

ORDINANCE NO. 7,890-N.S.

SOUTHSIDE ZONING AMENDMENTS; AMENDING BERKELEY MUNICIPAL CODE
TITLE 23

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

Section 1. That Berkeley Municipal Code Section 23.106.035 is hereby added to read:

23.106.035 – Floor Area, Gross Residential

- A. **Gross Residential Floor Area Defined.** Gross residential floor area means the total floor area of all of the following:
1. Residential units.
 2. In a Group Living Accommodation (GLA), common rooms/lounges and supporting facilities such as kitchens and restrooms.
 3. Habitable attic.
 4. Mezzanine or loft within a residential unit.
- B. **Residential Unit Defined.** Residential unit means any Dwelling Unit, any Live/Work Unit, or any bedroom of a GLA except a GLA in a University-recognized fraternity, sorority or co-op; provided, however, that for purposes of this section, “residential unit” shall not include any Accessory Dwelling Unit or Junior Accessory Dwelling Unit.

Section 2. That Berkeley Municipal Code Section 23.106.100 is hereby added to read:

23.106.100 – Residential Density

- A. **Residential Density Defined.** The ratio of the number of dwelling units on a lot to the lot area as measured in acres.
- B. **Measurement.** Residential density shall be calculated by dividing the total number of dwelling units on a lot by the total lot area in acres, rounded to the nearest whole number. Accessory Dwelling Units and Junior Accessory Dwelling Units are not included in the minimum or maximum density established by the underlying zoning district (see Section 23.306.020).

Section 3. That the following lines under the category “Residential Uses” in Table 23.202-1 (Allowed Uses in Residential Districts) within Berkeley Municipal Code 23.202.020 (Allowed Land Uses) are hereby amended to read:

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	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU**	
Residential Uses												
Dwellings												
Single-Family	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)*	UP(PH)*	NP	23.302.070(H)
Two-Family	NP	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)*	UP(PH)*	NP	23.302.070(H)
Multi-Family	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)*	UP(PH)*	UP(PH)	UP(PH)*	UP(PH)*	UP(PH)	23.302.070(H)
Group Living Accommodation	NP	NP	NP	NP	NP	UP(PH)*	UP(PH)*	UP(PH)	UP(PH)*	UP(PH)*	UP(PH)	23.302.070(H)
Senior Congregate Housing	NP	NP	NP	NP	See 23.302.070(I) -Use-Specific Regulations							
Mixed-Use Residential	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)*	UP(PH)*	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	23.302.070(H)

Section 4. That Berkeley Municipal Code Section 23.202.030(A)(1) is hereby amended to read:

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 all other Residential 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 5. That Berkeley Municipal Code Section 23.202.030(B) is hereby amended to read:

B. Adding Bedrooms.

1. In the R-1, R-1A, R-2, R-2A, and R-3 districts outside of the Southside Plan boundaries, adding a bedroom to a lot requires permits as follows:
 - a. Adding a first, second, third, or fourth bedroom to a lot: no permit required.
 - b. Adding a fifth bedroom to a lot: AUP.
 - c. Adding a bedroom to a lot beyond the fifth: Use Permit.
2. See Section 23.502.020(B) - Defined Terms (“B” Terms) for bedroom definition.
3. In the ES-R district, any alteration to create a new bedroom in a single-family detached home on a single lot requires an AUP. See Section 23.202.070(H)(6) (Land Use Intensification) for required finding.
4. In the R-3, R-S, or R-SMU districts within the Southside Plan boundaries, adding any bedroom to a lot requires a Zoning Certificate.

Section 6. That Berkeley Municipal Code Section 23.202.100(C) is hereby amended to read:

C. Additional Permit Requirements. See Subsection A of Section 23.202.030 (Residential Additions) and Subsection B of Section 23.202.030 (Adding Bedrooms).

Section 7. That Berkeley Municipal Code Section 23.202.100(E) is hereby amended to read:

E. Development Standards.

1. **Basic Standards.** See Table 23.202-11: R-3 Development Standards.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-3 district are noted in Table 23.202-11: R-3 Development Standards.

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: 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 8. That Berkeley Municipal Code Section 23.202.110(E) is hereby amended to read:

E. Development Standards.

- Basic Standards.** See Table 23.202-12: R-4 Lot and Height Standards, Table 23.202-13: R-4 Setback and Building Separation Standards, and Table 23.202-14: R-4 Lot Coverage Standards.
- Supplemental Standards.** Supplemental development standards that apply in the R-4 district are noted in Table 23.202-12: R-4 Lot and Height Standards, Table 23.202-13: R-4 Setback and Building Separation Standards, and Table 23.202-14: R-4 Lot Coverage Standards.

TABLE 23.202-12: R-4 LOT AND HEIGHT STANDARDS

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		23.304.020– Lot Requirements
New Lots	5,000 sq. ft.	
Per Group Living Accommodation Resident	350 sq. ft. [1]	
Usable Open Space, Minimum		23.304.090– Usable Open

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Per Dwelling Unit	200 sq. ft.	Space
Per Group Living Accommodation Resident	90 sq. ft.	
Floor Area Ratio, Maximum	No maximum	
Main Building Height, Average		23.304.050– Building Height
New Buildings and Non-Residential Additions	35 ft. and 3 stories [2]	
Residential Additions	16 ft. [3]	
Notes:		
[1] One additional resident is allowed for remaining lot area between 200 and 350 square feet.		
[2] Maximum 65 ft. and six stories allowed with Use Permit.		
[3] Height greater than 16 ft. up to 35 ft. allowed with an AUP. Height greater than 35 ft. up to 65 ft. and six stories allowed with a Use Permit.		

TABLE 23.202-13: R-4 SETBACK AND BUILDING SEPARATION STANDARDS

	STANDARDS BY BUILDING STORY						SUPPLEMENTAL STANDARDS
	1 ST	2 ND	3 RD	4 TH	5 TH	6 TH	
Lot Line Setbacks, Minimum							23.304.030– Setbacks
Front	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	
Rear	15 ft.	15 ft.	15 ft.	17 ft.	19 ft.	21 ft.	
Interior Side	4 ft.	4 ft.	6 ft.	8 ft.	10 ft.	12 ft.	
Street Side	6 ft.	8 ft.	10 ft.	12 ft.	14 ft.	15 ft.	
Building Separation, Minimum	8 ft.	12 ft.	16 ft.	20 ft.	24 ft.	28 ft.	23.304.040– Building Separation in Residential Districts

TABLE 23.202-14: R-4 LOT COVERAGE STANDARDS

	STANDARD BASED ON BUILDING HEIGHT						SUPPLEMENTAL STANDARDS
	1 STORY	2 STORIES	3 STORIES	4 STORIES	5 STORIES	6 STORIES	
Lot Coverage, Maximum							23.304.120–

Interior and Through Lot	45%	45%	40%	35%	35%	35%	Lot Coverage
Corner Lot	50%	50%	45%	40%	40%	40%	

Section 9. That Berkeley Municipal Code Section 23.202.120(D) is hereby amended to read:

D. Development Standards.

1. **Basic Standards.** See Table 23.202-15: R-5 Lot and Height Standards, Table 23.202-16: R-5 Setback and Building Separation Standards, and Table 23.202-17: R-5 Lot Coverage Standards.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-5 district are noted in Table 23.202-15: R-5 Lot and Height Standards, Table 23.202-16: R-5 Setback and Building Separation Standards, and Table 23.202-17: R-5 Lot Coverage Standards.

