



Office of the City Manager

REVISED AGENDA MATERIAL

Meeting Date: February 24, 2026

Item Number: 20

Item Description: Amendments to Title 21 (Subdivisions Ordinance) and Title 23 (Zoning Ordinance) to implement Senate Bill (SB) 684

Supplemental/Revision Submitted By: Jordan Klein, Planning and Development

“Good of the City” Analysis:

The analysis below must demonstrate how accepting this supplement/revision is for the “good of the City” and outweighs the lack of time for citizen review or evaluation by the Council.

In response to recommendations from the Rent Board regarding the proposed “Protected Unit” definition and replacement-housing requirements for the local MHIP pathway, the Planning and Development Department prepared revised agenda material for Item 20 which reflect the Rent Board’s recommendations.

The following revisions also clarify that the five-year limit is a documentation and screening requirement to verify tenant occupancy history, and *not* a time-based limitation on units subject to rent-control provisions or recorded affordability restrictions. This clarification removes the risk of misinterpretation in administering SB 684 and the local MHIP pathway.

Staff also incorporated the City Attorney’s recommendation by adding a statement in the Purpose and Intent section clarifying that the “Protected Unit” definition applies only to MHIP processing.

The benefit of correcting the record outweighs the reduced time for public review.

The revisions are as follows:

1. In Ordinance Section 7, adding 21.30.010, adding the underlined language to read as follows:

A. The purpose of this Chapter is to implement the provisions of Government Code Sections 66499.41, 65913.4.5, and 65852.28 (Senate Bill 684 (2023), as amended by subsequent legislation), which require a ministerial process for approval of certain small-lot subdivisions creating up to ten lots for residential development, and to provide a parcel-map process for similar small-lot subdivisions that meet minimum zoning density but do not qualify under Section 66499.41.

B. This Chapter establishes local procedures and objective standards for the subdivision of qualifying parcels, referred to as Middle Housing Infill Projects

(MHIPs), consistent with the Subdivision Map Act and Titles 21 and 23 of the Berkeley Municipal Code.

C. The intent of this Chapter is to: (1) facilitate homeownership opportunities; (2) ensure consistency with state law; (3) apply zoning development standards at the parent-parcel level; (4) apply objective standards for access and development standards; and (5) ensure compliance with replacement-housing requirements under Government Code Section 66300(d) and BMC Chapter 23.326 (Demolition and Dwelling Unit Controls).

D. The definition of Protected Unit in this Chapter applies to Middle Housing Infill Projects processed as either an SB 684 MHIP or a Parcel Map MHIP.

2. In Ordinance Section 7, revising 21.30.020(C) to read as follows:

C. *Protected Unit.* For purposes of this Chapter, A “Protected Unit” means a dwelling unit that, at any time within the five years prior to submittal of a subdivision application, was:

1. occupied by tenants at any time within the last five years prior to submittal of a subdivision application, or,
2. subject to affordability restrictions, or
3. subject to rent-control provisions, or
4. located on a parcel on which an owner of residential real property has, within the past fifteen (15) years, exercised rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code (the “Ellis Act”) to withdraw accommodations from rent or lease.

3. In Ordinance Section 7, adding 21.30.050(C), adding the underlined language to read as follows:

C. *Protected Units.*

1. No SB 684 MHIP shall require the demolition of, or result in the loss of, any Protected Units.
2. No Parcel Map MHIP shall require the demolition of, or result in the loss of, any Protected Units unless replacement housing is provided consistent with Government Code Section 66300.6 and BMC Chapter 23.326.

The revised ordinance is attached, with the new changes highlighted for readability.

Consideration of supplemental or revised agenda material is subject to approval by a two-thirds roll call vote of the City Council. (BMC 2.06.070)

A minimum of **42 copies** must be submitted to the City Clerk for distribution at the Council meeting. This completed cover page must accompany every copy.

