

ORDINANCE NO. 7,957-N.S.

AMENDMENTS TO THE ZONING DISTRICTS AND MAP CHAPTER (BMC 23.108), MANUFACTURING DISTRICT CHAPTER (BMC 23.206), SUPPLEMENTAL USE REGULATIONS (BMC 23.302), PARKING AND LOADING (BMC 23.322) AND ADDITION TO THE MANUFACTURING DISTRICT CHAPTER (BMC.23.206) TO ESTABLISH THE M-RD MANUFACTURING, RESEARCH AND DEVELOPMENT DISTRICT

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

Section 1. That Table 23.108-1 Zoning Districts within BMC Chapter 23.108.020 is amended to read as follows:

Table 23.108-1: Zoning Districts

| DISTRICT SYMBOL | NAME OF DISTRICT |
|------------------------------|--|
| Residential Districts | |
| R-1 | Single-Family Residential |
| R-1A | Limited Two-family Residential |
| ES-R | Environmental Safety Residential |
| R-2 | Restricted Two-family Residential |
| R-2A | Restricted Multiple-family Residential |
| R-3 | Multiple-family Residential |
| R-4 | Multi-family Residential |
| R-5 | High Density Residential |
| R-S | Residential Southside |
| R-SMU | Residential Southside Mixed Use |
| R-BMU | Residential BART Mixed Use |
| Commercial Districts | |

| DISTRICT SYMBOL | NAME OF DISTRICT |
|--------------------------------|---|
| C-C | Corridor Commercial |
| C-U | University Avenue Commercial |
| C-N | Neighborhood Commercial |
| C-E | Elmwood Commercial |
| C-NS | North Shattuck Commercial |
| C-SA | South Area Commercial |
| C-T | Telegraph Avenue Commercial |
| C-SO | Solano Avenue Commercial |
| C-DMU | Downtown Mixed-Use |
| C-W | West Berkeley Commercial |
| C-AC | Adeline Corridor Commercial |
| Manufacturing Districts | |
| M | Manufacturing |
| MM | Mixed Manufacturing |
| MU-LI | Mixed Use-Light Industrial |
| MU-R | Mixed Use-Residential |
| M-RD | Manufacturing, Research and Development |
| Special Districts | |
| S | Specific Plan |
| U | Unclassified |

Section 2. That Table 23.206-1 within BMC Section 23.206.020(A) be amended to read:

TABLE 23.206 1: ALLOWED LAND 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 | M-RD | |
| Residential Uses | | | | | | |
| Accessory Dwelling Unit | NP | NP | NP | See 23.306 | NP | |
| Dwellings | | | | | | |
| Single-Family | NP | NP | NP | AUP* | NP | 23.206.090(B)(8) |
| Multi-Unit Residential | NP | NP | NP | ZC* | NP | 23.206.090(B)(7)&(8) |
| Group Living Accommodation | NP | NP | NP | UP(PH)* | NP | 23.206.090(B)(8) |
| Hotel, Residential | NP | NP | NP | NP | NP | |
| Mixed-Use Residential | NP | NP | NP | UP(PH)* | NP | 23.206.090(B)(8)&(9) |
| Senior Congregate Housing | NP | NP | NP | See 23.310 | NP | |
| Public and Quasi- Public Uses | | | | | | |
| Child Care Center | NP | NP | AUP* | UP(PH)* | AUP* | 23.206.040(C)&(D) |
| Cemetery/Crematory/Ma usoleum | NP | NP | NP | NP | NP | |
| Club/Lodge | UP(PH)* | UP(PH)* | UP(PH)* | UP(PH) | UP(PH)* | 23.206.040(F) |
| Columbaria | NP | NP | NP | – | NP | |

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|--|-------------------------|--------|-------------|---------|---------|---|
| | M | MM | MU-LI | MU-R | M-RD | |
| Community Care Facility | NP | NP | NP | ZC* | NP | 23.206.090(B)(3) |
| Community Center | NP | NP | NP | UP(PH) | NP | |
| Emergency Shelter | NP | NP | NP | – | NP | |
| Hospital | NP | NP | NP | NP | NP | |
| Library | NP | NP | NP | UP(PH) | NP | |
| Low Barrier Navigation Center | NP | NP | NP | ZC | NP | |
| Mortuaries and Crematories | NP | NP | NP | UP(PH)* | NP | 23.206.090(B)(6) |
| Municipal Animal Shelter | UP(PH) | UP(PH) | UP(PH) | – | UP(PH) | |
| Nursing Home | NP | NP | NP | UP(PH) | NP | |
| Park/Playground | NP | NP | NP | UP(PH)* | NP | 23.206.040(C) |
| Public Safety and Emergency Service | UP(PH) | UP(PH) | UP(PH) | UP(PH) | UP(PH) | |
| Public Utility Substation/Tank | UP(PH) | UP(PH) | UP(PH) | UP(PH) | UP(PH) | |
| Religious Assembly | NP | NP | NP | UP(PH) | NP | |
| School | NP | NP | NP | UP(PH)* | NP | 23.206.040(C) |
| School, Vocational | NP | NP | ZC* [1] | UP(PH) | ZC* [1] | 23.206.040(Q) |
| Supportive Housing | NP | NP | NP | ZC* | NP | 23.302.070(I)- Supportive Housing |
| Retail Uses | | | | | | |
| Alcoholic Beverage Retail Sale | NP | NP | UP(PH)* [2] | NP * | NP | 23.206.080(B)(3); 23.206.090(B)(2); 23.310 |

