



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

BERKELEY CITY COUNCIL SPECIAL MEETING

**Monday, June 10, 2019
10:00 AM**

2180 Milvia Street, 6th Floor - Redwood Room

Committee Members:

Councilmembers Rashi Kesarwani, Ben Bartlett, and Sophie Hahn

AGENDA

Roll Call

Public Comment on Non-Agenda Matters

Minutes for Approval

Draft minutes for the Committee's consideration and approval.

1. Minutes - May 13, 2019

Committee Action Items

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

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

Committee Action Items

2. **Referral Responses: Managing Recreational Vehicle (RV) Parking** *(Item contains supplemental material)*

From: City Manager

Referred: March 26, 2019

Due: September 30, 2019

Recommendation: On March 26, 2019, the City Council referred this item to the Health, Life Enrichment, Equity & Community Committee to establish basic criteria for a "permanent" standard two-week permitting process. The standard two-week permit should consider the following:

- A limited number of permits to be issued by the City per month (or other increment).
- Locations to be geographically dispersed among all Council districts.
- A reasonable fee to cover City costs associated with the permit.

Financial Implications: See Report

Contact: Paul Buddenhagen, City Manager's Office, 981-7000

Committee Action Items

3. Creation of Vehicle Dwellers Governance Body

From: Councilmember Bartlett

Referred: April 8, 2019

Due: October 28, 2019

Recommendation: Refer to City Manager for policy language to create a Governance Body for permitted vehicle dwellers in Berkeley. This proposal is meant to engender purpose and responsibility among participants. Accordingly, the Governance Body should be self-governing, self-organizing, and self-funding. Governance body will uphold the following conditions: 1. All residents must be registered with Berkeley's Coordinated Entry Program. 2. At all times, vehicles must be registered and fully operable. 3. No illegal substances, weapons, violence, or disruptive behavior will be tolerated either on site or in the immediate neighborhood. 4. Vehicle repairs are not to be performed on-site. 5. No property will be stored outside the vehicle, excluding items exceeding 6 feet in length, and one propane BBQ grill. Personal and immediate areas must remain trash free. 6. A noise curfew will be instituted in agreement with the neighbors. 7. A council including area neighbors and RV dwellers will be established. Participation is mandatory. 8. All residents are expected to pay monthly rent of no more than \$200 per month. The Governance Body will convene weekly at a set time, and act as the final decision making body and conflict resolution forum. All residents, whether in attendance or not, agree to comply with the Body's decisions.

Matters related specifically to drugs, weapons, violence, and/or criminal activity will result in immediate termination of residents' tenancy. Such matters may be taken up at the discretion of the Governance Body which may uphold, modify, or set aside termination.

In cases of conflict among residents, the following procedures will take place: 1. A complaint is filed by a resident to the Governance Body. The complaint will be heard at the Governance Body meeting. 2. The Governance Body investigates the complaint and makes a determination. If the determination is that the complaint is legitimate, a notice of cease and desist is issued. The recipient of the cease and desist letter will have 72 hours to comply or leave. 3. If the recipient received a cease and desist letter, they may appeal the decision to the Governance Body. The Governance Body will have the ability to meet outside its normal weekly meeting schedule in case of an appeal. 4. If the appeal is upheld, no further action will be taken and the recipient of the cease and desist letter can stay in the community. If the appeal is rejected, the recipient of the cease and desist letter has 24 hours to comply or leave. Governance Body decisions can only be appealed once.

Financial Implications: See report

Contact: Ben Bartlett, Councilmember, District 3, 981-7130

Unscheduled Items

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

4. **Brown Act Overview**
5. **Ban Racial, Ethnic, Cultural, and Religious Discrimination on the Basis of Hairstyle or Headwear** *(Item contains revised materials)*
From: Councilmembers Robinson, Davila, Bartlett, and Hahn
Referred: March 11, 2019
Due: September 15, 2019
Recommendation: Adopt a new Section of the Berkeley Municipal Code: Chapter 13.23 DISCRIMINATION ON THE BASIS OF HAIRSTYLE OR HEADWEAR IN EMPLOYMENT, HOUSING, AND PUBLIC ACCOMMODATIONS, prohibiting grooming or appearance policies which target natural or traditional hair, hairstyles, or headwear.
Financial Implications: See report
Contact: Rigel Robinson, Councilmember, District 7, 981-7170
6. **Air Quality Monitoring Program**
From: Councilmembers Bartlett, Harrison, and Davila
Referred: April 8, 2019
Due: October 28, 2019
Recommendation: Referral to the Public Health Department to establish an advanced air quality monitoring program in Berkeley to provide data about how air quality in the city varies over time and between neighborhoods. To better implement this program, the City should form partnerships with technology companies, environmental research groups, and healthcare providers.
Financial Implications: See report
Contact: Ben Bartlett, Councilmember, District 3, 981-7130

