

Introduced by: City Manager Nathan Mai-Lombardo

AN ORDINANCE AMENDING CHAPTER 400 ZONING REGULATIONS; ARTICLE II DISTRICTS AND DISTRICT REGULATIONS; CREATING A NEW SECTION DT-1 “DOWNTOWN CORE” AND DT-2 “AIRPORT FRONTAGE” REGULATING THE USES AND LAYOUT PERMITTED IN DOWNTOWN BERKELEY MISSOURI

- WHEREAS,** the City of Berkeley is a Charter City; and, may exercise power and perform any function pertaining to its government and affairs, including, but not limited to the power to legislate for the protection of the public health, safety, and welfare; and,
- WHEREAS,** Downtown Berkeley comprises an area roughly around Airport Road, Madison Avenue, and North Hanley Road; and,
- WHEREAS,** this area is showing signs of neglect and disinvestment as a result of outdated zoning regulations; and,
- WHEREAS,** this issue was identified in the Berkeley Comprehensive Plan of 2009; and,
- WHEREAS,** recommendations made in the 2009 Comprehensive Plan are still valid; and,
- WHEREAS,** on April 12, 2023, the Berkeley City Plan Commission reviewed these proposed sections, and unanimously voted recommending approval of said section to the Berkeley City Council; and,
- WHEREAS,** DT-1 “Downtown Core” and DT-2 “Airport Frontage” regulating the uses and layout permitted in downtown Berkeley, Missouri shall be created.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BERKELEY, MISSOURI, AS FOLLOWS:

Section 1. The City Council of the City of Berkeley hereby declares that it is necessary, reasonable, and proper to amend the City of Berkeley Code or Ordinances Chapter 400, Zoning Regulations, by creating a DT-1 “DOWNTOWN CORE” and DT-2 “AIRPORT FRONTAGE” regulating the uses and layout permitted in downtown Berkeley, Missouri.

Section 2. Section “DT-1” Downtown Core Zoning District

A. Purpose and intent

The regulations set forth in this Section or set forth elsewhere in this Chapter when referred to in this Section are the regulations in the “DT-1” Downtown Core Zoning District.

The DT-1 Downtown Core Zoning District is established for the purpose of enabling the development of a phased, walkable, mixed-use district in the traditional core of Downtown Berkeley. The mixed-use and planned development regulatory approach of the District is intended to provide a more flexible and innovative

approach regarding use, density, access and connectivity, streetscape and landscape design, parking facilities, architectural and façade design, residential dwelling units, and dimensional standards than can be provided by traditional zoning techniques in order to establish a new walkable district, preserve and foster vibrant communal space and environmental protection areas while attracting a diverse range of retail, office, and commercial uses to support the community and a blend of new residential areas that vary in density and housing options. The DT-1 Downtown Zoning District is intended to reestablish downtown as an authentic city center, and establish downtown as a specialty shopping, and regional cultural district. The new Zoning District will allow for common gathering and meeting areas (indoors and out), increase vitality by allowing mixed-use development, and create and/or restore pedestrian linkages between storefronts and offsite and on-street parking. This will be achieved through:

1. Creating a mixed-use environment to accommodate a combination of residential, retail, commercial, and office uses of varied densities to attract young professionals, empty nesters, and families to the area.
2. Describing standards so that any new development is cohesive, contains thriving and inviting public spaces, and encourages walkability and sustainability.
3. Regulating building orientation and placement to achieve appropriate scale and ensure proper transitioning between areas of differing use and density and/or to be mindful of the surrounding adjacent land uses.
4. Encouraging enhanced pedestrian, bicycle, and vehicular connectivity throughout the area.
5. Permitting development consistent with the standards and requirements of an approved master development plan.
6. Permitting mixed-use vertically integrated buildings with ground floor commercial, office, and retail uses. Mixed-use buildings may have multi-family residential units and/or offices on the upper floors above ground level commercial, office and retail uses.

DT-1 is intended to be pedestrian oriented, traditional downtown development, with multi-story mixed use buildings, and minimal private off-street parking.

B. *Permitted Uses.*

A building or premises shall be used for the following purposes:

1. Retail sales, including, but not limited to, appliances, bakery, bookstore, carpeting, clothing, department store, drug store, food store, furniture store,

hardware store, hobby shop, jewelry store, newsstand, pet shop, radio and television store, sporting goods store, and variety store.

2. Household services, including but not limited to appliance repair, bicycle repair, carpeting and draperies, electrical, heating and cooling, painting, contractor, plumbing, radio and television repair, upholstery, rental of appliances, tools, medical equipment, radios, and televisions.
3. Banks, savings and loans, stockbrokers, and title companies.
4. Offices, including but not limited to business, dental, general, laboratory, testing, medical, radio and television, research, and veterinarian.
5. Telephone and computer answering services.
6. Copy centers, primarily engaged in providing photocopying, duplicating, blueprinting and other document copying services, along with printing service; printing on purchased stock materials, such as stationery, letterhead, invitations, labels, and similar items.
7. Restaurants with no drive through.
8. Antique stores.
9. Attached townhouses.
10. Mixed-use buildings, provided that no residential may be located on the ground floor of the primary structure on a lot.
11. Academies, including but not limited to business, commercial, computer, dancing, physical fitness, martial arts, music, trade and vocational.
12. Hotels and Motor Lodges.

C. *Accessory Uses.*

Uses subordinate to that of the main building may include.

1. Accessory uses customarily incident to the above uses, except antennas.
2. Any building used primarily for any of the above enumerated purposes may have not more than forty percent (40%) of the floor area devoted to storage purposes incidental to such primary use; provided that not more than five (5) employees shall be engaged at any time on the premises in such incidental use.