Copies of the supplemental/revised agenda material may be delivered to the City Clerk Department by 12:00 p.m. the day of the meeting. Copies that are ready after 12:00 p.m. must be delivered directly to the City Clerk at Council Chambers prior to the start of the meeting.

Supplements or Revisions submitted pursuant to BMC § 2.06.070 may only be revisions of the original report included in the Agenda Packet.

ORDINANCE NO. -N.S.
AMENDMENTS TO TITLE 21 (SUBDIVISIONS) AND TITLE 23 (ZONING) TO PERMIT
SMALL-LOT SUBDIVISIONS

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

Section 1. That section 21.16.10 be amended to read as follows:

21.16.010 General.

The tentative map shall be prepared by a registered civil engineer or licensed land surveyor and shall be clearly and legibly drawn to show the details of the plan. The size of each sheet shall be eighteen by twenty-six inches. Tentative maps shall be signed by the civil engineer or licensed land surveyor. (Ord. 5793-NS § 2 (part), 1987)

This Chapter applies to subdivisions for which a tentative map is required by the Subdivision Map Act. Subdivisions that are exempt from the tentative map requirement under the Subdivision Map Act, including but not limited to subdivisions that qualify under Government Code Section 66426(a)–(e), shall not be processed under this Chapter and shall instead require only a parcel map pursuant to Chapter 21.24.

Section 2. That Chapter 21.24 title be amended to read as follows:

PARCEL MAPS ~~(FOUR OR LESS PARCELS)~~

Section 3. That section 21.24.001 be amended to read as follows:

21.24.001 Applicability.

The provisions of this chapter shall apply to ~~all subdivisions of four or less parcels~~ except those:

A. All subdivisions of four or fewer parcels, except those:

1. Made solely for the purpose of opening or widening of a public street or alley.
2. Which are necessary solely for the conveyance, transfer, creation or establishment of an easement for to or from a governmental agency, public

entity, public utility, or subsidiary of a public utility for conveyance to that public utility for rights-of-way, pedestrian or vehicular access, sewer, water or public utility connection or service.

3. Where the City Engineer and the Director of Planning determine that all of the following conditions exist.

- i. ~~4.~~The division results in the same or fewer number of lots.
- ii. ~~2.~~The division is not in conflict with other provisions of this title.
- iii. ~~3.~~The division is not in conflict with the General Plan or any applicable specific plan. The division does not reorient any lot or parcel so as to establish a frontage on a different street than that on which the lot or parcel previously fronted.

4. Which are made solely because of the acquisition of property by government agencies.

~~A. Lot line adjustments (See Chapter 21.32). (Ord. 5793-NS § 2 (part), 1987)~~

B. Subdivisions creating five or more parcels that are exempt from the requirement for a tentative and final map, and instead require a parcel map, pursuant to Government Code Section 66426(a)-(e).

Section 4. That section 21.24.030 be amended to read as follows:

21.24.030 Accompanying data and reports.

Except as provided in Section 21.24.080, tThe regulations described in Section [21.16.040](#) shall apply to parcel maps. (Ord. 5793-NS § 2 (part), 1987)

Section 5. That section 21.24.040 be amended to read as follows:

21.24.040 Approval of parcel maps.

A. Except as provided in Section 21.24.080, The-the regulations described in Sections [21.16.010](#) through [21.16.090](#) shall apply to the approval of all parcel maps with the exception that the advisory agency under Government Code Section [66415](#) for purposes of approval of parcel maps shall not be the Planning Commission, but shall be the City Manager or their designee and accordingly that no public hearing is required for approval of a parcel map. All other provisions of Section [21.16.010](#) through [21.16.090](#) continue to apply to approval of parcel maps. (Ord. 6459-NS § 1, 1998; Ord. 5793-NS § 2 (part), 1987)

B. Parcel maps processed pursuant to Section 21.24.080 shall be approved, conditionally approved, or denied in accordance with the procedures and

standards set forth in that Section and are not subject to the provisions of Sections 21.16.010 through 21.16.090, except where expressly cross-referenced.

