



Sophie Hahn
Councilmember District 5

REVISED AGENDA MATERIAL

Meeting Date: January 24, 2017

Item Number: 42

Item Description: **Modify the Zoning Ordinance, Amending Accessory Buildings and Structures, BMC Chapter 23D.08, and Adding a Definition of Kitchen to Definitions, BMC Section 23F.04.010 (Continued from December 13, 2016)**

Submitted by: Councilmember Sophie Hahn

The attached document contains three small changes offered for clarification.

ORDINANCE NO. 7,522–N.S.

MODIFY THE ZONING ORDINANCE, AMENDING ACCESSORY BUILDINGS AND STRUCTURES, BERKELEY MUNICIPAL CODE CHAPTER 23D.08, AND ADDING A DEFINITION OF KITCHEN TO DEFINITIONS, BERKELEY MUNICIPAL CODE SECTION 23F.04.010

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

Section 1. That Berkeley Municipal Code Section 23D.08.005 is amended to read as follows:

Section 23D.08.005 Permitted Uses in Accessory Buildings and Structures

A. Accessory Buildings

1. No Accessory Building may be constructed unless authorized by an AUP. A Zoning Certificate shall be required for alteration of an existing Accessory Building.
2. An Accessory Building may contain a full bathroom, including handwashing sink, toilet, and ~~sink-tub~~ or shower, as well as cooking facilities, as long as the cooking facilities do not constitute a Kitchen.
3. No Accessory Building may be rented except as a short term rental under Chapter 23C.22.
4. An ~~a~~Accessory ~~b~~Building may only be used as a short-term rental when located on a lot with access from a roadway with a minimum 26 feet in pavement width, unless an AUP is approved.

B. An Accessory Structure shall include those detached structures, other than an Accessory Building, in which non-habitable uses or activities other than the principal use of the property are conducted. Residential Accessory Structures include, but are not limited to, enclosed structures such as garages, carports, garden or tool sheds, and non-enclosed structures such as, but not limited to, fences, gazebos, ground-mounted satellite dishes, skateboard ramps and wheelchair ramps. Non-residential Accessory Structures may include, but are not limited to, storage buildings, garages, sheds and other outbuildings.

Section 2. That Berkeley Municipal Code Section 23.08.010 is amended to read as follows:

Section 23D.08.010 Accessory Buildings & Structures May Exceed Limit with Use Permit

A. An Accessory Building or Accessory Structure that satisfies the requirements of this Ordinance is permitted, except in the ES-R District.

B. The Zoning Officer may issue an AUP for an accessory structure or accessory building which does not comply with the height limits, minimum setback distances, site location and/or maximum length requirements of this chapter, except for the height limit in Section 23D.08.020.C, subject to a finding that the proposed accessory building or enclosed accessory structure will not be detrimental to the light, air, privacy and view of adjacent properties.

Section 3. That Berkeley Municipal Code Section 23F.04.010 is amended to add the following:

Kitchen: A habitable space used for preparation of food that contains at least a sink, a refrigerator of no less than 10 cubic feet, and either a cooktop and an oven, or a range.

Section 4. 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 November 29, 2016, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Absent: Anderson.