ORDINANCE NO. 7,753-N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 23C.16 AND AMENDING BERKELEY MUNICIPAL CODE SECTIONS 23E.84.090, 23D.16.030, 23D.20.030, 23D.28.030, 23D.32.030, 23D.36.030, 23D.40.030, 23D.44.030, 23D.48.030, 23D.52.030, 23E.64.030, 23E.84.030, AND 23F.04.10 TO MODIFY THE HOME OCCUPATIONS ORDINANCE.

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

Section 1. That Berkeley Municipal Code Chapter 23C.16 [Home Occupations] is amended as follows:

Chapter 23C.16: Home Occupations

Sections:

23C.16.010 General Requirements
23C.16.020 Permit Requirements
23C.16.030 Findings
23C.16.040 Complaints and Imposition of Conditions

23C.16.010 General Requirements

A. The establishment of a Home Occupation in compliance with this Chapter shall not be considered a Change of Use of a primary residence, but rather shall be considered a lawful Incidental Use thereof.

B. Home Occupations are subject to the following requirements:

1. A Home Occupation is allowed as an incidental use within a Dwelling Unit, Accessory Dwelling Unit, Accessory Building, or Group Living Accommodation room.
2. No Firearm/Munitions Business may operate as a Home Occupation.
3. Customer visits are not allowed in the ES-R District.
4. A Home Occupation may occupy no more than the greater of: 400 square feet or 20 percent of the gross floor area of the Dwelling Unit, Accessory Dwelling Unit, Accessory Building, or Group Living Accommodation room from which it operates.

5. Only residents of the subject Dwelling Unit, Accessory Dwelling Unit or Group Living Accommodation room, who live in the unit or room full time, may operate a Home Occupation business.
6. Customer visits may occur only between the hours of 10 a.m. and 8 p.m.
7. Storage, services, repairs and other business activities, other than permitted arrival and departure of customers and goods in transit, may not be conducted outdoors.
8. A Home Occupation shall not involve hazardous materials or waste as defined by Section 15.08.060, or any other materials or waste that is deemed by the Hazardous Material Manager (or their designee or successor) to be inappropriate or unsafe for a residential setting.
9. A Home Occupation shall not create offensive or objectionable noise, vibration, odors, smoke, heat, dirt, or electrical or other disturbance perceptible by the average person beyond the unit in which the Home Occupation is permitted.
10. No on-site signs identifying or advertising the Home Occupation, are allowed.
11. The operator of a Home Occupation shall pay gross receipts taxes pursuant to the City's business license tax ordinance as set forth in Chapter 9.04.
12. A lessee in possession of a property may apply for a Permit without the property owner's signature; however Home Occupations are not exempt from conditions in rental and lease agreements which may limit or prohibit Home Occupations.

23C.16.020 Permit Requirements (See 23F.04 for Home Occupation definitions.)

A. A Class I Home Occupation is allowed subject to a Zoning Certificate.
B. A Class II Home Occupation is allowed subject to issuance of an Administrative Use Permit.
C. A Class III Home Occupation is allowed subject to issuance of a Use Permit (Public Hearing).

23C.16.030 Findings

In addition to the findings set forth in Section 23B.28.050 and Section 23B.32.040, in order to approve an Administrative Use Permit for a Class II Home Occupation or a Use Permit (Public Hearing) for a Class III Home Occupation, the Zoning Officer or Board must find, based on the circumstances of the specific use and property:

1. The degree of customer visits will not cause a significant detrimental impact on the availability of parking spaces in the immediate vicinity of the Home Occupation; and

2. The degree of shipping and delivery activity to and from the subject residence will be compatible with surrounding residential uses and will not cause a significant detrimental impact on pedestrian and bicyclist safety or the availability of parking spaces in the immediate vicinity of the Home Occupation; and

3. If the proposed Home Occupation will require a loading space on a regular basis, such loading space will be available on the subject property or the use of an on-street loading space will not cause a significant detrimental impact on pedestrian and bicyclist safety or the availability of parking spaces in the immediate vicinity of the Home Occupation.

4. The degree of customer visits and shipping and delivery activities shall not cause a detrimental impact to public safety, as determined by the Fire Marshal.

23C.16.040 Complaints and Imposition of Conditions

Home Occupations are subject to review, the imposition of conditions, or revocation.

