

AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, November 29, 2022
6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/82196348694>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free) and enter Meeting ID: 821 9634 8694. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

To submit a written communication for the City Council's consideration and inclusion in the public record, email council@cityofberkeley.info.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call:

Land Acknowledgement Statement: *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

1. Adjournment in memory of Al Wasserman, Berkeley resident

City Manager Comments: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Public Comment on Non-Agenda Matters: *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

Consent Calendar

The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Three members of the City Council must agree to pull an item from the Consent Calendar or Information Calendar for it to move to Action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

- 1. Sewer and Access Road Easement and Installation Agreement with Paulonia Investment, LLC and Little Tree Investment, Inc.**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,841-N.S. authorizing the City Manager to execute an easement and installation agreement and any amendments for sewer pipe facilities with Paulonia Investment, LLC and Little Tree Investment, Inc. for extending, operating, maintaining, and accessing sewer pipe facilities on parcel with APN 063-2969-034-23.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
- 2. Sewer and Access Road Easement and Installation Agreement with James Robert Higgins**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,842-N.S. authorizing the City Manager to execute an easement and installation agreement and any amendments for sewer pipe facilities with James Robert Higgins for extending, operating, maintaining and accessing sewer pipe facilities on 1033 Miller Avenue (APN 063-2969-034-25).
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
- 3. Sewer and Access Road Easement and Installation Agreement with Paulonia Investment, LLC and Little Tree Investment, Inc.**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,843-N.S. authorizing the City Manager to execute an easement and installation agreement and any amendments for sewer pipe facilities with Paulonia Investment, LLC and Little Tree Investment, Inc. on parcel with APN: 063-2969-034-44 for accessing sewer pipe facilities.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300

Consent Calendar

- 4. Adopt an Ordinance Adding a Chapter 11.62 to the Berkeley Municipal Code to Regulate the Use of Carryout and Produce Bags and Promote the Use of Reusable Bags**
From: Councilmember Harrison (Author), Councilmember Hahn (Author)
Recommendation: Adopt second reading of Ordinance No. 7,844-N.S. adding a Chapter 11.62 to the Berkeley Municipal Code to regulate the use of carryout and produce bags and promote the use of reusable bags with a phased enforcement and implementation approach, effective with respect to new charges for bags pursuant to Sections 11.63.040 and 11.63.050 and provisions applicable to the City of Berkeley and City-sponsored events pursuant to Section 11.63.090 on January 1, 2023, and administrative regulations for and all provisions in this ordinance effective June 30, 2023.
First Reading Vote: All Ayes.
Financial Implications: Staff Time - \$350,000 per year
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 5. Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference**
From: City Manager
Recommendation: Adopt a Resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference, initially ratified by the City Council on September 28, 2021, and subsequently reviewed and ratified on October 26, 2021, November 16, 2021, December 14, 2021, January 10, 2022, February 8, 2022, March 8, 2022, March 22, 2022, April 12, 2022, May 10, 2022, May 31, 2022, June 28, 2022, July 26, 2022, August 23, 2022, September 20, 2022, October 11, 2022, and November 3, 2022.
Financial Implications: To be determined
Contact: Farimah Brown, City Attorney, (510) 981-6950
- 6. Amend I-80 Gilman Interchange Improvement project funding agreement, Contract No. 42200065 (Agreement A22-0056) with Alameda County Transportation Commission (Alameda CTC)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the existing Contract No. 42200065 (Agreement A22-0056) with Alameda CTC and any other amendments to fix drainage and grading issues for the future fire lane on 3rd Street between Gilman and Camelia Streets as part of the I-80 Gilman Interchange Improvement Project, increasing the amount of the agreement by \$750,000, for a total not-to-exceed amount of \$1,250,000.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300

Council Consent Items

- 7. Budget Referral: Strawberry Creek Lodge Food Program**
From: Mayor Arreguin (Author), Councilmember Taplin (Author)
Recommendation: Refer to the December 2022 Annual Appropriations Ordinance (AAO) budget process \$50,000 for the Strawberry Creek Lodge Food Program.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 8. Grant Approval: San Francisco Foundation to support the Equitable Black Berkeley Initiative**
From: Mayor Arreguin (Author)
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to accept a \$75,000 grant award from the San Francisco Foundation to renew the existing ideation facilitator contract supporting the Equitable Black Berkeley Initiative, a community-led process to develop a reparative approach to new development at the Ashby BART Station and Adeline Corridor, with the goal of maximizing affordability of new housing.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 9. Excused Absence for Councilmember Ben Bartlett**
From: Mayor Arreguin (Author)
Recommendation: Excuse Councilmember Ben Bartlett from the September 29, 2022 Council meeting as a result of illness.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100

Action Calendar

The public may comment on each item listed on the agenda for action as the item is taken up. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

The Presiding Officer will request that persons wishing to speak use the "raise hand" function to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer 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. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

Action items may be reordered at the discretion of the Chair with the consent of Council.

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak use the "raise hand" function to be recognized and to determine the number of persons interested in speaking at that time.

Action Calendar – Public Hearings

Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.

10. **Renewal of the Solano Avenue BID for Calendar Year 2023**

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Solano Avenue Business Improvement District for 2022-2023 and, if no majority protest exists, levy annual assessments in the District for calendar year 2023 to finance services and improvements and authorize a fiscal agency contract for receipt and expenditure of District funds.

Financial Implications: See report

Contact: Eleanor Hollander, Economic Development, (510) 981-7530

11. **Referral Response: Amendments to the Sign Ordinance to Clarify Procedures and to Establish a Coordinated Sign Design Program, and Establish a New Fee for Coordinated Sign Design Programs**

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion:

1. Adopt the first reading of an Ordinance amending the Berkeley Municipal Code (BMC) Title 20 [Signs] to clarify design review procedures for signs, establish an optional Coordinated Sign Design program, and amend Section 20.12.070 [Issuance authorized when] and Section 23.204.070B [Design Review – When required] to provide internal consistency; and
2. Adopt a Resolution amending Resolution No. 67,985-N.S., the Land Use Planning Fee schedule, to add a new Coordinated Sign Design Program Fee.

Financial Implications: See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400

12. **Adoption of Berkeley Building Codes, including Local Amendments to California Building Standards Code**

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion adopt the second reading of Ordinance No. 7,839-N.S. repealing and reenacting the Berkeley Building, Residential, Electrical, Mechanical, Plumbing, Energy, and Green Building Standards Codes in Berkeley Municipal Code Chapters 19.28, 19.29, 19.30, 19.32, 19.34, 19.36 and 19.37, and adopting related procedural and stricter provisions.

First Reading Vote: All Ayes.

Financial Implications: See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action Calendar – Public Hearings

- 13. Re-enactment of the Berkeley Housing Code; Repealing Chapter 12.48 and Repealing and Re-enacting Chapter 19.40**
From: City Manager
Recommendation: Conduct a public hearing, and upon conclusion adopt the second reading of Ordinance No. 7,840-N.S. to repeal Berkeley Municipal Code (BMC) Chapter 12.48 (Residential Rental Housing Safety Program), and to repeal and re-enact BMC 19.40 (Berkeley Housing Code), incorporating BMC Chapter 12.48 into BMC Chapter 19.40.
First Reading Vote: All Ayes.
Financial Implications: None
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action Calendar – New Business

- 14. Return to In-Person City Council Meetings and Status of Meetings of City Legislative Bodies**
From: City Manager
Recommendation: Review the public health meeting protocols and advise on any revisions to be implemented for the return to in-person regular meetings at the December 6, 2022 regular meeting.
Financial Implications: See report
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 15. Adeline Street at Ashby BART Conceptual Design**
From: City Manager
Recommendation: Adopt a Resolution approving the Plaza with Two-Lane Adeline option as the conceptual design for a street reconfiguration and new plaza along Adeline Street between Ashby Avenue and Martin Luther King Jr. Way, and authorizing the City Manager to direct staff to proceed with the detailed engineering design of the project.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300

Information Reports

- 16. Climate Action Plan and Resilience Update**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 17. City Policies for Managing Parking Around BART Stations**
From: City Manager
Contact: Liam Garland, Public Works, (510) 981-6300
- 18. Fair Campaign Practices Commission FY2022-2023 Work Plan**
From: Fair Campaign Practices Commission
Contact: Sam Harvey, Commission Secretary, (510) 981-6950

Information Reports

19. Open Government Commission FY2022-2023 Work Plan

From: Open Government Commission

Contact: Sam Harvey, Commission Secretary, (510) 981-6950

Public Comment – Items Not Listed on the Agenda

Adjournment

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

Archived indexed video streams are available at:

<https://berkeleyca.gov/your-government/city-council/city-council-agendas>.

Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <https://berkeleyca.gov/>.

Agendas and agenda reports may be accessed via the Internet at:

<https://berkeleyca.gov/your-government/city-council/city-council-agendas>

and may be read at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor

Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901

Email: clerk@cityofberkeley.info

Libraries: Main – 2090 Kittredge Street,
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,
North Branch – 1170 The Alameda, South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.



Captioning services are provided at the meeting, on B-TV, and on the Internet.

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***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on November 17, 2022.***

Mark Numainville, City Clerk

## **Communications**

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing at the City Clerk Department and through [Records Online](#).*

### **Item #15: Adeline Street at Ashby BART Conceptual Design**

1. Ryan Lau, on behalf of the Alameda-Contra Costa Transit District

### **No Right Turn on Red**

2. Riti Dhesi
3. Ned Himmel
4. Laralynn and Joe Rapoza

### **Harriet Tubman Terrace Apartments**

5. Darinxoso Oyamasela

### **Homelessness and Encampments**

6. Friends of Five Creeks (3)
7. Craig Nagasaw
8. John Caner, Downtown Berkeley Associations
9. Susana Garcia

### **PCI Street Conditions**

10. David Lerman (2)
11. Marna Braunstein Clark

### **Hopkins Street Corridor**

12. Nancy Lewis

### **26-Story Building in Central Berkeley**

13. Dorothea Dorenz

**EV Micro-Mobility Vehicles**

14. Bernard Marszalek

**Traffic Safety at Cedar and California**

15. David Lerman

**Bring Back Transit Bus 80**

16. Jovanka Beckles

**Berkeley Waterfront and Marina Area**

17. Camille Antinori, David Fielder and Gordon Stout

**Recruitment of Commissioners for the Commission on Aging**

18. George Porter, Chair, Commission on Aging

**Support for Repairs to La Pena Cultural Center**

19. Natalia Neira and Tara Dalbo, Executive & Deputy Executive Director

**Illegal Dumping**

20. Alice Rosenthal

**Implement Ceasefire in Berkeley**

21. Diana Bohn

**People's Park**

22. Susana Lamaina

23. Joshua Hart

24. Susan Stevens

25. Sandra Morey

26. Norma Harrison

**Cannabis Policy**

27. Getting It Right From The Start

**North Berkeley BART Developer Selection**

28. John Parman

29. Peggy Radel

**Berkeley Half Marathon Impacts**

30. Alexander Merenkow

**Climate Change**

31. Vivian Warkentin

**Proposed Proclamation, in Honor of Barbara Ann White**

32. Moni Law (2)

### **End the Eviction Moratorium**

33. Jeannie Llewellyn

34. May Fong

35. Daniel Gonzalez

### **PRA Request**

36. Nathan Mizell

37. Dee Williams-Ridley

### **Berkeley City Council Meeting Comment**

38. Peter Goldman

### **Berkeley Police Department Superior Customer Service**

39. Pauline Russo Cutter, Mayor of San Leandro

### **Golden Gate Fields Stable Code Violations**

40. T. Conrad

### **Measure L**

41. Jeffrey Heller

### **Housing Element**

42. 9 similarly-worded from letters

### **Supplemental Communications and Reports**

*Items received by the deadlines for submission will be compiled and distributed as follows. If no items are received by the deadline, no supplemental packet will be compiled for said deadline.*

- **Supplemental Communications and Reports 1**  
Available by 5:00 p.m. five days prior to the meeting.
- **Supplemental Communications and Reports 2**  
Available by 5:00 p.m. the day before the meeting.
- **Supplemental Communications and Reports 3**  
Available by 5:00 p.m. two days following the meeting.



ORDINANCE NO. 7,841-N.S.

PUBLIC SEWER EASEMENT AND INSTALLATION WITH PAULONIA INVESTMENT, LLC AND LITTLE TREE INVESTMENT, INC. FOR EXTENDING OPERATING, MAINTAINING AND ACCESSING SEWER PIPE FACILITIES ON APN 063-2969-034-23

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

Section 1. That the City Manager and City Clerk are hereby authorized and directed to make, execute and deliver for and on behalf of the City of Berkeley, as its corporate act and under its corporate name and seal, public sewer easement deed and installation agreement with Paulonia Investment, LLC and Little Tree Investment, Inc. for extending, operating, maintaining and accessing sewer pipe facilities on over a portion of APN 063-2969-034-23, a copy of which easement agreement is attached hereto, (Exhibit A) made a part hereof.

Section 2. That the City Clerk is hereby authorized and directed to cause the executed public sewer and access easement deed and installation agreement to be recorded in the Official Records of Alameda County, California.

Section 3. 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 15, 2022, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

ATTACHMENT 1, EXHIBIT A

**Public Sewer Easement Deed and Installation Agreement**  
Sanitary Sewer

This Public Sewer Easement Deed and Installation Agreement ("Agreement") is entered into as of the 6<sup>th</sup> day of October 2022, by and between Paulonia Investment, LLC and Little Tree Investment, Inc., ("Grantors") and the City of Berkeley ("Grantee").

**1. Grant of Easement.** For good and valuable consideration, receipt of which is hereby acknowledged, Grantors hereby grant to the Grantee the following easement subject to the following terms and conditions.

**2. Scope of Easement.** The easement granted is a non-exclusive easement for the construction, installation, operation, inspection, maintenance, repair, replacement, and removal of a single pipeline not greater than twelve (12) inches in diameter and maintenance holes for the transmission of sewage.

**3. Location of Easement.** The real property parcel ("Property") affected by this Agreement is APN 063-2969-034-23, more specifically described as Lot 1 in Lot Line Adjustment Number 296 recorded at Alameda County January 2, 2018, Instrument Number 2018000094.

**4. Location of Maintenance Holes and Pipeline.** The maintenance holes and pipeline allowed under this easement shall be located entirely within the Easement Area as described in Exhibit A. The maintenance holes and pipeline shall be constructed with a not-to-exceed 12-inch pipe stub to allow the direct connection of private lateral sewer pipelines from neighboring parcels.

**5. Connections Prohibited.** This Agreement does not grant permission to Grantors to make connections to the Grantee's facilities consisting of the pipeline, maintenance holes, and cleanouts. Any additional connections made to the Grantee's facilities are only permitted after obtaining all appropriate permits for making a connection to the Grantee's facilities.

**6. Restoration of Surface.** Within twenty-five (25) days of the completion of any construction, installation, inspection, maintenance, repair, replacement, removal or other activity by Grantee on the Easement Area that disturbs the surface of the ground or any structure, facility, or installation of Grantors, Grantee shall remove any debris and restore the surface and any structure, facility, or installation of Grantors as near to its pre-disturbance condition as possible, including re-vegetation limited to starting plant material available through general nurseries open to the public. If Grantee fails to do so, Grantors may do so at Grantee's risk and expense, and Grantee agrees to reimburse the Grantors for the cost of removal and restoration.

**7. Right of Access.** Grantee shall have the right of ingress and egress to and from the Easement Area for the purpose described in this Agreement.

ATTACHMENT 1, EXHIBIT A

8. **Term of Easement.** The rights granted in this Agreement shall be possessed and enjoyed by the Grantee, its successors and assigns, so long as the pipeline is maintained and operated by Grantee, its successors and assigns, in conformance with terms and conditions hereof. If Grantee ceases to use and abandons the pipeline allowed under this Agreement, Grantee shall execute and deliver to Grantors, within forty-five (45) days after service of a written demand, a good and sufficient quitclaim deed to all rights granted in this Agreement. Should Grantee fail or refuse to deliver this quitclaim deed, a written notice by Grantors reciting the failure or refusal of Grantee to execute and deliver the quitclaim deed, and terminating this Agreement, shall, after forty-five (45) days from the date of recording of the notice, be conclusive evidence against Grantee, and all persons claiming under Grantee, of the termination of Grantee's rights under this Agreement.

9. **Rights and Duties of Grantors.** Grantors shall retain the right to use and enjoy the Property to the fullest extent without unreasonable interference with the exercise by Grantee of the rights granted by this Agreement.

Grantors shall not increase the static and/or live loads on the Grantee's infrastructure by any Grantors action regardless of the easement boundaries. Grantors are solely responsible for accurately locating the pipeline before planning, designing, applying for permits, and constructing any improvements, and shall document the condition of the Grantee's infrastructure before and after any construction within 3 feet of the outside surface of the Grantee's infrastructure.

Grantors shall design and construct all improvements to allow Grantee to use open trench methods for repair, monitoring, maintenance, and operation while using shoring methods typical for the slope and open country construction.

10. **Liability and Indemnification.** Grantee agrees that it is solely responsible for the operation, inspection, maintenance, repair, replacement, rehabilitation, and the removal of the pipeline authorized herein. Grantee agrees to indemnify and hold harmless Grantors against all claims, suits, costs, losses and expenses that may in any manner result from or arise out of the operation, inspection, maintenance, repair, replacement, rehabilitation, and removal of the pipeline, including the damaging or breaking of the pipeline from any cause whatsoever, except the damage to or breaking of the pipeline is caused by the Grantors.

11. **Cooperation.** Grantors and Grantee agree to promptly take whatever steps are necessary to execute, acknowledge, and deliver the documents necessary to effectuate the terms and purpose of this Agreement.

12. **Governing Law; Choice of Forum.** This Agreement shall be interpreted in accordance with and governed in all respects by the laws of the State of California. Each party agrees that any claim arising out of this Agreement shall be filed in Alameda County Superior Court, and each party consents to personal jurisdiction in the State of California and Alameda County.

13. **Entire Agreement.** This Agreement contains the entire understanding between the parties hereto with regard to the matters set forth herein and is intended to be and is a final integration thereof. There are no representations, warranties, agreements, arrangements, undertakings, oral or written between or among the parties hereto relating to the terms and conditions of this Agreement which are not fully expressed herein. The terms hereof are contractual and not a mere recital and it is understood that no alterations,

ATTACHMENT 1, EXHIBIT A

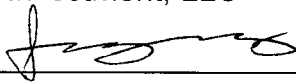
modifications or changes may be affected except by a writing duly executed by all the parties to this Agreement.

14. **Binding Effect.** This Agreement shall be binding on the heirs, legal representatives, successors and assigns of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement at Berkeley, California as of the date first above written.

**OWNER/GRANTOR**

Paulonia Investment, LLC

By:  [signature must be notarized]

Print Name: Fang Wang

Title: Owner

**OWNER/GRANTOR**

Little Tree Investment, Inc.

By:  [signature must be notarized]

Print Name: Fang Wang

Title: CFO

**CITY OF BERKELEY, a municipal corporation/GRANTEE:**

By: \_\_\_\_\_ [signature must be notarized]

Name: Bedwendolyn Williams-Ridley

Title: City Manager of the City of Berkeley

**Approved as to Form**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: Assistant City Attorney



### ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Alameda

On 10 / 06 / 2022 before me, David Lee, Notary Public  
(insert name and title of the officer)

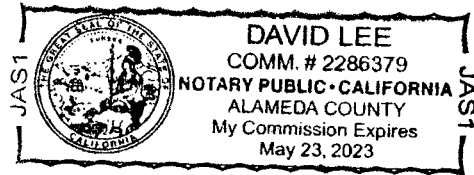
personally appeared FANG WANG  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

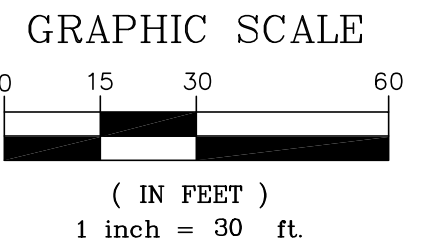
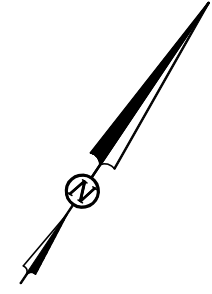
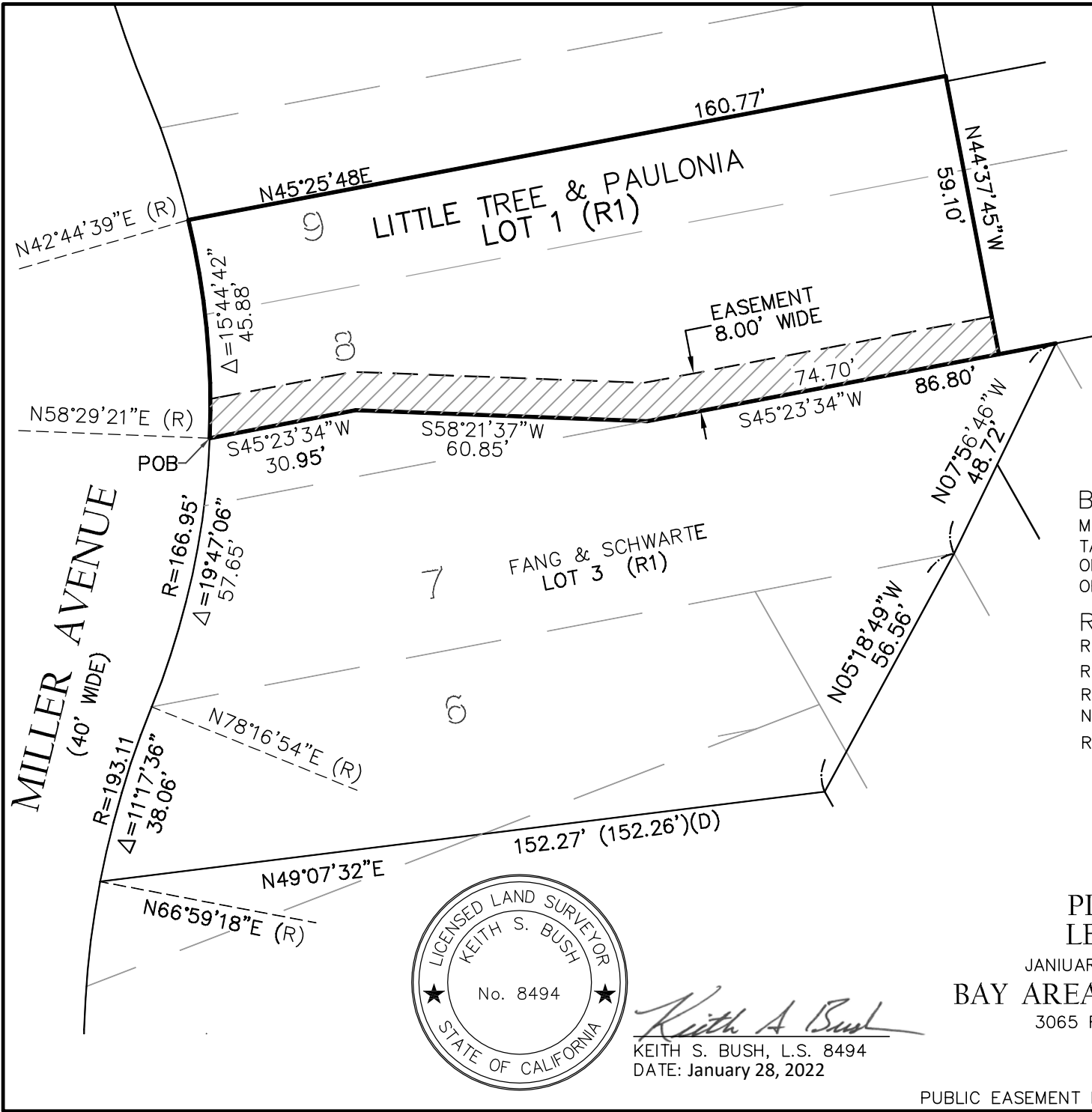
WITNESS my hand and official seal.

Signature [Handwritten Signature]

(Seal)

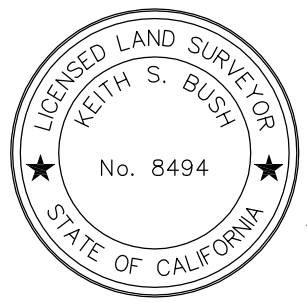


# ATTACHMENT 1 EXHIBIT A



**BASIS OF BEARINGS:**  
MONUMENT LINE IN GRIZZLY PEAK BLVD.,  
TAKEN AS N 63°16'00" W, AS SHOWN  
ON MAP OF RESUBDIVISION OF A PART  
OF NORTH CRAGMONT (24 M. 74).

- REFERENCES:**
- R1= LOLA 296 (2018-000094)
  - R2= LOLA 330 (2018-171906)
  - R3= RESUBDIVISION OF A PORTION OF  
NORTH CRAGMONT (BOOK 24 M 74)
  - R4= LOLA 339 (2019-182632)



*Keith A. Bush*  
KEITH S. BUSH, L.S. 8494  
DATE: January 28, 2022

**EXHIBIT B**  
**PLAT TO ACCOMPANY**  
**LEGAL DESCRIPTION**  
JANUARY, 2022 SCALE 1" = 30'  
**BAY AREA LAND SURVEYING INC.**  
3065 RICHMOND PARKWAY, SUITE 101  
RICHMOND, CA 94806  
(510) 223-5167

# ATTACHMENT 1

## EXHIBIT "A" LEGAL DESCRIPTION EASEMENT

REAL PROPERTY IN THE CITY OF BERKELEY, COUNTY OF ALAMEDA COUNTY, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS.

A STRIP OF LAND, 8 FEET WIDE, OVER A PORTION OF LOT 1, AS SHOWN ON THE LOT LINE ADJUSTMENT NO. 296, RECORDED JANUARY 2, 2018, AS SERIES NUMBER 2018-000094, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA, THE SOUTHEASTERLY SIDELINE BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LOT 1;

THENCE ALONG THE EXTERIOR LINES OF SAID LOT 1 THE FOLLOWING THREE (3) COURSES:

NORTH 45°23'34" EAST 30.95 FEET;

NORTH 58°21'37" EAST 60.85 FEET;

NORTH 45°23'34" EAST 74.70 FEET TO THE MOST EASTERLY CORNER OF SAID LOT 1 ;

THE SIDELINES OF SAID STRIP SHALL BE LENGTHENED AND/OR SHORTENED SO AS TO BEGIN ON THE SOUTHWESTERLY LINE OF SAID LOT 1 AND TO TERMINATE ON THE NORTHEASTERLY LINE OF SAID LOT 1.

CONTAINING AN AREA OF APPROXIMATELY 1,325 SQUARE FEET.

EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART OF THIS DESCRIPTION.

END OF DESCRIPTION





ORDINANCE NO. 7,842-N.S.

PUBLIC SEWER AND ACCESS ROAD EASEMENT AND INSTALLATION WITH JAMES ROBERT HIGGINS FOR EXTENDING, OPERATING, MAINTAINING AND ACCESSING SEWER PIPE FACILITIES ON 1033 MILLER AVENUE (APN 063-2969-034-25)

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

Section 1. That the City Manager and City Clerk are hereby authorized and directed to make, execute and deliver for and on behalf of the City of Berkeley, as its corporate act and under its corporate name and seal, public sewer and access road easement deed and installation agreement with James Robert Higgins for sanitary sewer facilities on 1033 Miller Avenue (APN 063-2969-034-25) a copy of which easement agreement is attached hereto, (Exhibit A) made a part hereof.

Section 2. That the City Clerk is hereby authorized and directed to cause the executed public sewer and access road easement deed and installation agreement to be recorded in the Official Records of Alameda County, California.

Section 3. 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 15, 2022, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

ATTACHMENT 2, EXHIBIT A

**Public Sewer and Access Road Easement Deed and Installation Agreement**  
Sanitary Sewer

This Public Sewer and Access Road Easement Deed and Installation Agreement ("Agreement") is entered into as of the 8<sup>th</sup> day of July 2022 by and between James Robert Higgins ("Grantor") and the City of Berkeley ("Grantee").

**1. Grant of Easement.** For good and valuable consideration, receipt of which is hereby acknowledged, Grantors hereby grant to the Grantee the following easement subject to the following terms and conditions.

**2. Scope of Easement.** The easement granted is a non-exclusive easement for the access to, construction, installation, operation, inspection, maintenance, repair, replacement, and removal of a single pipeline not greater than twelve (12) inches in diameter and maintenance holes for the transmission of sewage.

**3. Location of Easement.** The real property parcel ("Property") affected by this Agreement is located at 1033 Miller Avenue, City of Berkeley, County of Alameda more specifically described as Lot 3 in Lot Line Adjustment Number 296 recorded at Alameda County January 2, 2018.

**4. Location of Maintenance Holes and Pipeline, and Location of Access Road.** The maintenance holes and pipeline allowed under this easement shall be located entirely within the Easement Area as described in Exhibit A. The maintenance holes and pipeline shall be constructed with a not-to-exceed 12-inch pipe stub to allow the direct connection of private lateral sewer pipelines from neighboring parcels.

The access road allowed under this easement shall be located entirely within the Easement Area as described in Exhibit A and as necessary to allow vehicle access to the sewer. The access road shall be constructed and maintained by the property owner to allow vehicle access to maintain the maintenance holes and pipeline located in the sewer easement.

**5. Connections Prohibited.** This Agreement does not grant permission to Grantors to make connections to the Grantee's facilities consisting of the pipeline, maintenance holes, and cleanouts. Any additional connections made to the Grantee's facilities are only permitted after obtaining all appropriate permits for making a connection to the Grantee's facilities.

**6. Restoration of Surface.** Within twenty-five (25) days of the completion of any construction, installation, inspection, maintenance, repair, replacement, removal or other activity by Grantee on the Easement Area that disturbs the surface of the ground or any structure, facility, or installation of Grantors, Grantee shall remove any debris and restore the surface and any structure, facility, or installation of Grantors as near to its pre-disturbance condition as possible, including re-vegetation limited to starting plant material available through general nurseries open to the public. If Grantee fails to do so, Grantors may do so at Grantee's risk and expense, and Grantee agrees to reimburse the Grantors for the cost of removal and restoration.

ATTACHMENT 2, EXHIBIT A

**7. Right of Access.** Grantee shall have the right of ingress and egress to and from the Easement Area for the purpose described in this Agreement.

**8. Term of Easement.** The rights granted in this Agreement shall be possessed and enjoyed by the Grantee, its successors and assigns, so long as the pipeline is maintained and operated by Grantee, its successors and assigns, in conformance with terms and conditions hereof. If Grantee ceases to use and abandons the pipeline allowed under this Agreement, Grantee shall execute and deliver to Grantors, within forty-five (45) days after service of a written demand, a good and sufficient quitclaim deed to all rights granted in this Agreement. Should Grantee fail or refuse to deliver this quitclaim deed, a written notice by Grantors reciting the failure or refusal of Grantee to execute and deliver the quitclaim deed, and terminating this Agreement, shall, after forty-five (45) days from the date of recording of the notice, be conclusive evidence against Grantee, and all persons claiming under Grantee, of the termination of Grantee's rights under this Agreement.

**9. Rights and Duties of Grantors.** Grantors shall retain the right to use and enjoy the Property to the fullest extent without unreasonable interference with the exercise by Grantee of the rights granted by this Agreement.

Grantors shall not increase the static and/or live loads on the Grantee's infrastructure by any Grantors action regardless of the easement boundaries. Grantors are solely responsible for accurately locating the pipeline before planning, designing, applying for permits, and constructing any improvements, and shall document the condition of the Grantee's infrastructure before and after any construction within 3 feet of the outside surface of the Grantee's infrastructure.

Grantors shall design and construct all improvements to allow Grantee to use open trench methods for repair, monitoring, maintenance, and operation while using shoring methods typical for the slope and open country construction.

Grantor shall construct and maintain roadway covering full extent of the easement.

Grantors shall not change the dimensions of the access road by any Grantors' action. Grantors are solely responsible for accurately locating the easement limits before planning, designing, applying for permits, and constructing any improvements.

**10. Liability and Indemnification.** Grantee agrees that it is solely responsible for the operation, inspection, maintenance, repair, replacement, rehabilitation, and the removal of the pipeline authorized herein. Grantee agrees to indemnify and hold harmless Grantors against all claims, suits, costs, losses and expenses that may in any manner result from or arise out of the operation, inspection, maintenance, repair, replacement, rehabilitation, and removal of the pipeline, including the damaging or breaking of the pipeline from any cause whatsoever, except the damage to or breaking of the pipeline is caused by the Grantors.

**11. Cooperation.** Grantors and Grantee agree to promptly take whatever steps are necessary to execute, acknowledge, and deliver the documents necessary to effectuate the terms and purpose of this Agreement.

**12. Governing Law; Choice of Forum.** This Agreement shall be interpreted in accordance with and governed in all respects by the laws of the State of California. Each party agrees that any claim arising out of this Agreement shall be filed in Alameda County

ATTACHMENT 2, EXHIBIT A

Superior Court, and each party consents to personal jurisdiction in the State of California and Alameda County.

**13. Entire Agreement.** This Agreement contains the entire understanding between the parties hereto with regard to the matters set forth herein and is intended to be and is a final integration thereof. There are no representations, warranties, agreements, arrangements, undertakings, oral or written between or among the parties hereto relating to the terms and conditions of this Agreement which are not fully expressed herein. The terms hereof are contractual and not a mere recital and it is understood that no alterations, modifications or changes may be affected except by a writing duly executed by all the parties to this Agreement.

**14. Binding Effect.** This Agreement shall be binding on the heirs, legal representatives, successors and assigns of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement at Berkeley, California as of the date first above written.

**OWNER/GRANTOR**  
By:  *[signature must be notarized]*  
James Robert Higgins

**CITY OF BERKELEY, a municipal corporation/GRANTEE:**  
By: \_\_\_\_\_ *[signature must be notarized]*  
Name: Bedwendolyn Williams-Ridley  
Title: City Manager of the City of Berkeley

**Approved as to Form**  
By: \_\_\_\_\_ *[signature must be notarized]*  
Print Name: \_\_\_\_\_  
Title: Assistant City Attorney



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of Colorado

County of Archuleta

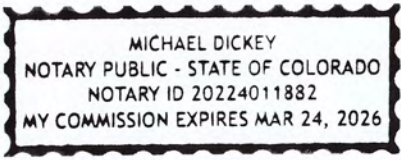
On the 8<sup>th</sup> of July, 2022 before me, Michael Dickey a Notary Public, personally appeared James Robert Higgins, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

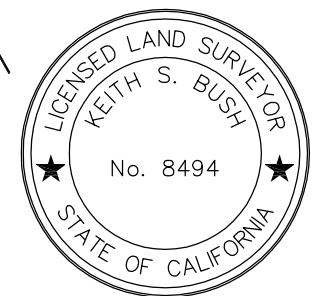
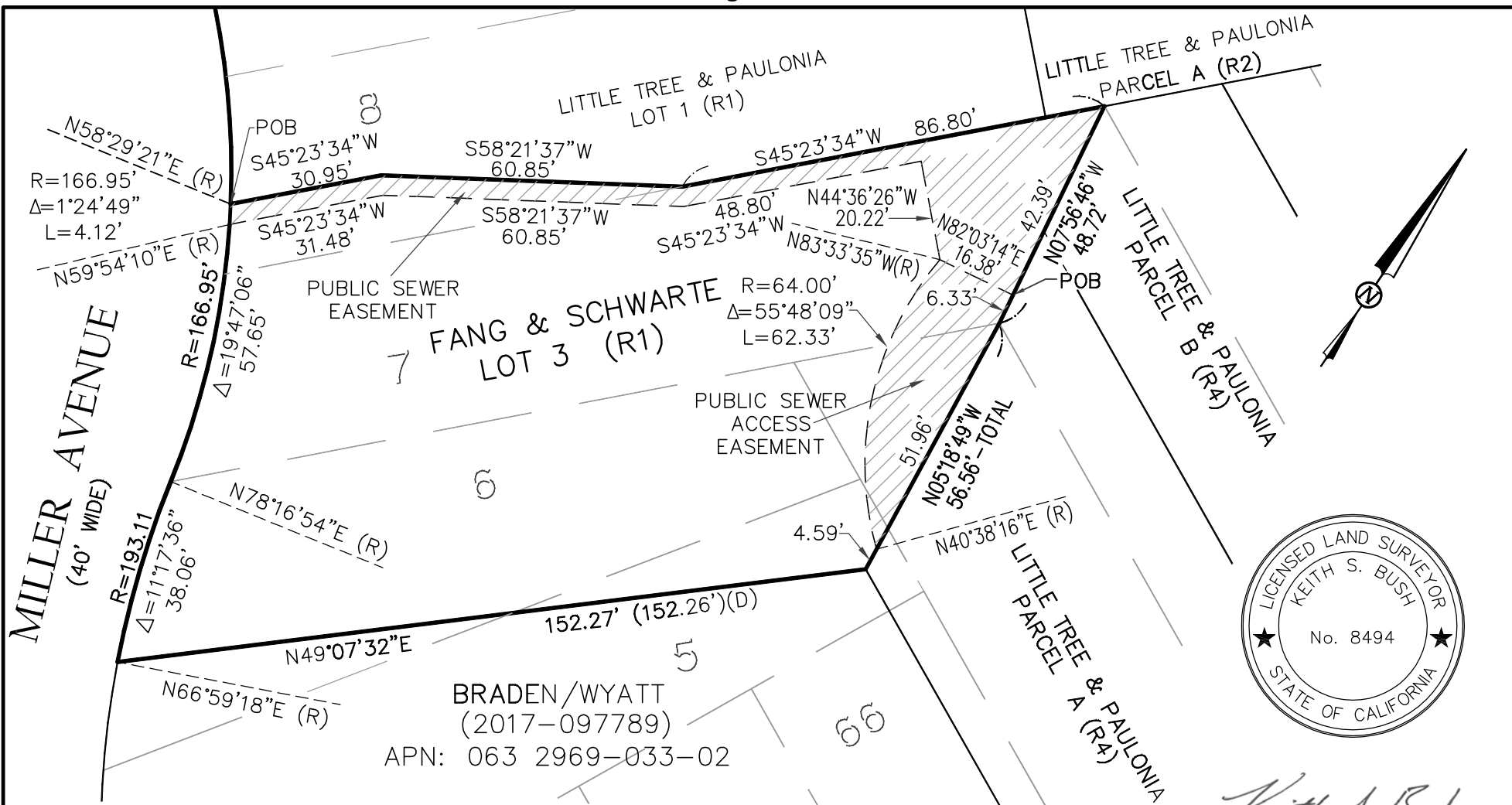
Signature: [Handwritten Signature]

Name: Michael Dickey  
(Typed or Printed)



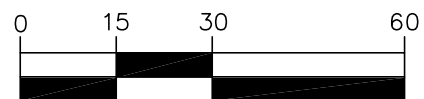
(Seal)

# ATTACHMENT 2 EXHIBIT A



*Keith A Bush*  
KEITH S. BUSH, L.S. 8494  
DATE: January 28, 2022

## GRAPHIC SCALE



( IN FEET )  
1 inch = 30 ft.

**BASIS OF BEARINGS:**  
MONUMENT LINE IN GRIZZLY PEAK BLVD.,  
TAKEN AS N 63°16'00" W, AS SHOWN  
ON MAP OF RESUBDIVISION OF A PART  
OF NORTH CRAGMONT (24 M. 74).

**REFERENCES:**  
R1= LOLA 296 (2018-000094)  
R2= LOLA 330 (2018-171906)  
R3= RESUBDIVISION OF A PORTION OF  
NORTH CRAGMONT (BOOK 24 M 74)  
R4= LOLA 339 (2019-182632)

## EXHIBIT B PLAT TO ACCOMPANY LEGAL DESCRIPTION

JANUARY, 2022 SCALE 1" = 30'  
**BAY AREA LAND SURVEYING INC.**  
3065 RICHMOND PARKWAY, SUITE 101  
RICHMOND, CA 94806  
(510) 223-5167

# ATTACHMENT 2

## EXHIBIT "A" LEGAL DESCRIPTION

REAL PROPERTY IN THE CITY OF BERKELEY, COUNTY OF ALAMEDA COUNTY, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS.

### PUBLIC SEWER EASEMENT

REAL PROPERTY IN THE CITY OF BERKELEY, COUNTY OF ALAMEDA COUNTY, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS.

BEING A PORTION OF LOT 3, AS SHOWN ON THE LOT LINE ADJUSTMENT NO. 296, RECORDED JANUARY 2, 2018, AS SERIES NUMBER 2018-000094 IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA, BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF SAID LOT 3;

THENCE ALONG THE EXTERIOR LINES OF SAID LOT 3 THE FOLLOWING FOUR (4) COURSES:

NORTH 45°23'34" EAST 30.95 FEET;

NORTH 58°21'37" EAST 60.85 FEET;

NORTH 45°23'34" EAST 86.80 FEET TO THE MOST NORTHERLY CORNER OF SAID LOT 3 ;

THENCE ALONG THE EASTERLY LINE OF SAID LOT 3 SOUTH 07°56'46" EAST 42.39 FEET;

THENCE LEAVING SAID EASTERLY LINE OF LOT 3 AT RIGHT ANGLES, SOUTH 82°03'14" WEST 16.38;

THENCE NORTH 44°36'26" WEST 20.22 FEET;

THENCE SOUTH 45°23'34" WEST 48.80 FEET;

THENCE SOUTH 58°21'37" WEST 60.85 FEET;

SOUTH 45°23'34" WEST 31.48 FEET TO A POINT ON THE WESTERLY LINE OF SAID LOT 3, SAID POINT LIES ON A CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 166.95 FEET; A RADIAL LINE TO SAID POINT BEARS NORTH 59°54'10" EAST;

THENCE NORTHERLY ALONG THE ARC OF SAID CURVE 4.12 FEET, THROUGH A CENTRAL ANGLE OF 01°24'49" TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF APPROXIMATELY 1,376 SQUARE FEET.

# ATTACHMENT 2 EXHIBIT A

## PUBLIC SEWER ACCESS EASEMENT

BEING A PORTION OF LOT 3, AS SHOWN ON THE LOT LINE ADJUSTMENT NO. 296, RECORDED JANUARY 2, 2018, AS SERIES NUMBER 2018-000094 IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID LOT 3 DISTANT THEREON SOUTH 7°56'46" EAST 42.39 FEET FROM THE MOST NORTHERLY CORNER SAID LOT 3;

THENCE LEAVING SAID EASTERLY LINE OF LOT 3 AT RIGHT ANGLES, SOUTH 82°03'14" WEST 16.38 TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 64.00 FEET; A RADIAL LINE TO SAID POINT BEARS NORTH 83°33'35" WEST;

THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE 62.33 FEET, THROUGH A CENTRAL ANGLE OF 55°48'09" TO EASTERLY LINE OF SAID LOT 1;

THENCE ALONG THE EXTERIOR LINES OF SAID LOT 1 THE FOLLOWING TWO (2) COURSES:

1. NORTH 5°18'49" WEST, 51.96 FEET;
2. NORTH 7°56'46" WEST, 6.33 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF APPROXIMATELY 785 SQUARE FEET.



END OF DESCRIPTION

ORDINANCE NO. 7,843-N.S.

ACCESS ROAD EASEMENT AND INSTALLATION WITH PAULONIA INVESTMENT, LLC AND LITTLE TREE INVESTMENT, INC. ON APN: 063-2969-034-44 FOR ACCESSING SEWER PIPE FACILITIES

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

Section 1. That the City Manager and City Clerk are hereby authorized and directed to make, execute and deliver for and on behalf of the City of Berkeley, as its corporate act and under its corporate name and seal, access road easement deed and installation agreement with Paulonia Investment, LLC and Little Tree Investment, Inc. on APN 063-2969-034-44, a copy of which easement agreement is attached hereto, (Exhibit A) made a part hereof.

Section 2. That the City Clerk is hereby authorized and directed to cause the executed access road easement deed and installation agreement to be recorded in the Official Records of Alameda County, California.

Section 3. 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 15, 2022, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

ATTACHMENT 3, EXHIBIT A

**Access Road Easement and Installation Agreement**  
Sanitary Sewer

This Access Road Easement and Installation Agreement ("Agreement") is entered into as of the 6<sup>th</sup> day of October 2022, by and between Paulonia Investment, LLC and Little Tree Investment, Inc., ("Grantors") and the City of Berkeley ("Grantee").

**1. Grant of Easement.** For good and valuable consideration, receipt of which is hereby acknowledged, Grantors hereby grant to the Grantee the following easement subject to the following terms and conditions.

**2. Scope of Easement.** The easement granted is a non-exclusive easement for access to operate, clean, maintain, repair, replace sewer pipeline and maintenance holes on adjacent properties.

**3. Location of Easement.** The real property parcel ("Property") affected by this Agreement is APN 063-2969-034-44, more specifically described as Parcel A in Lot Line Adjustment Number 339 recorded at Alameda County September 13, 2019, Instrument Number 2019182632.

**4. Location of Access Road.** The access road allowed under this easement shall be located entirely within the Easement Area as described in Exhibit A. The access road shall be constructed and maintained by the property owner to allow vehicle access to maintain the maintenance holes and pipeline located in the sewer easement.

**5. Restoration of Surface.** Within twenty-five (25) days of the completion of any construction, installation, inspection, maintenance, repair, replacement, removal or other activity by Grantee on the Easement Area that disturbs the surface of the ground or any structure, facility, or installation of Grantors, Grantee shall remove any debris and restore the surface and any structure, facility, or installation of Grantors as near to its pre-disturbance condition as possible, including re-vegetation limited to starting plant material available through general nurseries open to the public. If Grantee fails to do so, Grantors may do so at Grantee's risk and expense, and Grantee agrees to reimburse the Grantors for the cost of removal and restoration.

**6. Right of Access.** Grantee shall have the right of ingress and egress to and from the Easement Area for the purpose described in this Agreement.

**7. Term of Easement.** The rights granted in this Agreement shall be possessed and enjoyed by the Grantee, its successors and assigns, so long as the Grantee, its successors and assigns, are required to operate, maintain, repair Grantee's sewer pipeline and maintenance holes on parcel with APN 063-2969-034-23. If Grantee ceases to use and abandons the access road allowed under this Agreement, Grantee shall execute and deliver to Grantors, within forty-five (45) days after service of a written demand, a good and sufficient quitclaim deed to all rights granted in this Agreement. Should Grantee fail or refuse to deliver this quitclaim deed, a written notice by Grantors reciting the failure or refusal of Grantee to execute and deliver the quitclaim deed, and terminating this Agreement, shall, after forty-five (45) days from the date of recording

ATTACHMENT 3, EXHIBIT A

of the notice, be conclusive evidence against Grantee, and all persons claiming under Grantee, of the termination of Grantee's rights under this Agreement.

**8. Rights and Duties of Grantors.** Grantors shall retain the right to use and enjoy the Property to the fullest extent without unreasonable interference with the exercise by Grantee of the rights granted by this Agreement. Grantor shall construct and maintain roadway covering full extent of the easement.

Grantors shall not change the dimensions of the access road by any Grantors' action. Grantors are solely responsible for accurately locating the easement limits before planning, designing, applying for permits, and constructing any improvements.

**9. Liability and Indemnification.** Grantor agrees that it is solely responsible for the operation, inspection, maintenance, repair, replacement, rehabilitation of the access road authorized herein. Grantee agrees to indemnify and hold harmless Grantors against all claims, suits, costs, losses and expenses that may in any manner result from or arise out of Grantee's usage of the access road, except any maintenance or repair to the roadway and roadway supports.

**10. Cooperation.** Grantors and Grantee agree to promptly take whatever steps are necessary to execute, acknowledge, and deliver the documents necessary to effectuate the terms and purpose of this Agreement.

**11. Governing Law; Choice of Forum.** This Agreement shall be interpreted in accordance with and governed in all respects by the laws of the State of California. Each party agrees that any claim arising out of this Agreement shall be filed in Alameda County Superior Court, and each party consents to personal jurisdiction in the State of California and Alameda County.

**12. Entire Agreement.** This Agreement contains the entire understanding between the parties hereto with regard to the matters set forth herein and is intended to be and is a final integration thereof. There are no representations, warranties, agreements, arrangements, undertakings, oral or written between or among the parties hereto relating to the terms and conditions of this Agreement which are not fully expressed herein. The terms hereof are contractual and not a mere recital and it is understood that no alterations, modifications or changes may be affected except by a writing duly executed by all the parties to this Agreement.

**13. Binding Effect.** This Agreement shall be binding on the heirs, legal representatives, successors and assigns of the parties.

ATTACHMENT 3, EXHIBIT A

IN WITNESS WHEREOF, the parties have executed this Agreement at Berkeley, California as of the date first above written.

**OWNER/GRANTOR**

Paulonia Investment, LLC

By: [Signature] [signature must be notarized]

Print Name: Fang Wang

Title: Owner

**OWNER/GRANTOR**

Little Tree Investment, Inc.

By: [Signature] [signature must be notarized]

Print Name: Fang Wang

Title: CFO

**CITY OF BERKELEY, a municipal corporation/GRANTEE:**

By: \_\_\_\_\_ [signature must be notarized]

Name: Bedwendolyn Williams-Ridley

Title: City Manager of the City of Berkeley

**Approved as to Form**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: Assistant City Attorney



### ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Alameda

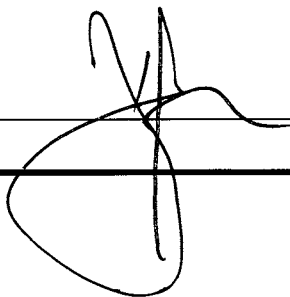
On 10 / 06 / 2022 before me, David Lee, Notary Public  
(insert name and title of the officer)

personally appeared FANG WANG  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

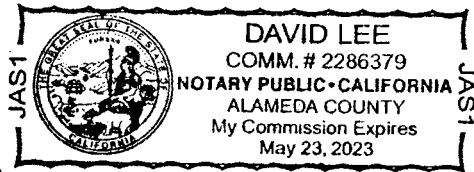
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

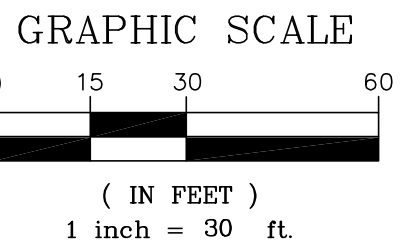
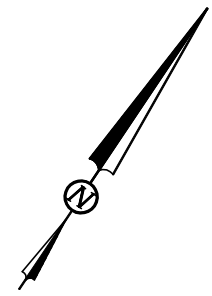
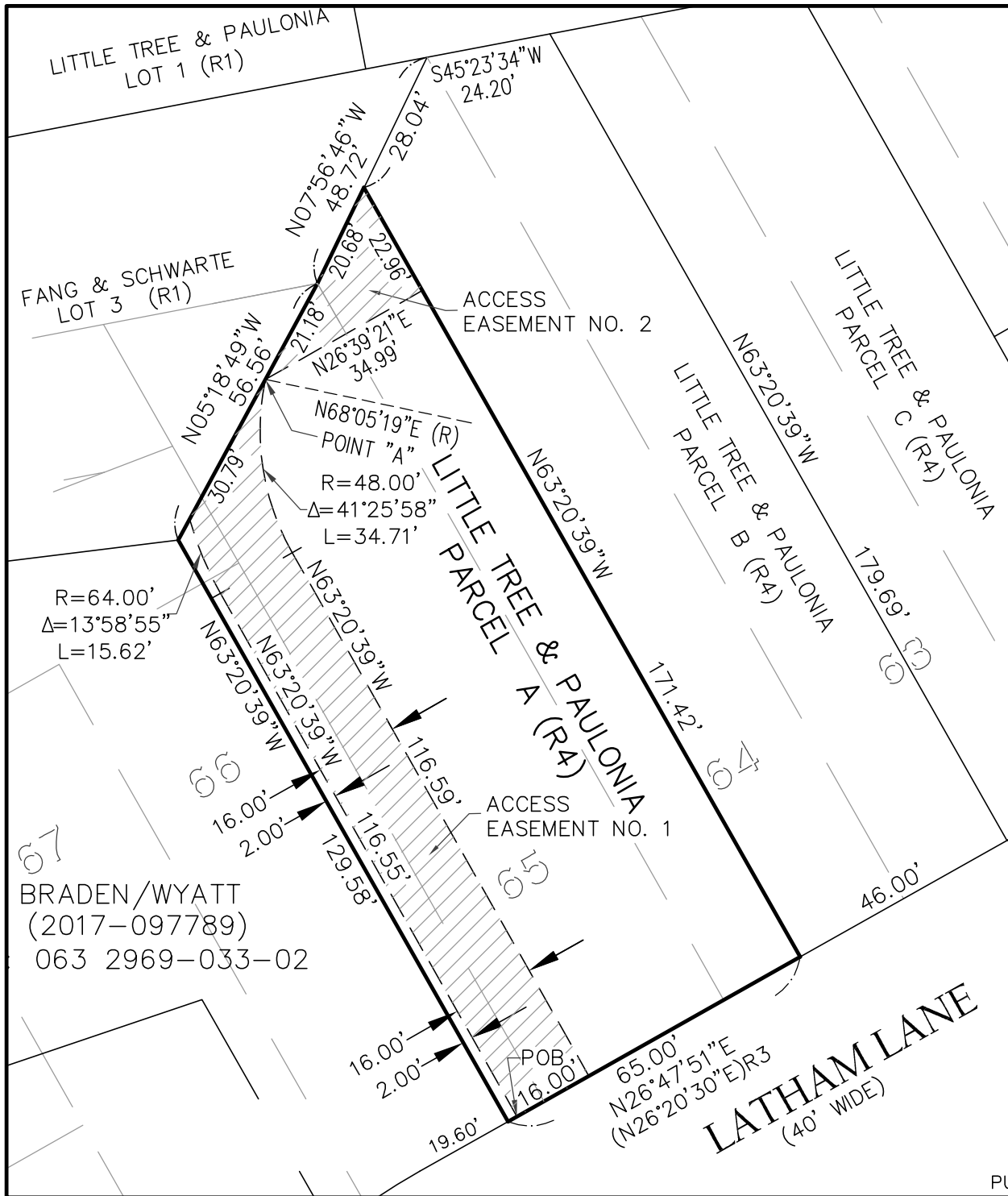
Signature \_\_\_\_\_



(Seal)



# ATTACHMENT 3 EXHIBIT A



**BASIS OF BEARINGS:**  
MONUMENT LINE IN GRIZZLY PEAK BLVD., TAKEN AS  $N 63^{\circ}16'00'' W$ , AS SHOWN ON MAP OF RESUBDIVISION OF A PART OF NORTH CRAGMONT (24 M. 74).

- REFERENCES:**
- R1= LOLA 296 (2018-000094)
  - R2= LOLA 330 (2018-171906)
  - R3= RESUBDIVISION OF A PORTION OF NORTH CRAGMONT (BOOK 24 M 74)
  - R4= LOLA 339 (2019-182632)



*Keith A Bush*  
KEITH S. BUSH, L.S. 8494  
DATE: January 28, 2022

## EXHIBIT B PLAT TO ACCOMPANY LEGAL DESCRIPTION

JANUARY, 2022 SCALE 1" = 30'  
**BAY AREA LAND SURVEYING INC.**  
3065 RICHMOND PARKWAY, SUITE 101  
RICHMOND, CA 94806  
(510) 223-5167

# ATTACHMENT 3

## EXHIBIT "A" LEGAL DESCRIPTION

ALL THAT CERTAIN REAL PROPERTY IN THE CITY OF BERKELEY, COUNTY OF ALAMEDA COUNTY, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS.

### PUBLIC SEWER ACCESS EASEMENT NO. 1

BEING A PORTION OF PARCEL "A", AS SHOWN ON THE LOT LINE ADJUSTMENT NO. 339, RECORDED SEPTEMBER 13, 2019, AS SERIES NUMBER 2019-182632 IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHEASTERLY LINE OF SAID PARCEL "A" DISTANT THEREON NORTH 26°47'51" EAST 2.00 FEET FROM THE MOST SOUTHERLY CORNER SAID PARCEL "A";

THENCE LEAVING SAID SOUTHEASTERLY LINE OF PARCEL "A", NORTH 63°20'39" WEST, 116.55 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 64.00 FEET;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE 15.62 FEET, THROUGH A CENTRAL ANGLE OF 13°58'55" TO WESTERLY LINE OF SAID PARCEL "A";

THENCE ALONG THE WESTERLY LINE OF PARCEL "A", NORTH 5°18'49" WEST, 30.79 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 48.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 68°05'19" EAST, SAID POINT HEREINAFTER SHALL BE KNOWN AS POINT "A";

THENCE SOUTHEASTERLY ALONG THE ARC OF LAST SAID CURVE, 34.71 FEET, THROUGH A CENTRAL ANGLE OF 41°25'58";

THENCE SOUTH 63°20'39" EAST, 116.59 FEET TO THE SOUTHEASTERLY LINE OF SAID PARCEL "A";

THENCE ALONG SAID SOUTHEASTERLY LINE OF PARCEL "A", SOUTH 26°47'51" WEST, 16.00 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF APPROXIMATELY 2,240 SQUARE FEET.

# ATTACHMENT 3 EXHIBIT A

## PUBLIC SEWER ACCESS EASEMENT NO. 2

BEING A PORTION OF PARCEL A, AS SHOWN ON THE LOT LINE ADJUSTMENT NO. 339, RECORDED SEPTEMBER 13, 2019, AS SERIES NUMBER 2019-182632 IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT AFORESAID POINT "A", SAID POINT LYING ON WESTERLY LINE OF SAID PARCEL "A";

THENCE ALONG THE EXTERIOR LINES OF SAID PARCEL "A" THE FOLLOWING THREE (3) COURSES:

1. NORTH 5°18'49" WEST, 21.18 FEET;
2. NORTH 7°56'46" WEST, 20.68 FEET;
3. SOUTH 63°20'39" WEST, 22.96 FEET;

THENCE SOUTH 26°39'21" WEST, 34.99 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF APPROXIMATELY 392 SQUARE FEET.

END OF DESCRIPTION



ORDINANCE NO. 7,844–N.S.

ADDING CHAPTER 11.63 TO THE BERKELEY MUNICIPAL CODE TO REGULATE  
THE USE OF CARRYOUT AND PRE-CHECKOUT BAGS AND PROMOTING THE USE  
OF REUSABLE BAGS

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

Section 1. That Chapter 11.63 of the Berkeley Municipal Code is added to read as follows:

**Chapter 11.63**

**REGULATING THE USE OF CARRYOUT AND PRE-CHECKOUT BAGS AND  
PROMOTING THE USE OF REUSABLE BAGS**

**Sections:**

**11.63.010 Findings and purpose.**

**11.63.020 Definitions.**

**11.63.030 Carryout Bag restrictions for Covered Entities.**

**11.63.040 Carryout Bag restrictions for Restaurants**

**11.63.050 Pre-checkout Bag restrictions for Food Product Stores and Covered  
Entities.**

**11.63.060 Unreasonable denial of customer bags or containers.**

**11.63.070 General exemptions.**

**11.63.080 Waivers—applicability and process to obtain.**

**11.63.090 Carry-out bag restrictions for the City of Berkeley and City-sponsored  
events.**

**11.63.100 Duties, responsibilities and authority of the City of Berkeley.**

**11.63.110 Liability and enforcement.**

**11.63.120 Severability.**

**11.63.130 Construction.**

**11.63.140 Effective date.**

**11.63.010 Findings and purpose.**

The Council of the City of Berkeley finds and declares as follows:

- A. Single-use plastic bags and plastic produce bags are a significant contributor to street litter, ocean pollution, marine and other wildlife harm and their production creates greenhouse gas emissions.
- B. The production, consumption and disposal of plastic-based bags contribute significantly to the depletion of natural resources. Plastics in waterways and oceans break down into smaller pieces that are not biodegradable, and present a great harm to the global environment.
- C. Among other hazards, plastic debris attracts and concentrates ambient pollutants in seawater and freshwater, which can transfer to fish, other seafood and salt that is eventually sold for human consumption. Certain plastic bags can also contain microplastics that present a great harm to our seawater and freshwater life, which indirectly presents a threat to human life.
- D. It is in the interest of the health, safety and welfare of all who live, work and do business in the City that the amount of litter on public streets, parks and in other public places be reduced.
- E. The City of Berkeley must eliminate solid waste at its source and maximize recycling and composting in accordance with its Zero Waste Goals. Reduction of plastic bag waste furthers this goal.
- F. The State of California and Alameda County Waste Management Authority both regulate single-use, paper, and reusable carryout bags respectively under SB 270/Proposition 67 and Ordinance 2012-02 (as amended by Ordinance 2016-02). However, neither currently address all establishments or pre-checkout (e.g., produce) bags to carry fruits, vegetables, and other loose or bulky items while shopping before reaching the checkout area. These bags, which are often plastic, share many of the same physical qualities as single-use plastic carryout bags no longer permitted in California, and are difficult to recycle, reuse or compost.
- G. The State also does not regulate the price of bags provided at the point of sale by restaurants and streets events, including farmers' markets. While the County's Ordinance 2016-02 regulates restaurant carryout bags, it allows thicker film plastic.
- H. The City of Berkeley currently regulates a number of disposable plastic items through the Single-Use Foodware and Litter Reduction Ordinance (Ord. 7639-NS § 1 (part), 2019), but does not impose regulations with respect to bags. It is in the public interest to reduce plastic and paper waste in areas not preempted by the State of California.
- I. This Chapter is consistent with the City of Berkeley's 2009 Climate Action Plan, the County of Alameda Integrated Waste Management Plan, as amended, and the CalRecycle recycling and waste disposal regulations contained in Titles 14 and 27 of the California Code of Regulations.

**11.63.020 Definitions.**

A. "Accepted Compostable Pre-Checkout Bag" means a bag that is accepted by the City's compost facility as having the requisite and appropriate physical qualities for controlled biological decomposition in conjunction with other organic solid waste.

B. "Carryout Bag" means a bag provided at the check stand, cash register, point of sale or other location for the purpose of transporting food or merchandise out of a Covered Entity or Restaurant. Carryout Bags do not include Pre-checkout or Product Bags.

C. "Covered Entity" means any of the following:

(1) any event, or Person therein, requiring a street event permit pursuant to Berkeley Municipal Code 13.44.040 and not subject to the requirements of Public Resources Code Section 42281; and

(2) any other commercial establishment other than a Restaurant that sells perishable or nonperishable goods including, but not limited to, clothing, food and personal items directly to a customer, and that is not subject to the requirements of Public Resources Code Section 42281.

D. "Customer" means any Person obtaining goods from a Covered Entity, Food Product Store or Restaurant.

E. "Food Product Store" means a supermarket, convenience food store, foodmart, or other entity engaged in the retail sale of goods that include perishable and nonperishable food items, and with a total floor area over 2,500 square feet.

F. "Person" means an individual, firm, public or private corporation, limited liability company, partnership, industry or any other entity whatsoever.

G. "Pre-checkout Bag" means a Recycled Content Paper Bag, Accepted Compostable Pre-Checkout Bag, or plastic film bag provided or sold to a customer to carry produce, bulk food, or other food items to the point of sale inside a store.

H. "Product Bags" are bags that are integral to the packaging of a product such as film; bags used to fully encapsulate liquid or semi-liquid takeout food items (e.g., soup containers) to prevent spillage; bags to hold prescription medication dispensed from a pharmacy; or bags designed to be placed over articles of clothing on a hanger at dry cleaning or laundry facility.

I. "Recycled Content Paper Bag" means either a Carryout Bag provided by a Covered Entity or a Pre-checkout Bag provided by a Food Product Store that contains no old growth fiber and a minimum of forty percent (40%) postconsumer recycled material; is one hundred percent (100%) recyclable and compostable, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400; and has printed in a highly visible manner on the outside of the bag the words: "Recyclable," the name and location of the manufacturer, and the percentage of postconsumer recycled content.

J. "Reusable Carryout Bag" means a bag that is specifically designed and manufactured for multiple reuse and meets all of the following requirements:

(1) has a minimum lifetime of 125 uses, which for purposes of this subsection, means the capability of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet;

(2) has a minimum volume of 15 liters;

(3) is washable by hand or machine, or is made from a material that can otherwise be cleaned or disinfected;

(4) does not contain lead, cadmium or any other heavy metal in toxic amounts, as defined by applicable state and federal standards and regulations for packaging or reusable bags;

(5) has printed on the bag, or on a tag that is permanently affixed to the bag, the name of the manufacturer, the location (country) where the bag was manufactured, a

statement that the bag does not contain lead, cadmium, or any other heavy metal in toxic amounts, and the percentage of postconsumer recycled material used, if any; and (6) is not made of plastic film, regardless of thickness.

K. "Restaurant" means a food or take-out food establishment (including, but not limited to, food sales from vehicles or temporary facilities open to the public) that sells prepared food directly to a customer and is not subject to the requirements of Public Resources Code Section 42281.

L. "Reusable Pre-checkout Bag" means a bag that is specifically designed and manufactured for multiple reuse and meets all of the following requirements:

(1) is washable by hand or machine, or is made from a material that can otherwise be cleaned or disinfected;

(2) does not contain lead, cadmium or any other heavy metal in toxic amounts, as defined by applicable state and federal standards and regulations for packaging or reusable bags;

(3) has printed on the bag, or on a tag that is permanently affixed to the bag, the name of the manufacturer, the location (country) where the bag was manufactured, a statement that the bag does not contain lead, cadmium, or any other heavy metal in toxic amounts, and the percentage of postconsumer recycled material used, if any; and

(4) is not made of plastic film, regardless of thickness.

#### **11.63.030 Carryout Bag restrictions for Covered Entities.**

A. No Covered Entity shall provide or sell a Carryout Bag other than Recycled Content Paper Bags or Reusable Carryout Bags at the check stand, cash register, point of sale or other location to a Customer for the purpose of transporting food or merchandise out of such Covered Entity.

B. A Covered Entity may provide or make available for sale to a Customer a Recycled Content Paper Bag, provided that the Covered Entity charge a minimum of ten cents (\$0.10) per bag.

#### **11.63.040 Carryout Bag restrictions for Restaurants.**

A Restaurant providing a Customer with plastic film Carryout Bag, at the Customer's request, in order to carry leftovers after sit-down meal service, shall charge a minimum of ten cents (\$0.10) per bag.

#### **11.63.050 Pre-checkout Bag restrictions and requirements for Food Product Stores and Covered Entities.**

A. A Food Product Store providing a Customer with plastic film Pre-checkout Bags, or Pre-checkout Bags deemed not to be Accepted Compostable Pre-Checkout Bags, shall charge a minimum of ten cents (\$0.10) per bag. Food Product Stores shall consider providing appropriate signage detailing procedures for acquiring and purchasing such bags. Food Product Stores providing Pre-checkout Bags deemed not to be Accepted Compostable Pre-checkout Bags pursuant to this Chapter shall provide signage notifying customers that such bags are not composted and are sent to landfill, and indicating availability of options such as bringing their own bag, or acquiring Recycled Content Paper or Reusable Pre-Checkout Bags.

B. Notwithstanding subsection A, Covered Entities and Food Product Stores may provide plastic film bags as Pre-checkout Bags to Customers free of charge for the sole purpose of separating meats and seafood only upon the specific request of a Customer.



Covered Entities shall not proactively offer Customers plastic film Pre-checkout Bags for such uses.

C. Food Product Stores may provide Recycled Content Paper or Accepted Compostable Pre-checkout Bags free of charge in produce and other aisles.

D. Food Product Stores shall make reasonable efforts to stock and make Reusable Pre-checkout Bags available or for sale.

E. A state law (SB 1046) scheduled to take effect on January 1, 2025 will preempt this Section 11.63.050 with respect to Food Product Stores. At that point, this Section 11.63.050 shall only apply to Covered Entities unless SB 1046 is repealed or otherwise amended.

**11.63.060 Unreasonable denial of customer bags or containers.**

Any establishment regulated by Public Resources Code Section 42281, Alameda County Waste Management Authority Ordinance 2016-02, or this Chapter, except Restaurants with respect to takeout orders, shall not unreasonably deny a customer from using bags or containers of any type that they bring themselves, including in lieu of using bags or containers provided by the establishment. However, establishments may refuse, at their sole discretion, any customer-provided bag or container that is cracked, chipped or corroded, appears inappropriate in size, material, or condition for the intended food item, or that appears to be excessively soiled or unsanitary. If the customer accepts store-provided bags or containers in lieu, any charge required pursuant to this ordinance, other applicable law, or the establishment's policy will apply.

**11.63.070 General exemptions.**

A. Bags exempt from this Chapter include Product Bags, bags sold in packages containing multiple bags such as those intended for use as garbage, pet waste bags, yard waste bags, and bags which are integral to the use of other objects.

B. Nothing in this Chapter prohibits customers from using bags of any type that they bring to the establishment themselves or from carrying away merchandise or materials that are not placed in a bag at point of sale, in lieu of using bags provided by the establishment.

C. Notwithstanding the requirements of Sections 11.63.30 and 11.63.40, Covered Entities and Food Product Stores, except as subject to the requirements of Public Resources Code Section 42281, providing Recycled Content Paper Bags as Carryout Bags at the point of sale or Pre-Checkout Bags before the point of sale, shall provide such bags at no cost to a Customer participating in the California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the California Health and Safety Code; a Customer participating in Calfresh pursuant to Chapter 1 commencing with Section 18900) of Part 6 of Division 9 of the California Welfare and Institutions Code; and a Customer participating in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the California Welfare and Institutions Code.

**11.63.080 Waivers—applicability and process to obtain.**

A. The City Manager shall prescribe and adopt rules, regulations and forms for Covered Entities or Food Product Stores to obtain a partial waiver from any requirement of this ordinance upon sufficient evidence by the applicant that the provisions of this

Chapter would cause undue hardship. The phrase "undue hardship" may include, but is not limited to situations where compliance with the requirements of this Chapter would deprive a person of a legally protected right.

B. Waivers may be granted by the City Manager or their designees, based upon documentation provided by the applicant and, at the City Manager's discretion, independent verification, including site visits.

C. The City Manager or their designees shall act on a waiver application no later than 90 days after receipt of such application, including mailing written notification of the City Manager's decision to the address supplied by the applicant.

**11.63.090 Carry-out bag restrictions for the City of Berkeley and City-sponsored events.**

The City of Berkeley and any City-sponsored event shall provide or sell to a Customer or participant only Recycled Content Paper Bags or Reusable Carry-out Bags for the purpose of carrying away goods or other materials from the point of sale or event.

**11.63.100 Duties, responsibilities and authority of the City of Berkeley.**

The City Manager or their designee shall prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this Chapter and is hereby authorized to take any and all actions reasonable and necessary to enforce this Chapter including, but not limited to, inspecting any Covered Entity or Food Product Store's premises to verify compliance.

**11.63.110 Liability and enforcement.**

- A. Anyone violating or failing to comply with any requirement of this Chapter may be subject to an Administrative Citation pursuant to Chapter 1.28 or charged with an infraction as set forth in Chapter 1.20 of the Berkeley Municipal Code; however, no administrative citation may be issued or infraction charged for violation of a requirement of this Chapter until one year after the effective date of such requirement.
- B. Enforcement shall include written notice of noncompliance and a reasonable opportunity to correct or to demonstrate initiation of a request for a waiver or waivers pursuant to Section 11.63.060.
- C. The City Attorney may seek legal, injunctive, or other equitable relief to enforce this Chapter.
- D. The remedies and penalties provided in this section are cumulative and not exclusive.

**11.63.120 Severability.**

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that

any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

**11.63.130 Construction.**

This Chapter is intended to be a proper exercise of the City's police power, to operate only upon its own officers, agents, employees and facilities and other persons acting within its boundaries, and not to regulate inter-city or interstate commerce. It shall be construed in accordance with that intent.

**11.63.140 Effective date.**

- A. Sections 11.63.040 and 11.63.050 shall take effect January 1, 2023.
- B. Section 11.63.090 shall take effect January 1, 2023.
- C. All other provisions in this ordinance are effective June 30, 2023.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 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 15, 2022, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.





Office of the City Attorney

CONSENT CALENDAR  
November 29, 2022

To: Honorable Mayor and Members of the City Council  
Madame City Manager

From: Farimah Faiz Brown, City Attorney

Subject: Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference

RECOMMENDATION

Adopt a resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference, initially ratified by the City Council on September 28, 2021, and subsequently reviewed and ratified on October 26, 2021, November 16, 2021, December 14, 2021, January 10, 2022, February 8, 2022, March 8, 2022, March 22, 2022, April 12, 2022, May 10, 2022, May 31, 2022, June 28, 2022, July 26, 2022, August 23, 2022, September 20, 2022, October 11, 2022, and November 3, 2022.

FISCAL IMPACT OF RECOMMENDATION

To be determined.

CURRENT SITUATION AND ITS EFFECTS

The City Council made the initial findings required under the Government Code on September 28, 2021. The Council must make the findings every thirty days in order to continue to meet exclusively through video conference or teleconference.

Pursuant to California Government Code section 8630 and Berkeley Municipal Code Chapter 2.88.040, on March 3, 2020, the City Manager, in her capacity as Director of Emergency Services, proclaimed a local emergency due to conditions of extreme peril to the safety of persons and property within the City as a consequence of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19), including a confirmed case in the City of Berkeley. As a result of multiple confirmed and presumed cases in Alameda County, the County has declared a local health emergency. On March 4, 2020, Governor Gavin Newsom issued a Proclamation

of a State of Emergency due to the spread of COVID-19. On March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312.

On March 17, 2020, Governor Newsom signed Executive Order N-29-20, which suspended certain portions of the Ralph M. Brown Act (Cal. Gov. Code § 54950 et seq.) related to the holding of teleconferenced meetings by City legislative bodies. Among other things, Executive Order N-29-20 suspended requirements that each location from which an official accesses a teleconferenced meeting be accessible to the public. These changes were necessary to allow teleconferencing to be used as a tool for ensuring social distancing. City legislative bodies have held public meetings via videoconference and teleconference pursuant to these provisions since March 2020. These provisions of Executive Order N-29-20 will expire on September 30, 2021.

COVID-19 continues to pose a serious threat to public health and safety. There are now over 4,700 confirmed cases of COVID-19 and at least 55 deaths in the City of Berkeley. Additionally, the SARS-CoV-2 B.1.617.2 (“Delta”) variant of COVID-19 that is currently circulating nationally and within the City is contributing to a substantial increase in transmissibility and more severe disease.

As a result of the continued threat to public health posed by the spread of COVID-19, state and local officials continue to impose or recommend measures to promote social distancing, mask wearing and vaccination. Holding meetings of City legislative bodies in person would present imminent risks to the health and safety of the public and members of legislative bodies, and therefore public meetings cannot safely be held in person at this time

Assembly Bill 361 (Rivas), signed into law by Governor Newsom on September 16, 2021, amended a portion of the Brown Act (Government Code Section 54953) to authorize the City Council, during the state of emergency, to determine that, due to the spread of COVID-19, holding in-person public meetings would present an imminent risk to the health or safety of attendees, and therefore City legislative bodies must continue to meet via videoconference and teleconference. Assembly Bill 361 requires that the City Council must review and ratify such a determination every thirty (30) days. Therefore, if the Council passes this resolution on November 29, 2022, the Council will need to review and ratify the resolution by December 29, 2022.

This item requests that the Council review the circumstances of the continued state of emergency posed by the spread of COVID-19, and find that the state of emergency continues to directly impact the ability of the public and members of City legislative bodies to meet safely in person, that holding public meetings of City legislative bodies in person would present imminent risks to the health and safety of attendees, and that state and local officials continue to promote social distancing, mask wearing and vaccination. This item further requests that the Council determine that City legislative bodies, including but not limited to the City Council and its committees, and all commissions and boards, shall continue to hold public meetings via videoconference

and teleconference, and that City legislative bodies shall continue to comply with all provisions of the Brown Act, as amended by SB 361.

#### BACKGROUND

On March 1, 2020, Alameda County Public Health Department and Solano County Public Health Department reported two presumptive cases of COVID-19, pending confirmatory testing by the Centers for Disease Control (CDC), prompting Alameda County to declare a local health emergency.

On March 3, 2020, the City's Director of Emergency Services proclaimed a local emergency due to the spread of COVID-19, including a confirmed case in the City of Berkeley and multiple confirmed and presumed cases in Alameda County.

On March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency due to the spread of COVID-19.

On March 10, 2020, the City Council ratified the Proclamation of Local Emergency. Since that date, there have been over 4,700 confirmed cases of COVID-19 and at least 57 deaths in the City of Berkeley.

On March 17, 2020, Governor Newsom signed Executive Order N-29-20 which suspended certain portions of the Ralph M. Brown Act (Cal. Gov. Code § 54950 et seq.) to allow teleconferencing of public meetings to be used as a tool for ensuring social distancing. As a result, City legislative bodies have held public meetings via teleconference throughout the pandemic. The provisions of Executive Order N-29-20 allowing teleconferencing to be used as a tool for social distancing will expire on September 30, 2021.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Not applicable.

#### RATIONALE FOR RECOMMENDATION

The Resolution would enable the City Council and its committees, and City boards and commissions to continue to hold public meetings via videoconference and teleconference in order to continue to socially distance and limit the spread of COVID-19.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CONTACT PERSON

Farimah Brown, City Attorney, City Attorney's Office (510) 981-6998  
Mark Numainville, City Clerk, (510) 981-6908

Attachments:1: Resolution Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference

RESOLUTION NO. –N.S.

RESOLUTION MAKING THE REQUIRED FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 54953(E)(3) AND DIRECTING CITY LEGISLATIVE BODIES TO CONTINUE TO MEET VIA VIDEOCONFERENCE AND TELECONFERENCE

WHEREAS, in accordance with Berkeley Municipal Code section 2.88.040 and sections 8558(c) and 8630 of the Government Code, which authorize the proclamation of a local emergency when conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a City exist, the City Manager, serving as the Director of Emergency Services, beginning on March 3, 2020, did proclaim the existence of a local emergency caused by epidemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (“COVID-19”), including confirmed cases in California and the San Francisco Bay Area, and presumed cases in Alameda County prompting the County to declare a local health emergency; and

WHEREAS, on March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency pursuant to the California Emergency Services Act, in particular, Government Code section 8625; and

WHEREAS, the Proclamation of a State of Emergency issued by Governor Newsom on March 4, 2020 continues to be in effect; and

WHEREAS, on September 16, 2021, Governor Newsom signed into law AB 361, which authorizes the City Council to determine that, due to the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference; and

WHEREAS, the City Council does find that the aforesaid conditions of extreme peril continue to exist, and now include over 4,700 confirmed cases of COVID-19 and at least 55 deaths in the City of Berkeley; and

WHEREAS, the City Council recognizes that the SARS-CoV-2 B.1.617.2 (“Delta”) variant of COVID-19 that is currently circulating nationally and within the City is contributing to a substantial increase in transmissibility and more severe disease; and

WHEREAS, as a result of the continued threat to public health posed by the spread of COVID-19, state and local officials continue to impose or recommend measures to promote social distancing, mask wearing and vaccination; and



WHEREAS, holding meetings of City legislative bodies in person would present imminent risks to the health and safety of the public and members of legislative bodies, and therefore public meetings cannot safely be held in person at this time; and

WHEREAS, the City Council made the initial findings required by the Government Code on September 28, 2021; and

WHEREAS, the City Council made subsequent findings required by the Government Code on October 26, 2021, November 16, 2021, December 14, 2021, January 10, 2022, February 8, 2022, March 8, 2022, March 22, 2022, April 12, 2022, May 10, 2022, May 31, 2022, June 28, 2022, July 26, 2022, August 23, 2022, September 20, 2022, October 11, 2022, and November 3, 2022; and

WHEREAS, the City Council will need to again review the need for the continuing necessity of holding City legislative body meetings via videoconference and teleconference by December 29, 2022.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that, pursuant to Government Code section 54953, the City Council has reviewed the circumstances of the continued state of emergency posed by the spread of COVID-19, and finds that the state of emergency continues to directly impact the ability of the public and members of City legislative bodies to meet safely in person, that holding public meetings of City legislative bodies in person would present imminent risks to the health and safety of attendees, and that state and local officials continue to promote social distancing, mask wearing and vaccination.

BE IT FURTHER RESOLVED that City legislative bodies, including but not limited to the City Council and its committees, and all commissions and boards, shall continue to hold public meetings via videoconference and teleconference.

BE IT FURTHER RESOLVED that all City legislative bodies shall comply with the requirements of Government Code section 54953(e)(2) and all applicable laws, regulations and rules when conducting public meetings pursuant to this resolution.





Office of the City Manager

CONSENT CALENDAR  
November 29, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Ridley-Williams, City Manager

Submitted by: Liam Garland, Director, Public Works

Subject: Amend I-80 Gilman Interchange Improvement project funding agreement, Contract No. 42200065 (Agreement A22-0056) with Alameda County Transportation Commission (Alameda CTC)

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to the existing Contract No. 42200065 (Agreement A22-0056) with Alameda CTC (Attachment 1) and any other amendments to fix drainage and grading issues for the future fire lane on 3<sup>rd</sup> Street between Gilman and Camelia Streets as part of the I-80 Gilman Interchange Improvement Project, increasing the amount of the agreement by \$750,000, for a total not-to-exceed amount of \$1,250,000.

FINANCIAL IMPLICATIONS

The City currently has an agreement with Alameda CTC for the retention of \$500,000 of the City's FY 2021-22 Measure BB DLD LSR Program funds to cover certain costs related to management and/or oversight incurred by Alameda CTC associated with the I-80 Gilman Interchange Improvement Project. Amending this agreement to increase the amount of retention by \$750,000 over and above the existing \$500,000 for a total not-to-exceed amount of \$1,250,000 will cover the cost of additional work necessary along the portion of 3<sup>rd</sup> Street between Gilman and Camelia streets. The source of the additional \$750,000 will also be Measure BB DLD LSR Program funds. The withholding of the funds will begin in the latter part of FY 2023. The City's projected allocation of FY 2023 Measure BB funds was fully allocated into the City's Five-Year CIP plan, across several different projects. Prioritizing the Measure BB DLD LSR funds to cover cost increases to the I-80 Gilman Interchange Improvement Project may impact the timing, fund sources, or scope of one or more projects. Therefore, City staff will evaluate project schedules and eligible fund sources to minimize the impact on other projects.

CURRENT SITUATION AND ITS EFFECTS

Construction of the I-80 Gilman Interchange Improvement Project started in July 2021 for Phase 1 and in July 2022 for Phase 2. As part of Phase 2 of the project, 3<sup>rd</sup> St. between Gilman and Camelia streets will be converted into a fire access lane. This access lane needs to be compliant with city/state standards for accommodating emergency vehicles including fire trucks. To address the shortcomings of this section of 3<sup>rd</sup> Street, issues

relating to the grading and drainage of this stretch of 3<sup>rd</sup> Street require repair. To that end, the necessary engineering and construction costs are estimated at \$750,000.

### BACKGROUND

I-80 Gilman Interchange Improvement Project proposes to improve vehicle, pedestrian, and bicycle operations at the Interstate 80 (I-80) / Gilman Street interchange in northwest Berkeley. The existing intersection controls, roadway geometry, and the high volume of local and regional traffic on Gilman Street result in poor traffic operation and non-motorized access at and near the interchange. The goals of the interchange project are to:

- Simplify and improve navigation and traffic operations on Gilman Street between the West Frontage Road and 2nd Street through the I-80 interchange so that congestion is reduced, queues are shortened, and merging and turning conflicts are minimized;
- Improve access for the bikes/pedestrians traveling between the Bay Trail and Northern Berkeley;
- Improve safety at Gilman Street intersections between West Frontage Road and 4<sup>th</sup> Street;
- Improve mobility in the Gilman Street corridor; and
- Create a Gateway into North Berkeley.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Fixing the grading and drainage issues of the portion of 3<sup>rd</sup> Street between Gilman and Camelia Streets will improve efficient filtration of surface water and its treatment before it reaches the bay.

### RATIONALE FOR RECOMMENDATION

To provide an accessible fire lane, issues with the existing road surface on 3<sup>rd</sup> Street between Gilman and Camelia Streets need to be addressed.

### ALTERNATIVE ACTIONS CONSIDERED

No other alternatives were possible so none were considered.

### CONTACT PERSON

Hamid Mostowfi, Supervising Traffic Engineer, Public Works, 510-981-6403  
Farid Javandel, Deputy Director of Transportation, Public Works, 510-981-7061

### Attachments:

1. Resolution
2. Amendment No.1: Memorandum of Understanding between Alameda CTC and City of Berkeley I-80 Gilman Interchange Improvement Project

RESOLUTION NO. ##,###-N.S.

AMEND CONTRACT NO. 42200065 (AGREEMENT A22-0058) WITH ALAMEDA COUNTY TRANSPORTATION COMMISSION (ALAMEDA CTC) TO COVER THE COST OF FIXING DRAINAGE AND GRADING ISSUES ON 3<sup>rd</sup> STREET BETWEEN GILMAN AND CAMELIA STREETS

WHEREAS, the I-80 Gilman Interchange Improvement Project, a City of Berkeley strategic plan goal, is in the process of being constructed; and

WHEREAS, Alameda CTC and the City of Berkeley entered into a Memorandum of Understanding which was fully executed on June 21, 2022, regarding Alameda CTC's retention of up to \$500,000 of the City's fiscal year 2021-22 Measure BB DLD LSR Program funds to cover certain costs related to management and/or oversight incurred by Alameda CTC associated with the I-80 Gilman Interchange Improvement Project which is being constructed in two phases; and

WHEREAS, the City, in consultation with Alameda CTC, is implementing Phase 2 related to improvements adjacent to and through the Union Pacific Railroad crossing at Gilman Street, on property owned by the City of Berkeley at 3<sup>rd</sup> Street between Gilman Street and Camelia Street which is slated to become a fire access lane; and

WHEREAS, 3<sup>rd</sup> Street is a gravel road with substandard surface grades and inadequate drainage facilities, and to address and fix the grading and drainage issues of this section of 3<sup>rd</sup> Street civil work needs to be performed; and

WHEREAS, the City and Alameda CTC have agreed that in addition to the funding currently authorized by Agreement A22-0058, Alameda CTC will retain, set aside, and expend up to \$750,000 of the City's FY 2022-23 Measure BB DLD LSR Program funds to cover costs associated with the scope of work proposed by the City on 3<sup>rd</sup> Street between Gilman and Camelia Streets in Phase 2 of the project.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 42200065 (Agreement A22-0058) with Alameda CTC and any other amendments, increasing the amount of the agreement by \$750,000 for a total not-to-exceed amount of \$1,250,000.

**AMENDMENT NO. 1  
TO THE  
MEMORANDUM OF UNDERSTANDING  
BETWEEN  
ALAMEDA COUNTY TRANSPORTATION COMMISSION  
AND  
CITY OF BERKELEY  
I-80 GILMAN INTERCHANGE IMPROVEMENT PROJECT**

This AMENDMENT NO. 1 (“AMENDMENT”), effective \_\_\_\_, 2022, is between the Alameda County Transportation Commission (“ALAMEDA CTC”) and the City of Berkeley (“CITY”).

**RECITALS**

WHEREAS, ALAMEDA CTC and CITY (each a “PARTY” and together the “PARTIES”) entered into that certain Memorandum of Understanding which was fully executed on June 21, 2022 (“MOU”), regarding ALAMEDA CTC’s retention of up to \$500,000 of CITY’s fiscal year 2021-22 Measure BB DLD LSR Program funds to cover certain costs related to management and/or oversight incurred by ALAMEDA CTC associated with the I-80 Gilman Interchange Improvement Project (“PROJECT”), which PROJECT is being constructed in two phases;

WHEREAS, CITY, under the direction of and in consultation with ALAMEDA CTC, is implementing Phase 2 related to improvements adjacent to and through the Union Pacific Railroad crossing at Gilman Street on property owned by the CITY, as further documented in ALAMEDA CTC’s Project Funding Agreement A21-0005. Caltrans, under a cooperative agreement with ALAMEDA CTC, is implementing the construction of Phase 2 of the project;

WHEREAS, CITY is projected to receive \$6,750,146.66 in 2014 Measure BB DLD LSR Program funds in fiscal year 2022-23;

WHEREAS, the PARTIES have agreed that in addition to the funding currently authorized by the MOU, ALAMEDA CTC will retain, set aside, and expend up to \$750,000 of CITY’s fiscal year 2022-23 Measure BB DLD LSR Program funds to cover costs associated with the scope of work proposed by CITY on 3rd Street between Gilman and Camelia Streets in Phase 2 of the PROJECT, as described in **Appendix A** attached hereto and by this reference incorporated herein, including professional services, construction contracts, subconsultants, and costs related to management and/or oversight by ALAMEDA CTC for implementing Phase 2 of PROJECT, as a means to accomplish the PROJECT.

NOW, THEREFORE, the PARTIES mutually understand and agree to the following:

**AMENDMENT**

1. The Recitals above are true, correct and made a part hereof.
2. Capitalized terms not otherwise defined in this AMENDMENT shall have the meanings assigned in the MOU.
3. In addition to the funding agreed to pursuant to the MOU, CITY authorizes ALAMEDA CTC to retain CITY's fiscal year 2022-23 Measure BB DLD LSR Program funds, in an amount not-to-exceed \$750,000, for the PROJECT, and to utilize these funds to pay for the costs associated with the new scope of work on 3rd Street between Gilman and Camelia Streets as described in **Appendix A**, including professional services, construction contracts, subconsultants, and costs related to management and/or oversight by ALAMEDA CTC for implementing the PROJECT.
4. ALAMEDA CTC shall retain and set aside \$750,000 from CITY's fiscal year 2022-23 Measure BB DLD LSR program funds, starting with deductions from the next available monthly CITY Measure BB DLD LSR program funds distribution following the full execution of this AMENDMENT, until the full \$750,000 is retained.
5. ALAMEDA CTC shall use the above-referenced \$750,000 for the costs related to implementing the scope of work on 3rd Street between Gilman and Camelia Streets as described in **Appendix A** and Section 2 above..
6. Actual costs for work, including professional services, preparation of the construction Contract Change Order (CCO), subconsultants, and costs related to management and/or oversight by ALAMEDA CTC for implementing the scope of work on 3rd Street, as described in **Appendix A**, will be invoiced to the CITY. Future amendments to the MOU may be required if the actual cost exceeds the current authorized amount.
7. By executing this AMENDMENT, each Party hereby acknowledges that its governing body has given all approvals necessary therefor.
8. Except as expressly modified in this AMENDMENT, all of the terms, covenants and conditions of the MOU shall remain in full force and effect and are hereby ratified and confirmed.

*[ Signatures on following page]*

In witness whereof, ALAMEDA CTC has by order caused this AMENDMENT to be subscribed by the binding authority of ALAMEDA CTC and CITY has by order caused this AMENDMENT to be subscribed by the binding authority of CITY.

