



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: March 18, 2026

TO: Members of the Planning Commission

FROM: Justin Horner, Principal Planner

SUBJECT: Amendments to Title 23 for Consistency with State Law and Technical Edits (SLTE 2026)

RECOMMENDATION

Conduct a public hearing, receive public comment, and upon conclusion make a recommendation to City Council on proposed amendments to Title 23 (**Attachment 1**). The proposed changes apply to the sections of the Berkeley Municipal Code (BMC) listed below:

- Section 23.202.020 (Residential Districts – Allowed Land Uses)
- Section 23.202.050 (Residential Districts – R-1 Residential Multi-Unit 1 District)
- Section 23.202.080 (Residential Districts – R-2 Residential Multi-Unit 2 District)
- Section 23.202.090 (Residential Districts – R-2A Residential Multi-Unit 2A District)
- Section 23.206.030 (Manufacturing Districts – Additional Permit Requirements)
- Section 23.206.060 (Manufacturing Districts – M Manufacturing District)
- Section 23.206.070 (Manufacturing Districts – MM Mixed Manufacturing District)
- Section 23.206.080 (Manufacturing Districts – MU-LI Mixed Use-Light Industrial District)
- Section 23.206.090 (Manufacturing Districts – MU-R Mixed Use Residential District)
- Section 23.304.100 (General Development Standards – Site Features in Residential)
- Section 23.306.030 (Accessory Dwelling Units – Development Standards)
- Section 23.322.040 (Parking and Loading – General Requirements)
- Section 23.322.050 (Parking and Loading – Parking Reductions)
- Section 23.322.100 (Parking and Loading – On-site Loading Spaces)

- Section 23.326.070 (Demolition of Non-Residential Buildings)
- Section 23.330.030 (Density Bonus—Application Requirements)
- Section 23.330.080 (Density Bonus – Regulatory Agreements)
- Section 23.410.020 (Appeals and Certifications – Appeal Subjects and Jurisdiction)
- Section 23.502.020 (Glossary – Defined Terms)

SUMMARY

As part of regular and routine updates, staff have prepared non-substantive Zoning Ordinance amendments to maintain consistency and accuracy throughout the Zoning Ordinance.

CURRENT SITUATION AND ITS EFFECTS

The Zoning Ordinance is regularly reviewed for consistency with state laws related to land use and zoning. While some state laws may require more extensive amendments or require changes to the City's internal permitting procedures to be consistent, the proposed zoning amendments constitute only minor technical amendments to maintain consistency.

BACKGROUND

On October 12, 2021, the City Council passed Ordinance No. 7,787-N.S., which replaced Title 23 of the Berkeley Municipal Code and adopted a new Title 23 to make the City's Zoning Ordinance easier to understand and administer. The City Council gave staff direction to make minor changes to comply with state law or codify prior zoning interpretations. Staff was directed to regularly return to the Planning Commission and City Council with amendments necessary to maintain the integrity of the new Zoning Ordinance.

The proposed zoning amendments are part of the regular and routine maintenance of the Zoning Ordinance and include corrections and technical edits to ensure consistency throughout the Zoning Ordinance. (**Attachment 1**)

DISCUSSION

The proposed zoning amendments are technical, non-substantive changes intended to correct errors, clarify language, and codify existing practices. The following revisions are proposed:

