



Planning and Development Department
Land Use Planning Division

SUPPLEMENTAL MEMO
June 6, 2023

TO: Members of the Planning Commission

FROM: Grace Wu, Principal Planner, Planning Commission Secretary

SUBJECT: Amendments to Title 23 for Consistency with State Law Related to Special Needs and Employment Housing, Family Day Care Home, Parking, and Associated Technical Edits

RECOMMENDATION

The Planning Commission is asked to conduct a public hearing to: 1) discuss additional state law and non-substantive technical edits to the Berkeley Municipal Code (BMC) zoning amendments required to align with state laws related to special needs housing, employment housing, family day care, and parking; and 2) make a recommendation to City Council to approve the *proposed supplemental revised Zoning Ordinance amendments* (Supplemental Attachment 1), which contains the recommended amendments from the May 3, 2023 Planning Commission meeting, additional clarifications and technical edits published on June 2, 2023 in the Planning Commission agenda packet, and supplemental revisions to correct two technical errors.

SUMMARY OF REVISIONS

The supplemental revisions address two additional technical errors in the ordinance:

1. **Regulate “Public Market, Enclosed” in the same manner as “Public Market, Open Air” in the MU-LI District**, where an Administrative Use Permit is required for up to 5,000 square feet of floor area, and a Use Permit is required for more than 5,000 square feet of floor area. The reference to Note [5] in Table 23.206-1 for “Retail, General” is struck and Note [5] is revised to pertain only to the permit and size thresholds for Public Market, Enclosed land uses. The existing numbering references throughout Table 23.206-1 therefore remain unchanged.
2. **Add a dash in the reference to Table 23.206-9, under the revised Berkeley Municipal Code 23.206.050(B)**. The previously published ordinance referenced “Table 23.2069”.

CONTACT PERSON

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Supplemental Attachment:

1. Ordinance

ORDINANCE NO. -N.S.

AMENDMENTS TO THE RESIDENTIAL DISTRICT CHAPTER (BMC 23.202), COMMERCIAL DISTRICT CHAPTER (BMC 23.204), MANUFACTURING DISTRICT CHAPTER (BMC 23.206), USE-SPECIFIC REGULATIONS (SUPPLEMENTAL USE REGULATIONS) (BMC 23.302.070), GENERAL DEVELOPMENT STANDARDS CHAPTER (BMC 23.304), EMERGENCY SHELTERS CHAPTER (BMC 23.308), PARKING AND LOADING CHAPTER (BMC 23.322), NONCONFORMING USES, STRUCTURES, AND BUILDINGS (BMC 23.342), AND GLOSSARY (BMC 23.502.020) FOR CONSISTENCY WITH STATE LAW RELATED TO SPECIAL NEEDS AND EMPLOYMENT HOUSING, FAMILY DAY CARE HOME, PARKING, AND ASSOCIATED TECHNICAL EDITS

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

Section 1. That the following lines under the category “Public and Quasi-Public Uses” in Table 23.202-1 (Allowed Land Uses in Residential Districts) within Berkeley Municipal Code 23.202.020 are amended, added, or removed: “Emergency Shelter” is hereby amended, the lines “Emergency Shelter, more than 15 beds”; “Low Barrier Navigation Center” and “Supportive Housing” are hereby added, and the lines “Family Day Care Home, Large” and “Family Day Care Home, Small” are hereby removed to read as follows:

Table 23.202-1: Allowed Land Uses in Residential Districts

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **--Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU*	
Public and Quasi-Public Uses												
Emergency Shelter, <u>15 beds or fewer</u>	NP	NP	NP	NP	NP	NP	See 23.	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>23.308 - Emergency Shelters</u>

							308 <u>ZC</u>					
<u>Emergency Shelter, more than 15 beds</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>UP</u> <u>(P</u> <u>H)</u>	<u>UP</u> <u>(P</u> <u>H)</u>	<u>UP</u> <u>(P</u> <u>H)</u>	<u>UP</u> <u>(P</u> <u>H)</u>	<u>UP</u> <u>(P</u> <u>H)</u>	
Family Day Care Home, Large	ZC -	ZC -	ZC -	ZC -	ZC -	ZC -	ZC -	ZC -	ZC -	ZC -	ZC -	
Family Day Care Home, Small	ZC -	ZC -	ZC -	ZC -	ZC -	ZC -	ZC -	ZC -	ZC -	ZC -	ZC -	
<u>Low Barrier Navigation Center</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	
<u>Supportive Housing</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>ZC</u> * -	<u>ZC</u> * -	<u>ZC</u> * -	<u>ZC</u> * -	<u>ZC</u> * -	<u>ZC</u> * -	<u>ZC</u> * -	<u>ZC</u> * -	<u>23.302.070.1</u> <u>- Supportive</u> <u>Housing</u>