**CITY OF BERKELEY (CITY)**

**ALAMEDA COUNTY TRANSPORTATION  
 COMMISSION (ALAMEDA CTC)**

By:

By:

\_\_\_\_\_  
 Dee Williams Ridley                                      Date  
 City Manager

\_\_\_\_\_  
 Tess Lengyel                                                              Date  
 Executive Director

Recommended by:

\_\_\_\_\_  
 Gary Huisingh                                                              Date  
 Deputy Executive Director of Projects

Reviewed as to Budget/Financial Controls by:

\_\_\_\_\_  
 Patricia Reavey                                                              Date  
 Deputy Executive Director of Finance and  
 Administration

Approved as to Form and Legality:

Approved as to Form and Legality:

\_\_\_\_\_  
 Farimah Brown                                                              Date  
 CITY OF BERKELEY Counsel

\_\_\_\_\_  
 Fennemore Wendel                                                              Date  
 ALAMEDA CTC Counsel



**APPENDIX A****PRELIMINARY SCOPE OF SERVICES FOR IMPROVEMENTS ON 3RD STREET BETWEEN GILMAN STREET AND CAMELIA STREET**

The following preliminary scope of work is prepared for the design and construction of a 12 foot wide traversable surface within the 18 foot wide Union Pacific Railroad (UPRR) easement on 3rd Street between Gilman and Camelia Streets within the limit of the I-80 Gilman Interchange Improvement Project (“PROJECT”).

Phase 2 of the PROJECT is currently in construction, and the 12 foot wide traversable surface on 3rd Street between Gilman and Camelia Streets will be constructed through a Construction Change Order (CCO) in this Phase.

Alameda CTC’s design consultant will prepare the CCO plans and estimate, and the CCO will be negotiated and implemented by the construction phase implementing agency, Caltrans.

The preliminary scope of work is based on the assumptions listed below. The preliminary scope of work will be further defined after a ground topographic survey and final CCO plans are completed. Additional scope and budget for the subject CCO may be required after the final CCO is negotiated with the Contractor and upon completion of CCO work via one or more future amendment(s) to the MOU.

**Assumptions**

- There is a minimum 18 foot clearance between the UPRR fence and existing buildings to construct the 12 foot wide traversable surface with a minimum 3 feet clearance from the existing buildings. The existing clearance will be verified by a ground topographic survey. If the available space cannot accommodate a 12 foot wide traversable surface or the required minimum clearances from the existing buildings., CITY will be notified to provide further direction.
- The CITY will clear all private property owner abatement of present encroachments, tree removal, trash removal, obstructions, etc.
- The CITY will coordinate with emergency services, environmental utilities (i.e., trash), and other relevant entities regarding the associated improvements.
- Relocation of existing utilities is not required.
- The existing features, such as billboard/concrete blocks, etc., to remain in place can be accommodated within the 6 foot excess width remaining after accommodating the 12 foot wide traversable surface.
- The existing asphalt, concrete, or other hard surfaces will be preserved, and improvements will be limited to areas where, after clearing and grubbing, the surface is deemed to be passable.
- The drainage at the site will follow existing patterns, and no drainage conveyance or other improvements are required. If necessary, a 6 inch curb will be utilized adjacent to existing buildings to maintain existing drainage patterns in vegetated areas. The assumed length of the proposed curb is 300 feet.
- In areas not traversable after clearing and grubbing, the work is limited to excavating 6 inches of existing material and replacing it with Aggregate Base (AB), creating a flat traversable surface with less than 5% grade from right-of-way to the UPRR tracks.
- All excavated soil associated with the proposed improvements on 3rd Street is Type Z-2 soil that must be disposed of in a California Class I disposal facility.

**Task 1: CCO Funding**

Upon full execution of this AMENDMENT, Alameda CTC will amend its Cooperative Agreement with the construction phase implementing agency, Caltrans. Caltrans will then add funding to the construction contract to execute the CCO.

**Task 2: CCO Preparation**

Alameda CTC's design consultant will provide professional and technical engineering services to assemble and review existing data, obtain new field data, perform topographic field surveys, define existing right-of-way, perform environmental revalidation, prepare the storm water report, and prepare the plans, specifications and estimate for a CCO to construct a 12 footwide traversable surface on 3rd Street between Gilman and Camelia Streets and obtain the necessary approvals from the CITY and Caltrans.

**Task 3: CCO Negotiation**

Caltrans will negotiate a lump-sum cost for the CCO with the Contractor. The final negotiated lump-sum CCO may require a further amendment to the MOU if the retained amount is insufficient.

**Task 4. CCO Implementation**

The Contractor will implement the approved CCO, and Caltrans will provide the construction support for the work, including inspections, material testing, segregated invoices, and progress reports for the CCO work. All changes to the CCO will be approved by the CITY. The final CCO cost may require a further amendment to the MOU.



Office of the Mayor

CONSENT CALENDAR  
November 29, 2022

To: Honorable Members of the City Council  
From: Mayor Jesse Arreguín, Councilmember Terry Taplin  
Subject: Budget Referral: Strawberry Creek Lodge Food Program

RECOMMENDATION

Refer to the December 2022 Annual Appropriations Ordinance (AAO) budget process \$50,000 for the Strawberry Creek Lodge Food Program.

BACKGROUND

Over the past couple of years, the City of Berkeley provided an annual grant of \$100,000 to provide subsidized meals for low-income seniors who reside at the Strawberry Creek Lodge a senior housing apartment complex owned by the Strawberry Creek Lodge Foundation. This funding was needed to cover the meal program while the kitchen was remodeled. As a result of the pandemic and other delays, the kitchen renovation was delayed and is expected to be completed by July 2023. As a result, funding is only needed for 6 months instead of a year, so a request of \$50,000 has been made. Once the kitchen is completed, they will work with Berkeley Food and Housing Project on a food program.

Strawberry Creek Lodge has provided housing for low- and moderate-income housing for 150 seniors since the early 1960s. The City first provided a grant for the Lodge's meal program in 2020 after an Urgency Item was submitted on November 19, 2019 to amend the budget for Fiscal Year 2020.

FINANCIAL IMPLICATIONS

\$50,000

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100  
Councilmember Terry Taplin 510-981-7120





Office of the Mayor

CONSENT CALENDAR

November 29, 2022

To: Members of the City Council

From: Mayor Jesse Arreguin

Subject: Grant Approval: San Francisco Foundation to support the Equitable Black Berkeley Initiative

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to accept a \$75,000 grant award from the San Francisco Foundation to renew the existing ideation facilitator contract supporting the Equitable Black Berkeley Initiative, a community-led process to develop a reparative approach to new development at the Ashby BART Station and Adeline Corridor, with the goal of maximizing affordability of new housing.

FISCAL IMPACTS OF RECOMMENDATION

The grant funds will be deposited and expensed from the One-Time Grant: No Capital Expenses Fund and will be appropriated in the First Amendment to the FY 2023 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

On November 30, 2021, the City Council approved a \$50,000 grant from the San Francisco Foundation (SFF) grant to support a six-month process to ideate increasing affordable housing at the North Berkeley and Ashby BART stations. SFF has increased the grant funding by \$75,000 continuing the work of the part time consultant in creating a plan, in collaboration with the community and multiple partners, to secure the funding needed to meet the project goals of maximizing affordable housing at and around the Ashby and North Berkeley BART sites within a reparative framework.

BACKGROUND

The City of Berkeley's Black population has experienced a history of segregation, disinvestment, displacement, gentrification, health disparities, achievement gaps and wealth generation inequity as a result of deliberate policy and planning decisions. This is a story repeated in countless Black communities across the country.

South Berkeley was, historically, a predominantly black community that was redlined, locking Black residents out of homeownership and access to credit. Between 2012 and 2018, the median home price in Berkeley's redlined districts more than doubled, from \$517,000 to \$1,140,000. This increase was 7 percent faster than anywhere else in the city as a result of gentrification. In that same time period, rents in South Berkeley increased 42 percent. As a result, over the past 30 years, Berkeley's Black population has decreased from 23.5% to 7.9%. Two-thirds of South Berkeley residents are renters

and 20% are below the poverty line. Very little of the existing housing in South Berkeley is deed-restricted affordable.

The City Council and BART Board unanimously adopted a Memorandum of Understanding (MOU) in December 2019 and January 2020, respectively, related to future development at the Ashby and North Berkeley BART sites. This transit oriented development (TOD) on BART land will create hundreds of new affordable housing units around both Ashby BART and North Berkeley BART in the next decade.

Berkeley now has the opportunity to correct historic harms and ensure that the new developments are designed to maximize equity outcomes for the African American community and low-income residents. Equitable Black Berkeley is an innovative, replicable model to support equity, opportunity and the well-being of Berkeley's Black community. It will underpin policies to repair harm, create financing vehicles to sustain community investment and ensure Black families have a right to stay, right to return, and right to own/build equity. EBB will help alleviate the housing crisis and create the conditions for the South Berkeley community to thrive.

The San Francisco Foundation grant contemplated by this council item would provide support to the City in developing additional strategies for increasing financial support for greater affordability levels for the BART projects and engaging the black community in developing a reparative framework that will address economic harms and provide the support infrastructure to provide repair.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Would support Climate Action goals by providing more affordable housing along transit corridors.

#### RATIONALE FOR RECOMMENDATION

Increasing affordability levels for new housing developments and addressing inequities for communities of color are expressed City values and council direction. This grant supports the efforts to increase affordability in previously redlined areas in a reparative framework.

#### CONTACT PERSON

Mayor Jesse Arreguin, 510-981-7100

Attachments:

1: Resolution

RESOLUTION NO. ##,###-N.S.

SAN FRANCISCO FOUNDATION GRANT APPLICATION AND ACCEPTANCE OF FUNDING

WHEREAS, the City Council and BART Board unanimously adopted a Memorandum of Understanding (MOU) in December 2019 and January 2020, respectively, related to future development at the Ashby and North Berkeley BART sites; and

WHEREAS, The City of Berkeley's Black population has experienced a history of segregation, disinvestment, displacement, gentrification, health disparities, achievement gaps and wealth generation inequity as a result of deliberate policy and planning decisions; and

WHEREAS, South Berkeley was, historically, a predominantly black community that was redlined, locking Black residents out of homeownership and access to credit; and

WHEREAS, Between 2012 and 2018, the median home price in Berkeley's redlined districts more than doubled, from \$517,000 to \$1,140,000. This increase was 7 percent faster than anywhere else in the city as a result of gentrification. In that same time period, rents in South Berkeley increased 42 percent. As a result, over the past 30 years, Berkeley's Black population has decreased from 23.5% to 7.9%. Two-thirds of South Berkeley residents are renters and 20% are below the poverty line; and

WHEREAS, The MOU states a minimum threshold of 35% affordable units (at low, very low and/or extremely low income levels) with a goal of achieving even higher levels of affordable housing at the BART sites, including up to 100% affordable; and

WHEREAS, On November 30, 2021, the Berkeley City Council voted to receive a grant from the San Francisco Foundation to support a consultant to assist the Equitable Black Berkeley Initiative (EBB) in a six-month process to ideate financing alternatives to increase the level of affordable housing at the North Berkeley and Ashby BART stations within a reparative framework; and

WHEREAS, the San Francisco Foundation grant of \$75,000 would support continuing the consultant contract supporting the Equitable Black Berkeley Initiative, a community-led process to develop a reparative approach to new development at the Ashby BART Station and Adeline Corridor, with the goal of maximizing affordability of new housing.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to accept a \$75,000 grant from the San Francisco Foundation to continue funding a consultant(s) to work with staff and the community to develop a plan to increase affordability at the BART housing projects within a reparative framework.







Office of the Mayor

CONSENT CALENDAR  
November 29, 2022

To: Honorable Mayor and Members of the City Council  
From: Mayor Jesse Arreguín  
Subject: Excused Absence for Councilmember Ben Bartlett

RECOMMENDATION

Excuse Councilmember Ben Bartlett from the September 29, 2022 Council meeting as a result of illness

BACKGROUND

Pursuant to the City Charter, Article V, § 19, the City Council must approve an absence by a Councilmember from a meeting in order for that absence to be considered excused. Specifically, it states:

*If the Mayor or any member of the Council is absent from one or more regular meetings of the Council during any calendar month, unless excused by the Council in order to attend to official business of the City, or unless excused by the Council as a result of their own illness or the illness or death of a “close family member” as defined in the City’s bereavement policy from attending no more than two regular meetings in any calendar year, they shall be paid for each regular meeting attended during such months in an amount equal to the monthly remuneration divided by the number of regular meetings held during such month.*

Councilmember Bartlett was unable to provide a 72-hour notice of his absence from the September 29, 2022 Council meeting due to a close family member illness.

FINANCIAL IMPLICATIONS

None

ENVIRONMENTAL SUSTAINABILITY

Not applicable

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100





Office of the City Manager

PUBLIC HEARING  
November 29, 2022

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Eleanor Hollander, Economic Development Manager  
 Subject: Renewal of the Solano Avenue BID for Calendar Year 2023

### RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Solano Avenue Business Improvement District (hereafter, “Solano BID Advisory Board” or “the BID”) for 2022-2023 and, if no majority protest exists, levy annual assessments in the District for calendar year 2023 to finance services and improvements and authorize a fiscal agency contract for receipt and expenditure of District funds.

### FISCAL IMPACTS OF RECOMMENDATION

Projected BID revenue of approximately \$25,000 will be deposited into the Solano Avenue BID Fund, revenue budget code 783-21-208-251-0000-000-000-412110 and expensed from budget code 783-21-208-251-0000-000-446-636110. The BID constitutes an independent funding source that must be targeted to commercial revitalization efforts that are recommended by the Solano BID Advisory Board. The work of the Solano BID enhances the economic development of Solano Avenue and its business climate over the long term, and therefore the BID contributes towards improving City revenues through increased sales and property taxes.

### CURRENT SITUATION AND ITS EFFECTS

Under the State of California Parking and Business Improvement Area law of 1989 (California Streets and Highways Code Section 36500 et. seq.) that authorized the establishment of the Solano Avenue BID, the City Council must hold a public hearing before levying assessments for 2023. The renewal process was initiated on November 3, 2022, when Council approved by Resolution No. 70,569-N.S. (See Attachment 1, Exhibit A) the Annual report and budget for 2022-23 sent to it by the Advisory Board and set the public hearing date for November 29, 2022. (The Annual Report with a budget is part of Attachment 1, Exhibit A). The City Clerk noticed businesses in the Solano Avenue BID area by publishing Resolution No. 70,569-N.S. in a newspaper of general circulation. If no majority protest is received at the public hearing, at its conclusion the City Council may confirm the Annual report and budget for 2023 and levy assessments.

BACKGROUND

Since its revival in May 2012, the Solano BID Advisory Board has used Solano BID revenues to finance three programs: 1) a tree watering contract to ensure the health of 48 young street trees on Solano; 2) installing a program of 40 hanging planter baskets on light poles; and 3) sponsorship of events that attract customers to the district and improvements that enhance the pedestrian experience. In 2022, the BID program has focused on sponsoring activities and improvements intended to market and promote the Solano Avenue business district. In the wintertime, the BID in conjunction with the Solano Avenue Association (which represents both Albany and Berkeley businesses along Solano Avenue) pays a contractor to erect holiday lights and decorations on City street light poles. This will continue for the 2022-23 season. Although the BID will spend a good portion of its funds on the holiday décor program, in the remainder of 2022 it has initiated an expanded landscaping program to clean and level tree wells and water existing hanging flower baskets. BID expenditures are to be made through an established fiscal agency contract with Telegraph Property and Business Management Corporation (Telegraph PBMC).

ENVIRONMENTAL SUSTAINABILITY

By maintaining and enhancing the district, the Solano BID creates shopping opportunities for residents and visitors alike while encouraging alternative forms of transportation. The environmental enhancements such as the added street trees, hanging planters, parklet, and holiday decorations contribute to making Solano a more pleasant walking destination. Because the District is well served by public transportation and biking infrastructure, these services indirectly support environmental sustainability goals of encouraging alternative transportation modes and decreasing carbon emissions.

RATIONALE FOR RECOMMENDATION

State law requires that the City Council annually renew the Solano BID by conducting a public hearing on the proposed renewed assessment for the coming year.

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered.

CONTACT PERSON

Eleanor Hollander, Secretary to the Solano BID Advisory Board, (510) 981-7536.

Attachments

1: Resolution

Exhibit A: Resolution No. 70,569-N.S., with incorporated Annual Report, Budget, District Map, and Assessment table

2: Public Hearing Notice

RESOLUTION NO. ##,###-N.S.

CONFIRMING THE ANNUAL REPORT AND BUDGET FOR THE SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT (BID), LEVYING AN ANNUAL ASSESSMENT FOR THE SOLANO AVENUE BID FOR 2023, AND AUTHORIZING A CONTRACT OR CONTRACT AMENDMENTS WITH A SUITABLE NON-PROFIT TO SERVE AS FISCAL AGENT FOR RECEIPT AND EXPENDITURE OF SOLANO AVENUE BID FUNDS.

WHEREAS, the Solano Avenue Business Improvement District (BID) Advisory Board recommended an Annual Report to the Berkeley City Council that outlined the activities of the District proposed for the year 2022, including a budget for said activities, as required by California Streets and Highways Code Section 36533 and Berkeley Municipal Code Section 7.97.080; and

WHEREAS, on November 3, 2022, the City Council by Resolution No. 70,569-N.S (attached as Exhibit A) approved the Annual Report and proposed budget of the Solano Avenue BID for 2022-23 and declared its intent to levy an assessment in the District to finance the proposed activities for the calendar year 2023; and

WHEREAS, Resolution No. 70,569-N.S. also scheduled a public hearing for November 29, 2022, to consider levying said assessment and gave notice that interested parties could attend and be heard on the issue, for and against; and

WHEREAS, the City Clerk has notified potential assessees of the public hearing by publishing the Resolution of Intention in a newspaper of general circulation; and

WHEREAS, the public hearing has now been held and there has not been protests by business owners who collectively pay 50 percent or more of the assessment proposed to be levied.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that protests are over-ruled and the Annual Report of the Solano Avenue BID is confirmed, thereby levying an annual assessment for the Solano Avenue BID for calendar year 2023.

BE IT FURTHER RESOLVED that the Council authorizes the City Manager to enter into a contract or contract amendments with a suitable non-profit to receive and spend funds for purposes approved in the Annual Report and Budget and as directed by the Solano Avenue BID Advisory Board.

Exhibit A: Resolution No. 70,569-N.S. (November 3, 2022), including the 2022-23 Annual Report and Budget, District Map, and Assessment Table

RESOLUTION NO. 70,569-N.S.

APPROVING THE ANNUAL REPORT AND PROPOSED BUDGET OF THE SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT FOR 2022-23; DECLARING COUNCIL'S INTENTION TO LEVY AN ASSESSMENT IN THE DISTRICT FOR 2023; AND DIRECTING THE CITY CLERK TO SCHEDULE A PUBLIC HEARING FOR NOVEMBER 29, 2022 TO CONSIDER LEVYING A RENEWED ASSESSMENT FOR 2023.

WHEREAS, the Parking and Business Improvement Area Law of 1989 (California Streets and Highway Code section 36500 et seq.) authorizes cities to establish parking and business improvement areas for the purpose of imposing assessments on businesses for certain purposes; and

WHEREAS, on December 9, 2003 the Berkeley City Council established such an area known as the Solano Avenue Business Improvement District (the "District"); and

WHEREAS, the City Council established a Solano Avenue Business Improvement District Advisory Board (Advisory Board) to act in compliance with State law to oversee the activities of the District; and

WHEREAS, the City Council established a Solano Avenue Business Improvement District Advisory Board (Advisory Board) to act in compliance with State law to oversee the activities of the District; and

WHEREAS, the Advisory Board has submitted an Annual Report to the Berkeley City Council that outlines the activities of the District proposed for 2023 as required by the California Streets and Highways Code Section 36533; and

WHEREAS, the Annual Report is clear and complete and found to comply with the interests of Solano Avenue assessees; and

WHEREAS, the annual process for levying assessments in Business Improvement Districts requires that cities adopt a Resolution of Intent that declares their intent to levy such an assessment and then set a date for a public hearing where interested parties may be heard on the issue.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley as follows:

Section 1. The City Council hereby approves the Solano Avenue Business Improvement District Annual Report 2022 and Budget for the year 2023 (Exhibit A) as submitted to the City Clerk by the Solano Avenue Business Improvement District Advisory Board.

Section 2. Pursuant to the provisions of Section 36500 et seq. of the California Streets and Highways Code (the "Act"), the City Council declares its intent to levy an annual

assessment for the parking and business improvement area known as the Solano Avenue Business Improvement District.

Section 3. The boundaries of the District are set forth in Exhibit A1 to the 2022-23 Annual Report which is attached hereto and incorporated herein by reference.

Section 4. The improvements and activities proposed for the District are as described in the Report and budget (Exhibit A) and appended hereto.

Council intends that these funds be used for designated activities and improvements in the Solano Avenue commercial area. Council explicitly intends that funds generated through this BID shall not be used to pay for activities routinely paid for by the City.

Section 5. The City Council intends to levy assessments on businesses located within the boundaries of the District shown Exhibit A1 and according to the business classifications and rates set forth in Exhibit A2 which is attached hereto and incorporated herein by reference.

Section 6. A public hearing shall be held before the City Council on November 29, 2022 via accessible video teleconference. Following the hearing the Council will consider adoption of a resolution levying an assessment as recommended by the Solano Avenue Business Improvement Advisory Board. At this hearing the Council will hear all interested persons for or against the levying of such an assessment.

Formal protests against the levying of the District assessment must be made in writing. All written and oral protests should contain the following certification: "I certify that I am the owner of the business listed below, and that the business is located or operates within the boundaries of the Solano Avenue Business Improvement District." Protests should also contain the following information: business name (printed), business address (printed), City Business License Tax Registration number, name of protester (printed), signature of protester, date of protest and the reason(s) the protester is against the levying of the District assessment. Protests will not be considered valid unless signed and submitted by the owner of a business located within the boundaries of the proposed District. Written protests shall be filed with the City Clerk, First Floor, City Hall, at 2180 Milvia Street, Berkeley, California, 94704, at or before 3 pm on November 29, 2022 and shall contain a description of the business sufficient to identify the business, and if the person so protesting is not listed on City records as the owner of the business, the protest shall be accompanied by written evidence that the person subscribing the protest is the owner of the business. Any protest pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularity or defect to which the objection is made. If written protests are received from the owners of businesses in the District which will pay fifty percent (50%) or more of the assessment proposed to be levied, no further proceedings to levy the assessment shall be taken for a period of one year from the date of the finding of a majority protest by the City Council. If the majority protest is only against the furnishing of a specified type or types of improvements or activities within the District, those types of improvements or activities shall be eliminated.

Section 7. The City Clerk is directed to give notice of said public hearing by publishing the Resolution of Intention in a newspaper of general circulation seven days prior to the public hearing.

Exhibits

A: Report for the Solano Avenue Business Improvement District 2022-23

A1: Map of the Solano BID

A2: Assessment Rates

The foregoing Resolution was adopted by the Berkeley City Council on November 3, 2022 by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest: \_\_\_\_\_  
Mark Numainville, City Clerk



**Exhibit A:**

Report for the Solano Avenue Business Improvement District for 2022 and Budget for 2023

**Background**

The first version of the Solano Business Improvement District (BID) operated from 2002-2007 with administration of the BID headed by the Solano Avenue Association. In 2012, the Council appointed the Solano BID Advisory Board to administer the Solano Avenue BID, to fund physical improvements to the street and dedicate marketing and promotion efforts towards the businesses on the portion of Solano Avenue that lies in Berkeley. This Annual report and budget updates the most recent year of operational programs of the Solano BID.

**Landscape program**

In 2013, the Solano BID financed a tree watering program for young street trees along upper Solano Avenue. In 2016, per the City of Berkeley arborist, the trees were mature enough to not require additional water services. In early 2016, the board voted to enhance Solano's landscape by installing a program of 41 hanging planter baskets on light poles distributed throughout the district; utilizing the Downtown Berkeley Association's (DBA) services. The DBA watered and maintained the baskets through the end of calendar year 2018. From 2019 to 2021, rainwater alone supported the baskets, and in 2022 the Solano BID entered into a contract with The Peralta Services Corporation to supplement other efforts to clean, weed, and level the tree wells through the district, and to develop an ongoing watering and maintenance system for the hanging flower baskets. Peralta's services began in July of 2022, and a schedule and cadence for this program will be implemented through the end of 2022. Expanded landscaping improvements (including porous pavement in tree wells and watering and maintenance of the hanging flower baskets) have yet to be determined by the board. It is presumed that provided a successful demonstration of landscaping maintenance this fall/winter season (2022-23), a multi-year contract could be extended accordingly in 2023.

In 2020, funds were approved and a selection process was conducted for a public realm plan study on Solano. The BID was supportive of the process and was deeply committed to involving both local merchants and local residents in the effort to re-imagine Solano Avenue in a way that brings more vitality to the Avenue in concert with the efforts of the City of Albany with the intention of strengthening the Solano Avenue 'brand' overall. The funding for this project was repurposed for the emergency response to the COVID-19 pandemic. The project was restored in the city's FY22 budget (adopted June 29, 2021) and has begun again with renewed effort in 2022. It is the intention to issue an RFP for the project in late 2022, or early 2023.

**Marketing and promotion of Solano**

Marketing and promotion of Solano Avenue constitutes the second priority of the Solano BID.

In 2022, the BID took on an ambitious coordinated district marketing program, allocating \$17,000 to the development of a banner campaign, and a \$15,000 to a marketing mailer with

both with the theme “North Berkeley In Bloom.” The Solano Stroll (produced by the SAA) is returned in person on September 11, 2022, which hopefully will be followed in short order by the unveiling of refreshed street banners (anticipated date, late fall 2022).

To promote the avenue during the holiday season, a holiday light display program was established by the Solano BID. In 2016 and 2017 the BID contracted with a vendor, the Christmas Light Pros of SF, to deploy decorative unlit multi-colored garlands. In 2018 and 2019, the board approved funding for a new vendor which, under direction of the Solano Avenue Association (SAA), covered more poles and provided greater decoration coordination opportunities with neighboring Albany, all at a lower cost than previous seasons. The intention for the holiday season in '22 -'23 is to use the same vendor from the '21-'22 season and reimburse the SAA after the lights are installed. This partnership underscores the leverage that the SAA organization has been able to provide to support BID efforts for the Berkeley portion of Solano Avenue.

In the remainder of 2022, the Advisory Board may again decide to participate in the development of virtual or otherwise safe holiday campaigns and activities (i.e. supporting the Solano Avenue Association in producing events ‘Santa on Solano’ event or similar). The details of the overall 2022 (and the future 2023) event and marketing program will be developed over the remainder of the year, with a possible coordinated launch party for the new Touchstone Oaks bouldering gym at the top of the Avenue once construction is complete.

**Solano BID Administration**

The Solano BID has one existing contract; a fiscal agent contract with the Telegraph Property and Business Management Corporation (Telegraph PBMC), who charges a 5% fee on new BID revenue annually (for example, the anticipated new Solano BID revenue for 2023 is \$25,000, so the fiscal agent for 2023 will be \$1,250).

**FINANCIAL STATUS OF THE SOLANO BID, SEPTEMBER 2022**

|                                                                                                          |                     |
|----------------------------------------------------------------------------------------------------------|---------------------|
| Solano BID Revenue, as of 9/15/2022                                                                      | \$ 96,774.26        |
| Less fiscal agent fee to Telegraph PBMC (5%) - of estimated new revenue                                  | \$ (1,250.00)       |
| Less funds allocated for Solano Ave Assn Events Contract (including 2022-23 holiday-related events)      | \$ (20,000.00)      |
| Less funds allocated for decorative holiday lights + Installation + Removal + Storage Nov '22 to Jan '23 | \$ (7,500.00)       |
| Less Funds for Banners (install, new brackets etc.)                                                      | \$ (20,000.00)      |
| <b>Unallocated as of 9/15/2022</b>                                                                       | <b>\$ 48,024.26</b> |

**BUDGET FOR THE SOLANO BID FOR 2023 (Calendar Year)**

|                                                |                     |
|------------------------------------------------|---------------------|
| Estimated new revenue 2023                     | \$ 25,000.00        |
| Carryover from 2022 (estimated)                | \$ 48,024.26        |
| <b>Total available for expenditure in 2023</b> | <b>\$ 73,024.26</b> |

*PROPOSED EXPENDITURES FOR 2023 (Calendar Year)*

|                                                                           |                     |
|---------------------------------------------------------------------------|---------------------|
| Landscaping installation/tree well porous pavement                        | \$ 15,000.00        |
| Watering and Maintenance for hanging flower baskets                       | \$ 12,000.00        |
| Installation, removal and storage of holiday decor 2023-24 season         | \$ 11,000.00        |
| Banners 2023 (future design and adtl' install)                            | \$ 17,000.00        |
| Marketing expenditure (branding/business/event support contract with SAA) | \$ 15,000.00        |
| <b>Total projected expenditure 2023</b>                                   | <b>\$ 70,000.00</b> |

**Recommendations**

The Advisory Board recommends that the Council approve the Annual Report and Budget for 2023.

The Advisory Board recommends that the Council make no changes in the boundaries of the Solano Business Improvement District or in the two Benefit Zones, A & B.

The recommended improvements and activities for 2023 are those stated in the Report. The cost for providing them is stated in the Budget for 2023.

The method and basis for the assessment is as stated in Exhibit A2.

The estimate for surplus revenues to be carried over from 2022 is as stated in the Budget for 2023.

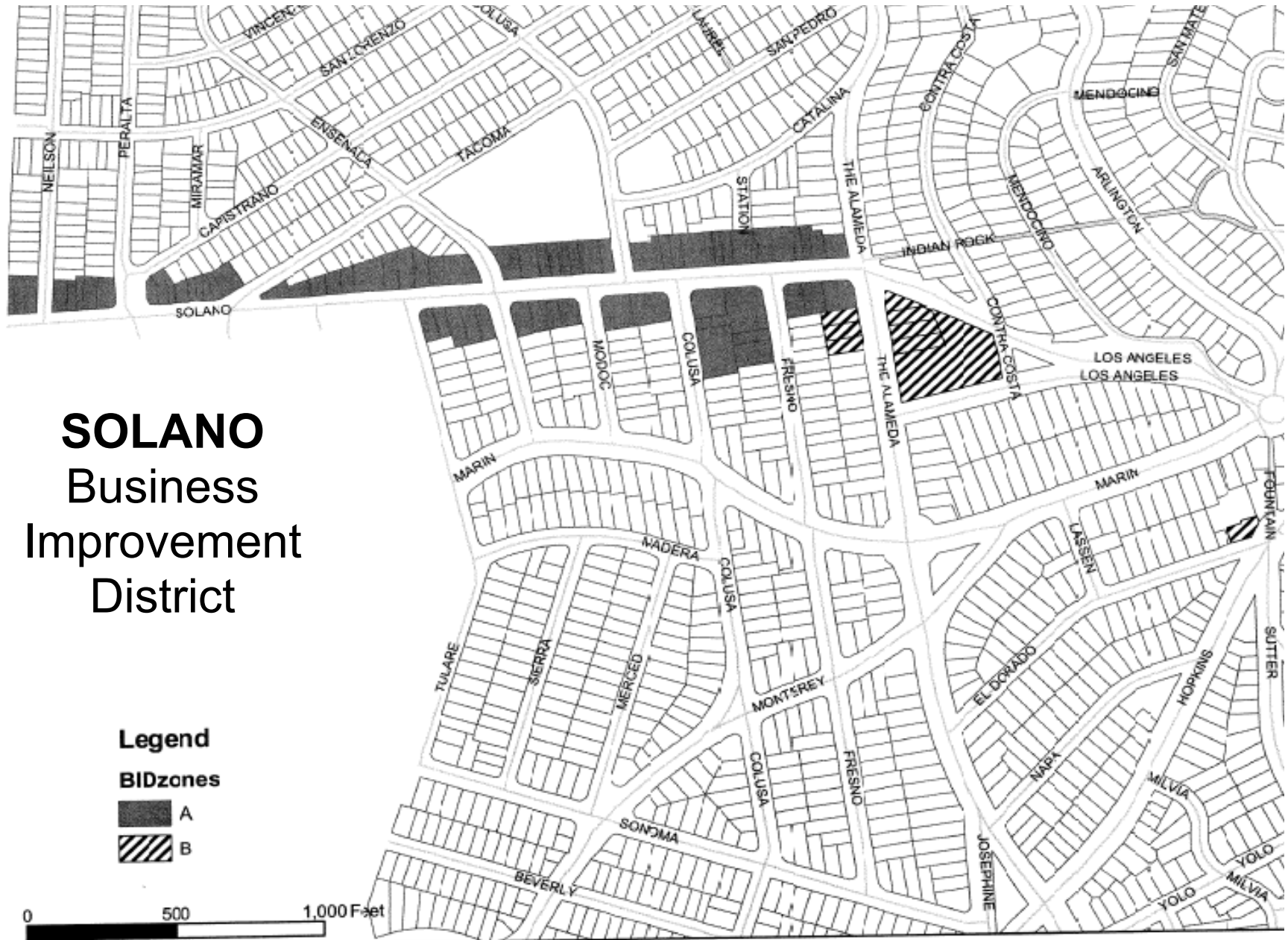


Exhibit A2

**Berkeley Solano Avenue Business Improvement District Annual Assessment Formula**

| Type of Business             |               | Annual Assessments |        |
|------------------------------|---------------|--------------------|--------|
|                              |               | Zone A             | Zone B |
| a. Retailers and Restaurants | 1-5 employees | \$200              | \$125  |
|                              | 6-9 employees | \$300              | \$175  |
|                              | 10+ employees | \$400              | \$225  |
| b. Service Businesses        |               | \$175              | \$100  |
| c. Professional Services     |               | \$100              | \$65   |
| d. Financial Institutions    |               | \$500              | \$500  |

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**RENEWAL OF THE SOLANO AVENUE BUSINESS IMPROVEMENT  
DISTRICT AND LEVYING OF ASSESSMENT FOR 2023**

The Solano Avenue Business Improvement District (BID) Advisory Board is proposing that the Berkeley City Council confirm the Annual Report of the Solano Avenue BID for 2022 and levy an assessment for 2023.

The hearing will be held on November 29, 2022 at 6:00 p.m. The hearing will be held via videoconference pursuant to Government Code Section 54953(e) and the state declared emergency.

A copy of the agenda material for this hearing will be available on the City’s website at [www.berkeleyca.gov](http://www.berkeleyca.gov) as of **November 17, 2022**.

For further information, please contact Eleanor Hollander, Office of Economic Development, at (510) 981-7536.

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to [council@cityofberkeley.info](mailto:council@cityofberkeley.info) in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Published:** Resolution of Intention No. 70,569-N.S., November 18, 2022 – Berkeley Voice

