

ORDINANCE NO. 7,635-N.S.

AMENDMENT TO MODIFY BERKELEY MUNICIPAL CODE SECTIONS 23E.16.040.A, 23E.28.130, 23E.36.030.A, 23E.36.080.B, 23E.40.030, 23E.40.080.B, 23E.44.030, 23E.44.040.A, 23E.48.030, 23E.48.080.B, 23E.52.030, 23E.52.060.D, 23E.52.080.B, 23E.56.030.A, 23E.56.060.C, 23E.60.030, 23E.60.060.D, 23E.60.080.B, 23E.64.030.A, 23E.64.080.B, 23E.64.090.H, 23E.68.030.A, 23E.68.040, 23E.68.090.C, AND 23E.98.050 TO MODIFY PERMITTING REGULATIONS FOR BUSINESSES IN COMMERCIAL DISTRICTS

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

Section 1. That Berkeley Municipal Code Section 23D.16.040.A is amended to read as follows:

23E.16.040 Alcoholic Beverages

- A. No alcoholic beverage sales or alcoholic beverage service may be commenced or increased in any way unless authorized by a Use Permit, except that:
 - 1. In Commercial Districts, Food Service Establishments with incidental beer and/or wine service for seated, onsite consumption may be authorized by a Zoning Certificate subject to the following alcoholic beverage service performance standards:
 - a. Licensing
 - 1) The Food Service Establishment shall comply with all applicable regulations of the California Department of Alcoholic Beverage Control; and
 - 2) Any operator of the licensed establishment shall not have had a prior licensed establishment that was the subject of verified complaints or violations regarding alcohol, public safety or nuisance statutes or regulations prior to issuance or transfer of a business license at this location.
 - b. Service
 - 1) Beer and wine beverage service shall be “incidental” to the primary food service use, as defined in Berkeley Municipal Code (BMC) Zoning Ordinance Section 23F.04.010 Definitions;
 - 2) Beer and wine service incidental to seated food service shall only be allowed at a “bona fide eating place” making “actual and substantial sales of meals” as determined and required by the California Department of Alcohol Beverage Control (ABC);

- 3) The sale of beer and wine for off-site consumption is prohibited;
- 4) Employees shall not serve beer or wine to patrons who appear to be inebriated or otherwise unable to behave in an orderly manner upon consuming alcohol;
- 5) All beer and wine served to patrons must be served in durable restaurant tableware. No beer or wine may be distributed in its original bottle or can, or in any other potentially disposable container;
- 6) There shall be no bar or lounge area upon the licensed premises maintained for the sole purpose of sales, service or consumption of alcoholic beverages directly to patrons for consumption; and
- 7) Hours of operation are subject to review and amendment by the Zoning Adjustments Board as necessary to avoid detriment to the neighborhood or to achieve conformance with revised City standards or policies.

c. Operations

- 1) The food service establishment must operate at least five days a week;
- 2) The service of beer and wine shall be limited to normal meal hours (per ABC) during the restaurant's hours of operation;
- 3) During operating hours, 100% of the service area shall be designed and used for meal service and must possess the necessary utensils, and condiment dispensers with which to serve meals to the public;
- 4) At no time shall the operator rent the restaurant space to a third-party promoter;
- 5) The owner or operator of the establishment shall take reasonable measures to prevent disturbances by patrons in the immediate vicinity. Such measures shall include:
 - Signs reminding patrons of nearby residences and requests not to congregate or loiter near such residences nor operate vehicles in a noisy manner on residential streets.
 - Surveillance to public areas near the establishment, keep such areas free of trash and litter, provide lighting, and otherwise attempt to prevent conduct that might disturb the peace and quiet of residences in the vicinity.
- 6) The operator shall assume reasonable responsibility for ensuring that patrons do not block the entrance or interfere with pedestrian activity on the adjacent public sidewalk; and
- 7) The applicant shall establish cash handling procedures to reduce the likelihood of robberies and theft.

d. Advertising

- 1) There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this code; and
- 2) Neither alcohol-dispensing facilities nor sign(s) advertising alcoholic beverages shall be visible from the public right-of-way.

e. Training

- 1) Crime Prevention through Environmental Design (CPTED) survey shall be completed prior to commencing alcohol service; and
 - 2) All employees selling and/or serving beer and wine, or directly supervising such sales and/or service, shall comply with BMC 9.84.030 (Responsible Beverage Service Training) and complete the Licensee Education on Alcohol and Drugs (LEAD) program, or another equivalent program offered or certified by the California Department of Alcoholic Beverage Control within 90 days of employment at the establishment. Employees who have completed the course within the last twelve (12) months shall be exempt from this requirement.
2. In all other non-residential districts, Food Service Establishments with incidental beer and/or wine service for seated, onsite consumption may be authorized by an Administrative Use Permit.

Section 2. That Berkeley Municipal Code Section 23E.28.130 is amended to read as follows:

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

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

B. No new floor area shall be created through building expansions, unless it satisfies the parking requirements of the district and this chapter. However, the Zoning Officer may modify the parking requirements for new floor area for expansions of existing buildings with an Administrative Use Permit, subject to the findings in Section 23E.28.140 or 23E.28.145.

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

1. The new use must provide the incremental difference between the two numerical parking standards, which must meet all other parking requirements.
2. A higher numerical parking standard may be reduced to the district minimum and other parking requirements may be modified with an Administrative Use Permit, subject to the findings in Section 23E.28.140 or 23E.28.145. If the new use requires a Use Permit, the Zoning Adjustments Board shall approve, deny or modify the request, subject to the findings in Section 23E.28.140 or 23E.28.145. If the numerical parking reduction is approved, no additional off-street parking is required.

Section 3. That Berkeley Municipal Code Section 23E.36.030.A is amended to read as follows:

23E.36.030 Uses Permitted

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

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Retail Sales		

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

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC*	
Medical Practitioners, including Holistic Health and Mental Health Practitioners	ZC*	Subject to parking requirements; see Table 23E.36.080
Non-Chartered Financial Institutions	UP(PH)	Subject to additional requirements; see Table 23E.36.080
Other Professionals, and Government, Institutions, Utilities	ZC*	
Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses		
Adult-oriented Businesses	UP(PH)	Subject to additional requirements; see Section 23E.16.030
Alcoholic Beverage Service of beer and wine incidental to seated food service	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)

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
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*	
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