A. Violations may be addressed by issuing an administrative citation pursuant to Chapter 1.28.

B. The Zoning Officer shall review documented complaints, business operations, and other factors when reviewing Class I and II Home Occupations, and may impose conditions as may be necessary to prevent detrimental effects, or may revoke the permit in the event adequate conditions of approval are not available.

The Zoning Adjustments Board shall review documented complaints, business operations, and other factors when reviewing Class III Home Occupations and may

impose conditions as may be necessary to prevent detrimental effects, or may revoke the permit in the event adequate conditions of approval are not available.

Section 2. That Berkeley Municipal Code Section 23E.84.090 [Findings] is amended as follows:

23E.84.090 Findings

A. In order to approve any Use Permit under this chapter the Zoning Officer or Board must make the finding required by Section 23B.32.040. The Zoning Officer or Board must also make the findings required by the following paragraphs of this section to the extent applicable:

B. A proposed use or structure must:

1. Be consistent with the purposes of the District;

2. Be consistent with the normal use and operation of surrounding uses and buildings, including residential and industrial buildings;

3. Be consistent with the adopted West Berkeley Plan;

4. Not be likely, under reasonably foreseeable circumstances, to either induce or contribute to a cumulative change of use in buildings away from residential; live/work; light industrial, or arts and crafts uses;

5. Be designed in such a manner to be supportive of the character and purposes of the District; and

6. Be able to meet any applicable performance standards as described in Section 23E.84.070.H.

C. In order to approve a Use Permit under Section 23E.84.040, the Zoning Officer or Board must find that the space formerly occupied by the protected use has been replaced with a comparable space in the West Berkeley Plan area, which is reserved for use by any protected use in the same category:

1. For purposes of this section, such replacement space shall not qualify for exemption under Section 23E.84.040.I or by reason of having been established after July 6, 1989;

2. In considering whether a project will be detrimental, consideration shall be limited to the potential detriment associated with the new use, and dislocation of any specific previous occupant or use shall not be a basis for finding detriment.

D. In order to approve a Use Permit for the establishment or expansion of Live/Work Units in this District, the Zoning Officer or Board must make all applicable findings for approval of Live/Work Units required by Section 23E.20.090 and must also make the following findings:

1. Establishment of Live/Work Unit will not interfere with the lawful operation of manufacturers and other industries existing in or adjacent to the District, and will not impede the lawful future establishment of manufacturers and other industries permitted under the West Berkeley Plan;

2. The applicant has recorded with the County Recorder a statement acknowledging that the Live/Work Unit is being established in a District where manufacturers and other industries operate lawfully and that they will not seek to impede their lawful operation. In addition, the applicant will require any tenants to sign such a statement, and require all persons purchasing Live/Work Units to sign and record such a statement;

3. If the applicant is proposing to change one or more dwelling units to Live/Work Units, that the elimination of dwelling unit(s) and the change of use would not be materially detrimental to the housing needs and public interest of the affected neighborhood and the City.

E. In order to approve a Use Permit for a change of use from manufacturing, wholesale trade, or warehouse space to another use, the Zoning Officer or Board must make both of the following findings:

1. The change of use of the space 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;

2. Appropriate mitigation pursuant to a payment schedule adopted by resolution has been made for loss of the manufacturing space through providing such space elsewhere in Berkeley, through payment into the West Berkeley Building Acquisition Fund, or by other appropriate means as determined by the Zoning Officer or the Board. However, no mitigation shall be required for manufacturing, warehousing, or wholesale trade space which is less than or equal to 25% of the floor area currently or most recently used for manufacturing, warehousing or wholesale trade.

F. In order to approve a Permit for the establishment or expansion of a food service use, the Zoning Officer or Board must find that the establishment of the food service use, given its size, location, physical appearance and other relevant characteristics, will not have a significant detrimental impact on the industrial or residential character of the area. In order to approve an Administrative Use Permit for a Food Service Establishment less than 5,000 square feet, the Zoning Officer must find that a substantial portion of the food consists of goods manufactured on site.

G. In order to approve an Administrative Use Permit or Use Permit for a Home Occupation with customer visits and/or shipping and handling of goods, the Zoning Officer or Board must make the findings set forth in Section 23C.16.030.