As required by Streets and Highways Code Section 36534.

~~~~~  
I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on November 17, 2022.

Mark Numainville, City Clerk



Office of the City Manager

PUBLIC HEARING
November 29, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Planning and Development Department

Subject: Referral Response: Amendments to the Sign Ordinance to Clarify Procedures and to Establish a Coordinated Sign Design Program, and Establish a New Fee for Coordinated Sign Design Programs

RECOMMENDATION

Conduct a public hearing and, upon conclusion:

Adopt the first reading of an Ordinance amending the Berkeley Municipal Code (BMC) Title 20 [Signs] to clarify design review procedures for signs, establish an optional Coordinated Sign Design program, and amend Section 20.12.070 [Issuance authorized when] and Section 23.204.070B [Design Review – When required] to provide internal consistency; and

2. Adopt a Resolution amending Resolution No. 67,985-N.S., the Land Use Planning Fee schedule, to add a new Coordinated Sign Design Program Fee.

SUMMARY

This report provides an overview of existing conditions and presents amendments to clarify the sign permit process for new and replacement signs and introduces a Coordinated Sign Design Program and fee. Amendments presented below are intended to reduce processing times for obtaining sign permits, clarify the Sign Ordinance, and provide consistency between Title 20 [Sign Ordinance] and Title 23 [Zoning Ordinance]. These changes will result in better customer service by improving business applicants' permit processing experience, and responds to part of a previous Council referral in support of small businesses.

FISCAL IMPACTS OF RECOMMENDATION

Amendments to Title 20 and Title 23 will allow replacement signs without obtaining a new sign permit, exempting replacement signs from incurring a fee. Any loss of fee revenue will be offset by a reduction of staffing costs associated with processing these permits. Amendments also establish a Coordinated Sign Design Program that would

expedite approval of signs for individual tenants in larger buildings and complexes in which a landlord has pre-approved designs. Adoption of the resolution will establish a \$2,015 fee for Coordinated Sign Design Programs consistent with the cost of processing such permits. Changes are expected to reduce barriers and cost for new and existing businesses in Berkeley.

CURRENT SITUATION AND ITS EFFECTS

On October 15, 2019 the City Council referred to the City Manager recommendations with the goal of expediting services for existing businesses and reducing barriers to entry for new businesses (Attachment 4). This report focuses on addressing one of the eight requested actions by clarifying the approval process for sign permits.

Amendments improve consistency and predictability for new signs and replacement signs, as well as introduce a formal Coordinated Sign Design Program and fee.

On November 19, 2020, the Design Review Committee (DRC) received a presentation on the proposed changes, provided feedback, and voiced support for the amendments. The same action was taken by Planning Commission on April 7, 2021. Amendments and considerations in this report reflect the direction provided by both bodies and are presented below under three categories:

1. Establish a Coordinated Sign Design Program and Fee
2. Exempt Replacements Signs from Obtaining Sign Permits and Clarify Sign Permit Processes
3. Make Minor Edits to Title 23 to Maintain Consistency with Title 20

1. Establish a Coordinated Sign Design Program and Fee.

(Modify Chapter 20.16 [Regulations Generally])

Coordinated Sign Design Programs are intended to establish consistent sign design standards for development projects, projects with multiple signs, and projects with multiple tenants. The City of Berkeley does not currently have a formal Coordinated Sign Design Program, though multi-tenant sign concepts are often reviewed for larger developments. Amendments proposed in the Ordinance would introduce Section 20.16.105 [Coordinated Sign Design Programs], to provide a pathway for developing pre-approved sign templates that meet City design standards for projects with multiple signs. The new code section provides guidance for business and building owners interested in establishing a Coordinated Sign Design Program. In addition, the new code section outlines protocols and processes to oversee such programs. With this change, a new application fee will be established for processing Coordinated Sign Design Program applications.

Please see Attachment 1 for amendments related to a Coordinated Sign Design Program, and Attachment 3 for a flow chart that explains the process.

2. Exempt Replacement Signs from Obtaining a Sign Permit and Clarify Sign Permit Processes. *(Modify Section 20.12.070 [Issuance authorized when])*

Currently, all new and replacement signs must obtain a sign permit and undergo some level of design review. This includes replacement signs that have previously been approved by the City. Amendments define and exempt replacement signs and signs that have been approved through a Coordinated Sign Design Program:

20.12.070.E: Exempt Signs.

- a. Approved existing signs may be refaced, re-painted or replaced with the same location, size, and design, subject to review by the Building Official for signs that require a Building Permit.
- b. Signs pursuant to a Coordinated Sign Design Program may be installed and replaced without Design Review and shall be approved with a Zoning Certificate, subject to review by the Building Official for signs that require a Building Permit.

In addition, to clarify the review and authorization process for sign permits, language in Section 20.12.070 [Permits: Issuance authorized when] is also revised. Overall, amendments remove onerous re-application requirements and clarify the Sign Ordinance by defining sign types and outlining permits required (Attachment 1).

3. Make Minor edits to Title 23 to Maintain Consistency with Title 20 *(Modify Section 23.406.070B [Design Review – When Required])*

Title 20 [Sign Ordinance] and 23 [Zoning Ordinance] reference one another to help the reader navigate the BMC. To be consistent with changes to Title 20, minor amendments to Title 23 are required. Title 23 currently requires replacement signs to undergo Design Review. These changes improve the City's internal permitting processes and customer service by providing more clarity and shortening timelines for individual businesses that are updating signage.

The DRC and Planning Commission provided input on the amendments presented in this report and expressed support for the overall effort. To complement this effort, DRC requested that City Council direct the City Manager to further research opportunities to develop a design template and objective standards for new signs and awnings. As part of the City's ongoing work to address Objective Standards, the Joint Subcommittee for the Implementation of State Housing Laws (JSISHL) reviewed an analysis of the City's existing sets of Design Guidelines and the work to fulfill this request is already

underway as part of staff's responses to other Objective Standards referrals adopted by Council.

BACKGROUND

In 2019 the City's Office of Economic Development (OED) conducted outreach to gain a better understanding of challenges and concerns facing Berkeley businesses. OED conducted surveys and interviews with local businesses to better gather information and insight. These conversations led OED staff to recommend to City Council a set of additional support measures for Berkeley businesses. The referral package (Attachment 4) included eight action items concerning group instruction, hours of operation, alcoholic beverage service, change of use, and permitting thresholds for ATM machines and Arcades. This report focused on clarifying the permit process for signs and establishing a Coordinated Sign Design Program (referral action item 2) to provide clarity to new business owners and sign companies.

In November 2019, Staff presented to the DRC proposed amendments to Title 20 [Sign Ordinance] and Title 23 [Zoning Ordinance] to established a Coordinated Sign Design Program and ease permit requirements for signs. The DRC provided staff with comments and continued discussions to their December 2019 meeting. Staff returned to the DRC in February 2020, with additional recommendations and amendments to ease permitting requirements and the DRC resolved to draft a memorandum to City Council, requesting the City Manager develop a template and objective standards for new signs and awnings. As noted above, this work is in progress as part of staff's responses to other Object Standards referrals adopted by Council. Staff has also clarified application materials to reflect our practice of applying the Downtown Design guidelines citywide, including for new signs and awnings. In April 2021, staff presented to the Planning Commission where they discussed the proposed amendment and recommended minor modifications to improve readability. The Planning Commission voted unanimously to recommend City Council adopt staff's recommendation.

ENVIRONMENTAL SUSTAINABILITY

Signs help create a sense of place, which can create inviting walking environments, which in turn support active transportation modes. Improving processing time for sign permits will reduce the amount of time storefronts remain unidentifiable and will contribute to continuity of the pedestrian experience.

RATIONALE FOR RECOMMENDATION

Business owners, stakeholders, and a number of sign companies discussed opportunities to improve the business experience with the OED. These conversations helped identify opportunities to clarifying permit processes for signs. Recommendations in this report codify existing processes and introducing a Coordinated Sign Design Program to address barriers and improve customer service.

ALTERNATIVE ACTIONS CONSIDERED

Council could take no action, in which case the Sign Ordinance and Zoning Ordinance would retain existing regulations for obtaining a Sign Permit.

CONTACT PERSON

Robert Rivera, Senior Planner, Land Use Planning Division, rrivera@CityofBerkeley.info
Anne Burns, Senior Planner, Land Use Planning Division, (510) 981-7489

Attachments:

1. Ordinance
2. Resolution
 - a. Exhibit A: Land Use Planning Fee Schedule
3. Coordinated Sign Design Program Flow Chart
4. Council Referral adopted October 15, 2019: Modifications to the Zoning Ordinance to Support Small Businesses
5. Public Hearing Notice

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE (BMC) SECTION 20.12.070 TO MODIFY THE SIGN ORDINANCE, MODIFYING CHAPTER 20.16 TO ADOPT SECTION 20.16.105 INTRODUCING A COORDINATED SIGN DESIGN PROGRAM, AND AMENDING SECTION 23.406.070 OF THE ZONING ORDINANCE FOR CONSISTENCY WITH THE SIGN ORDINANCE.

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

Section 1. That BMC Section 20.12.070 is hereby amended to clarify the issuance process and when signs are exempt from Design Review as follows:

20.12.70 Issuance authorized when.

~~A. Upon the filing of an application for a sign permit, the City Manager Applications for proposed signs or alteration/relocation of existing signs are subject to review by the Director of Planning and Development or their designee shall review the application, including and plans and specifications, for the proposed sign or the proposed alteration or relocation for compliance with all requirements of this title.~~

~~B. All signs shall~~ The Building Official shall determine if a sign requires a Building Permit or Electrical Permit to meet the requirements of the Berkeley Building Code.

~~C. If the City Manager or their designee determines that the proposed sign, alteration or relocation is in compliance with all of the requirements of this chapter and any other applicable ordinance of the City, they shall forward the application to the Building Official for issuance of a building permit and/or an electrical permit.~~

~~D.C.~~ A building permit and/or an electrical permit for a sign subject to Design Review pursuant to Section ~~23E.08~~ 23.406.070 shall not be issued until Design Review approval has been granted and the application permit has been found in conformance with the approved design.

~~D.~~ A Coordinated Sign Design Program may, at the applicant's discretion, be reviewed and approved simultaneously with or subsequent to Design Review for a building.

E. Exempt Signs.

1. Approved existing signs may be refaced, re-painted or replaced with the same location, size, and design, subject to review by the Building Official in cases where a Building Permit is required.

2. Signs pursuant to a Coordinated Sign Design Program may be installed and replaced without Design Review and shall be approved with a Zoning Certificate, subject to review by the Building Official in cases where a Building Permit is required.

Section 2. That BMC Section 20.16.105, Coordinated Sign Design Programs, is hereby added as follows:

20.16.105 Coordinated Sign Design Programs.

A. *Purpose.*

1. To create a streamlined sign review process for development projects, projects with multiple signs, and projects with multiple tenants.

2. To ensure consistent design, quality and display of signs.

B. *Applicability.* The following projects are eligible for a Coordinated Sign Design Program:

1. Four or more contiguous non-residential tenant spaces.

2. Four or more permanent non-exempt signs associated with one development project, business or Use Permit.

3. Projects with unique characteristics, including but not limited to site visibility and site location, as determined by the Director of Planning and Development or their designee.

C. *Approval and Appeal Authority.*

1. A Coordinated Sign Design Program may be part of preliminary or final Design Review and shall be decided upon by the Design Review Committee or Landmark Preservation Commission, according to their jurisdiction. Appeals shall be heard by the Zoning Adjustment Board whose decision is final.

2. The Building Official shall determine if a sign allowed under a Coordinated Sign Design Program requires a Building Permit or Electrical Permit to meet the requirements of the Berkeley Building Code.

D. *Regulations.*

1. A Coordinated Sign Design Program shall outline regulations including, but not limited to, sign area, number of signs, maximum height, and location.

2. A Coordinated Sign Design Program may include exceptions to the regulations established in this Chapter when deemed necessary or desirable.

E. *Application Requirements.* A Coordinated Sign Design Program shall include all information and materials required in administrative guidelines published by the Planning Department, including the Coordinated Sign Design Program fee in the Fee Schedule.

F. *Findings.* In order to approve a Coordinated Sign Design Program, the following findings shall be made:

1. The Coordinated Sign Design Program complies with the purpose of this Chapter;

2. The Coordinated Sign Design Program ensures proposed signs enhance the overall project;

3. The Coordinated Sign Design Program ensures proposed signs are in harmony with other signs and structures included in the project;

4. The Coordinated Sign Design Program ensures proposed signs are in harmony with surrounding development;

5. The Coordinated Sign Design Program contains provisions to accommodate Change in Use or new tenants; and

6. The Coordinated Sign Design Program complies with the standards of this Chapter and/or includes specific exceptions as deemed necessary or desirable.

G. *Revisions to Coordinated Sign Design Programs.* Revisions to Coordinated Sign Design Programs shall be considered by the original decision-maker.

H. *Binding Effect.*

1. A Coordinated Sign Design Program, once adopted, shall be adhered to unless amended.
2. A Coordinated Sign Design Program shall be enforced in accordance with this Chapter.

Section 3. That BMC Section 23.406.070.B is amended as follows:

23.406.070.B Design review.

B. When Required.

1. Design Review is required for:
 - a. Projects in all Non-Residential Districts.
 - b. Mixed use and community and institutional projects in the R-3 district within the Southside Plan area. See Figure 23.202-1: R-3 Areas Subject to Design Review; and
 - c. Commercial, mixed-use, and community and institutional projects in the R-4, R-SMU, and R-S districts.
2. As used in Paragraph (1) above, “project” means an activity requiring a building or sign permit that involves any of the following:
 - a. Modifying the exterior of an existing structure.
 - b. Additions to an existing structure.
 - c. Demolishing all or a portion of an existing structure.
 - d. Removing all or part of a building facade fronting the public right-of-way.
 - e. Constructing a new structure.
 - f. Installing ~~or replacing~~ a sign or replacing a sign with a different location, size, or design.
 - g. Signs not part of a Coordinated Sign Design Program.

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 the Maudelle Shirek Building, 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.

RESOLUTION NO. ##,###-N.S.

COORDINATED SIGN DESIGN PROGRAM FEE; AMENDING RESOLUTION NO. 67,985-N.S.

WHEREAS, in order to clarify and streamline sign permit procedures and better meet the needs of businesses, the Sign Ordinance is amended;

WHEREAS, in order to reduce barriers to entry for new businesses and improve customer service, a Coordinated Sign Design Program is established; and

WHEREAS, the Coordinated Sign Design Program shall establish sign design standards for development projects, projects with multiple signs, and projects with multiple tenants; and

WHEREAS, the Coordinated Sign Design Program shall establish a coordinated design review program to facilitate the approval process for signs; and

WHEREAS, on May 16, 2017 the Council passed Resolution No. 67,985-N.S., adopting the complete fee schedule of the Planning Department; and

WHEREAS, on May 24, 2022 the Council passed Resolution No. 70,361-N.S., making amendments to the portion of the Planning Department fee schedule authorizing fees charged by the Land Use Planning Division; and

WHEREAS, the Land Use Planning Division Fee schedule does not currently include a processing fee for a Coordinated Sign Design Program.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby amends Resolution No. 67,985-N.S. to adopt a Coordinated Sign Design Program fee as set forth below and in Exhibit A.

The following fee schedule applies to the Coordinated Sign Design Program subject to permit requirements.

Coordinated Sign Design Program Fee	\$2,015
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Exhibits

A: Land Use Planning Division Fee portion of Planning Department Fee Schedule

CHAPTER B - LAND USE PLANNING				
FEE TYPE / DESCRIPTION			FEE	REMARKS
I. Administrative Use Permit (AUP)				
1.	Tier 1 - Most complex projects in or adjacent to a Residential district		\$ 3,680	Assumes 16 hours
2.	Tier 2 - Intermediately complex projects in or adjacent to a Residential district		\$ 2,760	Assumes 12 hours
3.	Tier 3 - Least complex projects in or adjacent to a Residential district including Class II Home Occupation Permits		\$ 1,840	Assumes 8 hours
4.	Tier 4 - Other activities (residential or commercial) NOT in or adjacent to a Residential district		\$ 5,520	Assumes 24 hours
II. Use Permit (UP) with public hearing				
1.	Level 1 - Use Permit (projects not listed below)		\$ 5,520	Assumes 24 hours
2.	Level 2 - Include the following:		\$ 5,520	Base fee-Deposit assumes 24 hours. Add \$230 per hour for staff time beyond 24 hours.
	a.	Non-residential projects in a Residential district		
	b.	Mixed-use buildings creating more than 20,000 gross sq. feet		
	c.	New construction or "major" renovation of a Landmarked building or site or Structure of Merit		
	d.	Any new main building		
	e.	Master Use Permit or Development Permit required by a Specific Plan		
	f.	Class III Home Occupation Permits		
3.	ZAB Public Hearing (per hearing, in addition to permit fees). Fee already exists; copied here form		\$ 1,025	
III. Variance				
1.	Tier 1 - Yard or Height, Useable Open Space, Lot Coverage, Parking		\$ 3,680	Base fee-Deposit assumes 16 hours. Add \$230 per hour for staff time beyond 16 hours.
2.	Tier 2 - Inadvertent Demolition of Residential Structure		\$ 9,200	Base fee-Deposit assumes 40 hours. Add \$230 per hour for staff time beyond 40 hours.
3.	Tier 3 - All others not in Tier 1 or 2		\$ 5,520	Base fee-Deposit assumes 24 hours. Add \$230 per hour for staff time beyond 24 hours.
4.	Each Additional AUP, UP or Variance in addition to primary application		\$ 460	Assumes 2 hours
5.	ZAB Public Hearing (per project in addition to permit fees)		\$ 1,025	
IV. Zoning Certificate (ministerial permits)				
A. All projects except as noted below			\$ 230	Assumes 1 hour
1.	Business License review - continuation of lawful existing use		\$ 115	
2.	Accessory Dwelling Unit review		\$ 460	Assumes 2 hours for neighborhood notices and documentation (Plan check is billed separately, with Building Permit)
3.	SB35, SB330, other pre-application review		\$ 5,520	Base fee Deposit assumes 24 hours. Add \$230 per hour for staff time beyond 24 hours, plus direct cost for consultants
4.	Additional staff time (work performed beyond the time covered by the fees above)		\$ 230	Per hour of staff time
B. Building Permit review				
1.	Project with Administrative Use Permit		\$ 230	Assumes 1 hour
2.	Project with Use Permit and/or Variance		\$ 460	Assumes 2 hours
3.	In-kind Repair/Replacement (e.g. window replacement, dry rot repair, etc.)		\$ 115	Assumes half hour
4.	Fourth and subsequent plan check submittal		\$ 230	per hour of staff time

FEE TYPE / DESCRIPTION			FEE	REMARKS
V. Modification / Transfer				
	1.	Administrative Use Permit Modification	\$ 1,840	Assumes 8 hours
	2.	Use Permit Modification (ZAB Review - No Public Hearing)	\$ 3,680	Assumes 16 hours
	3.	Use Permit Modification (ZAB Review - Public Hearing Required)	\$ 5,520	Assumes 24 hours
	4.	Transfer of Administrative Use Permit / Use Permit	\$ 230	Per hour of staff time
	5.	Public Hearing (per hearing, in addition to permit fees)	\$ 1,025	
VI. Environmental Review				
A. California Environmental Quality Act (CEQA) or National Environmental Policy Act (NEPA)				
	1.	Initial Study resulting in a Negative Declaration or Mitigated Negative Declaration	\$ 5,520	Base fee Deposit assumes 24 hours. Add \$230 per hour for staff time beyond 24 hours, plus direct cost for consultants
	2.	Environmental Impact Report (EIR)	\$ 9,200	Base fee Deposit assumes 40 hours. Add \$230 per hour for staff time beyond 40 hours, plus direct cost for consultants
	B. Mitigation Monitoring		\$ 3,680	Base fee Deposit assumes 16 hours. Add \$230 per hour for staff time beyond 16 hours, plus direct cost for consultants
	C. Notices - NOE, NOD, etc.		\$ 920	Assumes four hours. Fee applies when notices are filed by the City on behalf of the applicant / City after all appeals are heard
VII. Design Review				
A. Administrative Design Review				
	1.	Project valued under \$50,000	\$ 1,840	Assumes 8 hours
	2.	Project valued at \$50,000 to \$2,000,000	\$ 2,760	Assumes 12 hours
	3.	Project valued over \$2,000,000	\$ 3,680	Base fee Deposit assumes 16 hours. Add \$230 per hour for staff time beyond 16 hours.
	4.	Signs/Awnings	\$ 460	Assumes 2 hours
B. Design Review Committee				
	1.	Project valued under \$50,000	\$ 2,760	Assumes 12 hours
	2.	Project valued at \$50,000 to \$2,000,000	\$ 3,680	Assumes 16 hours
	3.	Project valued over \$2,000,000	\$ 5,520	Base fee Deposit assumes 24 hours. Add \$230 per hour for staff time beyond 24 hours.
C. Final Review with the DRC				
	1.	Project valued under \$50,000	\$ 1,250	
	2.	Project valued at \$50,000 - \$150,000	\$ 1,500	
	3.	Project valued over \$150,000	\$ 4,250	
	D. Additional Preview (existing fee, relocated from Sec. VII.B above)		\$ 500	
	E. Modifications - DRC Projects		\$ 750	
	F. DRC Public Hearing (per hearing, in addition to permit fees)		\$ 1,025	

FEE TYPE / DESCRIPTION		FEE	REMARKS
VIII. Landmarks Preservation Commission Review			
A. Initiation			
1.	Structure	\$ 50	As set by the Landmarks Preservation Ordinance, BMC 23C.08.010 A
2.	District	\$ 100	As set by the Landmarks Preservation Ordinance, BMC 23C.08.010 B
B. Design Review - Structural Alteration (non-residential only)			
1.	Project valued under \$50,000	\$ 2,000	
2.	Project valued between \$50,001 and \$1,999,999	\$ 3,000	
3.	Project valued at \$2,000,000 or more	\$ 5,520	Base fee Deposit assumes 24 hours. Add \$230 per hour for staff time beyond 24 hours.
C. Design Review - Signs and Awnings			
D. Demolition Review (non-residential structures 40 or more years old as required under Section 23C.08.050C of the Zoning Ordinance)			
E. Mills Act Historical Contract Processing - payable upon application (one-time payment)			
F. Mills Act Historical Contract Monitoring			
1.	Payable upon application to cover 5 contract years	\$ 2,500	
2.	Assessed at the beginning of each subsequent 5 years	\$ 2,500	
G. LPC Public Hearing (per hearing, in addition to permit fees)			
IX. Appeals			
A. Non-Applicant Appeal of AUP			
B. Reduced Non-Applicant Appeal of AUP: Fee reduced if signed by persons who lease or own at least 35 percent of the parcels or dwelling units within 300 feet of the project site, or at least 20 such persons (not including dependent children), whichever is less			
C. Non-Applicant Appeals of ZAB or LPC			
D. Reduced Non-Applicant Appeals of ZAB or LPC: Fee reduced if appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less			
E. Appeal of AUP by Applicants			
F. Appeal of ZAB or LPC by Applicants			
G. Appeal of DRSL or DRC by Non-Applicant			
H. Appeal of DRSL or DRC by Applicant			
I. Non-Applicant Appeals of all affordable housing projects (defined as projects which provide 50% or more affordable units for households at 80% or less of Area Median Income)			
J. Appeal to address processing error by staff			
X. Plan Amendments, Reclassification Requests, and Waterfront Master Development Plan permits*			
A. General Plan Amendment			
B. Specific Plan Amendment			
C. Rezoning / Reclassification Request			
D. Waterfront Master Development Plan Permit			
XI. Miscellaneous Fees			
A. Penalty for Late Filing (When Zoning Permit, Use Permit or Variance is required for work already performed)			
B. Zoning Complaint Re-inspection			
1.	First Re-inspection	\$ 230	
2.	Second Re-inspection	\$ 345	
3.	Third Re-inspection and all inspections thereafter	\$ 460	
C. Agenda Subscriptions and Mailing Fees			
		Amount specified per A. R. 3.8	

FEE TYPE / DESCRIPTION		FEE	REMARKS
D.	Publications and Duplication of Records	Amount specified per A. R. 3.8	
E.	Maps - large, color	\$ 36.00	
F.	Duplication of Zoning Adjustments Board, Landmarks Preservation Commission, and Design Review Commission meeting recordings	Amount specified per A. R. 3.8	
G.	Microfilm Duplication Fee	Amount specified per A.R. 3.8	
H.	Records Management Fee	\$ 50	per application
I.	Letters Regarding Status of Properties	\$ 230	per hour, 2 hour min.
J.	Housing Density Bonus Analysis - if separate from other permits	\$ 230	per hour of staff time
K.	Zoning Research	\$ 230	per hour, 2 hour min.
L.	Oak Tree Review	\$ 230	per hour, 1 hour min., plus consultant costs
M.	Use Permit Monitoring	\$ 230	per hour of staff time
N.	Pre-application Reviews		
	1. Staff level review	\$ 920	Assumes 4 hours
	2. Zoning Adjustments Board / Design Review Committee / Landmarks Preservation Commission / Planning Commission Review (at staff discretion in consultation with the applicant)	\$ 3,680	Assumes 16 hours
O.	Dedicated Project Review: In addition to all required fees, applicants may request (or the City may require) dedicated project review in which the applicant pays the City for staff overtime or to contract with a consulting firm with particular relevant expertise to review the application. In such instances, the applicant shall remit a deposit equal to the total amount of the contract, based on the bids received by the City pursuant to its purchasing procedures. Progress billings will be made if charges are expected to exceed deposit; prompt payment of bills will assure continued project review. Failure to remit a progress payment within an appropriate time frame, as determined by the Director of Planning and Development or his/her designee, will be treated as a withdrawal without prejudice to the underlying proposal.	At cost	
P.	Community Planning Fee for General Plan and Zoning Ordinance Maintenance	15%	Surcharge on all Applications for AUP, UP, Modification and/or Variance.
Q.	Coordinated Sign Design Program Fee	\$ 2,015	Sign program to cover multiple signs in one building or development
XII. CONDOMINIUM			
A.	Rent Board Review	\$ 120	per unit
B.	Notice of Local Law Compliance	\$ 3,680	Assumes 16 hours
C.	Conversion to Condominiums - <u>one to four units</u>	\$ 5,520	Base fee Deposit assumes 24 hours. Add \$230 per hour for staff time beyond 24 hours.
D.	Conversion to Condominiums - <u>five or more units</u>	\$ 9,200	Base fee Deposit assumes 40 hours. Add \$230 per hour for staff time beyond 40 hours.
E.	Appeal of an Administrative Determination on Conversion of a TIC to the Planning Commission by an Applicant	\$ 3,680	Assumes 16 hours
F.	Appeal of Planning Commission Determination on Conversion to the City Council by an Applicant	\$ 5,520	Assumes 24 hours
G.	Appeal of Planning Commission Determination on Conversion to the City Council by a Non-Applicant	\$ 3,680	Assumes 16 hours

FEE TYPE / DESCRIPTION	FEE	REMARKS
<p>NOTE: The minimum deposits listed are intended to reflect typical project costs. Progress billings will be made during review of a project if charges exceed the deposit: prompt payment of bills will assure continued project review. Failure to remit a progress payment within the appropriate time frame as determined by the Director of Planning and Development or his/her designee, will be treated as a withdrawal without prejudice to the underlying proposal. All fees are required to be paid prior to scheduling the item for Council consideration.</p>		

Coordinated Sign Design Program (CSDP) Flow Chart

Examples of Eligible Projects



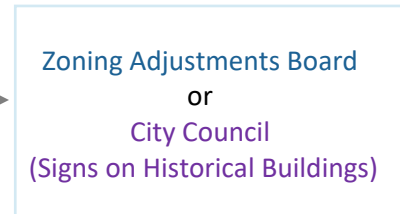
Initiate CSDP Process



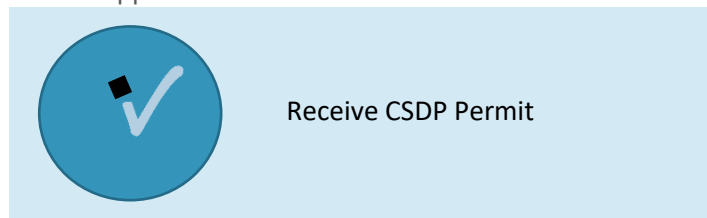
Review of Proposed CSDP



Appeals



CSDP Approval



Approvals



New Sign on buildings with a CSDP





Office of the City Manager

ACTION CALENDAR

October 15, 2019

(Continued from September 24, 2019)

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Economic Development Manager

Subject: Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses

RECOMMENDATION

Refer to the Planning Commission modifications to the Zoning Ordinance that are designed to streamline the zoning review process for new or expanding small businesses in Berkeley.

SUMMARY

In April 2017, City Council referred to the City Manager analysis of a number of policy and programmatic initiatives to support the City's small businesses, including "streamlining of zoning, permitting and licensing requirements and processes." In February of 2019, six changes to the Zoning Ordinance were enacted. Subsequently, staff from the Office of Economic Development (OED) have identified eight additional potential modifications to the Zoning Ordinance for the Council and Planning Commission to consider. These eight changes are proposed in Berkeley's commercial zoning districts to make the permitting review process for small businesses less complex and time consuming:

1. Consider permitting Group Instruction (Dance Studios, Yoga Studios, Martial Arts, Exercise) with a Zoning Certificate.
2. Clarify the threshold for design review and the applicability of design guidelines for sign applications in commercial districts.
3. Consider permitting the sale of Distilled Spirits that are incidental to a Food Service Establishment with an Administrative Use Permit (AUP) subject to performance standards.
4. Consider permitting standalone Beer and Wine Sales (such as Tap Rooms and Wine Bars) with a Zoning Certificate subject to performance standards.
5. Consider modifying the limitation on hours of operations in some commercial districts.
6. Consider the necessity of 'change of use' requirements in commercial districts.
7. Consider the appropriate levels of discretion for Arcades and Automatic Teller Machines (ATMs) commercial districts.

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 E-mail: manager@CityofBerkeley.info Website: <http://www.CityofBerkeley.info/Manager>

8. Update the Special Use Standards in Section 23E.16.040 for Alcoholic Beverage Sales and 23E.16.050 Amusement Arcades to reflect the proposed changes to the Zoning Ordinance.

These proposed revisions reflect input from the small business community and are seen by staff as relatively straightforward opportunities to modernize and improve the Zoning Ordinance to reflect present day conditions and community values. Each of these proposed modifications is designed to make the zoning review process for small businesses easier, clearer, and more streamlined.

FISCAL IMPACTS OF RECOMMENDATION

Modifications to the Zoning Ordinance, and the accompanying public hearings, will require staff time from the Planning Department, Office of Economic Development, and City Attorney's Office to produce staff reports and attend the required Planning Commission and City Council hearings. Proposed modifications are designed to simplify the planning review process for desirable business activities (including new business starts and expansions) and therefore may result in a modest increase in business license tax and sales tax revenues.

CURRENT SITUATION AND ITS EFFECTS

The Zoning Ordinance has evolved over decades to reflect Berkeley's changing values and the changing landscape of property development and land use. Its requirements are intended to guide the City's growth while preserving its existing character. However, businesses and people operate differently than they did 20 to 50 years ago, and some of the current permit thresholds and ordinance requirements do not recognize these changes. This results in a permitting process that can be unnecessarily lengthy and cumbersome, especially for independently-owned small businesses without the sophistication to navigate our complicated code and permitting process. Since its last major overhaul in 1999, the Zoning Ordinance has been updated in large and small ways at least 16 times to reflect new approaches to land use and changes in the ways businesses function and residents view their community. Staff has observed that it is particularly difficult for smaller, independently-owned businesses to navigate the permit review process and the associated timelines and expense. The modifications proposed here are designed with the unique needs and challenges of small businesses in mind. Further, these recommendations follow up on the recently adopted (January 2019) zoning modifications to support small business that have improved the experiences in several cases over a period of five months.

In order to update our ordinance to better accommodate today's locally-owned, small, independent enterprises that are highly desirable to our community, and to adhere to best practices in planning and sustainable economic development, staff recommends the eight modifications to the Zoning Ordinance listed above to provide regulatory relief for small businesses in their establishment or expansion phases. These changes are an important component and continuation of a broader effort to improve our organization's embrace of our customer service and Strategic Plan goals to "foster a dynamic, sustainable, and locally-based economy" and "provide excellent, timely, easily-

accessible service and information to the community,”¹ while honoring the City’s commitment to public participation and ensuring that new uses are compatible with neighboring land uses.

BACKGROUND

On April 25, 2017, the City Council referred to the City Manager a bundle of recommendations entitled the “Small Business Support Package” with the objective to “to support the establishment of new, and sustainability of existing small and/or locally owned businesses.” Among the strategies that Council asked staff to analyze and implement included “streamlining of zoning, permitting and licensing requirements and processes for small/local businesses and not-for-profits, to reduce associated costs and delays, and, where appropriate, provide less onerous levels of review.”² In the Council’s annual referral prioritization exercise conducted in May 2017, the item was ranked as the Council’s top priority among the referrals not pertaining to housing.

Subsequently, during summer and fall of 2017, Office of Economic Development (OED) staff conducted significant outreach and research on Berkeley’s small businesses and compiled its findings in a work session report and presentation to council on January 16, 2018.³ Small business owners and advocates identified the lengthy permitting review process as one of the primary barriers to small business startup and expansion in Berkeley. As a result, staff recommended six modifications to the Zoning Ordinance that were adopted by the City Council on January 22, 2019.⁴ Over six months since the zoning modifications went into effect, several business have benefited from the amendments by reducing months of permit review time and additional expenses. For example, Thai Corner at 1277 Gilman Street, the Sundhari Spa at 1605 Solano Avenue, and AxeVentures at 2566 Telegraph Avenue each were able to open their business or expand their hours via a Zoning Certificate, rather than wait several months for an AUP. In addition, the zoning modifications were acknowledged by the Northern California Chapter of the American Planning Association (NorCal APA) with an Award of Merit in Economic Planning and Development.

The goal of this second round of zoning changes is again to improve and simplify the permitting experience for small businesses, which can in turn enhance the quality of commercial district offerings, help fill vacant storefronts, and generate more local and sustainable economic opportunities. The recommendations distill specific complaints, concerns, challenges, and staff observations into concise changes to the zoning ordinance designed specifically to alleviate long permit queues, clear up applicant confusion, and streamline the experience of doing business in Berkeley. The

¹ See *City of Berkeley 2018-2019 Strategic Plan*, adopted by Berkeley City Council, January 16, 2018.

² See *Small Business Support Package*, adopted by Berkeley City Council, Item 41, April 25, 2017.

³ See *Economic Development Worksession, Small Business Support*.

https://www.cityofberkeley.info/Clerk/City_Council/2018/01_Jan/Documents/2017-01-16_WS_Item_01_Economic_Development_Worksession.aspx

⁴ See *Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses*, adopted by City Council, Item 1, January 22, 2019

https://www.cityofberkeley.info/Clerk/City_Council/2019/01_Jan/Documents/2019-01-22_Item_01_Ordinance_7635.aspx

recommendations are also informed by outreach, conducted February through August 2019, to neighborhood stakeholders, business owners, elected officials and commissioners. Staff aimed to identify and streamline the particular controls that lengthen the review process for desired and noncontroversial uses. In addition, the recommendations are consistent with purpose statements for commercial districts in section 23E of the Zoning Ordinance.

The following recommendations and rationale continue to iterate on the progress and inputs gathered from the first round of zoning amendments to support small businesses:

1. Consider permitting Group Instruction (Dance Studios, Yoga Studios, Martial Arts, Exercise) with a Zoning Certificate. Currently the Zoning Ordinance requires an AUP for Group Class Instruction in the majority of commercial zoning districts. A new yoga studio or exercise studio, or businesses interested in adding classes to an existing business, such as an art gallery or culinary business, are subject to discretionary review through an AUP application. The AUP requirement typically lengthens the zoning review process by three to six months, and typically increases the cost by roughly \$1,000 to \$4,000.

OED staff has observed an increase in business models that employ a combination of retail and/or food consumption with instruction, training and class offerings. As the prevalence of online purchases for soft goods (e.g., clothing, books, music) increases, these creative commercial uses are increasingly critical to the vitality and sustainability of neighborhood commercial districts. Therefore staff recommends amending the Zoning Ordinance to permit these uses in commercial districts with a Zoning Certificate.

2. Clarify the threshold for design review and the applicability of design guidelines for sign applications in commercial districts. Section 20.12.070 of the Zoning Ordinance and Section 23E.08.020 of the Sign Code have conflicting and contradictory language related to the threshold for the design review of a new sign and the requirements for a Sign Permit. In addition, the current application for Signs and Awnings throughout the City refer to the Downtown Sign Guidelines; those guidelines have been used for the review and processing of signs beyond Downtown. This has led to confusion for applicants, business owners and sign companies wishing to do business in Berkeley. The impact is especially detrimental to small, independent business owners interested in opening a new business with a new sign.

To remedy this, staff recommends a minor modification to the language in Section 23E.08.020 Applicability of Design Review in non-residential districts to clarify the types of signs that are subject to design review and signs that are exempt. In addition, the Planning Commission should determine whether the Downtown Sign Guidelines are suitable for the evaluation of signs throughout the City or only Downtown.

3. Consider permitting the sale of Distilled Spirits that are incidental to a Food Establishment with an Administrative Use Permit (AUP) subject to performance standards. Presently an operator of a food service establishment must obtain a Use Permit with a Public Hearing UP(PH) to serve distilled spirits. This review process is separate from and in addition to the review process an owner or operator is subject to by Alcohol Beverage Control (ABC), the state agency regulating the sale, service, and production of alcohol. The UP(PH) requirement typically lasts between five to eleven months, and includes \$5,215 in fees. The requirement also generates additional demands on Planning staff and the Zoning Adjustments Board, and uncertainty for food service purveyors.

Staff recommends the incidental service of distilled spirits at a food establishment be permitted via an AUP, subject to specific conditions of approval and the adopted performance standards which are approved by Berkeley's law enforcement officials and in line with the best practices employed by the state ABC. Nearby residents and property owners will still be notified of the proposed use and will have the ability to provide comments and appeal the Planning Department's decision.

4. Consider permitting standalone Beer and Wine Sales (such as Tap Rooms and Wine Bars) with a Zoning Certificate subject to performance standards. Currently, tap rooms, wine bars and tasting rooms are subject to the UP(PH) process in most commercial districts. As noted above, the UP(PH) requirement typically lasts between five to eleven months, and includes \$5,215 in fees. The requirement also generates additional demands on Planning staff and the Zoning Adjustments Board, and uncertainty for entrepreneurs interested in this type of business. This review process is separate from and in addition to the review process an owner or operator is subject to by Alcohol Beverage Control (ABC), the state agency regulating the sale, service, and production of alcohol.

Staff recommends that standalone beer and wine sales be permitted via a Zoning Certificate, subject to the performance standards which are approved by Berkeley's law enforcement officials and in line with the best practices employed by the state ABC. The City of Berkeley has an emerging wine and beer scene, resulting in additional tourism, tax revenue, manufacturing and job creation; this policy change could help to encourage its continued expansion.

5. Consider modifying the limitation on hours of operations in some commercial districts. Currently, several commercial zoning districts limit the hours of operation for businesses; e.g., businesses in the Elmwood District may not operate outside of 7am-11pm. In order for a business to exceed the existing limits, they must apply for a UP(PH) (adding approximately five to eleven months and \$5,215 in fees to the zoning approval process). This is a significant obstacle for many business owners and has served as a deterrent for entrepreneurs that may be interested in providing food and drinks to customers after 11:00 pm. Many of the City's entertainment activities end at or after 11:00 pm; in some

districts, the limits on hours of operations restricts businesses from offering complementary services. This could result in lost tax revenue, job opportunities and lost business to adjacent cities. Staff recommends that the Planning Commission consider removing the blanket restriction in some or all commercial districts, allowing business owners to maintain hours of operation that comply with any applicable State laws and are aligned with their business model and customer demand.

6. Consider the necessity for 'change of use' requirements in commercial districts triggered by square footage. Currently in some C-prefixed districts, a change of use above a certain square footage threshold necessitates an AUP or a UP(PH). A commercial change of use requirement based on square footage is atypical; surrounding jurisdictions do not impose this level of scrutiny on neighborhood serving business, which puts Berkeley at a competitive disadvantage in its attraction of new businesses to larger commercial spaces. Each district's Use Table makes allowances for different levels of discretionary review for particular uses based on square footage thresholds. This additional requirement therefore adds to the overall complexity of the zoning ordinance; as it is a supplemental requirement implemented via an asterisk, often it is initially overlooked by applicants.

Staff recommends that the Planning Commission review the appropriateness and benefits of an AUP for a Change of Use and consider eliminating the requirement in some or all commercial districts. Proposed uses would be evaluated and reviewed based on the levels of discretion defined in the Use Table for each district.

7. Consider the appropriate levels of discretion for Arcades and Automatic Teller Machines (ATMs) commercial districts. Commercial recreation uses that are classified as Arcades (e.g., Emporium and 90's Experience, Oakland, CA and the High Scores Arcade Museum, Alameda, CA) have become increasingly popular and prevalent. With the rise of internet sales posing challenges to retailers, these types of experiential commercial establishments have become increasingly important to the overall health of commercial districts. However, Berkeley's existing zoning controls make it difficult or impossible to open that type of establishment in most districts. Currently, Arcades are either prohibited or require a UP(PH), which adds approximately five to eleven months and \$5,215 in fees to the zoning approval process. The requirement also generates additional demands on Planning staff and the Zoning Adjustments Board, and uncertainty for entrepreneurs interested in this type of business.

ATMs also typically require an AUP or UP(PH), and in some districts are prohibited unless part of a Financial Institution. ATMs are often a beneficial and complimentary element for active commercial districts, especially if there's a lack of financial institutions in the area like some parts of Berkeley. Furthermore, the City of Berkeley is considering a policy that would require businesses to accept

cash. Staff recommends that the Planning Commission review the levels of discretion for Arcades and ATM's in commercial districts.

8. Update the Special Use Standards in Section 23E.16.040 for Alcoholic Beverage Sales and 23E.16.050 Amusement Arcades to reflect the proposed changes to the Zoning Ordinance. The Special Use Standards in Section 23E.16.040 for Alcoholic Beverage Sales and 23E.16.050 Amusement Arcades provide additional requirements and limitations for certain uses in the Zoning Ordinance. Several of the regulations are limiting and don't reflect the current standards in other jurisdictions. In addition, these sections would need to be modified to be consistent with the recommended Zoning Ordinance amendments above. Furthermore, the Public Convenience or Necessity findings for alcohol use and the distance buffers for Arcades are overly restrictive, don't reflect best practices and conflict with typical business practices. For example, Section 23E.16.040(A)(1)(b)(5) states "no beer or wine may be distributed in its original bottle or can." Staff recommends that the Planning Commission consider updating the Special Use section of the ordinance to be reasonable, enforceable and be consistent with surrounding jurisdictions.

Next Steps

Staff recommends that City Council review and adopt this referral to Planning Commission. Subsequently, Planning Department staff would present the Planning Commission with information, case studies and analysis relevant to each proposed change, seek guidance from the Commission, and draft Zoning Ordinance amendments for the Commission's review. It is possible that some of the recommendations may be implemented as part of the Zoning Ordinance Revision Project (ZORP), a current initiative to modernize and streamline the Zoning Ordinance. Planning Commission hearings will provide opportunities for additional feedback from small business owners, citizens, neighborhood associations, and commercial district groups.

Strategic Plan Connection

This referral is a component of a Strategic Plan Priority Project (Small Business Support), advancing our goals to provide an efficient and financially-healthy City government; to foster a dynamic, sustainable, and locally-based economy; and to be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

ENVIRONMENTAL SUSTAINABILITY

Many of the City's environmental sustainability goals are inextricably tied to the overall health of the City's economy. Small businesses make up the bulk of Berkeley's economy. Small businesses often contribute to sustainable transportation and consumer behavior by providing opportunities to shop in neighborhood commercial districts that are accessible by foot, bicycle and transit.

RATIONALE FOR RECOMMENDATION

Berkeley's commercial districts, and the small businesses that comprise them, are vital to the City's economic, social and civic wellbeing. These zoning changes represent the

most immediate and straightforward approach the City can take to assist small businesses and potentially reduce commercial vacancies. They are designed specifically to support small independent operators seeking to invest and activate these districts, and will provide the community with needed goods and services. These changes also have the added addition of improving our city's internal permitting processes, by shortening timelines and improving customer service.

ALTERNATIVE ACTIONS CONSIDERED

Staff considered various other changes to levels of discretionary review and other zoning compliance review for commercial uses, but recommends moving forward with the modifications proposed above while continuing to gather input on additional changes.

CONTACT PERSON

Jordan Klein, Economic Development Manager, (510) 981-7534

Kieron Slaughter, Community Development Project Coordinator, (510) 981-2490

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

**AMEND THE SIGN ORDINANCE AND ZONING ORDINANCE TO
CLARIFY DESIGN REVIEW PROCEDURES AND ESTABLISH AN
OPTIONAL COORDINATED SIGN DESIGN PROGRAM**

The Department of Planning and Development is proposing to:

1. Adopt first reading of an Ordinance amending Title 20 [Signs] of the Berkeley Municipal Code to clarify Design Review procedures and establish an optional Coordinated Sign Design Program, as well as amend Chapter 23.406.070B [Design Review – When Required] for consistency with proposed Title 20 amendments; and
2. Adopt a Resolution amending Resolution 67,985-N.S., the Land Use Planning Fee schedule, to introduce a Coordinated Sign Design Program Fee.

The hearing will be held on, November 29, 2022 at 6:00 p.m. The hearing will be held via videoconference pursuant to Government Code Section 54953(e) and the state declared emergency.

A copy of the agenda material for this hearing will be available on the City's website at www.berkeleyca.gov as of **November 17, 2022**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Robert Rivera, Senior Planner, Land Use Planning Division at rivera@CityofBerkeley.info.

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to council@cityofberkeley.info in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

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Published pursuant to Government Code Sections 6062a, 65856(a), & 65090

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on November 17, 2022.

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Mark Numainville, City Clerk







Office of the City Manager

PUBLIC HEARING  
November 29, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Department of Planning and Development

Subject: Adoption of Berkeley Building Codes, including Local Amendments to California Building Standards Code

RECOMMENDATION

Conduct a public hearing, and upon conclusion adopt the second reading of Ordinance No. 7,839-N.S. repealing and reenacting the Berkeley Building, Residential, Electrical, Mechanical, Plumbing, Energy and Green Building Standards Codes in BMC Chapters 19.28, 19.29, 19.30, 19.32, 19.34, 19.36 and 19.37, and adopting related procedural and stricter provisions.

SUMMARY

The purpose of this report is to provide background on the 2022 California Building Standards Code, identify key changes from the 2019 to 2022 Code editions, and summarize the proposed local amendments, which include:

- Adoption of the California Residential Code Appendix AU *Cob Construction* in support of sustainable construction practices, which reduce environmental impact and provide increased thermal efficiencies; and
- Amendments to the California Plumbing Code to require installation of motion activated gas shut off valves in construction of new and alterations or additions to existing buildings containing fuel gas piping for which a mechanical or plumbing permit is issued. This amendment is in response to a referral from the Disaster and Fire Safety Commission to help reduce or prevent gas-related fires in the event of a major seismic event; and
- Amendments to the California Green Buildings Standards Code (CALGreen) to increase electric vehicle charging infrastructure and readiness requirements in all building types.

The 2022 California Building Standards Code, with local amendments, is adopted in the Berkeley Municipal Code, Title 19, as the Berkeley Building, Residential, Electrical, Mechanical, Plumbing, Energy, and Green Codes (Berkeley Building Codes).

### FISCAL IMPACTS OF RECOMMENDATION

Adoption of the revised and expanded 2022 California Buildings Standards Code, with the proposed local amendments, will increase the plan check and inspection workload. The expanded California Green Building Standards Code (CALGreen) and the more complex 2022 California Energy Code, which include additional acceptance testing, verification and documentation provisions, will increase plan check and inspection requirements. On July 16, 2019, while adopting an Ordinance Prohibiting Natural Gas Infrastructure in New Buildings, the City Council confirmed that an additional program manager position in the Building and Safety Division of the Planning and Development Department would be needed to implement the Natural Gas Prohibition, CALGreen EV requirements, regularly changing Energy Code requirements, and other Code amendments in support of the Berkeley “Deep Green” Building Initiative. In FY 2022 the Building and Safety Division recruited a Green Building Program Manager, but the position was limited to two years due to pandemic-related budget restrictions. A permanent full-time position is required for ongoing implementation and enforcement of these green building requirements, and is expected to be reflected in the FY 24/25 budget request for Council consideration. The annual cost of extending the Green Building Program Manager position is estimated at \$273,341.

### CURRENT SITUATION AND ITS EFFECTS

As part of a regular three-year cycle, the State Building Standards Commission has published the 2022 California Building Standards Code that must go into effect no later than January 1, 2023. The California Building Standards Code (California Code of Regulations, Title 24) includes the Building Code (Part 2), Residential Code (Part 2.5), Electrical Code (Part 3), Mechanical Code (Part 4), Plumbing Code (Part 5), Energy Code (Part 6), Historical Code (Part 8), Existing Building Code (Part 10), and Green Building Standards Code (Part 11). The Codes provide for minimum uniform standards for health and safety related to the built environment and for their enforcement through a system of permits, plan review, and inspections.

The ordinance proposed for Council adoption, supported by the resolution of findings, provides for the adoption of the referenced California Codes along with certain local amendments, effective January 1, 2023. If this ordinance does not become effective by January 1, 2023, the 2022 California Building Standards Code will automatically become effective on that date, and until a local ordinance were to become effective, the City would not be able to maintain or implement the local amendments tailored to Berkeley. The last day to file for a building permit to be reviewed under the current 2019 Codes will be Friday, December 30, 2022.

The City’s building-related codes include local amendments reflecting operations and local climatic, geological, and topographical conditions that need to be included as part of the adoption of the new code. Under state law, local jurisdictions may adopt other administrative provisions appropriate to the locality and may adopt stricter code provisions if justified by findings of local climatic, geological or topographical conditions.

This ordinance, with the local amendments, supports the City's Strategic Plan goals to create a resilient, safe, connected, and prepared city, and to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment. The proposed actions also support emergency housing provisions to assist in the declared homeless shelter crisis.

### BACKGROUND

The Council last adopted new California Building Standards Code with local amendments in 2019, which became effective on January 1, 2020. As with the last code adoption, staff is conducting community outreach to inform future applicants and other community members that all permit applications submitted on or before December 30, 2022, will be reviewed under the current 2019 building codes. Outreach includes notifications on the City's homepage websites, announcements on the online permit center website, notification flyers at the Permit Service Center, and email notification to local building professionals.

When the Department opens on January 3, 2023 after the observed New Year's Day holiday, new permit applications will be reviewed for conformance to the 2022 California Building Standards Code with adopted local amendments.

Codes recommended for adoption are the Berkeley Building Code (Chapter 19.28), which also includes the Historical Building Code and the Existing Building Code, the Berkeley Residential Code (Chapter 19.29), the Berkeley Electrical Code (Chapter 19.30), the Berkeley Mechanical Code (Chapter 19.32), the Berkeley Plumbing Code (Chapter 19.34), the Berkeley Energy Code (Chapter 19.26) and the Berkeley Green Code (Chapter 19.37).

### *Berkeley Building Code (Chapter 19.28)*

The 2022 California Building Code adopted in BMC Chapter 19.28 includes numerous model code changes, impacting use and occupancies, allowable building heights and areas, fire protection features, means of egress, structural modifications, etc. Of major importance are the introduction of three additional construction types for larger and taller mass timber buildings, new provisions for small and large family care facilities in apartment buildings, introduction of the minimum safety requirements for shipping containers to be repurposed for use as buildings and structures. These changes are designed to provide enhanced protection of public health, safety and general welfare as they relate to the construction and occupancy of buildings and structures. The second reading of 2022 Berkeley Building Code adoption also includes a recommended replacement of the text in Subsection 712A.3 (Automatic fire sprinkler systems in Fire Zone 3) with a reference to Berkeley Fire Code. In the past code adoptions this section was a reprint of Berkeley Fire Code Section 903.2.24 (formerly 903.2.23), which has been revised in the 2022 Berkeley Fire Code to "Reserved" for future action at a later date.

*Berkeley Residential Code (Chapter 19.29)*

The 2022 California Residential Code adopted in BMC Chapter 19.29 includes numerous model code changes further refining prescriptive provisions for the construction of dwellings. Of major importance are the updated local climatic criteria refining the energy needs for dwelling units for the purpose of ensuring that the selected HVAC equipment meets the heating or cooling requirements, introduction of the minimum safety requirements for shipping containers to be repurposed for use as residential or accessory buildings and structures, and a new Appendix AU Cob Construction which provides requirements for clay, sand and straw to be used as the primary building material. These changes are designed to provide enhanced protection of public health, safety and general welfare as they relate to the construction and use of residential buildings and structures. The second reading of 2022 Berkeley Residential Code adoption also includes a recommended replacement of the text in Subsection R337.12.3 (Automatic fire sprinkler systems in Fire Zone 3) with a reference to Berkeley Fire Code. In the past code adoptions this section was a reprint of Berkeley Fire Code Section 903.2.24 (formerly 903.2.23), which has been revised in the 2022 Berkeley Fire Code to “Reserved” for future action at a later date.

*Berkeley Mechanical Code (Chapter 19.32)*

The 2022 California Mechanical Code adopted in BMC Chapter 19.32 incorporates the prior local Berkeley amendment to require installation of residential kitchen range hoods with a minimum air flow of 100 cfm and maximum sound rating not exceeding 3 sones over residential stoves and cooktops.

*Berkeley Plumbing Code (Chapter 19.34)*

In response to a referral from the Disaster and Fire Safety Commission, adopted by the City Council on June 1, 2021 (see Attachment 3), staff proposes a local amendment to the 2022 California Plumbing Code, adopted in BMC Chapter 19.34, to include a mandatory requirement for the installation of motion activated gas shut off valves in construction of new and alterations or additions to existing buildings containing fuel gas piping for which a mechanical or plumbing permit is issued regardless of the permit valuation. This amendment is intended to reduce or prevent serious gas-related fires or explosions in the event of a major seismic event.

*Berkeley Energy Code (Chapter 19.36)*

The 2022 California Energy Code adopted in BMC Chapter 19.36 incorporates requirements for rooftop solar photovoltaic (PV) systems for new nonresidential and new multifamily buildings, which are based on the City of Berkeley requirements previously added through local Reach Code amendments to the 2019 Energy Code. The comprehensive electric readiness requirements now mandated for new residential construction in the 2022 California Energy Code, including building systems for water heating, space conditioning, clothes drying, and cooking, have been modeled on Berkeley’s own 2019 Energy Reach code amendments.

The 2022 California Energy Code introduces substantial additional changes over the previous code cycle. It incorporates a new energy source metric, adds chapters specifically addressing energy requirements for multi-family residential buildings, adds comprehensive electric readiness requirements for single family and multi-family buildings, adds new requirements for nonresidential building systems, requires energy storage systems (ESS) for multi-family buildings of three stories or more and nonresidential buildings, and requires higher ventilation rates.

Since the 2019 Berkeley Reach Code amendments have been incorporated into the 2022 California Energy Code and statewide cost-effectiveness studies have not been provided to justify further amendments, staff proposes adoption of the 2022 California Energy Code without amendments. This recommendation aligns with the regional consensus that any local all-electric building provisions reside outside of the Energy Code. The Natural Gas Prohibition in Berkeley Municipal Code Chapter 12.80 enables design professionals and developers to design new buildings as all-electric from project inception. All electric building compliance is verified as part of the building permit plan review and field inspection process.

*Berkeley Green Code (Chapter 19.37)*

The 2022 California Green Building Standards Code (CALGreen) adopted in BMC Chapter 19.37 makes moderate changes in comparison to the 2019 CALGreen, primarily concentrated on electric vehicle (EV) charging readiness, including charging provisions for medium and heavy-duty commercial vehicles. The proposed local amendments retain additional EV charging requirements, maintain requirements for low-carbon concrete, and preserve past local amendments for increased construction and demolition (C&D) waste diversion. No cost-effectiveness demonstration is required for local amendments to CALGreen.

The proposed local amendments require increased EV charging readiness and installation in new buildings, in keeping with Berkeley's amendments to the 2019 CALGreen Code and implementation of Berkeley's Electric Mobility Roadmap. Specifically, where parking spaces are provided, the proposed EV amendments require:

- Single-family homes, duplexes, and townhouses must have at least one parking space equipped with a raceway, wiring, and power to support a future Level 2 EV charging station. In contrast, the model code requires only a raceway and panel space.
- Multifamily and Hotel/Motel buildings must have at least 20% of spaces as EV capable to support future Level 2 EV charging stations and at least 5% of spaces with EV charging stations installed. In contrast, the model code requires only 10% EV capable spaces and 5% EV charging stations for buildings with 20 dwelling units or greater.

- Nonresidential buildings must have at least 20% of spaces as EV capable to support future Level 2 EV charging stations and at least 10% of spaces with EV charging stations installed. In contrast, the model code requires 15% EV capable spaces and 5% EV charging stations.

These proposed amendments further strengthen 2022 CALGreen requirements for EV charger installations which is supported by the Berkeley Electric Mobility Roadmap. EV charging infrastructure is a critical component to electric vehicle adoption, and it is significantly more expensive to install as a retrofit than during new construction. Ensuring that newly constructed residential and nonresidential parking has EV charging capability will reduce the long-term costs of EV infrastructure installation, while helping to increase EV adoption, and ultimately help to decrease greenhouse gas emissions associated with transportation.

Berkeley's Electric Mobility Roadmap emphasizes that being able to charge at home or at work location is critical for supporting EV ownership and that, increasingly, daytime charging at work or other nonresidential locations could be used to leverage surplus renewable energy. The Roadmap estimates that Berkeley will need about 380 workplace EV charging stations by 2025 to be on track for the Berkeley Climate Action Plan goal of reducing greenhouse gas emissions by 80% from 2000 levels by 2050. To get to zero net carbon in line with State goals by 2045, the goal increases to 610 workplace EV charging stations. Requiring EV charging station installation in new multifamily, nonresidential, and hotel/motel buildings, in concert with EV charging readiness requirements for residential and nonresidential developments, will substantially facilitate electric vehicle adoption in Berkeley.

#### Previous Local Amendments

Previous local amendments, with some revisions and updates in code language and code sections, that are recommended for continuance in the reenacted Berkeley Building Code (BMC Chapter 19.28) include:

- Article 1. Scope and Administrative Provisions – local amendments concerning permits, applications, fees, undocumented units, appeals, violations, unsafe buildings, and safety assessment placards.
- Article 2. Restrictions in Fire Zones – adding additional local requirements applicable to additions, alterations, repairs and re-roofs, and enacting fire protection areas not covered by the state-mandated areas.
- Article 3. Wood Burning Appliances – local amendment reducing the health risks caused by wood smoke based upon Berkeley's climatic conditions.
- Article 4. Projection into Public Right of Way – an administrative amendment concerning revocation, removal and indemnification regarding construction in the Right of Way.

- Article 5. Existing Buildings – adopting 2022 California Existing Building Code and certain chapters of the 2021 International Existing Building Code to reduce the risk from earthquakes.
- Article 6. Repairs to Existing Buildings and Structures – establishing updated regulations for the repairs of damaged structures to comply with the Stafford Act, which authorizes the Federal Emergency Management Agency (FEMA) to fund the repair and restoration of eligible facilities damaged in a declared disaster and requires that the repair and restoration be "on the basis of the design of such facility as it existed immediately prior to the major disaster and in conformity with current applicable codes, specifications and standards."
- Article 7. Amendments to Structural Standards – addressing Berkeley's close proximity to major earthquake faults. The Berkeley Building Official has participated in meetings of the Tri-chapter Uniform Code Committee (TUCC), which is part of the International Code Council East Bay Chapter. The TUCC recommended several structural amendments to the 2022 California Building and Residential Codes, which are included in the proposed local amendments for Berkeley.
- Article 8. Construction of Exterior Appurtenances – establishing more stringent construction standards for exterior elevated elements and continuing the amendments adopted in July 2015 following the balcony collapse at 2020 Kittredge Street.
- Article 9. Emergency Housing Appendix P (formally Appendix O) – establishing local amendments reflecting the particular characteristics and needs of Berkeley's emergency shelter responses.

Previous local amendments, with some revisions and updates in code language and code sections, that are recommended for continuance in the reenacted Berkeley Residential Code (BMC Chapter 19.29) include:

- Adoption of the California Residential Code Appendices AR and AS for light straw-clay and strawbale construction in support of sustainable construction practices which reduce environmental impact and provide increased thermal efficiencies.
- Adoption of the California Residential Code Appendix AQ for tiny homes used as dwelling units, relaxing various code requirements as they apply to smaller homes in response to the California housing crisis.
- Section 19.29.050 Materials and Construction Methods for Exterior Wildlife Exposure – adding additional local requirements applicable to additions, alterations, repairs and re-roofs, and enacting fire protection areas not covered by the state-mandated areas.
- Section 19.29.060 Technical Amendments to Structural Standards – addressing

Berkeley's close proximity to major earthquake faults.

Previous local amendments, with some revisions in code language and code sections, that are recommended for continuance in the reenacted Berkeley Green Code (BMC Chapter 19.37) include:

- Section 19.37.040 Construction and Demolition debris amendments to require that 100% asphalt, concrete, excavated soil and land-clearing debris be diverted from disposal by recycling, reuse, and salvage, in addition to the general 65% diversion requirement.
- Section 19.37.040 Low-carbon concrete requirement, which requires that cement used in concrete mix design be reduced by not less than 25 percent.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Adoption of the 2022 Berkeley Building Codes with local amendments is important to meeting Berkeley's Climate Action Plan, Zero Waste, and Fossil Fuel Free Berkeley goals. The Berkeley Green Code, through expanded EV charging and low-carbon concrete requirements, limits the greenhouse gas emissions associated with transportation (currently about 60% of Berkeley's total emissions) and the use of concrete, a common building product that is responsible for approximately 8% of global carbon emissions. In addition, the increased diversion requirements for construction and demolition materials keeps waste out of landfills. Continued implementation of the Energy Code and Natural Gas Prohibition, including the verification of compliance through the building permit and inspection process, results in new buildings operating on cleaner energy, which supports Berkeley's Climate Action and Fossil Fuel Free City goals.

#### RATIONALE FOR RECOMMENDATION

Local codes must be adopted every three years or state codes go into effect without local amendments. Adoption of local amendments and findings are needed to adapt the state codes to Berkeley's particular administrative, topographic, geologic and climatic conditions. The purpose of the non-administrative local amendments is to provide a higher level of safety than is reflected in the 2022 codes adopted by the State. The fire and seismic danger and other local conditions, as described in detail in the attached resolution of local conditions, justify the Berkeley code amendments that are stricter than the California Building Standards Code.

According to the California Building Standards Commission, the repeal of prior code is often overlooked by municipalities and is critically important to ensure that obsolete provisions are expressly repealed.

#### ALTERNATIVE ACTIONS CONSIDERED

Adopt the California Buildings Standards Code with fewer, or no, local amendments; or take no action, and let the state mandated codes take effect without local amendments specifically designed for Berkeley.



**CONTACT PERSON**

Alex Roshal, Chief Building Official, Manager of Building and Safety Division, Planning and Development Department, 510-981-7445

David Lopez, Assistant Building Official, Building and Safety Division, Planning and Development Department, 510-981-7441

Kurt Hurley, Green Building Program Manager, Building and Safety Division, Planning and Development Department, 510-981-7501

**Attachments:**

- 1: Code Adoption Ordinance
- 2: Referral from the Disaster and Fire Safety Commission, adopted by Council 6/1/21
- 3: Public Hearing Notice

ORDINANCE NO. 7,839–N.S.

REPEALING AND REENACTING BERKELEY MUNICIPAL CODE CHAPTERS 19.28 (BERKELEY BUILDING CODE), 19.29 (BERKELEY RESIDENTIAL CODE), 19.30 (BERKELEY ELECTRICAL CODE), 19.32 (BERKELEY MECHANICAL CODE), 19.34 (BERKELEY PLUMBING CODE), 19.36 (BERKELEY ENERGY CODE), AND 19.37 (BERKELEY GREEN CODE)

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

**Section 1.** That Berkeley Municipal Code Chapter 19.28 is hereby repealed and reenacted to read as follows:

**Chapter 19.28**

**BERKELEY BUILDING CODE\***

**Sections:**

**19.28.010 Adoption of the California Building Code**

**Article 1. Scope and Administrative Provisions**

**19.28.020 Adoption of Chapter 1 Scope and Administration**

**Article 2. Restrictions in Fire Zones**

**19.28.030 Chapter 7A Materials and Construction Methods for Exterior Wildlife Exposure**

**Article 3. Wood Burning Appliances**

**19.28.040 Wood Burning Appliances**

**Article 4. Projection into Public Right of Way**

**19.28.050 Encroachment into the Public Right of Way - Revocation and Removal Indemnification and Hold Harmless**

**Article 5. Existing Buildings**

**19.28.060 Adoption of 2022 California Existing Building Code and certain Chapters of the 2021 International Existing Building Code by Reference**

**Article 6. Repairs to Existing Buildings and Structures**

**19.28.070 Adoption of Regulations for the Repairs of Existing Structures**

**Article 7. Amendments to Structural Standards**

**19.28.080 Technical Amendments to Structural Standards**

**Article 8. Construction of Exterior Appurtenances**

**19.28.090 Technical Amendments for Construction of Exterior Projecting Elements and Appurtenances**

**Article 9. Emergency Housing**

**19.28.100 Emergency Housing and Emergency Housing Facilities**

**Notes:**

\* See Chapter 1.24 for abatement of nuisances by City.

**19.28.010 Adoption of the California Building Code.**

A. The California Building Code, 2022 edition, as adopted in Title 24 Part 2 of the California Code of Regulations, including Appendices I, J and P, is hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth in this Chapter. One copy of this Code is on file in the office of the City Clerk of the City of Berkeley.

B. The California Historical Building Code, 2022 edition, as adopted in Title 24 Part 8 of the California Code of Regulations, is hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth in this Chapter. One copy of this Code is on file in the office of the City Clerk of the City of Berkeley.

C. The California Existing Building Code, 2022 edition, as adopted in Title 24 Part 10 of the California Code of Regulations, including Appendix A, is hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth in this Chapter. One copy of this Code is on file in the office of the City Clerk of the City of Berkeley.

D. This Chapter shall be known as the "Berkeley Building Code" and shall be referred to in this Chapter as "this Code."

E. This Chapter will become effective on January 1, 2023, and shall not apply to any building permit submitted by December 31, 2022.

**Article 1. Scope and Administrative Provisions**

**19.28.020 Adoption of Chapter 1 Scope and Administration**

Chapter 1 of the 2022 California Building Code is adopted in its entirety subject to the modifications thereto which are set forth below.

**CHAPTER 1 SCOPE AND ADMINISTRATION**

**SECTION 101 – GENERAL**

**101.1 Title.** These regulations shall be known as the Berkeley Building Code, hereinafter referred to as "this Code".

**101.4 Referenced codes.** The other codes specified in Sections 101.4.1 through 101.4.9, and referenced elsewhere in this Code, shall be considered part of the requirements of this Code to the extent prescribed in each such reference.

**101.4.1 Gas.** The provisions of the Berkeley Mechanical Code, based on the 2022 California Mechanical Code, and the Berkeley Plumbing Code, based on the 2022 California Plumbing Code, as amended herein, shall apply to the installation of gas piping from the point of delivery, gas appliances and related accessories as covered in this Code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories.

**101.4.2 Mechanical.** The provisions of the Berkeley Mechanical Code, based on the 2022 California Mechanical Code, as amended herein, shall apply to the installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems.

**101.4.3 Plumbing.** The provisions of the Berkeley Plumbing Code, based on the 2022 California Plumbing Code, as amended herein, shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. The provisions of the Berkeley Plumbing Code shall apply to private sewage disposal systems.

**101.4.4 Residential property maintenance.** The provisions of the Berkeley Housing Code, as adopted in Chapter 19.40, shall apply to existing residential buildings and premises; equipment and facilities; light, ventilation, space heating, sanitation, life and fire safety hazards; responsibilities of owners, operators and occupants; and occupancy of existing premises and structures.

Notwithstanding any provisions contrary in this Chapter, any building or portion thereof constructed in compliance with the Berkeley Building Code shall not be deemed to be in violation of the Housing Code provisions that may conflict.

**101.4.5 Fire prevention.** The provisions of the Berkeley Fire Code based on the 2022 California Fire Code, as adopted in Chapter 19.48, shall apply to matters affecting or relating to structures, processes and premises from the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; from conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration or removal of fire suppression and alarm systems or fire hazards in the structure or on the premises from occupancy or operation.

**101.4.6 Energy.** The provisions of the Berkeley Energy Code, based on the 2022 California Energy Code, as amended herein, shall apply to all matters governing the design and construction of buildings for energy efficiency.

**101.4.7 Existing buildings.** The provisions of the Berkeley Existing Building Code, based on the 2022 California Existing Building Code, as amended herein, shall apply to matters governing the repair, alteration, change of occupancy, addition to and relocation of existing buildings.

**101.4.8 Electrical.** The provisions of the Berkeley Electrical Code, based on the 2022 California Electrical Code, as amended herein, shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

**101.4.9 Green.** The provisions of the Berkeley Green Code, based on the 2022 California Green Building Standards Code, as amended herein, shall apply to enhanced design and construction of buildings through the use building concepts having a reduced negative impact or the positive environmental impact and encouraging sustainable construction practices.

**101.5 References to prior codes.** Unless superseded and expressly repealed, references in City forms, documents and regulations to the chapters and sections of former Berkeley Building Code editions, shall be construed to apply to the corresponding provisions contained within the 2022 Berkeley Building Code Ordinance No. X,XXX–N.S. and all ordinances amendatory thereof. Any ordinances or parts of ordinances in conflict herewith are hereby superseded and expressly repealed.

## SECTION 103 – DIVISION OF BUILDING AND SAFETY

**103.1 Creation of enforcement agency.** The Division of Building and Safety is hereby created and the official in charge thereof shall be known as the building official. The function of the agency shall be the implementation, administration and enforcement of the provisions of this code.

**103.2 Appointment.** The building official shall be appointed by the City Manager.

**103.3 Deputies.** The building official shall have the authority to appoint an assistant building official, building inspectors, plans examiners, housing inspectors, other technical officers and employees. Such employees shall have powers as delegated by the building official.

## SECTION 104 – DUTIES AND POWERS OF BUILDING OFFICIAL

**104.7 Division records.** The building official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, notices of violations, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.

Add a new Subsection 104.12 to read:

**104.12 Unpermitted dwelling units.** When a building permit record for a residential unit does not exist, the building official is authorized to make a determination of when the residential unit was constructed and then apply the building standards in effect when the residential unit was determined to be constructed or the current building standards, whichever is the least restrictive, provided the building or portion thereof does not become or continue to be a substandard or unsafe building. The Building Official is authorized to accept reasonable alternatives to the requirements of the prior or current code editions when dealing with unpermitted dwelling units.

## SECTION 105 – PERMITS

**105.3.2 Expiration of application.** An application for a permit for any proposed work shall expire one year after the date of filing, unless it can be demonstrated by the applicant that such application has been pursued in good faith or a permit has been issued. The building official or the permit service center coordinator are authorized to grant one or more extensions of time for additional periods not exceeding a 180 days per extension. The extension shall be requested in writing and justifiable cause demonstrated. Requests for time extensions shall be accompanied by the payment of a fee set by resolution of the City Council.

If a project is associated with a code enforcement case, the dates specified in the code enforcement notices take precedence over the timelines specified in this section.

**105.5 Expiration of permit.** Permits issued by the building official shall expire one year from the date of issuance. The building official or the supervising building inspector are authorized to grant one or more extensions of time to complete the work for additional periods not exceeding one year per extension. The extension shall be requested in writing and justifiable cause demonstrated. Requests for time extensions shall be accompanied by the payment of a fee set by resolution of the City Council.

The issuance of a building permit shall not excuse the permittee or any other person from compliance with any notice and/or order to correct a code violation issued by the City.

When a permit is expired and a new permit is required to complete the work, a new permit application and plans shall be filed describing the remaining work to be done. If a site visit or other review is required to determine the extent of the remaining work, a fee may be charged to make such determination.

## SECTION 109 – FEES

**109.1 Payment of fees.** Except when fees are deferred, a permit shall not be valid until the fees as set forth by resolution of City Council have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

**109.2 Schedule of permit fees.** On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as

required, in accordance with the fee as set forth by resolution of the City Council. Fees for permits and inspections and other related services under this Code shall be assessed and paid as set forth by resolution of the City Council. Unless waived or deferred as provided by local regulations, a plan review fee and other fees as specified in the resolution shall be paid at the time of submitting any documents for review and additional fees as specified in the resolution shall be paid at issuance of the permit.

**109.4 Work commencing before permit issuance.** Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permit shall be subject to a fee as set forth by resolution of the City Council equal to and in addition to the permit fees for the portion of the scope of work performed without the permit.

**109.7 Re-inspection fees.** A re-inspection fee, as set forth by resolution of the City Council, may be assessed for each re-inspection when such portion of work for which an inspection is scheduled is not complete or when corrections previously called for are not made.

Re-inspection fees shall not be required each time a job is disapproved for failure to comply with the requirements of this Code. Rather this section shall be used to control the practice of calling for inspections before the job is ready for such inspection, or when the approved plans are not readily available to the inspector, or for failure to provide access on the date for which the inspection is requested, or when work deviates from the approved plans but no revision is submitted to the City.

To obtain a re-inspection, the applicant shall pay the re-inspection fee as set forth by resolution of the City Council. In instances where re-inspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

## SECTION 112 – SERVICE UTILITIES

**112.4 Authority to connect utilities.** Clearance for connection of one utility, either gas or electrical, will be withheld until final building, electrical, plumbing, and/or mechanical inspections are made and approval has been given for any new building or change in occupancy classification to an existing building for which connection to such utilities is sought, unless approval has been first obtained from the building official, as provided by a Temporary Certificate of Occupancy or Final Certificate of Occupancy.

**112.5 Unsafe service utilities.** Unsafe service utilities are hereby declared to be public nuisances and shall be abated, repaired, rehabilitated, demolished or removed in accordance with the procedures set forth in Chapter 19.40 of the Berkeley Municipal Code (BMC) for residential buildings and Berkeley Building Code for all other buildings, or any alternate procedure that may be adopted by the City of Berkeley. In addition, the City Attorney may pursue other appropriate action to prevent, restrain, correct or abate the violation as provided for in the BMC. Remedies under this section are cumulative. When

service utilities are maintained in violation of this Code and in violation of a notice issued pursuant to the provisions of this section, the building official shall institute appropriate action to prevent, restrain, correct or abate the violation.

**112.6 Authority to disconnect utilities in emergencies.** The building official or building official's authorized representative shall have the authority to disconnect electrical power or other energy service supplied to the building, structure or building service equipment therein regulated by this Code in case of emergency where necessary to eliminate an immediate hazard to life or property. The building official or building official's authorized representative shall, whenever possible, notify the serving utility, and the owner of the building, structure or electrical system or equipment and any building occupants of the decision to disconnect prior to taking such action and shall notify them, in writing, of the disconnection as soon as possible thereafter.

**112.7 Authority to condemn electrical system and equipment.** Whenever the building official determines that an electrical system or electrical equipment regulated by this Code is hazardous to life, health or property, the building official may order in writing that such electrical system or equipment either be removed or restored to a safe condition. The written notice shall fix a reasonable time limit for compliance with such order. Persons shall not use or maintain defective electrical systems or equipment after receiving such notice except as may be provided therein.

When equipment or an installation is to be disconnected, a written notice of such disconnection and the reasons therefore shall be given within 24-hours of the order to disconnect to the serving utility, the owner and occupants of the building, structure or premises.

When equipment or an installation is maintained in violation of this Code and in violation of a notice issued pursuant to the provisions of this section, the building official shall institute appropriate action to prevent, restrain, correct or abate the violation.

Unsafe electrical systems or equipment are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in Chapter 19.40 of the BMC for residential buildings and Berkeley Building Code for all other buildings, or any alternate procedure that may be adopted by the City of Berkeley. In addition, the City Attorney may pursue other appropriate action to prevent, restrain, correct or abate the violation as provided for in the BMC. Remedies under this section are cumulative.

**112.8 Connection after order to disconnect.** Persons shall not make connections to a service utility system or equipment that has been disconnected or ordered to be disconnected by the building official, or the use of which has been ordered to be discontinued by the building official, until the building official authorizes the reconnection and use of the electrical system or equipment.

## SECTION 113 – BOARD OF APPEALS



**113.1 General.** In order to hear and decide appeals of orders, decisions, or determinations made by the building official relative to the application and interpretation of this Code, there shall be and is hereby created a board of appeals consisting of the Housing Advisory Commission pursuant to Section 19.44.020 of the Berkeley Municipal Code. The building official may convene and consult with an advisory panel of qualified individuals. This advisory panel is intended to help the building official in formulating and making staff recommendations to the Housing Advisory Commission. The advisory panel may provide written and/or oral presentations to the Housing Advisory Commission as needed.

**113.3 Qualifications.** The board of appeals shall consist of members meeting the qualifications required for the Housing Advisory Commission. The advisory panel shall consist of individuals found by the building official to be qualified by experience and training in the specific area of the appeal who are not employees of the jurisdiction.

## SECTION 114 – VIOLATIONS

**114.4 Violation penalties.** Any person who violates a provision of this Code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this Code, shall be subject to penalties as prescribed by law. Violations of this Code are misdemeanors, but may be cited or charged, at the election of the enforcing officer, building official, or City Attorney, as infractions, subject to an election by the defendant under Penal Code Subsection 17(d). Nothing in this Section shall prevent any other remedy afforded by law.

## SECTION 116 - UNSAFE STRUCTURES AND EQUIPMENT

**116.1 Conditions.** Structures or existing equipment that are or hereafter become structurally unsafe, insanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the building official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

All such unsafe buildings, equipment, structures or appendages are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in Chapters 1.24, 19.28, 19.40 and/or 19.44 of the BMC as applicable. As an alternative, the building official, or other employee or official of this jurisdiction as designated by the City Council, may institute any other appropriate action to prevent, restrain, correct or abate the violation.

### **116.6 Safety Assessment Placards.**

**116.6.1 Intent.** This section establishes standard placards to be used to indicate the condition of a structure for occupancy after a natural or human-caused disaster and a rapid evaluation by authorized personnel. The building official or authorized representatives shall post the appropriate placard at each entry point to a building or structure upon completion of a safety assessment.

**116.6.2 Application of provisions.** The provisions of this section are applicable to all buildings and structures of all occupancies regulated by the City of Berkeley. The City Council may extend the provisions as necessary.

**116.6.3 Definitions.**

**116.6.3.1 "Safety Assessment"** is a visual, non-destructive examination of a building or structure for the purpose of determining the condition for continued occupancy.

**116.6.3.2 Placards.** Following are titles and descriptions of the official jurisdiction placards to be used to designate the condition of a building structure for continued occupancy, partial or conditional occupancy, or unsafe to enter. Copies of placards are on file in the Building and Safety Division of the Planning and Development Department.

INSPECTED – Lawful Occupancy Permitted is to be posted on any building or structure wherein no apparent hazard has been found. This placard is not intended to mean there is no damage to the building or structure, but that any damage that occurred does not present a hazard to occupants.

RESTRICTED USE is to be posted on each building or structure that has been damaged wherein the damage has resulted in some form of restriction to the continued occupancy. The individual who posts this placard will note in general terms the type of damage encountered and will clearly and concisely note the restrictions on continued occupancy.

UNSAFE – Do Not Enter or Occupy is to be posted on each building or structure that has been damaged such that continued occupancy poses a threat to life safety. Building or structures posted with this placard shall not be entered under any circumstances except as authorized in writing by the building official, or the building official's authorized representative. Safety assessment teams shall be authorized to enter these building at any time. This placard is not to be used or considered as a demolition order. The individual who posts this placard will note in general terms the type of damage encountered.

**116.6.4 Content of placard.** The BMC Section number and the words "City of Berkeley" shall be permanently affixed to each placard.

**116.6.5 Unlawful to remove.** Once a placard has been attached to a building or structure, it is not to be removed, altered or covered until done so by an authorized representative of the Building Official. It shall be unlawful for any person, firm or corporation to alter, remove, cover or deface a placard unless authorized pursuant to this section.

## Article 2. Restrictions in Fire Zones

### 19.28.030 CBC Chapter 7A Materials and Construction Methods for Exterior Wildlife Exposure.

**Chapter 7A** of the 2022 California Building Code is adopted in its entirety subject to the modifications thereto which are set forth below.

#### 701A – SCOPE, PURPOSE AND APPLICATION

**701A.1 Scope.** This chapter applies to building materials, systems and or assemblies used in the exterior design and construction of new buildings and structures, additions, alterations, repairs and re-roofs located within a Wildland-Urban Interface (WUI) Fire Area as defined in Section 702A.

**701A.2 Purpose.** The purpose of this Chapter is to establish minimum standards for the protection of life and property by increasing the ability of a building located in any Fire Hazard Severity Zone within State Responsibility Areas or any building or structure in the Wildland-Urban Interface (WUI) Fire Area to resist the intrusion of flame or burning embers projected by a vegetation fire and contributes to a systematic reduction in conflagration losses.

**701A.3 Application.** New buildings located in any Fire Hazard Severity Zone or new buildings and structures, additions, alterations, repairs and re-roofs located in any Wildland-Urban Interface (WUI) Fire Area designated by the enforcing agency constructed after the application date shall comply with the provisions of this chapter. This shall include all new buildings and structures, additions, alterations, repairs and re-roofs with residential, commercial, educational, institutional or similar occupancy type uses, which shall be referred to in this chapter as “applicable building(s)” (see definition in Section 702A), as well as new buildings and structures, additions, alterations, repairs and re-roofs accessory to those applicable buildings (see Exceptions 1 and 4).

#### **Exceptions:**

1. Group U occupancy accessory buildings or structures, of any size located at least 50 feet (15 240 mm) from an applicable building on the same lot.
2. Group U occupancy agricultural buildings or structures, as defined in Section 202 of this code of any size located at least 50 feet (15 240 mm) from an applicable building.
3. Group C occupancy special buildings or structures conforming to the limitations specified in Section 450.4.1.
4. New accessory buildings and miscellaneous structures specified in Section 710A shall comply only with the requirements of that section.
5. ~~Additions to and remodels of buildings originally constructed prior to July 1, 2008.~~

**701A.3.1 Application date and where required.** New buildings for which an application for a building permit is submitted on or after July 1, 2008 located in any Fire Hazard Severity Zone or buildings and structures, additions, alterations, repairs and re-roofs for which an application for a building permit is submitted on or after July 1, 2008 located in the Wildland Interface Fire Area shall comply with all sections of this chapter, ~~including all of the following areas:~~

- ~~1. All unincorporated lands designated by the State Board of Forestry and Fire Protection as State Responsibility Area (SRA) including:
  - ~~1.1. Moderate Fire Hazard Severity Zones.~~
  - ~~1.2. High Fire Hazard Severity Zones.~~
  - ~~1.3. Very High Fire Hazard Severity Zones.~~~~
- ~~2. Land designated as Very High Fire Hazard Severity Zone by cities and other local agencies.~~
- ~~3. Land designated as Wildland Interface Fire Area by cities and other local agencies.~~

~~Exceptions:~~

- ~~1. New buildings located in any Fire Hazard Severity Zone within State Responsibility Areas, for which an application for a building permit is submitted on or after January 1, 2008, shall comply with all sections of this chapter.~~
- ~~2. New buildings located in any Fire Hazard Severity Zone within State Responsibility Areas or any Wildland Interface Fire Area designated by cities and other local agencies for which an application for a building permit is submitted on or after December 1, 2005 but prior to July 1, 2008, shall only comply with the following sections of this chapter:
  - ~~2.1. Section 705A — Roofing.~~
  - ~~2.2. Section 706A — Attic Ventilation.~~~~

## **702A – DEFINITIONS**

**APPLICABLE BUILDING.** A building or structure that has residential, commercial, educational, institutional or similar occupancy type use.

**FIRE ZONE ONE** shall encompass the entire City of Berkeley except for Fire Zones Two and Three.

**FIRE ZONE TWO** encompasses those areas designated as Combined Hillside District in the Official Zoning map of the City of Berkeley and those areas designated as Very High in the official Fire Hazard Severity Zones (FHSZ) map of The Department of Forestry and Fire Protection (CAL FIRE), as they may be amended from time to time. The following properties, not part of the Combined Hillside District, are included in Fire Zone Two under the Very High designation of the FHSZ map: the eastern section of the University of California, Berkeley main campus, block number 2042 (Alameda County Assessor's parcel numbering (APN) system), to the east city line; all of the Clark-Kerr campus, block number 7690, to the east city line; all of block number 7680 in the City of Berkeley; portions of block number 1702 in the City of Berkeley. See Exhibit A for the specific parcels by APN and address.

**FIRE ZONE 3** encompasses those areas designated as Environmental Safety – Residential Districts on the Official Zoning Map of the City of Berkeley, as it may be amended from time to time.

**LOCAL RESPONSIBILITY AREA (LRA).** Areas of the state in which the financial responsibility of preventing and suppressing fires is the primary responsibility of a city, county, city and county, or district. Fire Zones 2 and 3 are designated as Local Responsibility Area.

**WILDLAND-URBAN INTERFACE (WUI).** A geographical area identified by the state as a “Fire Hazard Severity Zone” in accordance with the Public Resources Code Sections 4201 through 4204 and Government Code Sections 51175 through 51189, or other areas designated by the enforcing agency to be at a significant risk from wildfires. Fire Zones 2 and 3 are designated as Wildland-Urban Interface (WUI) Fire Area.

## **705A – ROOFING**

**705A.1 General.** Roofs shall comply with the requirements of Chapter 7A and Chapter 15. Roofs shall have a roofing assembly installed in accordance with its listing and the manufacturer's installation instructions. Roof assemblies in the Fire Hazard Severity Zones shall be Class A rating when tested in accordance with ASTM E108 or UL790.

Wooden shakes and shingles are prohibited roof coverings regardless of the assembly rating of the roof system.

**Exception:** Replacement of less than 50% of the roof area within a 5-year period.

**705A.5 Spark Arrestors.** All chimneys of fireplaces, stoves, barbecues or heating appliances using solid fuel shall be provided with an approved spark arrestor whenever modification has been made to any of these appliances, or whenever a structure is re-roofed. The net free area of the spark arrestor shall be not less than four times the net free area of the outlet of the chimney. The spark arrestor shall have heat and corrosion resistance equivalent to twelve-gauge wire, nineteen-gauge galvanized wire, or twenty-four-gauge stainless steel. Openings shall not permit the passage of spheres having a

diameter larger than one-half inch and shall not block the passage of spheres having a diameter of less than three-eighths inch. The arrestor shall be securely attached to the chimney or stovepipe and shall be adequately supported. The use of bands, mollies, masonry anchors or mortar ties are recommended depending upon the individual need.

## **707A – EXTERIOR COVERING**

**707A.3.2 Replacement of Exterior Wall Covering.** Materials for replacement of existing exterior wall covering shall meet or exceed the standards set forth in this Chapter.

**Exception:** Where less than 50% of any wall surface is being replaced or repaired, and the matching of the new plane to the existing plane on that wall is not possible.

## **711A – UNDERGROUND UTILITY CONNECTIONS**

**711A.1 Underground utility connections.** For new construction, provisions shall be made for the undergrounding of all utilities serving the property, including but not limited to electrical, telephone and cable television, by the installation of appropriately sized underground conduits extending from the street property.

## **712A – ADDITIONAL REQUIREMENTS IN FIRE ZONE THREE**

**712A.1 General.** In addition to meeting the other requirements of this Chapter, buildings or structures hereinafter erected, constructed, moved, altered, added, or repaired within Fire Zone Three shall comply with the following requirements for buildings and structures.

**712A.2 Fire warning system.** All residential units shall be equipped with a Fire Warning System as specified by the residential smoke detector requirements of the current edition of the California Building Code and with an audible exterior alarm. The exterior alarm must meet the requirements of NFPA 72 or equivalent and generate 45 decibels ten feet from the alarm, or more.

**712A.3 Automatic fire sprinkler systems.** Automatic fire sprinkler system requirements shall be as set forth in Berkeley Fire Code Section 903.2.24.

**712A.4 Utilities.** Utilities, pipes, furnaces, water heaters or other mechanical devices located in an exposed underfloor area of a building or structure shall be enclosed with material as required for exterior one hour fire resistive construction. Adequate covered access openings for servicing and ventilation of such facilities shall be provided as required by appropriate codes.

**712A.5 Control of brush or vegetation.** Brush and vegetation shall be controlled as required in the Berkeley Fire Code.

**712A.6 Special Conditions.** The following additional conditions must be met:

1. Public access roads and fire trails. No person(s) shall use any public access road or fire trail for the storage of any construction material, stationary construction equipment, construction office, portable refuse container, or earth from any grading or excavating.
2. Water Service. The water service to the site shall be installed with a ¾” hose bib connection prior to beginning any wood framing. The person responsible for the construction shall have at the site a 75 ft ¾” hose available.

**Exhibit A**  
**Parcels in Addition to the Combined Hillside District**

The following additional parcels by Assessor’s Parcel Number and address are included in Fire Zone Two:

| Parcel Number (APN) | Address                  |
|---------------------|--------------------------|
| 048-7680-001-02     | 3 Tanglewood Road        |
| 048-7680-002-01     | 5 Tanglewood Road        |
| 048-7680-031-00     | 7 Tanglewood Road        |
| 048-7680-019-00     | 11 Tanglewood Road       |
| 048-7680-014-00     | 19 Tanglewood Road       |
| 048-7680-032-01     | 25 Tanglewood Road       |
| 048-7680-027-00     | 29 Tanglewood Road       |
| 054-1702-067-00     | 10 Tanglewood Road       |
| 054-1702-068-00     | 18 Tanglewood Road       |
| 054-1702-069-00     | 22 Tanglewood Road       |
| 054-1702-070-00     | 28 Tanglewood Road       |
| 054-1702-063-00     | 2701 Belrose Avenue      |
| 054-1702-076-00     | 2715 Belrose Avenue      |
| 054-1702-075-00     | 2721 Belrose Avenue      |
| 054-1702-074-00     | 2729 Belrose Avenue      |
| 054-1702-073-00     | 2737 Belrose Avenue      |
| 054-1702-112-00     | 2801 Claremont Boulevard |
| 054-1702-123-01     | 2811 Claremont Boulevard |
| 054-1702-122-00     | 2815 Claremont Boulevard |
| 054-1702-120-01     | 2821 Claremont Boulevard |
| 054-1702-114-01     | 2816 Claremont Avenue    |
| 054-1702-115-00     | 2820 Claremont Avenue    |
| 054-1702-072-00     | 3005 Garber Street       |
| 054-1702-071-00     | 3015 Garber Street       |
| 054-1702-113-00     | 3020 Garber Street       |
| 054-1702-116-00     | 3017 Avalon Avenue       |

**Article 3. Wood Burning Appliances**

### 19.28.040 Wood Burning Appliances.

**Chapter 31** of the 2022 California Building Code is adopted in its entirety subject to the modifications thereto which are set forth below.

#### 3116 Wood Burning Appliances.

A. The purpose of this section is to reduce the health risks caused by wood smoke under the climatic conditions applicable to Berkeley.

B. For purposes of this section the following terms shall be defined as set forth below.

1. "EPA" means the United States Environmental Protection Agency.
2. "EPA Certified" means any wood heater that is labeled "EPA Certified" in accordance with the standards in Title 40, Part 60, Subpart AAA, of the Code of Federal Regulations or equivalent, in effect at the time the wood heater is installed.