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Theaters, including Motion Pictures and Stage Performance	UP(PH)	
Automobile and Other Vehicle Oriented Uses		
Automobile Parts Stores	ZC*	Excluding service of auto parts. Prohibited within the University Avenue Strategic Plan Overlay
Automobile Repair and Service, including Parts Service	AUP**	Prohibited within the University Avenue Strategic Plan Overlay
Automobile Sales and Rentals	AUP**	Prohibited within the University Avenue Strategic Plan Overlay
Automobile Washes, Mechanical or Self-Service	UP(PH)	Prohibited within the University Avenue Strategic Plan Overlay
Automobile Wrecking Establishments	Prohibited	
Gasoline/Automobile Fuel Stations	UP(PH)	
Motorcycle Stores, including Sales and/or Service	UP(PH)	Prohibited within University Avenue Strategic Plan Overlay
Recreational Vehicle and Trailers Sales and Rental, including Boats	AUP**	Prohibited within University Avenue Strategic Plan Overlay
Tire Sales/Service Stores	UP(PH)	Prohibited within University Avenue Strategic Plan Overlay
Parking, Outdoor and Exterior Service Window Uses		
Automatic Teller Machines	AUP	Exterior and when part of a Retail Financial Service

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Drive-in Uses	UP(PH)	Providing service to customers in their cars. See definition in Subtitle F. Prohibited within University Avenue Strategic Plan Overlay
Activities or Storage outside of a building		
Not abutting R-District	AUP	
When abutting R-District	UP(PH)	
Parking Lots		
Five or fewer Off-street Parking Spaces	ZC	
More than five Off-street Parking Spaces	UP(PH)	
Recycling Redemption Centers	AUP	
Outdoor Cafe Seating		
When seating not abutting R-District	ZC	
When seating abutting R-District	AUP	
Combination Commercial/Residential Uses		
Live/Work Units		
Not requiring a UP under Chapter 23E.20	ZC	
Requiring a UP under Chapter 23E.20	UP(PH)	

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Mixed Use Developments (Residential/Commercial)	UP(PH)	Subject to Sections 23E.36.070.D and 23E.36.080.E. Within the University Avenue Strategic Plan Overlay areas, the following uses are not allowed on the ground floor of a Mixed Use building unless a Use Permit is issued pursuant to Sections 23E.36.090.A and B: residential units and uses (other than parking) which serve the residential uses, e.g., leasing and management of the building
Uses Incidental to a Permitted Use		
Amusement Devices (up to three)	AUP	
Food or Beverage for Immediate Consumption	ZC	
Live Entertainment Unamplified	ZC	
Amplified	AUP	
Manufacturing Uses	AUP	
Storage of Goods (over 25% of gross floor area)	AUP	
Wholesale Activities	AUP	
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with	AUP	Subject to making applicable findings in Section 23C.24.070

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
requirements under Section 23C.24.050		
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.36.070.E. Residential-only projects are prohibited within the University Avenue Node Overlay areas, and permitted within University Avenue Overlay Mixed Use areas
Group Living Accommodations subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.36.070.E
Hospitals	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Parks and Playgrounds	ZC	

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Changes of use from an existing dwelling unit
Six or fewer people	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	
Miscellaneous Uses		
Automatic Teller Machines	UP(PH)	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	UP(PH)	
Emergency Shelter		See Chapter 23C.10.

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Up to 25 beds	ZC	
More than 25 beds	UP(PH)	
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing (including Cannabis Testing)	AUP**	
Mortuaries	UP(PH)	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television, or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Warehouses or Storage including Mini-storage Warehouses	UP(PH)	Prohibited within the University Avenue Strategic Plan Overlay
Wireless Telecommunications Facilities		
Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District	AUP	Subject to the requirements of Section 23C.17.100
All Other Telecommunication Facilities	UP(PH)	Subject to the requirements and findings of Section 23C.17.100
Urban Agriculture		23C.26

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Low-Impact Urban Agriculture (LIUA)	ZC	
High-Impact Urban Agriculture (HIUA)	AUP	
Legend:		
ZC – Zoning Certificate	*Change of Use of floor area between 3,000 and 5,000 sq. ft. shall require an AUP; over 5,000 sq. ft. shall require an AUP and shall provide public notification of a decision (NOD) within a 300-foot radius of the subject property.	
AUP – Administrative Use Permit		
UP(PH) – Use Permit, public hearing required	**Change of Use of floor area over 5,000 sq. ft. shall provide public notification of a decision (NOD) within a 300-foot radius of the subject property.	
Prohibited – Use not permitted	*** Shall provide public notification of a decision (NOD) within a 300-foot radius of the subject property.	

Section 4. That Berkeley Municipal Code Section 23E.36.080.B is amended to read as follows:

23E.36.080 Parking -- Number of Spaces

B. The district minimum standard parking requirement for commercial floor area is two spaces per 1,000 square feet of gross floor area. Uses listed in Table 23E.36.080 shall meet the requirements listed or the district minimum, whichever is more restrictive, for newly constructed floor area.

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

Section 5. That Berkeley Municipal Code Section 23E.40.030 is amended to read as follows:

23E.40.030 Uses Permitted

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

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Retail Sales		

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
All Retail Sales Uses, except those listed below	ZC*	As defined in Sub-title F, except otherwise listed. (Does not include Video Rental Stores)
Alcoholic Beverage Retail Sales including liquor stores and wine shops	UP(PH)	Includes sale for off-site consumption at restaurants
Department Stores Over 3,000 s.f.	AUP Prohibited	
Drugstores	ZC*	A new or expanded Drugstore is prohibited if it is over 5000 square feet in Gross Floor Area, and within 1000 feet of any property containing an existing Drugstore, as measured by a straight line from the nearest point of the property line of the parcel on which the Drugstore is proposed to the nearest point of the property line of the parcel on which the nearest Drugstore is located.
Firearm/Munitions Businesses	UP(PH)	Prohibited on any property devoted to residential use
Pawn Shops, including Auction Houses	Prohibited	
Pet Stores, including Sales and Grooming of Animals (but not Boarding)	UP(PH)	
Smoke Shops	UP(PH)	Prohibited if within 1,400 feet of a school or public park
Personal and Household Services		
All Personal and Household Services, except those listed below	ZC*	As defined in Sub-title F, except those otherwise listed (does not include Massage)

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Laundromats	UP(PH)	
Veterinary Clinics, including Pet Hospitals	UP(PH)	
Offices		
Financial Services, Retail (Banks)	UP(PH)	
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC*	When located on the ground floor adjacent to a street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area
Non-Chartered Financial Institutions	Prohibited	
Medical Practitioners including Holistic Health and Mental Health Practitioners	AUP**	Subject to additional parking requirements under Section 23E.40.080.B
Other Professionals and Government, Institutions, Utilities	AUP**	When located on the ground floor adjacent to a street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area
Food and Alcohol Service, Lodging, Entertainment and Assembly Uses		
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service of beer and wine incidental to seated food service	ZC	For on-site consumption only

Table 23E.40.030		
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	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***	

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
Automobile and Other Vehicle Oriented Uses		
Automobile Parts Stores	ZC*	Excluding service of auto parts
Automobile Repair and Service	Prohibited	Includes Parts Service
Automobile Sales and Rentals	Prohibited	
Automobile Washes, Mechanical or Self-Service	Prohibited	
Automobile Wrecking Establishments	Prohibited	
Gasoline/Automobile Fuel Stations	UP(PH)	
Motorcycle Stores	Prohibited	Includes Sales and/or Service
Recreational Vehicle and Trailers Sales and Rental	Prohibited	Includes Boats
Tire Sales/Service Stores	Prohibited	
Parking, Outdoor and Exterior Service Window Uses		

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Activities or Storage Outside of a building		
Not abutting R-District	AUP	
When abutting R-District	UP(PH)	
Automatic Teller Machines	UP(PH)	Exterior and when part of a Retail Financial Service
Drive-in Uses	Prohibited	Providing service to customers in their cars. See definition in Subtitle F
Parking Lots	UP(PH)	
Recycling Redemption Centers	AUP	
Outdoor Cafe Seating		
When seating not abutting R-District	ZC	
When seating abutting R-District	AUP	
Combination Commercial/Residential Uses		
Live/Work Units		
Not requiring a UP under Chapter 23E.20	ZC	
Requiring a UP under Chapter 23E.20	UP(PH)	
Mixed Use Developments (Residential/Commercial)	UP(PH)	Subject to the standards under Section 23E.40.070.D
Uses Incidental to a Permitted Use		

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Amusement Devices (up to three)	UP(PH)	
Food or Beverage for Immediate Consumption	AUP	
Live Entertainment Unamplified	ZC	
Amplified	UP(PH)	
Manufacturing Uses	UP(PH)	
Storage of Goods (over 25% of gross floor area)	AUP	
Wholesale Activities	UP(PH)	
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agricultures	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Child Care Centers	UP(PH)	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.40.070.E
Group Living Accommodations subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.40.070.E
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.40.080.B
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.40.080.B
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Changes of use from an existing dwelling unit
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Miscellaneous Uses		
Automatic Teller Machines	UP(PH)	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	Prohibited	
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing	Prohibited	
Mortuaries	Prohibited	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Warehouses or Storage including Mini-storage Warehouses	Prohibited	
Wireless Telecommunications Facilities Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District	AUP	Subject to the requirements of Section 23C.17.100
All Other Telecommunication Facilities	UP(PH)	Subject to the requirements of Section 23C.17.100
Urban Agriculture		23C.26
Low-Impact Urban Agriculture (LIUA)	ZC	
High-Impact Urban Agriculture (HIUA)	AUP	
Legend:		
ZC – Zoning Certificate	*Change of Use of floor area between 2,000 and 3,000 sq. ft. shall require an AUP; over 3,000 sq. ft. shall require an AUP and shall provide public notification of a decision (NOD) within a 300-foot radius of the subject property.	
AUP – Administrative Use Permit		
UP(PH) – Use Permit, public hearing required	**Change of Use of floor area over 3,000 sq. ft. shall provide public notification of a decision (NOD) within a 300-foot radius of the subject property.	
Prohibited – Use not permitted		

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
		***Shall provide public notification of a decision (NOD) within a 300-foot radius of the subject property.

B. Any Use not listed that is compatible with the purposes of the C-N District shall be permitted subject to securing an Administrative Use Permit and shall provide public notification of a decision (NOD) within a 300-foot radius of the subject property. Any use that is not compatible with the purposes of the C-N District shall be prohibited.

C. The initial establishment, or change, of use of floor area of an existing non-residential building, or portion of building, shall be subject to the Permit requirements as listed in the legend of Table 23E.40.030.

Section 6. That Berkeley Municipal Code Section 23E.40.080.B is amended to read as follows:

23E.40.080 Parking -- Number of Spaces

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

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

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

Section 7. That Berkeley Municipal Code Section 23E.44.030 is amended to read as follows:

23E.44.030 Uses Permitted

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

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Retail Sales		
All Retail Sales Uses, except those listed below	ZC*	As defined in Sub-title F, except otherwise listed (does not include Video Rental Stores).
Alcoholic Beverage Retail Sales, including liquor stores and wine shops	UP(PH)	Includes sale for off-site consumption at restaurants
Department Stores	ZC*	
Over 3,000 s.f.	Prohibited	

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Drugstores	ZC*	A new or expanded Drugstore is prohibited if it is over 5000 square feet in Gross Floor Area, and within 1000 feet of any property containing an existing Drugstore, as measured by a straight line from the nearest point of the property line of the parcel on which the Drugstore is proposed to the nearest point of the property line of the parcel on which the nearest Drugstore is located.
Firearm/Munitions Businesses	UP(PH)	Prohibited on any property devoted to residential use
Pawn Shops, including Auction Houses	Prohibited	
Pet Stores, including Sales and Grooming of Animals	UP(PH)	Does not include boarding of animals
Smoke Shops	UP(PH)	Prohibited if within 1,400 feet of a school or public park
Personal and Household Services		
All Personal/Household Services, except those listed below	ZC*	As defined in Sub-title F, except those otherwise listed (does not include Massage).
Laundromats	UP(PH)	
Veterinary Clinics, including Pet Hospitals	UP(PH)	
Video Tape/Disk Rental Stores	AUP**	
Offices		
Financial Services, Retail (Banks)	UP(PH)	

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC*	When located on the ground floor adjacent to a street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area
Medical Practitioners	Prohibited	Including Holistic Health and Mental Health Practitioners
Non-Chartered Financial Institutions	Prohibited	
Other Professionals and Government, Institutions, Utilities	AUP**	When located on the ground floor adjacent to a street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area
Food and Alcohol Service, Lodging, Entertainment and Assembly Uses		
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service	UP(PH)	Service of alcoholic beverages allowed only as incidental to food service in Food Service Establishments
Alcoholic Beverage Service of beer and wine incidental to seated food service	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**	

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

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

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

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Child Care Centers	UP(PH)	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.44.070.F
Group Living Accommodations, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.44.070.F
Hospitals	Prohibited	

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements under Section 23E.44.080
Nursing Homes	UP(PH)	Subject to parking requirements under Section 23E.44.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Changes of use from an existing dwelling unit
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	
Miscellaneous Uses		
Automatic Teller Machines	Prohibited	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Circus or Carnival	UP(PH)	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	Prohibited	
Emergency Shelter		See Chapter 23C.10.
Up to 25 beds	ZC	
More than 25 beds	UP(PH)	
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing	Prohibited	
Mortuaries	Prohibited	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Warehouses or Storage including Mini-storage Warehouses	Prohibited	
Wireless Telecommunications Facilities		
Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site	AUP	Subject to the requirements and findings of Section 23C.17.100

Table 23E.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Is Not Adjacent to a Residential District All Other Telecommunication Facilities	UP(PH)	Subject to the requirements and findings of Section 23C.17.100
Urban Agriculture		23C.26
Low-Impact Urban Agriculture (LIUA)	ZC	
High-Impact Urban Agriculture (HIUA)	AUP	
Legend:		
ZC – Zoning Certificate AUP – Administrative Use Permit UP(PH) – Use Permit, public hearing required Prohibited – Use not permitted		*Change of Use of floor area between 2,000 and 3,000 sq. ft. shall require an AUP; over 3,000 sq. ft. shall require an AUP and shall provide public notification of a decision (NOD) within a 300-foot radius of the subject property. **Change of Use of floor area over 3,000 sq. ft. shall provide notification of a decision (NOD) within a 300-foot radius of the subject property. ***Shall provide public notification of a decision (NOD) within a 300-foot radius of the subject property.

