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8 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

10 \_\_\_\_\_ )  
 11 UNITED STATES POSTAL SERVICE, )  
 12 )  
 Plaintiff, )  
 13 )  
 v. )  
 14 )  
 CITY OF BERKELEY, )  
 15 )  
 Defendant. )  
 16 )  
 17 \_\_\_\_\_ )

Case No. \_\_\_\_\_

**EXHIBIT 1 TO  
 COMPLAINT FOR DECLARATORY  
 AND INJUNCTIVE RELIEF**

18  
 19 **EXHIBIT 1:**  
 20 **Berkeley Municipal Code Chapter 23E.98, Civic Center District Overlay**  
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**Chapter 23E.98**

**CIVIC CENTER DISTRICT OVERLAY**

**Sections:**

<b>23E.98.010</b>	<b>Applicability of Regulations</b>
<b>23E.98.020</b>	<b>Purposes</b>
<b>23E.98.030</b>	<b>Uses Permitted</b>
<b>23E.98.040</b>	<b>Development Standards</b>
<b>23E.98.050</b>	<b>Definitions</b>

**Section 23E.98.010 Applicability of Regulations**

The regulations in this Chapter apply to the area coterminous with the Civic Center Historic District designated under Chapter 3.24 and are applicable to the following parcels:

1. APN 057 201701601 (Old City Hall/Courthouse/Public Safety Building)
2. APN 057 202202000 (Veterans Memorial Building)
3. APN 057 202200600 (State Farm Insurance Building/City offices, 1947 Center Street)
4. APN 057 202100200 (Civic Center Park)
5. APN 057 202100100 (Civic Center Building)
6. APN 057 202601500 (Downtown Berkeley YMCA)
7. Portion of APN 057 202000503 which contains the Berkeley Community Theater/Florence Schwimley Little Theater
8. APN 057 202000400 (Berkeley High School)
9. APN 057 202700500 (Berkeley Main Post Office) (Ord. 7370-NS § 1 (part), 2014)

**Section 23E.98.020 Purposes**

The general purpose of the overlay district is to implement General Plan Policy LU-22 Civic Center: "Maintain the Civic Center as a cohesively designed, well-maintained, and secure place for community activities, cultural and educational uses, and essential civic functions and facilities", as well as Downtown Area Plan Policy LU-1.4:

"Focus City government and civic activity in the Civic Center area, and recognize Downtown's central role in providing community services."

The specific purposes are to:

- A. Preserve and protect the integrity of the City of Berkeley Historic Civic Center through preservation of existing buildings and open space listed in the Civic Center Historic District.
- B. Allow a set of uses, which are civic in nature, and support active community use.
- C. Promote uses, which combined or individually will maintain public access to the historic buildings and resources.

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- D. Promote appropriate uses which respect the Civic Center's historic significance in unifying the community and forming a link to Berkeley's past.
- E. Promote the cultural and architectural heritage of the Civic Center.
- F. Preserve the Civic Center District as a place for government functions, community activities, cultural and educational uses, and civic functions and facilities.
- G. Promote uses which could financially support the goal of upgrading and preserving the existing historic buildings and resources. (Ord. 7370-NS § 1 (part), 2014)

**Section 23E.98.030 Uses Permitted**

The following table identifies all permitted 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). All properties in the Civic Center District Overlay are restricted to only those uses listed below, regardless of uses permitted in the underlying zoning district.

<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
Libraries	UP(PH)	
Judicial Courts	AUP	
Museums	UP(PH)	
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Government Agencies and Institutions	AUP	
Public Schools/Educational Facilities	UP(PH)	
Non-Profit Cultural, Arts, Environmental, Community Service and Historical Organizations	UP(PH)	
Live Performance Theatre	UP(PH)	
Public Market	UP (PH)	

(Ord. 7370-NS § 1 (part), 2014)

**Section 23E.98.040 Development Standards**

- A. All new buildings and additional Gross Floor Area within the Civic Center District Overlay shall be subject to a maximum building height of 50 feet.
- B. All new buildings, additional Gross Floor Area, or changes of use shall be subject to the parking, setback requirements and other development standards of the underlying District, in addition to the other applicable requirements of this Title. (Ord. 7370-NS § 1 (part), 2014)

**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.

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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 Carry Out Food and/or Quick Service Restaurants selling food from local and regional producers and sales of Retail Products from local and regional produce. (Ord. 7370-NS § 1 (part), 2014)