3. "Pellet heater" means wood heaters that burn pellet fuel exclusively and are either EPA-certified or exempted under EPA requirements set forth in Part 60 Title 40, Subpart AAA, of the Code of Federal Regulations, February 26, 1988.
4. "Wood-burning" means an appliance that burns wood or any wood-based solid fuel, including but not limited to wood pellets.
5. "Wood burning cooking device" means any wood-burning device that is designed or primarily used for cooking.
6. "Wood-burning fireplace" means any permanently-installed masonry or factory-built wood-burning appliance, either open or with doors in front of the combustion chamber, which is neither a wood heater as defined in 40 CFR 60.531 nor designed and used for cooking.

C. No wood-burning fireplace or wood heater as defined in 40 CFR 60.531, that is not EPA certified or exempted by under EPA requirements may be installed in any occupancy.

Exception: Existing masonry fireplaces may be repaired in accordance with the applicable codes in effect at the time of the proposed repair or reconstruction. For purposes of this exception, the term repair includes resurfacing the combustion chamber, but does not include replacing any other part of the combustion chamber.

D. Wood burning cooking devices are not prohibited by this section.



E. Any person planning to install a wood-burning fireplace or heating stove must submit verifiable documentation to the City showing that the appliance conforms to the requirements of this section.

#### **Article 4. Projection into Public Right of Way**

##### **19.28.050 Encroachments into the Public Right of Way – Revocation, Removal, Indemnification and Hold Harmless.**

**Chapter 32** of the 2022 California Building Code is adopted in its entirety subject to the modifications thereto which are set forth below.

#### **3202 – ENCROACHMENTS**

##### **3202.5 Projection into the Public Right of Way – Revocation, Removal, Indemnification and Hold Harmless.**

Any permits granted pursuant to this Code which allow any projection upon, over, or under the public right of way may be revoked by the City at any time. Upon such revocation, the permittee or permittee's successor(s) or assignee(s) shall forthwith remove such projection at permittee's cost and expense and without any cost or expense whatsoever to the City.

Any person who is granted a permit pursuant to the provisions of this Code which allows a projection upon, over or under the public right of way shall by the issuance of such permit thereby indemnify and hold harmless the City of Berkeley, its officers and employees of and from any and all liabilities, claims, demands, actions or causes of action for injury or injuries to any person or persons or death or deaths of any person or persons or damage to property arising out of or occasioned in any way by the issuance of said permit, the work performed pursuant to such permit, or the existence of such projection. The obligation of such indemnification and hold harmless provision shall be applicable to the successor(s) and assignee(s) of the permittee.

#### **Article 5. Existing Buildings**

##### **19.28.060 Adoption of 2022 California Existing Building Code and certain Chapters of the 2021 International Existing Building Code by reference.**

**2022 California Existing Building Code (CEBC), including Appendix A**, is adopted in its entirety subject to the modifications thereto which are set forth below.

#### **DIVISION II SCOPE AND ADMINISTRATION**

All of the administrative provisions contained in Article 1 of Chapter 19.28, the Berkeley Building Code, shall apply to this Code as well and take precedence over any CEBC administrative provisions that may conflict.

**101.9 Adoption of Certain Chapters of the 2021 International Existing Building Code by reference.**

When seismic retrofit is not otherwise required by this Code, the following Chapters of the 2021 International Existing Building Code (IEBC) published by the International Code Council contained in the IEBC Appendix A are hereby adopted by reference as applicable to the types of buildings as designated therein as though fully set forth herein:

Chapter A2, Earthquake Hazard Reduction in Existing Reinforced Concrete and Reinforced Masonry Wall Buildings with Flexible Diaphragms

**Article 6. Repairs to Existing Buildings and Structures**

**19.28.070 Adoption of Regulations for the Repairs of Existing Structures.**

**Add a new Subsection 405.2.7 to Chapter 4 Section 405 of the California Existing Building Code.**

**405.2.7 Seismic Evaluation and Design Procedures for Repairs.** The seismic evaluation and design shall be based on the procedures specified in the California Building Code or ASCE 41 *Seismic Evaluation and Retrofit of Existing Buildings*. The procedures contained in Appendix A Chapters A1, A3 and A4 of the California Existing Building Code and Appendix A Chapter A2 of the International Existing Building Code shall be permitted to be used as specified in Section 405.2.7.2.

**405.2.7.1 Compliance with CBC level seismic forces.** Where compliance requires the use of full seismic forces, the criteria shall be in accordance with one of the following:

1. One-hundred percent of the values in the California Building Code. Where the existing seismic force-resisting system is a type that can be designated as “Ordinary,” the values of  $R$ ,  $\Omega_o$ , and  $C_d$  used for analysis in accordance with Chapter 16 of the California Building Code shall be those specified for structural systems classified as “Ordinary” in accordance with Table 12.2-1 of ASCE 7, unless it is demonstrated that the structural system will provide performance equivalent to that of a “Detailed,” “Intermediate” or “Special” system.
2. ASCE 41, using a Tier 3 procedure and the two-level performance objective in Table 405.2.7.1.

**Table 405.2.7.1  
PERFORMANCE OBJECTIVES FOR USE IN ASCE 41 FOR COMPLIANCE WITH  
FULL SEISMIC FORCES**

| RISK CATEGORY (Based on CBC Table 1604.5) | STRUCTURAL PERFORMANCE LEVEL FOR USE WITH BSE-1N EARTHQUAKE HAZARD LEVEL | STRUCTURAL PERFORMANCE LEVEL FOR USE WITH BSE-2N EARTHQUAKE HAZARD LEVEL |
|-------------------------------------------|--------------------------------------------------------------------------|--------------------------------------------------------------------------|
| I                                         | Life Safety (S-3)                                                        | Collapse Prevention (CP)                                                 |
| II                                        | Life Safety (S-3)                                                        | Collapse Prevention (CP)                                                 |
| III                                       | Damage Control (S-2)                                                     | Limited Safety (S-4)                                                     |
| IV                                        | Immediate Occupancy (S-1)                                                | Life Safety (S-3)                                                        |

**405.2.7.2 Compliance with reduced CBC level seismic forces.** Where seismic evaluation and design is permitted to meet reduced seismic forces, the criteria used shall be in accordance with one of the following:

1. The California Building Code using 75 percent of the prescribed forces. Values of  $R$ ,  $\Omega_o$ , and  $C_d$  used for analysis shall be as specified in Section 405.2.7.1 Item 1.

2. Structures or portions of structures that comply with the requirements of the applicable chapter in Appendix A of the California Existing Building Code (CEBC) or Appendix A of the International Existing Building Code (IEBC) as specified in Items 2.1 through 2.4 below shall be deemed to comply with this section.

2.1. The seismic evaluation and design of unreinforced masonry bearing wall buildings in Risk Category I or II are permitted to be based on the procedures specified in CEBC Appendix A Chapter A1, provided the design is no less stringent than required in Berkeley Municipal Code Section 19.38.130.

2.2. Seismic evaluation and design of the wall anchorage system in reinforced concrete and reinforced masonry wall buildings with flexible diaphragms in Risk Category I or II are permitted to be based on the procedures specified in IEBC Appendix A Chapter A2.

2.3. Seismic evaluation and design of cripple walls and sill plate anchorage in residential buildings of light-frame wood construction in Risk Category I or II are permitted to be based on the procedures specified in CEBC Appendix A Chapter A3.

2.4. Seismic evaluation and design of soft, weak, or open-front wall conditions in multiunit residential buildings of wood construction in Risk Category I or II are permitted to be based on the procedures specified in CEBC Appendix A Chapter A4.

3. ASCE 41, using the performance objective in Table 405.2.7.2 for the applicable risk category. The design spectral response acceleration parameters  $S_{x5}$  and  $S_{x1}$  specified in ASCE 41 shall not be taken less than 75 percent of the respective design spectral response acceleration parameters  $S_{D5}$  and  $S_{D1}$  defined by the *California Building Code* and its reference standards.

**Table 405.2.7.2  
PERFORMANCE OBJECTIVES FOR USE IN ACCE 41 FOR COMPLIANCE WITH  
REDUCED SEISMIC FORCES**

| <b>RISK CATEGORY<br/>(Based on CBC<br/>Table 1604.5)</b> | <b>STRUCTURAL PERFORMANCE<br/>LEVEL FOR USE WITHBSE-1E<br/>EARTHQUAKE HAZARD LEVEL</b> | <b>STRUCTURAL<br/>PERFORMANCE LEVEL FOR<br/>USE WITH BSE-2E<br/>EARTHQUAKE HAZARD<br/>LEVEL</b> |
|----------------------------------------------------------|----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| I                                                        | Life Safety (S-3). See Note a                                                          | Collapse Prevention (S-5)                                                                       |
| II                                                       | Life Safety (S-3). See Note a                                                          | Collapse Prevention (S-5)                                                                       |
| III                                                      | Damage Control (S-2). See Note a                                                       | Limited Safety (S-4). See Note b                                                                |
| IV                                                       | Immediate Occupancy (S-1)                                                              | Life Safety (S-3). See Note c                                                                   |

- a. For Risk Categories I, II, and III, the Tier 1 and Tier 2 procedures need not be considered for the BSE-1E earthquake hazard level.
- b. For Risk Category III, the Tier 1 screening checklists shall be based on the Collapse Prevention, except that checklist statements using the Quick Check provisions shall be based on MS-factors that are the average of the values for Collapse Prevention and Life Safety.
- c. For Risk Category IV, the Tier 1 screening checklists shall be based on Collapse Prevention, except that checklist statements using the Quick Check provisions shall be based on MS-factors for Life Safety.

**Table 405.2.7.3  
REFERENCED STANDARDS**

| <b>Standard Reference<br/>Number</b> | <b>Title</b>                                                | <b>Referenced in Code<br/>Section Number</b>               |
|--------------------------------------|-------------------------------------------------------------|------------------------------------------------------------|
| ASCE 41-17                           | Seismic Evaluation and<br>Retrofit of Existing<br>Buildings | 405.2.7<br>Table 405.2.7.1<br>405.2.7.2<br>Table 405.2.7.2 |

**Article 7. Technical Amendments to Structural Standards**

## 19.28.080 Various Technical Amendments to Structural Standards.

**Chapter 17** of the 2022 California Building Code is adopted in its entirety subject to the modifications thereto which are set forth below.

**1705.3 Concrete construction.** Special inspections and tests of concrete construction shall be performed in accordance with this section and Table 1705.3.

**Exception:** Special inspections and tests shall not be required for: 1. Isolated spread concrete footings of buildings three stories or less above grade plane that are fully supported on earth or rock, where the structural design of the footing is based on a specified compressive strength,  $f'_c$ , no greater than 2,500 pounds per square inch (psi) (17.2 MPa).

**Chapter 19** of the 2022 California Building Code is adopted in its entirety subject to the modifications thereto which are set forth below.

**1905.1.7 ACI 318, Section 14.1.4.** Delete ACI 318, Section 14.1.4, and replace with the following:

14.1.4 - Plain concrete in structures assigned to Seismic Design Category C, D, E or F.

14.1.4.1 - Structures assigned to Seismic Design Category C, D, E or F shall not have elements of structural plain concrete, except as follows:

- ~~Structural plain concrete basement, foundation or other walls below the base are permitted in detached one and two family dwellings three stories or less in height constructed with stud bearing walls. In dwellings assigned to seismic design category D or E, the height of the wall shall not exceed 8 feet (2438 mm), the thickness shall not be less than 7<sup>1</sup>/<sub>2</sub> inches (190 mm), and the wall shall retain no more than 4 feet (1219 mm) of unbalanced fill. Walls shall have reinforcement in accordance with 14.6.1.~~
- Isolated footings of plain concrete supporting pedestals or columns are permitted, provided the projection of the footing beyond the face of the supported member does not exceed the footing thickness.

~~**Exception:** In detached one and two family dwelling three stories or less in height, the projection of the footing beyond the face of the supported member is permitted to exceed the footing thickness.~~

- (Plain concrete footings supporting walls are permitted, provided the footings have at least two continuous longitudinal reinforcing bars. Bars shall not be smaller than No. 4 and shall have a total area of not less than 0.002 times the gross cross-sectional area of the footing. ~~For footings that exceed 8" inches (203 mm) in thickness, A~~ minimum of one bar shall be

provided at the top and bottom of the footing. Continuity of reinforcement shall be provided at corners and intersections.

**Exceptions:**

- ~~1. In seismic design categories A, B and C, detached one and two family dwellings three stories or less in height and constructed with stud bearing walls, are permitted to have plain concrete footings without longitudinal reinforcement.~~
- ~~2. For foundation systems consisting of a plain concrete footing and a plain concrete stem wall, a minimum of one bar shall be provided at the top of the stem wall and at the bottom of the footing.~~
- ~~3. Where a slab on ground is cast monolithically with the footing, one No. 5 bar is permitted to be located at either the top of the slab or bottom of the footing.~~

**Article 8. Construction of Exterior Appurtenances**

**19.28.090 Technical Amendments for Construction of Exterior Projecting Elements and Appurtenances.**

**Chapter 12** of the 2022 California Building Code is adopted in its entirety subject to the modifications thereto which are set forth below:

**1202.7 Ventilation of weather exposed enclosed assemblies.** Balconies, landings, decks, stairs and similar exterior projecting elements and appurtenances exposed to the weather and sealed underneath shall have cross ventilation for each separate enclosed space by ventilation openings protected against the entrance of rain and snow and as set forth in Section 2304.12.2.5. Blocking and bridging shall be arranged so as not to interfere with the movement of air. The net free ventilating area shall not be less than 1/150th of the area of the space ventilated. Ventilation openings shall comply with Section 1202.2.2. An access panel of sufficient size shall be provided on the underside of the enclosed space to allow for periodic inspection.

**Exceptions:**

1. An access panel is not required where the exterior coverings applied to the underside of joists are easily removable using only common tools.
2. Removable soffit vents 4 inches minimum in width can be used to satisfy both ventilation and access panel requirements.

**Chapter 14** of the 2022 California Building Code is adopted in its entirety subject to the modifications thereto which are set forth below:

**1403.15 Projections exposed to weather.** Balconies, landings, decks, stairs and similar floor projections exposed to the weather shall be constructed of naturally durable wood,

preservative-treated wood, corrosion resistant (e.g., galvanized) steel, or similar approved materials.

**Chapter 23** of the 2022 California Building Code is adopted in its entirety subject to the modifications thereto which are set forth below:

**2304.12.2.3 Supporting members for permanent appurtenances.** Naturally durable or preservative-treated wood shall be utilized for those portions of wood members that form the structural supports of buildings, balconies, porches or similar permanent building appurtenances ~~where such members are exposed to the weather without adequate protection from a roof, eave, overhang or other covering to prevent moisture or water accumulation on the surface or at joints between members.~~

**2304.12.2.4 Supporting members for permeable floors and roofs.** Wood structural members that support moisture-permeable floors or roofs that are exposed to the weather, such as concrete or masonry slabs, shall be of naturally durable or preservative-treated wood ~~unless~~ and shall be separated from such floors or roofs by an impervious moisture barrier. The impervious moisture barrier system protecting the structure supporting floors shall provide positive drainage of water that infiltrates the moisture-permeable floor topping.

**Table 2308.6.1 WALL BRACING REQUIREMENTS<sup>a, f, g</sup>**

Add new footnotes “f” and “g” to the end of Table 2308.6.1 to read:

f. Methods GB, PBS, HPS and SFB are not permitted in Seismic Design Categories D or E. In Seismic Design Categories D, the use of Method PCP is limited to one-story dwellings and accessory structures.

g. Methods DWB and PCP are not permitted in Seismic Design Categories E.

**Article 9. Emergency Housing**

**19.28.100 Emergency Housing and Emergency Housing Facilities.**

**HCD Appendix P** of the 2022 California Building Code is adopted on an emergency basis and reproduced in its entirety subject to the modifications thereto which are set forth below:

**APPENDIX P  
EMERGENCY HOUSING**

**SECTION P101**

**GENERAL**

**P101.1 Scope.** This appendix shall be applicable to emergency housing and emergency housing facilities, as defined in Section P102. The provisions and standards set forth in this appendix shall be applicable to emergency housing established pursuant to the declaration of a shelter crisis under Government Code section 8698 et seq. and located

in new or existing buildings, structures, or facilities owned, operated, erected, or constructed by, for or on behalf of the City of Berkeley on land owned or leased by the City of Berkeley.

**P101.2 Application.** Notwithstanding any provisions of this Code to the contrary, the following requirements shall apply to emergency housing operated during a shelter crisis, as provided for in Government Code Section 8698 et seq. Other than the specific requirements set forth in this appendix, the facilities need not comply with the requirements of this Code for Group R occupancies unless otherwise specified in this Code.

## SECTION P102

### DEFINITIONS

**P102.1 General.** The following words and terms shall, for the purposes of this appendix, have the meanings shown herein. Refer to Chapter 2 of this code for general definitions.

**DECLARATION OF SHELTER CRISIS.** The duly proclaimed existence of a situation in which a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety. (See Government Code Section 8698)

**DEPENDENT UNIT.** Emergency housing not equipped with a kitchen area, toilet, and sewage disposal system. Recreational vehicles that are not self-contained and without utility service connections shall be considered dependent units.

**EMERGENCY HOUSING.** Housing in a permanent or temporary structure(s), occupied during a declaration of state of emergency, local emergency, or shelter crisis. Emergency housing may include, but is not limited to, buildings and structures constructed in accordance with the California Building Standards Code; and emergency sleeping cabins, emergency transportable housing units, and tents constructed in accordance with this appendix.

**EMERGENCY HOUSING FACILITIES.** On-site common use facilities supporting emergency housing. Emergency housing facilities include, but are not limited to, kitchen areas, toilets, showers and bathrooms with running water. The use of emergency housing facilities is limited exclusively to the occupants of the emergency housing, personnel involved in operating the housing, and other emergency personnel.

**EMERGENCY HOUSING SITE.** A site containing emergency housing and emergency housing facilities supporting the emergency housing.

**EMERGENCY SLEEPING CABIN.** Relocatable hard-sided structure constructed in accordance with this appendix, which may be occupied only for emergency housing if allowed by the enforcing agency.



**EMERGENCY TRANSPORTABLE HOUSING UNIT.** A single- or multiple-section prefabricated structure that is transportable by a vehicle and that can be installed on a permanent or temporary site in response to a need for emergency housing. Emergency transportable housing units include, but are not limited to, manufactured homes, mobilehomes, multifamily manufactured homes, recreational vehicles, and park trailers. For the purposes of this appendix, emergency transportable housing units may also include commercial modulars as defined in the Health and Safety Code Section 18001.8, if approved by the enforcing agency. Emergency transportable housing units do not include factory-built housing as defined in the Health and Safety Code Section 19971.

**LANDING PLATFORM.** A landing provided as the top step of a stairway accessing a loft.

**LOCAL EMERGENCY.** Local Emergency as defined in the Government Code, Section 8558.

**LOFT.** A floor level located more than 30 inches (762 mm) above the main floor and open to it on at least one side with a ceiling height of less than 6 feet 8 inches (2032 mm), used as a living or sleeping space.

**MANUFACTURED HOME.** A structure designed to be used as a single-family dwelling, as defined in the Health and Safety Code, Section 18007.

**MEMBRANE STRUCTURE.** An air-inflated, air-supported, cable or frame-covered structure, not otherwise defined as a tent. (See Chapter 31 of this code.)

**MOBILEHOME.** A structure designed to be used as a single-family dwelling, as defined in the Health and Safety Code, Section 18008.

**MULTIFAMILY MANUFACTURED HOME.** A structure designed to contain not less than two dwelling units, as defined in the Health and Safety Code, Section 18008.7.

**PARK TRAILER.** A trailer designed for human habitation that meets all requirements in the Health and Safety Code, Section 18009.3.

**RECREATIONAL VEHICLE.** A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation, that meets all requirements in the Health and Safety Code, Section 18010.

**STATE OF EMERGENCY.** State of Emergency as defined in the Government Code, Section 8558.

**TENT.** A structure, enclosure or shelter, with or without sidewalls or drops, constructed of fabric or pliable material supported by any manner except by air or the contents that it protects.

## SECTION P103

### EMERGENCY HOUSING

**P103.1 General.** Emergency sleeping cabins, emergency transportable housing units including commercial modulars, membrane structures and tents constructed and/or assembled in accordance with this appendix, shall be occupied only during declaration of state of emergency, local emergency, or shelter crisis.

Buildings and structures constructed in accordance with the California Building Standards Code, used as emergency housing, shall be permitted to be permanently occupied.

**P103.2 Existing buildings.** Existing residential and nonresidential buildings or structures shall be permitted to be used as emergency housing and emergency housing facilities provided such buildings or structures comply with the building code provisions and/or other regulations in effect at the time of original construction and/or alteration. Existing buildings or structures used as emergency housing shall not become or continue to be substandard buildings, as determined by the enforcing agency.

**P103.2.1 New additions, alterations, and change of occupancy.** New additions, alterations, and change of occupancy to existing buildings shall comply with the requirements of the California Building Standards Code effective at the time of addition, alteration, or change of occupancy. The requirements shall apply only to and/or within the specific area of the addition, alteration, or change of occupancy.

#### Exceptions:

1. Existing buildings and structures used for emergency housing and emergency housing facilities may not be required to comply with the California Energy Code, as determined by the enforcing agency.
2. Change in occupancy shall not mandate conformance with new construction requirements set forth in the California Building Standards Code, provided such change in occupancy meets the minimum fire and life safety requirements set forth in Section P112 of this appendix.

**P103.3 Occupant load.** Except as otherwise stated in this appendix, the maximum occupant load allowed in buildings and structures used as emergency housing shall be determined by the enforcing agency, but the interior floor area shall not be less than 70 square feet (6.5 m<sup>2</sup>) for one occupant. Where more than one person occupies the building/structure, the required floor area shall be increased at the rate of 50 square feet (4.65 m<sup>2</sup>) for each occupant in excess of one.

#### Exceptions:

1. Tents.
2. Recreational vehicles and park trailers designed for human habitation that meet the requirements in the Health and Safety Code, Sections 18009.3 and 18010, as applicable

3. For emergency housing, including emergency sleeping cabins, the minimum interior floor area may be reduced to 53 square feet (4.9 m<sup>2</sup>) if the enforcing agency determines that 53 square feet (4.9 m<sup>2</sup>) is adequate space for a single-occupancy sleeping unit.

**P103.4 Fire and life safety requirements not addressed in this appendix.** If not otherwise addressed in this appendix, fire and life safety measures, including, but not limited to, means of egress, fire separation, fire sprinklers, smoke alarms, and carbon monoxide alarms, shall be determined and enforced by the enforcing agency.

**P103.5 Privacy.** Emergency housing shall be provided with a privacy lock on each entrance door and all windows for use by the occupants.

**P103.6 Heating.** All sleeping areas shall be provided with adequate heating as determined by the enforcing agency.

## SECTION P104

### EMERGENCY SLEEPING CABINS

**P104.1 General.** Emergency sleeping cabins shall have an interior floor area of not less than 70 square feet (6.5 m<sup>2</sup>) for one occupant. Where more than one person occupies the cabin, the required floor area shall be increased at the rate of 50 square feet (4.65 m<sup>2</sup>) for each occupant in excess of one. The interior floor area shall not exceed 400 square feet (37 m<sup>2</sup>), excluding lofts.

**P104.2 Live loads.** Emergency sleeping cabins shall be designed to resist intrusion of wind, rain, and to support the following live loads:

1. Floor live loads not less than 40 pounds per square foot (1.92 kPa) of floor area.
2. Horizontal live loads not less than 15 pounds per square foot (718 Pa) of vertical wall and roof area.
3. Roof live loads not less than 20 pounds per square foot (958 Pa) of horizontal roof area.
4. In areas where snow loads are greater than 20 pounds per square foot (958 Pa), the roof shall be designed and constructed to resist these additional loads.

**P104.3 Minimum ceiling height.** Habitable space and hallways in emergency sleeping cabins shall have a ceiling height of not less than 80 inches (2032 mm). Bathrooms, toilet rooms, and kitchens, if provided, shall have a ceiling height of not less than 76 inches (1930 mm). Obstructions shall not extend below these minimum ceiling heights including beams, girders, ducts, lighting and other obstructions.

**Exception:** Ceiling heights in lofts constructed in accordance with Section P108 are permitted to be less than 80 inches (2032 mm).

**P104.4 Means of egress.** Emergency sleeping cabins shall be provided with at least two forms of egress placed remotely from each other. One form of egress may be an egress window complying with Section P104.4.1. When a loft is provided, one form of egress shall be an egress window complying with Section P104.4.1, provided in the loft space.

**P104.4.1 Egress window.** The bottom of the clear opening of the egress window shall not be more than 44 inches (1118 mm) above the floor. The egress window shall have a minimum net clear opening height of 24 inches (610 mm), and a minimum net clear opening width of 20 inches (508 mm). The egress window shall have a minimum net clear opening area of 5 square feet (0.465 m<sup>2</sup>).

**P104.5 Plumbing and gas service.** If an emergency sleeping cabin contains plumbing or gas service, it shall comply with all applicable requirements of the California Plumbing Code and the California Mechanical Code.

**P104.6 Electrical.** Emergency sleeping cabins shall be provided with all of the following installed in compliance with the California Electrical Code:

1. Continuous source of electricity.

**Exception:** The source of electricity may be an emergency generator or renewable source of power such as solar or wind power.

2. At least one interior lighting fixture.
3. Electrical heating equipment listed for residential use and a dedicated receptacle outlet for the electrical heating equipment.

**Exception:** Electrical heating equipment and a dedicated receptacle outlet for the electrical heating equipment are not required if a nonelectrical source of heating is provided.

4. At least one GFCI-protected receptacle outlet for use by the occupant(s).

**P104.7 Ventilation.** Emergency sleeping cabins shall be provided with means of ventilation (natural and/or mechanical) allowing for adequate air replacement, as determined by the enforcing agency.

**P104.8 Smoke alarms.** Emergency sleeping cabins shall be provided with at least one smoke alarm installed in accordance with the California Residential Code, Section R314.

**P104.9 Carbon monoxide alarms.** If an emergency sleeping cabin contains a fuel-burning appliance(s) or a fireplace(s), a carbon monoxide alarm shall be installed in accordance with the California Residential Code, Section R315

## SECTION P105

### EMERGENCY TRANSPORTABLE HOUSING UNITS

**P105.1 General.** In addition to the requirements in this appendix, manufactured homes, mobilehomes, multifamily manufactured homes, commercial modulars, recreational vehicles, and park trailers used as emergency transportable housing shall comply with all applicable requirements in the Health and Safety Code, Division 13, Part 2; and Title 25, Division 1, Chapter 3, Subchapter 2.

No provisions of Sections P111 through P114 of this appendix shall be deemed to grant authorization for any additional work that may conflict with the standards specified in Section P105 applicable for emergency transportable housing units.

## **SECTION P106**

### **TENTS AND MEMBRANE STRUCTURES**

**P106.1 General.** Tents shall not be used to house occupants for more than 7 days unless such tents are maintained with tight wooden floors raised at least 4 inches (101.6 mm) above the ground level and are equipped with baseboards on all sides to a height of at least 6 inches (152.4 mm). Tents may be maintained with concrete slabs with the finished surface at least 4 inches (101.6 mm) above grade and equipped with curbs on all sides at least 6 inches (152.4 mm) high.

A tent shall not be considered a suitable sleeping place when it is found necessary to provide heating facilities in order to maintain a minimum temperature of 50 degrees Fahrenheit (10 degrees Celsius) within such tent during the period of occupancy.

Membrane structures installed and/or assembled in accordance with Chapter 31 of this code, may be permitted to be used as emergency housing and emergency housing facilities, as determined by the enforcing agency.

Tents and membrane structures shall comply with Chapter 31 of the California Fire Code and shall not be erected for a period of more than 180 days within a 12 month period. Tents and membrane structures shall be limited to one level located at the level of Fire Department vehicle access road or lane. Tents and membrane structures complying with Chapter 31 of the California Fire Code shall not be subject to additional provisions of Sections P111 and P112 of this appendix.

Tents and membrane structures used for sleeping purposes shall be equipped with single station battery powered smoke alarms installed in accordance with Section 907.2.11 of the California Fire Code.

## **SECTION P107**

### **ACCESSIBILITY**

**P107.1 General.** Emergency housing shall comply with the applicable requirements in Chapter 11B and/or the US Access Board Final Guidelines for Emergency Transportable Housing.

**Note:** The Architectural and Transportation Barriers Compliance Board (US Access Board) issued the Final Guidelines for Emergency Transportable Housing on May 7, 2014. The final guidelines amended the 2004 ADA Accessibility Guidelines (2004 ADAAG) and the 2004 Architectural Barriers Act (ABA) Accessibility Guidelines (2004 ABAAG) to specifically address emergency transportable housing units provided to disaster survivors by entities subject to the ADA or ABA. The final rule ensures that the emergency transportable housing units are readily accessible to and usable by disaster survivors with disabilities.

## SECTION P108

### LOFTS IN EMERGENCY HOUSING

**P108.1 Minimum loft area and dimensions.** Lofts used as a sleeping or living space shall meet the minimum area and dimension requirements of Sections P108.1.1 through P108.1.3.

**P108.1.1 Minimum area.** Lofts shall have a floor area of not less than 35 square feet (3.25 m<sup>2</sup>).

**P108.1.2 Minimum dimensions.** Lofts shall be not less than 5 feet (1524 mm) in any horizontal dimension.

**P108.1.3 Height effect on loft area.** Portions of a loft with a sloping ceiling measuring less than 3 feet (914 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.

**Exception:** Under gable roofs with a minimum slope of 6:12, portions of a loft with a sloping ceiling measuring less than 16 inches (406 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.

**P108.2 Loft access.** The access to and primary egress from lofts shall be any type described in Sections P108.2.1 through P108.2.4.

**P108.2.1 Stairways.** Stairways accessing lofts shall comply with the California Residential Code or with Sections P108.2.1.1 through P108.2.1.6.

**P108.2.1.1 Width.** Stairways accessing a loft shall not be less than 17 inches (432 mm) in clear width at or above the handrail. The minimum width below the handrail shall be not less than 20 inches (508 mm).

**P108.2.1.2 Headroom.** The headroom in stairways accessing a loft shall be not less than 74 inches (1880 mm), as measured vertically, from a sloped line connecting the tread or landing platform nosings in the middle of their width.

**P108.2.1.3 Treads and risers.** Risers for stairs accessing a loft shall be not less than 7 inches (178 mm) and not more than 12 inches (305 mm) in height. Tread depth and riser height shall be calculated in accordance with one of the following formulas:

1. The tread depth shall be 20 inches (508 mm) minus  $\frac{4}{3}$  of the riser height, or
2. The riser height shall be 15 inches (381 mm) minus  $\frac{3}{4}$  of the tread depth.

**P108.2.1.4 Landing platforms.** The top step of stairways accessing lofts shall be constructed as a landing platform where the loft ceiling height is less than 74 inches (1880 mm). The landing platform shall be 18 inches (457 mm) to 22 inches (559 mm) in depth measured from the nosing of the landing platform to the edge of the loft, and 16 inches (406 mm) to 18 inches (457 mm) in height measured from the landing platform to the loft floor.

**P108.2.1.5 Handrails.** Handrails shall comply with the California Residential Code, Section R311.7.8.

**P108.2.1.6 Stairway guards.** Guards at open sides of stairways shall comply with the California Residential Code, Section R312.1.

**P108.2.2 Ladders.** Ladders accessing lofts shall comply with Sections P108.2.2.1 and P108.2.2.2.

**P108.2.2.1 Size and capacity.** Ladders accessing lofts shall have a rung width of not less than 12 inches (305 mm), and 10 inches (254 mm) to 14 inches (356 mm) spacing between rungs. Ladders shall be capable of supporting a 200 pound (90.7 kg) load on any rung. Rung spacing shall be uniform within  $\frac{3}{8}$ -inch (9.5 mm).

**P108.2.2.2 Incline.** Ladders shall be installed at 70 to 80 degrees from horizontal.

**P108.2.3 Alternating tread devices.** Alternating tread devices are acceptable as allowed by the enforcing agency.

**P108.2.4 Loft guards.** Loft guards shall be located along the open side of lofts. Loft guards shall not be less than 36 inches (914 mm) in height or one-half of the clear height to the ceiling, whichever is less. Loft guards shall not have openings from the walking surface to the required guard height that allow passage of a sphere 4 inches (102mm) in diameter.

## SECTION P109

### LOCATION, MAINTENANCE AND IDENTIFICATION

**P109.1 Maintenance.** Emergency housing and emergency housing facilities shall be maintained in a safe and sanitary condition, and free from vermin, vectors and other matter of an infectious or contagious nature. The grounds within emergency housing sites shall be kept clean and free from accumulation of debris, filth, garbage and deleterious matter. Emergency housing and emergency housing facilities shall not be occupied if a substandard condition exists, as determined by the enforcing agency.

**P109.1.1 Fire hazards.** Dangerous materials or materials that create a fire hazard, as determined by the enforcing agency, shall not be allowed on the grounds within emergency housing sites.

**P109.3 Identification.** Emergency housing shall be designated by address numbers, letters, or other suitable means of identification. The identification shall be in a conspicuous location facing the street or driveway fronting the building or structure. Each identification character shall be not less than 4 inches (102 mm) in height and not less than 0.5 inch (12.7 mm) in width, installed/painted on a contrasting background.

## **SECTION P110**

### **EMERGENCY HOUSING FACILITIES SANITATION REQUIREMENTS**

**P110.1 Drinking water.** Potable drinking water shall be provided for all occupants of emergency housing.

**P110.2 Kitchens and food facilities.** Where provided, kitchens and food facilities, as defined in Section 113789 of the California Health and Safety Code, which support emergency housing sites, shall comply with applicable food safety provisions of Sections 113980 – 114094.5 of the California Health and Safety Code.

Where occupants of dependent units are permitted or required to cook for themselves, a separate area shall be equipped and maintained as a common use kitchen. Refrigerated storage shall be provided for safe storage of food.

**P110.3 Toilet and bathing facilities.** When dependent units are used as emergency housing, the emergency housing site shall be provided with one toilet and one bathing facility for every 15 occupants of each gender. The enforcing agency may permit different types and ratios of toilet and bathing facilities. The approval shall be based upon a finding that the type and ratio of toilet and bathing facilities are sufficient to process the anticipated volume of sewage and waste water, while maintaining sanitary conditions for the occupants of the emergency housing.

Bathing facilities shall be provided with heating equipment which shall be capable of maintaining a temperature of 70 degrees F (21.0 degrees Celsius) within such facilities.

Lavatories with running water shall be installed and maintained in the toilet facilities or adjacent to the toilet facilities.



**P110.4 Garbage, waste and rubbish disposal.** All garbage, kitchen waste and rubbish shall be deposited in approved covered receptacles, which shall be emptied when filled and the contents shall be disposed of in a sanitary manner acceptable to the enforcing agency.

## **SECTION P111**

### **EMERGENCY HOUSING LIGHTING AND VENTILATION REQUIREMENTS**

**P111.1 Lighting.** Buildings or structures used for emergency housing shall be provided with natural light by means of exterior glazed openings in accordance with Section 1204.2 of the California Building Code, or shall be provided with artificial light in accordance with Section 1204.3 of the California Building Code.

**P111.2 Ventilation.** Buildings or structures used for emergency housing shall be provided with natural ventilation in accordance with Section 1202.5 of the California Building Code, or mechanical ventilation in accordance with the California Mechanical Code.

## **SECTION P112**

### **EMERGENCY HOUSING FIRE AND LIFE SAFETY REQUIREMENTS**

**P112.1 Location on property.** Buildings or structures used for emergency housing, including sleeping cabins, shall be located in accordance with the requirements of Section 705 and Table 705.5 of the California Building Code, based on their type of construction and fire-resistance ratings of the exterior walls. During a shelter crisis, the fire separation distances are permitted to be measured to the existing buildings on the adjacent parcels rather than to the interior lot lines, provided the open spaces are to remain unobstructed for the duration of the shelter crisis.

**P112.2 Buildings on same lot.** Buildings or structures used for emergency housing, including sleeping cabins, shall be separated from each other and from other buildings on the same lot as set forth in Section 705.3 of the California Building Code. The Building Official and Fire Marshal may accept reasonable alternatives to these requirements provided reasonably equivalent fire and life safety is achieved.

**P112.3 Means of egress.** Buildings or structures used for emergency housing shall be provided with means of egress complying with Chapter 10 of the California Building Code, unless modified elsewhere in this appendix.

**P112.4 Emergency escape and rescue.** Each area of a building or structure used for sleeping purposes in emergency housing shall be provided with an emergency escape and rescue opening in accordance with Section 1031 of the California Building Code, unless modified elsewhere in this appendix.

**P112.5 Smoke alarms.** Buildings or structures used for emergency housing, which provide sleeping accommodations, shall be equipped with single station battery powered smoke alarms installed in accordance with the location requirements of Section 907.2.11 of the California Fire Code, unless modified elsewhere in this appendix.

**P112.6 Carbon monoxide alarms.** Buildings or structures used for emergency housing, which provide sleeping accommodations, and equipped with fuel-burning appliances shall be provided with carbon monoxide detection in accordance with Section 915 of the California Fire Code, unless modified elsewhere in this appendix.

**P112.7 Fire alarm.** A manual fire alarm system capable of arousing sleeping occupants in accordance with Section 907.2.9.1 of the California Fire Code shall be installed in buildings, structures, or groups of buildings or structures used for emergency housing and having a gross floor area of more than 2,500 square feet or having more than 49 sleeping occupants.

**Exception:** Individual buildings or structures in a group of buildings or structures with sufficient separation distances to allow each building or structure to function independently in case of a fire, as approved by the Fire Marshal.

**P112.8 Automatic sprinkler systems.** Fire sprinklers shall be provided for new and existing buildings or structures used for emergency housing, including sleeping cabins, which provide sleeping facilities, as required by Section 903.3 of the California Fire Code. Strict compliance with the requirements of Section 903.3 may not be required when approved by the Fire Marshal. The Fire Marshal is authorized to accept reasonably equivalent alternatives to the installation provisions of Section 903.3 when dealing with buildings or structures used for emergency housing.

**P112.9 Fire extinguishers.** Portable fire extinguishers shall be provided in accordance with Section 906.1 of the California Fire Code.

**P112.10 Flammable or combustible liquids.** The possession or storage of any flammable or combustible liquids or gases shall not be permitted (intact cigarette lighters excepted). The use of any type of open flame indoors is prohibited unless conditionally approved by the Fire Chief.

**P112.11 Storage in attics, under-floor and concealed spaces.** Combustible materials, including but not limited to the possessions of occupants, users and staff shall not be stored in attics, under-floor spaces, or within other concealed spaces of buildings or structures used for emergency housing with sleeping accommodations.

**P112.12 Fire department access.** Fire Department access to building and premises used for emergency housing shall be in compliance with Section 503, Section 504 and Appendix D of the California Fire Code, as approved by the Fire Chief.

**P112.13 Water supply.** An approved fire protection water supply complying with Section 507 of the California Fire Code, or as approved by the Fire Chief, shall be provided for each structure, group of structures or premises used for emergency housing.

**SECTION P113**

**ADDITIONAL REQUIREMENTS**

**P113.1 Operating procedures.** Operating procedures including a security plan and service requirements shall be developed by the professional service provider and shown to be consistent with the shelter standards imposed by the Alameda County Social Services Agency. These procedures shall be designed to maintain order and safety within the buildings or structures used for emergency housing.

**SECTION P114**

**ALTERNATIVES AND MODIFICATIONS**

**P114.1 Alternatives and modifications.** Alternative compliance and/or modifications that are reasonably equivalent to the requirements in this appendix may be granted by the Local Administrative Authority in individual cases when dealing with buildings or structures used for emergency housing.

**NOTE:**

Authority Cited: Health and Safety Code Sections 17040, 17050, 17920.9, 17921, 17921.5, 17921.6, 17921.10, 17922, 17922.6, 17922.12, 17922.14, 17927, 17928, 18300, 18552, 18554, 18620, 18630, 18640, 18670, 18690, 18691, 18865, 18871.3, 18871.4, 18873, 18873.1 through 18873.5, 18938.3, 18944.11, and 19990; and Government Code Section 12955.1.

Reference: Health and Safety Code Sections 17000 through 17062.5, 17910 through 17995.5, 18200 through 18700, 18860 through 18874, and 19960 through 19997; Civil Code Sections 1101.4 and 1101.5; and Government Code Sections 12955.1 and 12955.1.1. (Ord. 7613-NS § 3, 2018)

**Section 2.** That Berkeley Municipal Code Chapter 19.29 is hereby repealed and reenacted to read as follows:

**Chapter 19.29**

**BERKELEY RESIDENTIAL CODE**

**Sections:**

- |                  |                                                 |
|------------------|-------------------------------------------------|
| <b>19.29.010</b> | <b>Adoption of California Residential Code.</b> |
| <b>19.29.020</b> | <b>Title.</b>                                   |
| <b>19.29.030</b> | <b>Administrative Provisions.</b>               |

- 19.29.040 Subsection R301.2 Climatic and Geographic Design Criteria.
- 19.29.050 Section R337 Materials and Construction Methods for Exterior Wildlife Exposure.
- 19.29.060 Technical Amendments to Structural Standards.

**19.29.010 Adoption of California Residential Code.**

The California Residential Code, 2022 Edition, as adopted in Title 24 Part 2.5 of the California Code of Regulations, including Appendices AH, AQ, AR, AS, AU and AX is hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth in this Chapter. A copy of this Code is on file for use and examination by the public in the office of the City Clerk of the City of Berkeley.

**19.29.020 Title.**

This Code shall be known as the "Berkeley Residential Code" and may be cited as "this Code".

**19.29.030 Administrative provisions.**

All of the administrative provisions contained in Article 1 of Chapter 19.28, the Berkeley Building Code, shall apply to this Code as well and take precedence over any CRC administrative provisions that may conflict.

For regulations governing wood burning appliances see BMC 19.28.040.

**19.29.040 CRC Subsection R301.2 Climatic and geographic design criteria.**

**TABLE R301.2  
CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA**

| GROUND SNOW LOAD <sup>o</sup>                        | WIND DESIGN              |                                  |                                  |                                       | SEISMIC DESIGN CATEGORY <sup>f</sup> | SUBJECT TO DAMAGE FROM              |                               |                      |
|------------------------------------------------------|--------------------------|----------------------------------|----------------------------------|---------------------------------------|--------------------------------------|-------------------------------------|-------------------------------|----------------------|
|                                                      | Speed <sup>d</sup> (mph) | Topographic effects <sup>k</sup> | Special wind region <sup>l</sup> | Wind-borne debris zone <sup>m</sup>   |                                      | Weathering <sup>a</sup>             | Frost line depth <sup>b</sup> | Termite <sup>c</sup> |
| ZERO                                                 | 85                       | NO                               | NO                               | NO                                    | D <sub>2</sub> or E                  | NEGLIGIBLE                          | N/A                           | VERY HEAVY           |
| <b>ICE BARRIER UNDERLAYMENT REQUIRED<sup>h</sup></b> |                          | <b>FLOOD HAZARDS<sup>g</sup></b> |                                  | <b>AIR FREEZING INDEX<sup>i</sup></b> |                                      | <b>MEAN ANNUAL TEMP<sup>j</sup></b> |                               |                      |
| NO                                                   |                          | See Footnote 'p'                 |                                  | ZERO                                  |                                      | 57.2°F                              |                               |                      |

| MANUAL J DESIGN CRITERIA <sup>n</sup> |                              |            |               |        |  |         |
|---------------------------------------|------------------------------|------------|---------------|--------|--|---------|
| Elevation                             | Altitude correction factor e | Coincident | Indoor winter | Indoor |  | Heating |

|          |             |                                        |                                 |                                           |                                            |                                |
|----------|-------------|----------------------------------------|---------------------------------|-------------------------------------------|--------------------------------------------|--------------------------------|
|          |             | wet bulb                               | <u>design relative humidity</u> | winter design dry-bulb temperature        | Outdoor winter design dry-bulb temperature | temperature difference         |
| 345      | N/A         | 63                                     | N/A                             | 70                                        | 40                                         | 30                             |
| Latitude | Daily range | Indoor summer design relative humidity | <u>Summer Design Grains</u>     | Indoor summer design dry-bulb temperature | Outdoor summer design dry-bulb temperature | Cooling temperature difference |
| 38       | 16          | 50                                     | -6                              | 75                                        | 80                                         | 5                              |

For SI: 1 pound per square foot = 0.0479 kPa, 1 mile per hour = 0.447 m/s.

- a. Where weathering requires a higher strength concrete or grade of masonry than necessary to satisfy the structural requirements of this Code, the frost line depth strength required for weathering shall govern. The weathering column shall be filled in with the weathering index, “negligible,” “moderate” or “severe” for concrete as determined from Figure R301.2.(1). The grade of masonry units shall be determined from ASTM C34, ASTM C55, ASTM C62, ASTM C73, ASTM C90, ASTM C129, ASTM C145, ASTM C216 or ASTM C652.
- b. Where the frost line depth requires deeper footings than indicated in Figure R403.1(1), the frost line depth strength required for weathering shall govern. The jurisdiction shall fill in the frost line depth column with the minimum depth of footing below finish grade.
- c. The jurisdiction shall fill in this part of the table to indicate the need for protection depending on whether there has been a history of local subterranean termite damage.
- d. The jurisdiction shall fill in this part of the table with the wind speed from the basic wind speed map Figure R301.2(2). Wind exposure category shall be determined on a site-specific basis in accordance with Section R301.2.1.4.
- e. The jurisdiction shall fill in this section of the table to establish the design criteria using Table 10A from ACCA Manual J or established criteria determined by the jurisdiction.
- f. The jurisdiction shall fill in this part of the table with the seismic design category determined from Section R301.2.2.1.
- g. The jurisdiction shall fill in this part of the table with: the date of the jurisdiction’s entry into the National Flood Insurance Program (date of adoption of the first code or ordinance for management of flood hazard areas); and the title and date of the currently effective Flood Insurance Study or other flood hazard study and maps adopted by the authority having jurisdiction, as amended.
- h. In accordance with Sections R905.1.2, R905.4.3.1, R905.5.3.1, R905.6.3.1, R905.7.3.1 and R905.8.3.1, where there has been a history of local damage from the effects of ice damming, the jurisdiction shall fill in this part of the table with “YES.” Otherwise, the jurisdiction shall fill in this part of the table with “NO.”
- i. The jurisdiction shall fill in this part of the table with the 100-year return period air freezing index (BF-days) from Figure R403.3(2) or from the 100-year (99 percent) value on the National Climatic Data Center data table “Air Freezing Index-USA Method (Base 32°F).”

- j. The jurisdiction shall fill in this part of the table with the mean annual temperature from the National Climatic Data Center data table “Air Freezing Index-USA Method (Base 32°F).”
- k. In accordance with Section R301.2.1.5, where there is local historical data documenting structural damage to buildings due to topographic wind speed-up effects, the jurisdiction shall fill in this part of the table with “YES.” Otherwise, the jurisdiction shall indicate “NO” in this part of the table.
- l. In accordance with Figure R301.2(2), where there is local historical data documenting unusual wind conditions, the jurisdiction shall fill in this part of the table with “YES” and identify any specific requirements. Otherwise, the jurisdiction shall indicate “NO” in this part of the table.
- m. In accordance with Section R301.2.1.2 the jurisdiction shall indicate the wind-borne debris wind zone(s). Otherwise, the jurisdiction shall indicate “NO” in this part of the table.
- n. The jurisdiction shall fill in these sections of the table to establish the design criteria using Table 1a or 1b from ACCA Manual J or established criteria determined by the jurisdiction.
- o. The jurisdiction shall fill in this section of the table using the Ground Snow Loads in Figures R301.2(3) and R301.2(4).
- p. Flood Hazard Data for the City of Berkeley:

Date of Jurisdiction’s Entry into the NFIP: December 7, 1973;

Date of adoption of the first code or ordinance for management of flood hazards:

Ordinance No. 5085-N.S., July 25, 1978;

Date of Flood Insurance study: Aug 3, 2009;

Panel numbers and dates of all currently effective maps adopted by the AHJ (Ordinance 7108-NS 9/29/09):

- FEMA’s “Use of Digital Flood Hazard Data” establishes that paper and digital maps are equivalent. Policy and related information are available from FEMA. The policy implements section 107 of Public Law 108-264, 118 Stat. 724 (2004)
- Panel 13 (not available in printed form)
- Panel 14 of 725, Map Number 06001C0014G, August 3, 2009
- Panel 18 of 725, Map Number 06001C0018G, August 3, 2009
- Panel 19 of 725, Map Number 06001C0019G, August 3, 2009
- Panel 38 (not available in printed form)
- Panel 51 (not available in printed form)
- Panel 52 of 725, Map Number 06001C0052G, August 3, 2009
- Panel 53 (not available in printed form)
- Panel 54 of 725, Map Number 06001C0054G, August 3, 2009
- Panel 56 of 725, Map Number 06001C0056G, August 3, 2009
- Panel 57 of 725, Map Number 06001C0057G, August 3, 2009
- Panel 80 of 725, Map Number 06001C0080G, August 3, 2009

**19.29.050 CRC Section R337 Materials and Construction Methods for Exterior Wildlife Exposure.**

**Chapter 3** of the 2022 California Residential Code is adopted in its entirety subject to the modifications thereto which are set forth below.

### **R337.1 – SCOPE, PURPOSE AND APPLICATION**

**R337.1.1 Scope.** Section R337 and all subsections apply to building materials, systems and or assemblies used in the exterior design and construction of new buildings and structures, additions, alterations, repairs and re-roofs located within a Wildland-Urban Interface (WUI) Fire Area as defined in Section R337.2.

**R337.1.2 Purpose.** The purpose of Section R337 is to establish minimum standards for the protection of life and property by increasing the ability of a building located in any Fire Hazard Severity Zone within State Responsibility Areas or any building or structure in the Wildland-Urban Interface (WUI) Fire Area to resist the intrusion of flame or burning embers projected by a vegetation fire and contributes to a systematic reduction in conflagration losses.

**R337.1.3 Application.** New buildings located in any Fire Hazard Severity Zone or new buildings and structures, additions, alterations, repairs and re-roofs located in any Wildland-Urban Interface (WUI) Fire Area designated by the enforcing agency constructed after the application date shall comply with the provisions of this section. This shall include all ~~new~~ buildings with residential, commercial, educational, institutional or similar occupancy type use, which shall be referred to in this section as “applicable building” (see definition in Section R337.2), as well as ~~new~~ buildings and structures accessory to those applicable buildings (see Exceptions 1 and 4).

#### **Exceptions:**

1. Group U occupancy accessory buildings or structures of any size located at least 50 feet (15 m) from an applicable building on the same lot.
2. Group U occupancy agricultural building or structure, as defined in Section 202 of the California Building Code, of any size located at least 50 feet (15 m) from an applicable building.
3. Group C occupancy special buildings conforming to the limitations specified in Section 450.4.1 of the California Building Code.
4. New accessory buildings and miscellaneous structures specified in Section R337.10 shall comply only with the requirements of that section.
5. ~~Additions to and remodels of building originally constructed prior to July 1, 2008.~~

**R337.1.3.1 Application date and where required.** New buildings for which an application for a building permit is submitted on or after July 1, 2008 located in any Fire Hazard Severity Zone or buildings and structures, additions, alterations, repairs and re-roofs for which an application for a building permit is submitted on or after July 1, 2008 located in the Wildland Interface Fire Area shall comply with all sections of this chapter.

## **R337.2 – DEFINITIONS**

For the purposes of this Section R337, certain terms are defined below:

**FIRE ZONE ONE** shall encompass the entire City of Berkeley except for Fire Zones Two and Three.

**FIRE ZONE TWO** encompasses those areas designated as Combined Hillside District in the Official Zoning map of the City of Berkeley and those areas designated as Very High in the official Fire Hazard Severity Zones (FHSZ) map of The Department of Forestry and Fire Protection (CAL FIRE), as they may be amended from time to time. The following properties, not part of the Combined Hillside District, are included in Fire Zone Two under the Very High designation of the FHSZ map: the eastern section of the University of California, Berkeley main campus, block number 2042 (Alameda County Assessor's parcel numbering (APN) system), to the east city line; all of the Clark-Kerr campus, block number 7690, to the east city line; all of block number 7680 in the City of Berkeley; portions of block number 1702 in the City of Berkeley. See Exhibit A for the specific parcels by APN and address.

**FIRE ZONE 3** encompasses those areas designated as Environmental Safety – Residential Districts on the Official Zoning Map of the City of Berkeley, as it may be amended from time to time.

**LOCAL RESPONSIBILITY AREA (LRA)**. Areas of the state in which the financial responsibility of preventing and suppressing fires is the primary responsibility of a city, county, city and county, or district. Fire Zones 2 and 3 are designated as Local Responsibility Area.

**WILDLAND-URBAN INTERFACE (WUI)** is a geographical area identified by the state as a "Fire Hazard Severity Zone" in accordance with the Public Resources Code Sections 4201 through 4204 and Government Code Sections 51175 through 51189, or other areas designated by the enforcing agency to be at a significant risk from wildfires. Fire Zones 2 and 3 are designated as Wildland-Urban Interface (WUI) areas.

## **R337.5 – ROOFING**

**R337.5.1 General.** Roofs shall comply with the requirements of Sections R337 and R902. Roofs shall have a roofing assembly installed in accordance with its listing and the manufacturer's installation instructions. Roof assemblies in the Fire Hazard Severity Zones shall be Class A rating when tested in accordance with ASTM E108 or UL790. Wooden shakes and shingles are prohibited roof coverings regardless of the assembly rating of the roof system.

**Exception:** Replacement of less than 50% of the roof area within a 5 year period.

**R337.5.5 Spark Arrestors.** All chimneys of fireplaces, stoves, barbecues or heating appliances using solid fuel shall be provided with an approved spark arrestor whenever modification has been made to any of these appliances, or whenever a structure is re-roofed. The net free area of the spark arrestor shall be not less than four times the net



free area of the outlet of the chimney. The spark arrestor shall have heat and corrosion resistance equivalent to twelve-gauge wire, nineteen-gauge galvanized wire, or twenty-four-gauge stainless steel. Openings shall not permit the passage of spheres having a diameter larger than one-half inch and shall not block the passage of spheres having a diameter of less than three-eighths inch. The arrestor shall be securely attached to the chimney or stovepipe and shall be adequately supported. The use of bands, mollies, masonry anchors or mortar ties are recommended depending upon the individual need.

## **R337.7 – EXTERIOR COVERING**

**R337.7.3.2 Replacement of Exterior Wall Covering.** Materials for replacement of existing exterior wall covering shall meet or exceed the standards set forth in this chapter.

**Exception:** Where less than 50% of any wall surface is being replaced or repaired, and the matching of the new plane to the existing plane on that wall is not possible.

## **R337.11 – UNDERGROUND UTILITY CONNECTIONS**

**R337.11.1 Underground utility connections.** For new construction, provisions shall be made for the undergrounding of all utilities serving the property, including but not limited to electrical, telephone and cable television, by the installation of appropriately sized underground conduits extending from the street property.

## **R337.12 – ADDITIONAL REQUIREMENTS IN FIRE ZONE THREE**

**R337.12.1 General.** In addition to meeting the other requirements of this Chapter, buildings or structures hereinafter erected, constructed, moved, altered, added, or repaired within Fire Zone Three shall comply with the following requirements for buildings and structures.

**R337.12.2 Fire Warning System.** All residential units shall be equipped with a Fire Warning System as specified by the residential smoke detector requirements of the current edition of the California Building Code and with an audible exterior alarm. The exterior alarm must meet the requirements of NFPA 72 or equivalent and generate 45 decibels ten feet from the alarm, or more.

**R337.12.3 Automatic fire sprinkler systems.** Automatic fire sprinkler system requirements shall be as set forth in Berkeley Fire Code Section 903.2.24.

**R337.12.4 Utilities.** Utilities, pipes, furnaces, water heaters or other mechanical devices located in an exposed underfloor area of a building or structure shall be enclosed with material as required for exterior one hour fire resistive construction. Adequate covered access openings for servicing and ventilation of such facilities shall be provided as required by appropriate codes.

**R337.12.5 Control of brush or vegetation.** Brush and vegetation shall be controlled as required in the Berkeley Fire Code.

**R337.12.6 Special Conditions.** The following additional conditions must be met:

1. Public access roads and fire trails. No person(s) shall use any public access road or fire trail for the storage of any construction material, stationary construction equipment, construction office, portable refuse container, or earth from any grading or excavating.
2. Water Service. The water service to the site shall be installed with a ¾” hose bib connection prior to beginning any wood framing. The person responsible for the construction shall have at the site a 75 ft ¾” hose available.

**Exhibit A**  
**Parcels in Addition to the Combined Hillside District**

The following additional parcels by Assessor’s Parcel Number and address are included in Fire Zone Two:

| <b>Parcel Number (APN)</b> | <b>Address</b>           |
|----------------------------|--------------------------|
| 048-7680-001-02            | 3 Tanglewood Road        |
| 048-7680-002-01            | 5 Tanglewood Road        |
| 048-7680-031-00            | 7 Tanglewood Road        |
| 048-7680-019-00            | 11 Tanglewood Road       |
| 048-7680-014-00            | 19 Tanglewood Road       |
| 048-7680-032-01            | 25 Tanglewood Road       |
| 048-7680-027-00            | 29 Tanglewood Road       |
| 054-1702-067-00            | 10 Tanglewood Road       |
| 054-1702-068-00            | 18 Tanglewood Road       |
| 054-1702-069-00            | 22 Tanglewood Road       |
| 054-1702-070-00            | 28 Tanglewood Road       |
| 054-1702-063-00            | 2701 Belrose Avenue      |
| 054-1702-076-00            | 2715 Belrose Avenue      |
| 054-1702-075-00            | 2721 Belrose Avenue      |
| 054-1702-074-00            | 2729 Belrose Avenue      |
| 054-1702-073-00            | 2737 Belrose Avenue      |
| 054-1702-112-00            | 2801 Claremont Boulevard |
| 054-1702-123-01            | 2811 Claremont Boulevard |
| 054-1702-122-00            | 2815 Claremont Boulevard |
| 054-1702-120-01            | 2821 Claremont Boulevard |
| 054-1702-114-01            | 2816 Claremont Avenue    |
| 054-1702-115-00            | 2820 Claremont Avenue    |
| 054-1702-072-00            | 3005 Garber Street       |
| 054-1702-071-00            | 3015 Garber Street       |
| 054-1702-113-00            | 3020 Garber Street       |
| 054-1702-116-00            | 3017 Avalon Avenue       |

**19.29.060 Technical Amendments to Structural Standards**

**Chapter 6** of the 2022 California Residential Code is adopted in its entirety subject to the modifications thereto which are set forth below.

**Table R602.10.3(3) BRACING REQUIREMENTS BASED ON SEISMIC DESIGN CATEGORY<sup>1,2</sup>**

Add new footnotes "i" and "j" to the end of Table R602.10.3(3) to read:

i. Methods GB, PBS, HPS and SFB are not permitted in Seismic Design Categories D<sub>0</sub>, D<sub>1</sub>, and D<sub>2</sub>.

j. Method DWB are not permitted in Seismic Design Categories D<sub>0</sub>, D<sub>1</sub>, and D<sub>2</sub> where S<sub>1</sub> is greater than or equal to 0.75.

Add a new Subsection R602.10.4.5, to read:

**R602.10.4.5 Limits on methods GB and PCP.** In Seismic Design Categories D<sub>0</sub>, D<sub>1</sub>, and D<sub>2</sub>, Method GB is not permitted, but gypsum board is permitted to be placed on the opposite side of the studs from other types of braced wall panel sheathing. In Seismic Design Categories D<sub>0</sub>, D<sub>1</sub>, and D<sub>2</sub>, the use of Method PCP is limited to one-story dwellings and accessory structures.

**Section 3.** That Berkeley Municipal Code Chapter 19.30 is hereby repealed and reenacted to read as follows:

**Chapter 19.30**

**BERKELEY ELECTRICAL CODE**

**Sections:**

- 19.30.010 Adoption of California Electrical Code.**
- 19.30.020 Title.**
- 19.30.030 Administrative provisions.**

**19.30.010 Adoption of California Electrical Code.**

The California Electrical Code, 2022 Edition, as adopted by the California Code of Regulations, Title 24, Part 3 is hereby adopted and made a part of this Chapter as though fully set forth herein subject to the modifications thereto which are set forth in this Chapter. A copy of this Code is on file for use and examination by the public in the office of the City Clerk of the City of Berkeley.

**19.30.020 Title.**

This Code shall be known as the "Berkeley Electrical Code" and may be cited as "this Code".

**19.30.030 Administrative provisions.**

All of the administrative provisions contained in Article 1 of Chapter 19.28, the Berkeley Building Code, shall apply to this Code as well and take precedence over any administrative provisions contained in Article 89 General Code Provisions that may conflict.

**Section 4.** That Berkeley Municipal Code Chapter 19.32 is hereby repealed and reenacted to read as follows:

## Chapter 19.32

### BERKELEY MECHANICAL CODE

#### Sections:

|                  |                                                     |
|------------------|-----------------------------------------------------|
| <b>19.32.010</b> | <b>Adoption of the California Mechanical Code.</b>  |
| <b>19.32.020</b> | <b>Title.</b>                                       |
| <b>19.32.030</b> | <b>Administrative provisions.</b>                   |
| <b>19.32.040</b> | <b>Amendments to the California Mechanical Code</b> |

#### **19.32.010 Adoption of the California Mechanical Code.**

The California Mechanical Code, 2022 Edition, as adopted in Title 24 Part 4 of the California Code of Regulations, is hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth in this Chapter. A copy of this Code is on file for use and examination by the public in the office of the City Clerk of the City of Berkeley.

#### **19.32.020 Title.**

This Code shall be known as the "Berkeley Mechanical Code" and may be cited as "this Code".

#### **19.32.030 Administrative provisions.**

All of the administrative provisions contained in Article 1 of Chapter 19.28, the Berkeley Building Code, shall apply to this Code as well and take precedence over any California Mechanical Code administrative provisions that may conflict.

#### **19.32.040 Amendments to the California Mechanical Code**

**Chapter 4** of the 2022 California Mechanical Code is adopted in its entirety subject to the modifications thereto which are set forth below:

**405.4 Kitchen Exhaust.** A mechanical exhaust directly to the outdoors shall be provided in each kitchen. The fan shall run intermittently (on demand) or continuously. A readily accessible manual control designed to be operated as needed or an automatic control shall be provided for intermittent operations.

**405.4.1 Exhaust Rate.** For intermittent-controlled operations, the exhaust rate shall be not less than 100 ft<sup>3</sup>/min (0.047 m<sup>3</sup>/s) for range hoods or 300 ft<sup>3</sup>/min (0.141 m<sup>3</sup>/s) for mechanical exhaust fans including downdraft appliances- and shall be rated for sound at a maximum of 3 sone at greater than or equal to 100 cfm. For continuous operated ventilation, the exhaust rate shall be not less than 5 air changes per hour based on kitchen volume for enclosed kitchens and shall be rated for sound at a maximum of 1.0 sone.

**Exception:** A vented range hood shall not be required in dwelling unit kitchens equipped with a local mechanical exhaust system installed in accordance with ASHRAE 62.2.

**Section 5.** That Berkeley Municipal Code Chapter 19.34 is hereby repealed and reenacted to read as follows:

## Chapter 19.34

### BERKELEY PLUMBING CODE

#### Sections:

|                  |                                                  |
|------------------|--------------------------------------------------|
| <b>19.34.010</b> | <b>Adoption of the California Plumbing Code.</b> |
| <b>19.34.020</b> | <b>Title.</b>                                    |
| <b>19.34.030</b> | <b>Administrative provisions.</b>                |
| <b>19.34.040</b> | <b>Gas Shut-Off Valves</b>                       |

#### **19.34.010 Adoption of the California Plumbing Code.**

The California Plumbing Code, 2022 Edition, as adopted in Title 24 Part 5 of the California Code of Regulations, including Appendices A, B and D, is hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth in this Chapter. A copy of this Code is on file for use and examination by the public in the office of the City Clerk of the City of Berkeley.

#### **19.34.020 Title.**

This Code shall be known as the "Berkeley Plumbing Code" and may be cited as "this Code."

#### **19.34.030 Administrative Provisions.**

All of the administrative provisions contained in Article 1 of Chapter 19.28, the Berkeley Building Code, shall apply to this Code as well and take precedence over any California Plumbing Code administrative provisions that may conflict.

#### **19.34.040 Gas Shut-Off Valves**

**Chapter 12** of the 2022 California Plumbing Code is adopted in its entirety subject to the modifications thereto which are set forth below.

Retitle and amend Section 1209.0 Excess Flow Valves to read:

### **1209.0 Automatic Gas Shut-Off Valves**

**1209.1 General.** Where automatic excess flow valves are installed, they shall be listed to CSA Z21.93 and shall be sized and installed in accordance with the manufacturer's instructions. [NFPA 54:5.13]

**1209.2 General Requirements for Automatic Gas Shut-Off Valves.** Automatic gas shut-off valves shall:

1. Comply with all applicable requirements of the Berkeley Plumbing Code.
2. Be tested and listed by recognized testing agencies such as the Independent Laboratory of the International Approval Services (IAS), Underwriter's Laboratory (UL), International Association of Plumbing and Mechanical Officials (IAPMO) or any other agency approved by the State of California Office of the State Architect (OSA).
3. Be installed on downstream side of the gas utility meter.
4. Be installed in accordance with the manufacturer's instructions.
5. Provide a method for expedient and safe gas shut-off in an emergency.
6. Provide a capability for ease of consumer or owner resetting in a safe manner.

### **1209.3 Definitions**

For the purpose of this Section, terms shall be defined as follows:

**AUTOMATIC GAS SHUT- OFF VALVE** shall mean either a motion activated gas shut-off valve or device or an excess flow gas shut-off valve or device.

**DOWNSTREAM OF GAS UTILITY METER** shall mean all gas piping on the property owner's side of the gas meter and after the service tee.

**MOTION ACTIVATED GAS SHUT OFF VALVE** shall mean an approved gas valve activated by motion. Valves are set to activate in the event of a moderate or strong seismic event greater than 5.0 on the Richter scale.

**UPSTREAM OF GAS UTILITY METER** shall mean all gas piping installed by the utility up to and including the meter and the utility's service tee.

**1209.4 Motion Activated Gas Shut-off Valve, Required.** A listed motion activated gas shut-off valve shall be installed as follows:

**1209.4.1 New Construction.** In any newly constructed building or structure containing fuel gas piping.

**1209.4.2 Existing Buildings with a single meter.** In any existing building or structure containing fuel gas piping served by a single gas meter, when any addition, alteration or repair is made for which a mechanical or plumbing permit is issued.

**1209.4.3 Existing Buildings with separate meters serving individual units or tenant spaces.** In any existing building or structure containing fuel gas piping served by multiple gas meters, when any addition, alteration or repair is made to an individual unit or tenant space for which a mechanical or plumbing permit is issued. The requirement for a motion activated gas shut off valve shall apply to the gas meter serving the individual unit or tenant space and the gas meter serving common area(s).

**Exceptions:**

1. Existing automatic gas shut-off valves installed prior to the effective date of this Section, provided the valves are maintained in operational condition.
2. Automatic gas shut-off valves installed on a gas distribution system owned or operated by a public utility.

**Note:** For the purpose of the requirements of this Section, excess flow valves are not permitted to be installed as a substitute for motion activated gas shut-off valves.

**1209.5 Mounting.** Motion activated seismic gas shut-off valves shall be mounted rigidly to the building or structure containing the fuel gas piping, unless otherwise specified in the manufacturer's installation instructions.

**Section 6.** That Berkeley Municipal Code Chapter 19.36 is hereby repealed and reenacted to read as follows:

**Chapter 19.36**

**BERKELEY ENERGY CODE**

**Sections:**

|                  |                                                  |
|------------------|--------------------------------------------------|
| <b>19.36.010</b> | <b>Adoption of the California Energy Code.</b>   |
| <b>19.36.020</b> | <b>Title.</b>                                    |
| <b>19.36.030</b> | <b>Administrative provisions.</b>                |
| <b>19.36.040</b> | <b>Amendments to the California Energy Code.</b> |
| <b>19.36.050</b> | <b>CEQA</b>                                      |

**19.36.010 Adoption of the California Energy Code.**

The California Energy Code, 2022 Edition, as adopted in Title 24 Part 6 of the California Code of Regulations, is hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth in this Chapter. A copy of this Code is on file for use and examination by the public in the office of the City Clerk of the City of Berkeley.

**19.36.020 Title.**

This Code shall be known as the “Berkeley Energy Code” and may be cited as “this Code”.

**19.36.030 Administrative provisions.**

All of the administrative provisions contained in Article 1 of Chapter 19.28, the Berkeley Building Code, shall apply to this Code as well and take precedence over any California Energy Code administrative provisions that may conflict.

**Section 7.** That Berkeley Municipal Code Chapter 19.37 is hereby repealed and reenacted to read as follows:

**Chapter 19.37**

**BERKELEY GREEN CODE**

**Sections:**

**19.37.010 Adoption of the California Green Building Standards Code.**

**19.37.020 Title.**

**19.37.030 Administrative provisions.**

**19.37.040 Amendments to the California Green Building Standards Code.**

The California Green Building Standards Code (CALGreen), 2022 Edition, as adopted in Title 24 Part 11 of the California Code of Regulations, is hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth in this Chapter. A copy of this Code is on file for use and examination by the public in the office of the City Clerk of the City of Berkeley.

**19.37.020 Title.**

This Code shall be known as the “Berkeley Green Code” and may be cited as “this Code”.

**19.37.030 Administrative provisions.**

All of the administrative provisions contained in Article 1 of Chapter 19.28, the Berkeley Building Code, shall apply to this Code as well and take precedence over any California Green Building Standards Code administrative provisions that may conflict.

**19.37.040 Amendments to the California Green Building Standards Code.**



**Chapter 3 Green Building** of the California Green Building Standards Code is adopted in its entirety subject to the modifications thereto which are set forth below:

Add a new Subsection 301.1.2 to read:

**301.1.2 Residential waste diversion.** The requirements of Section 4.408 shall be required for:

1. Any additions or alterations, which increase the building's conditioned area, volume or size
2. Any building alterations with a permit valuation over \$100,000
3. Any interior or exterior demolitions valued over \$3,000

Modify Subsection 301.3.2 to read:

**301.3.2 Nonresidential waste diversion.** The requirements of Section 5.408 shall be required for additions ~~and~~, alterations and demolitions whenever a permit is required for work.

**Chapter 4 Residential Mandatory Measures** of the California Green Buildings Code is adopted in its entirety subject to the modifications thereto which are set forth below:

Modify Subsection 4.106.4.1 to read:

**4.106.4.1 New one- and two-family dwellings and townhouses with attached or detached private garages, carports, or any other on-site parking.** For each dwelling unit, install a listed raceway to accommodate a dedicated 208/240-volt branch circuit. The raceway shall not be less than trade size 1 (nominal 1-inch inside diameter). The raceway shall originate at the main service or subpanel and shall terminate into a listed cabinet, box or other enclosure in close proximity to the proposed location of an EV charger. Raceways are required to be continuous at enclosed, inaccessible or concealed areas and spaces. The service panel and/or subpanel shall provide capacity to install a 40-ampere 208/240-volt minimum dedicated branch circuit and space(s) reserved to permit installation of a branch circuit overcurrent protective device minimum 40-ampere 208/240-volt dedicated EV branch circuit in close proximity to the proposed location of an EV charger at the time of original construction in accordance with the California Electrical Code.

**Exception:** A raceway is not required if a minimum 40-ampere 208/240-volt dedicated EV branch circuit is installed in close proximity to the proposed location of an EV charger at the time of original construction in accordance with the California Electrical Code.

**4.106.4.1.1 Identification.** The service panel or subpanel circuit directory shall identify the overcurrent protective device ~~space(s) reserved~~ for future EV charging

as "EV CAPABLEREADY". The raceway termination location shall be permanently and visibly marked as "EV CAPABLEREADY".

Modify Subsection 4.106.4.2.1 to read:

**4.106.4.2.1 Multifamily development projects with less than 20 dwelling units; and hotels and motels with less than 20 sleeping units or guest rooms.** The number of dwelling units, sleeping units or guest rooms shall be based on all buildings on a project site subject to this section.

1. **EV Capable.** ~~Ten (10)~~ Twenty (20) percent of the total number of parking spaces on a building site, provided for all types of parking facilities, shall be electric vehicle charging spaces (EV spaces) capable of supporting future Level 2 EVSE. Electrical load calculations shall demonstrate that the electrical panel service capacity and electrical system, including any on-site distribution transformer(s), have sufficient capacity to simultaneously charge all EVs at all required EV spaces at a minimum of 40 amperes.

The service panel or subpanel circuit directory shall identify the overcurrent protective device space(s) reserved for future EV charging purposes as "EV CAPABLE" in accordance with the California Electrical Code.

**Exception:**

- ~~1. When EV chargers (Level 2 EVSE) are installed in a number equal to or greater than the required number of EV capable spaces.~~
- ~~2. When EV chargers (Level 2 EVSE) are installed in a number less than the required number of EV capable spaces, the number of EV capable spaces required may be reduced by a number equal to the number of EV chargers installed.~~
1. When EV chargers (Level 2 EVSE) are installed in a number greater than five (5) percent of parking spaces required by Section 4.106.4.2.1, Item 3, the number of EV capable spaces required may be reduced by a number equal to the number of EV chargers installed over the five (5) percent required.

**Notes:**

- a. Construction documents are intended to demonstrate the project's capability and capacity for facilitating future EV charging.
- b. There is no requirement for EV spaces to be constructed or available until receptacles for EV charging or EV chargers are installed for use.

2. **EV Ready.** Twenty-five (25) percent of the total number of parking spaces shall be equipped with low power Level 2 EV charging receptacles. For multifamily parking facilities, no more than one receptacle is required per dwelling unit when more than one parking space is provided for use by a single dwelling unit.

**Exception:** Areas of parking facilities served by parking lifts, provided the required percentage of EV Ready spaces are installed elsewhere.

3. **EV Chargers.** Five (5) percent of the total number of parking spaces shall be equipped with Level 2 EVSE. Where common use parking is provided, at least one EV charger shall be located in the common use parking area and shall be available for use by all residents or guests.

When low power Level 2 EV charging receptacles or Level 2 EVSE are installed beyond the minimum required, an automatic load management system (ALMS) may be used to reduce the maximum required electrical capacity to each space served by the ALMS. The electrical system and any on-site distribution transformers shall have sufficient capacity to deliver at least 3.3 kW simultaneously to each EV charging station (EVCS) served by the ALMS. The branch circuit shall have a minimum capacity of 40 amperes, and installed EVSE shall have a capacity of not less than 30 amperes. ALMS shall not be used to reduce the minimum required electrical capacity to the required EV capable spaces.

**Exception:** Areas of parking facilities served by parking lifts, provided the required percentage of EV Chargers spaces are installed elsewhere.

**NOTE:** Calculations required by Section 4.106.4.2.1, Items 1 – 3 shall be rounded up to the nearest whole number.

Modify Subsection 4.106.4.2.2 to read:

**4.106.4.2.2 Multifamily development projects with 20 or more dwelling units, hotels and motels with 20 or more sleeping units or guest rooms.** The number of dwelling units, sleeping units or guest rooms shall be based on all buildings on a project site subject to this section.

1. **EV Capable.** ~~Ten (10)~~ Twenty (20) percent of the total number of parking spaces on a building site, provided for all types of parking facilities, shall be electric vehicle charging spaces (EV spaces) capable of supporting future Level 2 EVSE. Electrical load calculations shall demonstrate that the electrical panel service capacity and electrical system, including any on-site distribution transformer(s), have sufficient capacity to simultaneously charge all EVs at all required EV spaces at a minimum of 40 amperes.

The service panel or subpanel circuit directory shall identify the overcurrent protective device space(s) reserved for future EV charging purposes as "EV CAPABLE" in accordance with the California Electrical Code.

**Exception:** When EV chargers (Level 2 EVSE) are installed in a number greater than five (5) percent of parking spaces required by Section 4.106.4.2.2, Item 3, the number of EV capable spaces required may be reduced by a number equal to the number of EV chargers installed over the five (5) percent required.

**Notes:**

- a. Construction documents shall show locations of future EV spaces.
  - b. There is no requirement for EV spaces to be constructed or available until receptacles for EV charging or EV chargers are installed for use.
2. **EV Ready.** Twenty-five (25) percent of the total number of parking spaces shall be equipped with low power Level 2 EV charging receptacles. For multifamily parking facilities, no more than one receptacle is required per dwelling unit when more than one parking space is provided for use by a single dwelling unit.

**Exception:** Areas of parking facilities served by parking lifts, provided the required percentage of EV Ready spaces are installed elsewhere.

3. **EV Chargers.** Five (5) percent of the total number of parking spaces shall be equipped with Level 2 EVSE. Where common use parking is provided, at least one EV charger shall be located in the common use parking area and shall be available for use by all residents or guests.

When low power Level 2 EV charging receptacles or Level 2 EVSE are installed beyond the minimum required, an automatic load management system (ALMS) may be used to reduce the maximum required electrical capacity to each space served by the ALMS. The electrical system and any on-site distribution transformers shall have sufficient capacity to deliver at least 3.3 kW simultaneously to each EV charging station (EVCS) served by the ALMS. The branch circuit shall have a minimum capacity of 40 amperes, and installed EVSE shall have a capacity of not less than 30 amperes. ALMS shall not be used to reduce the minimum required electrical capacity to the required EV capable spaces.

**Exception:** Areas of parking facilities served by parking lifts, provided the required percentage of EV Chargers spaces are installed elsewhere.

**NOTE:** Calculations required by Section 4.106.4.2.2, Items 1 – 3 shall be rounded up to the nearest whole number.

Add a new Subsection 4.405.1 to read:

**4.405.1 Reduction in cement use.** As allowed by the enforcing agency, cement used in concrete mix design shall be reduced not less than 25 percent. Products commonly used to replace cement in concrete mix designs include, but are not limited to:

1. Fly ash
2. Slag
3. Silica fume
4. Rice hull ash

**Exception:** Minimum cement reductions in concrete mix designs approved by the Engineer of Record may be lower where high early strength is needed for concrete products or to meet an accelerated project schedule.

Modify Subsection 4.408.1 to read:

**4.408.1 Construction waste management.** Recycle and/or salvage for reuse 100% of excavated soil and land-clearing debris, 100% of concrete, 100% of asphalt, and a minimum of 65 percent of the other nonhazardous construction and demolition waste in accordance with either Section 4.408.2, 4.408.3 or 4.408.4, or meet a more stringent local construction and demolition waste management ordinance.

**Exceptions:**

1. ~~Excavated soil and land-clearing debris.~~
2. Alternate waste reduction methods developed by working with local agencies if diversion or recycle facilities capable of compliance with this item do not exist or are not located reasonably close to the jobsite.
3. The enforcing agency may make exceptions to the requirements of this section when isolated jobsites are located in areas beyond the haul boundaries of the diversion facility.

**Chapter 5 Nonresidential Mandatory Measures** of the California Green Buildings Code is adopted in its entirety subject to the modifications thereto which are set forth below:

Modify Subsection 5.106.5.3.1 to read:

**5.106.5.3.1 EV Capable Spaces.** [N] Twenty (20) percent of the total number of parking spaces shall be EV capable spaces. Calculation for EV capable spaces shall be rounded up to the nearest whole number. ~~shall be provided in accordance with Table 5.106.5.3.1 and~~ The spaces shall comply with the following requirements:

1. Raceways complying with the California Electrical Code and no less than 1-inch (25 mm) diameter shall be provided and shall originate at a service panel or a subpanel(s) serving the area, and shall terminate in close proximity to the proposed location of the EV capable space and into a suitable listed cabinet, box, enclosure or equivalent. A common raceway may be used to serve multiple EV capable spaces.
2. A service panel or subpanel(s) shall be provided with panel space and electrical load capacity for a dedicated 208/240 volt, 40-ampere minimum branch circuit for each EV capable space, with delivery of 30-ampere minimum to an installed EVSE at each EVCS.
3. The electrical system and any on-site distribution transformers shall have sufficient capacity to supply full rated amperage at each EV capable space.
4. The service panel or subpanel circuit directory shall identify the reserved overcurrent protective device space(s) as "EV CAPABLE". The raceway termination location shall be permanently and visibly marked as "EV CAPABLE."

**Note:** A parking space served by electric vehicle supply equipment or designed as a future EV charging space shall count as at least one standard automobile parking space only for the purpose of complying with any applicable minimum parking space requirements established by an enforcement agency. See Vehicle Code Section 22511.2 for further details.

Delete Table 5.106.5.3.1.

Modify Subsection 5.106.5.3.2 to read:

**5.106.5.3.2 Electric Vehicle Charging Stations (EVCS) [N]** Ten (10) percent of the total number of parking spaces shall be EV-capable spaces shall be provided with EVSE to create EVCS. Calculation for EVCS shall be rounded up to the nearest whole number. in the number indicated in Table 5.106.5.3.4. The EVCS required by Table 5.106.5.3.4 may be provided with EVSE in any combination of Level 2 and Direct Current Fast Charging (DCFC), except that at least one Level 2 EVSE shall be provided.

One EV charger with multiple connectors capable of charging multiple EVs simultaneously shall be permitted if the electrical load capacity required by Section 5.106.5.3.1 for each EV capable space is accumulatively supplied to the EV charger.

The installation of each DCFC EVSE shall be permitted to reduce the minimum number of required EV capable spaces without EVSE by five and reduce proportionally the required electrical load capacity to the service panel or subpanel.

## 5.405 Material Sources

Add a new Subsection 5.405.1 to read:

**5.405.1 Reduction in cement use.** As allowed by the enforcing agency, cement used in concrete mix design shall be reduced not less than 25 percent. Products commonly used to replace cement in concrete mix designs include, but are not limited to:

1. Fly ash.
2. Slag.
3. Silica fume.
4. Rice hull ash.

**Exception:** Minimum cement reductions in concrete mix designs approved by the Engineer of Record may be lower where high early strength is needed for concrete products or to meet an accelerated project schedule.

**5.408.3 Concrete, asphalt, excavated soil and land clearing debris.** 100 percent of concrete, asphalt, trees, stumps, rocks and associated vegetation and soils resulting primarily from land clearing shall be reused or recycled. For a phased project, such material may be stockpiled on site until the storage site is developed.

**Section 8.** 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.

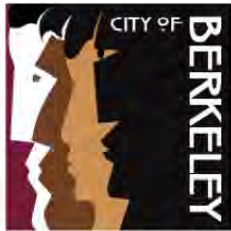
\* \* \* \* \*

At a regular meeting of the Council of the City of Berkeley held on November 3, 2022, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.



Disaster and Fire Safety Commission

CONSENT CALENDAR  
June 1, 2021

To: Honorable Mayor and Members of the City Council  
From: Disaster and Fire Safety Commission  
Submitted by: Jose Bedolla, Chairperson, Disaster and Fire Safety Commission  
Subject: Referral Response: Amending Chapter 19.34 of the Berkeley Municipal Code to Expand Automatic Gas Shut-Off Valve Requirements in Multifamily, Condominium and Commercial Buildings Undergoing Renovations

RECOMMENDATION

The proposed ordinance modifications in the referral dated October 29, 2019, shown in Attachment 2 to the staff report (the Referral), can be briefly summarized as:

- Expand the Gas Shut-Off Valve requirements to remove exceptions for multi-family, condominium, and commercial buildings

The Disaster and Fire Safety Commission (DFSC) recommends that changes of the Berkeley Municipal Code be referred to the City Manager and Planning Department to be modified in accordance with the Referral as part of the 2022 Code adoption cycle, including the following changes:

1. Do not allow excess flow valves to substitute for motion-activated shut-off valves as a way to comply with this ordinance.
2. Clarify requirements for excess flow valves and motion activated (seismic) valves.
3. Include a provision to include gas valves for common areas when required for any individual unit of a building.
4. Do not include any requirements regarding sale or transfer of the building.
5. Remove the dollar limit on the modifications and replace with a requirement to comply any time a plumbing or mechanical permit is issued.

In addition, the Commission recommends the inclusion of wording in the Berkeley Emissions Saving Ordinance (BESO) to require that in any transfer of property, that the property be required to equipped with a seismic gas shutoff valve.

FISCAL IMPACTS OF RECOMMENDATION

Staff savings realized from first responders not having to shut off valves manually in case of emergency.



Costs will include staff time to submit ordinance to the Building Standards Commission. In addition, building inspector staff time will be necessary to ensure compliance with new provisions.

#### CURRENT SITUATION AND ITS EFFECTS

Currently, BMC 19.34.040 requires automatic gas shut-off valves in all new construction or existing buildings that undergo repair or alteration exceeding \$50,000 consistent with sewer lateral requirements. However, it makes several exceptions for multi-unit buildings, as described in Attachment 2. As a result, residents of multi-unit buildings as well as neighboring buildings that may be impacted by a gas-driven fire after an earthquake, are not protected by a gas shut-off valve requirement.

#### BACKGROUND

In October of 2019 the Disaster and Fire Safety Commission received a referral from Councilmembers Harrison, Wengraf, Hahn, and Bartlett on modifications to the BMC 19.34.040 Gas Shut-Off Valves ordinance.

The Referral's proposed ordinance modifications expands the Gas Shut-Off Valves requirement by removing several exceptions, including an exception for multi-unit buildings.

The Referral was discussed by the DFSC in the 12/4/19, 1/22/20, and 2/26/20 meetings. Several meetings subsequent were cancelled due to Covid-19.

At the March 24, 2021 regular meeting of the Disaster and Fire Safety Commission, the commission took the following action:

**Action:** Recommend that changes of the Berkeley Municipal Code be referred to the City Manager and Planning Department to be modified in accordance with the Referral as part of the 2022 Code adoption cycle: Couzin

Second: Stein

**Vote:** 9 Ayes - Couzin, Dean, Bradstreet, Degenkolb, Grimes, Bedolla, Simmons, Rader, Stein.

Additional background can be found in the Referral, Attachment 1.

#### ENVIRONMENTAL SUSTAINABILITY

In addition to potentially saving lives and property, increasing gas shut-off valve use may reduce the spread of house-fires and wildland-urban interface fires, reducing the pollution, hazardous waste, loss of habitat, and other environmental damage caused by uncontrolled fires, and reducing greenhouse gas emissions caused by gas leaks after an earthquake.

### RATIONALE FOR RECOMMENDATION

The DFSC generally concurs with the rationale for this recommendation described in the Referral. The modifications to the ordinance are intended to increase the use of automatic gas shutoff valves to help reduce or prevent gas-related fires in the event of an earthquake.

In a major earthquake, gas piping is subjected to forces which may result in significant leaks of natural gas. These leaks can in turn result in serious fires or explosions.

A good article about the dangers of gas fires in an earthquake and the performance of Motion Activated Gas Shutoff Valves can be found here:

<http://www.strandearthquake.com/psgsv.html>.

The DFSC differs from the Referral regarding excess flow valves:

The ordinance modifications in the Referral allow the use of excess flow shut-off valves in place of motion-activated shut-off valves. The DFSC recommends against allowing excess flow valves to substitute for motion-activated shut-off valves.

Excess flow valves are appropriate for connection to individual appliances and are readily available incorporated in appliance connection lines. However, these valves would have to allow for a very large flow if connected to a whole house, and the leaks resulting from an earthquake may not be adequate to trigger an excess flow valve, while still being large enough to create a severe potential for fire or explosion.

Therefore, we recommend against allowing excess flow valves at the whole-house level to satisfy the requirements of the ordinance. Our edits in Attachment 1 incorporate this suggestion.

The DFSC believes that setting a minimum project value to trigger the installation of seismic gas shutoff valves is not the right way to trigger that requirement. In practice, the installation of a Seismic Gas Shutoff Valve is a simple task for a plumbing or mechanical contractor, however it is not within the designated ability of many other contractors. The \$10,000 minimum value set could easily be exceeded by work done by persons not approved to contract for such work, which could add significantly to the cost of a contract. On the other hand, the work required to install a seismic shutoff valve is generally less than an hour for a mechanical or plumbing contractor and the valve itself will usually cost less than \$150. The change in cost to the property owner should be minor compared to the cost of the other work performed under mechanical or plumbing permits. Therefore, it makes sense to require that having an operational seismic gas shutoff valve in place to receive a final signoff on a permit is not a significant burden to the property owner.

Finally, the DFSC has been informed that the building department does not get involved with transfer of property except as permit applications are filed. Any requirements affecting the transfer of property, especially those involving natural gas service, should be addressed through the Office of Energy and Sustainable Development.

ALTERNATIVE ACTIONS CONSIDERED

n/a This is in response to a City Council referral.

CITY MANAGER

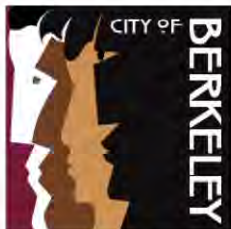
The City Manager concurs the content and recommendations of the Commission's Report.

CONTACT PERSON

Keith May, Secretary, Disaster and Fire Safety Commission, 510-981-5508

Attachments:

1. 10/19/2019 referral to the Disaster and Fire Safety Commission



Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
October 29, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Harrison, Wengraf, Hahn, and Bartlett  
Subject: Amending Chapter 19.34 of the Berkeley Municipal Code to Expand Automatic Gas Shut-Off Valve Requirements in Multifamily, Condominium and Commercial Buildings Undergoing Renovations and to All Existing Buildings Prior to Execution of a Contract for Sale or Close of Escrow

RECOMMENDATION

Refer to the Disaster and Fire Safety Commission to consider an ordinance amending Berkeley Municipal Code (BMC) 19.34.040 to expand requirements for automatic natural gas shut-off valves or excess flow valves in multifamily, condominium and commercial buildings undergoing renovations and in all existing buildings prior to execution of a contract for sale or close of escrow. Ask the Commission to consider other triggers as appropriate.

POLICY COMMITTEE RECOMMENDATION

On October 3, 2019, the Facilities, Infrastructure, Technology, Environment & Sustainability Committee adopted the following action: M/S/C (Harrison/Robinson) to send the item with a Positive Qualified Recommendation back to the City Council with the following amendments.

Amend the recommendation revised to read as follows:

1. Refer to the Disaster and Fire Safety Commission to consider an ordinance amending Berkeley Municipal Code (BMC) 19.34.040 to expand requirements for automatic natural gas shut-off valves or excess flow valves in multifamily, condominium and commercial buildings undergoing renovations and in all existing buildings prior to execution of a contract for sale or close of escrow and to ask the Commission to consider other triggers as appropriate.

Amend the Financial Implications to read:

Staff savings realized from responders not having to shut off gas in an emergency.

Vote: All Ayes.

## BACKGROUND

The California Building Standards Code, or Title 24 of the California Code of Regulations, specifies the standards for buildings and other structures in California. Title 24 is intended to protect public health, safety, and general welfare building occupants, and is updated at the state level and adopted by local jurisdictions every three years. Municipalities are permitted to make local amendments to the Building Standards Code<sup>1</sup> as deemed necessary for general welfare, as long as they are submitted to the California Building Standards Commission with the necessary findings. The ideal time to update local buildings codes is before the next code cycle. Berkeley will adopt the 2019 code on January 1, 2020.

Natural gas in buildings poses significant risks to health and safety. A recent ordinance adding Chapter 12.80 to the Berkeley Municipal Code phases out natural gas in new buildings.<sup>2</sup> This will make Berkeley's new building stock safer and greener over time, but there is an outstanding need to prevent seismic and other disasters in existing buildings.

Gas shut-off valves are a component of a plumbing system capable of preventing the flow within a gas piping system. Shut-off valves allow for a resident to stop the flow of gas in their homes in case of an emergency, such as an earthquake or a gas leak.

All existing buildings, if they have natural gas, should have a shut-off valve of some kind. However, manual shut-off valves require timely attention during a seismic event, physical access and exertion, and mechanical knowledge to operate. In case of a natural disaster, relying purely on manual shut-off valves can be dangerous. For example, following the 2010 San Bruno explosion, Pacific Gas & Electric officials testified before the National Transportation Safety Board that "gas feeding the flames could have been shut off an hour earlier if PG&E had automatic or remotely controlled valves on the pipeline that exploded."<sup>3</sup> Since the San Bruno explosion, gas companies across California have urged a fast transfer to automatic shut-off valves.

Currently, BMC 19.34.040 requires automatic gas shut-off valves in all new construction or existing buildings that undergo repair or alteration exceeding \$50,000 consistent with sewer lateral requirements. However, it makes blanket exceptions for buildings with individually metered residential units when the building contains five or more residential units, unless the units are condominiums, putting renters at risk of physical harm.

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<sup>1</sup> "Local Amendments to Building Standards—Ordinances," California Building Standards Commission, <https://www.dgs.ca.gov/BSC/Codes/Local-Jurisdictions-Code-Ordinances>.

<sup>2</sup> Susie Cagle, "Berkeley became first US city to ban natural gas. Here's what that may mean for the future," The Guardian, <https://www.theguardian.com/environment/2019/jul/23/berkeley-natural-gas-ban-environment>.

<sup>3</sup> Paul Rogers, "PG&E officials grilled about automatic shut of valves," Mercury News, March 1, 2011, <https://www.mercurynews.com/2011/03/01/pge-officials-grilled-about-automatic-shut-off-valves-3/>.

In recommending this exception for multi-unit buildings in 2010, City staff intended to reduce the cost burden to property owners. For example, City staff were concerned that the ordinance would require very large multifamily buildings to install shut-off valves in every unit in a 50 unit building when completing a \$50,000 renovation.<sup>4</sup>

While financial costs are important, there will also likely be significant costs to human life and property resulting from natural gas infrastructure during seismic events that far outweigh the costs to property owners for installing shut-off valves. A more-tailored and comprehensive approach was adopted by the City of Los Angeles's 1997 policy in the wake of the Northridge Earthquake, requiring valves in all multifamily, condominium and commercial units when a permit for any addition, alteration or repair valued in excess of \$10,000 is taken out affecting the entire building, or in specific units affected by work in excess of \$10,000.<sup>5</sup>

This item proposes to apply the \$50,000 threshold for all work affecting multifamily, condominium and commercial buildings exclusive of work affecting the units and apply a \$10,000 threshold to work in excess of \$10,000 inclusive of any individual unit. In addition, this item proposes maintaining the current single-family home requirement when a permit is taken out of any addition, alteration or repair valued in excess of \$50,000.

