

## ORDINANCE NO. 7,955-N.S.

AMENDMENTS TO THE RULES OF MEASUREMENT CHAPTER (BMC 23.106), RESIDENTIAL DISTRICT CHAPTER (BMC 23.202), COMMERCIAL DISTRICT CHAPTER (BMC 23.204), MANUFACTURING DISTRICT CHAPTER (BMC 23.206), USE-SPECIFIC REGULATIONS CHAPTER (BMC 23.302), ACCESSORY DWELLING UNITS CHAPTER (BMC 23.306), ALCOHOLIC BEVERAGE SALES AND SERVICE CHAPTER (BMC 23.310), PARKING AND LOADING CHAPTER (BMC 23.322), TRANSPORTATION DEMAND MANAGEMENT CHAPTER (BMC 23.334), AND GLOSSARY (BMC 23.502) FOR CONSISTENCY WITH STATE LAW, AND TECHNICAL EDITS

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

Section 1. That BMC Section 23.106.020 is amended to read as follows:

A. **Lot Coverage Defined.** Lot coverage means all the area of a lot, as projected on a horizontal plane, which is:

1. Enclosed by the exterior walls of buildings or enclosed accessory structures;  
or
2. Covered by decks, porches, stairs and/or landings which cover an enclosed space or paved ground area.
3. Covered by a pergola, trellises or similar horizontal features.

B. **Exclusions.** The lot coverage calculation excludes:

1. Uncovered porches, landings and stairs;
2. Uncovered decks, except that a deck on the roof of a building or accessory structure or over an enclosed space or paved ground area is included in the lot coverage calculation; and
3. The area of the roof of a subterranean structure, when such a structure is not more than 3 feet above finished grade.
4. The first 24 inches of eaves extending from a building or structure.
5. The area of any existing or proposed accessory dwelling unit or junior accessory dwelling unit, up to 800 square feet per lot. See 23.306 Accessory Dwelling Units.

C. **Lot Coverage Standards.** Number of stories of main building(s) shall be used to determine the allowable lot coverage where applicable.

Section 2. That BMC Section 23.106.080(A) is amended to read as follows:

- A. **Measurement.** Building separation is measured as the distance between the surface of a main building or ADU's outer wall and the outer wall surface of the closest main building or ADU on the same lot.

Section 3. That the lines named “Alcoholic Beverage Service” is amended and the lines “Hotel, Residential” are hereby added, within Table 23.202-1 within BMC 23.202.020 to read as follows

Table 23.202-1: Allowed Land Uses in Residential Districts

ZC = Zoning Certificate <b>AUP = ADMINISTRATIVE USE PERMIT</b> UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	<b>RESIDENTIAL DISTRICTS</b>										<b>USE-SPECIFIC REGULATIONS</b> APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	<b>R-1</b>	<b>ES-R</b>	<b>R-2</b>	<b>R-2A</b>	<b>R-3</b>	<b>R-4</b>	<b>R-5</b>	<b>R-S</b>	<b>R-SMU</b>	<b>R-BMU**</b>	
<b>Residential Uses</b>											
Hotel, Residential	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
<b>Commercial Uses</b>											
Alcoholic Beverage Service	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	ZC*	23.310—Alcoholic Beverage Sales and Service

Section 4. That the lines named “Electric Vehicle Charging Station”, “Vehicle Parts Store”, “Construction Products”, “Light Manufacturing”, “Pesticides/Herbicides/Fertilizers”, “Petroleum Refining and Products”, “Pharmaceuticals”, and “Warehouse-based Non-Store Retailer”, are amended in Table 23.204-1 within BMC 23.204.020 to read as follows:

Table 23.204-1. Allowed Uses in the Commercial Districts

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
<b>Vehicle Service and Sales Uses</b>												
Vehicle Parts Store	ZC	NP	ZC	ZC	ZC	ZC	ZC	ZC	NP	AUP [1]	ZC	
<b>Industrial and Heavy Commercial Uses</b>												
Construction Products	-	-	-	-	-	-	-	-	-	UP(PH)	--	
Light Manufacturing	-	-	-	-	-	-	-	-	-	AUP [1]	--	
Pesticides/Herbicides/ Fertilizers	-	-	-	-	-	-	-	-	-	UP(PH)	--	
Petroleum Refining and Products	-	-	-	-	-	-	-	-	-	UP(PH)	--	
Pharmaceuticals	-	-	-	-	-	-	-	-	-	UP(PH)	--	
Warehouse-Based Non- Store Retailer	-	-	-	-	-	-	-	-	-	-	--	

Section 5. That Table 23.204-24 within BMC Chapter 23.204.090 is amended to read as follows:

**TABLE 23.204--24: C-NS DEVELOPMENT STANDARDS**

	Project Land Use		Supplemental Standards
	Non-Residential and Mixed Use	Residential Only	
Lot Area, Minimum			23.304.020
New Lots	4,000 sq. ft.	5,000 sq. ft.	
Per Group Living Accommodation Resident	350 sq. ft. [1]		
Usable Open Space, Minimum			23.304.090–Usable Open Space
Per Dwelling Unit	40 sq. ft. [2]	200 sq. ft.	
Per Group Living Accommodation Resident	No minimum	90 sq. ft.	
Floor Area Ratio, Maximum	1.0 [3]	No maximum	
Main Building Height [4]			
Minimum	2 stories	No minimum	
Maximum	35 ft. and 3 stories	28 ft. and 2 stories	
Lot Line Setbacks, Minimum			23.304.030
Abutting/Confronting a Non-residential District	No minimum	See Table 23.204-25	
Abutting/Confronting a Residential District	See 23.304.030.C.2		
Building Separation, Minimum	No minimum [5]	See Table 23.204-25	23.304.040
Lot Coverage, Maximum	100%	See Table 23.204-26	23.304.120

	Project Land Use		Supplemental Standards
	Non-Residential and Mixed Use	Residential Only	
<p>Notes:</p> <p>[1] One additional resident is allowed for remaining lot area between 200 and 350 square feet.</p> <p>[2] For mixed use projects, usable open space dimensions may be smaller than required in 23.304.090.B.3, but no dimension may be less than 6 feet.</p> <p>[3] For mixed-use residential projects, no maximum floor area ratio.</p> <p>[4] Basement levels devoted exclusively to parking are not counted as a story.</p> <p>[5] For mixed-use projects, minimum building separation shall be as required for residential-only projects. See Table 23.204-25</p>			

Section 6. That BMC 23.204.100(D)(2) is hereby amended to read as follows:

2. **Lots Abutting or Confronting a Residential District.** See 23.304.130 (Non-Residential Districts Abutting a Residential District) for additional building feature requirements for lots that abut or confront a Residential District.
3. **Modification for Mixed Use and Residential Projects.** The ZAB may modify development standards in Table 23.204-27, Table 23.204-28, and Table 23.204-29, and Table 23.20430 – excluding FAR - for a mixed-use or residential-only project with a Use Permit upon making one of the following findings:
  - a. The project encourages utilization of public transit and existing off-street parking facilities in the area of the proposed building;
  - b. The modification allows consistency with the building setbacks existing in the immediate area where a residential building setback would not serve a useful purpose;
  - c. The modification facilitates the construction of affordable housing as defined by the U.S. Department of Housing and Urban Development (HUD) Guidelines; or
  - d. The modification provides consistency with the purposes of the district as listed in Section 23.204.100.A (District Purpose).

Section 7. That BMC 23.204.130(E)(3)(b) is amended to read as follows:

- (b) **Modifications to Standards.** The ZAB may modify all C-DMU district setback standards with a Use Permit upon finding that the modified setbacks

will not unreasonably limit solar access or create significant increases in wind experienced on the public sidewalk.

