

**BERKELEY CITY COUNCIL HEALTH, LIFE ENRICHMENT, EQUITY &
COMMUNITY COMMITTEE
REGULAR MEETING MINUTES**

**Monday, March 9, 2020
10:00 AM**

2180 Milvia Street, 6th Floor - Redwood Room

Committee Members:

Councilmembers Rashi Kesarwani, Ben Bartlett, and Sophie Hahn
Alternate: Councilmember Rigel Robinson

Roll Call: 10:05 a.m. Councilmember Bartlett absent.

Public Comment on Non-Agenda Matters – 0 speakers

Minutes for Approval

Draft minutes for the Committee's consideration and approval.

1. Minutes - February 24, 2020

Action: M/S/C (Kesarwani/Hahn) to approve the minutes of February 24, 2020, with one addition to the action on item 4 a/b as follows: include the removal of item number three in the Resolution.

Vote: Ayes – Kesarwani, Hahn; Noes – None; Abstain – None; Absent – Bartlett.

Committee Action Items

The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

2. Listening Session on Homelessness (15 minutes) – 0 speakers

Committee Action Items

3. **Healthy Checkout Ordinance** *(Item contains revised material.)*

From: Councilmembers Harrison and Hahn

Referred: October 28, 2019

Due: April 26, 2020

Recommendation: 1. Adopt an ordinance requiring stores over 2,500 square feet in size to sell more nutritious food and beverage options in their checkout areas.

2. Refer to the City Manager to determine funding and staffing needs to implement and enforce the ordinance and sources of funding to support this program.

Financial Implications: See report

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Action: 12 speakers. Discussion held. M/S/C (Hahn/Kesarwani) to send the item to Council with a positive recommendation and the following amendments requested of the author:

- a. For the Council report, add a third recommendation to the item to request a referral to the Sugar Sweetened Beverage Product Panel of Experts to consider recommending allocations to support implementation, education & enforcement and to work with staff to develop protocols for the same. Additionally, under financial implications, include that enforcement of the ordinance should be focused on education and only secondarily, on traditional enforcement mechanisms.
- b. For the Ordinance: Under 9.82.030, strike the reference to chips and change 230 mg of sodium to 200 mg; under 9.82.060 include an effective date of January 1, 2021, and an enforcement and ongoing education date of July 1, 2021; and amend under definition 9.82.020, the reference to endcap should become "Checkout endcap" defined as the product displays at the endpoints of areas designated or utilized primarily for waiting in line to make a purchase.

Vote: Ayes – Kesarwani, Hahn; Noes – None; Abstain – None; Absent – Bartlett.

Committee Action Items

4a. Recommendation to Modify Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance

From: Housing Advisory Commission

Referred: October 29, 2019

Due: April 27, 2020

Recommendation: Approve modifications to policies related to the enforcement of the Smoke-Free Multi-Unit Housing Ordinance, as follows:

1. Increase staffing to implement enforcement of the ordinance as part of the next budget;
2. Improve signage related to the ordinance in residential buildings;
3. Make the complaint process less onerous and more user-friendly, including enabling complainants to submit complaints electronically, providing complaint forms in different languages, and removing language requiring the statements to be “sworn,” and considering other, less threatening language that still expects a complaint be provided under the best of appellant’s knowledge;
4. Relax the current requirements around how the Ordinance-based complaint form must be completed in order to be processed (e.g., removing the requirement of providing two separate complaints from different individuals within a six-month period, if the building contains two or fewer units, removing the requirement of providing a sworn statement under penalty of perjury); and
5. Refer to the Community Health and Cannabis Commissions the question of whether the use of recreational (non-medical) cannabis should be incorporated into the Smoke-Free Housing Ordinance.

Financial Implications: See report

Contact: Mike Uberti, Commission Secretary, (510) 981-7400

4b. Companion Report: Recommendation to Modify Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance

From: City Manager

Referred: October 29, 2019

Due: April 27, 2020

Recommendation: The City Manager appreciates the Housing Advisory Commission’s efforts to strengthen the implementation of the Smoke-free Multi-Unit Housing ordinance and recommends that the proposed modifications be referred to the City Manager Office for an analysis of the financial and legal feasibility of the proposed changes.

Financial Implications: See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

Action: 1 speaker. Discussion held.

Item continued to next meeting on March 23, 2020.

Committee Action Items

5a. **Smoke-Free Multi-Unit Housing Ordinance Policy and Enforcement Modifications**

From: Housing Advisory Commission

Referred: February 24, 2020

Due: July 13, 2020

Recommendation: The Commission recommends that City Council:

1. Make a short term referral directing the City Manager to correct current City Policies for enforcing BMC 12.70.035 so that these policies do not contradict the ordinance and BMC 12.70.035 requires that second and third complaints must refer to a violation or violations that occur after the 12.70.035(C) notice has been made.
2. Modify BMC 12.70.035 so that the requirement that signs be posted is enforced as part of the Residential Safety ordinance. Failure to post signage may result in fines, accordingly.
3. Modify BMC 12.70.035 so that repeated failure to provide new tenants with the City's brochure shall be guilty of an infraction. It shall also be an infraction for landlords to tell new tenants, in contradiction to the law, that tobacco smoking by some tenants is permitted.
4. Obtain an analysis of the financial impacts of the recommended modifications to the BMC.

Financial Implications: See report

Contact: Mike Uberti, Commission Secretary, (510) 981-7400

5b. **Companion Report: Smoke-Free Multi-Unit Housing Ordinance Policy and Enforcement Modifications**

From: City Manager

Referred: February 24, 2020

Due: July 13, 2020

Recommendation: The City Manager appreciates the Housing Advisory Commission's efforts to strengthen the implementation of the Smoke-free Multi-Unit Housing ordinance and recommends that the proposed modifications be referred to the City Manager Office for an analysis of the financial and legal feasibility of the proposed changes.

Financial Implications: See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

Action: 1 speaker. Discussion held.

Item continued to next meeting on March 23, 2020.

Unscheduled Items

These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.

- **None**

Items for Future Agendas

- Discussion of items to be added to future agendas
- Discussion of future hearings and open forums

Adjournment

Adjourned at 12:02 p.m.

I hereby certify that this is a true and correct record of the Health, Life Enrichment, Equity & Community Committee meeting held on March 9, 2020.

April Richardson, Assistant City Clerk

Communications

Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA.