

ORDINANCE NO. 8,005-N.S.

AMENDMENTS TO BMC TITLE 3.24 (LANDMARKS PRESERVATION COMMISSION)  
TO IMPROVE PROCEDURES FOR DESIGNATING LANDMARKS, HISTORIC  
DISTRICTS AND STRUCTURES OF MERIT AND INCORPORATE TECHNICAL EDITS

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

Section 1. That section 3.24.030 be amended to read as follows:

A. The commission shall consist of nine members. Appointments to the commission shall be made by councilmembers and vacancies on the commission shall be filled by councilmembers in accordance with the provisions of Sections 2.04.030 through 2.04.120, enacted as Ordinance 4780-N.S. by the voters of the City.

B. The Director of Planning and Development, or their representative, shall serve as secretary of the commission, without vote. The Planning and Development Department shall provide staff assistance to the commission.

C. The commission shall elect annually a chairperson from among its members, and shall establish rules and regulations for its own organization and procedure.

Section 2. That section 3.24.050(A) be amended to read as follows:

The commission shall:

A. After June 6, 1974, undertake to establish and maintain a list of structures, sites and areas having a special historical, architectural or aesthetic interest or value. This list may include single structures or sites, portions of structures, groups of structures, human-made or natural landscape elements, works of art, or integrated combinations thereof. After public hearings, the commission may designate landmarks and historic districts from the list. In the establishment of the foregoing list, the commission shall notify and solicit the views of property owners and residents of structures, sites and areas proposed by the commission to be included in such a list.

Section 3. That section 3.24.060 be amended to read as follows:

The commission may:

A. Designate, after public hearings, structures, sites and areas including single structures or sites, portions of structures, groups of structures, human-made or natural landscape elements, works of art, or integrated combinations thereof, having a special character, or special historical, architectural, or aesthetic interest or value, as:

1. A landmark site for each site, area, structure, element, work of art, or;
2. An historic district constituting a specific designated section of the City;

B. Identify a structure of merit including structures, sites and areas, including single structures or sites, portions of structures, groups of structures, man-made or natural landscape elements, works of art, or integrated combinations thereof, having a special character, or special historical, architectural or aesthetic interest or value;

C. Review and decide on permit applications for construction, alteration and demolition on landmark sites, in historic districts and on structure of merit sites and on initiated landmark sites, initiated historic districts and initiated structure of merit sites, as more fully set forth in Sections 3.24.220 through 3.24.250 and 3.24.350A below;

D. Take steps to encourage or bring about preservation of structures, sites and areas where the commission has decided to suspend action on a permit application, as more fully set forth in Sections 3.24.220 through 3.24.250 below.

Section 4. That section 3.24.080 be amended to read as follows:

The Director of Planning and Development, prior to completion of the initial list of structures, sites and areas, shall have the authority to recommend to the City Council suspension of permit application for a maximum of one hundred eighty days, if in the judgment of the Director of Planning and Development, an emergency is deemed to exist and a structure, site or area appropriate for landmark status is threatened with imminent destruction or substantial alteration.

Section 5. That section 3.24.100 be amended to read as follows:

A. Each designation of a landmark, historic districts or structure of merit by the commission shall include:

1. A description of the characteristics which justify its designation;
2. A description of the particular features that should be preserved;

3. The location and boundaries of the landmark site, historic district or structure of merit site.

B. The property included in any such designation shall upon designation be subject to the controls and standards set forth in this chapter and the following controls and standards if imposed by the designation:

1. For a publicly owned landmark or structure of merit, review of proposed changes in major interior architectural features;
2. For an historic district, such further controls and standards as the commission deems necessary or desirable, including but not limited to facade, setback, height controls, signs and public improvements.

The commission may, upon receipt of any significant new information, reconsider after two years any structure of merit and designate it as a landmark, subject to all the procedures set forth in this section for an original landmark designation.

Section 6. BMC Section 3.24.110(A) be amended to read as follows:

A. Landmarks and historic districts. General criteria which the commission shall use when considering structures, sites and areas for landmark or historic district designation are as follows:

1. Architectural merit:

- (a) Property that is the first, last, only or most significant architectural property of its type in the region;
- (b) Properties that are prototypes of or outstanding examples of periods, styles, architectural movements or construction, or examples of the more notable works of the best surviving work in a region of an architect, designer or master builder;  
or
- (c) Architectural examples worth preserving for the exceptional values they add as part of the neighborhood fabric.

2. Cultural value: Structures, sites and areas associated with the movement or evolution of religious, cultural, governmental, social and economic developments of the City;

3. Educational value: Structures worth preserving for their usefulness as an educational force;
4. Historic value: Preservation and enhancement of structures, sites and areas that embody and express the history of Berkeley/Alameda County/California/United States. History may be social, cultural, economic, political, religious or military;
5. Any property which is listed on the National Register described in Section 470A of Title 16 of the United States Code.