Section 6. BMC Section 21.24.080 be added to read as follows:

21.24.080 Parcel maps qualifying under Government Code Section 66426(a).

A. Eligibility. A parcel map may be processed ministerially under this Section only if all of the following criteria are met:

1. The subdivision is subject to the Subdivision Map Act and would otherwise require a tentative and final map pursuant to Government Code Section 66426;
2. The subdivision qualifies for the tentative map exemption in Government Code Section 66426(a), in that:
 - a. The land before division contains less than five (5) acres;
 - b. Each parcel created by the division will abut upon a maintained public street or highway; and
 - c. No dedications or off-site improvements are required by the City as a condition of the subdivision;
3. The subdivision will create no more than twelve (12) parcels; and
4. Each parcel created will comply with:
 - a. The minimum lot area, width, depth, and other dimensional standards of the applicable zoning district;
 - b. The General Plan land use designation; and
 - c. All applicable objective subdivision design and improvement standards of this Title and other applicable codes.

B. Advisory Agency and procedure.

1. For purposes of this Section, the advisory agency under Government Code Section 66415 shall be the City Manager or their designee, in consultation with the City Engineer and the Director of Planning and Development.
2. Parcel maps under this Section shall be reviewed and acted upon administratively by City staff.
3. Applications shall be submitted on forms provided by the City and shall include all information necessary to demonstrate compliance with the eligibility criteria in

Subsection A and with applicable objective standards.

4. Any decision of the advisory agency to approve, conditionally approve, or deny a parcel map under this Section may be appealed to the City Council in accordance with the appeal procedures set forth in Section 21.16.050.

C. Approval standards.

1. The advisory agency shall approve a parcel map under this Section if it finds, based on substantial evidence in the record, that:

a. The subdivision satisfies all eligibility criteria in Subsection A; and

b. The advisory agency finds that none of the conditions set forth in Government Code Section 66474(a) through (g) exist.

2. The advisory agency shall deny a parcel map under this Section if it cannot make the findings in Paragraph 1 of this Subsection.

3. Conditions of approval, if any, shall be limited to:

a. Requirements necessary to ensure compliance with objective standards expressly set forth in this Title, Title 23, or other applicable codes; and

b. Technical corrections necessary to ensure conformity with the Subdivision Map Act and to correct drafting or surveying errors on the parcel map.

D. Subsequent small-lot subdivisions.

A parcel created pursuant to this Section may subsequently be subdivided pursuant to a ministerial small-lot subdivision under Government Code Section 66499.41 and any provisions of Title 21, provided that the subsequent subdivision meets all eligibility criteria in state law and/or this Title.

Section 7. BMC Chapter 21.30 be added to read as follows:

Chapter 21.30 – Small Lot Subdivisions (Middle Housing Infill Projects)

21.30.010 – Purpose and Intent

A. The purpose of this Chapter is to implement the provisions of Government Code Sections 66499.41, 65913.4.5, and 65852.28 (Senate Bill 684 (2023), as amended by subsequent legislation), which require a ministerial process for approval of certain

small-lot subdivisions creating up to ten lots for residential development, and to provide a parcel-map process for similar small-lot subdivisions that meet minimum zoning density but do not qualify under Section 66499.41.

- B. This Chapter establishes local procedures and objective standards for the subdivision of qualifying parcels, referred to as Middle Housing Infill Projects (MHIPs), consistent with the Subdivision Map Act and Titles 21 and 23 of the Berkeley Municipal Code.
- C. The intent of this Chapter is to: (1) facilitate homeownership opportunities; (2) ensure consistency with state law; (3) apply zoning development standards at the parent-parcel level; (4) apply objective standards for access and development standards; and (5) ensure compliance with replacement-housing requirements under Government Code Section 66300.6 and BMC Chapter 23.326 (Demolition and Dwelling Unit Controls).

