 Section 14. That Berkeley Municipal Code Section 23.204.080.B Table 23.204-20 is
28 amended as follows:
29

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

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

31 Notes:

32 [1] Excludes food service uses accessory to a food product store. Secondary food service uses
33 associated with all other principal uses are subject to limitations in Table 23.204-20.

34 [2] Change of use of over 3,000 square feet requires Use Permit.
35

36 Section 14. That Berkeley Municipal Code Section 23.204.100.D.2 is amended as
37 follows:
38

39 2. Modification for Mixed Use and Residential Projects. The ZAB may modify
40 development standards in Table 23.204-27, Table 23.204-28, and Table 23.204-
41 29, and Table 23.204-30 – excluding FAR – for a mixed-use or residential-only
42 project with a Use Permit, upon making one of the following findings:

43 (a) The project encourages utilization of public transit and existing off-
44 street parking facilities in the area of the proposed building;

45 (b) The modification allows consistency with the building setbacks
46 existing in the immediate area where a residential building setback would
47 not serve a useful purpose;

48 (c) The modification facilitates the construction of affordable housing as
49 defined by the U.S. Department of Housing and Urban Development
50 (HUD) Guidelines; or

51 (d) The modification provides consistency with the purposes of the district
52 as listed in Section 23.204.100.A (District Purpose).

53 Section 15. That Berkeley Municipal Code Section 23.206.040.A is amended as
54 follows:
55

56 A. *Art/Craft Studios in the M and ~~MU-LIMM~~ Districts.* Art/craft studios are
57 allowed in the M and ~~MU-LIMM~~ districts only as workspaces. Live/work is not
58 permitted.
59

60 Section 16. That Berkeley Municipal Code Section 23.406.050.F.2 is amended as
61 follows:
62

63 2. The ZAB shall deny a ~~Use-Permit-application~~Variance if it determines that it is
64 unable to make any of the required findings.
65

66 Section 17: Copies of this Ordinance shall be posted for two days prior to adoption in the
67 display case located near the walkway in front of the Maudelle Shirek Building, 2134
68 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be
69 filed at each branch of the Berkeley Public Library and the title shall be published in a
70 newspaper of general circulation.

ORDINANCE NO. -N.S.

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

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

Section 1. That Berkeley Municipal Code Section 23.108.020 Table 23.204-8 is amended as follows:

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

Table 23.108-1. ZONING DISTRICTS

DISTRICT SYMBOL	NAME OF DISTRICT
Residential Districts	
R-1	Single-Family Residential
R-1A	Limited Two-family Residential
ES-R	Environmental Safety Residential
R-2	Restricted Two-family Residential
R-2A	Restricted Multiple-family Residential
R-3	Multiple-family Residential
R-4	Multi-family Residential
R-5	High Density Residential
R-S	Residential Southside

DISTRICT SYMBOL	NAME OF DISTRICT
R-SMU	Residential Southside Mixed Use
R-BMU	Residential BART Mixed Use
Commercial Districts	
C-C	Corridor Commercial
C-U	University Avenue Commercial
C-N	Neighborhood Commercial
C-E	Elmwood Commercial
C-NS	North Shattuck Commercial
C-SA	South Area Commercial
C-T	Telegraph Avenue Commercial
C-SO	Solano Avenue Commercial
C-DMU	Downtown Mixed-Use
C-W	West Berkeley Commercial
C-AC	Adeline Corridor Commercial
Manufacturing Districts	
M	Manufacturing
MM	Mixed Manufacturing
MU-LI	Mixed Use-Light Industrial

DISTRICT SYMBOL	NAME OF DISTRICT
MU-R	Mixed Use-Residential
Special Districts	
SP	Specific Plan
U	Unclassified

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

C. Overlay Zones.

1. The Zoning Ordinance and Zoning Map include the overlay zones shown in
2. Table Error! No text of specified style in document.-1: Overlay Zones. Overlay zones impose additional regulations on properties beyond what is required by the underlying district.
3. As shown in
4. Table Error! No text of specified style in document.-1: Overlay Zones, provisions for overlay zones that apply to two or more districts are located in Chapter 23.210 (Error! Reference source not found.). Provisions for overlay zones that apply only in one district are located in the Zoning Ordinance chapter for that district.

TABLE Error! NO TEXT OF SPECIFIED STYLE IN DOCUMENT.-1: OVERLAY ZONES

<u>OVERLAY ZONE SYMBOL</u>	<u>NAME OF OVERLAY ZONE</u>	<u>LOCATION IN ZONING ORDINANCE</u>
<u>Overlay Zones that Apply in Two or More Districts</u>		
<u>H</u>	<u>Hillside</u>	Error! Reference source not found.Error! Reference source not found.

<u>C</u>	<u>Civic Center</u>	Error! Reference source not found. Error! Reference source not found.
<u>Overlay Zones that Apply in One District</u>		
<u>D</u>	<u>Dealership</u>	Error! Reference source not found. <u>B.5</u> Error! Reference source not found. <u>(Automobile/Motorcycle Sales)</u>
<u>DA</u>	<u>Downtown Arts</u>	Error! Reference source not found. Error! Reference source not found. <u>(Arts Overlay District)</u>

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

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

Section 2. That Berkeley Municipal Code Section 23.202.020 is amended to add the following:

C. Use-Specific Regulations. Uses subject to supplemental regulations are shown in **Error! Reference source not found.** with an asterisk (*) following the permit requirement (e.g., UP*). The Use-Specific Regulations column in **Error! Reference source not found.** identifies the location of these regulations in the Zoning Ordinance.

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

23.202.140 R-SMU Residential Southside Mixed Use District

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

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

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

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

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

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

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

(d) Uses subject to supplemental regulations are shown in Table 23.202-1 with an asterisk (*) following the permit requirement (e.g., ZC*). The Use-Specific Regulations column in Table 23.~~204202~~-1 identifies the location of these regulations in the Zoning Ordinance.