Items for Future Agendas

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

Adjournment

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*This is a meeting of the Berkeley City Council Health, Life Enrichment, Equity & Community Committee. Since a quorum of the Berkeley City Council may actually be present to discuss matters with the Council Health, Life Enrichment, Equity & Community Committee, this meeting is being noticed as a special meeting of the Berkeley City Council as well as a Council Health, Life Enrichment, Equity & Community Committee meeting.*

*Written communications addressed to the Health, Life Enrichment, Equity & Community Committee and submitted to the City Clerk Department will be distributed to the Committee prior to the meeting.*

*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, 981-6900.*



**COMMUNICATION ACCESS INFORMATION:**

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.

~~~~~  
I hereby certify that the agenda for this special 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 June 6, 2019.

A handwritten signature in black ink that reads "Mark Numainville".

Mark Numainville, City Clerk

Communications

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

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

BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

**Monday, May 13, 2019
10:00 AM**

2180 Milvia Street, 6th Floor - Redwood Room

Committee Members:

Councilmembers Rashi Kesarwani, Ben Bartlett, and Sophie Hahn

Roll Call: 10:16 a.m. All present.

Public Comment on Non-Agenda Matters – 1 speaker

Minutes for Approval

Draft minutes for the Committee's consideration and approval.

1. Minutes - March 25, 2019

Action: M/S/C (Kesarwani/Bartlett) to approve the minutes of March 25, 2019.

Vote: All Ayes.

Committee Action Items

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

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

2. Brown Act Overview

Action: Item continued to June 24, 2019.

Committee Action Items

3. Discussion of staff reports from Health, Housing and Community Services

Action: 3 speakers. Discussion held. M/S/C (Kesarwani/Bartlett) to receive the reports.

Vote: All Ayes.

4. Ban Racial Discrimination on the Basis of Hairstyle

From: Councilmembers Robinson, Davila, Bartlett, and Hahn

Referred: March 11, 2019

Due: September 15, 2019

Recommendation: Ban racial discrimination on the basis of a person's natural hairstyle by either:

- Adopt a new Section of the Berkeley Municipal Code: Chapter 13.23 RACIAL DISCRIMINATION ON THE BASIS OF HAIRSTYLE IN EMPLOYMENT, HOUSING, AND PUBLIC ACCOMMODATIONS, prohibit grooming or appearance policies which target natural hair or hairstyles;

Or

- Issue local legislative interpretation guidelines regarding both the illegality of disparate impact grooming or appearance policies under the Fair Employment and Housing Act, and the illegality of refusing public services on the basis of mutable characteristics under California Civil Code Section 51.

Financial Implications: See report

Contact: Rigel Robinson, Councilmember, District 7, 981-7170

Action: 5 speakers. Revised item submitted by author. Discussion held. M/S/C (Bartlett/Kesarwani) to have the author forward to the City Manager with revisions for initial review by the City Attorney and continue the item to June 24, 2019, to allow time for review.

Vote: All Ayes.

5. Referral Responses: Managing Recreational Vehicle (RV) Parking

From: City Manager

Referred: March 26, 2019

Due: September 30, 2019

Recommendation: On March 26, 2019, the City Council referred this item to the Health, Life Enrichment, Equity & Community Committee to establish basic criteria for a "permanent" standard two-week permitting process. The standard two-week permit should consider the following:

- A limited number of permits to be issued by the City per month (or other increment).
- Locations to be geographically dispersed among all Council districts.
- A reasonable fee to cover City costs associated with the permit.

Financial Implications: See Report

Contact: Paul Buddenhagen, City Manager's Office, 981-7000

Action: 7 speakers. Discussion held. Item continued to June 10, 2019.

Committee Action Items

6. **Air Quality Monitoring Program**

From: Councilmembers Bartlett, Harrison, and Davila

Referred: April 8, 2019

Due: October 28, 2019

Recommendation: Referral to the Public Health Department to establish an advanced air quality monitoring program in Berkeley to provide data about how air quality in the city varies over time and between neighborhoods. To better implement this program, the City should form partnerships with technology companies, environmental research groups, and healthcare providers.

Financial Implications: See report

Contact: Ben Bartlett, Councilmember, District 3, 981-7130

Action: Item continued to June 10, 2019.

Committee Action Items

