



Igor Tregub, Councilmember District 4

ACTION CALENDAR

July 28, 2026

To: Honorable Mayor and Members of the City Council

From: Councilmember Igor Tregub (Author)

Subject: Referral to the City Manager: Update Definition of and, in the C-DMU District and Review Restrictions Related to the Establishment of Adult-Oriented Businesses in the Berkeley Municipal Code

RECOMMENDATION

Refer to the City Manager the following:

- 1) Updates to the definition of “Adult-Oriented Business” in the Berkeley Municipal Code (BMC) Section 23.302.070.A, BMC Chapter 23.204, and/or any other relevant provisions, including vaping shops and other related businesses; and
- 2) Reviewing restrictions around such uses in the C-DMU Commercial District in the Downtown.

POLICY COMMITTEE RECOMMENDATION

On July 6, 2026 the Land Use, Housing & Economic Development Committee adopted the following action: M/S/C (Tregub/Bartlett) to send the item to the City Council with a qualified positive recommendation with the following revisions to the recommendation:

1. Review (rather than expand) restrictions of such uses in the C-DMU Commercial District in the Downtown; and
2. Incorporate consideration of vaping uses as part of the definition(s). Vote: All Ayes.

RATIONALE FOR RECOMMENDATION

The City has a strong interest in promoting compatible land uses, preserving neighborhood character, supporting vibrant commercial districts, protecting sensitive community-serving uses, and maintaining a high quality of life for Berkeley residents.

As Berkeley continues to evolve, questions have risen regarding whether the City's existing definitions of “Adult-Oriented Business” may need to be updated in the BMC.

Further, it is the intent of this item to explore further restrictions to “Adult-Oriented Business” uses in the Commercial – Downtown Mixed Use (C-DMU) district.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley currently regulates “Adult-Oriented Business” uses through Berkeley Municipal Code Section 23.302.070.A, “Use-Specific Regulations: Adult-Oriented Businesses,” as well as in BMC Chapter 23.204, “Commercial Districts.” These regulations establish where Adult-Oriented Businesses may locate and impose location-based restrictions intended to separate such uses from certain areas of the city. Among other restrictions, Adult-Oriented Businesses are prohibited on lots with frontage on San Pablo Avenue within the C-W (West Berkeley Commercial) District¹.

Berkeley is currently experiencing significant redevelopment activity, particularly in the Downtown area, where numerous commercial spaces are available for future tenancy and multiple new mixed-use projects are under construction. At the same time, Downtown Berkeley is also a home to a unique concentration of educational, cultural, and community-serving institutions, including UC Berkeley, public libraries, schools, childcare facilities, youth-serving programs, and other sensitive uses. As new commercial spaces become occupied and additional commercial space comes online, the City has an opportunity to evaluate whether its existing regulations appropriately reflect the priorities and intended land uses of these areas and ensure continued alignment.

BACKGROUND

At July 6, 2026, Land Use, Housing & Economic Development Policy Committee Meeting a 3-0-0 qualified positive recommendation was made to the full Council. The Committee requested to include vaping shops to the updates to the definition of “Adult-Oriented Business” in the Berkeley Municipal Code (BMC) Section 23.302.070.A, BMC Chapter 23.204, and/or any other relevant provisions and to review rather than expand restrictions around such uses in the C-DMU Commercial District in the Downtown. Both recommendations are reflected in this item.

The City of Berkeley has regulated Adult-Oriented Businesses through its zoning ordinance for many years.

In 2021, Berkeley adopted a comprehensive reorganization of its Zoning Ordinance, the first major revision of the zoning code structure since 1999. Effective December 1, 2021, the updated Baseline Zoning Ordinance repealed the previous code and comprehensively reorganized Title 23 of the Berkeley Municipal Code to create a more

¹ [https://berkeley.municipal.codes/BMC/23.302.070\(M\)](https://berkeley.municipal.codes/BMC/23.302.070(M))

modern, consistent, and user-friendly zoning framework². While the update consolidated and reorganized zoning regulations, existing land use policies and use-specific regulations, including those governing Adult-Oriented Businesses, were largely carried forward with few substantive changes.

Adult-Oriented Businesses remain permitted in a limited number of commercial zoning districts, including C-DMU, Commercial – West Berkeley (C-W) C-U (Commercial – University Avenue (C-U), and Community Commercial (C-C), subject to applicable restrictions³.

Given the ongoing redevelopment and creation of new commercial spaces in the C-DMU, this referral seeks recommendations that would further support neighborhood livability, commercial district vitality, and the City's broader planning goals, including whether additional restrictions on the location, concentration, and operation of Adult-Oriented Businesses may be appropriate.

ALTERNATIVE MEASURES CONSIDERED

In addition to or instead of a blanket prohibition of Adult Use Businesses in the C-DMU, the following amendments to the Municipal Code could be considered:

- Increasing the minimum separation requirements between Adult Use Businesses and sensitive uses, including schools, parks, childcare facilities, libraries, youth-serving facilities, places of worship, and residential areas;
- Increasing minimum separation requirements between Adult Use Businesses to prevent overconcentration;
- Restricting the zoning districts in which Adult Use Businesses may locate beyond the C-DMU, including but not limited to, commercial districts, mixed-use districts, neighborhood commercial districts, or other areas deemed appropriate;
- Establishing enhanced operating standards designed to reduce adverse impacts on surrounding neighborhoods and businesses; and
- Any other measures that staff recommend to further protect public safety, quality of life, and compatibility with surrounding land uses.

To maximize effectiveness and minimize the expenditure of staff resources, a full restriction is the preferred policy approach.

COMMUNITY IMPACT

The location and concentration of Adult-Oriented Businesses may impact the character

² <https://www.reubenlaw.com/berkeley-adopts-new-zoning-ordinance/>

³ <https://berkeleyca.gov/sites/default/files/documents/2022-07-12%20Item%2017%20Zoning%20Ordinance%20Amendments.pdf>

of surrounding neighborhoods, commercial districts, and community-serving areas. This consideration is particularly relevant in areas such as Downtown Berkeley, which contain a significant concentration of schools, libraries, youth-serving facilities, cultural institutions, and other community-serving uses.

Additional regulations may help promote compatibility between Adult-Oriented Businesses and surrounding land uses, preserve or enhance the vitality of commercial districts, and provide greater clarity regarding the appropriate location and operation of such businesses within the City.

FINANCIAL IMPLICATIONS

Financial implications may include staff time associated with researching, developing, and presenting recommendations and draft ordinance language to the City Council.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

No direct environmental sustainability impacts are anticipated from this referral.

CONTACT PERSON

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