



Office of the City Manager

PUBLIC HEARING
December 14, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Abe Roman, Fire Chief, Department of Fire and Emergency Services

Subject: Proposed Ordinance Rescinding Ordinance 7,788-N.S. and Amending Paragraph 'NN' of Berkeley Municipal Code Section 19.48.020 ("Amendments to the California Fire Code") to Restore Language Which Existed Prior to October 26, 2021.

RECOMMENDATION

Conduct a public hearing and upon conclusion adopt the second reading of Ordinance No. 7,791-N.S. which rescinds Ordinance 7,788-N.S. and modifies the language of Paragraph 'NN.' of Berkeley Municipal Code Section 19.48.020 ("Amendments to the California Fire Code) by adopting a building standard which is more restrictive than that standard currently contained in the California Fire Code and restores language which existed prior to October 26, 2021.

FISCAL IMPACTS OF RECOMMENDATION

None. Restores local statutes to conditions which existed prior to the adoption of Ordinance 7,788-N.S. and maintains the status quo of existing fee-for-service revenues and expenditures.

CURRENT SITUATION AND ITS EFFECTS

On October 26, 2021 the Berkeley City Council passed Ordinance 7,788-N.S. which expanded existing provisions contained in Paragraph 'NN' of Berkeley Municipal Code section 19.48.020 ("Amendments to the California Fire Code") and revised the language of that paragraph. Since the adoption of Ordinance 7,788-N.S. City staff have been presented with additional information from community stakeholders regarding subjects such as the permit threshold trigger dollar valuation, implementation details and opportunities to promote health, safety and environmental initiatives within the community.

While Ordinance 7,788-N.S. was passed by City Council on October 26, 2021, per the language of the ordinance, its effective date is delayed 90-days after its adoption, for an effective date of January 24, 2022. Prompt action to rescind ordinance 7,788-N.S. is required to prevent the current language from taking effect as scheduled. It is also necessary to restore the original Paragraph 'NN' language which existed prior to the adoption of Ordinance 7,788-N.S. to ensure that long-standing fire protection measures in

the “Environmental Safety- Residential” zoning district remain intact while staff evaluates and makes recommendations on a replacement amendment for Paragraph ‘NN’.

Ordinance 7,788-N.S. expanded and modified the language of Paragraph ‘NN’ of Berkeley Municipal Code (B.M.C) Section 19.48.020 (“Amendments to the California Fire Code”) to expand the scope and applicability of fire sprinkler provisions, which previously existed in the “Environmental Safety- Residential” zoning district. That ordinance also focused the fire sprinkler requirements on residential structures built on properties zoned for single- and duplex-dwelling construction, established three triggering conditions which would require sprinkler installation and / or retrofit (including a construction permit valuation threshold), and established a number of exemptions that would not trigger such installations.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

This change would restore local statutes to conditions which existed prior to the adoption of Ordinance 7,788-N.S. and maintain the status quo of existing fire code provisions; the impact on environmental sustainability and climate impacts is neutral.

RATIONALE FOR RECOMMENDATION

Staff believes that in light of additional information presented to City staff by community stakeholders that rescission of the modifications will provide an opportunity for staff to further evaluate and make recommendations regarding the permit valuation threshold and other concerns regarding implementation.

In addition to achieving the fire protection and life safety goals outlined in the staff report submitted with Ordinance 7,788-N.S., further evaluation and analysis and resulting staff recommendations in amending this paragraph will allow us to avoid unintended disincentives to, and ultimately promote other significant health, safety and environmental initiatives within the community.

ALTERNATIVE ACTIONS CONSIDERED

Without prompt action the approved fire code language of Paragraph ‘NN’ language of Ordinance 7,788-N.S. will take effect on January 24, 2022. Based on the need for further stakeholder input, staff analysis and the drafting of recommendations and given the time constraints to act on this issue, other alternative actions such as direct amendment of the Ordinance 7,788-N.S. language have been ruled out as viable alternative actions.