7. Creation of Vehicle Dwellers Governance Body

From: Councilmember Bartlett

Referred: April 8, 2019

Due: October 28, 2019

Recommendation: Refer to City Manager for policy language to create a Governance Body for permitted vehicle dwellers in Berkeley. This proposal is meant to engender purpose and responsibility among participants. Accordingly, the Governance Body should be self-governing, self-organizing, and self-funding. Governance body will uphold the following conditions: 1. All residents must be registered with Berkeley's Coordinated Entry Program. 2. At all times, vehicles must be registered and fully operable. 3. No illegal substances, weapons, violence, or disruptive behavior will be tolerated either on site or in the immediate neighborhood. 4. Vehicle repairs are not to be performed on-site. 5. No property will be stored outside the vehicle, excluding items exceeding 6 feet in length, and one propane BBQ grill. Personal and immediate areas must remain trash free. 6. A noise curfew will be instituted in agreement with the neighbors. 7. A council including area neighbors and RV dwellers will be established. Participation is mandatory. 8. All residents are expected to pay monthly rent of no more than \$200 per month. The Governance Body will convene weekly at a set time, and act as the final decision making body and conflict resolution forum. All residents, whether in attendance or not, agree to comply with the Body's decisions.

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In cases of conflict among residents, the following procedures will take place: 1. A complaint is filed by a resident to the Governance Body. The complaint will be heard at the Governance Body meeting. 2. The Governance Body investigates the complaint and makes a determination. If the determination is that the complaint is legitimate, a notice of cease and desist is issued. The recipient of the cease and desist letter will have 72 hours to comply or leave. 3. If the recipient received a cease and desist letter, they may appeal the decision to the Governance Body. The Governance Body will have the ability to meet outside its normal weekly meeting schedule in case of an appeal. 4. If the appeal is upheld, no further action will be taken and the recipient of the cease and desist letter can stay in the community. If the appeal is rejected, the recipient of the cease and desist letter has 24 hours to comply or leave. Governance Body decisions can only be appealed once.

Financial Implications: See report

Contact: Ben Bartlett, Councilmember, District 3, 981-7130

Action: 6 speakers. Discussion held. Item continued to June 10, 2019.

Councilmember Bartlett absent at 12:11 p.m.

Unscheduled Items

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

- None

Future Agendas

Discussion of Listening Sessions including topics and invitees

Adjournment

Action: M/S/C (Kesarwani/Hahn) to adjourn the meeting.

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

Adjourned at 12:27 p.m.

I hereby certify that this is a true and correct record of the Health, Life Enrichment, Equity & Community Committee meeting held on May 13, 2019.

April Richardson, Assistant City Clerk

MANAGING RV PARKING

BRAINSTORM of possible questions to address in new 2 week policy

RECEIVED AT
 COUNCIL MEETING OF:
 May 13, 2019
 MAY 13 2019

02

OFFICE OF THE CITY CLERK
 CITY OF BERKELEY

- What is the total number of permits that can be given?
- Who is eligible to apply for and receive a permit?
 - Is there a size requirement vehicles that receive the permit? Can they be cars or vans not made for habitation? Only "real" RVs? Is there a maximum size of vehicle?
 - Must they show that the vehicle is up to various federal and industry standards for safety?
 - <https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/fmvss-quickrefguide-hs811439.pdf>
 - <https://docs.google.com/document/d/11LAcsWdyjXCHZ8WAogp82IKAahUEIRA7d9WER0UabDE/edit?usp=sharing>
 - <https://www.rvia.org/standards-regulations/standards-compliance>
 - How often can the same vehicle get a 2-week permit? Once a year? Once every 6 months?
 - Is this just for people who are otherwise unhoused or without shelter, or is it available for anyone to apply for? Should the City mandate connection to services for those without other shelter?
 - Can people with a fixed address in Berkeley apply for their own vehicle? When they are out of town for an extended time, or to house visiting guests?
 - Should we establish any preferences for applications, such as families with children in Berkeley schools, people with disabilities, people who formerly lived in Berkeley, etc?
 - Friends and family/visitors of people who live here?
- What is the system for deciding who gets them?
 - First come, first serve basis?
 - Application deadline and then chosen by random lottery?
 - Other criteria/preferences?