D. The definition of Protected Unit in this Chapter applies to Middle Housing Infill Projects processed as either an SB 684 MHIP or a Parcel Map MHIP.

21.30.020 – Definitions

- A. *Middle Housing Infill Project (MHIP)*. A subdivision and related housing development processed under this Chapter.
 - 1. *SB 684 MHIP*. A subdivision creating up to ten lots and up to ten dwelling units, that meets all of the eligibility criteria of Government Code Section 66499.41 as well as the minimum density in BMC Section 21.30.060(E). SB 684 MHIPs shall be processed ministerially under Section 21.30.040(B)(1).
 - 2. *Parcel-Map MHIP*. A subdivision creating two to four lots, that meets or exceeds the minimum residential density of the underlying zoning district, but does not meet all SB 684 criteria. Parcel-Map MHIPs are processed under BMC Chapter 21.24 (Parcel Maps).
- B. *Parent Parcel*. The legally-established parcel that exists prior to a subdivision creating a MHIP. For purposes of applying zoning development standards under this Chapter, the parent parcel shall be treated as a single lot prior to subdivision.
- C. *Protected Unit*. For purposes of this Chapter, A- a “Protected Unit” means a dwelling unit : that , at any time within the five years prior to submittal of a subdivision application, was:
 - 1. occupied by tenants at any time within the last five years prior to submittal of a subdivision application, or
 - 2. subject to affordability restrictions, or
 - 3. subject to rent-control provisions, or
 - 4. located on a parcel on which an owner of residential real property has, within the past fifteen (15) years, exercised rights under Chapter 12.75

(commencing with Section 7060) of Division 7 of Title 1 of the Government Code (the “Ellis Act”) to withdraw accommodations from rent or lease.

D. *Vacant Lot.* For the purposes of this Chapter, “vacant” has the same meaning as in Government Code Section 66499.41(a)(2)(A).

21.30.030 – Applicability

A. *Zoning Districts.* This Chapter applies to:

1. *Parcels in zoning districts where Multi-Family Dwellings are a permitted use; and*
2. *Vacant parcels zoned for single-family residential development as specified in Section 21.30.050(A)(1).*

B. *Project Types.* This Chapter applies to Middle Housing Infill Projects (MHIP), as defined in Section 21.30.020 (Definitions).

21.30.040 – Application and Procedures

A. *Application.* Applications shall be filed on City forms with required fees and shall include all of the following:

1. *A parcel map prepared pursuant to Chapter 21.24 or a tentative map prepared pursuant to Chapter 21.16.*
2. *Project plans, including a site plan, floor plans, tabulation of dwelling units, open-space and parking diagrams, and massing elevations, sufficient to demonstrate objective compliance with Titles 21 and 23 at the parent parcel scale.*
3. *Housing development plans demonstrating compliance with applicable objective standards in Titles 21 and 23.*
4. *An affidavit of ownership, and a tenancy history for the 5 years prior to the submission of the application, for the parent parcel.*
5. *Evidence of access and utility service easements for each proposed lot.*

6. Any other information necessary to verify compliance with applicable objective standards.

B. Review Process.

1. SB 684 MHIPs. Applications shall be processed ministerially, consistent with Government Code Section 66499.41. A decision shall be rendered within sixty (60) days of a complete map application.

2. Parcel-Map MHIPs. Applications shall be processed pursuant to BMC Chapter 21.24 (Parcel Maps).

C. Approving Authority. The Planning Director, or their designee, shall serve as the advisory agency for SB 684 MHIPs. The Planning Director shall serve as the advisory agency for Parcel-Map MHIPs.

D. Appeals. Decisions on SB 684 MHIPs, including any associated parcel maps processed ministerially pursuant to this Chapter, are ministerial determinations and are not subject to appeal.

21.30.050 – Qualifying Criteria

A. Eligible Parcels. An MHIP may be approved only if the parent parcel meets all of the following requirements:

1. The parent parcel is either:

a. Zoned to allow Multi-Family residential uses, and is no larger than five (5) acres; or

b. Vacant and zoned for single-family residential development, and is no larger than one and one-half (1.5) acres.

