



Office of the City Manager

PUBLIC HEARING  
July 12, 2022

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

RECOMMENDATION

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

- BMC Section 23.202.140 (R-SMU Zoning District)
- BMC Section 23.204.020 (Commercial Districts -- Allowed Land Uses)
- BMC Section 23.204.030 (Additional Permit Requirements)
- BMC Section 23.204.060 (C-U Zoning District)
- BMC Section 23.204.130 (C-DMU District)
- BMC Section 23.206.202 (Manufacturing Districts – Allowed Land Uses)
- BMC Section 23.302.030 (Temporary Uses and Structures)
- BMC Section 23.302.070 (Use-Specific Regulations)
- BMC Section 23.404.040 (Public Notice)
- BMC Section 23.502.020 (Glossary)

FISCAL IMPACTS OF RECOMMENDATION

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

CURRENT SITUATION AND ITS EFFECTS

Ensuring an accurate Zoning Ordinance relates to the Strategic Plan goal to be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

On October 12, 2021, the City Council adopted a new Zoning Ordinance (Title 23 – Berkeley Municipal Code). This action was the culmination of the first comprehensive review of the Zoning Ordinance since 1999, rewording and reformatting Berkeley’s land use regulations to make them easier to understand and administer. Aside from a specific list of “consent changes” to maintain consistency with State law and codify

existing practices, no substantive policy changes were included. The new Zoning Ordinance became effective December 1, 2021.

As expected with such a detailed series of revisions, since its adoption certain inconsistencies and inadvertent changes have come to light which need to be corrected to ensure that the Zoning Ordinance accurately reflects City Council policy. The ordinance included with this staff report would make 11 amendments / corrections to the new Zoning Ordinance. These are summarized below in **Table 1**.

**Table 1. Recommended Zoning Ordinance Amendments**

<b>Subject/Section</b>	<b>Issue</b>	<b>Amendment</b>
<b>Sec 23.202.140:</b> <b>R-SMU Zoning District</b> <i>Height Subareas Map</i>	The R-SMU Subareas map is incomplete; there are parcels that are not assigned to the correct subarea.	Revises map to assign parcels to proper subarea.
<b>Sec 23.204.020:</b> <b>Allowed Uses in Commercial Districts</b> <i>Research &amp; Development in C-W</i>	The Allowed Uses Table misstates that Research and Development is permitted in the C-W with an AUP	Corrects the Allowed Use Table to clarify that Research and Development is a “use not listed” in the C-W, which requires additional findings to approve.
<b>Sec 23.204.030:</b> <b>Additional Permit Requirements</b> <i>Change of Use</i>	The Zoning Ordinance defines Change of Use twice.	Removes the definition in the Additional Permit Requirements section and maintains the definition in the Glossary.
<b>Sec 23.204.060:</b> <b>C-U Zoning District</b> <i>Setback Standards</i>	C-U Solar Access standards are mistakenly applied to parcels on the south side of University Avenue.	Revises Setback Standards table to clarify that parcels on the <i>north</i> side of University Avenue are subject to the solar access standards.
<b>Sec 23.204.130:</b> <b>C-DMU Zoning District</b> <i>Open Space Requirements</i>	The Zoning Ordinance does not include the Use Permit requirement for certain in-lieu options to satisfy Open Space requirements in the C-DMU.	Includes language clarifying the Use Permit requirement.
<b>Sec 23.206.202:</b> <b>Manufacturing Districts</b>	Imprecise language is used to describe thresholds for use permits.	Includes additional language clarifying thresholds.

Subject/Section	Issue	Amendment
<i>Changes to Protected Land Uses</i>		
<b>Sec 23.302.030:</b> <b>Temporary Uses and Structures</b> <i>Temporary Uses on Private Property</i>	The word “plain” is misspelled.	Corrects spelling.
<b>Sec 23.302.070:</b> <b>Use-Specific Regulations</b> <i>Food Service Establishments</i>	The Zoning Ordinance does not include the C-T district requirement to post public notification of an AUP decision within 300 feet of the subject property.	Includes C-T in list of districts where the noticing requirement applies.
<b>Sec 23.404.040:</b> <b>Public Notice</b> <i>Zoning Ordinance Amendments</i>	The Zoning Ordinance states a 14 day notice when State law requires 10 days.	Changes “14” days to “10” days to conform with State law.
<b>Sec 23.404.040:</b> <b>Public Notice</b> <i>Newspaper Publication</i>	The Zoning Ordinance requires newspaper publication of a public hearing notice for a zoning text amendment <i>both</i> 14 days <i>and</i> 7 days prior to the public hearing.	Clarifies that the newspaper publication requirement is only <i>once</i> , 7 days prior to the public hearing.
<b>Sec 23.502.020:</b> <b>Glossary</b> <i>Family Day Care Home</i>	Glossary definition of “Family Day Care Home” includes the phrase “primary dwelling,” which is not defined.	Clarifies that a family day care home “must be operated in the dwelling unit or accessory building where the family day care operator resides.”

## BACKGROUND

At its meeting of April 6, 2022, the Planning Commission held a public hearing on the proposed amendments,<sup>1</sup> and recommended adoption by a vote of 9-0-0-0 (Moved Oatfield, Second Mikiten. Ayes: Capitelli, Ghosh, Gould, Hauser, Kapla, Mikiten, Moore, Oatfield, and Twu. Noes: None. Abstain: None. Absent: None).

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

<sup>1</sup> Agenda-related materials for the April 6, 2022 Planning Commission meeting can be found here: [https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-04-06%20PC%20Agenda\\_linked\\_1.pdf](https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-04-06%20PC%20Agenda_linked_1.pdf)

amendments. A third, smaller package will be presented to the City Council after the 2022 summer recess.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

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

ALTERNATIVE ACTIONS CONSIDERED

No alternatives were considered.

CONTACT PERSON

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Attachments:

- 1: Ordinance
- 2: Consent Changes Matrix
- 3: Report to Planning Commission, April 6, 2022
- 4: Public Hearing Notice

ORDINANCE NO. -N.S.

