

ORDINANCE NO. 7,013–N.S.

AMENDING BERKELEY MUNICIPAL CODE SECTIONS 23E.72.020, 23E.72.030, 23E.72.070, 23E.72.080, 23E.72.090, AND 23F.04.010 TO ALLOW AUTOMOBILE SALES IN THE MANUFACTURING DISTRICT, ESTABLISH PURPOSES, DEVELOPMENT STANDARDS, AND FINDINGS FOR AUTOMOBILE SALES, AND REVISE THE DEFINITION OF AUTOMOBILE SALES

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

Section 1. That Berkeley Municipal Code Section 23E.72.020 is amended to read as follows:

Section 23E.72.020 Purposes

The purposes of the Manufacturing (M) District are to:

- A. Implement the West Berkeley Plan's designation of a Manufacturing District;
- B. Encourage development of a general manufacturing district for the full range of manufacturers, including larger scale materials processing manufacturers sometimes known as heavy manufacturers;
- C. Consistent with other goals expressed in these purposes, encourage development of a manufacturing district dedicated to manufacturing and industrial uses, so that manufacturers and industrial businesses will not be interfered with by incompatible uses;
- D. Encourage the creation and continuation of well-paid (often unionized) industrial jobs for men and women without advanced degrees;
- E. To the greatest degree possible and consistent with other goals expressed in these purposes, retain the stock of manufacturing and industrial buildings and/or sites, especially large buildings and sites, for manufacturing and industrial uses;
- F. Support the development of industrial businesses which contribute to the maintenance and improvement of the environment;
- G. Maintain and improve the quality of the West Berkeley environment, while allowing the lawful and reasonable operation of the full range of manufacturers;
- H. Support the development of retail automobile sales uses because they contribute to the economic viability of the area and provide sales tax revenues for the City;
- I. Provide opportunities for vehicle sales uses when it will not unduly interfere with manufacturing uses.

Section 2. That Berkeley Municipal Code Section 23E.72.030.A is amended to read as follows:

Section 23E.72.030 Uses Permitted

A. The following table sets forth the Permit required for each listed item. Each use or structure shall be subject to a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a Public Hearing (UP(PH)) or is Prohibited.

Automobile and Other Vehicle Oriented Uses				
Automobile Parts Stores	Prohibited			Permit for automobile parts sales not required when ancillary to permitted vehicle sales use.
Automobile Rentals	Prohibited			
Automobile Wrecking Establishments	AUP	UP(PH)	UP(PH)	
Automobile washes, mechanical or self-service	Prohibited			
Automobile sales	AUP		UP(PH)	Permit level determined by size of <u>lot</u> , not floor area. Not permitted on City-owned land used for a Materials Recovery Enterprise or solid waste transfer station as of January 1, 2008.
Automobile Repair and Service, including Automobile Restoration	UP(PH)			Permit for repair use not required when ancillary to permitted vehicle sales use.
Compressed Natural Gas Fueling Stations	AUP	UP(PH)	UP(PH)	
Gasoline fueling stations	Prohibited			

Section 3. That Berkeley Municipal Code Section 23E.72.060.C is added to read as follows:

C. Automobile sales are not permitted on City-owned land used for a Materials Recovery Enterprise or solid waste transfer station as of January 1, 2008.

Section 4. That Berkeley Municipal Code Section 23E.72.070.F is added to read as follows:

F. Sites used for automobile sales are subject to the following development standards:

1. When a project results in construction of a new building with more than 10,000 square feet of new floor area, the following standards shall apply to the new building:
 - a. A minimum building frontage of 40 percent of the project's primary street frontage is required within 25 feet of the public right of way. The primary street frontage is the frontage towards which the primary building entrance is oriented;
 - b. Along Gilman Street a minimum building frontage of 50 percent of the Gilman Street frontage is required within 25 feet of the public right of way;
 - c. The minimum building height shall be 20 feet within 25 feet of the public right of way along the primary street frontage.
2. Adequate landscaping and/or fencing shall be used to screen views from street level of dealership operations that are not located within a building. Outdoor vehicle storage and display does not need screening. Such screening shall not be required to obscure all visibility of interior activities but shall provide some filtering of outdoor dealership operations.
3. For the purposes of this Title and design review, areas used for outdoor vehicle storage and display are not considered parking areas.
4. Appropriate site design measures shall be installed to the maximum extent practicable to ensure clean water standards are met. Permanent stormwater best management practices and on-site storm water treatment shall be used for all runoff generated by new impermeable surfaces. Runoff from automobile washing and maintenance activities shall be properly collected and treated, consistent with the requirements of the Public Works Department and the Toxics Management Division of the Planning Department. When new paving is proposed, pervious paving shall be used where feasible and shall be reviewed and approved by the Public Works Department and Office of Transportation.
5. All noise-generating activities and equipment, such as vehicle repair, shall be shielded by noise-attenuating construction or equipment. Outdoor amplification is prohibited.
6. Exterior light standards and fixtures shall not be taller than 20 feet, light cutoffs shall be utilized to control light spillover onto adjacent properties, and low energy light fixtures consistent with Berkeley's goals for energy efficiency shall be utilized.
7. Vehicle test drives shall not be conducted in adjacent residential Zoning Districts.