Section 2. The Berkeley Municipal Code Table 23.202-14 is hereby amended to read as follows:

TABLE 23.202-14. R-4 LOT AND HEIGHT STANDARDS

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		23.304.020– Lot Requirements
New Lots	5,000 sq. ft.	
Per Group Living Accommodation Resident	350 sq. ft. [1]	
Usable Open Space, Minimum		23.304.090– Usable Open Space
Per Dwelling Unit	200 sq. ft.	
Per Group Living Accommodation Resident	90 sq. ft.	
Floor Area Ratio, Maximum	No maximum	
Main Building Height, Average		23.304.050– Building Height
New Buildings and Non-Residential Additions	35 ft. and 3 stories [2]	
Residential Additions	16 ft. [3]	
Notes:		
1. One additional resident is allowed for remaining lot area between 200 and 350 square feet.		

2. Maximum 65 ft. and six stories allowed with Use Permit.
3. Height greater than 164 ft. up to 35 ft. allowed with an AUP. Height greater than 35 ft. up to 65 ft. and six stories allowed with a Use Permit.

Section 3. That the following lines under the category “Public and Quasi-Public Uses” in Table 23.204-1 (Allowed Uses in the Commercial Districts) within Berkeley Municipal Code 23.204.020 (Allowed Land Uses) are hereby amended or added: “Emergency Shelter” is amended; and the lines “Emergency Shelter, 26 to 60 beds”; “Emergency Shelter, more than 60 beds”; “Low Barrier Navigation Center”; and “Supportive Housing” are hereby added to read as follows:

TABLE 23.204-1. ALLOWED USES IN THE COMMERCIAL DISTRICTS

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS	
	C-C	C-N	C-U	C-E	C-NS	C-NA	C-SA	C-T	C-SO	C-DMU	C-AC		
Public and Quasi-Public Uses													
<u>Emergency Shelter, -25 beds or fewer</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>23.308 - Emergency Shelters</u>
<u>Emergency Shelter, 26 to 60 beds</u>	<u>UP (P H)</u>	<u>UP (P H)</u>	<u>UP (P H)</u>	<u>UP (P H)</u>	<u>UP (P H)</u>	<u>UP (P H)</u>	<u>UP (P H)</u>	<u>UP (P H)</u>	<u>ZC</u>	<u>UP (P H)</u>	<u>UP (P H)</u>		
<u>Emergency Shelter, more than 60 beds</u>	<u>UP (P H)</u>	<u>UP (P H)</u>	<u>UP (P H)</u>	<u>UP (P H)</u>	<u>UP (P H)</u>	<u>UP (P H)</u>	<u>UP (P H)</u>	<u>UP (P H)</u>	<u>UP (P H)</u>	<u>UP (P H)</u>	<u>UP (P H)</u>		
<u>Low Barrier Navigation Center</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	

<u>Supportive Housing</u>	<u>ZC</u> * -	<u>ZC</u> * -	<u>ZC</u> * -	<u>ZC</u> * -	<u>ZC</u> * -	<u>ZC</u> * -	<u>ZC</u> * -	<u>ZC</u> * -	<u>ZC</u> * -	<u>ZC</u> * -	<u>ZC</u> * -	<u>ZC</u> * -	<u>23.302.0</u> <u>70.1-</u> <u>Supportiv</u> <u>e</u> <u>Housing</u>
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Section 4. That Berkeley Municipal Code Table 23.204-12 is hereby amended to read as follows:

TABLE 23.204-12. C-U SETBACK STANDARDS

LOT LINE & PROJECT CONDITIONS	REQUIRED SETBACK
Front	
Ground-floor non-residential uses fronting University Avenue	Average 2 ft. 2 ft. at all sidewalk pedestrian entries
Ground-floor residential uses fronting University Avenue	Average 2 ft. Maximum 10 ft.[1]
Fronting a street other than University Avenue and confronting a non-residential district	No <u>minimum</u> .
Rear	
Lots on south side of University Avenue abutting <u>a lot in</u> residential district-	<u>Minimum of 10 ft. or 10% of lot depth, whichever is greater, and an a</u> Average <u>of 20 ft. [2] [3]</u>
<u>All other lots-Lots on south side of University Avenue not abutting a residential district</u>	<u>No minimum 10 ft. or 10% of lot depth, whichever is greater</u>
Lots on north side of University Avenue	See 23.204.060(-D)(-5)- C-U University Commercial District (Solar Access)
Interior Side	No minimum
Street Side	2 ft. average
All setbacks for lots on South Side of University Avenue fronting a street other than University Avenue	As required by 23.304.030.C.2-Setbacks (Lots Adjacent to Residential Districts) [34]

Section 5. That the following lines under the category “Public and Quasi-Public Uses” in Table 23.206-1 (Allowed Uses in Manufacturing Districts), within Berkeley Municipal Code 23.206.020 (Allowed Land Uses and Permit Requirements) named Low Barrier Navigation Center; and Supportive Housing are hereby added to read as follows:

TABLE 23.206-1. ALLOWED USES IN MANUFACTURING DISTRICTS

ZC = Zoning Certificate AUP = Administrative Use	MANUFACTURING DISTRICTS				Use-Specific Standards Applies to uses with
	M	MM	MU-LI	MU-R	

Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply					an asterisk following the permit requirement (e.g., ZC*)
Public and Quasi-Public Uses					
<u>Low Barrier Navigation Center</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>ZC</u>	
<u>Supportive Housing</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>ZC*</u>	<u>23.302.070.1 – Supportive Housing</u>

Notes:

1. A maximum setback of 10 feet is only permitted for landscaping that enhances the streetscape and provides privacy for residential units on the first floor.

~~Rear setback area must be greater than or equal to the width of the lot in feet multiplied by 20 feet.~~

2. See 23.304.030(C)(-2)(-b) (Modifications in Commercial Districts) for allowed reductions.
3. If a lot fronting a side street is consolidated into a single project with the adjacent University Avenue-fronting lot, the project must conform to the setback standards in this table.

Section 6. That the line named “Retail, General” in Table 23.206-1 (Allowed Uses in Manufacturing Districts), within Berkeley Municipal Code 23.206.020 (Allowed Land Uses and Permit Requirements) is hereby amended to read as follows:

TABLE 23.206-1. ALLOWED USES IN MANUFACTURING DISTRICTS

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	MANUFACTURING DISTRICTS				Use-Specific Standards Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	M	MM	MU-LI	MU-R	Use-Specific Regulation
Retail Uses					
Retail, General	NP	NP	AUP*[5]	AUP*[3]	23.206.080(-B)(-6);

					23.206.090(B)(4)
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Section 7. That Note 5 in Table 23.206-1 (Allowed Uses in Manufacturing Districts), within Berkeley Municipal Code 23.206.020 (Allowed Land Uses and Permit Requirements) is hereby amended to read as follows:

[5] ~~Not permitted over 2,000 sq. ft. Requires a Use Permit for more than 5,000 sq. ft. of floor area.~~

Section 8. That Berkeley Municipal Code Section 23.206.040(C)(1) is hereby amended to read as follows:

1. As used in this section, “child-serving use” means a school, child care center, ~~family day care~~ or park/recreational facility used by children. Family day care homes are exempt from these regulations and not included in the definition of “child-serving use.”

Section 9. That Berkeley Municipal Code 23.206.050(A)(3)(a) is hereby amended to read as follows:

- a) To approve a ~~Use P~~ permit required by Table 23.206-6 for changes to a protected industrial use in the MM and MU-LI districts, the review authority must find that replacement space is provided as required by Paragraph 4 (Replacement Space) below.

