

Office of the City Manager

CONSENT CALENDAR

July 10, 2018

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: Referral Response: Adopt a New Urban Agriculture Ordinance (Chapter 23C.26), Adopt New Urban Agriculture Definitions (amend Chapter 23F.04), and Modify Tables Listing Permitted Uses in Applicable Zoning Districts

RECOMMENDATION

Adopt first reading of an ordinance amending the Zoning Ordinance to establish and allow a new Urban Agriculture land use classification that permits urban agriculture in all zoning districts, with the exception of Environmental Safety – Residential (ES-R). This requires enacting Berkeley Municipal Code (BMC) Chapter 23C.26, and amending BMC Titles 23D, 23E, and 23F.

SUMMARY

In 2016, the City Council provided the Planning Commission with two referrals related to urban agriculture and community gardens. The Planning Commission addressed the referrals through a combined approach that created a single Urban Agriculture land use classification that pertained to both Urban Agriculture and community gardens. As in many other jurisdictions, the Planning Commission defined Urban Agriculture to be inclusive of community gardens. The effect of the new ordinance would be to create a streamlined permitting process that allows cultivation of local produce on private property throughout the city.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

This report responds to two Council referrals: #2017-36, which originally appeared on the agenda of May 10, 2016 as sponsored by then-Councilmember Arreguin, and #2017-30, which originally appeared on the November 29, 2016 agenda, also sponsored by then-Councilmember Arreguin.

The popularity of urban agriculture has grown rapidly in recent years. To meet this community interest, cities across the country have developed policies to support and encourage a variety of uses. Amendments to the zoning ordinance are necessary to

establish urban agriculture as a permitted use, fulfill the goals of the two referrals, and advance implementation of Berkeley's Climate Action Plan.

The City Council referred to the City Manager one referral related to urban agriculture (see Attachment 2) and one referral related to community gardens (see Attachment 3). Although the referrals used two different terms to describe food-growing practices on private property, they aimed to achieve similar results:

1. Develop definitions of Urban Agriculture and Agricultural Products;
2. Allow the uses in all zoning districts;
3. Permit accessory uses and structures, such as tool sheds, shade structure and group workshops; and
4. Establish levels of discretion and permits required for Urban Agriculture.

In many jurisdictions, urban agriculture is an umbrella term that describes a range of food-growing practices, from backyard gardens to community gardens to urban farms. Staff and the Planning Commission recommend using that same approach, i.e. establishing a new Urban Agriculture land use that would include community gardens.

Existing Regulations

Currently, there are no definitions regarding agricultural uses and limited references to the use in any form in the City of Berkeley Zoning Ordinance (ZO). However, agricultural uses are briefly mentioned in the Manufacturing Districts and the Residential Districts.

Farms and agricultural uses are prohibited in all districts except the Manufacturing (M) and Mixed Manufacturing (MM) Districts. These uses are permitted with an Administrative Use Permit (AUP) if under 40,000 square feet, and a Use Permit (UP) if over 40,000 square feet. The Definitions chapter of the ZO (BMC 23F.04) does not include a definition of "Farms" or "Agricultural Uses."

In addition, all Residential Districts allow limited sales of "non-processed edibles" (i.e. fruit, vegetables, eggs) per BMC Section 23C.20.010.B (Exempted Accessory Uses). This Section provides guidance on allowable time of sales, number of customer visits, and type of sales. These regulations allow homeowners to grow and sell produce from their yards, while limiting impacts to the surrounding neighbors.

Proposed Regulations

The proposed approach to establish Urban Agriculture as a permitted land use includes three Zoning Ordinance amendments for consideration:

1. Adopt BMC Chapter 23C.26 (Urban Agriculture), which would include specific regulations and operating guidelines that pertain to parcels requesting an Urban Agriculture use.
2. Amend BMC Chapter 23F.04 to include Urban Agriculture definitions

3. Amend *Uses Permitted Tables* in applicable Zoning Districts to include Urban Agriculture as a permitted land use.

This approach was informed by consultation with community members and other experts in the field, as well as research on best practices provided by other jurisdictions including San Francisco, Oakland, Emeryville, Sacramento, and Santa Monica.

The new Zoning Ordinance Chapter 23C.26 (Urban Agriculture) would create a land use category of Urban Agriculture and set thresholds for levels of intensity and permitting. This draft Ordinance does not apply to cannabis cultivation, which is addressed through different regulations. *Below is a description of the actions required to adopt the Urban Agriculture Ordinance:*

Adopt BMC Chapter 23C.26 (Urban Agriculture)

The new Urban Agriculture Ordinance would apply to all districts, except for ES-R, and therefore would be a separate chapter of Sub-Title 23C (General Provisions Applicable in All Districts). Below is a description of the content included in the Urban Agriculture chapter. See previous Planning Commission staff reports (Attachment 4) for additional detail.

Section 23C.26.010 Purpose: This section includes three purposes gleaned from the Council referrals and the Climate Action Plan.

Section 23C.26.020 Applicability: This section includes reference to the new definition of Urban Agriculture (BMC Chapter 23F.04) and where Urban Agriculture use will be allowed. The Planning Commission considered a limitation to allow it only on vacant parcels or parcels with vacant buildings. Staff recommends not having a limitation of vacant parcels and vacant buildings because it is unnecessary, as the use is likely to be viable only in underutilized properties.

Section 23C.26.030 Urban Agriculture Uses and Levels of Discretion: Levels of discretion are based on the intensity of use. Intensity is measured by a variety of factors (e.g. hours of operation, size of parcel), each of which has been assigned a maximum limit or “base threshold” that delineates low from high intensity. Section 23C.26.030 describes two types of Urban Agriculture (Low Intensity and High Intensity) and the types of permits that will be required.

- **Low-Intensity Urban Agriculture (LIUA)** meets all of the base thresholds. The base thresholds that differentiate between LIUA and HIUA are discussed in the Thresholds section of the chapter. The base thresholds will minimize potential impacts from this use, thus LIUA will not be subject to detailed permit review, hearings, or fees. An example of LIUA is a community garden that meets all the base thresholds and requirements for LIUA. A LIUA use is allowed by right with a Zoning Certificate in all applicable districts.

- **High-Intensity Urban Agriculture (HIUA)** does not meet one of the base thresholds for LIUA. The higher intensity of the use could create more potential impacts and therefore will require higher levels of discretion to provide opportunities for community input. An example of HIUA is a large-scale, high-production urban farm or a community garden that does not meet the thresholds of LIUA. An HIUA use would be permitted by an Administrative Use Permit.

Section 23C.26.040 Thresholds: LIUA and HIUA thresholds are intended to address the potential for community concern about various aspects of the Urban Agriculture use. They are based on various metrics and on standards established elsewhere in the zoning ordinance. As described above, the differentiation between LIUA and HIUA use is determined by these base thresholds, including: parcel size, lot coverage, hours of operation, group classes and workshops, and pesticide use. The five threshold are as follows.

- **Parcel Size:** The size of the parcel used for urban agriculture can contribute to potential impacts. The recommended parcel size threshold is 7,500 sq. ft., the average size of a vacant parcel in Berkeley. An Urban Agriculture use on a parcel greater than this threshold would be considered HIUA and would require an Administrative Use Permit (AUP).
- **Lot Coverage:** Community gardens often contain accessory structures including tool sheds, greenhouses, fences, and shade structures. The typical lot coverage limit in Residential districts is 40%. The proposed lot coverage threshold for buildings associated with Urban Agriculture is set at a maximum of 20%, which is intended to allow other uses to share the property and limit the displacement of other uses, and to limit the extent of these accessory structures that could be less attractive than main buildings. Accessory structures that exceed this lot coverage would be considered HIUA and would require an AUP.
- **Hours of Operation:** The zoning ordinance has an existing chapter, *Exempted Accessory Uses*, that allows hours of operation from 8am to 8pm, seven days a week. The recommended hours of operation threshold retains the same hours of operations for Urban Agriculture. Usage outside these hours of operation would be considered HIUA and would require an AUP.
- **Group Classes and Workshops:** Staff met with community gardens organizations and discussed the activities at existing community gardens, including educational classes. Therefore, staff anticipates Urban Agriculture uses to include activities like group classes and workshops. The recommended threshold for group classes and workshops is 20 participants

per class conducted no more than three times per week to limit the potential noise and parking impacts. More activity would be considered HIUA and would be allowed with an AUP.

- **Pesticide Use:** The Planning Commission directed staff to include pesticide use as a threshold. State law (California Food and Agricultural Code Section 11501.1) does not allow local governments to prohibit the use of pesticides. While the City cannot ban or regulate use of pesticides, the city can establish a threshold that defines use of pesticide as HIUA. This threshold would provide an opportunity for public notification, participation, and encourage of less toxic pest control, by requiring an AUP review process.

Section 23C.26.050 Operation Standards: This section includes requirements for growing the crops, retail sales, health safety, garbage and compost, and equipment. The retail requirements are similar to BMC Section 23C.20.010.B (*Exempted Accessory Uses*) requirements for Non-Processed Edibles. The requirements for garbage and equipment were based on those of other cities including Sacramento and San Francisco. Examples of operating standards include acceptable storage locations, required screening of garbage receptacles, and minimum scheduling for garbage pickup.

Section 23C.26.060 Complaints: Complaints regarding the uses and activities associated with the Urban Agriculture use will be subject to the Zoning Ordinance Abatement of Nuisances Chapter (23B.64) and the BMC Health and Safety Chapter on Anti-blight. All complaints would be made to the Code Enforcement division.

Amend BMC Chapter 23F.04 to include Urban Agriculture definitions

Currently, there are no definitions for farms, community gardens, or any use related to Urban Agriculture in the Zoning Ordinance (BMC Chapter 23F.04). Thus, a new definition for Urban Agriculture is needed. The proposed definition is:

Urban Agriculture (including community gardens): the production of horticultural crops for harvest, sale, and/or donation, including community gardens. Urban Agriculture does not include cannabis cultivation and does not pertain to raising animals.

Note that raising of animals is regulated by BMC Chapter 10.12. Cannabis cultivation is regulated separately in the BMC for medicinal and recreational use and is also regulated by State law.

In addition, the proposed Chapter 23C.23 (Urban Agriculture) references the products from Urban Agriculture uses as Urban Agricultural Products. Urban Agriculture Products allowed for sale include raw agricultural products as well as value-added products:

Urban Agricultural Products: Horticultural crops including fruits, vegetables, nuts, flowers, herbs, and any other cultivar, and value-added products made from raw agricultural products grown at the site such as jams, fruit preserves, herb blends, and floral bouquets. Urban Agricultural Products do not include cannabis products.

Amend *Uses Permitted Tables* in applicant Zoning Districts

Urban Agriculture is a new use permitted throughout the City of Berkeley. Therefore it needs to be added to each district's *Uses Permitted Table*. An example of language for the *Uses Permitted Table* is shown below.

