



Office of the City Manager

PUBLIC HEARING

April 14, 2020

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Timothy Burroughs, Director, Planning and Development Department  
Subject: Zoning Ordinance Amendments for Family Daycare Homes to comply with Senate Bill 234

RECOMMENDATION

Conduct a public hearing and, upon conclusion:

1. Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Title 23 (Zoning Ordinance) to comply with Family Daycare Home regulations recently enacted by Senate Bill 234 (SB 234); and
2. Adopt a Resolution amending Resolution 67,985-N.S., the Planning Department Fee Schedule, to reflect the requirement that no permit fees may be charged for Family Daycare Homes pursuant to SB 234.

FISCAL IMPACTS OF RECOMMENDATION

Pursuant to SB 234, the proposed Zoning Ordinance amendments are designed to streamline the permitting process for Small and Large Family Daycare Homes. The attached resolution eliminating City fees for Family Daycare Homes to zero dollars will have minimal financial impacts on the City because in reducing discretion for these permits, staff review can be accomplished over-the-counter. Additionally, the Finance Department will no longer require business licenses for Family Daycare Homes, which will also have a minimal fiscal impact on the City. Changes are expected to reduce barriers and costs to those operating or wanting to operate licensed Family Daycare Homes in Berkeley.

CURRENT SITUATION AND ITS EFFECTS

Family Daycare Homes, as defined by the State, are facilities that regularly provide care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day.

SB 234 (Skinner)<sup>1</sup>, adopted on September 5, 2019, revised regulations of Family Daycare Homes in the State of California by:

1. Prohibiting jurisdictions from levying business license fees or taxes on Family Daycare Homes; and
2. Requiring ministerial approval of Family Daycare Homes in all zoning districts where residential uses are allowed.

The City of Berkeley currently allows licensed Family Daycare Home providers to operate with a Zoning Certificate (ZC) for less than 8 children or an Administrative Use Permit (AUP) for up to 14 children where they are allowed in R-prefixed districts, the West Berkeley Commercial (C-W) district, the Mixed-Use Residential (MU-R) district, and the Mixed Use-Light Industrial (MU-LI) district. Both permit types have incurred a review fee of between \$200 and \$1,000 and Family Daycare Homes are subject to an annual local business tax.

The recommended changes would update the BMC to comply with State law. Specifically, the Zoning Ordinance amendments would update the Uses Permitted Tables to allow Family Daycare Homes to locate in all districts where residential uses are permitted, reduce the level of discretion for large facilities, remove large facilities from findings, and update the definition and spelling to be consistent with SB 234.

The proposed Zoning Ordinance amendments affect the following BMC Chapters: Sections 23D.16.030, 23D.20.030, 23D.24.030, 23D.28.030, 23D.32.030, 23D.36.030, 23D.40.030, 23D.44.030, 23D.48.030, 23D.52.030, 23E.36.030, 23E.40.030, 23E.44.030, 23E.48.030, 23E.52.030, 23E.56.030, 23E.60.030, 23E.68.030, 23E.80.040, 23E.80.090, 23E.84.040, 23E.84.090.H, and 23F.04.010.

### **Planning Commission Recommendations**

On January 15, 2020 the Planning Commission held a public hearing and recommended a set of Zoning Ordinance amendments by an 8-1-0-0 vote (Yes: Beach, Kapla, Krpata, Lacey, Schildt, Vincent, Wiblin, and Wrenn; No: Martinot; Abstain: none; Absent: none). See Attachments 2 and 3 for the Planning Commission staff report and meeting minutes.

Recommended Zoning Ordinance amendments are presented in five categories listed below:

1. Reduce Level of Discretion for Land Use Permits
2. Expand Districts where Permitted Use is Allowed
3. Remove Large Family Daycare Home from Findings
4. Update Definition of Family Daycare Home

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<sup>1</sup> [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB234](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB234)

5. Update Spelling for Consistency with State Law

**1. Reduce Level of Discretion (Uses Permitted Table)**

Change the permit required to establish a Large Family Daycare Home from an AUP to a ZC as required by SB 234.

Districts Affected: R-1, R-1A, R-2, R-2A, R-3, R-4, R-5, R-S, and R-SMU, C-W, MU-LI, and MU-R.

**2. Expand Districts where Permitted Use is Allowed (Uses Permitted Table)**

Amend the Uses Permitted Tables to expand districts where Family Daycare Homes can locate and operate. Currently Family Daycares are not permitted in the ES-R and in most C-prefixed districts. SB 234 requires that the City allow Family Daycares wherever residential uses are permitted in the City.

Districts Affected: ES-R, C-1, C-N, C-E, C-NS, C-SA, C-T, C-SO, and C-DMU.

**3. Remove Large Family Daycare Homes from Findings**

Amend Findings to remove reference to Large Family Daycare Homes since findings are not required for uses permitted with a ZC.

Districts Affected: MU-LI and MU-R.

**4. Update Family Daycare Home Definition (Sub-Title 23F)**

Amend the definition of Family Daycare Home to reflect the new definition provided in Government Code Section 1596.78, thereby eliminating the distinction between small and large daycares.

**5. Update Spelling to be Consistent with State Law**

Update 52 instances of “day care” to “daycare” to be consistent with spelling in the State law. These changes can be found throughout the Zoning Ordinance.

**BACKGROUND**

Family Daycare Homes, as defined by the State, are facilities that regularly provide care, protection, and supervision for 14 or fewer children, in the provider’s own home, for periods of less than 24 hours per day. Family Daycare Homes, licensed by the State of California, are classified as follows:

1. Small Family Daycare Home involves the use of a dwelling, as described above, for eight or fewer children, inclusive of children under 10 years of age who reside at the home.

2. Large Family Daycare Home involves the use of a dwelling, as described above, for nine to fourteen children, inclusive of children under 10 years of age who reside at the home.

According to the State legislation, licensed Family Daycare Homes play an important role in the childcare market – providing flexible hours, affordable care, and low staff-to-child ratios in a home environment. This bill reduces barriers and costs to those operating or wanting to operate licensed Family Daycare Homes by prohibiting jurisdictions from levying business license fees or taxes on Small and Large Family Daycare Homes. The law also requires ministerial approval of Family Daycare Homes in all districts where residential uses are allowed.

