

# GREEN DOWNTOWN & PUBLIC COMMONS INITIATIVE – BEFORE & AFTER

Item	Existing	Initiative
<b>CIVIC CENTER HISTORIC DISTRICT</b>		
Historic Civic Center District Overlay – Buildings and Areas Included	<ul style="list-style-type: none"> <li>Historic District exists, but no Zoning Overlay with specific protections for the District</li> </ul>	<ul style="list-style-type: none"> <li>Overlay includes: Main Post Office, Old City Hall, Veterans Memorial Building, Civic Center Park, Civic Center Building (New City Hall), Downtown YMCA, Berkeley Community Theatre/Florence Schwimley Little Theatre, Berkeley High, Public Safety Building, Courthouse, State Farm Building</li> </ul>
Civic Center Historic District - Zoning	<ul style="list-style-type: none"> <li>Some buildings are in C-DMU district. Other buildings in R-3 and R-2 districts.</li> <li>Subject to various use and development standards of underlying districts.</li> </ul>	<ul style="list-style-type: none"> <li>Entire designated Civic Center Historic District in a new overlay zone (BMC Chapter 23E.98)</li> <li>Subject to standards of the Overlay Zone.</li> </ul>
Civic Center Historic District - Uses	<ul style="list-style-type: none"> <li>Currently allowable uses are a wide range of private and other uses including Offices, Residential (apartments and condos), Stores, Hotels, Night Clubs, “Carry out” Food Service (usually chains), Manufacturing, etc.</li> </ul>	<ul style="list-style-type: none"> <li>Civic uses only : Libraries; Courts; Museums; Parks; Public Safety; Government; Public Schools; Non-Profit Cultural, Arts, Environmental, Community Service and Historical Organizations; Live Performance Theater; and Public Markets (similar to SF’s Ferry Building). (BMC Section 23E.98.030)</li> </ul>
Civic Center Historic District - Heights	<ul style="list-style-type: none"> <li>Subject to height limits of underlying zoning districts.</li> <li>Range from 35 feet in the R-2 district to up to 120 feet in the C-DMU Outer Core (Post Office property in C-DMU Outer Core – up to 120 feet possible).</li> </ul>	<ul style="list-style-type: none"> <li>Maximum height of 50 feet. (BMC Section 23E.98.040.A)</li> </ul>
<b>DOWNTOWN</b>		
<b>HEIGHTS</b>		
Height - General	<ul style="list-style-type: none"> <li>Core Area – 60 Feet Max, Use Permit to 75 Feet*</li> <li>Outer Core - 60 Feet Max, Use Permit to 75 Feet*</li> <li>Corridor - 60 Feet Max, Use Permit to 75 Feet*</li> <li>Buffer – 50 Feet Max, Use Permit to 60 Feet*</li> </ul> <p>* If permitting under “Normal” C-DMU process and seeking Density Bonus, most projects built to current Maximum Height With Use Permit (75 feet) or even higher. If Green Pathway, Density Bonus is Waived.  † Penthouse provision, if met, allows additional 10 feet in height in all Downtown subareas. (BMC Section 23E.68.080.G)</p>	<ul style="list-style-type: none"> <li>Core Area – 60 Feet Max, 75 Feet if elect Green Pathway Option†</li> <li>Outer Core - 60 Feet Max, 75 Feet if elect Green Pathway Option†</li> <li>Corridor – 60 Feet Maximum *†</li> <li>Buffer – 50 Feet Maximum *†</li> </ul> <p>(Table 23E.68.070, BMC Section 23E.68.070.B)</p>
5 Buildings over 75 Feet	<ul style="list-style-type: none"> <li>EXCEPTIONAL Tall Buildings – 3@180 feet and 2@120 feet (Table 23E.68.070, BMC Section 23E.68.070.B)</li> </ul>	<ul style="list-style-type: none"> <li>EXCEPTIONAL Tall Buildings – Same; 3@180 feet and 2@120 feet, if elect Green Pathway (Table 23E.68.070, BMC Section 23E.68.070.B).</li> <li>With Penthouse provision, can exceed maximum heights up to 190</li> </ul>

		feet and 130 feet, respectively.