Section 10. That Berkeley Municipal Code 23.206.050(B) is hereby removed and Berkeley Municipal Code 23.206.050(C) is hereby amended to read as follows:

~~**B. Protected Industrial Uses in the MU-R District.**~~

- ~~1. Protected Industrial Uses Defined. Manufacturing, warehousing, and wholesale trade are protected industrial uses in the MU-R district. Protections apply only to legally established uses.~~
- ~~2. Permit Required. Except as allowed by Section 23.206.050.B.4 (Exempt from Permit Requirement), a Use Permit is required to change a protected industrial use to any use that is not a protected industrial use.~~
- ~~3. Permit Findings. To approve a Use Permit, when required by Section 23.206.050.B.2 (Permit Required), the review authority must find that:~~

- a) ~~The change of use will not have a materially detrimental impact on the character of the MU-R district as a light industrial district, with particular reference to the character of the blocks and parts of blocks in the part of the district that is contiguous with the site; and~~
 - b) ~~Appropriate mitigation has been made for loss of the manufacturing, wholesale trade, or warehouse space in excess of 25 percent of that space through providing such space elsewhere in Berkeley, payment into the West Berkeley Building Acquisition Fund, or by other appropriate means.~~
4. ~~Exempt from Permit Requirement. A protected industrial use may be changed to an art/craft studio or contractor use with the permit required by Section 23.206.020 (Allowed Land Uses and Permit Requirements). Approval of an art/craft studio or contractor use within a protected industrial space does not eliminate any protections for the prior protected use and such protections will remain if the new non-protected use ceases.~~

B. Protected Non-Industrial Uses in the MU-LI and MU-R Districts.

1. *Protected Non-Industrial Uses Defined.* A use in the MU-LI or MU-R districts listed in Table 23.206-8 is classified as a protected non-industrial use, provided the use:
 - (a) Was legally established as of July 6, 1989; and
 - (b) Exists as a single stand-alone use or is combined with residential use in a live/work unit.

TABLE 23.206-8: PROTECTED NON-INDUSTRIAL USES

CATEGORY	PROTECTED USES
Category 1	Art/craft studio
Category 2	1) Art galleries, ancillary to art/craft studios and when located in the same building 2) Child care facility 3) Family day care home 34) Fine arts performance, instruction and rehearsal studios (dance, music, theater) 45) Theaters, stage performance, but excluding motion picture theaters

2. *Permit Required for Change of Use.*
 - (a) Table 23.206-9 shows permits required to change a protected non-industrial use.

TABLE 23.206-9: PERMITS REQUIRED FOR CHANGE TO PROTECTED NON-INDUSTRIAL USE

	NEW USE
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EXISTING PROTECTED USE GROSS FLOOR AREA	A PROTECTED USE IN THE SAME CATEGORY	A PROTECTED USE IN A DIFFERENT CATEGORY	A NON-PROTECTED USE THAT OCCUPIES ALL OF THE NON-RESIDENTIAL FLOOR AREA IN THE BUILDING
Less than 5,000 sq. ft.	ZC	AUP	AUP
5,000 sq. ft. or more	AUP	UP(PH)	UP(PH)

3. *Owner-Occupied Exemption.* A protected non-industrial use which is owner-occupied and occupies all of the non-residential floor area in a building is exempt from the requirements of this section.

4. *Findings.*

- (a) To approve a permit required by Table 23.206-9, the review authority must find that space occupied by the existing non-industrial protected use will be replaced with a comparable space in the West Berkeley Plan area, which is reserved for use by any protected use in the same category. Such replacement space may not qualify for exemption under Paragraph 3 (Owner-Occupied Exemption) above or by reason of having been established after July 6, 1989.
- (b) When making additional findings required by Chapter 23.406 (Specific Permit and Approval Requirements), the review authority may only consider the potential detriment associated with the new use. Dislocation of any specific previous occupant or use may not be a basis for finding detriment.

Section 11. That Berkeley Municipal Code 23.206.080(B)(6) is hereby amended to read as follows:

- 6. *General Retail.* Allowed general retail uses in the MU-LI district are limited to food product stores and building materials and garden supply stores. Other types of general retail uses are not permitted. Food product stores are not permitted if over 2,000 square feet. Building materials and garden supplies stores are permitted with an AUP if under 20,000 square feet and with a Use Permit if 20,000 square feet or more.

Section 12. That Berkeley Municipal Code 23.206.090(B)(3) is hereby amended to read as follows:

- 3. *Community Care Facility.* Community care facilities are allowed in the MU-R district only as a change of use. New construction is not permitted with a Use Permit.

