



Accessory Dwelling Units

Amendments to Address State Law and HCD

Public Hearing

May 3, 2023



SUMMARY

City staff have prepared amendments to Title 23 (Zoning Ordinance) of the Berkeley Municipal Code (BMC) to reflect:

- I. Recent changes in State laws
- II. Feedback from HCD
- III. Technical edits

Planning Commission is asked to hold a public hearing on amendments to Title 23 and make a recommendation to City Council.

AGENDA

I. BACKGROUND

1. ADU Regulations in the City of Berkeley

II. DISCUSSION

1. State ADU Law Updates
2. Letter from HCD Requesting Amendments to the City's ADU Ordinance
3. Technical Edits

III. NEXT STEPS

Background

1. ADU Regulations in Berkeley

ADU Regulations in the City of Berkeley

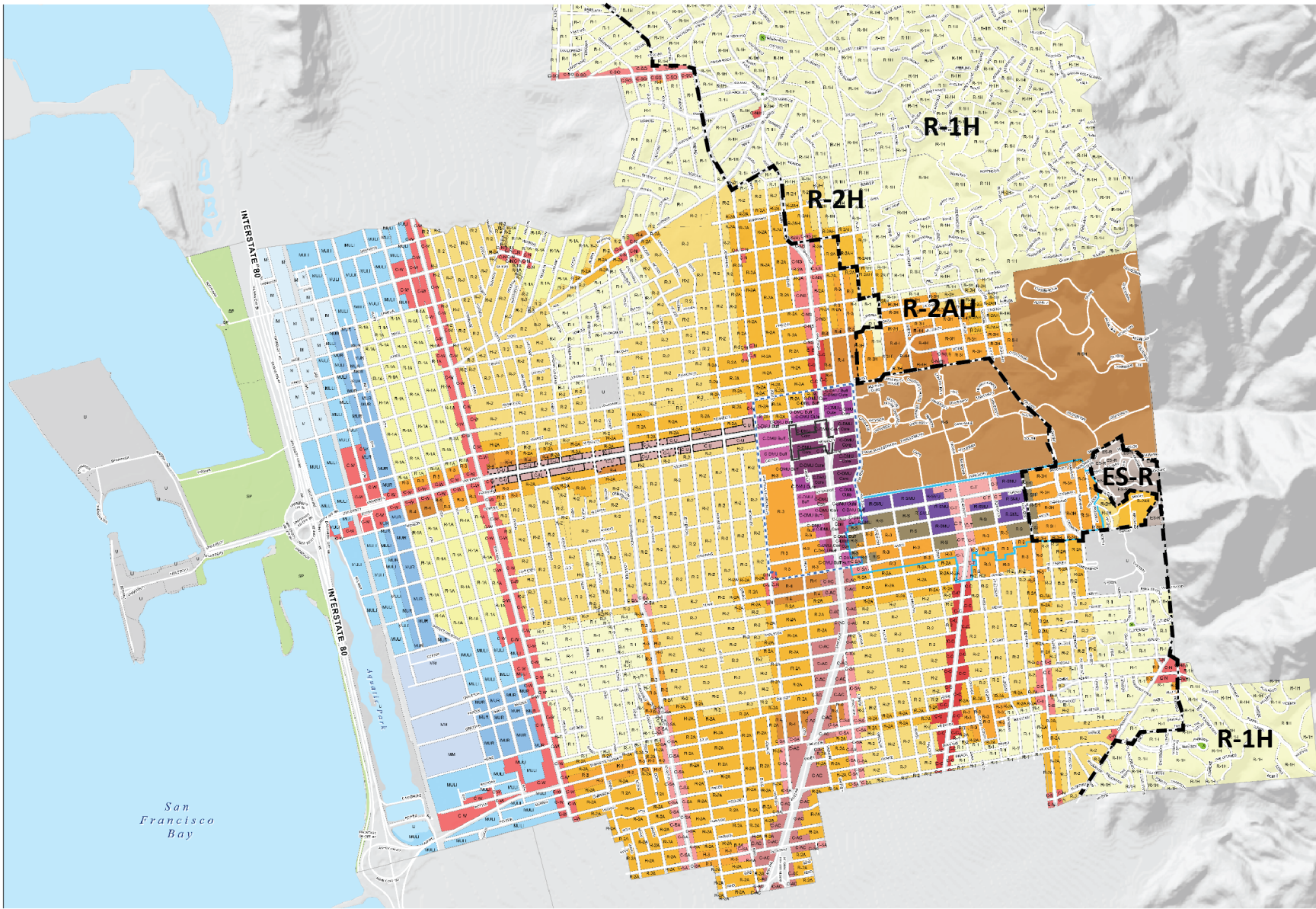


Discussion

To conform to State ADU law and respond to HCD's letter, staff recommend amendments to Title 23 of the BMC that achieve the following purposes:

1. Hillside Overlay vs. non-Hillside Overlay
2. Current State law and guidance

Where Standards Will Apply



Standards will apply to all districts that permit residential use

ZONING DISTRICTS

R-1	Single Family Residential
R-1A	Limited Two-family Residential
R-2	Restricted Two-family Residential
R-2A	Restricted Multiple-family Residential
R-3	Multiple-family Residential
R-4	Multi-family Residential
R-5	High Density Residential
ES-R	Environmental Safety-Residential
R-S	Residential High Density Subarea
R-SMU	Residential Mixed Use Subarea
C-DMU	C-DMU Core
C-DMU	C-DMU Outer Core
C-DMU	C-DMU Corridor
C-DMU	C-DMU Buffer
C-AC	Adeline Corridor Commercial
C-C	Corridor Commercial
C-E	Elmwood Commercial
C-N	Neighborhood Commercial
C-NS	North Shattuck Commercial
C-SA	South Area Commercial
C-SO	Solano Avenue Commercial
C-T	Telegraph Avenue Commercial
C-U	University Avenue Commercial
C-W	West Berkeley Commercial
M	Manufacturing
MM	Mixed Manufacturing
MULI	Mixed Use-Light Industrial
MUR	Mixed Use-Residential
SP	Specific Plan
U	Unclassified

San
Francisco
Bay

State ADU Law Updates

1. SB 897 – Height Limits & Interior Connections for Junior ADUs
2. AB 2221 – Minimum Front Setbacks

2022 State ADU Law Updates

1

INCREASES MAXIMUM HEIGHT LIMITS (SB 897)

Increases ADU height standards for both attached and detached ADUs.