Use	Classification	Special Requirements
Urban Agriculture		Subject to 23C.26
Low-Impact Urban Agriculture (LIUA)	ZC	
High-Impact Urban Agriculture (HIUA)	AUP	

Urban Agriculture will be allowed on vacant parcels (without main buildings). Currently, *Uses Permitted Table* for each Zoning district includes language requiring an Administrative Use Permit (AUP) for accessory buildings and structures located on vacant parcels without main buildings. Urban Agriculture, including community gardens, require accessory structures like tool sheds, shading structures, etc. Thus, the proposed ordinance provides an exception to Urban Agriculture; however, the accessory buildings or structures must also comply with the general provisions of the Accessory Buildings and Structures chapter (BMC Chapter 23D.08). See the example language below.

Use	Classification	Special Requirements
Accessory Buildings or Structures with Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.080.060.

BACKGROUND

Planning Commission

The Planning Commission held four meetings to consider these Zoning Ordinance amendments on September 7, 2016, October 4, 2017, March 21, 2018, and May 16, 2018. At the October 4, 2017 meeting, the Commission and the public provided staff with input and direction on the approach to combine the two referrals and create the new Urban Agriculture use. At the March 21, 2018 meeting, the Planning Commission requested more permissive thresholds and lower levels of discretion for the proposed new land use. At the May 16, 2018 meeting, the Planning Commission held a public hearing and voted on the following motion:

Motion/Second/Carried (Schildt/Lacey) to recommend to Council:

- 1) Adopt new BMC Chapter 23C.26 Urban Agriculture, with modification to 23C.26.060.E to read as: Any Urban Agriculture use that uses non-organic pesticides is considered an HIUA.
- 2) Adopt new definitions of Urban Agriculture and Urban Agricultural Products, with modification to Urban Agriculture to read as: Urban Agriculture (including community gardens): the production of horticultural crops for harvest, sale, and/or donation. Urban Agriculture does not include cannabis cultivation.
- 3) Amend *Uses Permitted Tables* in all applicable Zoning districts to allow for Urban Agriculture, and a ZC for Accessory Buildings on lots with Urban Agriculture.
- 4) Consider the use of pesticide in the City and the State preemption of local regulation of pesticide use; and to refer to the appropriate Commission for further analysis

The motion passed 9-0-0-0. (Ayes: Lacey, Beach, Martinot, Schildt, Kapla, Vincent, Wrenn, Pinto, Fong. Noes: None. Abstain: None. Absent: None.)

ENVIRONMENTAL SUSTAINABILITY

Increasing the opportunities for Urban Agriculture will create more green space, increase access to fresh produce, bolster the local economy, and potentially reduce greenhouse gas emissions from food transport, which would help the City meet Climate Action Plan goals. The City's General Plan and Climate Action Plan (CAP) include policies and implementation actions that promote community gardens and Urban Agriculture.

RATIONALE FOR RECOMMENDATION

The proposed amendments to the Zoning Ordinance would address two of the City Council's referrals. The amendments follow best practices for urban agriculture uses, set thresholds, and establish regulations to address potential impacts to neighbors and abutting properties.

ALTERNATIVE ACTIONS CONSIDERED

The Planning Commission considered higher levels of discretion in certain Zoning Districts and more restrictive thresholds.

CONTACT PERSON

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Attachments:

- 1: Zoning Ordinance Amendments to Adopt Berkeley Municipal Code Chapter 23C.26, Amend Berkeley Municipal Code Sections 23D.16.030, 23D.20.030, 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.64.030, 23E.68.030, 23E.72.030, 23E.76.030, 23E.80.030, 23E.84.030, 23F.04.010 to establish a new land use of Urban Agriculture.
- 2: November 29, 2016 Urban Agriculture Council Referral
- 3: May 10, 2016 Community Garden Zoning Council Referral
- 4: May 16, 2018 Planning Commission Staff Report
- 5: May 16, 2018 Planning Commission Draft Meeting Minutes

ORDINANCE NO. -N.S.

ADDING BERKELEY MUNICIPAL CODE CHAPTER 23C.26 AND AMENDING BERKELEY MUNICIPAL CODE SECTIONS 23D.16.030, 23D.20.030, 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.64.030, 23E.68.030, 23E.72.030, 23E.76.030, 23E.80.030, 23E.84.030, AND 23F.04.010 TO ESTABLISH A NEW LAND USE OF URBAN AGRICULTURE

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

Section 1. That Berkeley Municipal Code Chapter 23C.26 is added to read as follows:

Chapter 23C.26

Urban Agriculture

Sections:

- 23C.26.010 Purposes**
- 23C.26.020 Applicability**
- 23C.26.030 Urban Agriculture Uses and Levels of Discretion**
- 23C.26.040 Thresholds**
- 23C.26.050 Operation Standards**
- 23C.26.060 Complaints**

23C.26.010 Purposes

The purposes of the Urban Agriculture related regulations contained in this Chapter is to provide the following benefits to the community:

- A. Support the local economy and increase access to fresh local produce;
- B. Strengthen the health and social fabric of communities by encouraging and supporting community gardens; and
- C. Encourage the Berkeley Climate Action Plan Chapter 3, Policy C goal of supporting efforts to build more complete and sustainable local food production and distribution systems.

23C.26.020 Applicability

- A. Urban Agriculture is a primary use and defined in Section 23F.04.010.
- B. Urban Agriculture shall be allowed in all zoning districts in the City except for ES-R.

23C.26.030 Urban Agriculture Uses and Levels of Discretion

- A. Low-Impact Urban Agriculture (LIUA) meets all or falls below the thresholds listed in Section 23C.26.040, and is allowed by right with a Zoning Certificate.
- B. High-Impact Urban Agriculture (HIUA) does not meet one or more of the thresholds listed in Section 23C.26.040, and may be permitted by an Administrative Use Permit.

23C.26.040 Thresholds

The levels of discretion for Urban Agriculture are based on the following thresholds:

- A. Maximum parcel size of 7,500 square feet.
- B. Maximum lot coverage of 20% for accessory structures and buildings, per definition of 'coverage area' in Section 23F.04.010.
- C. Hours of operation is 8:00 a.m. and 8:00 p.m., including but not limited to activities related to gardening and planting of horticultural crops, group classes, and sales.
- D. Maximum group classes and workshops of 20 participants per class conducted no more than three times per week.
- E. Use of organic pesticides.

23C.26.050 Operation Standards

- A. The growing, production, or sale of Urban Agricultural Products do not involve hazardous materials or processes or create offensive or objectionable noise, vibration, odors, heat, dirt, or electrical disturbance perceptible by a person beyond the lot line of the subject lot.
- B. Sales and/or donations of Urban Agricultural Products grown and produced on-site are permitted.
- C. If selling or donating Urban Agricultural Products to the public, the Urban Agriculture use shall comply with all applicable food safety laws, including the California Health and Safety Code.
- D. Garbage and compost receptacles must be screened from the street and adjacent properties by utilizing landscaping, fencing or storage structures and all garbage shall be removed from the site weekly. Compost piles and containers must be set back at least 10 feet from residential buildings when an Urban Agriculture use abuts a residential use.
- E. Use of mechanized farm equipment is prohibited in residential districts and when the Urban Agriculture use abuts a residential use, with the following exceptions:
 - 1. Heavy equipment may be used initially to prepare the land for agriculture use.
 - 2. Landscaping equipment designed for household use is permitted.
 - 3. Equipment when not in use must be enclosed or otherwise screened from sight.

23C.26.060 Complaints

Uses, activities or events associated with Urban Agriculture are subject to Chapters 23B.64 and 12.92 if found to be non-compliant with the provisions set forth in this chapter.

Section 2. That "Accessory Uses and Structures" and "Miscellaneous Uses" sections of Berkeley Municipal Code Table 23D.16.030 are amended to read as follows:

23D.16.030 Uses Permitted

<i>Table 23D.16.030</i>		
Use and Required Permits		
Use	Classification	Special Requirements (if any)

Table 23D.16.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
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	
<u>With Urban Agriculture</u>	<u>ZC</u>	<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Accessory Dwelling Units in compliance with Section 23D.10.040	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23D.10.040	AUP	Subject to making applicable findings in Section 23D.10.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Day Care		
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 23C.16.020 are met

Table 23D.16.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
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	
Miscellaneous Uses		
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, and no more than 5% of the subject property area. When located outside of the main building columbaria structures are subject to Chapter 23D.08 .
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Public Utility Substations, Tanks	UP(PH)	
Wireless Telecommunications Facilities		
Microcell Facilities	AUP	Subject to the requirements and findings of Section 23C.17.100
All Other Telecommunication Facilities	UP	Subject to the requirements and findings of Section 23C.17.100
<u>Urban Agriculture</u> <u>Low-Impact Urban Agriculture (LIUA)</u>	<u>ZC</u>	<u>Subject to 23C.26</u>

Table 23D.16.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
<u>High-Impact Urban Agriculture (HIUA)</u>	<u>AUP</u>	

Section 3. That “Accessory Uses and Structures” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23D.20.030 are amended to read as follows:

23D.20.030 Uses Permitted

Table 23D.20.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
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	
<u>With Urban Agriculture</u>	<u>ZC</u>	<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Accessory Dwelling Units in compliance with Section 23D.10.040	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23D.10.040	AUP	Subject to making applicable findings in Section 23D.10.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Day Care		
Small Family Day Care Homes: of eight or fewer children	ZC	

Table 23D.20.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Large Family Day Care Homes: of nine to 14 children	AUP	
Fences		
If six ft. or less in height	ZC	
Exceeding six ft. in height	AUP	In required yards
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	
Miscellaneous Uses		
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, and no more than 5% of the subject property area. When located outside of the main building columbaria structures are subject to Chapter 23D.08 .
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas

Table 23D.20.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Public Utility Substations, Tanks	UP(PH)	
Wireless Telecommunications Facilities		
Microcell Facilities	AUP	Subject to the requirements and findings of Section 23C.17.100
All Other Telecommunication Facilities	UP	Subject to the requirements and findings of Section 23C.17.100
<u>Urban Agriculture</u> <u>Low-Impact Urban Agriculture (LIUA)</u> <u>High-Impact Urban Agriculture (HIUA)</u>	<u>ZC</u> <u>AUP</u>	<u>Subject to 23C.26</u>

Section 4. That “Accessory Uses and Structures” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23D.28.030 are amended to read as follows:

23D.28.030 Uses Permitted

Table 23D.28.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
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	
<u>With Urban Agriculture</u>	<u>ZC</u>	<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Accessory Dwelling Units in compliance with Section 23D.10.040	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23D.10.040	AUP	Subject to making applicable findings in Section 23D.10.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Day Care		
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	

Table 23D.28.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
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	
Miscellaneous Uses		
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, and no more than 5% of the subject property area. When located outside of the main building columbaria structures are subject to Chapter 23D.08 .
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Public Utility Substations, Tanks	UP(PH)	
Wireless Telecommunications Facilities		
Microcell Facilities	AUP	Subject to the requirements and findings of

Table 23D.28.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
		Section 23C.17.100
All Other Telecommunication Facilities	UP	Subject to the requirements and findings of Section 23C.17.100
<u>Urban Agriculture</u> <u>Low-Impact Urban Agriculture (LIUA)</u> <u>High-Impact Urban Agriculture (HIUA)</u>	<u>ZC</u> <u>AUP</u>	<u>Subject to 23C.26</u>