Section 6. That Berkeley Municipal Code Section 23.304.150.F Table 23.202-28 is amended as follows:

		Supplemental Standards
Lot Area, Minimum	No Minimum	23.304.020
Private Usable Open Space, Minimum [1][2]		23. 302304 .090
Per Dwelling Unit	40 sf/DU	23. 302304 .090
Per Group Living Accommodation Resident	15 sf/resident	23. 302304 .090

Public Open Space, Minimum		
Per Dwelling Unit	35 sf/DU	
Per Group Living Accommodation Resident	18 sf/resident	
Floor Area Ratio (FAR), Maximum	4.2	
Main Building height, Maximum [3]	80 feet and 7 stories	32.304.050
Residential Density, Minimum	75 dwelling units per acre	
<p>[1] Private Usable Open Space may be provided as any combination of personal and common private space.</p> <p>[2] 50% of the Private Usable Open Space requirement may be fulfilled through the provision of an equal amount of additional Public Open Space.</p> <p>[3] Building Height Measurement: In the case of a roof with a parapet wall, building height shall be measured to the top of the roof and parapets may exceed the height limits by up to five feet by right.</p>		

Section 7. That Berkeley Municipal Code Section 23.202.150.F.3.b.iv is amended as follows:

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

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

- (c) *Rooftop Open Space.* Rooftops may be utilized as Private Usable Open Space or Public Open Space meeting the requirements of 23.202.150.~~AE~~.3 (Additional Open Space Requirements--Definitions). Rooftop space

designated Public Open Space must also meet the requirements of 23.202.150.AE.3.B (Public Space Design). No more than 25% of Public Open Space requirements can be met with Rooftop Open Space, and such Public Open Space must be independently accessible from the public circulation network.

Section 9. That Berkeley Municipal Code Section 23.202.150.G.4.c is amended as follows:

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

Section 10. That Berkeley Municipal Code Section 23.202.150.G.5.b is amended as follows:

(b) The public notice and hearing process for a Final Development Plan shall be the same as for Use Permits as defined in BMC Section ~~23B.3223.406.040~~, except that notice shall be mailed or delivered to all businesses, residents and owners of property located within five hundred (500) feet of the subject property.

Section 11. That Berkeley Municipal Code Section 23.202.150.G.7 is amended as follows:

7. *Appeal to Council.* The process for appeal to Council for a Master Development Permit, Preliminary Development Plan and/or Final Development Plan shall be the same as for Use Permits as defined in BMC Section ~~23B.3223.410~~.

Section 12. That Berkeley Municipal Code Section 23.204.020 Table 23.204-1 is amended as follows:

Table 23.204-1 . Allowed Uses in Commercial Districts

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Residential Uses												
Accessory Dwelling Unit	See 23.306--Accessory Dwelling Units											
Dwellings												
Single-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Two-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Multi-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Group Living Accommodation	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Hotel, Residential	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Mixed-Use Residential	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	See Table 23.204- 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)	

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	
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 023.308 — Emergency Shelters		–	–	See 23.308 – Emergency Shelters 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)	

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	
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
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												

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	
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

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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	
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)	

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	
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)	--	

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	
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	-	-	-	-	-	-	-	-	-	--	--	
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)	

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	
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 [6]	
ATM, Exterior and Attached to Bank	AUP	AUP	AUP	UP(PH)	AUP	AUP	AUP	AUP*	AUP	AUP	AUP	23.204.120.B.2
ATM, Interior or Exterior and Not With Bank	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)*	AUP	UP(PH)	23.204.130.B.2
Circus/Carnival	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Drive-in Uses	UP(PH)	NP	NP	NP	UP(PH)	UP(PH)	NP	UP(PH)	NP	NP	UP(PH)	

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	
Home Occupations	See 23.302.040											
Live/Work	See 23.312											
Parking Lot/Structure	See 23.302.070.G											
Public Market, Open Air	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	UP(PH)	AUP	
Public Market, Enclosed	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP [9]	AUP	
Short-Term Rental	See 23.314		NP	NP	See 23.314			NP	See 23.314		NP	
Urban Agriculture, Low-Impact	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC	ZC	23.318
Urban Agriculture, High-Impact	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP	AUP	23.318
Wireless Telecommunication Facility	See 23.332--Wireless Communication Facilities											

Notes:

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

Section 13. That Berkeley Municipal Code Section 23.204.060.D.5 Table 23.204-12 is amended as follows:

Table 23.204-12. C-U SETBACK STANDARDS

LOT LINE & PROJECT CONDITIONS	REQUIRED SETBACK
Front	
Ground-floor non-residential uses fronting University Avenue	Average 2 ft. 2 ft. at all sidewalk pedestrian entries
Ground-floor residential uses fronting University Avenue	Average 2 ft. Maximum 10 ft.[1]
Fronting a street other than University Avenue and confronting a non-residential district	No min.
Rear	
Lots on south side of University Avenue abutting lot in residential district	Average 20 ft. [2] [3]
Lots on south -north side of University Avenue	See 23.204.060.D.5 [WG1]--C-U University Commercial District (Solar Access)
All other lots	10 ft. or 10% of lot depth, whichever is greater
Interior Side	No minimum
Street Side	2 ft. average
All setbacks for lots on South Side of University Avenue fronting a street other than University Avenue	As required by 23.304.030.C.2 --Setbacks (Lots Adjacent to Residential Districts) [4]

Notes:

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

27 Section 14. That Berkeley Municipal Code Section 23.204.080.B Table 23.204-20 is
28 amended as follows:
29

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

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

31 Notes:

32 [1] Excludes food service uses accessory to a food product store. Secondary food service uses
33 associated with all other principal uses are subject to limitations in Table 23.204-20.