3. More than one (1) main building may be located upon the lot but only when such buildings conform to the area requirements for the district in which the lot is located.
4. Grading, filling, excavating or any change in the grade or property that involves the moving, depletion or replacement of more than fifty (50) cubic yards of material or changes the existing elevation by more than two (2) feet requires a permit. At no time shall any grading be detrimental to surrounding property in appearance or in the diversion of storm water drainage, which diversion must be approved by the Public Works Director.
5. A sign or a bulletin board relating only to company names, services, articles, and products offered within the building to which the sign is attached, and which sign does not exceed twenty-five (25) square feet in area; provided however, any advertising sign shall be attached to the building and shall not project beyond the building for a distance of more than two (2) feet. A building located on a corner lot may have such a sign on each street side.
6. A freestanding sign relating only to company names, services, articles, and products offered on the premises. The one (1) freestanding sign per building shall not exceed fifty (50) square feet in area per face, nor exceed two (2) faces, nor exceed twelve (12) feet in width, nor extend more than thirty-five (35) feet in height to its highest point, nor have a sign lower than ten (10) feet above ground level.
7. Accessory dwelling units are allowed in the rear of a lot, provided their street facing facades are constructed of the same materials as the primary building.

D. *Special Uses*

A building or premises may be used for the following purposes if the provisions of the special use regulations in Section 400.530 are met and a special use permit is obtained:

1. Bars, taverns, wine bars, jazz clubs, and package liquor stores.
 - a) Microbreweries and micro-distilleries.
 - b) Cigar bars.
 - c) Cannabis sales, subject to all relevant Code regulating such use.
2. Resale shops and used furniture stores.
3. Public bulletin boards exceeding ten (10) square feet in area and temporary signs pertaining to the lease, hire or sale of a building or premises exceeding ten (10) square feet in area.

4. A filling station or public garage, when allowed as special use, shall be permitted one (1) separate price sign not to exceed twenty (20) square feet in area which shall be attached to the same structure as the freestanding sign, but below the main sign.
5. A filling station, restaurant, hotel or motel with frontage on an interstate highway or on a service or frontage road within two hundred (200) feet of the interstate highway, may increase the sign area of freestanding signs to one hundred fifty (150) square feet per face, the sign width to fifteen (15) feet and the sign height to fifty (50) feet to the highest point, if topography or other circumstances would create economic hardships on the business if a larger or taller sign is not permitted.
6. Public facilities, including but not limited to schools, libraries, museums, community buildings and parks.
7. Hospitals, clubs, and institutions, except institutions for criminals; provided however, that such buildings may occupy not over forty percent (40%) of the total area of the lot or tract; provided further, that the buildings shall set back from all yard lines heretofore established an additional distance of not less than two (2) feet for each foot of building height.
8. Adult day care.
9. single-family, two-family, or multiple-family uses.
 - a) Multiple family in this Section refers to developments with two or more separate and adjacent multi-unit (4+ units) residential structures under single ownership.
10. Nursing homes and facilities.
11. Residential group homes with consideration given to the following criteria: operators of the group home or homes; characteristics of occupants; type of supervision; size of the site and density; people activity; vehicular activity; duration of activity; off-site impact; demand on community services; community needs; and overall appearance.
12. Colleges and private schools.
13. Automotive services, including new car and vehicle dealerships, used motor vehicle sales, auto parts stores, filling stations, public garages, auto repair garages, towing and wrecking services, body shops, car washes, auto detailing shops, and similar uses.

14. Private retail lumber store for the sale and reduction of finishing lumber products and building materials with enclosed storage only, and not to include millwork or fabrication.
15. Mortuary or funeral home.
16. Places of assembly, including churches, houses of worship, entertainment places, including billiard parlor, bowling alley, dancing, racquetball, roller-skating rink, tennis facility, movie and/or live theater, video games, and similar uses.
 - a) No more than one (1) use of each type may be located on a single block front.
17. Parking lots, public garages, and related uses.
18. Drive-ins and drive-thru restaurants and theaters, and other drive-in and drive-thru establishments.
19. All places where weekly jackpot lottery tickets are sold are to be approved by a special land use permit in regards to parking and motor vehicle traffic.
20. Personal services, including barber shop, beauty parlor, cleaning and laundry establishments, photographers, shoe repair, tailoring, dressmaking, and similar uses.
 - a) Only one (1) business of each type may be located every six hundred (600) feet along Madison Avenue or Airport Road.
 - b) In cases where there are questions regarding the similarity of one use to another within 600 feet, the SIC codes for each use to a minimum of 4 digits shall be the determinant of similarity.
21. Television, microwave, or other antenna in excess of three (3) feet in diameter or freestanding antenna in excess of ten (10) feet in height.
22. Residential or outpatient facilities for the treatment of alcohol and other drug abuses as follows:
 - a) The exterior appearance of the treatment facility shall reasonably conform to the exterior appearance of other buildings in the vicinity.
 - b) A treatment facility shall not be located closer than two thousand (2,000) feet to any other substance abuse treatment facility.
 - c) Applicant to provide written notification of proposed placement of the facility to the owners of property within one hundred eighty-five

(185) feet of the boundaries of the property on which the treatment facility is located.

23. Motor vehicle leasing or rental agency.

24. Child day care centers. Operators of child day care centers shall obtain a merchant's license and a commercial occupancy permit prior to occupying any premises as a child day care center. Each facility shall meet all local codes and all State and County regulations. In addition, any person operating a child care home service shall maintain liability insurance in the amount of two hundred fifty thousand dollars (\$250,000.00) and shall provide City Officials with a copy of their State license to run such a facility.

25. Other financial institutions not listed as permitted, such as, but not limited to, check cashing, payday loans and personal credit institutions. The following requirements and/or criteria shall apply to the other financial institutions referenced herein to qualify for such special use:

- a) All property lines of the lot on which the business is located shall be at least three hundred (300) feet from the nearest property line of any church, synagogue or similar place of worship, any school, or any residentially-zoned property.
- b) All property lines of the lot on which the business is located shall be at least one thousand four hundred (1,400) feet from the nearest property line of any other use classified within SIC Code 6099 or SIC Code 6141 or any pawnshop, including such businesses or pawnshops located outside of the Berkeley City limits.
- c) The establishment shall not be open for business between the hours of 8:00 P.M. and 7:00 A.M.
- d) The establishment shall have an interior space for patrons to transact business and shall have no drive-up or walk-up window.
- e) No bars, heavy mesh screens or similar material shall be allowed on the exterior of the building and no such material located on the interior of the building shall be visible from outside the building.
- f) Additional criteria necessary to protect the public health, safety and welfare as determined by the City Council.