TABLE 23.202-15: R-5 LOT AND HEIGHT STANDARDS

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		23.304.020– Lot Requirements
New Lots	5,000 sq. ft.	
Per Group Living Accommodation Resident	175 sq. ft. [1]	
Usable Open Space, Minimum		23.304.090– Usable Open Space
Per Dwelling Unit	100 sq. ft.	
Per Group Living Accommodation Resident	35 sq. ft.	
Floor Area Ratio, Maximum		No maximum
Main Building Height, Average		23.304.050– Building Height
New Construction	40 ft. and 4 stories [2]	
Residential Additions	18 ft. [3]	
Notes:		
[1] One additional person is allowed for remaining lot area between 100 and 175 square feet.		
[2] Maximum 65 feet and 6 stories allowed with a Use Permit.		
[3] Height greater than 18 ft. up to 40 ft. allowed with an AUP. Height greater than 40 ft. up to 65 ft allowed with a Use Permit.		

TABLE 23.202-16: R-5 SETBACK AND BUILDING SEPARATION STANDARDS

	STANDARDS BY BUILDING STORY						SUPPLEMENTAL STANDARDS
	1 ST	2 ND	3 RD	4 TH	5 TH	6 TH	
Lot Line Setbacks, Minimum							23.304.030– Setbacks
Front	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	
Rear	15 ft.	15 ft.	15 ft.	17 ft.	19 ft.	21 ft.	
Interior	4 ft.	4 ft.	6 ft.	8 ft.	10 ft.	12 ft.	
Street Side	6 ft.	8 ft.	10 ft.	10 ft.	10 ft.	10 ft.	23.304.040– Building Separation in Residential Districts
Building Separation, Minimum	8 ft.	12 ft.	16 ft.	20 ft.	24 ft.	28 ft.	

TABLE 23.202-17: R-5 LOT COVERAGE STANDARDS

	STANDARD BASED ON BUILDING HEIGHT						SUPPLEMENTAL STANDARDS
	1 STORY	2 STORIES	3 STORIES	4 STORIES	5 STORIES	6 STORIES	
Lot Coverage, Maximum							23.304.120– Lot Coverage
Interior and Through Lots	55%	55%	50%	45%	40%	40%	
Corner Lots	60%	60%	55%	50%	45%	45%	

Section 10. That Berkeley Municipal Code Section 23.202.130(E) is hereby amended to read:

E. Development Standards.

1. **Basic Standards.** See Table 23.202-18: R-S Development Standards.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-S district are noted in Table 23.202-18: R-S Development Standards.

TABLE 23.202 -18: R-S DEVELOPMENT STANDARDS

BASIC STANDARDS	SUPPLEMENTAL STANDARDS
Lot Area, Minimum	23.304.020-Lot Requirements
New Lots	

Per Group Living Accommodation Resident	No minimum	
Residential Density		23.106.100-Residential Density
Minimum (du/acre)	100	
Maximum (du/acre)	No maximum	
Usable Open Space, Minimum	50 sq. ft. per 1,000 sq. ft. of gross residential floor area	23.304.090-Usable Open Space
Floor Area Ratio, Maximum	4.0	
Main Building Height, Maximum	55 ft.	23.304.050-Building Height
Lot Line Setbacks, Minimum		23.304.030-Setbacks
Front	No minimum	
Rear	4 ft.	
Interior Side	4 ft.	
Street Side	No minimum	
Building Separation, Minimum	No minimum	23.304.040-Building Separation in Residential Districts
Lot Coverage, Maximum	100%	23.304.120-Lot Coverage

Section 11. That the Berkeley Municipal Code 23.202.140(E) is hereby amended to read:

E. Development Standards.

1. Basic Standards.

a. Table 23.202-19: R-SMU Development Standards shows lot and height standards that apply in all areas in the R-SMU district.

TABLE 23.202-19: R-SMU DEVELOPMENT STANDARDS

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		23.304.020 - Lot Requirements
New Lots	No minimum	
Per Group Living Accommodation Resident	No minimum	

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Residential Density		23.106.100-Residential Density
Minimum (du/acre)	150	
Maximum (du/acre)	No maximum	
Usable Open Space, Minimum	40 sq. ft. per 1,000 sq. ft. of gross residential floor area	23.304.090 – Usable Open Space
Floor Area Ratio, Maximum	7.0	
Main Building Height, Maximum	85 ft.	23.304.050-Building Height
Lot Line Setbacks, Minimum		23.304.030-Setbacks
Front	No minimum	
Rear	4 ft.	
Interior Side	No minimum	
Street Side	No minimum	
Building Separation, Minimum	No minimum	23.304.040-Building Separation in Residential Districts
Lot Coverage, Maximum	100%	23.304.120-Lot Coverage

2. **Supplemental Standards.** Supplemental development standards that apply in the R-SMU district are noted in Table 23.202-19.

Section 12. That the Berkeley Municipal Code 23.202.150(D) is hereby amended to read:

D. *Ground-floor Uses.* See Table 23.202-20: Permitted Street-Facing Ground Floor Uses.

TABLE 23.202-20: PERMITTED STREET-FACING GROUND FLOOR USES

FRONTAGE LOCATIONS	PERMITTED STREET-FACING GROUND FLOOR USES
Along Ashby and MLK	Non-Residential Uses or non-residential accessory spaces to residential buildings, such as community rooms. At least 50% of the combined frontage of MLK and Ashby must include active ground -floor uses. [1] Active uses at corner locations are

	encouraged.
Along Adeline	Non-Residential Uses or non-residential accessory spaces to residential buildings, such as community rooms.
Along Woolsey, Tremont [2], or fronting interior public spaces	Residential or Non-Residential Uses
Along Sacramento, along the Ohlone Greenway, or within 50 feet of any street corner	Residential or Non-Residential Uses
Along Delaware, Acton, or Virginia	Residential Uses
<p>[1] Active uses are commercial uses in the following use categories: Retail; Personal and Household Services; Food and Alcohol Service, and Entertainment.</p> <p>[2] Public entrances for non-residential uses fronting Tremont Street must be located on Woolsey Street.</p>	

Section 13. That the Berkeley Municipal Code 23.202.150(F)(1) and (2) are hereby amended to read:

F. Development Standards.

1. **Basic Standards.** See Table 23.202-21.
2. **Supplemental Standards.** Supplemental standards that apply in the R- BMU district are noted in Table 23.202-21.

TABLE 23.202-21: R-BMU DEVELOPMENT STANDARDS

		SUPPLEMENTAL STANDARDS
Lot Area, Minimum	No minimum	23.304.020-Lot Requirements
Private Usable Open Space, Minimum [1][2]		
Per Dwelling Unit	40 sf/DU	23.304.090-Usable Open Space
Per Group Living Accommodation Resident	15 sf/resident	23.304.090-Usable Open Space
Public Open Space, Minimum		

Per Dwelling Unit	35 sf/unit	
Per Group Living Accommodation Resident	18 sf/resident	
Floor Area Ratio (FAR), Maximum	4.2	
Main Building Height, Maximum [3]	80 feet and 7 stories	23.304.050-Building Height
Residential Density, Minimum	75 dwelling units per acre	

- [1] Private Usable Open Space may be provided as any combination of personal and common private space.
- [2] 50% of the Private Usable Open Space requirement may be fulfilled through the provision of an equal amount of additional Public Open Space.
- [3] Building Height Measurement: In the case of a roof with a parapet wall, building height shall be measured to the top of the roof and parapets may exceed the height limits by up to five feet by right.