2

REQUIRES CONNECTION BETWEEN A JUNIOR ADU AND THE MAIN DWELLING UNIT (SB 897)

Requires both a **separate entrance** to the Junior ADU from the main entrance to the structure and an interior connection to the main living area of the single family dwelling if a Junior ADU shares sanitation facilities with the primary dwelling unit.

3

ALLOWS FOR 800 SQUARE FOOT ADUs (AB 2221)

Prohibits local agencies from establishing certain development standards that would physically preclude construction of an 800 square foot ADU.

Increased Maximum Height Limit for Attached ADUs

SB 897

Increases ADU height standards for attached ADUs (25 ft.) and detached ADUs (18 ft.).

EXISTING ORDINANCE

New Construction ADU - Maximum Building Height Outside
the Hillside Overlay

20 ft.

STAFF PROPOSE

Detached, New Construction ADU - Maximum Building Height
Attached, New Construction ADU - Maximum Building Height

No change – 20 ft.
25 ft.

Required Connections Between Junior ADUs & Main Dwelling Units

SB 897

Requires both a separate entrance to the Junior ADU from the main entrance to the structure and an interior connection to the main living area of the single family dwelling *if a Junior ADU shares sanitation facilities with the primary dwelling unit.*

EXISTING ORDINANCE

Requires a separate exterior entrance, but not an internal connection if a sanitation facility is shared.



STAFF PROPOSE

Requiring an internal connection between a Junior ADU and the main living area of the single family dwelling if a sanitation facility is shared.

Calculating Lot Coverage and Gross Floor Area

AB 2221

Prohibits local agencies from establishing certain development standards that would physically preclude construction of an 800 square foot ADU.

EXISTING ORDINANCE

ADUs currently count towards lot coverage and gross floor area calculations.



STAFF PROPOSE

Excluding up to 800 square feet of area associated with an existing or proposed ADU or Junior ADU from lot coverage and gross floor area calculations.

2022 Letter from HCD

1. Wildfire Hazard Evacuation Risk Mitigation Ordinance
2. Definitions
3. Revisions for Consistency with HCD Guidance

HCD Findings

WILDFIRE HAZARD EVACUATION RISK MITIGATION ORDINANCE



Inadequate findings regarding ADU development impact on traffic flow and public safety.



Limiting units allowed per lot* in Hillside Overlay to one ADU **or** one Junior ADU conflicts with State law.

TERM	REQUESTED AMENDMENT
Efficiency Kitchen	Remove the sink requirement
Junior Accessory Dwelling Unit	Remove the reference to a working refrigerator

* Single-family lots

Proposed Changes – Hillside Overlay Standards

**REMOVE STANDARDS
SPECIFIC TO THE
HILLSIDE OVERLAY**



**ALLOW FOR ONE ADU
AND ONE JADU PER
LOT* IN THE HILLSIDE
OVERLAY**

* Single-family lots

Revisions for Consistency with HCD Guidance

1

CLARIFYING DENSITY CALCULATIONS

New subsection clarifying that ADUs and Junior ADUs do not count towards density calculations established by the underlying zoning districts.

2

ALLOWING 2 DETACHED AND 1 INTERIOR ADU FOR DUPLEXES OR MULTI-FAMILY DWELLINGS

Amend maximum number of units permitted on a lot with a duplex or multi-family dwelling to allow for two detached ADUs *and* at least one interior ADU.

TECHNICAL EDITS

1. Consistency with the BMC

Technical Changes for Consistency with the BMC

- 1 Permitting balconies and bay windows on attached ADUs outside the Hillside Overlay
- 2 New standard for minimum lot line setbacks for front of through lots
- 3 Building separation minimum for detached ADU – 3 feet
- 4 Flexible configuration for replacement off-street parking for an ADU or the main dwelling unit on the lot
- 5 Flexible configuration for required off-street parking for main buildings with no legal off-street parking within the Hillside Overlay
- 6 By-right alterations to non-conforming structures to be converted into an ADU:
 - a. Alterations of a portion of a building or structure within a minimum required setback
 - b. Alterations of a portion of a building or structure (including windows and other openings) exceeding the height limit

Questions for Consideration

QUESTIONS FOR CONSIDERATION



Removing the AUP requirement for residential additions for attached ADUs.



Removing the Neighbor Noticing requirement for ADUs.

Next Steps

July 2023 - Advance the proposed revisions to City Council.

Summer 2024 – Present analysis on the health and safety impacts of increased ADU development in the Hillside Overlay with Fire.

THE COMMISSION'S ROLE IS TO:

1. Ask any clarifying questions,
2. Take public comment,
3. Make a motion to close the public hearing,
4. Discuss the proposed amendments and policy questions, and
5. Make a recommendation on the proposed amendments to City Council.

Tonight's Action

Conduct a public hearing in accordance with State law and make a recommendation to City Council on the proposed amendments to Title 23.

End