Section 7. BMC Chapter 3.24.120 be amended to read as follows:

A. Initiation of designation shall be made by the following:

1. The Landmarks Preservation Commission;
2. A resolution of intention of the City Council;
3. The Planning Commission;
4. The Civic Arts Commission;
5. The verified application of the owners of the property to be designated or their authorized agents;
6. The verified application of at least 200 residents of the City.

B. Any such application shall be filed with the commission upon forms prescribed by the City and shall be accompanied by all data required by the commission.

C. Exception. Any such designation shall not be processed for five (5) years following the receipt of a Preliminary Development application under SB330 (the Housing Crisis Act of 2019) by the City of Berkeley, unless initiated by the property owner.

1. This 5-year exception period is established at the time of the Preliminary Development application submittal pursuant to SB 330 (the Housing Crisis Act of 2019) and may only be applied once for any property. Any subsequent Preliminary Development application submitted pursuant to SB 330 shall be subject to limitations on landmarking in SB 330.

2. Following the submittal of a formal zoning application, any landmarking designation request shall not be processed for as long as the application is active or as long as the resulting permits and entitlements are valid, whichever is longer, pursuant to SB330.

D. Historic Districts. Where such application is submitted for designation of an historic district, the application must be subscribed by or on behalf of a majority of the property owners or residents of the proposed district.

Section 8. That BMC Section 3.24.140(A) be amended to read as follows:

A. Notice of the public hearing shall be given by posting thereof on or adjacent to the property involved not less than 14 days prior to the date of the hearing.

Section 9. That BMC Section 3.24.150 be amended to read as follows:

The commission shall approve, disapprove or modify the proposal within one hundred eighty (180) days after the conclusion of the public hearing; failure to act within said time shall constitute disapproval.

Section 10. That BMC Section 3.24.160 be amended to read as follows:

A. A Notice of Decision shall be issued when the LPC:

1. Approves, modifies, or denies a Landmark Designation; or
2. Takes action on an appealed decision.

B. The Notice of Decision shall be issued before the LPC's next regular meeting and shall describe the LPC's action.

C. The Notice of Decision shall be posted in the lobby of the Permit Service Center and shall be mailed to:

1. The applicant;
2. The appellant, if applicable;
3. Any person who has filed a written request for notice; and
4. The City of Berkeley Central Library.

D. The Notice of Decision shall be filed with the City Clerk and provided to the LPC. The City Clerk shall make the notice available to interested members of the City Council and the public.

Section 11. That section 3.24.180 be amended to read as follows:

A. When a landmark, historic district or structure of merit has been designated by the commission as provided above, in addition to the notification required in Section 3.24.160 above, the commission shall cause a copy of the designation, or notice thereof, to be recorded in the Office of the County Recorder.

B. When a building or structure that has been designated a landmark or structure of merit has been legally demolished as permitted by this Code, its designation shall automatically be terminated if:

1. The designation was based on the characteristics of that building or structure, and not on any findings related to the site or parcel where the building or structure was located; and
2. All features to be preserved as specified pursuant to Section 3.24.100 have been eliminated as a result of the demolition.

In such cases, the City shall promptly record a notice in the Office of the County Recorder that the designation has been terminated.

Section 12. That BMC Section 3.24.190 be amended to read as follows:

**3.24.190 City Council certification required.**

Notwithstanding any of the provisions of this chapter, the City Council may certify any action of the commission in granting or denying an application for designation as a landmark or an historic district within ninety (90) days from the mailing of the Notice of the Decision of the commission. Such certification by the City Council shall stay all proceedings in the same manner as the filing of a notice of appeal.

Section 13. That BMC Section 3.24.210 be amended to read as follows:

**3.24.210 Review of permit applications.**

A. The commission shall maintain with the Department of Planning and Development and the department's zoning and codes and inspection division a current record of designated landmarks, historic districts and structures of merit, as well as a record of

those having been initiated and undergoing consideration. Upon receipt of any application for a permit to carry out any construction, alteration or demolition on a landmark site, in an historic district or on a structure of merit site, or on an initiated landmark site, in an initiated historic district or on an initiated structure of merit site, the Department of Planning and Development shall, unless the structure or feature concerned has been declared unsafe or dangerous pursuant to Section 3.24.280 of this chapter, promptly forward such permit application to the commission for review.

B. The City Council shall set by resolution the fees for Landmarks Preservation Commission review of any application for a permit to carry out any construction, alteration or demolition on an initiated or designated landmark site, structure of merit, or historic district.

Applicants who are qualified non-profits and other applicants with projects valued at less than three hundred fifty thousand dollars may apply to the City Manager for a fee waiver if it can be demonstrated that the payment of the fee would pose a hardship.

Section 14. That the titles of BMC Sections 3.24.220, 3.24.230, 3.24.240, 3.24.250, 3.24.260 and 3.24.270 be amended to read as follows:

- 3.24.220      Alteration Permit application--Data and public hearing required--  
Exceptions.**
- 3.24.230      Alteration Permit application--Public hearing notice requirements.**
- 3.24.240      Alteration Permit application--Decision--Procedure and time  
limitations--Notification required.**
- 3.24.250      Alteration Permit application--Effect of suspended action.**
- 3.24.260      Alteration Permit application--Review standards and criteria.**
- 3.24.270      Alteration Permit application--Finding of hardship authorized when--  
Effect.**

Section 15. That BMC Section 3.24.280 be amended to read as follows:

None of the provisions of this chapter shall be construed to prevent any measures of

construction, alteration or demolition necessary to correct or abate the unsafe or dangerous condition of any structure, other feature, or part thereof, which such condition has been declared unsafe or dangerous by the Planning and Development Department or the Fire Department, and where the proposed measures have been declared necessary, by such department or departments, to correct the said condition; provided, however, that only such work as is reasonably necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event any structure or other feature is damaged by fire or other calamity or by act of God, or by the public enemy to such an extent that in the opinion of the aforesaid department or departments it cannot reasonably be repaired or restored, it may be removed in conformity with normal permit procedures and applicable laws.

Section 16. That BMC Section 3.24.300 (A) be amended to read as follows:

A. An appeal may be taken to the City Council by the following:

1. A motion of the City Council;
2. A motion of the Planning Commission;
3. A motion of the Civic Art Commission;
4. The verified application of the owners of the property or their authorized agents;
5. The verified application of at least 200 residents of the City aggrieved; or
6. Any determination of the commission made under the provisions of this chapter.

Section 17. That BMC Section 3.24.300 (B)-(H) be amended to read as follows:

B. General. Appeals shall be filed and processed consistent with Chapter 23.404 (Common Permit Requirements) except as otherwise specified in this chapter.

1. Timing of Appeal: An appeal must be filed within fourteen (14) days of mailing the Notice of Decision.

C. Appeal Fees.

1. Appeal fees shall be paid by the person filing the appeal (the appellant) except as provided in Paragraph 2 below.

2. The City shall not charge a fee for appeals of projects denied due to conflicting decisions of the Zoning Adjustments Board (ZAB) and Landmarks Preservation Commission as described in Sections 3.24.200 through 3.24.240.

D. The filing of a notice of appeal within the time and in the manner specified in subdivision A above shall stay all proceedings by all parties in connection with the matter upon which the appeal is taken until the determination of the appeal, as provided herein.

E. Before the hearing, department staff shall prepare a staff report describing the appeal with relevant supporting materials.

F. Each hearing shall be open to the public, which shall be given the opportunity to present their views and to be heard in accordance with established procedures.

G. After opening the public hearing on the appeal, the Council may take one of the following actions:

1. Continue the public hearing;
2. Based on the record of the Council's consideration and hearing, reverse or affirm, wholly or partly, or modify any decision, determination, condition or requirement of the Commission's original action; or
3. Remand the matter to the Commission to reconsider the application, or any revisions thereto submitted after the Commission's action, in which case the Council shall specify which issues the Commission is directed to reconsider.

H. Except in the case of a remand to the Commission, when reviewing any decision of the Commission on appeal, the Council shall use the same standards for decision making and is required to make the same findings as the Commission with respect to the matter on appeal. The Council may adopt the Commission's decision and findings as its own. In either case, the City Clerk shall prepare a resolution stating the Council's decision.

If the disposition of the appeal has not been determined within 30 days from the date the public hearing was closed by the Council, then the decision of the Commission shall be deemed affirmed and the appeal deemed denied.

I. The City Clerk shall promptly notify in writing the appellant, owners or authorized agents of affected property, and residents of such property of the action taken.

J. Payment of fees for an appeal from the decision of the Landmarks Preservation Commission shall be set by resolution of the City Council. (Ord. 7461-NS § 1, 2016: Ord. 6243-NS § 1, 1994: Ord. 5620-NS § 1, 1984: Ord. 4694-NS § 9, 1974)

Section 18. That BMC Section 3.24.340 be amended to read as follows:

Before accepting for filing any application hereinafter mentioned, the commission shall charge and collect the fees herein specified:

A. An application shall be accompanied by all required fees listed in the current Fee Schedule approved by the City Council.

B. There shall be no fee for each application for designation of a landmark, an historic district or a structure of merit, if such application is initiated by the commission, resolution of intention of the City Council, the Planning Commission, or by the Civic Arts Commission. (Ord. 5686-NS § 1 (part), 1985: Ord. 4694-NS § 13, 1974)

Section 19. 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 April 14, 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, and Ishii.

Noes: None.

Abstain: Tregub.

Absent: None.