CONTACT PERSON

Steven Riggs, Fire Marshal, Department of Fire and Emergency Services, (510) 981-3473

Attachments:

- 1: Ordinance No. 7,791-N.S.: “RESCINDING ORDINANCE 7,788-N.S. AND RESTORING THE PREVIOUS LANGUAGE OF PARAGRAPH ‘NN’ OF BERKELEY MUNICIPAL CODE (B.M.C.) SECTION 19.48.020”

ORDINANCE NO. 7,791-N.S.

RESCINDING ORDINANCE 7,788-N.S. AND RESTORING THE PREVIOUS LANGUAGE OF PARAGRAPH 'NN' OF BERKELEY MUNICIPAL CODE (B.M.C.) SECTION 19.48.020

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

Section 1. That Ordinance 7,788-N.S. which amended Paragraph 'NN' of Section 19.48.020 of the Berkeley Municipal Code (B.M.C.) is hereby rescinded.

Section 2. That Paragraph NN. of Section 19.48.020 of the Berkeley Municipal Code ("Amendments to the California Fire Code") is amended to read as follows:

NN. Section 903.2.23 Environmental Safety--Residential District~~Fire Zones 2 and 3 [Additional subsection]~~ Any new construction requiring a permit determined to be \$100,000 or more in construction costs or new additions to existing structures shall be required to install automatic fire sprinklers throughout the structure. For the purpose of this subsection "Environmental Safety--Residential District" shall mean those areas designated as such on the Official Zoning Map of the City of Berkeley, as it may be amended from time to time. On any parcel zoned to allow single-family or duplex dwelling residential use, any of the following conditions shall trigger the installation of fire sprinklers throughout any new and existing primary and related accessory structures containing habitable space:

~~A. The construction of a new structure containing habitable space, or~~

~~B. The conversion of existing structures or portions of existing structures to habitable space when such structures did not previously contain formally approved habitable space, or~~

~~C. Any alterations or additions requiring permit(s) determined to be \$100,000 or more in aggregate construction costs over a 36-month period from the date of permit issuance~~

~~For the purpose of this subsection Fire Zones 2 and 3 shall mean those areas designated as such in the Berkeley Fire Code, as it may be amended from time to time.~~

~~Exceptions: 1. Detached accessory structures of Group 'U' Occupancy with a floor area not greater than 120 square feet.~~

~~2. Construction or portions of construction defined as repairs for maintenance purposes or construction alterations intended to bring a structure into compliance with ignition resistant construction standards for wildfire exposure of the structure as set forth in the Berkeley Building Code.~~

~~3. Additions of new space that total not more than 250 square feet in area and which are used solely for mechanical or utility service of a building.~~

~~4. Where multiple, primary, free-standing dwellings exist on a given property the fire sprinkler installation requirements of this section shall be applicable to an individual primary structure and any qualified accessory structures on the property associated with the affected primary dwelling structure. Other free-standing dwelling structures on the property and their accessory structures need not retrofit fire sprinklers at that time.~~

Section 3. This amendment shall become effective 30 days after adoption of this ordinance.

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 30, 2021, 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.

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

**RESCINDING ORDINANCE 7,788-N.S. AND RESTORING THE
PREVIOUS LANGUAGE OF PARAGRAPH ‘NN’ OF BERKELEY
MUNICIPAL CODE (B.M.C.) SECTION 19.48.020**

The Department of Fire and Emergency Services is proposing ...

Conduct a public hearing and, upon conclusion, adopt an Ordinance (Attachment 1) which rescinds Ordinance 7,788-N.S. and modifies the language of Paragraph ‘NN.’ of Berkeley Municipal Code Section 19.48.020 (“Amendments to the California Fire Code) by adopting a building standard which is more restrictive than that standard currently contained in the California Fire Code and restores language which existed prior to October 26, 2021.

The hearing will be held on, DECEMBER 14, 2021 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.CityofBerkeley.info as of **December 2, 2021**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Fire Marshal Steven Riggs at (510) 981-3473.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, 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 or in person to the City Clerk. 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 (510) 981-6900 or clerk@cityofberkeley.info for further information.

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In accordance with California Government Code, Section 50022.3



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 December 2, 2021.

A handwritten signature in black ink, appearing to read "Mark Numainville", written in a cursive style.

Mark Numainville, City Clerk