Section 5. That “Accessory Uses and Structures” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23D.32.030 are amended to read as follows:

23D.32.030 Uses Permitted

Table 23D.32.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
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	
<u>With Urban Agriculture</u>	<u>ZC</u>	<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Accessory Dwelling Units in compliance with Section 23D.10.040	ZC	

Table 23D.32.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Dwelling Unit that does not comply with requirements under Section 23D.10.040	AUP	Subject to making applicable findings in Section 23D.10.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care; Family Day Care		
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	
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	
Miscellaneous Uses		
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a

Table 23D.32.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
		Community and Institutional Use, limited to 400 niches, and no more than 5% of the subject property area. When located outside of the main building columbaria structures are subject to Chapter 23D.08 .
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Public Utility Substations, Tanks	UP(PH)	
Wireless Telecommunications Facilities		
Microcell Facilities	AUP	Subject to the requirements and findings of Section 23C.17.100
All Other Telecommunication Facilities	UP	Subject to the requirements and findings of Section 23C.17.100
<u>Urban Agriculture</u> <u>Low-Impact Urban Agriculture (LIUA)</u> <u>High-Impact Urban Agriculture (HIUA)</u>	<u>ZC</u> <u>AUP</u>	<u>Subject to 23C.26</u>

Section 6. That “Accessory Uses and Structures” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23D.36.030 are amended to read as follows:

23D.36.030 Uses Permitted

Table 23D.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures If has either habitable space and/or exceeds the requirements under Chapter 23D.08	ZC AUP	Must satisfy the requirements of Chapter 23D.08
When located on a vacant lot without a Main Building <u>With Urban Agriculture</u>	AUP <u>ZC</u>	<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Accessory Dwelling Units in compliance with Section 23D.10.040	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23D.10.040	AUP	Subject to making applicable findings in Section 23D.10.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care/Family Day Care		
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	

Table 23D.36.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
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	
Miscellaneous Uses		
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, and no more than 5% of the subject property area. When located outside of the main building columbaria structures are subject to Chapter 23D.08 .
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Public Utility Substations, Tanks	UP(PH)	
Wireless Telecommunications Facilities		
Microcell Facilities	AUP	Subject to the requirements and findings of

Table 23D.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
All Other Telecommunication Facilities	UP	Section 23C.17.100 Subject to the requirements and findings of Section 23C.17.100
<u>Urban Agriculture</u> <u>Low-Impact Urban Agriculture (LIUA)</u> <u>High-Impact Urban Agriculture (HIUA)</u>	<u>ZC</u> <u>AUP</u>	<u>Subject to 23C.26</u>

Section 7. That “Accessory Uses and Structures” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23D.40.030 are amended to read as follows:

23D.40.030 Uses Permitted

Table 23D.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
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	
<u>With Urban Agriculture</u>	<u>ZC</u>	<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Accessory Dwelling Units in compliance with Section 23D.10.040	ZC	

Table 23D.40.030

Use and Required Permits		
Use		
Use	Classification	Special Requirements (if any)
Accessory Dwelling Unit that does not comply with requirements under Section 23D.10.040	AUP	Subject to making of applicable findings set forth in Section 23D.10.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care, Family Day Care		
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

Table 23D.40.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Miscellaneous Uses		
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, and no more than 5% of the subject property area. When located outside of the main building columbaria structures are subject to Chapter 23D.08 .
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Emergency Shelter	ZC	Such shelters may operate only during the wet weather season from November 15 through April 15. See Chapter 23C.10 .
Up to 15 beds		
More than 15 beds	UP(PH)	
Public Utility Substations, Tanks	UP(PH)	
Wireless Telecommunications Facilities		
Microcell Facilities	AUP	Subject to the requirements and findings of Section 23C.17.100
All Other Telecommunication Facilities	UP	Subject to the requirements and findings of Section 23C.17.100
<u>Urban Agriculture</u>		<u>Subject to 23C.26</u>
<u>Low-Impact Urban Agriculture (LIUA)</u>	<u>ZC</u>	
<u>High-Impact Urban Agriculture (HIUA)</u>	<u>AUP</u>	

Section 8. That “Accessory Uses and Structures” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23D.44.030 are amended to read as follows:

23D.44.030 Uses Permitted

Table 23D.44.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
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	
<u>With Urban Agriculture</u>	<u>ZC</u>	<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Accessory Dwelling Units in compliance with Section 23D.10.040	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23D.10.040	AUP	Subject to making of applicable findings set forth in Section 23D.10.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care, Family Day Care		
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	

Table 23D.44.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
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
Miscellaneous Uses		
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, and no more than 5% of the subject property area. When located outside of the main building columbaria structures are subject to Chapter 23D.08 .
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas

Table 23D.44.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Emergency Shelter		Such shelters may operate only during the wet weather season from November 15 through April 15. See Chapter 23C.10 .
Up to 15 beds	ZC	
More than 15 beds	UP(PH)	
Public Utility Substations, Tanks	UP(PH)	
Wireless Telecommunications Facilities		
Microcell Facilities	AUP	Subject to the requirements and findings of Section 23C.17.100
All Other Telecommunication Facilities	UP	Subject to the requirements and findings of Section 23C.17.100
<u>Urban Agriculture</u>		<u>Subject to 23C.26</u>
<u>Low-Impact Urban Agriculture (LIUA)</u>	<u>ZC</u>	
<u>High-Impact Urban Agriculture (HIUA)</u>	<u>AUP</u>	

Section 9. That “Accessory Uses and Structures” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23D.48.030 are amended to read as follows:

23D.48.030 Uses Permitted

Table 23D.48.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
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	
<u>With Urban Agriculture</u>	<u>ZC</u>	<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Accessory Dwelling Units in compliance with Section 23D.10.040	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23D.10.040	AUP	Subject to making of applicable findings set forth in Section 23D.10.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care, Family Day Care		
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	

Table 23D.48.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
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
Miscellaneous Uses		
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, and no more than 5% of the subject property area. When located outside of the main building columbaria structures are subject to Chapter 23D.08 .
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas

Table 23D.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Emergency Shelter		Such shelters may operate only during the wet weather season from November 15 through April 15. See Chapter 23C.10 .
Up to 15 beds	ZC	
More than 15 beds	UP(PH)	
Public Utility Substations, Tanks	UP(PH)	
Wireless Telecommunications Facilities		
Microcell Facilities	AUP	Subject to the requirements and findings of Section 23C.17.100
All Other Telecommunication Facilities	UP	Subject to the requirements and findings of Section 23C.17.100
<u>Urban Agriculture</u>		<u>Subject to 23C.26</u>
<u>Low-Impact Urban Agriculture (LIUA)</u>	<u>ZC</u>	
<u>High-Impact Urban Agriculture (HIUA)</u>	<u>AUP</u>	

Section 10. That “Accessory Uses and Structures” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23D.52.030 are amended to read as follows:

23D.52.030 Uses Permitted

Table 23D.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Accessory Uses and Structures		
Accessory Buildings or Structures	ZC	Must satisfy the requirements of Chapter 23D.08
If has either habitable space and/or exceeds	AUP	

Table 23D.52.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
the requirements under Chapter 23D.08 When located on a vacant lot without a Main Building <u>With Urban Agriculture</u>	AUP ZC	
Accessory Dwelling Units in compliance with Section 23D.10.040	ZC	
Accessory Dwelling Unit that does not comply with requirements under Section 23D.10.040	AUP	Subject to making applicable findings set forth in Section 23D.10.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care, Family Day Care Small Family Day Care Homes: of eight or fewer children Large Family Day Care Homes: of nine to 14 children	ZC AUP	
Fences Six ft. or less in height Exceeding six ft. in height	ZC AUP	In required setbacks
Home Occupations Low Impact Moderate Impact, teaching-related	ZC AUP	If the requirements of Section 23C.16.020 are met Subject to the requirements of Section 23C.16.030.A

Table 23D.52.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
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

Table 23D.52.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Miscellaneous Uses		
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building.
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Emergency Shelter Up to 15 beds	ZC	Such shelters may operate only during the wet weather season from November 15

Table 23D.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
More than 15 beds	UP(PH)	through April 15. See Chapter 23C.10 .
Public Utility Substations, Tanks	UP(PH)	
Wireless Telecommunications Facilities		
Microcell Facilities	AUP	Subject to the requirements and findings of Section 23C.17.100
All Other Telecommunication Facilities	UP	Subject to the requirements and findings of Section 23C.17.100
<u>Urban Agriculture</u>		
<u>Low-Impact Urban Agriculture (LIUA)</u>	ZC	<u>Subject to 23C.26</u>
<u>High-Impact Urban Agriculture (HIUA)</u>	AUP	

Section 11. That “Uses Permitted in Residential Districts” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23E.36.030 are amended to read as follows:

23E.36.030 Uses Permitted

Table 23E.36.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
<u>Accessory Buildings and Structures with</u> <u>Urban Agriculture</u>	ZC	<u>Subject to 23C.26, 23D.08.010,</u> <u>23D.08.020, 23D.08.050, and 23D.08.060</u>
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	

Table 23E.36.030

Use and Required Permits		
Use		
Use	Classification	Special Requirements (if any)
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.C
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	ZC	Changes of use from an existing dwelling unit

Table 23E.36.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Seven or more persons	AUP	
New Construction	UP(PH)	
Miscellaneous Uses		
Automatic Teller Machines	UP(PH)	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	UP(PH)	
Emergency Shelter	ZC	See Chapter 23C.10 .
Up to 25 beds		
More than 25 beds	UP(PH)	
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing	AUP**	
Mortuaries	UP(PH)	

Table 23E.36.030

Use and Required Permits		
Use		
Classification	Special Requirements (if any)	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television, or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Warehouses or Storage including Mini-storage Warehouses	UP(PH)	Prohibited within the University Avenue Strategic Plan Overlay
Wireless Telecommunications Facilities Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District	AUP	Subject to the requirements of Section 23C.17.100
All Other Telecommunication Facilities	UP(PH)	Subject to the requirements and findings of Section 23C.17.100
<u>Urban Agriculture</u> <u>Low-Impact Urban Agriculture (LIUA)</u> <u>High-Impact Urban Agriculture (HIUA)</u>	<u>ZC</u> <u>AUP</u>	<u>Subject to 23C.26</u>

Section 12. That “Uses Permitted in Residential Districts” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23E.40.030 are amended to read as follows:

23E.40.030 Uses Permitted

Table 23E.40.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
<u>Accessory Buildings and Structures with Urban Agriculture</u>	<u>ZC</u>	<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Child Care Centers	UP(PH)	
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)	

Table 23E.40.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Changes of use from an existing dwelling unit
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	
Miscellaneous Uses		
Automatic Teller Machines	UP(PH)	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	Prohibited	
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing	Prohibited	