Section 14. That the following lines under the category “Residential Uses” in Table 23.204-1 (Allowed Uses in Commercial Districts) within Berkeley Municipal Code 23.204.020 (Allowed Land Uses) are hereby amended to read:

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS	
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC		
Residential Uses													
Dwellings													
Single-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3 ; 23.302.070(H)	
Two-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3 ; 23.302.070(H)	
Multi-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3 ; 23.302.070(H)	

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Group Living Accommodation	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3 ; 23.302.070(H)
Hotel, Residential	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3 ; 23.302.070(H)
Mixed-Use Residential	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	UP(PH)*	UP(PH)	UP(PH)	See Table 23.204-41	UP(PH)	23.204.060.B.3 ; 23.204.100.B.4 ; 23.204.110.B.5 ; 23.302.070(H)
Senior Congregate Housing	See 23.302.070.I											

Section 15. That Berkeley Municipal Code Section 23.204.110(B)(5) is hereby amended to read:

5. **Residential Use, Ground Floor.** Residential uses are permitted on the ground floor where located behind a commercial use. The ground floor commercial use must meet the following standards:
 - a. Occupy a minimum 30-foot depth of the ground floor, as measured from the ground floor street frontage, and
 - b. Occupy the full extent of the building frontage, excluding required utilities, driveways, pedestrian access and residential lobby.

Section 16. That Berkeley Municipal Code Section 23.204.110(D) is hereby amended to read:

D. Development Standards.

1. **Basic Standards.** See Table 23.204-32: C-T Development Standards.

TABLE 23.204-32: C-T DEVELOPMENT STANDARDS

BASIC STANDARDS	SUPPLEMENTAL STANDARDS
-----------------	------------------------

Lot Area Minimum		23.304.020-Lot Requirements
New Lots	No minimum	
Per Group Living Accommodation Resident	No minimum	
Residential Density		23.106.100-Residential Density
Minimum (du/acre)	200	
Maximum (du/acre)	No maximum	
Usable Open Space, Minimum	40 sq. ft. per 1,000 sq. ft. of gross residential floor area	23.304.090-Usable Open Space
Floor Area Ratio, Maximum	8.0	
Telegraph/Channing Parking Garage, APN 55-1879-6-1	No maximum	
Main Building Height, Minimum	35 ft.	23.304.050-Building Height
Main Building Height, Maximum	85 ft.	23.304.050 – Building Height
Telegraph/Channing Parking Garage , APN 55-1879-6-1	85 ft. and 7 stories	
Lot Line Setbacks, Minimum		23.304.030-Setbacks
Abutting/Confronting a Non-residential District	No minimum	
Abutting/Confronting a Residential District	See 23.304.030(C)(2)	
Building Separation, Minimum	No minimum	23.304.040-Building Separation in Residential Districts
Lot Coverage, Maximum	100%	23.304.120-Lot Coverage

2. **Lots Abutting or Confronting a Residential District.** See 23.304.130 (Non-Residential Districts Abutting a Residential District) for additional building feature requirements for lots that abut or confront a Residential District.
3. **Environmental Impacts.** Projects that may create environmental impacts as described in the Southside Plan Final EIR shall be subject to the adopted Mitigation Monitoring and Reporting Program (MMRP).

Section 17. That Berkeley Municipal Code Section 23.204.120(D) is hereby amended to read:

D. Development Standards.

1. **Basic Standards.** See Table 23.204-33: C-SO Development Standards. For residential-only projects, see also Table 23.204-34: C-SO Setback and Building Separation Standards for Residential-Only Uses and Table 23.204-35: C-SO Lot Coverage Standards for Residential-Only Uses.

TABLE 23.204-33: C-SO DEVELOPMENT STANDARDS

	Project Land Use			Supplemental Standards
	Non-Residential and Mixed Use	Mixed-Use [1]	Residential Only [1]	
Lot Area, Minimum				
New Lots	No minimum		5,000 sq. ft	23.304.020– Lot Requirements
Per Group Living Accommodation Resident	350 sq. ft. [2]			
Usable Open Space, Minimum				23.304.090– Usable Open Space
Per Dwelling Unit	40 sq. ft. [4]	200 sq. ft.		
Per Group Living Accommodation Resident	No minimum	90 sq. ft.		
Floor Area Ratio, Maximum	2.0	No maximum		
Main Building Height, Minimum	No minimum			
Main Building Height, Maximum	28 ft. and 2 stories			23.304.050– Building Height
Lot Line Setbacks, Minimum				23.304.030– Setbacks
Abutting/Confronting a Non-residential District	No minimum	See Table 23.204-34		
Abutting/Confronting a Residential District	See 23.304.030.C.2			
Building Separation, Minimum	No minimum [3]	See Table 23.204-34		23.304.040– Building Separation in Residential Districts

	Project Land Use			Supplemental Standards
	Non-Residential and Mixed Use	Mixed-Use [1]	Residential Only [1]	
Lot Coverage, Maximum	100%		See Table 23.204-35	23.304.120– Lot Coverage

Notes:

- [1] For mixed use and residential only projects, development standards included in this table may be modified. See 23.204.120(D)(3).
- [2] One additional resident is allowed for remaining lot area between 200 and 350 square feet.
- [3] For mixed-use projects, minimum building separation shall be as required for residential-only projects
- [4] No dimension may be less than 6 feet.

TABLE 23.204-34: C-SO SETBACK AND BUILDING SEPARATION STANDARDS FOR RESIDENTIAL-ONLY USES

	STANDARDS BY BUILDING STORY			SUPPLEMENTAL STANDARDS
	1ST	2ND	3RD	
Lot Line Setbacks, Minimum [1]				23.304.030– Setbacks
Front	15 ft.	15 ft.	15 ft.	
Rear	15 ft.	15 ft.	15 ft.	
Interior	4 ft.	4 ft.	6 ft.	
Street Side	6 ft.	8 ft.	10 ft.	
Building Separation, Minimum [1]	8 ft.	12 ft.	16 ft.	23.304.040– Building Separation in Residential Districts

- [1] For mixed use and residential-only projects, development standards included in this table may be modified. See 23.204.120(D)(3).

TABLE 23.204-35: C-SO LOT COVERAGE STANDARDS FOR RESIDENTIAL-ONLY USES

	STANDARD BASED ON BUILDING HEIGHT			SUPPLEMENTAL STANDARDS
	1 STORY	2 STORIES	3 STORIES	

Lot Coverage, Maximum [1]				23.304.120– Lot Coverage
Interior and Through Lots	45%	45%	40%	
Corner Lots	50%	50%	45%	
[1] For mixed use and residential-only projects, development standards included in this table may be modified. See 23.204.120(D)(3).				

