

Your Guide to Upzoning Laws in Berkeley

For anyone who lives, works, shops in, or visits Berkeley.
Berkeley Neighborhood Council

Upzoning is a way for Berkeley to meet State requirements for building more housing. Every few years the California Regional Housing Needs Allocation (RHNA) department sets target numbers of new housing units for every city in the state. Cities must then produce a Housing Element report on ways to achieve the targets. Berkeley's Housing Element (BHE) for 2023-2031 has upzoning as its main way to permit more housing.

What is “upzoning?”

Upzoning is the change of city zoning that allows for higher density land use. It includes:

- **Zoning that allows multi-unit housing on single-family lots.** New State laws and Berkeley upzoning can allow as many as eight apartment units on lots where only single-family homes are permitted.
- **Increased height limits** allow developers to build tall buildings to house more residents. It permits projects to have state density bonuses, that is, to include more units than are permitted by local zoning ordinances. As a result, Berkeley now has several 24 story buildings downtown. There are plans to allow tall buildings elsewhere.

Why are developers interested in upzoning?

Upzoning by a city allows large high-rise buildings in more residential and commercial areas. Property owners support upzoning as they profit from the increased value of their land. Developers profit from upzoning as they can build more high-rise market rate housing.

- The density bonus: In upzoned areas, developers can build more housing units than the city permits by utilizing a state density bonus that allows buildings to have more stories.
- Inclusionary zoning: If developers include 20% affordable housing in their projects, they can increase the number of market rate units by either building affordable units or paying the city a fee.

Well-funded lobby groups support upzoning; they sponsor legislation like Prop 79 and think-tanks that generate white papers on how densification is environmentally desirable and also the best way to get more housing that is profitable. YIMBY (“Yes in My Back Yard”) organizations have made campaign contributions to Berkeley city and state officials. They lobby Sacramento for aggressive new housing legislation that locks cities into RHNA targets they can't meet. Cities are sued if slow in revising their housing elements.

Density bonuses don't yield much affordable housing in market-rate developments. On October 29, 2025, The Berkeley Zoning Board permitted the demolition of three existing two-story residential buildings to construct a 20-story building--more than double the 8-story limit for the neighborhood. It built many market rate units but lost 19 rent stabilized units for just 13 units that people with Extremely Low- and Very Low-Incomes could afford.

Developers also use the state density bonus law to claim exemptions from construction labor standards, health care, and prevailing wage requirements. As a result, the Construction Trades and

Carpenters councils appealed to City Council, to no avail. The density bonus law undercuts labor union rights.

Dangers of upzoning:

Economic impacts

Upzoning increases land values; land-owners cash in and sell to developers who can build large apartment buildings, To clear their building in order to sell, land-owners increase their tenants rents or may not renew a lease; we have lost small businesses thus. Smaller buildings under rent control are demolished. Low rent tenants may be displaced and neighborhoods gentrified. Berkeley residents are seeing loss of home insurance because of increased density.

Environmental Concerns

More residents mean more traffic, more water usage, and need for more infrastructure such as sewers, roads, and schools. Green and open spaces may be replaced with concrete. Tall buildings can create wind tunnels and block the sun from streets, gardens and home solar panels. The new buildings lack parking for tenants, employees and trades people; this yields tight parking for community residents and lack of parking for local businesses.

Community and Social Dimensions

The charm and attractiveness of our community is based on its greenery, the vitality of its commercial districts and cultural activities. In Berkeley, our upzoned Downtown lost vitality as small retail businesses closed; their buildings were demolished. Reduced parking made it difficult for commuters to use BART, access shops and attend music venues.

State Laws, RHNA and the housing crisis: Is there a “housing crisis?”

YES. Workers and their families, the homeless, seniors and others with low income need housing. But State laws designed to increase housing supply such as RHNA are not meeting the demand for low-income housing. City upzones do increase the supply of market rate housing but it also does not meet the demand for low-cost housing.

Data do not show that there is a housing **supply crisis** in California, there is an **affordability crisis**. We lack low-income housing..

State Laws seek to improve affordable housing. What is Affordability?

The California Department of Housing and Community Development (HCD) defines housing affordability as “paying no more than 30-35% of the household’s gross income on housing expenses.”, (the same as federal requirements.)

The HCD and the Federal government defines affordable housing costs according to the county median income (AMI). The 2025 AMI of Alameda County was \$159,800.

<i>Affordable Housing:</i>	<i>AMI</i>	<i>Annual Income</i>
Moderate Income	80% to 120% of AMI	<\$191,760

Low Income	50% to 80% of AMI;	<\$127,840
Very Low Income.	30% to 50% of AMI	<\$79,900
Extremely Low Income	15-30% of AMI.	<\$47,940
Acutely Low Income.	0-15% of AMI OR	<\$15,980

There were 971 Berkeley rentals available in April 2026. In Berkeley, over half of renter households are paying more than 30 percent of their incomes for housing expenses. ([BHE, 59](#)). The average rent in 2026 Berkeley is \$2,950 which at 30% houses those with an income of \$109,000 a year.

When building “affordable” housing, one might ask, affordable to whom? A preschool teacher earns \$52,729, and at 35% of salary could pay \$1537 a month. This would be Very Low Income housing.

Berkeley has met its RHNA housing numbers, so does it need to upzone?