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

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

Section 1. That Berkeley Municipal Code Section 23.202.140 Figure 23.202-2 is amended as follows:

Figure 23.202-2. R-SMU SUBAREAS

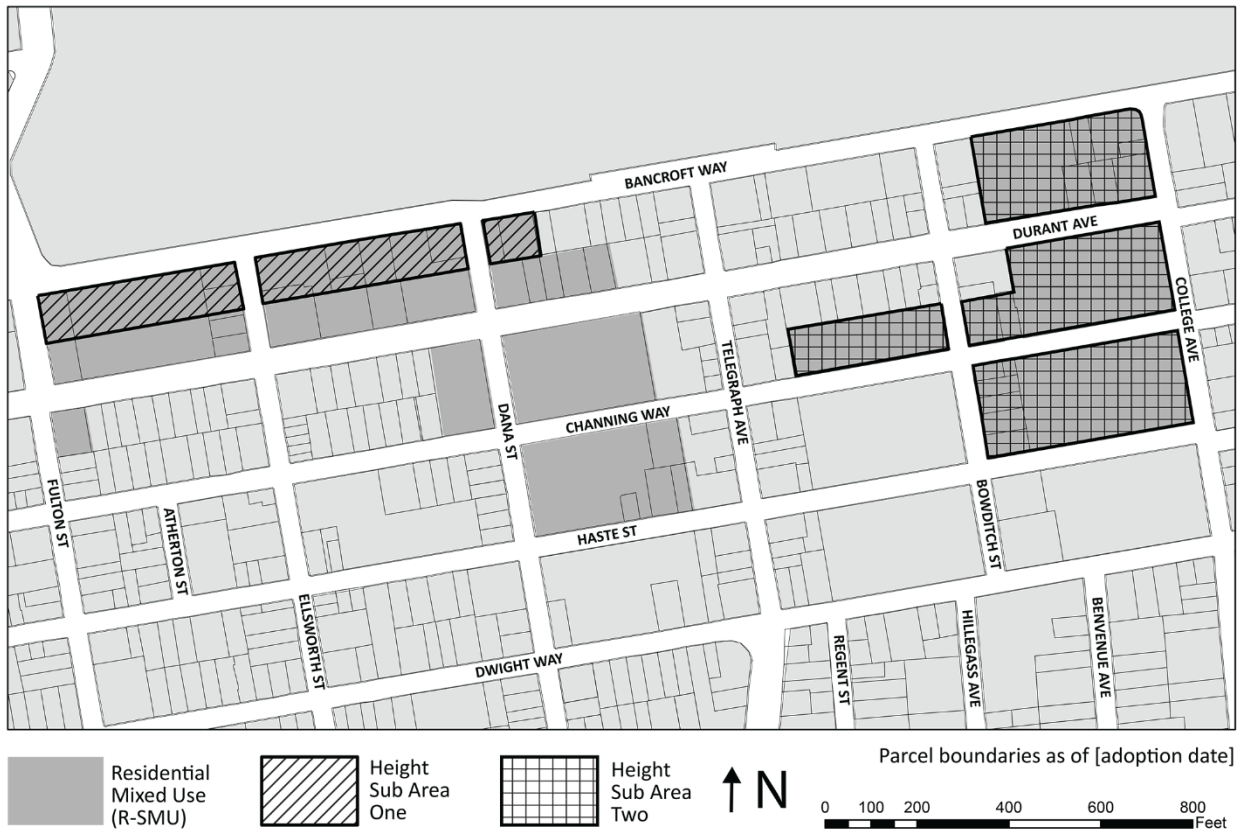


Figure 23.202-2. R-SMU SUBAREAS



Section 2. That Berkeley Municipal Code Section 23.204.020 Table 23.204-1 is amended 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-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
<b>Residential Uses</b>												
Accessory Dwelling Unit	See 23.306—Accessory Dwelling Units											
Dwellings												
Single-Family	UP(H)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Two-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Multi-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Group Living Accommodation	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Hotel, Residential	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3
Mixed-Use Residential	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	See Table 23.204-41	UP(PH)	23.204.060.B.3; 23.204.100.B.4

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	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Senior Congregate Housing	See 23.302.070.H											
<b>Public and Quasi-Public Uses</b>												
Child Care Center	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Cemetery/Crematory/Mausoleum	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	
Club/Lodge	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	
Columbaria	See 23.302.070.C											
Community Care Facility	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	ZC	AUP	
Community Center	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Emergency Shelter	See 0		--	--	See 0							
Family Day Care Home, Large	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Family Day Care Home, Small	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Hospital	UP(PH)	UP(PH)	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	
Library	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Mortuaries and Crematories	UP(PH)	UP(PH)	NP	NP	NP	NP	NP	NP	NP	UP(PH)	NP	
Municipal Animal Shelter	--	--	--	--	--	--	--	--	--	--	--	
Nursing Home	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Park/Playground	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	AUP	ZC	
Public Safety and Emergency Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Public Utility Substation/Tank	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Religious Assembly	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	AUP	UP(PH)	
School	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
School, Vocational	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	UP(PH)	AUP	
<b>Retail Uses</b>												
Alcoholic Beverage Retail Sale	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	NP	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	23.204.060.B.2; 23.310
Cannabis Retailer	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.320; 12.21; and 12.22
Cannabis Retailer, Delivery Only	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	--	23.320; 12.21; and 12.22
Firearm/Munitions Business	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	NP	UP(PH)	UP(PH)*	23.302.070.D
Industrial and Mining Products	--	--	--	--	--	--	--	--	--	--	--	
Pawn Shop/Auction House	UP(PH)	--	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	
Pet Store	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	ZC [3]	UP(PH)	
Retail, General	ZC [1]	ZC [1]	ZC* [2]	ZC* [2]	ZC* [2]	ZC [1]	ZC	ZC* [2]	ZC	ZC* [3]	ZC*	23.204.040.E (for department stores) 23.204.040.F (for drug stores)
Smoke Shop	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	NP	UP(PH)*	UP(PH)*	23.302.070.I
<b>Personal and Household Service Uses</b>												
Personal and Household Services, General	ZC [1]	ZC [1]	ZC [2]	ZC [2]	ZC [2]	ZC [1]	ZC	ZC [2]	ZC	ZC [5]	ZC	
Kennels and Pet Boarding	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	NP	
Laundromats and Cleaners	AUP	AUP	UP(PH)	UP(PH)	UP(PH)	AUP	AUP	UP(PH)	UP(PH)	AUP [4]	AUP	
Veterinary Clinic	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Video Tape/Disk Rental	ZC [1]	ZC [1]	ZC [2]	AUP	ZC [2]	--	ZC	ZC [2]	ZC	ZC [5]	NP	