26. *Medical marijuana facilities.*

[Ord. No. 4650, 12-15-2020]

- a) Medical marijuana cultivation, dispensary, manufacturing, testing, transportation, and related uses shall be regulated under the Special Use Process, Berkeley Code Section 400.530.
- b) Any building being used as a medical marijuana facility shall have a minimum floor area of one thousand (1,000) square feet.
- c) Distance requirements for medical marijuana facilities shall be as allowed through State of Missouri 19 CSR 30-95.040(4)(B), to amend the requirement, where the City of Berkeley Code requires a three hundred (300) foot property distance by Section 600.210(B). Therefore, the distance requirement for these facilities will reflect three hundred (300) feet.

E. *Nonconforming Uses*

A legal non-conforming use in operation as of the date this ordinance went into effect may continue to operate, subject to the regulations of Section 400.200 of this chapter.

F. *Minimum Parking Requirements*

1. No off-street parking shall be required for any permitted use in DT-1 zoning.
2. Any off-street parking provided shall not be located in any front yard in DT-1.

G. *Loading Requirements*

There shall be provided at the time any building is erected or structurally altered, off-street loading space in accordance with the following requirements:

1. *All commercial uses.* One (1) space for each fifteen thousand (5,000) square feet of floor area.
 - a. No loading/unloading may take place on Airport Road.
 - b. No loading/unloading may take place anywhere in DT-1 between 7pm and 7am, or between 11 am and 2 pm.
 - c. Where such place is located in a manner that a truck must back directly from a major street into the loading space, a maneuvering space of not less than forty-nine (49) feet shall be provided.
2. *Enlargements and extensions.* No building or part thereof heretofore erected which is used for any of the purposes specified above, shall hereafter be enlarged, or extended unless off-street loading space is provided in accordance with the provisions of this Chapter.

H. Area Requirements

1. Minimum depth of front yard. DT-1: zero to twenty (20) feet.
 - a) DT-1 has a maximum front yard depth of twenty (20) feet.
2. Minimum width of side yard. DT-1: zero fee.
3. Minimum depth of rear yard. Zero, unless a parcel backs up to a residentially zoned lot, at which point the minimum depth is: Ten (10) feet for commercial, and twenty-five (25) feet residential.
4. Where a lot is located at the intersection of two (2) or more streets or between two (2) streets, there shall be a front yard on each street that the lot abuts. No accessory building shall project beyond the building line on any street.

I. Height Requirements

1. DT-1: The maximum height is forty-five (45) feet or three (3) stories. Supplemental height requirements are provided in Article IV of this Chapter.

J. Site Design Requirements

1. All roads, parking and loading areas and walks shall be paved with asphalt or concrete in accordance with City specifications on file in the office of the Director of Public Works. All roads, parking and loading areas shall have concrete curbs and gutters.
2. Any part of a lot not used for buildings or other structures, or for parking, loading or accessways shall be landscaped with grass, ground covers, trees, shrubs, and pedestrian walks.
3. When the rear or side yard of a commercial use abuts any residential district or a residential lot situated in DT-1, a ten (10) foot landscaped buffer area shall be established and maintained along the rear or side property line. The buffer area shall contain evergreen plant material with a minimum height of ten (10) feet, planted in two (2) rows on eight (8) foot centers. A public street separating a residential and downtown district eliminates this requirement.
4. A ratio of **one** (1) two (2) inch caliper tree for every five (5) parking spaces shall be required.
5. Foundation plantings shall be planted and maintained along all exterior walls of all buildings at the ratio of one (1), twenty-four (24) inch evergreen shrub for every five (5) lineal feet of exterior wall.

6. Where possible, existing plant material should be preserved and may serve in lieu of required planting.
7. Where a commercial use abuts a residential district on the rear or side yards of the commercial use, a six (6) foot high fence may be erected and maintained by the commercial property owner. The type of fence shall be approved by the City Fence Review Committee.
8. All electrical, telephone, cable and similar wires and all utilities must be placed underground for structures constructed after the date of adoption of this Chapter, and for additions of more than twenty-five percent (25%) of the existing floor area in square feet as of the date of adoption of this Chapter.
9. All new development shall be required to have a minimum four (4) foot wide sidewalk in front of the front yard line of the property, which shall connect to the front door by a dedicated sidewalk of at least four (4) feet in width.

K. *Fence Requirements – In Side and Rear Yards*

Fences in required side and rear yards shall not exceed five (5) feet in height.

Section 3. Section “DT-2” Airport Frontage Downtown Zoning District

A. *Purpose and Intent*

The regulations set forth in this section or set forth elsewhere in this Chapter when referred to in this section are the regulations in the “DT-2” Airport Frontage Downtown Zoning District.