Section 18. That Berkeley Municipal Code Section 23.204.120(D)(3) is hereby amended to read:

3. **Modification to Standards –Mixed Use and Residential-Only Projects.** The ZAB may modify development standards in Table 23.204-33, Table 23.204-34, and Table 23.204-35 for a mixed-use or residential-only project with a Use Permit upon making one of the following findings:
 - a. The modification will encourage public transit utilization and existing off-street parking facilities in the area of the proposed building.
 - b. The modification will facilitate the construction of residential or tourist hotel uses where appropriate.
 - c. The modification will permit consistency with the building setbacks existing in the immediate area where a residential building setback would not serve a useful purpose.

Section 19. That Berkeley Municipal Code Section 23.204.130(E)(1)(a) is hereby amended to read:

1. **Height.**
 - a. **Height Limits.** Table 23.204-36: C-DMU Height Limits shows height limits in the C-DMU district, except as otherwise allowed by Paragraph 2 below. See Figure 23.204-5: C-DMU Sub-Areas for district sub-area boundaries.

FIGURE 23.204-5: C-DMU SUB-AREAS



TABLE 23.204-36: C-DMU HEIGHT LIMITS

SUB-AREA	MINIMUM	MAXIMUM	MAXIMUM WITH USE PERMIT
Core Area	50 ft.	60 ft.	75 ft.
Outer Core	40 ft.		
Corridor	40 ft.		
Buffer	No minimum	50 ft.	60 ft.

Section 20. That Berkeley Municipal Code Section 23.204.130(E)(2)(a) Table 23.204-38 is hereby amended to read:

TABLE 23.204-37: C-DMU INCREASED HEIGHT ALLOWANCE

Sub-Area	Number of Buildings	Height	
		Minimum	Maximum
Combined Core and Outer Core	2	75 ft.	120 ft.
Core	3	120 ft.	180 ft.

Section 21. That Berkeley Municipal Code Section 23.204.130(E)(3)(a) is hereby amended to read:

3. Setbacks.

- a. **Basic Standards.** Table 23.204-38 shows minimum required lot line setbacks in the C-DMU district. Additional standards are listed in 23.204.130.3.d.

TABLE 23.204-38: C-DMU SETBACK STANDARDS

PORTION OF BUILDING AT HEIGHT OF:	FRONT	MINIMUM INTERIOR SIDE		MINIMUM REAR
		65' AND LESS FROM LOT FRONTAGE	OVER 65' FROM LOT FRONTAGE	
Zero to 20 feet	No minimum. 5 ft. max.	No minimum		
21 feet to 75 feet	No minimum.	No minimum	5 ft.	
76 feet to 120 feet	15 ft. min.	5 ft.	15 ft.	
Over 120 feet	15 ft. min.	15 ft.		

Section 22. That Berkeley Municipal Code Section 23.204.130(E)(3)(b) is hereby amended to read:

- b. **Modifications to Standards.** The ZAB may modify the setback standards in Table 23.204-38 with a Use Permit upon finding that the modified setbacks will not unreasonably limit solar access or create significant increases in wind experienced on the public sidewalk.

Section 23. That Berkeley Municipal Code Section 23.204.130(E)(3)(c) is hereby amended to read:

- c. **Residential Transitions.** The setback standards in Table 23.204-38 shall not apply to commercial lots abutting or confronting residential zoning. Such lots shall comply with Section 23.304.030(C)(2)—Setbacks (Lots Adjacent to Residential Districts)

Section 24. That Berkeley Municipal Code Section 23.204.130(E)(4) is hereby amended to read:

- 4. **Usable Open Space.** Table 23.204-39 shows minimum required usable open space in the C-DMU district.

TABLE 23.204-39: 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.	
Note: [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 25. That Berkeley Municipal Code Section 23.204.140(B)(2) is hereby amended to read:

- 2. **Mixed-Use Residential.**
 - a. See Table 23.204-40 for mixed-use residential permit requirements in the C-W district.

TABLE 23.204-40: C-W MIXED-USE RESIDENTIAL PERMIT REQUIREMENTS

Total Project Floor Area	Permit Required
--------------------------	-----------------

Projects with both residential and retail uses where the retail space comprises 15% to 33% of total gross floor area	
Less than 20,000 square feet	ZC
20,000 square feet or more	UP(PH)
All other mixed-use residential projects	
Less than 5,000 square feet	ZC
5,000 to 9,000 square feet	AUP
More than 9,000 square feet	UP(PH)

- b. All new retail uses in an existing mixed-use development are subject to the permit requirements for mixed use development as shown in Table 23.204-40.

Section 26. That Berkeley Municipal Code Section 23.204.140(E)(1) is hereby amended to read:

E. Development Standards.

- 1. **Basic Standards.** See Table 23.204-41 for development standards in the C-W district.

TABLE 23.204-41: C-W DEVELOPMENT STANDARDS

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area Minimum		23.304.020– Lot Requirements
New Lots	No minimum	
Per Group Living Accommodation Resident		
Usable Open Space, Minimum		23.304.090– Usable Open Space
Per Dwelling Unit or Live/Work Unit	40 sq. ft.	
Per Group Living Accommodation Resident	No minimum	
Floor Area Ratio, Maximum	3.0	
Main Building Height, Minimum	No minimum	
Main Building Height, Maximum	40 ft. and 3 stories [1,2]	23.304.050– Building Height
Lot Line Setbacks, Minimum		23.304.030–

Abutting/Confronting a Non-residential District	No minimum	Setbacks
Abutting/Confronting a Residential District	See 23.304.030.C.2	
Building Separation, Minimum	No minimum	
Lot Coverage, Maximum	100%	23.304.120– Lot Coverage
<p>Notes:</p> <p>[1] 50 ft. and 4 stories allowed for mixed-use projects. The fourth floor must be used for residential or live/work purposes.</p> <p>[2] On Assessor Parcel Numbers 054-1763-001-03, 054-1763-010-00 and 054-1763-003-03 the maximum height is 50 feet and 4 stories.</p>		

Section 27. That Berkeley Municipal Code Section 23.204.150(B)(3)(a) is hereby amended to read:

3. Permitted Ground Floor Uses.

- a. **Commercial and Active Commercial Required.** In addition to other requirements of the C-AC district, the first 30 feet of depth of the ground floor, as measured from the frontage which abuts the portions of Adeline Street, Shattuck Avenue, MLK, Jr. Way or Ashby Avenue identified in Table 23.204-42: C-AC Permitted Ground Floor Uses shall be reserved for either Active Commercial Uses, or for commercial uses. Ground floor tenant spaces with frontages on streets not identified below can be used for any use permitted in the district.

TABLE 23.204-42: C-AC PERMITTED GROUND FLOOR USES

AREA	PERMITTED GROUND FLOOR USE
Shattuck Avenue between Dwight and Derby	Commercial Uses
Shattuck between Ward and Russell	Active Commercial Uses
Adeline between Russell and City boundary	
Ashby, east of Adeline	
North side of Ashby, west of Adeline	

Section 28. That Berkeley Municipal Code Section 23.204.150(E)(1) is hereby amended to read:

1. **Basic Standards.** See Table 23.204-43: C-AC South Shattuck Subarea Development Standards, and Table 23.204-44: C-AC North and South Adeline Subarea Development Standards.