B. Any Use not listed that is compatible with the purposes of the C-E District shall be permitted subject to securing an Administrative Use Permit and shall provide public notification of a decision (NOD) within a 300-foot radius of the subject property. Any Use that is not compatible with the purposes of the C-E District shall be prohibited.

C. The initial establishment, or change, of use of floor area of an existing non-residential building, or portion of building, shall be subject to the following permit requirements as listed in the legend of Table 23E.44.030.

Section 8. That Berkeley Municipal Code Section 23E.44.040.A is amended to read as follows:

23E.44.040 Special Provisions -- Numerical Limitations

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

Table 23E.44.040			
Numerical Limitations			
Use	Number Limit	Size (sq. ft.)	Type of Permit
Art/Craft Shops, Gift/Novelty Shops, Jewelry/Watch Shops	No limit	1,500	Zoning Certificate
Bookstores, Periodical Stands	No limit	2,000	Zoning Certificate
Food Service Establishments:	25		
Photocopy Stores, Printing, Fax, Magnetic Disk Reproduction Services	No limit	1,000	Zoning Certificate

Section 9. That Berkeley Municipal Code Section 23E.48.030 is amended to read as follows:

23E.48.030 Uses Permitted

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

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

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

Table 23E.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Other Professionals and Government, Institutions, Utilities	AUP**	When located on the ground floor adjacent to street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area
Food and Alcohol Service, Lodging, Entertainment and Assembly Uses		
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service of beer and wine incidental to seated food service	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	
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***	

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

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

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

Table 23E.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Clubs, Lodges	Prohibited	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.48.070.F
Group Living Accommodations, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.48.070.F
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	

Table 23E.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.48.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.48.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Change of use from an existing dwelling unit
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	
Miscellaneous Uses		
Automatic Teller Machines	UP(PH)	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	
Commercial Excavations	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas

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

Table 23E.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
All Other Telecommunication Facilities	UP(PH)	Subject to the requirements and findings of Section 23C.17.100
Urban Agriculture		23C.26
Low-Impact Urban Agriculture (LIUA)	ZC	
High-Impact Urban Agriculture (HIUA)	AUP	
Legend:		
ZC – Zoning Certificate	* Change of Use of floor area between 2,000 and 3,000 sq. ft. shall require an AUP; over 3,000 sq. ft. shall require an AUP and shall provide notification of a decision (NOD) within a 300-foot radius of the subject property.	
AUP – Administrative Use Permit		
UP(PH) – Use Permit, public hearing required	** Change of Use of floor area over 3,000 sq. ft. shall provide public notification of a decision (NOD) within a 300-foot radius of the subject property.	
Prohibited – Use not permitted	*** Shall provide public notification of a decision (NOD) within a 300-foot radius of the subject property.	

B. Any use not listed that is compatible with the purposes of the C-NS District shall be permitted subject to securing an Administrative Use Permit and shall provide public notification of a decision (NOD) within a 300-foot radius of the subject property. Any Use that is not compatible with the purposes of the C-NS District shall be prohibited.

C. The initial establishment or change of use of floor area of an existing non-residential building, or portion of building, shall be subject to the Permit requirements as listed in the legend of Table 23E.48.030.

Section 10. That Berkeley Municipal Code Section 23E.48.080.B is amended to read as follows:

23E.48.080 Parking -- Number of Spaces

B. The district minimum standard parking requirement for commercial floor area is two spaces per 1,000 square feet of gross floor area. Uses listed in Table 23E.48.080 shall meet the requirements listed or the district minimum, whichever is more restrictive, for newly constructed floor area.

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

Section 11. That Berkeley Municipal Code Section 23E.52.030 is amended to read as follows:

23E.52.030 Uses Permitted

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

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

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Veterinary Clinics	UP(PH)	Including Pet Hospitals
Offices		
Financial Services, Retail (Banks)	ZC*	
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC*	
Medical Practitioners, including Holistic Health and Mental Health Practitioners	ZC*	Subject to parking requirements; see Table 23E.52.080
Non-Chartered Financial Institutions	UP(PH)	Subject to additional requirements; see Section 23E.16.080
Other Professionals and Government, Institutions, Utilities	ZC*	
Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses		
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service of beer and wine incidental to 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		Outdoor use requires UP(PH)

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Under 3,000 s.f. Over 3,000 s.f.	AUP*** 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***	
Group Class Instruction for Business, Vocational or Other Purposes	ZC*	
Gyms and Health Clubs	ZC*	
Hotels, Tourist	UP(PH)	Including Inns, Bed and Breakfasts and Hostels
Motels, Tourist	Prohibited	
Theaters	UP(PH)	Including Motion Pictures and Stage Performance
Automobile and Other Vehicle Oriented Uses		
Automobile Parts Stores	ZC*	Excluding service of auto parts

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

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

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.52.070.E
Group Living Accommodations subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.52.070.E
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.52.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.52.080

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Change of use from an existing dwelling unit
Six or fewer people	ZC	
Seven or more people	AUP	
New construction	UP(PH)	
Miscellaneous Uses		
Automatic Teller Machines	UP(PH)	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	Prohibited	
Emergency Shelter		See Chapter 23C.10.

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

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
ZC – Zoning Certificate		
AUP – Administrative Use Permit		
UP(PH) – Use Permit, public hearing required		
Prohibited – Use not permitted		

B. Any use not listed that is compatible with the purposes of the C-SA District shall be permitted subject to securing an Administrative Use Permit and shall provide public notification of a decision (NOD) within a 300-foot radius of the subject property . Any use that is not compatible with the purposes of the C-SA District shall be prohibited.

C. The initial establishment or change of use of floor area of an existing non-residential building, or portion of building, shall be subject to the permit requirements as listed in the legend of Table 23E.52.030.

Section 12. That Berkeley Municipal Code Section 23E.52.060.D is amended to read as follows:

23E.52.060 Use Limitations*

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

1. The sale and service of distilled alcoholic beverages (hard liquor) is prohibited along Adeline Street, south of Ashby Avenue, except that such service may be

allowed subject to obtaining a Use Permit for seated food service and onsite consumption when such service is incidental to meals.

