

ORDINANCE NO. 7,835-N.S.

AMENDING TITLE 23 OF THE BERKELEY MUNICIPAL CODE TO CORRECT ERRORS AND MAKE NON-SUBSTANTIVE, TECHNICAL EDITS TO THE ZONING ORDINANCE

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

Section 1. That Berkeley Municipal Code Section 23.204.050.D Table 23.204-8 is amended as follows:

Table 23.204-8. C-C DEVELOPMENT STANDARDS

	PROJECT LAND USE			SUPPLEMENTAL STANDARDS
	NON-RESIDENTIAL	MIXED USE	RESIDENTIAL ONLY	
Lot Area Minimum				23.304.020
New Lots	No minimum		5,000 sq. ft.	
Per Group Living Accommodation Resident	350 sq. ft. [1]			
Usable Open Space, Minimum				23.304.090
Per Dwelling Unit	200 sq. ft.	200 sq. ft. [2]	200 sq. ft.	
Per Group Living Accommodation Resident	90 sq. ft.			
Floor Area Ratio, Maximum	3.0		No maximum	
Main Building Height, Minimum	No minimum			
Main Building Height, Maximum	40 ft. and 2 stories	40 ft. and 3 stories [3] [4]	35 ft. and 3 stories	23.304.050
Lot Line Setbacks, Minimum				23.304.030--Setbacks
Abutting/Confronting a Non-residential District	No minimum		See Table 23.204-9	
Abutting/Confronting a Residential District	See 23.304.030.C			
Building Separation, Minimum	No minimum		23.304.040--Building Separation in Residential Districts	
Lot Coverage, Maximum	100%		See Table 23.204-10	23.304.120--Lot Coverage

Notes:

[1] One additional resident is allowed for remaining lot area between 200 and 350 square feet.

[2] Minimum open space for mixed use projects can be reduced with a UP(PH). See 23.204.050.D.3.

[3] In mixed use buildings, the third and higher stories must be used for residential purposes.

[4] The maximum height of a mixed use project can be increased to 50 ft and 4 stories with the issuance of a UP(PH).

Section 2. That Berkeley Municipal Code Section 23.204.080.D Table 23.204-21 is amended as follows:

Table 23.204-21. C-E DEVELOPMENT STANDARDS

	Project Land Use		Supplemental Standards
	Non-Residential and Mixed Use	Residential Only	
Lot Area, Minimum	No minimum	5,000 sq. ft.	23.304.020--Lot Requirements
New Lots	No minimum	5,000 sq. ft.	
Per Group Living Accommodation Resident	350 sq. ft. [1]		
Usable Open Space			23.304.090--Usable Open Space
Per Dwelling Unit	200 sq. ft. [2]		
Per Group Living Accommodation Resident	90 sq. ft.[2]		
Floor Area Ratio, Maximum			
Corner Lot	1.0	No maximum	
All Other Lot	0.8		
Main Building Height, Minimum	No minimum	No minimum	
Main Building Height, Maximum	28 ft. and 2 stories [3]	35 ft. and 3 stories	
Lot Line Setbacks, Minimum			23.304.030--Setbacks
Abutting/Confronting a Non-residential District	No minimum	See Table 23.204-22	
Abutting/Confronting a Residential District	See Table 23.304-3		
Building Separation, Minimum	No minimum	See Table 23.204-22	
Lot Coverage, Maximum	100%	See Table 23.204-23	23.304.120--Lot Coverage
Notes:			
[1] One additional resident is allowed for remaining lot area between 200 and 350 square feet.			
[2] Open space requirements for mixed use projects may be modified by the ZAB. See 23.204.080.D.3			
[3] A basement level devoted exclusively to parking is not counted as a story.			