Consistent with the Los Angeles code, the item removes the exception for commercial occupancies and uses in mixed use buildings of residential and non-residential occupancies with a single gas service line larger than 1 1/2 inches that serves the entire building. Berkeley City staff in 2010 previously suggested that pipes larger than 1 1/2 inches were marginally more expensive to retrofit with valves and therefore warranted an exception. Though upon further review, the few additional hundred dollars in labor and materials per valve does not warrant an exception due to ongoing risks to health and safety.

Berkeley is on top of one of California's most dangerous fault lines, the Hayward fault, making it prone to earthquakes. The extreme fire risk associated with natural gas infrastructure is illustrated by the 2017 U.S. Geological Survey stimulation of "a 7.0 quake on the Hayward fault line with the epicenter in Oakland." The agency's report predicted that "about 450 large fires could result in a loss of residential and commercial building floor area equivalent to more than 52,000 single-family homes and cause

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<sup>4</sup> "Installation of Automatic Gas Shut-off Valves," Berkeley Planning and Development Department, July 13, 2010, <https://www.cityofberkeley.info/recordsonline/api/Document/Af7NhvRQQKZ1%C3%81%C3%89xY9QpwmChW6QBqKp%C3%89scsKBclRXOVsvA1QlgXjP%C3%89Rs2zLVn2kCnCNjn918yaZSDbGqiogM WpBM%3D/>

<sup>5</sup> City of Los Angeles Ordinance No. 171874, December 16, 1997, [http://clkrep.lacity.org/onlinedocs/1995/95-0217-S1\\_ORD\\_171874\\_02-05-1998.pdf](http://clkrep.lacity.org/onlinedocs/1995/95-0217-S1_ORD_171874_02-05-1998.pdf); See also, City of Los Angeles Plumbing Code Section 94.1217.0.

property (building and content) losses approaching \$30 billion.”<sup>6</sup> The report identified ruptured gas lines as a key fire risk factor. This finding mirrors the destructive gas fires resulting from the Loma Prieta (1989) and Northridge (1994) earthquakes. According to the most recent census, 59.1% of units in Berkeley are occupied by renters.<sup>7</sup> It is vital to extend the shut-off valve requirement to rental units to prioritize the health and safety of all Berkeley residents and the broader community.

Beyond extending this protection to large rental buildings during major renovations, this ordinance amends BMC 19.34 to mirror the City of Los Angeles’s code to require installing automatic shut-off valves prior to execution of a contract for sale in all buildings and units therein.

The transfer of property triggers various state and local building code requirements. For example, at time of sale the state health and safety code requires that, gas water heaters are seismically braced, anchored, or strapped.<sup>8</sup> Other local ordinances related to environment, such as the BMC 19.81: the Building Energy Saving Ordinance, require energy efficiency reports prior to time of sale. The intention of Section 1209.4.2 is to ensure that all buildings that are sold in Berkeley include automatic gas shut-off valves, therefore enhancing seismic safety across the existing building stock.

#### FINANCIAL IMPLICATIONS

Staff savings realized from first responders not having to shut off valves manually in case of emergency.

Staff time to submit ordinance to the Building Standards Commission. In addition, building inspector staff time will be necessary to compliance with new provisions.

#### ENVIRONMENTAL SUSTAINABILITY

Mandating shut-off valves in rental units undergoing renovation and all units at sale will prevent the excess release of greenhouse gases (methane) due to gas leaks and fires during seismic events and other related emergencies.

#### CONTACT PERSON

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

#### ATTACHMENTS

1: Ordinance

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<sup>6</sup> “The HayWired earthquake scenario—Engineering implications,” U.S. Geological Survey, April 18, 2018, <https://pubs.er.usgs.gov/publication/sir20175013v2>.

<sup>7</sup> “Bay Area Census: City of Berkeley” <http://www.bayareacensus.ca.gov/cities/Berkeley.htm>

<sup>8</sup> Health and Safety Code § 18031.7, [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=18031.7.&lawCode=HSC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=18031.7.&lawCode=HSC)

AMENDING CHAPTER 19.34 OF THE BERKELEY MUNICIPAL CODE TO EXPAND  
AUTOMATIC GAS SHUT-OFF VALVE REQUIREMENTS IN MULTIFAMILY,  
CONDOMINIUM AND COMMERCIAL BUILDINGS UNDERGOING RENOVATIONS  
AND TO ALL EXISTING BUILDINGS PRIOR TO EXECUTION OF A CONTRACT FOR  
SALE OR CLOSE OF ESCROW

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

Section 1. That Berkeley Municipal Code Section 19.36.040 is hereby amended to read as follows:

**19.34.040 Gas Shut-Off Valves.**

Chapter 12 of the 2016~~9~~ California Plumbing Code is adopted in its entirety subject to the modifications thereto which are set forth below.

**1209.2 General Requirements for Gas Shut-Off Valves.** Automatic gas shut-off valves installed either in compliance with this Section or voluntarily pursuant to a plumbing permit issued on or after the effective date of this Section, shall comply with the following:

**1209.2.1** All valves shall:

1. Comply with all applicable requirements of the Berkeley Plumbing Code.
2. Be tested and listed by recognized testing agencies such as the Independent Laboratory of the International Approval Services (IAS), Underwriter's Laboratory (UL), International Association of Plumbing and Mechanical Officials (IAPMO) or any other agency approved by the State of California Office of the State Architect (OSA).
3. Be listed by the State of California Office of the State Architect (OSA).
4. Be installed on downstream side of the gas utility meter.
5. Be installed in accordance with the manufacturer's instructions.
6. Be installed in accordance with a plumbing permit issued by the City of Berkeley.
7. Provide a method for expedient and safe gas shut-off in an emergency.
8. Provide a capability for ease of consumer or owner resetting in a safe manner.

**1209.2.2** Motion activated seismic gas shut-off valves shall be mounted rigidly to the exterior of the building or structure containing the fuel gas piping, unless otherwise specified in the manufacturer's installation instructions.

**1209.3 Definitions**



For the purpose of this Section terms shall be defined as follows:

**AUTOMATIC GAS SHUT-OFF VALVE** shall mean either a motion activated gas shut-off valve or device or an excess flow gas shut-off valve or device.

**DOWNSTREAM OF GAS UTILITY METER** shall mean all gas piping on the property owner's side of the gas meter and after the service tee.

**EXCESS FLOW GAS SHUT-OFF VALVE** shall mean an approved valve or device that is activated by significant gas leaks or overpressure surges that can occur when pipes rupture inside a structure. Such valves are installed at each appliance, unless otherwise specified by the manufacturer's installation instructions.

**MOTION ACTIVATED GAS SHUT OFF VALVE** shall mean an approved gas valve activated by motion. Valves are set to activate in the event of a moderate or strong seismic event greater than 5.0 on the Richter scale.

**UPSTREAM OF GAS UTILITY METER** shall mean all gas piping installed by the utility up to and including the meter and the utility's service tee.

**1209.4 Devices When Required.** Approved automatic gas shut-off or excess flow valves shall be installed as follows:

**1209.4.1 New Construction.** In any new building construction containing gas piping for which a building permit is first issued on or after the effective date of this Section.

**1209.4.2 Existing Buildings.** In any existing building, when any addition, alteration or repair is made for which a building permit is issued on or after the effective date of this Section and the valuation for the work exceeds \$50,000.

**1209.4.2.1 Multifamily, Condominium and Commercial Buildings.**

1. In any existing commercial, multifamily and condominium and commercial building, and applicable to all units and tenant spaces therein if the building is individually metered and lacks a central automatic shut-off valve downstream of the utility delivery point, when any addition, alteration or repair exclusive of individual units or tenant spaces is made for which a building permit is issued on or after the effective date of this Section and the valuation for the work exceeds \$50,000.
2. In any existing commercial, multifamily and condominium unit for all gas piping serving only those individual units, when any addition, alteration or repair inclusive of individual units or tenant spaces is made for which a building permit is issued on or after the effective date of this Section and the valuation for the work exceeds \$10,000.

**1209.4.3 Sale of Existing Buildings.**

The requirement to install seismic gas shutoff or excess flow shutoff valves shall apply

prior to entering into a contract of sale, or prior to the close of escrow when an escrow agreement has been executed in connection with a sale as follows:

1. in any building or structure, and all units therein when gas piping serving those units lacks a central automatic shut-off valve downstream of the utility delivery point; or
2. in an individual condominium unit for all gas piping serving that individual unit.

**1209.4.4 Exceptions:**

~~1. Buildings with individually metered residential units when the building contains 5 or more residential units, unless the units are condominiums.~~

~~2. For residential or mixed use condominium buildings, valves are required when the value of the work exceeds \$50,000 in any single condominium unit or when any work done outside of the units exceeds \$50,000.~~

~~3. Commercial occupancies and uses in mixed use buildings of residential and non-residential occupancies with a single gas service line larger than 1 1/2 inches that serves the entire building.~~

14. Automatic gas shut-off valves installed with a building permit on a building prior to the effective date of this Section provided the valves remain installed on the building or structure and are adequately maintained for the life of the building or structure.

25. Automatic gas shut-off valves installed on a gas distribution system owned or operated by a public utility.

Section 2. The effective date of this amendment shall be January 1, 2020, or the effective adoption date of the 2019 California Building Standards Code, whichever is sooner.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 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.



**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL  
ADOPTION OF BERKELEY BUILDING CODES**

The Department of Planning and Development is proposing that the City Council adopt the second reading of an Ordinance repealing and reenacting the Berkeley Building, Residential, Electrical, Mechanical, Plumbing, Energy, and Green Building Standards Codes in BMC Chapters 19.28, 19.29, 19.30, 19.32, 19.34, 19.36 and 19.37, and adopting related procedural and stricter provisions.

The hearing will be held on November 29, 2022 at 6:00 p.m. The hearing will be held via videoconference pursuant to Government Code Section 54953(e) and the state declared emergency.

A copy of the agenda material for this hearing will be available on the City’s website at [www.berkeleyca.gov](http://www.berkeleyca.gov) as of **November 17, 2022**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Alex Roshal, Chief Building Official, Manager of Building and Safety Division, Planning and Development Department, 510-981-7445. Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to [council@cityofberkeley.info](mailto:council@cityofberkeley.info) in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Published:** November 11 & November 18, 2022  
**California Government Code section 50022.3**

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on November 17, 2022.

Mark Numainville, City Clerk



Office of the City Manager

PUBLIC HEARING
November 29, 2022

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Jordan Klein, Director, Planning & Development Department
 Subject: Re-enactment of the Berkeley Housing Code

RECOMMENDATION

Conduct a public hearing, and upon conclusion adopt the second reading of Ordinance No. 7,840-N.S. to repeal Berkeley Municipal Code (BMC) Chapter 12.48 (Residential Rental Housing Safety Program), and to repeal and re-enact BMC 19.40 (Berkeley Housing Code), incorporating BMC Chapter 12.48 into BMC Chapter 19.40.

SUMMARY

This report provides background on the ordinance to consolidate and update housing code regulations in the BMC and explains key changes, which reflect code updates and local operations. The Berkeley Housing Code provides minimum standards for housing and property maintenance to ensure safe housing for tenants. Housing inspectors use the code during inspections of rental properties to identify code violations and require owners to correct them. The Berkeley Housing Code has not been updated in almost 20 years. The revised Housing Code will serve the community, benefitting tenants, property owners, and staff by making the Housing Code clear, accessible, up to date, and more enforceable.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The purpose of the Berkeley Housing Code is to safeguard, remedy and prevent the decay and deterioration of residential buildings and property by providing minimum standards for housing and property maintenance, and for the protection of life, health, welfare, and the safety of the general public and the occupants and owners of such buildings. The Rental Housing Safety Program (RHSP) enforces the provisions of the Berkeley Housing Code by identifying housing violations when responding to tenant complaints and conducting proactive housing inspections of rental housing.

The Berkeley Housing Code is scoped and defined as BMC Chapter 19.40 and applicable provisions of the currently adopted editions of the California Building Code, California Existing Building Code, California Electrical Code, California Mechanical

Code, California Plumbing Code, and of the State Housing Law and applicable regulatory ordinances enacted by the City and listed in Title 19 of the Berkeley Municipal Code.

This ordinance restructures and updates BMC Chapter 19.40, which has not been significantly updated for over 20 years, retaining the existing content, editing for clarity and including additional sections to reflect code updates and local operations. Since the RHSP is under the jurisdiction of the Building Official, RHSP provisions formerly contained in BMC 12.48 were moved into Title 19 Buildings and Construction, in Section 19.40.080. Attachment 2 to this staff report, "Explanation of Significant Changes to the Berkeley Housing Code," identifies how the Berkeley Housing Code has been restructured, describes new content, and provides the rationale for the proposed changes. This report highlights the most significant changes. The re-enactment of the Berkeley Housing Code supports the City's Strategic Plan goal to create a resilient, safe, connected, and prepared city.

The re-enacted Berkeley Housing Code is reflective of the state housing law provisions in Title 25 of the California Code of Regulations (CCR) as well as the applicable provisions in the Health and Safety Code for buildings used for human habitation. The current Berkeley Housing Code references multiple chapters from the 1997 Uniform Housing Code. Despite still being a part of state housing law in California, the 1997 Uniform Housing Code is out of publication and not easily found. This generates complaints from property owners who are unable to locate applicable code sections. The amended Berkeley Housing Code corrects this problem by reproducing all relevant sections from the 1997 Uniform Housing Code, with minor modifications and updates to improve clarity for the end-user. In addition, the complete definition of substandard housing from Health and Safety Code Section 17920.3 has been incorporated into the Berkeley Housing Code, due to its importance. These additions will make the Berkeley Housing Code more transparent and readable for tenants and property owners, providing direct references from the Berkeley Housing Code, reducing instances where a violation references another code.

Under Section 103 Scope and Applicability, new Sections 103.6 and 103.7 are intended to allow the Building Official to use the most flexible provisions if there are conflicts between codes. These sections allow use of the "least restrictive" standards when dealing with unpermitted dwelling units, including standards in effect at the time of construction, current code standards, or "reasonable alternatives to the requirements of prior code editions," provided the building (or any portion thereof) does not become or continue to be a substandard or unsafe building. This code language will reduce the risk of taking housing units off the market while trying to comply with more restrictive code requirements. This approach will also enable the City to develop a viable amnesty program for undocumented units, a current City Council referral.

The Housing Code has been updated to reflect changes in the California Building Code. The California Building Code is revised every three years, and over time, has become more flexible than the existing outdated Berkeley Housing Code. For example, requirements for new construction pertaining to natural light, ventilation and ceiling heights have become less stringent and more flexible by providing certain exemptions and alternatives not currently found in the existing Berkeley Housing Code. Major changes were made to the California Building Code, Residential Code, and Energy Code in 2008 when the state adopted International Codes. The re-enacted Berkeley Housing Code recognizes different requirements for residential units built or remodeled after 2008, so there is no conflict between the California Building Code and the Berkeley Housing Code.

The re-enacted Berkeley Housing Code reflects and codifies Berkeley's approach to code enforcement, which emphasizes education, voluntary compliance and a gradual enforcement approach. The only enforcement mechanism currently in the Berkeley Housing Code is a Notice and Order, which is a punitive measure that obligates the City to take action if substandard conditions are not abated by the owner in a timely manner, such as seeking a court appointed receiver. The re-enacted Berkeley Housing Code adds Section 1002, which allows inspectors to issue a Notice of Violation as the first step in the code enforcement process if substandard conditions are observed. It provides the property owner with a list of Housing Code violations, the actions required to remedy the violations, and the time frame to correct. After issuing multiple notices of violation, if the problem has not been corrected or if conditions deteriorate to endanger the life and safety of the occupants, the City may issue a Notice and Order to escalate enforcement efforts. Unless there is an immediate hazard, a Notice of Violation precedes issuance of a Notice and Order, and the City would resort to code enforcement proceedings only after efforts to secure voluntary compliance had failed.

The State of California established statewide inspection requirements for exterior elevated elements when it added Section 17973 to the Health and Safety Code, effective January 1, 2019 and Section 5551 to the California Civil Code, effective January 1, 2020. These requirements are based on Berkeley's exterior elevated elements inspection requirements enacted in 2015, but with a few modifications, including different timeframes. The Berkeley Housing Code is being amended to align with state law, with the timeframe of the inspection cycle adjusted to every six years for rental properties and every nine years for condominiums.

Other significant modifications in the ordinance include:

- Provisions for smoke alarms and carbon monoxide alarms from the California Building Code have been incorporated into the Berkeley Housing Code (Section 19.40.070), since inspectors frequently note violations related to fire detection systems. This will allow inspectors to directly reference the Berkeley Housing Code for these violations.

- Section 19.40.140 adopts specific lien and special assessment procedures to strengthen enforceability. This Section also specifies these apply to administrative citations as well as inspection fees.

BACKGROUND

In 2015, the City Council referred to the City Manager to improve and expand the RHSP. Updating the Berkeley Housing Code has been a priority to support the expansion of proactive inspections and the effort to improve the quality of housing and the quality of life for tenants in Berkeley.

There have only been three minor updates to the Berkeley Housing Code since 1999: an administrative update in 2003, establishment of the exterior elevated elements inspection requirement in 2015, and the repeal of the certification of gas heating equipment in 2011 after the State passed a law requiring all owners to install carbon monoxide detection devices. For the current effort, staff conducted extensive research and reviewed housing codes from numerous other jurisdictions.

Commissions

The 4x4 Joint Task Force Committee on Housing reviewed the amendments at its meeting on September 28 and voted unanimously to recommend Council adopt the amendments with the following motion:

M/S/C (Robinson/Arreguin) Recommend that City Council adopt amendments to Berkeley Housing Code as proposed by Planning Department staff. Roll call vote. YES: Arreguin, Harrison, Johnson, Kelley, Robinson, Simon-Weisberg, Taplin; NO: None; ASBSTAIN: None; ABSENT: Alpert. Carried: 7-0-0-1.

The Housing Advisory Commission (HAC) is scheduled to consider this item at its meeting on October 6. Its action will be included as a supplemental communication. Staff presented the proposed Housing Code revisions at the HAC meeting on September 1. Several suggestions provided by HAC Commissioners have been incorporated and noted in Attachment 2, "Explanation of Changes to the Housing Code."

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The hot water requirement in the Berkeley Housing Code has been updated from 120°F to 110°F to be consistent with the state housing law provisions in Title 25 of the California Code of Regulations. The comfort space heating requirement has been updated from 70°F to 68°F to reflect the State Energy Code. These lower temperatures allow for energy conservation.

RATIONALE FOR RECOMMENDATION

The Berkeley Housing Code needs updating. The current code in BMC Chapter 19.40 adopts the 1997 Uniform Housing Code by reference. The newly revised Chapter 19.40 is better organized, incorporates all relevant sections of the Uniform Housing Code with local modifications, and is based on California Code of Regulations Title 25 State Housing Law Regulations and Health and Safety Code Regulation of Buildings Used for Human Habitation. The description of and rationale for the significant changes to the Berkeley Housing Code are included in Attachment 2, “Explanation of Significant Changes to the Berkeley Housing Code.”

The revised Berkeley Housing Code will benefit tenants, help property owners fulfill their obligations as landlords, and assist inspectors in doing their jobs by better substantiating the violations they write. BMC Chapter 19.40 is an educational asset and will serve the community by eliminating confusion, making the Berkeley Housing Code accessible and easier to use. It will help tenants verify habitability requirements and understand the basis of violations in their units. It provides clearer and more specific context for describing violations and facilitating abatement work.

ALTERNATIVE ACTIONS CONSIDERED

No alternatives were considered.

CONTACT PERSON

Jenny McNulty, Resilient Buildings Program Manager, Planning, 981-7451
Alex Roshal, Manager of Building and Safety Division, 981-7445

Attachments:

- 1: Ordinance repealing BMC 12.48 and repealing and re-enacting BMC 19.40
- 2: Explanation of Significant Changes to the Berkeley Housing Code
- 3: Public Hearing notice

ORDINANCE NO. 7,840-N.S.

REPEALING BMC 12.48 AND REPEALING AND RE-ENACTING BMC 19.40

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

Section 1. That Berkeley Municipal Code Chapter 12.48 is hereby repealed.

Section 2. That Berkeley Municipal Code Chapter 19.40, the Berkeley Housing Code, is hereby repealed and re-enacted, effective January 1, 2023, to read as follows:

**Chapter 19.40
Berkeley Housing Code**

- 19.40.010 Scope and Administration**
- 19.40.020 Definitions**
- 19.40.030 Space and Occupancy Standards**
- 19.40.040 Structural Requirements**
- 19.40.050 Mechanical and Electrical Requirements**
- 19.40.060 Exits**
- 19.40.070 Fire Protection**
- 19.40.080 Rental Housing Safety**
- 19.40.090 Substandard Housing**
- 19.40.100 Notices of the Building Official**
- 19.40.110 Enforcement of Orders**
- 19.40.120 Performance of Repair or Demolition**
- 19.40.130 Recovery of Cost of Repair or Demolition**
- 19.40.140 Recovery of Costs for Housing Code Enforcement and Administration**

19.40.010 Scope and Administration

101 – Title

This chapter shall be known as the “Berkeley Housing Code” and may be cited in this Chapter as “this Code”.

The following provisions of the Uniform Housing Code (UHC), 1997 Edition have been incorporated into this Code subject to the local modifications thereto which are set forth below: 1997 UHC Chapters 1 and 4-9, except Section 701.1

In administering the substantive provisions of this Code, the City shall be guided by the regulations issued by the California Department of Housing and Community Development in Title 25 of the California Code of Regulations, Division 1, Chapter 1, Subchapter 1 State Housing Law Regulations, as well as applicable provisions of the California Health and Safety Code, Division 13, Part 1.5 Regulation of Buildings Used for Human Habitation, Sections 17910 to 17998.3, and other housing related Codes adopted by the State of California.

102 – Purpose

The purpose of this Code is to safeguard, remedy and prevent the decay and deterioration of residential buildings and property as defined herein by providing minimum housing and property maintenance standards for the protection of life, health, welfare, and the safety of the general public and the occupants and owners of such buildings within the City of Berkeley.

103 – Scope and Applicability

1. The provisions of the Housing Code shall apply to all buildings or portions thereof used, or designed or intended to be used, for human habitation. This Chapter is not an exclusive regulation of housing within the City of Berkeley. It shall supplement, be accumulative with, and be in addition to any applicable regulatory ordinances enacted by the City and listed in Title 19 of the Berkeley Municipal Code and any applicable State or Federal laws enacted by the State or Federal government or any other legal entity that may have jurisdiction.

2. Existing buildings and all portions thereof may have their existing use or occupancy continued, provided the building or portion thereof met the code requirements in effect at the time of construction, addition or alteration, and such continued use is not dangerous to life and is not substandard.

3. Existing buildings and all portions thereof shall be maintained in a safe and sanitary condition. All devices, components or safeguards, which are required by this Code,

shall be maintained in conformance with the Code edition under which installed, unless otherwise required by the Berkeley Building Code or other adopted ordinance or state law applied retroactively.

4. Existing buildings which are altered or enlarged shall be made to conform to this Code insofar as the new work is concerned, and in accordance with the adopted edition of the California Building Standards Code.

5. Any references to the provisions of former code editions shall be construed to apply to the corresponding provisions contained within the currently adopted edition of the California Building Standards Code.

6. Notwithstanding anything set forth or provided for in this chapter, if there is a conflict or discrepancy between the provisions of this Code, the State Housing Law, or the California Building Standards Code the Building Official is authorized to apply building standards which provide for the most flexibility to maintain continuity of housing, provided a substandard condition is not created or continued.

7. When a building permit record for a residential unit does not exist, the Building Official is authorized to make a determination of when the residential unit was constructed and then apply the building standards in effect when the residential unit was determined to be constructed or the current building standards, whichever is the least restrictive, provided the building does not become or continue to be a substandard or unsafe building. The Building Official is authorized to accept reasonable alternatives to the requirements of the prior or current code editions when dealing with unpermitted dwelling units.

8. Notwithstanding any provisions contrary in this Chapter, any building or portion thereof constructed in compliance with the Berkeley Building or Residential Codes shall not be deemed to be in violation of the Berkeley Housing Code provisions that may conflict.

104 – Authority

The City Manager is hereby authorized and directed to designate City departments and employees to administer and enforce all of the provisions of this code. City personnel designated to enforce this Code shall have the powers of a law enforcement officer.

The Building Official shall have the power to render interpretations of this Code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this code. The Building Official has the authority to delegate the implementation, administration and enforcement of the provisions of this code to

housing inspectors, building inspectors, and other technical officers and employees. Such employees shall have powers as delegated by building official.

105 – Right of Entry

When it is necessary to make an inspection to enforce the provisions of this Code, or when the Building Official has reasonable cause to believe there exists in a building or upon a premises a condition which is contrary to or in violation of this Code, which makes the building or premises unsafe, dangerous or hazardous, the Building Official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this Code, provided that such building or premises be occupied, that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

106 – Responsibilities Defined

Owners remain liable for violations of duties imposed by this Code even though an obligation is also imposed on the occupants of the building, and even if the owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this Code.

The owner or the owner's designated agent shall be responsible for maintaining buildings and structures and parts thereof in a safe and sanitary condition. To determine compliance with this subsection, the building may be re-inspected.

Owners, in addition to being responsible for maintaining buildings in a sound structural condition, shall be responsible for keeping that part of the building or premises which the owner occupies or controls in a clean, sanitary and safe condition, including the shared or public areas in a building containing two or more dwelling units.

Owners shall, when required by this Code, the Health Ordinance or the Health Officer, furnish and maintain such approved sanitary facilities as required, and shall furnish and maintain approved devices, equipment or facilities for the prevention of insect and rodent infestation, and when infestation has taken place, shall be responsible for the extermination of any insects, rodents or other pests when such extermination is not specifically made the responsibility of the occupant by law or ruling.

Occupants of a dwelling unit, in addition to being responsible for keeping in a clean, sanitary and safe condition that part of the dwelling or dwelling unit or premises which

they occupy and control, shall dispose of their rubbish, garbage and other organic waste in a manner required by the Health Ordinance and approved by the Health Officer.

Occupants shall, when required by this Code, the Health Ordinance or the Health Officer, furnish and maintain approved devices, equipment or facilities necessary to keep their premises safe and sanitary.

107 – Owner or Representative to Reside on Premises

1. The owner of every apartment house in which there are 16 or more apartments, and every hotel in which there are 12 or more guest rooms, shall either reside on the premises or ensure that a manager resides upon the premises.
2. Only one caretaker is required under this section for all structures under one ownership and on one contiguous parcel of land.
3. If the owner does not reside upon the premises of any apartment house in which there are more than four but less than 16 apartments, a notice stating his/her name and address, or the name and address of his/her agent in charge of the apartment house, shall be posted in a conspicuous place on the premises.

108 – Violations

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this Code. Violations of this Code may be charged as infractions or misdemeanors, at the discretion of the enforcing officer. Charging violations of this Code as public offenses does not in any way limit any other remedies that might be available.

109 – Housing Advisory and Appeals Board

109.1 General. The Housing Advisory Commission (“Commission”) as defined in this Code and Chapter 19.44 of the Berkeley Municipal Code shall serve as the “Board of Appeals” and “Housing Advisory and Appeals Board” referred to in this Code. The Commission shall hear and decide appeals of orders, decisions or determinations made by the Building Official under this Code.

109.2 Limitations of Authority. The Housing Advisory and Appeals Board shall have no authority relative to interpretation of the administrative provisions of this Code nor shall the Board be empowered to waive requirements of this Code.

19.40.020 Definitions

201 – General

201.1 Terms Defined in Other Codes. Where terms are not defined in this Code and are defined in the California Building Code, California Existing Building Code, California Electrical Code, California Mechanical Code, California Plumbing Code or California Fire Code, such terms shall have the meanings ascribed to them in those codes.

201.2 Terms Not Defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinary accepted meanings such as the context applies. Webster's Third New California Dictionary of the English Language, Unabridged, latest edition, shall be considered as providing ordinary accepted meanings.

202 – Definitions

Unless otherwise expressly stated, the following words and terms shall, for the purpose of this Code, have the meanings shown in the section.

Alteration is any construction or renovation to an existing building other than repair or addition. Alterations include, but are not limited to, remodeling, renovation, rehabilitation, reconstruction, and replacement of existing components.

Apartment is a dwelling unit as defined in this Code.

Apartment House is any building or portion thereof which contains three or more dwelling units and, which is rented, leased, let or hired out to be occupied for consideration, or which is occupied, as the home of three or more individuals, families or living groups, living independently of each other and doing their own cooking in said building.

Berkeley Housing Code is this Chapter and applicable provisions of the currently adopted editions of the California Building Code, California Existing Building Code, California Residential Code, California Electrical Code, California Mechanical Code, California Plumbing Code and the State Housing Law, and applicable regulatory ordinances enacted by the City and listed in Title 19 of the Berkeley Municipal Code.

Building Code is the California Building Code contained in Part 2, Title 24, California Code of Regulations, as adopted in Chapter 19.28 of the Berkeley Municipal Code.

Building Official is the officer or other designated authority charged with the administration and enforcement of this code, or a duly authorized representative.

City means the City of Berkeley.

Complaint means notification by any person of a violation or a suspected violation of Berkeley Housing Code.

Congregate Residence is any building or portion thereof that contains facilities for living, sleeping and sanitation, as required by this code, and may include facilities for eating and cooking, for occupancy by other than a family. A congregate residence may be a shelter, convent, monastery, dormitory, fraternity or sorority house but does not include jails, hospitals, nursing homes, hotels or lodging houses.

Dwelling is a building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes, and includes any garages or other accessory buildings belonging thereto.

Dwelling Unit is a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Efficiency Dwelling Unit is a dwelling unit containing only one habitable room and constructed in accordance with Health and Safety Code Section 17958.1 or the California Building Code Section 1207.4.

Electrical Code is the California Electrical Code, contained in Part 3, Title 24, California Code of Regulations as adopted in Chapter 19.30 of the Berkeley Municipal Code.

Enforcement means diligent effort to secure compliance, including review of plans and permit applications, response to complaints, citation of violations, and other legal process. Except as otherwise provided in this Code, "enforcement" includes inspections of existing buildings, subject to this Code, on which no complaint or permit application has been filed, in an effort to secure code compliance as to these existing buildings.

Fire Code is the California Fire Code contained in Part 9, Title 24, California Code of Regulations, as adopted in Chapter 19.48 of the Berkeley Municipal Code.

Hot Water is water supplied to plumbing fixtures at a temperature of not less than 110°F.

Hotel is any building containing six or more rooms, which are used, intended or designed to be used, rented or hired out to be occupied for sleeping purposes by guests.

Landlord means an owner of record, lessor, sublessor or any other person or entity entitled to receive rent for the use or occupancy of any rental unit, or an agent, representative or successor of any of the foregoing.

Lodging House is any building or portion thereof, containing not more than five guest rooms where rent is paid in money, goods, labor or otherwise.

Manager means the person who has charge of any premises and is responsible for its maintenance, upkeep and cleaning.

Mechanical Code is the California Mechanical Code, contained in Part 4, Title 24, California Code of Regulations as adopted in Chapter 19.32 of the Berkeley Municipal Code.

Mold means microscopic organisms or fungi that can grow in damp conditions in the interior of a building.

Nuisance. The following shall be defined as nuisances:

1. Any public nuisance known at common law or in equity jurisprudence.
2. Any attractive nuisance that may prove detrimental to children whether in a building, on the premises of a building or on an unoccupied lot. This includes any abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation that may prove a hazard for inquisitive minors.
3. Whatever is dangerous to human life or is detrimental to health, as determined by the health officer.
4. Overcrowding a room with occupants.
5. Insufficient ventilation or illumination.
6. Inadequate or unsanitary sewage or plumbing facilities.
7. Uncleanliness, as determined by the health officer.
8. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the health officer.
9. Fire hazard.
10. Substandard building.

Occupant is any individual living, sleeping, cooking, or eating in or having possession of a dwelling unit or portion thereof.

Plumbing Code is the California Plumbing Code, contained in Part 5, Title 24, California Code of Regulations as adopted in Chapter 19.34 of the Berkeley Municipal Code.

Rent means the consideration, including any deposit, bonus, benefit or gratuity, demanded or received for or in connection with the use or occupancy of rental unit and housing services. Such consideration shall include, but not be limited to, monies and fair

market value of goods or services rendered to or for the benefit of the landlord under the terms of the rental agreement.

Rental Unit is any dwelling or sleeping unit in any real property, including the land appurtenant thereto, rented or available for rent for residential use or occupancy located in the City, together with all services connected with the use or occupancy of such property such as common areas held out for use by the tenant.

Repair is renewal of any part or component of an existing building for the purpose of its maintenance or to correct damage.

Safety Assessment is a visual, non-destructive examination of a building or structure for the purpose of determining the condition for continued occupancy following a natural or human-caused disaster event.

Sleeping Unit is a single unit that provides rooms or spaces for one or more persons, includes permanent provisions for sleeping and can include provisions for living, eating and sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

State Housing Law is the state law regulating residential occupancies. It consists of

- Health and Safety Code: Division 13, Part 1.5 Regulation of Buildings Used for Human Habitation, Sections 17910 to 17998.3.
- California Code of Regulations: Title 25, Division 1, Chapter 1, Subchapter 1 State Housing Law and Regulations.

Substandard Building means any building or portion thereof used for habitation that substantially endangers the life, limb, health, property, safety or welfare of the public or its occupants due to one or more violations of Section 19.40.090 of this Code.

Tenant means any renter, tenant, subtenant, lessee, or sublessee of a rental unit, or successor to a renter's interest, or any group of tenants, subtenants, lessees, or sublessees of any rental unit, or any other person entitled to the use or occupancy of such rental unit.

Voluntary Code Compliance means, for the purpose of this Code, actions voluntarily initiated by an owner to achieve compliance with applicable laws including, but not limited to, fumigation, mold abatement, lead abatement, seismically retrofitting, as well as abatement work performed in response to a Notice of Violation under Sections 808 and 1002 of this Code. Work performed for the purpose of improvements is not considered voluntary code compliance.

19.40.030 Space and Occupancy Standards

301 – Location of Buildings on Property

All buildings shall be located with respect to property lines and to other buildings on the same property as required by the Building Code.

302 – Yards and Courts

302.1 Scope. This section shall apply to yards and courts having required window openings therein.

302.2 Yards. Every yard shall not be less than 3 feet in width for one- and two-story buildings. For buildings more than two stories in height, the minimum width of the yard shall be increased at the rate of 1 foot for each additional story. Where yards completely surround the building, the required width may be reduced by 1 foot. For buildings exceeding 14 stories in height, the required width of yard shall be computed on the basis of 14 stories.

303.3 Courts. Every court shall not be less than 3 feet in width. Courts having windows opening on opposite sides shall not be less than 6 feet in width. Courts bounded on three or more sides by the walls of the building shall not be less than 10 feet in length unless bounded on one end by a public way or yard. For buildings more than two stories in height, the court shall be increased 1 foot in width and 2 feet in length for each additional story. For buildings exceeding 14 stories in height, the required dimensions shall be computed on the basis of 14 stories.

Adequate access shall be provided to the bottom of all courts for cleaning purposes. Every court more than two stories in height shall be provided with a horizontal air intake at the bottom not less than 10 square feet (0.93 m²) in area and leading to the exterior of the building unless abutting a yard or public way. The construction of the air intake shall be as required for the court walls of the building, but in no case shall be less than one-hour fire-resistive.

303 – Room Dimensions

303.1 Ceiling Heights

- A. Habitable spaces shall have a ceiling height of not less than 7 feet 6 inches except as otherwise permitted in this section. Kitchens, halls, bathrooms and toilet compartments may have a ceiling height of not less than 7 feet measured to the lowest projection from the ceiling. Where exposed beam ceiling members are spaced at less than 48 inches on center, ceiling height shall be measured to the bottom of these members. Where exposed beam ceiling members are spaced at 48 inches or more on center, ceiling height shall be measured to the

bottom of the deck supported by these members provided that the bottom of the members is not less than 7 feet above the floor.

Exceptions - In one- and two-family dwellings only:

- (a) habitable spaces shall have a ceiling height of not less than 7 feet
 - (b) bathrooms, toilet compartments and laundry rooms shall have a ceiling height of not less than 6 feet 8 inches
 - (c) beams, girders, ducts or other obstructions in basements containing habitable space shall be permitted to project to within 6 feet 4 inches of the finished floor
- B.** If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the area thereof. No portion of the room measuring less than 5 feet from the finished floor to the finished ceiling shall be included in any computation of the minimum area thereof.
- C.** If any habitable room has a furred ceiling, the prescribed ceiling height is required in two-thirds the area thereof, but in no case shall the height of the furred ceiling be less than 7 feet.

303.2. Floor Area. Dwelling units and congregate residences shall have at least one room which shall have not less than 120 square feet of floor area. Other habitable rooms, except kitchens, shall have an area of not less than 70 square feet. Where more than two persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of 50 square feet for each occupant in excess of two.

Exceptions:

1. Efficiency units: Nothing in this section shall prohibit the use of an efficiency living unit within an apartment house meeting the following requirements:
 - a. The unit shall have a living room of not less than 220 square feet of superficial floor area. An additional 100 square feet of superficial floor area shall be provided for each occupant of such unit in excess of two.
 - b. The unit shall be provided with a separate closet.
 - c. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than

30 inches in front. Light and ventilation conforming to this Code shall be provided.

- d. The unit shall be provided with a separate bathroom containing a water closet, lavatory, and bathtub or shower.
2. In one- and two-family dwellings only, habitable rooms shall have a floor area of not less than 70 square feet.

303.2 Width. No habitable room other than a kitchen shall be less than 7 feet in any dimension. Each water closet stool shall be located in a clear space not less than 30 inches in width, and a clear space in front of the water closet stool of not less than 24 inches shall be provided.

304 – Light and Ventilation

304.1 General. For the purpose of determining the light or ventilation required by this section, any room may be considered as a portion of an adjoining room when one half of the area of the common wall is open and unobstructed and provides an opening of not less than one tenth of the floor area of the interior room or 25 square feet, whichever is greater.

Exterior openings for natural light or ventilation required by this section shall open directly onto a public way or a yard or court located on the same lot as the building.

Exceptions:

1. Required windows may open into a roofed porch where the porch:
 - 1.1 Abuts a public way, yard or court;
 - 1.2 Has a ceiling height of not less than 7 feet; and
 - 1.3 Has a longer side at least 65 percent open and unobstructed.
2. Skylights.

304.2 Light. Habitable spaces shall be provided with natural light by means of exterior glazed openings with an area not less than one tenth of the floor area of such rooms with a minimum of 10 square feet or shall be provided with artificial light.

Habitable spaces constructed, converted, or altered after January 1, 2008, are permitted to have the minimum net glazed area of not less than 8 percent of the floor area of the room served.

When artificial lighting is provided, it shall be capable to provide an average illumination of 10 footcandles (107 lux) over the area of the room at a height of 30 inches above the floor level.

304.3 Ventilation.

- A.** Habitable spaces shall be provided with natural ventilation by means of openable exterior openings with an area of not less than 1/20 of the floor area of such rooms with a minimum of 5 square feet.

Habitable spaces constructed, converted, or altered after January 1, 2008, are permitted to have the minimum openable area of the openings to the outdoors of not less than 4 percent of the floor area being ventilated.

In lieu of required exterior openings for natural ventilation, a mechanical ventilating system may be provided. Such system shall be capable of providing two air changes per hour. Habitable spaces constructed, converted, or altered after January 1, 2008, are permitted to provide a mechanical ventilation Outdoor Air Rate (Q_{tot}) calculated in accordance with the following:

Outdoor Air Rate (Q_{tot}) equals 3% of the floor area plus 7.5 cfm for each occupant assumed to be equal to the number of bedrooms plus 1.

$$Q_{tot} = 0.03A_{floor} + 7.5 (N_{br} + 1)$$

Where:

Q_{tot} = Total required ventilation outdoor air rate (cfm)

A_{floor} = Floor Area (ft²)

N_{br} = Number of bedrooms

- B.** Bathrooms, water closet compartments, laundry rooms and similar rooms shall be provided with natural ventilation by means of openable exterior openings with an area not less than 1/20th of the floor area of such rooms with a minimum of 1-½ square feet. In lieu of required exterior openings for natural ventilation in bathrooms containing a bathtub, shower or combination thereof; laundry rooms; and similar rooms, a mechanical ventilation system connected directly to the outside capable of providing five air changes per hour shall be provided. The point of discharge of exhaust air shall be at least 3 feet from any opening into the building. Bathrooms that contain only a water closet, lavatory or combination thereof, and similar rooms, may be ventilated with an approved mechanical recirculating fan or similar device designed to remove odors from the air.

Bathrooms, water closet compartments, laundry rooms and similar spaces constructed, converted, or altered after January 1, 2008 are permitted to be mechanically ventilated at an exhaust rate not less than 50 cubic feet per minute for intermittent operation and 20 cubic feet per minute for continuous operation.

- C. Kitchens constructed, converted, or altered after January 1, 2008 are permitted to be intermittently mechanically ventilated at an exhaust rate not less than 100 cubic feet per minute for range hoods or 300 cubic feet per minute for mechanical exhaust fans including downdraft appliances. Enclosed kitchens are permitted to be provided with continuous mechanical ventilation at an exhaust rate not less than 5 air changes per hour based on kitchen volume.
- D. Each kitchen range or cooktop shall be provided with a vented hood ducted to terminate outside the building, with a minimum air flow of 100 cubic feet per minute..

A local mechanical exhaust system installed in accordance with ASHRAE 62.2 and Subsection 304.3.C above shall be permitted in lieu of a vented range hood.

304.4 Hallways. All public and common hallways, corridors, stairs and other exitways shall be adequately lighted and illuminated at all times in accordance with Chapter 10 of the Building Code.

305 – Sanitation

A. Dwelling Units, Lodging Houses and Congregate Residences

Dwelling units, lodging houses and congregate residences shall be provided with a bathroom equipped with facilities consisting of a water closet, lavatory, and either a bathtub or shower.

B. Hotels

Where private water closets, lavatories and baths are not provided, there shall be provided on each floor, for each sex, at least one water closet and lavatory and one bath, accessible from a public hallway. Additional water closets, lavatories and baths shall be provided on each floor for each sex at the rate of one for every additional ten guests or fractional number thereof in excess of ten. As an equivalent alternative, adequate genderless facilities may be provided.

C. Kitchen

Each dwelling unit shall be provided with a kitchen. Every kitchen shall be provided with a kitchen sink. A wooden sink or sink of similarly absorbent material shall not be permitted.

D. Fixtures

All plumbing fixtures shall:

1. Be connected to a sanitary sewer or an approved private sewage disposal system;
2. Be connected to an approved system of water supply and provided with hot and cold running water necessary for its normal operation; and
3. Be of an approved glazed earthenware type or of a similarly nonabsorbent material.
4. All piping and plumbing fixtures shall be installed and maintained in working order, and shall be kept free from obstructions, leaks and defects.

E. Water Closet Compartments

Walls and floors of water closet compartments in common use and public areas, shall be finished in accordance with applicable provisions of the Building Code.

F. Room Separations

Every water closet, bathtub or shower required by this Code shall be installed in a room, which will afford privacy to the occupant.

G. Installation and Maintenance

All sanitary facilities shall be installed and maintained in a safe and sanitary condition and in accordance with applicable requirements of the Plumbing Code and other applicable laws.

306 – Building Interior

306.1 Interior Surfaces – Interior surfaces, including wall, floor and ceiling surfaces, windows and doors, shall be maintained in good, clean and sanitary condition. Any interior finishes that have a fire-resistance rated classification must maintain their fire rating and when repairs or replacement are performed, shall be repaired or replaced with similar or compatible materials of the same fire-resistance rating.

306.2 Interior Doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks. Any hardware that provides privacy must be maintained in operational condition.

19.40.040 Structural Requirements

401 – General

Buildings or structures may be of any type of construction permitted by the Building Code. Roofs, floors, walls, foundations, and all other structural components of buildings shall be capable of resisting any and all forces and loads to which they may be subjected. All structural elements shall be proportioned and joined in accordance with the stress limitations and design criteria as specified in the appropriate sections of the building code. Buildings of every permitted type of construction shall comply with the applicable requirements of the Building Code.

402 – Protection from Weather and Dampness

Every building shall be weather-protected so as to provide shelter for the occupants against the elements and to exclude dampness.

403 – Protection of Materials

All wood shall be protected against termite damage and decay as provided in the Building Code.

404 – Structural Maintenance

- A.** Pursuant to the requirements of Health and Safety Code Section 17973 (inspection deadlines in subsection (d) notwithstanding) projecting exterior elevated wood and metal decks, balconies, landings, stairway systems, guardrails, handrails, or any parts thereof in weather-exposed areas of Group R-1 and R-2 Occupancies, as defined in the most recent edition of the California Building Code, shall be inspected within six months of adoption of this section, and every six years thereafter by a licensed general contractor, licensed architect, licensed civil or structural engineer, or certified building inspector or building official who are not employees of the City of Berkeley to verify that the elements are in general safe condition, adequate working order, and do not exhibit signs of deterioration, decay, corrosion or similar damage that could pose a safety concern and there is no evidence of active water intrusion in concealed spaces of the inspected elements. The inspection schedule set forth above shall apply retroactively to the original enactment of the City's Exterior Elevated Elements inspection program on July 14, 2015; cyclical inspections shall be completed by March 31, 2022 and every six years thereafter.

- B.** Pursuant to the requirements of Code of Civil Procedure Section 5551, projecting exterior elevated wood and metal decks, balconies, landings, stairway systems, guardrails, handrails, or any parts thereof in weather-exposed areas of condominium projects containing 3 or more dwelling units shall be inspected by January 1, 2025, and then at least once every nine years. The inspection shall be conducted by a licensed structural engineer or architect of a random and statistically significant sample of exterior elevated elements for which the association has maintenance or repair responsibility.

The inspection reports shall comply with the requirements of Health and Safety Code Section 17973 Subsections (c) and (d). The property owner shall be responsible for complying with the repair requirements set forth in Health and Safety Code Section 17973 Subsections (g), (h) and (i). Property owners shall provide proof of compliance with this section by submitting an affidavit form provided by the City. The affidavit shall be signed by the responsible inspecting party and submitted to the Housing Code Enforcement Office. If the inspector indicates corrective work is required, a second affidavit form shall be submitted once the work is completed. For the purpose of this section, elevated "weather-exposed areas" mean those areas which are not interior building areas, extend beyond exterior walls and are located more than six feet above adjacent grade. For newly constructed residential buildings, inspections shall occur no later than six years following issuance of the Certificate of Occupancy for such buildings.

19.40.050 Mechanical and Electrical Requirements

501 – Heating

Habitable spaces shall be provided with heating facilities capable of maintaining a room temperature of 68° F at a point three feet above the floor in all habitable rooms. Such facilities shall be installed and maintained in a safe working condition and in accordance with Chapter 12 of the Building Code, the Mechanical Code, and all other applicable laws. Unvented fuel-burning heaters are not permitted. All heating devices or appliances shall be of an approved type. Hot water provided to plumbing fixtures shall be supplied at a temperature of not less than 110°F.

502 – Electrical Equipment

All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with all applicable laws. All electrical equipment shall be of an approved type. Every habitable room shall contain at least two electrical convenience outlets or one convenience outlet and one electric light fixture. Every water closet compartment, bathroom, laundry room, furnace room and public hallway shall contain at least one electric light fixture. All electrical equipment, wiring and appliances

shall be installed and maintained in a safe manner in accordance with the Electrical Code and all applicable laws.

503 – Ventilation

Ventilation for rooms and areas and for fuel-burning appliances shall be provided as required in the Mechanical Code and in this Code. Where mechanical ventilation is provided in lieu of the natural ventilation required by Section 304.3 of this Code, such mechanical ventilating systems shall be maintained in operational condition during the occupancy of any building or portion thereof.

19.40.060 Exits

601 – Requirements Designated

All buildings or portions thereof shall be provided with exits, exitways and appurtenances as required by Chapter 10 of the Building Code or the Codes in effect at the time of construction, alteration or conversion.

- A. Dwelling units or guestrooms shall have access directly to the outside or to a common or public corridor, passageway, or egress balcony.
- B. Exit doors shall meet the minimum security requirements set forth in BMC Chapter 19.80. For sliding doors used as required exit doors, the manufacturer's locking device shall be maintained in operational condition.
- C. Every sleeping room below the fourth story shall have at least one operable window or exterior door approved for emergency escape or rescue. Such windows shall be operable from the inside to provide a full clear opening without the use of separate tools.
- D. All escape or rescue windows from sleeping rooms shall have the required minimum net clear openings and finished sill heights. Escape or rescue windows shall not be obstructed from the outside of the building.
- E. Security bars, grills, screens and covers placed over sleeping room windows or bedroom exterior doors, which provide the required emergency escape or rescue, shall comply with the Building Code and shall be openable or removable from within the room without the use of a key, tool, special knowledge or effort. Any release mechanism shall be readily accessible and operable at all times. Window bars, grills, screens and covers shall not reduce the net clear opening of the emergency escape and rescue opening.

- F. The installation of replacement glazing, or replacement windows shall be as required for new installations, when practical.
- G. Means of egress including but not limited to stairs, ramps, walking surfaces, shall be maintained in safe working condition, shall not be obstructed in any manner and shall remain free of any material, matter or defect where its presence would obstruct or render the means of egress hazardous.
- H. All handrails and guards shall be firmly fastened and capable of supporting code specified loads and shall be maintained in safe working condition.

19.40.070 Fire Protection

701 – General

All buildings or portions thereof shall be provided with the degree of fire-resistive construction as required by the Building Code for the appropriate occupancy, type of construction and location on property, and shall be provided with the appropriate fire-extinguishing systems or equipment required by Chapter 9 of the Building Code.

702 – Smoke Alarms

Smoke Alarms shall be installed per the manufacturer's installation instructions in all residential occupancies and at the required locations as prescribed in the Building Code:

1. In each room used for sleeping purposes.
2. Outside each separate sleeping area in the immediate vicinity of the sleeping room.
3. On each story within a dwelling unit, including basements and habitable attic spaces. In units with split levels without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice provided that the lower level is less than one full story below the upper level.

703 – Carbon Monoxide Alarms

Carbon Monoxide Alarms are required in all dwelling and sleeping units where one of the following exist:

1. The unit contains a fuel-fired appliance or fireplace.
2. The unit has an attached garage with an opening that communicates with the unit.

Carbon Monoxide Alarms shall be installed per manufacturer's installation instructions and at the required locations as prescribed in the Building Code:

1. Outside of each separate sleeping area in the immediate vicinity of the sleeping rooms.
2. On every occupiable level of a dwelling unit including basements and habitable attic spaces.
3. Inside each sleeping room where a fuel-burning appliance is located within the sleeping room or its attached bathroom.

Combination Alarms – Combination carbon monoxide/smoke alarms shall be an acceptable alternative to carbon monoxide alarms and smoke alarms.

19.40.080 Rental Housing Safety

801 – Findings

- A.** Berkeley has an aging rental housing stock where the majority of rental units are over 50 years old and, thus, are more likely to violate housing safety codes and endanger the health and safety of occupants and others. According to the 2020 census, 76% of all housing units, owner-occupied or rental units, are more than 50 years old.
- B.** There is a crisis in Berkeley's rental housing market reflected in a reduced vacancy rate which increases the likelihood that tenants may not complain about unsafe conditions for fear of losing their homes.
- C.** Berkeley has a large number of tenants who are immigrants or who have special needs which makes it more difficult for them to be aware of and enforce their rights to safe accommodations.
- D.** There have been several tragic deaths that may have been avoided had there been a regular residential rental inspection program, an exterior elevated elements inspection program, and a safety education program.
- E.** An inspection made by a property owner in order to submit a certification pursuant to Subsection 803A is a necessary service pursuant to California Civil Code Section 1954(b) where the tenant/occupant has refused entry to a City inspector acting pursuant to this chapter.

802 – Purpose

The purpose of the Rental Housing Safety Program (RHSP) is to increase the number of rental units in the City that meet housing safety standards established by the City in order to ensure the occupants' health and safety.

803 – Residential Rental Housing Safety Certification—City Inspection in lieu of Self-Certifications—Exemptions

- A. All owners of residential real property containing rental units and not otherwise exempt pursuant to Subsection 803.C shall annually certify that their rental unit(s) meet housing safety standards established by the City or seek an inspection by the City pursuant to Subsection 803.B. Self-certification shall be made in the manner set forth below:
1. Owners shall inspect each rental unit owned using the Rental Housing Safety Program Certification Checklist form required by the City.
 2. Owners shall provide a copy of the completed Rental Housing Safety Program Certification Checklist to each tenant whose rental unit has been inspected. If the owner is unable to certify compliance with all applicable provisions of the checklist, including by reason of refusal of entry by the tenant, in addition to providing the completed form to the tenant, the owner shall submit a copy of the completed checklist to the City by email, mail or personal delivery. Owners shall provide the copy of the checklist to the tenant and, if applicable, a copy to the City within five days of completing the inspection and no later than July 1st of each year beginning with July 1, 2004.
 3. Any tenant may request that the City verify the accuracy of the representations made by the owner in the checklist. Further, all checklists submitted to the City shall be considered public information.
- B. An owner or tenant may request that their residential rental unit(s) be inspected by the City to ascertain compliance with the housing safety standards. If the City is unable to conduct such inspection, the owner is nonetheless required to complete a checklist pursuant to Subsection 803.A. Such inspection may also determine compliance with all other applicable requirements relating to building safety.
- C. Newly constructed residential rental units shall be exempt from the requirements of Section 803 for a period of five years following issuance of the Certificate of Occupancy for such units.
- D. For those units where the City has determined that the tenant has refused entry to the owner to conduct the inspection necessary for completing the checklist, the City may seek a warrant for entry pursuant to California Code of Civil Procedure Sections 1822.51 and 1822.52

804 – Unlawful Alteration of Premises by Tenant/Occupant

It shall be a violation of this chapter for any tenant/occupant to modify, damage, destroy or otherwise alter their premises in a manner which renders the premises in a condition which the City has determined violates applicable laws enforced by the City to such an extent as to endanger the safety of the public or the occupants thereof and the tenant/occupant has failed to correct the violation after receiving written notice and being given a reasonable opportunity to do so.

805 – Proactive Inspection of Rental Units

The City Manager or their designee may periodically inspect every residential rental unit in any real property in the City provided that no residential rental unit shall be subject to a Rental Housing Safety Program inspection on more than a triennial basis where such unit complies with the annual self-certification requirement, unless an inspection is required in response to a request for service or the City reasonably believes that the property may be in violation of applicable laws or ordinances. Nothing contained herein affects the ability of the Berkeley Fire Department to conduct annual inspections pursuant to Berkeley Municipal Code Chapter 19.48. Entry for inspection shall be as a result of either consent or execution of a warrant secured pursuant to California Code of Civil Procedure Sections 1822.51 and 1822.52.

806 – Reactive / Complaint Inspections

The City Manager or their designee may inspect those portions of residential rental properties, buildings, units or structures in response to a complaint. Any residential rental unit shall be inspected for code violations whenever information from the following sources indicates that a pertinent code violation may exist therein:

- A.** Complaint from a tenant that a code violation may exist;
- B.** Direct referrals for inspection from other City officials with code enforcement responsibilities or from officials of a federal, state, or local agency, or from officials with a public or private utility; or
- C.** Reports that the exterior condition of a residential real property containing rental housing reflects the existence of code violations.

807 – Certificate of Compliance Issued When

If, upon the proactive or reactive inspection by the City of a residential rental unit within any real property, no violations of applicable laws or ordinances are determined to exist, a Certificate of Compliance shall be issued. Said certificate shall be given to the owner, manager (if requested) and affected resident(s) and shall state that the determination may be subject to an informal review by the Building Official if any affected party seeks

such review within ten (10) days of the date of issuance of the Certificate of Compliance.

808 – Correction of Violations Required

- A.** Whenever any proactive or reactive inspection results in a determination that a rental unit is in violation of applicable laws or ordinances, the inspector shall promptly give the owner, manager (if any) and affected resident(s) written Notice of Violation as set forth on Section 1002 of this Code. Said notice shall specify a reasonable time to correct the violation, and shall state that the determination may be subject to an informal review by the Building Official if any affected party seeks such review within ten (10) days of the date of issuance of the Notice of Violation.
- B.** If the violation is corrected within the time specified, the owner, manager (if any) and resident(s) shall be so notified in writing, and a Certificate of Compliance shall be issued.
- C.** If the violations have not been corrected, enforcement, including reinspections, will continue until all violations are corrected.

809 – Violations

Any person who fails to comply with any provisions of Section 19.40.080 after receiving written Notice of Violation(s) and being given a reasonable opportunity to correct such violation(s) shall be deemed to be in violation of the Chapter and shall be subject to criminal sanctions and civil remedies pursuant to Subsection 810.

810 – Penalties

- A.** Any person violating any provision or failing to comply with any of the requirements of Section 19.40.080 shall be deemed guilty of an infraction as set forth in Chapter 1.20 of the Berkeley Municipal Code.
- B.** The City Attorney may bring a civil action to seek redress for a violation(s) under Section 19.40.080 on behalf of the City. In any such action, the City shall recover civil penalties in an amount not to exceed \$500 for each violation and any other relief the court deems proper.

In any civil action filed pursuant to this subsection where the violation of Section 19.40.080 is declared to be a public nuisance, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs; provided that, pursuant to Government Section 38773.5, attorneys' fees shall only be available in an action or proceeding in which the City has elected, at the commencement of such

action or proceeding, to seek recovery of its own attorneys' fees. In no action or proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.

- C. Any tenant may bring a civil action to establish that the owner of the property from which the tenant rents a dwelling unit has failed to provide the tenant with a copy of the Rental Housing Safety Program Certification Checklist or submit a copy of the Checklist to the City pursuant to Subsection 803.A.2. Such action may not be maintained where the City Attorney has commenced or is prosecuting an action against such violation. In any such action, the tenant shall recover civil penalties in an amount not to exceed \$500 for each violation.

In any action brought under this subsection, the court shall award reasonable attorneys' fees to any prevailing plaintiff. Any aggrieved person who initiates a civil action under this subsection shall file a copy of his or her complaint against the property owner and a copy of the court's decision with the City.

19.40.090 Substandard Housing

901 – Substandard Housing – Defined

Pursuant to Health and Safety Code Section 17920.3 or its successor, any building or portion thereof including any dwelling unit, guestroom or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building:

(a) Inadequate Sanitation shall include, but not be limited to, the following:

- (1)** Lack of, or improper water closet, lavatory, or bathtub or shower in a dwelling unit.
- (2)** Lack of, or improper water closets, lavatories, and bathtubs or showers per number of guests in a hotel.
- (3)** Lack of, or improper kitchen sink.
- (4)** Lack of hot and cold running water to plumbing fixtures in a hotel.
- (5)** Lack of hot and cold running water to plumbing fixtures in a dwelling unit.
- (6)** Lack of adequate heating.
- (7)** Lack of, or improper operation of required ventilating equipment.
- (8)** Lack of minimum amounts of natural light and ventilation required by this code.
- (9)** Room and space dimensions less than required by this code.

(10) Lack of required electrical lighting.

(11) Dampness of habitable rooms.

(12) Infestation of insects, vermin, or rodents as determined by a health officer or, if an agreement does not exist with an agency that has a health officer, the infestation can be determined by a code enforcement officer, as defined in Section 829.5 of the Penal Code, upon successful completion of a course of study in the appropriate subject matter as determined by the local jurisdiction.

(13) Visible mold growth, as determined by a health officer or a code enforcement officer, as defined in Section 829.5 of the Penal Code, excluding the presence of mold that is minor and found on surfaces that can accumulate moisture as part of their properly functioning and intended use.

(14) General dilapidation or improper maintenance.

(15) Lack of connection to required sewage disposal system.

(16) Lack of adequate garbage and rubbish storage and removal facilities, as determined by a health officer or, if an agreement does not exist with an agency that has a health officer, the lack of adequate garbage and rubbish removal facilities can be determined by a code enforcement officer as defined in Section 829.5 of the Penal Code.

(b) Structural Hazards shall include, but not be limited to, the following:

(1) Deteriorated or inadequate foundations.

(2) Defective or deteriorated flooring or floor supports.

(3) Flooring or floor supports of insufficient size to carry imposed loads with safety

(4) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.

(5) Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.

(6) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration.

(7) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.

(8) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.

(9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

(c) Any Nuisance.

(d) Hazardous Wiring. All wiring, except that which conformed with all applicable laws in effect at the time of installation if it is currently in good and safe condition and working properly.

(e) Hazardous Plumbing. All plumbing, except plumbing that conformed with all applicable laws in effect at the time of installation and has been maintained in good condition, or that may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly, and that is free of cross connections and siphonage between fixtures.

(f) Hazardous Mechanical Equipment. All mechanical equipment, including vents, except equipment that conformed with all applicable laws in effect at the time of installation and that has been maintained in good and safe condition, or that may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly.

(g) Faulty Weather Protection, which shall include, but not be limited to, the following:

(1) Deteriorated, crumbling, or loose plaster.

(2) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken windows or doors.

(3) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.

(4) Broken, rotted, split, or buckled exterior wall coverings or roof coverings.

(h) Fire Hazard. Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation that, in the opinion of the chief of the fire department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(i) Faulty Materials of Construction. All materials of construction, except those that are specifically allowed or approved by this code, and that have been adequately maintained in good and safe condition.

(j) Hazardous or Insanitary Premises. Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.

(k) Inadequate Maintenance. Any building or portion thereof that is determined to be an unsafe building due to inadequate maintenance, in accordance with the latest edition of the Uniform Building Code.

(l) Inadequate Exits. All buildings or portions thereof not provided with adequate exit facilities as required by this code, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and that have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

When an unsafe condition exists through lack of, or improper location of, exits, additional exits may be required to be installed.

(m) Inadequate Fire Protection. All buildings or portions thereof that are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this code, except those buildings or portions thereof that conformed with all

applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(n) Improper Occupancy. All buildings or portions thereof occupied for living, sleeping, cooking, or dining purposes that were not designed or intended to be used for those occupancies.

(o) Inadequate Structural Resistance to horizontal forces.

"Substandard building" includes a building not in compliance with Health and Safety Code Section 13143.2.

However, a condition that would require displacement of sound walls or ceilings to meet height, length, or width requirements for ceilings, rooms, and dwelling units shall not by itself be considered sufficient existence of dangerous conditions making a building a substandard building, unless the building was constructed, altered, or converted in violation of those requirements in effect at the time of construction, alteration, or conversion.

The list of conditions, hazards and uses of property determined to be substandard is not intended to be exclusive. The Building Official is authorized to declare other and additional conditions, hazards and uses of property to be substandard if they endanger the health and safety of the residents or the public pursuant to this Code.

902 – Substandard Building – Nuisance

Buildings or portions thereof which are determined to be substandard, which substantially endanger the health and safety of residents or the public, as defined in Health & Safety Code §17920.3 or its successor are hereby declared to be public nuisances, which shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures specified in this Code and Chapters 1 and 19.44 of the Berkeley Municipal Code.

19.40.100 Notices of the Building Official

1001 – Commencement of Proceedings

When the Building Official or an authorized representative has inspected or caused to be inspected any building subject to this Code and has found and determined that such building either has substandard conditions or is a substandard building which substantially endangers the health and safety of residents or the public, the Building Official may commence proceedings to cause the repair, rehabilitation, vacation or demolition of the building. Depending on the severity of conditions, the Building Official may begin enforcement efforts by issuing one or more Notices of Violation as set forth

in Sections 1002 or may proceed immediately to issuing a Notice and Order including a declaration of substandard building as set forth in Section 1003.

If substandard conditions are not abated following issuance of one or more Notices of Violation or if conditions deteriorate to the point they substantially endanger the health and safety of residents or the public, the Building Official may proceed to issuing a Notice and Order.

1002 – Notice of Violation

1002.1 Issuance of Notice of Violation. Whenever an inspector appointed by the Building Official inspected a building or portion thereof and determined that a violation of this Code exists, the inspector shall issue a written Notice of Violation directed to the owner of record of the property. For the purpose of this Code, complying with a Notice of Violation is considered voluntary code compliance, not subject to administrative penalties or appeals to the Commission. The intent of issuing a Notice of Violation is to advise an owner of each violation and of each action the owner is required to take to remedy the violation. A re-inspection shall be scheduled to verify correction of the violations.

The Notice of Violation shall contain:

- A. The street address sufficient for identification of the premises upon which the building is located.
- B. Description of the codified violation(s).
- C. The specific action required to correct the violation and a request that the violations be corrected within the specific time period listed in the Notice.
- D. The scheduled re-inspection date and time.
- E. The Notice shall specify that any permits, if required, be secured and the work physically commenced and completed within such time as the Building Official shall determine is reasonable under all of the circumstances, but not less than 30 days, unless an immediate hazard exists

1002.2 Service of Notice of Violation. The Notice of Violation may be served by US mail, in a sealed envelope, postage prepaid, addressed to such person to be notified at their last known business or residence address as the same appears in the public records of the City or other records pertaining to the matter to which such Notice is directed, or may be served personally on the owner, or if the owner is not present, a copy of the Notice may be posted on the property. Service by mail shall be deemed to have been completed at the time of deposit in the post office.

1002.3 Compliance Re-inspections. Compliance re-inspections shall be conducted to verify that the violations identified on the Notice of Violation have been abated. Violations not noted on the initial Notice of Violation, but discovered during any re-inspection due to subsequent activities, damage or deterioration, shall also be subject to correction.

1002.4 Inspection Service Fees. No inspection fees shall be charged for the initial housing inspection or inspection report. If violations have been verified to be corrected at the time of the first re-inspection, no re-inspection fees shall be charged. If the violations have not been corrected, a fee shall be assessed for the first and subsequent re-inspections, in accordance with the fee schedule established by Council.

1002.5 Recordation of Notice of Violation. If compliance with the Notice of Violation is not obtained within the time specified therein, the Building Official may file in the Office of the County Recorder a Notarized Statement describing the property and certifying (i) that the building is in violation of Berkeley Municipal Code, and (ii) that the owner has been so notified. The notarized statement shall include the information set forth in Subsections 1002.1.B and 1002.1.C of this Code. Whenever the cited corrections are completed and any outstanding inspection service fees paid, the Building Official shall file a new Notarized Statement with the County Recorder certifying that all required corrections have been made so that the building is no longer in violation of Berkeley Municipal Code.

1003 – Notice and Order

1003.1 Issuance of Notice and Order. Whenever a building, or portion thereof, has been determined to be a substandard building, which substantially endangers the health and safety of residents or the public, either due to the severity of substandard conditions or due to failure to repair pursuant to proceedings specified in Section 1002, the Building Official shall issue a Notice and Order directed to the owner of record of the building.

The Notice and Order shall contain:

- A. The street address and a legal description sufficient for identification of the premises upon which the building is located.
- B. A statement that the Building Official has found the building to be a substandard building substantially endangering the health and safety of residents or the public, with a brief and concise description of the conditions which render the building substandard under the provisions of Sections 901 and 902 of this Code.

C. A statement of the action required to be taken as determined by the Building Official. If in the opinion of the Building Official, the substandard conditions can be corrected or abated by repair thereof, the Notice shall state the repairs which will be required.

1. If the Building Official has determined the building or structure must be repaired, the Order shall require that all required permits be secured and the work physically commenced within such time (not to exceed 60 days from the date of the Order) and completed within such time as the Building Official shall determine is reasonable under all of the circumstances, but not less than 30 days.
2. If the Building Official has determined that the building or structure must be vacated, the Order shall require the building or structure be vacated within a certain time from the date of the Order as determined by the Building Official to be reasonable, but not less than 30 days.
3. If the Building Official has determined the building or structure must be demolished, the Order shall require that the building be vacated within such time as the Building Official shall determine reasonable (not to exceed 60 days from the date of the Order), that all required permits be secured within 60 days from the date of the Order and the demolition be completed within such time as the Building Official shall determine is reasonable, but in no event less than 30 days.

D. Statements advising that if any required repair or demolition work is not commenced within the time specified, the Building Official may:

1. Order the building vacated and posted to prevent further occupancy until the work is completed; and
2. Proceed to cause the work to be done and charge the costs thereof against the property or its owner.

E. Statements advising that:

1. Any person having any record or title or legal interest in the building may appeal the Notice and Order or any action of the Building Official to the Commission as set forth in Chapter 19.44 of this Code; and
2. Failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter. The Notice shall include a copy of Chapter 19.44 of this Code.

- F. A statement that, in accordance with Revenue & Taxation Code Sections 17274 and 24436, a tax deduction may not be allowed for interest, taxes, depreciation, or amortization paid or incurred in the taxable year.
- G. A determination whether the repairs necessary to abate the violation(s) can reasonably be accomplished without relocation of the tenant household in possession of the unit or room as set forth in Chapter 13.84 Section 13.84.050 of the Berkeley Municipal Code.

1003.2 Service of Notice and Order. The Notice and Order, and any amended or supplemental notice and order, shall be served upon the record owner, and posted on the property; and one copy thereof shall be served on each of the following if known to the Building Official or disclosed from official public records; the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the Building Official to serve any person listed above shall not invalidate any proceeding hereunder as to any person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section. In addition, the Notice and Order shall be served on tenants.

1003.3 Method of Service. Service of the Notice and Order shall be made upon all persons entitled thereto either personally or by mailing a copy of such Notice and Order by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last Equalized Assessment Roll of the County or as known to the Building Official. If no address of any such person so appears or is known to the Building Official, then a copy of the Notice and Order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such Notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing. Service on tenants may be by first class mail.

1003.4 Proof of Service. Proof of Service of the Notice and Order shall be certified to at the time of service by a written declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the Notice and Order retained by the Building Official, either as an electronic record or a hard copy. The proof of service may be signed with an electronic signature.

1003.5 Appeals. Orders of the Building Official may be appealed as set forth in Chapter 19.44. For purposes of this Code, orders of the Building Official, or, on appeal, of the Commission or City Council, shall be final as set forth in Chapter 19.44.

1004 – Repair, Vacation and Demolition

In ordering the repair, vacation or demolition of any substandard building or structure, the following standards shall be followed:

- A. In general, any building or structure or portion thereof declared substandard shall be repaired in accordance with the current Building Code or other current code applicable to the type of substandard conditions requiring repair.
- B. If the building or structure, or portion thereof, substantially endangers the health or safety of its occupants or the public, it shall be ordered to be vacated, secured and maintained against entry, and the Building Official or Commission shall require its expeditious repair.
- C. If a building or structure constitutes an imminent and substantial danger to the health or safety of the public, Chapter 1.24 of the Berkeley Municipal Code shall apply.
- D. If an entire building or structure is declared to be substandard the owner may elect to demolish it instead so long as the right to such election is preserved by state law.

1005 – Notice to Vacate

1005.1 Posting. Every Notice to Vacate shall, in addition to being served as provided in Sections 1003.2 – 1003.5, be posted at or upon each main exit of the building, and shall be in substantially the following form:

DO NOT ENTER

UNSAFE TO OCCUPY

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Building Official of City of Berkeley

1005.2. Compliance. Whenever such Notice is posted, the Building Official shall include a notification thereof in the Notice and Order issued under Section 1003, reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish, or remove such building under Permit. No person shall remove or deface any such Notice after it is posted until the required repairs or demolition have been completed and the Building Official has approved occupancy of the building. Any person violating this subsection shall be guilty of a misdemeanor.

1006 – Recordation of Notice and Order

If compliance is not obtained with a final Order within the time specified therein, the Building Official shall file in the Office of the County Recorder a Certified Statement describing the property and certifying (i) that the building is a substandard building, and (ii) that the owner has been so notified. The certified statement shall include the information set forth in Subsections 1003.1.B and 1003.1.C. The Proof of Service required by Section 1003.4 shall also be recorded with the Notice and Order. Whenever the corrections ordered are thereafter completed, or the building demolished so that it no longer exists as a substandard building, the Building Official shall file a new Certified Statement with the County Recorder certifying that the building has been demolished or all required corrections have been made so that the building is no longer substandard, whichever is appropriate.

1007 – Post-Disaster Safety Assessment

After a natural or human-caused disaster event, the Building Official or an authorized representative shall conduct a rapid safety assessment inspection of a damaged or potentially damaged building or portion thereof to evaluate safety and habitability for continued use and to determine the need for restricted or prohibited entry. Upon completion of a safety assessment, the Building Official or an authorized representative shall post the appropriate placard at each entry point to a building following the procedure set forth in Berkeley Municipal Code 19.28.020 Section 116.6.

19.40.110 Enforcement of Orders

1101 – Failure to Obey Order

1101.1 Failure to Obey Order. After any Order made pursuant to Sections 1003 or 1005 of this Code has become final, no person to whom any such Order is directed shall fail, neglect, or refuse to obey any such Order.

1101.2 Initiation of Abatement Proceedings. After any Order made pursuant to Sections 1003 or 1005 of this Code has become final, and the person to whom it is directed fails, neglects or refuses to obey such Order within the period set forth therein, the Building Official may institute any appropriate action to abate such building or structure as a public nuisance. However, if such building is encumbered by a mortgage or deed of trust, of record, the mortgagee or beneficiary under such deed of trust may, within 15 days after the expiration of the period set forth in the Order, comply with the requirements of the Order, in which event the cost to such mortgagee or beneficiary shall be added to and become a part of the lien secured by said mortgage or deed of trust and shall be payable at the same time and in the same manner as may be prescribed in said mortgage or deed of trust for the payment of any taxes advanced or paid by said mortgagee or beneficiary for and on behalf of said owner.

1101.3 Repair, Vacation, Demolition. In addition to any other remedy herein provided, the Building Official may vacate, repair or demolish the building, take any other appropriate action, or institute any other appropriate proceeding, if any of the following occur:

1. The repair work is not done as scheduled;
2. The owner does not make a timely choice of repair or demolition; or
3. The Building Official determines that the owner has selected an option which cannot be completed within a reasonable period of time for any reason, including, but not limited to, an outstanding Judicial or Administrative Order.

In making the election permitted by this section, the Building Official shall give preference to the repair of the building whenever it is economically feasible to do so, as long as it is not necessary to repair more than 50% of the building, and shall give full consideration to the needs for housing as expressed in the City of Berkeley Housing Element. The cost of any repair or demolition work may be recovered in the manner hereinafter provided in this Code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot shall be paid over to the person or persons lawfully entitled thereto.

1102 – Extension of Time to Perform Work

Upon receipt of an application from the person required to conform to the Order and by agreement of such person to comply with the Order if allowed additional time, the Building Official may grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the Building Official determined that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The Building Official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect or extend the time to appeal the Notice and Order.

1103 – Interference with Repair or Demolition Work Prohibited

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the City or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this Code, or with any person to whom such building has been lawfully sold pursuant to the provisions of this Code, whenever such officer, employee, contractor or authorized representative of this jurisdiction, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building pursuant to the provisions of

this Code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this Code.

19.40.120 Performance of Repair or Demolition

1201 – Performance

1201.1 Procedure. When any repair or demolition is done pursuant to Section 1101.3 of this Code, the Building Official shall cause the work to be accomplished by City personnel or by private contract under the direction of the Building Official, subject to the City of Berkeley Charter. Plans and specifications therefore may be prepared by the Building Official, or the Building Official may employ such architectural and engineering assistance on a contract basis as may be deemed reasonably necessary.

1201.2 Costs. The costs of such work shall be paid from the Repair and Demolition Fund, and may be recovered from the owner as set forth herein.

1202 – Repair and Demolition Fund

1202.1 Establishment of Repair and Demolition Fund. The City Council may establish a special revolving fund to be designated as the Repair and Demolition Fund. Subject to the City of Berkeley Charter, payments shall be made out of said Fund upon the demand of the Building Official to defray the costs and expenses which may be incurred by this jurisdiction in doing or causing to be done the necessary work of repair or demolition of substandard buildings.

1202.2 Maintenance of Fund. The City Council may at any time transfer to the Repair and Demolition Fund, out of any money in the General Fund of the City, such sums as it may deem necessary in order to expedite the performance of the work of repair or demolition, and any sum so transferred shall be deemed a loan to the Repair and Demolition Fund and shall be repaid out of the proceeds of the collections herein after provided for. All funds collected under the proceedings hereinafter provided for shall be paid to the Treasurer of the City, who shall credit the same to the Repair and Demolition Fund.

19.40.130 Recovery of Cost of Repair or Demolition

1301 – Recovery of Costs

1301.1 Account and Report of Expense. The Building Official shall keep an itemized account of the expense incurred by the City in the repair or demolition of any building done pursuant to the provisions of Section 1101.3 of this Code. Upon the completion of the repair or demolition, the Building Official shall prepare a report specifying the work done and the cost thereof. The report shall be verified by the Building Official, and shall

show the itemized and total reasonable gross and net expense of the actions taken, including the expense of inspections, repairs or demolition and any other costs incurred, as well as any proceeds from salvage. The report shall also contain a statement advising:

1. That any person having any record or title or legal interest in the building may appeal from the report and demand of the Building Official to the Commission as set forth in Chapter 19.44 of this Code, and
2. That failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

The notice shall include a copy of Chapter 19.44 of this Code.

1301.2 Posting and Service. The Building Official shall post this report and a demand for payment in a conspicuous location at the property, and shall serve them upon the record owner, and each of the following if known to the Building Official or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located.

1301.3 Proof of Service. Proof of service of the report and demand shall be certified to at the time of service by a written declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the Notice and Order retained by the Building Official, either as an electronic record or a hard copy. The failure of the Building Official to serve any person required herein to be served shall not invalidate any proceeding hereunder as to any person duly served or relieve any such person from any duty or obligation imposed by the provisions of this Section.

1301.4 Appeals. The report and demand may be appealed by any person interested in or affected by the proposed charge as set forth in Chapter 19.44. For purposes of this Code, the report and demand of the Building Official, or, on appeal, of the Commission or City Council, shall be final and effective as set forth in Chapter 19.44.

1302 – Personal Obligation and Special Assessment

Charges confirmed and imposed in a final order by the City shall be a personal obligation of the property owner and an assessment against the property involved under Government Code Section 38773.1. The City may collect these charges in any manner permitted by law, and may elect to change the nature of the assessment as set forth in Section 1.24.140 of the Berkeley Municipal Code.

1303 – Repayment of Repair and Demolition Fund

All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale or in any other manner shall be deposited in the Repair and Demolition Fund.

19.40.140 Recovery of Costs for Housing Code Enforcement and Administration

1401 – Fees

1401.1 Establishment of Fees. The City Council may by resolution establish fees for the enforcement and administration of the Berkeley Housing Code and the Rental Housing Safety Program.

1401.2 Recovery of Delinquent Housing Inspection Program Fees and Administrative Citations. Unpaid housing inspection program fees established pursuant to this section, including annual flat fees, inspection service fees, late payment fees, administration lien fees, and administrative citations, which are more than 30 days delinquent shall constitute a debt that is collectible in any manner allowed by law, including, but not limited to: (1) the filing of a civil action in the Alameda County superior court; and/or (2) the recordation of a lien with the Alameda County recorder's office provided the responsible person has a legal interest in the property on which the violation was located; and/or (3) by means of a special assessment with Alameda County for inclusion on property taxes provided the responsible person has a legal interest in the property on which the violation was located; and/or (4) by denying the issuance or renewal of any city approval, license, entitlement, or permit to any responsible person who has failed to pay fees that are imposed pursuant to this section. The remedies may be concurrently used to collect unpaid fees. Such delinquent fees or citations shall be a lien or special assessment on the property.

1401.3 – Appeals.

- A.** Any person aggrieved by any decision of an administrative officer or agency with respect to the amount of fees charged under the Rental Housing Safety Program, may appeal to the City Manager by filing a notice of appeal with the City Manager within 14 days of the billing notice, setting forth in full the grounds of the appeal.
- B.** Said appeal shall be scheduled for hearing by the City Manager or his/her designee, and the appellant shall be given no less than 14 days' notice of the time and place of said hearing.
- C.** The appellant may appear at the time and place fixed in the notice and present his/her appeal. If the appellant fails to appear in compliance with the notice or to obtain a continuance, the appellant shall be deemed to have waived any and all grounds of appeal that could have been asserted against the City.

- D. Within 30 days after the conclusion of the hearing, the City Manager or his/her designee shall notify the appellant in writing of the decision, which shall be final. If the decision establishes an amount due and payable, the total amount shall be due and payable as of the date the original fee was due and payable, together with any penalties that may be due.

1401.4 – Lien or Special Assessment Procedures.

Unless a different procedure is authorized elsewhere in this code, where the code authorizes the city to record a lien or impose a special assessment for any unpaid fee, citation, fine, cost, charge, or other monies, the following procedures shall apply:

1. Notification Procedure

A lien may be recorded or a special assessment may be imposed upon real property subject to the Rental Housing Safety Program if the unpaid fees or citations are not paid within 30 calendar days of written Notice thereof.

- A. Such Notice must have advised the owner(s) of the subject property in plain language of the city's intent to record a lien or impose a special assessment if the fee, citation, fine or other monies were not paid within 30 calendar days, the amount of the proposed lien, a description of the basis for the amount(s) comprising the lien, and notice that if the owner contests the costs, they have ten calendar days from the date of service of the notice to file objections to the costs and request a hearing on the reasonableness of the costs. The failure of the owner to request a hearing within ten calendar days of the date of service of the Notice shall constitute a waiver of the owner's right to a hearing.
- B. Service of Notice under this section shall be by first class and certified mail to the address of record of the owner of the property per Alameda County's Assessor's Office.
- C. Where the City Council designates another hearing body should the property owner(s) exercise their right to be heard, the hearing body shall make a written recommendation to the City Council that shall include factual findings based on evidence introduced at the hearing. The City Council may adopt the recommendation without further notice of hearing, or may set the matter for a de novo hearing before the City Council.

2. Liens

- A. The lien shall be recorded in the Alameda County recorder's office and from the date of recording shall have the force, effect, and priority of a judgment lien.
- B. A lien authorized by this section shall specify the amount of the lien for the city, the name of the city department or division on whose behalf the lien is

imposed, the date upon which the lien was created, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel.

- C. In the event that the lien is discharged, released, or satisfied, notice of the discharge shall be recorded by the city.
- D. The city may recover from the property owner any costs incurred regarding the processing and recording of the lien.

3. Special Assessments

- A. It shall be the duty of the City Manager (or designee thereof) to submit the charges to the Alameda County Auditor – Controller Agency to add the amounts of the assessment, or assessments, to the next regular property tax bills.
- B. The amount of the assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessment.
- C. The amount of a special assessment shall also constitute a personal obligation of the property owner.

1401.5 Failure to Comply. Any person violating any provision or failing to comply with any of the requirements of the Berkeley Housing Code shall be deemed guilty of an infraction as set forth in Chapter 1.20 of the Berkeley Municipal Code.

Section 3. This ordinance shall become effective on January 1, 2023.

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 the Maudelle Shirek Building, 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 3, 2022, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

Explanation of Significant Changes to the Berkeley Housing Code

New Code Section in 19.40	Title	Prior BMC or Uniform Housing Code (UHC) Section or New Content	Description of / Rationale for Significant Changes
19.40.010	General Provisions		
101	Title	BMC 19.40.010	
102	Purpose	New section based on UHC Section 102	Clarifies purpose of the Berkeley Housing Code.
103	Scope and Applicability	New section based on UHC Section 103 with staff clarifications	Clarifies applicability and identifies how the Berkeley Housing Code supplements other BMC sections.
104	Authority	BMC 19.40.020 Sec. 201.1	
105	Rights of Entry	BMC 19.40.020 Sec. 201.2	
106	Responsibilities defined	BMC 19.40.020 Sec. 201.3	
107	Owner or representative to live on premises	BMC 19.40.100 Section 1701	
108	Violations	BMC 19.40.020 Sec. 204	
109	Housing Advisory and Appeals Board	BMC 19.40.020 Sec. 203	
19.40.020	Definitions	BMC 12.48.030, UHC Section 401 with added definitions	Definitions expanded to be more complete and coordinated with the California Building Code and Health & Safety Code.
19.40.030	Space and Occupancy Standards	New section based on UHC Chapter 5 with staff clarifications. Subsection 304.3D is a local amendment from the Berkeley Mechanical Code.	Incorporated into the BMC since the 1997 UHC is out of publication. Starting in 2008, the Building and Mechanical Codes allowed habitable spaces to use artificial lighting and outdoor air mechanical ventilation in lieu of window openings for natural light and ventilation. This is not reflected in the currently

New Code Section in 19.40	Title	Prior BMC or Uniform Housing Code (UHC) Section or New Content	Description of / Rationale for Significant Changes