DT-2 Airport Frontage allows for taller buildings than DT-1, and allows uses appropriate for development by an interstate interchange, while still addressing pedestrian accessibility. The mixed-use and planned development regulatory approach of the District is intended to provide a more flexible and innovative approach regarding use, density, access and connectivity, streetscape and landscape design, parking facilities, architectural and façade design, residential dwelling units, and dimensional standards than can be provided by traditional zoning techniques in order to establish a new walkable district, preserve and foster vibrant communal space and environmental protection areas while attracting a diverse range of retail, office, and commercial uses to support the community and a blend of new residential areas that vary in density and housing options. The DT-2 Airport Frontage Zoning District is additionally intended to establish the downtown highway corridor as a destination for appropriate uses serving the needs of Lambert Airport visitors, aviation, and other logistics industries. The new Zoning District will allow for higher density uses, common gathering and meeting areas (indoors and out), increased vitality by allowing mixed-use development, and create and/or restore pedestrian linkages between commercial uses and offsite and on-street parking. This will be achieved through:

1. Creating a mixed-use environment to accommodate a combination of residential, retail, commercial, and office uses of varied densities to attract young professionals, empty nesters, and families to the area.
2. Describing standards so that any new development is cohesive, contains thriving and inviting public spaces, and encourages walkability and sustainability.
3. Regulating building orientation and placement to achieve appropriate scale and ensure proper transitioning between areas of differing use and density and/or to be mindful of the surrounding adjacent land uses.
4. Requiring dedicated pedestrian and bicycle access across off-street parking to encourage connectivity between uses in DT-2 and the Downtown Core.
5. Permitting development consistent with the standards and requirements of an approved master development plan.
6. Permitting mixed-use vertically integrated buildings with ground floor commercial, office, and retail uses. Mixed-use buildings may have multi-family residential units, hotel, and/or office uses on the upper floors above ground level commercial, office and retail uses.
7. Allowing taller building heights for appropriate uses

B. *Permitted Uses*

A building or premises shall be used for the following purposes:

1. Retail sales, including, but not limited to, appliances, bakery, bookstore, carpeting, clothing, department store, drug store, food store, furniture store, hardware store, hobby shop, jewelry store, newsstand, pet shop, radio and television store, sporting goods store, and variety store.
2. Household services, including but not limited to appliance repair, bicycle repair, carpeting and draperies, electrical, heating and cooling, painting, contractor, plumbing, radio and television repair, upholstery, rental of appliances, tools, medical equipment, radios, and televisions.
3. Banks, savings and loans, stockbrokers, and title companies.
4. Offices, including but not limited to business, dental, general, laboratory, testing, medical, radio and television, research, and veterinarian.

5. Telephone and computer answering services.
6. Copy centers, primarily engaged in providing photocopying, duplicating, blueprinting and other document copying services, along with printing service; printing on purchased stock materials, such as stationery, letterhead, invitations, labels, and similar items.
7. Restaurants with no drive through.
8. Antique stores.
9. Attached townhouses.
10. Mixed-use buildings, provided that no residential may be located on the ground floor of the primary structure on a lot.
11. Academies, including but not limited to business, commercial, computer, dancing, physical fitness, martial arts, music, trade and vocational.
12. Hotels and Motor Lodges.

C. *Accessory Uses*

Uses subordinate to that of the main building may include:

1. Accessory uses customarily incident to the above uses, except antennas.
2. Any building used primarily for any of the above enumerated purposes may have not more than forty percent (40%) of the floor area devoted to storage purposes incidental to such primary use; provided that not more than five (5) employees shall be engaged at any time on the premises in such incidental use.
3. More than one (1) main building may be located upon the lot but only when such buildings conform to the area requirements for the district in which the lot is located.
4. Grading, filling, excavating or any change in the grade or property that involves the moving, depletion or replacement of more than fifty (50) cubic yards of material or changes the existing elevation by more than two (2) feet requires a permit. At no time shall any grading be detrimental to surrounding property in appearance or in the diversion of storm water drainage, which diversion must be approved by the Public Works Director.
5. A sign or a bulletin board relating only to company names, services, articles, and products offered within the building to which the sign is

attached, and which sign does not exceed twenty-five (25) square feet in area; provided however, any advertising sign shall be attached to the building and shall not project beyond the building for a distance of more than two (2) feet. A building located on a corner lot may have such a sign on each street side.

6. A freestanding sign relating only to company names, services, articles, and products offered on the premises. The one (1) freestanding sign per building shall not exceed fifty (50) square feet in area per face, nor exceed two (2) faces, nor exceed twelve (12) feet in width, nor extend more than thirty-five (35) feet in height to its highest point, nor have a sign lower than ten (10) feet above ground level.
7. Accessory dwelling units are allowed in the rear of a lot, provided their street facing facades are constructed of the same materials as the primary building.

D. Special Uses

A building or premises may be used for the following purposes if the provisions of the special use regulations in Section 400.530 are met and a special use permit is obtained:

1. Bars, taverns, wine bars, jazz clubs, and package liquor stores.
 - a. Microbreweries and micro-distilleries.
 - b. Cigar bars.
 - c. Cannabis sales, subject to all relevant Code regulating such use.
2. Resale shops and used furniture stores.
3. Public bulletin boards exceeding ten (10) square feet in area and temporary signs pertaining to the lease, hire or sale of a building or premises exceeding ten (10) square feet in area.
4. A filling station or public garage, when allowed as special use, shall be permitted one (1) separate price sign not to exceed twenty (20) square feet in area which shall be attached to the same structure as the freestanding sign, but below the main sign.
5. A filling station, restaurant, hotel or motel with frontage on an interstate highway or on a service or frontage road within two hundred (200) feet of the interstate highway, may increase the sign area of freestanding signs to one hundred fifty (150) square feet per face, the sign width to fifteen (15) feet and the sign height to fifty (50) feet to the highest point, if topography or other circumstances would create economic hardships on the business if a larger or taller sign is not permitted.