Section 13. That Berkeley Municipal Code Section 23E.52.080.B is amended to read as follows:

23E.52.080 Parking -- Number of Spaces

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

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

Section 14. That Berkeley Municipal Code Section 23E.56.030.A is amended to read as follows:

23E.56.030 Uses Permitted

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

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

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC	Subject to restrictions above the ground floor except on Bancroft Way; see Section 23E.56.070. When located on the ground floor adjacent to street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area.
Medical Practitioners, including Holistic Health and Mental Health Practitioners	AUP*	Subject to restrictions above the ground floor except on Bancroft Way; see Section 23E.56.070.C. When located on the ground floor adjacent to street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area.
Non-Chartered Financial Institutions	UP(PH)	Subject to additional requirements; see Section 23E.16.080
Other Professionals and Government, Institutions, Utilities	AUP*	Subject to restrictions above the ground floor except on Bancroft Way; see Section 23E.56.070.C. When located on the ground floor adjacent to street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area.
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

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
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. Over 1,500 s.f.	ZC AUP*	
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	

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Theaters, including Motion Pictures and Stage Performance	UP(PH)	
Automobile and Other Vehicle Oriented Uses		
Automobile Parts Stores	ZC	Excluding service of auto parts
Automobile Repair and Service	Prohibited	
Automobile Sales and Rentals	Prohibited	
Automobile Washes, Mechanical or Self-Service	Prohibited	
Automobile Wrecking Establishments	Prohibited	
Automobile/Motorcycle Parts Service	UP(PH)	
Gasoline/Automobile Fuel Stations	Prohibited	Except when located in a parking structure
Motorcycle Stores	Prohibited	Including Sales and/or Service
Recreational Vehicle and Trailers Sales and Rental, including Boats	Prohibited	
Tire Sales/Service Stores	Prohibited	
Parking, Outdoor and Exterior Service Window Uses		
Activities or Storage Outside of a building		
Not abutting R- District	AUP*	
When abutting R- District	UP(PH)	
Automatic Teller Machines	AUP*	Exterior and when part of a Retail Financial Service

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Drive-in Uses	Prohibited	Which provide service to customers in their cars. See definition in Sub-title 23F
Parking Lots	Prohibited	
Parking Structures	UP(PH)	
Recycling Redemption Centers	AUP*	
Combination Commercial/Residential Uses		
Live/Work Units Not requiring a UP under Chapter 23E.20 Requiring a UP under Chapter 23E.20	ZC UP(PH)	
Mixed Use Developments (Residential/Commercial)	UP(PH)	Subject to Section 23E.56.070.E
Uses Incidental to a Permitted Use		
Amusement Devices (up to 3)	AUP*	
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*	

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.56.070.E
Group Living Accommodations subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.56.070.E
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Nursing Homes	UP(PH)	
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Change of use from an existing dwelling unit
Six or fewer people	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	
Miscellaneous Uses		
Automatic Teller Machines	UP(PH)	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Circus or Carnival	UP(PH)	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	Prohibited	

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Emergency Shelter Up to 25 beds More than 25 beds	ZC UP(PH)	See Chapter 23C.10.
Kennels or Pet Boarding	Prohibited	
Laboratories	Prohibited	Except photographic processing laboratories
Mortuaries	Prohibited	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Warehouses or Storage, including Mini-storage Warehouses	Prohibited	
Wireless Telecommunications Facilities Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District All Other Telecommunication Facilities	AUP UP(PH)	Subject to the requirements and findings of Section 23C.17.100 Subject to the requirements and findings of Section 23C.17.100
Urban Agriculture		23C.26
Low-Impact Urban Agriculture (LIUA)	ZC	

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
High-Impact Urban Agriculture (HIUA)	AUP	
Legend:		
ZC – Zoning Certificate AUP – Administrative Use Permit * UP(PH) – Use Permit, public hearing required Prohibited – Use not permitted	* For the purposes of the C-T zoning district, uses established by AUP require public notification of a decision within a 300-foot radius of the subject property.	

Section 15. That Berkeley Municipal Code Section 23E.56.060.C is amended to read as follows:

23E.56.060 Use Limitations*

C. On-premises service and consumption of distilled alcoholic beverages shall be permitted with seated food service only.

Section 16. That Berkeley Municipal Code Section 23E.60.030 is amended to read as follows:

23E.60.030 Uses Permitted

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

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Retail Sales		

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
All Retail Sales Uses, except those listed below	ZC*	As defined in Sub-title F, except otherwise listed (does not include Video Rental Stores)
Alcoholic Beverage Retail Sales, including liquor stores and wine shops	UP(PH)	Includes sale for off-site consumption at restaurants
Department Stores Over 3,000 s.f.	ZC* Prohibited	
Drugstores	ZC*	A new or expanded Drugstore is prohibited if it is over 5000 square feet in Gross Floor Area, and within 1000 feet of any property containing an existing Drugstore, as measured by a straight line from the nearest point of the property line of the parcel on which the Drugstore is proposed to the nearest point of the property line of the parcel on which the nearest Drugstore is located.
Firearm/Munitions Businesses	UP(PH)	Prohibited on any property devoted to residential use
Pawn Shops	Prohibited	
Pet Stores including Sales and Grooming of Animals (but not Boarding)	UP(PH)	
Smoke Shops	UP(PH)	Prohibited if within 1,400 feet of a school or public park
Personal and Household Services		
All Personal and Household Services, except those listed below	ZC*	As defined in Sub-title F, except those otherwise listed (does not include Massage)

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Laundromats	UP(PH)	
Veterinary Clinics	UP(PH)	Including Pet Hospitals
Offices		
Financial Services, Retail (Banks)	UP(PH)	
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC*	When located on the ground floor adjacent to a street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area
Medical Practitioners, including Holistic Health & Mental Health Practitioners	UP(PH)	Subject to parking requirements; see Section 23E.60.080
Non-Chartered Financial Institutions	Prohibited	
Other Professionals, and Government, Institutions, Utilities	AUP**	When located on the ground floor adjacent to a street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area
Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses		
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service of beer and wine incidental to seated food service	ZC	For on-site consumption only

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
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
Food Service Establishments Under 1,000 s.f. Over 1,000 s.f	ZC AUP***	
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

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Motels, Tourist	Prohibited	
Theaters	Prohibited	Including Motion Pictures and Stage Performance
Automobile and Other Vehicle Oriented Uses		
Automobile Parts Stores	ZC*	Excluding service of auto parts
Automobile Repair and Service, including Parts Service	Prohibited	
Automobile Sales and Rentals	Prohibited	
Automobile Washes, Mechanical or Self-Service	Prohibited	
Automobile Wrecking Establishments	Prohibited	
Gasoline/Automobile Fuel Stations	UP(PH)	
Motorcycle Stores (sales or service)	Prohibited	
Recreational Vehicle and Trailers Sales and Rental, including Boats	Prohibited	
Tire Sales/Service Stores	Prohibited	
Parking, Outdoor and Exterior Service Window Uses		
Activities or Storage Outside of a building		
Not abutting R-District	AUP	