			<p>adopted 1997 UHC. Since different requirements apply to habitable spaces constructed or altered after 2008, this section reconciles the difference between the Berkeley Housing Code and the California Building Code and incorporates alternative ventilation and lighting requirements for those buildings constructed or altered after 2008.</p> <p>Ceiling height reductions added to Section 303.1 reducing the ceiling height from 7’6” to 7’ and 6’8” in certain instances and room floor area reduction from 120 sq ft to 70 sq ft in Section 303.2 for one- and two-family dwellings in coordination with the California Residential Code.</p> <p>The Berkeley Mechanical Code has a local amendment mandating that residential kitchen ranges or cooktops be provided with a vented hood. This amendment has been incorporated into the Housing Code Subsection 304.3 D for transparency and to make the information more accessible to inspectors and the public.</p> <p>Section 606 added clarifying how interior surfaces of residential buildings are to be maintained.</p>

New Code Section in 19.40	Title	Prior BMC or Uniform Housing Code (UHC) Section or New Content	Description of / Rationale for Significant Changes
19.40.040	Structural Requirements		
401, 402, 403	Structural Requirements	UHC Section 601	Incorporated into the BMC since the 1997 UHC is out of publication.
404	Structural Maintenance	BMC 19.40.035 and BMC 12.48.055	Exterior Elevated Elements (E3) inspection requirements updated to be consistent with the Health and Safety Code, with a 6-year inspection cycle for rental units and a 9-year cycle for condos and the same licensed professionals authorized to perform inspections. The State excluded structural pest control operators and added certified building inspectors and building officials who are not employees of the jurisdiction.
19.40.050	Mechanical and Electrical Requirements		
501	Heating	BMC 19.40.040 Section 701.1	Revised temperature that heating systems in habitable spaces need to be able to maintain from 70°F to 68°F to reflect changes in the California Building Code and Energy Code. Added a requirement that water provided to plumbing fixtures shall be supplied at a temperature of not less than 110°F as specified in the CCR Title 25 State Housing Law.
502	Electrical Equipment	UHC Section 701.2	Incorporated into the BMC since the 1997 UHC is out of publication.
503	Ventilation	UHC Section 701.3	Incorporated into the BMC since the 1997 UHC is out of publication.

New Code Section in 19.40	Title	Prior BMC or Uniform Housing Code (UHC) Section or New Content	Description of / Rationale for Significant Changes
19.40.060	Exits	New section based on UHC Chapter 8 with staff clarifications	<p>Incorporated into the BMC since the 1997 UHC is out of publication.</p> <p>Added reference to minimum security requirements for exit doors in BMC 19.80.</p> <p>Clarification added regarding minimum net clear openings and requirement that egress windows not be obstructed. Section 601.F on means of egress added for ease of reference.</p> <p>Added window security bar regulations from the California Building Code and Health and Safety Code 17958.3.</p> <p>Clarification added that replacement windows shall be as required for new installations to be consistent with the California Building Code.</p>
19.40.070	Fire Protection	New based on UHC Section 901, California Building Code Chapter 9 and Health and Safety Code 17926	<p>Incorporated into the BMC since the 1997 UHC is out of publication.</p> <p>Also, for reference purposes, this section incorporates smoke alarm and carbon monoxide alarm provisions from the California Building Code Chapter 9 and Health and Safety Code 17926.</p>
19.40.080	Rental Housing Safety	12.48	Since the Rental Housing Safety Program (RHSP) is under the jurisdiction of the

New Code Section in 19.40	Title	Prior BMC or Uniform Housing Code (UHC) Section or New Content	Description of / Rationale for Significant Changes
			Building Official, RHSP provisions contained in BMC 12.48 were moved to BMC 19.40.080.
801	Findings	BMC 12.48.010	Outdated findings (previous 12.48.010 C and D) deleted per HAC recommendation.
802	Purpose	BMC 12.48.020	
803	Residential rental housing safety certification	BMC 12.48.050	<p>Added the option of emailing the checklist, in addition to mailing or personal delivery.</p> <p>Deleted the three-year exemption from proactive housing inspections for units which have had an inspection and received a certificate of compliance. Currently, the RHSP conducts a comprehensive inspection when responding to a tenant complaint. In the future, the RHSP may modify this practice to limit reactive inspections to the tenant's concerns and inspect all units on a cyclical basis, based on LA's model. This would eliminate the administrative step of checking if there has been an inspection in the unit in the last three years. Removing this from the Code would allow flexibility in the future.</p>
804	Unlawful alteration of premises by tenant/occupant	BMC 12.48.060	
805	Periodic inspection of rental dwelling unit	BMC 12.48.070	
806	Reactive/Complaint Inspections	New	BMC 19.40.070 incorporates current BMC 12.48 of the RHSP, Berkeley's proactive

New Code Section in 19.40	Title	Prior BMC or Uniform Housing Code (UHC) Section or New Content	Description of / Rationale for Significant Changes
			inspection program. BMC Section 806 has been added regarding complaint-based inspections. The subsequent code sections describe procedures for both proactive and reactive inspections.
807	Certificate of Compliance issued when	BMC 12.48.070	Removed that the certificate of compliance will be valid for three years, for the reason explained above for section 803.
808	Correction of violations required	BMC 12.48.080	
809	Violations	BMC 12.48.100	
810	Penalties	BMC 12.48.110	
19.40.090	Substandard Housing		
901	Substandard housing - Defined	BMC 19.40.020 Section 202 with added definition from Health and Safety Code	For reference purposes, this section incorporates the entire list of substandard conditions from the California Health and Safety Code 17920.3. Headings have been bolded for ease of understanding.
902	Substandard building - Nuisance	BMC 19.40.020 Sec. 202	
19.40.100	Orders of the Building Official	BMC 19.40.060	
1001	Commencement of proceedings	BMC 19.40.060 Section 1101 (a)	
1002	Notice of violation	New	Added to reflect current procedures. Berkeley begins with a Notice of Violation to encourage voluntary compliance before progressing to a Notice and Order, unless substandard conditions are severe.
1003.1	Notice and order	BMC 19.40.060 Section 1101 (b) 1003.1.G New	1003.1.G added for clarity to cross reference the relocation ordinance per HAC recommendation.

New Code Section in 19.40	Title	Prior BMC or Uniform Housing Code (UHC) Section or New Content	Description of / Rationale for Significant Changes
1003.2	Service of notice and order	BMC 19.40.060 Section 1101 (c)	
1003.3	Method of service	BMC 19.40.060 Section 1101 (d)	
1003.4	Proof of service	BMC 19.40.060 Section 1101 (e)	
1003.5	Appeals	BMC 19.40.060 Section 1101 (f)	
1004	Repair, vacation and demolition	BMC 19.40.060 Section 1102	
1005	Notice to vacate	BMC 19.40.060 Section 1103	
1005.1	Posting	BMC 19.40.060 Section 1103 (a)	
1005.2	Compliance	BMC 19.40.060 Section 1103 (b)	
1006	Recordation of notice and order	BMC 19.40.060 Sec. 1104	
1007	Post-Disaster Safety Assessment	New	Provides inspection procedures post-disaster.
19.40.110	Enforcement of Orders	BMC 19.40.070	
19.40.120	Performance of Repair or Demolition	BMC 19.40.080	
19.40.130	Recovery of Cost of Repair or Demolition	BMC 19.40.090	
19.40.140	Recovery of Costs for Housing Code Enforcement and Administration	BMC 19.40.110 and BMC 12.48.090	
1401.1	Establishment of Fees	BMC 19.40.110 Section 1801 (a) and BMC 12.48.090.A	

New Code Section in 19.40	Title	Prior BMC or Uniform Housing Code (UHC) Section or New Content	Description of / Rationale for Significant Changes
1401.2	Recovery of delinquent Rental Housing Safety Program fees and administrative citations	BMC 19.40.110 Section 1801 (b)	
1401.3	Appeals	BMC 12.48.120	
1401.4	Lien or special assessment procedures	New and BMC 12.48.090.B	Adopts more specific lien and special assessment procedures to strengthen their enforceability and specifies that these apply to administrative citations as well as inspection and annual fees.
1401.5	Failure to comply	BMC 19.40.110 Section 1801 (c)	

Deletions from 19.40	
19.40.030	Deleted outdated language in BMC 19.40.030 including outdated code references.
Previously Adopted Section of 1997 Uniform Housing Code that is no longer included	
Chapter 3	Permits and Inspections (covered under administrative provisions of BMC 19.28 Berkeley Building Code and BMC 19.40.080 Housing Inspections)

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL
ADOPTION OF BERKELEY HOUSING CODES**

The Department of Planning and Development is proposing that the City Council adopt second reading of an Ordinance repealing Berkeley Municipal Code (BMC) Chapter 12.48 (Residential Rental Housing Safety Program), and repealing and re-enacting BMC 19.40 (Berkeley Housing Code), incorporating BMC Chapter 12.48 into BMC Chapter 19.40.

The hearing will be held on November 29, 2022 at 6:00 p.m. The hearing will be held via videoconference pursuant to Government Code Section 54953(e) and the state declared emergency.

A copy of the agenda material for this hearing will be available on the City’s website at www.berkeleyca.gov as of **November 17, 2022**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Jenny McNulty, Resilient Buildings Program Manager, Planning and Development Department, 510-981-7451.

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to council@cityofberkeley.info in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

Published: November 11 & November 18, 2022
California Government Code section 50022.3

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on November 17, 2022.

\_\_\_\_\_  
Mark Numainville, City Clerk





Office of the City Manager

ACTION CALENDAR  
November 29, 2022

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Mark Numainville, City Clerk  
 Subject: Return to In-Person City Council Meetings and Status of Meetings of City Legislative Bodies

RECOMMENDATION

Review the public health meeting protocols and advise on any revisions to be implemented for the return to in-person regular meetings at the December 6, 2022 regular meeting.

FISCAL IMPACTS OF RECOMMENDATION

Depending on the public health measures in place for hybrid meetings, additional costs may be incurred, likely under \$10,000.

CURRENT SITUATION AND ITS EFFECTS

On October 19, 2022 the Agenda & Rules committee discussed the return to in-person meetings and recommended that the City Council return to in-person meetings starting with the December 6, 2022 meeting. The in-person meetings of the City Council will continue to allow for remote participation by the public.

For hybrid meetings staff developed protocols for members of the public in attendance and the City Council. With the changing public health conditions related to COVID-19, these meeting protocols need to be reviewed and revised prior to the December 6 meeting. The current version of the protocols that were last used in June 2022 are attached for review (Att. 1).

The council may discuss and advise on modification to these protocols in advance of the December 6 meeting. The primary topics for review are the requirements for masking, distancing, and proof of vaccination. The Public Health Officer has reviewed the protocols and made suggested revisions based on the current public health orders in place and the most recent public health data available (Att. 2).

The final, revised protocols will be made available to the public through the city's website and communication channels.

## BACKGROUND

Governor Newsom announced that he will end the statewide emergency declaration for COVID-19 on February 28, 2023. Rescinding the emergency declaration will end the exemptions to the Brown Act that were codified in AB 361. These exemptions allowed for remote participation by members of the legislative bodies without the need to notice the remote participation location or make the remote location accessible to the public.

In the past legislative session, AB 2449 was signed into law to extend the Brown Act exemptions in AB 361, but only for certain circumstances and for a limited duration of time. The provisions of AB 2449 are cumbersome and complicated and do not provide any long-term extension of the Brown Act exemptions used during the statewide declared emergency. A summary of AB 2449 is attached to this report (Att. 3).

After February 28, 2023, if a member of the City Council participates remotely, but does not qualify for the exemptions in AB 2449, the remote location will be listed on the agenda, and the remote location must be available to the public.

### **Hybrid Meetings of the City Council**

Since the start of the pandemic in March of 2020, the City Council has held six hybrid meetings from the Boardroom. These hybrid meetings allowed for in-person participation and virtual participation for the public and the City Council. The meetings were successful from a technology and logistics standpoint and a regular return to hybrid meetings should be manageable from a staff and meeting management perspective. Resources and processes will be continuously evaluated by staff throughout the transition to a regular hybrid meeting structure.

City staff will continue to test the Boardroom technology with the IT Department, BUSD IT, and Berkeley Community Media to ensure smooth functionality. Communication with the public about the return to in-person (hybrid) meetings will be sent out through multiple channels in advance of December 6.

### **Status of Other Legislative Bodies**

City boards and commissions have been meeting virtual-only during the state declared emergency. When the state declared emergency expires on February 28, 2023, these bodies will return to in-person only meetings.

With over 30 commissions, there are approximately 350 commission meetings per year. Often there are multiple commissions meeting on the same day. The City does not currently have the videoconference infrastructure in place to provide for hybrid meetings for commissions. In addition, in a hybrid setting it is more difficult to manage and conduct meetings while attempting to provide meaningful participation by commissioners and the public. City staff will communicate with commission secretaries and commissioners to facilitate the transition back to in-person meetings. Staff will also analyze the costs for expanding videoconference capabilities throughout the City.

City Council policy committees may have the potential to meet in a hybrid format after February 28, 2023. In order to accommodate hybrid meetings, the videoconference capabilities in 2180 Milvia will need to be significantly expanded. This analysis is currently underway.

Based on the discussion at the Agenda & Rules Committee meeting on October 31, 2022, it is planned for the Council to continue to make the required findings to allow for virtual only meetings for policy committees and commissions. These legislative bodies will meet in a virtual-only setting through February 2023.

For both commissions and policy committees, the potential, future videoconference participation in the meeting is for the public only. The members of the legislative bodies will be at the physical meeting location as previously discussed.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Providing for remote participation in City Council meetings reduces vehicle trips and GHG emissions. It also provides for the participation by persons with dependent care responsibilities and persons with disabilities.

#### RATIONALE FOR RECOMMENDATION

The meeting protocols are being brought forward for discussion and the direction of the Agenda & Rules Committee to facilitate the return to in-person meetings brought on by the Governor's pending rescission of the state declared emergency.

#### ALTERNATIVE ACTIONS CONSIDERED

The Council may return to full in-person meetings prior to the rescission of the state emergency declaration and may decide to allow for in-person only participation by the public.

#### CONTACT PERSON

Mark Numainville, City Clerk, (510) 981-6900

#### Attachments:

- 1: In-Person Meeting Protocols from May 2022
- 2: In-Person Meeting Protocols with November 2022 Revisions
- 3: Summary of AB 2449 (Remote Participation)

## Hybrid Meeting Policies for City Council Meetings Revised May 2022

The policy below covers the conduct of hybrid City Council meetings (in-person and remote participation) held in accordance with the Government Code and any relevant Executive Orders or State declared emergencies. These administrative policies supplement the City Council Rules of Procedure and Order.

City Council policy committees and city boards and commissions will continue to meet in a virtual-only setting until the City Council makes the required findings under state law that in-person meetings may resume.

### I. Vaccination Status

Prior to entry, all in-person attendees at the meeting location must present valid proof of “up-to-date” COVID-19 vaccination or a verified negative test conducted within one day prior for an antigen test or two days prior for a PCR test. An attendee is “up-to-date” with their vaccinations if:

- It has been less than 2 months after receiving the initial dose of their Johnson & Johnson Vaccine.
- It has been less than 5 months after receiving the second dose of their two-dose Pfizer or Moderna initial series.
- The attendee has received a booster.

#### *Pre-entry negative testing*

*Definition: Testing must be conducted within one day for an antigen test and within two days for a PCR test prior to entry into an event. Results of the test must be available prior to entry into the facility or venue. Children under 2 years of age are exempt from the testing requirement, consistent with [CDC guidance](#).*

*Verification: See current [CDPH Updated Testing Guidance](#) and [CDPH Over-the-Counter Testing Guidance](#) for acceptable methods of proof of negative COVID-19 test result and information on Over-the-Counter tests. Note: Self-attestation may not be used to verify negative test result, even when using Over-the-Counter (or at home tests) for entry into Indoor Mega Events.*

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Beyond-Blueprint-Framework.aspx>

### II. Health Status Precautions

If a person who desires to attend the meeting in-person is feeling sick, including but not limited to, cough, shortness of breath or difficulty breathing,

fever or chills, muscle or body aches, vomiting or diarrhea, or new loss of taste or smell, they will be advised to attend the meeting remotely.

If an in-person attendee has been in close contact, as defined below, with a person who has tested positive for COVID-19 in the past five days, they are advised to attend the meeting remotely.

Close contact is defined as being within approximately 6 feet for greater than 15 minutes over 24 hours within 2 days before symptoms appear (or before a positive test for asymptomatic individuals); or having contact with COVID-19 droplets (e.g., being coughed on while not wearing recommended personal protective equipment).

A voluntary sign in sheet will be available at the meeting entry for in-person attendees. This will assist with contact tracing in case of COVID-19 contact resulting from the meeting.

### **III. Face Coverings/Mask**

Face coverings or masks that cover both the nose and mouth are required for all attendees at an in-person City Council meeting. Face coverings will be provided by the City and available for attendees to use at the meeting. Members of the City Council, city staff, and the public are required to wear a mask at all times, except when speaking publicly from the dais or at the public comment podium.

If an attendee at a Council meeting is not wearing a mask, a mask will be offered to them to use. If the attendee refuses to wear a mask, a recess will be called in order to provide guidance to the attendee on the requirement and their options for attending remotely and in-person.

Private security personnel will be the primary person for requesting compliance. If removal of a non-compliant person is needed, law enforcement personnel will perform this task.

### **IV. Physical Distancing**

Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a Council meeting.

Audience seating capacity will be at regular allowable levels per the Fire Code. The relevant capacity limits will be posted at the meeting location.

However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as “distanced seating” to accommodate persons with a medical status that requires distancing and for those that choose to distance for personal health reasons.

Conference room capacity is limited to 15 persons.

City staff will present remotely in order to reduce the number of persons in the Boardroom and back conference area.

Distancing is encouraged for the dais and partitions will be used as needed for the seating positions on the dais.

**V. Protocols for Remote Participation by Mayor or Councilmembers**

Upon the repeal of the state-declared emergency, all standard Brown Act requirements will be in effect for members of the Council participating remotely. For the Mayor and Councilmembers participating remotely, the remote location must be accessible to the public and the public must be able to participate and give public comment from the remote location.

- A Councilmember at a remote location will follow the same policies as the Boardroom with regards to vaccination status and testing requirements, health status precautions, and masking requirements.
- A Councilmember at a remote location may impose reasonable capacity limits at their location.

**VI. Hand Washing/Sanitizing**

There are hand sanitizing stations placed at the entry and strategically throughout the Boardroom. The bathrooms have soap and water for handwashing.

**VII. Air Flow/Circulation/Sanitizing**

Berkeley Unified Facilities Staff performs a vigorous cleaning process after each use of the Boardroom. BUSD upgraded all HVAC filtration to MERV13, and with the inclusion of Needlepoint BiPolar Ionization, is achieving a rating that is closer to MERV18. Additionally, BUSD installed indoor air quality monitoring sensors in all facilities that constantly monitor Volatile Organic Compounds, CO<sub>2</sub>, Relative Humidity, and Temperature. The sensors and alarms allow BUSD to ensure that all systems are working properly and as



designed. If a sensor trips an alarm, a work order request is generated immediately to ensure the system is repaired expeditiously.

**VIII. Overflow in Gymnasium**

An overflow indoor seating area will be available at the West Campus Gymnasium if staff determines that attendance is likely to exceed the capacity of the Boardroom. The capacity of the gymnasium is 200 persons. The overflow area will have a broadcast of the meeting in progress to allow participants to follow the proceedings and move to the Boardroom at the appropriate time to provide public comment if desired. This area will be monitored by the BUSD security personnel.

**IX. In-Meeting Procedures**

**Revised and Supplemental Materials**

All revised and supplemental materials for items on the agenda submitted after 12:00pm (noon) the day prior to the meeting must be submitted to the City Clerk in both paper AND electronic versions.

- Paper: 42 copies delivered to the Boardroom (distributed per normal procedure)
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## Hybrid Meeting Policies for City Council Meetings

### Revised ~~May 2022~~ November 2022

The policy below covers the conduct of hybrid City Council meetings (in-person and remote participation) held in accordance with the Government Code and any relevant Executive Orders or State declared emergencies. These administrative policies supplement the City Council Rules of Procedure and Order.

City Council policy committees and city boards and commissions will continue to meet in a virtual-only setting until the City Council makes the required findings under state law that in-person meetings may resume.

#### I. Vaccination Status

~~All attendees are encouraged to be fully up to date on their vaccinations including any boosters for which they are eligible. Prior to entry, all in-person attendees at the meeting location must present valid proof of “up-to-date” COVID-19 vaccination or a verified negative test conducted within one day prior for an antigen test or two days prior for a PCR test. An attendee is “up-to-date” with their vaccinations if:~~

- ~~• It has been less than 2 months after receiving the initial dose of their Johnson & Johnson Vaccine.~~
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If a person who desires to attend the meeting in-person is feeling sick, including but not limited to, cough, shortness of breath or difficulty breathing,

fever or chills, muscle or body aches, vomiting or diarrhea, or new loss of taste or smell, they will be advised to attend the meeting remotely.

If an in-person attendee has been in close contact, as defined below, with a person who has tested positive for COVID-19 in the past five days, they are advised to attend the meeting remotely.

Close contact is defined as someone sharing the same indoor airspace, e.g., home, clinic waiting room, airplane etc., for a cumulative total of 15 minutes or more over a 24-hour period being within approximately 6 feet for greater than 15 minutes over 24 hours within 2 days before symptoms of the infected person appear (or before a positive test for asymptomatic individuals); or having contact with COVID-19 droplets (e.g., being coughed on while not wearing recommended personal protective equipment).

A voluntary sign in sheet will be available at the meeting entry for in-person attendees. This will assist with contact tracing in case of COVID-19 contact resulting from the meeting.

Members of the City Council are encouraged to take a rapid COVID-19 test on the day of the meeting if participating in-person.

### III. Face Coverings/Mask

Face coverings or masks that cover both the nose and mouth are required for all attendees at an in-person City Council meeting. Face coverings will be provided by the City and available for attendees to use at the meeting. Members of the City Council, city staff, and the public are required to wear a mask at all times, except when speaking publicly from the dais or at the public comment podium, although masking is recommended even when speaking.

If an attendee at a Council meeting is not wearing a mask, a mask will be offered to them to use. If the attendee refuses to wear a mask, a recess will be called in order to provide guidance to the attendee on the requirement and their options for attending remotely and in-person.

Private security personnel will be the primary person for requesting compliance. If removal of a non-compliant person is needed, law enforcement personnel will perform this task.

#### IV. **Physical Distancing**

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Audience seating capacity will be at regular allowable levels per the Fire Code. The relevant capacity limits will be posted at the meeting location. However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as “distanced seating” to accommodate persons ~~with a medical status that requires distancing and for those~~ that choose to distance for personal health reasons.

Conference room capacity is limited to 15 persons.

City staff will present remotely in order to reduce the number of persons in the Boardroom and back conference area.

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## **Summary of AB 2449**

### **Current Law**

Under current law [AB 361 (R. Rivas), Chapter 165, Statutes of 2021], The exemptions included in AB 361 only apply during a declared state of emergency as defined under the California Emergency Services Act. (Gov. Code §§ 52953(e)(1), (e)(4).) In addition, one of the following circumstances must apply:

- State or local officials have imposed or recommended measures to promote social distancing.
- The legislative body is meeting to determine whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
- The legislative body has determined that, as a result of the emergency, meeting in person presents imminent risks to the health or safety of attendees.

With the lifting of the State of Emergency, the provisions of AB 361 cannot be met, and therefore localities must return to pre-pandemic Brown Act provisions.

### **Recently Enacted Legislation on Remote Meetings**

The State legislature recently enacted, and the Governor signed AB 2449 (Rubio) [Chapter 285, Statutes of 2022] which provides under incredibly limited circumstances, the ability to have a minority amount of a Brown Act body members participate remotely. The measure is slated to sunset January 1, 2026.

### **General Requirements**

1. A quorum of the council must participate in person at its public meeting site within the boundaries of the jurisdiction (e.g., city hall/council chambers).
2. A member who wishes to participate remotely must have either “just cause” or “emergency circumstances.”

“Just cause” is defined as:

- A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires the councilmember to participate remotely.
- A contagious illness that prevents a member from attending in person.
- A need related to a physical or mental disability not otherwise accommodated under the ‘reasonable accommodation’ provisions of the Americans with Disabilities Act.
- Travel while on official business of the legislative body or another state or local agency.

“Emergency circumstances” is defined as “a physical or family medical emergency that prevents a member from attending in person.”

### **Procedures and Limitations**

A. When using the ‘Just cause’ exception:

1. The elected/appointed official must provide a general description of the circumstances relating to their need at the earliest opportunity possible, including at the start of the meeting.
2. A councilmember may not appear remotely due to “just cause” for more than two meetings per calendar year.

B. When using the 'emergency circumstances' exception:

1. The elected/appointed official must give a general description of the emergency circumstances, but the member is not required to disclose any medical diagnosis, disability, or personal medical information.
2. The governmental body must take action to approve the request prior to the remote participant being able to participate in any further business.

C. In all circumstances the following must occur:

1. The elected/appointed official must disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.
2. The member must participate through both audio and visual technology (e.g., the member must be on-screen).

D. Limited use despite narrow circumstances:

1. A member cannot attend meetings remotely for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.







Office of the City Manager

## ACTION CALENDAR

November 29, 2022

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Liam Garland, Director, Department of Public Works  
 Subject: Adeline Street at Ashby BART Conceptual Design

### RECOMMENDATION

Adopt a Resolution approving the Plaza with Two-Lane Adeline option as the conceptual design for a street reconfiguration and new plaza along Adeline Street between Ashby Avenue and Martin Luther King Jr. Way, and authorizing the City Manager to direct staff to proceed with the detailed engineering design of the project.

### SUMMARY

The Adeline Street at Ashby BART project consists of the redesign of Adeline Street between Ashby Avenue and Martin Luther King Jr. Way (MLK) in order to increase safety for pedestrians and people bicycling, while also meeting the needs of public transit and emergency vehicles. Features include a narrowing of the street primarily through a reduction in the number of traffic lanes and a new plaza on the west side of Adeline Street. The proposed design concept was based on previously adopted plans, policies, a Council referral, and refined through engagement with the public and stakeholders, including Bay Area Rapid Transit District (BART) staff and Board Directors, AC Transit staff, the Berkeley Flea Market Board and vendors, and the Ed Roberts Campus management and tenant organizations. Additional community engagement will continue as the high-level conceptual designs for the Adeline Street right-of-way at the Ashby BART are refined.

### FISCAL IMPACTS OF RECOMMENDATION

The recommendation has no fiscal impacts.

### CURRENT SITUATION AND ITS EFFECTS

The project responds in part to a City Council Budget Referral (February 11, 2020) calling for an analysis of “the potential for a major redesign of the section of Adeline St. between MLK Way and Ward St., to improve the public space to increase safety for pedestrians, cyclists, and people living with disabilities, while also meeting the needs of public transit and emergency vehicles.” The Referral requests that a two-lane option that reduces the width of the street be prioritized.

Following the approval of the above-described Referral, Adeline Street was prioritized for safety improvements through the City's planning efforts. It was identified as a high-injury street for severe and fatal traffic crashes in the Berkeley Vision Zero Action Plan, which was adopted in March 2020. Adeline Street south of Ashby Avenue was also identified in the Berkeley Pedestrian Plan (January 2021) as one of the City's top ten street segments recommended for pedestrian safety treatments based primarily on its high rate of severe traffic crashes with pedestrian victims.

Simultaneous to these planning efforts, the Adeline Corridor Specific Plan (ACSP) (December 2020) set goals related to transportation safety, including to improve intersection crossing safety for pedestrians, to provide universal access to improve mobility and safety for persons with disabilities, and to create new bicycle facilities integrated with the City's bicycle network. The ACSP also set a goal to improve transit and connections to transit. For the segment of Adeline between Ashby and MLK, the ACSP maintained the existing number of vehicle travel lanes and identified the west side of Adeline Street next to the Ashby BART station as a public space opportunity and as a future location for a cycle track.

The project also supports future housing development plans for the Ashby BART station by designing future plaza space that could accommodate the needs of the Berkeley Flea Market that currently utilizes the parking lot (west of Adeline Street), as reflected in recently approved zoning and City and BART Memorandum of Agreement (MOA) for the North Berkeley and Ashby BART Station Areas. Amenities anticipated to be located on the future plaza could include stationary artwork (e.g. a memorial wall to acknowledge the history of the Berkeley Flea Market and the Lorin District), a stage area for events, and a children's play area. Other amenities being considered, which may possibly be provided through the future development of the current western parking lot site, are public restrooms and a storage room for custodial equipment. The MOA establishes a timeline for milestones for the Ashby TOD project that includes "City Council agreement on roadway reconfiguration for Adeline Street" in November 2022.

The proposed conceptual design responds to the Budget Referral and the adopted plans and policies by incorporating pedestrian crossing safety improvements (including converting the intersection of Adeline and MLK into a right-angle intersection), a plaza and southbound protected bikeway (cycle track) along the west of Adeline, and transit priority treatments, as described in further detail below.

### Project Description

This project focuses on right-of-way options for the segment of Adeline Street between Ashby Avenue and Martin Luther King Jr. Way. It is related to other planning efforts for the entire length of Adeline Street in Berkeley ("the Adeline Corridor") and for mixed-use development on surface parking lots at Ashby BART Station.

The goals developed through and for the Adeline Street at Ashby BART project are as follows:

- **Enhance safety for all users** through management of vehicle speeds, reduced crossing distances for pedestrians, and provision of a separated bicycle facility along the entire segment
- **Increase public space** by expanding sidewalk widths and exploring the potential of a new permanent location for the Berkeley Flea Market, which may be relocated as a result of future development at the Ashby BART station.
- **Support bus transit operations** by incorporating designs that increase safety for bus riders, facilitate bus and shuttle operations, improve passenger connections to BART, and reduce potential bus-bike conflicts.
- **Accommodate passenger and freight loading** for businesses along the corridor, including Berkeley Bowl and Ed Roberts Campus.
- **Implement inclusive engagement practices** and coordinate public outreach across ongoing projects within the study area to reach a larger and broader audience and provide multiple opportunities for meaningful interactions

### Conceptual Design Options

As shown in Attachments 1 and 2, two conceptual design options (Options 1: Linear Plaza, Two Vehicle Travel Lanes and Dedicated Bus Lanes, and Option 2: Linear Plaza, Two Vehicle Travel Lanes with Bus Queue Jump Only) were developed for the Adeline Street at Ashby BART project based on prior adopted plans, new outreach and engagement efforts with institutional stakeholders, and public input. Each of these design options has an optional expanded plaza at the south end, pending the identification of funding for the podium that would need to be constructed to accommodate this expanded plaza.

#### Option 1 – Plaza with Adeline Bus Lanes

- Approximately 40,000 square feet of plaza space on the west side of Adeline
- Reduction in number of general purpose traffic lanes on Adeline from four (two each direction) to two (one each direction)
- Dedicated northbound and southbound bus lanes, with the southbound bus lane utilized as a parking lane on weekends for vendor and customer access to the plaza
- Southbound protected bikeway in the form of a raised path on the east side of the plaza
- Currently skewed intersection of Adeline/MLK converted to a right-angle intersection
- Option: plaza expanded westward near its south end over a podium, depending on funding availability – approximately 52,000 square feet of plaza

## Option 2 – Plaza with Two-Lane Adeline

- Approximately 53,000 square feet of plaza space on the west side of Adeline
- Reduction in number of general purpose traffic lanes on Adeline from four (two each direction) to two (one each direction)
- Transit queue jump lane on Adeline southbound approaching the Ashby intersection in order to prioritize bus travel and reduce bus delay through the narrowed segment of Adeline between Ashby and MLK (traffic analysis found no delay northbound so this is only recommended southbound)
- Southbound protected bikeway in the form of a raised path on the east side of the plaza
- Currently skewed intersection of Adeline/MLK converted to a right-angle intersection
- Option: plaza expanded westward near its south end over a podium, depending on funding availability – approximately 65,000 square feet of plaza

*Traffic Analysis Results*

The traffic analysis completed for the project initially showed that the proposed reduction in the number of traffic lanes from four to two (from two lanes each direction to one lane each direction) would increase traffic delay in the PM peak period at the Adeline/Ashby intersection by nearly one minute southbound and nearly thirty seconds northbound, and at the Adeline/MLK intersection by less than ten seconds making the left turn from Adeline onto MLK southbound, with no change in the delay for the right turn to continue on Adeline northbound. This initial analysis assumed no change in the signal timing. By optimizing the signal timing, however, the delay in the PM peak period caused by the traffic lane reduction was lowered at the Adeline/Ashby intersection to less than ten seconds northbound, with no additional delay southbound. This signal timing optimization also eliminated the delay at the Adeline/MLK intersection for traffic making the left turn from Adeline onto MLK southbound and making the right turn to continue on Adeline northbound. The dedicated bus lanes in Option 1 and the dedicated southbound intersection queue jump lane in Option 2 would further reduce delay for transit.

BACKGROUND

Adeline Street historically carried Key System interurban streetcars that connected downtown Berkeley with Oakland, Emeryville and, by way of ferries and later the Bay Bridge, San Francisco. The project area was known historically as the Lorin District and was part of a string of streetcar suburbs. The Key System rail service on Adeline ended in 1958, at which time it was replaced by bus service. In 1970, several blocks of residential and commercial buildings, including along the west side of Adeline between Ashby Avenue and Martin Luther King Jr. Way (then called Grove Street), were demolished to build the Ashby BART station and parking lots. Adeline Street was widened in the process. In addition to the high toll on the neighborhood caused by the displacement of long-time residents and families, these changes had the effect of

making Adeline Street more challenging to cross on foot and by bike, and likely increased motor traffic speeds.

The ACSP responded to these challenges by setting goals to improve safety for people walking and biking along and across Adeline Street and by calling for specific safety treatments, as described above. The Adeline at Ashby BART project further develops these plans for safety treatments.

### *Public Engagement*

City staff, in coordination with BART staff, engaged in an extensive stakeholder engagement process. This included meeting with the Berkeley Flea Market Board and vendors, AC Transit staff, and Ed Roberts Campus management and tenant organizations. City and BART staff conducted multiple weekend site visits at the Berkeley Flea Market to engage with vendors, including hosting an information table on September 17, 2022, at which a vendor survey was administered. In addition, City staff met with the Berkeley Flea Market Board to get their input about the project on several occasions between January and August 2022, and held an in-person vendor meeting to receive their input on September 28, 2022. Following this engagement, the City received extensive public input through a well-attended public meeting with over 120 attendees held on October 3, 2022. Option 2 was by far the preferred option among attendees. Some attendees expressed concern that traffic would divert onto MLK northbound as a result of the project. However, the proposed signal timing would keep Adeline competitive with MLK as a route such that there is not anticipated to be a time-savings advantage to diverting onto MLK, which would be an inducement for drivers *not* to divert onto MLK.

The conceptual design options for the project were presented to the Transportation and Infrastructure Commission on October 20, 2022. It was motioned and seconded (Walton/Greenberg) as follows: “The Transportation and Infrastructure Commission recommends to Council moving forward with option 2. We would like the following four items to also be considered:

1. Creating accessible pedestrian and wheelchair access from the plaza to the BART station entrance on the western edge of the Adeline plaza with 24/7 access and that does not solely rely on functional elevators;
2. Continuing efforts to realize the vision in the Adeline corridor plan for shopfronts in the new development to meet the western edge of the Adeline plaza to ensure activation of the plaza through business and community activity;
3. Continuing to investigate all possible solutions to increase safety, possibly by reducing crossing distances and eliminating slip turn lanes, at the Adeline/Ashby intersection as it will potentially be considered with Reconnecting Communities grant along Ashby; and
4. Looking for additional grant opportunities, such as Safe Routes to Transit, to improve pedestrian access to the station from the surrounding areas.”

The motion passed six to zero. Note that the Reconnecting Communities grant and Safe Routes to Transit grants referenced in the language of the Motion are a new federal funding program administered by the United States Department of Transportation and a regional funding program administered by the Metropolitan Transportation Commission, respectively. The City has applied for a Reconnecting Communities grant to fund a study and conceptual design to improve the safety of intersections and pedestrian, bicycle, and vehicular crossings along Ashby Avenue from Telegraph Avenue to San Pablo Avenue. Awards are anticipated to be announced early in 2023.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Installation of a protected bikeway and improved pedestrian crossings are anticipated to increase walking and biking, which is consistent with the 2009 Berkeley Climate Action Plan Policy that calls for expanding and improving Berkeley’s bicycle and pedestrian infrastructure. The 2009 Berkeley Climate Action Plan sets targets of reducing transportation emissions 80% below year 2000 levels by 2050. The Plan further states that transportation modes such as public transit, walking, and bicycling must become the primary means of fulfilling the City’s mobility needs in order to meet these targets.

RATIONALE FOR RECOMMENDATION

Approval of the conceptual design will allow the City to continue to work with BART on plans to develop housing, including affordable housing, on the current site of the Ashby BART station western parking lot by identifying a potential future location to accommodate the Berkeley Flea Market that currently uses the station parking lot. This action will also keep the project on track to compete for capital grant funding for detailed design and construction of the plaza and street reconfiguration.

ALTERNATIVE ACTIONS CONSIDERED

Council could decide not to approve the conceptual design for the project or could opt to approve the proposed design concept for only a subset of project segments.

CONTACT PERSON

Farid Javandel, Deputy Director of Public Works for Transportation (510) 981-7061  
Beth Thomas, Principal Planner, Public Works (510) 981-7068

Attachments:

- 1: Resolution
  - Exhibit A: Adeline Street at Ashby BART Design Concept: Plaza with Two-Lane Adeline
- 2: Other Conceptual Design Option Considered: Plaza with Adeline Bus Lanes
- 3: Adeline Street at Ashby BART Preliminary Conceptual Designs: Summary of Community Meeting (10/3/22) and Office Hours (10/6/22)

RESOLUTION NO. ##,###-N.S.

ADELINE AT ASHBY BART CONCEPTUAL DESIGN

WHEREAS, the project corridor includes Adeline Street from Ashby Avenue to Martin Luther King Jr. Way; and

WHEREAS, the Berkeley Vision Zero Action Plan has documented severe and fatal crashes on Adeline Street; and the Berkeley Pedestrian Plan has identified Adeline Street between Ashby Avenue and Stanford Avenue as one of the top ten street segments in Berkeley in need of pedestrian safety treatments; and

WHEREAS, the City has zoned for housing on the current site of the Ashby BART station western parking lot currently used by the Berkeley Flea Market, creating the need for a new public plaza that could accommodate the Berkeley Flea Market and other public uses; and

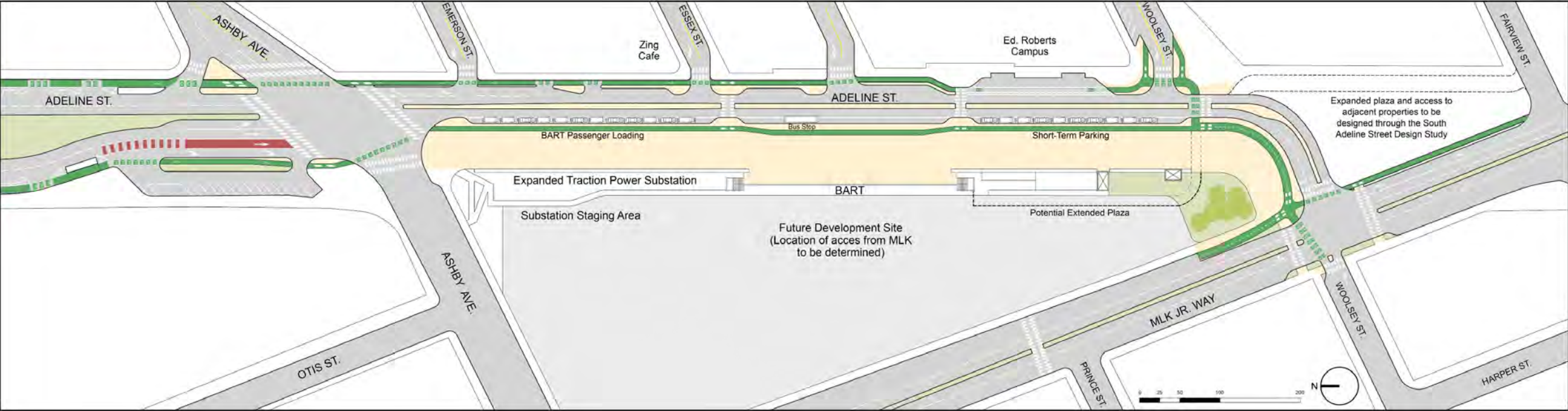
WHEREAS, with the support of a design consultant team, City staff have identified conceptual design options for the project corridor; sought public input on and analyzed those conceptual design options; and have selected a recommended conceptual design for consideration by the Berkeley City Council; and

WHEREAS, the recommended design includes a public plaza and physically protected bikeway on the west side of Adeline Street between Ashby Avenue and Martin Luther King Jr. Way, in addition to pedestrian safety features, as shown in Exhibit 1 to this Resolution; and

WHEREAS, approval of the Adeline at Ashby BART Project recommended conceptual design will keep the project on schedule to compete for capital grants for detailed design and construction by 2025.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to direct staff to proceed with the preliminary engineering and detailed engineering design of the Adeline at Ashby BART Project, based on the recommended conceptual design with Two-Lane Adeline option as the conceptual design for a street reconfiguration and new plaza along Adeline Street between Ashby Avenue and Martin Luther King Jr. Way, pending identification of funding.

# Adeline Street at Ashby BART Design Concept: Plaza with Two-Lane Adeline (Layout View)

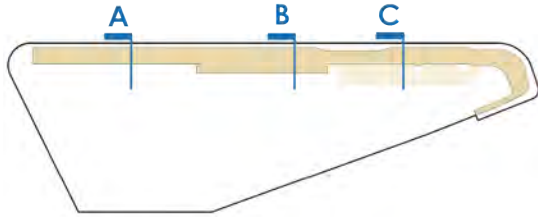


- Legend**
- Protected Bikeway
  - Bus Queue Jump

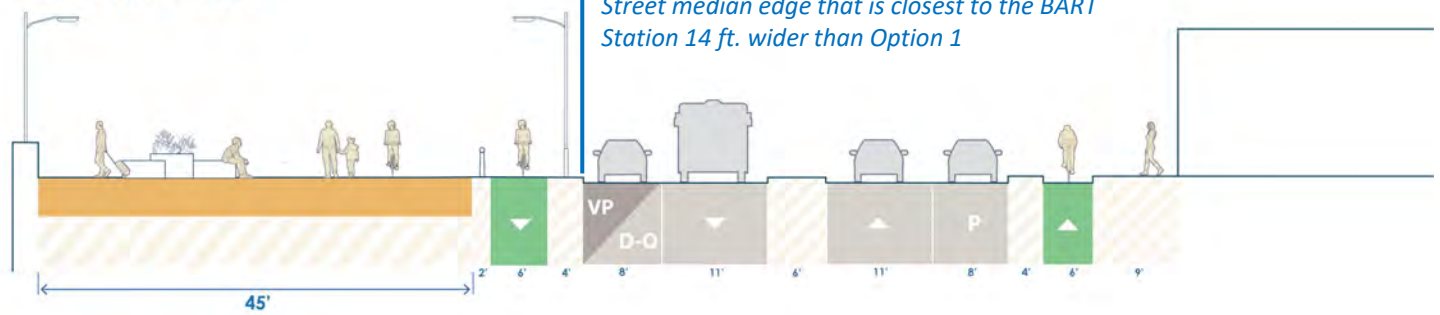


# Adeline Street at Ashby BART Design Concept: Plaza with Two-Lane Adeline (Cross-Section View)

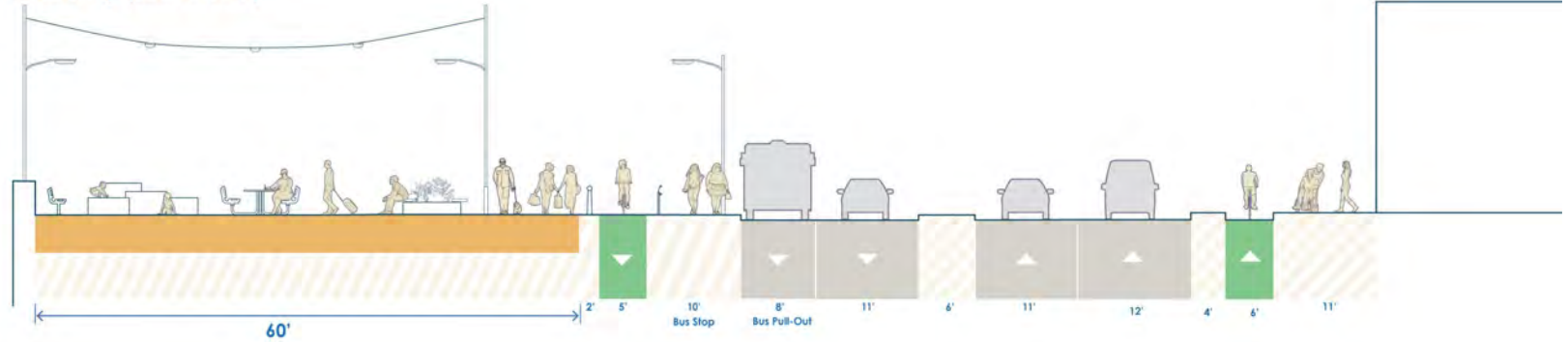
-  Plaza
-  Bike Zone
-  Weekend Vendor Parking/  
Weekday Bus Lane
-  Buffer/Plaza/Sidewalk



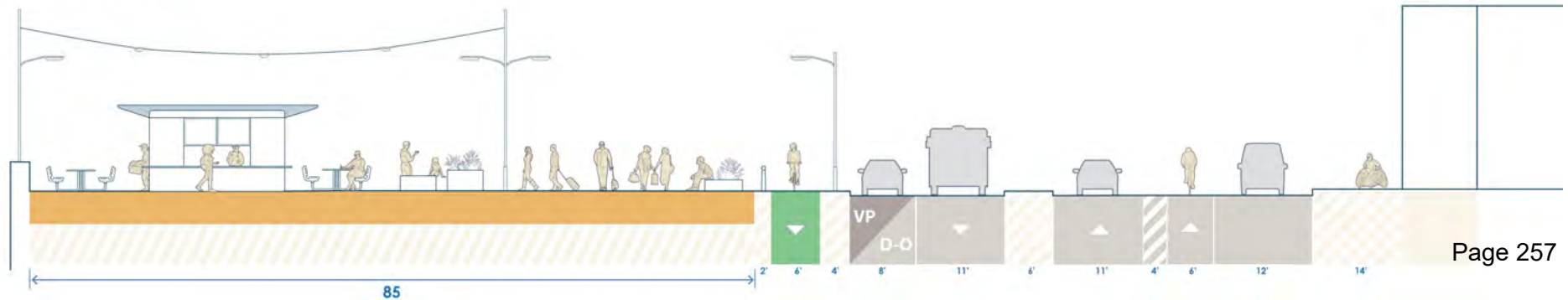
Section A (Option 2a & 2b)



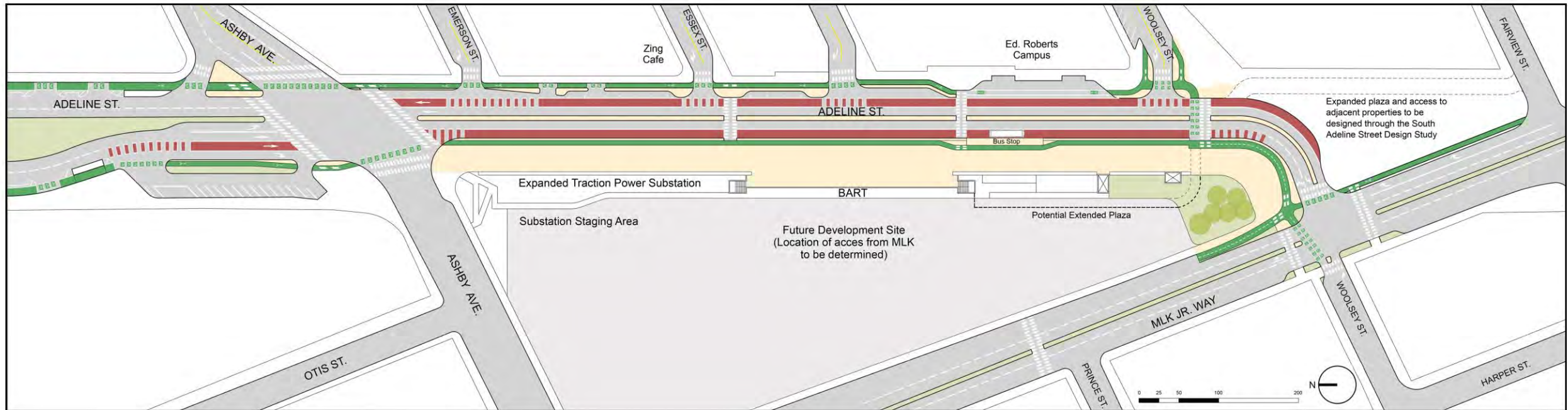
Section B (Option 2a & 2b)



Section C (Option 2b)



# Other Conceptual Design Option Considered: Plaza with Adeline Bus Lanes (Layout View)



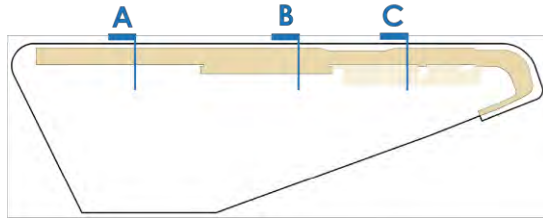
Expanded plaza and access to adjacent properties to be designed through the South Adeline Street Design Study

Future Development Site  
(Location of access from MLK to be determined)

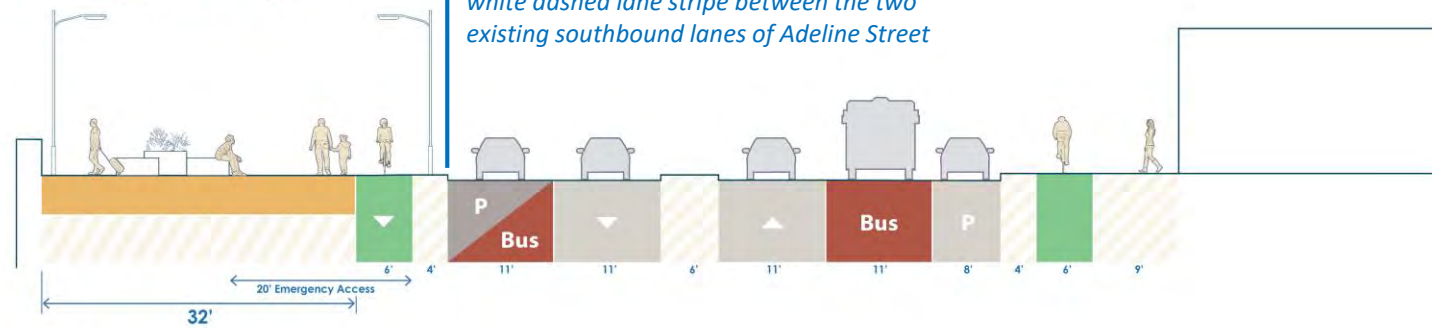
- Legend**
- Protected Bikeway
  - Bus-Only Lane

# Other Conceptual Design Option Considered: Plaza with Adeline Bus Lanes (Cross-section View)

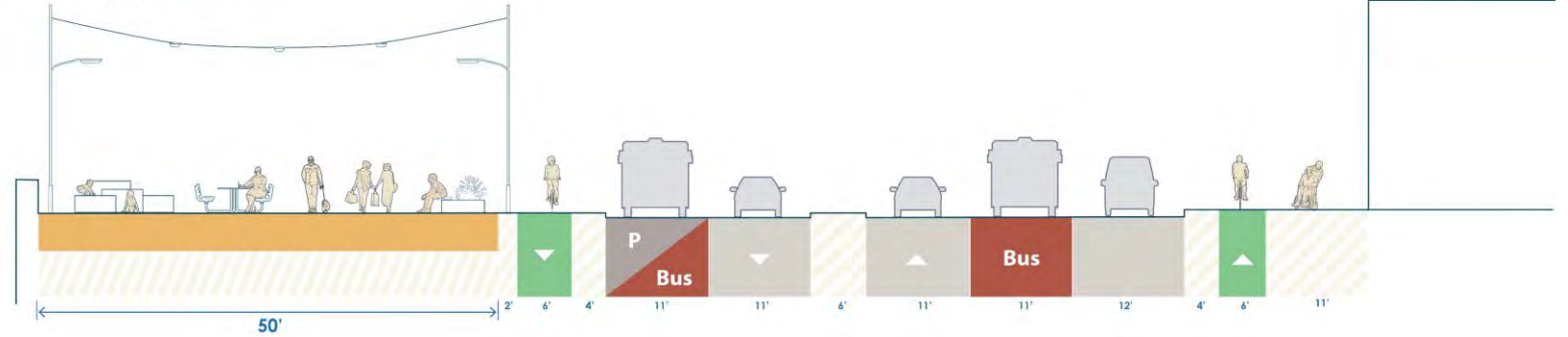
-  Plaza
-  Bike Zone
-  Weekend Vendor Parking/  
Weekday Bus Lane
-  Buffer/Plaza/Sidewalk



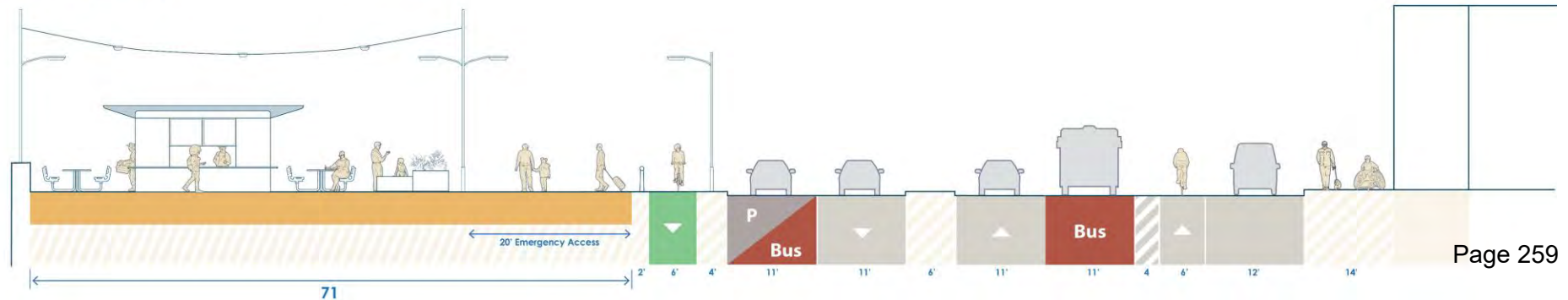
Section A (Option 1a & 1b)



Section B (Option 1a & 1b)



Section C (Option 1b)



**Adeline Street at Ashby BART Preliminary Conceptual Designs:  
Summary of Community Meeting (10/3/22) and Office Hours (10/6/22)**

**Dates and Times:** October 3, 2022 at 6pm / October 6, 2022 at 6pm

**Location:** Online via Zoom video and phone platform

**Agenda**

1. Welcome & Meeting Goals

- City of Berkeley Councilmember Ben Bartlett and BART Board Director Lateefah Simon gave introductory remarks.

2. Presentation

- Project Context
- Where we are in the Process
- Overview of Adeline Street Redesign Options

3. Comments and Questions

**Attendance**

**City**

- District 3 Councilmember Ben Bartlett
- Alisa Shen – Principal Planner
- Beth Thomas – Principal Planner
- Robert Rivera – Senior Planner

**BART**

- Lateefah Simon – BART Board of Director
- Deb Castles - Acting Transit-Oriented Development Group Manager
- Rachel Factor – Principal Planner

**Community Design + Architecture (Consultant)**

- Phil Erickson - Principal
- Anai Perez – Urban Designer

**Summary**

The City of Berkeley in conjunction with BART held two community meetings, a Zoom meeting and office hours, for the Adeline Street at Ashby BART Preliminary Conceptual Design project to inform the community and obtain their feedback on the new proposals. Staff sent out postcard notifications to residents along the Adeline Street and presented an overview of two options that would be presented to the Transportation and Infrastructure Committee and Berkeley City Council. Due to capacity restrictions

because of the Covid pandemic, both meetings were held virtually. Significant portions of the meetings allowed for public comments and questions.

The following notes summarize the community input from both meetings listed above and categorizes their feedback by main topics.

### **1. Accessibility issues for people with disabilities**

- Involve people with disabilities and East Bay Center for the Blind in the design process.
- Consider how the issue of pedestrian crossings, parking and the use of micro mobility devices for people with disabilities will work.
- Bike lanes are also used by people with adaptive bikes and wheelchairs, consider the necessary width and speed limits for bicyclist.
- Write an accessible presentation with verbal explanation.

### **2. Vehicle accessibility**

- Lack of left turns from Essex and other eastside streets would increase traffic on Ashby/Adeline and Ashby/Shattuck.
- New apartment building at Emerson/Adeline is going to dump a lot of traffic into Emerson St.
- Redistribution of traffic to MLK Jr. Way and other surrounding streets.
- Consider drop off and parking for seniors and people with mobility issues (Ed Roberts Campus).

### **3. Pedestrian safety/accessibility**

- Consider pedestrian push buttons on the west side of Adeline (Ed Roberts Campus - ERC).
- Bulb out at Essex.
- Increase safety at Adeline/Ashby intersection (right turns and right slip lane).
- Wider sidewalks on the east side of Adeline to the north of ERC.
- Consider traffic signals at crosswalks.
- Increase safety on BART entrances at nights.

### **4. Bicyclist safety/accessibility and bicycle lane treatments**

- Add protected bike lanes on the east side Adeline.
- Consider traffic issues between pedestrians, buses/cars and bicyclists.
- Possibility of having a bidirectional bike lane on one side.
- Improve safety for bicyclist crossing Adeline and Ashby intersection.

### **5. Parking/passenger loading zones**

- Consider diagonal parking with flexible use.
- Parking and drop off on the BART side should only be short term/drop off.

- Concern about no southbound left (U-turns) restricting access to east side parking and loading zones for seniors and people with disabilities.

#### **6. Affecting surrounding area, particularly about Martin Luther King Jr. Way**

- Consider the entire block (triangle) and North Ashby area.
- Opportunity to improve safety and reduce traffic at Martin Luther King Jr. Way.
- Redirection of traffic to Martin Luther King Jr. Way will impact neighborhood residents and merchants.
- Design opportunity at corner of Adeline/Martin Luther King Jr. Way.
- “Potential future plaza” location (to the south and east of Adeline/Martin Luther King Jr. Way intersection) is called “African Plaza”.

#### **7. New Plaza and uses**

- Plaza should become a destination and not only focused on the Flea Market.
- Design space to connect new facilities and surrounding neighborhoods (new residents and BART development).
- Consider ground floor retail, permanent stalls/kiosks for microenterprises, green grocers, farmer markets, etc.
- Needs to have a children's park, covered areas and landscaped areas.

#### **8. Open space, landscape, environment**

- Neighborhood needs more open spaces and dog-friendly spaces.
- Ohlone greenway should be used as a reference (landscape and planting).
- Discuss air quality of the future development in the broader area.
- Plaza should incorporate benches, plantings, trees, water refill stations.
- More landscape, and shade from trees.

#### **9. Berkeley Flea Market**

- Comparison of vendor space at the Flea Market [existing parking lot and future plaza] seems not accurate.
- Legal guarantees that the Flea Market has a permanent place in the future plaza.

#### **10. Option 1**

- Dedicated bus lanes will create sight line problems.
- The F bus frequency has been reduced so it doesn't justify the dedicated bus lanes, not enough demand.
- Focus on improving efficiency for the 12 bus service, not the F.
- Delay/travel time difference between option 1 and 2?
- Dedicated bus lane will be used predominantly by private tech buses.

## 11. Option 2

- Preferred option by several speakers.
- Concerns about how a single lane will work for emergency vehicles and buses pull in and pull out.
- “Test drive” the narrowing and see how it works before its construction.
- Concern about redirection of traffic to Martin Luther King Jr. Way and other adjacent streets.

## 12. BART

- More information about affordable housing (TOD)
- BART Traction Power gap/ substation should be underground, need to cover up all that critical infrastructure.
- Pedestrian accessibility issues to the station.
- Concern about the gap between the new development and the plaza.







Office of the City Manager

INFORMATION CALENDAR  
November 29, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Department of Planning and Development

Subject: Climate Action Plan and Resilience Update

SUMMARY

The City of Berkeley has long been a leader on climate action. In 2006, Berkeley residents voted to reduce the community's greenhouse gas (GHG) emissions by 80% below 2000 levels by 2050, and the resulting Climate Action Plan (CAP) was adopted by the Berkeley City Council in 2009. In 2018, then-Governor Brown committed California to carbon neutrality by 2045, the Berkeley City Council resolved to become a "Fossil Fuel-Free City," and the Council declared a Climate Emergency, all steps to signal the urgency of these ambitious goals and the need to act on climate threats in an equitable manner. Additionally, in 2020, Berkeley City Council established a 2030 GHG emission reduction target that reflects Berkeley's fair share of the 50% global reduction in carbon dioxide equivalent (CO<sub>2</sub>e), committing to reduce emissions 60.5% from 2018 levels by 2030.

The community is making notable progress reducing GHG emissions. Based on the best currently available data from 2020, the community has reduced overall GHG emissions by 31% since 2000 despite population increasing by 21%. While Berkeley has continued to see a decreasing trend in community-wide emissions since 2000, there was a significant drop in 2020 due to the impacts of the COVID-19 pandemic. The transportation sector saw the greatest reduction in emissions as travel and commuting declined sharply during much of 2020. Transportation sector emissions are expected to increase in future years as travel and commuting resume to pre-pandemic levels. Berkeley's building sector electricity emissions increased significantly in 2020 due to changes in East Bay Community Energy's (EBCE's) Bright Choice product. Further declines in citywide electricity emissions are anticipated in 2022, when most residential and commercial electricity accounts transitioned to EBCE's Renewable 100 product.

During the last two years, Berkeley City Council funded the Just Transition Pilot Program and the Climate Equity Fund, which will not only provide GHG emission savings but will also create a foundation to build on additional equity-focused programs. Although Berkeley has made significant progress, additional work is required to achieve the City's ambitious goal of becoming a Fossil Fuel-Free City.

This report contains new performance metrics to help measure progress in meeting climate action goals in the transportation and building sectors. Alongside GHG emission reductions, staff is prioritizing community resilience, adapting to the changing climate, and advancing racial equity, and will be collaborating with disadvantaged communities to develop meaningful metrics to measure how Berkeley's climate programs advance equity and resilience.

### CURRENT SITUATION AND ITS EFFECTS

Berkeley's progress on climate action and the annual community-wide GHG emissions inventory is a Strategic Plan Priority Project, advancing our goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

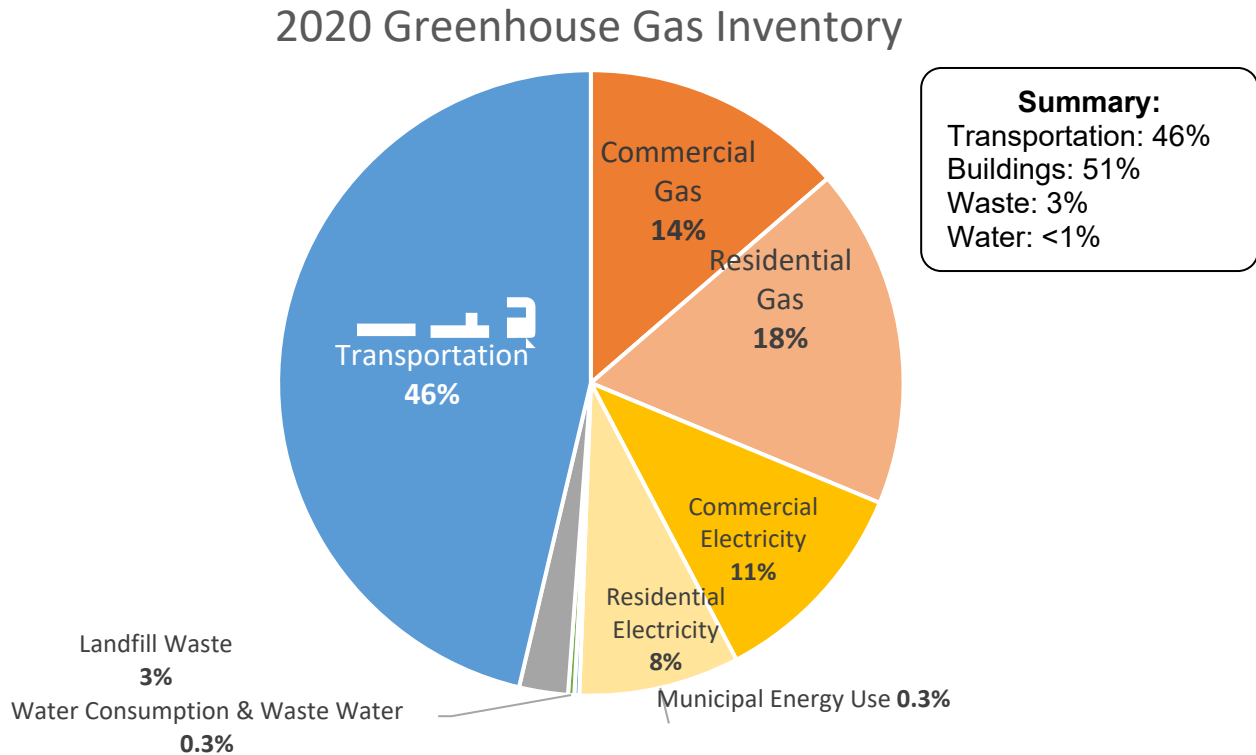
City staff annually calculates community GHG emissions to understand which sectors and fuels contribute the most emissions in Berkeley, track progress toward the community's climate goals, and provide data that can be used for prioritizing programs and policies.

Berkeley's community-wide greenhouse gas emissions in 2020 totaled 501,013 metric tons of carbon dioxide equivalent (mtCO<sub>2</sub>e). The 2020 GHG inventory was heavily impacted by the global COVID-19 pandemic. The effects of the pandemic on 2020 emissions are included within each sector's analysis.

**Figure 1** is a pie chart of 2020 community-wide GHG emissions inventory, the most recent available data, broken down by sector and fuel. The majority of our citywide emissions continue to come from Berkeley's transportation and building sectors. The building sector was the largest source of emissions in 2020 and accounted for 51% (253,465 mtCO<sub>2</sub>e) of citywide emissions. Energy usage data for Berkeley buildings, provided by EBCE and PG&E, is broken down into residential and commercial (including industrial) buildings—for both electricity use and natural gas (gas) combustion.

The transportation sector, which has historically been the largest source of GHG emissions and includes vehicles, BART, AC Transit, Amtrak and maritime vessels, accounted for 46% (232,009 mtCO<sub>2</sub>e) of the overall emissions in 2020.

**Figure 1:** Pie chart of 2020 community-wide GHG emissions inventory, broken down by sector and fuel.

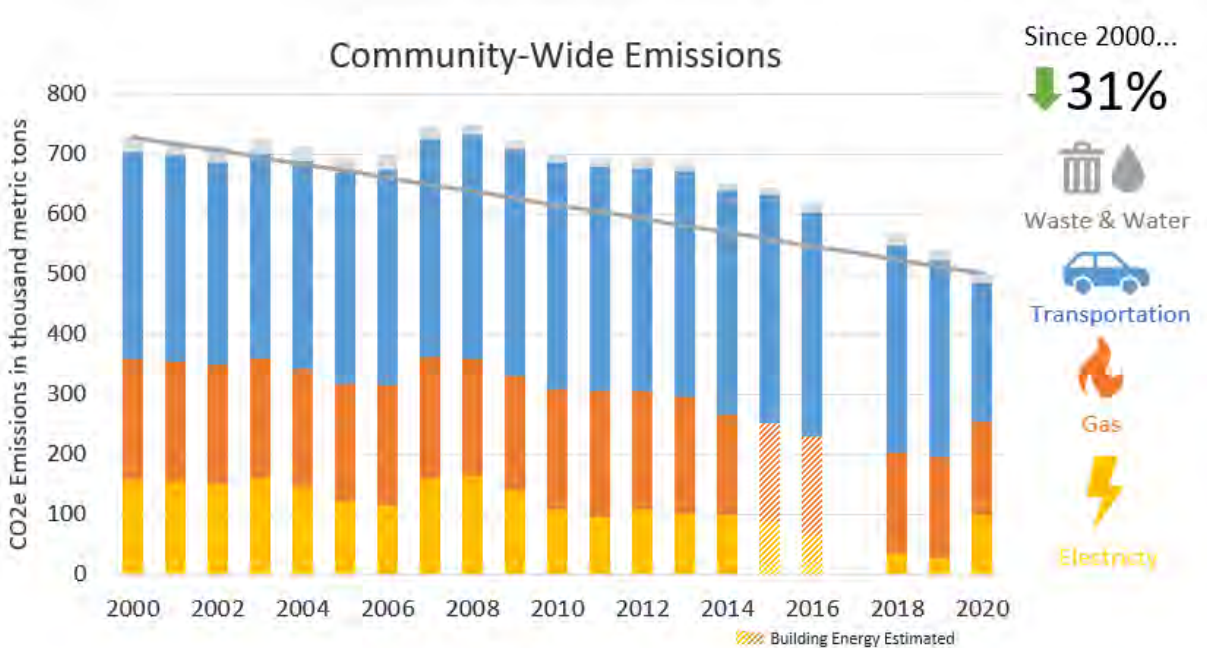


Emissions from municipal energy use accounts for 0.3% (1,272 mtCO<sub>2</sub>e) of the 2020 community-wide GHG emissions. Municipal energy consumption includes City buildings as well as other uses such as streetlights and traffic signals.

The remaining 3% (14,267 mtCO<sub>2</sub>e) of Berkeley’s community-wide GHG emissions come from landfilled solid waste, water consumption, and waste water treatment.

The most current community emissions from 2020 are compared to the Climate Action Plan (CAP) baseline year of 2000, to identify reductions achieved thus far. A historic summary of Berkeley’s annual emissions inventories from 2000 to 2020 is provided in **Figure 2**. Please note that due to data access issues, the city was not provided with citywide energy use data in 2015 and 2016 so building energy usage was estimated using assumptions and is represented with shaded coloring. No inventory was calculated for 2017, so that year of data is omitted.

**Figure 2:** *Historic Berkeley emissions inventories back to 2000, broken out into building electricity and gas combustion, transportation, and other (water, wastewater treatment and landfill solid waste).*



Community-wide emissions in 2020 decreased 31% from the 2000 baseline and decreased 7% from 2019. Berkeley’s original CAP goal of reducing GHG emissions by 80% from 2000 levels by 2050 was superseded by a commitment by the Berkeley City Council on May 11, 2021 to become zero net emissions by 2045 or sooner, requiring an additional 69% reduction of GHG emissions over the next 25 years.

Key accomplishments and examples of work underway to reduce GHG emissions and address the climate emergency are described below. Although the data for GHG emissions is for the calendar year of 2020, the progress on programs described in the following sections includes efforts since July 2020, the last time that this report was updated for City Council.

## Equity



*Equity Goal: Prioritizing the advancement of equity outcomes into policies and programs*

### **Equity Guardrails**

Berkeley’s Existing Buildings Electrification Strategy (BEBES, 2021) developed a set of

“Equity Guardrails” which serve as minimum requirements for equity that must be met in order to advance a policy, program or project. These guardrails were developed as a result of targeted community outreach with disadvantaged communities to better understand and elevate community priorities and needs. The Planning & Development Department’s Office of Energy and Sustainable Development (OESD) has adapted these guardrails beyond the electrification of existing buildings, and now applies them to all of its work. The guardrails include:

- **Maximize Access to Health, Safety & Mobility Benefits:** Proposed projects should prioritize the benefits of building and transportation electrification including health, safety, and comfort to those most impacted by climate change.
- **Maximize Access to Economic Benefits:** Proposed projects should leverage incentives and financing, reduce costs when possible, and support high-road job opportunities when possible.
- **Maximize Ease of Participation:** Proposed projects should be easy for all community members to access, and should be integrated with other programs and services when possible.
- **Promote Housing Affordability & Anti-Displacement:** Proposed programs should support housing preservation and tenant protections, and not displace renters or homeowners.

### Measuring Progress

Cities have long been using quantitative metrics like GHG inventories to measure progress on climate action, but these inventories only tell part of the story. In order to capture the full impacts of climate change and measure equitable climate action progress, it is important to track programs over time to measure outcomes and progress. Ideally these indicators are co-created with the community to identify meaningful measures of success based on the community’s priorities. By creating indicators that show meaningful and equity-focused outcomes, staff can adjust programs and policies to improve equitable outcomes over time, and increase the quality of life for members of the community – particularly those who have been historically disadvantaged and are most impacted by climate change. Both qualitative and quantitative metrics need to be created and tracked, to be able to monitor things that are difficult to quantify such as comfort, health, and other resiliency benefits. In the coming year, staff will co-create additional equity metrics and indicators with disadvantaged communities based on their priorities, criteria, and available data. These metrics will be related to the climate programs advancing equity described in the Transportation and Buildings sections below.

## Transportation



*Transportation Goal: Advancing opportunities for people to safely walk, bike, take public transit, and electrify mobility options*

### Transportation Sector Emissions

Total community-wide transportation GHG emissions decreased 29% from 2019 to 2020, and 32% since 2000. Total miles driven by on-road vehicles decreased by 28% from 2019 to 2020. The COVID-19 pandemic caused the significant decrease in emissions and total miles traveled. Emissions from on-road vehicles are calculated using total miles traveled provided by Google Environmental Insights Explorer<sup>1</sup>.

### Impacts to Berkeley's Transportation sector emissions:

- COVID-19 Pandemic** – On March 16, 2020, the six bay area counties and the City of Berkeley issued “shelter in place” orders restricting all residents to their homes in response to the global pandemic. The region-wide shutdown of offices, schools, and other services caused a drastic decrease in driving and commuting in 2020. Additionally, the ability to contract COVID-19 by close contact caused a decrease in public transit ridership, as more people opted to travel by walking, biking, and personal automotive vehicles.

### Electric Mobility Roadmap

The Berkeley Electric Mobility Roadmap, adopted by Berkeley City Council in July 2020, identifies goals, strategies, and actions to create a fossil fuel-free transportation system. This integrates with and supports the City's ongoing efforts to increase walking, biking, and public transportation, and helps to ensure equitable access to the benefits of clean transportation.

This Roadmap centers equity by acknowledging and addressing the inequalities of our current transportation system. Early engagement of community-based organizations and nonprofits helped to identify important mobility gaps for low-income constituents, renters, communities of color, people with disabilities, and other priority stakeholders. Equity was used as a lens through which all proposed strategies were filtered.

The four goals of the Roadmap, along with implementation updates, are detailed below:

<sup>1</sup> <https://insights.sustainability.google/>

### 1. Ensure Equity in Access to Electric Mobility: Maximize electric mobility benefits in underserved communities

- **Pilot Climate Equity Fund:** On July 27, 2021, City Council approved a resolution establishing a Pilot Climate Equity Action Fund and allocated \$600,000 to provide climate change and resilience benefits to low-income residents. One of the three program areas is creating an electric bike (e-bike) access program for income-qualified Berkeley households, and an e-bike youth education and workforce training program to service e-bikes and provide training for high-road job opportunities. Additional information on the Pilot Climate Equity Fund is provided in the Buildings section of this report.

### 2. Improve Alternatives to Driving: Shift trips to walking, biking, and shared electric modes

- **Micromobility:** In September 2021, Berkeley City Council adopted a resolution to establish a shared electric micromobility permit program. The city issued permits to three private shared mobility operators (Link, Spin, and VeoRide) which allows these operators to provide Berkeley residents and visitors with more sustainable commute options using electric scooters and e-bikes. In May 2022, the three operators launched their programs and over 1,000 electric scooters and e-bikes were distributed around Berkeley. To ensure equitable access to these devices, at least 50% of these devices must be deployed in designated equity priority areas and operators are required to provide both low-income programs and more accessible devices, such as sit scooters, to maximize accessibility of shared electric micromobility.

### 3. Achieve Zero Net Carbon: Eliminate emissions from private vehicles

- **Electric Vehicle Charging:** The City continues to promote the use of electric vehicles (EVs) and facilitate the installation of EV charging stations through offering streamlined permitting, educating property owners about EV charging and grant opportunities, and providing EV charging on municipal property. As of August 2022, there were over 200 publicly-available EV charging ports (Level 2 and DCFC) in Berkeley and approximately 7.5% of registered cars in the community were electric. Both of these values have doubled in the last four years; in late 2018 there were 105 publicly-available EV charging ports and nearly 4% of registered personal vehicles were electric.

The City is currently partnering with East Bay Community Energy (EBCE) to site and develop future public EV DC Fast Charging Hubs in Berkeley. Proposed local amendments to the 2022 California Green Building Standards Code, to take effect in January 2023, would require levels of EV charging in new buildings which would exceed the state requirements.

**4. Demonstrate City Leadership:** Lead by example and guide the electric mobility transition

- Electrification of City Fleet:** Staff worked with EBCE to conduct a municipal fleet electrification assessment including a plan for EV deployment and associated charging infrastructure through 2030, presented to Council in July 2020. The City is currently working to add EV charging for municipal fleet vehicles at the Corporate Yard, and has continued to increase the number of electric vehicles in the municipal fleet. In 2020 the municipal fleet included two electric scooters (for parking enforcement) and 15 plug-in hybrid sedans. In 2021, five electric sedans were added. In 2022, EV additions to the municipal fleet will include an additional two electric scooters, three electric sedans, eight electric SUVs, and 15 electric pick-up trucks.
- Electric Mobility Position:** The City of Berkeley is hiring an Electric Mobility Coordinator. This position will organize and convene the City’s Electric Mobility Implementation Working Group, manage and coordinate the development of City-owned electric vehicle charging infrastructure, track and develop programs utilizing emerging mobility options, obtain grant funding for the City’s electric mobility programs, and catalyze actions such as electric mobility equity pilot projects, new best practices for curbside vehicle charging, and shared electric mobility hubs.

**Measuring Progress in the Transportation Sector**

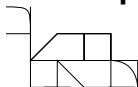
**% Sustainable Trips**



**32%**  
in 2020<sup>2</sup>

**Goal:** Increase of share of trips taken on sustainable modes of transportation to 50% by 2030 and 100% by 2040<sup>3</sup>

**% EV Adoption**



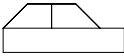


**7.5%**  
in 2021

**Goal:** Increase the share of light-duty EVs registered in Berkeley to 25% by 2025, 55% by 2030, and 100% by 2045

<sup>2</sup> Percent of sustainable trips in 2020 only includes trips from walking, biking, and public transit as EV trip data is currently not available.

<sup>3</sup> The goal to increase sustainable trips to 100% by 2040 includes trips from walking, bicycling, public transit, and EVs.



|                                                                                   |                                                 |                                                                                                         |
|-----------------------------------------------------------------------------------|-------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| <p><b># of Gas Cars Per Household</b></p>                                         | <p><b>1.3</b><br/>in 2021</p>                   | <p><b>Goal:</b> Reduce the number of gas cars per household to 0 by 2045</p>                            |
|  |                                                 |                                                                                                         |
| <p><b># of Public Level 2 Chargers</b></p>                                        | <p><b>184</b><br/>in August 2022</p>            | <p><b>Goal:</b> Install at least 420 public Level 2 chargers by 2025<sup>4</sup></p>                    |
|  |                                                 |                                                                                                         |
| <p><b># of Public DC Fast Chargers</b></p>                                        | <p><b>22</b><br/>in August 2022<sup>5</sup></p> | <p><b>Goal:</b> Install at least 100 public direct current fast chargers (DCFC) by 2025<sup>4</sup></p> |
|  |                                                 |                                                                                                         |

**Buildings**



*Buildings Goal: Reducing energy use, promoting cleaner energy, and transitioning all buildings to clean electricity*

**Building Sector Emissions**

Overall GHG emissions from Berkeley’s building sector increased by 29% from 2019 to 2020 but remain 29% below 2000 levels. While the emissions from the building sector increased, total community-wide electricity usage decreased 8% and total community-wide gas usage decreased by 7% from 2019 to 2020. Since 2000, total community-wide gas usage has decreased by 22%.

**Impacts to Berkeley’s Building sector emissions:**

- **EBCE Bright Choice Electricity Emission Factor** – The emission factor for EBCE’s default electricity product, Bright Choice, increased by 337% in 2020 compared to the 2019 value. The Bright Choice product accounts for 92% of Berkeley’s 2020 community-wide electricity consumption. The emission factor

<sup>4</sup> Berkeley’s estimates for number of chargers needed by 2025 are based on charging infrastructure projections provided by the California Energy Commission using Alameda County’s ratio of needed EV chargers to projected EVs.

<sup>5</sup> Includes Tesla fast chargers

increase is related to the changing procurement costs and loss of nuclear allocation in the electricity mix. EBCE is committed to providing 100% emission-free Bright Choice by 2030. Additionally, in 2022 all Berkeley customers were automatically opted-up into EBCE's Renewable 100.

- **COVID-19 Pandemic** – The building sector was also affected by the COVID-19 pandemic, particularly commercial buildings. Many Berkeley businesses reduced in-person operations during 2020 which contributed to the 15% reduction in electricity consumption and 13% reduction in gas consumption from commercial buildings. Even though more Berkeley residents worked from home in 2020 due to the shelter in place order, residential gas consumption still decreased by 3%.

### Municipal Buildings

Municipal buildings are assessed for efficiency and electrification opportunities on an ongoing basis. The following list highlights recently completed projects and major current efforts.

- **South Berkeley Senior Center:** In 2021, the City of Berkeley received a \$48,000 grant from East Bay Community Energy to help electrify commercial kitchens. Two commercial gas ranges in the South Berkeley Senior Center were replaced with a new commercial induction cooktop, and the current electric resistance steam table will be replaced with a new induction food warming table, saving nearly 90% of electricity use and 10,000 gallons of water per year. The Public Works Electrical Division completed the electrical upgrades needed for the induction appliances.
- **Spring Animal Shelter:** In 2021, a comprehensive lighting upgrade was completed at the Spring Animal Shelter which reduced peak demand<sup>6</sup> energy by an average of 15kW per month, with a cost savings of \$26/kW, and decreased total electricity consumption by ~10,000 kWh per month compared to its pre-COVID consumption. Even though electricity prices increased twice in 2022, energy bills decreased by ~\$1,000/month. This project utilized PG&E's On-Bill Finance program, which provides commercial customers with zero percent interest loans to complete energy efficiency upgrades. With a monthly loan payment of \$609.29 and energy cost savings of ~\$1,000, the City is saving ~\$400 a month.
- **Adult Mental Health Clinic, 2640 MLK Jr. Way:** This project was primarily a T1 Bond project with Public Works Engineering, with OESD staff providing technical assistance through a grant from the Berkeley Lab to ensure that this site was an

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<sup>6</sup> Peak demand is when energy costs more and is typically more polluting (for EBCE customers, hours vary by rate class but are generally 4-9 PM).

all-electric Zero Net Energy building. The building was completed and occupied in 2021.

- **Streetlighting Analysis:** A second streetlighting retrofit was completed in 2018-2019 which resulted in an 18% energy reduction. Additionally, analyzing utility bills from disputed streetlights (i.e., streetlights missing in the field, belonging to another entity, or added and not being billed by PG&E) resulted in \$269,000 of bill credits for the City in 2021.
- **Switching to East Bay Community Energy's Renewable 100:** In 2019, Berkeley City Council voted to switch municipal facilities to 100% renewable electricity and allotted \$94,000 to cover the incremental costs for the first year. By March 2022, nearly all electric accounts were converted to EBCE's Renewable 100 electricity product. While electricity costs have increased, GHG emissions from electricity consumption by municipal facilities have been reduced to near zero.
- **Solar + Storage:** The City is partnering with EBCE to procure and implement solar + storage systems at critical municipal facilities to provide increased resilience and clean back-up power in the case of a power outage. Alongside Fremont, Hayward, and San Leandro, the City of Berkeley submitted a list of potential critical facilities to the EBCE project portfolio to be included in a joint Request for Offers (RFO) for Power Purchase Agreement vendors. In August 2022, EBCE released the RFO and hopes to select a vendor by the end of 2022, and start installation of the solar + storage projects in 2023.

### **Berkeley Existing Buildings Electrification Strategy (BEBES)**

The Berkeley Existing Buildings Electrification Strategy, approved by Council in November 2021, provides a framework for transitioning to all-electric buildings in a way that includes and benefits all residents, especially members of historically marginalized communities. The Strategy's phased approach includes specific actions, policies, funding mechanisms, and a tentative timeline to transition Berkeley's existing building stock off gas as soon as possible and no later than 2045. The strategy includes detailed actions which fall under four primary policies, with the equity guardrails influencing the timing of their implementation. The actions are broken into three phases based on available data, technology, and anticipated equity impacts. Phase 1 focuses on expanding and verifying the identified cost effectiveness and equity impacts of implementing foundational programs, and building community capacity. Phase 2 increases the stringency of the policies and begins to introduce mandatory measures, once sufficient supports are in place. Finally, Phase 3 policies finalize the move toward all-electric buildings through mandatory measures.

The four proposed strategies, and a fifth category of actions that are cross-cutting across many or all strategies along with implementation updates, are detailed below:

**1. Time of Replacement (TR):** Replace gas equipment at the end of its useful life, either when the gas equipment fails or when a major building renovation is taking place. Phase 1 action taken to date include:

- **ACEEE Energy Equity for Renters Toolkit:** In 2021, the American Council for an Energy-Efficient Economy (ACEEE) launched the Energy Equity for Renters (EEfR) initiative. The City of Berkeley, partnered with StopWaste and several Berkeley community-based organizations, were selected to participate. ACEEE is producing a toolkit for the EEfR initiative, to be released by early 2023, that include policies and programs that reduce GHG emissions and energy costs while preserving housing affordability, with a focus on naturally occurring affordable housing (i.e., properties where the units are not deed restricted to low-income tenants), as well as measures that local governments can use to better incorporate equity in the design and implementation of municipal energy efficiency, housing, and other policies.

**2. Time of Sale (TS):** Implement requirements that are triggered when a building changes ownership. This policy generally applies to single-family homes since they are sold more frequently than other types of buildings. Time of sale requirements are currently required through Berkeley's Building Emissions Saving Ordinance (BESO) and could be expanded to include a range of required measures such as an electrification-ready panel upgrade, appliance replacement, or whole building electrification and incentives. Some Phase 1 actions taken to date include:

- **Building Emissions Saving Ordinance (BESO)**  
BESO requires building owners to complete and publicly report building-specific energy efficiency assessments and energy scores. The goal of BESO is to reduce both energy costs and GHG emissions in Berkeley's existing buildings. To date, BESO has achieved many successes, including:
  - Provided data on the energy use and energy efficiency opportunities of Berkeley's existing building stock.
  - 3,198 Energy assessments completed.
  - 2,498 Home Energy Scores<sup>7</sup> completed, with an average of 4.4 out of 10.
  - Developed an online application and payment system to improve customer service

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<sup>7</sup> Developed by the US Department of Energy and its national laboratories, the Home Energy Score provides home owners, buyers, and renters directly comparable and credible information about a home's energy use. Each Home Energy Score is shown on a simple one-to-ten scale, where a ten represents the most efficient homes. More information can be found at: <https://www.energy.gov/eere/buildings/downloads/home-energy-score#:~:text=Developed%20by%20DOE%20and%20its,about%20a%20home's%20energy%20use.&text=Each%20Home%20Energy%20Score%20is,represents%20the%20most%20efficient%20homes.>

In December 2020, Berkeley City Council amended BESO to further align the program with the City's electrification and community resilience goals. The amendment:

- Required small/medium buildings to complete an electrification assessment prior to listing a building for sale. - *Implemented Summer 2021*
- Added a Fuel Source Disclosure at time of listing. - *Implemented Summer 2021*
- Lowered the building size threshold for the energy benchmarking requirement. – *Implemented Summer 2022*
- Requires staff to develop energy upgrade requirements for Council consideration. – *Currently in development*

**3. Building Performance Standards (BP):** Establish building-level requirements such as minimum GHG emissions standards or elimination of gas systems or equipment by a specified date. These standards are generally applied to larger buildings, including multi-family residential and commercial buildings, in order to have the highest impact on the largest energy users. The size and type of building covered could expand over time. Some Phase 1 actions taken to date include:

- Staff is working to develop requirements for building performance standards (BPS) that lead to the elimination of gas in Berkeley's large buildings. These requirements would be administered through Berkeley's existing BESO program.

**4. Neighborhood Electrification and Gas Decommissioning (NE):** Create a plan to strategically reduce and eventually eliminate gas infrastructure in the city. Neighborhood-level electrification can be a more equitable way to electrify communities as opposed to a building-by-building approach which will leave those who cannot afford to electrify with higher gas rates. Larger scale projects also create more opportunities for high-road jobs, and could incorporate resilience measures such as on-site solar and islandable backup battery storage that could act as a neighborhood micro-grid to improve energy assurance. Some Phase 1 actions taken to date include:

- The City has been exploring opportunities for neighborhood electrification and gas decommissioning projects, including work supporting a pilot project led by Gridworks and funded by the California Energy Commission to develop criteria to identify neighborhoods for potential gas decommissioning projects.

**5. Cross-Cutting Actions:** These actions support the overall success of electrification both in the City and beyond. Many of these actions cannot be taken by the City

alone and will need wider collaboration from regional partners and the State. Some Phase 1 actions taken to date include:

- **Pilot Climate Equity Fund**

On July 27, 2021, City Council approved a resolution establishing a Pilot Climate Equity Action Fund and allocated \$600,000 to provide climate change and resilience benefits to low income residents in both buildings and transportation. The City of Berkeley released an RFP in December 2021, and on April 26, 2022 the City Council approved contracts with five vendors to implement the following three program areas:

- **Program Area #1 – Resilient Home Retrofits Pilot:** This program area will focus on building decarbonization improvements that enhance resilience, support occupants and reduce greenhouse gas emissions for low-income residents.
- **Program Area #2 – Electric Mobility Access Pilot:** This program area will create an electric bike (e-bike) access program for income-qualified Berkeley households, and an e-bike youth education and workforce training program that will service the e-bikes and provide training for high-road job opportunities.
- **Program Area #3 – Community Access to Resilience Measures and Electrification Engagement Pilot:** This program will elevate the voices of under-represented voices in climate and resilience, pilot and build capacity in local community organizations, and increase access to information and equipment for climate resilience and electrification efforts.

The implementation of these programs will take place through 2024. This advances implementation of the Berkeley Existing Buildings Electrification Strategy (2021), which identified long- and short-term strategies to make existing buildings in Berkeley free of fossil fuels in a way that includes and benefits all residents, especially members of historically marginalized communities.

- **Just Transition Pilot Program**

On June 14, 2022, City Council approved a resolution to develop an Existing Building Electrification Installation Incentives and Just Transition Pilot Program, with a budget of \$1,500,000. The program, using pre-qualified contractors who meet minimum labor standards, will target homes for households at or below 120% of the Area Median Income for replacing with gas water heating, HVAC, and cooking equipment with systems that run on clean electricity. The resolution calls for the establishment of labor standards that provide pathways to high-road careers for workers in residential electrification. This program advances implementation of the Berkeley Existing Buildings Electrification Strategy (2021). Staff is conducting research

to inform program design through interviews with key stakeholders and participation in the Bay Area regional High Road Training Partnership (H RTP)<sup>8</sup>, and getting input from the Berkeley Environment and Climate Commission (ECC), the City Council Facilities, Infrastructure, Transportation, Environment & Sustainability (FITES) Policy Committee, and others. A Request for Proposals for this Pilot Program is anticipated by early 2023.

### Measuring Progress in the Building Sector

**Citywide Building Energy Usage from Gas Combustion**



**69%**  
in 2020

**Goal:** Decrease percentage of building energy from fossil fuel consumption, in the form of gas combustion, to 0 by 2045 while switching to clean electricity

**BayREN Home+: # of Measures Completed**



**795**  
from 2019-2021

**Goal:** Increase BayREN Home+ participation

**BayREN Multifamily: # of Units Participated**



**1,052**  
from 2014-2021

**Goal:** Increase BayREN Multifamily participation and upgrade more units to decrease energy use, emissions, and increase comfort

**Total GHG emissions Saved through BayREN Upgrades**



**338**<sub>mtCO<sub>2</sub>e</sub>  
from 2014-2021

**Goal:** Increase total GHG emissions saved through participation in BayREN Home+ and BayREN Multifamily

<sup>8</sup> <https://cwdb.ca.gov/initiatives/high-road-training-partnerships/>

## Waste



*Waste Goal: Leading the way towards zero waste in policy, planning and practice*

### **Landfill Solid Waste Emissions**

Total community-wide landfill solid waste and overall emissions from the waste sector decreased by 18% in 2020 compared to 2019, placing current waste sector emissions 47% below the 2000 baseline.

### **Impacts to Berkeley's Building sector emissions:**

- **COVID-19 Pandemic** – The COVID-19 pandemic was the cause of the significant drop in our 2020 waste consumption and emissions. Many businesses reduced in-person operations in 2020 to adhere to local COVID-19 health orders. Additionally, UC Berkeley was fully remote for the start of the Fall 2020 semester and many students did not return to the City for in-person classes until 2021.

### **SB 1383**

In 2016, SB 1383 was signed into law. This State legislation is designed to reduce short-lived climate pollutants and requires 75% organic waste reduction by 2025 and a 20% increase in recovery of edible food that is currently disposed by 2025. California local jurisdictions have significant, new requirements to implement additional waste reduction programs and enhanced reporting and enforcement protocols to comply with the state legislation. SB 1383 implementation started January 1, 2022.

## Community Outreach & Engagement



*Community Engagement Goal: Achieving equitable climate action together*

Since 2012, the Berkeley Climate Action Coalition (BCAC), co-convened by the Ecology Center and the City, has been a vehicle for climate engagement. BCAC continues to engage Berkeley and East Bay residents on issues of climate justice. In 2020 public engagement and education activities moved online due to social distancing requirements during the COVID-19 pandemic.

### **Community Convenings with BCAC**

The City and BCAC collaborated with governmental and community organizations, houses of worship and municipalities in both Alameda and Contra Costa counties to host webinars on a variety of topics such as building electrification, waste and recycling, climate and health, electric cars, residential energy efficiency, and solar and storage.



### **East Bay Green Home Tours**

In Spring of 2021 and 2022, the City hosted multi-day *East Bay Green Home Tours*<sup>9</sup> showcasing various efforts of local residents to save water and energy, increase resilience to drought and heat, and reduce the carbon footprint of their homes. Over 700 people attended the East Bay Green Home Tour each year.

### **Ride Electric**

In October 2021, the City hosted its first in-person outdoor event since the start of the COVID-19 pandemic at the successful *4<sup>th</sup> Annual Ride Electric at the Farmers' Market*, offering test drives in City fleet plug-in cars as well as an Electric Bike Expo. This year the City hosted its *5<sup>th</sup> Annual Ride Electric* in conjunction with the City Harvest Festival on October 15, 2022, and was excited to offer electric bike and scooter test rides through the City's new shared electric mobility providers. As in years past, community and governmental agencies that offer resources to income qualified residents participated.

## **Climate Adaptation & Community Resilience**



*Adaptation and Resilience Goal: Strengthening and preparing the community for shocks and stresses, including adapting to the impacts of climate change*

The City's resilience efforts, as outlined in the 2016 Resilience Strategy, include the following goals:

1. Build a connected and prepared community
2. Accelerate access to reliable and clean energy
3. Adapt to the changing climate
4. Advance racial equity
5. Excel at working together within City government to better serve the community
6. Build regional resilience

Programs that provide multi-benefit solutions are prioritized, such as the Climate Equity Fund programs collaborating with disadvantaged communities to improve access to building electrification and electric micro-mobility to low-income people and communities of color. Many City departments are leading efforts to enhance resilience and help Berkeley adapt to a changing climate, including Public Works, Parks Recreation and

<sup>9</sup> <https://www.eastbaygreenhome.com/>

Waterfront, Health, Housing and Community Services, and Fire. A summary of programs is provided below:

### **Sea Level Rise**

In 2019, the City initiated the Waterfront Specific Plan project to develop a long-term vision for achieving a financially self-sustainable publicly-owned Waterfront. The project is currently in the public engagement phase, which involves an extensive community outreach process to brainstorm ideas for potential new revenue-generating and complementary uses at the Waterfront. A draft Sea Level Rise Study for the Berkeley Waterfront was completed as part of the project. Preliminary findings indicate that three locations at the Berkeley Waterfront may experience periodic flooding by 2050 during a 100-year storm and King tide: 1) the shoreline at the north segment of Marina Blvd between the Virginia Street Extension and the entrance to Cesar Chavez Park, 2) the shoreline to the south of University Avenue between West Frontage Road and Marina Blvd, and 3) various spots in the northeast corner of the inner harbor of the Marina. Staff will research and scope out shoreline improvement projects that will minimize these impacts. In 2020 and 2021, staff submitted two grant proposals to regional agencies for the project along Marina Blvd, but were not successful in obtaining project funding. Staff will continue to seek funding to implement these projects over the next five years.

### **Groundwater Rise Grant**

As sea levels rise and extreme storms become more frequent, communities are developing climate adaptation plans to protect housing, jobs, ecosystems, and infrastructure from flooding. However, these plans often neglect an important potential flood hazard – emergent groundwater. Shallow groundwater in coastal communities will rise as sea levels rise, increasing the risk of flooding communities from below. The threat of rising groundwater levels is a critical data gap in regional climate resilience planning. This project is exploring the links between sea level rise, precipitation, and the elevation of shallow groundwater in the San Francisco Bay Area so that adaptation plans can consider all potential flood hazards.

Through funding from the California Resilience Challenge grant, a project<sup>10</sup> will develop a series of shallow groundwater maps that consider the response to eight sea level rise scenarios for four of the nine Bay Area counties, including Alameda County. The project is led by the San Francisco Estuary Institute Aquatic Science Center, in collaboration with Pathways Climate Institute and UC Berkeley, along with Bay Area cities and counties which have identified rising groundwater as a potential problem within their jurisdictions. The City of Berkeley is a joint proposer and is participating in the Project Management Taskforce.

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<sup>10</sup> <https://www.sfei.org/projects/shallow-groundwater-response-sea-level-rise>

**Wildfire Smoke**

The Bay Area has experienced multiple days and periods of unhealthy air quality due to wildfire smoke in recent years. Often times these events can coincide with heat waves, high fire risks, and/or Public Safety Power Shutoffs. To better address the threat of wildfire smoke, in 2019 the City of Berkeley participated in a grant led by Alameda County to create a communications protocol for responding to wildfire smoke and other air quality conditions.<sup>11</sup> The City is also currently working to advance emergency and resilience planning for extreme heat and high air quality index (AQI) events, including coordination with cities around North America on extreme heat and AQI event planning, and local collaboration outreach with community partners serving disadvantaged communities.

**Tree Canopy**

The City of Berkeley currently has a vibrant urban forest made up of approximately 38,000 street, park and median trees. These trees are managed and maintained by the Urban Forestry Unit of the Parks, Recreation & Waterfront Department. However, while dense and vibrant in areas, this urban forest is not equitably distributed throughout the City. Current tree inventories and overall canopy coverage data illustrates fewer trees located in the West and South Berkeley neighborhoods, which also have a higher population of lower-income and historically disadvantaged communities. The City plans to plant 1,000 new trees in West and South Berkeley neighborhoods over the next two years. Funds have been secured to cover most costs of these tree planting efforts through an Urban Greening Grant of \$726,000 and an Environmental Enhancement and Mitigation Grant of \$576,000. Both grants are sponsored by the California Natural Resources Agency.

This project aims to eliminate the past barriers to growing new street trees by first promoting tree planting opportunities, engaging with communities and gathering specific tree planting requests in areas with low tree counts. Next, funding will cover all costs of the tree growing process, which include site planning and species selection, creating new sidewalk growing spaces, purchasing and planting trees, and providing the three years of watering investment needed to establish these drought tolerant trees.

These new trees will help to provide shade, cooling, storm water benefits, and beautification in neighborhoods that have been historically underserved. Additionally, this project offers an opportunity to grow resilient climate change ready tree species and utilize modern urban forestry methods to create sustainable sites and reduce future infrastructure conflicts.

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<sup>11</sup> <https://www.acgov.org/sustain/what/resilience/smoke.htm>

### **Pollinator Gardens**

Bees and other insects are responsible for the pollination of much of the world's crops and flowering plants. The ecological service they provide is essential for a healthy environment. While numbers of many species have declined, several Berkeley Parks have been renovated to create space for native pollinator gardens and corridors. The pollinator garden partnership and collaboration began in 2020 with the first site at George Florence Park. Since then pollinator gardens have expanded to sites at James Kenney Park, John Hinkel Park, San Pablo Park, King School Park, Strawberry Creek Park, Haskell-Mabel Park and Prince Street Park. The City of Berkeley has also planted Bay Area and California native herbaceous perennials and groundcovers on 1450 feet of roadway median. These native plants are effective at attracting pollinator species, creating habitats, and sequestering carbon from the atmosphere. The Parks Tax is the primary source of funding for the pollinator gardens, but much of the labor for installation and maintenance is completed by volunteer community members.

### **Resilience Hub Training**

In 2021, The City of Berkeley participated in a Resilience Hub Leadership Training funded through the Urban Sustainability Directors Network and facilitated by the NorCal Resilience Network.<sup>12</sup> The training brought together 150 community leaders and 16 government partners across dozens of sites for a ground-breaking 8-month training session to catalyze resilience hubs, spaces and neighborhoods, preparing participants with critical skills to be “ready for anything” and thrive. The training session was largely funded by and based on the resilience hubs guidelines developed by USDN, and in collaboration with both local governmental agencies and community-based organizations.

### **Local Hazard Mitigation Plan (LHMP)**

The LHMP is the main document that houses the City’s climate adaptation work. Last updated in 2019, the plan identifies climate change as a man-made hazard that will affect the Berkeley community through hazards such as extreme heat, sea-level rise and flooding, and water security. The LHMP is updated every five years, with the next update is expected in 2024.

### **Bay Area Climate Adaptation Network (BayCAN)**

Berkeley is a founding member and participates in the Steering Committee of the Bay Area Climate Adaptation Network (BayCAN), a network of local government staff helping coordinate an effective and equitable response to the impacts of climate change. BayCAN works to share best practices, develop opportunities for collaboration and program implementation, and secure funding and resources for equitable climate adaptation.

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<sup>12</sup> <https://norcalresilience.org/leadership-training/>

## Climate Action at UC Berkeley and The Berkeley Lab

UC Berkeley and the Berkeley Lab are not included in Berkeley's GHG emissions inventory because their campuses are outside of the City's jurisdiction. However, both institutions track their own emissions reduction goals and are engaged community partners in addressing climate change. UC Berkeley and the Berkeley Lab have completed their 2020 GHG inventories and they provide additional information on their climate action progress on their 2021 Sustainability Reports<sup>13</sup>.

The Berkeley Lab has partnered directly with the City on several innovative sustainability projects including building data management tools, zero-net energy analysis of municipal buildings, and a Building Performance Standard (BPS) policy analysis for the development of energy upgrade requirements through BESO. The City of Berkeley also participates in the Berkeley Lab Community Advisory Group (CAG).

### BACKGROUND

In recognition of the climate crisis, the City has added additional climate goals to bolster the Climate Action Plan goal of reducing greenhouse gas emissions below 2000 levels by the year 2045. Berkeley's goals include:

- **Fossil Fuel Free Berkeley:** In June 2018, the City Council referred a proposed resolution to the Energy Commission and Transportation Commission to further implement the Climate Action Plan and establish a goal of becoming a Fossil Fuel Free City.
- **Climate Emergency:** On June 12, 2018, the City Council adopted a Climate Emergency Declaration.
- **Net-Zero Carbon Emissions:** In 2018, Mayor Arreguin announced the City's intention to achieve zero net carbon emissions by 2045, in alignment with California state-wide goals.
- **Race to Zero:** In 2020, Berkeley City Council adopted a resolution for the Cities Race to Zero Campaign to establish a 2030 emission reduction target that reflects Berkeley's fair share of the 50% global reduction in CO<sub>2</sub>e, committing to reduce emissions 60.5% from 2018 levels by 2030.

The more traditional emissions inventory that Berkeley uses—known as a “production-based” or “sector-based” inventory—lays a foundation for key climate policy and program planning, while consumption-based inventories consider the entire life cycle of

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<sup>13</sup> UC Berkeley 2021 Sustainability Report: <https://sustainabilityreport.ucop.edu/2021/locations/uc-berkeley/> and the Berkeley Lab 2021 Sustainability Report: <https://sustainabilityreport.ucop.edu/2021/locations/lawrence-berkeley-national-lab/>

a specific product to calculate its GHG emissions. Consumption-based inventories include goods and services such as air travel (even if, as for Berkeley, the airport is located outside of a jurisdictional boundary), food, appliances, and construction of buildings. An inventory of all Alameda County cities was created by the CoolClimate Network in 2018<sup>14</sup> and was reported in Berkeley's Community-wide Greenhouse Gas Emissions Inventory that year.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The City's Climate Action Plan, Resilience Strategy, Local Hazard Mitigation Plan, and Strategic Plan all contribute to advancing the community towards a clean and resilient energy future that successfully meets Berkeley's climate goals.

### POSSIBLE FUTURE ACTION

This report provides the City Council with an update on GHG emission trends, an overview of associated current activities, and the planning efforts underway to develop strategies to accelerate the rate of GHG emission reductions to reach Berkeley's increasingly ambitious climate goals. The Climate Equity Fund and Just Transition Program are examples of valuable opportunities to pilot programs that can eventually scale to continue to achieve equitable GHG emissions reductions.

### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Mitigation of GHG emissions within Berkeley and planning for the impact of climate change are interrelated. Current investment to reduce citywide emissions and enhance climate adaptation and resilience, such as the Climate Equity Fund Pilot Projects and the Just Transition Pilot Project, will help reduce the costs of addressing the impacts of climate change in the future. Staff will be closely monitoring the applicability and availability of Federal funding to support the transition away from fossil fuels and other opportunities to clean energy and climate resilience goals.

### CONTACT PERSON

Billi Romain, Manager, Office of Energy & Sustainable Development, 510-981-9732  
Ammon Reagan, Community Services Specialist II, Office of Energy & Sustainable Development, 510-981-7416

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<sup>14</sup> Bay Area Air Quality Management District, Consumption-Based GHG Emissions Inventory: <https://www.baaqmd.gov/about-air-quality/research-and-data/emission-inventory/consumption-based-ghg-emissions-inventory>



Office of the City Manager

INFORMATION CALENDAR

November 29, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Liam Garland, Director, Public Works

Subject: City Policies for Managing Parking Around BART Stations

SUMMARY

This report provides an overview of the parking management programs and policies the City of Berkeley will use to manage parking demand around the Ashby and North Berkeley BART stations as new housing is built. In residential areas, the City will evaluate new resident and/or Council initiated requests to join the Residential Preferential Parking (RPP) Program. In commercial areas, the City will consider the use of demand-responsive pricing to generate parking availability for local customers and/or accommodate some BART parking demand under the goBerkeley program.

CURRENT SITUATION AND ITS EFFECTS

BART's planned housing at the Ashby and North Berkeley stations is expected to significantly affect parking conditions around the stations. While BART has been conducting a planning process for station access needs—the Berkeley-El Cerrito Corridor Access Plan (BECCAP)<sup>1</sup> with anticipated completion in Winter 2022/23—the City seeks to mitigate future parking demand using existing parking programs, including the Residential Preferential Parking (RPP) Program in residential areas and goBerkeley demand-responsive pricing in commercial areas.

Planned Changes to Parking Supply and Demand

As part of the new housing developments, BART will not provide 100% replacement of existing BART rider parking spaces. After BART presented recommended BART rider parking maximums for the two stations to the BECCAP Advisory Committee and Community in March 2022,<sup>2</sup> in June 2022, the BART Board approved a maximum of 85 rider parking spaces (16% of the current 535 spaces) for Ashby and 200 rider parking spaces (29% of the current 700 spaces, including 80 spaces in the two auxiliary lots) for North Berkeley.<sup>3</sup> Based on the analysis and outreach from the BECCAP, BART expects that those who historically parked at the two stations will: 1) walk, bike, bus or rideshare to access BART, 2) work from home, or 3) park at Downtown Berkeley

<sup>1</sup> BECCAP Project website: <http://bit.ly/3NSm6C1>

<sup>2</sup> BECCAP Advisory Committee/Community Meeting, March 9, 2022, p. 22: <https://bit.ly/3BTdR2W>

<sup>3</sup> BART Board Meeting, June 9, 2022: <https://bit.ly/3DTT8gK>

parking garages or other off-street options.<sup>4</sup> Yet, there may still be spillover parking into surrounding neighborhoods. Note: BART has not determined the final amount of on-site rider parking at the two stations. The final parking number will be determined after the future development teams advance design together with the community, and BART, the City and the Developer teams have a better understanding of funding opportunities for access/parking improvements, design considerations, and community benefit tradeoffs.

The amount of on-site parking for residents at the new housing developments is still under consideration. Regardless, per City policy, residents of the new developments will not be eligible for RPP permits and could seek parking on nearby residential streets.