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	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
<b>Office Uses</b>												
Business Support Services	ZC [1]	ZC [1]	ZC [2]	ZC [2]	ZC [2]	ZC [1]	ZC*	ZC [2]	ZC	ZC [5]	ZC [6]	23.204.110.B.6
Banks and Financial Services, Retail	AUP	AUP	UP(PH)	UP(PH)	UP(PH)	ZC [1]	AUP*	UP(PH)	ZC*	AUP	ZC	23.204.110.B.6; 23.204.130.B.3; 23.204.130.D.3
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC [1]	ZC [1]	ZC* [2]	ZC* [2]	ZC* [2]	ZC [1]	ZC*	ZC* [2]	ZC*	ZC [5]	ZC [6]	23.204.040.D;23.204.110.B.6; 23.204.130.D.3
Medical Practitioners	ZC [1]	ZC [1]	AUP	NP	UP(PH)	ZC [1]	AUP*	UP(PH)	ZC*	ZC [5]	ZC [6]	23.204.040.D; 23.204.110.B.6; 23.204.130.D.3
Non-Chartered Financial Institutions	UP(PH)*	UP(PH)*	NP	NP	NP	UP(PH)*	UP(PH)*	NP	NP	UP(PH)*	UP(PH)	23.302.070.F 23.204.110.B.6
Office, Business and Professional	ZC [1]	ZC [1]	AUP*	AUP*	AUP*	ZC [1]	AUP*	AUP*	ZC*	ZC [5]	ZC [6]	23.204.040.B; 23.204.110.B.6; 23.204.130.D.3
<b>Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses</b>												
Adult-oriented Business	UP(PH)*	UP(PH)*	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH)*	NP	23.302.070.A
Amusement Device Arcade	UP(PH)*	UP(PH)*	NP	NP	NP	UP(PH)*	NP	NP	UP(PH)*	UP(PH)*	UP(PH)	23.302.070.B
Bar/Cocktail Lounge/Tavern	UP(PH)*	UP(PH)*	UP(PH)*	-	NP	UP(PH)*	UP(PH)*	NP	UP(PH)*	UP(PH)*	UP(PH)	23.204.100.B.3; 23.204.110.B.2;  23.310
Commercial Recreation Center	See 23.204.040.A											
Dance/Exercise/Martial Arts/Music Studio	ZC [1]	ZC [1]	ZC [2]	AUP	AUP [4]	ZC [1]	ZC	AUP	ZC	ZC [7]	ZC	
Entertainment Establishment	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Food Service Establishment	See 23.204.040.E											
Group Class Instruction	ZC [1]	ZC [1]	AUP	AUP	AUP*	ZC [1]	ZC*	AUP	ZC*	ZC	ZC	23.204.040.B
Gym/Health Club	See 23.204.040.C											
Hotels, Tourist	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Motels, Tourist	UP(PH)	UP(PH)	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	
Theater	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	NP	AUP	UP(PH)	UP(PH)	
<b>Vehicle Service and Sales Uses</b>												
Alternative Fuel Station	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	NP*	UP(PH)	NP	AUP*	UP(PH)	23.204.110.B.4; 23.204.140.B.3
Electric Vehicle Charging Station	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP*	AUP	
Gasoline Fuel Stations	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	NP*	UP(PH)	NP	UP(PH)*	UP(PH)	23.204.140.B.3
Large Vehicle Sales and Rental	AUP	NP	NP	NP	NP	NP	NP	NP	NP	AUP* [8]	NP	23.204.140.B.3
Small Vehicle Sales and Service	AUP	NP	NP	NP	NP	UP(PH)*	NP	NP	UP(PH)	UP(PH)*	NP	23.204.100.B.5; 23.204.140.B.3
Tire Sales and Service	UP(PH)	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	NP	23.204.140.B.3
Vehicle Parts Store	ZC [1]	NP	ZC [2]	ZC [2]	ZC [2]	ZC [1]	ZC	ZC [2]	NP	AUP* [8]	ZC	
Vehicle Rentals	AUP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	AUP* [8]	NP	23.204.140.B.3
Vehicle Repair and Service	AUP	NP	NP	NP	NP	NP	NP	NP	NP	AUP* [8]	NP	
Vehicle Sales, New	AUP	NP	NP	NP	NP	UP(PH)*	NP	NP	UP(PH)	AUP* [8]	NP	23.204.100.B.5  23.204.140.B.3
Vehicle Sales, Used	AUP	NP	NP	NP	NP	UP(PH)*	NP	NP	UP(PH)	UP(PH)*	NP	23.204.100.B.5; 23.204.140.B.3; 23.204.140.D.4