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
When abutting R-District	UP(PH)	
Automatic Teller Machines (exterior and when part of a Retail Financial Service)	AUP	Limited to 2 machines and only when off-street parking is provided
Drive-in Uses	UP(PH)	Which provide service to customers in their cars. See definition in Sub-title 23F
Parking Lots		
5 or fewer Off-street Parking Spaces	AUP	
More than 5 Off-street Parking Spaces	UP(PH)	
Recycling Redemption Centers	AUP	
Outdoor Cafe Seating		
When seating not abutting R- District	ZC	
When seating abutting R- District	AUP	
Combination Commercial/Residential Uses		
Live/Work Units		
Not requiring a UP under Chapter 23E.20	ZC	
Requiring a UP under Chapter 23E.20	UP(PH)	

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Mixed Use Developments (Residential/Commercial)	UP(PH)	Subject to Section 23E.60.070.E
Uses Incidental to a Permitted Use		
Amusement Devices (up to three)	UP(PH)	
Food or Beverage for Immediate Consumption	UP(PH)	
Live Entertainment Unamplified Amplified	ZC AUP	Also subject to the limitations under Section 23E.60.060.D.2
Manufacturing Uses	AUP	
Storage of Goods (over 25% of gross floor area)	AUP	
Wholesale Activities	AUP	
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Child Care Centers	UP(PH)	
Clubs, Lodges	Prohibited	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.60.070.F
Group Living Accommodations, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.60.070.F
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.60.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.60.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing Six or fewer persons	ZC	Change of use from an existing dwelling unit

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Seven or more persons	AUP	
New Construction	UP(PH)	
Miscellaneous Uses		
Automatic Teller Machines	Prohibited	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	Prohibited	
Emergency Shelter		See Chapter 23C.10.
Up to 25 beds	ZC	
More than 25 beds	UP(PH)	
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing	Prohibited	Except medical office laboratories
Mortuaries	Prohibited	
Public Utility Substations, Tanks	UP(PH)	

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Radio, Television or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Wireless Telecommunications Facilities Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District	AUP	Subject to the requirements and findings of Section 23C.17.100
All Other Telecommunication Facilities	UP(PH)	Subject to the requirements and findings of Section 23C.17.100
Urban Agriculture		23C.26
Low-Impact Urban Agriculture (LIUA)	ZC	
High-Impact Urban Agriculture (HIUA)	AUP	
Legend:		
ZC – Zoning Certificate	*Change of Use of floor area between 2,000 and 3,000 sq. ft. shall require an AUP; over 3,000 sq. ft. shall require an AUP and shall provide notification of a decision (NOD) within a 300-foot radius of the subject property.	
AUP – Administrative Use Permit		
UP(PH) – Use Permit, public hearing required	**Change of Use of floor area over 3,000 sq. ft. shall provide public notification of a decision (NOD) within a 300-foot radius of the subject property.	
Prohibited – Use not permitted		

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
		***Shall provide public notification of a decision (NOD) within a 300-foot radius of the subject property.

B. Any use not listed that is compatible with the purposes of the C-SO District shall be permitted subject to securing an Administrative Use Permit and shall provide public notification of a decision (NOD) within a 300-foot radius of the subject property. Any use that is not compatible with the purposes of the C-SO District shall be prohibited.

C. The initial establishment or change of use of floor area of an existing non-residential building, or portion of building, shall be subject to the permit requirements as listed in the legend of Table 23E.60.030.

Section 17. That Berkeley Municipal Code Section 23E.60.060.D is amended to read as follows:

23E.60.060 Use Limitations*

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

1. No on-premises service and consumption of distilled alcoholic beverages shall be allowed except with seated food service and subject to obtaining a Use Permit.
2. Food Service Establishments shall have no live entertainment other than unamplified music, poetry reading, comedy or other quiet activities.

Section 18. That Berkeley Municipal Code Section 23E.60.080.B is amended to read as follows:

23E.60.080 Parking -- Number of Spaces

B. The district minimum standard parking requirement for commercial floor area is two spaces per 1,000 square feet of gross floor area. Uses listed in Table 23E.60.080 shall meet the requirements listed or the district minimum, whichever is more restrictive, for newly constructed floor area.

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

Section 19. That Berkeley Municipal Code Section 23E.64.030.A is amended to read as follows:

23E.64.030 Uses Permitted

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

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Retail Sales		
Retail uses as defined in Sub-title 23F, except otherwise listed.		

Table 23E.64.030				
Use and Required Permits				
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)			Special Requirements (if any)
	Under 3,500	3,500-7,500	7,500 or more	
All Retail Sales Uses, except those specified below	ZC	AUP	UP(PH)*	*Except when part of a combination commercial/residential use; see Mixed Use Development heading
Alcoholic Beverage Retail Sales, including liquor stores and wine shops	UP(PH)			Includes sale for off-site consumption at restaurants
Firearm/Munitions Businesses	UP(PH)			Prohibited on any property devoted to residential use
Pawn Shops, including Auction Houses	UP(PH)			
Smoke Shops	UP(PH)			Prohibited if within 1,400 feet of a school or public park
Personal and Household Services				
	Under 3,000	3,000-5,000	5,000 or more	
All Personal/Household Services, except as specified below	ZC	AUP	UP(PH)	As defined in Sub-title 23F, unless otherwise specified
Laundromats and Cleaners	AUP		UP(PH)	Dry Cleaning plants prohibited
Veterinary Clinics	UP(PH)			
Office Uses				

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

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
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.

Table 23E.64.030			
Use and Required Permits			
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)		Special Requirements (if any)
Group Class Instruction for Business, Vocational, or Other Purposes	ZC		
Gyms and Health Clubs	ZC		UP(PH) if 7,500 or more sq. ft.
Hotels, Tourist, including Inns, Bed and Breakfasts, and Hostels	UP(PH)		Subject to parking requirements; see Section 23E.64.080.F
Motels, Tourist	UP(PH)		Subject to parking requirements; see Section 23E.64.080.F
Theaters, including Motion Pictures and Stage Performance	UP(PH)		
Automobile and Other Vehicle Oriented Uses			
On lots with frontage on San Pablo Avenue, changes of use from uses other than Automobile and Other Vehicle Oriented Uses prohibited, as provided in Section 23E.64.060.E. Auto parts sales is a retail use.			
	Less than 5,000 sq. ft. floor area and less than 10,000 sq. ft. of lot area	Either 5,000 or more sq. ft. of floor area; or 10,000 or more sq. ft. of lot area	