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|--|-------------------------|---------|---------|----------|---------|---|
| | M | MM | MU-LI | MU-R | M-RD | |
| Firearm/Munitions Business | NP | NP | NP | NP | NP | |
| Industrial and Mining Products | AUP [2] | AUP [2] | AUP [4] | NP | NP | |
| Pawn Shop/Auction House | NP | NP | NP | NP | NP | |
| Pet Store | NP | NP – | NP | NP | NP | |
| Retail, General | NP | NP | AUP* | AUP* [3] | AUP* | 23.206.040(G); 23.206.090(B)(4) |
| Smoke Shop | NP | NP | NP | NP | NP | |
| Personal and Household Service Uses | | | | | | |
| Personal and Household Services, General | NP | NP | NP | AUP | NP | |
| Kennels and Pet Boarding | NP | NP | NP | UP(PH) | NP | |
| Laundromats and Cleaners | NP | NP | NP | AUP | NP | |
| Veterinary Clinic | NP | NP | NP | UP(PH) | NP | |
| Video Tape/Disk Rental | NP | NP | NP | NP | NP | |
| Office Uses | | | | | | |
| Business Support Services | NP | NP | AUP [6] | AUP [3] | AUP [6] | |

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|--|-------------------------|---------|---------|------------|---------|---|
| | M | MM | MU-LI | MU-R | M-RD | |
| Banks and Financial Services, Retail | NP | NP | – | NP | NP | |
| Insurance Agents, Title Companies, Real Estate Agents, Travel Agents | NP | NP | – | – | NP | |
| Medical Practitioners | NP | NP | NP | AUP [3] | NP | |
| Non-Chartered Financial Institutions | NP | NP | – | – | NP | |
| Office, Business and Professional | NP | ZC* [4] | AUP [4] | AUP [3] | AUP [4] | 23.206.070(B)(2) |
| Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses | | | | | | |
| Adult-oriented Business | - | - | NP | NP | NP | |
| Amusement Device Arcade | NP | NP | ZC | ZC | NP | 23.302.070(B) |
| Bar/Cocktail Lounge/Tavern/Tap Room/Wine Tasting | NP | NP | NP | See 23.306 | NP | |
| Commercial Recreation Center | NP | NP | – | NP | NP | |
| Entertainment Establishment | NP | NP | – | UP(PH) | NP | |
| Food Service Establishment under | -- | -- | AUP* | AUP* | AUP* | 23.302.070(E) |

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|--|-------------------------|---------|---------|---------|---------|---|
| | M | MM | MU-LI | MU-R | M-RD | |
| 5,000 sq. ft. | | | | | | |
| Food Service Establishment 5,000 sq. ft. or larger | -- | -- | UP(PH)* | UP(PH)* | UP(PH)* | 23.302.070(E) |
| Group Instruction | ZC | ZC | – | ZC | ZC | |
| Health and Fitness Facility | NP | NP | – | NP | NP | |
| Hotel, Tourist | NP | NP | NP | NP | NP | |
| Motel, Tourist | NP | NP | NP | NP | NP | |
| Theater | NP | NP | UP(PH)* | NP | NP | 23.206.080(B)(4) |
| Vehicle Service and Sale Uses | | | | | | |
| Alternative Fuel Station | AUP [4] | AUP [4] | AUP [4] | AUP | AUP [4] | |
| Gasoline/Vehicle Fuel Station | NP | NP | NP | NP | NP | |
| Large Vehicle Sales and Rental | – | NP | AUP [4] | NP | AUP [4] | |
| Small Vehicle Sales and Rental | – | NP | NP | NP | NP | |
| Tire Sales and Service | – | – | – | NP | NP | |
| Vehicle Parts Store | NP | NP | NP | UP(PH) | NP | |
| Vehicle Repair and Service | UP(PH) | UP(PH) | UP(PH) | UP(PH) | UP(PH) | |
| Vehicle Rentals | NP | – | – | NP | NP | |
| Vehicle Sales, New | AUP* [7] | NP | NP | NP | NP | 23.206.060(B)(3) |

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|--|-------------------------|---------|----------|----------|----------|---|
| | M | MM | MU-LI | MU-R | M-RD | |
| Vehicle Sales, Used | AUP* [7] | NP | NP | NP | NP | 23.206.060(B)(3) |
| Vehicle Wash | NP | NP | NP | NP | NP | |
| Vehicle Wrecking | AUP [7] | AUP [4] | AUP* [4] | NP | NP | 23.206.080(B)(5) |
| Industrial and Heavy Commercial Uses | | | | | | |
| Bus/Cab/Truck/Public Utility Depot | AUP [8] | AUP [8] | AUP* [4] | UP(PH) | AUP* [4] | 23.206.040(B) |
| Commercial Excavation | UP(PH) | UP(PH) | UP(PH) | NP | NP | |
| Contractors Yard | AUP [7] | AUP [7] | AUP [4] | UP(PH) | AUP [4] | |
| Dry Cleaning and Laundry Plant | ZC* [9] | ZC [9] | ZC [1] | UP(PH) | NP | 23.206.060(B)(2) |
| Laboratory | | | | | | |
| Commercial Physical or Biological | NP | AUP [4] | UP(PH)* | NP | AUP [4] | 23.206.040(S) |
| Cannabis Testing | NP | AUP [4] | UP(PH) | NP | AUP [4] | |
| Manufacturing | | | | | | |
| Construction Products | ZC [9] | ZC [9] | UP(PH)* | NP | UP(PH) | |
| Light Manufacturing | ZC [7] | ZC [7] | ZC [1] | AUP* [3] | ZC [1] | 23,206.040(H); 23.206.090(B)(5) |
| Pesticides/Herbicides/Fertilizers | NP | NP | NP | – | NP | |
| Petroleum Refining and Products | NP | NP | NP | – | NP | |
| Pharmaceuticals | AUP [4] | AUP [4] | AUP* [4] | – | AUP* [4] | 23.206.040(J) |
| Primary Production Manufacturing | AUP [4] | AUP [4] | NP | NP | NP | |