### Managing Parking in Residential Areas

Residential parking in the immediate vicinity of the Ashby and North Berkeley BART stations is within the boundaries of the RPP Program, though the number of streets that have “opted-in” to the Program, i.e., streets that are signed and enforced for RPP time limit restrictions, vary between the two stations.<sup>5</sup> The City expects resident-initiated opt-in requests around Ashby BART and North Berkeley BART to grow over the next several years, particularly after new housing is built. Residents may choose to petition for RPP to mitigate demand from residents of the new housing developments as well as partially displaced BART patrons.

To accommodate these requests, the City will follow existing guidelines for RPP Opt-Ins, summarized in Berkeley Municipal Code (BMC) Section 14.72.050.<sup>6</sup> The BMC also allows for Council to initiate opt-in requests if so desired. Streets that are outside of the RPP Program boundary are not eligible to opt-in; Council action would be required to allocate additional funding for Parking Enforcement staff and equipment to expand the Program.

### Managing Parking in Commercial Areas

Parking on Adeline Street across from the Ashby BART station and along University Avenue south of the North Berkeley BART station is managed under the goBerkeley parking program. Parking on Ashby Avenue and MLK Jr Way fronting Ashby BART is either controlled by RPP, time limits, or unregulated. Adeline Street south of Woolsey Street is time limited, though the City is evaluating whether to install metered parking in this area as part of a parking benefit district. There is no parking on the periphery of the North Berkeley BART site, but this could change with future housing development.

Based on outreach with merchants and/or other stakeholders, the City could convert existing time limited or unregulated parking in commercial areas or on the periphery of station areas to goBerkeley metered parking. Consistent with on-street parking

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<sup>4</sup> BECCAP Advisory Committee/Community Meeting, March 9, 2022, p. 23-24: <https://bit.ly/3BTdR2W>

<sup>5</sup> City of Berkeley RPP Web Map: <https://bit.ly/3LLDpDY>

<sup>6</sup> Berkeley Municipal Code 14.72.050: “Designation of a residential permit parking area”  
<https://berkeley.municipal.codes/BMC/14.72.050>



elsewhere in the City, the goals will be to ensure customer parking availability and turnover by periodically observing parking behavior and adjusting prices for optimum availability – 65-85% occupied, or 1-2 open spaces. goBerkeley features “Premium” zones with prices driven by customer demand and shorter time limits that encourage turnover, and in the vicinity of Ashby and North Berkeley, could exclude BART patrons. If there is surplus capacity, some areas may be designated as Value zones with longer time limits that could be used by BART patrons, but priced to maintain adequate turnover.

goBerkeley allows the City to be flexible in the face of changing conditions. Pending further discussion, the City could implement an escalating price scale that starts at low prices for short stays, but scales up to higher prices for all-day parking, potentially providing parking for local customers while accommodating some BART patrons. In the vicinity of Ashby BART, this could provide a new source of revenue supporting a Lorin parking benefit district.

### BACKGROUND

In September 2018, Governor Jerry Brown signed Assembly Bill (AB) 2923,<sup>7</sup> state legislation that affects zoning requirements on existing BART-owned property within one-half mile of stations in Alameda, Contra Costa and San Francisco Counties.

The City of Berkeley has been working closely with BART to develop the zoning and site planning parameters that meet the requirements of AB 2923, the goals of the City and the community, and the goals of BART as the property owner. The City and BART executed a Memorandum of Understanding (MOU) in March 2020 that established a framework for development of the Ashby and North Berkeley BART stations, including a community advisory process and other community engagement; milestones and a timeline to develop zoning that complies with AB 2923; solicitation of developer(s); and further studies/planning for the two station areas.<sup>8</sup>

In June 2022, the City Council adopted zoning at the North Berkeley and Ashby BART stations that complies with AB 2923. As outlined in the original City-BART Memorandum of Understanding (MOU) and the new Memorandum of Agreement (MOA), the planning effort moving forward will build upon separate community engagement efforts that have been underway for several years relating to the Ashby and North Berkeley BART stations, and other adopted plans and policies of the City and of BART. The MOA establishes a timeline for milestones regarding the addressing of potential spillover impacts to parking around the North Berkeley and Ashby BART stations that includes this City Council update regarding use of existing tools for on-street parking strategy in November 2022.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

<sup>7</sup> AB 2923: <https://bit.ly/3DYji3m>

<sup>8</sup> Current City of Berkeley/BART Memorandum of Understanding (MOU): <https://bit.ly/3CfJFR8>

Incremental expansion of the RPP Program to include additional blocks may have a minor beneficial environmental effect, and may make alternative transportation options more attractive. A modal shift by commuters to walking, bicycling, public transportation, or carpooling may also lead to a decrease in greenhouse gasses. However, based on expansion of RPP to other areas, the “two-hour shuffle” (i.e., moving a vehicle every two hours to avoid a ticket) may also begin to occur in new RPP areas among commuters who continue to drive. This behavior would have an adverse impact on traffic congestion, air quality, and excess fuel consumption.

Parking management in commercial areas using demand-responsive pricing under the goBerkeley parking program should improve parking management and lessen traffic congestion and vehicle emissions, as drivers are anticipated to spend less time searching for available parking spaces. Reducing greenhouse gas emissions produced by vehicular traffic is one of the City’s 2009 Climate Action Plan goals.

POSSIBLE FUTURE ACTION

The City will continue to monitor parking demand in the vicinity of the Ashby and North Berkeley BART stations, processing RPP opt-in requests and/or discussing parking options in commercial areas with merchants and business groups as warranted.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no immediate fiscal impacts. The parking management policies discussed in this report are baseline programs and the housing projects are still being planned.

Moving forward, each incremental expansion of RPP within the Program’s current boundaries will incur costs for the procurement and installation of new signage. Depending on the geographic scope of new opt-in petitions, discussions with the Police Department’s Parking Enforcement may be needed to verify that existing staffing and equipment levels are sufficient to absorb the new areas. Expansion beyond the existing boundaries of the RPP Program will require new staff and equipment.

Fiscal impacts of potential new goBerkeley parking meters in commercial areas near or fronting the BART stations are difficult to forecast as parking behaviors resulting from demand-responsive price adjustments may vary. However, as in other areas of the City, incremental parking revenue should be sufficient to cover expected expenditures of the program, including the purchase of new meter equipment.

CONTACT PERSON

Farid Javandel, Deputy Director of Transportation, Public Works, (510) 981-7061  
Danette Perry, Parking Services Manager, (510) 981-7057  
Gordon Hansen, Senior Planner, (510) 981-7064



Fair Campaign Practices Commission

INFORMATION CALENDAR  
November 29, 2022

To: Honorable Mayor and Members of the City Council

From: Fair Campaign Practices Commission

Submitted by: Sam Harvey, Secretary, Fair Campaign Practices Commission

Subject: Fair Campaign Practices Commission FY2022-2023 Work Plan

INTRODUCTION

The Fair campaign Practices Commission (FCPC) has updated its work plan, which outlines Commission objectives for the upcoming fiscal year. This work plan includes ongoing compliance review of campaign statements; ongoing review of alleged violations of the Berkeley Election Reform Act (BERA); receiving trainings on various topics including due process, complaint hearings processes, the Brown Act, conflicts of interest, BERA and campaign reporting obligations, and legislative vs. quasi-judicial roles of the Commission; developing recommendations for removing barriers to access for candidates by streamlining and simplifying City's campaign rules, regulations and procedures; reviewing BERA enforcement procedures; and working collaboratively with the City Council to develop policy related to Officeholder Accounts.

CURRENT SITUATION AND ITS EFFECTS

At the regular meeting on June 16, 2022, the Fair Campaign Practices Commission unanimously approved the FY2022-2023 Work Plan, which will be used to guide the Commission's work throughout the year.

**Action:** M/S/C (Tsang/Hernandez) to approve work plan with changes.

**Vote:** Ayes: Blome, Ching, Hernandez, Newman, O'Donnell, Tsang, Hynes; Noes: none; Abstain: none; Absent: Humbert, Sheahan.

BACKGROUND

See attached Work Plan.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

No environmental or climate impacts or opportunities were identified as a result of this recommendation.



Fair Campaign Practices Commission

POSSIBLE FUTURE ACTION

Based on Commission research and public hearings, new initiatives and recommendations to City Council may be submitted to City Council at such time deemed necessary.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Unknown, but none expected.

CONTACT PERSON

Samuel Harvey, Commission Secretary, City Attorney's Office (510) 981-6998  
James Hynes, Chairperson, (510) 981-6998

Attachment: 1: Fair Campaign Practices Commission Work Plan



Fair Campaign Practices Commission

Attachment 1

**Work Plan for FY2022-2023 (July 1, 2022- June 30, 2023)  
Approved June 16, 2022**

- Ongoing compliance review of campaign statements.
- Ongoing review of alleged violations of BERA.
- Receive trainings on various topics including:
  - Due process and complaint hearings processes
  - Brown Act
  - Conflicts of interest
  - Berkeley Election Reform Act and campaign reporting obligations
  - Legislative vs. quasi-judicial roles of the Commission
- Develop recommendations for removing barriers to access for candidates by streamlining and simplifying City's campaign rules, regulations and procedures.
- Review BERA enforcement procedures.
- Work collaboratively with the City Council to develop policy related to Officeholder Accounts.





Open Government Commission

INFORMATION CALENDAR  
November 29, 2022

To: Honorable Mayor and Members of the City Council

From: Open Government Commission

Submitted by: Samuel Harvey, Secretary, Open Government Commission

Subject: Open Government Commission FY2022-2023 Work Plan

INTRODUCTION

The Open Government Commission (OGC) has updated its work plan, which outlines Commission objectives for the upcoming fiscal year. This work plan includes the ongoing review of complaints concerning alleged non-compliance with the Open Government Ordinance, the Brown Act, the Public Records Act, or the Lobbyist Registration Act; proposing legislation or procedures to ensure the City's compliance with the Open Government Ordinance, the Brown Act, the Public Records Act, and the Lobbyist Registration Act; administering and making more effective the Lobbyist Registration Ordinance; advising the City Council of any action or policy that would enhance open and effective government in the City; reviewing, approving, and forwarding to City Council the annual report submitted to the Open Government Commission by the City Manager regarding compliance with the Open Government Ordinance, the Public Records Act, the Brown Act, the Lobbyist Registration Act, and any other information the City Manager deems appropriate for open and effective government in the City of Berkeley; working collaboratively with the City Council to monitor and evaluate policies related to Council District (D-13) accounts; and receiving trainings on topics including the Brown Act, conflicts of interest, the Public Records Act, the Open Government Ordinance, and the Berkeley Lobbyist Registration Act.

CURRENT SITUATION AND ITS EFFECTS

At the regular meeting on June 16, 2022, the Open Government Commission unanimously approved the FY2022-2023 Work Plan, which will be used to guide the Commission's work throughout the year.

M/S/C (Blome/Hernandez) to adopt work plan with amendments regarding work related to D-13 accounts

Ayes: Blome, Ching, Hernandez, Newman, O'Donnell, Tsang, Hynes; Noes: none; Abstain: none; Absent: Humbert, Sheahan.



Open Government Commission

BACKGROUND

See attached Work Plan.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

No environmental impacts or opportunities were identified as a result of this recommendation.

POSSIBLE FUTURE ACTION

Based on Commission research and public hearings, new initiatives and recommendations to City Council may be submitted to City Council at such time deemed necessary.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Unknown, but none expected.

CONTACT PERSON

Samuel Harvey, Commission Secretary (510) 981-6998  
James Hynes, Chairperson (510) 98106998

Attachment: 1: Open Government Commission FY2022-2023 Work Plan





Open Government Commission

Attachment 1

**Work Plan for FY2022-2023 (July 1, 2022- June 30, 2023)  
Approved June 16, 2022**

- Ongoing review of complaints concerning alleged non-compliance with the Open Government Ordinance, the Brown Act, the Public Records Act, or the Lobbyist Registration Act.
- Propose legislation or procedures to further ensure the City of Berkeley's compliance with the Open Government Ordinance, the Brown Act, the Public Records Act, and the Lobbyist Registration Act.
- Administer and make more effective the Lobbyist Registration Ordinance.
- Advise the City Council of any action or policy that would enhance open and effective government in the City of Berkeley.
- Review, approve, and forward to the City Council the annual report submitted to the Open Government Commission by the City Manager regarding compliance with the Open Government Ordinance, the Public Records Act, the Brown Act, the Lobbyist Registration Act, and any other information the City Manager deems appropriate for open and effective government in the City of Berkeley.
- Work collaboratively with the City Council to monitor and evaluate policies related to Council District ("D-13") accounts.
- Receive trainings on various topics including:
  - Brown Act
  - Conflicts of Interest
  - Public Records Act
  - Open Governance Ordinance
  - Berkeley Lobbyist Registration Act



## **Communications – November 29, 2022**

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record.*

### **Item #15: Adeline Street at Ashby BART Conceptual Design**

1. Ryan Lau, on behalf of the Alameda-Contra Costa Transit District

### **No Right Turn on Red**

2. Riti Dhesi
3. Ned Himmel
4. Laralynn and Joe Rapoza

### **Harriet Tubman Terrace Apartments**

5. Darinxoso Oyamasela

### **Homelessness and Encampments**

6. Friends of Five Creeks (3)
7. Craig Nagasaw
8. John Caner, Downtown Berkeley Associations
9. Susana Garcia

### **PCI Street Conditions**

10. David Lerman (2)
11. Marna Braunstein Clark

### **Hopkins Street Corridor**

12. Nancy Lewis

### **26-Story Building in Central Berkeley**

13. Dorothea Dorenz

### **EV Micro-Mobility Vehicles**

14. Bernard Marszalek

### **Traffic Safety at Cedar and California**

15. David Lerman

### **Bring Back Transit Bus 80**

16. Jovanka Beckles

### **Berkeley Waterfront and Marina Area**

17. Camille Antinori, David Fielder and Gordon Stout

### **Recruitment of Commissioners for the Commission on Aging**

18. George Porter, Chair, Commission on Aging

**Support for Repairs to La Pena Cultural Center**

19. Natalia Neira and Tara Dalbo, Executive & Deputy Executive Director

**Illegal Dumping**

20. Alice Rosenthal

**Implement Ceasefire in Berkeley**

21. Diana Bohn

**People's Park**

22. Susana Lamaina

23. Joshua Hart

24. Susan Stevens

25. Sandra Morey

26. Norma Harrison

**Cannabis Policy**

27. Getting It Right From The Start

**North Berkeley BART Developer Selection**

28. John Parman

29. Peggy Radel

**Berkeley Half Marathon Impacts**

30. Alexander Merenkow

**Climate Change**

31. Vivian Warkentin

**Proposed Proclamation, in Honor of Barbara Ann White**

32. Moni Law (2)

**End the Eviction Moratorium**

33. Jeannie Llewellyn

34. May Fong

35. Daniel Gonzalez

**PRA Request**

36. Nathan Mizell

37. Dee Williams-Ridley

**Berkeley City Council Meeting Comment**

38. Peter Goldman

**Berkeley Police Department Superior Customer Service**

39. Pauline Russo Cutter, Mayor of San Leandro

**Golden Gate Fields Stable Code Violations**

40.T. Conrad

**Measure L**

41. Jeffrey Heller

**Housing Element**

42.9 similarly-worded from letters



Service Development  
 1600 Franklin Street, Oakland CA 94612

November 14, 2022

Berkeley City Council  
 2180 Milvia Street, 5<sup>th</sup> Floor  
 Berkeley, CA 94704

**Re: Redesigning Adeline Street at Ashby BART on November 29, 2022 Berkeley City Council Meeting Agenda**

We are writing you to provide feedback on the City of Berkeley's Redesigning Adeline Street at Ashby BART planning process. This represents a tremendous opportunity to think boldly and create a project that will yield benefits for generations to come. The mix of project elements is unique in Berkeley: a significant transit-oriented development (TOD), a plaza to accommodate the Berkeley Flea Market, a redesign of the Adeline streetscape, and other community benefits. The redesign of the Adeline corridor should therefore be conceived for a future vision, not simply what exists today. The Adeline Corridor Specific Plan lays out a bold vision for reshaping the Ashby BART area.

There are many tradeoffs to consider with large-scale urban projects like this. Berkeley has made a strong, long-term commitment to combatting climate change. The project as conceived will be a major trip generator; the maximum feasible number of these trips should be made by climate friendly modes. Combatting climate change can only occur with a major effort to increase transit use, while reducing single occupant vehicle use and vehicle miles traveled.

Transit improvements at Ashby BART must include not only BART, but vital bus service improvements to and around Berkeley. Buses will be a key mode that takes people to local commercial activity (benefitting the city's tax base), public facilities, and other destinations. Bus facilities at Ashby BART must support these goals. A dedicated transit lane would support fast and reliable transit service, a prerequisite for attracting people to transit. Enhancing bus transit at and around Ashby BART does not have to come at the cost of the city's other priorities. Public discussion about the site has focused on the importance of accommodating the Berkeley Flea Market. There is also widespread interest in implementing a road diet that would improve safety and amenity for pedestrians and cyclists. We believe that with "out-of-the-box" thinking, both of these goals can be achieved with a transit lane.

This transit lane would be at the same elevation of the plaza to be utilized by buses during weekdays, but could easily flex on the weekends to be used as part of the plaza for the Berkeley Flea Market. A transit lane at grade with the plaza could also provide a hard edge which would function as a road diet, reducing the space for the general purpose lanes, therefore slowing traffic speeds. Bike and pedestrian safety would be enhanced by the reduced speeds while still providing for a dedicated transit lane. Reducing auto traffic in the area with better transit would also improve pedestrian and bicycle safety. Less cars, safer roads.

Another reason a dedicated transit lane is the best option along Adeline Street is that it keeps local dollars local. The average trip on an AC Transit bus is 3 miles. This means that a bus rider is much more likely to spend their money in Berkeley or surrounding communities versus someone in a car, and the impact of this investment in public transit is not just a mere one-to-one. C40, a network of mayors of nearly 100 world-leading cities collaborating to confront the climate crisis, recently released a study

citing that every dollar invested in public transit generates \$5 in economic returns. This means that delivering a bus only transit lane would allow for faster and more reliable bus service, making it more attractive and thereby improving ridership and as stated above, keeping more of those local dollars within our community.

In conclusion, we believe that enhancing bus transit for this project is the most productive and truly multimodal option. A dedicated bus lane would serve the primary purpose of this TOD project, providing housing for our community while ensuring that residents can make trips within and beyond Berkeley without reliance on a private auto. It also supports several important city goals, such as ensuring that the Berkeley Flea Market has space to thrive, improving pedestrian/bike safety, and stimulating our local economy.

Sincerely,

A handwritten signature in black ink that reads "Robert del Rosario". The signature is written in a cursive, flowing style.

Robert del Rosario  
Director of Service Development and Planning  
AC Transit

**Benado, Tony**

---

**From:** Riti Dhesi <ndhesi@yahoo.com>  
**Sent:** Sunday, November 6, 2022 9:17 AM  
**To:** All Council  
**Subject:** Ban red light right turns

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Mayor and Councilmembers,

Please do the right thing and bar drivers in Berkeley from making right turns during red lights. Ban it at ALL 135 intersections in the city that are controlled with stoplights. We've had a serious increase in traffic accidents. Between bikers, cars, walkers, runners... cars always win. Protect those who are more vulnerable. Do the right thing.

Thank you,  
Riti

Riti Dhesi  
1612 California St.  
510.990.8739



**Benado, Tony**

---

**From:** Ned A Himmel <nhimmel@sbcglobal.net>  
**Sent:** Tuesday, November 8, 2022 3:00 PM  
**To:** All Council  
**Subject:** No right turns on red

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

I know you're considering allowing right turns in red at most intersections with signals. I'm opposed to that for a few reasons:

A. It will mean More idling at these intersections creating more pollution. The signal at Allston and Sacramento is an example where the idling is worse than the traffic issue. Or the new signals at Sacramento and Virginia.

B. We don't have the police power to enforce more rules. Drivers go through red lights regularly and are never stopped C. Drivers do not pay attention to the "No right turn on red" signals now.

Maybe more traffic cameras would be more effective and stop more red light runners.

Thanks for your attention.  
Ned Himmel  
1460 Lincoln St

Sent from my iPhone

**Benado, Tony**

---

**From:** Laralynn Rapoza <lynn.rapoza@gmail.com>  
**Sent:** Saturday, November 12, 2022 11:51 AM  
**To:** All Council; Berkeley Mayor's Office  
**Cc:** Joe  
**Subject:** Traffic safety + no right on red proposal

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello Berkeley City Councilmembers and Mayor Arreguin –

We're writing first in response to the no right on red (NROR) proposal, and also to other related traffic (car, bicyclist, and pedestrian) safety issues in Berkeley.

First, we're asking you to **consider rolling out the no right on red proposal on a limited basis, in high-need areas only** (based on data – where are there the most collisions and/or near misses that could be stopped by this? Where is the highest pedestrian traffic?), and not blindly across the entire city. To do what is being proposed would come at a cost to the city that we cannot afford when our roads are in an utter state of disrepair, and no existing traffic laws are currently being enforced. We question the logic of spending money on yet another law that won't be enforced, and will just confuse an already aggravated populace when trying to get around town, by whatever means.

We also ask the city to **FIRST re-start actively enforcing existing traffic laws for cars and bikes**, including but not limited to: cars turning right on red before coming to a complete stop, cars not stopping at all at stops signs across the entire city, cars speeding excessively, and cars running red lights. Also: BIKES not stopping at stop signs when there is someone else – a car, pedestrian, or other bike – already entering the intersection after stopping if required (for a car or bike). I see this ALL the time and have had numerous near misses as a pedestrian, driver, and bicyclist because of this behavior. I've also seen several child pedestrians have near misses with speeding bikes (usually e-bikes) at 4-way stop intersections near schools.

Finally: if we're truly worried about safety we should **create clear laws for e-bikes that take into account the speed at which they can travel**, and the danger they can pose to pedestrians or even other bicyclists. Right now they seem to ride with impunity. Is that our intention, simply because e-bikes are more environmentally friendly than cars? Or do we truly mean to keep our roads safe for everyone? We strongly advocate for the latter. Safety above all else.

For some positive and impactful steps the city could take instead of a blanket new NROR ordinance and signage, let's put pedestrian safety first in ways that will actually help, even if they don't get a nice pithy headline in large metro news sources. For example, how about better lighting overall, more push-button lights, and/or raised crossings on high traffic and high pedestrian streets like MLK?

And again: let's re-start enforcing excessive breaches of existing traffic laws.

Thank you –  
 Laralynn and Joe Rapoza  
 San Pablo Park neighborhood residents, 18 years

**Benado, Tony**

---

**From:** Darinxoso Oyamasela <oyamasela1@gmail.com>  
**Sent:** Saturday, November 5, 2022 1:22 PM  
**To:** Arreguin, Jesse L.; Harrison, Kate; Bartlett, Ben; Cheryl Davila Former Councilperson  
District 2; Chang, James; All Council  
**Subject:** A million thanks and counting!

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

The residents of Harriet Tubman Terrace wish to thank you for your understanding and support regarding our ongoing issues.

Dar  
Harriet Tubman Tenant Counsel President

**Benado, Tony**

---

**From:** Friends of Five Creeks <f5creeks@gmail.com>  
**Sent:** Wednesday, November 2, 2022 7:00 AM  
**To:** berkeleyclimate@googlegroups.com; Milliken, Rebecca  
**Cc:** Berkeley Mayor's Office; citycouncil; All Council; Javandel, Farid; PROSC@albanyca.org; Tim Pine  
**Subject:** Climate change, creeks, and homeless people

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

To the Berkeley Climate Action list, with a request that this be published soon:

With no claim as a humanitarian or expert, and no criticism of the many folks striving to help the homeless in a hobbled and strangled "system," I want to urge those concerned about dealing with climate change and its effects to take some small steps to protect the lost souls of our society.

For many years, Friends of Five Creeks, which I head, has worked with reasonable success to get whatever authority existed to prevent camping in cul-de-sacs where the flash-flood-like rise of urban creeks in storms could endanger someone passed out, intoxicated, or deranged. Examples include narrow, fenced strips of land above Adams on Cerrito Creek and above Second on Codornices.

Currently, the ever-increasing reclamation of public open space -- think Albany Bulb, East Bay Parks/Eastshore Park lands along the waterfront, CalTrans strips -- has washed a concentration of seriously disabled and addicted people to a strip of cheek-to-jowl trash and tents on Eighth Street between Harrison and Codornices Creek, at the Albany-Berkeley border. These include people who are incontinent, use a walker, speak in "word salad," at times for hours groan in tents or scream curses, and are seriously addicted or deeply delusional. Last week, one creekside tent burned, and two of our volunteers called 911 for a man passed out in the creek bed.

Shortly after we strongly urged it, Berkeley in early October offered these folks housing (few accepted), cleaned up the trash, and gave out clean new tents, safety spaced. (Remember the fires at Oakland's Wood Street.) Be careful what you wish: All such efforts are sporadic. The spaces immediately began to fill in. Fire and sanitation hazards are almost as bad as before, and several people moved down to the dry creek.

Now we get back to climate change. We will have more drought and stronger storms. In paved cities, urban creeks confined to narrow channels can rise with flash-flood-like intensity, becoming that would topple and trap healthy adults. For the first time in memory, long stretches of lower Codornices Creek have gone dry for the past two late summers. A year ago, the big, sudden October atmospheric river washed out a deeply disgusting, smelly camp that for months had paved the once-beautiful meadow at 9th Street with layers of rotting garbage, clothes, and worse.

This year, for weeks we strongly reminded everyone responsible -- UC Berkeley (which owns most of the land), Albany, and Berkeley -- to get camps out of the creek bed and off low banks and flood plains. (You will see some of this in agenda packets for city councils and commissions.)

But as rain became all but certain yesterday morning (Nov. 1), it was local architect David Arkin and his colleagues (with offices overlooking the creek), who carefully moved the tent and belongings inside up onto

UC Berkeley land. Yesterday afternoon, the tent was still there, protected under a tarp. Another vulnerable camp, that has moved gradually closer to the creek, remains on UC Berkeley land a bit upstream.

Regardless of beliefs about personal responsibility, the tide of addiction, and the like, I hope we can agree on not just leaving impaired people to die. Another way to look at this is that common-sense public health and safety restrictions apply for everyone. Or perhaps we sane, hardworking, taxpaying citizens who threaten civilization by belching out greenhouse gases should not throw too many stones.

Full disclosure: Friends of Five Creeks has strong conflicts of interest in this, and our hands are not clean. As we worked to create attractive oases of urban nature for people and wildlife including on Codornices Creek, Cerrito Creek, the mouth of Strawberry Creek, the Ohlone Greenway/West Street path, and the North Basin Strip of what is now Eastshore State Park, we also were part of squeezing our society's growing flotsam of mentally ill and addicted lost souls out of these previous refuges. The current concentration of disturbed campers on Codornices is doing major damage to our area's only trout stream and more than 25 years of effort by thousands of volunteers. Various individuals destroy all creekside vegetation under tents and trash, draw rats to mounds of garbage, defecate and pollute, destroy benches and other small improvements including erosion controls, compulsively paint things, or pull up and cut strawberries, grapevines, and other natives that volunteers may not be able to re-establish due to climate change. In much of the area where we have worked so hard for many years, we can no longer bring groups of volunteers, much less host walks or other events.

Still, folks, let's not let people die.

Susan Schwartz, President  
Friends of Five Creeks  
510 848 9358  
[f5creeks@gmail.com](mailto:f5creeks@gmail.com)  
[www.fivecreeks.org](http://www.fivecreeks.org)

## Benado, Tony

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**From:** Friends of Five Creeks <f5creeks@gmail.com>  
**Sent:** Thursday, November 10, 2022 10:26 PM  
**To:** Radu, Peter  
**Cc:** Jodie Morgan; Beth Roessner; Barry Braden; Adam Weisberg; Emily Winston; Jeff DeMartini; Mark Morrisette; John Caner; Kesarwani, Rashi; Gerstein, Beth; Berkeley Mayor's Office; Williams-Ridley, Dee; Buddenhagen, Paul; Louis, Jennifer A.; Hollander, Eleanor; Vance-Dozier, Okeya; Skramstad, Mary; Brown, Joy; Hurtado, John; citycouncil; All Council; Javandel, Farid; PROSC@albanyca.org  
**Subject:** Re: Harrison St Encampments

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

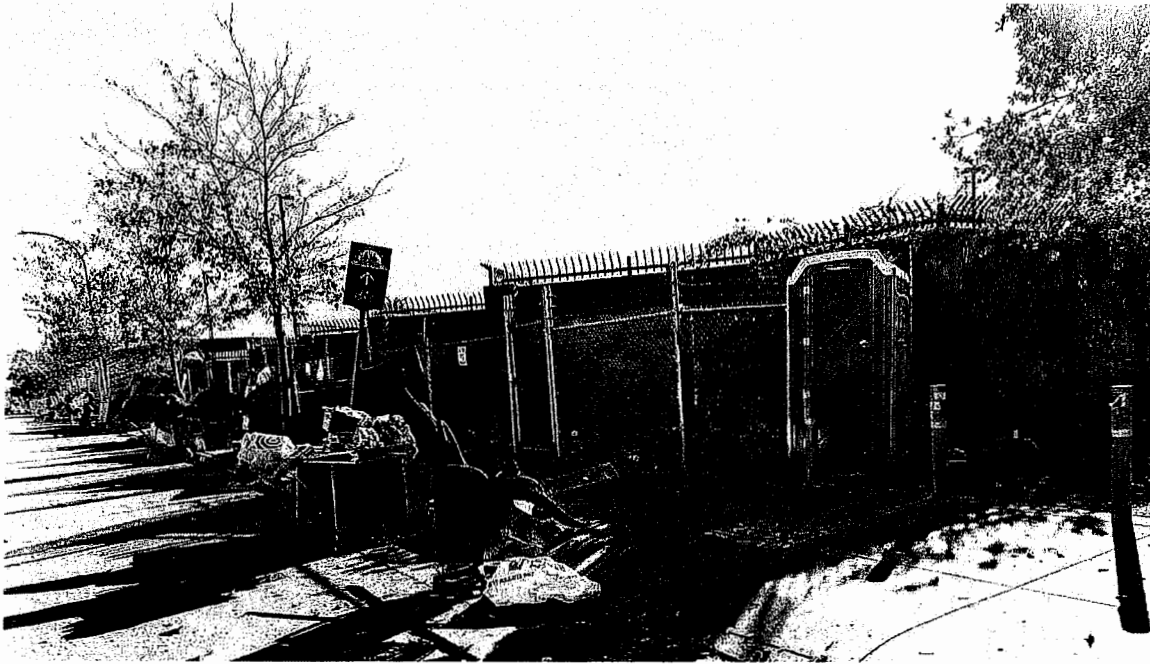
This is a follow-up to Berkeley Assistant City Manager Peter Radu's email celebrating the city's Nov. 9 "very successful operation" clearing campers on Harrison and Eighth Streets and persuading some to accept shelter. In a brief coda email, Mr. Radu wrote the following:

" I should add that we've been giving special attention to Codornices Creek as well. We had a visit from the State Water Board yesterday and did a walk through. Not a single person was encamped in the Creek area (on either the Albany or Berkeley sides) between 9<sup>th</sup> and 4<sup>th</sup>."

Of course there were no no camps on the creek bank after three days of rain. There also would be no litter after three days of rain -- it would all have washed downstream. Apparently, neither the city nor whomever came from the Water Board noticed that the opaque, bright orange mud running downstream from the Little League Fields, an repeating problem (which we have reported).

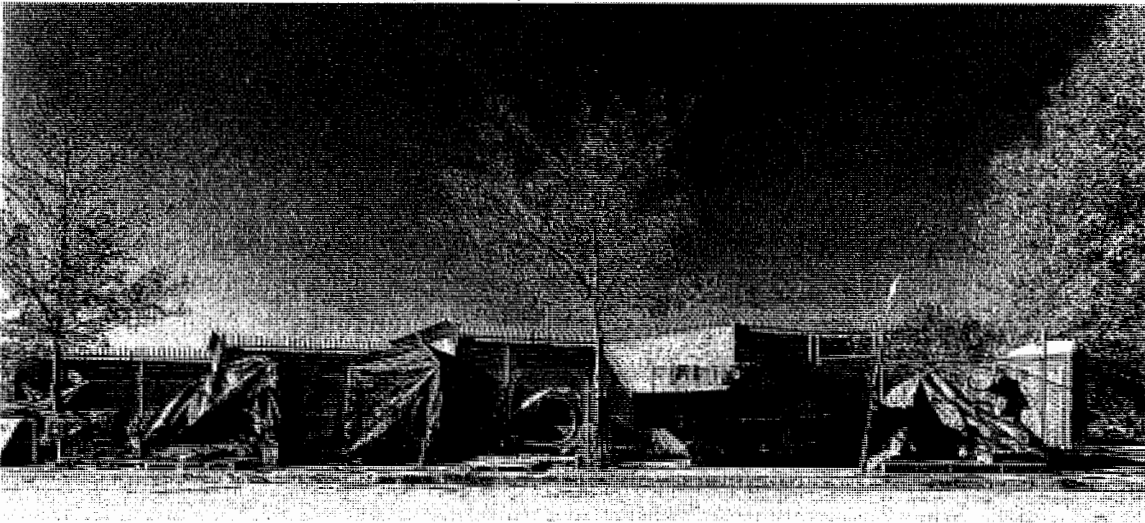
More important: This "special attention" appears to me to illustrate the futility of the Berkeley's sporadic and cyclical approach. Before the Nov. 9 operation, the city went through cycles of reducing the number of 8th Street camps, seeing more damage on the creek, and tents returning at least three times: In April, late August/Early Sept., and again beginning Oct. 5-6. I may have been more.

Regarding camps on 8th Street: The first photo below shows camps near the creek and Albany border on October 1, shortly before the Oct. 5-6 offer of shelter and thinning there. As you can see from the photos below, today, Nov. 10, there were many more tents than before that thinning. Some are brand new, I assume having just moved from Harrison. Tents farther south, nearer Harrison, also were more dense this morning than a few days ago, with large piles of firewood in the street in front of cheek-by-jowl tents and trash.

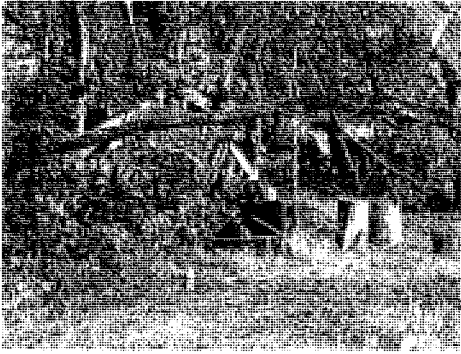


Above: 8th St. camps near Codornices Oct. 1, before Oct. 5-6 thinning. Camps were well south of creek and portable toilet, per city promise (they had advanced and been moved back before).

Below: 8th St. camps near Codornices Nov. 10, after Harrison St. thinning. Camps larger and denser than ever before line the street all the way to the portable toilet.

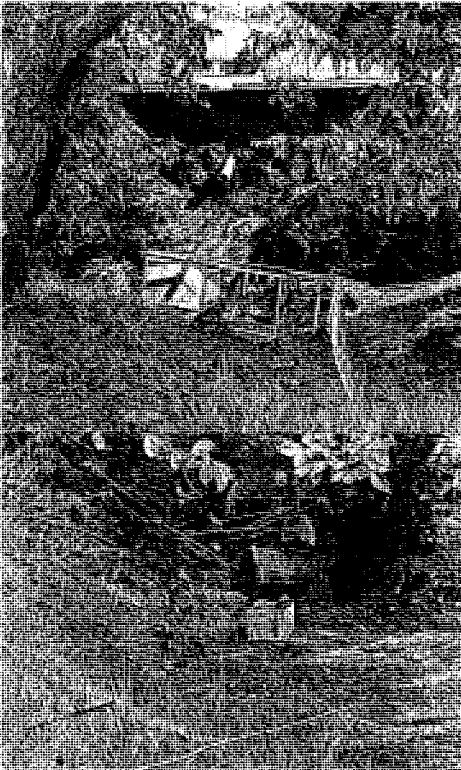


This follows the pattern of earlier efforts. On Oct. 5-6, the city "thinned" the number of camps on 8th Street, giving the campers who remained new, well-spaced tents. The photos below show camps and trash that immediately appeared on the creek. Tents on 8th Street also quickly filled in again. This vividly illustrates the weakness of current policy.



Above: This camp, which appeared below Fifth Street the day of the "thinning," with a very disturbed occupant. It burned.

Below: This junk dumped over the steep end of 9th St. just after the "thinning" never became a camp. David Arkin's staff cleaned it up, making it possible for Friends of Five Creeks to hold a wildflower-seeding work party.



Above: This camp, in the cry creek bed, was moved by David Arkin's staff just before rain. No agency did anything, despite reports and pleas.

Below: First stages of the camp that appeared just below 10th after the October "thinning."



These cycles help those who accept shelter, but they are few. Many seriously ill and addicted people are not getting care they need. The campers do significant environmental harm to the creek: Campers and the camps'



footprints destroy vegetation. Benches and the like are stolen and destroyed. Various forms of pollution harm wildlife. Ordinary people cannot comfortably enjoy what should be a peaceful urban oasis. But even if folks don't care about any of that, they must see that this is not a great way to use taxpayers' money. Let's all look for better solutions.

Susan Schwartz, President  
Friends of Five Creeks  
510 848 9358  
[f5creeks@gmail.com](mailto:f5creeks@gmail.com)  
[www.fivecreeks.org](http://www.fivecreeks.org)

On Wed, Nov 9, 2022 at 12:27 PM Radu, Peter <[pradu@cityofberkeley.info](mailto:pradu@cityofberkeley.info)> wrote:

All,

I should add that we've been giving special attention to Codornices Creek as well. We had a visit from the State Water Board yesterday and did a walk through. Not a single person was encamped in the Creek area (on either the Albany or Berkeley sides) between 9<sup>th</sup> and 4<sup>th</sup>.

Sincerely,

Peter Radu

Assistant to the City Manager - Neighborhood Services

City of Berkeley

2180 Milvia St, 5<sup>th</sup> Floor | Berkeley, CA 94704

Desk: 510-981-7045 | Cell: 510-853-2368

Email: [pradu@cityofberkeley.info](mailto:pradu@cityofberkeley.info)

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**From:** Radu, Peter

**Sent:** Wednesday, November 9, 2022 12:13 PM

**To:** Jodie Morgan <[jodie@covenantwines.com](mailto:jodie@covenantwines.com)>; Beth Roessner <[beth@berkeleychamber.com](mailto:beth@berkeleychamber.com)>; Barry Braden <[barry@fieldworkbrewing.com](mailto:barry@fieldworkbrewing.com)>; Adam Weisberg <[adamw@urbanadamah.org](mailto:adamw@urbanadamah.org)>; Emily Winston <[emily@boichikbagels.com](mailto:emily@boichikbagels.com)>; Jeff DeMartini <[jeffdemar@gmail.com](mailto:jeffdemar@gmail.com)>; Mark Morrisette <[mmorrisette@berkeleyrep.org](mailto:mmorrisette@berkeleyrep.org)>; John Caner <[jcaner@downtownberkeley.com](mailto:jcaner@downtownberkeley.com)>

**Cc:** Kesarwani, Rashi <RKesarwani@cityofberkeley.info>; Gerstein, Beth <BGerstein@cityofberkeley.info>; Berkeley Mayor's Office <mayor@cityofberkeley.info>; Williams-Ridley, Dee <DWilliams-Ridley@cityofberkeley.info>; Buddenhagen, Paul <PBuddenhagen@cityofberkeley.info>; Louis, Jennifer A. <JLouis@cityofberkeley.info>; Hollander, Eleanor <EHollander@cityofberkeley.info>; Vance-Dozier, Okeya <OVance-Dozier@cityofberkeley.info>  
**Subject:** Harrison St Encampments

Dear Harrison St Neighbors,

I wanted to let you know about a very successful operation we were able to perform this morning along Harrison St and Eighth St. Over the past several weeks, the Homeless Response Team has successfully moved 5 people into noncongregate shelter, and another person was offered but refused (their encampment was therefore closed this morning). We have referrals and move-ins pending for at least two more people in the area later this week. The focus of our operation today was to remove the encampments left behind by these folks, as well as to do a general clean-up of the area.

We were able to close nearly every encampment on both sides of Harrison St between 6<sup>th</sup> and 8<sup>th</sup> (the encampment at Harrison and 10<sup>th</sup> was resolved last week). As of this morning, there is only one tent and three RVs remaining on the entire stretch of Harrison between 6<sup>th</sup> and 8<sup>th</sup>, all of which have very minimal footprint. The vehicles parked on Harrison between Ninth and Tenth all have a very minimal footprint as well. As for Eighth St, we were able to resolve the large encampment that had set up and was completely blocking the sidewalk along the East side of Eighth, getting back to our promise to keep at least one sidewalk there completely unobstructed for pedestrian passage. We also cleaned up debris in the street. One person in the area was arrested by PD this morning on outstanding warrants. Parking Enforcement continues to routinely visit the area and issue citations to all vehicles including the RVs.

If recent history is any indication, conditions may deteriorate here again. If we had more staffing and resources, we could maintain a more consistent presence in the area—but know that we've had a flurry of serious criminal activity including some potentially volatile situations elsewhere in the City in recent days and weeks, and so we are constantly in a state of triaging and prioritizing. But with that said -- **this is now easily the cleanest that Harrison St proper has been since the COVID lockdowns.** More importantly, after the intensive outreach and multiple enforcement operations performed in this area since Oct 1, **this is now the least populated the Eighth/Harrison corridor has been in well over a year.** See photos attached, and expect a formal After Action report likely by tomorrow.

We HAVE heard you about your concerns in this area, and we ARE enforcing our laws and balancing that against meaningful service provision in this area. We will continue to do our best to maintain the corridor, and to advocate to our County partners for their assistance as well.

Please let me know if you have any questions. Sorry for the ongoing impacts you are experiencing, and thank you again for your patience for a this incredibly difficult situation.

Peter Radu

Assistant to the City Manager - Neighborhood Services

City of Berkeley

2180 Milvia St, 5<sup>th</sup> Floor | Berkeley, CA 94704

Desk: 510-981-7045 | Cell: 510-853-2368

Email: [pradu@cityofberkeley.info](mailto:pradu@cityofberkeley.info)

## Benado, Tony

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**From:** Friends of Five Creeks <f5creeks@gmail.com>  
**Sent:** Sunday, November 13, 2022 6:33 PM  
**To:** Javandel, Farid; City Clerk  
**Subject:** Clarifying that email is for Transportation and Infrastructure Commission  
**Attachments:** image011.jpg

Hi, Farid,

Just wanted to clarify that the Nov. 10 email copied below is intended for the Transportation and Infrastructure Commission (as well as City Council), to be included in agenda packets, along with other emails on this topic. Thanks!

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**From:** Friends of Five Creeks <f5creeks@gmail.com>  
**Sent:** Thursday, November 10, 2022 10:26 PM  
**To:** Radu, Peter <pradu@cityofberkeley.info>  
**Cc:** Jodie Morgan <jodie@covenantwines.com>; Beth Roessner <beth@berkeleychamber.com>; Barry Braden <barry@fieldworkbrewing.com>; Adam Weisberg <adamw@urbanadamah.org>; Emily Winston <emily@boichikbagels.com>; Jeff DeMartini <jeffdemar@gmail.com>; Mark Morrisette <mmorrisette@berkeleyrep.org>; John Caner <jcaner@downtownberkeley.com>; Kesarwani, Rashi <RKesarwani@cityofberkeley.info>; Gerstein, Beth <BGerstein@cityofberkeley.info>; Berkeley Mayor's Office <mayor@cityofberkeley.info>; Williams-Ridley, Dee <DWilliams-Ridley@cityofberkeley.info>; Buddenhagen, Paul <PBuddenhagen@cityofberkeley.info>; Louis, Jennifer A. <JLouis@cityofberkeley.info>; Hollander, Eleanor <EHollander@cityofberkeley.info>; Vance-Dozier, Okeya <OVance-Dozier@cityofberkeley.info>; Skramstad, Mary <MSkramstad@cityofberkeley.info>; Brown, Joy <EJBrown@cityofberkeley.info>; Hurtado, John <jhurtado@cityofberkeley.info>; citycouncil <citycouncil@albanyca.org>; All Council <council@cityofberkeley.info>; Javandel, Farid <FJavandel@cityofberkeley.info>; PROSC@albanyca.org  
**Subject:** Re: Harrison St Encampments

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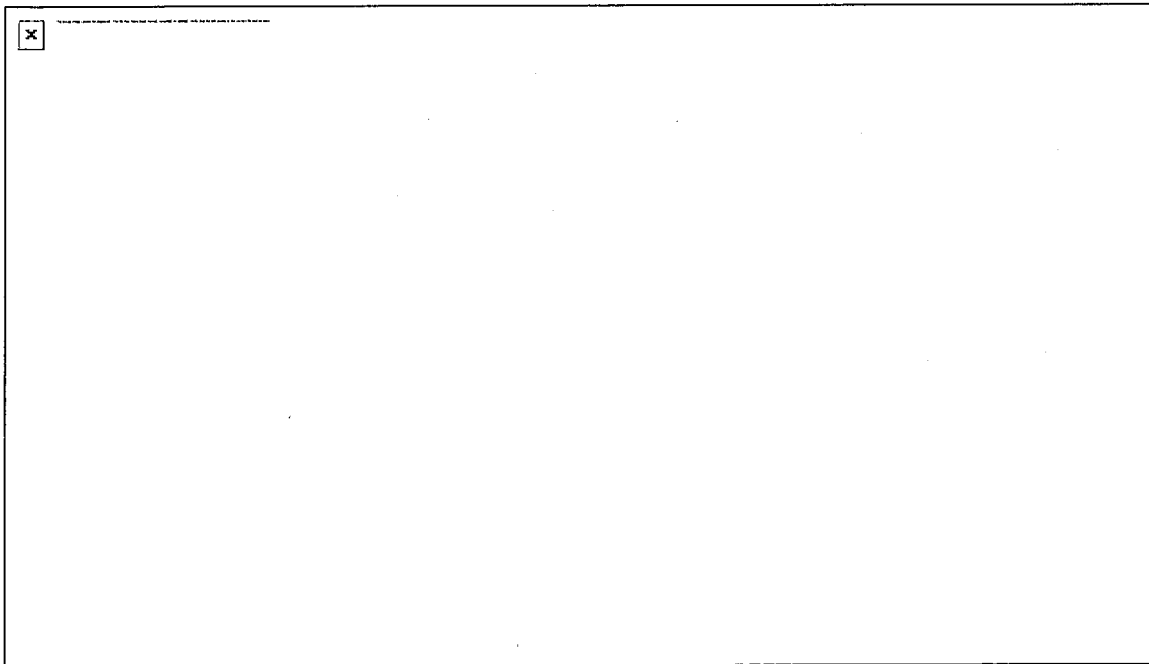
" I should add that we've been giving special attention to Codornices Creek as well. We had a visit from the State Water Board yesterday and did a walk through. Not a single person was encamped in the Creek area (on either the Albany or Berkeley sides) between 9<sup>th</sup> and 4<sup>th</sup>."

Of course there were no no camps on the creek bank after three days of rain. There also would be no litter after three days of rain -- it would all have washed downstream. Apparently, neither the city nor whomever

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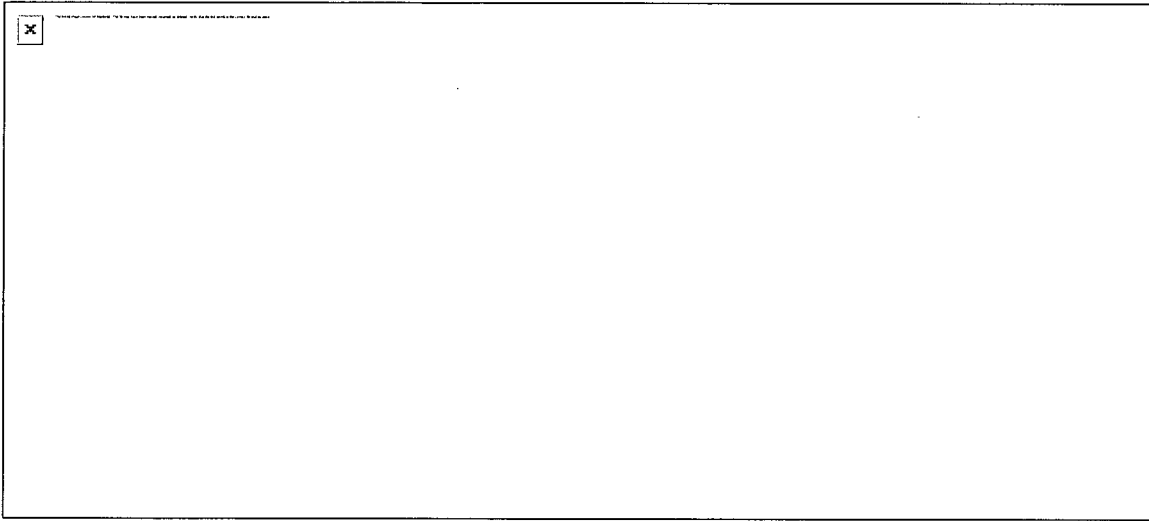
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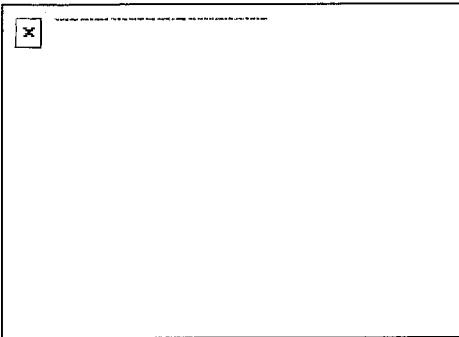
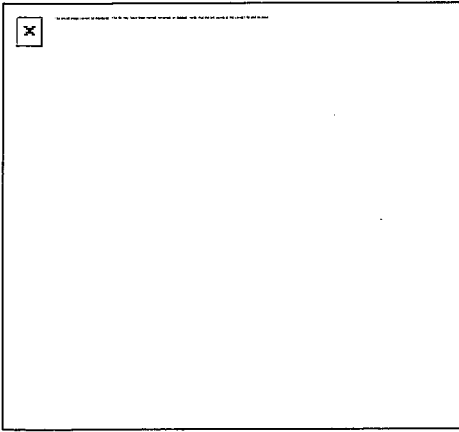


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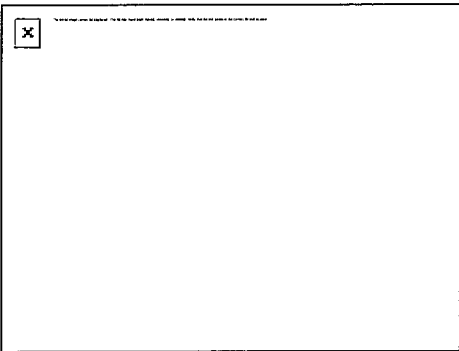
Above: This camp, which appeared below Fifth Street the day of the "thinning," with a very disturbed occupant. It burned.

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Susan Schwartz, President



Susan Schwartz, President  
Friends of Five Creeks  
510 848 9358  
[f5creeks@gmail.com](mailto:f5creeks@gmail.com)  
[www.fivecreeks.org](http://www.fivecreeks.org)





**Benado, Tony**

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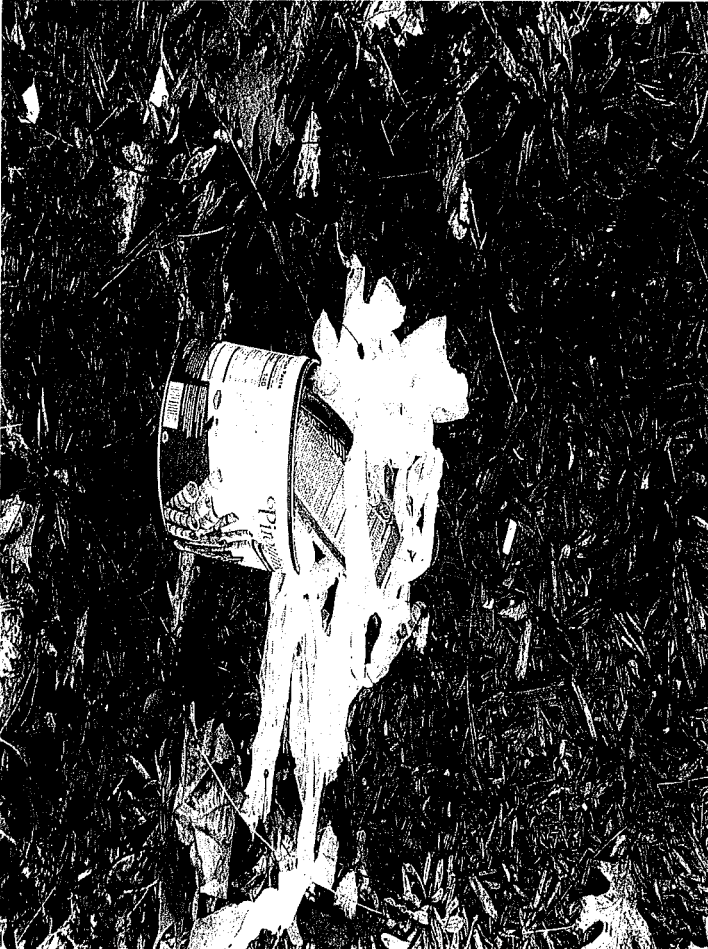
**From:** Craig K. NAGASAWA <nagasawa@berkeley.edu>  
**Sent:** Tuesday, November 8, 2022 9:08 AM  
**To:** Berkeley Mayor's Office; Kesarwani, Rashi; All Council  
**Cc:** Hartley, Brian  
**Subject:** one person encampment at 1201 6th st. (harrison and 6th)

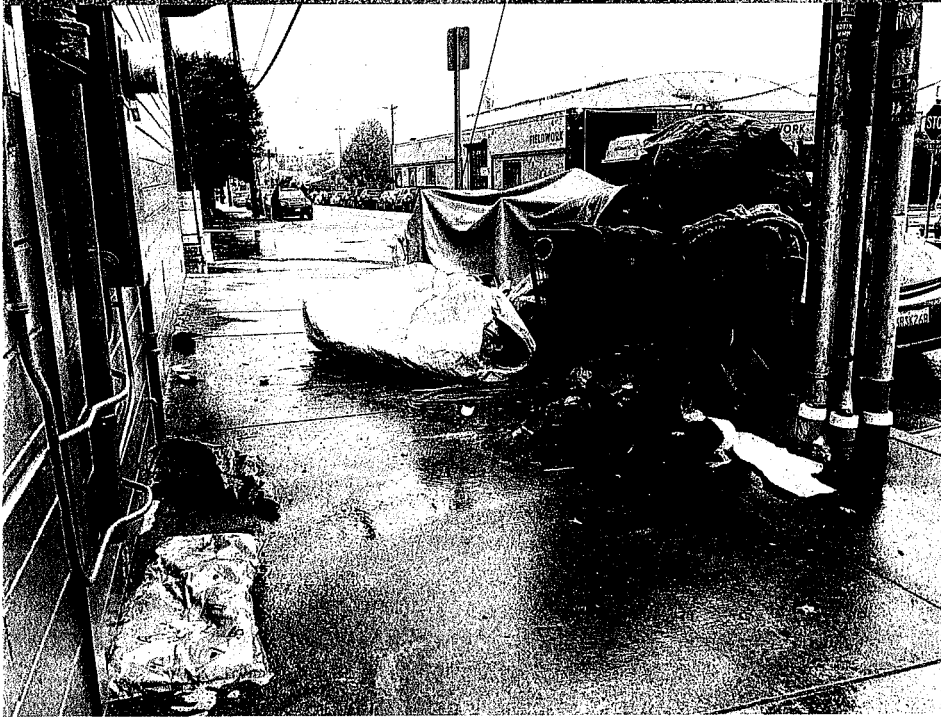
**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello All,

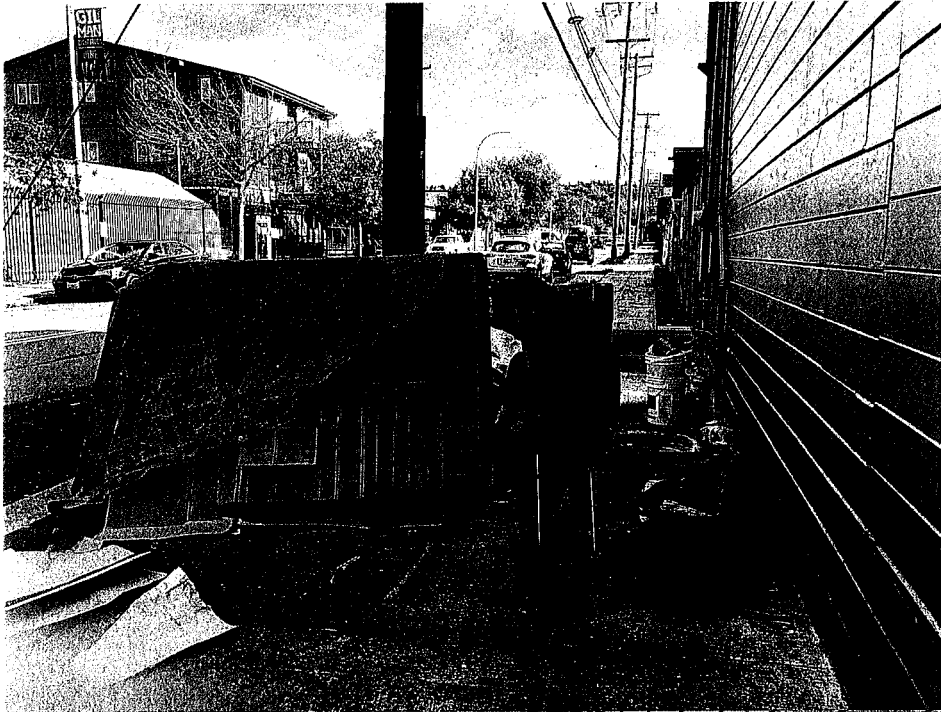
Seems some of you know of this already but there is an escalating health and safety crisis at my property (1201 6th st.) on the sidewalk within 1 ft of my building. Sometimes the entire sidewalk is blocked, hypodermic needles on the sidewalk, human waste, garbage, piles of trash, and rats. This has been ongoing for the last 4 weeks- I daily have to walk through it to get into my place. I live and work there along with 3 others, children and others regularly have to negotiate the stuff and the person encamped there. I personally have tried to clean it up twice even having to clean up human waste off the sidewalk. After emailing and photographing daily the person is starting to get hostile to my presence there. There is now an "encampment complaint" and i was told the city will have people there on weds the 8th. The last time some stuff was removed but the person just came back the next day and started back into staying there. He regularly lays on the sidewalk apparently passed out. Recently there has been more traffic of others he interacts with pitbulls, drugs etc. Something needs to be done and he needs help. pics of one day follow.

Craig Nagasawa owner 1201 6th st.









**Benado, Tony**

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**From:** John Caner <jcaner@downtownberkeley.com>  
**Sent:** Sunday, November 13, 2022 6:00 PM  
**To:** All Council; Williams-Ridley, Dee; Buddenhagen, Paul; Bellow, LaTanya; Buddenhagen, Paul; Warhuus, Lisa; Radu, Peter; Hollander, Eleanor; Garland, Liam  
**Subject:** A Cautionary Tale: Burlington VT

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

**New York Times, November 12, 2022**

**The Bike Thieves of Burlington, Vermont**

**A hunt for stolen goods has put citizens and business owners in the center of a debate about policing and a growing, sometimes violent, problem**

**Yesterday's in-depth article in the NYT is so much more than about bike thefts, including impacts of:**

- Police Cuts, Staffing & Morale
- Meth epidemic (incl bike thefts, volatile behaviors and outreach worker safety )
- Redesign of their downtown City Hall Park (and need for activation)

Excerpts include:

Mr. Turner has personally recovered more than a dozen bikes — many of them from City Hall Park.

The newly renovated park reopened to the public in October 2020, but it has become a widely cited symbol of the city's troubles.

Mr. Turner and the others in the group say they believe the bikes that end up in the park are being sold in exchange for drugs.

“It's an open-air drug and bike market,” he said of the park.

...Still, the bike group perceives a growing sense of lawlessness in the park. One day in August, Mr. Turner was walking past a group of people in the park when someone punched him in the back of the head.

Seeing no police officers around, he found a firefighter nearby and told him about the assault.

“He called it in to the police, but he basically said nothing is going to come of this,” Mr. Turner said. “The cops have their hands full.”

...And in June 2020, the Progressive members of the Council successfully sponsored a measure that sought to reduce the size of the city's police force by about 30 percent.

...Soon after the City Council passed its policing measure in June 2020, many officers left the force.

...Others have also noticed a change. Hannah Toof, an outreach worker, said many of her clients had become increasingly volatile, behavior she attributed partly to meth.

“I no longer feel safe going into City Hall Park at any time of the day,” said Ms. Toof, who has worked in street outreach for seven years.

... Those concerns are exacerbated because the outreach workers say they can no longer depend on the police to accompany them on certain calls because of staffing constraints.

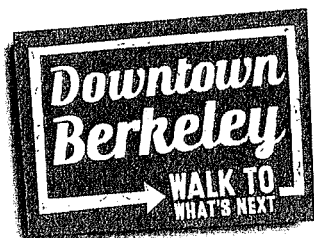
... The outreach workers' headquarters, the Howard Center, which dates to the Civil War, recently started locking its doors and buzzing in clients because of safety concerns. This fall, the outreach workers ordered "stab-resistant vests" for protection, and about 20 percent of the Howard Center's positions are vacant. It has struggled to fill them.

In some cases, people who take meth have underlying mental health challenges. Others use meth in combination with the highly addictive fentanyl.

"Meth is a game changer," said Ms. Boudah, the leader of the outreach team.

Some Meth users are known to become fixated on stealing things — such as bikes.

John Caner, CEO  
Downtown Berkeley Association  
Office: 1917 Addison Street, Suite 191, Berkeley CA 94704  
Mail: PO Box 105, 2000 Allston Way, Berkeley, CA 94701  
O 510.549.2230 x5  
M 510.501.0256  
jcaner@downtownberkeley.com



On 11/12/22, 7:31 AM, "John Caner" <[johncaner@gmail.com](mailto:johncaner@gmail.com)> wrote:

This story today in the NYT is so much more than about bike thefts, including impacts of:

Police Cuts, Staffing & Morale

Meth epidemic (incl bike thefts and outreach worker safety )

Redesign of their downtown park/square

Mr. Turner has personally recovered more than a dozen bikes — many of them from City Hall Park.

The newly renovated park reopened to the public in October 2020, but it has become a widely cited symbol of the city's troubles.

Image

**Error! Filename not specified.**

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“Meth is a game changer,” said Ms. Boudah, the leader of the outreach team.

Some Meth users are known to become fixated on stealing things — such as bikes.

Sent from my iPhone

**Benado, Tony**

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**From:** susana garcia <spgarcias@yahoo.com>  
**Sent:** Thursday, November 10, 2022 3:21 PM  
**To:** All Council  
**Subject:** Homeless and city tents

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

City Council,

Yesterday I saw a post of how People's Park and how it is now. Apparently a few days ago someone was found dead. It is sad how the city of Berkeley is taking so long to resolve this homeless situation. There is no excuse NOT to do so.

I was not born in this country, but I believe you as politicians should be a shame. Many of the people living in those tents I believe they are ill and should be place in hospitals to be helped. But, with all respect, that poverty and filthiness don't go hand in hand and these tent cities are very dirty. Being born in a 3rd world country and seen poverty since I was born, I never saw people living like in the conditions I have seen in the recent years in the bay area, mostly in Berkeley and Oakland. These people need clinics to be placed and help their addictions or mental illnesses. I also happened to read a story of one man who my brother-in-law would give work to. The guy was a very talented mechanic but had serious drug addiction. He also was found dead in his tent in due to a drug overdose. Politicians, you should be ASHAME! This country have plenty of financial resources to just fix the situation.

Respectfully,  
Susana Garcia

**Benado, Tony**

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**From:** david lerman <415justice@att.net>  
**Sent:** Tuesday, November 1, 2022 5:09 PM  
**To:** Garland, Liam; All Council; Berkeley Mayor's Office; Manager, C; Kesarwani, Rashi; Gerstein, Beth  
**Cc:** BPD Webmail  
**Subject:** MTC Reports That Berkeley Streets Got Worse in 2021

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Berkeley Liam Garland, City Council, Mayor, and City Manager:

The MTC recently released their 2021 pavement condition index (PCI) survey for the Bay Area. Under your leadership, Berkeley streets got worse in 2021 with an at risk score of 57. In contrast, unincorporated Alameda County (which pays no city taxes) maintained a good score of 72.

[https://mtc.ca.gov/sites/default/files/documents/2022-10/PCI\\_table-2021\\_data.pdf](https://mtc.ca.gov/sites/default/files/documents/2022-10/PCI_table-2021_data.pdf)

Berkeley is not doing a good job of spending our existing tax money on streets.

The Public Works Department should be focused on fixing our broken dangerous streets, not spending time and public money on a civilian law enforcement scheme that remains a clear violation of the California Constitution. BerkDOT is an illegal and irresponsible waste of public money, and a diversion from the department of public works department's stated mission of providing quality services.

Violent crime is up in Berkeley. Restricting BPD from doing their job does not help public safety. We need to allow BPD to engage in traffic enforcement without micromanagement and restrictions established by the city council. Traffic enforcement previously resulted in routine confiscation of illegal firearms from felons, and prevention of violent crime. Your restrictions on traffic stops and probation searches is bad for public safety. Traffic enforcement also protects pedestrians and bicyclists from injury and death. Berkeley needs to let BPD get back to unrestricted traffic enforcement to protect public safety and reduce crime and accidents.

Berkeley's Public Works department needs one mission: Working on Public works (ie. fixing streets, sewers, storm drains, street lights etc...) not pretending to do traffic enforcement.

-David Lerman

## **Benado, Tony**

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**From:** david lerman <415justice@att.net>  
**Sent:** Wednesday, November 9, 2022 12:21 PM  
**To:** All Council; Berkeley Mayor's Office; Manager, C; Garland, Liam; Kesarwani, Rashi; Gerstein, Beth  
**Subject:** Berkeley Streets and Measure L

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear City of Berkeley:

Now that Measure L is on it's way to failure, I strongly suggest reallocating city budget funds to spend repave more streets. You need to work within the budget you have, and not spend money that you don't have.

The PCI in Berkeley got worse in 2021. We need to stop having meetings and workshops about street reconfigurations, and just repave as many miles of streets as possible.

Stop distracting the Public Works Department, and wasting money, with the illegal BerkDOT program. Let the Public Works Department focus only on public works.

Cut spending in other areas, and increase spending on repaving our failing streets. You can't solve every problem with more taxes.

-David Lerman

**Benado, Tony**

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**From:** marna braunstein clark <marnaclark@gmail.com>  
**Sent:** Friday, November 11, 2022 11:47 AM  
**To:** Wengraf, Susan; Berkeley Mayor's Office; All Council  
**Subject:** OUTRAGEOUS ROAD CONDITIONS

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello everybody -

I ran into a women who owned a large 5-bedroom house down the street from me on Miller near Shasta. When I asked her where she moved, she said Orinda just below the Stables. I ask how she liked Orinda - her immediate answer was - LOVE IT and THE STREETS ARE SMOOTH.

Many many times over pat few years, I have felt like leaving as well as **it's become so frustrating and extremely uncomfortable to drive on the streets in** Berkeley without getting flat tires or loosing tire pressure every other week or having your body being jostled to extremes. Example: I got a Tesla about 1 year ago. I've had 3 tire blowouts and had to buy 3 new tires. The PSI pressure goes down to near dangerous levels about every 2 weeks. I've lived in Berkeley for 52 years and have NEVER had these tire issues befor mention the cost of getting a tow truck and the inconvenience.

THE STREET CONDITION IS OUTRAGEOUS and you should all be ashamed for not addressing this issue before the streets becoming worse than most 3rd wolds countries.

Berkeley has the highest property tax assessments of any county in the Bay Area and the worse street condition. WTF ?

And yes, yes, yes, if anyone even answers this 'rant', I know the answer will be "we have road work scheduled soon"..... OF COURSE YOU DO.

If you can fix the road going to the Berkeley Marina in a few days (that is not even used that much) , why can't u fix the streets where the bulk of the population lives..

Have any of you driven down Eunice lately? Cedar? Unbelievable.

Again, you should all be ashamed.

**FIX STREETS.....PLEASE !!!**

**Benado, Tony**

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**From:** Nancy Lewis <nancyjlewis@gmail.com>  
**Sent:** Tuesday, November 1, 2022 9:32 PM  
**To:** All Council  
**Subject:** Hopkins Street Corridor

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Honorable Mayor and City Council Members,

I am writing an opposition to the proposal about the Hopkins Street Corridor regarding constructing bike lanes along Hopkins Street and removing parking spaces. I understand the Council is poised to make an impactful mistake on Hopkins Street.

I do not believe the consequences of this proposal have been fully considered.

The Hopkins Street area is a major shopping destination for the community. The vast majority rely on cars to do shopping and cannot replace that with bicycles.

Removal of what has been reported to be more than 60 parking spaces would have negative consequences for the community. Many of the local residents are elderly and cannot walk blocks and blocks carrying heavy grocery bags. What does it do environmentally to have cars driving around and around, spewing exhaust fumes, to hunt for rare parking spaces?

What is the implication of this for the neighborhood and residents? Cars will be increasingly driving up and down streets. Shopping carts will be left along streets and sidewalks, blocks from the shopping area, creating not just clutter, but also safety concerns.

There is also the impact on businesses and the businesses that people are able to patronize. It is likely fewer people will patronize the local, independently owned businesses. This might drive them out of business. People will have to drive to larger stores, corporate owned, that have reasonable parking. Is this the economic model Berkeley wants to promote?

I understand that bicyclists are concerned about road safety along that street. However, do the available data suggest that there is any more problem along this corridor than in other areas of Berkeley? Moreover, these changes bring about other safety consequences based on the increased traffic and shopping cart hazards that will be created.

Please inquire what this community wants in advance of this decision being imposed on us.

Sincerely,

Nancy J. Lewis  
1110 Colusa Ave.  
Berkeley, CA 94707

510-918-3155

**Benado, Tony**

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**From:** D Dorenz <ddorenz@gmail.com>  
**Sent:** Tuesday, November 1, 2022 1:13 PM  
**To:** All Council  
**Subject:** questions about building 26 story bldg in Central Berkeley

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear City Council Members.

More and more high rise buildings are going up in Berkeley but I would like to know how the infrastructure is supported by all of these buildings? I would also like to know how you can prevent all these new residents from having cars when we don't have parking for them? AR eyou assuming that everyone living in the new 26 story highrise will not own cars???

Are the builders responsible for paying for improving the electric grid when we lose electricity due to the rise in temperatures and the increased demand caused by a 26 story high rise;

are they responsible for contributing to the payment for the major increase in waste disposal plumbing and processing that is needed to deal with the increase in "traffic"?

We have a drought and that building needs water. Has the State, that is pressuring Berkeley to build more apartments, given the City any idea how we will provide enough water to all of our residents who still need water during this drought?

Have you ascertained if our infrastructure can handle all of this?

On another note, I would like to know how the City will provide food shopping for all of these new residents. Trader Joe's is already overcrowded, and Andronico's and Safeway are too far away for people who want to shop without cars. ARE you assuming that the residents will all be wealthy enough to take UBER to shop?There is also not enough parking for shoppers who can't walk and carry their groceries home. I do wonder if you have considered all these issues?

I oppose the construction of a 26 story building in downtown Berkeley. I think you are being irresponsible to consider it. The quality of life for Berkeley residents will go down because of overcrowding, unsupported services, lack of supermarkets I am for low income housing, but another expensive high rise is not the way to go at this time when our City can't even pave the streets despite all the money we have voted to accomplish that.

Thanks for considering my perspective.

Dorothea Dorenz  
 1200 Neilson St. Berkeley, Ca. 94706

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Dorothea Dorenz



**Benado, Tony**

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**From:** Bernard Marszalek <ztangi@lmi.net>  
**Sent:** Sunday, November 6, 2022 6:01 PM  
**To:** All Council  
**Subject:** EV micro-mobility vehicle = time bombs?  
**Attachments:** At Least 38 Injured in High-Rise Fire in Manhattan - The New York Times.pdf

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Greetings City Council Members,

I just came across this article in the NYT regarding a lithium battery fire. Are be certain that this can't happen to EV-mm's placed all over the neighborhoods?

Here's an excerpt from the article:

The fire at 429 East 52nd Street was caused by a lithium-ion battery in an electric bicycle, the authorities said. The unit where the fire started had at least five e-bikes, Chief Fire Marshal Daniel E. Flynn said.

Officials said they believe that a resident of the apartment repaired bikes and were investigating whether unauthorized business activity had taken place.

**About 200 fires in New York City this year have been caused by lithium-ion batteries, resulting in six deaths, he said.**

These batteries are found in micro-mobility transportation devices such as electric bikes, scooters and hoverboards. **The fires caused by the batteries are typically intense, and can quickly gain momentum with any combustible objects around them, officials said.**

So has the City placed bombs around the neighborhoods?

---

Bernard Marszalek • 510-693-5760 • Berkeley, CA 94703

# *At Least 38 Injured in High-Rise Fire in Manhattan*

Firefighters used ropes to make a daring rescue of a woman from a 20th floor apartment, officials said.

**By April Rubin and Anne Barnard**

Nov. 5, 2022

Firefighters, using ropes and dangling off a high-rise in Midtown Manhattan, rescued a woman who was trapped in a fire that injured at least 38 people on Saturday, officials said.

The fire at 429 East 52nd Street was caused by a lithium-ion battery in an electric bicycle, the authorities said. The unit where the fire started had at least five e-bikes, Chief Fire Marshal Daniel E. Flynn said.

Officials said they believe that a resident of the apartment repaired bikes and were investigating whether unauthorized business activity had taken place.

About 200 fires in New York City this year have been caused by lithium-ion batteries, resulting in six deaths, he said.

These batteries are found in micro-mobility transportation devices such as electric bikes, scooters and hoverboards. The fires caused by the batteries are typically intense, and can quickly gain momentum with any combustible objects

around them, officials said.

A sign outside the apartment complex read, “No pedal or e-bikes allowed beyond this point.” Fire officials said any device that used the powerful lithium-ion batteries could cause a risk, not only those in bicycles.

In a dramatic moment caught on video and posted on social media, firefighters rescued a woman from a 20th-floor apartment where officials said the fire started. Firefighters pulled the woman through a shattered window on a floor below. One other person was rescued by rope from the unit.

A deputy assistant chief, Frank Leeb, described the use of a rope rescue as “a last resort in the F.D.N.Y.”

Of those hurt, two were in critical condition, five were in serious condition and the rest had minor injuries, fire officials said.

They said they were still compiling information about the people injured, as well as the number of people who were displaced, who will receive help from the Red Cross.

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Officials said lingering questions around whether there had been building safety issues — whether there was or should have been a fire alarm; whether doors were left open, feeding the fire; whether fire protection and planning at the building were adequate — would be part of their investigation.

Residents described a scene of confusion and uncertainty about what had happened.

Riley Jankowski, 23, said she smelled smoke and initially thought her apartment complex had turned the heat on.

It wasn't until she heard fire trucks, she said, that she opened her window blinds, saw smoke and realized the threat.

At about 10:30 a.m., she ran out of her apartment on the sixth floor and banged on her neighbors' doors, yelling, "Fire!"

"I run down the stairs, and as I'm running out on the courtyard, the window bursts and glass flies around as I'm on the phone with my mom screaming for my life," she said.

Allie Gold and Grant Rosenberg, both 26, left their 10th-floor apartment when they smelled smoke and saw it billowing out of a window.

"The alarm didn't go off, but it seemed like everyone got the memo and started going out," Mr. Rosenberg said.

Along with Samantha Wilker, 30, a friend who was visiting, and their dog, Norman, they went down the stairs as firefighters were coming in. Upon exiting the building, the three saw windows pop above them.

Residents who lived above the 20th floor, where the fire was, evacuated to the roof. The New York Police Department dispatched a helicopter, but no rescues were conducted with it.

Other residents fled to the street via stairs or elevator, but the fire officials said they may have been safer remaining in their units with doors closed because the structure of the building is not combustible.

**The fire comes nearly a year after a conflagration in the Bronx killed 17 people after open apartment and stairwell doors allowed smoke to spread.**

**Benado, Tony**

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**From:** david lerman <415justice@att.net>  
**Sent:** Sunday, November 6, 2022 11:17 AM  
**To:** Berkeley Mayor's Office; Arreguin, Jesse L.; All Council; Manager, C  
**Cc:** Frankel, Andrew J.  
**Subject:** Dangerous Condition of Intersection of Cedar and California St; Traffic Safety

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

RE: Intersection of Cedar and California Streets

Once again today, when going North on California Street to go shopping at the Monterey Market around 9:30 am., I had to slam on the brakes because a driver going West on Cedar failed to yield or stop at the stop sign. Despite the fact that the car in front of her had stopped at the stop sign, and it was my turn to enter the intersection, she sailed right through the intersection without stopping at all. She ignored both the stop sign and my honking.

How can we encourage people to walk or ride a bike when so many drivers will not stop at stop signs, or even turn their heads to look for oncoming traffic?

We need real traffic enforcement in Berkeley now! BPD needs to resume historical high numbers of traffic stops. How many people have to be maimed or die before we allow our police department to do their jobs?

We need to condition drivers to look for other drivers, pedesterians and bicycles, instead of sailing through stop signs. Issuing thousands more traffic citations will help condition drivers to pay more attention to stop signs.

If you want civilians to help with traffic safety, at least have them stand at intersections with signs saying, "Please Stop!"

[The Effects of Prompting and Feedback on Drivers' Stopping at Stop Signs](#)



**The Effects of Prompting and Feedback on Drivers'  
Stopping at Stop Signs**

Complete roads at a high traffic intersection on the campus of a public university were increased with a program

Do something that actually works besides spending money on an illegal BerkDOT program!

-David Lerman

**Benado, Tony**

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**From:** Jen Oaks <jenoaks@gmail.com>  
**Sent:** Thursday, November 3, 2022 12:46 PM  
**To:** Jovanka Beckles  
**Cc:** Jean Walsh; All Council; H. E. Christian (Chris) Peeples  
**Subject:** Re: [EXTERNAL] Please bring back the 80

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Thank you for your response.

On Thu, Nov 3, 2022 at 12:37 PM Jovanka Beckles <jbeckles@actransit.org> wrote:

Hi,

Including Director Peeples as well, as Berkeley is also his jurisdiction.

Please know that your concerns are heard and I too, share them and am coordinating with AC Transit staff to bring it back.

Regards,  
 Jovanka Beckles

Get [Outlook for iOS](#)

**From:** Jen Oaks <jenoaks@gmail.com>  
**Sent:** Thursday, November 3, 2022 12:32:33 PM  
**To:** Jean Walsh <jwalsh@actransit.org>; Jovanka Beckles <jbeckles@actransit.org>; [council@cityofberkeley.info](mailto:council@cityofberkeley.info)  
 <[council@cityofberkeley.info](mailto:council@cityofberkeley.info)>  
**Subject:** [EXTERNAL] Please bring back the 80

Hi city leadership,

I'm writing to ask that you restore bus line 80 on Ashby. Many, many people relied on the 80 every day. We have had no east-west route in South Berkeley for over two years now. There is no way to get from BART to the hospital. Or from anywhere to the hospital, for that matter.

Several other bus lines with lower ridership have been prioritized over the 80. Find the money to bring it back, please.

Thanks very much for your time.  
 Jen



**Benado, Tony**

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**From:** Camille Antinori <camilleantinori@gmail.com>  
**Sent:** Thursday, November 3, 2022 1:27 PM  
**To:** All Council; Harrison, Kate; Taplin, Terry; Kesarwani, Rashi; BMASP; Claudia Kawczynska; Diehm Erin; Gordon Wozniak; Miller, Roger; Erickson, Christina; Ferris, Scott; Endress, Alexandra; Manager, C; Laurie Capitelli; Berkeley Mayor's Office  
**Cc:** Camille Antinori; Gordon Stout; David Fielder; Paul Kamen; Jim McGrath; Save CC  
**Subject:** 900+ voices for what we want at the Berkeley waterfront and marina area  
**Attachments:** tell-berkeley-officials-to-not-sell-out-the-marina(1).pdf

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Berkeley City Council,

Twice we have sent you a list of signers to the "Tell Berkeley Officials Not to Sell-Out the Marina" petition, first when the list was 400, then over 500.

Now, please see the attached list of **900+** signatures of people, the majority Berkeley voters, who see the marina as a nature-forward waterfront park and are wondering why the city is still focused on revenue generation without a balanced, holistic and realistic planning approach. The Budget and Finance Policy Committee and Parks Director have already laid to rest the myth that the Marina Fund must be self-sufficient, so we are free to address the major discrepancies in how marina expenses are treated as opposed to similar expenses in other parks (e.g., security and trash collection fees). We want a planning process that addresses these issues and does not "sell out" the marina for a bit of revenue.

While we are open to new services, even a ferry if the location and scale are appropriate, we are opposed to making the marina into a commercialized transportation hub. We want a planning process that considers environmental and recreational impacts on all the socioeconomically different groups who enjoy the marina (see report as example). We also want a planning process that incorporates financial restructuring that relieves burdens which other public services do not bear (e.g. Solano stroll, other parks). Consider targeted bonds, state support and general funds as contributions to the area and possibly pier reconstruction.

It is not enough to simply state that the city's BMASP/pier-ferry project is supported by citizens. The Cesar Chavez Park scandal clearly showed that a large group of citizens who are active marina area users didn't even know about the process which was two years running! You have backed off from placing a concert pavilion and other development in CCP. Now please treat the rest of the marina with the same kind of respect. Build on and support marina activities that presently exist – keep the Marina as Berkeley's finest park, not as a money-making opportunity, nor as a donation to WETA's grand ferry network (see comment on Berkeley as WETA's "missing tooth" at <https://www.youtube.com/watch?v=n39S-CsKdvQ> @ about 1:31:50). WETA's and Berkeley's visions are not well aligned. Berkeley's bond and TOT money should not subsidize WETA's operations (see <https://weta.sanfranciscobayferry.com/sites/weta/files/weta-public/currentprojects/Item%208A%20-%20Berkeley%20Ferry%20Service%20Business%20Plan.pdf>, pages 47-48 for WETA aim to use these funds). That is money needed to keep the Marina Fund solvent.

Berkeley citizens and regional users have been telling you their vision for the waterfront marina area through this petition and other public avenues (e.g. Pier-Ferry Community Feedback at <https://berkeleyca.gov/your-government/our-work/capital-projects/berkeley-municipal-pier-ferry-project>). As we come up on elections, please take *their* concerns into account.

Camille Antinori  
David Fielder



# Tell Berkeley Officials to Not Sell-out the Marina

To: Berkeley Mayor Jesse Arreguin, Berkeley City Council, Parks Recreation and Waterfront Department

The Berkeley Marina is enjoyed by countless locals and visitors from around the region, yet it has experienced years of decay and deferred maintenance. In 2015, the beloved but deteriorated Berkeley Pier was closed due to seismic and structural concerns. Roads are crumbling, security and trash problems persist, and berths are emptying as docks decay and the entrance silts up, while berths in the nearby Emeryville and Richmond marinas are full, with waitlists.

The City of Berkeley is gradually turning its attention to upgrading the Marina, located in one of the prime spots in the San Francisco Bay. It has formed two parallel efforts, one called BMASP (<https://www.cityofberkeley.info/BMASP/>) and the other the Pier/Ferry project (<https://www.cityofberkeley.info/parks/pier/>). Good news, right? Yes and no. Yes, because it is the start of a planning process. No, because the city is in danger of making a quick deal with the Water Emergency Transportation Authority (WETA), a public agency that runs ferry service on the Bay, to swap out the first few hundred feet of the old pier for a new WETA ferry terminal. The downside of this is that it commits the city to a large-scale ferry service favored by WETA that could crowd out and overwhelm core benefits of the Marina. Over the past year and more, the City has hosted separate Pier/Ferry and BMASP project meetings, but has not provided clearly stated ridership projections to support decisions about how big a ferry service the Marina can accommodate. In public questionnaires about a proposed ferry system, the city has proffered only feel-good choices about the trappings of a ferry service (ferries are fun, right?) without consideration of type of ferry, scale, current marina usage, cost or overall future Marina planning. In meetings, pier designs only consider, for example, how the ferry dock should be designed, not whether the proposed ferry service itself is too big to fit properly in the Marina.

## Why is this important?

The Marina provides:

- A rich natural environment, providing bird, plant, and marine habitat, plus coastline protection
- A favorite regional fishing spot, even without the Berkeley Pier
- Affordable access to watercraft recreation, like sailing, paddle boarding, kayaking, dragon boating and windsurfing
- Locations of cultural significance to Native American tribes
- Environmental education through the Shorebird Park facilities
- Unique children's education at Adventure Playground
- Berthing for boat owners, fishermen, small-scale ferry service, and liveaboards
- Biking and swimming venue that saw major increase use as a rare outlet during the pandemic
- Existing small-scale ferry service (Tidelines) from inside the Marina
- A regional park with walking trails, off-leash dog walk area, kite flying, picnic areas and festival venues
- Two restaurants, a hotel, a yacht club, a bait shop, a shipyard, and a sailing school

The parallel project approach fast-tracks a large-scale WETA ferry program by separating out a partial-pier-with-ferry project from the Marina area plan. By putting the ferry development ahead of other, perhaps larger, social, cultural, economic and environmental benefits of the Marina, planners are risking a WETA ferry failure as seen in other areas of the Bay where parking has overwhelmed surrounding areas beyond designated parking sites (Jack London Square) or, at the other extreme, ferries are heavily subsidized yet poorly used at the constructed scale, wasting millions of dollars. A slapdash ferry deal could undermine everything that makes the Berkeley Marina an enjoyable place to go and turn it into a parking lot for commuters as cars sit from 8 am until 6 pm each day.

The City's own Parks and Waterfront Commission (PWC), an advisory council to the City, has raised numerous questions to WETA and the City, many of which go unanswered. A marina users' group has assembled a document describing the issues in more detail ([https://drive.google.com/file/d/120\\_OZerFZX2CjSaErqm7-zoDgCQ1ldnp/view?usp=sharing](https://drive.google.com/file/d/120_OZerFZX2CjSaErqm7-zoDgCQ1ldnp/view?usp=sharing)). But we need help to persuade entrenched opinions among city leaders.

## What you can do

Help us move City Council to consider a range of options that put the Marina on a “long-term sustainable path” as recommended by the PWC and supported by marina user groups. These options may include ferry service, but only at a scale that is compatible with the Marina’s core recreational uses, cultural significance and environmental benefits. We ask that the City stop the parallel strategy of Pier/Ferry v. overall Berkeley Marina Area Specific Plan and unite the efforts for a consistent and representative future for broader set of users beyond just ferry commuters. We also request that the City publicly provide the following information:

1. What is the maximum planned daily ridership of the ferry service?
2. What has been the historical ridership of the existing, small-scale ferry service?
3. What parking lots will be used for ferry riders, and how many ferry riders will park in each lot?
4. How will recreational use parking lots be protected against commuter parking?
5. Will a new restaurant for the Hs Lordships (199 Seawall) space be ruled out by the ferry terminal?
6. Will windsurfer, kayaker and swimmer access to the Hs Lordships/199 Seawall cove be ruled out by the ferry terminal?
7. Will shoreline fishing between Hs Lordships and the existing pier be impacted?
8. How much will the WETA project pay towards the replacement of the fishing pier?
9. What will be Berkeley’s financial liability for the ferry?

The BMASP and pier/ferry proposal are still being reviewed and developed. We will continue to deliver the petition and signatures to the mayor, City Council and the Director of the Parks Recreation and Waterfront Department as we hit new milestones in our signature count. Please sign! Thank you!

Signed by 912 people:

| <b>Name</b>      | <b>Zip code</b> |
|------------------|-----------------|
| Camille Antinori | 94703           |
| Nelson Sproul    | 94708           |
| David Fielder    | 94703           |
| Steve Clarke     | 04563           |
| Carlos Iribarren | 94706           |
| Murray Bruce     | 94708-1626      |
| Margot Smith     | 94709           |
| Eleanore Lee     | 94709           |
| Dominic Cabrera  | 94710           |
| Doug Yamamoto    | 94706           |
| Diane Rosenblum  | 94901           |
| Bruce Trestrail  | 94702           |
| Jeffrey Bokor    | 94530           |
| Mark Elgood      | 94550           |

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|---------------------------|-----------------|
| kenichi<br>hashimoto      | 95050           |
| Birkett Huber             | 94568           |
| Andrew Buck               | 94590           |
| Randy Schrade             | 94556           |
| Wakean MacLean            | 94609           |
| Mary B                    | 94540           |
| Kira McDonough            | 94710           |
| Michele Pense             | 94710           |
| Marty<br>Schiffenbauer    | 94704           |
| Jack Kurzweil             | 94703           |
| Stephen Loiacono          | 94607           |
| Eric Sloan                | 94705-2711      |
| Vincent Deluard           | 94611           |
| Jesada Homchand           | 94710           |
| Molly Morelock            | 94602           |
| Zainuddin Qazi            | 94107           |
| Hartmut Haeffner          | 94709           |
| Richard<br>Schneider      | 94501           |
| Antonia Evtimow           | 94043           |
| Meike Matarazzo           | 94612           |
| Leah Goldberg             | 94707           |
| Edward Laves              | 94707           |
| Anna Sophie<br>Loewenberg | 94702           |
| Andrew Hacket             | 94024           |
| Prester Wilson            | 94708           |
| Muhammad<br>Khokhar       | 94609           |
| Monica Tauriello          | 94804           |
| Randi Shapiro             | 94609           |
| Shijing Yao               | 94610           |
| Douglas Couch             | 94703           |

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|---------------------|-----------------|
| Tracy L             | 94608           |
| Peter Bank          | 94619           |
| Kristofer Korth     | 94530           |
| Anthony Salazar     | 94709           |
| Nancy Coolidge      | 94704           |
| Prakash Stec        | 94705           |
| Tomasz Stec         | 94705           |
| Lynn Olinger        | 94705           |
| Stephen Dower       | 94530-2805      |
| Andres Cassinelli   | 94108           |
| Peter Kuhn          | 94708           |
| Stephanie Evans     | 94609           |
| Kimberly Heade      | 94131           |
| Carlos Felix-Fretes | 94941           |
| Oliver Wueseke      | 94501           |
| Stephen Sylvester   | 94530           |
| andrew sullivan     | 94706           |
| Juan Vazquez        | 94706           |
| Michael Mages       | 94618           |
| Teresa Provenzano   | 94703           |
| Charles Wollenberg  | 94709           |
| Daniel Tacci        | 94501           |
| Jeffrey Finn        | 94901           |
| David Sontheimer    | 94611           |
| Peter Mui           | 94703           |
| Leo Lomeli          | 94708           |
| Juliana Fredman     | 94703           |
| Cynthia Anderson    | 94702           |
| Janice Bruce        | 94708           |
| Matthias Krause     | 94704           |

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| Margaret<br>Mendelson | 94709           |
| Julie Patrusky        | 94706           |
| Bruce Nordman         | 94703           |
| Leo Nordman           | 94703           |
| Brian Colety          | 94925           |
| Elizabeth Izatt       | 94709           |
| Amy Stewart           | 94703           |
| Brian MacDougall      | 94710           |
| Eugenia<br>McCauley   | 94301           |
| Lillian Lerman        | 94708           |
| SHARON<br>MALDONADO   | 94706           |
| Ben Ailes             | 94611           |
| Gunther Weber         | 94703           |
| Arlene Owseichik      | 94702-1028      |
| CRESSIDA<br>SIMPSON   | 94703           |
| Anne Graham           | 94941           |
| Rachel Zhang          | 94609           |
| ned Pearlstein        | 94708           |
| Tim Arai              | 94702           |
| Tia Böttger           | 94703           |
| Abe Rajeev            | 94702           |
| Steven Goldfinger     | 94960           |
| Mimi Fretes           | 94941           |
| Roya Arasteh          | 94702           |
| D Crozier             | 94709           |
| Howard S Cohen        | 94707           |
| Laurie<br>MacDougall  | 94102           |
| Patricia Stewart      | 94703           |
| Richard Walker        | 94702           |

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| Joe Tox              | 94117           |
| Audrey Jaffe         | 94705           |
| Renata Mussi         | 94117           |
| weyman<br>lundquist  | 94705           |
| Timothy Quick        | 94709           |
| Donald Ross          | 94806           |
| Nafiz Korustan       | 94507           |
| Marc LaRhette        | 94549           |
| Susan Anglin         | 94705           |
| Robert O.            | 94602           |
| Tim Henry            | 94964           |
| Pierre Nedelec       | 94709           |
| Michaela Hardt       | 94707           |
| ROBERT ERIC<br>BARDE | 94501           |
| Katherine Ogburn     | 94708           |
| Carol Baumbauer      | 94703           |
| David Hop            | 94563           |
| Rebecca Peters       | 94707-2502      |
| Casey Harper         | 94609           |
| Larry Henry          | 94705           |
| Guyton Durnin        | 94703           |
| Amy Woodward         | 94703           |
| Alan Louwerse        | 947031214       |
| Carla Woodworth      | 94704           |
| Gary Casterline      | 94703           |
| Jeze Fabijanic       | 94704           |
| Brian Wolfson        | 94707           |
| stefano maffulli     | 94103           |
| Iain Thomson         | 94804           |
| Samantha Lomeli      | 94708           |
| Amanda Prufer        | 94704           |



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|----------------------------|-----------------|
| Gordon Stout               | 94530           |
| Oeystein<br>Fjeldberg      | 94709           |
| Ann Eshoff                 | 94947           |
| Keith Nason                | 94707           |
| Jeanette Bicais            | 94530           |
| gordon meyer               | 94611           |
| John Boeschen              | 94902           |
| Elaine Baden               | 94805           |
| Paul MacIntyre             | 94706           |
| Jonathan Luskin            | 94114           |
| Sebastian Gomez<br>Biggeri | 95126           |
| Steven Wang                | 94582           |
| Genevieve<br>Shiffrar      | 94602           |
| Lucy O'Brien               | 94703           |
| Michael McKinley           | 94608           |
| ALAN KEPNER                | 94933           |
| Sandra Killian             | 94558           |
| Christopher<br>Kumai       | 94705           |
| Horst Bansner              | 94110           |
| Dierdre Dixon              | 94043           |
| Catherine<br>Seeligson     | 94925           |
| Linda Stout                | 94590           |
| Richard Reynolds           | 95690           |
| Nicholas<br>Tripcevich     | 94709           |
| Katherine Dresher          | 97211           |
| Greg Milano                | 94710           |
| Richard Miller             | 94707           |
| Ross Yarlott               | 94602           |
| Josh Reed                  | 94954           |

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| Franca Cioria         | 94703           |
| Ronald Adler          | 94705           |
| Barry Ryan            | 94703           |
| Nathan Stout          | 94590           |
| cynthia robinson      | 94805           |
| ben pearson           | 94590           |
| Susan Thompson        | 94710           |
| Tom Purcell           | 94709           |
| David Kroll           | 94930           |
| Danny Yee             | 94566           |
| Viorel Popa           | 94806           |
| Dick Mallory          | 94707           |
| Maurice Kaufman       | 94706           |
| Steph Lovell          | 94707           |
| Stephanie Siaris      | 94080           |
| Sara Woolf            | 94707           |
| THIERRY ROULE         | 94705-1943      |
| Johnny Werbe          | 94801           |
| David Hermele         | 94705           |
| Spencer Greene        | 94955           |
| Rick Welsh            | 94605-2601      |
| Darryl Thomas         | 94553           |
| Vincent Nicolas       | 94608           |
| daniel camp           | 94582           |
| Lisa Rohe             | 95404           |
| Barbara<br>Williamson | 94706           |
| Joan Ariel            | 93105           |
| Donna Fabiano         | 95436           |
| Larry Wightman        | 94533           |
| Mark A Silowitz       | 94945           |
| Carolyn Sweyd         | 95621           |
| Daniel Katzman        | 94517           |

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|-----------------------|-----------------|
| Frank Zhang           | 94536           |
| Richard Luibrand      | 94605           |
| Joan Weiner           | 94960           |
| meemaw antinori       | 94703           |
| Jan Dolzer            | 95405           |
| Dave Olson            | 94018-1506      |
| John Stile            | 94804           |
| Kathleen Scanlon      | 95476           |
| Indira B              | 94703           |
| Miki Vizner           | 94609           |
| Andrew Davis          | 94706           |
| Saul Schumsky         | 94707           |
| Cris Manickam-Shirley | 94606           |
| Phil Duvc             | 97058           |
| Jerry Bertrand        | 94025           |
| Darshan Vishwanath    | 95051           |
| Ellen Broidy          | 93105           |
| Eric Danysh           | 94706           |
| Barbara Eckhardt      | 94708           |
| Peter Liu             | 94704           |
| John Bongiovanni      | 94705           |
| Lena Roule-Stewart    | 94703           |
| Thomas Colton         | 94703           |
| Jennifer Chandler     | 94599           |
| Deborah Davis         | 94707           |
| Lynne McDonald        | 94703           |
| Nick Goyhenetche      | 95404           |
| judith fairchild      | 94707           |
| Julie Searle          | 94703           |
| Mariya Ryazantseva    | 94609           |

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|---------------------------------|-----------------|
| Jacob Bjorseth                  | 94709           |
| Randolf Klein                   | 95051           |
| Jessica Hauser                  | 98119           |
| Isabelle Fortier                | 94706           |
| Nicholas Waton                  | 94612           |
| Michael Sherrell                | 95472           |
| L Handwerker                    | 94704           |
| Suzanne Jones                   | 94709           |
| Maximus Wilson                  | 94708           |
| Mike Jones                      | 94709           |
| Binh Pham                       | 94710           |
| Heather Breaux                  | 94703           |
| Ellen Simms                     | 94703           |
| Emmi Lee                        | 95118           |
| Lisa Dinh                       | 30328           |
| Lydia Lopez                     | 94708           |
| Gustavo Manso                   | 94705-1509      |
| Alexander Hill                  | 94608           |
| Jennifer Knipe                  | 94610           |
| Gene Golfus, M.D.               | 94510           |
| Eric Pinkham                    | 94612           |
| Denise<br>Berezonsky            | 94608           |
| Alexandre de<br>Chaumont Quitry | 94609-1051      |
| Nelz Carpentier                 | 94608           |
| Susan Snow                      | 94949           |
| Daniel Zaslavsky                | 94710           |
| Christine Page                  | 94102           |
| mark johnsen                    | 94555           |
| Marcia Baczynski                | 94608           |
| Maureen Matias                  | 92591           |
| Andreas Boeckl                  | 94577           |

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|-----------------|-----------------|
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| Diane Davenport | 94709           |
| Tatyana Brown   | 94703           |
| Angela Porter   | 94705           |
| Abhishek Koneru | 94710           |
| John Beatty     | 95418           |
| Rob Stone       | 94708           |
| Paul Randall    | 94702           |
| Jennifer Kardos | 94401           |
| James Ham       | 94025           |
| Sue Estey       | 94530           |
| Tim Yarish      | 94133           |
| Brad Curry      | 94549           |
| Treve Johnson   | 94706           |
| Janet Cook      | 94062           |
| Cindy Regnier   | 94605           |
| James Jacobs    | 94110           |
| Krista Fechner  | 94903           |
| James Burakoff  | 94606           |
| Vicki Woolworth | 94577           |
| Leslie Buck     | 94702           |
| Johan Niklasson | 95472           |
| MARTHA Breed    | 94595           |
| Ronan Potage    | 94702           |
| Donald Fleming  | 94590           |
| Mary Ann Furda  | 94707           |
| Kyla Hjertstedt | 91780           |
| Leslie Yarlott  | 93442           |
| Ellen P         | 94110           |
| Tsukayama Ted   | 94611           |
| Antony Shermoen | 94530           |
| Cathy Fogel     | 94703           |

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|-------------------------|-----------------|
| Ellina Yin              | 95126           |
| Deborah Moore           | 94707           |
| Martin Wagner           | 94703           |
| Adtienn Acosta          | 94110           |
| Anna Baucus             | 94110           |
| Meera Chaturvedi        | 94710           |
| John Kuo                | 94609           |
| Salem Chilli            | 94108           |
| Tiziana Nobilini        | 95687           |
| Kirk Price              | 95123           |
| Silvia Bunge            | 94707           |
| JP Bleibtreu            | 78722           |
| Betsy Bigelow-Teller    | 94707           |
| Sean Gies               | 94117           |
| Alan Paredes            | 94591           |
| Melissa Dunlap          | 94597           |
| Elian Imlay-Maire       | 94044           |
| Laurie Reid             | 94709           |
| Tom Athanasiou          | 94706           |
| Kath Delaney            | 94708           |
| Ivan Bankov             | 94015           |
| Debra Morris            | 95409           |
| Margot Otway            | 94025           |
| Bill Barclay            | 94703           |
| James Beatty            | 95418-0318      |
| Nick Morgan             | 94703           |
| Heather Munro<br>Pierce | 94703           |
| Richard Magarian        | 94704           |
| Bill P                  | 94707           |
| Diana Clark             | 94703           |
| Eleanor Young           | 94530           |

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|--------------------------|-----------------|
| Robyn Jagust             | 94610           |
| Mina Caulfield           | 94703           |
| Lois Brubeck             | 94708           |
| Thomas Stocking          | 94903           |
| Scott Corvin             | 94611           |
| Penny Wells              | 94903           |
| Rebecca Geffert          | 94108           |
| Andreas Schmid<br>Schmid | 94702           |
| Sloane Morgan            | 94703           |
| John Davison             | 94803           |
| Carl Hoard II            | 94608           |
| Lynn B Cooper            | 94705-1812      |
| Jonathan Mei             | 94107           |
| Boyko Baharov            | 94608           |
| HellHelen Stroud         | 94705           |
| Grant Thompson           | 94708           |
| Andrey Pogodin           | 94560           |
| Suzanna Loper            | 94702           |
| Martha Belcher           | 94703           |
| Lori Hersey              | 94709           |
| Andrea Jones             | 94702           |
| Tom Giesler              | 94709           |
| Barry Fike               | 94703           |
| Julie Bussgang           | 94703           |
| Rebecca Mills            | 94708-1556      |
| Rachael<br>Stefanussen   | 94607           |
| Peggy Mendelson          | 94709           |
| Linda Kohn               | 94709           |
| Shirley Brewin           | 94704           |
| Donna Ruotolo            | 94804           |
| C. Elise Brewin          | 94709           |

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| David Coolidge            | 94704           |
| Matt Lamperti             | 94703           |
| Tem Gronquist             | 93101           |
| Vicki Beland              | 94619           |
| Joann Johnson             | 94706           |
| David Littlejohn          | 95436           |
| Paul Kamen                | 94708           |
| Ron Mastalski<br>(BASK)   | 94518           |
| Nadia Dmytriw             | 94609           |
| Praveenkumar<br>Manjunath | 94086           |
| Barbara Ross              | 94706-2013      |
| Heather Sarantis          | 94703           |
| Sushma Delaney<br>Johnson | 94708           |
| Vicki Piovia              | 94708           |
| Marilyn Ichioka           | 94703-1722      |
| Charles Casey             | 94703           |
| Lisa Porter               | 94702           |
| Martin Taber              | 94709           |
| Louis Benainous           | 94710           |
| Ibrahim Sargin            | 94063           |
| Vanessa Miller            | 94702           |
| Tom Barr                  | 95476           |
| katelyn campbell          | 94710           |
| Colin Harrington          | 94710           |
| Joseph Seraphin           | 94703           |
| Richard Page              | 94530           |
| Robbin Everson            | 94709           |
| Alexandra Trippe          | 94709           |
| Robin Cordova             | 80303           |
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| Cialin Mills-<br>ostwald | 97402           |
| Paul Marbury             | 94706           |
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| Emily Richards           | 94710           |
| Gordon Kirkwood          | 94623           |
| Isabelle Stierli         | 94563           |
| Drake Hughes             | 95662           |
| John Mark                | 98034           |
| Valerie Kratzer          | 94703           |
| Steven Rock              | 94710           |
| Kimberly<br>Patterson    | 94510           |
| Nora Daly                | 94707           |
| Charles van der<br>Loo   | 94707           |
| michelle lawson          | 95831           |
| Mike Vandeman            | 94705           |
| Juliana van<br>Olphen    | 94703           |
| Josh Winzeler            | 94610           |
| Norman La Force          | 94530           |
| Roberto<br>Gastelumendi  | 94611           |
| Amelia Timbers           | 94553           |
| Jessica Cook             | 94611           |
| Sophia<br>Hernandez      | 94710           |
| David Caruso-<br>Radin   | 94805           |
| Beatriz Quiñones         | 94806           |
| Lani Wild                | 94704           |
| Jonathan Love            | 94710           |
| Martha Erisman           | 94563           |
| Steve Colitz             | 94618           |

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|-----------------------|-----------------|
| Merced Rapallini      | 95661           |
| Suzanne Millward      | 94539           |
| Cate Leger            | 94703           |
| Kathy Dervin          | 94707           |
| Rachel Bradley        | 94708           |
| Janet Stromberg       | 94708           |
| Marjorie Alvord       | 94705           |
| Karen Weinstein       | 94708           |
| Marco Falcioni        | 94103           |
| Chris Gilbert         | 94707           |
| Solange Gould         | 94702           |
| Hali Hammer           | 94703           |
| Donna Graves          | 94702           |
| Malcolm Duncan-Graves | 94702           |
| Maja Harren           | 94618           |
| Eva Angvert Harren    | 94595           |
| Kira Halpern          | 94530           |
| Leah Carroll          | 94530-3208      |
| Hailey Hibler         | 94706           |
| Helen Schneider       | 94702           |
| Natashia Fuksman      | 94702           |
| Dana Fonte            | 94707           |
| Kaushik Basu          | 94706           |
| Rebecca Weinstein     | 94702           |
| Anne Fletcher         | 94708           |
| Holly Scheider        | 94703           |
| Alex Liebman-Pelaez   | 94608           |
| Irene Coleman         | 94549           |
| Herta Weinstein       | 94708-1927      |

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|-------------------------|-----------------|
| Margaret<br>Hutchison   | 94703           |
| Gregory Gabriel         | 23221           |
| Verona Fonte            | 94707           |
| Kate Heslop             | 94702           |
| Marianna<br>Ludensky    | 94618           |
| Alison Huetter          | 94704           |
| S Beverley<br>Spencer   | 04709           |
| Colin Carlson           | 94709           |
| amy schuchman           | 94705           |
| Linda M Currie          | 94702           |
| Juliane Reinhardt       | 94708           |
| Lia Willebrand          | 94703           |
| Denisia Wash            | 94702           |
| Lisa Vogel              | 94707           |
| Fernando Arruda         | 94618           |
| OMAR ALI                | 94703           |
| Irwin Feinberg          | 94707           |
| Liz Vargas              | 94702           |
| Yael Ronen              | 94801           |
| Alex Gordon             | 94532           |
| Katherine Mehler        | 94706           |
| Anastasiya<br>Karpovich | 94577           |
| Sari Bilick             | 94703           |
| Emily Coble             | 94608           |
| Debra Roisman           | 94609-1036      |
| Darren Bass             | 94401           |
| Marcos<br>Nascimento    | 94002           |
| Eric Smith              | 94611           |
| Erik Latrope            | 94704           |
| Chris Williams          | 94609           |

| <b>Name</b>        | <b>Zip code</b> |
|--------------------|-----------------|
| Thomas Eusterbrock | 94702           |
| Peiyuan Qi         | 94401           |
| Jenn Rader         | 94703           |
| Russell Bayba      | 94702           |
| Peter Gibson       | 94609           |
| Christina Kossa    | 94707           |
| Kat Schaaf         | 94709           |
| Stacey Singleton   | 94702           |
| Des Perim          | 94117           |
| Exter Elizabeth    | 94703           |
| Susan Edwards      | 94703           |
| Mary Ann Davis     | 75503           |
| Eleanore Lee       | 94709           |
| Gunther Weber      | 94703           |
| Rachel Ayotte      | 92101           |
| Kerianne B         | 94553           |
| Morgen Wildeman    | 95628           |
| Nelz Carpentier`   | 94608           |
| Parent Wendy       | 94804           |
| Kim Keller         | 94602           |
| Pilar Schmidt      | 94803           |
| Aisha Sobh         | 61801           |
| David Barr         | 94703           |
| John Ford          | 94709           |
| Jonathan Loran     | 94707           |
| Keith Cranmer      | 94703           |
| Roy Gordon         | 94708           |
| Derek Shuman       | 94709           |
| brace sproul       | 94708           |
| Maureen Gosling    | 94609           |
| Wendy Patterson    | 94702           |
| Florence Kuyt      | 94705           |

| <b>Name</b>           | <b>Zip code</b> |
|-----------------------|-----------------|
| Edda Brunner          | 94702           |
| Marcus D              | 94704           |
| LINDA MEYER           | 94611           |
| Claudia<br>Kawczynska | 94710           |
| Brent King            | 94706           |
| John DuMoulin         | 94591           |
| KEITH PIERCE          | 94080           |
| CAROL VALK            | 94708           |
| Michael Stricklen     | 94107           |
| Cameron Woo           | 94710           |
| Ross Libenson         | 94707           |
| Branscombe<br>Robert  | 94403           |
| David Breaux          | 94707           |
| RICHARD<br>SCHNEIDER  | 94501           |
| Erin Diehm            | 94703           |
| Horia Hristu          | 92056           |
| John Stuart           | 94945           |
| Sasha Futran          | 94703           |
| Molly Miners          | 95973           |
| Konina Sircar         | 94708           |
| Steve Klucharich      | 94703           |
| Elena Ufimtseva       | 94541           |
| Meredith Robert       | 94804           |
| mark johnsen          | 94555           |
| Margo Rey             | 94107           |
| Eric See              | 94709           |
| Jonathan<br>Bradshaw  | 94703           |
| Virginia George       | 94518           |
| Merry Gregg           | 94510           |
| Rosila Millward       | 94591           |

| <b>Name</b>            | <b>Zip code</b> |
|------------------------|-----------------|
| Alan M.                | 94591           |
| Angelo Monteux         | 94530           |
| Rebecca Young          | 94703-1826      |
| Yasmeen Smalley-Norman | 94619           |
| John Goddard           | 94549           |
| Pat Stevens            | 94595           |
| Lindsey Pannell        | 94525           |
| Thomas Cromartie       | 94530           |
| robert Millward        | 94525           |
| Warren Wallace         | 94595           |
| Bonnie Pannell         | 94525           |
| Lucia Briggs           | 94618           |
| chip wasson            | 94707           |
| Pamela Zimmerman       | 94703           |
| Roger Tong             | 94707           |
| Gail Splaver           | 94703           |
| vaughn gunkelman       | 94525           |
| Cyril Drame            | 94805           |
| Tinne Aerts            | 94608           |
| Asma Asyyed            | 94706           |
| Tony Toe               | 94133           |
| Neerja Aggarwal        | 94804           |
| Robert Temple          | 94598           |
| Robert Bonem           | 94706           |
| Karen Van Blake        | 94597           |
| John Mankey            | 94710           |
| Emily Lin              | 94709           |
| Alexander Band         | 94501           |
| Elaine Jones           | 94703           |
| Cindy Chen             | 94703           |

| <b>Name</b>            | <b>Zip code</b> |
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| Brittany C             | 94609           |
| Meruyert<br>Shalbayeva | 94706           |
| Yari Ojeda Sandel      | 94710           |
| Paul Wescott           | 94707           |
| Natalie Bawany         | 94709           |
| Jennifer Friday        | 75205           |
| Elyse Widin            | 94703           |
| michelle lemieux       | 94703           |
| Sarah Schwid           | 94618           |
| Janet Curl             | 94708           |
| Carolyn von<br>Behren  | 94709           |
| Kate Greswold          | 94708           |
| Sylvia Elsbury         | 94708           |
| Lynn Adler             | 94708           |
| Judith Ehrlich         | 94704           |
| Connie Field           | 94708           |
| Catherine Ryan         | 94706           |
| Jose Vilar Segura      | 94708           |
| Asuka Yoshii           | 94708           |
| Denise Zmekhol         | 94710           |
| John Armitage          | 94708           |
| Paul Hernandez         | 94702           |
| Dane Moore             | 94609           |
| Lucie Ocean            | 94710           |
| Susan Milano           | 10013           |
| Aaron Beardsley        | 94703           |
| Travee Campbell        | 94607           |
| Joseph Seraphin        | 94702           |
| Cynthia Noonan         | 94608           |
| Debbie DeVoe           | 94705           |
| Stephenie<br>Hollyman  | 94709           |

| <b>Name</b>           | <b>Zip code</b> |
|-----------------------|-----------------|
| Sean Faul             | 94702           |
| Jacob Eastwood        | 94612           |
| Shahryar<br>Muzaffar  | 94702           |
| Jamie Brown           | 94609           |
| Sage Perez-Brown      | 94609           |
| Gamaliel Perez        | 94608           |
| Lisa Araya            | 94928           |
| Jonathon Wong         | 94606           |
| Leslie Davis          | 94501           |
| Frederique<br>Georges | 94501           |
| Valerie Phipps        | 95003           |
| Jude Bell             | 94704           |
| Lisa Springer         | 94611           |
| Laura Pesavento       | 94580           |
| Dafina Lee            | 94501           |
| Tanja Schlosser       | 94706           |
| Leah Schuller         | 94806           |
| Kris Freewoman        | 94558           |
| G Martin              | 94702           |
| Charles Denson        | 94705           |
| Amira Jackmon         | 94704           |
| Anne--Marie Miller    | 94702           |
| Audrey Webb           | 94805           |
| michael weber         | 94703           |
| Summer Brenner        | 94703           |
| Marilyn Simons        | 94706           |
| Nora Shourd           | 94705           |
| Connie Field          | 94708           |
| Debbie Carton         | 94706           |
| Deanne Stone          | 94705           |
| Jackie Brenner        | 94703           |



| <b>Name</b>                 | <b>Zip code</b> |
|-----------------------------|-----------------|
| Mary Luckey                 | 94610           |
| Joan Sprinson               | 94706           |
| Laura Fantone               | 94704           |
| Mary Curtis<br>Ratcliff     | 94707           |
| Denise Weinstein            | 94965           |
| Susan Erb                   | 94618           |
| Alan Bernheimer             | 94703           |