34 [2] Change of use of over 3,000 square feet requires Use Permit.
35

36 Section 14. That Berkeley Municipal Code Section 23.204.100.D.2 is amended as
37 follows:
38

39 2. Modification for Mixed Use and Residential Projects. The ZAB may modify
40 development standards in Table 23.204-27, Table 23.204-28, and Table 23.204-
41 29, and Table 23.204-30 – excluding FAR – for a mixed-use or residential-only
42 project with a Use Permit, upon making one of the following findings:

43 (a) The project encourages utilization of public transit and existing off-
44 street parking facilities in the area of the proposed building;

45 (b) The modification allows consistency with the building setbacks
46 existing in the immediate area where a residential building setback would
47 not serve a useful purpose;

48 (c) The modification facilitates the construction of affordable housing as
49 defined by the U.S. Department of Housing and Urban Development
50 (HUD) Guidelines; or

51 (d) The modification provides consistency with the purposes of the district
52 as listed in Section 23.204.100.A (District Purpose).

53 Section 15. That Berkeley Municipal Code Section 23.206.040.A is amended as
54 follows:
55

56 A. *Art/Craft Studios in the M and ~~MU-LIMM~~ Districts.* Art/craft studios are
57 allowed in the M and ~~MU-LIMM~~ districts only as workspaces. Live/work is not
58 permitted.
59

60 Section 16. That Berkeley Municipal Code Section 23.406.050.F.2 is amended as
61 follows:
62

63 2. The ZAB shall deny a ~~Use-Permit-application~~Variance if it determines that it is
64 unable to make any of the required findings.
65

66 Section 17: Copies of this Ordinance shall be posted for two days prior to adoption in the
67 display case located near the walkway in front of the Maudelle Shirek Building, 2134
68 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be
69 filed at each branch of the Berkeley Public Library and the title shall be published in a
70 newspaper of general circulation.

BASELINE ZONING ORDINANCE CONSENT CHANGES MATRIX

Topic	Description	BZO Location	Existing Location	Rationale for Change
23.102 – Introductory Provisions				
Effective Date	Statement of when the Ordinance becomes effective	23.102.020	NEW	Provide effective date
Authority	States that if state law referenced in Zoning Ordinance is amended, the Zoning Ordinance is deemed amended to reference the amended state law	23.102.030	NEW	Added for clarity
Laws of Other Agencies	Removes statement that uses and structures must comply with regulations and laws of other governmental agencies.	N/A	23B.56.040	It is unnecessary to state that uses and structures must comply with the law. Removed for clarity
Approvals Required	Describes approvals required for land uses and development	23.102.050 D	NEW	Expands on existing Section 23A.12.010 to reflect current practice
Conflict with State or Federal Regulations	Explains how to handle conflicts with State and Fed law	23.102.070	NEW	Consistent with the Supremacy Clause of the United States Constitution and Article XI, Section 5(a) of the California Constitution
Conflicts with Other City Regulations	New language: “Where the Zoning Ordinance conflicts with other ordinances, resolutions, or regulations of the City of Berkeley, the more restrictive controls.”	23.102.070.B	NEW	Clarity needed on how to handle conflicting requirements. The Zoning Ordinance does not supersede other City regulations.

Topic	Description	BZO Location	Existing Location	Rationale for Change
Conflicts with Private Agreements	Adds statement that the City is not responsible for monitoring or enforcing private agreements.	23.102.070.C	NEW	Clarifies City role in neighbor disputes involving private agreements
Pending Applications	Clarifies status of applications submitted during transition from ZO to BZO	23.102.080 C	NEW	Necessary to inform status of applications submitted during transition to BZO
Nonconformities	Defines what is considered nonconforming at the time of BZO adoption	23.102.080 E	NEW	Adds up-front reference to nonconformity chapter alongside other transitional provisions
23.104 – Interpreting the Zoning Ordinance				
Purpose	States purpose of chapter	23.104.010	NEW	BZO standard includes purpose statement for each chapter
Authority	Clarifies existing Zoning Officer authority	23.104.020	NEW see 23B.12.020	More accurately state ZO's authority
Rules of Interpretation	New rules of interpretation relating to: meaning and intent; harmonious construction; lists and examples; references to other regulations, publications, and documents; technical and non-technical terms; terms not defined; public officials and agencies; tenses and plurals. New harmonious construction language replaces existing language: "In case of conflict between any of the provisions of this Ordinance, the most restrictive shall apply."	23.104.030	23A.080.010	Provides for consistent application of rules

Topic	Description	BZO Location	Existing Location	Rationale for Change
Zoning Map	Clarifies intention to follow city limits	23.104.050 A 3	NEW	Greater clarity to resolve uncertainty in zoning district boundaries
23.106 Rules and Measurement				
Chapter Purpose	States chapter purpose	23.106.010	NEW	BZO standard includes purpose statement for each chapter
Building Separation	Defines method of building separation measurement (outer wall to outer wall)	23.106.080 A	NEW	Codifies existing practice and increases clarity
23.108 –Zoning Districts and Map				
Chapter Purpose	States chapter purpose	23.108.010	NEW	BZO standard includes purpose statement for each chapter
C-C and C-U Districts	C-1 zone split into two zones: Corridor Commercial (C-C) and University Avenue Commercial (C-U) district. C-U includes University Avenue Strategic Plan Overlay standards.	23.108.020.A	23A.16.020.A	Simplifies and clarifies C-1 rules inside and outside of University Avenue Strategic Plan area
Purpose of Overlay Zones	Explains purpose of overlay zones	23.108.020.C.1	NEW	Provide definition; explains that Overlay Zone regulations are in addition to regulations of underlying zone (not a replacement)