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|--|-------------------------|---------|------------------|----------|---------|---|
| | M | MM | MU-LI | MU-R | M-RD | |
| Semiconductors | UP(PH) | UP(PH) | NP | – | UP(PH) | |
| Material Recovery Enterprise | - | - | UP(PH) | - | UP(PH) | |
| Media Production | ZC [10] | ZC [10] | ZC [10] | AUP [11] | ZC [10] | |
| Mini-storage | NP | NP | NP | NP | NP | |
| Recycled Materials Processing | ZC* [9] | ZC* [9] | UP(PH)* | – | UP(PH)* | 23.206.040(L); 23.206.040(M) |
| Recycling Redemption Center | AUP [7] | ZC [9] | UP(PH)* | AUP | UP(PH)* | 23.206.040(M) |
| Repair Service, Non-Vehicle | ZC* [9] | ZC* [9] | ZC* [1] | AUP | ZC* [1] | 23.206.040(I) |
| Research and Development | - | ZC [12] | ZC [12] | – | ZC [13] | |
| Services to Buildings and Dwellings | AUP | AUP | AUP | AUP | AUP | |
| Warehouse | ZC [9] | ZC [9] | ZC [1] | UP(PH) | ZC [1] | |
| Warehouse-Based Non-Store Retailer | ZC [9] | ZC [9] | ZC [1] | – | ZC [1] | |
| Wholesale Trade | ZC [9] | ZC [9] | ZC* [1] | AUP [3] | ZC* [1] | 23.206.040(R) |
| Incidental Uses | | | | | | |
| Amusement Devices | NP | NP | AUP | AUP | AUP | |
| Alcoholic Beverage Service | See 23.310 | | | | | |
| Cafeteria, On-Site | ZC [2] | AUP [2] | ZC [2] | AUP | ZC [2] | |
| Child Care Center | NP | NP | See 23.206.040.B | | | |

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|--|-------------------------|-----------|-----------|-------------------------|-----------|---|
| | M | MM | MU-LI | MU-R | M-RD | |
| Columbaria | – | – | – | – | – | |
| Food Service Establishment under 20,000 sq. ft. | AUP* | AUP* | AUP* | AUP* | AUP* | 23.302.070(E) |
| Food Service Establishment 20,000 sq. ft. or larger | NP | AUP* | NP | AUP* | NP | 23.302.070(E) |
| Home Occupations | NP | NP | NP | See 23.206.040 .B | NP | |
| Live Entertainment, Unamplified | NP | NP | ZC | ZC | ZC | |
| Live Entertainment, Amplified | NP | NP | AUP | AUP | AUP | |
| Retail Sales of Goods Manufactured On-Site | AUP* [14] | AUP* [15] | AUP* [15] | AUP* | AUP* [15] | 23.206.040(N) |
| Storage of Goods Manufactured On-Site (>25% gross floor area) | ZC | ZC | ZC | AUP | ZC | |
| Wholesale Activities | ZC | ZC | ZC | AUP | ZC | |
| Other Miscellaneous Uses | | | | | | |
| Art/Craft Studio | ZC* [10] | ZC [10] | ZC* [10] | AUP [11] | ZC* [10] | 23.206.040(A) |
| ATM, Exterior and Attached to Bank | AUP | AUP | - | AUP | NP | |
| ATM, Interior or Exterior and Not With Bank | AUP | AUP | AUP | AUP | AUP | |

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|--|-------------------------|-----|-----------------|--------|-----------------|---|
| | M | MM | MU-LI | MU-R | M-RD | |
| Circus/Carnival | NP | NP | UP(PH)* | UP(PH) | UP(PH)* | 23.206.040(E) |
| Drive-in Uses | NP | NP | NP | NP | NP | |
| Live/Work | NP | NP | See 23.312 | | NP | NP |
| Parking Lot/Structure | See 23.302.070.G | | | | | |
| Public Market, Open Air | - | - | UP(PH)* [16] | - | UP(PH)* [16] | 23.206.040(K) |
| Public Market, Enclosed | - | - | AUP [5] | - | AUP [5] | |
| Short-Term Rental | - | - | - | ZC* | NP | 23.314 |
| Urban Agriculture, Low-Impact | ZC | ZC | ZC | ZC | ZC | |
| Urban Agriculture, High-Impact | AUP | AUP | AUP | AUP | AUP | |