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	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC		
Vehicle Wash	UP(PH)	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	NP	23.204.140.B.3	
Vehicle Wrecking	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP		
<b>Industrial and Heavy Commercial Uses</b>													
Bus/Cab/Truck/Public Utility Depot	--	--	--	--	--	--	--	--	--	--	--		
Commercial Excavation	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	--	NP	UP(PH)	
Contractors Yard	--	--	--	--	--	--	--	--	--	--	AUP	--	
Dry Cleaning and Laundry Plant	UP(PH)	UP(PH)	NP	--	UP(PH)	NP	NP	NP	NP	UP(PH)	NP	NP	
Laboratory													
Commercial Physical or Biological	AUP	AUP	NP	NP	NP	NP	NP	NP	NP	AUP	NP	NP	
Cannabis Testing	AUP	AUP	NP	NP	NP	NP	NP	NP	NP	AUP	AUP [9]	NP	
Manufacturing													
Construction Products	--	--	--	--	--	--	--	--	--	--	UP(PH)	--	
Light Manufacturing	--	--	--	--	--	--	--	--	--	--	AUP [8]	--	
Pesticides/Herbicides/Fertilizers	--	--	--	--	--	--	--	--	--	--	UP(PH)	--	
Petroleum Refining and Products	--	--	--	--	--	--	--	--	--	--	UP(PH)	--	
Pharmaceuticals	--	--	--	--	--	--	--	--	--	--	UP(PH)	--	
Primary Production Manufacturing	--	--	--	--	NP	--	--	--	--	--	UP(PH)	--	
Semiconductors	--	--	--	--	NP	--	--	--	--	--	UP(PH)	--	
Material Recovery Enterprise	--	--	--	--	--	--	--	--	--	--	--	--	
Media Production	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	AUP	UP(PH)	23.204.130.B.4
Mini-storage	UP(PH)	NP	NP	NP	NP	NP	NP	--	UP(PH)	NP	NP		
Recycled Materials Processing	--	--	--	--	--	--	--	--	--	--	--	--	
Recycling Redemption Center	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	
Repair Service, Non-Vehicle	--	--	--	--	--	--	--	--	--	--	AUP	--	
Research and Development	--	--	--	--	--	--	--	--	--	--	AUP--	--	
Services to Buildings and Dwellings	--	--	--	--	--	--	--	--	--	--	AUP	--	
Warehouse	UP(PH)	NP	NP	NP	NP	NP	NP	--	UP(PH)	NP	NP		
Warehouse-Based Non-Store Retailer	--	--	--	--	--	--	--	--	--	--	--	--	
Wholesale Trade	--	--	--	--	--	--	--	--	--	--	AUP [8]	--	
<b>Incidental Uses</b>													
Amusement Devices	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	UP(PH)	23.302.070.B
Alcoholic Beverage Service	See 23.310												
Cafeteria, On-Site	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	AUP	UP(PH)	
Columbaria	See 23.302.070.C												
Food and Beverage for Immediate Consumption	ZC	ZC	AUP	UP(PH)	UP(PH)	ZC	AUP	UP(PH)	ZC	ZC	ZC		
Food Service Establishment	See 23.302.070.E												
Live Entertainment	See 23.302.020.D												
Manufacturing	AUP	AUP	UP(PH)	UP(PH)	NP	UP(PH)	AUP	AUP	AUP	AUP	AUP	AUP	
Retail Sale of Goods Manufactured On-Site	ZC [1]	ZC [1]	ZC [2]	ZC [2]	ZC [2]	ZC [1]	ZC	ZC [2]	ZC	AUP	ZC		
Storage of Goods (>25% gross floor area)	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP	23.302.020.C
Wholesale Activities	AUP*	AUP*	UP(PH)*	UP(PH)*	NP	AUP*	AUP*	AUP*	AUP*	AUP*	AUP	AUP	23.204.080.B.3

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS	
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC		
<b>Other Miscellaneous Uses</b>													
Art/Craft Studio	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	ZC [6]	
ATM, Exterior and Attached to Bank	AUP	AUP	AUP	UP(PH)	AUP	AUP	AUP	AUP*	AUP	AUP	AUP	AUP	23.204.120.B.2
ATM, Interior or Exterior and Not With Bank	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)*	AUP	UP(PH)	UP(PH)	23.204.130.B.2
Circus/Carnival	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Drive-in Uses	UP(PH)	NP	NP	NP	UP(PH)	UP(PH)	NP	UP(PH)	NP	NP	UP(PH)	UP(PH)	
Home Occupations	See 23.302.040												
Live/Work	See 23.312												
Parking Lot/Structure	See 23.302.070.G												
Public Market, Open Air	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	UP(PH)	AUP	AUP	
Public Market, Enclosed	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP [9]	AUP	AUP	
Short-Term Rental	See 23.314			NP	See 23.314			NP	See 23.314			NP	
Urban Agriculture, Low-Impact	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC	ZC	ZC	23.318
Urban Agriculture, High-Impact	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP	AUP	AUP	23.318
Wireless Telecommunication Facility	See 23.332—Wireless Communication Facilities												
Notes: [1] Change of use of floor area over 3,000 square feet requires an AUP. Change of use of floor area over 2,000 square feet requires an AUP. Requires an AUP for uses 3,500 sq. ft. to 7,500 square feet. Requires a Use Permit for uses more than 7,500 sq. ft. Requires a Use Permit if 5,000 sq. ft. or more. Requires an AUP for uses 3,000 sq. ft. to 5,000 square feet. Requires a Use Permit for uses more than 5,000 sq. ft. Requires an AUP for uses 2,500 sq. ft. or greater or 50 ft. wide or greater on Shattuck, between Ward and Russell; Adeline between Russell and the City boundary; on Ashby, east of Adeline; or on the north side of Ashby, west of Adeline. Requires a Use Permit if 7,500 square feet or more. Require a Use Permit if either 5,000 sq. ft. or more of floor area or 10,000 square feet or more of lot area. Requires a Use Permit if more than 10,000 sq. ft.													

**Section 3.** That Berkeley Municipal Code 23.204.030 is hereby amended as follows:

**23.204.030 Additional Permit Requirements.**

**~~A.—Change of Use.~~**

~~1.— Uses subject to additional permit requirements with a change of use are shown in Table 23.204-1: Allowed Uses in the Commercial Districts with a note [1] or [2] following the permit requirement (e.g., ZC [1]).~~

~~2.— A change of use means a change to a different category of commercial or manufacturing use but does not include changes between uses that are classified in the same category of commercial or manufacturing use. For example, changing a pet store (in "Retail Use" category) to a medical practitioner (in "Offices" category) is subject to change~~

~~of use permit requirements in Table 23.204-1. Changing a pet store to general retail (also in "Retail Use" category) is not subject to the change of use permit requirements.~~

**BA. New Floor Area.**

1. *When Permit is Required.* A project that creates new floor area for any use requires permits as shown in Table 23.204-2: New Floor Area Permit Requirements. Creation of new floor area includes:

- (a) Construction of new main buildings or accessory buildings;
- (b) Additions to existing buildings; or
- (c) The installation of new floor or mezzanine levels within or onto existing buildings.