2. The parent parcel is located within an urbanized area or urban cluster and meets all locational eligibility requirements in Government Code Section 66499.41(a)(9).

a. The parent parcel is not located on prime farmland or farmland of statewide importance, on land zoned or designated by a voter-approved ballot measure for agricultural protection or preservation, in wetlands, or on lands identified for conservation, habitat for protected species, or lands under a conservation easement, as described in Government Code Section 66499.41(a)(9)(A), (B), and (H) through (J).

- b. The parent parcel is not located within a Very High Fire Hazard Severity Zone, as identified by the State Fire Marshal and designated by the City pursuant to Government Code Sections 51178 through 51179. For purposes of this subsection, the City's "High Fire Hazard Severity Zone" designation alone does not render a parcel ineligible under this Chapter unless the parcel is also designated as a Very High Fire Hazard Severity Zone under Government Code Section 51178.
- c. If the parent parcel is located on a hazardous waste site, within an earthquake fault zone, a special flood hazard area, or a regulatory floodway, it shall be eligible under this Chapter only to the extent permitted by, and in compliance with, the conditions for such locations in Government Code Section 66499.41(a)(9)(D) through (G).

B. Lot and Unit Count.

- 1. An SB 684 MHIP may create two to ten lots and up to ten dwelling units.
- 2. A Parcel-Map MHIP may create two to four lots.
- 3. No MHIP shall result in more than ten dwelling units on the parent parcel.

C. Protected Units.

- 1. No SB 684 MHIP shall require the demolition of, or result in the loss of, any Protected Units.
- 4.2. No Parcel Map MHIP shall require the demolition of, or result in the loss of, any Protected Units unless replacement housing is provided consistent with Government Code Section 66300.6 and BMC Chapter 23.326.

G.D. Further Subdivision. The lot was not established pursuant to this section, including a designated remainder parcel described in Section 66499.41(a)(1)(B), or Section 66411.7 (SB 9 – Urban lot split).

21.30.060 – Development Standards

A. Parent Parcel Compliance. Zoning development standards, including minimum lot size, density, floor-area ratio, lot coverage, usable open space, setbacks, and parking, shall be applied at the parent parcel level prior to subdivision. The Planning Director shall waive or modify any such standard if its application would physically preclude construction of the minimum residential density required under Section 21.30.060(E). Any waiver or modification shall be the minimum necessary to achieve compliance with that density requirement.

B. Minimum Lot Dimensions.

- 1. Multi-Family-zoned parent parcel. The minimum lot size for each new lot shall be six hundred (600) square feet.

2. Vacant single-family-zoned parent parcel. The minimum lot size for each new lot shall be one thousand two hundred (1,200) square feet.

C. Street Frontage. Street frontage is required and may be satisfied through a public street, alley, or recorded access easement consistent with Fire and Building Codes.

D. Access and Utilities. Each lot shall have recorded vehicular and emergency access easements and recorded utility easements sufficient for water, sewer, power, and drainage service.

E. Residential Density.

1. SB 684 MHIPs shall satisfy one of the following:

a. If the parent parcel is identified in the City's Housing Element for the current planning period, the development shall result in at least the number of dwelling units (and affordable units, if applicable) identified for that site; or

b. If the parent parcel is not identified in the City's Housing Element, the development shall result in at least sixty-six percent of the maximum allowable residential density specified by the underlying zoning. If the underlying zoning district does not establish a minimum residential density, the project shall meet or exceed 20 dwelling units per acre.

2. Parcel-Map MHIPs shall meet or exceed the minimum residential density required by the underlying zoning district. If the underlying zoning district does not establish a minimum residential density, the project shall meet or exceed 20 dwelling units per acre.