| veronika fukson             | 94706           |
| Benjamin Rodefer            | 94703           |
| Elizabeth<br>Trachtenberg   | 94705           |
| william parkes              | 45208           |
| Robert Bean                 | 94530           |
| joanna martin               | 97227           |
| James Dennett               | 28403           |
| carly dennett               | 94703           |
| Polly Lockman               | 94608           |
| Shelley Hoyt                | 94707           |
| Persis Karim                | 94702           |
| mary laird                  | 94707           |
| Linda Shapiro               | 93708           |
| Victoria Nelson             | 94706-1210      |
| Margaret Love               | 94708-1405      |
| S. Lydia Shiozaki           | 94710           |
| Christina Gillis            | 94708           |
| Alessandra<br>Mortola       | 94602           |
| Jonathan Love               | 94710           |
| Nina Dronkers               | 94708           |
| Juliet Flower<br>MacCannell | 94549           |
| Marlene Millikan            | 94708           |
| Catherine Rice              | 94706           |

| <b>Name</b>          | <b>Zip code</b> |
|----------------------|-----------------|
| Barbara Dickey       | 94706           |
| Margaret<br>Goodman  | 94702           |
| Katherine<br>Whitney | 94703           |
| Deborah Blum         | 90210           |
| Margaret Bertels     | 94706           |
| Richard Olen         | 94710           |
| penny brogden        | 94709-1408      |
| Kathy Smith          | 94609           |
| Dorothy Klein        | 94709           |
| Karen Fiene          | 94706           |
| Honey Bellessis      | 94705           |
| Babak Sani           | 94709           |
| Annie Sweetnam       | 94602           |
| Sara Ishikawa        | 94706           |
| Bobbie Steinhart     | 94707           |
| Sas Colby            | 94705           |
| Lida Behnam          | 94702           |
| Lisa Nardoni         | 94706           |
| Saba Keramati        | 94805           |
| Laura Goodman        | 94702           |
| Raquel Scherr        | 94709           |
| Daniel Kelley        | 02871           |
| faati mizbani        | 94704           |
| Mojgan Saberi        | 94611           |
| Jaleh Niazi          | 94707           |
| Robbie<br>Brandwynne | 94608           |
| Lisa Thompson        | 95476           |
| Mehran Esfandiari    | 94611           |
| Katura Schoene       | 94610-5119      |
| Cameron Olen         | 94710           |
| Helen Kang           | 94706           |

| <b>Name</b>                   | <b>Zip code</b> |
|-------------------------------|-----------------|
| Greg Martin                   | 94706           |
| Dan Vilar                     | 94702           |
| Sophia Warshall               | 94702           |
| Harald Leventhal              | 94707           |
| Cece Littlepage               | 94702           |
| Robert Dering                 | 94708           |
| Mary Rose                     | 94702           |
| Erika Shore                   | 94709           |
| Sabina McMurtry               | 94705           |
| Ellen Ziff                    | 95062           |
| Tom Graly                     | 94705           |
| meryl siegal                  | 94702           |
| Zelda Bronstein               | 94707           |
| Nina Torcoletti<br>Torcoletti | 94702           |
| Justine Gilbane               | 94708           |
| Judith Massarano              | 94702           |
| Christa Burgoyne              | 94705           |
| Michelle LePaule              | 94703           |
| Peretz Wolf-<br>Prusan        | 94702           |
| Judith Thomas                 | 94703-1201      |
| Eva Liebermann                | 94705           |
| Deborah Sperber               | 94709           |
| Michael Scott                 | 94708-1942      |
| Brigitta<br>Hangartner        | 94705           |
| Todd Darling                  | 94705           |
| Stephen Teigland              | 94705           |
| Christina<br>Ahlstrand        | 94618           |
| Lorenzo Kampel                | 94705           |
| Louise<br>Rosenkrantz         | 94705           |
| Diana Bohn                    | 94707           |

| <b>Name</b>         | <b>Zip code</b> |
|---------------------|-----------------|
| Louise Kimball      | 94703           |
| Carol Cohen         | 94702           |
| David Kessler       | 94705           |
| Carolyn Weil        | 94702           |
| Elisabeth L         | 94703           |
| Jenny Ziff          | 95062           |
| Leslie Stone        | 94710           |
| Carol Hirth         | 94702           |
| Les Shipnuck        | 94703           |
| gerry o'brien       | 94705           |
| Maris Arnold        | 94703           |
| Eli Gilad           | 94707           |
| Rhonda Marosi       | 94706           |
| Dona Boatright      | 94702           |
| Sharon Singer       | 94705           |
| Jan Taradash        | 94702           |
| Kori Kody           | 94708           |
| Birch Early         | 94702           |
| Ann Killebrew       | 94112           |
| Anthony Corman      | 94703           |
| Ingrid Pollyak      | 94608           |
| Patricia Reidenbach | 94705           |
| LAURA FUJII         | 94706           |
| Karl Goldstein      | 94702           |
| John Arens          | 94708           |
| Barbara Rydlander   | 94710           |
| Eva Herzer          | 94710           |
| Chris Baskett       | 94707-2727      |
| Priscilla Hine      | 94703           |
| Barbara Fisher      | 94702           |
| Greysonne Coomes    | 94705           |

| <b>Name</b>           | <b>Zip code</b> |
|-----------------------|-----------------|
| Reba Connell          | 94702           |
| Sandra Bernard        | 94707           |
| Mary Jo Thoresen      | 94702           |
| Ed Schmookler         | 94706           |
| Rosa Fallon           | 94565           |
| Chris Fallon          | 94565           |
| Rachel Resnikoff      | 94705           |
| Basak Altan-Schirmer  | 94702-1231      |
| Melissa Quilter       | 94707           |
| Jen Borcic            | 94565           |
| Wendy Symon           | 94703           |
| Debbie Atlas          | 91320           |
| Samantha Sinclair     | 94525           |
| April Taylor          | 94619           |
| virginia kamp         | 94702           |
| bonnie holl           | 94797           |
| ChRles Chipman        | 94709           |
| Mojgan Saberi         | 94611           |
| Rose Glickman         | 94710           |
| Beverly Wagstaff      | 94501           |
| Kaylie Treskin        | 98104           |
| Bonnie Borucki        | 94703           |
| Yvette Hudson         | 94702           |
| Greg McCrea           | 94702           |
| PIERRE THIRY          | 94703           |
| Lori Hines            | 94703           |
| Stephanie<br>Doucette | 94702           |
| Ben Rosenthal         | 94703-2007      |
| Alden Brewin          | 94704           |
| Austin Brewin         | 94704           |
| Sylvia Soriano        | 94702           |

| <b>Name</b>      | <b>Zip code</b> |
|------------------|-----------------|
| Irene Rice       | 94703           |
| Kris Urban       | 94530           |
| Maureen Fontaine | 94704           |
| Tom Burlingame   | 97068           |
| Leslie Aguilar   | 94610           |
| Giorgio Gherzi   | 94107           |
| Andy Davis       | 94706           |
| John Danielson   | 94804           |
| David Wells      | 94901           |
| Marco Falcioni   | 94703           |
| Maria Einaudi    | 94710           |

| <b>Name</b>    | <b>Zip code</b> |
|----------------|-----------------|
| Emily Klion    | 94703           |
| Laurs Raboff   | 94707           |
| Jackie Cvar    | 94501           |
| Candace Sultan | 94702           |
| Santiago Casal | 94702           |
| Kerna Trottier | 94705           |
| Tenise Young   | 94710-2319      |
| Nancy Lieblich | 94709           |
| Sylvia Soriano | 94702           |
| Marcia Poole   | 94704-2969      |
| Bob Laird      | 94704           |
| Laura Lipman   | 94703           |
| Nancy Steele   | 94708           |
| Axel Ztangi    | 94710           |
| Thea Davison   | 94707           |
| sharon legenza | 94708           |
| Fred Krieger   | 94705           |
| Dahlia Armon   | 94707           |
| Joe Samberg    | 94705           |
| Marcia Fields  | 94930           |
| Jeff Greenwald | 94609           |
| JOANNE KELLY   | 98115           |
| Eve Decker     | 94703-2010      |
| Patricia Rowe  | 94602           |
| Susan Ives     | 94708           |
| Linda Kentro   | 93110           |
| Petrina Robins | 94605           |
| Amy Thigpen    | 94702           |
| Sheri Brenner  | 94530           |
| Barryett Enge  | 94708           |
| Mary Senchyna  | 94608           |
| Laura Spautz   | 94709           |

| <b>Name</b>            | <b>Zip code</b> |
|------------------------|-----------------|
| Arthur Clinton         | 94530           |
| Steve Powers           | 12125           |
| Jeanne Brenna          | 94707           |
| Nina Wise              | 94901           |
| Laura Klein            | 94703           |
| Michelle Fontaine      | 94904           |
| David Block            | 94530           |
| Tod Booth              | 94612           |
| Stephen Carlson        | 94601           |
| Margie Samberg         | 94705           |
| Jeanne Grumet          | 94947           |
| Sylvia Ehrental        | 94705           |
| Kelsey Ockert          | 94703           |
| MLou Christ            | 98103           |
| Jennifer Berezan       | 94702           |
| Debbie Fier            | 94619           |
| Erica Buffett          | 90290           |
| Deborah Bradford       | 81623           |
| Pamela Hettinger       | 95446           |
| Marilyn Steele         | 94804           |
| Ann Harrison           | 94590           |
| Lisa Dettmer           | 94609           |
| Kathleen M             | 95476           |
| Karen Simon            | 90660           |
| Kay Paul               | 94043           |
| David Samuels          | 94704           |
| Caroline<br>Courtright | 95949           |
| Laurel Dann            | 94705           |
| Aspen Madrone          | 95472           |
| Vivian Taube           | 94939           |
| Karen Taberski         | 94530           |
| Ellen Hoffman          | 94530           |



| <b>Name</b>          | <b>Zip code</b> |
|----------------------|-----------------|
| Richard E Kalman     | 94702-1032      |
| Penelope Kramer      | 94530           |
| Druckenbrod Sara     | 94602           |
| Ginger Daniel        | 94705           |
| Jennifer Lodery      | 95667           |
| Bayla<br>Greenspoon  | 96067           |
| Max NEWTON           | 94705           |
| Forest McDonald      | 94608           |
| Sasha Gottfried      | 94611           |
| Peg Crilly           | 07940           |
| Amy Elash            | 94706           |
| Ken Dalwin           | 94602           |
| Nancy Compton        | 94708           |
| Sheila Sondik        | 98229           |
| Cynthia Sweet        | 94803           |
| Pat Powers           | 94610           |
| Janet Aguilera       | 94804           |
| Lisa Bullwinkel      | 94705           |
| Sharon McCarthy      | 94901           |
| Marguerite<br>Etemad | 94115           |
| leonard pitt         | 94703           |
| Diana Lightmoon      | 87508           |
| Rosanne<br>Reynolds  | 94611           |
| Marcia Lovelace      | 94610           |
| Kathryn Bader        | 94602           |
| Barbara Ustanko      | 94110           |
| Gail S Gordon        | 94806           |
| Barbara Zilber       | 94930           |
| Peter Davison        | 92549           |
| Rita Dichtel         | 94705           |

| <b>Name</b>               | <b>Zip code</b> |
|---------------------------|-----------------|
| pizza LAST<br>NAME*       | 94949           |
| Rebekah Ekberg            | 94703           |
| sue vent                  | 94953           |
| Pieter<br>Vandenberge     | 97211           |
| Raven Stevens             | 96067           |
| Lisa London               | 94702           |
| Liz Wolf-Spada            | 92397           |
| Mugg Muggles              | 94521           |
| Dianne Jenett             | 94301           |
| Pat Mullan                | 94708           |
| Dennis von Elgg           | 95465           |
| Raven Record              | 94606           |
| Pamela Rosin              | 94608           |
| Patricia Moore-<br>Racine | 94619           |
| Gailya Morrison           | 94903           |
| Chris Harnish             | 94947           |
| Devin Graham              | 94541           |
| Eva Pettersson            | 94619           |
| Lisa Harbus               | 94608           |
| Alice Webber              | 94618           |
| Gail Tennant              | 94705           |
| Pam Mendelsohn            | 94608           |
| Michaelle Goerlitz        | 94605           |
| Frances Swift             | 94565           |
| Sue Kaye                  | 94577           |
| Bethany Woods             | 94530           |
| Erica Wandner             | 94702           |
| Kathryn Taylor            | 72764           |
| Michael Wartofsky         | 02130           |
| Jo Ann Gunnarson          | 96354           |
| Ami Zusman                | 94611           |

**Benado, Tony**

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**From:** Castrillon, Richard  
**Sent:** Thursday, November 3, 2022 9:42 AM  
**To:** City Clerk  
**Cc:** Bustamante, Tanya; georgeporter@sonic.net  
**Subject:** Letter to City Council  
**Attachments:** CoA letter to Council\_Nov2022.docx

**Importance:** High

Good morning,

Please see attached letter to the City Council from the Commission on Aging. Please include in next Council meeting agenda as off-agenda communications.

Thank you,  
Richard Castrillon

**RICHARD CASTRILLON**

**Senior Center Director**

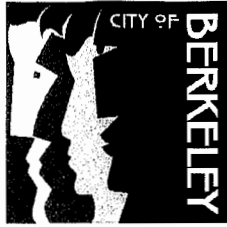
North Berkeley Senior Center

Health, Housing & Community Services Dept.

Aging Services Division

1901 Hearst Ave. Berkeley, CA 94709

Ph: 510-981-7777



Health, Housing &  
Community Services Department  
Commission on Aging

November 15, 2022

TO: Honorable Mayor & Council Members

**Subject:** Recruitment of commissioners for the Commission on Aging

We, the Commission on Aging (the CoA), are contacting you today to request your help in recruiting more qualified members for our commission. We have had many valuable commissioners in the past who have provided the City with commitment and service.

During the last few years, however, we have been experiencing a significant decrease in our membership and are currently missing five members. Some of those who have resigned recently have been older, long-term members whose life changes have necessitated this while others have been productive, younger members that have made career and other life choices that required them to move on. The end result is that our commission has not only lost membership, but has also suffered from an overall diminishment of the institutional knowledge and experience of its membership.

The issues that the Commission on Aging is charged with are complex and diverse and of are particular importance in light of Berkeley's rapidly increasing elder population as our middle-aged citizens of all races and economic positions age into that demographic. Our effectiveness can only be enhanced by committed members with not only an interest in the challenges and opportunities that this "time of life" presents, but persons who either have some experience working effectively within a municipal bureaucracy or similar institution or are in the position to remain on the commission long enough to acquire these skills.

To address this, we are asking that Councilmembers who have vacancies on the CoA prioritize your efforts to identify citizens who fulfill these qualifications to represent your district on our commission. We greatly appreciate your effort and if you have any questions or need to talk to the CoA about any of these issues please feel free to contact Richard Castrillon, Secretary of the Aging Commission. Thank you.

Sincerely,

*A Vibrant and Healthy Berkeley for All*

Internal

*Honorable Mayor & Council Members  
Hopkins Project Reconsideration  
November 15, 2022  
Page 2 of 2*

**George Porter**  
Chair, Commission on Aging

**Benado, Tony**

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**From:** Natalia Neira <natalia@lapena.org>  
**Sent:** Wednesday, November 2, 2022 8:24 PM  
**To:** All Council  
**Cc:** Tara Dalbo  
**Subject:** Seeking your support for critical repairs for La Peña Cultural Center  
**Attachments:** November 1, 2022 Letter of support for La Peña building project.pdf

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Honorable Mayor and Members of the City Council,

First and foremost, thank you for your time and consideration, we value both. We are writing to you to request support for critical building repairs for La Peña Cultural Center.

La Peña Cultural Center (La Peña) is a nonprofit 501(c)3 organization located in South Berkeley that has served as a multicultural hub for diasporic communities since 1975. La Peña uplifts underrepresented artists and art forms, promotes arts education, and supports community-led social justice movements. The word "Peña" refers to community gatherings centered around music, food, drink, and culture that foster dialogue around current issues. La Peña employs over 40 people, including teaching artists, sound engineers, light technicians and other event staff, administrative staff, interns, and contractors. Through this array of employment opportunities, La Peña focuses on creating job pipelines for its community, which includes many Berkeley residents of color. Through its tenant restaurant program, La Peña provides further job opportunities for small business entrepreneurs and restaurant workers. For the past 8 years, La Peña has leased its restaurant space to Los Cilantros, a family-owned restaurant spearheaded by Chef/Owner Dilsa Lugo, a West Berkeley resident for over a decade.

La Peña has reopened and revitalized its programming after closing during the COVID-19 pandemic. La Peña used the time it was closed to buckle down, dig deep, and improve its internal infrastructure to create a more resilient organization that can weather future storms. Due to this work, La Peña is in a period of recovery and growth; however, it has hit a roadblock in its reopening journey and is asking for the city's support.

La Peña owns its 7,000-square-foot building, with four primary areas: the restaurant space, lounge, community room, and main theater. The building is quite old and in need of multi-phase repairs. La Peña successfully fundraised to update its roof in 2019. Since then, it has been fundraising for the next phase of critical repairs to bring its kitchen up to code. This phase also supports seismic retrofitting in the restaurant area to ensure the safety of the staff and patrons. If La Peña cannot break ground on this project this year, the negative economic impacts on La Peña, its employees, its tenant restaurant, its artists, and the community it serves will be disastrous. Not only would the inability to make repairs cause permanent layoffs of the Los Cilantros staff, but it would also force La Peña to substantially cut its programming. Such decreases in programming would greatly lower the number of economic opportunities La Peña offers the hundreds of artists of color that teach and perform there.

Over the past year and a half, La Peña has organized a reputable project team consisting of an architect, a general contractor, and a project manager. La Peña has worked with the project team to build out its scope of work and budget to renovate the space. La Peña's comprehensive budget for this project consists of professional fees, the general contractor's scope of work, equipment costs, permit fees, soft costs and a 10% contingency.

La Peña has fundraised twice to keep up with the rising costs of supplies and labor due to COVID-19 and inflation. Thus far, La Peña has raised \$435,000 towards its necessary renovations and secured the permits to break ground this year. La Peña's most recent bid came in this month at over 45% higher than the estimated amount just months ago, bringing the project cost to \$635,000. La Peña is working with a highly recommended general contractor in the area, Cookline, which specializes in building and renovating restaurants. Because La Peña is a nonprofit with limited resources, Cookline has compared the bids from multiple subcontractors and asked for discount rates or donated time when possible. Additionally, La Peña's project manager, Bright Street, has reviewed and approved all bids, confirming that the rising costs align with the cost increases experienced throughout the construction industry. This \$635,000 bid is thus La Peña's best offer and covers only the necessary work.

Having already raised \$435,000, La Peña has exhausted its fundraising sources for this project from its network of funders and donors, and is thus asking the City of Berkeley to contribute the remaining **\$200,000**. With the City's aid, La Peña can begin the necessary repairs and thrive again in this post-pandemic environment.

La Peña's restaurant space is a critical revenue stream for the organization's financial security. These renovations will ensure that La Peña can continue to fulfill its mission: operating a thriving restaurant space that employs Berkeley community members, primarily people of color and immigrants. La Peña is a family business that serves as a pipeline for young people to gain experience in the hospitality industry and grow their careers. Over the years, La Peña's restaurant partners have worked in tandem with La Peña's diverse multicultural programming to support the community and unite people in art, activism, and movement building. La Peña is a historic multicultural hub rooted in the Latinx diaspora and serves as a bridge-building and advocacy center. La Peña relies on its restaurant space to create a table where people can gather and break bread while attending events, dancing, enjoying live music, or learning at a lecture series.

In conclusion, these renovations must happen as soon as possible if La Peña is to operate at its full capacity and preserve a vital portion of its income. These renovations are necessary to maintain safety, comply with health codes, and ensure efficiency. They are not merely for beautification. These upgrades must be undergone to keep the restaurant operating and keep La Peña afloat. La Peña serves underrepresented communities in the Bay Area. By supporting this project, the City of Berkeley would be directly supporting those communities.

Thank you, once again, for your time and consideration on this pressing matter. Please contact us if you have any questions.

Sincerely,

Natalia Neira and Tara Dalbo

Executive Director & Deputy Executive Director  
La Peña Cultural Center  
[Natalia@lapena.org](mailto:Natalia@lapena.org)  
[Tara@lapena.org](mailto:Tara@lapena.org)  
510-849-2568

--  
Natalia Neira Retamal  
Executive Director  
[La Peña Cultural Center](#)  
Berkeley, CA 94705

Stay in touch with us!  
Follow us on [IG](#), [FB](#) & [Twitter](#)  
Sign up for our [Newsletter](#)



November 1, 2022

Honorable Mayor and Members of the City Council,

First and foremost, thank you for your time and consideration, we value both.

La Peña Cultural Center (La Peña) is a nonprofit 501(c)3 organization located in South Berkeley that has served as a multicultural hub for diasporic communities since 1975. La Peña uplifts underrepresented artists and art forms, promotes arts education, and supports community-led social justice movements. The word "Peña" refers to community gatherings centered around music, food, drink, and culture that foster dialogue around current issues. La Peña employs over 40 people, including teaching artists, sound engineers, light technicians and other event staff, administrative staff, interns, and contractors. Through this array of employment opportunities, La Peña focuses on creating job pipelines for its community, which includes many Berkeley residents of color. Through its tenant restaurant program, La Peña provides further job opportunities for small business entrepreneurs and restaurant workers. For the past 8 years, La Peña has leased its restaurant space to Los Cilantros, a family-owned restaurant spearheaded by Chef/Owner Dilsa Lugo, a West Berkeley resident for over a decade.

La Peña has reopened and revitalized its programming after closing during the COVID-19 pandemic. La Peña used the time it was closed to buckle down, dig deep, and improve its internal infrastructure to create a more resilient organization that can weather future storms. Due to this work, La Peña is in a period of recovery and growth; however, it has hit a roadblock in its reopening journey and is asking for the city's support.

La Peña owns its 7,000-square-foot building, with four primary areas: the restaurant space, lounge, community room, and main theater. The building is quite old and in need of multi-phase repairs. La Peña successfully fundraised to update its roof in 2019. Since then, it has been fundraising for the next phase of critical repairs to bring its kitchen up to code. This phase also supports seismic retrofitting in the restaurant area to ensure the safety of the staff and patrons. If La Peña cannot break ground on this project this year, the negative economic impacts on La Peña, its employees, its tenant restaurant, its artists, and the community it serves will be disastrous. Not only would the inability to make repairs cause permanent layoffs of the Los Cilantros staff, but it would also force La Peña to substantially cut its programming. Such decreases in programming would greatly lower the number of economic opportunities La Peña offers the hundreds of artists of color that teach and perform there.

Over the past year and a half, La Peña has organized a reputable project team consisting of an architect, a general contractor, and a project manager. La Peña has worked with the project team to build out its scope of work and budget to renovate the space. La Peña's comprehensive budget for this project consists of professional fees, the general contractor's scope of work, equipment costs, permit fees, soft costs and a 10% contingency.

La Peña has fundraised twice to keep up with the rising costs of supplies and labor due to COVID-19 and inflation. Thus far, La Peña has raised \$435,000 towards its necessary renovations and

La Peña Cultural Center | 3195 Shattuck Ave. Berkeley, CA 94705 | [www.lapena.org](http://www.lapena.org) | 510-849-2568





secured the permits to break ground this year. La Peña's most recent bid came in this month at over 45% higher than the estimated amount just months ago, bringing the project cost to \$635,000. La Peña is working with a highly recommended general contractor in the area, Cookline, which specializes in building and renovating restaurants. Because La Peña is a nonprofit with limited resources, Cookline has compared the bids from multiple subcontractors and asked for discount rates or donated time when possible. Additionally, La Peña's project manager, Bright Street, has reviewed and approved all bids, confirming that the rising costs align with the cost increases experienced throughout the construction industry. This \$635,000 bid is thus La Peña's best offer and covers only the necessary work.

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Thank you, once again, for your time and consideration on this pressing matter.

Sincerely,

Natalia Neira and Tara Dalbo

Executive Director & Deputy Executive Director  
La Peña Cultural Center  
Natalia@lapena.org  
Tara@lapena.org

**Benado, Tony**

---

**From:** Alice Rosenthal <beehappysolutions@gmail.com>  
**Sent:** Tuesday, November 1, 2022 5:37 PM  
**To:** Hargraves, Elaina; Bartlett, Ben; All Council; Berkeley Mayor's Office  
**Subject:** Re: %964045 Illegal Dumping

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

I chased the driver down after he didn't pick them up a second time. Two long pieces of metal, a kids basket ball hoop and some red plastic thing. There is always a lot of dumping and litter at MLK & Prince among other locations along MLK.



I didn't take a photo of the red plastic thing. But he took it all when I explained that it had been dumped.

The driver was upset that I complained about the previous incident when the automatic arm spilled the trash from the trash can all over the ground and he drove off without cleaning it up.

The sanitation supervisor - cesar came out and picked up the trash after I had cleaned the street. I showed him photos as I had found it.

August 17, 2021



I just want to bring this to your attention because the driver said he isn't responsible for picking up trash that falls on the street. He just operates the truck and "he does not carry a broom and dust pan", though it would not have required a broom, just getting out of the truck and bending over to pick it up. I am not making a complaint about that at this time but I do think there should be some clarity with the public or with the drivers/sanitation employees.

My sanitation driver said that "People should put their trash in plastic bags because if they don't, the trash gets stuck at the bottom of the pail and will fall on the road".

My personal thought is that "it is stupid to put trash into plastic bags because plastic is bad for the environment - in addition "why should I have to buy plastic bags to throw them away? That is just adding more plastic to landfill?"

Both perspectives are valid. I am not faulting the sanitation driver for his perspective in spite that I think I am right. The question here is how to have an efficient sanitation service in the City of Berkeley?

Can you please enlighten me as to the "official answer" to this question from the City of Berkeley's perspective.

1. Is it the responsibility of the residents to put their trash into plastic bags before they put them in the plastic trash bins?
2. Is it the responsibility of the sanitation drivers to pick up messes they make in the public streets when trash falls out of a trash can they are picking up?
3. Does the City of Berkeley Sanitation department provide brooms & dustpans to the sanitation drivers (or require them to have them on hand) should they need them to clean up after they accidentally drop trash in the street.
4. If it is not the responsibility of the sanitation driver to pick up trash they accidentally dump in the street - because a resident does not place their trash into a trash bag before placing their trash in their trash can, are they supposed to report the incident to another city body for clean up?
5. Is it acceptable for the sanitation drivers to leave trash cans laying down in the road on their side?
6. Doesn't this mean that the driver is not competent at operating the machine arm?
7. How much does a Sanitation Driver earn?

Please send a link to their job description.

I would really like to know the answers to these questions so that my experience with the City of Berkeley sanitation can be more effective and positive.

Thank you for your time. I would love to get the written answers to the above questions but I am visually impaired and am slow to catch up on my email reading. A phone call is always welcomed.

Sincerely

On Tue, Oct 25, 2022 at 1:57 PM Hargraves, Elaina <[EHargraves@cityofberkeley.info](mailto:EHargraves@cityofberkeley.info)> wrote:

Hello Alice,

311 received the following message:

Address: 1837 PRINCE AT MLK

Add'l Notes: People illegally dumped items in front of my property and I'd like it picked up with my trash tomorrow

What items were illegally dumped?

**Elaina M. Hargraves**

Customer Service Specialist III

City of Berkeley Customer Service

Phone: (510) 981-2489

Fax: (510) 981-7220

[www.berkeleyca.gov](http://www.berkeleyca.gov)

*311 Customer Service Call Center is operating in an essential services capacity with reduced staff and will remain available by phone and email Monday - Friday between 8:30am and 4:30pm.*

*As a result, response times may take up to two business days. If you need immediate assistance, please contact our office at 510-981-2489.*

--

Alice Rosenthal  
Bee Happy Solutions  
1837 Prince St  
Berkeley, CA 94703  
415-272-0596

**Benado, Tony**

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**From:** Diana <nicca@igc.org>  
**Sent:** Tuesday, November 8, 2022 8:00 AM  
**To:** All Council; Manager, C  
**Subject:** Please fully fund and implement Ceasfire in Berkeley!!

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Please fully fund and implement Ceasfire in Berkeley!!

Sincerely,

Diana Bohn

**Benado, Tony**

---

**From:** Susanna Lamaina <susannalamaina@yahoo.com>  
**Sent:** Wednesday, November 9, 2022 8:33 PM  
**To:** All Council  
**Subject:** People's Park Landmark

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear City Officials,

Not only is People's Park a longtime city landmark, it is on the National Register of Historic Places, and has an important role in history worldwide. Why would you refuse to acknowledge the park's placement on the register, which should have been done last Spring?

I remind you that People's Park has been an official city landmark for almost four decades, and that we all want the national landmark status to be on the ceremonial agenda of the city council meeting.

In case you have forgotten on November 19, 1984 the Notice of Decision by the City of Berkeley Landmarks Preservation Commission, declared People's Park a landmark for its historic and cultural importance to Berkeley,

You can read it here. [City of Berkeley Landmarks Preservation Commission Notice of Decision, People's Park as Landmark, 1984 – People's Park](#)

Peace.

**Benado, Tony**

---

**From:** Joshua Hart <joshuahart@baymoon.com>  
**Sent:** Wednesday, November 9, 2022 6:09 PM  
**To:** All Council  
**Subject:** people's park

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear City of Berkeley,

People's Park has been an official city landmark for almost four decades— please put the national landmark status on the ceremonial agenda of the city council meeting.

Thank you,  
Josh Hart

Portola, CA



**Benado, Tony**

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**From:** Susan Stevens <sstvsusan@netscape.net>  
**Sent:** Wednesday, November 9, 2022 4:58 PM  
**To:** All Council  
**Subject:** Clean up People's Park and build the housing for the students and the unhoused

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

According to the press there are 535 unhoused individuals living in Berkeley, CA. When the construction of the 125 units at People's Park is completed almost one quarter of them will be housed... at NO cost to the city.

Please move forward and assure that the University builds the greatly needed housing for both the students and the unhoused ASAP.

Please explain the delay.

Susan

Susan Stevens  
Sstvsusan@netscape.net  
913.708.4366

**Benado, Tony**

---

**From:** sandra morey <sandi.morey@gmail.com>  
**Sent:** Thursday, November 10, 2022 10:55 AM  
**To:** All Council  
**Subject:** People's Park is our National Heritage and should be listed as a National Heritage Site

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

As a long time resident of Oakland, forty some years ago I was present at the struggles over this small park. The police response was overwhelming and a friend of mine was killed in the aftermath. He rode a motorcycle and was knocked off his bike when he was moving to get out of the way. Someone had stolen his helmet and his head injuries were so severe that he died. Many Californians have participated over the decades in struggles to protect the park. Recently, even though it has been ok'd to be on the list of National Heritage Historical Sites, it continues to remain unlisted. Recently, many trees and plants that we planted 40 years ago have been ripped up and taken down even though they were flourishing. To this day, People's Park continues to operate with many people putting in time and energy for the dream we had and continue to have for a community run park which provides shelter, nourishment, music and so much more. People's Park is a huge tourist draw, much like the Haight Ashbury in San Francisco. It adds to the economy of the lively street scent which is Telegraph Ave. Please allow the listing of People's Park to go through so it can receive the recognition it deserves. Thank you for your kind attention.

Sandra Morey  
Oakland CA 94602

**Benado, Tony**

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**From:** Norma J F Harrison <normaha@pacbell.net>  
**Sent:** Sunday, November 13, 2022 4:02 PM  
**To:** All Council  
**Subject:** pp, the caning shop

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

you who would build housing on Peoples Park

And you who think it's OK for the amplified bass coming from the eighth Street caning shop

Those are very bad things to do

you several are wrong and very bad.

Same for that blue fleet to fly.

same for the evenings of fireworks made by desperate politicians trying to appear appropriate.

A few of us less alienated by the popular propaganda advertising schooling tell you it's terrible to keep doing this as though we want it. We don't want it.

(this in lieu of saying very bad words/phrases to you at you)

Norma J F Harrison [www.peaceandfreedom.org](http://www.peaceandfreedom.org)

510-526-3968

**Benado, Tony**

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**From:** Getting it Right from the Start <gettingitright@phi.org>  
**Sent:** Thursday, November 10, 2022 9:48 AM  
**To:** Berkeley Mayor's Office; All Council; Manager, C; City Clerk; Health, Housing & Community Services; Klein, Jordan; Planning Dept. Mailbox; City Attorney's Office; Mariscal, Cecelia  
**Cc:** Jason Soroosh; Alisa Padon  
**Subject:** Getting it Right from the Start Presents: 2022 California Local Cannabis Policy Scorecards  
**Attachments:** 2022 Cannabis Policy Scorecard Methodology Summary & Best Practices in Action Map.pdf; Berkeley.pdf

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear California City/County Officials,

Getting it Right from the Start<<https://gettingitrightfromthestart.org/>>, a project of the Public Health Institute, is pleased to announce the official release of our 2022 Local Cannabis Policy Scorecards for each California jurisdiction that allows storefront and/or delivery retail cannabis sales; your jurisdiction's scorecard is attached and those of all jurisdictions by county are now available at <https://gettingitrightfromthestart.org/custom/map-2022.html>.

Since 2018 we have collected annual information on the cannabis retail, marketing and taxation policies passed by all cities and counties in California, using resources including CannaRegs (a commercial database), municipal codes and jurisdictions' websites. Using these resources, along with direct feedback received from jurisdictions, we have developed a set of "scorecards" for every California jurisdiction that allowed cannabis retail sales at storefronts or by delivery. These scorecards measure how far jurisdictions have gone beyond state law to promote public health and advance social equity. They are modeled off the "State of Tobacco Control" report cards long used by the American Lung Association to promote local action for tobacco control. We hope they will serve as a useful roadmap for community leaders such as yourselves to promote a safer cannabis market. Please note that policies evaluated in our 2022 Local Cannabis Policy Scorecards were those passed by January 1, 2022; policy changes passed after January 1, 2022, are not reflected - they will be in the 2023 scorecard.

To advance and evaluate to what extent potential best practices were adopted to protect youth, promote public health, and advance social equity, scores are based on six public health and equity-focused categories. A summary of the methodology, along with your jurisdiction's scorecard and a map with concrete examples of best practices adopted by your fellow California cities and counties, are enclosed. A comprehensive explanation of our methodology can be found on our website at: <https://gettingitrightfromthestart.org/custom/map-2022.html>.

We realize these scorecards can't capture all the ways local governments are implementing their laws, inspecting cannabis businesses, or funding prevention and implementation, which we recognize many local governments staff work hard to do, but they seek to accurately reflect your laws.

To pursue our collective goal of developing more equitable and public health centered cannabis policy, we offer free technical assistance, supported by the Conrad N. Hilton Foundation, and have developed tools and resources for your benefit, including three model local ordinances<<https://www.gettingitrightfromthestart.org/our-model-ordinances>> for California on cannabis retail, marketing and taxation, a comprehensive policy map<[http://gettingitrightfromthestart.org/wp-content/uploads/2022/11/2022BestPracticesinActionMap\\_10-31-22.pdf](http://gettingitrightfromthestart.org/wp-content/uploads/2022/11/2022BestPracticesinActionMap_10-31-22.pdf)> to help take advantage of the good work of your neighbors, and a listserv<<https://gettingitrightfromthestart.org/contact/>> dedicated to maximizing all our efforts and sharing learning. We hope these resources help jurisdictions to allow legal sale without promoting the development of a new tobacco-like industry in our state.

Please let us know if we can be of assistance to your jurisdiction and don't hesitate to address any questions or feedback to Aurash Soroosh, at [jsoroosh@phi.org](mailto:jsoroosh@phi.org)<<mailto:jsoroosh@phi.org>>.

The Getting it Right from the Start team:

Alisa A. Padon, PhD, Research Director

Aurash J. Soroosh, RD, MSPH, Policy Associate

Kiara Gonzalez Garcia, Program Coordinator

Zack Kaldveer, Communications Manager

Lynn Silver, MD, MPH, FAAP, Director

Getting it Right from the Start

Public Health Institute

2000 Center Street, #308

Berkeley, CA 94704

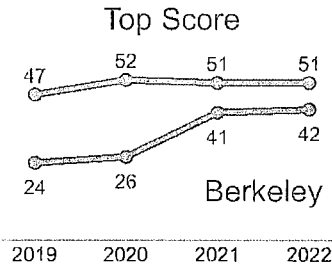
# Cannabis Policy

## 2022 SCORECARD

Berkeley



This scorecard analyzes local cannabis ordinances passed prior to January 1, 2022, in each California city or county that legalized storefront retail sales, to assess policies in effect going into 2022. It evaluates to what extent potential best practices were adopted to protect youth, reduce problem cannabis use and promote social equity beyond those already in state law. Scores fall into six public health and equity focused categories for a total maximum of 100 points.



Policy Adopted  
 No Policy Adopted  
 Weaker than State Law

| RETAILER REQUIREMENTS                          |   | TAXES & PRICES                                                |   | PRODUCT LIMITS                                                 |   | MARKETING                                   |   | SMOKE-FREE AIR                           |   | EQUITY & CONFLICTS OF INTEREST                   |   |
|------------------------------------------------|---|---------------------------------------------------------------|---|----------------------------------------------------------------|---|---------------------------------------------|---|------------------------------------------|---|--------------------------------------------------|---|
| Limit # of retailers (max. 10 pts)             | 8 | Local retail tax (6 pts)                                      | 6 | Limit high potency products (max. 6 pts)                       | 0 | Limit billboards (max. 6 pts)               | 3 | Prohibit temporary event permits (3 pts) | 0 | Licensing priority for equity applicants (3 pts) | 3 |
| Require distance >600 ft. from schools (5 pts) | 5 | Revenue dedicated to youth, prevention or equity (max. 3 pts) | 0 | <b>END THE CANNABIS KIDS MENU</b>                              |   | Prominent health warnings on ads (4 pts)    | 0 | Prohibit on-site consumption (3 pts)     | 0 | Equity in hiring requirements (3 pts)            | 0 |
| Require distance between retailers (2 pts)     | 2 | Fax by title content (3 pts)                                  | 0 | No flavored products for combustion or inhalation (max. 5 pts) | 0 | Limit therapeutic or health claims (3 pts)  | 0 |                                          |   | Cost deferrals for equity applicants (1 pt)      | 0 |
| Other location restrictions (max. 3 pts)       | 3 | Prohibit discriminating (2 pts)                               | 0 | No cannabis-infused beverages (5 pts)                          | 0 | Business signage restrictions (3 pts)       | 3 |                                          |   | No prescriber on retail premises (1 pt)          | 1 |
| Health warnings posted in store (4 pts)        | 4 | Minimum price (1 pt)                                          | 0 | Limit other products/packaging attractive to youth (2 pts)     | 0 | Limit marketing attractive to youth (2 pts) | 0 |                                          |   | No prescriber in ownership (1 pt)                | 0 |
| Health warnings handed out (4 pts)             | 4 |                                                               |   |                                                                |   |                                             |   |                                          |   |                                                  |   |
| 26                                             |   | 6                                                             |   | 0                                                              |   | 6                                           |   | 0                                        |   | 4                                                |   |

**TOTAL SCORE = 42**



## 2022 SCORECARD METHODOLOGY

Based on the best available research, we identified **six primary categories of policies** where local government can act to protect youth, public health, and equity if they opted to allow cannabis retail commerce. Criteria with the greatest potential for achieving these goals receive higher points, based on evidence from tobacco, alcohol and/or cannabis research. Cannabis laws of all California cities and counties passed by January 1st, 2022 were scored, using legal databases including Municode and Cannaregs, as well as municipal websites, accompanied by direct outreach to county or city clerks when needed. The maximum score possible was 100.

- 1) **RETAILER & DELIVERER REQUIREMENTS:** Strategic limits on cannabis retailers can decrease youth use and exposure to cannabis.
  - **Caps on Retailers (10 points max).** Limit the number of licensed retailers, we used the ratio to number of inhabitants
  - **Distance from Schools (5 points).** Mandate a distance greater than 600 feet between K-12 schools and retailers
  - **Retailer Buffers (2 points).** Mandate a required distance between retailers
  - **Other Location Restrictions (3 points).** Mandate required distance between retailers and other youth serving locations not covered by state law such as parks, playgrounds, or universities, or other locations such as residential areas.
  - **Health Warnings Posted in Stores OR Handed Out to Customers (4 points each).** Mandate retailers post and/or hand out health warnings informing consumers of relevant risks at point of sale

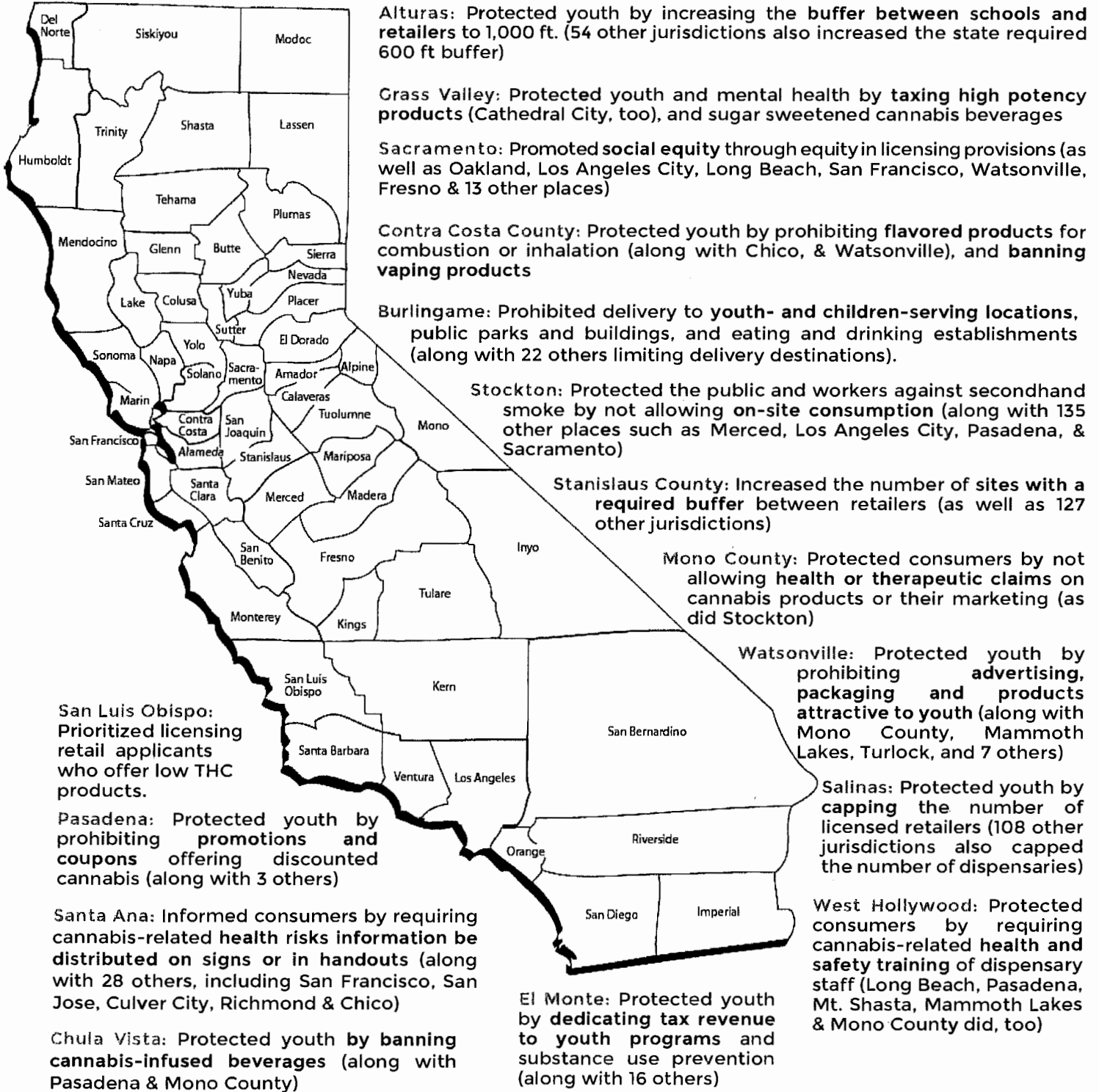
**Delivery-only requirements:**

  - **Local Permit (12 points max).** Mandate a local permit be obtained by deliverers originating within and outside the jurisdiction
  - **Medical Cannabis Sales (3 points).** Allow delivery sales of medicinal cannabis
  - **Independent ID Verification Process (10 points max).** Mandate use of an independent age and identity verification process before cannabis delivery
  - **Delivery Destinations (10 points max).** Limit where deliveries can terminate, i.e., no delivery to college dormitories
- 2) **TAXES & PRICES:** Taxes & higher prices can decrease youth access while raising valuable revenue for local communities.
  - **Local Cannabis Tax (6 points).** Impose a local tax on cannabis retail
  - **Dedicated Tax Revenue (6 points max).** Dedicate tax revenue to youth, prevention, or reinvestment in communities mostaffected by the war on drugs
  - **Tax by THC Content (5 points).** Impose higher tax rates for high potency (high THC) products (if sale is allowed)
  - **Discounting (2 points).** Prohibit discounting on cannabis such as coupons or discount days
  - **Minimum Price (1 point).** Establish a minimum price floor for cannabis
- 3) **PRODUCT LIMITS:** End the Cannabis Kids Menu of products that appeal to youth and limit products which increase adverse effects.
  - **Limit Potency (6 points max).** Prohibit sale of high potency cannabis flower and products through bans or ceilings
  - **Flavored Products (Non-Edibles) (5 points).** Prohibit sale of flavored combustible or inhalable (non-edible) products
  - **Cannabis-Infused Beverages (4 points).** Prohibit sale of cannabis-infused beverages
  - **Products Attractive to Youth (2 points).** Prohibit sale of products attractive to youth more clearly than state law
- 4) **MARKETING:** Limited exposure to marketing to decrease youth use and provide accurate warnings to inform consumers.
  - **Billboards (6 points max).** Restrict or prohibit the use of billboards to advertise cannabis
  - **Health Warnings on Ads (4 points).** Require health warnings on all cannabis advertisements
  - **Therapeutic or Health Claims (3 points).** Prohibit the use of therapeutic or health claims on cannabis products, packages, or ads
  - **Business Signage Restrictions (3 points).** Restrict on-site business advertising
  - **Marketing Attractive to Youth (2 points).** Detailed restrictions on packaging or advertising attractive to youth
- 5) **SMOKE-FREE AIR:** Smoke-free air policies can improve air quality, protect kids, and reduce secondhand smoke exposure.
  - **Temporary Events (5 points).** Prohibit temporary cannabis events such as at county fairs or concerts in parks
  - **On-Site Consumption (3 points).** Prohibit on-site cannabis consumption, whether by smoking, vaping or use of edibles
- 6) **EQUITY & CONFLICTS OF INTEREST:** Cannabis policy can promote social equity and reduce conflicts of interest.
  - **Priority in Licensing (3 points).** Prioritize equity applicants when issuing cannabis business licenses
  - **Equity in Hiring (3 points).** Require hiring to prioritize low-income, transitional, or other workers from communities disadvantaged by the war on drugs
  - **Cost Reduction/Deferral (1 point).** Reduce/defer the costs of cannabis business licenses for equity applicants
  - **Prescribers (1 point each).** Prohibit on-premises patient evaluations and prescriber ownership of retailers

# THE STATE OF CANNABIS POLICY IN CALIFORNIA'S CITIES & COUNTIES in 2022



Examples of what your neighbors are doing to protect youth, public health, and social equity





**Benado, Tony**

---

**From:** John J. Parman <j2parman@gmail.com>  
**Sent:** Wednesday, November 9, 2022 10:39 PM  
**To:** Berkeley Mayor's Office; All Council  
**Subject:** North Berkeley BART developer selection

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Mayor and Council,

I recently heard a presentation of the El Cerrito Plaza BART Station redevelopment by its chosen team. Despite El Cerrito having an area plan and the desire to use the project to enhance its downtown, there was very little evidence that thought was given to the larger context. Gestures were strictly tokenism - a small park here, a notch in a building's roof there. The site plan was rigidly parcelized for convenient financing, with the below-market units shunted to the El Cerrito Plaza side, along Fairmont, instead of integrating those units with the other buildings, a recognized best practice.

I mention this because El Cerrito Plaza BART's redevelopment is likely to be seen as a precedent by North Berkeley BART's redevelopment team. What's proposed there makes MacArthur Station's redevelopment look like a work of genius. It isn't, but it's far better than what's proposed in El Cerrito.

When Gavin Newsom became San Francisco Mayor, he took the immediate step of telling the developer community that he was unwilling to tolerate mediocrity in new development. Literally overnight, an architecture firm with a reputation for getting entitlements through the city's hoops was out and much, much better architects - local and national - were in. What resulted was vastly better than if Newsom had stayed silent. You as Mayor and Council of Berkeley have similar persuasive power. If you demand real quality in the BART stations' redevelopments (Ashby and North Berkeley), you'll get it, but you have to say it loud and clear - demand it from the chosen teams. Otherwise, they will give you standard-issue crap. Don't accept it!

(Note: this is not about density or height. Good developers and their architects can make great buildings with a 7- to 12-story mix. Mediocre ones will give you a set of undistinguished boxes - see El Cerrito Plaza BART for an example.)

Yours, John

(John Parman, 1428 Arch St., 94708)

**Benado, Tony**

---

**From:** Peggy Radel <peggy@paradel.org>  
**Sent:** Friday, November 11, 2022 3:42 PM  
**To:** Shannon Dodge, BART; All Council  
**Subject:** Re: NB Developer Candidate Presentations Confirmation

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear All- I attended the meeting last night by Zoom, leaving a response about Team 1 vs Team 2, and I forgot one very important point.

Team 1 said they would continue to own and manage their properties. Team 2 did not say that.

I think it is very important that the team developing the site would continue to have a stake in its well being after being built.

Thank you,

Peggy Radel

**From:** "Shannon Dodge, BART" <no-reply@zoom.us>  
**Reply-To:** "Shannon Dodge, BART" <sdodge@bart.gov>  
**Date:** Thursday, November 10, 2022 at 6:44 PM  
**To:** Peggy Radel <peggy@paradel.org>  
**Subject:** NB Developer Candidate Presentations Confirmation

Hi Peggy Radel,

Thank you for registering for "NB Developer Candidate Presentations".

Please submit any questions to: [sdodge@bart.gov](mailto:sdodge@bart.gov)

Date Time: Nov 10, 2022 07:00 PM Pacific Time (US and Canada)

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this link to join the webinar with streaming audio:

[https://us06web.zoom.us/j/89467086970?tk=MoE9ssfo12IL9xZzSL2YmlyQqXBZi\\_nrT5ildz4fvzQ.DQMMAAAU1Kdoe](https://us06web.zoom.us/j/89467086970?tk=MoE9ssfo12IL9xZzSL2YmlyQqXBZi_nrT5ildz4fvzQ.DQMMAAAU1Kdoe)

Note: This link should not be shared with others; it is unique to you.

[Add to Calendar](#) [Add to Google Calendar](#) [Add to Yahoo Calendar](#)

You can [cancel](#) your registration at any time.

**Benado, Tony**

---

**From:** Alexander (Alex) Merenkov <alexmerenkov@gmail.com>  
**Sent:** Thursday, November 10, 2022 7:55 AM  
**To:** All Council; Harrison, Kate  
**Subject:** Berkeley Half Marathon Impacts

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hi Kate and council,

Could the city see if the organizers of this event can move the start up one block to Allston or even better to Center street(where there are no residential units)?

It's extremely loud for us at K Street Flats at 7am and wakes everyone up. It is hell. The last few years I've been leaving town to avoid the incredible noise and chaos but that in itself is also an inconvenience this weekend because of an engagement on Centennial that I have.

Most of us in the building had been overjoyed when this got cancelled from smoke and then several years of Covid. Im sure I'm not alone in my feelings but others have the benefit of not sleeping 20 feet from the start line.

Thanks for hearing my concerns and complaints.

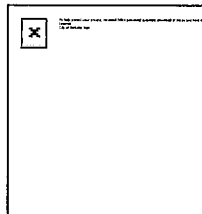
-Alex Merenkov

----- Forwarded message -----

**From:** **City of Berkeley** <[news@news.berkeleyca.gov](mailto:news@news.berkeleyca.gov)>  
**Date:** Wed, Nov 9, 2022 at 4:13 PM  
**Subject:** Berkeley Half Marathon on Nov. 13: Street closures, bus route info  
**To:** <[alexmerenkov@gmail.com](mailto:alexmerenkov@gmail.com)>

**November 9, 2022**

[View this message as a webpage](#)



SERVICES. RESOURCES. COMMUNITY.

**News from the City of Berkeley**

## **Berkeley Half Marathon on Nov. 13:** **Street closures, bus route info**

*Plan for alternate routes, delays, and parking restrictions as thousands of runners fill Berkeley streets on race weekend. Some closures start at 1:00 pm, November 12. Race starts at 7:30 a.m. on Sunday, November 13.*

---

Your route through Berkeley may be changed during the Berkeley Half Marathon on November 13, when certain streets will be closed and bus routes changed to make way for the thousands of runners winding their way through our city.

Move your vehicles off the affected streets well before the closure time, take note of parking restrictions, and make plans to use alternate routes during the affected times, which vary depending on the street and route.

To minimize impact, most affected streets will be closed and opened as runners move through on race day. The Berkeley Police Department and event personnel will be monitoring the course during these times.

### **Parking restrictions and areas affected by race day activities**

The bulk of streets will be affected starting 7:00 am Sunday morning, with select closures near Civic Center Park happening on Saturday at 1:00 pm and 5:00 pm.

All races start at Milvia and Kittredge; the half marathon starts at 7:30 am and the 5K/10K both start at 8:30 am. The awards ceremony and [Finish Line Festivities & Ceremony](#) are scheduled to take place at Civic Center Park from 9:00 am to 1:00 pm.

Be aware that there will be restricted parking along portions of the route. We encourage you to pay attention to temporary "no parking" signs and to park outside of the course area beginning the evening of Saturday, November 12 to avoid ticketing and towing.

### **Streets closed for Half Marathon**

Review the detour and closure information below. Do not plan to drive your car along the course during these times. [Visit the Berkeley Half Marathon's Street closure and detour page](#) for updated information. Since bus routes will be disrupted throughout Berkeley during the half marathon, visit the [AC Transit detour page](#) or ACT RealTime for real-time disruption information.

### **Closures on November 13**

- **Hwy 80, Eastbound off ramp to Eastbound University Ave:** closed 6:00 am to 12:00 pm.

- **Hwy 80, westbound off ramp to University Ave:** closed 6:00 am to 12:00 pm. Use Gilman or Ashby exits from Hwy 80.
- **Off ramps from Hwy 80/Ashby Ave to Frontage Rd:** closed 6:00 am to 12:00 pm.
- **Frontage Rd. from University Ave. to Ashby exit:** from 6:00 am to 12:00 pm.
- **MLK northbound will be closed at Channing Way:** from 7:00 am to 2:00 pm.
- **MLK southbound will be diverted at Allston Way:** from 7:00 am to 2:00 pm.
- **MLK, local access:** southbound access between Allston Way and Channing Way, from 7:00 am-1:00 pm.

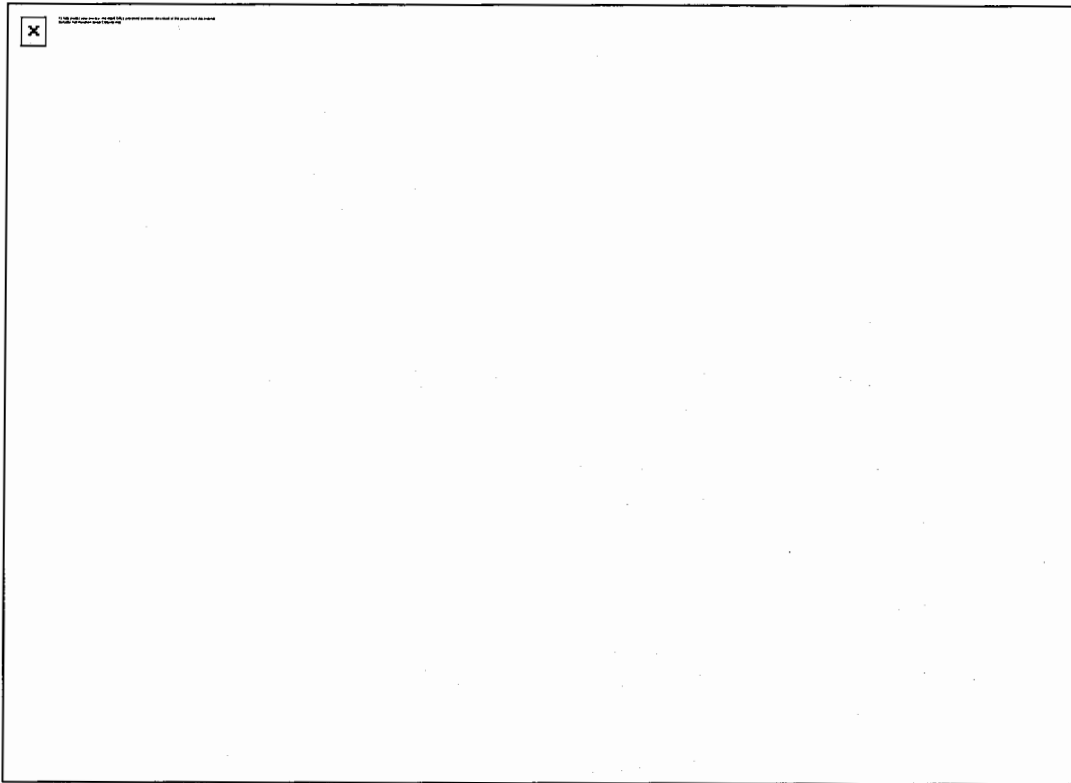
### **Intermittent Access Points**

Please allow extra travel time through these areas.

- **Shattuck Ave. North/South traffic at Channing:** Intermittent access allowed from 8:00 am to 9:30 am.
- **University Ave traffic going East/West, across Shattuck:** Intermittent access allowed from 7:00 am to 8:30am. University Ave traffic going East will be closed at MLK from 8:30 am to 10:30 am.
- **San Pablo Avenue:** Intermittent access allowed from 8:00 am to 12:00 pm across these intersections.
- **North/South traffic across Page and Jones on San Pablo**
- **North/South traffic across Bancroft and Channing on San Pablo**
- **Sacramento Ave:** Intermittent access for North/South travelers from 8:00 am to 12:00 pm.
- **North/South traffic across Sacramento at Bancroft and Channing**

For event questions please refer to [Berkeley Half Marathon website](#), or email [customersupport@berkeleyhalfmarathon.com](mailto:customersupport@berkeleyhalfmarathon.com).

A map is below, with the detours marked in orange. You can also see a [larger map](#).



*High-resolution map image*

The following streets will be closed during portions of the half marathon.  
See a [detailed closure schedule](#).

| <b>Street</b> | <b>From</b>  | <b>To</b>    | <b>Start Date</b> | <b>Start Time</b> | <b>End Date</b> | <b>End Time</b> |
|---------------|--------------|--------------|-------------------|-------------------|-----------------|-----------------|
| Center St.*   | MLK Jr. Way  | Milvia St.   | 11/12             | 5:00 PM           | 11/13           | 5:00 PM         |
| Allston St.*  | MLK Jr. Way  | Harold Way   | 11/12             | 1:00 PM           | 11/13           | 5:00 PM         |
| Kittredge*    | Milvia St.   | Harold Way   | 11/12             | 5:00 PM           | 11/13           | 5:00 PM         |
| Milvia St.*   | Addison St   | Bancroft Way | 11/12             | 5:00 PM           | 11/13           | 5:00 PM         |
| Milvia St.    | Bancroft Way | Channing Way | 11/13             | 6:30 AM           | 11/13           | 11:00 AM        |
| Milvia St.    | Channing Way | Haste St.    | 11/13             | 7:00 AM           | 11/13           | 9:00 AM         |
| Haste St.     | Milvia St.   | Atherton     | 11/13             | 7:00 AM           | 11/13           | 9:00 AM         |
| Fulton St.    | Channing Way | Ashby Ave    | 11/13             | 7:00 AM           | 11/13           | 9:00 AM         |

|                      |                  |                  |       |         |       |          |
|----------------------|------------------|------------------|-------|---------|-------|----------|
| Russell St           | Wheeler St       | Telegraph Ave.   | 11/13 | 7:00 AM | 11/13 | 9:00 AM  |
| Telegraph Ave.**     | Howe St          | Dwight Way       | 11/13 | 7:15 AM | 11/13 | 9:15 AM  |
| Telegraph Ave.       | Dwight Way       | Bancroft Way     | 11/13 | 7:15 AM | 11/13 | 9:30 AM  |
| Bancroft Way         | Dana St          | Bowditch St      | 11/13 | 7:20 AM | 11/13 | 9:35 AM  |
| Sather Rd            | Bancroft Way     | South Dr         | 11/13 | 7:00 AM | 11/13 | 10:00 AM |
| South Dr             | Sather Rd        | Minor Ln         | 11/13 | 7:00 AM | 11/13 | 10:00 AM |
| Oppenheimer Way      | South Dr         | University Dr    | 11/13 | 7:00 AM | 11/13 | 10:00 AM |
| Hearst Mining Circle | University Dr    | Donner Dr        | 11/13 | 7:00 AM | 11/13 | 10:00 AM |
| University Dr        | Gayley Rd        | Crescent Lawn    | 11/13 | 7:00 AM | 11/13 | 10:00 AM |
| Crescent Lawn        | Oxford St        | University Ave   | 11/13 | 5:00 AM | 11/13 | 10:00 AM |
| Oxford St.           | Center St.       | Hearst Ave       | 11/13 | 7:25 AM | 11/13 | 9:50 AM  |
| University Ave.      | Milvia St.       | Oxford St.       | 11/13 | 7:30 AM | 11/13 | 10:00 AM |
| Shattuck Ave.**      | Center St.       | University Ave.  | 11/13 | 7:30 AM | 11/13 | 10:10 AM |
| Shattuck Ave.**      | Addison St       | Rose St.         | 11/13 | 7:30 AM | 11/13 | 10:00 AM |
| Shattuck Ave.        | Rose St.         | Amador Ave.      | 11/13 | 7:30 AM | 11/13 | 10:00 AM |
| Amador Ave.          | Shattuck Ave.    | Mariposa Ave.    | 11/13 | 7:30 AM | 11/13 | 9:20 AM  |
| Mariposa Ave.        | Amador Ave.      | Los Angeles Ave. | 11/13 | 7:30 AM | 11/13 | 9:30 AM  |
| Los Angeles Ave.     | Mariposa Ave.    | Marin Ave.       | 11/13 | 7:30 AM | 11/13 | 9:30 AM  |
| Marin Ave.**         | Los Angeles Ave. | Monterey Ave.    | 11/13 | 7:35 AM | 11/13 | 9:35 AM  |

|                   |                 |                                   |       |          |       |          |
|-------------------|-----------------|-----------------------------------|-------|----------|-------|----------|
| Monterey Ave.**   | Marin Ave.      | Posen Ave                         | 11/13 | 7:35 AM  | 11/13 | 9:45 AM  |
| Monterey Ave.     | Posen Ave       | Hopkins                           | 11/13 | 7:35 AM  | 11/13 | 9:45 AM  |
| Hopkins St.**     | Monterey Ave.   | Gilman St.                        | 11/13 | 7:35 AM  | 11/13 | 9:50 AM  |
| Gilman St.        | Hopkins St.     | Santa Fe Ave.                     | 11/13 | 7:40 AM  | 11/13 | 9:55 AM  |
| Santa Fe Ave.     | Gilman St.      | Page St.                          | 11/13 | 7:40 AM  | 11/13 | 10:00 AM |
| Page St.          | Santa Fe Ave.   | 10th St.                          | 11/13 | 7:40 AM  | 11/13 | 10:05 AM |
| Kains Ave.        | Page St.        | Jones St.                         | 11/13 | 7:40: AM | 11/13 | 10:05 AM |
| Jones St.         | Kains Ave.      | 4th St.                           | 11/13 | 7:45 AM  | 11/13 | 10:20 AM |
| 10th St.          | Page St.        | Jones St.                         | 11/13 | 7:40 AM  | 11/13 | 10:05 AM |
| 4th St.           | Page St.        | University Ave.                   | 11/13 | 7:40 AM  | 11/13 | 10:20 AM |
| University Ave.** | 6th St.         | Frontage Rd.                      | 11/13 | 7:00 AM  | 11/13 | 11:30 AM |
| HWY 80**          | Exit Ramp       | Frontage Rd.                      | 11/13 | 6:00 AM  | 11/13 | 12:00 PM |
| Frontage Rd.      | University Ave. | Berkeley/<br>Emeryville<br>Border | 11/13 | 7:00 AM  | 11/13 | 11:30 AM |
| 6th St.           | University Ave. | Addison Way                       | 11/13 | 8:00 AM  | 11/13 | 11:30 AM |
| Addison St        | Shattuck Ave.   | Milvia St.                        | 11/13 | 8:00 AM  | 11/13 | 10:30 AM |
| Addison Way       | 6th St.         | 7thSt.                            | 11/13 | 8:00 AM  | 11/13 | 11:30 AM |
| 7thSt.            | Addison Way     | Bancroft Way                      | 11/13 | 8:05 AM  | 11/13 | 11:30 AM |
| Bancroft Way      | 7th St.         | Curtis St.                        | 11/13 | 8:05 AM  | 11/13 | 11:30 AM |
| 10th St.          | Bancroft Way    | Channing Way                      | 11/13 | 8:05 AM  | 11/13 | 11:30 AM |



|                               |               |               |       |         |       |          |
|-------------------------------|---------------|---------------|-------|---------|-------|----------|
| Channing Way                  | 10th St.      | Curtis St.    | 11/13 | 8:05 AM | 11/13 | 11:30 AM |
| Curtis St.                    | Bancroft Way  | Channing Way  | 11/13 | 8:05 AM | 11/13 | 11:30 AM |
| Channing Way                  | Curtis St.    | Spaulding Ave | 11/13 | 8:10 AM | 11/13 | 11:40 AM |
| Edwards St.                   | Channing Way  | Bancroft Way  | 11/13 | 8:10 AM | 11/13 | 11:40 AM |
| Bancroft Way                  | Edwards St    | Spaulding Ave | 11/13 | 8:10 AM | 11/13 | 11:40 AM |
| Spaulding Ave.                | Channing Way  | Allston Way   | 11/13 | 8:10 AM | 11/13 | 11:50 AM |
| Allston Way                   | Spaulding Ave | Jefferson Ave | 11/13 | 8:10 AM | 11/13 | 11:50 AM |
| Jefferson Ave                 | Allston Way   | Bancroft Way  | 11/13 | 8:15 AM | 11/13 | 11:55 AM |
| Bancroft Way                  | Jefferson Ave | McKinley Ave. | 11/13 | 8:15 AM | 11/13 | 11:55 AM |
| McKinley Ave.                 | Bancroft Way  | Channing Way  | 11/13 | 8:15 AM | 11/13 | 11:55 AM |
| Channing Way                  | McKinley Ave. | Milvia St.    | 11/13 | 8:20 AM | 11/13 | 12:00 PM |
| Martin Luther King, Jr. Way** | Channing Way  | Allston Way   | 11/13 | 4:00 AM | 11/13 | 2:00 PM  |

\* Street closure begins 11/12

\*\* Partial closure

## Links

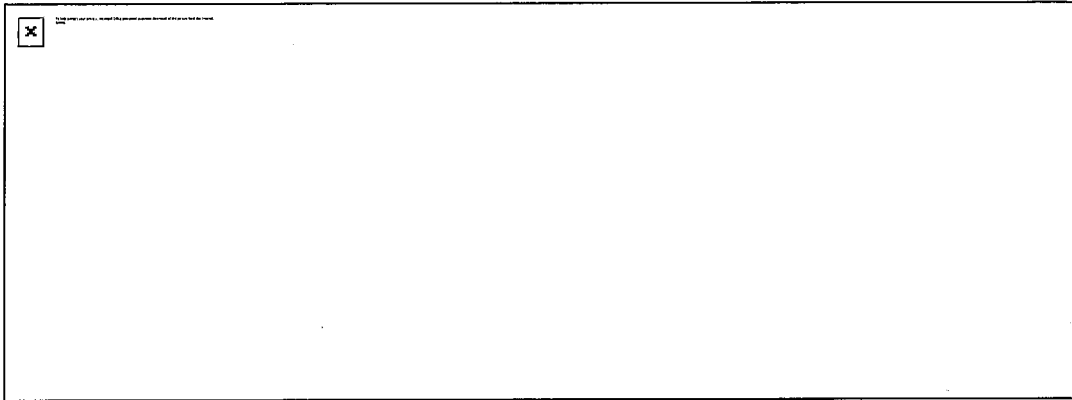
- [Berkeley Half Marathon website](#)
- [Detailed closure schedule](#)
- [Finish Line Festivities & Ceremony](#)
- [AC Transit race day detours](#)

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## **Apply by Nov. 29 for seismic retrofit grants**



Income-qualified households can get reimbursed for the full cost of a seismic upgrade to their home, while others can qualify for up to \$3,000 for making their foundations more resilient to earthquakes.

To qualify for a lottery to get these refunds, Berkeley homeowners should sign up for the state's Earthquake Brace + Bolt rebate program by November 29. Those households with annual incomes below \$72,080 can qualify for up to 100 percent of the seismic retrofit cost.

### **Apply online for Earthquake Brace + Bolt**

*Phone:* (877) 232-4300

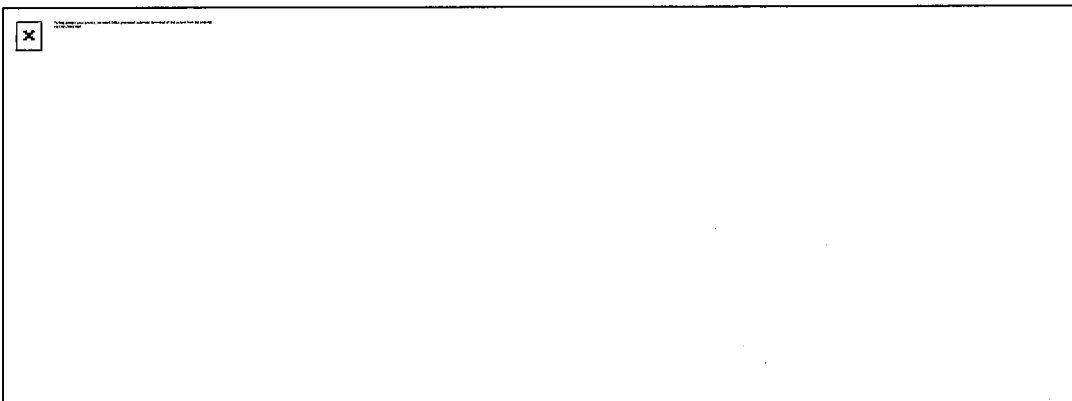
*Eligibility:* owner-occupied single-family residences and small multifamily buildings (1-4 units) in Berkeley and other eligible zip codes

Bracing and bolting have a big impact in a community like Berkeley, where older homes may not have the seismic protections required of newer construction.

**[Read more at berkeleyca.gov.](http://berkeleyca.gov)**

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## **City run vaccine clinics**



**November 12 and November 19**

**6 months+ Pfizer primary and Pfizer bivalent boosters**

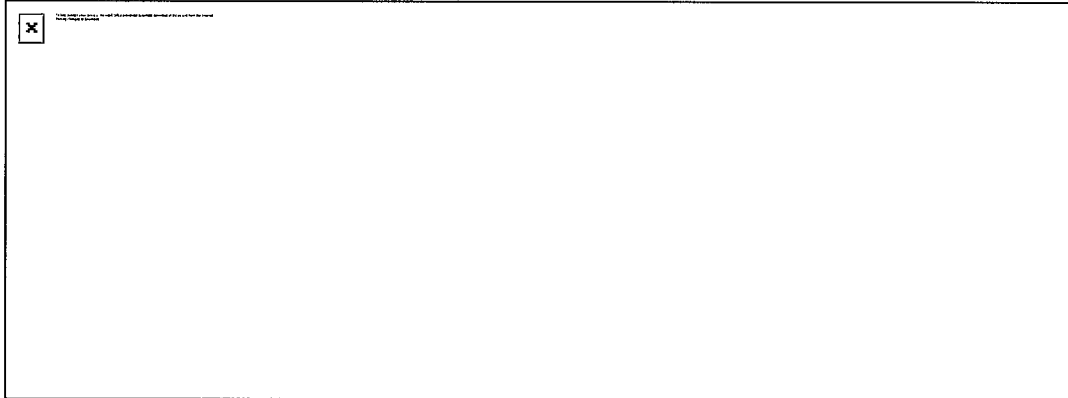
*Rosa Parks Elementary School, 920 Allston Way*

Clinic hours 9:00-4:00  
[Registration and appointment link](#)

**[See more planned vaccine clinics.](#)**

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## **Paid visitor parking adds another way to travel to certain Southside blocks**



You can use shared scooters, bikes, mopeds and even shared cars to travel to the southside of campus and, soon, drivers of personal cars will also be able to pay to park in certain residential blocks in this area.

The most sustainable modes of travel – bikes, electric bikes, electric scooters and [shared versions of each](#) – are also served through protected bike lanes on key corridors, Bancroft Way, Oxford Street and Fulton Street.

Driving is an option or necessity for some. This City Council-approved pilot program recognizes that many drivers already take advantage of unmetered residential blocks. They can now pay to do so.

This trial builds upon nearly a decade of Citywide implementation of demand-based pricing for parking – policies and practices that increase available parking and reduce the emissions created by the search for parking in congested areas.

**[Read more at \[berkeleyca.gov\]\(http://berkeleyca.gov\).](#)**

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Sincerely,

Alex S. Merenkov  
[alexmerenkov@gmail.com](mailto:alexmerenkov@gmail.com)

**Benado, Tony**

---

**From:** Vivian Warkentin <vivwark@sbcglobal.net>  
**Sent:** Sunday, November 6, 2022 2:17 PM  
**To:** All Council  
**Subject:** Background of HAARP and Covert Climate Modification – by Rosalie Bertell, Ph.D – BAN  
Geoengineering & Chemtrails -> Globally

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

<http://chemtrailsmuststop.com/2015/10/background-of-haarp-and-covert-climate-modification-by-rosalie-bertell-ph-d/>

**Benado, Tony**

---

**From:** Moni Law <monilaw7@gmail.com>  
**Sent:** Monday, November 7, 2022 11:21 AM  
**To:** City Clerk  
**Cc:** Arreguin, Jesse L.; Bartlett, Ben; McCormick, Jacquelyn; Chang, James  
**Attachments:** CITY OF BERKELEY PROCLAMATION.docx

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Proposed Proclamation attached to The Clerk for Council's 11/8/22 Meeting

Moni T. Law

CITY OF BERKELEY PROCLAMATION

IN HONOR OF BARBARA ANN WHITE

WHEREAS, Barbara Ann White, was a social justice advocate for all oppressed peoples for more than 45 years, and as a community activist, she has been a strong force for advancing racial equity and belonging in the Berkeley Community for 20 years; and

WHEREAS, Barbara Ann White, retired after 20 years of service to the City of Berkeley as an employee with the Department of Health, Housing and Community Services in the Mental Health Division as the Division Multicultural and Diversity Training Coordinator; and

WHEREAS, Barbara Ann White, carried a central role in the creation of the Alameda County Detox/Sobering Station and was an essential member of The African American Steering Committee for Health and Wellness, Alameda County; and

WHEREAS, Barbara Ann White, worked boldly to advance the efforts in the City of Berkeley as an activist to make visible racial inequities and moved to effect positive change; and

WHEREAS, Barbara Ann White, was one of the co-founders and steering committee members of the grassroots efforts to form the African American Holistic Resource Center, a legacy center for the City of Berkeley; and

WHEREAS, The City of Berkeley has benefited from Barbara Ann White's work, vision, professionalism, energy, civic commitment, and community activism to promote equity and racial justice in Berkeley's city workforce, health and wellness services, and in the community.

NOW THEREFORE, BE IT RESOLVED, the City of Berkeley leadership, Council, and Mayor do hereby declare to continue the efforts to address issues of racial equity and belonging by continuing to provide support for the African American Resource Center; and

NOW THEREFORE, BE IT RESOLVED, that I, Jesse Arreguin, Mayor of the City of Berkeley, do hereby declare November 8, 2022, as

BARBARA ANN WHITE DAY

In the City of Berkeley.

**Benado, Tony**

---

**From:** Moni Law <monilaw7@gmail.com>  
**Sent:** Monday, November 7, 2022 11:18 AM  
**To:** Arreguin, Jesse L.; McCormick, Jacquelyn; Bartlett, Ben; Chang, James; City Clerk  
**Subject:** Re: Proclamation for Barbara Ann White Day, November 8, 2022

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Oops.. forgot to include "Clerk" in the "to" section.. Dear Clerk, please include the attached in the Council's packet for tomorrow.

Thank you,

Moni

On Mon, Nov 7, 2022 at 11:14 AM Moni Law <[monilaw7@gmail.com](mailto:monilaw7@gmail.com)> wrote:  
Dear Mayor and Councilmember Bartlett:

I'm writing on behalf of a number of community members who seek to have special recognition of our recently departed community member, Barbara Ann White. We have prepared the attached proclamation that we hope that you will read and adopt tomorrow night. We are submitting it before noon to the Clerk for inclusion in the Council's packet.

Thank you,

Moni T. Law

**Benado, Tony**

---

**From:** Jeannie Llewellyn <jk.llewellyn.designs@gmail.com>  
**Sent:** Thursday, November 10, 2022 11:35 PM  
**To:** All Council; Berkeley Mayor's Office  
**Subject:** End the Eviction Moratorium NOW!

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Mayor Jesse Arreguin and City Council of Berkeley,

I am writing to urge you to end the Oakland / Alameda County eviction moratorium.

The moratorium was originally created as a temporary measure to accommodate “shelter in place” protocol and emergency health concerns. Fortunately, those concerns are now abated, and most major California cities and counties have ended the eviction moratoria. Unemployment remains low and free vaccines have made it safe to return to work. Rental housing providers did their part to assist with the COVID-19 emergency.

Now it’s time for you to do your part and rescind the moratorium. The Oakland/Alameda County COVID-19 emergency should not be the basis of new housing policies, philosophies, or political positions.

Small rental property owners are a diverse group of hard working voting citizens, who contribute greatly to the well being of Oakland and Alameda County: African American, Latinx, Asian, Caucasian, LGBTQI, retirees, single parents, blue collar workers, and more. In many cases their only income is from their rental property. They cannot afford ongoing lost rent and have no realistic way to recover extended non-payment of rent in time for the next mortgage payments.

Filling a vacant unit under moratorium rules is concerning for small rental owners, as there are no provisions to require a tenant to show COVID-19 impact and an inability to pay. Likewise, existing unscrupulous tenants can and have refused to pay knowing they are protected under the moratorium regardless of their ability to pay. That is simply **WRONG!**

The ongoing moratorium is rife for abuse and the justification for the temporary actions in 2020 no longer reflects today’s reality.

It is time to end the eviction moratorium.

Sincerely,

Jeannie Llewellyn

--

“We have two lives, and the second begins when we realize we only have one.” — Confucius



**Benado, Tony**

---

**From:** May Fong <mayfong@pacbell.net>  
**Sent:** Friday, November 11, 2022 7:10 AM  
**To:** All Council  
**Subject:** End eviction moratorium now

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear councilman,

I am writing to urge you to end the Oakland / Alameda County eviction moratorium.

The moratorium was originally created as a temporary measure to accommodate “shelter in place” protocol and emergency health concerns. Fortunately, those concerns are now abated, and most major California cities and counties have ended the eviction moratoria. Unemployment remains low and free vaccines have made it safe to return to work. Rental housing providers did their part to assist with the COVID-19 emergency.

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The ongoing moratorium is rife for abuse and the justification for the temporary actions in 2020 no longer reflects today’s reality.

It is time to end the eviction moratorium.

Sincerely,

May  
Sent from my iPhone

**Benado, Tony**

---

**From:** Daniel Gonzalez <gdaniel.dg@gmail.com>  
**Sent:** Friday, November 11, 2022 10:52 AM  
**To:** All Council; Berkeley Mayor's Office; officeofthemayor@oaklandnet.com;  
council@oaklandca.gov  
**Subject:** Latino Property Owners Want an END to the Eviction Moratorium

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello

I am writing to urge you to end the Oakland / Alameda County eviction moratorium.

The moratorium was originally created as a temporary measure to accommodate "shelter in place" protocol and emergency health concerns. Fortunately, those concerns are now abated, and most major California cities and counties have ended the eviction moratoria. Unemployment remains low and free vaccines have made it safe to return to work. Rental housing providers did their part to assist with the COVID-19 emergency.

Now it's time for you to do your part and rescind the moratorium. The Oakland/Alameda County COVID-19 emergency should not be the basis of new housing policies, philosophies, or political positions.

Small rental property owners are a diverse group of hard working voting citizens, who contribute greatly to the well being of Oakland and Alameda County: African American, Latinx, Asian, Caucasian, LGBTQI, retirees, single parents, blue collar workers, and more. In many cases their only income is from their rental property. They cannot afford ongoing lost rent and have no realistic way to recover extended non-payment of rent in time for the next mortgage payments.

Filling a vacant unit under moratorium rules is concerning for small rental owners, as there are no provisions to require a tenant to show COVID-19 impact and an inability to pay. Likewise, existing unscrupulous tenants can and have refused to pay knowing they are protected under the moratorium regardless of their ability to pay. That is simply WRONG!

The ongoing moratorium is rife for abuse and the justification for the temporary actions in 2020 no longer reflects today's reality.

It is time to end the eviction moratorium.

Sincerely,

Danny

**Benado, Tony**

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**From:** Nathan Mizell <nmizell@berkeley.edu>  
**Sent:** Thursday, November 10, 2022 7:20 PM  
**To:** Williams-Ridley, Dee  
**Cc:** Records; Bellow, LaTanya; Brown, Farimah F.; Chang, James J; Aguilar, Hansel; Mattes, Laura Iris; All Council; Numainville, Mark L.  
**Subject:** California Public Records Act Request 11/10/22  
**Attachments:** Nathan Mizell - Berkeley CPRA request 11\_10\_22.pdf

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Berkeley City Manager Dee Williams-Ridley

November 10, 2022

City Manager Williams-Ridley or responsible party,

**I am requesting access to records in possession or control of the City of Berkeley for the purposes of inspection and copying pursuant to the California Public Records Act, California Government Code § 6250 et seq. ("CPRA"), and Article I, § 3(b) of the California Constitution.** The specific records I seek to inspect and copy are listed below. As used herein, "Record" includes "Public Records" and "Writings" as those terms are defined in Government Code § 6252(e) & (g).

**I am requesting access to digital copies of any and all writings sent (including all attachments) from Corey Shedoudy to the City Manager (or designee), City Attorney (or designee), and any member of the city council; or sent between the City Manager (or designee), City Attorney (or designee), and any member of the city council, related to allegations of police misconduct or response to such allegations between November 8th and November 11th, 2022.**

If you contend that any portion of the records requested is exempt from disclosure by express provisions of law, Government Code § 6253(a) requires segregation and redaction of that material in order that the remainder of the records may be released. If you contend that any express provision of law exists to exempt from disclosure all or a portion of the records I have requested, Government Code § 6253(c) requires that you notify me of the reasons for the determination not later than 10 days from your receipt of this request. Government Code §§ 6253(d) & 6255(b) require that any response to this request that includes a determination that the request is denied, in whole or in part, must be in writing and include the name and title of the person(s) responsible for the City's response.

Government Code § 6253(d) prohibits the use of the 10-day period, or any provisions of the CPRA or any other law, "to delay access for purposes of inspecting public records."

In responding to this request, please keep in mind that Article 1, § 3(b)(2) of the California Constitution expressly requires you to broadly construe all provisions that further the public's right of access, and to apply any limitations on access as narrowly as possible.

If you contend that any portion of the records requested is exempt from public disclosure by express provisions of law, **I will, in my capacity as Vice-Chair of the Berkeley Police Accountability Board ("Board"), in the furtherance of our duties and functions, request that the Director of Police Accountability add an item to our next agenda requesting the Board exercises its independent authority (Charter Art. XVII, § 125(4)(a)) and request such records (Charter Art. XVII, § 125(20)(a)) and if production of such records is otherwise delayed or denied, that the Board issue a subpoena to compel the release of such records (Charter Art. XVII, § 125(20)(c).)**

Respectfully,  
 Nathan Mizell

**Benado, Tony**

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**From:** Williams-Ridley, Dee  
**Sent:** Friday, November 11, 2022 9:25 AM  
**To:** Nathan Mizell  
**Cc:** Records; Bellow, LaTanya; Brown, Farimah F.; Chang, James J; Aguilar, Hansel; Mattes, Laura Iris; All Council; Numainville, Mark L.  
**Subject:** Re: California Public Records Act Request 11/10/22

Good morning Mr. Mizell,

We are in receipt of your Public Records Act request dated November 10, 2022. We will coordinate with the necessary departments and reply to your request timely.

Thank you ,

Dee Williams-Ridley  
 City Manager

Get [Outlook for iOS](#)

**From:** Nathan Mizell <nmizell@berkeley.edu>  
**Sent:** Thursday, November 10, 2022 7:20 PM  
**To:** Williams-Ridley, Dee <DWilliams-Ridley@cityofberkeley.info>  
**Cc:** Records <records@cityofberkeley.info>; Bellow, LaTanya <LBellow@cityofberkeley.info>; Brown, Farimah F. <FBrown@cityofberkeley.info>; Chang, James J <JJChang@cityofberkeley.info>; Aguilar, Hansel <HAguilar@cityofberkeley.info>; Mattes, Laura Iris <LMattes@cityofberkeley.info>; All Council <council@cityofberkeley.info>; Numainville, Mark L. <MNumainville@berkeleyca.gov>  
**Subject:** California Public Records Act Request 11/10/22

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Berkeley City Manager Dee Willams-Ridley

November 10, 2022

City Manager Williams-Ridley or responsible party,

**I am requesting access to records in possession or control of the City of Berkeley for the purposes of inspection and copying pursuant to the California Public Records Act, California Government Code § 6250 et seq. ("CPRA"), and Article I, § 3(b) of the California Constitution.** The specific records I seek to inspect and copy are listed below. As used herein, "Record" includes "Public Records" and "Writings" as those terms are defined in Government Code § 6252(e) & (g).

**I am requesting access to digital copies of any and all writings sent (including all attachments) from Corey Shedoudy to the City Manager (or designee), City Attorney (or designee), and any member of the city council; or sent between the City Manager (or designee), City Attorney (or designee), and any member of the city council, related to allegations of police misconduct or response to such allegations between November 8th and November 11th, 2022.**

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Respectfully,  
Nathan Mizell

**Benado, Tony**

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**From:** Peter Goldman <petergoldman1933@gmail.com>  
**Sent:** Sunday, November 13, 2022 2:33 PM  
**To:** Paul Lee  
**Cc:** All Council; Berkeley Mayor's Office; Bartlett, Ben; Harrison, Kate; Hahn, Sophie; Kesarwani, Rashi; Taplin, Terry; Wengraf, Susan; Robinson, Rigel; Droste, Lori; Buddenhagen, Paul; Manager, C  
**Subject:** Re: Berkeley City Council Meeting Comment by Exiled Berkeleyan Paul D. Lee

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

I'd say a word in defense of the English language--it was born in England, but American English is an amalgam of pretty nearly all the languages on earth, which makes it a writer's dream. The problem (as with all languages) is that words are abstract, even concrete-sounding words like table or chair. Which in turn means they can be bent to any purpose, and politicians of whatever language are expert at bending them. That's what's damnable about all languages: the word is not the thing, or as the semantics scholar Alfred Korzybski put it, "the map is not the territory."

That said, your argument is brilliantly framed and powerfully written. I suppose it's too much to hope that the council members will change their stripes. Survival is everything for people in elective office, and "pompous banalities" are among their principal survival mechanisms.

Well done, Paul. Whatever the outcome, you said things that needed saying.

Peace

Peter

On Sun, Nov 13, 2022 at 5:03 PM Paul Lee <[beistorage17@yahoo.com](mailto:beistorage17@yahoo.com)> wrote:

[I wrote the following comment while watching the Nov. 3, 2022, Berkeley City Council meeting, but, since I wasn't feeling well, I didn't call in to attempt to deliver it. However, after I later shared it with family and friends, they suggested that it might be helpful to have an official record made of it. Please consider this my formal submission. Thank you, as always, for your kind consideration. -- PL.]

One of the chief reasons that many people are alienated from politics, or outright *hate* politics, is because of the language used by most politicians, including here in Berkeley. In 1969, a social scientist who dealt with the UC administration neatly described this manner of speaking as "pompous banalities."

I thought of this while listening to tonite's City Council proceedings. Many of the callers raised issues, posed questions or made complaints that were urgent enough to melt any heart, or at least any *beating* heart.

Yet, without exception, their desperation, anxieties, fears or justifiable anger were met with pompous banalities -- sweet nothings, handed down from upon high, which reflected no genuine *engagement* with humanity. Not the callers', and certainly not the mayor's.

This is one of the curses of the English language -- namely, its damnable ability to *re-frame* and *reduce* any situation, any plight, any wrong, any injustice -- indeed, any *person* -- to non-human terms. It's no wonder, then, that people feel *devalued* or rendered wholly *invisible* whenever politicians talk to, or about, them.

The genius, or *evil* genius, of political language is that it *insulates* the governors from the governed and, worse, makes the governed, who put them into power, feel *powerless*.

However, this year, the governed in Berkeley have two good options to this ruinous state of affairs. Throwing out the bums to only replace them with *new* bums is no solution. Instead, we can elect two *truth-speakers*, Mari Mendonca and Michai Freeman, who will not only *speak* truth to power, but also provide an example for how the governed can realize that the people *are* the power.

**NOTE:** If you do not require it for your reference, kindly **DELETE** my original letter from the **BOTTOM** of your reply. Thanx!

--  
[www.petergoldman.com](http://www.petergoldman.com)



**Benado, Tony**

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**From:** Chan, Arnold W.  
**Sent:** Monday, November 14, 2022 7:42 AM  
**To:** Cutter, Pauline; Arreguin, Jesse L.; All Council; BPD Webmail; Chan, Alex  
**Cc:** Manager, C; Robustelli, Fran; Pridgen, Abdul  
**Subject:** RE: Superior Customer Service

Forwarding this message to the correct A. Chan (Alex) email address.

**From:** Cutter, Pauline <PCutter@sanleandro.org>  
**Sent:** Saturday, November 12, 2022 4:31 PM  
**To:** Arreguin, Jesse L. <JArreguin@cityofberkeley.info>; All Council <council@cityofberkeley.info>; BPD Webmail <bpdwebmail@cityofberkeley.info>  
**Cc:** Manager, C <CManager@cityofberkeley.info>; Robustelli, Fran <FRobustelli@sanleandro.org>; Pridgen, Abdul <APridgen@sanleandro.org>; Chan, Arnold W. <achan@berkeleyca.gov>  
**Subject:** Superior Customer Service

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Mayor Arreguin,

I am writing this letter today to complement one of your police officers, A. Chan (Badge 99), who recovered our stolen truck last night. Just the fact that Ofc. Chan went out of his way to run the license plates on the track he wasn't used to seeing in the neighborhood, taking the initiative to help us recover our truck was some superior police work. He called us at 10 o'clock in the evening and allowed us to come and pick up our truck directly, saving us the expense and hassle of going to a garage to pick up our truck the next day. When we arrived on the scene officer Chan was there with the truck open and allowed us to ask all of our questions (of which there were many). He was so professional and yet warm and congenial that it truly made the experience a very positive meeting with the police.

Being a Mayor myself, I know that many times we get comments from our community or others about some of our employees that might have made someone angry or unhappy but not often enough do we get emails about the positive experiences people have with our employees. I just want to say Officer Chan is certainly someone your city can be proud of and I am so appreciative he was the person we got to talk to when we retrieved our truck. He even went the extra mile to show us where the gas station was so we could get gas to drive the truck home.

Please take a moment and send my regards to Officer Chan to let him know how much I appreciated his kind service to my husband and I.

Kind regards,  
 Pauline Cutter

**Pauline Russo Cutter**

Mayor, City of San Leandro

835 East 14th Street

San Leandro, CA 94577

*A City Where Kindness Matters*

E: [prcutter@sanleandro.org](mailto:prcutter@sanleandro.org)

P: 510 577-3355

**Benado, Tony**

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**From:** T Conrad <conrad1@berkeley.edu>  
**Sent:** Monday, November 14, 2022 1:38 PM  
**To:** HCE; Berkeley Mayor's Office; Kesarwani, Rashi; Harrison, Kate; Taplin, Terry; Bartlett, Ben; Hahn, Sophie; Wengraf, Susan; Robinson, Rigel; Droste, Lori  
**Subject:** Code Violations at Golden Gate Fields Stables

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello,

I would like to request an inspection of the housing facilities above the stables at Golden Gate Fields Racetrack. These are located on Berkeley property.

I have become aware that nearly 300 undocumented workers are being housed in crowded quarters directly above the stable which are breaking several City of Berkeley Building Housing, Health, and Safety Codes.

Further, Berkeley City Code 10.12.160 was instated during the Spanish Flu Pandemic to prevent the spread of pandemics. This code is not being upheld at the Golden Gate Fields racetrack housing/stables, so that during this current pandemic the very tragedy it sought to protect against occurred: a massive outbreak of Covid-19 spread amongst 200+ workers who live/work above the stable and resulted in at least 1 death.

10.12.160 Stables, barns, etc.--Distance required from schools, churches or dwellings.

[1]

No person, firm, corporation or association shall erect, establish or maintain in the City any stable, barn, shed, corral or any stall in which any cow, horse, mule or goat is kept or stabled, within any distance less than fifty feet from any schoolhouse or church or from any dwelling house. (Ord. 906-NS (part), 1923; Ord. 557-NS § 17, 1918)

Golden Gate Fields racetrack and stables continued to operate throughout the pandemic although they were repeatedly cited for it and deemed "Non-Essential" by our District Attorney:

[https://www.alcoda.org/newsroom/2020/apr/horse\\_racing\\_at\\_golden\\_gate\\_fields](https://www.alcoda.org/newsroom/2020/apr/horse_racing_at_golden_gate_fields)

Thank you all for looking into this very important issue.

Sincerely,

T. Conrad

Analyst, Researcher

[conrad1@berkeley.edu](mailto:conrad1@berkeley.edu)

**Benado, Tony**

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**From:** Jeffrey Heller <JeffreyH@hellermanus.com>  
**Sent:** Monday, November 14, 2022 11:22 AM  
**To:** All Council  
**Cc:** Dean Metzger; Garland, Liam  
**Subject:** Measure L

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Mayor Arreguin and Council members

Measure L failed for a number of reasons, many of which have been widely discussed.

In my mind, and as I have communicated several times, the principal reason was the combination of physical infrastructure and social agendas with no real clarity of definition.

This is not new stuff. in the US we have chronically put infrastructure investment aside in order to spend money on our social agendas.

This deferral has put the US, California, and the Bay area in a box in every aspect of our physical infrastructure needs in Transportation, energy, resilience, and the basic condition of our physical infrastructure. It is embarrassing when compared to other developed nations.

There is also the matter of distrust from the experience of Measure T 1.

Of the \$100 million of that measure, only \$22 million winds up in physical infrastructure. I suspect measure L would have been much the same.

1500 units of affordable housing is \$1.2B all in. How does that work, and get any infrastructure?

There needs to be a commitment to fix our streets and sidewalks, our storm and sanitary systems, our utility distribution systems, and all other related physical systems as well as climate change issues.

It needs to be straightforward and not skewed by political agendas.

It needs to be separate and distinct from social agendas.

Run separate and realistic measures for physical infrastructure and for Housing.

Trying to bundle these issues again will only get my complete opposition, not to mention everyone who voted the same way.

Berkeley can lead in advancing on the issues separately and be a model in the Bay Area.

You would have my full support.

Jeffrey Heller, FAIA, Founding Principal  
Heller Manus Architects

Email: [jeffreyh@hellermanus.com](mailto:jeffreyh@hellermanus.com)

Cell 415 730-5707

255 The Uplands

**Benado, Tony**

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**From:** Katia Kiston <campaigns@good.do>  
**Sent:** Wednesday, November 2, 2022 1:24 PM  
**To:** HousingElements@hcd.ca.gov  
**Cc:** All Council; Jose.Ayala@hcd.ca.gov  
**Subject:** City of Berkeley Housing Element Comment Letter

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Gustavo Velasquez, Director  
 California Department of Housing and Community Development  
 2020 W. El Camino Avenue, Suite 500  
 Sacramento, CA 95833

Via Electronic Mail

Dear Director Velasquez,

I am writing to request that the Department of Housing and Community Development (HCD) recommend that the City of Berkeley include a Tenant Opportunity to Purchase Act (TOPA) program in its Housing Element for the 2023-2031 planning cycle. During Berkeley's process to collect community input on its draft Housing Element earlier this year, TOPA was included as an item and received a lot of community support. The draft Housing Element that the City of Berkeley sent to HCD did not include mention of TOPA. I am concerned and would like it to be added back in.

The Housing Element process is Berkeley's chance to plan for a more stable and prosperous housing future for all in our community, and TOPA must be included to make this plan successful. Berkeley should include TOPA in its Housing Element because it will protect low-income tenants, preserve existing affordable housing, and affirmatively further fair housing.

TOPA would provide tenants an opportunity to remain in our community when their building is sold by giving them the chance, with help from a supportive nonprofit if needed, to make the first offer or match any offer to buy the property. This process creates opportunities to preserve homes that are affordable to low-income families but lack the legal protections that apply to subsidized affordable housing. It also allows funding from government and philanthropic sources to be targeted to the existing affordable rental properties that are actively at risk of being sold and converted to other uses or unaffordable, market-rate rentals. Furthermore, properties acquired through TOPA using public funding will be kept permanently affordable through a deed restriction on the property.

TOPA would also meet unmet needs of low-income tenants by giving them voice and choice in deciding what happens when the home they are living in goes up for sale. This helps level the playing field for tenants in a highly competitive market where homes see high offers from investors that privilege cash offers and put buyers who use conventional financing at a disadvantage. Too often, low-income tenants cannot compete in this market and are forced to move out when their homes are sold. TOPA would give low-income tenants a chance to avoid being displaced, which will reduce overcrowding and limit costs by reducing turnover in tenancies.

As a measure to prevent residential displacement, TOPA will also affirmatively further fair housing. Berkeley's assessment of housing needs shows that proactive measures like TOPA are needed to prevent further loss of African Americans from Berkeley – between 2000 and 2019 Berkeley lost nearly 32% of its African American population. TOPA will help stymie this trend by creating a mechanism to preserve tenancies and affordability in unsubsidized affordable rental homes. This will benefit tenants of color most because people of color are more likely to be renters and are more likely to be struggling to afford their rent.

The City of Berkeley has worked over several years to develop an effective TOPA policy through a process that has included extensive community outreach. Through efforts to collect community input on Berkeley's Draft Housing Element Update, community members voiced strong support for the policy. The City of Berkeley should listen to these voices and commit to implementing TOPA by adding it as a housing program in its Housing Element Update for the 2023-2031 planning cycle.

TOPA is an essential tool for preventing displacement, preserving affordable housing, and realizing a more equitable future for all residents of Berkeley. The City should not leave this critical program out of its plan to meet the housing needs of our community for the next seven years.

Yours sincerely,  
Katia Kiston

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This email was sent by Katia Kiston via Do Gooder, a website that allows people to contact you regarding issues they consider important. In accordance with web protocol RFC 3834 we have set the FROM field of this email to our generic no-reply address at campaigns@good.do, however Katia provided an email address (kiston.katia@gmail.com) which we included in the REPLY-TO field.

Please reply to Katia Kiston at kiston.katia@gmail.com.

To learn more about Do Gooder visit [www.dogooder.co](http://www.dogooder.co) To learn more about web protocol RFC 3834 visit: <https://tools.ietf.org/html/rfc3834>

## Benado, Tony

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**From:** Ayala, Jose@HCD <Jose.Ayala@hcd.ca.gov>  
**Sent:** Tuesday, November 1, 2022 6:05 PM  
**To:** Latrel Powell  
**Cc:** All Council  
**Subject:** RE: City of Berkeley Housing Element Comment Letter

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hi Latrel,

Please consider this email confirmation of your comments on HCD's end.

Sincerely,

Jose Ayala  
Housing Policy Specialist  
Housing and Community Development  
2020 W. El Camino Avenue, Suite 500 | Sacramento, CA 95833 HCD Cell Phone: (916) 820-1980

-----Original Message-----

**From:** Latrel Powell <campaigns@good.do>  
**Sent:** Tuesday, November 1, 2022 6:00 PM  
**To:** Housing Elements@HCD <HousingElements@hcd.ca.gov>  
**Cc:** Council@CityofBerkeley.info; Ayala, Jose@HCD <Jose.Ayala@hcd.ca.gov>  
**Subject:** City of Berkeley Housing Element Comment Letter

Gustavo Velasquez, Director  
California Department of Housing and Community Development  
2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833

Via Electronic Mail

Dear Director Velasquez,

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TOPA is an essential tool for preventing displacement, preserving affordable housing, and realizing a more equitable future for all residents of Berkeley. The City should not leave this critical program out of its plan to meet the housing needs of our community for the next seven years.

Yours sincerely,  
Latrell Powell

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This email was sent by Latrell Powell via Do Gooder, a website that allows people to contact you regarding issues they consider important. In accordance with web protocol RFC 3834 we have set the FROM field of this email to our generic no-reply address at [campaigns@good.do](mailto:campaigns@good.do), however Latrell provided an email address ([lpowell@publicadvocates.org](mailto:lpowell@publicadvocates.org)) which we included in the REPLY-TO field.

## Benado, Tony

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**From:** s. m. ostroff <smostroff@gmail.com>  
**Sent:** Thursday, November 3, 2022 8:10 PM  
**To:** HousingElements@hcd.ca.gov; Jose.Ayala@hcd.ca.gov  
**Cc:** All Council  
**Subject:** Fwd: City of Berkeley Housing Element Comment Letter

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

----- Forwarded message -----

**From:** s m ostroff <campaigns@good.do>  
**Date:** Thu, Nov 3, 2022 at 7:23 PM  
**Subject:** City of Berkeley Housing Element Comment Letter  
**To:** <HousingElements@hcd.ca.gov>  
**Cc:** <Council@cityofberkeley.info>, <Jose.Ayala@hcd.ca.gov>

Gustavo Velasquez, Director  
California Department of Housing and Community Development  
2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833

Via Electronic Mail

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Yours sincerely,  
s m ostroff

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Please reply to s m ostroff at [smostroff@gmail.com](mailto:smostroff@gmail.com).

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To learn more about web protocol RFC 3834 visit: <https://tools.ietf.org/html/rfc3834>

**Benado, Tony**

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**From:** Paola Laverde <campaigns@good.do>  
**Sent:** Saturday, November 5, 2022 11:45 AM  
**To:** HousingElements@hcd.ca.gov  
**Cc:** All Council; Jose.Ayala@hcd.ca.gov  
**Subject:** City of Berkeley Housing Element Comment Letter

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Gustavo Velasquez, Director  
California Department of Housing and Community Development  
2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833

Via Electronic Mail

Dear Director Velasquez,

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Yours sincerely,  
Paola Laverde

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This email was sent by Paola Laverde via Do Gooder, a website that allows people to contact you regarding issues they consider important. In accordance with web protocol RFC 3834 we have set the FROM field of this email to our generic no-reply address at campaigns@good.do, however Paola provided an email address (plaverde64@gmail.com) which we included in the REPLY-TO field.

Please reply to Paola Laverde at plaverde64@gmail.com.

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## **Benado, Tony**

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**From:** negeene mosaed <campaigns@good.do>  
**Sent:** Saturday, November 5, 2022 12:10 PM  
**To:** HousingElements@hcd.ca.gov  
**Cc:** All Council; Jose.Ayala@hcd.ca.gov  
**Subject:** City of Berkeley Housing Element Comment Letter

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Gustavo Velasquez, Director  
California Department of Housing and Community Development  
2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833

Via Electronic Mail

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Yours sincerely,  
negeene mosaed

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This email was sent by negeene mosaed via Do Gooder, a website that allows people to contact you regarding issues they consider important. In accordance with web protocol RFC 3834 we have set the FROM field of this email to our generic no-reply address at [campaigns@good.do](mailto:campaigns@good.do), however negeene provided an email address ([ngmosaed@yahoo.com](mailto:ngmosaed@yahoo.com)) which we included in the REPLY-TO field.

Please reply to negeene mosaed at [ngmosaed@yahoo.com](mailto:ngmosaed@yahoo.com).

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**Benado, Tony**

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**From:** Elana Auerbach <campaigns@good.do>  
**Sent:** Sunday, November 6, 2022 5:25 PM  
**To:** HousingElements@hcd.ca.gov  
**Cc:** All Council; Jose.Ayala@hcd.ca.gov  
**Subject:** City of Berkeley Housing Element Comment Letter

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Gustavo Velasquez, Director  
California Department of Housing and Community Development  
2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833

Via Electronic Mail

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Yours sincerely,  
Elana Auerbach

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This email was sent by Elana Auerbach via Do Gooder, a website that allows people to contact you regarding issues they consider important. In accordance with web protocol RFC 3834 we have set the FROM field of this email to our generic no-reply address at [campaigns@good.do](mailto:campaigns@good.do), however Elana provided an email address ([elanaarobyn@gmail.com](mailto:elanaarobyn@gmail.com)) which we included in the REPLY-TO field.

Please reply to Elana Auerbach at [elanaarobyn@gmail.com](mailto:elanaarobyn@gmail.com).

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**Benado, Tony**

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**From:** Cecilia Lunaparra <campaigns@good.do>  
**Sent:** Tuesday, November 8, 2022 9:43 AM  
**To:** HousingElements@hcd.ca.gov  
**Cc:** All Council; Jose.Ayala@hcd.ca.gov  
**Subject:** City of Berkeley Housing Element Comment Letter

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Gustavo Velasquez, Director  
California Department of Housing and Community Development  
2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833

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Yours sincerely,  
Cecilia Lunaparra

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This email was sent by Cecilia Lunaparra via Do Gooder, a website that allows people to contact you regarding issues they consider important. In accordance with web protocol RFC 3834 we have set the FROM field of this email to our generic no-reply address at [campaigns@good.do](mailto:campaigns@good.do), however Cecilia provided an email address ([cecilialunaparra@berkeley.edu](mailto:cecilialunaparra@berkeley.edu)) which we included in the REPLY-TO field.

Please reply to Cecilia Lunaparra at [cecilialunaparra@berkeley.edu](mailto:cecilialunaparra@berkeley.edu).

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**Benado, Tony**

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**From:** Andrea Mullarkey <campaigns@good.do>  
**Sent:** Tuesday, November 8, 2022 4:27 PM  
**To:** HousingElements@hcd.ca.gov  
**Cc:** All Council; Jose.Ayala@hcd.ca.gov  
**Subject:** City of Berkeley Housing Element Comment Letter

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Gustavo Velasquez, Director  
California Department of Housing and Community Development  
2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833

Via Electronic Mail

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Yours sincerely,  
Andrea Mullarkey

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This email was sent by Andrea Mullarkey via Do Gooder, a website that allows people to contact you regarding issues they consider important. In accordance with web protocol RFC 3834 we have set the FROM field of this email to our generic no-reply address at campaigns@good.do, however Andrea provided an email address (andrea.mullarkey@gmail.com) which we included in the REPLY-TO field.

Please reply to Andrea Mullarkey at [andrea.mullarkey@gmail.com](mailto:andrea.mullarkey@gmail.com).

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## Benado, Tony

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**From:** Elissa Roy <campaigns@good.do>  
**Sent:** Thursday, November 10, 2022 1:58 PM  
**To:** HousingElements@hcd.ca.gov  
**Cc:** All Council; Jose.Ayala@hcd.ca.gov  
**Subject:** City of Berkeley Housing Element Comment Letter

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Gustavo Velasquez, Director  
California Department of Housing and Community Development  
2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833

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Yours sincerely,  
Elissa Roy

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Please reply to Elissa Roy at [elissa@bayareactl.org](mailto:elissa@bayareactl.org).

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