Section 29. That Berkeley Municipal Code Section 23.204.150(E)(5) Table 23.204-44 is hereby amended to read:

TABLE 23.204-43: C-AC SOUTH SHATTUCK SUBAREA DEVELOPMENT STANDARDS

	PROJECT LAND USE [5]							SUPPLEMENTAL STANDARDS
	Residential and Mixed Use Tier 1 (Less than 14% affordable housing)	Residential & Mixed Use Tier 2 (14% affordable housing)	Residential & Mixed Use Tier 3 (21% affordable housing)	Residential & Mixed Use Tier 4 (25% affordable housing)	Residential & Mixed Use (100% affordable housing)	Group Living Accommodation [6]	Non-Residential	
Lot Area Minimum								23.304.020– Lot Requirements
New Lots	No minimum					350 sq. ft.		
Per Group Living Accommodation Resident	N/A					350 sq. ft. [1]		
Usable Open Space, Minimum [3]	40 sq. ft							
Per Dwelling Unit/GLA Resident [4]	40 sq. ft.							23.304.090– Usable Open Space
Floor Area Ratio, Maximum	2.5	4.0	5.0	5.5	5.5	2.5	2.5	
Main Building Height, Maximum	4 stories 45 feet	6 stories 65 feet	7 stories 75 feet	8 stories 85 feet	8 stories 90 feet	4 stories 45 feet	4 stories 45 feet	23.304.050– Building Height

	PROJECT LAND USE [5]							SUPPLEMENTAL STANDARDS
	Residential and Mixed Use Tier 1 (Less than 14% affordable housing)	Residential & Mixed Use Tier 2 (14% affordable housing)	Residential & Mixed Use Tier 3 (21% affordable housing)	Residential & Mixed Use Tier 4 (25% affordable housing)	Residential & Mixed Use (100% affordable housing)	Group Living Accommodation [6]	Non-Residential	
Residential Density, Maximum (du/acre) [2]	120	210	250	300	300	1 GLA resident per 350 sf of lot area	N/A	
Lot Line Setbacks, Minimum								23.304.030–Setbacks
Abutting/Confronting a Non-residential District	No minimum							
Abutting/Confronting a Residential District	See 23.204.150(E)							
Building Separation, Minimum	No minimum							
Lot Coverage, Maximum								23.304.120–Lot Coverage
Interior Lot	60%	90%	90%	90%	90%	60%	100%	
Corner Lot	70%	90%	90%	95%	95%	70%	100%	

	PROJECT LAND USE [5]						SUPPLEMENTAL STANDARDS
	Residential and Mixed Use Tier 1 (Less than 14% affordable housing)	Residential & Mixed Use Tier 2 (14% affordable housing)	Residential & Mixed Use Tier 3 (21% affordable housing)	Residential & Mixed Use Tier 4 (25% affordable housing)	Residential & Mixed Use (100% affordable housing)	Group Living Accommodation [6]	

Notes:

- [1] One additional resident is allowed for remaining lot area between 200 and 350 square feet.
- [2] For the purposes of calculating the State Density Bonus the Tier 1 density shall constitute the maximum allowable gross residential density. Tier 2, 3, and 4 density is authorized as a local density bonus under Government Code section 65915(n).
- [3] An AUP may be granted to reduce usable open space requirements if shown to be necessary to build an all-electric building.
- [4] Each square-foot of open space that is designated as publicly accessible open space shall be counted as two square-feet of required on-site open space.
- [5] Affordable units calculated as percentage of total units

Section 30. That Berkeley Municipal Code Section 23.204.150(E)(5) Table 23.204-45 is hereby amended to read:

TABLE 23.204-44: C-AC NORTH AND SOUTH ADELIN SUBAREA DEVELOPMENT STANDARDS

	Project Land Use [6]	Supplemental
--	----------------------	--------------

	Residential and Mixed Use Tier 1 (Less than 14% affordable housing)	Residential & Mixed Use Tier 2 (14% affordable housing)	Residential & Mixed Use Tier 3 (21% affordable housing)	Residential & Mixed Use Tier 4 (25% affordable housing)	Residential & Mixed Use (100% affordable housing)	Group Living Accommodation	Non-Residential	Standards
Lot Area Minimum								23.304.020-Lot Requirements
New Lots	No minimum							
Per Group Living Accommodation Resident	N/A					350 sq. ft. [1]	N/A	
Usable Open Space, Minimum [3]	40 sq. ft.							
Per Dwelling Unit/GLA Resident [4]	N/A					40 sq. ft.		23.304.090-Usable Open Space
Floor Area Ratio, Maximum	2.0	3.5	4.0	5.0	5.0	2.5	2.8	
Residential Density, Maximum (du/acre) [2]	100	150	210	250	250	1 GLA resident per 350 sf of lot area	N/A	

Main Building Height, Maximum	3 stories 35 feet	5 stories 55 feet	6 stories 65 feet	7 stories 75 feet	7 stories 80 feet	4 stories 45 feet	3 stories 45 feet	
Lot Line Setbacks, Minimum								
Abutting/Confronting a Non-residential District	No minimum							23.304.030-Setbacks
Abutting/Confronting a Residential District	10 ft 20 ft from any shared lot line for any portion exceeding 35 feet 45 ft from front property line for any portion exceeding 45 feet					N/A		23.304.030-Setbacks 23.204.150.E.5
Building Separation, Minimum	No minimum							23.304.040-Building Separation in Residential Districts
Interior Lot	60%	90%	90%	90%	90%	60%	100%	
Corner Lot	70%	90%	90%	95%	95%	70%	100%	
Lot Coverage, Maximum	100%							

Notes:

- [1] One additional resident is allowed for remaining lot area between 200 and 350 square feet.
- [2] For the purpose State Density Bonus calculation, the Tier 1 density is the maximum allowable gross residential density. Tier 2, 3, and 4 density is authorized as a local density bonus under Government Code section 65915(n).
- [3] An AUP may be granted to reduce useable open space requirements if shown to be necessary to build an all-electric building.
- [4] Each square-foot of open space that is designated as publicly accessible open space shall be counted as two square-feet of required on-site open space.
- [5] Affordable units calculated as percentage of total units

Section 31. That Berkeley Municipal Code Section 23.204.150(F)(2)(b) is hereby amended to read:

- b. **Active Commercial Areas.** Ground floor frontages in areas identified as Active Commercial in Table 23.204-42 shall meet the requirements of 23.204.150(F)(2)(a) except:
 - i. Ground floors shall have a minimum floor to floor height of 15 feet and a minimum floor to ceiling height of 12 feet.
 - ii. Facades shall provide at least 75 percent transparency between 3 and 10 feet above grade (doors and transparent windows) to allow maximum visual interaction between sidewalk areas and the interior. Dark or mirrored glass will not satisfy this requirement.

Section 32. That Berkeley Municipal Code Section 23.204.150(F)(2)(c) is hereby amended to read:

- c. **Commercial Use Areas.** Ground floor frontages in areas identified as commercial in Table 23.204-42 shall meet the requirements of 23.204.150(F)(2)(a) except:
 - i. Ground floors shall have a minimum floor to floor height of 15 feet and a minimum floor to ceiling height of 12 feet.
 - ii. Facades shall provide at least 65% transparency between 3 and 10 feet above grade (doors and transparent windows) to allow maximum visual interaction between sidewalk areas and the interior of office spaces. Dark or mirrored glass will not satisfy this requirement.