Table 23E.40.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Mortuaries	Prohibited	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Warehouses or Storage including Mini-storage Warehouses	Prohibited	
Wireless Telecommunications Facilities Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District All Other Telecommunication Facilities	AUP UP(PH)	Subject to the requirements of Section 23C.17.100 Subject to the requirements of Section 23C.17.100
<u>Urban Agriculture</u> <u>Low-Impact Urban Agriculture (LIUA)</u> <u>High-Impact Urban Agriculture (HIUA)</u>	<u>ZC</u> <u>AUP</u>	<u>Subject to 23C.26</u>

Section 13. That “Uses Permitted in Residential Districts” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23E.44.030 are amended to read as follows:

23E.44.030 Uses Permitted

Table 23E.44.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
<u>Accessory Buildings and Structures with Urban Agriculture</u>	<u>ZC</u>	<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Child Care Centers	UP(PH)	
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)	

Table 23E.44.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Schools, Public or Private	UP(PH)	
Senior Congregate Housing		Changes of use from an existing dwelling unit
Six or fewer persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	
Miscellaneous Uses		
Automatic Teller Machines	Prohibited	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	Prohibited	
Emergency Shelter		See Chapter 23C.10 .
Up to 25 beds	ZC	
More than 25 beds	UP(PH)	

Table 23E.44.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing	Prohibited	
Mortuaries	Prohibited	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Warehouses or Storage including Mini-storage Warehouses	Prohibited	
Wireless Telecommunications Facilities Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District All Other Telecommunication Facilities	AUP UP(PH)	Subject to the requirements and findings of Section 23C.17.100 Subject to the requirements and findings of Section 23C.17.100
<u>Urban Agriculture</u> <u>Low-Impact Urban Agriculture (LIUA)</u> <u>High-Impact Urban Agriculture (HIUA)</u>	<u>ZC</u> <u>AUP</u>	<u>Subject to 23C.26</u>

Section 14. That “Uses Permitted in Residential” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23E.48.030 are amended to read as follows:

23E.48.030 Uses Permitted

Table 23E.48.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
<u>Accessory Buildings and Structures with Urban Agriculture</u>	<u>ZC</u>	<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
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	

Table 23E.48.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
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 persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	
Miscellaneous Uses		
Automatic Teller Machines	UP(PH)	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	
Commercial Excavations	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	UP(PH)	
Emergency Shelter		See Chapter 23C.10 .

Table 23E.48.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Up to 25 beds	ZC	
More than 25 beds	UP(PH)	
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing	Prohibited	
Mortuaries	Prohibited	
Radio, Television, or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Public Utility Substations, Tanks	UP(PH)	
Warehouses or Storage including Mini-storage Warehouses	Prohibited	
Wireless Telecommunications Facilities Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District	AUP	Subject to the requirements and findings of Section 23C.17.100
All Other Telecommunication Facilities	UP(PH)	Subject to the requirements and findings of Section 23C.17.100
<u>Urban Agriculture</u> <u>Low-Impact Urban Agriculture (LIUA)</u> <u>High-Impact Urban Agriculture (HIUA)</u>	<u>ZC</u> <u>AUP</u>	<u>Subject to 23C.26</u>

Section 15. That “Uses Permitted in Residential Districts” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23E.52.030 are amended to read as follows:

23E.52.030 Uses Permitted

Table 23E.52.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
<u>Accessory Buildings and Structures with Urban Agriculture</u>	ZC	<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
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 23E.52.070.E
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	Subject to parking requirements; see Section 23E.52.080
Nursing Homes	UP(PH)	Subject to parking requirements; see Section 23E.52.080
Parks and Playgrounds	ZC	

Table 23E.52.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
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 people	AUP	
New construction	UP(PH)	
Miscellaneous Uses		
Automatic Teller Machines	UP(PH)	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	Prohibited	
Emergency Shelter		See Chapter 23C.10 .

Table 23E.52.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
Up to 25 beds	ZC	
More than 25 beds	UP(PH)	
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing	Prohibited	
Mortuaries	Prohibited	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Warehouses or Storage, including Mini-storage Warehouses	Prohibited	
Wireless Telecommunications Facilities Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District	AUP	Subject to the requirements and findings of Section 23C.17.100
All Other Telecommunication Facilities	UP(PH)	Subject to the requirements and findings of Section 23C.17.100
<u>Urban Agriculture</u> <u>Low-Impact Urban Agriculture (LIUA)</u> <u>High-Impact Urban Agriculture (HIUA)</u>	<u>ZC</u> <u>AUP</u>	<u>Subject to 23C.26</u>

Section 16. That “Uses Permitted in Residential Districts” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23E.56.030 are amended to read as follows:

23E.56.030 Uses Permitted

Table 23E.56.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
<u>Accessory Buildings and Structures with Urban Agriculture</u>	<u>ZC</u>	<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
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)	

Table 23E.56.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
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)	
Miscellaneous Uses		
Automatic Teller Machines	UP(PH)	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Circus or Carnival	UP(PH)	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	Prohibited	
Emergency Shelter		See Chapter 23C.10 .
Up to 25 beds	ZC	

Table 23E.56.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
More than 25 beds	UP(PH)	
Kennels or Pet Boarding	Prohibited	
Laboratories	Prohibited	Except photographic processing laboratories
Mortuaries	Prohibited	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Warehouses or Storage, including Mini-storage Warehouses	Prohibited	
Wireless Telecommunications Facilities Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District	AUP	Subject to the requirements and findings of Section 23C.17.100
All Other Telecommunication Facilities	UP(PH)	Subject to the requirements and findings of Section 23C.17.100
<u>Urban Agriculture</u> <u>Low-Impact Urban Agriculture (LIUA)</u> <u>High-Impact Urban Agriculture (HIUA)</u>	<u>ZC</u> <u>AUP</u>	<u>Subject to 23C.26</u>

Section 17. That “Uses Permitted in Residential Districts” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23E.60.030 are amended to read as follows:

23E.60.030 Uses Permitted

Table 23E.60.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Uses Permitted in Residential Districts		
Accessory Uses and Structures	Per R-3 District	See Table 23D.36.030
<u>Accessory Buildings and Structures with Urban Agriculture</u>	<u>ZC</u>	<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Child Care Centers	UP(PH)	
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)	

Table 23E.60.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
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 persons	ZC	
Seven or more persons	AUP	
New Construction	UP(PH)	
Miscellaneous Uses		
Automatic Teller Machines	Prohibited	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	Prohibited	
Emergency Shelter		See Chapter 23C.10 .
Up to 25 beds	ZC	

Table 23E.60.030

Use and Required Permits		
Use	Classification	Special Requirements (if any)
More than 25 beds	UP(PH)	
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing	Prohibited	Except medical office laboratories
Mortuaries	Prohibited	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Wireless Telecommunications Facilities Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District	AUP	Subject to the requirements and findings of Section 23C.17.100
All Other Telecommunication Facilities	UP(PH)	Subject to the requirements and findings of Section 23C.17.100
<u>Urban Agriculture</u> <u>Low-Impact Urban Agriculture (LIUA)</u> <u>High-Impact Urban Agriculture (HIUA)</u>	<u>ZC</u> <u>AUP</u>	<u>Subject to 23C.26</u>

Section 18. That “Residential and Related Uses” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23E.64.030 are amended to read as follows:

23E.64.030 Uses Permitted

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Residential and Related Uses		
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 Day Care		
Small Family Day Care Homes of 8 or fewer children	ZC	
Large Family Day Care Homes of 9 to 14 children	AUP	
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

Table 23E.64.030

Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
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
Hospitals	UP(PH)	Subject to parking requirements; see Section 23E.64.080.F
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 23E.64.080.F
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	ZC	Changes of use from an existing dwelling unit

Table 23E.64.030

Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Seven or more persons New Construction	AUP UP(PH)	
All other Residential Accessory Structures and Uses not listed	Per R-3 District	See Table 23D.36.030
<u>Accessory Buildings and Structures with Urban Agriculture</u>	<u>ZC</u>	<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Miscellaneous Uses		
Automatic Teller Machines	AUP	When not part of a Retail Financial Service
Cafeteria, Employee or Residential	AUP	
Cemeteries and Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	Prohibited in designated nodes. See Section 23E.64.050.C
Commercial Excavation	Prohibited	Including earth, gravel, minerals or other building materials including drilling for, or removal of, oil or natural gas

Table 23E.64.030

Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Dry Cleaning and Laundry Plants	Prohibited	
Emergency Shelter		See Chapter 23C.10 .
Up to 25 beds	ZC	
More than 25 beds	UP(PH)	
Kennels or Pet Boarding	UP(PH)	Prohibited on ground floor in designated node
Laboratories, Commercial Physical or Biological	Prohibited	See Section 23E.64.030.C
Laboratories, Testing	AUP if less than 10,000 sq. ft. UP(PH) if more than 10,000 sq. ft.	
Mortuaries and Crematories	UP(PH)	
Public Utility Substations, Buildings, Tanks	UP(PH)	Prohibited in designated node. See Section 23E.64.050.C
Radio, Television, or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	Prohibited on ground floor in designated node. See Section 23E.64.050.C
Wireless Telecommunications Facilities		
Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District	AUP	Subject to the requirements and findings of Section 23C.17.100

Table 23E.64.030		
Use and Required Permits		
Use	Permits Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
All Other Telecommunication Facilities	UP(PH)	Subject to the requirements and findings of Section 23C.17.100
<u>Urban Agriculture</u> <u>Low-Impact Urban Agriculture (LIUA)</u> <u>High-Impact Urban Agriculture (HIUA)</u>	<u>ZC</u> <u>AUP</u>	<u>Subject to 23C.26</u>

Section 19. That “Uses Permitted in Residential Districts” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23E.68.030 are amended to read as follows:

23E.68.030 Uses Permitted

Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
Uses Permitted in Residential Districts		
Accessory Uses and Structures	As per R-5 District	See Table 23D.44.030
<u>Accessory Buildings and Structures with Urban Agriculture</u>	<u>ZC</u>	<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	AUP	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	

Table 23E.68.030

Use and Required Permits		
Use	Classification	Special Requirements
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	AUP	
New Construction	UP(PH)	Subject to Section 23E.68.070
Miscellaneous Uses		
Automatic Teller Machines When not a Part of a Retail Financial Service		
Exterior	UP(PH)	
Interior	AUP	

Table 23E.68.030

Use and Required Permits		
Use	Classification	Special Requirements
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building.
Circus or Carnival	UP(PH)	
Dry Cleaning and Laundry Plants	UP(PH)	
Emergency Shelter	ZC	See Chapter 23C.10 .
Up to 60 beds		
More than 60 beds		UP(PH)
Kennels or Pet Boarding	Prohibited	
Laboratories, Testing	AUP	
Mortuaries	UP(PH)	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television or Audio/Sound	AUP	
Recording Studios		
Broadcast Studios		UP(PH)
Warehouses or Storage including Mini-storage Warehouses	UP(PH)	
Wireless Telecommunications Facilities	AUP	Subject to the requirements and findings of Section 23C.17.100
Microcell Facilities, Modifications to		

