



Planning and Development Department  
Land Use Planning Division

## STAFF REPORT

DATE: October 8, 2025  
TO: Members of the Planning Commission  
FROM: Robert Rivera, Senior Planner  
SUBJECT: Amendments to Title 23 for Consistency with State Law and Technical Edits (SLTE 2025)

---

### 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:

- 23.202.030 Additional Permit Requirements (Residential)
- 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
- 23.202.100 R-3 Multiple-Family Residential District
- 23.206.090 MU-R Mixed Use Residential District
- 23.326.030 Demolition of Residential Units
- 23.326.040 Eliminating Dwelling Units through Combination with Other Units

### SUMMARY

As part of regular and routine updates, staff has 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**

	<b>Section</b>	<b>Section Title</b>	<b>Proposed Zoning Change</b>	<b>Ordinance Sections (Attachment 1)</b>
1.	<b>23.202.030(A)</b>	<b>Additional Permit Requirements</b>	<ul style="list-style-type: none"> <li>Codify Existing Practice</li> </ul>	1
2.	<b>Tables 23.202-2; 23.202-5; 23.202-9; 23.206-14;</b>	<b>Development Standards</b>	<ul style="list-style-type: none"> <li>Clarification of maximum height being 35 and 3 stories.</li> </ul>	2 3 4 6
3.	<b>Table 23.202-11</b>	<b>Development Standards</b>	<ul style="list-style-type: none"> <li>Correct a transmittal error for lot coverage for interior and through lots. 3 stories should permit a 40% coverage not 30%.</li> </ul>	5
4.	<b>23.326.040(B)</b>	<b>Eliminating Dwelling Units through Combination with Other Units.</b>	<ul style="list-style-type: none"> <li>Correct the term building which should be Residential Unit(s)</li> </ul>	7

	<b>Section</b>	<b>Section Title</b>	<b>Proposed Zoning Change</b>	<b>Ordinance Sections (Attachment 1)</b>
5.	<b>23.326.030(D)(2)</b>	<b>Demolition of Residential Units</b>	<ul style="list-style-type: none"><li>• Clarification of the application of the section condition</li></ul>	8

### 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

Robert Rivera, Senior Planner, Planning and Development Department, 510-981-7480

### ATTACHMENTS

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

**ATTACHMENT 1**

**PLANNING COMMISSION  
RESOLUTION NO. 2025-09**

**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 October 8, 2025, 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 September 17, 2025 for the public hearing held on October 8, 2025; 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, 23.202.030 (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), 23.202.100 (R-3 Multiple-Family Residential District), 23.206.090 (MU-R Mixed Use Residential District), 23.326.030 (Demolition of Residential Units), and 23.326.040 (Eliminating Dwelling Units through Combination with Other Units) 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 8th day of October 2025, 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), AND DEMOLITION AND  
DWELLING UNIT CONTROL CHAPTER (BMC 23.326) TO CORRECT ERRORS,  
CLARIFY LANGUAGE, AND CODIFY EXISTING PRACTICE

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

Section 1. That BMC Section 23.202.030(A) is amended to read as follows:

A. **Residential Additions.** See Section 23.502.020(A) (“A” Terms) for residential addition definitions.

1. **Permits Required.**

(a) In the ES-R district, residential additions require permits as follows:

- i. Residential additions up to 10 percent of lot area or 200 square feet, whichever is less: Zoning Certificate.
- ii. Major residential additions more than 10 percent of lot area or 200 square feet, whichever is less: Use Permit.

(b) In the R-3, R-S, R-SMU and C-T districts within the Southside Plan boundaries, any residential addition requires a Zoning Certificate.

(c) In the R-1, R-2, R-2A and MU-R districts, any residential addition requires a Zoning Certificate.

(e)(d) In the R-1H, ~~R-1AH~~, R-2H, and R-2AH, and the R-3 district outside the Southside Plan boundaries, and in the R-4, R-5 and R-BMU districts, residential additions require permits as follows:

- i. Residential additions (up to 15 percent of lot area or 600 square feet, whichever is less): Zoning Certificate.
- ii. Major residential additions (all other residential additions): AUP.