Topic	Description	BZO Location	Existing Location	Rationale for Change
Applicability of Overlay Zone Standards	<p><u>Existing language</u>: “the height, coverage, parking and usable open space shall comply with the provisions of the underlying district.”</p> <p><u>BZO language</u>: “If the overlay zone applies a standard to a property that conflicts with the underlying district, the overlay zone standard governs. If the overlay zone is silent on a standard in the underlying district, the underlying district standard applies.”</p>	23.108.020.C.3	23A.16.030.C	Corrects statement inconsistent with existing use of overlay zones
23.202 – Residential Districts				
Allowed Land Uses	In Residential Districts, unlisted uses are prohibited	23.202.020.B	NEW	Codifies existing practice, making explicit that if a use is not listed in the Allowed Uses Table for Residential Districts, the use is prohibited.
Open Space for ADUs in R-1 District	Removes requirement for ADUs to include usable open space. All standards for ADUs will be addressed in updated ADU chapter.	Table 23.202-2	23D.16.070.F	Codifies existing practice consistent with Gov’t Code Section 65852.2
23.206 – Manufacturing Districts				
Industrial Performance Standards	Removes statements allowing City Manager to establish industrial performance standards.	23.206.040.F	23E.64.070.E 23E.72.070.E 23E.76.070.E 23E.80.D 23E.84.070.H	Language is unnecessary and implies authorization is required for other similar requirements.

Topic	Description	BZO Location	Existing Location	Rationale for Change
23.302 – Supplemental Use Regulations				
Warehouse Storage for Retail Use	Allows on-site storage of goods as an accessory use to a primary retail use in all districts where retail is permitted	23.302.070.J	NEW	Codifies existing practice of allowing retail establishments to store their goods on-site if retail is permitted.
23.304 – General Development Standards				
Setback Projections – Disabled Access	Allows projections into setbacks to accommodate the disabled with a reasonable accommodations request.	23.304.030.B.4	23D.04.030.A2	Confirm with The Americans with Disabilities Act, and the California Fair Employment and Housing Act
Building Height Projections – Public Buildings in Residential Districts	Deletes “the height limit for schools, buildings for religious assembly use, hospitals and other public buildings shall not exceed the height limit permitted for that district. This is true for all uses.”	23.304.050.A	23D.04.020.A; 23E.04.020.A	Removal of extraneous language. Calling out these uses implies other uses may exceed height limit, which is not true.
Adeline Corridor Plan	States that projects in the Adeline Plan Area are subject to mitigation measures in the Adeline Plan FEIR	23.304.140.D	NEW	Adds Adeline Corridor Plan to list of existing plans

Topic	Description	BZO Location	Existing Location	Rationale for Change
23.310 – Alcohol Beverage Sales and Service				
Chapter Purpose	States purpose of chapter	23.310.010	NEW	BZO standard includes purpose statement for each chapter
23.320 – Cannabis Uses				
Chapter Purpose	States purpose of chapter	23.320.010	NEW	BZO standard includes purpose statement for each chapter
23.324 – Nonconforming Uses, Structures and Buildings				
Chapter Purpose	States purpose of chapter	23.324.010	NEW	BZO standard includes purpose statement for each chapter
23.326 – Demolition and Dwelling Unit Control				
Chapter Purpose	States purpose of chapter	23.326.010	NEW	BZO standard includes purpose statement for each chapter
23.328 – Inclusionary Housing				
Required Inclusionary Units in Avenues Plan Area	Deletes “Except as provided in this chapter” from 23C.12.080E, which conflicts with 23C.12.080B: “Within this area, the provisions of this section superseded any inconsistent provisions of this chapter.”	23.328.070.D.1	23C.12.080.E	Maintain internal consistency
23.402 – Administrative Responsibility				
Chapter Purpose	States purpose of chapter	23.402.010	NEW	BZO standard includes purpose statement for each chapter

Topic	Description	BZO Location	Existing Location	Rationale for Change
Review and Decision-Making Authority	Describes purpose of summary table	23.402.020.A	NEW	Description of table
Review and Decision-Making Authority	Defines authority roles (Recommend, Decision, Appeal)	23.402.020.B	NEW	Explains notation meaning
Planning and Development Department	Defines duties of Planning and Development Department	23.402.030	NEW	Codifies existing role and summarizes responsibilities
Landmarks Preservation Commission	Refers reader to BMC Chapter 3.24 for roles and responsibilities of Landmarks Preservation Commission	23.402.050.B	NEW	Provides clarity on LPC role
ZAB Responsibilities and Powers	Provides that City Council may assign additional responsibilities to ZAB	23.402.070.C.2	NEW	Codifies existing Council authority
City Council	Provides that City Council has authority to take actions related to the Zoning Ordinance consistent with existing law	23.402.090.C	NEW	Codifies existing Council authority
23.404 – Common Permit Requirements				
Purpose and Applicability	States purpose of chapter; clarifies that the chapter applies to all discretionary permits, not just use permits and variances	23.404.010	NEW	BZO standard includes purpose statement for each chapter. Clarifies existing practice
Multiple Permit Applications	Clarifies how applications are handled when they require more than one discretionary permit	23.402.020.F	NEW	Codifies existing practice
Review Timeline	Adds statement that City will abide by Permit Streamlining Act	23.404.030.A.3	NEW	Codifies existing practice. Recognizes

Topic	Description	BZO Location	Existing Location	Rationale for Change
				compliance with state law is required
Project Evaluation and Staff Reports	Describes role of staff in reviewing, analyzing and presenting project applications	23.404.030.D	NEW	Codifies existing practice
CEQA	Add statement that City will review projects for CEQA compliance	23.404.030.E	NEW	Codifies existing practice. Recognizes that compliance with state law is required
Timing of Notice	Permits PC or CC to extend notice periods for applications of major significance	23.404.040.C.3	NEW	Best practice in compliance with Gov't Code Section 65091
Zoning Ordinance Amendment Noticing	Adds notice requirements for Zoning Ordinance Amendments	23.404.040.C.4	NEW	Adds notice requirement for Zoning Ordinance Amendments. New requirement here is the same as for discretionary permits
Additional Notice	Adds "The Zoning Officer, Planning Commission or City Council may require additional public notice as determined necessary or desirable."	23.404.040.C.7	NEW	Codifies existing practice
Public Notice for Design Review	States that there is no requirement to mail or post notices in advance of a Design Review Committee meeting	23.404.040.D.2.b	NEW	Codifies existing practice
Public Hearings	Clarifies that hearings will be conducted consistent with procedures developed by the review authority	23.404.050.A	NEW	Codifies existing practice and recognizes that review authorities are empowered to create their own procedures.