Additional Height - Penthouse	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li><i>All Green Pathway projects: 10 additional feet possible</i></li> <li>If 100% of parking provided, plus at least 10 additional spaces, and excess spaces are made accessible to the public, the project can add a penthouse covering 1/3 of the roof or 4,500 sq. ft., whichever is less, with up to 10 feet in additional height, and with setbacks of at least 10 feet from the edges of the roof (BMC Section 23E.68.080.G)</li> </ul>
<b>PERMITTING</b>		
Permitting Options	<ul style="list-style-type: none"> <li>Developer can Permit under C-DMU ("Normal" permitting process) (Chapter 23E.68) OR can elect Green Pathway (Chapter 23B.64).</li> <li>Reward for Green Pathway is Expedited Processing/Review and Pre-Determination of Landmarks status. (BMC Section 23B.34.080 and 23B.34.090) (No developer to date has elected the Green Pathway).</li> <li>Buildings under 75 feet with less than 100 units and electing Green Pathway can be permitted "by right," with no public notice, hearing or right to appeal.</li> </ul>	<ul style="list-style-type: none"> <li>Developer can Permit under C-DMU ("Normal" permitting process, Chapter 23E.68) OR can elect Green Pathway (Chapter 23B.34).</li> <li>Reward for Green Pathway is Expedited Review + Additional Height over 60 feet. (Expedited Review, BMC Section 23B.34.090; Additional Height, Table 23E.68.070). Removes requirement for pre-determination of Landmarks status. All projects subject to current landmarks process (Chapter 3.24).</li> <li>By-right approval of buildings under 75 feet is removed. All projects subject to public notice, hearing and right of citizen appeal.</li> </ul>
Expedited Review	<ul style="list-style-type: none"> <li>Projects under 75 feet: Zoning Certificate (by-right) subject to review by Design Review Committee (DRC) on conformance with Downtown Design Guidelines. (BMC Section 23B.34.080)</li> <li>Projects over 75 feet: 210 Days from submitting complete application, and includes abbreviated Landmarks Preservation Review. (BMC Section 23B.34.090)</li> </ul>	<ul style="list-style-type: none"> <li>210 Days from submitting complete application, including normal Landmarks Preservation Review by Landmarks Preservation Commission (same as in all other areas of Berkeley)(BMC Section 23B.34.090)</li> </ul>
Green Pathway Elective?	<ul style="list-style-type: none"> <li>Yes</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> </ul>
Pacing of Applications for 5 tallest buildings	<ul style="list-style-type: none"> <li>Applications for the five buildings over 75 feet in height may be submitted only once yearly on the anniversary of the date of the first submittal. (BMC Section 23E.68.070.3.b)</li> </ul>	<ul style="list-style-type: none"> <li>All applications for buildings over 75 feet pending at time of approval of the initiative may be resubmitted immediately</li> <li>Additional applications for buildings over 75 feet may be submitted one per year (BMC Section 3E.68.070.3.b)</li> </ul>
Grandfathering of projects in the permitting pipeline	<ul style="list-style-type: none"> <li>NA</li> </ul>	<ul style="list-style-type: none"> <li>Projects in the pipeline at the time the Initiative is approved specifically allowed to restate their applications under the Green Pathway if so desired, and will receive final action within 210 days of restatement. (BMC Section 23B.34.070)</li> </ul>

DEVELOPMENT STANDARDS		
Set Back Requirements	<ul style="list-style-type: none"> <li>Vary on the basis of the height of the building. On taller buildings, required to step back in a “wedding cake” fashion to pull buildings back from street and adjacent properties as they get taller.</li> <li>All setbacks can be modified with Use Permit. (BMC Section 23E.68.070.C)</li> </ul>	<ul style="list-style-type: none"> <li>Exactly the same set back requirements.</li> <li>Set-backs cannot be modified with Use Permit. (BMC Section 23E.68.070.C)</li> </ul>
Green Pathway - Shadow Analysis	<ul style="list-style-type: none"> <li>Projects between 60 and 75 feet must provide Shadow Analysis (code includes detailed specifications of what that analysis must include).</li> <li>Buildings over 75 feet excluded from Shadow Analysis. (BMC Section 23B.34.070.C)</li> </ul>	<ul style="list-style-type: none"> <li>All projects over 60 feet, including the 5 buildings allowed over 75 feet, must provide Shadow Analysis (Identical/unchanged specifications of what that analysis must include) (BMC Section 23B.34.60.C)</li> </ul>
