

Supplemental Communications (1)

(The following are communications received
after packet was published on **January 28**,
by noon, **February 1.**)

February 1, 2021

To: Commission Secretaries

From: Mark Numainville, City Clerk

Subject: Temporary Suspension of Certain Provisions of the Commissioners' Manual for Subcommittees

On January 19, 2021, Council adopted Resolution No. 69,681-N.S., authorizing temporary suspension of provisions of the Commissioners' Manual that require ad hoc subcommittees of City boards and commissions follow State open meeting procedures. Specifically, the creating and posting of agendas, providing for public attendance and comment during subcommittee meetings, and other associated scheduling and noticing requirements is temporarily suspended. This will allow subcommittees to meet and conduct business without support from city staff, thus allowing staff to continue emergency response efforts related to the COVID-19 pandemic.

In response to the emergency proclamation due to the COVID-19 pandemic, staff resources have been directed to the pandemic response. Staff, including commission secretaries, are not able to provide support to boards and commissions at pre-pandemic levels, while also supporting the efforts of the pandemic response and Emergency Operations Center.

At the November 30, 2020, Agenda & Rules Committee meeting, the Committee discussed options for enabling City boards and commissions to conduct work, given the limitations on staff resources. Under the State's open meeting law (also known as the Brown Act), ad hoc subcommittees are not legislative bodies, and are not required to post agendas or allow for public participation.

Agenda posting and public participation requirements for subcommittees are specific to Berkeley and are adopted by resolution in the Commissioners' Manual. The Agenda & Rules Committee requested that city staff introduce an agenda item to the City Council for consideration to temporarily suspend these local noticing and participation requirements for ad hoc subcommittees, and Council approved the recommendation.

The other provisions in the Commissioners' manual regarding ad hoc subcommittees remain unchanged. Key points still required for subcommittees include:

- Creation of ad hoc subcommittees and appointments must occur at meetings of the full commission
- Recommendations from the subcommittee must be adopted by the full commission before they are forwarded to Council
- A subcommittee cannot represent the commission before the Council unless it has received permission to do so.
- Composed of less than a quorum of the parent body.
- Composed of only members of the parent body (no members of other commissions or any other persons may be included).
- Have a finite purview established by the parent body.
- Have a set target date to report back to the parent body.
- Must terminate within one year, unless the parent body reviews and extends the timeline.
- Have no regular meeting schedule set by the parent body (all subcommittee meetings are "special meetings").
- Have no alternate commissioner assigned to attend meetings, even as an observer, if his or her presence would create a quorum of the parent body.

Staff resources to support City boards and commissions will continue to be evaluated on a regular basis by the City Manager. Provisions of the Commissioners' Manual that are temporarily suspended may be reinstated at any point by action of the full Council.

Attachments:

1. Council Agenda Report from January 19, 2021: Temporarily Suspending Certain Provisions of the Commissioners' Manual that Apply to Meetings of Subcommittees
2. Resolution No. 69,681-N.S.



Office of the City Manager

CONSENT CALENDAR
January 19, 2021

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Mark Numainville, City Clerk
Subject: Temporarily Suspending Certain Provisions of the Commissioners' Manual that Apply to Meetings of Subcommittees

RECOMMENDATION

Adopt a Resolution temporarily suspending the provisions of the Commissioners' Manual and Resolution No. 69,063-N.S. that ad hoc subcommittees of City boards and commissions follow State open meeting procedures, thereby enabling ad hoc subcommittees to meet and conduct work while allowing City staff to continue emergency response efforts related to the COVID-19 pandemic.

FISCAL IMPACTS OF RECOMMENDATION

There are no direct fiscal impacts associated with this recommendation. Temporarily suspending the application of State open meeting procedures to ad hoc subcommittees will decrease the amount of staff time required to coordinate and support the functions of City boards and commissions. This will enable staff that are currently assigned to the COVID-19 pandemic emergency response to continue their assignments and efforts with the City's Emergency Operations Center, and at the same time allow the work of ad hoc subcommittees to resume.

CURRENT SITUATION AND ITS EFFECTS

On March 10, 2020, the City Council ratified the proclamation of the Director of Emergency Services for a state of local emergency related to the COVID-19 pandemic. The emergency proclamation has been renewed several times by the Council, most recently on December 15, 2020, and remains in effect.

In response to the emergency proclamation, staff resources and the resources of City legislative bodies have been directed to the pandemic response. This includes staff assigned as commission secretaries, many of whom are engaged in work with the Emergency Operations Center or are fulfilling new duties related to the impacts of the pandemic. Staff are not able to provide support to boards and commissions at the pre-pandemic level, while also supporting the efforts of the pandemic response and Emergency Operations Center.

At the November 30, 2020 Agenda & Rules Committee meeting, the Committee discussed options for enabling City boards and commissions to conduct work, given the limitations on staff resources. One of the options considered is to temporarily suspend the requirement for ad hoc subcommittees of City boards and commissions to notice their meetings and require public participation. Ad hoc subcommittees are temporary single-purpose advisory committees composed of less than a quorum of the members of a commission or board. Under the State's open meeting law (also known as the Brown Act), ad hoc subcommittees are not legislative bodies, and are not required to post agendas or allow for public participation. These requirements are specific to Berkeley and are adopted by resolution in the Commissioners' Manual.