H. In order to approve a Use Permit for the establishment or expansion of a school, child care center, or recreational or educational facility to be used by children, the Zoning Officer or Board must make all of the following findings:

1. Development of the school, child care center, or recreational facility to be used by children is not, in the particular circumstances of the project, incompatible with adjacent and nearby uses;

2. An appropriate risk analysis or risk assessment, as defined by the City, has been made and has shown that there is not significant risk to children in the use from other activities near the site;

3. The applicants have made adequate provisions to ensure that all parents of students or children in the school, child care center, or recreational facility to be used by children will be notified in writing (on a form approved by the City) that the school is in the West Berkeley Plan MU-R District, and that light manufacturing is a permitted activity in the District and that Primary Production Manufacturing or Construction Products Manufacturing may be permitted uses in adjacent districts, including a requirement that each parent will indicate that they have read and understood this information by means of a written statement returned to the school or child care center and available for review.

I. In order to approve a Use Permit for the establishment or expansion of a mixed use containing a residential use the Zoning Officer or Board must find that the specific combination of residential and non-residential use proposed by the applicant will not be hazardous or detrimental, either to persons living and/or working on the site, or to persons living or working in its vicinity.

J. In order to approve a Use Permit for the substitution of bicycle and/or motorcycle parking under Section 23E.84.080.F, the Zoning Officer or Board must find that the substitution will not lead to an undue shortage of automobile parking spaces and that it can be reasonably expected that there will be demand for the bicycle and/or motorcycle parking spaces.

K. In order to approve a Use Permit for the establishment or expansion of a manufacturing use abutting one or more dwelling units located in the MU-R District, the Zoning Officer or Board must find:

1. The manufacturer is capable of meeting all applicable performance standards; and

2. Conditions of the Use Permit will specify all reasonable steps to minimize noise, odors, dust, vibration, glare and any other potential impacts on the abutting dwelling units.

L. 1. To deny a Use Permit to establish one or more dwelling units the Board must find that the proposed residential use would unreasonably interfere with existing or reasonably foreseeable adjacent land uses in the M and/or MM District, or that the existing or

reasonably foreseeable adjacent land uses in the M and/or MM District would have a material adverse effect on the proposed residential use. The owner(s) of record of the residential property shall also record an acknowledgement that existing or reasonably foreseeable adjacent land uses in the M and/or MM District may create noise, dust, odors, light/glare, and other impacts that shall not be considered a nuisance if they are developed and conducted pursuant to the standards of the District.

2. To deny an Administrative Use Permit for a major residential addition, the Zoning Officer must find that the proposed addition would unreasonably interfere with existing or reasonably foreseeable adjacent land uses in the M and/or MM District, or that the existing or reasonably foreseeable adjacent land uses in the M and/or MM District would have a material adverse effect on the use of the proposed addition. The owner(s) of record of the residential property shall also record an acknowledgement that existing or reasonably foreseeable adjacent land uses in the M and/or MM District may create noise, dust, odors, light/glare, and other impacts that shall not be considered a nuisance if they are developed and conducted pursuant to the standards of the District. (Ord. 7358-NS § 9, 2014; Ord. 7323-NS § 9, 2014; Ord. 7167-NS §§ 25 – 27, 2011; Ord. 6478-NS § 4 (part), 1999)

Section 3. That Berkeley Municipal Code Section 23F.04.010 is amended to revise the definitions of "Home Occupation" and "Home Occupation, Teaching-Related" as follows:

23F.04.010 Definitions

Home Occupation: A business use conducted on property developed with Residential use, which is incidental and secondary to the Residential use, does not change the residential character thereof, is limited so as not to substantially reduce the Residential use of the legally established dwelling, Accessory Dwelling Unit, Accessory Building, or Group Living Accommodation room and is operated only by the residents of the subject residence. There are three classification of Home Occupations. For the purposes of this section, a "customer" is considered a single paying customer, but may include more than one person receiving the services at the same time:

1. **Class I Home Occupation** - Involves no more than five customer visits per day, with no more than four persons receiving services at a time. This class does not allow shipping of goods directly from the subject residence.

2. **Class II Home Occupation** - Involves no more than ten customer visits per day, with no more than four persons receiving services at a time and no more than one non-resident engaging in business-related activities on-site. This class does not allow shipping of goods directly from the subject residence.