Table 23E.68.030		
Use and Required Permits		
Use	Classification	Special Requirements
Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District		
All Other Telecommunication Facilities	UP(PH)	Subject to the requirements and findings of Section 23C.17.100
<u>Urban Agriculture</u>		<u>Subject to 23C.26</u>
<u>Low-Impact Urban Agriculture (LIUA)</u>	<u>ZC</u>	
<u>High-Impact Urban Agriculture (HIUA)</u>	<u>AUP</u>	

Section 20. That “Parking, Outdoor Exterior Service Window Services,” “Residential and Related Uses,” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23E.72.030 are amended to read as follows:

23E.72.030 Uses Permitted

Table 23E.72.030						
Use and Required Permits						
Uses	Permits Required to Establish, Expand or Change Use (sq. ft.)			Special Requirements (if any)		
	Under 20,000	20,000 – 40,000	More than 40,000			
Parking, Outdoor and Exterior Service Window Uses						
Activities or Storage Outside of a building not ancillary to a permitted use	ZC	AUP		Not permitted abutting R-District		
Automatic Teller Machines	AUP					
Drive-in uses, which provide service to customers in their cars	Prohibited					

Farms and other Agricultural Uses, including Composting	AUP	UP	
Parking Lots			
Exclusively for uses located in the district	ZC for 10 or fewer spaces	AUP 11+	
Not exclusively for uses located in the district		UP(PH)	
Recycling Redemption Centers	AUP	AUP	UP(PH)

Table 23E.72.030

Use and Required Permits				
Uses	Permits Required to Establish, Expand or Change Use (sq. ft.)			Special Requirements (if any)
	Under 20,000	20,000 – 40,000	More than 40,000	
Residential and Related Uses				
All other uses permitted in residential Districts including dwelling units	Prohibited			
Child Care Centers	Prohibited			
Clubs, Lodges for persons working in the District	UP(PH)			
Public Safety and Emergency Services	UP(PH)			
Public Utility Substations, Buildings and Tanks	UP(PH)			
Religious Assembly Uses	Prohibited			
Schools, Public or Private and other Educational Institutions	Prohibited			

<u>Accessory Buildings and Structures with Urban Agriculture</u>	<u>ZC</u>	<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Miscellaneous Uses		
Cemeteries, Crematories, Mausoleums and Mortuaries	Prohibited	
Circus or Carnival	Prohibited	
Kennels or Pet Boarding	Prohibited	
Municipal Animal Shelter	UP(PH)	
Parks and Recreational Uses, Public or Private	Prohibited	
Wireless Telecommunications Facilities when located on site with existing facilities	AUP	Subject to the requirements of Section 23C.17.100
When located on a site without existing facilities	Prohibited	Waiver may be granted if ZAB approves finding of necessity as required by Section 23C.17.100.D
<u>Urban Agriculture</u> <u>Low-Impact Urban Agriculture (LIUA)</u> <u>High-Impact Urban Agriculture (HIUA)</u>	<u>ZC</u> <u>AUP</u>	<u>Subject to 23C.26</u>

Section 21. That “Parking, Outdoor Exterior Service Window Services,” “Residential and Related Uses,” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23E.76.030 are amended to read as follows:

23E.76.030 Uses Permitted

Table 23E.76.030						
Uses	Permits Required to Establish, Expand or Change Use (sq. ft.)			Special Requirements (if any)		
	Under 20,000	20,000 – 40,000	More than 40,000			
Parking, Outdoor and Exterior Service Window Uses						
Activities or Storage Outside of a building not ancillary to a permitted use	ZC	AUP		Not permitted abutting R-District		
Automatic Teller Machines	AUP					
Drive-in uses, which provide service to customers in their cars	Prohibited					
Farms and other Agricultural Uses, including Composting	AUP		UP			
Parking Lots						
Exclusively for uses located in the District	ZC for 10 or fewer spaces AUP 11+					
Not exclusively for uses located in the District	UP(PH)					
Recycling Redemption Centers	ZC	AUP	UP(PH)			
	AUP	UP	Prohibited			

Table 23E.76.030

Use and Required Permits				
Uses	Permits Required to Establish, Expand or Change Use (sq. ft.)			Special Requirements (if any)
	Under 20,000	20,000 – 40,000	More than 40,000	
Residential and Related Uses				
Clubs, Lodges for persons working in the District	UP(PH)			
Public Safety and Emergency Services	UP(PH)			
Public Utility Substations, Buildings and Tanks	UP(PH)			
All other uses permitted in residential districts including dwelling units	Prohibited			
<u>Accessory Buildings and Structures with Urban Agriculture</u>	<u>ZC</u>			<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Miscellaneous Uses				
Cemeteries, Crematories, Mausoleums and Mortuaries	Prohibited			
Circus or Carnival	Prohibited except as a temporary use			
Kennels or Pet Boarding	Prohibited			
Municipal Animal Shelter	UP(PH)			
Parks and Recreational Uses, Public or Private	Prohibited			
Wireless Telecommunications Facilities	AUP			Subject to the requirements

Table 23E.76.030

Use and Required Permits				
Uses	Permits Required to Establish, Expand or Change Use (sq. ft.)			Special Requirements (if any)
	Under 20,000	20,000 – 40,000	More than 40,000	
when located on site with existing facilities				of Section 23C.17.100
When located on a site without existing facilities	Prohibited			Waiver may be granted if ZAB approves finding of necessity as required by Section 23C.17.100.D
<u>Urban Agriculture</u> <u>Low-Impact Urban Agriculture</u> (LIUA) <u>High-Impact Urban Agriculture</u> (HIUA)	<u>ZC</u> <u>AUP</u>			<u>Subject to 23C.26</u>

Section 22. That the “Residential and Related Uses” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23E.80.030 are amended to read as follows:

23E.80.030 Uses Permitted

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	

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 Centers	UP(PH)			Subject to the findings in Section 23E.80.090.l
Child Care; Family Day Care				
Small Family Day Care Homes of 8 or fewer children	ZC			
Large Family Day Care Homes of 9 to 14 children	AUP			Subject to the findings in Section 23E.80.090.l
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

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	
				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			
<u>Accessory Buildings and Structures with Urban Agriculture</u>	<u>ZC</u>			<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Miscellaneous Uses				
Cemeteries, Crematories, Mausoleums and Mortuaries	Prohibited			
Circus or Carnival	UP(PH)			Temporary use only
Kennels or Pet Boarding	Prohibited			
Municipal Animal Shelter	UP(PH)			
Parks and Recreational Uses, Public or Private	Prohibited, except public recreational uses permitted with Use			

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	
	Permit in Outdoor Recreation Sub-zones. See Section 23E.80.030.F			
Wireless Telecommunications Facilities when located on a site with existing facilities	AUP			Subject to the requirements of Section 23C.17.100
When located on a site without existing facilities	Prohibited			Waiver may be granted if ZAB approves finding of necessity as required by Section 23C.17.100.D
<u>Urban Agriculture</u> <u>Low-Impact Urban Agriculture</u> <u>(LIUA)</u> <u>High-Impact Urban Agriculture</u> <u>(HIUA)</u>	<u>ZC</u> <u>AUP</u>			<u>Subject to 23C.26</u>

Section 23. That the “Residential and Related Uses” and “Miscellaneous Uses” sections of Berkeley Municipal Code Table 23E.84.030 are amended to read as follows:

23E.84.030 Uses Permitted

Table 23E.84.030		
Use and Required Permits		
Uses	Permit Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
Residential and Related Uses		
Additions, Major Residential	AUP	See Definition in Sub-title 23E . 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 Day Care		
Small Family Day Care Homes of 8 or fewer children	ZC	
Large Family Day Care Homes of 9 to 14 children	AUP	Subject to the findings in Section 23E.84.090.H
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

Table 23E.84.030		
Use and Required Permits		
Uses	Permit Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
		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

Table 23E.84.030		
Use and Required Permits		
Uses	Permit Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
		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 23E.84.090.H
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
<u>Accessory Buildings and Structures with Urban Agriculture</u>	<u>ZC</u>	<u>Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060</u>
Miscellaneous Uses		
Cafeteria, Employee or Residential	AUP	
Cemeteries, Crematories, Mausoleums	Prohibited	
Circus or Carnival	UP(PH)	
Kennels, Pet Boarding, other services for pets	UP(PH)	
Mortuaries	UP(PH)	
Wireless Telecommunications Facilities when located on site with existing facilities	AUP	Subject to the requirements of Section 23C.17.100

Table 23E.84.030		
Use and Required Permits		
Uses	Permit Required to Establish, Expand or Change Use (sq. ft.)	Special Requirements (if any)
When located on a site without existing facilities	Prohibited	Waiver may be granted if ZAB approves finding of necessity as required by Section 23C.17.100.D
<u>Urban Agriculture</u> <u>Low-Impact Urban Agriculture (LIUA)</u> <u>High-Impact Urban Agriculture (HIUA)</u>	<u>ZC</u> <u>AUP</u>	<u>Subject to 23C.26</u>

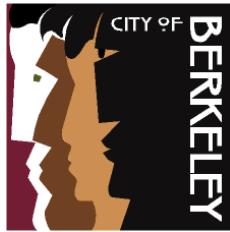
Section 24. The Berkeley Municipal Code 23F.04.010 is amended to add the definitions “Urban Agriculture” and “Urban Agricultural Products” in alphabetical order as follows:

23F.04.010 Definitions

Urban Agriculture (including community gardens): The production of horticultural crops for harvest, sale, and/or donation, including community gardens. Urban Agriculture does not include cannabis cultivation and does not pertain to raising animals.

Urban Agricultural Products: Horticultural crops including fruits, vegetables, nuts, flowers, herbs, and any other cultivar, and value-added products made from raw agricultural products grown at the site such as jams, fruit preserves, herb blends, and floral bouquets. Urban Agricultural Products do not include cannabis products.

Section 25. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 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.



Jesse Arreguin
City Councilmember, District 4

CONSENT CALENDAR
November 29, 2016

To: Honorable Mayor and Members of the City Council
 From: Councilmember Jesse Arreguin
 Subject: Urban Agriculture Package

RECOMMENDATIONS

Refer to the Planning Commission to develop regulations to facilitate urban agriculture, taking into consideration the following concepts:

1. Designate “urban agriculture” as a primary and incidental use category and define as, “the production of food or horticultural crops for harvest, sale, and/or donation, not including cannabis”.
2. Add urban agriculture as an Outdoor Use in all Commercial zones.
3. Permit urban agriculture on unoccupied lots in residential zones.
4. Consider whether to permit urban agriculture in lots in the Hillside Overlay, and whether to permit urban agriculture on lots of a certain slope or requiring a geotechnical study.
5. Define rooftop gardens and develop requirements that comply with existing building codes.
6. Permit accessory uses, including sheds, greenhouses, trellises, pergolas and fences on occupied and vacant lots used for urban agriculture.
7. Permit group class instruction, community gatherings, and sales as an accessory use in commercial and residential zones and establish conditions for these uses in residential zones based on the requirements in Section 23C.20.010 (B), Sales of Non-Processed Edibles.
8. Permit sales of “value-added” products or processed food products to be sold on site during the sales of non-processed edibles or plants, in compliance with the State of California Homemade Food Act.
9. Consider the levels of discretion (permits required) for these various uses.

