

ORDINANCE NO. 7,323–N.S.

TECHNICAL CORRECTIONS TO THE ZONING ORDINANCE, BMC SECTIONS 23A.04.030.A.1, 23A.16.020.A, 23A.16.030, 23A.20.030, 23D.20.080.B, 23D.52.070.E.1, 23E.80.030, 23E.84.030.C, AND 23E.84.090.G

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

Section 1. That Berkeley Municipal Code Section 23A.04.030.A is amended to read as follows:

A. Implement the policies of the City’s adopted General and Area Plans, including, but not limited to:

1. The City of Berkeley General Plan (2002), as amended;
2. The Berkeley Waterfront Plan (1986);
3. The South Berkeley Area Plan (1988);
4. The Berkeley Downtown Area Plan (2011);
5. The West Berkeley Area Plan (1993);
6. The University Avenue Strategic Plan (1996);
7. The Southside Plan (2011).

Section 2. That Berkeley Municipal Code Section 23A.16.020.A is amended to read as follows:

A. All property within the City is hereby placed in Zoning Districts, as indicated on the Official Zoning Map, which are listed as follows:

R-1	Single Family Residential
R-1A	Limited Two-family Residential
ES-R	Environmental Safety 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
R-S	Residential Southside
R-SMU	Residential Southside Mixed Use
C-1	General Commercial

C-N	Neighborhood Commercial
C-E	Elmwood Commercial
C-NS	North Shattuck Commercial
C-SA	South Area Commercial
C-T	Telegraph Avenue Commercial
C-SO	Solano Avenue Commercial
C-W	West Berkeley Commercial
C-DMU	Downtown Mixed-Use
M	Manufacturing
MM	Mixed Manufacturing
MU-LI	Mixed Use-Light Industrial
MU-R	Mixed Use-Residential
SP	Specific Plan
U	Unclassified
(H)	Hillside (Overlay)

Section 3. That Berkeley Municipal Code Section 23A.16.030.A is amended to read as follows:

A. Whenever any uncertainty exists as to any part of any boundary shown on the Official Zoning Map, the following provisions shall apply:

1. Where boundaries are indicated as approximately following the center line of streets or alleys or the lot lines, such lines shall be construed to be such boundaries;
2. Where a boundary divides a lot, the location of such boundary, unless indicated by dimensions or legal descriptions, shall be determined by use of the scale appearing on the Official Zoning Map.

Section 4. That Berkeley Municipal Code Section 23A.20.030.B.2 is amended to read as follows:

2. When the land area involved in the proposed reclassification is five (5) acres or more, at least one (1) of the Notices of Public Hearing described above shall be posted at or adjacent to each block front involved, not fewer than fourteen (14) days prior to the date of the hearing; and shall be distributed to all owners of properties, tenants and neighborhood organizations (either by mail or door-to-door distribution); and it shall also be published twice in a newspaper of general circulation in the City, once not fewer than fourteen (14) days prior to the date of the hearing, and once not fewer than seven (7) days prior to the date of the hearing.

Section 5. That Berkeley Municipal Code Section 23D.20.080.B is amended to read as follows:

B. Other Uses requiring Use Permits issued by the Board, including, but not limited to, Child Care Centers, Clubs, Lodges, and community centers, shall provide the number of Off-street Parking Spaces as determined by the Board based on the amount of traffic generated by the particular Use and comparable with specified standards for other Uses.

Section 6. That Berkeley Municipal Code Section 23D.52.070.E is amended to read as follows:

E. Each Main Building shall be set back from its respective lot lines, and shall be separated from one another, in accordance with the following limits:

	Story	Yard location*				Building separation**
		Front	Rear	Side	Street side	
Main Buildings with Dwelling Units or Group Living Accommodations or located north of Durant Avenue	1st	10	10	4	6	8
	2nd	10	10	4	8	12
	3rd	10	10	6	10	16
	4th	10	17	8	10	20
	5th	10	19	10	10	24
All other Main Buildings	1st	15	15	4	6	8
	2nd	15	15	4	8	12
	3rd	15	15	6	10	16
	4th	15	17	8	10	20

** See Sections 23D.52.070.E.1, 2 and 3 for yard and building separation reductions.

Section 7. That the “Uses Incidental to a Permitted Use” portion Table 23E.80.030 in Berkeley Municipal Code Section 23E.80.030.A is amended to read as follows:

Uses Incidental to a Permitted Use					
Amusement Devices	AUP				
Child Care Centers	ZC				Childcare for employees only
	AUP				When providing childcare for non-employees; subject to additional noticing requirements and findings in Section 23E.80.090.I
Food Service Establishment	AUP	Prohibited	Prohibited		
Live Entertainment and/or amplified music	UP(PH)				
Incidental Retail Sales of goods manufactured on site	AUP Up to 1,500 sq. ft.	UP(PH) 1,501 – 3,000 sq. ft.	Prohibited Over 3,000 sq. ft.	See limitations in Section 23E.80.060.C	

Section 8. That Berkeley Municipal Code Section 23E.84.030.C is amended to read as follows:

C. Notwithstanding Section 23E.84.090, the following uses may be established within protected Manufacturing, Wholesale Trade and/or Warehousing space, subject to the permit levels in Section 23E.84.030: Art/Craft Studio, and Contractor Use. The issuance of a Use Permit for Art/Craft Studio and/or Contractor uses under this subdivision shall not result in the removal or elimination of any protections for the prior use in Chapter 23E.84.

Section 9. That Berkeley Municipal Code Section 23E.84.090.G is amended to read as follows:

G. In order to approve a Use Permit for the establishment or expansion of a home occupation with customer visits and/or handling of goods, the Zoning Officer or Board must find:

1. The degree of customer visits and/or handling of goods, taken as a whole, will not cause a significant detrimental impact on the availability of parking spaces in the location the home occupation is being established;
2. If the proposed home occupation will require loading space on a regular basis, such loading space will be available on the subject property, or that the use of on-street loading space will not cause a significant detrimental impact on the availability of parking spaces or on traffic flow in the location the home occupation is being established.

Section 10. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 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 December 17, 2013 this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.