#### ENVIRONMENTAL SUSTAINABILITY

Decreasing financial barriers to establishing Family Daycare Homes while expanding where providers can locate is expected to create more childcare options for families. More options may allow parents to identify providers close to home or work. Convenient locations for Family Daycare Homes can contribute to a family's quality of life, help build community, and support sustainable transportation choices.

#### RATIONALE FOR RECOMMENDATION

The proposed Zoning Ordinance amendments would bring the BMC into compliance with State law and reduce barriers for Family Daycare Homes, providing more childcare options for Berkeley families.

#### ALTERNATIVE ACTIONS CONSIDERED

Council could take no action, in which case the Zoning Ordinance will be out of compliance with SB 234.

#### CONTACT PERSON

Timothy Burroughs, Director, Planning and Development Department, (510)-981-7437  
Paola Boylan, Assistant Planner, Land Use Planning Division, 510-981-7418  
Alene Pearson, Principal Planner, Land Use Planning Division, (510) 981-7489

#### Attachments:

- 1: Ordinance amending BMC Title 23
- 2: Resolution revising the Planning Department Fee Schedule
- 3: January 15, 2020 Planning Commission Staff Report (without Attachments)
- 4: January 15, 2020 Planning Commission Meeting Minutes
- 5: Public Hearing Notice

ORDINANCE NO. -N.S.

AMENDMENT TO MODIFY BERKELEY MUNICIPAL CODE SECTIONS 23D.16.030, 23D.20.030, 23D.24.030, 23D.28.030, 23D.32.030, 23D.36.030, 23D.40.030, 23D.44.030, 23D.48.030, 23D.52.030, 23E.36.030, 23E.40.030, 23E.44.030, 23E.48.030, 23E.52.030, 23E.56.030, 23E.60.030, 23E.68.030, 23E.80.040, 23E.80.090, 23E.84.040, 23E.84.090.H, AND 23F.04.010 TO MODIFY DEFINITION AND PERMITTING REGULATIONS FOR FAMILY DAYCARE HOMES IN ALL RESIDENTIAL AND NON-RESIDENTIAL DISTRICTS.

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

Section 1. 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:

<b>Table 23D.16.030</b>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Accessory Uses and Structures</b>		
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 <a href="#">23D.08</a>	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	Subject to <a href="#">23C.26</a> , <a href="#">23D.08.010</a> , <a href="#">23D.08.020</a> , <a href="#">23D.08.050</a> , and <a href="#">23D.08.060</a>
Accessory Dwelling Units in compliance with Section <a href="#">23C.24.050</a>	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section <a href="#">23C.24.050</a>	AUP	Subject to making applicable findings in Section <a href="#">23C.24.070</a>
Short-Term Rental	ZC	Subject to requirements of Chapter <a href="#">23C.22</a>

Child Care; Family Day-Care/Daycare Home (Small or Large)	ZC	
Small Family Day Care Homes: of eight or fewer children	ZC	-
Large Family Day Care Homes: of nine to 14 children	AUP	-
Fences		
If six ft. or less in height	ZC	
Exceed six ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section <a href="#">23C.16.020</a> are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section <a href="#">23C.16.030.A</a>
Moderate Impact	UP(PH)	Subject to the requirements of Section <a href="#">23C.16.030.B</a>
Hot Tubs, Jacuzzis, Spas	AUP	See Section <a href="#">23D.08.060.C</a>
Stables for Horses	AUP	

Section 2. 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:

Table 23D.20.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
<b>Accessory Uses and Structures</b>		
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 <a href="#">23C.24.050</a>	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section <a href="#">23C.24.050</a>	AUP	Subject to making applicable findings in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
<del>Child Care; Family Day Care Daycare Home (Small or Large)</del>	<del>ZC</del>	
<del>Small Family Day Care Daycare Homes: of eight or fewer children</del>	<del>ZC</del>	
<del>Large Family Day Care Homes: of nine to 14 children</del>	<del>AUP</del>	
<b>Fences</b>		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required yards
<b>Home Occupations</b>		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A

Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.060.C
Stables for Horses	AUP	



Section 3. 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:

<i>Table 23D.24.030</i>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Accessory Uses and Structures</b>		
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)	
Accessory Dwelling Units	Prohibited	
Child Care: <del>Small</del> Family <del>Day-Care</del> Daycare Homes <del>of eight or fewer children</del> (Small or Large)	ZC	<del>Permitted as a residential use pursuant to State Health and Safety Code Sec. 1597.40 et seq.</del>
Fences		
Four ft. or less in height	ZC	
Exceeding four ft. in height	AUP	Subject to Fire Department review and comment
Home Occupations		
Low Impact	AUP	If the requirements of Section 23C.16.020 are met
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030, except that no non-resident employees or customer visits are allowed in ES- R District
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 4. 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:

<i>Table 23D.28.030</i>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Accessory Uses and Structures</b>		
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 <del>Day</del> <del>Gare</del> Daycare Home (Small or Large)	<del>ZC</del>	
<del>Small Family Daycare Home : of eight or fewer children</del>	<del>ZC</del>	
<del>Large Family Daycare Home: of nine to 14 children</del>	<del>AUP</del>	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A

Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
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.32.030 in Chapter 23D.32 Section 23D.32.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23D.32.030</i>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Accessory Uses and Structures</b>		
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 Day Care Daycare Home (Small or Large)	<del>ZC</del>	
<del>Small Family Day Care Homes: of eight or fewer children</del>	<del>ZC</del>	
<del>Large Family Day Care Homes: of nine to 14 children</del>	<del>AUP</del>	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of

		Section 23C.16.030.B
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.36.030 in Chapter 23D.36 Section 23D.36.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23D.36.030</i>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Accessory Uses and Structures</b>		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter <a href="#">23D.08</a>
If has either habitable space and/or exceeds the requirements under Chapter <a href="#">23D.08</a>	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: <del>Family Daycare Home Day Care (Small or Large)</del>	<del>ZC</del>	
<del>Small Family Day Care Homes: of eight or fewer children</del>	<del>ZC</del>	
<del>Large Family Day Care Homes: of nine to 14 children</del>	<del>AUP</del>	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met

Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
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.40.030 in Chapter 23D.40 Section 23D.40.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23D.40.030</i>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Accessory Uses and Structures</b>		
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	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 of applicable findings set forth in Section 23C.24.070
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care <sup>15</sup> ; Family Day Care Daycare Home (Small or Large)	<u>ZC</u>	
Small Family Day Care Homes: of eight or fewer children	ZC	
Large Family Day Care Homes: of nine to 14 children	AUP	
Fences		
Six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A



Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
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 8. 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:

<i>Table 23D.44.030</i>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Accessory Uses and Structures</b>		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter <a href="#">23D.08</a>
If has either habitable space and/or exceeds the requirements under Chapter <a href="#">23D.08</a>	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	<a href="#">23C.26</a> , <a href="#">23D.08.010</a> , <a href="#">23D.08.020</a> , <a href="#">23D.08.050</a> , and <a href="#">23D.08.060</a>
Accessory Dwelling Units in compliance with Section <a href="#">23C.24.050</a>	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section <a href="#">23C.24.050</a>	AUP	Subject to making applicable findings set forth in Section <a href="#">23C.24.070</a>
Short-Term Rental	ZC	Subject to requirements of Chapter <a href="#">23C.22</a>
Child Care, Family <del>Day Care</del> <u>Daycare Home (Small or Large)</u>		
<del>Small Family Day Care Homes: of eight or fewer children</del>	<del>ZC</del>	
<del>Large Family Day Care Homes: of nine to 14 children</del>	<del>AUP</del>	
Fences		
Six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required setbacks
Home Occupations		
Low Impact	ZC	If the requirements of Section <a href="#">23C.16.020</a> are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section <a href="#">23C.16.030.A</a>

Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
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 9. 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:

<i>Table 23D.48.030</i>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Accessory Uses and Structures</b>		
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 Day Care Daycare Home (Small or Large)	<u>ZC</u>	
Small Family Day Care Homes: of eight or fewer children	ZC AUP	
Large Family Day Care Homes: of nine to 14 children		
Fences Six ft. or less in height Exceeding six ft. in height	ZC AUP	In required setbacks

<p>Home Occupations</p> <p>Low Impact</p> <p>Moderate Impact, teaching-related</p> <p>Moderate Impact</p>	<p>ZC</p> <p>AUP</p> <p>UP(PH)</p>	<p>If the requirements of Section 23C.16.020 are met</p> <p>Subject to the requirements of Section 23C.16.030.A</p> <p>Subject to the requirements of Section 23C.16.030.B</p>
<p>Hot Tubs, Jacuzzis, Spas</p>	<p>AUP</p>	<p>See Section 23D.08.060.C</p>
<p>Stables for Horses</p>	<p>Prohibited</p>	
<p>Stores and Shops (Incidental to another Use)</p>	<p>UP(PH)</p>	<p>Contained within a building with no street access and no displays or merchandise visible from the street</p>

Section 10. 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:

<i>Table 23D.52.030</i>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Accessory Uses and Structures</b>		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter <a href="#">23D.08</a>
If has either habitable space and/or exceeds the requirements under Chapter <a href="#">23D.08</a>	AUP	
When located on a vacant lot without a Main Building	AUP	
With Urban Agriculture	ZC	<a href="#">23C.26</a> , <a href="#">23D.08.010</a> , <a href="#">23D.08.020</a> , <a href="#">23D.08.050</a> , and <a href="#">23D.08.060</a>
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
<del>Child Care; Family Day Care</del> <del>Daycare Home (Small or Large)</del>	<del>ZC</del>	
<del>Small Family Day Care Homes: of eight or fewer children</del>	<del>ZC</del>	
<del>Large Family Day Care Homes: of nine to 14 children</del>	<del>AUP</del>	
Fences		In required setbacks
Six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	

Home Occupations Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to the requirements of Section 23C.16.030.B
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 11. 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:

<i>Table 23E.36.030</i>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Uses Permitted in Residential Districts</b>		
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)	
<a href="#">Child Care; Family Daycare Home (Small or Large)</a>	<u>ZC</u>	
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
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
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Section 12. 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:

<i>Table 23E.40.030</i>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Uses Permitted in Residential Districts</b>		
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)	
<u>Child Care; Family Daycare Home (Small or Large)</u>	<u>ZC</u>	
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
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 Six or fewer persons	ZC	Changes of use from an existing dwelling unit

Seven or more persons	AUP	
New Construction	UP(PH)	

Section 13. 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:

<i>Table 23E.44.030</i>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Uses Permitted in Residential Districts</b>		
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)	
<u>Child Care; Family Daycare Home (Small or Large)</u>	<u>ZC</u>	
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
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 Six or fewer persons 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.48.030 in Chapter 23E.48 Section 23E.48.030 of the Berkeley Municipal Code is amended to read as follows:

<i>Table 23E.48.030</i>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Uses Permitted in Residential Districts</b>		
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)	
<u>Child Care; Family Daycare Home (Small or Large)</u>	<u>ZC</u>	
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
Group Living Accommodations, subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.48.070.F
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)	
Senior Congregate Housing Six or fewer persons Seven or more persons New Construction	ZC AUP UP(PH)	Change of use from an existing dwelling unit



Section 15. 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:

<i>Table 23E.52.030</i>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Uses Permitted in Residential Districts</b>		
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)	
<u>Child Care; Family Daycare Home (Small or Large)</u>	<u>ZC</u>	
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 <a href="#">23E.52.070.E</a>
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section <a href="#">23E.52.080</a>
Nursing Homes	UP(PH)	Subject to parking requirements; see Section <a href="#">23E.52.080</a>
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 people New construction	ZC AUP UP(PH)	Change of use from an existing dwelling unit
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Section 16. 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:

<i>Table 23E.56.030</i>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Uses Permitted in Residential Districts</b>		
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)	
<u>Child Care; Family Daycare Home (Small or Large)</u>	<u>ZC</u>	
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
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 17. 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:

<i>Table 23E.60.030</i>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Uses Permitted in Residential Districts</b>		
Accessory Dwelling Unit in compliance with Section <a href="#">23C.24.050</a>	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)	
<a href="#">Child Care; Family Daycare Home (Small or Large)</a>	<u>ZC</u>	
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
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 Six or fewer persons Seven or more persons New Construction	ZC AUP UP(PH)	Change of use from an existing dwelling unit