Section 33. That Berkeley Municipal Code Sub-Sections 23.302.070(H) through (K) are hereby amended to read:

H. Residential Use, Ground-Floor Units.

1. Southside Plan Area. In the R-3, R-S, R-SMU, and C-T districts within the Southside Plan boundaries, individual unit entries located within six feet of the front property line shall be at least 18 inches above the finished grade of the adjacent public frontage.

- I. **Senior Congregate Housing.** Table 23.302-10 shows permits required for senior congregate housing.

TABLE 23.302-10: PERMIT REQUIREMENTS FOR SENIOR CONGREGATE HOUSING

PROJECT	PERMIT REQUIRED
Change of use from an existing dwelling unit to accommodate six	ZC

or fewer people	
Change of use from an existing dwelling unit to accommodate seven or more people	AUP
New construction to accommodate any number of people	UP(PH)

J. Supportive Housing.

1. *Permits Required.* Supportive housing shall be allowed by right in zones where multifamily and mixed uses are permitted, if the proposed housing development satisfies requirements pursuant to Government Code Section 65651(a).

K. Smoke Shops. In all districts, smoke shops are not permitted within 1,400 feet of a school or public park.

L. Warehouse Storage for Retail Use.

1. In all districts where retail uses are allowed, on-site storage of goods is allowed as an accessory use to a primary retail use on the lot.
2. The storage of goods for a contiguous and directly accessible retail space is allowed in the MU-LI and MU-R districts subject to the following:
 - a. An AUP is required for storage 3,000 square feet or less; a Use Permit is required for storage more than 3,000 square feet.
 - b. Except for food product stores in the MU-LI district, the storage is permitted only for uses within the district. Storage for retail uses wholly or partially outside the district is not permitted.

Section 34. That Berkeley Municipal Code Section 23.304.030 Table 23.304-1 is hereby amended to read:

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.

DISTRICT WHERE ALLOWED	WHEN ALLOWED	MINIMUM SETBACK WITH REDUCTION	REQUIRED PERMIT	REQUIRED ADDITIONAL FINDINGS [1]
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 [4]	On a lot with two or more main buildings with dwelling units	No minimum	AUP	No additional findings
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. [5]	10% of lot width or 3 ft., whichever is greater	ZC	None

DISTRICT WHERE ALLOWED	WHEN ALLOWED	MINIMUM SETBACK WITH REDUCTION	REQUIRED PERMIT	REQUIRED ADDITIONAL FINDINGS [1]
R-2, R-2A	Lot width less than 40 ft.	First and second stories: 10% of lot width or 3 ft., whichever is greater; Third story: 5 ft.	ZC	None

Notes:

[1] Findings are in addition to any AUP or Use Permit findings required in 23.406-Specific Permit Requirements.

[2] Fire Department must review and approve reduced setbacks in respect to fire safety.

[3] For lots less than 5,000 square feet, reductions are not allowed for property lines abutting a property under different ownership.

[4] Parcels located within the R-3 district within the Southside Plan boundaries are exempt from this section.

[5] Not permitted for rear main buildings in the R-1A district.

Section 35. That Berkeley Municipal Code Section 23.304.030 Table 23.304-3 is hereby amended to read:

TABLE 23.304-3: SETBACKS ADJACENT TO RESIDENTIAL DISTRICTS

District	Minimum Lot Line Setback when Lot Line Abuts or Confronts a Lot in a Residential District			
	Front	Rear	Interior Side	Street Side
C-C, C-U, C-N, C-E, C-NS, C-SA, C-SO, C-DMU, C-W, C-AC, MU-LI	Same as required in adjacent Residential District [1]	10 feet or 10% of the lot depth, whichever is less	5 ft.	Same as required in adjacent Residential District [1]
C-T	No minimum		5 ft.	4 ft.
MU-R	10 ft. [1]	10 feet or 10% of the lot width, whichever is less [2]		

Notes:

[1] In the MU-LI and MU-R districts, setback may be reduced to the smaller of front setbacks on abutting lot with an AUP.

[2] This applies to lots that abut or confront a lot either in a Residential District or containing one or more dwelling units.

Section 36. That Berkeley Municipal Code Section 23.304.040 Table 23.304-4 is hereby amended to read:

TABLE 23.304-4: PERMITS REQUIRED FOR BUILDING SEPARATION REDUCTIONS IN RESIDENTIAL DISTRICTS

DISTRICT WHERE ALLOWED	WHEN ALLOWED	PERMIT REQUIRED	FINDINGS [1]
R-1A	On a lot with two or more main buildings with a dwelling unit	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[2], R-4, R-5	On a lot with two or more main buildings with a dwelling unit	AUP	No additional findings
ES-R [3]	Any lot	UP(PH)	1) The reduced building separation is necessary to allow economic use of property for residential purposes; 2) the development complies with all other applicable setback, coverage, and floor requirements; and 3) the reduced building separation is consistent with the ES-R district purpose.

Notes:

[1] Findings in addition to AUP or Use Permit findings required in Chapter 23.406.

[2] Parcels located within the R-3 district within the Southside Plan boundaries are exempt from this section.

[3] Fire Department must review and approve reduced setbacks in respect to fire safety.

Section 37. That Berkeley Municipal Code Section 23.304.050(C) is hereby added to read:

C. Parapets Allowed Above Height Limit. Parapets may exceed the height limit by up to five feet as of right in the following districts:

1. The R-3, R-S, R-SMU, and C-T districts located within the Southside Plan boundaries.
2. The C-DMU district (see Section 23.204.130(E)(1)(b)).
3. The R-BMU district (see Section 23.202.150(F)).
4. The C-AC district (see Section 23.204.150(E)(4)).

Section 38. That Berkeley Municipal Code Section 23.304.090 is hereby amended to read:

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

1. Southside Plan Area Standards.
 - a. For parcels located in the R-3, R-S, R-SMU, or C-T districts within the Southside Plan boundaries, the minimum usable open space required is calculated on a per 1,000 square feet of gross residential floor area basis.
 - b. Certain development projects located in the R-3, R-S, R-SMU or C-T districts within the Southside Plan boundaries may satisfy a portion of the required usable open space by providing residential amenities that meet the qualifying criteria in Section 23.304.090(D) and (E).

B. Standards.

1. **Accessibility and Use.** Usable open space shall be accessible to the occupants of the building for active or passive recreation use.
2. **Assignment to Unit.** An area which is accessible and/or usable only by the occupants of a particular dwelling unit may satisfy the usable open space area requirements only for that particular dwelling unit.
3. **Minimum Dimensions.** Except for balconies, a usable open space area must have a minimum width and length of 10 feet.
4. **Balconies.**
 - a. A maximum of 50 percent of the total required usable open space area may be satisfied by balconies.
 - b. A balcony must have a minimum width and length of 6 feet.
 - c. At least one exterior side must be open and unobstructed except for required railings.
5. **Uncovered.** Except for balconies, usable open space shall be at least 75 percent open to the sky.

6. **Slope.** Usable open space must have a slope of 8 percent grade or less.