6. Public facilities, including but not limited to schools, libraries, museums, community buildings and parks.
7. Hospitals, clubs, and institutions, except institutions for criminals; provided however, that such buildings may occupy not over forty percent (40%) of the total area of the lot or tract; provided further, that the buildings shall set back from all yard lines heretofore established an additional distance of not less than two (2) feet for each foot of building height.
8. Adult day care.
9. Single-family, two-family, or multiple-family uses.
 - a. Multiple family in this Section refers to developments with two or more separate and adjacent multi-unit (4+ units) residential structures under single ownership.
10. Nursing homes and facilities.
11. Residential group homes with consideration given to the following criteria: operators of the group home or homes; characteristics of occupants; type of supervision; size of the site and density; people activity; vehicular activity; duration of activity; off-site impact; demand on community services; community needs; and overall appearance.
12. Colleges and private schools.
13. Automotive services, including new car and vehicle dealerships, used motor vehicle sales, auto parts stores, filling stations, public garages, auto repair garages, towing and wrecking services, body shops, car washes, auto detailing shops, and similar uses.
14. Private retail lumber store for the sale and reduction of finishing lumber products and building materials with enclosed storage only, and not to include millwork or fabrication.
15. Mortuary or funeral home.
16. Places of assembly, including churches, houses of worship, entertainment places, including billiard parlor, bowling alley, dancing, racquetball, roller skating rink, tennis facility, movie and/or live theater, video games, and similar uses.

- a. No more than one (1) use of each type may be located on a single block front.
17. Parking lots, public garages, and related uses.
18. Drive-ins and drive-thru restaurants and theaters, and other drive-in and drive-thru establishments.
19. All places where weekly jackpot lottery tickets are sold are to be approved by a special land use permit in regards to parking and motor vehicle traffic.
20. Personal services, including barber shop, beauty parlor, cleaning and laundry establishments, photographers, shoe repair, tailoring, dressmaking, and similar uses.
- a. Only one (1) business of each type may be located every six hundred (600) feet along Madison Avenue or Airport Road.
 - b. In cases where there are questions regarding the similarity of one use to another within 600 feet, the SIC codes for each use to a minimum of 4 digits shall be the determinant of similarity.
21. Television, microwave, or other antenna in excess of three (3) feet in diameter or freestanding antenna in excess of ten (10) feet in height.
22. Residential or outpatient facilities for the treatment of alcohol and other drug abuses as follows:
- a. The exterior appearance of the treatment facility shall reasonably conform to the exterior appearance of other buildings in the vicinity.
 - b. A treatment facility shall not be located closer than two thousand (2,000) feet to any other substance abuse treatment facility.
 - c. Applicant to provide written notification of proposed placement of the facility to the owners of property within one hundred eighty-five (185) feet of the boundaries of the property on which the treatment facility is located.
23. Motor vehicle leasing or rental agency.
24. *Child day care centers.* Operators of child day care centers shall obtain a merchant's license and a commercial occupancy permit prior to occupying any premises as a child day care center. Each facility shall meet all local codes and all State and County regulations. In addition, any person

operating a child care home service shall maintain liability insurance in the amount of two hundred fifty thousand dollars (\$250,000.00) and shall provide City Officials with a copy of their State license to run such a facility.

25. *Other financial institutions not listed as permitted, such as, but not limited to, check cashing, payday loans and personal credit institutions.* The following requirements and/or criteria shall apply to the other financial institutions referenced herein to qualify for such special use:

- a. All property lines of the lot on which the business is located shall be at least three hundred (300) feet from the nearest property line of any church, synagogue or similar place of worship, any school, or any residentially-zoned property.
- b. All property lines of the lot on which the business is located shall be at least one thousand four hundred (1,400) feet from the nearest property line of any other use classified within SIC Code 6099 or SIC Code 6141 or any pawnshop, including such businesses or pawnshops located outside of the Berkeley City limits.
- c. The establishment shall not be open for business between the hours of 8:00 P.M. and 7:00 A.M.
- d. The establishment shall have an interior space for patrons to transact business and shall have no drive-up or walk-up window.
- e. No bars, heavy mesh screens or similar material shall be allowed on the exterior of the building and no such material located on the interior of the building shall be visible from outside the building.
- f. Additional criteria necessary to protect the public health, safety and welfare as determined by the City Council.

26. Medical marijuana facilities.

[Ord. No. 4650, 12-15-2020]

- a. Medical marijuana cultivation, dispensary, manufacturing, testing, transportation, and related uses shall be regulated under the Special Use Process, Berkeley Code Section 400.530.
- b. Any building being used as a medical marijuana facility shall have a minimum floor area of one thousand (1,000) square feet.
- c. Distance requirements for medical marijuana facilities shall be as allowed through State of Missouri 19 CSR 30-95.040(4)(B), to amend the requirement, where the City of Berkeley Code requires

a three hundred (300) foot property distance by Section 600.210(B). Therefore, the distance requirement for these facilities will reflect three hundred (300) feet.

E. *Nonconforming Uses*

A legal non-conforming use in operation as of the date this ordinance went into effect may continue to operate, subject to the regulations of Section 400.200 f this Chapter.

F. *Minimum Parking Requirements*

1. Location of parking spaces and vehicle types that may be parked.
 - a. Parking spaces may be located and vehicles may be parked in the front, side, or rear yards, except that parking in the front yard shall be set back twenty (20) feet from the front lot line.
 - b. Any vehicle licensed in excess of twelve thousand (12,000) pounds gross vehicle weight is not permitted.
 - c. Parking requirements for uses not specifically listed shall be the same as required for a similar use. When fractional spaces result, the spaces required are the next whole number. In the case of mixed uses, the spaces required are the sum of the uses computed separately. Whenever an existing building is changed as to use or is enlarged in floor area, the spaces provided shall comply with these full parking requirements set forth herein.
 - d. No trucks, truck trailers or vehicles of any type shall be used for storage purposes nor on skids, jacks or any other device that will make them immobile or inoperable, except for emergency repairs.
 - e. If off street parking is provided in the front yard, at least ten (10) percent of the paved parking area must be landscaped.
 - f. Dedicated pedestrian access must be provided from the sidewalk in the public right-of-way to the front door of the main building.
2. *Number of required off-street spaces.*
 - a. Bowling alley. three (3) parking spaces for each alley.
 - b. Business, professional, or public office building, studio, or bank. Two (2) parking spaces, plus one (1) additional parking space for each five hundred (500) square feet of floor area over one thousand (1,000).