Section 18. 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:

<i>Table 23E.64.030</i>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Permits Required to Establish, Expand or Change Use (sq. ft.)</b>	<b>Special Requirements (if any)</b>
<b>Residential and Related Uses</b>		
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 <del>Day Care</del> <u>Daycare Home (Small or Large)</u>	<u>ZC</u>	
<del>Small Family Day Care Home of 8 or fewer children</del>	<del>ZC</del>	
<del>Large Family Day Care Home of 9 to 14 children</del>	<del>AUP</del>	
Child Care Centers	UP(PH)	
Clubs, Lodges	UP(PH)	
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 Low Impact	ZC	If the requirements of Section 23C.16.020 are met
Moderate Impact, teaching-related	AUP	Subject to the requirements of Section <a href="#">23C.16.030.A</a>

Moderate Impact	UP(PH)	Subject to the requirements of Section <a href="#">23C.16.030.B</a>
Hospitals	UP(PH)	Subject to parking requirements; see Section <a href="#">23E.64.080.F</a>
Hot Tubs, Jacuzzis, Spas	AUP	See Section 23D.08.070.C
Hotels, Residential, including Single Room Occupancy (SRO)	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section <a href="#">23E.64.080.F</a>
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 <a href="#">23D.36.030</a>
Accessory Buildings and Structures with Urban Agriculture	ZC	<a href="#">23C.26</a> , <a href="#">23D.08.010</a> , <a href="#">23D.08.020</a> , <a href="#">23D.08.050</a> , and <a href="#">23D.08.060</a>

Section 19. That the “Uses Permitted in Residential Districts” 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:

<i>Table 23E.68.030</i>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements</b>
<b>Uses Permitted in Residential Districts</b>		
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	
<a href="#">Child Care; Family Daycare Home (Small or Large)</a>	<a href="#">ZC</a>	
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
Group Living Accommodations subject to R-3 Standards	UP(PH)	Subject to the standards under Section 23E.68.060.F
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 New Construction	AUP UP(PH)	Subject to Section <a href="#">23E.68.070</a>
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Section 20. That the “Residential and Related Uses” section of Table 23E.80.030 in Chapter 23E.80 Section 23E.80.030 of the Berkeley Municipal Code is amended to read as follows:

Table 23E.80.030				
Use and Required Permits				
Uses	Permits Required to Establish, Expand, or Change use by Floor Area (sq. ft.)			Special Requirements (if any)
	Under 20,000	20,000 – 30,000	More than 30,000	
<b>Residential and Related Uses</b>				
Child Care Centers	UP(PH)			Subject to the findings in Section <a href="#">23E.80.090.I</a>
Child Care; Family Day Care Daycare Home (Small or Large)	<u>ZC</u>			
<del>Small Family Day Care Homes of 8 or fewer children</del>	ZC			
<del>Large Family Day Care Homes of 9 to 14 children</del>	AUP			<del>Subject to the findings in Section 20E.80.090.I</del>
Clubs, Lodges, Union Halls and similar uses for persons working in the district	UP(PH)			
Dwelling Units	Prohibited			
Group Living Accommodations	Prohibited			
Major Residential Additions	Prohibited			
Public Safety and Emergency Services	UP(PH)			
Religious Assembly Uses	Prohibited			
Schools				
Public or Private (other than vocational)	Prohibited			
Vocational	ZC	AUP	UP(PH)	Must provide training for occupations and/or industries found in the West Berkeley Plan area
Shelters for Homeless Persons	Prohibited			Existing shelter shall not be considered a non-conforming use and may add floor area with a UP(PH)
Utility Substations, Buildings and Tanks	UP(PH)			
All Other uses permitted in residential districts	Prohibited			

Accessory Buildings and Structures with Urban Agriculture	ZC	Subject to <a href="#">23C.26</a> , <a href="#">23D.08.010</a> , <a href="#">23D.08.020</a> , <a href="#">23D.08.050</a> , and <a href="#">23D.08.060</a>
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Section 21. 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:

<b>Table 23E.84.030</b>		
<b>Use and Required Permits</b>		
<b>Uses</b>	<b>Permit Required to Establish, Expand or Change Use (sq. ft.)</b>	<b>Special Requirements (if any)</b>
<b>Residential and Related Uses</b>		
Accessory Dwelling Unit in compliance with Section <a href="#">23C.24.050</a>	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section <a href="#">23C.24.050</a>	AUP	Subject to making applicable findings in Section <a href="#">23C.24.070</a>
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 <del>Day Care</del> <u>Daycare Home (Small or Large)</u>	<del>ZC</del>	
<del>Small Family Day Care Homes of 8 or fewer children</del>	<del>ZC</del>	<del>Subject to the findings in Section 23E.84.090.H</del>
<del>Large Family Day Care Homes of 9 to 14 children</del>	<del>AUP</del>	
Clubs, Lodges	UP(PH)	
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		
Low Impact	ZC	Subject to requirements under Section 23C.16.020
Moderate Impact, teaching-related	AUP	Subject to requirements under Section 23C.16.030.A
Moderate Impact	UP(PH)	Subject to requirements under Section 23C.16.030.B
Hospitals	Prohibited	
Hotels, Residential	Prohibited	
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 <a href="#">23E.84.090.H</a>
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
Accessory Buildings and Structures with Urban Agriculture	ZC	Subject to <a href="#">23C.26</a> , <a href="#">23D.08.010</a> , <a href="#">23D.08.020</a> , <a href="#">23D.08.050</a> , and <a href="#">23D.08.060</a>

Section 22. That Berkeley Municipal Code Section 23E.80.040.A is amended to read as follows:

**23E.80.040 Special Provisions: Protected Uses**

A. The following uses which were lawfully in place as of July 6, 1989 are Protected Uses where the affected space is used exclusively for a Protected Use or the Protected Use is combined with residential use in the form of a Live/Work Unit. Protected Uses are divided into two categories, as follows:

Category 1	Art/Craft Studio
Category 2	Art Galleries, ancillary to Art/Craft Studios and when located in the same building Child Care Facility Family <del>Day Care</del> <u>Daycare</u> Home Fine arts performance, instruction and rehearsal studios (dance, music, theater) Theaters, Stage Performance, but excluding Motion Picture Theaters