Table 23.204-2. NEW FLOOR AREA PERMIT REQUIREMENTS

DISTRICT/NEW GROSS FLOOR AREA	PERMIT REQUIRED FOR NEW FLOOR AREA
C-C, C-U	
Less than 5,000 sq. ft.	ZC
5,000 sq. ft. or more	UP(PH)
C-N, C-E, C-SO (any amount of new floor area)	UP(PH)
C-NS	
Less than 2,000 sq. ft.	ZC
2,000 sq. ft. or more	UP(PH)
C-SA	
Less than 3,000 sq. ft.	ZC
3,000 sq. ft. or more	UP(PH)
C-T	--
Less than 1,500 sq. ft.	AUP
1,500 sq. ft. or more	UP(PH)
C-DMU	
Less than 10,000 sq. ft.	ZC
10,000 sq. ft. or more	UP(PH)

DISTRICT/NEW GROSS FLOOR AREA	PERMIT REQUIRED FOR NEW FLOOR AREA
C-W	
5,000 sq. ft. or more except when an AUP is required below	UP(PH)
7,500 sq. ft. or less in a building containing only retail uses	AUP
20,000 sq. ft. or less in a building with residential and retail space that is more than 15% and less than 33% of the floor area being created	AUP
C-AC	
New Main Building or New Dwelling Unit	UP(PH)
Addition of 5,000 sq ft or more	UP(PH)

2. *C-DMU Findings.* To approve a Use Permit for new floor area in the C-DMU district, the ZAB must find that:
  - (a) The addition or new building is compatible with the visual character and form of the district; and
  - (b) No designated landmark structure, structure of merit, or historic district in the vicinity would be adversely affected by the appearance or design of the proposed addition.
  
3. *C-W Findings.* To approve an AUP or Use Permit for new floor area in the C-W district, the review authority must find that the new use or structure provides an intensity of development which does not underutilize the property.
  
4. *C-AC Findings.* To approve a Use Permit for new floor area in the C-AC district, the review authority must find that the proposed use or structure will:
  - (a) Be compatible with the purposes of the District;
  - (b) Be compatible with the design and character within the District and the adjacent residential neighborhoods;
  - (c) Encourage utilization of public transit and off-street parking facilities in the area of the proposed building; and
  - (d) If a new residential development, that the proposed use or structure facilitates construction of affordable housing as defined by the US Department of Housing and Urban Development (HUD) Guidelines.

**CB.** *Tenant Space Reconfiguration.*

1. Reconfiguration of tenant space in an existing building requires a permit as listed in Table 23.204-3: Tenant Space Reconfiguration Permit Requirements.
2. As used in this section, tenant reconfiguration means any physical change to an existing building’s walls separating leased spaces so as to change:
  - (a) The number of lease spaces for commercial businesses; or
  - (b) The square footage of leasable floor area of an existing commercial lease space.

Table 23.204-3. TENANT SPACE RECONFIGURATION PERMIT REQUIREMENTS

District	Permit Required for Tenant Space Reconfiguration Project
C-C, C-U	
Less than 5,000 sq. ft.	ZC
5,000 sq. ft. or greater	AUP
C-N, C-E, C-NS, C-SO (All reconfiguration projects)	AUP
C-SA, C-DMU, C-AC	No additional permit required
C-T	
Increasing the number of individual tenant spaces	ZC
5,000 sq. ft. or greater	AUP
Creating a tenant space less than 1,000 sq. ft.	AUP
C-W	
Less than 5,000 sq. ft	ZC
In existing buildings in a designated node affecting 5,000 sq. ft. or greater	AUP

**DC.** *Major Residential Additions.*

1. *Where Allowed/Required Permits.*
  - (a) Major residential additions in the C-W district require an AUP.

(b) No additional permits are required for major residential additions in all other C districts.

2. *Findings.* To deny an AUP for a major residential addition in the C-W district, the review authority must find that although the proposed major residential addition satisfies all other standards of the Zoning Ordinance, the addition would unreasonably obstruct sunlight, air, or views.

**ED.** *Changes to Nonconforming Structures.* See Section [23.324.050](#)--Nonconforming Structures and Buildings for permits required to modify structures that do not conform to setback, height, and other development standards.

**FE.** *Accessory Structures.* For accessory structure permit requirements, see the following:

1. Section [23.304.060](#)--Accessory Buildings and Enclosed Accessory Structures.
2. Section [23.304.070](#)--Unenclosed Accessory Structures in Residential Districts.
3. Section [23.304.080](#)--Fences. (Ord. 7787-NS § 2 (Exh. A), 2021)

Section 4. That the Berkeley Municipal Code 23.204.130.E.6 is hereby amended as follows:

6. *Open Space Alternatives.*

- a. In lieu of providing the open space required by this section on-site, an applicant may either:
  - i. Pay an in-lieu fee to help fund the Streets and Open Space Improvement Plan (SOSIP); and/or
  - ii. Construct public improvement consistent with the SOSIP.
- b. Payment of a ~~n in-lieu fee~~ in lieu of providing publicly accessible open space requires a Use Permit. To allow payment of an in-lieu fee, the ZAB must find that the payment will support timely development of open space improvements that will serve the needs of ~~both~~ project residents and other people living in and using the downtown.
- c. Construction of public improvements consistent with the SOSIP in lieu of open space requires a Use Permit. To allow construction of public improvements, the ZAB must find that the public improvements:
  - i. Will be located within the vicinity of the project and are consistent with the SOSIP;

- ii. Will be coordinated with other ongoing or approved SOSIP or other right-of-way improvements in the vicinity, and will not create a hazardous situation or an unusual appearance in the downtown; and
- iii. Will be finished before issuance of a certificate of occupancy for the project, unless otherwise allowed by the project conditions of approval.