- c. College or schools. One (1) parking space for each eight (8) seats in the main auditorium or one (1) space for each classroom, whichever is greater.
- d. Community center, library, museum, or art gallery. Ten (10) parking spaces plus one (1) additional space for each one thousand (1000) square feet of floor area in excess of two thousand (2,000) square feet.
- e. Dwellings, multiple. One (1) parking space for each dwelling unit.
- f. Dwellings, single or two-family. One (1) parking space for each dwelling unit.
- g. Entertainment, assembly, or exhibition places.
 - (1) All without fixed seats. One (1) parking space for each five hundred (500) square feet of floor area used therefor.
 - (2) With fixed seats. One (1) space for each four (4) seats.
- h. Hospital. One (1) parking space for each four (4) beds.
- i. Hotel or motel. One (1) parking space for each three (3) sleeping rooms or suite plus one (1) space for each three hundred (300) square feet of commercial floor area contained herein.
- j. Medical or dental clinic. One (1) parking space for each three hundred (300) square feet of floor area.
- k. Mortuary or funeral home. One (1) parking space for each fifty (50) square feet of floor space in slumber rooms, parlor, or individual funeral service rooms.
- l. Private club or lodge. One (1) parking space for each three (3) members.
- m. Restaurant, night club, cafe or similar recreation or amusement establishment. One (1) parking space for each two hundred (200) feet of floor area, OR one (1) parking space for every four (4) seats for customers, whichever is lower.
- n. Retail store, personal service establishment or household service establishment or automotive service establishment, except as otherwise specified herein. One (1) parking space for each three hundred (300) square feet of floor area.

- o. Sanitarium, convalescent home, home for the aged or similar institution. One (1) parking space for each four (4) beds.
- p. Theater or auditorium (except school). One (1) parking space for each four (4) seats or bench-seating spaces.
- q. Used car lots and similar open display. One (1) parking space for each one thousand (1,000) square feet of sales display area.
- r. Supplemental parking requirements are provided in Article IV of this Chapter.
- s. Physically handicapped. A minimum of one (1) parking space, plus one (1) for every twenty (20) parking spaces.

G. *Parking Reduction Standards*

The above parking requirements may be reduced in the following ways:

1. One required parking space may be eliminated for every 150 square feet of landscaping provided above and beyond the minimum required, up to a maximum reduction of ten (10) percent of the total required parking.
2. Provision of sheltered bike parking spaces: one required parking space may be eliminated for every one sheltered bicycle parking space, with a maximum reduction of ten (10) percent of the required number of spaces.
3. A reduction up to 15 percent of the required number of spaces may be approved for private incentives (e.g., in-house carpool promotion/matching system, private shuttle bus, van lease or purchase, reserved carpool spaces, and transit pass discount programs) if the owner of the development submits a written agreement with their application for occupancy or use.
4. Providing a written signed shared parking agreement between two or more users, under the following conditions:
 - a. Two or more uses occupy the same building, the hours of operation of each use do not overlap, and the parking for the use with the greatest requirement shall suffice for all uses.
 - b. Mixed use developments - The total parking requirements for a mixed-use development is 90 percent of the sum of the amount required for each separate principal use, provided that the development consists of at least 20,000 square feet of enclosed area.

c. Shared parking must be provided within 400 feet of the businesses being served.

d. A shared parking agreement shall be recorded between cooperating property owners as a deed restriction on both properties and cannot be modified without the consent of the City.

No combination of parking reductions will be allowed that reduce the available parking for one property by more than fifty (50%) percent of the total parking requirement for that property.

H. *Loading Requirements.*

There shall be provided at the time any building is erected or structurally altered, off-street loading space in accordance with the following requirements:

1. *All commercial uses.* One (1) space for each fifteen thousand (15,000) square feet of floor area, or fraction thereof in excess of three thousand (3,000) square feet. Where such place is located in a manner that a truck must back directly from a major street into the loading space, a maneuvering space of not less than forty-nine (49) feet shall be provided.

2. *Enlargements and extensions.* No building or part thereof heretofore erected which is used for any of the purposes specified above, shall hereafter be enlarged, or extended unless off-street loading space is provided in accordance with the provisions of this Chapter.

I. *Area Requirements*

1. Minimum depth of front yard. DT-2: zero to (25) twenty-five feet.
2. Minimum width of side yard. DT-2: Five (5) feet.
3. Minimum depth of rear yard. Zero, unless a parcel backs up to a residentially zoned lot, at which point the minimum depth is: Ten (10) feet for commercial, and twenty-five (25) feet residential.
4. Where a lot is located at the intersection of two (2) or more streets or between two (2) streets, there shall be a front yard on each street that the lot abuts. No accessory building shall project beyond the building line on any street.

J. *Height Requirements*

DT-2: The maximum height is sixty (60) feet or five (5) stories.

1. a restaurant or meeting hall/event venue may be located on a sixth floor of a building, provided the total area of the sixth floor is no more than twenty-five (25) percent of the footprint of the fifth floor.
2. a proposed sixth floor use requires a special use permit.

3. A roof deck may be provided, but it cannot extend closer than ten (10) feet to the edge of the roof, and must be enclosed by a fence no less than thirty-six (36) inches in height.

Supplemental height requirements are provided in Article IV of this Chapter.

