

ORDINANCE NO. 8,000-N.S.

AMENDMENTS TO TITLE 23 (ZONING) TO PERMIT BY-RIGHT APPROVAL OF QUALIFYING HOUSING PROJECTS ON SITES IDENTIFIED IN PREVIOUS HOUSING ELEMENTS

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

Section 1. That the lines “Multi-Unit Residential” and “Mixed-Use Residential” in Table 23.204-1 in BMC Section 23.204.020 be amended to read as follows:

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS	
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC		
Residential Uses													
Multi- Unit Residential	UP(H)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	23.204.060.B.3; 23.302.070.H 23.302.070(M)
Mixed-Use Residential	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	23.204.060.B.3; 23.302.070.H 23.302.070(M)

Section 2. That BMC Section 23.302.070(M) be added to read as follows:

M. Housing Element Opportunity Sites. Pursuant to Government Code Section 65583.2(c), a non-vacant site that has been identified as a housing opportunity site in a prior housing element and a vacant site that has been included in two (2) or more consecutive housing element planning periods shall be allowed residential use by right (with approval of a building permit) for housing developments in which at least twenty percent (20%) of the units are affordable to lower income households. Pursuant to Government Code Section 65583.2(i), the development shall comply with all objective development standards and a proposed subdivision of the property shall be subject to all laws, including, but not limited to, city ordinances implementing the Subdivision Map Act. If applicable, such projects shall be subject to staff-level design review pursuant to BMC Section 23.406.070(C)(2)(D).

Section 3: That BMC Section 23.406.070(B)(1)(a) be amended to read as follows:

- (a) Projects in all Non-Residential Districts, except for Residential Uses in the MU-R zoning district.

Section 4: That BMC Section 23.406.070(C)(2) be amended to read as follows:

2. Projects Not Requiring a Use Permit.

(a) For a project that does not require a Use Permit, Department staff conducts Design Review before the Zoning Officer takes action on the required permit or approval.

(b) The Zoning Officer will consider the Design Review recommendations when acting on the required permit or approval. The Zoning Officer may require modifications to the project design as a condition of approval.

(c) The Department will verify conformance with Design Review recommendations and design-related conditions of approval when issuing a building permit, sign permit, or Zoning Certificate for the project. Final Design Review is not required.

(d) *Housing Element Opportunity Site Projects (BMC Section 23.302.070(M)):*

1. Staff shall schedule a single consultation meeting of the Design Review Committee for non-binding input on design-related issues; and
2. Staff-level design review conducted under this section shall not be subject to the Appeal provisions of 23.406.070(O).

Section 5: Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on January 20, 2026, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Blackaby, Humbert, Kesarwani, Lunaparra, O'Keefe, Taplin, Tregub, and Ishii.

Noes: None.

Absent: None.