F. Floor Area Limits. SB 684 MHIPs are subject to the floor area limits in BMC 23.304.160(D)(3).

G. Parking.

1. Transit Exemption. No parking shall be required if the parcel is located within one-half mile walking distance of either a stop in a high-quality transit corridor, as defined in Public Resources Code Section 21155(b) or a major transit stop, as defined in Public Resources Code Section 21064.3.

2. Application of Local Standards. Where the transit exemption does not apply, off-street parking shall conform to the requirements of BMC Chapter 23.322, except where superseded by state law.

3. *Parking Configuration.* Shared driveways, tandem spaces, and unbundled parking are permitted, provided they meet dimensional standards.

4. *Consistency with State Law.* Where state law establishes fewer required off-street parking spaces than this Section, those rules shall govern.

H. *Inclusionary Housing.* All MHIP housing developments shall comply with the City's inclusionary housing requirements (BMC Chapter 23.328 or successor), including on-site affordable units and/or in-lieu fees, as applicable. For purposes of this section, "MHIP housing development" or "project" means the entire development approved under this Chapter, regardless of whether lots are subsequently sold, transferred, or developed separately.

1. **In-Lieu Fee Option.** For MHIP housing developments that elect to comply via payment of an in-lieu fee pursuant to BMC Section 23.328.030(B), the in-lieu fee shall be due and payable upon issuance of the first Certificate of Occupancy for any unit within the MHIP housing development, or earlier at the applicant's election. No additional Certificates of Occupancy shall be issued until the in-lieu fee is paid. The in-lieu fee may not be prorated across the units.

2. **On-Site Affordable Units Option.** For MHIP housing developments that elect to comply via the construction of affordable units:

(a) The required affordable units shall each be subject to a recorded affordability restriction consistent with BMC Chapter 23.328.

(b) Prior to recordation of the final map, the subdivider shall record a covenant, in a form approved by the City, binding all parcels created under this Chapter to the inclusionary housing obligations of the MHIP housing development until those obligations are satisfied.

(c) **Phased Development Timing**

(1) At least fifty percent (50%) of the required affordable units shall have received building permits prior to the issuance of building permits for more than fifty percent (50%) of the market-rate units.

(2) All required affordable units shall receive Certificates of Occupancy prior to the issuance of any Certificate of Occupancy for the final market-rate unit within the MHIP housing development.

I. *Sale or Financing Sequencing.* Parcels created under this Chapter may be sold, leased, or financed as permitted by Gov. Code Section 66499.41(e)(1). Notwithstanding Gov. Code Section 66499.41(e)(1), and pursuant to Gov. Code Section 66499.41(e)(2), the City authorizes the sale, lease, or financing of a parcel without a completed dwelling unit upon issuance of a building permit for at least one

dwelling unit on that parcel. This authorization shall be secured by a recorded covenant under Section 21.30.070(D).

- J. Ownership Forms. For SB 684 MHIPs, the resulting housing shall be constructed on fee-simple lots, or be part of a common-interest development, a housing cooperative, a community land trust, or a tenancy in common, consistent with Government Code Section 66499.41.

21.30.070 – Approval of SB 684 MHIPs and Recordation

- A. SB 684 MHIPs shall be approved ministerially by the Planning Director within sixty (60) days of a complete map application.
- B. Approval. Approval requires substantial conformance with the submitted project plans under Section 21.30.040(A)(2) and compliance with applicable objective standards and state law.
- C. Recordation. A final or parcel map shall be recorded prior to issuance of building permits, unless otherwise allowed by the Planning Director with a recorded covenant ensuring consistency between the approved map and subsequent permits. Submission of building permits or certificates of occupancy shall not be a prerequisite to map recordation.
- D. Covenants. A covenant shall be recorded against each lot created under this Chapter which prohibits further small-lot subdivision under Government Code Section 66499.41 (SB 684) and urban lot splits under Government Code Section 66411.7 (SB 9),
- E. CEQA. Pursuant to Government Code Section 66499.41, SB 684 MHIPs are ministerial actions not subject to the California Environmental Quality Act (CEQA).
- F. Application Denial. SB 684 MHIPs may be denied only upon written findings by the Planning Director that the proposed development would have a specific, adverse impact on public health and safety or the physical environment, and that no feasible method exists to satisfactorily mitigate or avoid the impact, consistent with Government Code Sections 65913.4.5, 66499.41, and 65852.28.