3. **Class III Home Occupation** - Involves more than ten customer visits per day, with no more than four persons receiving services at a time and no more than one non-resident engaging in business-related activities on-site and/or involves shipping of goods directly from the subject residence.

Section 4. That the "Accessory Uses and Structures" section of Table 23D.16.030 in Chapter 23D.16 Section 23D.16.030 of the Berkeley Municipal Code is amended to read as follows:

23D.16.030 Uses Permitted

Table 23D.16.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	

Table 23D.16.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
If six ft. or less in height	ZC	
Exceed six ft. in height	AUP	In required setbacks
Home Occupations		Subject to the requirements of Chapter 23C.16
Class I	ZC	
Class II	AUP	
Class II in the Hillside Overlay	Prohibited	
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	

Section 5. That the "Accessory Uses and Structures" section of Table 23D.20.030 in Chapter 23D.20 Section 23D.20.030 of the Berkeley Municipal Code is amended to read as follows:

23D.20.030 Uses Permitted

Table 23D.20.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required yards

Table 23D.20.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Home Occupations Class I Class II	 ZC AUP	Subject to the requirements of Chapter 23C.16
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	

Section 6. That the "Accessory Uses and Structures" section of Table 23D.28.030 in Chapter 23D.28 Section 23D.28.030 of the Berkeley Municipal Code is amended to read as follows:

23D.28.030 Uses Permitted

Table 23D.28.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	

Table 23D.28.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		Subject to the requirements of Chapter 23C.16
Class I	ZC	
Class II	AUP	
Class II in the Hillside Overlay	Prohibited	
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	

Section 7. That the "Accessory Uses and Structures" section of Table 23D.32.030 in Chapter 23D.32 Section 23D.32.030 of the Berkeley Municipal Code is amended to read as follows:

23D.32.030 Uses Permitted

Table 23D.32.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	

Table 23D.32.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		Subject to the requirements of Chapter 23C.16
Class I	ZC	
Class II	AUP	
Class II in the Hillside Overlay	Prohibited	
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	

Section 8. That the "Accessory Uses and Structures" section of Table 23D.36.030 in Chapter 23D.36 Section 23D.36.030 of the Berkeley Municipal Code is amended to read as follows:

23D.36.030 Uses Permitted

Table 23D.36.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08

Table 23D.36.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		Subject to the requirements of Chapter 23C.16
Class I	ZC	

Table 23D.36.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Class II	AUP	
Class II in the Hillside Overlay	Prohibited	
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	

Section 9. That the "Accessory Uses and Structures" section of Table 23D.40.030 in Chapter 23D.40 Section 23D.40.030 of the Berkeley Municipal Code is amended to read as follows:

23D.40.030 Uses Permitted

Table 23D.40.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.0

Table 23D.40.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
		8.020, 23D.08.050, and 23D.08.060.
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making of applicable findings set forth in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
Six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		Subject to the requirements of Chapter 23C.16
Class I	ZC	
Class II	AUP	
Class II in the Hillside Overlay	Prohibited	
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	
Stores and Shops (Incidental to another Use)	UP(PH)	Contained within a building with no street access and no

Table 23D.40.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
		displays or merchandise visible from the street

Section 10. That the "Accessory Uses and Structures" section of Table 23D.44.030 in Chapter 23D.44 Section 23D.44.030 of the Berkeley Municipal Code is amended to read as follows:

23D.44.030 Uses Permitted

Table 23D.44.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060

Table 23D.44.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings set forth in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences Six ft. or less in height Exceeding six ft. in height	 ZC AUP	 In required setbacks
Home Occupations Class I Class II	 ZC AUP	Subject to the requirements of Chapter 23C.16
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	
Stores and Shops (Incidental to another Use)	UP(PH)	Contained within a building with no street access and no displays or merchandise visible from the street

Section 11. That the "Accessory Uses and Structures" section of Table 23D.48.030 in Chapter 23D.48 Section 23D.48.030 of the Berkeley Municipal Code is amended to read as follows:

23D.48.030 Uses Permitted

Table 23D.48.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings set forth in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22

Table 23D.48.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
Six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		Subject to the requirements of Chapter 23C.16
Class I	ZC	
Class II	AUP	
Class II in the Hillside Overlay	Prohibited	
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	Prohibited	
Stores and Shops (Incidental to another Use)	UP(PH)	Contained within a building with no street access and no displays or merchandise visible from the street

