



Kate Harrison
Councilmember District 4

ACTION CALENDAR
January 21, 2020

To: Honorable Mayor and Members of the City Council
From: Councilmember Harrison
Subject: Amending Chapter 19.32 of the Berkeley Municipal Code to Require Kitchen Exhaust Hood Ventilation in Residential and Condominium Units Prior to Execution of a Contract for Sale or Close of Escrow

RECOMMENDATION

1. Adopt an ordinance amending Berkeley Municipal Code (BMC) 19.32 to require kitchen exhaust ventilation in residential and condominium units prior to execution of a contract for sale or close of escrow.
2. Refer to the City Manager to develop a process for informing owners and tenants of the proper use of exhaust hoods.

POLICY COMMITTEE RECOMMENDATION

On November 21, 2019, the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee adopted the following action: M/S/C (Robinson/Davila) to send the item, as amended, with a Positive Recommendation back to the City Council with the following amendments:

Amend the recommendation revised to read as follows:

1. Adopt an ordinance amending Berkeley Municipal Code (BMC) 19.32 to require kitchen exhaust ventilation in residential and condominium units prior to execution of a contract for sale or close of escrow.
2. Refer to the City Manager to develop a process for informing owners and tenants of the proper use of exhaust hoods.

Amend the effective date to read as follows:

The effective date of this amendment shall be XXX, or the effective adoption date of the 2020 California Building Standards Code, whichever is sooner.

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 Code¹ 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.

Cooktops contribute to toxic indoor air quality. A 2013 Lawrence Berkeley National Laboratory (LBNL) study found that “60 percent of homes in the state that cook at least once a week with a gas stove” produce toxic levels of nitrogen dioxide, formaldehyde and carbon monoxide exceeding federal standards for outdoor air quality.² A prior LBNL study found that the “aggregate health consequences of poor indoor air quality...are as significant as those from all traffic accidents or infectious diseases in the United States.”³ Even electric cooktops generate toxic particulate matter. Unfortunately, the Environmental Protection Agency does not currently regulate indoor air quality.

Researchers in the United States and Australia have begun to link the use of natural gas stoves with asthma attacks and associated hospitalizations.⁴ Asthma and its relationship to natural gas and other forms of cooking present profound questions about equity.⁵ Researchers from the University of California, Berkeley, and the University of California, San Francisco found that the highest asthma rates in Berkeley and Oakland

¹ “Local Amendments to Building Standards—Ordinances,” California Building Standards Commission, <https://www.dgs.ca.gov/BSC/Codes/Local-Jurisdictions-Code-Ordinances>.

² “Pollution in the Home: Kitchens Can Produce Hazardous Levels of Indoor Pollutants,” Julie Chao, Lawrence Berkeley National Laboratory, July 23, 2013, <https://newscenter.lbl.gov/2013/07/23/kitchens-can-produce-hazardous-levels-of-indoor-pollutants/>.

³ *Id.*

⁴ Amy Mitchell-Whittington, “Cooking with gas, damp housing may cause childhood asthma: study,” Brisbane Times, April 15, 2018, <https://www.brisbanetimes.com.au/national/queensland/cooking-with-gas-damp-housing-may-cause-childhood-asthma-study-20180415-p4z9pz.html>; Nadia N. Hansel et al., “A Longitudinal Study of Indoor Nitrogen Dioxide Levels and Respiratory Symptoms in Inner-City Children with Asthma,” *Environmental Health Perspectives*, October 2008, <https://pdfs.semanticscholar.org/e099/2f996c97844af8fbcf86b4824fbb7b1cf092.pdf>.

⁵ A 2017 California Public Health Department report found that asthma is 30% more prevalent for African Americans and 40% more prevalent for Asian Americans and Native Americans than whites. Gay/lesbian and bisexual men and women have 40-60% higher asthma prevalence than straight men and women. Hispanics and Asians born in the U.S. are more than twice as likely to have current or lifetime asthma as Hispanics and Asians born outside of the U.S. See California Department of Health, “Asthma Prevalence in California: A Surveillance Report,” January 2017, https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/EHIB/CPE/CDPH%20Document%20Library/Asthma_Surveillance_in_CA_Report_2017.pdf.

tracked areas that were redlined pursuant to racist housing policies.⁶ This issue is compounded by state and regional efforts to boost home efficiency to trap air indoors.

The state currently requires certain types of kitchen exhaust ventilation systems in all new residential construction, but not necessarily range ventilation hoods. There is also no requirement for range ventilation hoods at time of sale. The City Planning Department is proposing amendments to the state mechanical code effective January 1, 2020 requiring range hoods in all dwelling units undergoing renovation. Ventilation systems are designed to remove combustion and other cooktop byproducts from the residential unit to preserve air quality.

In addition to the Planning Department amendments, this ordinance proposes requiring kitchen exhaust range hood ventilation systems in any multifamily residential or condominium units subject prior to execution of a contract for sale or close of escrow.

The transfer of property currently triggers various state and local building code requirements. For example, at time of sale the state health and safety code requires gas water heaters to be seismically braced, anchored, or strapped.⁷ 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 402.1.3 is to ensure that all buildings and units therein that are sold in Berkeley include exhaust ventilation systems, therefore enhancing air quality and public safety across the existing building stock.

FINANCIAL IMPLICATIONS

Staff time to submit ordinance to the Building Standards Commission and to draft findings resolution. In addition, building inspector staff time will be necessary to compliance with new provisions.

ENVIRONMENTAL SUSTAINABILITY

Mandating kitchen exhaust ventilation systems in residential units undergoing renovation and all units at sale will enhance indoor air quality.

CONTACT PERSON

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

ATTACHMENTS

1: Ordinance

⁶ UC Berkeley Public Health, "Historically redlined communities face higher asthma rates" May 2019, <https://sph.berkeley.edu/historically-redlined-communities-face-higher-asthma-rates>.

⁷ Health and Safety Code § 18031.7, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=18031.7.&lawCode=HSC

AMENDING CHAPTER 19.32 OF THE BERKELEY MUNICIPAL CODE TO REQUIRE
KITCHEN EXHAUST HOOD VENTILATION IN RESIDENTIAL AND CONDOMINIUM
UNITS 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 19.32.040 is hereby amended to read as follows:

19.32.040 Amendments to the California Mechanical Code

Chapter 4 of the 2019 California Mechanical Code is adopted in its entirety subject to the modifications thereto which are set forth below:

402.1.2 Ventilation in Dwelling Units. Requirements for ventilation air rate for single-family dwellings and residential dwelling units in multi-family buildings shall be in accordance with this section and ASHRAE 62.2. Each kitchen range shall be provided with a vented hood ducted to terminate outside the building, with a minimum air flow of 100 cfm and a maximum sound rating of 3 sones.

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.

402.1.3 Sale of Existing Buildings.

The requirements of Section 402.1.2 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 residential or condominium building or structure, applicable to all dwelling units therein; or
- 1.2. in an individual condominium unit.

For regulations governing wood burning appliances, see BMC 19.28.040.

Section 2. The effective date of this amendment shall be **XXX**, 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.