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|--|--------------------------------|-----------|--------------|-------------|-------------|---|
| | M | MM | MU-LI | MU-R | M-RD | |
| <p><u>Notes:</u></p> <p>[1] Requires an AUP for uses 20,000 sq. ft. to 30,000 square feet. Requires a Use Permit for uses more than 30,000 sq. ft.</p> <p>[2] Not permitted 20,000 sq. ft. or more.</p> <p>[3] Requires a Use Permit if 5,000 sq. ft. or more</p> <p>[4] Requires a Use Permit for uses more than 20,000 sq. ft.</p> <p>[5] Requires a Use Permit for more than 5,000 sq. ft. of floor area.</p> <p>[6] Not permitted over 3,000 sq. ft.</p> <p>[7] Requires a Use Permit for uses more than 40,000 sq. ft.</p> <p>[8] Requires a Use Permit for uses 20,000 sq. ft. to 40,000 sq. ft.</p> <p>[9] Requires an AUP for uses 20,000 sq. ft. to 40,000 square feet. Requires a Use Permit for uses more than 40,000 sq. ft.</p> <p>[10] Requires an AUP for uses 10,000 sq. ft. to 20,000 sq. ft. Requires a Use Permit for uses more than 20,000 sq. ft.</p> <p>[11] Allowed with Zoning Certificate if under 1,000 sq. ft. Requires Use Permit if over 20,000 sq. ft.</p> <p>[12] Requires an AUP for uses more than 20,000 sq. ft.</p> <p>[13] Requires an AUP for uses 60,000 sq. ft. to 100,000 sq. ft. Requires a Use Permit for uses 100,000 sq. ft. or more.</p> <p>[14] Not permitted 1,500 sq. ft. or more.</p> <p>[15] Requires a Use Permit for sales area 1,501 to 3,000 sq. ft. Not permitted over 3,000 sq. ft.</p> <p>[16] Requires Use Permit for markets over 5,000 sq. ft.</p> | | | | | | |

Section 3. That Table 23.206-2 within BMC Section 23.206.030 be amended to read:

TABLE 23.206-2. NEW FLOOR AREA PERMIT REQUIREMENTS

| DISTRICT/NEW GROSS FLOOR AREA | PERMIT REQUIRED FOR NEW FLOOR AREA |
|---|---|
| M, MM | |
| Less than 20,000 sq. ft. | ZC |
| 20,000 to less than 40,000 sq. ft. | AUP |
| 40,000 sq. ft. or more | UP(PH) |
| M-RD | |
| Less than 60,000 square feet | ZC |
| 60,000 to less than 100,000 square feet | AUP |
| 100,000 square feet or more | UP(PH) |
| MU-LI | |
| Less than 10,000 sq. ft. | ZC |
| 10,000 to less than 20,000 sq. ft. | AUP |
| 20,000 sq. ft. or more | UP(PH) |
| MU-R | |
| Less than 5,000 sq. ft. | ZC |
| 5,000 to less than 10,000 sq. ft. | AUP |
| 10,000 sq. ft. or more | UP(PH) |

Section 4. That BMC Section 23.206.030(B) be amended to read:

B. Tenant Space Reconfiguration.

1. Reconfiguration of tenant space in an existing building in the M, MM, MU-LI, and M-RD districts requires a permit as listed in Table 23.206-3.
2. In the MU-R district, tenant space reconfiguration projects affecting 5,000 square or more require a Use Permit.
3. As used in this section, tenant reconfiguration means any physical change to an existing building’s walls separating leased spaces so as to change:

- (a) The number of lease spaces for commercial businesses; or
- (b) The square footage of leasable floor area of an existing commercial lease space.

TABLE 23.206-3: TENANT SPACE RECONFIGURATION REQUIREMENTS IN THE M, MM, MU-LI, AND M-RD DISTRICTS

| TENANT SPACE RECONFIGURATION PROJECT | PERMIT REQUIRED FOR TENANT SPACE RECONFIGURATION PROJECT |
|--|--|
| Previously separated spaces combined into a larger space | ZC |
| Creating 2 to 5 separate new tenant spaces | ZC |
| Creating 6 to 9 separate new tenant spaces | AUP |
| Creating 10 or more separate new tenant spaces | UP(PH) |

- 4. **MM and M-RD District Findings.** To approve an AUP or Use Permit for a tenant reconfiguration project in the MM or M-RD district, the review authority must find that the conversion is necessary to implement the purpose of the district.
- 5. **MU-LI District Findings.** To approve a Use Permit for a tenant reconfiguration project in the MU-LI district, the review authority must find that the reconfiguration would not create or contribute to a shortage of industrial spaces in West Berkeley for spaces of the size being converted and either:
 - (a) The reconfiguration can be reasonably expected to better serve the purposes of the district than leaving the space intact; or
 - (b) The reconfiguration would create spaces which could cross-subsidize larger industrial spaces.

Section 5. That BMC 23.206.040 be amended to read:

23.206.040 Use-Specific Regulations

- A. **Art/Craft Studios in the M, MM, and M-RD Districts.** Art/craft studios are allowed in the M, MM and M-RD districts only as workspaces. Live/work is not permitted.
- B. **Bus/Cab/Truck/Public Utility Depot in the MU-LI and M-RD Districts.** A Use Permit is required for a bus/cab/truck/public utility depot in the MU-LI or M-RD district if the lot is over 20,000 square feet, regardless of use floor area.

C. **Child Care Centers in the MU-LI, MU-R, and M-RD Districts.** Table 23.206-4 shows permit requirements for child care centers in the MU-LI, MU-R, and M-RD districts.