Topic	Description	BZO Location	Existing Location	Rationale for Change
Time and Place of Hearings	Clarifies that meetings will be held at time and place for which notice was given unless there is not a quorum	23.404.050.B	NEW	Codifies legal requirement consistent with Gov't Code Section 65091
CEQA Action	Adds that action on a permit's CEQA determination must be taken before a permit is approved	23.404.050.G	NEW	Codifies CEQA Guidelines Sections 15074 and 15090
Exceptions to Protect Constitutional Rights	Allows the City Council as well as ZAB to make exceptions to protect constitutional rights and clarifies that the exception can be made when acting on any permit and is not tied to a Variance	23.404.050.I	23B.44.050	Best practice. Council needs this ability in addition to ZAB to protect City from legal challenge
Payment for Service	Adds that applicant shall pay for mediation or conflict resolution services	23.040.050.J.7	NEW	Codifies existing practice
Effective Dates	Adds effective dates of Council actions on Zoning Ordinance amendments and legislative matters, and permits, appeals and non-legislative matters. Adds effective dates of actions by the Zoning Officer, Design Review Committee or ZAB	23.404.060.A	NEW	Codifies current practice and legal requirements consistent with Gov't Code Section 65853-65857
Expiration of Permit	Adds that if a permit is not exercised after one year, it will not lapse if the applicant has made a substantial good faith effort to obtain a building permit and begin construction.	23.404.060.C.2. b	23B.56.100.C &D	Best practice
Expiration of Permit	Defines a lapsed permit as "void and of no further force and effect," and that a new permit application must be submitted to establish a use or structure.	23.404.060.C.3	NEW	Provides explicit definition of what a lapsed permit means and makes explicit the

Topic	Description	BZO Location	Existing Location	Rationale for Change
				requirement to reapply.
Permit Revocation - City Council Hearing	Removes requirement for the City Council hearing must occur within 30 days after the ZAB issued its recommendation.	23.404.080.D.2	23B.60.050.B	CC hearing within 30 days of ZAB decision is frequently infeasible. Council can hold hearing "at its discretion."
23.406 – Specific Permit Requirements				
Variations - Eligibility	<p><u>Existing Language:</u> "The Board may grant Variations to vary or modify the strict application of any of the regulations or provisions of this Ordinance with reference to the use of property, the height of buildings, the yard setbacks of buildings, the percentage of lot coverage, the lot area requirements, or the parking space requirements of this Ordinance."</p> <p><u>BZO Language:</u> "The ZAB may grant a Variance to allow for deviation from any provision in the Zoning Ordinance related allowed land uses, use-related standards, and development standards."</p>	23.406.050.B.1	23B.44.010	ZAB should have authority to grant a variance to any use or development-related standard, not just uses, heights, yard setbacks, lot coverage, lot area, or parking
Variations – Not Allowed	Adds: "A Variance may not be granted to allow deviation from a requirement of the General Plan."	23.406.050.C	N/A	Codifies state law consistent with Gov't Code Section 65906 .
Design Review – Changes to Approved Projects	Describes features of minor changes to approved projects that may be approved administratively: "A change that does not involve a feature of the project that was: 1) a specific consideration by the review authority in granting the approval; 2) a condition of approval; or 3) a basis for a finding in the project CEQA determination.	23.406.070.N	N/A	Codifies current practice
Reasonable Accommodations – Review Procedure	<u>Existing Language:</u> "If an application under this chapter is filed without any accompanying application for another approval, permit or entitlement under this title or Title 21, it shall be heard and acted upon at the same time and in the	23.406.090.E.1	23B.52.040.B	The Americans with Disabilities Act, and the California Fair

Topic	Description	BZO Location	Existing Location	Rationale for Change
	<p>same manner, and be subject to the same procedures, as the application that would normally be required to modify the provision which is the application seeks to modify, as determined by the Zoning Officer.”</p> <p><u>BZO Language</u>: “For a Reasonable Accommodation application submitted independently from any other planning permit application, the Zoning Officer shall take action within 45 days of receiving the application.”</p>			<p>Employment and Housing Act</p> <p>Existing language requires the application to be reviewed in the same manner as a Variance. This conflicts with state and federal law.</p>
23.410 – Appeals				
Appeals – Remanded Matters	Removes option for prior review authority to reconsider application without a public hearing.	23.410.040.G	23B.32.060.D	Remanded matters require public hearing
23.412 – Zoning Ordinance Amendments				
Zoning Ordinance Amendments – Initiation	Deletes language to allow for amendments initiated without a public hearing.	23.412.020	23A.20.020.C	Existing language conflicts with Gov’t Code Section 65853-65857
Zoning Ordinance Amendments – Planning Commission Hearing	Removes requirement to hold Planning Commission hearing within 30 days of initiation.	23.412.040.A	23A.20.030.A	CC hearing within 30 days of PC decision is frequently infeasible. Council can hold hearing consistent with Public Notice section.
Zoning Ordinance Amendments – Effect of Planning	Deletes language that uses or structures not yet established must conform to Planning Commission recommendation before Council approval, when amendments become effective only after Council adoption.	23.412.040.C	23A.20.050.B	New regulations can only take effect after Council adoption.