NO. Berkeley’s existing zoning can accommodate RHNA targets. Upzoning is not required. ([BHE 75, 110](#)). While Berkeley is **on target** for RNHA market-rate housing, like many cities it struggles to build low income housing.

RHNA Low to moderate income housing is **“below-market”** housing, but it **is not housing for low-income people**. Only 27% of the RHNA allocation is intended for those with incomes below \$109,600 and 73% of units are allocated for those incomes of \$109,600 and higher.

The City has built RHNA sufficient market rate housing. Berkeley regulations could allow more market rate building without upzoning.

What are the upzoning proposals the Berkeley City Council is approving?

Berkeley’s is proposing upzoning changes that enable developers to increase building heights in the [San Pablo Avenue Specific Plan](#), and in three “high resource” commercial zones (CZU): **Elmwood, North Shattuck, and Upper Solano**.

City Council voted to ask the planning department to ask for a **7-story minimum** in these commercial corridors. With a density “bonus,” buildings could rise up to **14 stories** without parking. This can lead to high commercial rents and dead retail zones in these now vital commercial districts, like our abandoned retail district in downtown Berkeley.

None of the merchants in these corridors were consulted, and in a packed City Council meeting on November 6, 2025 dozens of merchants testified against the proposal over three hours. They said they would be unlikely to survive the long construction period or relocation to high rent new structures.

We must not let this happen to our vital commercial corridors and residential districts.

Why does the City of Berkeley continue to upzone?

Council members state several reasons for upzoning.

- Believing that an increased housing supply will meet housing demand; that more housing will lower rents and house more of those who need it. In the last 20 years of building in Berkeley, this has not happened.
- To meet its State Affirmatively Furthering Fair Housing (AFFH) objectives. Berkeley is far behind on meeting its need for low-income housing,
- The need for residential desegregation. The parts of Berkeley with mostly low-income residents are considered to be a residue of housing redlining and racial discrimination in the past. Now it is income inequality as well as the historic effects of redlining—discriminatory mortgage-lending practices—that perpetuate segregation. African American Assembly Rep. Byron Rumford’s worked for Fair Legislation and the city’s vote to resegregate in 1963).

In 2026, people near the university are low income as that is where students live; and the traditionally low-income area in the flats are now so due to its smaller, low-cost housing. Building high-cost housing throughout Berkeley will not decrease residential segregation. Increasing the supply of market rate housing will not meet the demand for low income housing.

The average rent in 2026 Berkeley is \$2,950 which can house those with an income of \$109,000 a year. A preschool teacher earns \$52,729, and at 35% of salary could pay \$1537 a month. Areas of “redevelopment” in Central, South, and West Berkeley resulted in a decline in Berkeley’s Black population from 13.3% in 2000 to 7.7% in 2019 (BHE p. 23). In 1970, African-Americans were 24% of Berkeley’s population.

Berkeley can use existing zoning that already lets developers to build up to 6 stories, with a 100% density bonus and 30% affordable housing with proposed “medium density” zoning,. Existing zoning (CZU, p. 19)

Zoning is not the key barrier to residential integration in Berkeley; affordability is.

How does high student enrollment at UC Berkeley impact City Housing?

Total UC Berkeley student enrollment was 33,558 in 2005. In 2025 it was up to 46,151, an increase of 37.5%. With Berkeley’s population currently at 122,000, the number of students in Berkeley is 26%. Students have a strong preference for housing close to campus. This is a key factor that has driven housing construction since the late 1990s in downtown Berkeley.

UC Berkeley’s Long-Range Development Plan (LRDP) says UC housing is provided for only 23% of undergrads and 9% of graduate students. In 2020, UC started to build more housing, after having added little more than 1000 beds between 2005 and 2020.

Now, student housing is about 11,100 units; to meet the goal of housing 50% of undergrads for a Fall 2025 enrollment of 46,151, UC needed an additional 16,561 beds. To house 25% of grad students, it needs another 3,257 beds. UC is building more housing but it also relies on city low-income housing.

What about funding affordable housing in Berkeley?

There is funding for affordable housing through two local sources: the Housing Trust Fund (HTF) and

from Measures O, P, and U1. The HTF is funded in part by “affordable housing mitigation fees” and fees that developers pay to lower the number of affordable units they must build.

Unfortunately, the city of Berkeley raided the [U1 Funds](#) which are held in the City’s general fund, [diverting \\$2.5 million](#) from funds meant to support affordable housing to help make up for a budget deficit.

Berkeley voters need to hold the City Council members accountable for redirecting funds specifically earmarked for affordable housing to other purposes.

What can we do to save our city?

--**Write to City Council** and ask them to stop all upzoning plans until they examine the impact of downtown zoning on local businesses, residential and commercial vacancies, and market-rate rents is completed. *Send email to the Mayor and City Council: council@Berkeleyca.gov*

--**Ask City Council to vote** against the CZU proposal AND establish a 7-story minimum without the potential to build up to 14 stories in the Elmwood, North Shattuck and Upper Solano business districts. The San Pablo Avenue Specific Plan also calls for upzoning.

--**Attend the next City Council meetings** in March, April and May to register your concern about these proposals.

--Join the email lists for [Berkeley Neighborhoods Council](#), [Build a Better Berkeley](#), [Friends of Adeline](#), [Healthy Black Families](#), and [Save Berkeley Shops](#), for updates on these issues.

--**Vote** for City Council members who support AFFORDABLE housing in the next election.