Table 1 Policy Summary and Zoning Amendment Proposals

Ordinance Sections (Attachment 1)	BMC Section	Proposed Zoning Change
1	Table 23.202-2 (Allowed Land Uses-Residential Districts)	<ul style="list-style-type: none"> Change “Muli-Family” to “Multi-Unit.”
2 3 4	Table 23.202-5; Table 23.202-9; Table 23.202-11 (R-1, R-2 and R-2A Development Standards)	<ul style="list-style-type: none"> Correct unintended changes to Middle Housing standards for Maximum Residential Density and Maximum Height.
5 6	23.206.030(A) (Additional Permit Requirements – Manufacturing Districts)	<ul style="list-style-type: none"> Removes AUP requirement for new floor area for residential uses in the MU-R, per Middle Housing.
7 8 9 10	23.206.060 23.206.070 23.206.080 23.206.090 (Manufacturing Zoning Districts)	<ul style="list-style-type: none"> Correct inaccurate reference to Findings section
11	Table 23.206-14 (MU-R Development Standards)	<ul style="list-style-type: none"> Correct unintended changes to Middle Housing standards for Maximum Residential Density and Maximum Height.
12	23.206.090(B)(7) (MU-R Land Use Regulations)	<ul style="list-style-type: none"> Fix typo
13	23.304.100(D)(1) (Site Features in Residential Districts)	<ul style="list-style-type: none"> Change “Muli-Family” to “Multi-Unit.”
14	23.306.030(A)(2) (ADU Development Standards)	<ul style="list-style-type: none"> Change “Muli-Family” to “Multi-Unit.”
15	23.306.040 (ADU Permit Procedures)	<ul style="list-style-type: none"> State Law requirement: no short-term rental of JADUs. State Law requirement: owner-occupancy cannot be required if JADU and the single-family dwelling do not share sanitation facilities.
16	23.322.040(D)(2) (Parking and Loading – General Requirements)	<ul style="list-style-type: none"> Change “Muli-Family use” to “Multi-Unit Residential use.”
17	23.322.050(A)(6)(c) (Parking and Loading—Parking Reductions)	<ul style="list-style-type: none"> Change “Muli-Family” to “Multi-Unit.”
18	Table 23.322-12 (Off Street Loading)	<ul style="list-style-type: none"> Remove reference to R-1A zoning district, which was removed with Middle Housing.
19	23.326.070(C) (Demolitions of Non-Residential Buildings)	<ul style="list-style-type: none"> State law requirement: SB 330 vested projects are exempt from demolition review.
20	23.330.030(B) (Density Bonus – Application Requirements)	<ul style="list-style-type: none"> Case law: City cannot require documentation for waivers.

Ordinance Sections (Attachment 1)	BMC Section	Proposed Zoning Change
21	23.330.080 (Density Bonus – Regulatory Agreements)	<ul style="list-style-type: none"> • Clarify title to include “Density Bonus”
22	23.410.020 (Appeals and Certifications – Appeal Subjects and Jurisdictions)	<ul style="list-style-type: none"> • Text correction that Staff-Level Design Review should be appealed to DRC not ZAB
23 24 25 26	23.502.020 (Glossary – Defined Terms)	<ul style="list-style-type: none"> • Clarify that Vehicle Parts Sale is a retail use • Correct omission of Unenclosed Accessory Structure definition • Changing "Multi Family" to "Multi-Unit"

ENVIRONMENTAL REVIEW

The proposed ordinance corrects errors, clarifies language and codifies existing practice. The proposed Zoning Ordinance amendments do not include any allowances for additional development capacity or other new physical changes to the environment that are not already permitted and previously evaluated under CEQA. Adoption of the proposed amendments would in no way have a significant effect on the environment, and therefore is not subject to CEQA (CEQA Guidelines Section 15061(b)(3), Common Sense Exemption).

NEXT STEPS

Upon a recommendation from the Planning Commission, the City Council will conduct a public hearing on the proposed ordinance.

CONTACT PERSON

Justin Horner, Principal Planner, Planning and Development Department, 510-981-7476.

ATTACHMENTS

1. Draft Planning Commission Resolution
 Exhibit A. Zoning Ordinance Amendments
2. Public Hearing Notice

ATTACHMENT 1

**PLANNING COMMISSION
RESOLUTION NO. 2026-04**

**A RESOLUTION OF THE CITY OF BERKELEY PLANNING COMMISSION
RECOMMENDING THE CITY COUNCIL ADOPT PROPOSED AMENDMENTS TO PERMIT
THE CITY OF BERKELEY TO CORRECT ERRORS, CLARIFY LANGUAGE, AND CODIFY
EXISTING PRACTICE IN THE BERKELEY MUNICIPAL CODE.**

WHEREAS, Berkeley Municipal Code (BMC) Chapter 23.402.020 (Review and Decision-Making Authority) authorizes the Planning and Development Department to evaluate Zoning Ordinance Amendments; and

WHEREAS, the City Council adopted Ordinance No. 7,787-N.S, which replaced Title 23 of the Berkeley Municipal Code and adopted a new Title 23 to make the City's Zoning Ordinance easier to understand and administer; and

WHEREAS, the Planning Department regularly returns to the Planning Commission and City Council with amendments necessary to maintain the integrity of the new Zoning Ordinance

WHEREAS, on March 4, 2026, the Planning Commission held a public hearing and considered all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed request; and

WHEREAS, a public hearing notice was published in the Berkeley Voice and posted in three public places pursuant to California Government Code Section 65090 on February 11, 2026 for the public hearing held on March 4, 2026; and

WHEREAS, all documents constituting the record of this proceeding are and shall be retained by the City of Berkeley Planning and Development Department, Land Use Planning Division, at 1947 Center Street, Berkeley, California; and

WHEREAS, the proposed amendments would have no adverse effect on the environment, and are thereby exempt from CEQA under CEQA Guidelines Section 15061(b)(3).

NOW, THEREFORE, IT BE RESOLVED that the Planning Commission does hereby recommend to the City Council of the City of Berkeley to adopt the amendments to BMC Sections, 23.202.020 (Residential Districts – Allowed Land Uses), 23.202.030 (Residential Uses – Additional Permit Requirements), 23.202.050 (R-1 Single-Family Residential District), 23.202.080 (R-2 Restricted Two-Family Residential District), 23.202.090 (R-2A Restricted Multiple-Family Residential District), 23.206.090 (MU-R Mixed Use Residential District), 23.304.100 (General Development Standards), 23.306.030 (Accessory Dwelling Units), Section 23.322.040 (Parking and Loading – General Requirements), Section 23.322.050 (Parking and Loading – Parking Reductions), Section 23.322.100 (Parking and Loading – On-site Loading Spaces), Section 23.330.080 (Density Bonus – Regulatory Agreements), Section 23.410.020 (Appeals and Certifications – Appeal Subjects and Jurisdiction) and Section 23.502.020 (Glossary – Defined Terms) contained in Exhibit A, attached hereto and hereby incorporated by reference;

I HEREBY CERTIFY the foregoing resolution was passed and adopted by the Planning Commission of the City of Berkeley, at a regular meeting thereof, held on the 4th day of March 2026, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Justin Horner
SECRETARY TO THE PLANNING COMMISSION

EXHIBIT A
DRAFT

ORDINANCE NO. -N.S.

AMENDMENTS TO THE RESIDENTIAL DISTRICT CHAPTER (BMC 23.202),
 MANUFACTURING DISTRICT CHAPTER (BMC 23.206), GENERAL DEVELOPMENT
 STANDARDS CHAPTER (23.304), ACCESSORY DWELLING UNIT CHAPTER
 (23.306), PARKING AND LOADING CHAPTER (23.322), DENSITY BONUS CHAPTER
 (23.330), APPEALS AND CERTIFICATIONS CHAPTER (23.410), AND GLOSSARY
 CHAPTER (23.502) TO CONFORM TO STATE LAW, CORRECT ERRORS, CLARIFY
 LANGUAGE, AND CODIFY EXISTING PRACTICE

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

Section 1. That line “Multi-Family” within “Residential Uses” in Table 23.202-1
 Allowed Land Uses In Residential Districts within BMC Chapter 23. 202.020 is
 amended to read as follows:

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150(A) and 23.202.150(D).	RESIDENTIAL DISTRICTS										USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU**	
Residential Uses											
Multi-Family Residential Multi-Unit Residential	ZC	NP	ZC	ZC	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)

Section 2. That Table 23.202-2 R-1 Development Standards within BMC Chapter 23.202.050 is amended to read as follows:

Table 23.202-2: R-1 Development Standards

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area for New Lots, Minimum	5,000 sq. ft.	23.304.020 – Lot Requirements
Usable Open Space <u>per</u> 1,000 sq. ft. Residential Floor Area Minimum	150 sq. ft.	23.304.090 – Usable Open Space
Floor Area Ratio, Maximum	No Maximum	
Main Building Height		
New Buildings and Additions	35 ft. and 3 stories [1]	23.304.050 – Building Height
Within 15 ft. of Rear Property Line	22 ft.	
Residential Density (du/acre)		23.106.100 – Residential Density
Minimum	10	
Maximum	40 70	
Lot Line Setbacks, Minimum		23.304.030 -- Setbacks
Front [4]	5 ft. [2]	
Rear [4]	5 ft. [2]	
Interior Side	4 ft.	
Street Side	4 ft.	
Building Separation, Minimum	5 ft.	
Lot Coverage, Maximum	60%	23.304.120 – Lot Coverage
Notes:		
[1] A project that includes a pitched roof is permitted a 35-foot maximum eave height and a maximum roof height of 38 feet. A project with a 35-foot flat roof is permitted an additional 5 feet height allowance for a stair, elevator or other rooftop access feature. Such a feature shall not exceed 15% of the average floor area of all of the building's stories.		
[42] Front and rear setbacks must add up to at least 20 feet.		

Section 3. That Table 23.202-5 R-2 Development Standards within BMC Chapter 23.202.080 is amended to read as follows:

Table 23.202-5: R-2 Development Standards

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area for New Lots, Minimum	5,000 sq. ft.	23.304.020 – Lot Requirements
Usable Open Space per 1,000 sq. ft. Residential Floor Area Minimum	150 sq. ft.	23.304.090 – Usable Open Space
Floor Area Ratio, Maximum	No Maximum	
Main Building Height		23.304.050 – Building Height
New Buildings and Additions	35 ft. and 3 stories [1]	
Within 15 ft. of Rear Property Line	22 ft.	
Residential Density (du/acre)		23.106.100 – Residential Density
Minimum	10	
Maximum	50 70	
Lot Line Setbacks, Minimum		23.304.030- Setbacks
Front [4]	5 ft. [2]	
Rear [4]	5 ft. [2]	
Interior Side	4 ft.	
Street Side	4 ft.	
Building Separation, Minimum	5 ft.	
Lot Coverage, Maximum	60%	23.304.120—Lot Coverage
Notes:		
[1] A project that includes a pitched roof is permitted a 35-foot maximum eave height and a maximum roof height of 38 feet. A project with a 35-foot flat roof is permitted an additional 5 feet height allowance for a stair, elevator or other rooftop access feature. Such a feature shall not exceed 15% of the average floor area of all of the building's stories.		
[4] Front and rear setbacks must add up to at least 20 feet.		

Section 4. That Table 23.202-9 R-2A Development Standards within BMC Chapter 23.202.090 is amended to read as follows:

Table 23.202-9: R-2A Development Standards

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area for New Lots, Minimum	5,000 sq. ft.	23.304.020—Lot Requirements
Usable Open Space per 1,000 sq. ft. Residential Floor Area Minimum	150 sq. ft.	23.304.090-Usable Open Space
Floor Area Ratio, Maximum	No Maximum	
Main Building Height		
New Buildings and Additions	35 ft. and 3 stories [1]	23.304.050—Building Height
Within 15 ft. of Rear Property Line	22 ft.	
Residential Density (du/acre)		
Minimum	10	23.106.100 – Residential Density
Maximum	60 70	
Lot Line Setbacks, Minimum		
Front [4]	5 ft. [2]	23.304.030--Setbacks
Rear [4]	5 ft. [2]	
Interior Side	4 ft.	
Street Side	4 ft.	
Building Separation, Minimum	5 ft.	
Lot Coverage, Maximum	60%	23.304.120—Lot Coverage
Notes:		
[1] A project that includes a pitched roof is permitted a 35-foot maximum eave height and a maximum roof height of 38 feet. A project with a 35-foot flat roof is permitted an additional 5 feet height allowance for a stair, elevator or other rooftop access feature. Such a feature shall not exceed 15% of the average floor area of all of the building's stories.		
[42] Front and rear setbacks must add up to at least 20 feet.		

Section 5. That BMC Section 23.206.030(A) is amended to read as follows:

A. New Floor Area. A project that creates new floor area for any use requires additional permits as shown in Table 23.206-2. Creation of new floor area includes:

1. Construction of new main buildings or accessory buildings;
2. Additions to existing buildings; or
3. The installation of new floor or mezzanine levels within or onto existing buildings.

3.4. New floor area does not include floor area associated with residential uses in the MU-R zoning district.

Table 23.206-2. NEW FLOOR AREA PERMIT REQUIREMENTS

District/New Gross Floor Area	Permit Required for New Floor Area
M, MM	
Less than 20,000 sq. ft.	ZC
20,000 to less than 40,000 sq. ft.	AUP
40,000 sq. ft. or more	UP(PH)
M-RD	
Less than 60,000 sq. ft.	ZC
60,000 to less than 100,000 sq. ft.	AUP

District/New Gross Floor Area	Permit Required for New Floor Area
100,000 sq. ft. or more	UP(PH)
MU-LI	
Less than 10,000 sq. ft.	ZC
10,000 to less than 20,000 sq. ft.	AUP
20,000 sq. ft. or more	UP(PH)
MU-R	
Less than 5,000 sq. ft.	ZC
5,000 to less than 10,000 sq. ft.	AUP
10,000 sq. ft. or more	UP(PH)

Section 6. That BMC Section 23.206.030(C) is amended to read as follows:

C. Major Residential Additions.

1. Where Allowed/Required Permits.

~~(a) Major residential additions in the MU-R district require an AUP.~~

~~(b)(a)~~ Major residential additions are not permitted in MU-LI district.

~~(c)(b)~~ Major residential additions in the M and MM districts are subject to the requirement in Section 23.324 (Nonconforming Uses, Structures, and Buildings).

~~2. Findings. To deny an AUP for a major residential addition in the MU-R district, the review authority must find that:~~

~~(a) The proposed addition would unreasonably interfere with existing or reasonably foreseeable adjacent land uses in the M or MM district; or~~

~~(b) Existing or reasonably foreseeable adjacent land uses in the M and/or MM district would have a material adverse effect on the use of the proposed addition.~~

3.2. **Recorded Acknowledgement.** For a residential addition in the MU-R district, the residential property owner shall record an acknowledgement on the title that existing or reasonably foreseeable adjacent land uses in the M and/or MM District may create noise, dust, odors, light/glare, and other impacts that shall not be considered a nuisance if they are developed and conducted pursuant to the standards of the district.

Section 7. That BMC Section 23.206.060(E) be amended to read as follows:

E. Permit Findings. See Section 23.206.~~400~~110-Permit Findings

Section 8. That BMC Section 23.206.070(E) be amended to read as follows:

E. Permit Findings. See Section 23.206.~~400~~110-Permit Findings

Section 9. That BMC Section 23.206.080(F) be amended to read as follows:

F. Permit Findings. See Section 23.206.~~400~~110-Permit Findings

Section 10. That BMC Section 23.206.090(E) be amended to read as follows:

E. Permit Findings. See Section 23.206.~~400~~110-Permit Findings

Section 11. That Table 23.206-14 MU-R Development Standards within BMC Chapter 23.206.090 is amended to read as follows

Table 23.206-14: MU-R Development Standards

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		23.304.020 – Lot Requirements
New Lot	No minimum	

Per Live/Work Unit	1,250 sq. ft.	
Lot Width, Minimum	40 ft.	
Usable Open Space, Minimum		23.304.090 – Usable Open Space
Per 1,000 sq. ft. of gross residential floor area	150 sq. ft.	
Per Live/Work Unit	40 sq. ft.	
Floor Area Ratio, Maximum, Non-Residential	1.5 [1]	23.106.050 - Floor Area Ratio
Residential Density (DU/acre)		23.106.100 – Residential Density
Minimum	20	
Maximum	60 70	
Main Building Height, Maximum		23.304.050 - Building Height
Live/work	28 ft. and 3 stories [2]	
Residential or mixed-use [3]	35 ft. or 3 stories [4]	
Within 15 ft. of rear property line	22 ft.	
All other uses	35 ft. and 2 stories [45]	
Lot Line Setbacks, Minimum		23.304.030 – Setbacks
Front	5 ft.	
Rear	No minimum [56]	
Interior Side	No minimum	
Street Side	5 ft.	
Building Separation, Minimum	5 ft.	
Lot Coverage, Maximum	No maximum.	

Notes:

[1] Maximum 1.5 for buildings with 50 percent or more live/work floor area

[2] Maximum 35 ft. with a Use Permit.