K. *Site Design Requirements*

1. All roads, parking and loading areas and walks shall be paved with asphalt or concrete in accordance with City specifications on file in the office of the Director of Public Works. All roads, parking and loading areas shall have concrete curbs and gutters.
2. Any part of a lot not used for buildings or other structures, or for parking, loading or accessways shall be landscaped with grass, ground covers, trees, shrubs, and pedestrian walks.
3. When the rear or side yard of a commercial use abuts any residential district or a residential lot situated in DT-2, a ten (10) foot landscaped buffer area shall be established and maintained along the rear or side property line. The buffer area shall contain evergreen plant material with a minimum height of ten (10) feet, planted in two (2) rows on eight (8) foot centers. A public street separating a residential and downtown district eliminates this requirement.
4. A planting strip of twenty (20) feet may be established and maintained within the required front yard within the DT-2 District. A minimum ratio of one (1), three (3) inch caliper, shade tree or three (3), two (2) inch caliper, grouped ornamentals shall be planted within the twenty (20) foot wide planting strip for each twenty-five (25) feet of linear front footage.
5. A ratio of one (2) two-inch caliper tree for every five (5) parking spaces shall be required.
6. Foundation plantings shall be planted and maintained along all exterior walls of all buildings at the ratio of one (1), twenty-four (24) inch evergreen shrub for every five (5) lineal feet of exterior wall.
7. Where possible, existing plant material should be preserved and may serve in lieu of required planting.
8. Where a commercial use abuts a residential district on the rear or side yards of the commercial use, a six (6) foot high fence may be erected and maintained by the commercial property owner. The type of fence shall be approved by the City Fence Review Committee.

9. All electrical, telephone, cable and similar wires and all utilities must be placed underground for structures constructed after the date of adoption of this Chapter, and for additions of more than twenty-five percent (25%) of the existing floor area in square feet as of the date of adoption of this Chapter.
10. All new development shall be required to have a minimum four (4) foot wide sidewalk in front of the front yard line of the property, which shall connect to the front door by a dedicated sidewalk of at least four (4) feet in width.

L. *Fence Requirements – In Side and Rear Yards*

Fences in required side and rear yards shall not exceed five (5) feet in height.

M. Performance Standards

Commercial uses are subject to:

1. *Vibration.* Every use shall be so operated that the maximum ground vibration generated is not perceptible without instruments at any point on the lot line of the lot on which the use is located.
2. *Noise.* Every use shall be so operated that the maximum volume of sound or noise generated does not exceed forty (40) decibels at any point on the lot line of the lot on which the use is located. Outdoor loudspeakers and audible communication systems are not permitted within one thousand (1,000) feet of a residential district, save by special use permit.
3. *Odor.* Every use shall be so operated that no offensive or objectionable odor is perceptible at any point on the lot line of the lot on which the use is located.
4. *Smoke.* Every use shall be so operated that no smoke from any source shall be emitted of a greater density than the density described as No. 1 on the Ringelmann Chart as published by the United States Bureau of Mines.
5. *Toxic gases.* Every use shall be so operated that there is no emission of toxic, noxious, or corrosive fumes or gases.
6. *Emission of dirt, dust, fly ash and other forms of particulate matter.* Emission of dirt, dust, fly ash and other forms of particulate matter shall not exceed eighty-five hundredths (0.85) pounds per one thousand (1,000) pounds of gases of which amount not to exceed five-tenths (0.5) pounds per one thousand (1,000) pounds of gases shall be of such size as to be retained on a three hundred twenty-five (325) mesh U.S. Standard Sieve. In the case of emission of fly ash or dust from a stationary furnace or

combustion device, these standards shall apply to a condition of fifty percent (50%) excess air on the stack at full load, which standards shall be varied in proportion to the deviation of the percentage of excess air from fifty percent (50%).

7. *Glare and heat.* Any operation producing intense glare or heat shall be performed in an enclosure in such a manner as to be imperceptible along any lot line.
8. *Air pollution.* Every form of objectionable odors, smoke, toxic gases, particulate matter such as dirt, dust, fly ash, must be restricted to specific low levels of emissions as set forth in Ordinance No. 3347 of St. Louis County titled Air Pollution Control Code, Chapter 612.
9. *Radiation.* Every amount of radioactive emissions must be restricted to that considered safe by the Federal Radiation Council Standards

Development Requirements, Guidelines, and Standards

1. *Purpose:* To achieve the goals and objectives of the Berkeley Comprehensive Plan, the following development standards are established and applicable to properties located in all segments of the Berkeley Downtown Districts. It is recognized that not all of the standards may be attainable with particular property or uses. Therefore, the regulations are intended to provide flexibility to property owners and developers for many types of development. In addition, the regulations are meant to provide a certain degree of latitude to the Planning and Zoning Commission and the Board of Aldermen/City Council to vary from these or other regulations when reviewing site plans in order to achieve the goals and objectives of the Downtown Districts, Berkeley Comprehensive Plan, and these regulations.
2. *Compliance and Modification.* The following standards are required with modifications permitted as expressly described. The degree to which a site plan for development meets or exceeds the design standards set forth in this subsection shall be considered and will be evaluated when considering site plans for proposed development. A developer requesting modification or reduction of a standard must submit a written explanation of why certain development standards cannot be met or that alternatives serve the same purpose as the standard.
3. *Intent.* The standards are intended to allow the Downtown Districts to become another recognized location as a live/work/relaxation hub. Examples of the various standards and/or design features intended to be

carried out within the Downtown Districts are included throughout this section.

4. *Site Design:* New developments are required to match or complement surrounding developments and landscapes to create a building and site design which follow the standards of this Chapter and adds positively to the overall Downtown environment. Where applicable and appropriate site design should provide:

- a. *Layout:*

- 1) Outdoor seating at work places and restaurants should be:
 - a) Situated to provide a pleasant environment for users that is not adjacent to parked automobiles or other environmental detriments;
 - b) Located so as not to block or constrict entry and exit doors or impede pedestrian or bicycle movements;
 - 2) Utilities serving a site and the associated on-site structures must be located in underground easements that can serve multiple properties.

- b. *Access:*

- 1) Pedestrians/Bicycle Access: All buildings must be designed to encourage pedestrian activity and social interaction and create a walkable environment that encourages pedestrian access, as well as bicycle access, to and within the Downtown Districts, and connectivity to adjacent parks. To encourage and promote biking to and from Downtown Berkeley, bike racks are strongly encouraged in appropriate locations at any building.

- c. Public Art of appropriate type and scale is encouraged to help create an identity for the Downtown Berkeley District.