Section 3. That Berkeley Municipal Code 23.204.090.D Table 23.204-24 is amended as follows:

Table 23.204-24. C-NS DEVELOPMENT STANDARDS

	Project Land Use		Supplemental Standards
	Non-Residential and Mixed Use	Residential Only	
Lot Area, Minimum			
New Lots	4,000 sq. ft.	5,000 sq. ft.	23.304.020
Per Group Living Accommodation Resident	350 sq. ft. [1]		
Usable Open Space, Minimum			
Per Dwelling Unit	40 sq. ft. [2]	200 sq. ft.	23.304.090--Usable Open Space
Per Group Living Accommodation Resident	No minimum	90 sq. ft.	
Floor Area Ratio, Maximum	1.0	No maximum	
Main Building Height [3]			
Minimum	2 stories	No minimum	
Maximum	35 ft. and 3 stories	28 ft. and 2 stories	
Lot Line Setbacks, Minimum			
Abutting/Confronting a Non-residential District	No minimum	See Table 23.204-25	23.304.030
Abutting/Confronting a Residential District	See 23.304.030.C.2		
Building Separation, Minimum	No minimum [4]	See Table 23.204-25	23.304.040
Lot Coverage, Maximum	100%	See Table 23.204-26	23.304.120
Notes:			
[1] One additional resident is allowed for remaining lot area between 200 and 350 square feet.			
[2] For mixed use projects, usable open space dimensions may be smaller than required in 23.304.090.B.3, but no dimension may be less than 6 feet.			
[3] Basement levels devoted exclusively to parking are not counted as a story.			
[4] For mixed use projects, minimum building separation shall be as required for residential-only projects. See Table 23.204-25			

Section 4. That the Berkeley Municipal Code 23.204.130.E.4 Table 23.204-40 is amended as follows:

Table 23.204-40. C-DMU USABLE OPEN SPACE REQUIREMENTS

	MINIMUM USABLE OPEN SPACE	SUPPLEMENTAL STANDARDS
Residential Uses	80 sq. ft./unit [1]	23.304.090—Usable Open Space
Non-Residential Uses	1 sq. ft. of privately-owned public open space per 50 sq. ft. of commercial floor area.	
Notes:		
[1] Each square foot of usable open space provided as privately-owned public open space is counted as two square feet of required on-site open space.		

Section 5. That Berkeley Municipal Code 23.206.050.A.7.(d) is amended as follows:

(d) *MU-LI Lots Under Common Ownerships*. Protected industrial uses in the MU-LI district may be changed to a non-protected use if:

- i. The protected industrial use is on a lot or group of abutting and confronting lots under single ownership and with more than one building; and
- ii. 25 percent or less of the total gross floor area in all buildings on the lot(s) remains as a protected industrial use.

Section 6. That Berkeley Municipal Code Section 23.304.030.B Table 23.304-1 is amended as follows:

Table 23.304-1. ALLOWED SETBACK REDUCTIONS IN RESIDENTIAL DISTRICTS

DISTRICT WHERE ALLOWED	WHEN ALLOWED	MINIMUM SETBACK WITH REDUCTION	REQUIRED PERMIT	REQUIRED ADDITIONAL FINDINGS [1]
Front Setback Reductions				
ES-R	On any lot	No minimum.	UP(PH) [2]	The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose.
R-S; R-SMU	On any lot	No minimum	AUP	The reduced setback is appropriate given the setbacks and architectural design of surrounding buildings

R-SMU	For either: 1) a main building with dwelling units or group living accommodations; or 2) any building north of Durant Avenue	No minimum	AUP	The reduced setback is appropriate given the setbacks and architectural design of surrounding buildings
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Rear Setback Reductions

ES-R [3]	On any lot	No minimum	UP(PH) [2]	The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose.
R-1, R-1A	On a lot less than 100 ft. deep	20% of lot depth	ZC	None
R-1A	To construct a dwelling unit	12 ft.	AUP	The unit would not cause a detrimental impact on emergency access; or on light, air or privacy for neighboring properties.
R-2, R-2A, R-3, R-4, R-5, R-S, R-SMU	On a lot with two or more main buildings with dwelling units	No minimum	AUP	No additional findings
R-SMU	For either: 1) a main building with dwelling units or group living accommodations; or 2) any building north of Durant Avenue	No minimum	AUP	The reduction is appropriate given the setbacks and architectural design of surrounding buildings