[3] Mixed use is defined here as a building with 50 percent or more of gross floor area used for residential (including live/work) purposes.

[4] A project that includes a pitched roof is permitted a 35-foot maximum eave height and a maximum roof height of 38 feet. A project with a 35-foot flat roof is permitted an additional 5 feet height allowance for a stair, elevator or other rooftop access feature. Such a feature shall not exceed 15% of the average floor area of all of the building's stories.

[45] Maximum 3 stories for arts/craft studios and light manufacturing (with no other non-residential uses) on a block without dwelling units.

[56] Minimum 5 ft. if rear of lot abuts a street.

Section 12. That BMC Section 23.206.090(B)(7) is amended to read as follows:

7. *Mixed-Use Residential.* To approve an AUP or Use Permit to establish or expand ~~of~~ a mixed-use residential building in the MU-R district, the review authority must find that the specific combination of proposed residential and non-residential uses will not be hazardous or detrimental to persons living and/or working on the site or within the project vicinity.

Section 13. That BMC Section 23.304.100(D)(1) is amended to read as follows:

1. All ~~multi-family~~multi-unit dwellings shall have an unobstructed walkway for pedestrian access from the public right-of-way to the building.

Section 14. That BMC Section 23.306.030(A)(2) is amended to read as follows:

2. Duplex or ~~Multi-Family~~ Multi-Unit Dwelling Conversion. Interior ADU(s) must be created entirely through non-habitable residential portions of an existing main building that are not within the living space of a dwelling unit (e.g. basement, attic, garages, storage room).

Section 15. That BMC Section 23.306.040(C)(4) is amended to read as follows:

1. The Junior ADU shall not be sold separately from the main building;
2. The ADU shall not be sold separately from the main building unless the conditions of BMC 23.306.040(D) ADUs Developed by a Qualified Nonprofit Developer are met;
3. The ADU and/or Junior ADU shall not be rented for a term that is shorter than 30 days; and
4. If the property includes a Junior ADU, the Junior ADU or the Single Family Dwelling in which the Junior ADU is located shall be owner-occupied. Owner-occupancy shall not be required if the JADU and the Single Family Dwelling do not share sanitation facilities, or ~~Owner-occupancy shall not be required~~ if the owner is another governmental agency, land trust, or housing organization.

Section 16. That BMC Section 23.322.040(D)(2) is amended to read as follows:

2. **Offices in R-4 and R-5 Districts.** The ZAB may approve a Use Permit to allow offices in the R-4 or R-5 district to share parking spaces with a multi-unit residential use multi-family use. To approve the Use Permit, the ZAB must find that:
 - (a) No more than 20 percent of the off-street parking spaces required for the multiple dwelling use will serve as required off-street parking for offices; and
 - (b) The shared off-street parking spaces are located on the same lot as the offices that they serve or are on property under the same ownership within 300 feet from the offices.

Section 17. That BMC Section 23.322.050(A)(6)(c) is amended to read as follows:

- (c) Eligible Uses: Any commercial use portion of a mixed-use building which combines retail products stores and/or personal household services and multi-unitfamily residential uses within the same building or located on the same lot (or contiguous lots as part of the same project).

Section 18. That line "R-1, R-1A, R-2" in Table 23.322-12 Land Uses Requiring Off-Street Loading Spaces within BMC Chapter 23.322.100 is amended to read as follows

District	Land Use [1]
R-1, R-1A , R-2	Schools 10,000 sq. ft. or more

Section 19. That BMC Section 23.326.070(C) is amended to read:

C. *Landmarks Preservation Commission Review.*

1. Any application for a Use Permit or AUP to demolish a non-residential building or structure that is 40 or more years old shall be forwarded to the Landmarks Preservation Commission (LPC) for review before consideration of the Use Permit or AUP.

[a. Exception. Projects that are vested pursuant to SB 330 shall be exempt from demolition review.](#)

Section 20. That BMC Section 23.330.030(B) is deleted:

B. *Documentation Supporting Requests.* The City may request reasonable documentation from the applicant to support requested ~~waivers/reductions and~~ incentives/concessions.

Section 21. That title “Regulatory Agreements” for BMC Section 23.330.080 is amended to read as follows:

23.330.080 Regulatory Agreements (~~Density Bonus~~)

Section 22. That line “Staff-level Design Review” in Table 23.410-2 Appeal Subjects and Review Authority within BMC Chapter 23.410.020 is amended to read as follows

Table 23.410-1: Appeal Subjects and Review Authority

ACTION	ORDINANCE SECTION	MAY BE APPEALED BY	IS APPEALED TO	MUST BE FILED WITHIN
Staff-level Design Review	23.406.070	Any person	DRCZAB	14 days of posting the Notice of Design Review

Section 23. That BMC Section 23.502.020(A) be amended to read as follows:

4. *Accessory Dwelling Unit*. An attached or detached secondary dwelling unit that is located on the same lot as a proposed or existing single family dwelling, duplex, multi-family unit dwelling use, or group living accommodation and provides independent living facilities for one or more persons. An ADU must comply with local building, housing, safety and other code requirements, except as expressly modified in Chapter 23.306, and provide the following features independent of other dwelling units on the lot: Exterior or independent access to the ADU, living and sleeping quarters, a full kitchen, and a full bathroom. An ADU also includes the following: (a) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, or (b) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(a) *Junior Accessory Dwelling Unit (Junior ADU)*. A unit that is contained entirely within the walls of an existing or proposed single family dwelling, or a single family dwelling unit's attached garage. A Junior ADU must include a separate exterior entrance and, at minimum, an efficiency kitchen. A Junior ADU may include separate sanitation facilities or may share sanitary facilities with a single family dwelling.

Section 24. That BMC Section 23.502.020(M)(17) is amended to read as follows:

17. *Multi-Family Unit Dwelling*. A building, group of buildings, or portion of a building used or designed as two or more dwelling units.

Section 25. That BMC Section 23.502.020(R)(15) is amended to read as follows

15. **Retail, General**. A retail establishment engaged in the sales of personal, consumer, or household items to the customers who will use such items. This use includes antique stores, art galleries, arts and crafts supply stores, bicycle shops, building materials and garden supplies stores, clothing stores, computer stores, cosmetic/personal care items, department stores, drug paraphernalia stores, drug stores, fabric, textile and sewing supply shops, flower and plant stores, food product stores, furniture stores, garden supply stores, nurseries, gift/novelty shops, household hardware and housewares stores, household electronics/electrical stores, jewelry/watch shops, linen shops includes bedding, musical instruments and materials stores, office supply stores, paint stores, photography equipment supply stores, secondhand stores, sporting goods stores, stationery, cards and paper goods stores toy stores, ~~and~~ variety stores ~~and~~ vehicle parts stores. This use excludes video rental stores, service of vehicle parts, and firearm/munition sales.

Section 26. That BMC Section 23.502.020(S)(31) is amended to read as follows

31. **Structure.** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. A building is a structure for the purposes of this chapter.

a. **Accessory Structure.** A detached structure, other than an accessory building, in which non-habitable uses or activities other than the principal use of the property are conducted. Residential accessory structures include, but are not limited to, enclosed structures such as garages, carports, garden or tool sheds, and non-enclosed structures such as, but not limited to, fences, gazebos, ground-mounted satellite dishes, skateboard ramps and wheelchair ramps. Non-residential accessory structures include, but are not limited to, storage buildings, garages, sheds and other outbuildings.

b. **Subterranean Structure.** A roofed structure constructed underground, with no building stories aboveground, of which the roof does not exceed 3 feet above the pre-existing grade. Such structures are either separated from a building or connected to a building only by a passageway or hallway with no openings to finished grade except for a doorway.

c. **Temporary Structure.** A tent, tent-house, trailer, mobile office, mobile home or other movable structure or other temporary structure whose construction does not require a building permit.

e.d. **Unenclosed Accessory Structure.** An accessory structure that does not have a roof, and/or does not have walls on more than two sides. Unenclosed accessory structures include, but are not limited to, pergolas, trellises, shade structures, arbors, retaining walls, solar energy equipment, ground or pole-mounted satellite dishes, play structures, skateboard ramps, tree houses and windmills.

Section 27. 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.



PLANNING COMMISSION

Notice of Public Hearing

Wednesday, March 18, 2026

Adoption of Zoning Ordinance Amendments to Title 23 of the Berkeley Municipal Code to Conform to State Law including Technical Edits

The Planning Commission of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23.412.040, on **Wednesday, March 18, 2026, beginning at 6:30 pm**. All materials will be made available via the Planning Commission agenda page online at <https://berkeleyca.gov/your-government/boards-commissions/planning-commission> Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.

PROJECT DESCRIPTION

The proposed amendments to the City's Zoning Ordinance (Title 23) align the Berkeley Municipal Code (BMC) with state law and consist of technical edits and corrections and do not include any substantive policy changes. The proposed changes apply to the sections of the Berkeley Municipal Code listed below:

- Section 23.202.020 (Residential Districts – Allowed Land Uses)
- Section 23.202.050 (Residential Districts – R-1 Residential Multi-Unit 1 District)
- Section 23.202.080 (Residential Districts – R-2 Residential Multi-Unit 2 District)
- Section 23.202.090 (Residential Districts – R-2A Residential Multi-Unit 2A District)
- Section 23.206.030 (Manufacturing Districts – Additional Permit Requirements)
- Section 23.206.060 (Manufacturing Districts – M Manufacturing District)
- Section 23.206.070 (Manufacturing Districts – MM Mixed Manufacturing District)
- Section 23.206.080 (Manufacturing Districts – MU-LI Mixed Use-Light Industrial District)
- Section 23.206.090 (Manufacturing Districts – MU-R Mixed Use Residential District)
- Section 23.304.100 (General Development Standards – Site Features in Residential)
- Section 23.306.030 (Accessory Dwelling Units – Development Standards)
- Section 23.322.040 (Parking and Loading – General Requirements)
- Section 23.322.050 (Parking and Loading – Parking Reductions)
- Section 23.322.100 (Parking and Loading – On-site Loading Spaces)
- Section 23.326.070 (Demolition of Non-Residential Buildings)
- Section 23.330.030 (Density Bonus—Application Requirements)
- Section 23.330.080 (Density Bonus – Regulatory Agreements)
- Section 23.410.020 (Appeals and Certifications – Appeal Subjects and Jurisdiction)
- Section 23.502.020 (Glossary – Defined Terms)

LOCATION: Citywide

ENVIRONMENTAL REVIEW STATUS

The proposed amendments are exempt from CEQA pursuant to CEQA Guidelines 14 Cal. Code. Regs Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the amendments may have a significant effect on the environment.

PUBLIC COMMENT & FURTHER INFORMATION

All persons are welcome to attend the hearing and will be given an opportunity to address the Commission. Comments may be made verbally at the public hearing and/or in writing before the hearing. Written comments must be directed to:

Faye Messner
Planning Commission Clerk
Email: PlanningPC@berkeleyca.gov

City of Berkeley, Land Use Planning Division
1947 Center Street, 2nd Floor
Berkeley, CA 94704

Correspondence received by **12pm on Tuesday, March 10, 2026**, will be included as a Communication in the agenda packet. Correspondence received after this deadline will be conveyed to the Commission and the public in the following manner:

- Correspondence received by **12pm on Monday, March 16, 2026**, will be included in a Supplemental Packet, which will be posted to the online agenda as a Late Communication one day before the public hearing.
- Correspondence received by **5pm on Tuesday, March 17, 2026**, will be included in a second Supplemental Packet, which will be posted to the online agenda as a Late Communication by 5pm on the day of the public hearing.
- Correspondence received **after 5pm on Tuesday, March 17, 2026**, will be saved as part of the public record.

Members of the public may submit written comments just before or at the beginning of the meeting by providing 15 printed copies of the correspondence to the Planning Commission Secretary.

COMMUNICATION ACCESS

To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice) or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability. All materials will be made available via the Planning Commission agenda page online at <https://berkeleyca.gov/your-government/boards-commissions/planning-commission>

FURTHER INFORMATION

Questions should be directed to Justin Horner, at (510) 981-7476 or jhorner@berkeleyca.gov. Current and past agendas are available on the City of Berkeley website at: <https://berkeleyca.gov/your-government/boards-commissions/planning-commission>.