Section 8. That BMC Section 23.204.140(B)(3)(a) is amended to read as follows:

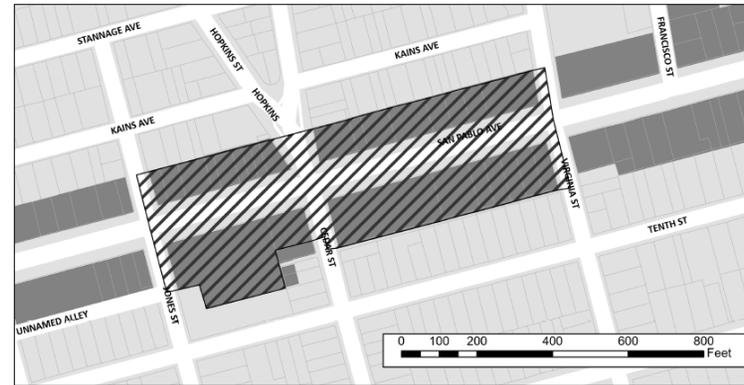
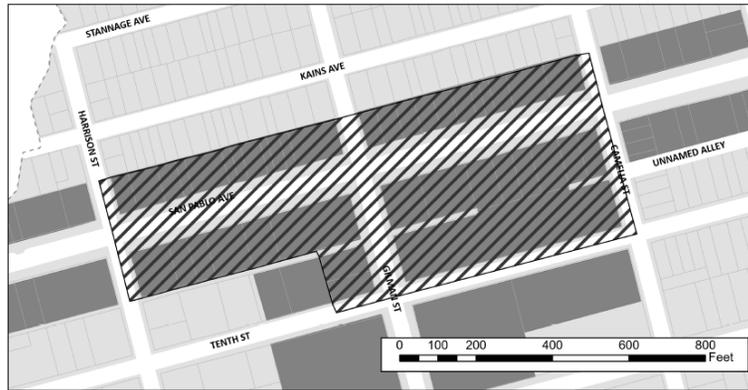
- (a) As used in this paragraph, “automotive use” means a use classified in Table 23.204-1 as a vehicle service and sales use, except for vehicle parts store. “Automotive site” means a site which was legally used or approved for use as an automotive use as of March 1, 1997.

Section 9. That BMC Section 23.204.140(D)(3) is amended to read as follows:

- 3. **Ground Floor Uses.** The ground floor of buildings in designated nodes may be used only for the following:
  - (b) Retail sales
  - (c) Personal and household services
  - (d) Retail financial services (banks)
  - (e) Food and alcohol service
  - (f) Tourist Hotel and Tourist Motel
  - (g) Entertainment and assembly uses
  - (h) Gasoline/vehicle fuel stations
  - (i) Vehicle repair uses
  - (j) New car sales
  - (k) Used vehicles sales
  - (l) Required access to and lobbies serving upper-story uses

Section 10. That Figure 23.204-7 C-W Designated Nodes within BMC Chapter 23.204.140 is amended to read as follows:

FIGURE 23.204-7: C-W DESIGNATED NODES





Section 11. That Figure 23.204-8 within BMC Chapter 23.204.140 is removed:

Section 12. That the line “Notes,” in Table 23.204-43, C-AC South Shattuck Subarea Development Standards, within BMC Chapter 23.204.150, C-AC Adeline Corridor Commercial District, is amended to read as follows:

**TABLE 23.204-43: C-AC SOUTH SHATTUCK SUBAREA DEVELOPMENT STANDARDS**

Notes:
[1] One additional resident is allowed for remaining lot area between 200 and 350 square feet.
[2] For the purposes of calculating the State Density Bonus the Tier 1 density shall constitute the maximum allowable gross residential density. Tier 2, 3, and 4 density and 100 percent affordable housing density is authorized as a local density bonus under Government Code section 65915(n).
[3] An AUP may be granted to reduce usable open space requirements if shown to be necessary to build an all-electric building.
[4] Each square-foot of open space that is designated as publicly accessible open space shall be counted as two square-feet of required on-site open space.
[5] Affordable units calculated as percentage of total units

Section 13. That Table 23.204-44, C-AC North and South Adeline Subarea Development Standards, within BMC Chapter 23.204.150, C-AC Adeline Corridor Commercial District, is amended to read as follows:

**TABLE 23.204-44: C-AC NORTH AND SOUTH ADELINE SUBAREA DEVELOPMENT STANDARDS**

	Project Land Use [6]							Supplemental Standards
	Residential and Mixed Use Tier 1 (Less than 14% affordable housing)	Residential & Mixed Use Tier 2 (14% affordable housing)	Residential & Mixed Use Tier 3 (21% affordable housing)	Residential & Mixed Use Tier 4 (25% affordable housing)	Residential & Mixed Use (100% affordable housing)	Group Living Accommodation	Non-Residential	
Lot Area Minimum								23.304.020-Lot Requirements

New Lots	No minimum							
Per Group Living Accommodation Resident	N/A				350 sq. ft. [1]	N/A		
Usable Open Space, Minimum [3]	40 sq. ft.							
Per Dwelling Unit/GLA Resident [4]	N/A				40 sq. ft.		23.304.090-Usable Open Space	
Floor Area Ratio, Maximum	2.0	3.5	4.0	5.0	5.0	2.5	2.8	
Residential Density, Maximum (du/acre) [2]	100	150	210	250	250	1 GLA resident per 350 sf of lot area	N/A	
Main Building Height, Maximum	3 stories 35 feet	5 stories 55 feet	6 stories 65 feet	7 stories 75 feet	7 stories 80 feet	4 stories 45 feet	3 stories 45 feet	
Lot Line Setbacks, Minimum								
Abutting/Confronting a Non-residential District	No minimum							23.304.030-Setbacks

Abutting/Confronting a Residential District	10 ft 20 ft from any shared lot line for any portion exceeding 35 feet 45 ft from front property line for any portion exceeding 45 feet						N/A	23.304.030-Setbacks  23.204.150.E.5
Building Separation, Minimum	No minimum						23.304.040-Building Separation in Residential Districts	
Lot Coverage, Maximum								
Interior Lot	60%	90%	90%	90%	90%	60%	100%	
Corner Lot	70%	90%	90%	95%	95%	70%	100%	
Notes: [1] One additional resident is allowed for remaining lot area between 200 and 350 square feet. [2] For the purpose State Density Bonus calculation, the Tier 1 density is the maximum allowable gross residential density. Tier 2, 3, and 4 density and 100 percent affordable density is authorized as a local density bonus under Government Code section 65915(n). [3] An AUP may be granted to reduce useable open space requirements if shown to be necessary to build an all-electric building. [4] Each square-foot of open space that is designated as publicly accessible open space shall be counted as two square-feet of required on-site open space. [5] Affordable units calculated as percentage of total units								

Section 14. That the lines named “Bar/Cocktail Lounge/Tavern/Tap Room/Wine Tasting,” “Construction Products,” and “Light Manufacturing,” in Table 23.206-1, within BMC 23.206.020 are amended to read as follows:

Table 23.206-1. Allowed Uses in Manufacturing Districts

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	MANUFACTURING DISTRICTS				Use-Specific Standards Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	M	MM	MU-LI	MU-R	Use-Specific Regulation
Bar/Cocktail Lounge/Tavern/Tap Room/Wine Tasting	NP	NP	NP	See 23.310	
Construction Products	ZC [9]	ZC [9]	UP(PH)	NP	
Light Manufacturing	ZC [7]	ZC [7]	ZC [1]	AUP*[3]	23.206.090(B)(5)

Section 15. That Berkeley Municipal Code 23.206.040(l)(3) be removed:

Section 16. That Berkeley Municipal Code 23.206.050(A)(3) is amended to read as follows:

3. Permit Findings.

(a) To approve a Use Permit to change any amount of ground-floor protected industrial use to a non-protected use in the MM district, or to change more than 20,000 square feet or 25 percent or more of a protected use to a non-protected use in the MU-LI district, the Zoning Adjustments Board (ZAB) must find that replacement space is provided as required by Paragraph 4 (Replacement Space) below.