Table 23E.64.030			
Use and Required Permits			
Use	Permits Required to Establish,		Special Requirements
	Expand or Change Use (sq. ft.)		
Automobile and Truck Rentals	AUP	UP(PH)	Prohibited in designated nodes
Automobile Repair and Service, including Parts Service	AUP	UP(PH)	
Automobile Restoration, Antique and Classic Cars	AUP	UP(PH)	
Automobile Sales	AUP	UP(PH)	
Automobile Used Car Establishments	UP(PH)		Prohibited in designated nodes unless principally in buildings
Automobile Washes, Mechanical or Self-Service	UP(PH)		Prohibited in designated nodes
Automobile Wrecking Establishments	Prohibited		
Gasoline/Automobile Fuel Stations	UP(PH)		
Motorcycle Stores, including Sales, Parts and/or Service	UP(PH)		
Recreational Vehicle and Trailers Sales and Rental, including Boats	AUP	UP(PH)	
Tire Sales/Service Stores	UP(PH)		Prohibited in designated nodes; see Section 23E.64.050.C

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Parking, Outdoor and Exterior Service Window Uses		
Activities or Storage outside of a building When not abutting R-District and using 10,000 sq. ft. or less of lot area When abutting R-District or 10,000 sq. ft. of lot area or more	AUP UP(PH)	Activities must be permitted or incidental to permitted use in the District
Automatic Teller Machines	AUP	Exterior and when part of a Retail Financial Service
Drive-in uses	Prohibited	Providing service to customers in their cars
Open Air Markets	UP(PH)	Prohibited in designated nodes. See Section 23E.64.050.C
Parking Lots 10 or fewer spaces 11 or more spaces	AUP UP(PH)	
Recycling Redemption Centers	AUP	
Outdoor Cafe Seating When seating not abutting R-District When seating abutting R-District	ZC AUP	

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Combination Commercial/Residential and other Mixed Uses		
The area within a Live/Work Unit, including both residential and non-residential space, shall be not less than 800 sq. ft. A UP(PH) is required in some cases; see Chapter 23E.20.		
Live/Work Units		
9 or fewer	AUP	If not changed from a dwelling unit
10 or more	UP(PH)	And/or if changed from a dwelling unit
Mixed Use Developments		
Incorporating residential and retail; where the retail space comprises at least 15% but not more than 33% of the floor area	AUP if less than 20,000 sq. ft. floor area UP(PH) if 20,000 sq. ft. or more floor area	
Other Mixed Use Developments incorporating residential use and other permitted uses	ZC if less than 5,000 sq. ft.	AUP if 5,000-9,000 sq. ft.
Uses Incidental to a Permitted Use		
Amusement Devices (up to 3)	AUP	
Food or Beverage for Immediate Consumption	ZC	
Live Entertainment		

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Unamplified	ZC	
Amplified	UP(PH)	See performance standards in Section 23E.64.070.E
Storage of Goods (over 25% of gross floor area)	AUP	
Residential and Related Uses		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Additions, Major Residential	AUP	See definition in Sub-title 23F. Subject to required finding under Section 23E.64.090.G
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Day Care		
Small Family Day Care Homes of 8 or fewer children	ZC	
Large Family Day Care Homes of 9 to 14 children	AUP	
Child Care Centers	UP(PH)	

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Clubs, Lodges	UP(PH)	
Community Care Facilities/Homes	ZC	
Community Centers	UP(PH)	
Dwelling Units	UP(PH)	Subject to Development Standards under Section 23E.64.070
Group Living Accommodations	UP(PH)	Subject to Development Standards under Section 23E.64.070
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hospitals	UP(PH)	Subject to parking requirements; see Section 23E.64.080.F
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.070.C
Hotels, Residential, including Single Room Occupancy (SRO)	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.64.080.F
Nursing Homes	UP(PH)	

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Parks and Playgrounds	AUP	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	AUP	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Changes of use from an existing dwelling unit
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	
All other Residential Accessory Structures and Uses not listed	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Miscellaneous Uses		
Automatic Teller Machines	AUP	When not part of a Retail Financial Service
Cafeteria, Employee or Residential	AUP	
Cemeteries and Mausoleums	Prohibited	

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	Prohibited in designated nodes. See Section 23E.64.050.C
Commercial Excavation	Prohibited	Including earth, gravel, minerals or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	Prohibited	
Emergency Shelter Up to 25 beds More than 25 beds	 ZC UP(PH)	See Chapter 23C.10.
Kennels or Pet Boarding	UP(PH)	Prohibited on ground floor in designated node
Laboratories, Commercial Physical or Biological	Prohibited	See Section 23E.64.030.C
Laboratories, Testing (including Cannabis Testing)	AUP if less than 10,000 sq. ft. UP(PH) if more than 10,000 sq. ft.	
Mortuaries and Crematories	UP(PH)	
Public Utility Substations, Buildings, Tanks	UP(PH)	Prohibited in designated node. See Section 23E.64.050.C

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

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
(including Cannabis Distributers) 5,000 or less sq. ft.	AUP	
5,000 sq. ft. or more	UP(PH)	
All Other Manufacturing Uses	UP(PH)	
Warehouses or Storage (including Mini-storage Warehouses)	Prohibited	
Legend:		
ZC – Zoning Certificate	UP(PH) – Use Permit, public hearing required	
AUP – Administrative Use Permit	Prohibited – Use not permitted	
	Shall provide public notification of a decision (NOD) within a 300-foot radius of the subject property. *Shall provide public notification of a decision (NOD) within a 300-radius of subject property if Gross Floor Area exceeds 2,501 sq. ft.	

Section 20. That Berkeley Municipal Code Section 23E.64.080.B is amended to read as follows:

23E.64.080 Off-Street Parking and Loading Requirements

B. The district minimum standard parking requirement for commercial floor area is two spaces per 1,000 square feet of gross floor area. Uses listed in Table 23E.64.080 shall meet the requirements listed, for newly constructed floor area except as otherwise modified in this subsection, and Subsections F through I below.

Table 23E.64.080	
Parking Required*	
Use	Number of spaces
Dormitories, Fraternity and Sorority Houses, Rooming and Boarding Houses and Senior Congregate Housing	One per each five residents; plus one for manager
Dwelling Units	One per unit, except as modified by provisions for shared parking in Section 23E.64.080.G; 75% less for Seniors (see below)
Hospitals	One per each four beds; plus one per each three employees
Hotels	One per each three guest/sleeping rooms or suites; plus one per each three employees
Libraries	One per 500 sq. ft. of floor area that is publicly accessible
Live/Work Units	One per unit, provided, however, that if any workers and/or clients are permitted in any work area, there shall be one additional parking space for the first 1,000 sq. ft. of work area, one further parking space for each additional 750 sq. ft. and subject to any additional requirements for parking pursuant to Section 23E.20.040.B
Manufacturing uses (assembly, production, storage and testing space only)	One per 1,000 sq. ft. of floor area
Medical Practitioner Offices	One per 300 sq. ft. of floor area
Motels	One per each guest/sleeping room; plus one space for owner or manager**
Wholesale Trade	One per 1,000 sq. ft. of floor area

Table 23E.64.080	
Parking Required*	
Use	Number of spaces
*See Subsection J for substitutions of up to 10% with bicycle/motorcycle parking	
**Required parking shall be on the same lot as the building it serves	

Section 21. That Berkeley Municipal Code Section 23E.64.090.H is amended to read as follows:

23E.64.090 Findings

H. Before approving an Administrative Use Permit for Food Service Establishments on a lot with frontage on San Pablo Avenue, the Zoning Officer shall make the findings contained in Section 23B.28.050 as well as the findings that:

1. The project does not conflict with the goals and policies of the C-W District; and
2. The location, size, appearance and signage of the proposed use will not adversely affect the San Pablo Avenue Corridor; and
3. The project supports pedestrian-oriented development; and
4. The project is designed to protect the residential character of surrounding neighborhoods from the adverse impacts of Food Service Establishment development, including, but not limited to: increased traffic, litter, and noise.
5. For projects which include construction of new buildings, the Zoning Officer shall also make the findings that the project design:
 - a. Provides intensity of development which does not underutilize the property; especially at or near intersections of major streets; and
 - b. Provides pedestrian scale and siting; and
 - c. Incorporates continuity in street facades.