TABLE 23.206-4: MU-LI, MU-R, AND M-RD CHILD-CARE CENTER PERMIT REQUIREMENTS

| USE CHARACTERISTIC | PERMIT REQUIRED |
|--|-----------------|
| Incidental Use | |
| Providing childcare for employees only | ZC |
| Providing childcare for non-employees | AUP |
| Principal Use | UP(PH) |

D. **Child-Serving Uses in the MU-LI, MU-R and M-RD Districts.**

1. As used in this section, "child-serving use" means a school, child care center, family day care, or park/recreational facility used by children.
2. Before acting on an application to establish or expand a child-serving use in the MU-LI, MU-R, or M-RD districts, the applicant shall prepare and submit to the City an appropriate risk analysis or risk assessment, as determined by the City, that evaluates the risk to children in the use from other activities near the site.
3. All child-serving uses in the MU-LI, MU-R and M-RD districts must notify in writing, on a form approved by the City, all parents of children in the child-serving use that the use is in the MU-LI, MU-R or M-RD district, 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. The child-serving use must require each parent or guardian to confirm in writing that they have read and understood this information. Written confirmations shall be returned to the child-serving use and maintained at the use for City review.
4. To approve an AUP or Use Permit to establish or expand a child-serving use, the review authority must find that:
 - (a) The child-serving use is not incompatible with adjacent and nearby uses, including industrial uses;
 - (b) The risk analysis or risk assessment shows that there is not significant risk to children in the use from other activities near the site; and
 - (c) The applicant has made adequate provisions to comply with the parent/guardian notification requirement in Paragraph (3) above.

- E. **Circuses and Carnival in the MM, MU-LI, and M-RD Districts.** Circuses and carnivals are allowed in the MM, MU-LI, and M-RD districts only as a temporary use.
- F. **Club and Lodges in the M, MM, MU-LI, and M-RD Districts.** Clubs and lodges are allowed in the M, MM, MU-LI and M-RD districts only for persons working in the district.
- G. **General Retail in the MU-LI and M-RD Districts.** Allowed general retail uses in the MU-LI and M-RD districts 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 supply stores are permitted with an AUP if under 20,000 square feet and with a Use Permit if 20,000 square feet or more.
- H. **Manufacturing Uses in the M, MM, MU-LI, and M-RD Districts.** For manufacturing uses in the M, MM, MU-LI, and M-RD districts 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.
- I. **Non-Vehicle Repair Service in the M, MM, MU-LI, and M-RD Districts.** Retail sales associated with a non-vehicle repair service are not permitted in the M, MM, MU-LI, and M-RD districts.
- J. **Pharmaceuticals Manufacturing in the MU-LI and M-RD Districts.** Pharmaceuticals manufacturing is allowed in the MU-LI or M-RD districts only in locations at least 500 feet from a Residential District or the MU-R district.
- K. **Public Market, Open Air in the MU-LI and M-RD Districts.** Open air markets in the MU-LI or M-RD districts with 5,000 square feet or less of lot area are allowed with an AUP.
- L. **Recycled Materials Processing in the M and MM Districts.** For recycled materials processing facilities under 10,000 square feet in the M and MM districts, an AUP is required if processing occurs outside of a building.
- M. **Recycling Facilities in the MU-LI and M-RD Districts.** Recycled materials processing and recycling redemption centers are allowed in the MU-LI and M-RD districts only on lots greater than 20,000 square feet.
- N. **Retail Sale of Goods Manufactured On-Site.** The following requirements apply to incidental retail sales in all Manufacturing Districts:
 - 1. The size and character of signs for the retail use shall clearly indicate that the retail use is not the primary use of the site.
 - 2. Maximum retail floor area: 10 percent of total gross floor area.
 - 3. Outdoor sales of food service is not permitted.

- O. **Storage, Wholesale, Manufacturing as Incidental Use.** If a storage, wholesale, or manufacturing use is allowed in the M, MM, MU-R, or M-RD district with a Zoning Certificate, the use is allowed incidental to another permitted use without the requirement for an AUP or Use Permit.
- P. **Microbes or biological agents** – See Section 23.302.020(E)
- Q. **Noise.** For purposes of the Noise Ordinance, Municipal Code Chapter 13.40, the Manufacturing Districts are considered Industry Districts.
- R. **Vocational Schools in the MU-LI and M-RD Districts.** A vocational school in the MU-LI or M-RD district must provide training for occupations and/or industries found in the West Berkeley Plan area.
- S. **Wholesale Trade in the MU-LI and M-RD Districts.** Proximity to Residential Use. For wholesale trade use in the MU-LI or M-RD districts 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 6. That BMC Section 23.206.080(B) be amended to read:

B. Land Use Regulations

- 1. **Allowed Land Uses.** See Table 23.206-1: Allowed Land Uses in Manufacturing Districts.
- 2. **Use Permit Not Required.** An existing use in the MU-LI district may be modified or intensified without a Use Permit if:
 - (a) A Use Permit is not required by this chapter; and
 - (b) The Zoning Officer determines that the modification or intensification of the use can reasonably be expected not to increase any impact regulated under environmental performance standards.
- 3. **Alcoholic Beverage Retail Sales.** Alcoholic beverage retail sales are allowed in the MU-LI district only when incidental to food product stores.
- 4. **Theaters.** Only live stage performances are allowed in a theater in the MU-LI district. Motion picture theaters are not permitted.
- 5. **Vehicle Wrecking.** Permits required for vehicle wrecking the MU-LI district is determined by size of lot, not floor area.