(b) To approve a Use Permit in the MU-LI district to change 25 percent or more of the floor area from a protected industrial use to a non-protected use, the ZAB must also find that either:

(1) The City has approved necessary Use Permits to provide comparable quality replacement space in Berkeley at a comparable rent that will be available before the demolition or change of use of the space; or

(2) Both of the following:

1. As a result of lawful business and building activities, there are exceptional physical circumstances (exclusive of the presence of hazardous materials in the building(s), soil or groundwater) found at the building not generally found in industrial buildings in the MU-LI district which make it financially infeasible to reuse the building for any of protected industrial uses permitted in the district. The analysis of the financial feasibility effects (which shall be verified by the City) of these physical circumstances shall consider those costs necessary to make the building meet current minimum standards for manufacturing, wholesale trade or warehouse buildings.
2. Appropriate mitigation has been made for loss of the protected industrial use space in excess of 25 percent of that space through providing such space elsewhere in the City, payment into the West Berkeley Building Acquisition Fund, or by other appropriate means.

Section 17. That Berkeley Municipal Code 23.206.050(A)(7)(d)(ii) is amended to read as follows:

- ii. 25 percent or more of the total gross floor area in all buildings on the lot(s) remains as a protected industrial use.

Section 18. That Berkeley Municipal Code 23.302.070(E)(1) is amended to read as follows:

1. Outdoor Cafe Seating.
  - (a) Outdoor cafe seating on private property outside of the public right-of-way is allowed in the commercial districts with the following permits:
    - (1) Zoning Certificate when seating does not abut a residential district.
    - (3) AUP when seating abuts a residential district.
  - (b) Outdoor cafe seating on private property outside of the public right of-way is allowed in the MU-LI and MU-R districts with an AUP.
  - (c) Sidewalk cafe seating within the public right-of-way is subject to 23.302.060 (Sidewalk Cafe Seating).

Section 19. That Berkeley Municipal Code 23.306.010(A) is amended to read as follows:

- A. Implement California Government Code Title 7, Division 1, Chapter 13. Accessory Dwelling Units

Section 20. That Berkeley Municipal Code 23.306.030(A)(1) is amended to read as follow:

1. *Existing Building or Accessory Structure Conversion.* An ADU created entirely through conversion with no modifications to the existing building or accessory structure envelope that exceeds the development standards for maximum gross floor area in Table 23.306-2, ADU Development Standards, is allowed a physical addition of no more than 150 square feet. The addition must comply with maximum height and setback requirements.

Section 21. That Berkeley Municipal Code 23.306.030(A)(2) is amended to read as follow:

2. *Duplex or Multi-Family Dwelling Conversion.* Interior ADU(s) must be created entirely through non-habitable residential portions of an existing main building that are not within the living space of a dwelling unit (e.g. basement, attic, garages, storage room).

Section 22. That Berkeley Municipal Code 23.306.030(A)(8) is amended to read as follows:

8. *Attached ADU, New Construction Height.* Attached ADUs with maximum building height up to 25 feet allowed with a Zoning Certificate.

Section 23. That Berkeley Municipal Code 23.306.030(C)(1) is amended to read as follows:

1. *Outside of the Hillside Overlay.* Chimneys, water heater enclosures, flues, heating and cooling equipment, eaves, cornices, canopies, awnings, bay windows, and balconies may project two feet into the required setbacks, so long as there remains at least a two-foot setback from property lines. Bay windows and balconies may not project into a required rear ADU setback.

Section 24. That Berkeley Municipal Code 23.306.040(A) is amended to read as follows:

- A. Zoning Certificate. An application for an ADU or Junior ADU shall be allowed with a Zoning Certificate. Review must be completed within 60 days of submission of a completed application. A completed application must include evidence of compliance with this Chapter, including development standards and deed restrictions..

1. If an application to create an ADU or Junior ADU is submitted as part of a project that requires discretionary review, a Zoning Certificate for a building

permit shall not be issued for the ADU or Junior ADU until the discretionary approval(s) has/have been granted and any applicable appeal periods have expired. See 23.404.060(A) Post-Decision Provisions (Effective Dates).

2. Issuance of a Zoning Certificate shall not be denied for the construction or conversion of an ADU or Junior ADU that complies with the requirements of Government Code Section 66314.