- d. *Building placement:*

- 1) The main façade of a building must be oriented to face the principal street on which it has frontage;
 - 2) Buildings on corner lots must be oriented so that the main façade is giving equal treatment to each street on which it has frontage. Also, these buildings should include a prominent

architectural feature of greater height than the rest of the roof or emphasis at the corner where the two public streets meet.

Massing and Façade Design Guidelines: New buildings should be designed to include common features and materials so that a sense of place and character is created for the Downtown Berkeley Districts.

- a. *Exterior building materials:* Building materials should be used and installed in keeping with the chosen architectural style. Building material colors should be varied and complementary and three colors per elevation required. Except as minor accents for trim such as window frames or entry doors, primary or garish colors should be avoided. Materials should be of a scale appropriate to the pedestrian and complement adjacent structures. The table entitled “Exterior Material Legend” below provides a listing of approved/not approved materials. Buildings using unacceptable materials must receive approval of a standard modification from the Planning and Zoning Commission or Architectural Review Board.

EXTERIOR MATERIAL LEGEND	
Acceptable Exterior Materials	Generally Unacceptable Exterior Materials
<ul style="list-style-type: none"> • Brick or brick veneer • Natural Stone (limestone, brownstone, lannon stone, marble, granite). • Metal panels (used as accent features, includes types such as Alucobond, Alpolic, or similar) • Cement-fiber siding • Composite siding • Decorative Concrete Masonry Units (CMU) or architectural cement block • Concrete, including pre-cast panels (may be used when incorporating color, texture and architectural finish features) • Exterior grade wood (must be appropriate species for climate) • Glass block (may be used only as a feature element, not for glazing or windows) • EIFS or Stucco (not on the first story and not more than 30% of the wall area exclusive of windows and doors) • Vinyl trim (accent only) • Manufactured stone • Brick and stone pavers • Commercial grade asphalt shingles • Slate roofing • Concrete tile roofing 	<ul style="list-style-type: none"> • Vinyl or aluminum siding • Veneer based plywood siding • Plywood panels (such as T1-11) • Smooth-face concrete block • Shake shingles • Plexiglas • Corrugated Metal with exposed fasteners (used as accent features and comprising no more than 30% of the exterior building materials used). • Painted smooth concrete masonry units (unless used in locations behind screen walls) • Exposed steel framing (unless integral to the design) • Corrugated tin roofing (unless dictated by the specific architectural style) • Standing seam or batten seam metal roofing (unless dictated by the specific architectural style)

- b. *Building details*: Each building shall incorporate several common architectural features, appropriate for the architectural style chosen. Examples include pilasters, piers, columns, friezes, cornices, and window surrounds. Building elements such as awnings, signs, doors, windows, and lighting should complement the architecture of the building façade and finishes (See Example 1).



- c. *Design features and structures*: Use of awnings, canopies, or other design features should enhance main facades, especially at building entries. Attached structures such as covered arcades or porte-cocheres shall be compatible with and complement the overall design of the building and its façade (See Example 2).



- d. *Building entrances*: Building entrances are required to be clearly delineated and indicate a clear transition from the exterior to the interior of the building. Every main entrance is required to have a special emphasis when compared to the other portions of the building. The building address should be clearly displayed in a readable typeface of sufficient size for reading from a vehicle at a reasonable distance and oriented to the street or drive frontage recognized by the US Postal Service and the City's fire and police departments (See Example 3).



- e. *Façade articulation:* Buildings and parking structures of three (3) stories or less in height designed with completely flat facades and monotone color schemes are not permitted. All buildings and parking structures are required to have horizontal and vertical façade variations such as pop-outs, bays, recesses, arches, banding, columns, or similar features. Buildings of more than three (3) stories may have a flat façade of uniform design above the third floor (See Example 4).



- f. *Height and roofline:* Single-story buildings should have varying roofline elevations to add architectural interest and avoid the appearance of long, monotonous roofline expanses. A variation such as a parapet or tower is required every 50' of roofline. Also, if mechanical HVAC equipment that is installed on the roof of any structure in this district is visible from grade level in residential areas or, is visible from West Florissant Avenue or any primary access road within a larger development, said equipment shall be screened by a wall with a finish surface compatible in design and color to that which is used as a finish building wall material. The back of parapets should also not be visible from the street or any primary access right of way within a larger development and must match the color and materials of the building (See Example 5).



- g. *Pedestrians/Bicycle Access:* All buildings must be designed to encourage pedestrian activity and social interaction and create a walkable environment that encourages pedestrian access, as well as bicycle access, to and within the Downtown Berkeley District and connect to adjacent parks.
- h. *Windows:* Windows are key to the overall design of a building and the relationship between the exterior and interior. Eye level windows are required to relate to the scale of a person. Clear glass for storefronts, windows, and doors, within the retail merchandising areas is required. For energy efficiency purposes, slightly tinted glass may be used so long as the glass remains see-through. Window tints shall be grey, blue, or bronze. Mirrored glass is prohibited. Window signage is strongly discouraged (See Example 6).



Section 4. This Ordinance shall be in full force and effect thirty (30) days after its date of passage.

1st Reading this 01st day of May 2023

2nd Reading this 01st day of May 2023

3rd Reading, PASSED and APPROVED, this day of 2023

Babatunde Deinbo, Mayor

ATTEST:

Deanna L. Jones, City Clerk

Approved as to Form:
Donnell Smith, City Attorney

Final Roll Call:

Councilwoman Verges	Aye	___	Nay	__	Absent	__	Abstain	__
Councilwoman Williams	Aye	___	Nay	__	Absent	__	Abstain	__
Councilman Hoskins	Aye	___	Nay	__	Absent	__	Abstain	__
Councilwoman Anthony	Aye	___	Nay	__	Absent	__	Abstain	__
Councilman Hindeleh	Aye	___	Nay	__	Absent	__	Abstain	__
Councilwoman-at-Large Crawford-Graham	Aye	___	Nay	__	Absent	__	Abstain	__
Mayor Deinbo	Aye	___	Nay	__	Absent	__	Abstain	__