Section 7. That BMC Section 23.206.100 be amended to read:

23.206.100 M-RD Manufacturing, Research and Development District

- A. **District Purpose.** The purpose of the Manufacturing, Research and Development (M-RD) district is to:

1. Support a mix of industrial and heavy commercial uses, such as light manufacturing and research and development, particularly those which can provide high quality employment at all educational levels and add significantly to the tax base;
2. Allow office and laboratory uses that support light industrial and research and development uses;
3. Provide flexibility to facilitate the development and reuse of large sites with an urban campus-like environment, demonstrating high-quality design and site planning that includes amenities for employees and customers; and
4. Support the development of industrial uses which satisfy performance standards that protect the environment.

B. Land Use Regulations.

1. **Allowed Land Uses.** See Table 23.206-1: Allowed Land Uses in Manufacturing District.

C. Additional Permit Requirements. See Section 23.206-1: Allowed Land Uses in Manufacturing Districts.

D. Development Standards. See Table 23.206-15 for development standards in the M-RD district.

TABLE 23.206-15. M-RD DEVELOPMENT STANDARDS

| Development Standards | | Supplemental Standards |
|---|----------------|--------------------------------|
| Lot Area, Minimum | No minimum | 23.304.020– Lot Requirements |
| Floor Area Ratio, Maximum | 2.0 | |
| Lot Line Setbacks, Minimum | | |
| Front | No minimum | 23.304.030– Setbacks |
| Rear | No minimum | |
| Interior Side | No minimum | |
| Street Side | No minimum | |
| Building Separation, Minimum | No minimum | |
| Lot Coverage, Maximum | 80% | 23.304.120– Lot Coverage |
| Minimum Usable Open Space, Minimum, per 1,000 square feet of gross floor area | 20 square feet | 23.304.090 – Usable Open Space |

| | | |
|-------------------------------|------------------|--------------------------------|
| Main Building Height, Maximum | 55 ft 105 [1] | 23.304.050– Building Height |
|-------------------------------|------------------|--------------------------------|

[1] Maximum Main Building Height of 105 feet may be allowed pursuant to Section 23.206.100(D)(1) (Modification of Development Standards on Large Sites).

1. Modifications to Development Standards on Large Sites.

(a) **Purpose.** The purpose of these provisions is to facilitate the development and reuse of large sites as an urban campus-like environment with high-quality design and site planning with amenities for employees and customers.

(b) **Applicability.** This section applies to projects located on a site of at least 9 acres, which may comprise multiple parcels and blocks, excluding intervening streets/roads/right-of-way or similar.

(c) **Allowed Modification.** The ZAB shall allow modifications to lot coverage, height and setback standards in Table 23.206-15, as follows, subject to the permit findings in Section 23.206.100(D)(1)(e):

i. Main building(s) may comply with the maximum FAR and coverage standards on a project-wide basis, rather than on a parcel-by-parcel basis, as follows:

a) The FAR and/or coverage for main buildings on an individual parcel shall not exceed the maximum allowed in Table 23.206-15 by more than 20 percent.

b) The project complies with the maximum allowed FAR and coverage in Table 23.206-15.

ii. Main building(s) shall not exceed a maximum building height of 105 feet.

(d) **Development Plan.** The applicant shall submit a development plan that includes all of the following:

i. A detailed phasing plan that shows the general location and timing of all physical development, including on and off-site infrastructure, architectural plans, and locations of proposed uses; and

ii. A detailed development comparison demonstrating how the changes in development standards for the proposed project maximize amenities for both employees and customers.

(e) **Findings for Approval.**

i. To approve any modification allowed in this section, the ZAB shall make all of the following findings:

a) That the modification(s) to the development standard(s) are warranted to support a project that demonstrates enhanced design and site planning. Enhanced design elements shall include but not

be limited to varied and unique architectural features and innovative site layouts that maximize amenities for both employees and customers. Such modification(s) shall result in a development that achieves the purposes of the M-RD district which could not be achieved by strict application of the development standards; and

- b) The applicant has demonstrated that each phase of development does not unduly burden future project implementation, ensures implementation of the project within a reasonable time period, and all required on and off-site infrastructure and amenities are provided.
- ii. To approve a Modification to Development Standards on Large Sites, the ZAB shall also make all required Use Permit findings and follow all procedures in Section 23.406.040 (Use Permits) and any additional Use Permit findings required by the Zoning Ordinance for the use or development in the applicable district.
- (f) **Conditions of Approval.** Additional project specific conditions may be imposed to support the findings for approval. Project specific requirements may include but are not limited to a reimbursement agreement, surety/bond/letter of credit, or private maintenance agreement. The approving body shall identify the project requirements within the Conditions of Approval.
- (g) **Deed Restriction.** A deed restriction shall be prepared requiring compliance with the Conditions of Approval (and as amended), in perpetuity. The property owner shall file and record the deed restriction with the Alameda County Recorder's Office.