Section 23. That Berkeley Municipal Code Section 23E.80.090.I is amended to read as follows:

**23E.80.090 Findings**

I. In order to approve a Permit for the establishment or expansion of a 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, ~~large family day care~~ or recreational facility to be used by children is not, in the particular circumstances of the project, incompatible with adjacent and nearby uses, including industrial 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, ~~large family day care~~ 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-LI 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. (Ord. 7194-NS § 8, 2011; Ord. 7167-NS §§ 20 – 22, 2011; Ord. 6478-NS § 4 (part), 1999)

Section 24. That Berkeley Municipal Code Section 23E.84.040.A is amended to read as follows:

**23E.84.040 Special Provisions: Protected Uses**

A. The following uses which were lawfully in place as of July 6, 1989 are Protected Uses where the affected space is used exclusively for a Protected Use or the Protected Use is combined with residential use in the form of a Live/Work Unit. Protected Uses are divided into two categories, as follows:

Category 1	Art/Craft Studio
Category 2	Art Galleries, ancillary to Art/Craft Studios and when located in the same building Child Care Facility Family <del>Day Care</del> Daycare Home Fine arts performance, instruction and rehearsal studios (dance, music, theater) Theaters, Stage Performance, but excluding Motion Picture Theaters

Section 25. That Berkeley Municipal Code Section 23E.84.090.H is amended to read as follows:

### 23E.84.090 Findings

H. In order to approve a Use Permit for the establishment or expansion of a school, ~~large family day care~~, 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, ~~large family day care~~ 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, ~~large family day care~~ 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.

Section 26. That Berkeley Municipal Code Chapter 23F.04 is amended to revise the spelling of “day care” and “family day care home” as follows:

### 23F.04.010 Definitions

**Child Care Center or Facility:** An establishment providing ~~day care~~~~daycare~~ for children, other than a ~~F~~family ~~day care~~~~daycare~~ ~~H~~home, which is licensed by the State of California Department of Social Services.

**Community Care Facility:** Any facility, place or building where non-medical care and supervision of children, adolescents, adults or elderly persons is conducted under license from the California State Department of Social Services (SDSS), but not including medical care institutions, skilled nursing facilities, nursing homes, foster homes, ~~F~~family ~~day care~~~~daycare~~ ~~H~~homes, child care facilities or transitional housing.

Section 27. That Berkeley Municipal Code Chapter 23F.04 is amended to revise the definition of "Family Day Care Home" as follows:

### 23F.04.010 Definitions

For the purposes of this chapter certain terms used herein are defined as follows:

**Family ~~Day Care~~ Daycare Home:** ~~An establishment providing day care for fourteen (14) or fewer children in a dwelling unit as licensed by the State of California Department of Social Services. A facility that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family daycare home or a small family daycare home as licensed by the State of California.~~ Includes Small Family Daycare Home and Large Family Daycare Home.

**Small Family ~~Day Care~~ Daycare Home:** The use of a dwelling, ~~as described above,~~ for eight (8) or fewer children, ~~including children who reside at the home.~~ including children under 10 years of age who reside at the home, as set forth by the State of California.

**Large Family ~~Day Care~~ Daycare Home:** The use of a dwelling, ~~as described above,~~ for nine (9) to fourteen (14) children, ~~including children who reside at the home.~~ including children under 10 years of age who reside at the home, as set forth by the State of California.

Section 28. 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.

RESOLUTION NO. ##,###-N.S.

SETTING THE FEE RATE FOR ZONING REVIEW OF FAMILY DAYCARE HOMES AT  
ZERO DOLLARS

WHEREAS, the City of Berkeley currently allows licensed Family Daycare Homes to operate with a Zoning Certificate for fewer than eight children, or with an Administrative Use Permit for up to 14 children; and

WHEREAS, State Senate Bill 234, adopted on September 5, 2019 requires that cities now allow such operations with ministerial approval only; and

WHEREAS, State Senate Bill 234 also prohibits cities from assessing any fee for the ministerial review; and

WHEREAS, the mechanism used by the City of Berkeley to conduct such ministerial review will continue to be issuance of Zoning Certificates; and

WHEREAS, on May 16, 2017, Resolution No. 67,985-N.S. updated and consolidated all fees for development-related services provided by the Planning and Development Department.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Planning Department Fee Schedule, Chapter B, Subsection IV ("Zoning Certificates") is amended to note that no fee will be charged for review of Family Daycare Home uses, as shown in Exhibit A, and that Resolution 67,985-N.S. is amended to reflect that new language.

Exhibits

A: Revised Planning Fee Schedule, Chapter B, Subsection IV



ATTACHMENT 2, EXHIBIT A  
 excerpt of Planning Fee Schedule

CHAPTER B- LAND USE PLANNING				
FEE TYPE / DESCRIPTION		FEE	REMARKS	
<b>IV. Zoning Certificates (ministerial permits)</b>				
<b>A.</b>	<b>All projects except as noted below</b>	\$ 200.00		
1.	Home Occupation (Low-Impact)	\$ 60.00		
2.	Business License review - continuation of lawful existing use	\$ 60.00		
<b>NOTE: No fee will be charged for review of Family Daycare Home uses</b>				
3.	Additional staff time (work performed beyond the time covered by the fees above)	\$ 200.00	per hour of staff time	
<b>B.</b>	<b>Building Permit review</b>			
1.	Projects with Administrative Use Permits	\$ 200.00		
2.	Projects with Use Permit and/or Variance	\$ 400.00		
3.	In-kind repair/replacement work (e.g. window replacement, dry rot repair, etc.)	\$ 60.00		
4.	Fourth and subsequent plan check submittal	\$ 200.00	per hour of staff time	



Development Department  
Division

## STAFF REPORT

DATE: January 15, 2020

TO: Members of the Planning Commission

FROM: Paola Boylan, Assistant Planner

SUBJECT: Public Hearing on Proposed Zoning Ordinance Amendments for Family Daycare Homes

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### RECOMMENDATION

Staff recommends Planning Commission conduct a Public Hearing and upon conclusion, make a recommendation to City Council to adopt amendments to the Zoning Ordinance that address changes in allowable Uses and Use Classification, pursuant to recently enacted State legislation impacting Family Daycare Homes.