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 1,000 sq. ft. of Gross Residential Floor Area, Minimum	150 sq. ft.	23.304.090 – Usable Open Space
Floor Area Ratio, Maximum	No maximum	
Main Building Height, Maximum		23.304.050 – Building Height
New Buildings and Additions	35 ft. <del>and</del> 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	
Lot Line Setbacks, Minimum		23.304.030 – Setbacks
Front [1]	5 ft.	
Rear [1]	5 ft.	
Interior Side	4 ft.	
Street Side	4 ft.	
Building Separation, Minimum	5 ft.	
Lot Coverage, Maximum	60%	23.304.120 – Lot Coverage
Notes:		
[1] 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, Minimum		23.304.020 – Lot Requirements
New Lots	5,000 sq. ft.	

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Usable Open Space, Per 1,000 sq. ft. of gross 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, Maximum	35 ft. <del>under</del> 3 stories	
Within 15 feet of Rear Property Line, Maximum	22 ft.	
Residential Density (du/acre)		23.106.100 – Residential Density
Minimum	10	
Maximum	50	
Lot Line Setbacks, Minimum		23.304.030 – Setbacks
Front [1]	5 ft.	
Rear [1]	5 ft.	
Interior Side	4 ft.	
Street Side	4 ft.	
Building Separation, Minimum	5 ft.	
Lot Coverage, Maximum	60%	23.304.120 – Lot Coverage
Notes: [1] 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, Minimum		
New Lots	5,000 sq. ft.	23.304.010 - Lot Requirements

Usable Open Space, per 1,000 sq. ft. gross residential floor area Minimum	150_sq. ft	23.304.090 – Usable Open Space
Main Building Height		23.304.050 – Building Height
New Buildings and Additions, Maximum	35 ft. <del>under</del> 3 stories	
Within 15 ft. of Rear Property Line, Maximum	22 ft.	
Residential Density (du/acre)		23.106.100 – Residential Density
Minimum	20	
Maximum	60	
Lot Line Setbacks, Minimum		23.304.030 – Setbacks
Front [1]	5 ft.	
Rear [1]	5 ft.	
Interior Side	4 ft.	
Street Side	4 ft.	
Building Separation, Minimum	5 ft.	
Lot Coverage, Maximum	60%	23.304.120 – Lot Coverage
Notes: [1] Front and rear setbacks must add up to at least 20 feet.		

Section 5. That Table 23.202-11 R-3 Development Standards within BMC Chapter 23.202.100 is amended to read as follows

**TABLE ERROR! NO TEXT OF SPECIFIED STYLE IN DOCUMENT.-11: R-3 DEVELOPMENT STANDARDS**

BASIC STANDARDS	OUTSIDE OF SOUTHSIDE PLAN	WITHIN SOUTHSIDE PLAN	SUPPLEMENTAL STANDARDS
Lot Area, Minimum			23.304.020 – Lot Requirements
New Lots	5,000 sq. ft.	No minimum	
Per Group Living Accommodation	350 sq. ft. [1]	No minimum	

Resident			
Residential Density			23.106.100 – Residential Density
Minimum (du/acre)	No minimum	60	
Maximum (du/acre)	No maximum	No maximum	
Usable Open Space, Minimum			23.304.090 – Usable Open Space
Per Dwelling Unit	200 sq. ft.	150 sq. ft. per 1,000 sq. ft. of gross residential floor area	
Per Group Living Accommodation Resident	90 sq. ft.		
Floor Area Ratio, Maximum	No maximum	3.0	
Main Building Height, Average			23.304.050 – Building Height
New Buildings and Non-Residential Additions	35 ft. and 3 stories	45 ft.	
Residential Additions	16 ft. [2]		
Lot Coverage, Maximum			23.304.120 – Lot Coverage
Interior and Through Lot	1 Story: 45%	100%	
	2 Stories: 45%		
	3 Stories: <del>43</del> 30%		
Corner Lot	1 Story: 50%	100%	
	2 Stories: 50%		
	3 Stories: 45%		
Lot Line Setback, Minimum			23.304.030 - Setbacks
Front	15 ft.	10 ft.	
Rear	15 ft.	10 ft.	
Interior Side	1 <sup>st</sup> Story: 4 ft.	4 ft.	
	2 <sup>nd</sup> Story: 4 ft.		
	3 <sup>rd</sup> Story: 6 ft.		
Street Side	1 <sup>st</sup> Story: 6 ft.	4 ft.	