E. **Permit Findings.** See Section 23.206.110 (Permit Findings).

Section 8. That BMC Section 23.206.110 be adopted to read:

23.206.110 Permit Findings

- E. **All Manufacturing Districts.** To approve an AUP or a Use Permit in a Manufacturing District, the review authority must find that the project:
 - 1. Is consistent with the purposes of the district;
 - 2. Is compatible with the surrounding uses and buildings;
 - 3. Complies with the adopted West Berkeley Plan; and
 - 4. Meets any applicable performance standards for off-site impacts.
- F. **Additional Findings.** In addition to the findings in Section 23.206.110(A) (All Manufacturing Districts), the review authority must also make the following findings to approve an AUP or Use Permit in each of the Manufacturing Districts.
 - 1. M and MM Districts. The project:
 - (a) Is unlikely, under reasonably foreseeable circumstances, to induce a substantial change of use in buildings from manufacturing, wholesale trade, or warehousing uses; and
 - (b) Is designed in such a manner to be supportive of the industrial character of the district. Such physical compatibility shall include materials used; facade

treatments; landscaping; lighting; type, size and placement of awnings, windows, and signs; and all other externally visible aspects of the design of the building and site.

2. MU-LI District. The project:
 - (a) Is unlikely, under reasonably foreseeable circumstances, to induce a substantial change of use in buildings from manufacturing, wholesale trade, or warehousing uses;
 - (b) Is designed in such a manner to be supportive of the industrial character of the district. Such physical compatibility shall include materials used; facade treatments; landscaping; lighting; type, size and placement of awnings, windows, and signs; and all other externally visible aspects of the design of the building and site; and
 - (c) If the building and/or site is split between the MU-LI district and the C-W district, there are clear and appropriate distinctions in all design aspects between the portions of the building and site within the MU-LI district and the portions within the C-W district.
3. MU-R District. The project:
 - (a) Is unlikely, 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; and
 - (b) Is designed to be supportive of the character and purposes of the district.
4. M-RD District. The project:
 - (a) Is unlikely, under reasonably foreseeable circumstances, to either induce or contribute to a cumulative change of use in buildings away from industrial or heavy commercial uses; and
 - (b) Is designed to be supportive of the character and purposes of the district. Such physical compatibility shall include materials used; facade treatments; landscaping; lighting; type, size and placement of awnings, windows, and signs; and all other externally visible aspects of the design of the building and site.

Section 9. That Table 23.302-2 within BMC Section 23.302.020(E) be amended to read:

Table 23.302-2. Permit Requirements for Outdoor Uses

| DISTRICT/USE CHARACTERISTICS [1] | PERMIT REQUIRED |
|---|-----------------|
| All Commercial Districts Except for C-W | |
| Not abutting a residential district | AUP |
| Abutting a residential district | UP(PH) |
| C-W | |
| Not abutting a residential district and less than 10,000 s. ft. | AUP |
| Abutting a residential district | UP(PH) |

| | |
|--|--------|
| 10,000 sq. ft. or more | UP(PH) |
| M, MM, M-RD [2] | |
| Less than 20,000 sq. ft. | ZC |
| 20,000 sq. ft. or more | AUP |
| MU-LI | |
| Less than 20,000 sq. ft. | ZC |
| 20,000 to 30,000 sq. ft. | AUP |
| More than 30,000 sq. ft. | UP(PH) |
| MU-R | |
| Not abutting a residential district | AUP |
| Abutting a residential district | UP(PH) |
| Notes: [1] Size is measured as the lot area of the outdoor activity or storage. [2] In the M,MM, and M-RD districts, permits are required only for activity or storage not ancillary to a permitted use. | |

Section 10. That BMC Section 23.302.070(E)(4) be amended to read:

4. MU-LI, MU-R, and M-RD District – Findings.

- (a) To approve an AUP or Use Permit to establish or expand a food service establishment in the MU-LI, MU-R, or M-RD district, the review authority must find that the establishment of the use, given its size, location, physical appearance and other relevant characteristics, will not have a significant detrimental impact on the industrial character of the area.

Section 11. That Table 23.302-7 within BMC Section 23.302.070(G) be amended to read:

TABLE 23.302-7: PERMIT REQUIREMENTS FOR PARKING LOTS/STRUCTURES

| DISTRICT | PERMIT REQUIRED |
|---------------------------------|--|
| Residential Districts | |
| R-3 | Use Permit for all parking lots and structures. [1] |
| R-S, R-SMU, R-BMU | Use Permit for parking structures only. Parking lots are not permitted, except on lots between Acton Street and Virginia Gardens and between Peralta Avenue and Northside Avenue in the R-BMU. |
| All other residential districts | Use Permit for all parking lots and structures. |

| Commercial Districts | |
|--|--|
| C-C, C-U | Zoning Certificate for parking lots and structures with 5 spaces or fewer. Use Permit for more than 5 spaces. |
| C-SO | AUP for parking lots and structures with 5 spaces or fewer. Use Permit for more than 5 spaces. |
| C-DMU | AUP for parking lots with 8 spaces or fewer. Use Permit for all parking structures. Lots with more than 8 spaces not permitted. |
| C-N, C-E, C-NS, C-SA | Use Permit for all parking lots and structures. |
| C-T | Use Permit for all parking structures. All parking lots not permitted. |
| C-W | AUP for parking lots and structures with 10 spaces or fewer. Use Permit for parking lots and structures with more than 10 spaces. |
| Manufacturing Districts | |
| M, MM | AUP for parking lots and structures with 10 or fewer spaces exclusively for uses in the district. Use Permit for parking lots and structures with any number of spaces not exclusively for uses in the district. |
| MU-LI, M-RD | Zoning Certificate for parking lots and structures with 10 or fewer spaces exclusively for uses in the district. AUP for parking lots and structures with 11 spaces or more exclusively for uses in the district. Use Permit for parking lots and structures with any number of spaces not exclusively for uses in the district. |
| MU-R | Zoning Certificate for parking lots and structures exclusively for uses in the district. Use Permit for parking lots and structures not exclusively for uses in the district. |
| Notes: Parking lots and structures in the R-3 district are not permitted within the Southside Plan area | |