21.30.080 – Expiration

Tentative or parcel maps approved under this Chapter shall expire pursuant to applicable provisions of Berkeley Municipal Code Title 21 and relevant state law. The Planning Director may approve extensions consistent with such provisions.

21.30.090 – Enforcement

- A. The City Attorney is authorized to enforce this Chapter by injunction, civil action,

or any other remedy provided by law.

B. Any violation of this Chapter or conditions of approval shall constitute a violation of the Berkeley Municipal Code and may be enforced as provided in BMC Chapter 1.28.

C. Remedies are cumulative and not exclusive.

21.30.100 – Savings Clause

A. Each provision of this Chapter shall be applied only to the extent it is consistent with state law.

21.30.101 – Severability Clause

A. If any provision of this initiative is found to be invalid or unconstitutional, such finding shall not affect the validity or constitutionality of the remaining provisions.

Section 8. That BMC Section 23.202.030(E) be added to read as follows:

~~D.~~E. *Middle Housing Infill Projects.* Middle Housing Infill Projects, as defined in BMC Section 21.30.020(A) (Definitions), are permitted in any residential district where Multi-Family dwellings are an allowed use, subject to the underlying zoning standards, the standards in Section 23.304 (General Development Standards) and the subdivision procedures in Title 21.

Section 9. That BMC Section 23.204.030(F) be added to read as follows:

~~E.~~F. *Middle Housing Infill Projects.* Middle Housing Infill Projects that comply with the eligibility criteria of Government Code Section 66499.41 (SB 684 MHIPs), as defined in BMC Section 21.30.020(A) (Definitions), are permitted in any commercial district where Multi-Family dwellings are an allowed use, subject to the underlying zoning standards, the standards in Section 23.304 (General Development Standards) and the subdivision procedures in Title 21.

Section 10. That BMC Section 23.206.030(G) be added to read as follows:

~~F.~~G. *Middle Housing Infill Projects.* Middle Housing Infill Projects that comply with the eligibility criteria of Government Code Section 66499.41 (SB 684 MHIPs), as defined in BMC Section 21.30.020(A) (Definitions), are permitted in the Mixed-Use Residential (MU-R) zoning district, subject to the underlying zoning standards, the standards in Section 23.304 (General Development Standards) and the subdivision procedures in Title 21.

Section 11. That section 23.304.020(A)(5) be amended to read as follows:

5. Parent Parcel (Middle Housing Infill Projects) For purposes of a Middle Housing Infill Project, zoning development standards shall be applied to the parent parcel as a single lot at the time of subdivision approval. Following subdivision, each newly created lot shall be deemed a separate lot for purposes of ownership and subsequent development. Compliance with zoning development standards shall be determined based on the parent parcel at the time of subdivision approval, except that subsequently adopted regulations that are less restrictive shall apply.

~~56.~~ *Projections Over Lot Lines.* A building or structure may not project over a lot line except that:

- (a) Awnings and other architectural features may project over a lot line into the public right-of-way; and
- (b) Fences may be erected on shared lot lines.

Section 12. That BMC Section 23.304.090(A) be amended to read as follows:

A. *Applicability.* The standards in this section apply to areas used to satisfy minimum usable open space requirements.

1. Southside Plan Area Standards.

- (a) For parcels located in the R-3, R-S, R-SMU, or C-T districts within the Southside Plan boundaries, the minimum usable open space required is calculated on a per 1,000 square feet of gross residential floor area basis.
- (b) Certain development projects located in the R-3, R-S, R-SMU or C-T districts within the Southside Plan boundaries may satisfy a portion of the required usable open space by providing residential amenities that meet the qualifying criteria in Section 23.304,090(D) and (E).