7. **Landscaping.**

- a. At least 40 percent of the total required usable open space area, exclusive of balconies above the ground floor, shall be landscaped.
- b. A landscaped area may not include off-street parking spaces, driveways, paved walkways and paths, patios and other surfaces covered by concrete or asphalt.
- c. For multiple dwelling uses, required landscaped areas shall incorporate automatic irrigation and drainage facilities adequate to assure healthy growing conditions for plants.

8. **Amenities.** Usable open space which is not planted shall be developed to encourage outdoor active or passive recreational use and shall include such elements as decks, sports courts, outdoor seating, decorative paved areas and walkways which do not serve as entrance walkways.

9. **Access Features Not Included.** Usable open space may not contain area designated for off-street parking and loading, service areas, driveways, required walkways or other features used for access to dwelling units.

C. **Other Open Space Areas.** Areas of the lot which do not qualify as usable open space and which are not designated as driveways, off-street parking spaces or required walkways, shall be retained as landscaped areas

D. **Southside Plan Area Shared Indoor Residential Amenities.** A development project located in the R-3, R-S, R-SMU or C-T districts may provide up to 50 percent of the total usable open space required through one or more of the following shared residential amenities. Each shared amenity space shall have a minimum width and length of 10 feet.

1. Gym/Health Club/Fitness Studio;
2. Multipurpose room; or
3. Pet wash room.

E. **Southside Plan Area Pedestrian Amenities.** A development project located in the R-3, R-S, R-SMU or C-T districts within the Southside Plan boundaries may provide pedestrian amenities located on private property in the space immediately adjacent to the building frontage.

1. Each square foot of pedestrian amenity space is counted as 1.5 square feet of usable open space.
2. Pedestrian amenities shall meet all of the following criteria:

- a. Has an average minimum depth of six feet, measured from the front property line;
- b. Does not contain enclosed structures;
- c. Provides pedestrian-scale lighting; and
- d. Is open to the sky, except for the following building encroachments:
 - i. Bay windows.
 - ii. Balconies.
 - iii. Galleries.
 - iv. Awnings/canopies.
 - v. Covered walkways.

Section 39. That Berkeley Municipal Code Sections 23.502.020(D)(4) through (16) are hereby amended to read:

D. “D” Terms.

4. **Density.** See 23.106.100-Residential Density.
5. **Density Bonus.** See 23.332.020 (Definitions).
6. **Department.** The Planning and Development Department of the City of Berkeley or its successor administrative unit.
7. **Department Store.** A retail store selling several kinds of merchandise, which are usually grouped into separate sections, including but not limited to, apparel, housewares, household hardware, household appliances, household electronics and gifts.
8. **Dormer.** A projection built out from a sloping roof, usually housing a vertical window or ventilating louver. See also 23.304.110 (Dormers).
9. **Dormitory.** A building providing group living accommodations, occupied by individuals not sharing a common household, characterized by separate sleeping rooms without individual kitchen facilities and containing congregate bath and/or dining facilities or rooms.
10. **Drive-in Uses.** A use where a customer is permitted or encouraged, either by the design of physical facilities or by the service and/or packaging procedures offered, to be served while remaining seated within an automobile. This use includes drive-through food service establishments, financial services (banks), and automatic carwashes.

11. **Driveway.** A paved, vehicular accessway connecting an off-street parking space or parking lot with a public or private street.
12. **Drug Paraphernalia.** As defined in California Health and Safety Code Section 11364.5(d).
13. **Drugstore.** A retail establishment where the profession of pharmacy is practiced and/or where licensed prescription drugs and general merchandise are offered for sale. A food products store with a pharmacy is not a drugstore.
14. **Dry Cleaning and Laundry Plants.** A place where clothes are dry cleaned, dyed and/or laundered as part of a commercial business, whether or not such clothes were deposited by a customer at that location, or transported from another location, as part of a service. This use includes all establishments subject to Section 19233 of the State of California Business and Professions Code, regulating Dry Cleaning Plants, but excludes laundromats and cleaners as defined in this chapter.
15. **Duplex.** A building or use of a lot designed for, or occupied exclusively by, two households.
16. **Dwelling Unit.** A building or portion of a building designed for, or occupied exclusively by, persons living as one household.

Section 40. That Berkeley Municipal Code Sub-Sections 23.502.020(F)(7) through (14) are hereby amended to read:

7. **Floor Area, Gross Residential.** See 23.106.035 – Floor Area, Gross Residential.
8. **Floor Area, Leasable.** See 23.106.040– Floor Area, Leasable.
9. **Floor Area Ratio (FAR).** See 23.106.050– Floor Area Ratio.
10. **Food Product Store.** A retail products store selling foods primarily intended to be taken to another location to be prepared and consumed, and the incidental preparation of food or beverages for immediate consumption off the premises.
11. **Food and Beverage for Immediate Consumption.** The sale of food or non-alcoholic beverages for immediate consumption not on the premises.
12. **Food Service Establishments.** An establishment which in whole or in part prepares food or beverages for immediate consumption on or off the premises.
 - a. **Carry Out Food Store:** A store which serves food or non-alcoholic beverages for immediate consumption not on the premises, but usually in the vicinity of the store. This use is usually characterized as an establishment which serves food altered in texture and/or temperature on a customer-demand basis, puts such food in non-sealed packages or edible containers,

requires payment for such food before consumption, and provides no seating or other physical accommodations for on- premises dining. Examples of this use include delicatessens and other stores without seating which sell doughnuts, croissants, ice cream, frozen yogurt, cookies, whole pizzas and sandwiches. This use excludes bakeries and food products stores.

- b. **Quick Service Restaurant:** An establishment which serves food or beverages for immediate consumption either on the premises, or to be taken out for consumption elsewhere. This use is usually characterized as an establishment in which food is cooked on a customer-demand basis, payment is required before consumption, limited or no able service is provided (no waiters), and seating or other physical accommodations for on- premises customer dining is provided. Examples of this use include establishments selling primarily hamburgers or other hot or cold sandwiches, hot dogs, tacos and burritos, pizza slices, fried chicken, or fish and chips.
- c. **Full-Service Restaurant:** An establishment which serves food or beverages for immediate consumption primarily on the premises, with only a minor portion, if any, of the food being taken out of the establishment. This use is characterized as an establishment in which food is cooked or prepared on the premises on a customer-demand basis, which requires payment after consumption, and provides seating and tables for on-premises customer dining with table service (waiters).

13. **Fraternity House.** A building used for group living accommodations by an organization recognized by the University of California at Berkeley or other institution of higher learning.

