

## ORDINANCE NO. 7,016–N.S.

AMENDMENT TO THE ZONING ORDINANCE, BERKELEY MUNICIPAL CODE CHAPTER 23C.04, CONFORMING AND NON-CONFORMING BUILDINGS, STRUCTURES AND LOTS, AND BMC SUBTITLE 23F, ADDING THE DEFINITION OF PUBLIC SAFETY STRUCTURAL ALTERATION, EXEMPTING CERTAIN STRUCTURAL ALTERATIONS FOR THE PURPOSES OF PUBLIC SAFETY FROM CERTAIN ZONING REGULATIONS

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

Section 1. That Berkeley Municipal Code Section 23C.04.075 is added to the Code to read as follows:

**Section 23C.04.075 Exemptions for Public Safety Structural Alterations to Conforming and Non-conforming Buildings**

- A. Public safety structural alterations that vertically and/or horizontally extend a non-conforming yard and/or horizontally extend a non-conforming height, and alterations of a portion of a building that encroaches into a non-conforming yard or extends above the permitted height, are permitted by right to the extent necessary, as determined by the Zoning Officer.
- B. Public safety structural alterations that vertically extend above the residential district height limit for residential additions are permitted by right to the extent necessary, as determined by the Zoning Officer.
- C. Public safety structural alterations, whether to conforming or lawful non-conforming buildings, which exceed the maximum allowable lot coverage are permitted by right to the extent necessary, as determined by the Zoning Officer.
- D. Public safety structural alterations to lawful non-conforming buildings that are non-conforming by reason of residential density are permitted by right to the extent necessary, as determined by the Zoning Officer.
- E. Public safety structural alterations to lawful non-conforming buildings located on a property that also contains a lawful non-conforming use, whether or not that use occupies the subject building or structure, are permitted by right to the extent necessary, as determined by the Zoning Officer.
- F. Public safety structural alterations to a conforming or lawful non-conforming building or structure that reduce, relocate, or remove required parking spaces are permitted as set forth below:
  - 1. Parking spaces may be converted to substandard compact spaces with if approved by the Traffic Engineer.
  - 2. Parking spaces may be relocated into a yard or other location by right to the extent necessary, as determined by the Zoning Officer, if:
    - a. The requirements of Section 23C.04.075.F.1 cannot be met;

- b. Screening of the parking is provided as required in BMC Chapter 23D.12, 23E.28 or by the district;
  - c. Landscaped areas adjacent to parking are provided as required in BMC Chapter 23D.12, 23E.28 or by the district; and
  - d. The parking relocation is approved by the Traffic Engineer.
3. Required parking may be removed if the Traffic Engineer determines that the requirements of Sections 23C.04.075.F.1 and 23C.04.075.F.2 cannot be met.
- G. Any aesthetic improvement or screening that the Zoning Officer determines is associated with a public safety structural alteration shall be treated as part of the public safety structural alteration.

Section 2. That the following definition is added to Berkeley Municipal Code Section 23F.04.010 to read as follows:

**Structural Alteration, Public Safety:** Any structural alteration or physical change to a building that provides greater safety to the public or occupants by strengthening the building against seismic activity, which does not result in new floor area except that created by necessary structural improvements or physical changes as required under BMC Chapter 19.38 and 19.39.

Section 3. The proposed action is exempt from review under the California Environmental Quality Act Guidelines Section 15301 which includes repair, maintenance or minor alteration to existing structures involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination and also under Guideline Section 15301 (f) where additions of safety or health protection devices for use in conjunction with existing facilities are exempt.

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 Old City Hall, 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 January 15, 2008, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Anderson, Capitelli, Maio, Moore, Olds, Spring, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.

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At a regular meeting of the Council of the City of Berkeley held on January 29, 2008, this Ordinance was adopted by the following vote:

Ayes: Anderson, Capitelli, Maio, Moore, Olds, Spring, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.

\_\_\_\_\_  
Tom Bates, Mayor

ATTEST: \_\_\_\_\_  
Pamyla Means, MMC, City Clerk

Date signed: \_\_\_\_\_