3. Issuance of a Zoning Certificate for the construction or conversion of an ADU or Junior ADU shall not be denied based on the failure of an applicant to correct a nonconforming zoning condition.

Section 25. That Berkeley Municipal Code 23.306.040(C)(4) is amended to read as follows:

4. If the property includes a Junior ADU, the Junior ADU or the Single Family Dwelling in which the Junior ADU is located shall be owner-occupied. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

Section 26. That Berkeley Municipal Code 23.306.040(D) is amended to read as follows:

D. ADUs Developed by a Qualified Nonprofit Developer. An ADU built or developed by a “qualified nonprofit corporation” may be sold or conveyed separately from the main building to a “qualified buyer,” as such terms are defined in Section 66341 the California Government Code. The ADU must be held pursuant to a recorded tenancy in common agreement recorded on or after December 31, 2021 that includes the following elements:

1. Delineation of all areas of the property that are for the exclusive use of a cotenant;
2. Delineation of each cotenant’s responsibility for the costs of taxes, insurance, utilities, general maintenance and repair, and improvements associated with the property;
3. Procedures for dispute resolution among cotenants before resorting to legal action;
4. Allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies;
5. A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the ADU or primary dwelling if the buyer desires to sell or convey the property;

6. A requirement that the qualified buyer occupy the ADU or primary dwelling as the buyer's principal residence; and
7. Affordability restrictions on the sale and conveyance of the ADU or primary dwelling that ensure the ADU and primary dwelling will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.
8. If requested by a utility providing service to the primary residence, the ADU shall have a separate water, sewer, or electrical connection to that utility.

Section 27. That the title of BMC Section 23.310.020 is amended to read as follows:

23.310.020 General Requirements Excluding When Incidental to Food=~~Service~~

Section 28. That BMC 23.310.020(B) is amended to read as follows:

**B. Permit Required.**

1. An Administrative Use Permit is required to begin service of alcoholic beverages, except as provided in 23.310.030 (Alcoholic Beverage Service When Incidental to Food Service).
2. To increase sales and service of alcoholic beverages, an existing Administrative Use Permit or Use Permit may be modified with an AUP regardless of the original review authority. An increase in alcoholic beverage sales or service includes, but is not limited to:
  - (a) Adding the sales or service of distilled spirits to any existing sales or service of beer and/or wine; or
  - (b) Adding to the capacity, floor area, or shelf space devoted to alcoholic beverages of any establishment that sells or serves any alcoholic beverages.

Section 29. That Berkeley Municipal Code 23.310.030(B) is amended to read as follows:

**B. Incidental Alcoholic Beverage Standards.** The following standards apply to alcoholic beverage service incidental to a food service establishment.

1. Licensing.
  - (a) The food service establishment shall comply with all applicable regulations of the California Department of Alcoholic Beverage Control.
  - (b) An operator of the licensed establishment may not have a prior licensed establishment that was the subject of verified complaints or violations regarding

alcohol, public safety, or nuisance statutes or regulations before issuance or transfer of a business license at this location.

2. Service.

- (a) Alcoholic beverage service shall be incidental to the primary food service use.
- (b) Alcoholic beverage service incidental to seated food service shall only be allowed at a bona fide eating place making actual and substantial sales of meals as determined and required by the California Department of Alcoholic Beverage Control.
- (c) The sale of alcoholic beverages for off-site consumption is not permitted.
- (d) Hours of operation are subject to review and amendment by the review authority as necessary to avoid detriment to the neighborhood or to achieve conformance with revised City of Berkeley standards or policies.

3. Operation.

- (a) The food service establishment must operate at least five days a week.
- (b) The service of alcoholic beverage shall be limited to normal meal hours (per California Department of Alcoholic Beverage Control) during the food service establishment's hours of operation.
- (c) During the food service establishment's hours of operation, all customer accessible areas shall be available for meal service and the food service establishment must possess the necessary utensils, and condiment dispensers with which to serve meals to the public.
- (d) The owner or operator of the establishment shall take reasonable measures to prevent disturbances by patrons in the immediate vicinity. Such measures shall include:
  - i. Signs reminding patrons of nearby residences and requests not to congregate or loiter near such residences nor operate vehicles in a noisy manner on residential streets; and
  - ii. Surveillance to public areas near the establishment, keeping public areas free of trash and litter, providing lighting, and otherwise preventing conduct that might disturb the peace and quiet of residences in the vicinity.
- (e) The operator shall assume reasonable responsibility for ensuring that patrons do not block the entrance or interfere with pedestrian activity on the adjacent public sidewalk.
- (f) The applicant shall establish cash handling procedures to reduce the likelihood of robberies and theft.

4. Advertising.

(a) Establishments shall comply with Municipal Code Chapter 20.67 (Alcohol Product Advertising)

5. Training.

(a) The operator shall finish a Crime Prevention through Environmental Design (CPTED) survey before beginning alcohol service.

(b) All employees selling and/or serving alcoholic beverages , or directly supervising such sales and/or service, shall comply with Municipal Code Section 9.84.030 (Responsible Beverage Service Training) and finish the Licensee Education on Alcohol and Drugs (LEAD) program, or another equivalent program offered or certified by the California Department of Alcoholic Beverage Control within 90 days of employment at the establishment. Employees who have finished the course within the last 12 months are exempt from this requirement.

Section 30. That the lines named “Accessory Dwelling Unit” Table 23.322-1, within BMC 23.322.030 is amended to read as follows:

Land Use	Number of Required Off-street Parking Spaces
Residential Uses	
Accessory Dwelling Unit	<p><u>Junior ADU:</u> None required</p> <p><u>ADU outside of Hillside Overlay:</u> None required</p> <p><u>ADU within Hillside Overlay:</u> 1 per ADU unless the parcel satisfies the criteria in subdivision (a) of Government Code Section 66322 , using the definition of public transit as established in subdivision (l) of Government Code 66313</p>

Section 31. That Berkeley Municipal Code 23.322.080(G) is amended to read as follows:

**G. Placement—ADU.**

1. On a lot with an existing or proposed ADU, replacement of off-street parking for a main building, or off-street parking for an ADU, is allowed in any configuration on the lot, including within the front setback; or
2. Within the Hillside Overlay on a lot with an existing or proposed ADU, where no legal off-street parking exists for the main building, required parking provided for the main building is allowed in any configuration on the lot, including within the front setback.

Section 32. That Berkeley Municipal Code 23.334.030(B) is hereby amended to read as follows:

**B. Transit Benefit.**

1. At least one of the following transit benefits shall be offered, at no cost, to project residents for a period of ten years after the issuance of a Certificate of Occupancy.
  - (a) A monthly pass for unlimited local bus transit service; or
  - (b) A functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted unlimited monthly local bus pass. Any benefit proposed as a functionally equivalent transportation benefit shall be approved by the Zoning Officer in consultation with the Transportation Division Manager.
2. For projects that include 99 dwelling units or fewer, the project shall provide one transit benefit per bedroom, up to a maximum of two benefits per dwelling unit. For projects of 100 dwelling units or more, the project shall provide one transit benefit for every bedroom in each dwelling unit.
3. For projects that include Group Living Accommodations, the project shall provide one transit pass per Group Living Accommodation bedroom.
4. A notice describing these transportation benefits shall be posted in a location or locations visible to residents.

Section 33. That Berkeley Municipal Code 23.502.020(B)(11)(b) is hereby amended to read as follows:

- b) *Main Building.* A building which is designed for, or in which is conducted, the primary use of the lot on which it is situated. In any residential district any dwelling, except an accessory dwelling unit, is a main building on the lot.

Section 34. That Berkeley Municipal Code 23.502.020(E)(2) is hereby amended to read as follows:

2. **Electrical Vehicle Charging Station.** A facility that supplies electric energy for the recharging of plug-in electric vehicles. An electric vehicle charging station is considered an allowed use in all zoning districts.

Section 35. 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 25, 2025, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Blackaby, Humbert, Kesarwani, Lunaparra, O'Keefe, Taplin, Tregub, and Ishii.

Noes: None.

Absent: None.