- Where will they be allowed to locate?
 - Anywhere in the city? Limited to certain zip codes and/or block faces?
 - Will permit recipients be able to choose specifically where they park, or will it be determined by the City?
 - If people want to be adjacent to a relative/friend or a particular service, will we enforce geographic dispersal requirements?
 - Should the City pursue an on-street parking system, or try to secure off street parking location? Contract with churches or businesses to use under-utilized parking lots?
 - Are there certain places where parking should *not* be allowed, like in front of parks or rec centers or senior centers or certain businesses , or in certain zones?
 - For permits that are received, do RVs need to stay in a single spot for the duration, or should they move between spaces after a set number of days?
- Utilities and Sanitary service accessibility and safety terms
 - Waste water, garbage, recycling, etc.
 - How will they access clean water, electricity and any other necessities, beyond those required by health and safety standards?
 - What about RVs that aren't up to the "RV code"? Should they still receive permits? Do they need to show that they are up to the national code?
 - Could it be a problem from a legal perspective for the City to actively/affirmatively permit people to sleep in RVs that are not up to safety codes?

MANAGING RV PARKING

BRAINSTORM of possible questions to address in new 2 week policy

May 13, 2019

OFFICE OF THE CITY CLERK
CITY OF BERKELEY

- Limiting the number of people who can live in one RV?
- What other rules might we want to place around them?
 - Letting them know about TNC objects on sidewalks, limiting the spread of items
 - Noise concerns? Others?
- How do we enforce? If you overstay, what is the penalty?
 - Can't apply again?
 - Ticket?
 - Tow?
 - Timeframes?

Other Questions to answer with our policy?

DRAFT

**RECEIVED AT
COUNCIL MEETING OF:
MAY 13 2019**

**What would "Sanctioned Encampments" look like
A quick overview of some elements to consider**

Chart reads from left to right
only, not from top to bottom

LOCATION	100% Resident Discretion	City designated	One/Several locations	OFFICE OF THE CITY CLERK CITY OF BERKELEY
RESIDENTS Who?	City/Agency Criteria	No Criteria	Resident Criteria	
RESIDENTS How Many?	No limit per Encampment	City/Agency determined limit	Resident-determined limit (Who/how decided?)	Variable/Stable
RESIDENTS Criteria?	Resident-Determined	City/Agency determined	Hybrid	Protected Class requirements for criteria?
RESIDENTS Duration	Indefinite/Forever	City/Agency specified – limited time	Resident specified – limited time	
Rules /Code of Conduct	Defined by residents	Defined by City/Agency	Hybrid	
Governance	Resident defined: any system desired, self-governing. What system?	City/Agency Defined	Jointly determined/different areas of governance for each?	
Enforcement of Rules	Residents	City/Agency		
Removal/exclusi on of Individuals	Decision and Action by Residents	Decision and Action by City/Agency	No removal or exclusion	
Engagement with Services Housing	Not Necessary	Required	Voluntary	Who decides?
Engagement with Services Other (health, jobs, etc.)	Not necessary	Required	Voluntary	Who decides?
Facilities Provision	Provided by community/Not for profits	Provided by City	Hybrid/Mix	
Facilities maintenance	Residents	City/Agency	Not for Profit Org.	Shared responsibilities
First Amendment issues	"Protest" camp – if City affirmatively sanctions/provides space, does this become sanctioning of one type of speech? Code Pink – type concerns?			
Self-Governance	What system?	Who picks system?	Who ensures fairness?	Recourse?
City/Agency	Which agency?	Scope of Responsibility?	Funding?	

ORDINANCE NO. 7,643-N.S.

STOPPING, STANDING OR PARKING RESTRICTED OR PROHIBITED ON CERTAIN STREETS; AMENDING BERKELEY MUNICIPAL CODE SECTION 14.40.120

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

Section 1. That Berkeley Municipal Code Section 14.40.120 is amended to read as follows:

14.40.120 No parking between two a.m. and five a.m.

A. It is unlawful for any person to park any oversize or heavy duty commercial vehicle on any street between the hours of two a.m. and five a.m. for a greater length of time than one hour.

B. For the purpose of this section, oversize or heavy duty commercial vehicle shall mean a single vehicle or combination of vehicles having more than two axles, a single vehicle or combination of vehicles 20 feet or more in length, or a single vehicle or combination of vehicles six feet six inches or more in width, and shall include, but shall not be limited to dump trucks, moving vans, tractors, pole or pipe dollies, recreational vehicles (RVs), campers.

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 February 28, 2019, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Kesarwani, Wengraf, and Arreguin.

Noes: Davila, Harrison and Robinson.