Section 13. That Berkeley Municipal Code 23.302.070(I) through (K) are hereby added and re-lettered to read as follows:

I. Supportive Housing.

1. Permits Required. Supportive housing shall be allowed by right in zones where multifamily and mixed uses are permitted, if the proposed housing development satisfies requirements pursuant to Government Code Section 65651(a).

I.J. Smoke Shops. In all districts, smoke shops are not permitted within 1,400 feet of a school or public park.

I.K. Warehouse Storage for Retail Use.

1. In all districts where retail uses are allowed, on-site storage of goods is allowed as an accessory use to a primary retail use on the lot.
2. The storage of goods for a contiguous and directly accessible retail space is allowed in the MU-LI and MU-R districts subject to the following:
 - a) An AUP is required for storage 3,000 square feet or less; a Use Permit is required for storage more than 3,000 square feet.
 - b) Except for food product stores in the MU-LI district, the storage is permitted only for uses within the district. Storage for retail uses wholly or partially outside the district is not permitted.

Section 14. That Berkeley Municipal Table 23.304-2 is hereby amended to read as follows:

TABLE 23.304-2: ALLOWED BUILDING PROJECTIONS

BUILDING FEATURE	MAXIMUM PROJECTION INTO REQUIRED SETBACK (MUST MAINTAIN 3 FT MINIMUM FROM INTERIOR SIDE LOT LINE)			
	FRONT	REAR	INTERIOR SIDE	STREET SIDE
Chimneys, Water Heater Enclosures, Flues, Heating and Cooling Equipment	2.5 ft.	2.5 ft.	1.5 ft.	2.5 ft.
Eaves, Cornices, Canopies, Awnings and Bay Windows [1]	2.5 ft.	2.5 ft.	1.5 ft.	2.5 ft.
Uncovered decks, porches, landings and stairs when 30 inches or more above grade at any point [2]	6 ft.	6 ft.	1.5 ft.	2.5 ft.
Balconies and fire escapes [1]	6 ft.	6 ft.	1.5 ft.	2.5 ft.

Notes:

1. Projecting bay windows and balconies may not exceed 25% of the length of building wall to which its attached.
2. Uncovered decks, porches, landings and stairs less than 30 inches in height (not including railings) are not subject to minimum setback requirements.

Section 15. That Berkeley Municipal Code 23.304.030(B)(4) is hereby amended to read as follows:

4. *Accessibility for Persons with Disabilities.* Wheelchair ramps, lifts, and other structures to accommodate persons with disabilities that are less than 30 inches above grade (not including railings) are not subject to minimum setback requirements. Any accessibility feature with a height above grade of 30 inches or more (not including railings) may project into a required setback area with approval of a reasonable accommodation request. See Section 23.406.090 (Reasonable Accommodation). Preferred designs would comply with the following:
 - a) One side yard with a pedestrian pathway of at least 3 feet in width that provides access to the rear yard shall be maintained on the lot, and-
 - b) The projection may not block access to or encroach into any required off-street parking space or driveway leading to such space unless there is no other feasible location for the accessibility feature.

Section 16. That Berkeley Municipal Code Section 23.308.020(C) is hereby removed as follows:

~~C. **Required Permits.** Table 23.308-1 shows permits required for emergency shelters.~~

~~TABLE 23.308-1: PERMIT REQUIREMENTS FOR EMERGENCY SHELTERS~~

DISTRICTS	PERMIT REQUIRED [1]
Residential Districts	
R-1, R-1A, ES-R, R-2, R-2A, R-3	Not Permitted
R-4, R-5, R-S, R-SMU, and R-BMU	
15 beds or fewer [1]	ZG
More than 15 beds	UP(PH)
Commercial Districts	
C-C, C-U, C-N, C-E, C-NS, C-SA, C-T, C-SO, C-W, C-AC	
25 beds or fewer	ZG

More than 25 beds	UP(PH)
C-DMU	
60 beds or fewer	ZC
More than 60 beds	UP(PH)
Manufacturing Districts	
M, MM, MU-LI, MU-R	Not Permitted
Notes: [1] See also permit requirements based on floor area of use in Table 23.308-2.	