2. Middle Housing Infill Project Standards.

- a. Middle Housing Infill Projects shall provide a minimum of 200 square feet of usable open space per unit, evaluated at the parent parcel level, which may be in private balconies, patios, or rooftop areas or shared courtyards, terraces, or rooftop assemblies designed for use by all residents.

Section 13. That BMC Section 23.304.160 be added to read as follows:

23.304.160 – Middle Housing Infill Project Standards

A. *Applicability.* This Section applies to all Middle Housing Infill Projects (MHIPs) approved pursuant to BMC Chapter 21, including SB 684 MHIPs and Parcel Map MHIPs.

B. *Standards.* A proposed MHIP housing development shall comply with all objective zoning, subdivision, and design review standards applicable to the parcel, as well as the Specific Standards included under subsection 23.304.160(D).

C. *Modifications.*

1. *SB 684 MHIPs.* The Planning Director shall waive or modify any objective standard if its application would physically preclude the construction of the minimum number of dwelling units required under Government Code Section 66499.41.

2. *Parcel Map MHIPs.* The Planning Director shall waive or modify any objective standard if its application would physically preclude the construction of the minimum residential density required by the underlying zoning district. If the zoning district does not establish a minimum residential density, the project shall meet or exceed sixty-six percent of a density of 30 dwelling units per acre.

D. *Specific Standards.*

1. *No separation is required between units, except as required by the California Building Code.*

2. *Rear and side yard setbacks from the original parent parcel lot line shall be four (4) feet, except that:*

a. *no setback is required for an existing legally created structure, or for a structure reconstructed in the same location and to the same dimensions as such legally created structure, and*

b. *where the applicable zoning district allows a rear or side yard setback less than four (4) feet, the smaller standard shall apply.*

3. *Average Unit Size.* For SB 684 MHIPs, the average net habitable floor area of dwelling units shall not exceed 1,750 square feet per unit. This limit shall not apply to Parcel Map MHIPs.

4. *For development on a vacant lot zoned single-family, the applicable height limit shall be no less than the maximum height otherwise permitted in the zoning district.*

Section 14. That BMC Section 23.502.020(M)(11) to (18) are amended to read as follows:

11. Middle Housing Infill Project. See 21.30.020(A) (Definitions)

~~4112~~. *Mini-storage*. A storage warehouse characterized by individual separate spaces, which are accessible by customers for storing and retrieval of goods.

~~4213~~. *Mixed Use*. The use of a lot or building with two or more different land uses including, but not limited to, residential, commercial retail, office or manufacturing, in a single structure or a group of physically integrated structures.

~~4314~~. *Mixed-Use Residential*. A development project with both residential and non-residential uses which are either 1) located together in a single building; or 2) in separate buildings on a single site of one or more contiguous properties.

~~4415~~. *Microcell*. A set of antenna nodes networked with each other and connected to a wireless service source, such that a one or more high-power antennas that serve a given area are replaced by a group of lower-power antennas to serve the same geographic area.

~~4516~~. *Monopole*. A single pole support structure greater than 15 feet in height erected on the ground or on a structure to support antennas and related communications equipment.

~~4617~~. *Motel, Tourist*. An establishment which provides overnight lodging and parking which contains six or more guest rooms used, designed or intended to be used, let or hired out for occupancy by six or more transient individuals for compensation, whether direct or indirect, and in which the rooms are usually accessible from an outdoor parking lot.

~~4718~~. *Multi-Family Dwelling*. A building, group of buildings, or portion of a building used or designed as three or more dwelling units.

~~4819~~. *Municipal Animal Shelter*. A City-owned facility providing services for humane animal care with programs and services focused on maximizing opportunities for animal adoption.

Supporting facilities may include medical care (including spay/neuter), kennels, exercise areas and adoption centers.

Section 15. 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.