Section 5. That Berkeley Municipal Code 23.206.202 Figure 23.206-6 is hereby amended as follows:

**TABLE 23.206-6: PERMITS REQUIRED FOR CHANGES TO PROTECTED LAND USES**

Zoning District	Change to Protected Use	Permit Required
MM	Change any amount of ground-floor protected use to a non-protected use	UP(PH)
MU-LI	Change <del>less than or equal to</del> 20,000 sq. ft. or less <del>than or equal to and</del> 25% of protected use to a non-protected use	AUP
	Change over 20,000 sq. ft. or <del>over</del> 25% of protected use to a non-protected use	UP(PH)

Section 6. That Berkeley Municipal Code Section 23.302.030.D.3.d is amended to read as follows:

- (d) Permits issued pursuant to this subsection must be posted in plain view within the commercial establishment for which the permit has been issued

Section 7. That Berkeley Municipal Code Section 23.302.070.E.3 is amended as follows:

- 3. *Notification of Decision.* Food service establishments requiring an AUP in the C-N, C-E, C-NS, C-SA, ~~C-T~~, C-SO districts must provide public notification of decision (NOD) within a 300-foot radius of the subject property.

Section 8. That Berkeley Municipal Code Section 23.404.040.C is amended as follows:

**C. Public Notice for Zoning Ordinance Amendments.**

- 1. **When Required.** Public notice shall be given as required by this section for Planning Commission and City Council hearings on proposed Zoning Ordinance Amendments.

2. **Content of Notice.** Notice of a public hearing shall contain the following information:
  - a. The date, location, and time of the hearing.
  - b. A written description of the proposed amendment.
  - c. A map showing the location of a proposed Zoning Map amendment, if applicable.
  - d. The environmental review status under the California Environmental Quality Act (CEQA).
  - e. Directions on how to obtain further information about the proposed amendment or hearing.
  - f. Instructions to submit written comments on the proposed amendment.
3. **Timing of Notice.** Notice shall be provided at least ~~14~~10 days before the hearing unless a longer notice period is required by state law. The Planning Commission or City Council may require an extended notice period for applications of major significance.
4. **All Zoning Ordinance Amendments.** The following notice requirements apply to all Zoning Ordinance Amendments.
  - a. Notice shall be posted at the Civic Center (Old City Hall) and in the lobby of the Permit Service Center.
  - b. Notice shall be mailed to:
    - i. Neighborhood and community organizations with a registered interest in receiving notice of the proposed amendment. See Section 23.404.040.E (Public Notice).
    - ii. The City of Berkeley Central Library; and
    - iii. Any person who has filed a written request for notice.
5. **Zoning Ordinance Text Amendments.** In addition to requirements in Paragraph 4 (All Zoning Ordinance Amendments) above, notice of a Zoning Ordinance Text Amendment shall be published in a newspaper of general circulation in the city:
  - ~~a. At least 14 days before the hearing; and then again~~
  - ~~b. At~~at least 7 days before the hearing.
6. **Zoning Ordinance Map Amendments.** The following notice requirements apply to Zoning Ordinance Map Amendments in addition to requirements in Paragraph 4 (All Zoning Ordinance Amendments) above.



- a. **Less the 5 Acres.** For Zoning Map Amendments affecting an area less than 5 acres, public notice shall be:
  - i. Posted at three visible locations in the vicinity of the subject property; and
  - ii. Mailed to subject property owners, residents and tenants of the subject property, and all property owners, residents, and tenants within 300 feet of any part of the subject property.
- b. **5 Acres or More.** For Zoning Map Amendments affecting an area 5 acres or more, public notice shall be:
  - i. Posted on each street frontage adjacent to the subject property.
  - ii. Mailed to all property owners, residents, and tenants within the subject property.
  - iii. Published twice in a newspaper of general circulation in the city at least 14 days before the hearing, and then again at least 7 days before the hearing.
7. **Additional Notice.** The Zoning Officer, Planning Commission, and City Council may require additional public notice as determined necessary or desirable.
8. **Failure to Receive Notice.** The validity of the hearing shall not be affected by the failure of any property owner, resident, tenant, or neighborhood or community organization to receive a mailed notice.

Section 9. That Berkeley Municipal Code Section 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 homes must be incidental to a residential use. ~~The day care operator must live in the primary dwelling on the lot. and 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 homes for eight or fewer children, including children who live at the home.
  - b. **Large Family Day Care Home.** A family day care homes for nine to fourteen children, including children who live at the home.

Section 10: 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.

**BASELINE ZONING ORDINANCE CONSENT CHANGES MATRIX**

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

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

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

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

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

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



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

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

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

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

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

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



**Planning and Development Department**  
Land Use Planning Division

## STAFF REPORT

DATE: April 6, 2022

TO: Members of the Planning Commission

FROM: Justin Horner, Associate Planner

SUBJECT: Public Hearing on Zoning Ordinance Amendments that Address Technical Edits and Corrections to Berkeley Municipal Code (BMC) Title 23 – Package #2

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### RECOMMENDATION:

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

- BMC Section 23.202.140 (R-SMU Zoning District)
- BMC Section 23.204.020 (Commercial Districts -- Allowed Land Uses)
- BMC Section 23.204.030 (Additional Permit Requirements)
- BMC Section 23.204.060 (C-U Zoning District)
- BMC Section 23.204.130 (C-DMU District)
- BMC Section 23.206.202 (Manufacturing Districts – Allowed Land Uses)
- BMC Section 23.302.030 (Temporary Uses and Structures)
- BMC Section 23.302.070 (Use-Specific Regulations)
- BMC Section 23.404.040 (Public Notice)
- BMC Section 23.502.020 (Glossary)

### BACKGROUND

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

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

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

## PROPOSED ZONING ORDINANCE AMENDMENTS

Since the new Zoning Ordinance came into effect on December 1, 2021, a number of clean-up amendments have been identified. The project team anticipated technical edits and corrections during the roll-out of the new Zoning Ordinance and was prepared with an efficient process and schedule for addressing these requests. This report is the product of that process and is labeled "Package #2" because it is the second set of edits to come before Planning Commission. Future reports will be numbered accordingly.