Absent: None.



Office of the City Manager

ACTION CALENDAR
February 28, 2019

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Paul Buddenhagen, Deputy City Manager
Subject: Referral Responses: Managing Recreational Vehicle (RV) Parking

RECOMMENDATION

Review options provided by City staff in the report and take one of the following actions:

1. Refer the recommendations in Option A, amending existing codes to limit RVs parking in the City of Berkeley for extended periods of time and developing an online RV Permitting system, to the City Manager; and/or
2. Adopt the recommendations provided in Option B below, prohibiting parking campers and RVs during certain hours and creating additional resources for people living in RVs, and adopt the first reading of two ordinances amending Berkeley Municipal Code (BMC) Chapter 12.76 and BMC Section 14.40.120 and refer any additional costs to the FY20-21 Budget process.

SUMMARY

The City of Berkeley is experiencing an increasing number of RVs parking for long periods of time, impacting public safety, health, and the parking needs for Berkeley residents and businesses. On September 25, 2018, City Council approved a recommendation to “Refer to the City Manager to look into how other cities use permitting to manage RV parking and suggest a permit process that Council can consider to enable RV parking but place some sensible limits.” Additionally, on December 11, 2018 the City Council approved a recommendation to “Refer to the City Manager to establish a recreational vehicle waste discharge facility on City property and equitable administrative fee program, including consideration of method of pump out, cost, locations, and capacity, and refer costs associated with the facility to the FY 2020/21 Budget Process.”

In order to understand how other neighboring cities are responding to this regional challenge, City staff gathered information on other cities in the Bay Area (Oakland, San Francisco, Fairfield, Richmond, Albany, Emeryville, Alameda and Antioch) and their policies and laws regarding RV parking. The following table presents some findings.

City	Ban Against RV Parking	RV Permitting Process	Special Policies or Services
Oakland	Yes	No	Yes 150 space RV lot coming
San Francisco	Yes	No	Yes
Fairfield	Yes	No	No
Richmond	Yes	No	No
Albany	Yes	Yes/Residents	No
Emeryville	Yes	No	No
Alameda	Yes	No	Yes/Hygiene bus
Antioch	Yes	No	No

Currently, the City has few laws which can effectively address the persistent presence of RVs parking in the City of Berkeley, and no existing sanctioned pathway for RVs to affordably dispose of their effluent waste. In response to these needs, City staff have developed two possible options for Council consideration.

Option A would entail amending existing codes to prohibit RVs parking in the City of Berkeley for extended periods of time and developing an online RV Permitting system that limits the total amount of time any RV or registered owner of an RV parks their vehicle on the City's right-of-way or City-owned off-street parking lots in a calendar year.

Option B would revise existing codes to prohibit parking oversize vehicles, including campers and RVs, in the City of Berkeley from the hours of 2 a.m. to 5 a.m. on any public right-of-way, as well as update existing BMC 12.76 which prohibits sleeping in house cars, and provide alternate resources for those living in RVs.

Adopting either Option A or B would include increased services for RV dwellers to support the transition from living in vehicles to living inside dwellings.

RV dump/pump station In considering the disposal of waste, staff explored installation of a City RV dump/pump station as well as contracting with a mobile pump contractor to

deliver and discharge the effluent waste to an existing nearby RV dump station. The City does have the capacity to absorb the additional waste into the existing sewer collection system. A consideration of the costs associated with each option is below, with the assumption of serving approximately 100 RVs per week. Regardless of the option selected, staff recommends that the implementation costs be recovered through the permitting process.

Option 1: City RV dump/pump station. While staff does not have a set estimate for the total cost of construction of a new RV dump/pump station, this option would require a feasibility study and a planning cost estimate, including long-term maintenance and operational costs, from a professional consultant. Staff also anticipates the need to pursue information from regulatory agencies, which may impact the overall cost of the station's construction and maintenance. No specific location has been identified for this option at this time. Alternatively, staff has learned of a pump station option which could be installed for approximately \$11,000, which would allow individuals to discharge directly into the City's sewer system. While this option would result in minimal staffing costs, other issues to consider include liability, maintenance, and replacement costs.