Topic	Description	BZO Location	Existing Location	Rationale for Change
Commission Recommendation				
Zoning Ordinance Amendments – City Council Hearing	Removes language requiring the Planning Commission recommendation to be forwarded to the Council within 30 days and consideration by Council within 60 days for Commission decision.	23.412.050.A	23A.20.040	CC hearing within 60 days of PC decision is frequently -infeasible. Council can hold hearing consistent with Public Hearings and Decision section.
Zoning Ordinance Amendments – City Council Action	Removes option for Council to act on amendment without a public hearing.	23.412.050.A	23A.20.060.A &B	Conflicts with Gov't Code Section 65853-65857
Zoning Ordinance Amendments – Effective Date	Removes language about “more restrictive” amendments going into effective immediately upon adoption of ordinance.	23.412.050.C	23A.20.070	Conflicts with Gov't Code Section 65853-65857
Zoning Ordinance Amendments – Findings	Adds findings for Zoning Ordinance amendments	23.412.060	N/A	Best Practice.
23.502 – Glossary				
Defined Terms	Adds definitions to undefined terms in existing Zoning Ordinance	23.502	23F.04	Best practice.



PLANNING COMMISSION

Notice of Public Hearing

Wednesday, October 19, 2022

Zoning Ordinance Amendments that Address Technical Edits and Corrections to the Berkeley Municipal Code Sections 23.108.020 (Zoning Districts); 23.202.020 (Allowed Land Uses); 23.202.140 (R-SMU District); 23.202.150 (R-BMU District); 23.204.020 (Allowed Uses); 23.204.060 (C-U District); 23.204.080 (C-E District); 23.204.100 (C-SA District); 23.206.040 (Use-Specific Regulations), 23.326.070 (Demolitions of Non-Residential Buildings); and 23.406.050 (Variances)

The Planning Commission of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23.412, on **Wednesday, October 19, 2022 at 7:00 p.m.** **The hearing will be conducted via Zoom** – see the Agenda for meeting details. The agenda will be posted on the Planning Commission website (<https://www.cityofberkeley.info/PC>) no later than 5pm on Friday, October 14, 2022.

PUBLIC ADVISORY: This meeting will be conducted exclusively through videoconference and teleconference. Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the Planning Commission will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available

PROJECT DESCRIPTION: On October 12, 2021, the City Council passed Ordinance No. 7,787-NS, which repealed the then-existing Title 23 of the Berkeley Municipal Code and zoning maps (“the old Zoning Ordinance”) and adopted a new Title 23 of the Berkeley Municipal Code and zoning maps (“the new Zoning Ordinance”). The new Zoning Ordinance became effective December 1, 2021.

As part of City Council’s approval action, staff was directed to regularly return to City Council with any required amendments to the new Zoning Ordinance to aid in clarity, fix mistakes in transcription, or correct unintentional errors discovered as part of the transition from the old to the new Zoning Ordinance. The public hearing will consider a set of amendments to the new Zoning Ordinance that address these errors. No substantive changes to planning policy are included in this set of amendments.

PUBLIC COMMENT & FURTHER INFORMATION

All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Commission. Comments may be made verbally at the public hearing and/or in writing before the

Zoning Ordinance Amendments
Page 2 of 2

NOTICE OF PUBLIC HEARING
September 30 & October 7, 2022

hearing. Written comments must be directed to:

Zoe Covello
Planning Commission Clerk
Email: zcovello@CityofBerkeley.info

City of Berkeley, Land Use Planning Division
1947 Center Street, 2nd Floor
Berkeley, CA 94704

Correspondence received by **12 pm on Monday, October 10th, 2022**, will be included as a Communication in the agenda packet. Correspondence received after this deadline will be conveyed to the Commission and the public in the following manner:

- Correspondence received by **12pm on Tuesday, October 18th, 2022** will be included in a Supplemental Packet, which will be posted to the online agenda as a Late Communication one day before the public hearing.
- Correspondence received by 5pm one day before this public hearing, will be included in a second Supplemental Packet, which will be posted to the online agenda as a Late Communication by 5pm on the day of the public hearing.
- Correspondence received after 5pm one day before this public hearing will be saved as part of the public record.

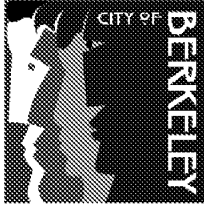
Note: It will not be possible to submit written comments at the meeting.

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. All materials will be made available via the Planning Commission agenda page online at <https://www.cityofberkeley.info/PC/>.

FURTHER INFORMATION

Questions should be directed to Justin Horner, at (510) 981-7476 or jhorner@cityofberkeley.info. Current and past agendas are available on the City of Berkeley website at: <https://www.cityofberkeley.info/PC/>



Office of the City Manager

ACTION CALENDAR
January 26, 2016

To: Honorable Mayor and Members of the City Council
From: *DWR* Dee Williams-Ridley, Interim City Manager
Submitted by: Eric Angstadt, Director, Planning & Development
Subject: Customer Service Improvements to Land Use Permit Process

RECOMMENDATION

Direct staff to make structural improvements to the Zoning Ordinance, communication improvements to better explain complex technical and procedural elements to the public, and organizational improvements to the Land Use Planning Division; and authorize the issuance of a request for proposals (RFP) for the selection of consultants to make structural improvements to the Zoning Ordinance and develop graphic communication elements in an amount not to exceed \$300,000.

SUMMARY

This staff report describes the impact of the City of Berkeley's Zoning Ordinance and practices on land use applications, including the staffing and processing time required to conform to existing City regulations, and makes recommendations for future revisions with the goal of streamlining the process and better configuring City resources for the benefit of the public.