BACKGROUND

The popularity of urban agriculture has grown rapidly in recent years. To meet this renewed interest, cities across the country have developed policies to support and encourage a variety of uses. From residential and community gardens, to urban farms,

urban agriculture is not only providing healthy food to communities, but it is also developing into a mature business sector that helps local economies thrive. In 2014, U.S. local food sales totaled at least \$12 billion, up from \$5 billion in 2008, with experts anticipating that value hitting \$20 billion by 2019. The expansion of urban agriculture is also driving the growth of green jobs and increasing entrepreneurship.

Urban agriculture also improves the environment by reducing the distance food must travel to our plates, which in turn reduces greenhouse gas (GHG) emissions, something the people of Berkeley care about deeply. In 2006, Berkeley voters overwhelmingly endorsed Measure G, making it a goal for our City to reach an 80% reduction in GHG emissions by 2050. In 2009, the Climate Action Plan (CAP) reiterated this sentiment in its Vision for 2050 and asserted that an important way to meet this goal would be to locally produce the majority of food consumed in Berkeley. The CAP states that, "In response to crises like climate change, Peak Oil, health disparities, a shaky economy, and the loss of greenfields and farmland due to suburban sprawl, the City and its partners must do more to build a resilient and sustainable local food system". Policy C of Goal 2 in the Sustainable Transportation and Land Use section recommends "supporting efforts to build a more complete and local food production and distribution systems".

In July of 2012, the Berkeley City Council amended the Zoning Ordinance to exempt the limited sales of "non-processed edibles" (i.e. fresh produce, eggs) in residential districts. The amendment created guidelines for the sale of produce and homegrown goods, and made urban agriculture and limited sales on occupied lots an exempt zoning use. It also enabled small-scale Community Supported Agriculture (CSA) in residential areas. While this legislation was an important first step, it did not cover Berkeley's commercial districts, nor did it permit urban agriculture in unoccupied residential lots. Currently, urban agriculture is only allowed in three zoning districts, Residential, Manufacturing (M), and Mixed Manufacturing (MM) Districts, and is prohibited in all other areas.

The lack of definitions or permitted uses for either "urban agriculture" or "community garden" has made existing urban farms and community gardens in most zones technically illegal. On May 10, 2016, the City Council passed an item on consent referring to the Planning commission to: 1) define community gardens in the Zoning Ordinance, and 2) permit group class instruction, gatherings, and sales as exempt accessory uses. However, a definition of urban agriculture and uses, and permit guidelines by zone are still needed.

Urban agriculture is a valuable asset for our City because it helps strengthen the health and social fabric of communities while creating economic opportunities for farmers and neighborhoods. To increase these opportunities and improve the environment by meeting our GHG emission reduction goals, we must update our Zoning Ordinance to include the following on urban agriculture:

Use Designation and Definition

Designating urban agriculture as a primary and incidental use category in every zone is an important foundational step to support a diversity of uses, food security, and our local economy. Similar to San Francisco, Sacramento, and Oakland, we should designate urban agriculture a use category defined as, *“the production of food or horticultural crops for harvest, sale, and/or donation, not including cannabis”*.

Urban Agriculture in Commercial Zones

By expanding uses to Commercial zones we can maximize urban agriculture opportunities in Berkeley, getting closer to Policy C, Goal 2 of the Climate Action Plan – a more complete and local food production and distribution system. As part of this referral the Planning Commission will consider the appropriate levels of discretion for these uses.

While there are no set standards for urban agriculture soils at either the Federal or State levels, the Federal Environmental Protection Agency has set a lead level of 400ppm that is widely accepted for soils. Agencies like the California Department of Health and the Berkeley Unified School District adhere to this standard as well. While testing is commonly not required, it is recommended, as is following the Starting Your Own Urban Garden guidelines set forth by the Community Environmental Advisory Commission in March, 2015.

Urban Agriculture on Unoccupied Lots in Residential Zones

Urban agriculture and limited sales on occupied lots in residential zones are currently exempt zoning uses. However, these exemptions do not apply to unoccupied residential lots. Permitting urban agriculture on residential unoccupied lots will remove existing barriers and make it easier for non-profit organizations, schools, or community groups to more easily start a garden.

Due to concerns over the potential for landslides and proximity to the Hayward Fault, the Planning Commission should consider whether to permit urban agriculture on unoccupied lots in the Hillside Overlay zone and whether to require a geotechnical study. An alternative approach suggested by the Planning Director is to allow urban agriculture on hillside lots of a certain slope.

Rooftop Gardens

Rooftop gardens are an excellent way to increase urban agriculture in a city while reducing building energy usage and improving habitat corridors. Cities across the country like New York, Portland, and San Francisco have embraced this use. In addition, the Climate Action Plan explicitly points out that we should, “encourage and provide guidelines consistent with the building code for buildings to incorporate rooftop gardens that can be used for food production.” There are two types of rooftop gardens:

- **Extensive Green Roof:** Plants are grown directly on the roof in four to six feet of substrate, covering most, if not all, of the surface. Water retention and insulation are the main goals of this type of rooftop garden. Since these typically involve minimal traffic and maintenance, they are considered “unoccupied” and are often treated as Alternative Roofing Surfaces for the purposes of most regulations.
- **Intensive Green Roof:** Larger plants are grown as ornamentals or edibles. Because these gardens require more substantial planting depths, as well as regular maintenance, the rooftops on which they are sited are considered “occupied” and will be subject to more stringent regulations. Since there is little precedent and no specific mention of roof gardens in the planning and building codes, these setups will mostly be treated as Roof Decks.

Expansion of Exempt Accessory Uses

Although the City Council passed an item on May 10, 2016 that permitted group class instruction, gatherings, and sales as exempt accessory uses, this only applies to community gardens. By expanding these accessory uses to all urban agriculture uses and including accessory structures like sheds, trellises and greenhouses, which all currently require additional permits, we can continue to support local food production by reducing permitting cost and time barriers. As part of this referral the Planning Commission will consider the appropriate levels of discretion for these uses.

Sales in Commercial Zone and Value-Added Products

Similar to what was put forth in Section 23C.20.010(B) (Sale of Non-Processed Edibles in Residential Districts), if a lot is being used for urban agriculture, incidental sales of goods manufactured on site should be an exempt accessory use requiring only a zoning certificate.

In 2013, Assembly Bill 1616, the California Homemade Food Act was signed into law. The bill allows individuals to prepare and/or package certain non-potentially hazardous foods in private-home kitchens, referred to as “cottage food operations” (CFOs). As part of the act, a two-tier operator registration and permitting system was created. Class A CFOs are those that sell prepared foods directly to the public on-site or at a community event. This tier must submit a registration application and self-certification checklist for approval. Class B CFOs are those that sell prepared foods either indirectly through restaurants and stores or both directly to the public as well as indirectly. This tier must submit a permit application and be inspected prior to being approved. All CFOs must be registered or permitted by their local or county environmental health agency before they can begin business.

If an individual or organization is in compliance with the Homemade Food Act, a registered or permitted CFO, and is meeting all the requirements within the BMC regarding hours and visitors for on-site sales in their zone, they should be able to sell value-added or prepared products along with unprocessed foods, such as produce or plants.

FINANCIAL IMPLICATIONS

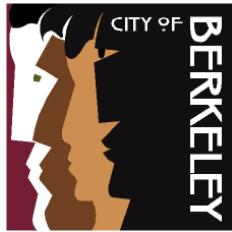
Staff time.

ENVIRONMENTAL SUSTAINABILITY

Increasing the opportunities for urban agriculture will create more green space, increase access to fresh produce, bolster the local economy, and potentially reduce greenhouse gas emissions from food transport, which would help us meet Vision 2050 and Climate Action Plan goals.

CONTACT PERSON

Jesse Arreguín, Councilmember, District 4 510-981-7140



Jesse Arreguín
City Councilmember, District 4

ACTION CALENDAR
May 10, 2016

To: Honorable Mayor and Members of the City Council
From: Councilmember Jesse Arreguín
Subject: Referral to Planning Commission: Community Garden Zoning

RECOMMENDATIONS

Refer to the Planning Commission the following amendments to the Zoning Ordinance to define Community Gardens and permit them in all zoning districts:

1. Add the following language to Section 23F.04.010 (Definitions) to define Community Gardens as a new zoning use:

Community Garden: Any piece of land, public or private, that is maintained by a group of individuals in the community that is used for the cultivation of fruits, vegetables, plants, flowers, herbs or ornamental plants, and may be used for educational purposes, group class instruction or community gatherings. Community gardens may produce food for individual consumption, donation, trade or limited seasonal sales as an exempt accessory activity subject to certain limitations. Community gardens may also have accessory structures including, but not limited to tool sheds, greenhouses, pergolas and trellises by right with a Zoning Certificate.

2. Establish community gardens and accessory structures including, but not limited to tool sheds, greenhouses, pergolas and trellises as a "by right" use in all zoning districts requiring only a Zoning Certificate.
3. Permit group class instruction, community gatherings, and sales as an exempt accessory use subject to limitations on the number of persons, hours, similar to the requirements set forth in BMC Section 23C.20.010(B) (Sale of Non-Processed Edibles in Residential Districts).

BACKGROUND

Community gardens have been an important part of our city's urban life for decades. Going as far back as World War II when residents cultivated "victory gardens" to grow food during the war-time economy, Berkeley has nurtured a number of community gardens over the years, providing recreation and locally grown organic food. There are currently over thirty community gardens throughout the city, six of which are operated on public land and overseen by the Parks, Recreation and Waterfront Department in partnership with the Berkeley Community Gardening Collaborative.

While Berkeley has allowed community gardens on public and private land, currently they are not a permitted zoning use. This makes existing community gardens a non-conforming use, and creates barriers for the formation of new gardens. In addition, many of the accessory uses that community gardens need such as group class instruction, sales of produce or plants and accessory structures, require separate zoning permits. These separate permits cost time and money for non-profit, volunteer-run community gardens.

The 2002 General Plan recognized the growing need for additional community gardening sites, and stated in Policy OS-8 that we must "*encourage and support community gardens as important open space resources that build communities and provide a local food source.*" The 2009 Berkeley Climate Action Plan (CAP) went a step further and strongly advocated for community gardens as a way to encourage the consumption of local food in order to strengthen local food security, and reduce food miles and fossil fuel consumption. Additionally, the CAP aimed to support existing community gardens as well as neighborhood initiatives to launch additional community gardens.

In July 2012, the Berkeley City Council amended the zoning ordinance to exempt the sales of "non-processed edibles" (i.e. fresh produce, eggs) in residential districts. This was in response to strong community support for reducing permitting barriers to urban farming. While this legislation was an important step, it did not cover Berkeley's commercial and manufacturing districts. Currently, urban agriculture is only allowed in one zoning district, the Manufacturing (M) District in West Berkeley and prohibited in all other areas. The lack of a permitted use for either "urban agriculture" or "community gardens" has made existing community gardens technically illegal because they do not have the proper permits.