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

### Category One Zoning Ordinance Amendments

#### **1. BMC Section 23.202.140 (R-SMU Zoning District)**

**Old Zoning Ordinance:** Section 23D.52.070 of the old Zoning Ordinance regulated height requirements for Main Buildings in the R-SMU. The Section set a maximum height of 60 feet, but provides for heights above that maximum with a Use Permit. The maximum height attainable with a Use Permit depended upon a parcel's location in the R-SMU District:

- Within the portions of the District located east of Telegraph Avenue and/or more than 130 feet south of Bancroft Way, the Board may approve a Use Permit to increase a project's maximum height to five stories and 65 feet;
- Within the portion of the District located west of Telegraph Avenue and within 130 feet from Bancroft Way, the Zoning Board may approve a Use Permit to increase a project's maximum height to five stories and 75 feet.

**New Zoning Ordinance:** Figure 23.202-2 in the new Zoning Ordinance includes a map of R-SMU subareas. The map does not accurately represent the subarea boundaries created to reflect the text above from the old Zoning Ordinance. The parcels in Figure 23.202-2 that are not assigned to any subarea should be assigned to Height Sub Area Two.



**Proposed Amendment:** Amend Figure 23.202-2 to accurately read:

**Figure 23.202-2: R-SMU Subareas**



**2. BMC Section 23.204.030 (Commercial Districts – Additional Permit Requirements)**

**Old Zoning Ordinance:** Section 23E.64.030 (C-W District – Uses Permitted) of the old Zoning Ordinance did not include Research and Development in the C-W Uses Permitted Table. Section 23E.64.303.C indicates that a use not listed in the Uses Permitted Table may be permitted with an AUP if found to be consistent with the purposes of the C-W district.

**New Zoning Ordinance:** This provision was not accurately carried over into [Table 23.204-1: Allowed Land Uses in the Commercial Districts](#) in the new Zoning Ordinance. Table 23.204-1 indicates that Research and Development is permitted in the C-W with an AUP when it should be a use not listed (denoted with a "--").

**Proposed Amendment:** Amend [Table 23.204-1: Allowed Uses in Commercial Districts](#) to read:

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see <b>Error!</b> <b>Reference source not                      found.(B)</b> [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE- SPECIFI C REGULA TIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Research and Development	--	--	--	--	--	--	--	--	--	AUP =	--	

**3. BMC Section 23.204.130 (C-DMU Zoning District)**

**Old Zoning Ordinance:** Section 23E.68.070.D of the old Zoning Ordinance included provisions regulating required on-site open space. Section 23E.68.070.D.3 allowed a project to meet their on-site open space requirement by either constructing improvements consistent with the Streets and Open Space Improvement Plan (SOSIP) or paying an appropriate in-lieu fee towards similar improvements. Either option required a Use Permit.

**New Zoning Ordinance:** [Section 23.204.130.E.6](#) of the new Zoning Ordinance includes the option to construct or fund construction improvements consistent with the SOSIP, but does not include the requirement to obtain a Use Permit.

**Proposed Amendment:** Amend [Section 23.204.130.E.6](#) to read:

**6. Open Space Alternatives.**

(a) In lieu of providing the open space required by this section on-site, an applicant may either:

- i. Pay an in-lieu fee to help fund the Streets and Open Space Improvement Plan (SOSIP); and/or
- ii. Construct public improvement consistent with the SOSIP.

(b) Payment of an in-lieu fee in lieu of open space requires a Use Permit. To allow payment of in-lieu fee, the ZAB must find that the payment will support timely development of open space improvements that will serve the needs of both project residents and other people living in and using the downtown.

(c) Construction of public improvements consistent with the SOSIP in lieu of open space requires a Use Permit. To allow construction of public improvements, the ZAB must find that the public improvements...

**4. BMC Section 23.302.070 (Use Specific Regulations – Food Service Establishments)**

**Old Zoning Ordinance:** Table 23E.56.030 of the old Zoning Ordinance indicated that uses established by an AUP in the C-T district require public notification of a decision within a 300-foot radius of the subject property.

**New Zoning Ordinance:** [Section 23.302.070.E.3](#) of the new Zoning Ordinance identifies the zoning districts in which a public notification is required for food service establishments that receive an AUP. The C-T district is missing from the list.

**Proposed Amendment:** Amend [Section 23.302.070.E.3](#) to read:

3. *Notification of Decision.* Food service establishments requiring an AUP in the C-N, C-E, C-NS, C-SA, **C-T**, C-SO districts must provide public notification of decision (NOD) within a 300-foot radius of the subject property.

**5. BMC Section 23.404.040 (Public Notice)**

**Old Zoning Ordinance:** Pursuant to [California Government Code Section 65090](#), amendments to the Zoning Ordinance require a public hearing, with a 10 day public notice.

**New Zoning Ordinance:** [Section 23.404.040.C.3](#) of the new Zoning Ordinance indicates that a public hearing notice must be provided 14 days prior to a public hearing

**Proposed Amendment:** Amend [Section 23.404.040.C.3](#) to read:

3. *Timing of Notice.* Notice shall be provided at least **14 10** days before the hearing unless a longer notice period is required by state law. The Planning Commission or City Council may require an extended notice period for applications of major significance.

**6. BMC Section 23.404.040 (Public Notice)**

**Old Zoning Ordinance:** Pursuant to [California Government Code Section 65090](#), amendments to the Zoning Ordinance require a public hearing, with a 10 day public notice and the publication of a public hearing notice (PHN) in a newspaper of general circulation no more than 7 days prior to the public hearing.