Option 2: Contract to deliver and discharge waste. Staff are gathering estimates for this type of service. Staff believe, however, this may be the lowest cost option because there is no need for new infrastructure and no additional cost for long term maintenance. Under this option, the mobile effluent waste contractor would visit a designated location and collect the waste from the RVs onsite, then could either dispose of the waste directly into the City's sewer collection system, or could haul the waste to an off-site location for disposal.

FISCAL IMPACTS OF RECOMMENDATION

Adopting Option B would require some additional as yet undetermined staffing costs to enforce the amendments to the BMC. Providing additional outreach and flexible funding for either option would cost up to approximately \$362,000 annually; this would include one outreach person and flexible funds in the amount of \$3,000 each for 100 vehicle dwellers. Council could choose to reallocate existing homeless outreach staff and/or reduce the flexible funds to lower the overall cost.

CURRENT SITUATION AND ITS EFFECTS

This report responds to a referral that originally appeared on the agenda of the September 25, 2018 Council meeting and was sponsored by Councilmembers Maio, Hahn, and Mayor Arreguin. At that meeting, the City Council approved a recommendation to "Refer to the City Manager to look into how other cities use permitting to manage RV parking and suggest a permit process that Council can consider to enable RV parking but place some sensible limits."

Additionally, this report responds to a referral from the December 11, 2018 Council meeting which was sponsored by Councilmembers Harrison and Davila. At that meeting the City Council approved a recommendation to “Refer to the City Manager to establish a recreational vehicle waste discharge facility on City property and equitable administrative fee program, including consideration of method of pump out, cost, locations, and capacity, and refer costs associated with the facility to the FY 2020/21 Budget Process.”

Currently, depending on the size, Recreational Vehicles (RVs) can park for three days at a time anywhere there is room and move continuously throughout the City. In practice, RVs often comply with the 72-hour rule by moving a very short distance – sometimes as little as three feet, to the opposite side of the street or around a corner – which results in the vehicles essentially occupying the same general area indefinitely.

The increase in the number of RVs parking in the City of Berkeley, and the subsequent impacts, may be quantified in multiple ways. In December 2018, Berkeley Police staff conducted a thorough citywide count of Recreational Vehicles on the City right-of-way. They counted 193 RVs, campers, converted busses, and vehicles that have been set up and/or designed for human habitation within the City’s borders. Of that number, over 100 were located west of San Pablo Avenue. These figures are consistent with a similar assessment which was conducted in November 2018.

Community residents contacted the City more than 1,500 times with requests to address the presence of and/or impacts from extended RV parking in 2018. These requests come via Berkeley Police Dispatch, the City’s BPD Direct Parking line, 311 service requests, and through emails directly to staff and council.

The types of issues raised through these calls for service include the loss of residential and customer parking for commercial businesses, and the illegal dumping of trash, debris, and human waste onto City streets, sidewalks, and waterways. The City has 1.5 FTE in Berkeley Police, and 0.85 FTE in Neighborhood Services that respond to these calls for service, as well as other similar service calls that are not RV generated.

One of the issues that is most often raised with regards to extended RV Parking is the alleged discharge of human waste in inappropriate locations. Runoff from the City’s storm sewer system is periodically tested as part of regional testing efforts, but not at a scale that would be able to quantify the environmental impacts under discussion. The Regional Water Board, however, has received reports of alleged dumping of human waste, and as a result City staff have been mandated to investigate all complaints. Warnings have been issued, but no citations have been issued to date. Any verified discharge of human waste into the storm sewer system would be considered a violation of the City’s Municipal Code (BMC 17.20); if left unaddressed, the City could be at risk of violating its National Pollutant Discharge Elimination System (NPDES) Municipal

Regional Permit, which would lead to enforcement actions by the Regional Water Board.