Section 12. That the "Accessory Uses and Structures" section of Table 23D.52.030 in Chapter 23D.52 Section 23D.52.030 of the Berkeley Municipal Code is amended to read as follows:

23D.52.030 Uses Permitted

Table 23D.52.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds the requirements under Chapter 23D.08	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Accessory Dwelling Units in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings set forth in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Fences		
Six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks

Table 23D.52.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Home Occupations Class I Class II	 ZC AUP	Subject to the requirements of Chapter 23C.16
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	Prohibited	
Stores and Shops (Incidental to another Use)	UP(PH)	Contained within a building with no street access and no displays or merchandise visible from the street

Section 13. That the "Uses Permitted in Residential Districts" section of Table 23E.36.030 in Chapter 23E.36 Section 23E.36.030 of the Berkeley Municipal Code is amended to read as follows:

23E.36.030 Uses Permitted

Table 23E.36.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	

Table 23E.36.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.36.070.E. Residential-only projects are prohibited within the University Avenue Node Overlay areas, and permitted within University Avenue Overlay Mixed Use areas
Group Living Accommodations subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.36.070.E
Home Occupations		Subject to the requirements of Chapter 23C.16

Table 23E.36.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Class I Class II Class III	ZC AUP UP(PH)	
Hospitals	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.36.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing Six or fewer people Seven or more persons New Construction	 ZC AUP UP(PH)	Changes of use from an existing dwelling unit

Section 14. That the "Uses Permitted in Residential Districts" section of Table 23E.40.030 in Chapter 23E.40 Section 23E.40.030 of the Berkeley Municipal Code is amended to read as follows:

23E.40.030 Uses Permitted

Table 23E.40.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agricultures	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.40.070.E
Group Living Accommodations subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.40.070.E
Home Occupations Class I	ZC	Subject to the requirements of Chapter 23C.16

Table 23E.40.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Class II	AUP	
Class II in the Hillside Overlay	Prohibited	
Class III	UP(PH)	
Class III in the Hillside Overlay	Prohibited	
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.40.080.B
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.40.080.B
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Changes of use from an existing dwelling unit
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

Section 15. That the "Uses Permitted in Residential Districts" section of Table 23E.44.030 in Chapter 23E.44 Section 23E.44.030 of the Berkeley Municipal Code is amended to read as follows:

23E.44.030 Uses Permitted

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

Table 23E.44.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Home Occupations		Subject to the requirements of Chapter 23C.16
Class I	ZC	
Class II	AUP	
Class III	UP(PH)	
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements under Section 23E.44.080
Nursing Homes	UP(PH)	Subject to parking requirements under Section 23E.44.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Changes of use from an existing dwelling unit
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

Section 16. That the "Uses Permitted in Residential Districts" section of Table 23E.48.030 in Chapter 23E.48 Section 23E.48.030 of the Berkeley Municipal Code is amended to read as follows:

23E.48.030 Uses Permitted

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

Table 23E.48.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Group Living Accommodations, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.48.070.F
Home Occupations		Subject to the requirements of Chapter 23C.16
Class I	ZC	
Class II	AUP	
Class II in the Hillside Overlay	Prohibited	
Class III	UP(PH)	
Class III in the Hillside Overlay	Prohibited	
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.48.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.48.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	

Table 23E.48.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Senior Congregate Housing		Change of use from an existing dwelling unit
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

Section 17. That the "Uses Permitted in Residential Districts" section of Table 23E.52.030 in Chapter 23E.52 Section 23E.52.030 of the Berkeley Municipal Code is amended to read as follows:

23E.52.030 Uses Permitted

Table 23E.52.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030

Table 23E.52.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.52.070.E
Group Living Accommodations subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.52.070.E
Home Occupations		Subject to the requirements of Chapter 23C.16
Class I	ZC	
Class II	AUP	
Class III	UP(PH)	
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	

Table 23E.52.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.52.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.52.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Change of use from an existing dwelling unit
Six or fewer people	ZC	
Seven or more people	AUP	
New construction	UP(PH)	

Section 18. That the "Uses Permitted in Residential Districts" section of Table 23E.56.030 in Chapter 23E.56 Section 23E.56.030 of the Berkeley Municipal Code is amended to read as follows:

23E.56.030 Uses Permitted

Table 23E.56.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Uses Permitted in Residential Districts		

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

Table 23E.56.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Home Occupations		Subject to the requirements of Chapter 23C.16
Class I	ZC	
Class II	AUP	
Class III	UP(PH)	
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	
Nursing Homes	UP(PH)	
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Change of use from an existing dwelling unit
Six or fewer people	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

Section 19. That the "Uses Permitted in Residential Districts" section of Table 23E.60.030 in Chapter 23E.60 Section 23E.60.030 of the Berkeley Municipal Code is amended to read as follows:

23E.60.030 Uses Permitted

Table 23E.60.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Child Care Centers	UP(PH)	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	Prohibited	
Community Centers	UP(PH)	
Dwelling Units, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.60.070.F
Group Living Accommodations, subject to R-3 Standards	UP(PH)	Standards may be modified under Section 23E.60.070.F

Table 23E.60.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Home Occupations		Subject to the requirements of Chapter 23C.16
Class I	ZC	
Class II	AUP	
Class III	UP(PH)	
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.60.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.60.080
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Change of use from an existing dwelling unit
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	

Section 20. That the "Residential and Related Uses" section of Table 23E.64.030 in Chapter 23E.64 Section 23E.64.030 of the Berkeley Municipal Code is amended to read as follows:

23E.64.030 Uses Permitted

Table 23E.64.030		
Use and Required Permits		
Use	**Permits Required to Establish, Expand or Change Use (sq. ft.)**	**Special Requirements (if any)**
Residential and Related Uses		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Additions, Major Residential	AUP	See definition in Sub-title 23F. Subject to required finding under Section 23E.64.090.G
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Daycare Home (Small or Large)	ZC	
Child Care Centers	UP(PH)	
Clubs, Lodges	UP(PH)	

Table 23E.64.030		
Use and Required Permits		
Use	**Permits Required to Establish, Expand or Change Use (sq. ft.)**	**Special Requirements (if any)**
Community Care Facilities/Homes	ZC	
Community Centers	UP(PH)	
Dwelling Units	UP(PH)	Subject to Development Standards under Section 23E.64.070
Group Living Accommodations	UP(PH)	Subject to Development Standards under Section 23E.64.070
Home Occupations		Subject to the requirements of Chapter 23C.16
Class I	ZC	
Class II	AUP	
Class III	UP(PH)	
Hospitals	UP(PH)	Subject to parking requirements; see Section 23E.64.080.F
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.070.C
Hotels, Residential, including Single Room Occupancy (SRO)	UP(PH)	

Table 23E.64.030		
Use and Required Permits		
Use	**Permits Required to Establish, Expand or Change Use (sq. ft.)**	**Special Requirements (if any)**
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.64.080.F
Nursing Homes	UP(PH)	
Parks and Playgrounds	AUP	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	AUP	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing Six or fewer persons Seven or more persons New Construction	 ZC AUP UP(PH)	Changes of use from an existing dwelling unit
All other Residential Accessory Structures and Uses not listed	Per R-3 District	See Table 23D.36.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060

Section 21. That the "Residential and Related Uses" section of Table 23E.68.030 in Chapter 23E.68 Section 23E.68.030 of the Berkeley Municipal Code is amended to read as follows:

23E.68.030 Uses Permitted

Table 23E.68.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements**
Uses Permitted in Residential Districts		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Accessory Uses and Structures	As per R-5 District	See Table 23D.44.030
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	AUP	
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units, including multifamily developments	UP(PH)	Subject to the standards under Section 23E.68.060.F

Table 23E.68.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements**
Group Living Accommodations subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.68.060.F
Home Occupations		Subject to the requirements of Chapter 23C.16
Class I	ZC	
Class II	AUP	
Class III	UP(PH)	
Hospitals	UP(PH)	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	Subject to Section 23E.68.060.F
Libraries	UP(PH)	
Nursing Homes	UP(PH)	
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Change of use of an existing dwelling unit
Six or fewer people	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	Subject to Section 23E.68.070

Section 22. That the "Residential and Related Uses" section of Table 23E.84.030 in Chapter 23E.84 Section 23E.84.030 of the Berkeley Municipal Code is amended to read as follows:

23E.84.030 Uses Permitted

Table 23E.84.030		
Use and Required Permits		
Uses	**Permit Required to Establish, Expand or Change Use (sq. ft.)**	**Special Requirements (if any)**
Residential and Related Uses		
Accessory Dwelling Unit in compliance with Section 23C.24.050	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23C.24.050	AUP	Subject to making applicable findings in Section 23C.24.070
Additions, Major Residential	AUP	See Definition in Sub-title 23F. Subject to finding required under 23E.84.090.L; see limitations on location in Section 23E.84.060.G
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	Subject to the findings in Section 23E.84.090.H
Child Care; Family Daycare Home (Small or Large)	ZC	
Clubs, Lodges	UP(PH)	

Table 23E.84.030		
Use and Required Permits		
Uses	**Permit Required to Establish, Expand or Change Use (sq. ft.)**	**Special Requirements (if any)**
Community Care Facilities/Homes (Changes of Use)	ZC	Subject to parking requirements; see Section 23E.84.080.B
Community Centers	UP(PH)	
Dwelling Units		See limitation on location in Section 23E.84.060.G. Subject to development standards of Section 23E.84.070 and parking requirements in Section 23E.84.080.B
1 – 4 Units	AUP	
5+ Units	UP(PH)	
Group Living Accommodations, subject to R-3 District Standards	UP(PH)	See limitations on location in Section 23E.84.060.G
Home Occupations Class I Class II Class III	 ZC AUP UP(PH)	Subject to the requirements of Chapter 23C.16
Hospitals	Prohibited	
Hotels, Residential	Prohibited	

Table 23E.84.030		
Use and Required Permits		
Uses	**Permit Required to Establish, Expand or Change Use (sq. ft.)**	**Special Requirements (if any)**
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Libraries	UP(PH)	Subject to additional parking requirements; see Section 23E.84.080.B
Nursing Homes	UP(PH)	Subject to additional parking requirements; see Section 23E.84.080.B
Parks, Playgrounds, and outdoor recreation facilities	UP(PH)	If the park, playground, or outdoor recreation facility is likely to be used by children, subject to the finding under 23E.84.090.H
Public Safety and Emergency Services	UP(PH)	
Public Utilities Substations, Buildings, Tanks	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private and Other Educational Institutions	UP(PH)	Subject to the findings in Section 23E.84.090.H
Senior Congregate Housing Six or fewer persons	ZC AUP UP(PH)	Changes of use from an existing dwelling unit

Table 23E.84.030		
Use and Required Permits		
Uses	**Permit Required to Establish, Expand or Change Use (sq. ft.)**	**Special Requirements (if any)**
Seven or more persons New Construction		
Accessory Buildings and Structures with Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060

Section 23. That the "Accessory Uses and Structures" section of Table 23D.24.030 in Chapter 23D.24 Section 23D.24.030 of the Berkeley Municipal Code is amended to read as follows:

Table 23D.24.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Accessory Uses and Structures		
Accessory Buildings or Structures		
Under 100 sq. ft.	ZC	Must satisfy the requirements of Chapter 23D.08
100 or more sq. ft.	UP(PH)	If has either habitable space and/or exceeds the requirements of Chapter 23D.08
Located on a vacant lot without a Main Building	UP(PH)	

Table 23D.24.030		
Use and Required Permits		
Use	**Classification**	**Special Requirements (if any)**
Accessory Dwelling Units	Prohibited	
Child Care: Family Daycare Homes (Small or Large)	ZC	
Fences		
Four ft. or less in height	ZC	
Exceeding four ft. in height	AUP	Subject to Fire Department review and comment
Home Occupations Class I	ZC	Subject to the requirements of Chapter 23C.16
Hot Tubs, Jacuzzis, Spas or Swimming Pools	UP(PH)	See Section 23D.08.060.C
Rental of Rooms	UP(PH)	Not to exceed four persons. Occupancy of a single dwelling unit by a single household as defined in Sub-title 23F is permitted
Stables for Horses	AUP	

Section 24. 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.

At a regular meeting of the Council of the City of Berkeley held on February 9, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Abstain: Droste.

Absent: None.

At a regular meeting of the Council of the City of Berkeley held on February 23, 2021, this Ordinance was adopted by the following vote:

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

Noes: None.

Abstain: Droste.

Absent: None.

Jesse Arreguin, Mayor

ATTEST: Mark Numainville, City Clerk

Date signed: March 1, 2021