Section 5. That Berkeley Municipal Code Section 23E.72.080.A is amended to read as follows:

Section 23E.72.080 Off-Street Parking and Loading Requirements

A. For each of the following uses, the minimum number of off-street parking spaces shall be provided and in accordance with Chapter 23E.28 except as set forth in Section 23E.72.080.G. Construction of new floor area and changes of use of existing floor area shall satisfy the parking requirements of this section:

<i>Table 23E.72.080</i>	
Off-Street Parking Requirements*	
<u>Use</u>	<u>Parking Requirement --Number of Spaces</u>
Manufacturing uses (assembly, production, storage and testing space only), Storage, Warehousing and Wholesale Trade	One space per 1,000 sq. ft. of floor area for spaces of less than 10,000 sq. ft.; one per 1,500 for spaces of 10,000 sq. ft. or more
All non-residential uses other than those listed above and in Subsection C	Two spaces per 1,000 sq. ft. of floor area
Automobile Sales and ancillary uses	One space for every: 1,000 s.f. of display floor area; 500 s.f. of other floor area. Two per service bay.
*See Subsection G for substitutions of up to 10% with bicycle/motorcycle parking	

Section 6. That Berkeley Municipal Code Section 23E.72.080.C is amended to read as follows:

C. Unless otherwise specified in Subsection A above, uses designated in this chapter as Other Industrial Uses, Automobile and Other Vehicle Oriented Uses, Outdoor Uses, Residential and Related Uses or as Miscellaneous Uses shall be required to provide the number of off-street parking spaces determined by the Zoning Officer or Board based on the amount of parking demand generated by the particular use and comparable with specified standards for other uses.

Section 7. That Berkeley Municipal Code Section 23E.72.080.L is amended to read as follows:

L. All automobile sales uses shall provide for on-site loading and unloading of deliveries and may not occupy street parking or block public or private streets. On-street unloading may be permitted by an Administrative Use Permit subject to the findings of 23E.72.090.F.

Section 8. That Berkeley Municipal Code Section 23E.72.090 is amended to read as follows:

Section 23E.72.090 Findings

- A. In order to approve any Use Permit under this chapter the Zoning Officer or Board must make the finding required by Section 23B.32.040. The Zoning Officer or Board must also make the findings required by the following paragraphs of this section to the extent applicable.
- B. A proposed use or structure must:
1. Be consistent with the purposes of the District;
 2. Be consistent with the surrounding uses and buildings;
 3. Be consistent with the adopted West Berkeley Plan;
 4. Be not likely, under reasonably foreseeable circumstances, either to induce or contribute to a cumulative change of use in buildings from manufacturing, wholesale trade or warehousing uses;
 5. Be designed to support the industrial character of the District. Such physical compatibility shall include materials used, façade treatments, landscaping, lighting, type, size and placement of awnings, windows and signs and all other externally visible aspects of the design of the building and site;
 6. Be able to meet any applicable performance standards for off-site impacts.
- C. In order to approve a Use Permit for a reduction in the otherwise applicable parking requirement for a manufacturing, wholesale trade, or warehouse use under Section 23E.72.080.B, the Zoning Officer or Board must find that under the circumstances of the particular use and building, the demand for parking can be expected to be below the otherwise required level for a sustained period of time.
- D. In order to approve a Use Permit for the substitution of bicycle and/or motorcycle parking under Section 23E.72.080.G, the Zoning Officer or Board must find that the substitution will not lead to an undue shortage of automobile parking space and that it can be reasonably expected that there will be demand for the bicycle and/or motorcycle parking spaces being provided.
- E. In order to approve a Use Permit under Section 23E.72.030 to allow an automobile sales use, the Zoning Officer or Board must find that the following conditions are met:

1. The project will not result in unreasonable impacts on circulation and parking on adjacent streets or in the immediate neighborhood;
 2. The project will not result in a substantial adverse impact on existing uses in the immediate vicinity;
 3. The project will not generate objectionable odors or excessive levels of noise;
 4. Site design reflects the urban form of the surrounding area and new construction, materials and/or building forms reflect the area's industrial character;
 5. New construction along Gilman Street reflects the importance of a defined street wall along this main entry corridor to the City;
 6. The project will not materially interfere with the activities of the City-owned solid waste center.
- F. In order to approve a Permit under Section 23E.72.080.L to allow on-street unloading of automobiles, parts or other auto accessories, the Zoning Officer or Board must find that:
1. It will not be unreasonably disruptive or detrimental to activities in the vicinity; and
 2. On-site deliveries are not feasible due to specific site or roadway constraints.

Section 9. That Berkeley Municipal Code Section 23F.04.010 is amended to read as follows:

Section 23F.04.010 Definitions

Automobile Parts Store: An establishment that sells automobile, truck or other vehicle parts or equipment.

Automobile Repair and Service: An establishment that repairs, services, paints and/or conducts bodywork on automobiles, trucks or other motor driven vehicles on its premises.

Automobile Rentals: An establishment which rents automobiles, trucks, motorcycles, boats or other motor driven vehicles that are stored either indoors or outdoors on its premises.

Automobile Sales: An establishment which sells, or leases long-term, new automobiles or trucks; restored vintage, specialty, or antique automobiles or trucks; or automobiles or trucks refurbished for alternative fuels (alternative to conventional gasoline). Ancillary uses and services that are incidental to and supporting of an automobile sales use include the sale and installation of automobile parts, accessories and equipment; sale of

used or pre-owned automobiles or trucks; repair, maintenance, bodywork and other service of automobiles; loaning of vehicles to service patrons; storage of vehicles outdoors; and automobile washes.

Section 10. 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.

At a regular meeting of the Council of the City of Berkeley held on December 18, 2007, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Capitelli, Maio, Moore, Olds, Spring, Worthington, Wozniak and Bates.

Noes: None.

Absent: Anderson.