### BACKGROUND

Family Daycare Homes, as defined by the State, are facilities that regularly provide care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day. Family Daycare Homes, licensed by the State of California, are classified as follows:

1. Small Family Daycare Home involves the use of a dwelling, as described above, for eight (8) or fewer children, including children under 10 years of age who reside at the home.
2. Large Family Daycare Home involves the use of a dwelling, as described above, for nine (9) to fourteen (14) children, including children under 10 years of age who reside at the home.

On September 5, 2019 the Governor signed into law Senate Bill 234 (Skinner) - Family Daycare Homes (SB 234)<sup>1</sup>. According to Senator Skinner, licensed Family Daycare Homes play an important role in the childcare market – providing flexible hours, affordable care, and low staff-to-child ratios in a home environment. This bill reduces barriers and costs to those operating or wanting to operate licensed Family Daycare Homes. More specifically, SB 234 prohibits jurisdictions from levying any type of business license fee or tax on Small and Large Family Daycare Homes. The law also requires ministerial approval of Family Daycare Homes in all districts where residential uses are allowed.

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<sup>1</sup> [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB234](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB234)

## ANALYSIS

The Finance Department is adjusting the City's fee schedule to reduce the cost of a permit for Family Daycare Homes to zero dollars.

The Zoning Ordinance must be amended as follows 1) modify Uses Permitted Tables to allow Small and Large Family Daycare Homes to locate and operate where residential uses are permitted throughout the City; 2) reduce discretion for Large Family Daycare Homes from Administrative Use Permit (AUPs) to Zoning Certificate (ZCs), and 3) update definitions and spellings of Family Daycare Home to align with Government Code Section 1596.78.

This report includes 26 revisions in the following sections:

### *Residential Uses Permitted (Use Tables)*

- 23D.16.030 [R-1 Single Family Residential District Provisions: Uses Permitted]
- 23D.20.030 [R-1A Limited Two-Family Residential District Provisions: Uses Permitted]
- 23D.24.030 [ES-R Environmental Safety-Residential District Provisions: Uses Permitted]
- 23D.28.030 [R-2 Restricted Two-Family Residential District Provisions: Uses Permitted]
- 23D.32.030 [R-2A Restricted Multiple-Family Residential District Provisions: Uses Permitted]
- 23D.36.030 [R-3 Multiple Family Residential District Provisions: Uses Permitted]
- 23D.40.030 [R-4 Multiple-Family Residential District Provision: Uses Permitted]
- 23D.44.030 [R-5 High Density Residential District Provisions: Uses Permitted]
- 23D.48.030 [R-S Residential Southside District Provisions: Uses Permitted]
- 23D.52.030 [R-SMU Residential Southside Mixed Use District Provisions: Uses Permitted]

### *Commercial Uses Permitted (Use Tables)*

- 23E.36.030 [C-1 General Commercial District Provisions: Uses Permitted]
- 23E.40.030 [C-N Neighborhood Commercial District Provisions: Uses Permitted]
- 23E.44.030 [C-E Elmwood Commercial District Provisions: Uses Permitted]
- 23E.48.030 [C-NS North Shattuck Commercial District Provisions: Uses Permitted]
- 23E.52.030 [C-SA South Area Commercial District Provisions: Uses Permitted]
- 23E.56.030 [C-T Telegraph Avenue Commercial District Provisions: Uses Permitted]
- 23E.60.030 [C-SO Solano Avenue Commercial District Provisions: Uses Permitted]
- 23E.64.030 [C-W West Berkeley Commercial District Provisions: Uses Permitted]
- 23E.68.030 [C-DMU Downtown Mixed Use District Provisions: Uses Permitted]
- 23E.80.030 [MU-LI Mixed Use-Light Industrial District Provisions]
- 23E.84.030 [MU-R Mixed Use Residential District Provisions: Uses Permitted]

*Definitions*

- 23F.04.010 [Definitions]

*Spelling Updates*

- 23E.80.040 [Special Provisions: Protected Uses]
- 23E.80.090 [Findings]
- 23E.84.040 [Special Provisions: Protected Uses]
- 23E.84.090 [Findings]
- 23F.04.010 [Definitions]

All of the proposed changes must be considered by the Planning Commission prior to City Council review. The proposed amendments are summarized below. Full text of the Zoning Ordinance amendments are provided (redlined) in Attachments 2 through 5.

**DISCUSSION**

Zoning Ordinance amendments are presented in four categories listed below:

1. Reduce Level of Discretion
2. Expand Districts where Permitted Use is Allowed
3. Update Family Daycare Home Definition
4. Update Spelling for Consistency with State Law

**1. Reduce Level of Discretion (Uses Permitted Table)**

Change the permit required to establish a Large Family Daycare Home from an Administrative Use Permit (AUP) to a Zoning Certificate (ZC) as required by SB234.

*Recommendation:* Modify Uses Permitted Tables in zones R-1, R-1A, R-2, R-2A, R-3, R-4, R-5, R-S, and R-SMU, C-W, MU-LI, and MU-R to reduce discretion for Large Family Daycare Homes from AUP to ZC and update spelling as noted in Discussion Item 4. Example redline text below is from BMC 23D.16.030 (R-1 Single Family Residential District) and BMC 23E.80.030 (MU-LI Mixed Use-Light Industrial District). See complete redline text in Attachments 2 and 3.

<b>Table 23D.16.030</b>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
Accessory Uses and Structures		
Child Care; Family <del>Day Care</del> <del>Daycare Home (Small or Large)</del>	<u>ZC</u>	
<del>Small Family Day Care Homes: of 8 or fewer children</del>	<u>ZC</u>	

Large Family Day Care Homes: of 9 to 14 children	AUP	
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Table 23E.80.030				
Use and Required Permits				
Uses	Permits Required to Establish, Expand, or Change use by Floor Area (sq. ft.)			Special Requirements (if any)
	Under 20,000	20,000 – 30,000	More than 30,000	
Residential and Related Uses				
Child Care; Family <del>Day care</del> <del>Daycare Home (Small or Large)</del>	ZC			
<del>Small Family Day care Homes of 8 or fewer children</del>	ZC			
<del>Large Family Day care Homes of 9 to 14 children</del>	AUP			Subject to the findings in Section <del>23E.80.090-I</del>

**2. Expand Districts where Permitted Use is Allowed (Uses Permitted Table)**

Amend the Uses Permitted Tables to expand districts where Small and Large Family Daycare Homes can locate and operate. Currently Family Daycares are not permitted in the ES-R and in C-prefixed districts except for C-W. SB 234 allows Family Daycares wherever residential uses are permitted in the City.