Streets and Open Spaces Improvement Fee (SOSIP)	<ul style="list-style-type: none"> <li>\$2.23 per square foot of new residential use</li> <li>\$1.68 per square foot of new commercial use</li> <li>\$1.12 per square foot of new institutional use</li> </ul>	<ul style="list-style-type: none"> <li>In addition to existing SOSIP fees, buildings over 75 feet (only 5) pay an additional SOSIP fee of \$1.00 per square foot. (BMC Section 23B.34.050.B)</li> </ul>
Green Pathway - Public Restrooms	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>Green Pathway projects over 75 Feet (only 5 buildings) build public restrooms which can be leased to the City at \$1.00 per year. (BMC Section 23B.34.050.C)</li> </ul>
USES		
Uses Permitted in C-DMU (Downtown Mixed Use-all of downtown)	<ul style="list-style-type: none"> <li>Approximately 90 uses permitted.</li> <li>Adult businesses (nude dancing, escort services, “adult” movie venues, etc.), and columbaria (burial/ash niches) allowed.</li> <li>Surface parking lots with less than 8 spaces allowed. (BMC Section 23E.68.030)</li> </ul>	<ul style="list-style-type: none"> <li>Approximately 90 uses permitted.</li> <li>Adult businesses (nude dancing, escort services, “adult” movie venues, etc.), and columbaria (burial/ash niches) not allowed.</li> <li>Surface parking lots with more than 8 spaces allowed with Use Permit. (BMC Section 23E.68.030)</li> </ul>
Hours of Operation	<ul style="list-style-type: none"> <li>Commercial uses, including those serving alcohol, allowed to operate between 6 am and 2 am seven days a week, even in the Buffer Subarea, adjacent to residential neighborhoods.</li> <li>Later hours (between 2 and 6 am) allowed with Administrative Use Permit in all areas of the downtown. (BMC Section 23E.68.060.A)</li> </ul>	<p>Commercial Uses allowed to operate between 6 am and 2 am by right, except:</p> <ul style="list-style-type: none"> <li>Business with alcohol sales in Core, Outer Core and Corridor allowed to operate by right between 6 am and midnight Monday – Thursday, and until 2 am on Friday and Saturday. Establishments can exceed these hour restrictions with a Use Permit and findings.</li> <li>Businesses in Buffer (adjacent to residential neighborhoods) operate 6 am to 12 am seven days a week by right. Businesses not serving alcohol may operate up to 2 am with AUP and findings. (BMC Section 23E.68.060.A)</li> </ul>

<b>AFFORDABLE &amp; FAMILY-SIZED HOUSING</b>		
Green Pathway – Affordable Housing	<p><i>30% required – all can be waived with payment of fee</i></p> <ul style="list-style-type: none"> <li>All Green Pathway projects, of any height, subject to 30% Affordable Housing requirement (Fee or 10% already required by code plus an additional 20% required by Green Pathway).</li> <li>All affordable housing to be at Very Low Income – affordable for households earning no more than 50% of Annual Median Income (AMI).</li> <li>Fee allowed for reduction or full waiver of affordable housing – none required to be built.</li> <li>Fee level specified for first 10% but no fee specified for reduction of additional 20% Green Pathway Affordable Housing requirement. (BMC Section 23B.34.050.A)</li> <li>All Green Pathway buildings, Fee or 10% built + 20% built or waived = 30%, none of which is required to be built on-site.</li> </ul>	<p><i>20% or 30% required – but half or 2/3 must be built on site</i></p> <ul style="list-style-type: none"> <li>Green Pathway projects under 75 feet must provide 20% affordable housing at 50% AMI (Fee or 10% already in code plus 10% additional required of Green Pathway projects under 75 feet).</li> <li>Projects under 75 feet, the Green Pathway affordable 10% must be built on site. (Fee or 10% built + 10% built = 20%) (BMC Section 23B.34.040.A)</li> <li>Green Pathway projects over 75 feet remain the same as existing – 30% Affordable Housing at 50% AMI.</li> <li>Projects over 75 feet, Fee or 10% can be built and the additional 20% Green Pathway affordable housing must be built on-site. (BMC Section 23B.34.050.A)</li> </ul>
Green Pathway - Family-Sized Housing	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>Projects over 75 feet (only 5) must include 20% Family-sized Units: 10% with 2 bedrooms or more, and 10% with 3 bedrooms or more. (BMC Section 23B.34.050.E)</li> </ul>
Non- Green Pathway Projects	<ul style="list-style-type: none"> <li>Any height can be Non-Green Pathway project</li> <li>Affordable Housing Fee (\$28K per unit) or 10% Affordable housing built on site.</li> <li>If build 11% on site, under State Density Bonus laws, can get “Density Bonus” of up to 35% additional units, plus added height, modified set backs and other concessions to allow for additional 35% in number of units or to compensate for cost of building affordable units.</li> </ul>	<ul style="list-style-type: none"> <li>Projects must elect Green Pathway to receive bonus height over 60 feet, except with Penthouse, and waive right to Density Bonus.</li> <li>SAME affordable housing requirements and Density Bonus opportunities for non-Green Pathway projects (projects under 60 feet that do not elect the Green Pathway)</li> </ul>
<b>LABOR &amp; SMALL BUSINESS</b>		
Loans to Small Businesses	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>All projects make a contribution equivalent to \$0.50 per sq. ft. of new or additional Floor Area to City Revolving Loan Fund to provide capital for loans to small businesses. (BMC Section 23E.68.085.C)</li> </ul>
Green Pathway - Local Hire	<ul style="list-style-type: none"> <li>30% of workers must be Berkeley residents. If not enough Berkeley workers available, hire from East Bay Green Corridor or Alameda County. (BMC Section 23B.34.050.C)</li> </ul>	<ul style="list-style-type: none"> <li>50% of workers must be Berkeley residents. If not enough Berkeley workers available, hire from East Bay Green Corridor or Alameda County. (BMC Section 23B.34.040.C)</li> </ul>
Green Pathway - Prevailing Wage	<ul style="list-style-type: none"> <li>Buildings over 75 feet or with 100 units or more: Prevailing wage paid to construction workers and to employees of hotels (BMC Section 23B.34.060 A and C)</li> </ul>	<ul style="list-style-type: none"> <li>All buildings: Prevailing wage paid to construction, <u>maintenance and security</u> workers and to employees of hotels. (BMC Section 23B.34.040.D and F)</li> </ul>

Green Pathway - Apprentices	<ul style="list-style-type: none"> <li>Buildings over 75 feet (only 5 buildings): If qualified apprentices are available, 16% of construction workers come from apprenticeship programs. (BMC Section 23B.34.060.B)</li> </ul>	<ul style="list-style-type: none"> <li>All heights: If qualified apprentices are available, 16% of construction workers come from apprenticeship programs. (BMC Section 23B.34.060.B)</li> </ul>
<b>GREEN BUILDING STANDARDS AND ENVIRONMENTAL FEATURES</b>		
Bicycle Parking	<ul style="list-style-type: none"> <li>For commercial space only: one space per 2,000 square feet of gross floor area of commercial space. (BMC Section 23E.68.080.C)</li> </ul>	<ul style="list-style-type: none"> <li>For commercial space, remains the same.</li> <li>For residential: 1 space per bedroom or studio.</li> <li>Bicycle parking spaces offered to residents and employees working in building first, at no cost.</li> <li>If ten or more bicycle parking spaces are not assigned to residents or employees, all unassigned spaces are made available to the public (BMC Section 23E.68.080.D)</li> </ul>
Transit passes	<ul style="list-style-type: none"> <li>New buildings or additions over 20,000 sq. ft. must provide either a pass for unlimited monthly local bus service or an equivalent transit benefit at no cost to every employee, residential unit, and/or GLA resident. (BMC Section 23E.68.080.H)</li> </ul>	<ul style="list-style-type: none"> <li>Same as current code (BMC Section 23E.68.080.H)</li> </ul>
LEED (Sustainable Building) Standards	<ul style="list-style-type: none"> <li>All projects over 20,000 square feet LEED Gold or equivalent. (BMC Section 23E.68.085)</li> </ul>	<ul style="list-style-type: none"> <li>All projects ("normal" or Green Pathway) required to achieve LEED Gold at 65 points or equivalent. (BMC Section 23E.68.085)</li> <li>Green Pathway projects over 75 feet (only 5) required to achieve LEED Platinum or equivalent. (BMC Section 23B.34.050.D)</li> </ul>
Energy Efficiency	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>All projects must attain an energy efficiency rating of 15% above the requirements of Title 24 (BMC Section 23E.68.085.A.2)</li> </ul>
Water Runoff and environmental Requirements	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>All projects no new net water runoff and incorporate environmental practices such as depaving of spaces, permeable surfaces, rain catchment systems, and bio-filtration systems. (BMC Section 23E.68.085.A.3)</li> </ul>
Recycling and Composting Facilities	<ul style="list-style-type: none"> <li>County requires both, but no requirement in Berkeley code that new buildings provide adequate infrastructure or facilities</li> </ul>	<ul style="list-style-type: none"> <li>All buildings required to provide on-site recycling and composting facilities adequate to accommodate reasonably estimated waste stream of building. (BMC Section 23E.68.085.B.1)</li> </ul>
Transportation Services Fee	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>All projects must pay a Transportation Services Fee to be set by resolution of Council, to support alternative modes of travel or Transportation Demand Management (TDM) programs. (BMC Section 23E.68.085.B.2)</li> </ul>
In Lieu Public Space Fee	<ul style="list-style-type: none"> <li>Public Space can be reduced with payment of in lieu fee to "Streets and Open Space Improvement Plan" (SOSIP).</li> <li>Fee paid per square feet of open space reduced.</li> <li>No fee currently specified. (BMC Section 23E.68.070.D.3)</li> </ul>	<ul style="list-style-type: none"> <li>Same terms for reduction of Open Space and payment into SOSIP.</li> <li>Fee established at \$30 per square foot reduced, adjusted annually for inflation. (BMC Section 23E.68.070.D.3)</li> </ul>

VEHICLE PARKING		
Parking – residential	<ul style="list-style-type: none"> <li>One space for every 3 units.</li> <li>Can be reduced or waived entirely – to zero spaces - subject to payment of a parking in-lieu fee (of \$15,000 - \$30,000 per waived space).</li> <li>Handicapped and Car Share spaces required based on parking actually built, not on full parking requirement. No electric vehicle spaces required. (BMC Section 23E.68.080.B and D)</li> </ul>	<ul style="list-style-type: none"> <li>Same as current requirement: one space for every 3 units.</li> <li>Can be reduced by 70%, subject to payment of the same parking in-lieu fee.</li> <li>30% of parking must be built, plus all handicapped, car share and vehicle charging spaces based on parking required, not on parking actually built.</li> </ul> <p>(BMC Section 23E.68.080.B and E)</p>
Unbundling of Parking	<ul style="list-style-type: none"> <li>Required parking spaces must be leased or sold separate from the rental or purchase of dwelling units. (BMC Section 23E.68.080.G)</li> </ul>	<ul style="list-style-type: none"> <li>Same as current law (BMC Section 23E.68.080.J)</li> </ul>
Handicapped Parking	<ul style="list-style-type: none"> <li>None if parking is waived entirely (currently allowed) and reduced to zero. Otherwise, handicapped spaces provided based on parking actually built, not on parking required.</li> </ul>	<ul style="list-style-type: none"> <li>Projects must provide all on-site disabled accessible parking spaces which would be required by the ADA, based on the full vehicle parking requirement, whether the spaces are built or waived (BMC Section 23E.68.080.F)</li> </ul>
Electric Vehicle Charging	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>1 charging space if parking required is 11-30 spaces</li> <li>2 charging spaces if parking required is 31-60 spaces</li> <li>3 charging spaces, plus one for every additional 30 spaces if required parking is 61 spaces or more. (BMC Section 23E.68.080.L)</li> <li>No EV Charging required if less than 11 parking spaces required.</li> </ul>
Car Share Spaces	<p><i>Calculated based on parking built rather than parking required.</i></p> <ul style="list-style-type: none"> <li>1 car share space if 11-30 parking spaces built</li> <li>2 car share spaces if 31-60 parking spaces built</li> <li>3 car share spaces, plus one for every additional 30 spaces if built parking is 61 spaces or more.</li> <li>No Car Share spaces required if less than 11 parking spaces built. (BMC Section 23E.68.080.I)</li> </ul>	<p><i>Must be provided based on parking required, not on parking built.</i></p> <ul style="list-style-type: none"> <li>1 car share space if parking required is 11-30 spaces</li> <li>2 car share spaces if parking required is 31-60 spaces</li> <li>3 car share spaces, plus one for every additional 30 spaces if required parking is 61 spaces or more.</li> <li>No car share required if less than 11 parking spaces required. (BMC Section 23E.68.080.L) (BMC Section 23E.68.080.L)</li> </ul>
Parking – Buffer Area	<ul style="list-style-type: none"> <li>One space for every 3 units. Can be reduced or waived to zero subject to payment of a parking in-lieu fee, at a rate currently unspecified. (BMC Section 23E.68.080.B and D)</li> </ul>	<ul style="list-style-type: none"> <li>Same as R-4 parking standards. 1 space for every 1000 square feet of Floor Area. (BMC Section 23E.68.080.C)</li> </ul>
GENERAL/MISC		
Amending Law	<ul style="list-style-type: none"> <li>All elements can be reduced, eliminated, increased or otherwise modified with a simple majority vote of the City Council.</li> </ul>	<ul style="list-style-type: none"> <li>Green Pathway, C-DMU Development Standards, C-DMU Parking Requirements, C-DMU Green Building Requirements and Civic Center Overlay cannot be amended except by a vote of the people.</li> <li>Other sections can be amended by Council after 5 years (Section 8)</li> </ul>
Downtown Area Plan (DAP)/General Plan Consistency	<ul style="list-style-type: none"> <li>Consistent but limited/incomplete implementation</li> </ul>	<ul style="list-style-type: none"> <li>Consistent and comes closer to full implementation</li> <li>(Section 9 of Initiative).</li> </ul>