FISCAL IMPACTS OF RECOMMENDATION

If authorized, the hiring of a consultant to make structural improvements to the Zoning Ordinance and develop graphic communication elements would be a one-time cost of \$300,000 which would come from the Permit Service Center fund balance.

Budget Code:
833-8502-463.30-38..... \$300,000

In the event that future contract awards exceed the existing budget for Planning contracts in the current fiscal year, a request for additional appropriations will be submitted as part of a subsequent amendment to the Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

LAND USE PERMIT PROCESS

The Berkeley Zoning Ordinance is extremely complex and requires some type of discretionary review for most land use related activities, whether new construction, expansion or alteration of existing buildings, or establishment or change of land use. The complexity lies in the various requirements that trigger discretionary review being located in discrete sections of the Ordinance that are frequently not identified by applicants, and only discovered once staff has conducted a detailed review of the application.

This general complexity makes it difficult for staff to apply land use regulations consistently over time, which is especially true given the number of new personnel. As a result of vacancies and the addition of new positions, over 50% of the planners in the Land Use Division have a tenure of less than two years. It is also difficult to effectively educate the public regarding the many unique aspects of the Ordinance that result in more extensive submittal requirements and longer approval procedures than comparable cities.

Berkeley is a unique city. However, the Zoning Ordinance takes a "one size fits all" approach in regard to the prescribed processes for making discretionary decisions. There is also no differentiation between the operational impacts associated with a use from the environmental impacts associated with design. As a result, the establishment of a new use or change of an existing use must be processed the same way as the construction of a new building. Despite the numerous and complicated provisions in the Ordinance that trigger discretionary review, there are only two processes, Use Permit and Administrative Use Permit, to address the entire range of land use activities. The current structure of the Ordinance does not allow for any deviation from these two processes if the associated triggers are met.

The impact of having only two processes is that the level of review is often disproportionate to the potential land use impacts, and substantial time is added to the application review and approval process, with lead time required for public noticing and statutory timelines for appeals. Highly discretionary processes are also labor intensive, with staff required to prepare mailings, post properties, review and analyze applications, and document the analysis supporting the decision or recommendation. All of this translates into higher fees and longer timelines for applicants.

COMMUNICATION

There is an ongoing effort to update the entire City of Berkeley website; however, there is an urgency to update web-based information for the Land Use Planning Division due to the need to provide more self-service options for the general public. The existing web pages for the Land Use Planning Division are excessively text-based and poorly organized. In addition, the lack of clarity in the Zoning Ordinance makes it very difficult

for the general public to look up information on their own, and this generates an extremely high volume of inquiries in all forms, whether in person, by telephone, or via email.

STAFFING

The current organization of the Land Use Planning Division is very flat and lacks positions at the paraprofessional level (such as a Planning Technician) and project manager level (Senior Planner). In addition, customer service duties, including staffing the Zoning Counter, answering phone calls, and responding to email inquiries, are distributed among all staff from the Land Use Planning Manager to Office Specialist II. While it is beneficial for all staff to be cross-trained in all aspects of the Division, requiring that all staff participate in every function is not efficient and results in delayed and sometimes inconsistent responses to customers, and disrupts the review of land use applications.

BACKGROUND

LAND USE PERMIT PROCESS

The following table compares the number of discretionary permits and associated appeals during 2015 in the City of Berkeley with those in other local cities. Permits are grouped into minor (similar to an Administrative Use Permit) and major (similar to a Use Permit) categories. Other than Piedmont and Oakland, which are significantly different in size, no other municipalities approached Berkeley in the number of discretionary permits and associated appeals.

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Piedmont	400 Applications (all Single-Family)/3 Appeals Historically – 1 to 2 appeals/yr Fee: \$630	11,236 0.004 permits/capita
*American Community Survey estimate, 7/1/14		

Additional analysis of land use decisions shows that of the last four Fiscal Years (FY), FY2012 through FY2015, there were 274 Use Permits (UPs) acted upon. Of those, 25 were appealed of which two were withdrawn resulting in an appeal rate of 8.3%. For those appeals that went to hearing, the staff recommendation was affirmed 84% of the time by ZAB and 89% by City Council. Looking at the total number of UPs processed over the last four fiscal years, the City Council disagreed with the staff recommendation only twice (0.73%).

The UP project types most frequently appealed were new dwellings in the R-1H, R-2A and R-3 districts (25%), and new mixed use buildings in the C-DMU Buffer, C-DMU Core, and R-SMU districts (13%). The zoning districts with the most appealed UPs were R-1H (17%), followed by the R-3 district (13%). The most frequent appeal claims were: Failure to make required findings (13%), Failure to comply with procedural requirements (13%), Loss of sunlight and/or views (12%) and Traffic (10%).

Similar analysis was conducted for Administrative Use Permits (AUPs). In the last four fiscal years, 532 AUPs were processed. Of those, 33 appeals were filed; however, eight were withdrawn, resulting in an appeal rate of 4.7%. Of the remaining 25 appeals that went to hearing, ZAB upheld the staff recommendation 95% of the time. Eight ZAB decisions were appealed to City Council, and in those cases the staff recommendation was upheld 100% of the time. When analyzing all of the 532 AUPs processed over the last four fiscal years, the staff recommendation was overturned only once (0.2%).

The AUP project type most frequently appealed was major residential addition (33%). The zoning districts with the most appealed AUPs were R-1H (33%), followed by R-2 (24%). The most frequent appeal claims were: Shadow impacts and/or loss of sunlight/views (27%), Parking (15%), and Noise (12%).

Cross-referencing the zoning district with type of project and basis for appeal demonstrates that the majority of appeals are related to the design of new residences or major residential additions in the R-1H zoning district. The R-1 zone is a single-family zoning district which requires a minimum lot size of 5,000 square feet. As such, the use

of property for single-family residential purposes is not in question. Rather, the question is one of the design of new or modified homes, and whether the purposes of the district are met by a proposed design. This would suggest that a design review process based on design guidelines developed specifically for single-family homes is the more appropriate mechanism to assure that the purposes of the district are met.