Recommendation: Modify Uses Permitted Tables in zones ES-R, C-1, C-N, C-E, C-NS, C-SA, C-T, C-SO, and C-DMU to include Small and Large Family Daycare Homes, allowable with a ZC. Example redline text below is from BMC 23E.60.030 (C-SO Solano Avenue Commercial District) and can be found in Attachments 2 and 3.

<b>Table 23E.60.030</b>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Uses Permitted in Residential Districts</b>		
<u>Child Care; Family Daycare Home (Small or Large)</u>	<u>ZC</u>	

**3. Update Family Daycare Home Definition (Sub-Title 23F)**

Amend the definition of Family Daycare Home to reflect Government Code Section 1596.78. The updated definition specifies that providers must reside in the dwelling unit where the Family Daycare Home operates and sets guidelines for counting children who live in the dwelling unit.

Recommendation: Update the definition of Family Daycare Home to reflect Government Code Section 1596.78. Suggested wording follows and can be found in Attachment 3.

**Family Day-Care Daycare Home:** ~~An establishment providing day care for fourteen (14) or fewer children in a dwelling unit as licensed by the State of California Department of Social Services. A facility that regularly provides care, protection, and supervision for 14 or fewer children, in the provider’s own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a Large Family Daycare Home or a Small Family Daycare Home as licensed by the State of California.~~

**Small Family Day-Care Daycare Home:** The use of a dwelling, as described above, for eight (8) or fewer children, ~~including children who reside at the home, including children under 10 years of age who reside at the home, as set forth by the State of California.~~

**Large Family Day-Care Daycare Home:** The use of a dwelling, as described above, for nine (9) to fourteen (14) children, ~~including children who reside at the home including children under 10 years of age who reside at the home, as set forth by the State of California.~~

**4. Update Spelling to be Consistent with State Law**

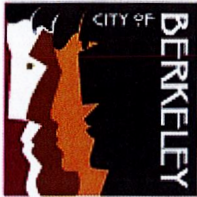
Update 52 instances of “day care” to “daycare” to be consistent with State Law. These changes can be found throughout the Zoning Ordinance. Suggested changes can be found in Attachments 2 through 5.

**CONCLUSION AND NEXT STEPS**

1. Conduct a public hearing.
2. Recommend for adoption by the City Council zoning language amendments to the aforementioned sections.
3. City Council consideration and adoption.

Attachments:

1. Public Hearing Notice
2. Sub-Title 23D [Provisions Applicable in All Residential Districts]
3. Sub-Title 23E [Provisions Applicable in All Non-Residential Districts]
4. Sub-Title 23F [Definitions]
5. Additional Spelling Changes throughout Zoning Ordinance



Planning Commission

## FINAL MINUTES OF THE REGULAR PLANNING COMMISSION MEETING January 15, 2020

The meeting was called to order at 7:04 p.m

**Location:** South Berkeley Senior Center, Berkeley, CA

### 1. ROLL CALL:

**Commissioners Present:** Benjamin Beach, Robb Kapla, Shane Krpata, Mary Kay Lacey, Steve Martinot, Christine Schildt, Jeff Vincent, Brad Wiblin, and Rob Wrenn.

**Commissioners Absent:** None.

**Staff Present:** Secretary Alene Pearson, Katrina Lapira, Paola Boylan, and Justin Horner.

### 2. ORDER OF AGENDA: No changes.

### 3. PUBLIC COMMENT PERIOD: 1

### 4. PLANNING STAFF REPORT:

- City Council (January 21) – ADU Urgency Ordinance Extension
- City Council (February 28) - Comprehensive Cannabis Zoning Ordinance Amendments

### Information Items:

- December 10, 2019 - City Council Item 30 – ADU Urgency Ordinance *Staff Report*

**Communications:** *None.*

**Late Communications** (Received after the Packet deadline):

- January 10, 2020- Mester, Tentative Tract Map Application #8533

**Late Communications** (Received and distributed at the meeting):

- January 15, 2020 – Thompson- Lastad, BART CAG Recommendation
- January 15, 2020 - Planning Staff, Item 9 Presentation
- January 15, 2020 - Planning Staff, Item 10 Presentation
- January 15, 2020 - Lee, BART CAG Recommendation

### 5. CHAIR REPORT:

- Mom's For Housing



- MLK Event at the McGee Avenue Baptist Church- January 20, 2020 at 2pm
- Planning Commission (February 5) – PC Chair and Vice Chair Elections

## 6. COMMITTEE REPORT:

- Adeline Corridor Specific Plan Subcommittee- The next meeting is on January 29, where the project consultant will provide an update on development feasibility within the Adeline Corridor. On February 1 the subcommittee will reconvene for an all- day meeting to review and discuss recommendations.
- Southside EIR Subcommittee: At their first meeting on December 17, 2019 the subcommittee discussed development standards and development goals that could be included in the project description for the Southside EIR.
- Zoning Ordinance Revision Project (ZORP): The next meeting will be scheduled in late February.
- Joint Subcommittee for the Implementation of State Housing Laws: The next meeting is on February 26.

## 7. APPROVAL OF MINUTES:

Motion/Second/Carried (Krpata/Kapla) to approve the Planning Commission Meeting Minutes from December 4, 2019 with the discussed corrections to lines 50 and 51. Ayes: Beach, Kapla, Krpata, Lacey, Martinot, Schildt, Vincent, Wrenn, and Wiblin. Noes: None. Abstain: None. Absent: None. (9-0-0-0)

**FUTURE AGENDA ITEMS AND OTHER PLANNING-RELATED EVENTS:** At the next meeting, February 5, 2020 the following items may be presented.

