14

PUBLIC HEARING
April 28, 2026

To: Honorable Mayor and Members of the Planning Commission

From: Paul Buddenhagen, City Manager

Submitted by: Jordan Klein, Director, Planning and Development Department

Subject: Amendments to Berkeley Municipal Code Title 23 (Zoning) for Consistency with State Law and Technical Edits (SLTE 2026)

RECOMMENDATION

Conduct a public hearing, and upon conclusion adopt the first reading of an Ordinance amending Berkeley Municipal Code (BMC) Title 23 (***Attachment 1***). The proposed changes apply to the sections of the 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 23.306.040 (Accessory Dwelling Units – Permit Procedures)
- 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.

FISCAL IMPACTS OF RECOMMENDATION

The proposed ordinance is expected to be cost-neutral, as it only consists of non-substantive technical edits to the BMC.

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 procedures to be consistent, the zoning amendments proposed here constitute only minor technical amendments to maintain consistency.

BACKGROUND

On October 12, 2021, the City Council passed Ordinance No. 7,787-N.S., which 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.

These 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.

At a Special Meeting on March 18, 2026, the Planning Commission unanimously recommended adoption of the proposed amendments (M/S: Kahn/Vincent; Aye: Marthinsen, Hauser, Vincent, Twu, Owens, Wang, Kahn, Oatfield and Merker. No: None. Abstain: None.).

The proposed zoning amendments are technical, non-substantive changes intended to correct errors, clarify language, reflect new State law requirements 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 23.202-1 (Allowed Land Uses-Residential Districts)	• Change “Multi-Family” to “Multi-Unit.”
2 3 4	Table 23.202-2; Table 23.202-5, Table 23.202-9 (R-1, R-2 and R-2A Development Standards)	• 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)	• 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)	• Correct inaccurate reference to Findings section
11	Table 23.206-14 (MU-R Development Standards)	• 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)	• Fix typo
13	23.304.100(D)(1) (Site Features in Residential Districts)	• Change “Multi-Family” to “Multi-Unit.”
14	23.306.030(A)(2) (ADU Development Standards)	• Change “Multi-Family” to “Multi-Unit.”
15	23.306.040 ADU Permit Procedures)	• 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)	• Change “Multi-Family use” to “Multi-Unit Residential use.”
17	23.322.050(A)(6)(c) (Parking and Loading—Parking Reductions)	• Change “Multi-Family” to “Multi-Unit.”
18	Table 23.322-12 (Off Street Loading)	• Remove reference to R-1A zoning district, which was removed with Middle Housing.

Ordinance Sections (Attachment 1)	BMC Section	Proposed Zoning Change
19	23.326.070(C) (Demolitions of Non-Residential Buildings)	• State law requirement: SB 330 vested projects are exempt from demolition review.
20	23.330.030(B) (Density Bonus – Application Requirements)	• Case law: City cannot require documentation for waivers.
21	23.330.080 (Density Bonus – Regulatory Agreements)	• Clarify title to include “Density Bonus”
22	23.410.020 (Appeals and Certifications – Appeal Subjects and Jurisdictions)	• Text correction that Staff-Level Design Review should be appealed to DRC not ZAB
23 24 25 26	23.502.020 (Glossary – Defined Terms)	• 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).

RATIONALE FOR RECOMMENDATION

The proposed Zoning Ordinance amendments are required to ensure compliance with all applicable state laws and are necessary to maintain the integrity of the Zoning Ordinance and related BMC Chapters.

ALTERNATIVE ACTIONS CONSIDERED

The Council could consider taking no action regarding the recommendations proposed by staff. In this scenario, Title 23 would remain unchanged, leaving the BMC inconsistent or outdated. This could lead to uncertainty or potentially lead to challenges in enforcement.

CONTACT PERSON

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

ATTACHMENTS

1. Ordinance
2. Public Hearing Notice

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 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	~~40~~70	
Lot Line Setbacks, Minimum		23.304.030 -- Setbacks
Front ~~[1]~~	5 ft. [2]	
Rear ~~[1]~~	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.
[~~1~~2] 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 ~~[1]~~	5 ft. [2]	
Rear ~~[1]~~	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.
[~~1~~2] 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		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	~~60~~70	
Lot Line Setbacks, Minimum		23.304.030--Setbacks
Front ~~[1]~~	5 ft. [2]	
Rear ~~[1]~~	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.
[~~1~~2] 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.~~100~~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.~~100~~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.~~100~~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.~~100~~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 [~~4~~5]	
Lot Line Setbacks, Minimum		23.304.030 – Setbacks
Front	5 ft.	
Rear	No minimum [~~5~~6]	
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.
[~~4~~5] Maximum 3 stories for arts/craft studios and light manufacturing (with no other non-residential uses) on a block without dwelling units.
[~~5~~6] 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-unit~~family~~ 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	DRC~~ZAB~~	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.

    ~~c.~~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.

Attachment 2

NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL
AMENDMENTS TO BMC TITLE 23 ZONING

The public may participate in this hearing by remote video or in-person.

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, April 28, 2026** at **6:00 P.M.** a public hearing will be conducted to consider the Planning and Development Department proposal to amend the following sections of the City's Zoning Ordinance (Title 23) in order to maintain consistency and accuracy throughout the Berkeley Municipal Code (BMC). The proposed amendments do not include any substantive policy changes.

- 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)
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- 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)

The hearing will be held on April 28, 2026 at 6:00 p.m. in the School District Board Room, located at 1231 Addison Street, Berkeley CA 94702.

For further information, please contact Justin Horner, Principal Planner, at (510) 981-7476.

A copy of the agenda material for this hearing will be available on the City's website at https://berkeleyca.gov/ as of April 16, 2026. **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.**

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to council@berkeleyca.gov in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at (510) 981-6900 or clerk@berkeleyca.gov for further information.

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Public Hearing required by BMC 23.412.050 and Govt Code 65853; notice provided according to Govt Code 65090 and BMC 23.404.040.

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on April 16, 2026.

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Mark Numainville, City Clerk
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