Section 22. That Berkeley Municipal Code Section 23E.68.030.A is amended to read as follows:

23E.68.030 Uses Permitted

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

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

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

Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
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. Over 3,000 s.f. Within the A.D.O.	ZC 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

Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
Gyms and Health Clubs Under 7,500 s.f.	AUP ZC	Subject to additional requirements; see Section 23E.68.060.E
Hotels, Tourist, including Inns, Bed and Breakfasts and Hostels	UP(PH)	
Motels, Tourist	UP(PH)	
Theaters, including Motion Pictures and Stage Performance	AUP	
Automobile and Other Vehicle-Oriented Uses		
Automobile Parts Stores	Prohibited	
Automobile Repair and Service	Prohibited	
Automobile Sales and Rentals, and motorcycle stores	UP(PH)	
Automobile Washes, Mechanical or Self-Service	Prohibited	
Automobile Wrecking Establishments	Prohibited	
Gasoline/Automobile Fuel Stations	Prohibited	
Recreational Vehicle and Trailers Sales and Rental	Prohibited	Including Boats
Tire Sales/Service Stores	Prohibited	
Parking, Outdoor and Exterior Service Window Uses		
Activities or Storage Outside of a building: When not abutting R-District	AUP	

Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
When abutting R-District	UP(PH)	
Drive-in uses	Prohibited	
Surface Parking Lots: Eight (8) or fewer Off-street Parking Spaces	AUP	
More than eight (8) Off-street Parking Spaces	Prohibited	
Parking Structures	UP(PH)	
Recycling Redemption Centers	AUP	
Outdoor Cafe Seating		
When seating not abutting R- District	ZC	
When seating abutting R-District	AUP	
Combination Commercial/Residential Uses		
Live/Work Units Not requiring a UP under Chapter 23E.20	ZC	
Requiring a UP under Chapter 23E.20	UP(PH)	
Mixed Use Developments (e.g. Residential/Commercial; Hotel/Other Commercial; Office/Other Commercial)	UP(PH)	Subject to additional requirements; see Section 23E.68.060.F Subject to Section 23E.68.070

Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
Uses Incidental to a Permitted Use		
Amusement Devices (up to three)	AUP	
Food or Beverage for Immediate Consumption	ZC	
Live Entertainment		
Unamplified	ZC	
Amplified	AUP	
Manufacturing Uses	AUP	
Storage of Goods (over 25% of gross floor area)	AUP	
Wholesale Activities	AUP	
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	As per R-5 District	See Table 23D.44.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	AUP	

Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, including multifamily developments	UP(PH)	Subject to the standards under Section 23E.68.060.F
Group Living Accommodations subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.68.060.F
Hospitals	UP(PH)	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	Subject to Section 23E.68.060.F
Libraries	UP(PH)	
Nursing Homes	UP(PH)	
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Change of use of an existing dwelling unit
Six or fewer people	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	Subject to Section 23E.68.070
Miscellaneous Uses		

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

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

Section 23. That Berkeley Municipal Code Section 23E.68.040 is amended to read as follows:

23E.68.040 Downtown Arts District Overlay

A. The City Council finds and declares that:

1. The purpose of the Downtown Arts District Overlay is to create a core of cultural activities and supportive retail and commercial uses which would generate more pedestrian vitality in the downtown, promote Berkeley's regional leadership in the arts, and encourage broader economic revitalization of the area.
2. To this end, the use and appearance of ground floor spaces in the Downtown Arts District are important to the success of the City's plans for the area, since these spaces define the ambiance and character of the area for pedestrians. The types of uses which would enhance the Arts District include ground floor retail uses which would contribute to the cultural vitality of the area, seated food service, and uses which provide pedestrian scale and siting. Desirable new development would include projects which fully utilize the development potential of the property and incorporate continuity in street facades. Uses such as food uses with seating, art galleries, bookstores and other culturally compatible and pedestrian-oriented uses will contribute to the area's economic vitality.

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

1. All buildings with street frontage on Addison Street between Shattuck Avenue and Milvia Street; and
2. All buildings with street frontage on the two blocks along the southbound west wing of Shattuck Avenue between University Avenue and Center Street, and all addresses on the east side of Milvia Street between University Avenue and Center Street.
3. These proposed boundaries are as set forth in the map on file with the City Clerk and incorporated by reference herein.

C. No Food Service Establishment exclusively providing food for offsite consumption or office use located on the ground floor adjacent to a street frontage may be established within the Downtown Arts District Overlay, either as a new use or as a

change of use, unless an Administrative Use Permit is approved by the Zoning Officer subject to the findings in Section 23E.68.090.C.

Section 24. That Berkeley Municipal Code Section 23E.68.090.C is amended to read as follows:

23E.68.090 Findings

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

1. The project meets the purposes of the Arts Overlay District as set forth in Section 23E.68.040; and
2. The location, size, type, appearance, and signage of the proposed use will:
 - a. Animate and enhance the pedestrian experience on the street; and
 - b. Be generally open to the public evenings and on weekends, whenever practicable

Section 25. That Berkeley Municipal Code Section 23E.98.050 is amended to read as follows:

Section 23E.98.050 Definitions

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

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

Museum: A non-profit, permanent institution in the service of society and its development, open to the public, which acquires, conserves, researches,

communicates and exhibits the tangible and intangible heritage of humanity and its environment for the purposes of education, study and enjoyment.

Public Market: An open air or enclosed marketplace, including a farmer's market, with multiple owner operated and/or independent merchants selling retail food items and handcrafted goods from local and regional producers, so long as 75% or more of retail space is devoted to the sale of General or Specialized food products and no more than 25% of retail space is devoted to one or more of the following Incidental Uses: owner operated and/or independent Food Service Establishment selling food from local and regional producers and sales of Retail Products from local and regional produce.

Section 26. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on December 4, 2018, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Maio, Wengraf, Worthington and Arreguin.

Noes: None.

Absent: None.