- 2740 and 2744 Telegraph Avenue - General Plan Re-designation and Zoning Map Amendment
- Southside EIR Project Description
- ADU Ordinance Discussion

## AGENDA ITEMS

### 9. Action: **Public Hearing: Proposed Zoning Ordinance Amendments Related to SB 234 Family Daycare Homes**

Staff reviewed the provisions of the recently enacted SB 234 Family Daycare Homes and recommended the adoption of Zoning Ordinance amendments required for compliance with state law. Zoning Ordinance amendments: 1) reduce level of discretion 2) expand districts

where permitted use is allowed 3) update the Family Daycare Home definition and 4) update spelling for consistency with state law.

Motion/Second/Carried (Wiblin/Kapla) to close the public hearing on the proposed Zoning Ordinance amendments related to SB 234 Family Daycare Homes.

Ayes: Beach, Kapla, Krpata, Lacey, Martinot, Schildt, Vincent, Wiblin, and Wrenn. Noes: None. Abstain: None. Absent: None. (9-0-0-0)

Motion/Second/Carried (Wiblin/Beach) to adopt the proposed Zoning Ordinance amendments for Family Daycare Homes pursuant to SB 234, with added reference to California Health and Safety Code section in the new definitions.

Ayes: Beach, Kapla, Krpata, Lacey, Schildt, Vincent, Wiblin, and Wrenn. Noes: Martinot. None. Abstain: None. Absent: None. (8-1-0-0)

**Public Comments: 0**

**10. Action: Public Hearing: Tentative Tract Map Application #8533- 1500 San Pablo Avenue**

Staff presented the Tentative Tract Map application of an entitled development located at 1500 San Pablo Avenue in the West Berkeley Plan Area. The Commission asked clarifying questions about the applicability of the Affordable Housing Mitigation Fee, the Inclusionary Housing Ordinance, and State Density Bonus Law in relation to the potential conversion of the rental to ownership units. To assist in the review and understanding of future Tentative Tract Map applications, the Commission expressed an interest learning more about Regulatory Agreements administered by the Health, Housing and Community Services Department.

**Public Comments: 3**

Motion/Second/Carried (Wiblin/Kapla) to close the public hearing on the Tentative Tract Application #8533 – 1500 San Pablo Avenue.

Ayes: Beach, Kapla, Krpata, Lacey, Martinot, Schildt, Vincent, Wiblin, and Wrenn. Noes: None. Abstain: None. Absent: None. (9-0-0-0)

Motion/Second/Carried (Krpata/Kapla) to approve the Tentative Tract Map #8533 subject to the Draft Findings and Conditions (Attachment 1/ Attachment 1- Exhibit A) and requested that the Regulatory Agreement of the project be shared with the Planning Commission.

Ayes: Beach, Kapla, Krpata, Lacey, Schildt, Vincent, Wiblin, and Wrenn. Noes: Martinot. Abstain: None. Absent: None. (8-1-0-0)

**11. Action: BART Community Advisory Group (CAG)**

Planning Commission nominated and selected a commissioner to serve on the BART CAG.

**Public Comments: 4**

Motion/Second/Carried (Kapla/ Lacey) to nominate Chris Schildt to serve on the BART CAG. Ayes: Beach, Kapla, Krpata, Lacey, Martinot, Schildt, Vincent, Wiblin, and Wrenn. Noes: None. Abstain: None. Absent: None. (9-0-0-0)

**12. Action: 2020 Nominations for February Election**

Planning Commission accepted nominations for February elections.

- Chair nominations: Robb Kapla
- Vice-Chair nominations: Shane Krpata and Mary Kay Lacey

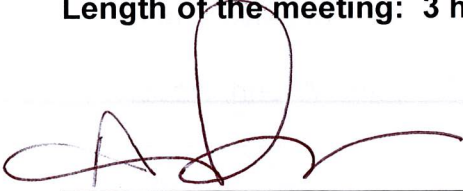
**Public Comments: 0**

**13. Discussion: Parking Maximums**

Staff shared findings on existing parking maximums and recommended that the Commission not institute maximums at this time. After a discussion about the different considerations related to the geographic location of maximums and the potential approaches based on the October 2019 Residential Parking Utilization Study, the Commission directed staff to include parking maximums in the public hearing for the meeting on March 4, 2019. During this public hearing, a parking maximum of 0.5 spaces per unit within a quarter mile of transit, applicable to duplexes and multifamily units, shall be considered along with the TDM program and parking minimums.

**Public Comments: 0**

**The meeting was adjourned at 10:13pm**  
**Commissioners in attendance: 9**  
**Members in the public in attendance: 14**  
**Public Speakers: 7 speakers**  
**Length of the meeting: 3 hours and 9 minutes**



Alene Pearson  
Planning Commission Secretary

2/6/20

Date

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**ZONING ORDINANCE AMENDMENTS THAT COMPLY WITH STATE  
LAWS REGARDING FAMILY DAYCARE HOMES IN RESIDENTIAL AND  
COMMERCIAL DISTRICTS**

The Department of Planning and Development is proposing amendments to Berkeley's Zoning Ordinance: 1) modify Uses Permitted Tables to allow Small and Large Family Daycare Homes to locate and operate where residential uses are permitted throughout the City; 2) reduce discretion for Large Family Daycare Homes from Administrative Use Permits (AUPs) to Zoning Certificates (ZCs); and 3) update definitions and spellings of Family Daycare Home to align with Government Code Section 1596.78. Amendments respond to Senate Bill 234, which was approved by Governor Newsom on September 05, 2019.

The hearing will be held on April 14, 2020 at 6:00 p.m.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of Thursday, April 2, 2020.

For further information, please contact Alene Pearson, Principal Planner, at 510-981-7489.

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY  
THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, the April 14, 2020 meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL - <https://zoom.us/j/724407089>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen.

To join by phone: Dial **1-669-900-9128** and Enter Meeting ID: **724 407 089**. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized by the Chair. NOTE: Your phone number will appear on the videoconference screen.

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to [council@cityofberkeley.info](mailto:council@cityofberkeley.info) in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Published:** April 3, 2020 per California Code Sections 65856(a) and 65090.

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on Thursday, April 2, 2020.

\_\_\_\_\_  
Mark Numainville, City Clerk