The Agenda & Rules Committee requested that staff prepare an item for the City Council's consideration to temporarily suspend these local noticing and participation requirements for ad hoc subcommittees. Temporary suspension of these requirements will allow ad hoc subcommittees to meet as needed, and without significant additional staff resources, in order to develop recommendations that will be presented to the full board or commission. Staff resources to support City boards and commissions will continue to be evaluated on a regular basis by the City Manager and the Health Officer in consultation with Department Heads and the City Council. Provisions of the Commissioners' Manual that are temporarily suspended may be reinstated at any point by action of the full Council.

BACKGROUND

The Commissioners' Manual is a compilation of state and local laws, and local policies and best practices that apply to City boards and commissions. The Commissioners' Manual is a valuable resources for commissioners, commission secretaries, City staff, and the public, and is provided to new commissioners, new commission secretaries, and is accessible to the public via the City website. The Manual was last updated on September 10, 2019 with Resolution No. 69,063-N.S.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

At the November 30, 2020 Agenda & Rules Committee meeting, the Committee requested that staff present an item to the full City Council that would allow for the temporary suspension of the local requirement that ad hoc subcommittees of City boards and commissions adhere to State open meeting procedures.

ALTERNATIVE ACTIONS CONSIDERED

The City Council could leave the existing provisions in place. Under the existing provisions, if ad hoc subcommittee functions were to resume, staff resources would need to be reallocated in order to fulfill the open meeting requirements in the Commissioners' Manual.

Temporarily Suspending Certain Provisions of the Commissioners'
Manual that Apply to Meetings of Subcommittees

CONSENT CALENDAR
January 19, 2021

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1: Resolution

RESOLUTION NO. ##,###-N.S.

TEMPORARILY SUSPENDING CERTAIN PROVISIONS OF THE COMMISSIONERS' MANUAL AND RESOLUTION NO. 69,063-N.S. THAT APPLY TO MEETINGS OF SUBCOMMITTEES

WHEREAS, the Commissioners' Manual is a compilation of state and local laws, and local policies and best practices that apply City boards and commissions; and

WHEREAS, pursuant to the Commissioners' Manual, ad hoc subcommittees of City boards and commissions are required to follow State open meeting procedures, a requirement that is specific to Berkeley and adopted by resolution in the Commissioners' Manual; and

WHEREAS, ad hoc subcommittees are not legislative bodies under the Brown Act and are not required to post agendas or allow for public participation; and

WHEREAS, due to the emergency response to the COVID-19 pandemic, staff resources are not currently available to support the open meeting requirements of the Commissioners' Manual as they pertain to ad hoc subcommittees; and

WHEREAS, the City Council may take formal action to temporarily suspend the provisions of the Commissioners' Manual that pertain to open meeting procedures for ad hoc subcommittee, thereby allowing ad hoc subcommittees to meet without the need for significant additional staff resources.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council hereby temporarily suspends the provisions of the Commissioners' Manual and Resolution No. 69,063-N.S. that require ad hoc subcommittees of City boards and commissions to follow State open meeting procedures, thereby enabling ad hoc subcommittees to meet and conduct work while allowing City staff to continue emergency response efforts to the COVID-19 pandemic.

RESOLUTION NO. 69,681-N.S.

TEMPORARILY SUSPENDING CERTAIN PROVISIONS OF THE COMMISSIONERS' MANUAL AND RESOLUTION NO. 69,063-N.S. THAT APPLY TO MEETINGS OF SUBCOMMITTEES

WHEREAS, the Commissioners' Manual is a compilation of state and local laws, and local policies and best practices that apply City boards and commissions; and

WHEREAS, pursuant to the Commissioners' Manual, ad hoc subcommittees of City boards and commissions are required to follow State open meeting procedures, a requirement that is specific to Berkeley and adopted by resolution in the Commissioners' Manual; and

WHEREAS, ad hoc subcommittees are not legislative bodies under the Brown Act and are not required to post agendas or allow for public participation; and

WHEREAS, due to the emergency response to the COVID-19 pandemic, staff resources are not currently available to support the open meeting requirements of the Commissioners' Manual as they pertain to ad hoc subcommittees; and

WHEREAS, the City Council may take formal action to temporarily suspend the provisions of the Commissioners' Manual that pertain to open meeting procedures for ad hoc subcommittee, thereby allowing ad hoc subcommittees to meet without the need for significant additional staff resources.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council hereby temporarily suspends the provisions of the Commissioners' Manual and Resolution No. 69,063-N.S. that require ad hoc subcommittees of City boards and commissions to follow State open meeting procedures, thereby enabling ad hoc subcommittees to meet and conduct work while allowing City staff to continue emergency response efforts to the COVID-19 pandemic.

The foregoing Resolution was adopted by the Berkeley City Council on January 19, 2021 by the following vote:

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

Noes: None.

Absent: None.



Jesse Arreguin, Mayor

Attest: 

Mark Numalville, City Clerk

Communication: Item 10 - Attachment 2- Redline Final

1 Chapter 23E.16
 2 Special Use Standards

3 Sections:

- 4 [23E.16.010](#) Hours of Operation
- 5 [23E.16.020](#) Outdoor Uses
- 6 [23E.16.030](#) Adult-Oriented Businesses
- 7 [23E.16.040](#) Alcoholic Beverages
- 8 ~~[23E.16.050](#) Amusement Arcades~~
- 9 [23E.16.060](#) Protected Uses
- 10 [23E.16.070](#) Repealed by Ord. 7648-NS
- 11 [23E.16.080](#) Non-Chartered Financial Institutions

12 ~~**23E.16.050 Amusement Arcades**~~

13 ~~No Amusement Device Arcade shall be established within a radius of six hundred (600)~~
 14 ~~feet of any primary or secondary school. (Ord. 6478-NS § 4 (part), 1999)~~

15 Chapter 23E.36
 16 C-1 General Commercial District Provisions

17 **23E.36.030 Uses Permitted**

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses		
Adult-oriented Businesses	UP(PH)	Subject to additional requirements; see Section 23E.16.030
Alcoholic Beverage Service of beer and wine incidental to seated food service	ZC	For on-site consumption only

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

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Gyms and Health Clubs Under 7,500 s.f.	AUP ZC*	
Hotels, Tourist, including Inns, Bed and Breakfasts and Hostels	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Motels, Tourist	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Theaters, including Motion Pictures and Stage Performance	UP(PH)	
Uses Incidental to a Permitted Use		
Amusement Devices (up to three five)	AUPZC	
Food or Beverage for Immediate Consumption	ZC	
Live Entertainment Unamplified Amplified	ZC AUP	
Manufacturing Uses	AUP	
Storage of Goods (over 25% of gross floor area)	AUP	
Wholesale Activities	AUP	

- 19 Chapter 23E.40
- 20 C-N Neighborhood Commercial District Provisions

21 **23E.40.030 Uses Permitted**

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Food and Alcohol Service, Lodging, Entertainment and Assembly Uses		
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service of beer and wine incidental to seated food service	ZC	For on-site consumption only
Alcoholic Beverage Service, including Bars, Cocktail Lounges and Taverns	UP(PH)	Includes service of distilled spirits incidental to food service
Amusement Device Arcades	Prohibited	-
Commercial Recreation Center Under 3,000 s.f. Over 3,000 s.f.	 AUP UP(PH)	Outdoor use requires UP(PH)
Dance, Exercise, Martial Arts and Music Studios	ZC*	
Entertainment Establishments	UP(PH)	Includes Nightclubs
Food Service Establishments Under 1,000 s.f. Over 1,000 s.f.	 ZC AUP	Food Service Establishments requiring an AUP must provide public notification of decision (NOD) within a 300-foot radius of the subject property.

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Group Class Instruction for Business, Vocational or Other Purposes	AUP	
Gyms and Health Clubs	ZC*	
Hotels, Tourist	UP(PH)	Includes Inns, Bed and Breakfasts and Hostels
Motels, Tourist	Prohibited	
Theaters	UP(PH)	Includes Motion Pictures and Stage Performance
Uses Incidental to a Permitted Use		
Amusement Devices (up to three <u>five</u>)	UP(PH) <u>ZC</u>	
Food or Beverage for Immediate Consumption	AUP	
Live Entertainment		
Unamplified	ZC	
Amplified	UP(PH)	
Manufacturing Uses	UP(PH)	
Storage of Goods (over 25% of gross floor area)	AUP	
Wholesale Activities	UP(PH)	

- 23 Chapter 23E.44
- 24 C-E Elmwood Commercial District Provisions

25 **23E.44.030 Uses Permitted**

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Food and Alcohol Service, Lodging, Entertainment and Assembly Uses		
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service	UP(PH)	Service of alcoholic beverages allowed only as incidental to food service in Food Service Establishments
Alcoholic Beverage Service of beer and wine incidental to seated food service	ZC	For on-site consumption only
Amusement Device Arcades	Prohibited	-
Commercial Recreation Center Under 3,000 s.f. Over 3,000 s.f.	AUP UP(PH)	Outdoor use requires UP(PH)
Dance, Exercise, Martial Arts and Music Studios	AUP	
Entertainment Establishments, including Nightclubs	Prohibited	
Food Service Establishments	AUP	Food Service Establishments must provide public notification of decision (NOD) within a 300-foot radius of the subject property.

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Group Class Instruction for Business, Vocational or Other Purposes	AUP	
Gyms and Health Clubs	AUP	
Hotels, Tourist, including Inns, Bed and Breakfasts and Hostels	UP(PH)	
Motels, Tourist	Prohibited	
Theaters	UP(PH)	Including Motion Pictures and Stage Performance
Uses Incidental to a Permitted Use		
Amusement Devices (up to three <u>five</u>)	UP(PH) <u>ZC</u>	
Food or Beverage for Immediate Consumption	UP(PH)	Treated as Food Service Establishment and subject to numerical limitations in Table 23E.44.040 . Incidental Food and Beverage for Immediate Consumption off the premises is permitted as an Accessory Use of a Food Product Store.
Live Entertainment Unamplified Amplified	ZC Prohibited	
Manufacturing Uses	UP(PH)	

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Storage of Goods (over 25% of gross floor area)	AUP	
Wholesale Activities	UP(PH)	
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

- 26 Chapter 23E.48
- 27 C-NS North Shattuck Commercial District Provisions

28 **23E.48.030 Uses Permitted**

Table 23E.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Food and Alcohol Service, Lodging, Entertainment and Assembly Uses		
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service of beer and wine incidental to seated food service	ZC	For on-site consumption only
Alcoholic Beverage Service (no Bars, Cocktail Lounges, or Taverns allowed)	UP(PH)	Service of distilled alcoholic beverages may be approved only for Full Service Restaurants
Amusement Device Arcades	Prohibited	-

Table 23E.48.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Commercial Recreation Center Under 3,000 s.f. Over 3,000 s.f.	AUP UP(PH)	Outdoor use requires UP(PH)
Dance, Exercise, Martial Arts and Music Studios	AUP	
Entertainment Establishments, including Nightclubs	UP(PH)	
Food Service Establishments Under 1,000 s.f. Over 1,000 s.f.	ZC AUP	Food Service Establishments requiring an AUP must provide public notification of decision (NOD) within a 300-foot radius of the subject property.
Group Class Instruction for Business, Vocational or Other Purposes	AUP	When located on the ground floor adjacent to street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area; not to exceed 2,500 sq. ft.
Gyms and Health Clubs	AUP	
Hotels, Tourist, including Inns, Bed and Breakfasts and Hostels	UP(PH)	
Motels, Tourist	Prohibited	

Table 23E.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Theaters, including Motion Pictures and Stage Performance	Prohibited	
Uses Incidental to a Permitted Use		
Amusement Devices (up to three <u>five</u>)	UP(PH) <u>ZC</u>	
Food or Beverage for Immediate Consumption	UP(PH)	
Live Entertainment Unamplified	ZC	
Amplified	UP(PH)	
Manufacturing Uses	Prohibited	
Storage of Goods (over 25% of gross floor area)	AUP	
Wholesale Activities	Prohibited	

- 29 Chapter 23E.52
- 30 C-SA South Area Commercial District Provisions

31 **23E.52.030 Uses Permitted**

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses		

Table 23E.52.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service of beer and wine incidental to seated food service	ZC	For on-site consumption only
Alcoholic Beverage Service, including Bars, Cocktail Lounges and Taverns	UP(PH)	Includes service of distilled spirits incidental to food service. No service of distilled alcoholic beverages is allowed along Adeline Street south of Ashby Avenue, except as incidental to seated food service; see Section 23D.52.060 D1.
Amusement Device Arcades	UP(PH)	Subject to additional requirements; see Section 23E.16.050
Commercial Recreation Center Under 3,000 s.f. Over 3,000 s.f.	AUP UP(PH)	Outdoor use requires UP(PH)
Dance, Exercise, Martial Arts and Music Studios	ZC*	
Entertainment Establishments	UP(PH)	Including Nightclubs
Food Service Establishments Under 1,000 s.f. Over 1,000 s.f.	ZC AUP	Food Service Establishments requiring an AUP must provide public notification of decision (NOD) within a 300-foot radius of the subject property.

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Group Class Instruction for Business, Vocational or Other Purposes	ZC*	
Gyms and Health Clubs	ZC*	
Hotels, Tourist	UP(PH)	Including Inns, Bed and Breakfasts and Hostels
Motels, Tourist	Prohibited	
Theaters	UP(PH)	Including Motion Pictures and Stage Performance
Uses Incidental to a Permitted Use		
Amusement Devices (up to three <u>five</u>)	UP(PH) <u>ZC</u>	
Food or Beverage for Immediate Consumption	ZC	
Live Entertainment		
Unamplified	ZC	
Amplified	AUP	
Manufacturing Uses	AUP	
Storage of Goods (over 25% of gross floor area)	AUP	
Wholesale Activities	AUP	

- 33 Chapter 23E.56
- 34 C-T Telegraph Avenue Commercial District Provisions

35 **23E.56.030 Uses Permitted**

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

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Group Class Instruction for Business, Vocational or Other Purposes	ZC	Prohibited on ground floor adjacent to street frontage
Gyms and Health Clubs	ZC	
Hotels, Tourist, including Inns, Bed and Breakfasts and Hostels	UP(PH)	
Motels, Tourist	Prohibited	
Theaters, including Motion Pictures and Stage Performance	UP(PH)	
Uses Incidental to a Permitted Use		
Amusement Devices (up to five 3)	AUP *ZC	
Food or Beverage for Immediate Consumption	AUP*	
Live Entertainment Unamplified	AUP* ZC	
Manufacturing Uses	AUP*	
Storage of Goods (over 25% of gross floor area)	AUP*	
Wholesale Activities	AUP*	

38 Chapter 23E.60
 39 C-SO Solano Avenue Commercial District Provisions

40 **23E.60.030 Uses Permitted**

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses		
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service of beer and wine incidental to seated food service	ZC	For on-site consumption only
Alcoholic Beverage Service (no Bars, Cocktail Lounges, & Taverns)	UP(PH)	Service of distilled alcoholic beverages may be approved for Food Service Establishments providing seated food service; see Section 23E.60.060 D1
Amusement Device Arcades	Prohibited	-
Commercial Recreation Center Under 3,000 s.f. Over 3,000 s.f.	AUP UP(PH)	Outdoor use requires UP(PH)
Dance, Exercise, Martial Arts and Music Studios	AUP	
Entertainment Establishments	UP(PH)	Including Nightclubs

Table 23E.60.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Food Service Establishments Under 1,000 s.f. Over 1,000 s.f.	ZC AUP	Food Service Establishments requiring an AUP must provide public notification of decision (NOD) within a 300-foot radius of the subject property.
Group Class Instruction for Business, Vocational or Other Purposes	AUP	
Gyms and Health Clubs	AUP	
Hotels, Tourist	UP(PH)	Including Inns, Bed and Breakfasts and Hostels, subject to parking requirements; see Section 23E.60.080
Motels, Tourist	Prohibited	
Theaters	Prohibited	Including Motion Pictures and Stage Performance
Uses Incidental to a Permitted Use		
Amusement Devices (up to three <u>five</u>)	UP(PH) ZC	
Food or Beverage for Immediate Consumption	UP(PH)	
Live Entertainment Unamplified Amplified	ZC AUP	Also subject to the limitations under Section 23E.60.060.D.2
Manufacturing Uses	AUP	

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Storage of Goods (over 25% of gross floor area)	AUP	
Wholesale Activities	AUP	

- 41 Chapter 23E.64
- 42 C-W West Berkeley Commercial District Provisions

43 **23E.64.030 Uses Permitted**

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses		
Adult-oriented Businesses	UP(PH)	Prohibited on lots with frontage on San Pablo Ave. Other locations subject to distance requirements of Section 23E.16.030
Alcoholic Beverage Service of beer and wine incidental to seated food service	ZC	For on-site consumption only
Alcoholic Beverage Service	UP(PH)	Including Bars, Cocktail Lounges and Taverns. Also includes service of

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
		distilled spirits incidental to food service
Amusement Device Arcades	UP(PH)	Subject to additional requirements; see Section 23E.16.050
Commercial Recreation Center Under 5,000 s.f. Between 5,000--10,000 s.f. Over 10,000 s.f.	ZC AUP UP(PH)	Outdoor use requires UP(PH)
Dance, Exercise, Martial Arts and Music Studios	ZC	UP(PH) if 7,500 or more sq. ft.
Entertainment Establishments	UP(PH)	Includes Nightclubs
Food Service Establishments Under 1,500 s.f. Over 1,500 s.f.	ZC AUP	Food service drive-through prohibited on San Pablo. See Section 23E.64.040 .C and E. Also see Section 23E.64.090 .H for special findings.
Group Class Instruction for Business, Vocational, or Other Purposes	ZC	

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Gyms and Health Clubs	ZC	UP(PH) if 7,500 or more sq. ft.
Hotels, Tourist, including Inns, Bed and Breakfasts, and Hostels	UP(PH)	Subject to parking requirements; see Section 23E.64.080.F
Motels, Tourist	UP(PH)	Subject to parking requirements; see Section 23E.64.080.F
Theaters, including Motion Pictures and Stage Performance	UP(PH)	
Uses Incidental to a Permitted Use		
Amusement Devices (up to five ³)	AUP ZC	
Food or Beverage for Immediate Consumption	ZC	
Live Entertainment Unamplified Amplified	ZC UP(PH)	See performance standards in Section 23E.64.070.E
Storage of Goods (over 25% of gross floor area)	AUP	

- 44 Chapter 23E.68
- 45 C-DMU Downtown Mixed Use District Provisions

46 **23E.68.030 Uses Permitted**

Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses		
Adult-Oriented Businesses	UP(PH)	Subject to additional requirements; see Section 23E.16.030 Prohibited on Public Serving Frontages
Alcoholic Beverage Service of beer and wine incidental to seated food service	ZC	For on-site consumption only
Alcoholic Beverage Service, including Bars, Cocktail Lounges, and Taverns	UP(PH)	Includes service of distilled spirits incidental to food service.
Amusement Device Arcades	UP(PH)	Subject to additional requirements; see Section 23E.16.050
Commercial Recreation Center Under 5,000 s.f. Between 5,000--10,000 s.f. Over 10,000 s.f.	ZC AUP UP(PH)	Outdoor use requires UP(PH)
Dance, Exercise, Martial Arts and Music Studios	ZC	
Entertainment Establishments	UP(PH)	Including Nightclubs
Food Service Establishments: Under 3,000 s.f.	ZC	

Table 23E.68.030

Use and Required Permits		
Use	Classification	Special Requirements
Over 3,000 s.f. Within the A.D.O.	AUP AUP	Within the Arts District Overlay, see Section 23E.68.040 See Alcoholic Beverage Service above.
Group Class Instruction for Business, Vocational or Other Purposes	ZC	Subject to additional requirements; see Section 23E.68.060.E
Gyms and Health Clubs Under 7,500 s.f.	AUP ZC	Subject to additional requirements; see Section 23E.68.060.E
Hotels, Tourist, including Inns, Bed and Breakfasts and Hostels	UP(PH)	
Motels, Tourist	UP(PH)	
Theaters, including Motion Pictures and Stage Performance	AUP	
Uses Incidental to a Permitted Use		
Amusement Devices (up to three <u>five</u>)	AUP <u>ZC</u>	
Food or Beverage for Immediate Consumption	ZC	
Live Entertainment Unamplified Amplified	ZC AUP	
Manufacturing Uses	AUP	
Storage of Goods (over 25% of gross floor area)	AUP	

Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
Wholesale Activities	AUP	

- 47 Chapter 23E.80
- 48 MU-LI Mixed Use-Light Industrial District Provisions

49 **23E.80.030 Uses Permitted**

Table 23E.80.030				
Use and Required Permits				
Uses	Permits Required to Establish, Expand, or Change use by Floor Area (sq. ft.)			Special Requirements (if any)
	Under 20,000	20,000 – 30,000	More than 30,000	
Uses Incidental to a Permitted Use				
Amusement Devices (<u>up to five</u>)	<u>AUPZC</u>			
Child Care Centers	ZC			Childcare for employees only
	AUP			When providing childcare for non-employees; subject to additional noticing requirements and findings in Section 23E.80.090.I

Table 23E.80.030				
Use and Required Permits				
Uses	Permits Required to Establish, Expand, or Change use by Floor Area (sq. ft.)			Special Requirements (if any)
	Under 20,000	20,000 – 30,000	More than 30,000	
Food Service Establishment	AUP	Prohibited	Prohibited	
Live Entertainment and/or amplified music	UP(PH)			
Incidental Retail Sales of goods manufactured on site	AUP Up to 1,500 sq. ft.	UP(PH) 1,501 – 3,000 sq. ft.	Prohibited Over 3,000 sq. ft.	See limitations in Section 23E.80.060.C

50 Chapter 23E.84
 51 MU-R Mixed Use-Residential District Provisions

52 **23E.84.030 Uses Permitted**

Table 23E.84.030		
Use and Required Permits		
Uses	Permit Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses		
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service (incidental to Food Service only)	UP(PH)	
Amusement Device Arcades	Prohibited	-

Table 23E.84.030		
Use and Required Permits		
Uses	Permit Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Commercial Recreation Center	Prohibited	
Dance, Exercise, Martial Arts and Music Studios	UP(PH)	
Entertainment Establishments	UP(PH)	Including Nightclubs and any establishments with live entertainment and/or amplified music
Food Service Establishments:		All food service establishments subject to findings under Section 23E.84.090.F . Quick and Full Service Restaurants subject to additional parking requirements; see Section 23E.84.080.B
Carry Out Food Service Stores	UP(PH)	
	AUP if less than 5,000 sq. ft.	
Quick Service Restaurants	UP(PH)	
	AUP if less than 5,000 sq. ft.	
Full Service Restaurants	UP(PH)	

Table 23E.84.030		
Use and Required Permits		
Uses	Permit Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Group Class Instruction for Business, Vocational or Other Purposes	UP(PH)	
Gyms and Health Clubs	Prohibited	
Hotels, Tourist, including Inns, Bed and Breakfasts, and Hostels	Prohibited	
Motels, Tourist	Prohibited	
Theaters, including Motion Pictures and Stage Performance	Prohibited	
Uses Incidental to a Permitted Use		
Amusement Devices (up to <u>five</u>)	<u>AUPZC</u>	
Child Care Centers	ZC	Childcare for employees only
	AUP	When providing childcare for non-employees; subject to findings in Section 23E.84.090.H and public notification of a decision within a 300 foot radius of the subject property.

Table 23E.84.030		
Use and Required Permits		
Uses	Permit Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Food Service Establishment	AUP	
Incidental Retail Sales of goods manufactured on site	AUP	See limitations in Section 23E.84.060.C
Storage of Goods (over 25% of gross floor area)	AUP	

Communications

From: Hilary Clark <hilaryclark1@gmail.com>

Sent: Sunday, January 31, 2021 2:22 PM

To: bartplanning <bartplanning@cityofberkeley.info>; Pearson, Alene <apearson@cityofberkeley.info>; All Council <council@cityofberkeley.info>

Subject: I want more homes at North Berkeley BART, now!

WARNING: This email originated outside of City of Berkeley.

DO NOT CLICK ON links or attachments unless you trust the sender and know the content is safe.

Elected officials, Planning commissioners, city staff, and CAG:

I live in North Berkeley and I'm very excited by the idea of a lot of homes at North Berkeley BART station. Our neighborhood is awesome but we know that it is not very accessible to newcomers. We want it to be a more welcoming place, especially for people with disabilities, low income folks, members of marginalized communities who have been redlined into or out of North Berkeley, and anyone who wants to live here. They deserve to live here too. Regarding what the future development looks like or where its shadows reach, we are more interested in the new neighbors we can enfold into our community.

Here's what we want at North Berkeley BART:

Maximize homes for all. There are many people who don't qualify for subsidized housing who deserve to live here too: first responders, students, DINKs, empty nesters, undocumented residents, and more.

We are more concerned with the number of affordable homes rather than the percentage. If the project can't pencil and is never built, that would be a huge failure and source of shame.

Also, I would personally love to see some practical well-designed retail incorporated into the space. I'm dreaming of a grocery store for grab-and-go dinner after the commute, and maybe some amenities for users of the Ohlone Greenway, like a bike repair kiosk and/or a bike-friendly cafe.

Thank you!

Hilary Clark

1432 Grant St

Communications

From: Sandy Emerson <sandy@fossilfreeca.org>

Sent: Sunday, January 31, 2021 5:01 PM

To: bartplanning <bartplanning@cityofberkeley.info>; Pearson, Alene <apearson@cityofberkeley.info>; All Council <council@cityofberkeley.info>

Subject: Yes to More Homes at North Berkeley BART

WARNING: This email originated outside of City of Berkeley.

DO NOT CLICK ON links or attachments unless you trust the sender and know the content is safe.

Elected officials, Planning commissioners, city staff, and CAG:

I think it's a great idea - timely and smart - to add housing near the North Berkeley BART station. Adding extra height opens more possibilities for affordable units. That's great, too! We need affordable units.

I have lived in North Berkeley since 2011 and I'm very excited by the idea of a lot of homes at North Berkeley BART station. Our neighborhood is awesome but we know that it is not very accessible to newcomers. We want it to be a more welcoming place, especially for people with disabilities, low income folks, members of marginalized communities who have been redlined into or out of North Berkeley, and anyone who wants to live here. They deserve to live here too. Regarding what the future development looks like or where its shadows reach, we are more interested in the new neighbors we can enfold into our community.

Here's what we want at North Berkeley BART:

Maximize homes for all. There are many people who don't qualify for subsidized housing who deserve to live here too: first responders, students, DINKs, empty nesters, undocumented residents, and more.

We are more concerned with the number of affordable homes rather than the percentage. If the project can't pencil and is never built, that would be a huge failure and source of shame.

As neighbors to the station, we have the privilege of choosing from multiple options for getting to the station. For our friends in the hills, we hope that the design of the future North Berkeley BART development keeps their access in mind while weighing the pollution and danger of driving.

Thank you

Sandy Emerson
1202 Hopkins St.

Communication

From: Alicia Klein <aliciafk@sbcglobal.net>

Sent: Sunday, January 31, 2021 4:32 PM

To: bartplanning <bartplanning@cityofberkeley.info>; Pearson, Alene <apearson@cityofberkeley.info>; All Council <council@cityofberkeley.info>

Subject: I want more homes at North Berkeley BART, now!

WARNING: This email originated outside of City of Berkeley.

DO NOT CLICK ON links or attachments unless you trust the sender and know the content is safe.

Dear elected officials, planning commissioners, city staff, and CAG:

I live in North Berkeley and I'm very excited by the idea of a lot of homes at North Berkeley BART station. Our neighborhood is awesome but we know that it is not very accessible to newcomers. We want it to be a more welcoming place, especially for people with disabilities, low income folks, members of marginalized communities who have been redlined into or out of North Berkeley, and anyone who wants to live here. They deserve to live here too.

Regarding what the future development looks like or where its shadows reach, we are more interested in the new neighbors we can enfold into our community. Here's what we want at North Berkeley BART: Maximize homes for all. There are many people who don't qualify for subsidized housing who deserve to live here too: teachers, first responders, students, DINKs, empty nesters, undocumented residents, and more. We are more concerned with the number of affordable homes rather than the percentage. If the project can't pencil and is never built, that would be a huge failure and source of shame.

As neighbors to the station, we have the privilege of choosing from multiple options for getting to the station. I would like safer, easier-to-use bike storage. For our friends in the hills, we hope that the design of the future North Berkeley BART development keeps their access in mind (creatively!) while weighing the pollution and danger of driving.

Thank you,
Alicia Klein
1407 Edith St., Berkeley 94703

Communications

From: Libby Lee-Egan <libbyco@gmail.com>

Sent: Sunday, January 31, 2021 3:05 PM

To: bartplanning <bartplanning@cityofberkeley.info>; Pearson, Alene <apearson@cityofberkeley.info>; All Council <council@cityofberkeley.info>

Subject: I want more homes at North Berkeley BART, now!

WARNING: This email originated outside of City of Berkeley.

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Elected officials, Planning commissioners, city staff, and CAG:

I live in North Berkeley and I'm very excited by the idea of a lot of homes at North Berkeley BART station. Our neighborhood is awesome but we know that it is not very accessible to newcomers. We want it to be a more welcoming place, especially for people with disabilities, low income folks, members of marginalized communities who have been redlined into or out of North Berkeley, and anyone who wants to live here. They deserve to live here too. Regarding what the future development looks like or where its shadows reach, we are more interested in the new neighbors we can enfold into our community.

Here's what we want at North Berkeley BART:

- Maximize homes for all. There are many people who don't qualify for subsidized housing who deserve to live here too: first responders, students, DINKs, empty nesters, undocumented residents, and more.
- We are more concerned with the number of affordable homes rather than the percentage. If the project can't pencil and is never built, that would be a huge failure and source of shame.
- As neighbors to the station, we have the privilege of choosing from multiple options for getting to the station. For our friends in the hills, we hope that the design of the future North Berkeley BART development keeps their access in mind while weighing the pollution and danger of driving.

Thank you,

Libby Lee-Egan

North Berkeley resident and user of the North Berkeley BART station

Communication

From: Ann Ostrander <ann.ostrander@gmail.com>

Sent: Sunday, January 31, 2021 2:17 PM

To: bartplanning <bartplanning@cityofberkeley.info>; Pearson, Alene <apearson@cityofberkeley.info>; All Council <council@cityofberkeley.info>

Subject: I want more homes at North Berkeley BART, now!

WARNING: This email originated outside of City of Berkeley.

DO NOT CLICK ON links or attachments unless you trust the sender and know the content is safe.

Elected officials, Planning commissioners, city staff, and CAG:

I live in North Berkeley and I'm very excited by the idea of a lot of homes at North Berkeley BART station. Our neighborhood is awesome but we know that it is not very accessible to newcomers. We want it to be a more welcoming place, especially for people with disabilities, low income folks, members of marginalized communities who have been redlined into or out of North Berkeley, and anyone who wants to live here. They deserve to live here too. Regarding what the future development looks like or where its shadows reach, we are more interested in the new neighbors we can enfold into our community.

Here's what we want at North Berkeley BART:

Maximize homes for all. There are many people who don't qualify for subsidized housing who deserve to live here too: first responders, students, DINKs, empty nesters, undocumented residents, and more.

We are more concerned with the number of affordable homes rather than the percentage. If the project can't pencil and is never built, that would be a huge failure and source of shame.

As neighbors to the station, we have the privilege of choosing from multiple options for getting to the station. For our friends in the hills, we hope that the design of the future North Berkeley BART development keeps their access in mind while weighing the pollution and danger of driving.

Thank you,

Ann Ostrander

Lapira, Katrina

From: Christopher Reed <ccharlesreed@gmail.com>

Sent: Sunday, January 31, 2021 8:18 PM

To: Pearson, Alene <apearson@cityofberkeley.info>; bartplanning <bartplanning@cityofberkeley.info>; All Council <council@cityofberkeley.info>

Subject: I want more homes at North Berkeley BART, now!

WARNING: This email originated outside of City of Berkeley.

DO NOT CLICK ON links or attachments unless you trust the sender and know the content is safe.

Elected officials, Planning commissioners, city staff, and CAG: I live in North Berkeley and I'm very excited by the idea of a lot of homes at North Berkeley BART station. Our neighborhood is awesome but we know that it is not very accessible to newcomers. We want it to be a more welcoming place, especially for people with disabilities, low income folks, members of marginalized communities who have been redlined into or out of North Berkeley, and anyone who wants to live here. They deserve to live here too. Regarding what the future development looks like or where its shadows reach, we are more interested in the new neighbors we can enfold into our community. Here's what we want at North Berkeley BART: Maximize homes for all. There are many people who don't qualify for subsidized housing who deserve to live here too: first responders, students, DINKs, empty nesters, undocumented residents, and more. We are more concerned with the number of affordable homes rather than the percentage. If the project can't pencil and is never built, that would be a huge failure and source of shame. As neighbors to the station, we have the privilege of choosing from multiple options for getting to the station. For our friends in the hills, we hope that the design of the future North Berkeley BART development keeps their access in mind while weighing the pollution and danger of driving. Thank you

Chris Reed
1734 Buena avenue

Communications

From: Adam Rogers [mailto:jetjocko@gmail.com]

Sent: Sunday, January 31, 2021 10:14 PM

To: bartplanning <bartplanning@cityofberkeley.info>; Pearson, Alene <apearson@cityofberkeley.info>; All Council <council@cityofberkeley.info>

Subject: Please build more homes at North Berkeley BART

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Elected officials, Planning commissioners, city staff, and CAG:

I live in Oceanview. North Berkeley BART is my station, and it would improve not just the neighborhood but the city to fill it with a lot of homes.

I love this neighborhood. That's why I want it to be accessible to more people—including people with disabilities, people with different levels of income, and people who come from communities that have been redlined into or out of North Berkeley.

I want my neighborhood to be beautiful, but when it comes to architecture or shadows, those are much lower priorities to me than having many more new neighbors.

Here's what we want at North Berkeley BART:

Maximize homes for all. There are many people who don't qualify for subsidized housing who deserve to live here too: first responders, students, DINKs, empty nesters, undocumented residents, and more.

We are more concerned with the number of affordable homes rather than the percentage. If the project can't pencil and is never built, that would be a huge failure and source of shame.

As neighbors to the station, we have the privilege of choosing from multiple options for getting to the station. For our friends in the hills, we hope that the design of the future North Berkeley BART development keeps their access in mind while weighing the pollution and danger of driving.

Thank you,

Adam Rogers 814
Jones St. Berkeley
510-525-0973

Communications

From: Anne M. Torney <annet@Mithun.com>

Sent: Sunday, January 31, 2021 8:29 PM

To: bartplanning <bartplanning@cityofberkeley.info>; Pearson, Alene <apearson@cityofberkeley.info>; All Council <council@cityofberkeley.info>

Subject: I want more homes and LESS parking at North Berkeley BART, now!

WARNING: This email originated outside of City of Berkeley.

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Elected officials, Planning commissioners, city staff, and CAG:

I live in North Berkeley, in District 5, and I'm very excited by the idea of a lot of homes at North Berkeley BART station. Our neighborhood is awesome but we know that it is not very accessible to newcomers. We want it to be a more welcoming place, especially for people with disabilities, low income folks, members of marginalized communities who have been redlined into or out of North Berkeley, and anyone who wants to live here. They deserve to live here too. Regarding what the future development looks like or where its shadows reach, we are more interested in the new neighbors we can enfold into our community.

We also want our city of Berkeley to be a National model for equitable, environmentally sound housing and land use, not a city of false progressive politics.

As for parking, I live two miles away from the station and (pre and post COVID) commute to SF every workday. I walk, bike, get a ride from my hubby, or take Lyft to and from the station. Multi-modal access is here to stay, and will only grow! We can accommodate those folks whose physical abilities mean they have to drive - AND make multi-modal access a breeze.

Here's what we want at North Berkeley BART:

Maximize homes for all. There are many people who don't qualify for subsidized housing who deserve to live here too: first responders, students, DINKs, empty nesters, undocumented residents, and more.

Mixed income housing now, that pencils and that is competitive for state funds (as well as local) is way better than no housing!

We are more concerned with the number of affordable homes rather than the percentage. If the project can't pencil and is never built, that would be a big failure and source of shame.

Thank you

Anne Torney
North Berkeley resident, District 5

Communications

From: Theo Posselt [mailto:tposselt.sf@gmail.com]

Sent: Monday, February 1, 2021 7:32 AM

To: bartplanning <bartplanning@cityofberkeley.info>; Pearson, Alene <apearson@cityofberkeley.info>; All Council <council@cityofberkeley.info>

Subject: I want more homes at North Berkeley BART, now!

WARNING: This email originated outside of City of Berkeley.

DO NOT CLICK ON links or attachments unless you trust the sender and know the content is safe.

Elected officials, Planning commissioners, city staff, and CAG:

I live in North Berkeley in Northside, and I'm very excited by the idea of a lot of homes at North Berkeley BART station. Our neighborhood is awesome but we know that it is not very accessible to newcomers. When I grew up in the 80's, the area around North Berkeley BART was affordable to teachers and other middle class professionals; now home prices start well over \$1m.

We want it to be a more welcoming place, especially for people with disabilities, low income folks, members of marginalized communities who have been redlined into or out of North Berkeley, and anyone who wants to live here. They deserve to live here too. Regarding what the future development looks like or where its shadows reach, we are more interested in the new neighbors we can enfold into our community.

Here's what we want at North Berkeley BART:

Maximize homes for all. There are many people who don't qualify for subsidized housing who deserve to live here too: first responders, students, fixed income seniors, undocumented residents, and more.

We are more concerned with the number of affordable homes rather than the percentage. If the project can't pencil and is never built, that would be a huge failure and source of shame.

As neighbors to the station, we have the privilege of choosing from multiple options for getting to the station. For our friends in the hills, we hope that the design of the future North Berkeley BART development keeps their access in mind while weighing the pollution and danger of driving.

Thank you