Section 17. That Berkeley Municipal Code 23.308.030(A) is hereby amended to read as follows:

A. *All Districts.* The following standards apply to emergency shelters in all districts.

1. No individual or household ~~may~~shall be denied emergency shelter because of an inability to pay.
2. No emergency shelter shall be located within 300 feet of another emergency shelter, except when a Use Permit is approved to allow less of a buffer distance.
3. When abutting a Residential District, all ~~waiting and intake areas areas for shelter activities and uses, including but not limited to waiting and intake, personal storage, facility storage, and recreation,~~ shall be located indoors.
 - ~~4. The following e~~E emergency shelter facilities are required ~~;~~to have
 - ~~5.4.~~ Aan area for onsite client intake equal to one-quarter of the area provided for client beds. This may be a multi-use area.
 - ~~a. Shower and restroom facilities~~
 - ~~6.5.~~ The following incidental uses are permitted in emergency shelter facilities are optional:
 - ~~a. Secure personal storage.~~
 - ~~b. Daytime services.~~
 - ~~c.a. Meal services~~On-site cafeteria.
 - ~~d. Communal kitchen.~~
 - ~~e. Laundry equipment for clients.~~
 - ~~f.b. Child care~~ center.
 - ~~g. Vehicle and/or bicycle parking.~~
 - ~~7.6.~~ Lighting shall be provided in all exterior areas, including pathways, parking areas, courtyards, rear yard areas, and spaces between structures. Lighting shall be directed in a manner that does not cast light onto neighboring properties.

~~8.7.~~ On-site management and security shall be provided at all times the facility is in operation and on-site management shall be provided at least one hour before and after facility operation hours.

~~9.~~ ~~The shelter operator shall prepare and implement a Shelter Safety and Management Plan. The Plan shall be available to the public upon request and shall address the following:~~

- ~~a. Client congregation outside of the shelter facility to prevent queuing within the public right-of-way.~~
- ~~b. Eligibility criteria, enforcement rules, and procedures for disruptive clients.~~
- ~~c. Number and responsibilities of on-site support staff, training standards, other management procedures, and a primary and secondary contact person.~~
- ~~d. Bed bug prevention.~~
- ~~e. Refuse collection.~~
- ~~f. Security procedures.~~
- ~~g. Separation of sleeping areas and restrooms by gender and for families.~~
- ~~h. Consistency with the Alameda County Wide Homeless Continuum of Care: Health, Safety and Accessibility Standards for Shelter Facilities in Alameda County.~~

~~10.8.~~ The shelter provider shall conduct a community meeting after giving notice to all owners and occupants ~~on record with the Alameda County Assessor~~ within a 100-foot radius of the proposed shelter location. A community meeting shall not be required when the target population of the proposed shelter requires privacy due to safety concerns as determined by the Zoning Officer.

Section 18. That Berkeley Municipal Code 23.308.030(C) is hereby amended to read as follows:

C. *Findings.* To approve a Use Permit for an emergency shelter, ~~under Section 23.308.020.C (Required Permits) or 23.308.030.B.2 (Standards in Residential Districts),~~ the Zoning Adjustments Board (ZAB) must find that a:
 A larger shelter facility will help meet the City’s goals pertaining to emergency housing of the homeless.;

- ~~1. The circumstances of the subject property make the larger facility appropriate; and~~
- ~~2. Design features will minimize impacts on the surrounding area.~~

Section 19. That the category named “Non-Residential Uses” in Table 23.322-1, (Required Off Street Parking in Residential Districts), within Berkeley Municipal Code 23.322.030 (Required Parking Spaces), is hereby amended to read as follows:

TABLE 23.322-1. REQUIRED OFF-STREET PARKING IN RESIDENTIAL DISTRICTS

Land Use	Number of Required Off-street Parking Spaces
Non-Residential Uses	
All non-residential uses except uses listed below	<u>R-SMU District</u> : 1 per 1,000 sq. ft. <u>R-BMU District</u> : None required; no more than 1.5 spaces per 1,000 sq. ft. <u>All Other Residential Districts</u> : See 23.322.030.A.2
Community Care Facility	<u>R-BMU District</u> : None required; no more than 1.5 spaces per 1,000 sq. ft. <u>All Other Residential Districts</u> : One per two non-resident employees <u>None required</u>
Food Service Establishment	<u>R-BMU District</u> : None required; no more than 1.5 spaces per 1,000 sq. ft. <u>All Other Residential Districts</u> : 1 per 300 sq. ft.
Hospital	<u>R-SMU District</u> : 1 per 1,000 sq. ft. <u>R-BMU District</u> : None required; no more than 1.5 spaces per 1,000 sq. ft. <u>All Other Residential Districts</u> : 1 per each 4 beds plus 1 per each 3 employees
Library	<u>R-BMU District</u> : None required; no more than 1.5 spaces per 1,000 sq. ft. <u>All Other Residential Districts</u> : 1 per 500 sq. ft. of publicly accessible floor area
Nursing Home	1 per 3 employees
Medical Practitioners	<u>R-BMU District</u> : None required; no more than 1.5 spaces per 1,000 sq. ft. <u>All Other Residential Districts</u> : 1 per 300 sq. ft.
Non-Medical Offices	<u>R-SMU District</u> : 1 per 1,000 sq. ft. <u>R-BMU District</u> : None required; no more than 1.5 spaces per 1,000 sq. ft. <u>All Other Residential Districts</u> : 1 per 400 sq. ft.
Hotels, Tourist	1 per 3 guest/sleeping rooms or suites plus 1 per 3 employees

Section 20. That the category named “Non-Residential Uses” in Table 23.322-4 (Required Off Street Parking in Manufacturing Districts), within Berkeley Municipal Code 23.322.030 (Required Parking Spaces), is hereby amended to read as follows:

TABLE 23.322-4: REQUIRED OFF-STREET PARKING IN MANUFACTURING DISTRICTS

Land Use	Required Parking Spaces
Non-Residential Uses	
All non-residential uses except uses listed below	2 per 1,000 sq. ft.
Art/Craft Studio	1 per 1,000 sq. ft.
Community Care Facility	1 per 2 non-resident employees <u>None required</u>
Food Service Establishment	1 per 300 sq. ft.
Library	1 per 500 sq. ft. of publicly accessible floor area
Laboratories	1 per 650 sq. ft.
Nursing Home	1 per 5 residents, plus 1 per 3 employees
Medical Practitioners	One per 300 sq. ft.
Large Vehicle Sales and Rental	<u>MU-LI District:</u> 1.5 per 1,000 sq. ft. <u>All Other Districts:</u> 1 per 1,000 sq. ft. of display floor area plus 1 per 500 sq. ft. of other floor area; 2 per service bay
Manufacturing	<u>MU-R District:</u> 1.0 per 1,000 sq. ft. <u>All Other Districts:</u> 1 per 1,000 sq. ft. for spaces less than 10,000 sq. ft.; 1 per 1,500 sq. ft. for spaces 10,000 sq. ft. or more
Storage, warehousing, and wholesale trade	1 per 1,000 sq. ft. for spaces of less than 10,000 sq. ft.; 1 per 1,500 sq. ft. for spaces 10,000 sq. ft. or more
Live/Work	<u>MU-LI District:</u> 1 per 1,000 sq. ft. of work area where workers/clients are permitted <u>MU-R District:</u> if workers/clients are permitted in work area, 1 per first 1,000 sq. ft. of work area and 1 per each additional 750 sq. ft. of work area

Section 21. That Berkeley Municipal Code 23.322.020(D) is hereby added to read as follows:

D. Location Exemption. Off-street parking spaces are not required for new uses or buildings, or an enlargement or intensification of an existing use or structure, that is located within 0.5 miles of a major transit stop, as defined by Section 21155 of the California Public Resources Code, unless otherwise authorized by Government Code Section 65863.2.

Section 22. That Berkeley Municipal Code 23.324 title is hereby amended to read as follows:

Chapter 23.324

CONFORMING AND NONCONFORMING USES, STRUCTURES, AND BUILDINGS, AND LOTS

Section 23. That Berkeley Municipal Code 23.324.010 is hereby amended to read as follows:

23.324.010 Chapter Purpose.

This chapter establishes regulations for conforming and nonconforming lots, uses, structures, and buildings. These regulations are intended allow for:

- A. The development and use of lawful nonconforming lots;
- B. Changes to nonconforming uses and the termination of abandoned uses;
- C. Maintenance, repair, and expansion of nonconforming structures and buildings; and
- D. Alterations to nonconforming structures and buildings when needed for public safety.