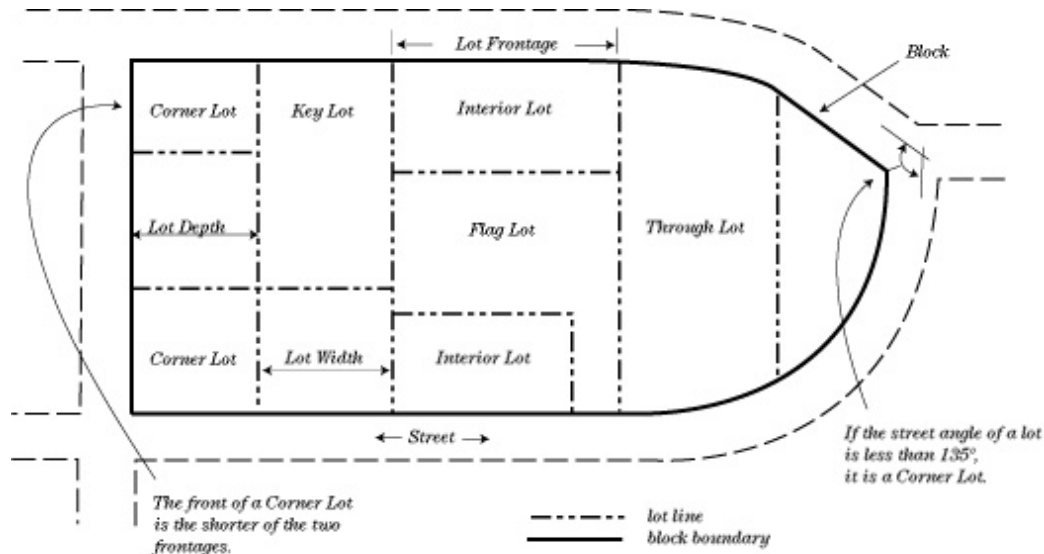
14. **Front Wall.** The wall of the building nearest the front lot line.

Section 41. That Berkeley Municipal Code Sections 23.502.020(L) (8) through (22) are hereby amended to read:

- 8. **Lighting, Pedestrian-Scale.** A lighting source that provides lighting for pedestrian space, such as sidewalks, parks, and walking paths. Pedestrian-scale lighting sources are directed toward the sidewalk, positioned lower than roadway lighting, and have a mounting height of between 7 feet and 15 feet above finished grade. Examples include post-top lighting, pendant lighting, bollard light posts, and wall-mounted light fixtures.
- 9. **Limited Equity Cooperative.** The form of ownership defined in Section 11003.4(a) of the Business and Professions Code or other form of ownership, wherein appreciation of equity of dwelling units is no greater than appreciation permitted by California Health and Safety Code Section 33007.5 for a Limited Equity Cooperative.

10. **Live Entertainment.** Any one or more of any of the following, performed live by one or more persons, whether or not done for compensation and whether or not admission is charged: musical act (including karaoke); theatrical act (including stand-up comedy); play; revue; dance; magic act; disc jockey; or similar activity.
11. **Live/Work.** A built space used or designed to be used both as a workplace and as a residence by one or more persons in conformance with Chapter 23.312 (Live/Work).
12. **Loading Space, Off-street.** A covered or uncovered space for trucks or other delivery vehicles for the loading or unloading of freight, cargo, packages, containers or bundles of goods and/or bulky goods.
13. **Loft.** See mezzanine.
14. **Lot.** A separate legal subdivision of land, as recorded with the County of Alameda Recorder. See Figure 23.502-4: Lot Configuration.
 - a. **Abutting Lot.** A lot having a common property line or separated by a public path or alley, private street or easement to the subject lot.
 - b. **Confronting Lot.** A lot whose front property line is intersected by a line perpendicular to and intersecting the front property line of the subject lot.
 - c. **Corner Lot.** A lot bounded on two or more adjacent sides by street lines, providing that the angle of intersection is less than 135 degrees.
 - d. **Flag Lot.** A lot so shaped that the main portion of the lot area does not have direct street frontage, other than by a connection of a strip of land which is used for access purposes.
 - e. **Interior Lot.** A lot bounded on one side by a street line and on all other sides by lot lines between adjacent lots or is bounded by more than one street with an intersection greater than or equal to 135 degrees.
 - f. **Key Lot.** Any interior lot which abuts the rear lot line of a corner lot.
 - g. **Receiving Lot.** The lot to which a building is relocated from a different lot.
 - h. **Source Lot.** The lot from which a building is relocated to a different lot.
 - i. **Through Lot.** A lot having frontage on two parallel or approximately parallel streets.

FIGURE 23.502-4: LOT CONFIGURATION



15. **Lot Area.** The total horizontal area within a lot's boundary lines.

a. **Lot Area in R-BMU Only:** The total horizontal area within a lot's boundary lines, minus the square footage of the footprints of any buildings, facilities or equipment that are, or shall be, under the control of the San Francisco Bay Area Rapid Transit District (BART).

16. **Lot Coverage.** See 23.106.020 (Lot Coverage).

17. **Lot Depth.** The average distance from the front lot line to the rear lot line measured in the general direction of the side lines.

18. **Lot Frontage.** That dimension of a lot's front lot line abutting on a street.

19. **Lot Lines.** The boundaries between a lot and other property or the public right-of-way.

20. **Lot Line, Front.** The shorter of the two intersecting lot lines along the right-of-way of a corner lot shall be deemed to be the front of the lot for purposes of determining the lot frontage and for yard requirements. In the case of a lot having equal frontage, or in the case of an irregularly shaped lot, the Zoning Officer shall determine the front in such a manner as to best promote the orderly development of the immediate area.

21. **Lot Width.** The average distance between the side lot lines measured at right angles to the lot depth.

22. **Low Barrier Navigation Center.** A temporary, low-barrier-to-entry shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, healthy services, shelter, and housing. Low barrier includes best practices to reduce barriers to entry, such

as allowing partners, pets, storage of personal items, and privacy pursuant to California Government Code Section 65660 and includes services to connect people to permanent housing through a service plan and services staffing and a coordinated entry system pursuant to Section 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations.

Section 42. That Berkeley Municipal Code Sections 23.502.020(R)(13) through (22) are hereby amended to read:

13. **Residential Density.** See 23.106.100-Residential Density
14. **Residential Districts.** The districts listed under the Residential Districts heading in Table 23.108-1: Zoning Districts.
15. **Residential Hotel Room.** A room which is:
 - a. Used, designed, or intended to be used for sleeping for a period of 14 consecutive days or more;
 - b. Not a complete dwelling unit, as defined in this chapter; and
 - c. Not a Tourist Hotel Room, as defined in this chapter.
16. **Residential Use.** Any legal use of a property as a place of residence, including but not limited to dwelling units, group living accommodations, and residential hotels.
17. **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. This use excludes video rental stores, service of vehicle parts, and firearm/munition sales.
18. **Retaining Wall.** A wall designed to contain and resist the lateral displacement of soil and of which such soil is at a higher elevation on one side of the wall.
19. **Review Authority.** The City official or body responsible for approving or denying a permit application or other form of requested approval under the Zoning Ordinance.

20. **Room, Multipurpose.** An area designed to accommodate a range of recreation and assembly activities, such as meetings, conferences, social gatherings, and studying.
21. **Room, Pet Wash.** An area designed to accommodate self-service pet washing, including grooming, to support animal and resident health.
22. **Rooming House.** A building used for residential purposes, other than a hotel, where lodging for 5 or more persons, who are not living as a single household, is provided for compensation, whether direct or indirect. In determining the number of persons lodging in a rooming house, all residents shall be counted, including those acting as manager, landlord, landlady or building superintendent. See also Boarding House.

Section 43. Effective Date

The effective date of this Ordinance shall be March 1, 2024.

Section 44. 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 special meeting of the Council of the City of Berkeley held on November 21, 2023, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Absent: Wengraf.

Exhibit A: Proposed Zoning Map – Southside Plan Area