Referral to Planning Commission: Community Garden Zoning

ACTION CALENDAR

May 10, 2016

The cost of starting a community garden varies depending on size, complexity and materials. According to the Ecology Center's Community Garden Handbook, materials alone - including water hookup, mulch, storage, fence, etc. - can add up to more than \$23,000. This estimate does not include securing the necessary permits, which can cost thousands of dollars and take several months. Easing the permitting cost by changing the use to "by right" with a Zoning Certificate would remove a huge barrier for potential gardening groups, schools and non-profit organizations, reducing the cost and time needed to start a community garden. Doing so can also help address existing "food deserts" in our city, parts of our community that do not have easy access to fresh local produce.

Community gardens are a valuable asset for our city because they increase access to healthy, affordable, culturally appropriate food for the people of Berkeley. They encourage urban agriculture, the preservation of open space, habitat restoration and the cultivation of community. The proposed amendments will make it possible for Berkeley's growing community garden network to flourish.

FINANCIAL IMPLICATIONS

Staff time to draft zoning amendments. Community Gardens would be exempt from zoning review and therefore would not result in fiscal impacts on the Land Use Planning Division.

ENVIRONMENTAL SUSTAINABILITY

Permitting community gardens by right will advance General Plan and Climate Action goals, and may encourage people to convert vacant land to agricultural use. Additional agricultural uses would create more green space, increase access to fresh produce, and potentially reduce greenhouse gas emissions from food transport.

CONTACT PERSON

Jesse Arreguín, Councilmember, District 4 510-981-7140

Action Calendar – New Business

36b. Companion Report: Healthy Default Beverages with Children's Meals

From: City Manager

Recommendation: Direct the City Manager to develop specific ordinance language, prepared in consultation with the City Attorney's Office that requires food vendors who offer children's meals to provide healthy default beverages, and a cost estimate for implementation for Council's consideration.

Financial Implications: See report

Contact: Paul Buddenhagen, Housing and Community Services, 981-5400

Action: Item 36b moved to Consent Calendar. Revised to include the direction that the commission recommendation be used as guidance for staff and that the process be complaint driven.

Council Action Items

37. Referral to Planning Commission: Community Garden Zoning

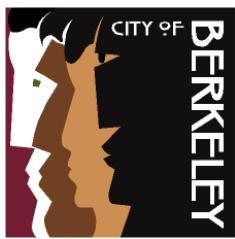
From: Councilmember Arreguin

Recommendation: Refer to the Planning Commission the following amendments to the Zoning Ordinance to define Community Gardens and permit them in all zoning districts: 1. Add language to Section 23F.04.010 (Definitions) to define Community Gardens as a new zoning use. 2. Establish community gardens and accessory structures including, but not limited to tool sheds, greenhouses, pergolas and trellises as a "by right" use in all zoning districts requiring only a Zoning Certificate. 3. Permit group class instruction, community gatherings, and sales as an exempt accessory use subject to limitations on the number of persons, hours, similar to the requirements set forth in BMC Section 23C.20.010(B) (Sale of Non-Processed Edibles in Residential Districts).

Financial Implications: Staff time

Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

Action: Moved to Consent Calendar. Revised to include requests to consider limiting the size of the accessory structure, requiring an AUP, and impacts of Measure L.



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: May 16, 2018

TO: Members of the Planning Commission

FROM: Sydney Stephenson, Assistant Planner

SUBJECT: Public Hearing to Consider an Urban Agriculture Ordinance (BMC 23C.26) and Related Amendments

SUMMARY

The draft Urban Agriculture Ordinance (Section 23C.26) responds to two City Council referrals that concern the related topics of Urban Agriculture (UA) and Community Gardens (CG). This report responds to the two referrals by creating a new zoning land use category of Urban Agriculture and setting thresholds for levels of intensity and permitting. This approach requires establishing new definitions, a new Zoning Ordinance chapter, and modifications to the *Uses Permitted Tables* throughout the Zoning Ordinance. Planning Commission discussed this approach and requested a May 16, 2018 Public Hearing on Urban Agriculture Zoning Ordinance amendments (see Attachment 1: Public Hearing Notice on Urban Agriculture).

BACKGROUND

On March 21, 2018, staff proposed the approach of combining the two Council referrals regarding UA and CG. See Attachment 2 and 3 for the Council referrals and Link 1 for the prior staff report. This approach was arrived at through consultation with the UA/CG advocacy community and other experts in the field. At the previous Commission meeting, staff proposed creating a new zoning land use category of Urban Agriculture and setting thresholds for levels of intensity and permitting. The Planning Commission requested more permissive thresholds and lower levels of discretion for the proposed uses.

There are three Zoning Ordinance amendments to be considered to enact the new zoning land use classification of Urban Agriculture:

1. Adopt Urban Agriculture Definitions: Create new definitions for Urban Agriculture and Urban Agricultural Products in Berkeley Municipal Code (BMC) Chapter 23F.04 (Definitions).

2. Adopt new Chapter 23C.26 (Urban Agriculture): Create specific thresholds and operation standards to control potential impacts of the new Urban Agriculture use.
3. Modify the Uses Permitted Tables to add Urban Agriculture: Add Urban Agriculture use and level of discretion to the *Uses Permitted Table* of each applicable Zoning District. Modify the *Uses Permitted Table* of each applicable Zoning District to allow accessory buildings and structures with a Zoning Certificate on a vacant lots with Urban Agriculture.

The purpose of the new Zoning Ordinance Chapter 23C.26 (Urban Agriculture) is to create a new zoning land use category of Urban Agriculture and set thresholds for levels of intensity and permitting. Urban agriculture would include low-intensity (e.g. community gardens) and high-intensity uses (e.g. high production urban farm). The intensity of the Urban Agriculture use and level of discretion will be determined by five thresholds for: parcel size, lot coverage, hours of operation, group classes, and pesticide use. This draft Ordinance does not apply to cannabis cultivation, which is addressed through different regulations.

DISCUSSION

Draft Zoning Ordinance amendments can be found in Attachment 4 (*Zoning Ordinance language Adopt Chapter 23C.26: Urban Agriculture*), Attachment 5 (*Zoning Ordinance Amendments to Modify Uses Permitted Tables*) and Attachment 6 (*Zoning Amendments to Adopt Urban Agriculture Definitions in Chapter 23F.04*). Amendments create a new standalone Urban Agriculture Chapter in the Zoning Ordinance, modify the Uses Permitted Tables in the applicable Zoning District chapters, and add new definitions to Chapter 23F.04 (Definitions).

Urban Agriculture Ordinance (BMC 23C.26) Content:

The new Urban Agriculture Ordinance will apply to all districts and therefore be a separate chapter of Sub-Title 23C, (General Provisions Applicable in All Districts), since direction from the Planning Commission and Council referrals is to allow in all districts. This chapter will include the specific regulations and thresholds for regulating the Urban Agriculture land use. The draft UA ordinance is informed by evaluating other cities' regulations on Urban Agriculture, input from local organizations, and guidance from the Planning Commission. Below is a description of the content included in the Urban Agriculture chapter and its location.

Purpose: The Purpose section of the Urban Agriculture Ordinance includes three purposes and benefits gathered from the Council referrals and the Climate Action Plan.

Applicability: The Applicability section of this proposed ordinance includes reference to the definition of Urban Agriculture (BMC Chapter 23F.04), the Districts Urban Agriculture use is allowed, and the limitation to only parcels with active uses or businesses.

The Urban Agriculture use will be defined in BMC Chapter 23F.04 (Definitions).UA is intended as the primary use of otherwise undeveloped parcels, and not as an incidental use.

Urban Agriculture Uses and Levels of Discretion: This section of the chapter describes the two levels of intensity for Urban Agriculture and the levels of discretion required. Staff determined that different intensity levels of the use would have different affects and compatibility in each district. For example, small community gardens are anticipated to be more compatible in low-density residential districts because they have less potential impacts than large-scale farms. Thus, staff recommends separating the Urban Agriculture use by level of intensity into two subcategories:

- **Low-Intensity Urban Agriculture (LIUA)** meets all of the base thresholds. The base thresholds that differentiate between LIUA and HIUA are discussed in the below in the Thresholds section of the chapter. The base thresholds will minimize potential impacts from this use, thus LIUA requires lower levels of discretion. At the previous Planning Commission meeting, staff proposed requiring an Administrative Use Permit (AUP) for LIUA in low-intensity residential districts (R-1, R-1A, R-2, R-2A, and R-3) and a Zoning Certificate for LIUA in high-intensity residential districts (R-4, R-5, R-S, and R-SMU), all commercial districts, and all manufacturing districts. However, the Planning Commission directed staff to lower the level of discretion in the low-intensity residential districts to a Zoning Certificate to match the rest of the Zoning districts. Thus, the proposed chapter (Attachment X) allows LIUA with a Zoning Certificate in all applicable districts. An example of LIUA is a community garden that meets all the base thresholds and requirements for LIUA.
- **High-Intensity Urban Agriculture (HIUA)** does not meet one of the base thresholds for LIUA. The higher intensity of the use will create more potential impacts and should require higher levels of discretion to provide opportunities for community input. At the previous Planning Commission meeting, staff proposed requiring a Use Permit with a Public Hearing (UP(PH)) for HIUA in low-intensity residential districts (R-1, R-1A, R-2, R-2A, and R-3) and an AUP for HIUA in high-intensity residential districts (R-4, R-5, R-S, and R-SMU), all commercial districts, and all manufacturing districts. However, the Planning Commission directed staff to lower the level of discretion in the low-intensity residential districts to an AUP to match the rest of the Zoning districts. Thus, the proposed chapter (Attachment X) allows HIUA with an AUP in all applicable districts. An example of HIUA is a large-scale, high-production urban farm that does not meet the thresholds of LIUA.

Thresholds: LIUA and HIUA thresholds are intended to address the potential for community concern about various aspects of the UA use. As described above, the differentiation between LIUA and HIUA Urban Agriculture use is determined by base thresholds, including: parcel size, lot coverage, hours of operation, group classes and workshops, and pesticide use. Previously, staff proposed including retail sales as a threshold, but the Planning Commission directed to allow retail sales for all Urban Agriculture uses and to not include as a threshold. Thus, staff included reference to retail sales requirement in the Operation Standards section of this report. The five Threshold are discussed below.

