



Office of the City Manager

PUBLIC HEARING
November 18, 2025

To: Honorable Mayor and Members of the City Council
From: Paul Buddenhagen, City Manager
Submitted by: Jordan Klein, Director, Planning and Development Department
Subject: Zoning Ordinance Amendments to Title 23 of the Berkeley Municipal Code for Consistency with State Law and Technical Edits (SLTE 2025)

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt the first reading of an Ordinance amending the following sections of the Berkeley Municipal Code (BMC) to maintain consistency and accuracy:

- 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 have prepared non-substantive Zoning ordinance amendments to maintain consistency and accuracy throughout the Zoning Ordinance and related BMC chapters.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The Zoning Ordinance and related BMC Chapters are 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.

The proposed Ordinance amendments are summarized below in Table 1:

Table 1 Policy Summary and Zoning Amendment Proposals

	Section	Section Title	Proposed Zoning Change	Ordinance Sections (Attachment 1)
1.	23.202.030(A)	Additional Permit Requirements	Codify existing practice of approving certain Residential Additions with a Zoning Certificate.	1
2.	Tables 23.202-2; 23.202-5; 23.202-9; and 23.206-14	R-1, R-2, R-2A and MU-R Development Standards	Clarification of maximum height being 35 and 3 stories.	2 3 4 6
3.	Table 23.202-11	R-3 Development Standards	Correct a transmittal error for lot coverage for interior and through lots (should be 40% coverage, not 30%).	5
4.	23.326.030(D)(2)	Demolition of Residential Units	Clarification of how Protected Unit is defined.	7
5.	23.326.040(B)	Eliminating Dwelling Units through Combination with Other Units	Clarify applicability of regulation by replacing the term “building,” with “Residential Unit(s).”	8

BACKGROUND

On October 12, 2021, the City Council passed Ordinance No. 7,787-N.S., a thorough revision of Title 23 of the Berkeley Municipal Code, 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 were 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***).

At its meeting on October 8, 2025, the Planning Commission held a public hearing on the proposed amendments. The Commission unanimously recommended adoption of the proposed amendments.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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. All recommended changes either reflect ordinances that have previously been authorized by City Council, or that are required by state law.

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

Robert Rivera, Senior Planner, Land Use and Development Department, (510) 981-7480

Attachments:

- 1: Draft Ordinance
- 2: PC Staff Report 10-08-25
- 3: Public Hearing Notice

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

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
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. <u>and</u> 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. under 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. under 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 23.202-11: 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 Resident	350 sq. ft. [1]	No minimum	

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: 43 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 st Story: 4 ft.	4 ft.	
	2 nd Story: 4 ft.		
	3 rd Story: 6 ft.		
Street Side	1 st Story: 6 ft.	4 ft.	
	2 nd Story: 8 ft.		

	3 rd Story: 10 ft.		
Building Separation, Minimum	1 st Story: 8 ft.	No minimum	23.304.040 – Building Separation in Residential Districts
	2 nd Story: 12 ft.		
	3 rd 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. and 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 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

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

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

**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, November 18, 2025 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.

- 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

The hearing will be held on November 18, 2025 at 6:00 p.m. in the School District Board Room, located at 1231 Addison Street, Berkeley CA 94702.

For further information, please contact Robert Rivera, Senior Planner at (510) 981-7480

A copy of the agenda material for this hearing will be available on the City's website at <https://berkeleyca.gov/> as of November 06, 2025. **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.

Published: November 7, 2025 – The Berkeley Voice

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

~~~~~

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 November 06, 2025.

---

Mark Numainville, City Clerk