Section 12. That Table 23.322-4 within BMC Section 23.322.030(C) is hereby amended to read:

TABLE 23.322-4: REQUIRED OFF-STREET PARKING IN MANUFACTURING DISTRICTS

| Land Use | Required Parking Spaces |
|-------------------------|--------------------------------|
| Residential Uses | |
| Accessory Dwelling Unit | None required |
| Dwellings | None required |
| Group Living | None required |

| Land Use | Required Parking Spaces |
|---|---|
| Accommodation | |
| Non-Residential Uses | |
| All non-residential uses except uses listed below | M-RD District: None required All Other Districts: 2 per 1,000 sq. ft. |
| Art/Craft Studio | M-RD District: None required All Other Districts: 1 per 1,000 sq. ft. |
| Community Care Facility | None required |
| Food Service Establishment | M-RD District: None required All Other Districts: 1 per 300 sq. ft. |
| Library | 1 per 500 sq. ft. of publicly accessible floor area |
| Laboratories | M-RD District: None required All Other Districts: 1 per 650 sq. ft. |
| Nursing Home | 1 per 5 residents, plus 1 per 3 employees |
| Medical Practitioners | One per 300 sq. ft. |
| Large Vehicle Sales and Rental | MU-LI District: 1.5 per 1,000 sq. ft. M-RD District: None required All Other Districts: 1 per 1,000 sq. ft. of display floor area plus 1 per 500 sq. ft. of other floor area; 2 per service bay |
| Manufacturing | MU-R District: 1.0 per 1,000 sq. ft. M-RD District: None required All Other Districts: 1 per 1,000 sq. ft. for spaces less than 10,000 sq. ft.; 1 per 1,500 sq. ft. for spaces 10,000 sq. ft. or more |
| Storage, warehousing, and wholesale trade | M-RD District: None required All Other Districts: 1 per 1,000 sq. ft. for spaces of less than 10,000 sq. ft.; 1 per 1,500 sq. ft. for spaces 10,000 sq. ft. or more |
| Live/Work | MU-LI District: 1 per 1,000 sq. ft. of work area where workers/clients are permitted MU-R District: if workers/clients are permitted in work area, 1 per first 1,000 sq. ft. of work area and 1 per each additional 750 sq. ft. of work area |
| Research and Development | M-RD District: None required All Other Districts: 1 per 1,000 sq. ft. |

| Land Use | Required Parking Spaces |
|--|-------------------------|
| <p><u>Notes:</u> [1] For multiple dwellings where the occupancy will be exclusively for persons over the age of 62, the number of required off-street parking spaces may be reduced to 25% of what would otherwise be required for multiple-family dwelling use, subject to obtaining a Use Permit.</p> | |

Section 13. That Table 23.322-12 within BMC Section 23.322.100(A) be amended to read:

TABLE 23.322-12: LAND USES REQUIRING OFF-STREET LOADING SPACES

| District | Land Use [1] |
|-----------------------------|---|
| R-1, R-1A, R-2 | Schools 10,000 sq. ft. or more |
| R-2A | Senior congregate housing, nursing homes and schools 10,000 sq. ft. or more |
| R-3 | Senior congregate housing, hospitals, nursing homes, schools 10,000 sq. ft. or more |
| R-4, R-5 | Senior congregate housing, hospitals, nursing homes, offices, schools 10,000 sq. ft. or more |
| R-S, R-SMU | All non-residential uses 10,000 sq. ft. or more |
| All C Districts except C-T | All commercial uses 10,000 sq. ft. or more |
| C-T | No loading spaces required for all land uses |
| All M Districts except M-RD | All commercial and manufacturing uses 10,000 sq. ft. or more |
| M-RD | Research and Development uses 25,000 sq. ft. or more; All other commercial and manufacturing uses 10,000 sq. ft. or more. |

Note:

[1] Land use size is total gross floor area.

Section 14. That Table 23.322-13 within BMC Section 23.322.100(B) be amended to read:

TABLE 23.322-13: NUMBER OF REQUIRED OFF-STREET LOADING SPACES

| District | Spaces Required [1] |
|--------------------------------------|---|
| Residential and Commercial Districts | 1 space for the first 10,000 sq. ft. plus 1 additional space for each additional 40,000 sq. ft. |
| Manufacturing Districts | Research and Development uses in M-RD: 25,000 to 100,000 sq. ft. – 1 space; more than 100,000 to 200,000 sq. ft. – 2 spaces; each additional 100,000 sq. ft. – 1 space. |

| District | Spaces Required [1] |
|---|---|
| | All other uses in all other M Districts: 1 space for the first 10,000 sq. ft. plus 1 additional space for each additional 25,000 sq. ft |
| Note: [1] Land use size is total gross floor area. | |

Section 15. 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 March 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.