- **Parcel Size:** Staff believes that the size of the parcel will contribute to the potential impacts. Therefore, staff recommends using parcel size to distinguish between LIUA and HIUA. Previously, staff recommended a parcel size threshold of 5,000 square feet. Following the last Planning Commission meeting, staff researched the average size of the vacant parcels the City of Berkeley. The average parcel size of vacant residential parcel in Berkeley is 7,500 sq. ft. Thus, staff recommends a parcel size threshold of 7,500 sq. ft.
- **Lot Coverage:** Existing community gardens contain accessory structures including tool sheds, greenhouses, fences, and shading roofs. Thus, staff expects new Urban Agriculture uses, like community gardens, to build accessory structures. All Residential districts include a maximum lot coverage requirement which includes accessory buildings and structures. The average lot coverage requirement in these districts is 40%. Urban Agriculture uses are expected to be on vacant parcels, and staff believes since the primary use will be producing crops and food outdoors, 40% lot coverage is too high. Staff originally proposed reducing maximum lot coverage to 10% for accessory buildings and structures on Urban Agriculture parcels. However, after the Planning Commission discussion and research of existing community gardens, staff proposes a lot coverage threshold of 20%.
- **Hours of Operation:** The *Exempted Accessory Uses* chapter allows hours of operation from 8am to 8pm, seven days a week. Thus, staff recommends following the same direction and retain the same hours of operations as a threshold.
- **Group Classes and Workshops:** Staff met with community gardens organizations and discussed the activities at existing community gardens, including educational classes. Therefore, staff anticipates Urban Agriculture uses to include activities like group classes and workshops. Previously, staff recommended a threshold of activities held two times per week with a maximum of 15 participants to limit the potential noise and parking impacts. However, following the Planning Commission's discussion, staff now proposes three times a week with 20 participants to align more with activities at existing community gardens.
- **Pesticide Use:** At the previous Planning Commission meeting, the Commission directed staff to add pesticide use as a threshold. State law (California Food and Agricultural Code Section 11501.1) does not allow local governments to prohibit the use of pesticides (see Attachment 7). While the City cannot ban or regulate use of pesticides, the threshold provides an opportunity for public notification participation and encouragement of less toxic means.

Operation Standards: The Operating Standards section includes requirements for growing the crops, retail sales, health safety, garbage and compost, and equipment. The retail requirements are similar to BMC Section 23C.20.010.B (*Exempted Accessory Uses*) requirements for Non-Processed Edibles. The requirements for garbage and equipment were gathered from other cities including Sacramento and San Francisco.

Complaints: Complaints regarding the uses and activities associated with the Urban Agriculture use will be subject to the Zoning Ordinance Abatement of Nuisances Chapter (23B.64) and the BMC Health and Safety Chapter on Anti-blight. All complaints shall be made to Code Enforcement.

New Urban Agriculture Definitions:

Currently, there are no definitions for farms, community gardens, or any use related Urban Agriculture in the Zoning Ordinance (BMC Chapter 23F.04). Thus, a new definition for Urban Agriculture is needed. The proposed definition is:

Urban Agriculture: the production of horticultural crops¹ for harvest, sale, and/or donation, including community gardens. Urban Agriculture does not include cannabis cultivation.

In addition, the proposed Chapter 23C.23 (Urban Agriculture) references the products from Urban Agriculture uses as Urban Agricultural Products. UA products allowed for sale include raw agricultural products as well as value-added products to the definition of Urban Agricultural Products:

Urban Agricultural Products: Horticultural crops including fruits, vegetables, nuts, flowers, herbs, and any other cultivar, and value-added products made from raw agricultural products grown at the site such as jams, fruit preserves, herb blends, and floral bouquets. Urban Agricultural Products do not include cannabis products.

Modify the Uses Permitted Tables for Urban Agriculture:

Urban Agriculture is a new use permitted throughout the City of Berkeley. Therefore it needs to be added to each district's *Uses Permitted Table*. An example of language for the *Uses Permitted Table* is shown below.

Use	Classification	Special Requirements
Urban Agriculture		Subject to 23C.26
Low-Impact Urban Agriculture (LIUA)	ZC	
High-Impact Urban Agriculture (HIUA)	AUP	

In addition, staff is recommending Urban Agriculture be allowed on vacant parcels (without main buildings). Currently, *Uses Permitted Table* for each Zoning district includes language requiring an Administrative Use Permit (AUP) for accessory buildings and structures located on vacant parcels. Thus, staff recommends amending this language to provide an exception to Urban Agriculture. The accessory buildings or structures must comply with the Accessory Buildings and Structures chapter (BMC Chapter 23D.08) as well. See the example language below.

¹ The [Encyclopedia Britannica](#), defines Horticulture as: "the branch of plant agriculture dealing with garden crops, generally fruits, vegetables, and ornamental plants."

Use	Classification	Special Requirements
Accessory Buildings or Structures with Urban Agriculture	ZC	Subject to 23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.080.060.

ENVIRONMENTAL REVIEW

The proposed Zoning Ordinance amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3). The proposed amendments allow Urban Agriculture in all Zoning Districts (except ES-R) with specific thresholds for intensity of use. These thresholds ensure that there would not be significant effects on the environment. Any project generating an intensity beyond the threshold would require discretionary review and would be subject to independent CEQA analysis.

CONCLUSION:

Staff recommends that the Planning Commission hold a Public Hearing, take public comment, and provide a recommendation to the Council with any modifications on draft Urban Agriculture Ordinance and draft Zoning Ordinance amendments through a vote of the Planning Commission.

ATTACHMENTS

1. Public Hearing Notice on Urban Agriculture
2. Urban Agriculture Council Referral – November 29, 2016
3. Community Garden Zoning Council Referral – May 10, 2016
4. Zoning Ordinance language Adopt Chapter 23C.26: Urban Agriculture
5. Zoning Ordinance Amendments to Modify Uses Permitted Tables
6. Zoning Amendments to Adopt Urban Agriculture Definitions in Chapter 23F.04
7. State Law on Pesticide Regulations – Email from Christina Oatfield

LINKS

1. [March 21, 2018 Planning Commission Staff Report](#)



Planning Commission

1 DRAFT MINUTES OF THE REGULAR PLANNING COMMISSION MEETING**2 May 16, 2018****3 The meeting was called to order at 7:01 p.m.****4 Location:** North Berkeley Senior Center, Berkeley, CA**5 Commissioners Present:** Steve Martinot, Benjamin Beach, Robb William Kapla, Christine

6 Schildt, Jeff Vincent, Rob Wrenn, Prakash Pinto, Benjamin Fong, Mary Kay Lacey.

7 Commissioners Absent: None.**8 Staff Present:** Alex Amoroso, Alene Pearson, Elizabeth Greene, and Sydney Stephenson.**9 ORDER OF AGENDA:** No changes.**10 CONSENT CALENDAR:** None.**11 PUBLIC COMMENT PERIOD:** 1 speaker.**12 PLANNING STAFF REPORT:** On March 27, Council approved R-1A amendments as Planning

13 Commission recommended with the exception of changing the applicable projects to residents

14 with Use Permits. On May 5, Council approved the first reading of the ADU Chapter

15 amendments. JSISHL meets tomorrow night (May 17). ZORP Subcommittee meets on May 23

16 from 7pm to 9pm. This is Principal Planner, Alex Amoroso's last meeting; the City has been

17 interviewing for his replacement.

18 COMMUNICATIONS IN PACKET:

19 • 2018-05-16 – Nathan Stalnaker – Regional Measure 3

20 • 2018-05-16 – Jordan Klein – COB Arts and Culture Plan

21

22 LATE COMMUNICATIONS (Received after the Packet deadline): None.**23 LATE COMMUNICATIONS** (Received and distributed at the meeting):

24 • 2018-05-16 Staff – Revised Cannabis Nurseries Map

25 • 2018-05-16 Sally Nelson – 1900 4th Street and SB35 fast track permit**26 CHAIR REPORT:** None.**27 COMMITTEE REPORT:** None.

28 **7. APPROVAL OF MINUTES:**

29 Motion/Second/Carried (CS/JV) to approve the Planning Commission Meeting Minutes from
30 April 18, 2018 with amendments to: 1) the motion regarding the 1050 Parker project, 2) the
31 summary of staff update of the Adeline Corridor Project. Ayes: Lacey, Beach, Martinot, Schildt,
32 Kapla, Vincent, Pinto, Fong. Noes: None. Abstain: Wrenn. Absent: None. (8-0-1-0)

33

34 **8. FUTURE AGENDA ITEMS AND OTHER PLANNING-RELATED EVENTS:** The next
35 Planning Commission meeting is on June 20. At this meeting the Office of Economic
36 Development will present their small business package referral and staff will provide an update
37 on the Planning Commission's work plan.

38 **AGENDA ITEMS**39 **9. Action:** **Public Hearing: Urban Agriculture**

40 Staff presented the draft Zoning Ordinance language for Urban Agriculture and provided a
41 brief overview of the content changes that addressed Planning Commission direction and
42 public input from the March 21 meeting. The Planning Commission held a public hearing for
43 this topic and then discussed the draft Zoning Ordinance language. The Commission passed
44 the following motions.

45 Public Comments: 1 speaker.

46 Motion/Second/Carried (CS/MK) to recommend to Council:
47 1) Adopt new BMC Chapter 23C.26 Urban Agriculture, with modification to 23C.26.060.E to
48 read as: Any Urban Agriculture use that uses non-organic pesticides is considered an HIUA.
49
50 2) Adopt new definitions of Urban Agriculture and Urban Agricultural Products, with
51 modification to Urban Agriculture to read as: Urban Agriculture (including community gardens):
52 the production of horticultural crops for harvest, sale, and/or donation. Urban Agriculture does
53 not include cannabis cultivation.
54
55 3) Amend *Uses Permitted Tables* in all applicable Zoning districts to allow for Urban
56 Agriculture, and a ZC for Accessory Buildings on lots with Urban Agriculture.
57
58 4) Consider the use of pesticide in the City and the State preemption of local regulation of
59 pesticide use; and to refer to the appropriate Commission for further analysis
60
61 The motion passed 9-0-0-0. (Ayes: Lacey, Beach, Martinot, Schildt, Kapla, Vincent, Wrenn,
62 Pinto, Fong. Noes: None. Abstain: None. Absent: None.)

63

64 **10. Discussion:** **Council Referral: Allowing Existing Nurseries to incorporate
65 Cannabis Sales**

66 Staff reviewed the issues and concerns of considering allowing existing nurseries to
67 incorporate cannabis retail sales, including: location of existing nurseries, conformity with

68 state regulations, and conformity with local regulations. The Planning Commission discussed
69 this issue and unanimously decided to not take this issue up until the Council provides more
70 clarity including a decision on the quota for retail licenses and the location of retail licenses.

71 Public Comments: 2 speakers.

72 **11. Discussion: Transition of Subcommittee on Affordable Housing and
73 Community Benefits – Reconstitute and Refocus**

74 At the last subcommittee meeting the commissioners discussed the next steps for the
75 subcommittee and the referrals related to affordable student housing. The Chair suggested
76 an option to refocus the subcommittee to Affordable Student Housing and reconstitute the
77 subcommittee with new commissioners. The Commission decided to wait to make a decision
78 about this subcommittee until the Joint Subcommittee decides on their work plan.

79 Public Comment: 1 speaker.

80

81 The Commission acknowledged Alex Amoroso's last Planning Commission meeting before
82 his retirement.

83 **The meeting was adjourned at 9:30 pm**

84 **Commissioners in attendance: 9 of 9**

85 **Members in the public in attendance: 6**

86 **Public Speakers: 5 speakers**

87 **Length of the meeting: 2 hour and 29 minutes**