	2 <sup>nd</sup> Story: 8 ft.		
	3 <sup>rd</sup> Story: 10 ft.		
Building Separation, Minimum	1 <sup>st</sup> Story: 8 ft.	No minimum	23.304.040 – Building Separation in Residential Districts
	2 <sup>nd</sup> Story: 12 ft.		
	3 <sup>rd</sup> Story: 16 ft.		
Notes:			
[1] One additional resident is allowed for remaining lot area between 200 and 350 square feet.			
[2] Maximum 35 ft. with an AUP.			

Section 6. 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	
Main Building Height, Maximum		23.304.050 - Building Height
Live/work	28 ft. and 3 stories [2]	
Residential or mixed-use [3]	35 ft. <del>under</del> 3 stories	

Within 15 ft. of rear property line	22 ft.	
All other uses	35 ft. and 2 stories [4]	
Lot Line Setbacks, Minimum		23.304.030 – Setbacks
Front	5 ft.	
Rear	No minimum [5]	
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] Maximum 3 stories for arts/craft studios and light manufacturing (with no other non-residential uses) on a block without dwelling units. [5] Minimum 5 ft. if rear of lot abuts a street.		

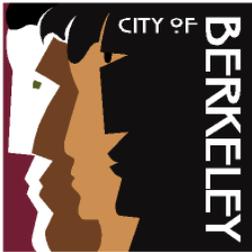
Section 7. That BMC Section 23.326.030(D)(2) is amended to read as follows:

2. In the event that a demolished Residential Unit is not a Protected Unit under BMC 23.326.020(A)(5)(a) or (b) and the income of the displaced household is unknown, the Residential Unit shall be presumed to have been occupied by Low- or Lower-Income renter households in the same proportion as Residential Units throughout the City. The City shall rely upon US Department of Housing and Urban Development’s Comprehensive Housing Affordability Strategy (CHAS) data to determine the number of such Residential Units that must be replaced with Affordable Units as defined in Chapter 23.328.

Section 8. That BMC Section 23.326.040(B)(1) is amended to read as follows:

1. The building-Residential Unit(s) was removed from the rental market through a no-fault eviction during the preceding five years; or

Section 9. 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, October 8, 2025

### Adoption of Zoning Ordinance Amendments to Title 23 of the Berkeley Municipal Code to Reflect 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, October 8, 2025, beginning at 6:00 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) 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 23.202.030 (Residential Uses – Additional Permit Requirements)
- Section 23.202.050 (R-1 Single-Family Residential District)
- Section 23.202.080 (R-2 Restricted Two-Family Residential District)
- Section 23.202.090 (R-2A Restricted Multiple-Family Residential District)
- Section 23.202.100 (R-3 Multiple-Family Residential District)
- Section 23.206.090 (MU-R Mixed Use Residential District)
- Section 23.326.030 (Demolition of Residential Units)
- Section 23.326.040 (Eliminating Dwelling Units through Combination with Other Units)
- 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](mailto:PlanningPC@berkeleyca.gov)

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

Correspondence received by **12pm on Wednesday, October 1, 2025**, 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, October 6, 2025** 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, October 7, 2025** 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, October 7, 2025** 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 Robert Rivera, at (510) 981-7480 or [rivera@berkeleyca.gov](mailto:rivera@berkeleyca.gov). Current and past agendas are available on the City of Berkeley website at: <https://berkeleyca.gov/your-government/boards-commissions/planning-commission>.