COMMUNICATION

Graphically enhanced FAQ sheets and user guides are commonly used to help educate the general public regarding complex and/or technical subject areas, such as land use regulation. Many zoning related topics, such as how to measure building height, are often difficult to describe with text alone.

Complex land use topics are more easily understood when presented in a combination of text and graphics. Processes can be better understood when described in an annotated flow chart. Most zoning definitions can also benefit from figures and diagrams to more clearly convey complex and technical issues.

STAFFING

The Land Use Planning Division is currently comprised of 17 planners, four administrative staff, and six interns. The planners are distributed among the follow job classifications: 1 Land Use Planning Manager, 5 Principal Planners, 1 Senior Planner, 6 Associate Planners, and 4 Assistant Planners. With the exception of the Land Use Planning Manager and Principal Planners, all planners participate in the staffing of the Zoning Counter and respond to emails and phone calls from the general public. All planners with the exception of the Land Use Planning Manager and two Principal Planners in the Policy and Special Projects Team also serve as project planners.

Similar to the "one size fits all" approach which describes the existing land use processes, the historic practice of requiring planners to be a master of all disciplines does not allow the development of special skills. Land use regulation is a rapidly evolving field that is very sensitive to changes in technology. In addition, federal and state regulations are constantly changing and can dictate how local jurisdiction may or must regulate certain uses. The continuing education required to stay abreast of the full range of such changes is often beyond the ability of any one individual. The organization of the Land Use Planning Division should be modified in acknowledgement of these requirements.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

LAND USE PERMIT PROCESS

The analyses of land use application data support the proposal to make changes to existing processes, such as introducing a minor use permit and staff-level single-family residential design review. Such structural modifications to the Zoning Ordinance would more closely align the regulation of land use with historic trends, and result in a level of discretionary review more commensurate with the documented concerns of the community. Right-sizing processes would also save the public time and money.

COMMUNICATION

Providing illustrations in addition to text assures more consistent interpretation of complicated regulations. Processes also benefit from graphics, such as flow charts, that highlight the various actors, decision-making bodies, and timing of critical decision points. These graphic communication tools can be developed in advance of the city-wide website update, and then used in conjunction with that project.

STAFFING

The requirements and expectations for responding to customer inquiries and managing projects are often in conflict, and staff struggle to achieve an appropriate balance. Reorganizing the Division by adding Senior Planner positions devoted to project management and creating a Planning Technician job classification that would be primarily responsible for responding to customer inquiries would significantly reduce the current conflicts. Planners would have more time to focus on increasingly complex land use applications, and the general public would receive more timely responses to their questions. Staff specialized in communications and whose focus is customer service would be more effective at explaining the proposed structural changes to the Zoning Ordinance, how they are applied, and how the public is involved.

ALTERNATIVE ACTIONS CONSIDERED

The Council may affirm, modify or decline to provide direction to staff.

CONTACT PERSON

Eric Angstadt, Director, Planning and Development, 981-7410



Office of the City Manager

ACTION CALENDAR
January 26, 2016

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ALTERNATIVE ACTIONS CONSIDERED

The Council may affirm, modify or decline to provide direction to staff.

CONTACT PERSON

Eric Angstadt, Director, Planning and Development, 981-7410

NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL

Zoning Ordinance Amendments that Address Technical Edits and Corrections to the Berkeley Municipal Code Sections 23.108.020 (Zoning Districts); 23.202.020 (Allowed Land Uses); 23.202.140 (R-SMU District); 23.202.150 (R-BMU District); 23.204.020 (Allowed Uses); 23.204.060 (C-U District); 23.204.080 (C-E District); 23.204.100 (C-SA District); 23.206.040 (Use-Specific Regulations), 23.326.070 (Demolitions of Non-Residential Buildings); 23.406.050 (Variances); and 23.502.020 (Glossary)

The public may participate in this hearing by remote video or in-person.

The Department of Planning and Development is proposing amendments to the Zoning Ordinance. The hearing will be held on December 13, 2022 at 6:00 p.m. On October 12, 2021, the City Council passed Ordinance No. 7,787-NS, which repealed the then-existing Title 23 of the Berkeley Municipal Code and zoning maps (“the old Zoning Ordinance”) and adopted a new Title 23 of the Berkeley Municipal Code and zoning maps (“the new Zoning Ordinance”). The new Zoning Ordinance became effective December 1, 2021.

As part of City Council’s approval action, staff was directed to regularly return to City Council with any required amendments to the new Zoning Ordinance to aid in clarity, fix mistakes in transcription, or correct unintentional errors discovered as part of the transition from the old to the new Zoning Ordinance. The public hearing will consider a set of amendments to the new Zoning Ordinance that address these errors. No substantive changes to planning policy are included in this set of amendments. The Planning Commission unanimously recommended adoption of the proposed amendments.

The proposed amendments are exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Sec.15061(b)(3). The proposed amendments are only text changes to clarify and correct the Berkeley Municipal Code and, therefore, there is no possibility of a significant effect on the environment.

The hearing will be held on **Tuesday, December 13, 2022 at 6:00 PM.** at the Berkeley Unified School District Board Room located at 1231 Addison Street, Berkeley CA 94702.

A copy of the agenda material for this hearing will be available on the City’s website at www.CityofBerkeley.info as of **December 1, 2022. Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

For further information, please contact Justin Horner, Associate Planner, at 510-981-7476.

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to council@cityofberkeley.info in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record 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 the City Council, 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. 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 City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

Published: December 2, 2022 – The Berkeley Voice
Per California Government Code Sections 65856(a) and 65090.

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on December 1, 2022.

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Mark Numainville, City Clerk