Side Setback Reductions

ES-R [3]	Any lot	No minimum	UP(PH) [2]	The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose.
R-1, R-1A	Lot width less than 40 ft. [4]	10% of lot width or 3 ft., whichever is greater	ZC	None
R-2, R-2A	Lot width less than 40 ft.	First and second stories: 10% of lot width or 3 ft.,	ZC	None

		whichever is greater; Third story: 5 ft.		
R-SMU	For either: 1) a main building with dwelling units or group living accommodations; or 2) any building north of Durant Avenue	No minimum	AUP	The reduced setback is appropriate given the setbacks and architectural design of surrounding buildings
<p>Notes:</p> <p>[1] Findings are in addition to any AUP or Use Permit findings required in <u>23.406</u>--Specific Permit Requirements.</p> <p>[2] Fire Department must review and approve reduced setbacks in respect to fire safety.</p> <p>[3] For lots less than 5,000 square feet, reductions are not allowed for property lines abutting a property under different ownership.</p> <p>[4] Not permitted for rear main buildings in the R-1A district.</p>				

Section 7. That Berkeley Municipal Code Section 23.304.090.A is amended as follows:

A. Applicability. The standards in this section apply to areas used to satisfy minimum usable open space requirements.

Section 8. That Berkeley Municipal Code Section 23.304.030.B.7 is amended as follows:

7. Solar Energy Equipment. The Zoning Officer may approve an AUP for solar energy equipment to project into a required setback upon finding that:

- (a) The projection is necessary to install the solar energy equipment;
- (b) The proposed structures and equipment are installed with the primary purpose to collect, store, and use solar energy; and

Section 9. That Berkeley Municipal Code Section 23.322.030.C.2 Table 23.322-4 is amended as follows:

Table 23.322-4. REQUIRED OFF-STREET PARKING IN MANUFACTURING DISTRICTS

Land Use	Required Parking Spaces
Residential Uses	
Accessory Dwelling Unit	See Chapter <u>23.306</u>
Dwellings	None required
Group Living Accommodation	None required
Non-Residential Uses	
All non-residential uses except uses listed below	2 per 1,000 sq. ft.
Art/Craft Studio	1 per 1,000 sq. ft.
Community Care Facility	1 per 2 non-resident employees
Food Service Establishment	1 per 300 sq. ft.
Library	1 per 500 sq. ft. of publicly accessible floor area
Laboratories	1 per 650 sq. ft.
Nursing Home	1 per 5 residents, plus 1 per 3 employees
Medical Practitioners	One per 300 sq. ft.
Large Vehicle Sales and Rental	MU-LI District: 1.5 per 1,000 sq. ft.
	All Other Districts: 1 per 1,000 sq. ft. of display floor area plus 1 per 500 sq. ft. of other floor area; 2 per service bay
Manufacturing	MU-R District: 1.0 per 1,000 sq. ft.
	All Other Districts: 1 per 1,000 sq. ft. for spaces less than 10,000 sq. ft.; 1 per 1,500 sq. ft. for spaces 10,000 sq. ft. or more
Storage, warehousing, and wholesale trade	1 per 1,000 sq. ft. for spaces of less than 10,000 sq. ft.; 1 per 1,500 sq. ft. for spaces 10,000 sq. ft. or more
Live/Work	MU-LI District: 1 per 1,000 sq. ft. of work area where workers/clients are permitted
	MU-R District: if workers/clients are permitted in work area, 1 per first 1,000 sq. ft. of work area and 1 per each additional 750 sq. ft. of work area
<p>Notes:</p> <p>[1] For multiple dwellings where the occupancy will be exclusively for persons over the age of 62, the number of required off-street parking spaces may be reduced to 25% of what would otherwise be required for multiple-family dwelling use, subject to obtaining a Use Permit.</p>	

Section 10. That Berkeley Municipal Code Section 23.406.070.A is amended as follows:

A. Purpose. Design Review is a discretionary process to ensure that exterior changes to buildings comply with the City of Berkeley Design Guidelines and other applicable City design standards and guidelines.

Section 11: 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 September 20, 2022, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.