Section 24. That Berkeley Municipal Code 23.324.050 section title is hereby amended to read as follows:

23.324.050 Conforming and Nonconforming Structures and Buildings

Section 25. That Berkeley Municipal Code 23.324.050(F)(4)(a) is hereby amended to read as follows:

(a) A conforming or nonconforming residential-only structure or building with four residential units or less, including any accessory structures or buildings, that is involuntarily damaged or destroyed may be replaced or reconstructed with a Zoning Certificate.

Section 26. That Berkeley Municipal Code 23.502.020(C)(17) is hereby amended to read as follows:

17. *Community Care Facility.* A state-licensed facility for the non-medical care and supervision of children, adolescents, adults or elderly persons. This use includes

community care facilities as defined in California Health and Safety Code (H&SC) Section 1500 et seq, residential care facilities for the elderly (H&SC Section 1569 et seq.), facilities for the mentally disordered or otherwise handicapped (California Welfare and Institutions Code Section 5000 et seq.), alcoholism or drug abuse recovery or treatment facilities (H&SC Section 11834.02), ~~supportive housing (California Government Code Section 65582),~~ and other similar facilities. This use excludes medical care institutions, skilled nursing facilities, nursing homes, foster homes, family day care homes, child care facilities, supportive housing, and transitional housing.

Section 27. That Berkeley Municipal Code 23.502.020(E)(3) is hereby amended to read as follows:

3. *Emergency Shelter.* Temporary lodging for homeless persons with minimal supportive services that may include 24-hour services and that may be limited to occupancy of six months or less as defined in Health and Safety Code Section 50801(e).

Section 28. That Berkeley Municipal Code 23.502.020(F)(3) is hereby amended to read as follows:

3. *Family Day Care Home.* An establishment providing day care for 14 or fewer children in a dwelling unit as licensed by the California Department of Social Services. A family day care home is considered an activity allowed as part of residential use in any zoning district in which residential uses are either permitted or conditionally permitted. ~~must be incidental to must be operated in the dwelling unit or accessory building where the family day care operator resides.~~

~~(a) Small Family Day Care Home. A family day care home for eight or fewer children, including children who live at the home.~~

~~(b) Large Family Day Care Home. A family day care home for nine to fourteen children, including children who live at the home.~~

Section 29. That Berkeley Municipal Code 23.502.020(H)(10) is hereby amended to read as follows:

10. *Household.* One or more persons, whether or not related by blood, marriage or adoption, with common access to and use of all living, kitchen and eating areas within a single dwelling unit. ~~sharing a dwelling unit in a living arrangement usually characterized by sharing living expenses, such as rent or mortgage payments, food costs and utilities,~~

~~as well as maintaining a single lease or rental agreement for all members of the household and other similar characteristics indicative of a single household.~~

Section 30. That Berkeley Municipal Code 23.502.020(L)(21) is hereby added as follows:

21. *Low Barrier Navigation Center.* A temporary, low-barrier-to-entry shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, healthy services, shelter, and housing. Low barrier includes best practices to reduce barriers to entry, such as allowing partners, pets, storage of personal items, and privacy pursuant to California Government Code Section 65660 and includes services to connect people to permanent housing through a service plan and services staffing and a coordinated entry system pursuant to Section 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations.

Section 31. That Berkeley Municipal Code Section 23.502.020(S)(16) is hereby amended to read as follows:

16. *Single-Family Dwelling.* A building designed for and occupied exclusively by one household, and may provide accommodations for six or fewer employees as “employee housing” pursuant to Healthy and Safety Code Section 17021.5

Section 32. That Berkeley Municipal Code Section 23.502.020(S)(32) is hereby amended to read as follows:

32. *Supportive Housing.* As defined in Health and Safety Code 50675.14(b)(2), housing with no limit on length of stay,(2): Housing with no limit on length of stay; Any dwelling unit or a Group Living Accommodation, that is occupied by the target population as defined in Health and Safety Code 50675.14(b)(3)in subdivision (d) of Section 53260 of the CA Health and Safety Code, with no limit on length of stay, that isand linked to on- or off-site services that assist the supportive housing residents in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community.

Section 33. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.