In addition to the requirement above, pursuant to section 23A.20.030 of the old Zoning Ordinance, the following public notices were required for amendments to the Zoning **Map:**

- For a zoning map amendment of less than 5 acres, a PHN must be posted at 3 locations near the subject property no fewer than 14 days before the hearing, and a mailing to property owners, residents, tenants and neighborhood associations within 300 feet of the property no fewer than 14 days before the hearing.
- For a zoning map amendment of 5 acres or more, a PHN must be posted on each block front involved no fewer than 14 days prior to the hearing; a mailing to

all owners, tenants and residents occupying the subject property no fewer than 14 days before the hearing; and the publication of the PHN in a newspaper of general circulation **14 days prior to the hearing and, again, 7 days prior to the hearing.** [*emphases added*]

**New Zoning Ordinance:** [Section 23.404.040.C.5](#) of the new Zoning Ordinance indicates that text amendments to the Zoning Ordinance must be published in a newspaper of general circulation both 14 days and 7 days prior to a public hearing. The double-publication requirement only applies to amendments to the Zoning Map of 5 acres or more.

**Proposed Amendment:** Amend [Section 23.404.040.C.5](#) to read:

5. *Zoning Ordinance Text Amendments.* In addition to requirements in Paragraph [4](#) (All Zoning Ordinance Amendments) above, notice of a Zoning Ordinance Text Amendment shall be published in a newspaper of general circulation in the city at

~~(a) At least 14 days before the hearing; and then again~~

~~(b) At~~ least 7 days before the hearing.

## **7. BMC Section 23.502.020 (Glossary)**

**New Zoning Ordinance:** The Glossary includes the following definition for [Family Day Care Home](#) (*emphasis added*):

*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 homes must be incidental to a residential use. The day care operator must live in the *primary dwelling* on the lot.

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

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

The definition is imprecise, however, as there is no definition of “primary dwelling” in the Zoning Ordinance.

**Proposed Amendment:** Amend the definition of Family Day Care Home in the Glossary to read:

*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 homes must be incidental to a residential use and

must be operated in the dwelling unit or accessory building where the family day care operator resides. ~~The day care operator must live in the primary dwelling on the lot.~~

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

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

**Category Two Zoning Ordinance Amendments**

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

**Table 1: Text Edits and Other Routine Amendments**

Zoning Ordinance Section	Proposed Amendment	Rationale											
<a href="#">23.204.030</a> (Additional Permit Requirements—Commercial Districts)	Remove definition of Change of Use	Glossary already contains exact same definition language. Stating it twice raises the opportunity for discrepancies in future updates. One location for definitions is best practice.											
<a href="#">Table 23.204-12</a> (C-U Setback Standards)	Lots on <del>south</del> north side of University Avenue	Parcels on the north side of University Avenue are subject to C-U Solar Access Standards, not on the south side.											
<a href="#">Table 23.206-6</a> (Permits Required for Changes to Protected Land Uses)	<table border="1"> <thead> <tr> <th>Zoning District</th> <th>Change to Protected Use</th> <th>Permit Required</th> </tr> </thead> <tbody> <tr> <td>MM</td> <td>Change any amount of ground-floor protected use to a non-protected use</td> <td>UP(PH)</td> </tr> <tr> <td rowspan="2">MU-LI</td> <td>Change <del>less than or equal to</del> 20,000 sq. ft. or less <del>than or equal to and</del> 25% of protected use to a non-protected use</td> <td>AUP</td> </tr> <tr> <td>Change over 20,000 sq. ft. or <del>over</del> 25% of protected use to a non-protected use</td> <td>UP(PH)</td> </tr> </tbody> </table>	Zoning District	Change to Protected Use	Permit Required	MM	Change any amount of ground-floor protected use to a non-protected use	UP(PH)	MU-LI	Change <del>less than or equal to</del> 20,000 sq. ft. or less <del>than or equal to and</del> 25% of protected use to a non-protected use	AUP	Change over 20,000 sq. ft. or <del>over</del> 25% of protected use to a non-protected use	UP(PH)	Clarification of appropriate thresholds.
	Zoning District	Change to Protected Use	Permit Required										
	MM	Change any amount of ground-floor protected use to a non-protected use	UP(PH)										
	MU-LI	Change <del>less than or equal to</del> 20,000 sq. ft. or less <del>than or equal to and</del> 25% of protected use to a non-protected use	AUP										
Change over 20,000 sq. ft. or <del>over</del> 25% of protected use to a non-protected use		UP(PH)											

<a href="#">23.302.030.D.3.d</a> (Temporary Outdoor Uses on Private Property – COVID Local Emergency)	(d) Permits issued pursuant to this subsection must be posted in plain view within the commercial establishment for which the permit has been issued.	Spelling correction
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**NEXT STEPS**

Staff recommends that the Planning Commission hold a public hearing, receive public testimony, and recommend to City Council adoption of the proposed Zoning Ordinance amendments.

**ATTACHMENTS**

1. Ordinance – Zoning Ordinance Amendments
2. Consent Changes Matrix
3. Public Hearing Notice

**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL**

**Zoning Ordinance Amendments Making Technical Edits and Corrections to the Berkeley Municipal Code Sections 23.202.140 (R-SMU Zoning District); 23.204.020 (Allowed Land Uses); 23.204.030 (Additional Permit Requirements); 23.204.060 (C-U Zoning District); 23.204.130 (C-DMU District); 23.206.202 (Manufacturing Districts – Allowed Land Uses); 23.302.030 (Temporary Uses and Structures); 23.302.070 (Use-Specific Regulations); 23.404.040 (Public Notice); 23.502.020 (Glossary)**

**PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY**

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

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

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

The hearing will be held via videoconference pursuant to Government Code Section 54953(e) and the state declared emergency.

The hearing will be held on **Tuesday, July 12, 2022 at 6:00 PM**. The hearing will be held via videoconference pursuant to Government Code Section 54953(e) and the state declared emergency.

A copy of the agenda material for this hearing will be available on the City’s website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **June 30, 2022**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

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

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

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Published:** Friday, July 1, 2022 per California Government Code Sections 65856(a) and 65090.

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on June 30, 2022.

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Mark Numainville, City Clerk