



Office of the City Manager

REVISED AGENDA MATERIAL for Supplemental Packet 1

Meeting Date: December 3, 2024

Item Number: 20

Item Description: Zoning Ordinance Amendments: Keep Innovation in Berkeley

Submitted by: Jordan Klein, Director, Planning and Development Department

This Supplemental includes proposed amendments to the Berkeley Municipal Code to prohibit Biosafety Level (BSL) 3 and 4 uses. This new language can be found in Sections 2, 4 and 7 of the attached revised Ordinance.

ORDINANCE NO. -N.S.

AMENDMENTS TO THE COMMERCIAL DISTRICT CHAPTER (BMC 23.204),
 MANUFACTURING DISTRICT CHAPTER (BMC 23.206), PARKING AND LOADING
 REGULATIONS CHAPTER (BMC 23.322) AND GLOSSARY (BMC 23.502), TO
 SUPPORT BERKELEY’S INNOVATION BUSINESSES

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

Section 1. That the line named “Research and Development” in Table 23.204-1 in BMC Section 23.204.020 is amended, a new line “Research and Development, 20,000 sq. ft. of larger” is added, and the line named “Commercial, Physical and Biological” is amended to read:

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	
Research and Development <u>Under 20,000 sq. ft.</u>	<u>ZC</u>	<u>ZC</u>	=	=	<u>ZC</u>	=	<u>ZC</u>	=	<u>ZC</u>	<u>ZC</u>	=	23.204.040(E)
Research and Development, <u>20,000 sq. ft. or larger</u>	<u>AUP</u>	<u>AUP</u>	=	=	<u>AUP</u>	=	<u>AUP</u>	=	<u>AUP</u>	<u>AUP</u>	=	23.204.040(E)
Commercial Physical or Biological <u>Testing</u>	AUP	AUP	NP	NP	NP	NP	NP	NP	AUP	NP	NP	23.204.040(E)

Section 2. That BMC Section 23.204.040(E) be added to read:

E. Microbes or biological agents – See Section 23.302.020(E).

Section 3. That the lines named “Research and Development” and “Commercial and Biological” in Table 23.206-1 in BMC Section 23.206.020 are amended to read:

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	Manufacturing Districts				Use-Specific Standards Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	M	MM	MU-LI	MU-R	
Research and Development	--	ZC [12]	ZC [12]	--	23.206.040(L)
Commercial Physical or Biological <u>Testing</u>	NP	AUP [4]	UP(PH)*	NP	23.206.080.B-5 23.206.040(L)

Section 4. That BMC Section 23.206.040(L) be added to read:

[L. Microbes or biological agents – See Section 23.302.020\(E\).](#)

Section 5. That BMC Section 23.206.070(A)(3) and 23.206.070(A)(5) are amended to read:

3. Encourage development of a manufacturing district targeted to manufacturing and industrial uses including research and development, so that manufacturers and industrial businesses will not be interfered with by incompatible uses;

5. Provide an appropriate location for the development of compatible industries which can provide high quality employment for people at all educational levels, and add significantly to the tax base, such as the biotechnology industry and other research and development uses;

Section 6. That BMC Section 23.206.080(A)(7) is amended to read:

7. Provide the opportunity for laboratory development and research and development facilities in appropriate locations;

Section 7. That BMC Section 23.302.020(E) is added to read:

[E. Microbes or biological agents -- Use of microbes, biological agents, or similar organisms classified as Biosafety Level 3 \(BSL-3\) or 4 \(BSL-4\) by the US Centers for Disease Control and Prevention are not permitted in any Zoning District, in association with any land use.](#)

Section 8. That a line named “Research and Development” is added to Table 23.322-2 in BMC Section 23.322.030(B) to read:

Table 23.322-2. REQUIRED OFF-STREET PARKING REQUIREMENTS IN COMMERCIAL DISTRICTS (EXCLUDING C-T)

<u>Research and Development</u>	<u>C-DMU District: 1.5 per 1,000 sq. ft.</u> <u>All Other Commercial Districts: 1 per 1,000 sq. ft.</u>
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Section 9. That a line named “Research and Development” is added to Table 23.322-4 in BMC Section 23.322.030(C) to read:

Table 23.322-4. REQUIRED OFF-STREET PARKING IN MANUFACTURING DISTRICTS

<u>Research and Development</u>	<u>1 per 1,000 sq. ft.</u>
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Section 10. That BMC Section 23.206.080(B)(5) to B(13) are amended to read:

~~5. Commercial Physical or Biological Laboratories. Commercial physical or biological laboratories using Class 3 organisms are not permitted the MU-LI district. Use of Class 2 organisms are permitted only in locations at least 500 feet from a Residential District or a MU-R district.~~

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

7.6. Pharmaceuticals Manufacturing. Pharmaceuticals manufacturing is allowed in the MU-LI district only in locations at least 500 feet from a Residential District or the MU-R district.

8.7. Public Market, Open Air. Open air markets in the MU-LI district with 5,000 square feet or less of lot area are allowed with AUP.

9.8. Recycling Facilities. Recycled materials processing and recycling redemption centers are allowed in the MU-LI district only on lots greater than 20,000 square feet.

10.9. Theaters. Only live stage performances are allowed in a theater in the MU-LI district. Motion picture theaters are not permitted.

11.10. Vehicle Wrecking. Permits required for vehicle wrecking the MU-LI district is determined by size of lot, not floor area.

12.11. Vocational Schools. A vocational school in the MU-LI district must provide training for occupations and/or industries found in the West Berkeley Plan area.

~~13-12.~~ Wholesale Trade Proximity to Residential Use. For wholesale trade use in the MU-LI district otherwise allowed with a Zoning Certificate, an AUP is required to establish the use within 150 feet of a residential use in a Residential District or in the MU-R district.

Section 11. That BMC Section 23.502.020(L)(1) is amended to read:

1. Laboratories.

(a) Commercial Physical or Biological Testing. A facility that provides controlled conditions in which scientific or technological testing, research, experiments, and measurements may be performed. Any facility established as a Commercial Physical or Biological Laboratory to conduct scientific or technological research, experiments and measurements prior to [effective date of ordinance] shall be considered a conforming Commercial Physical or Biological Testing use.

(b) Cannabis Testing. A facility for the testing of the properties of cannabis intended for consumer use.

~~(c) Class 1 Organism. A microbe or biological agent classified as Biosafety Level 1 (BSL-1) by the U.S. Centers for Disease Control and Prevention.~~

~~(d) Class 2 Organism. A microbe or biological agent classified as Biosafety Level 2 (BSL-2) by the U.S. Centers for Disease Control and Prevention.~~

~~(e) Class 3 Organism. A microbe or biological agent classified as Biosafety Level 3 (BSL-3) by the U.S. Centers for Disease Control and Prevention.~~

Section 12. 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.