Currently, the City provides 25 portable toilets and nine hand washing stations at strategic locations throughout the City to help with this issue. There are also extended hours for the City's 181 permanent public restroom facilities.

BACKGROUND

City staff gathered information on neighboring Cities in the Bay Area, in order to explore existing practices and to explore options the City of Berkeley may have in addressing the ongoing RV parking issues in our City.

Staff in the City Manager's Office, City Attorney's Office, and Public Works and Police Departments have collaborated to produce the proposed options. Option A includes amendments to Berkeley Municipal Code sections 12.76 and 14.40.120 (Attachments 1 and 2) that incorporate the principal points and purposes of the September 25, 2018 referral, and an RV permit process. Option B retains the amendments to Berkeley Municipal Code as noted in Attachments 3 and 4. Both options include the potential to provide outreach to people living in RVs to provide them with information and resources to establish a more stable living situation.

Option A

Option A includes amending existing codes to clarify the prohibition against RVs parking in the City of Berkeley for extended periods of time and creating an online RV Permitting system that limits the total amount of time any RV or registered owner of an RV parks their vehicle on the City's right-of-way in a calendar year.

- *Existing and Possible Municipal Code Considerations:* Currently, the City has multiple Municipal and Vehicular Code sections which support some form of enforcement for RV Parking, or could be amended to do so.

Applicable statutes and laws regulating the parking of RVs on City streets include California Vehicle Code § 22651(k), and BMC 14.36.050, which makes it unlawful to park or leave standing a vehicle on "any public street in the City for seventy-two or more consecutive hours." This section is typically enforced based on complaints, and motorists are provided a warning before a vehicle is cited and/or towed.

BMC 12.76, which prohibits the use of "any house car or camper for human habitation within the City," has not been enforced since June 2014, when the United States Court of Appeals for the Ninth Circuit issued an opinion invalidating an ordinance that prohibited parking a vehicle being used as "living quarters" on Los Angeles streets. The Court held the Los Angeles ordinance was unconstitutionally vague because it failed to provide "fair notice" of what

was being prohibited. Berkeley's "house car" ordinance does not currently define "human habitation" with any specificity, although it could be amended to do so. Attachment 3 includes proposed language which would change the existing ordinance.

BMC 14.40.120 makes it unlawful to park any "heavy duty commercial vehicle on any street between the hours of two a.m. and five a.m." for more than an hour. "Heavy duty commercial vehicle" is defined as a single vehicle or combination of vehicles that (1) has more than two axles, or (2) is 20 feet or longer, or (3) is wider than 6 feet, 6 inches. Examples in the ordinance "include, but shall not be limited to dump trucks, moving vans, tractors, pole or pipe dollies." This section could be amended to clarify that it applies to oversized vehicles used for activities other than commercial purposes, including RVs. Attachment 4 includes proposed language which would make this clarification.

- *Proposed RV Permit System:* In response to the increase in extended RV parking throughout the City, City staff propose implementation of a permit system, modeled after the City's existing RPP visitor pass program, which grants a permit to a licensed vehicle, or a registered owner, a maximum of 14 days per calendar year to park an RV on the City right-of-way, streets, and off-street City-owned parking lots.

The online permit system would be accessible to the general public through Berkeley Public Libraries' free access to computers and the internet, through the City of Berkeley's Customer Service Counter, or through a City webpage.

Individual permits would be issued to a licensed vehicle and/or a registered owner. The permit would also specify an area or street for which the permit would be valid. The permit would also hold the permit holder accountable for the cost of removing any trash and debris left behind, following the conclusion of the permitted time period.

Anticipated costs for the RV permitting system include the cost to acquire and run the online permit platform, administration costs and the impact on existing staff to enforce the policy.

Option A provides all RV owners the ability to legally park on the City's right-of-way for a short time period, and supports residents and businesses who are negatively impacted by vehicular living for long periods of time.

Option B

Option B would revise existing codes and provide outreach to people living in RVs to provide them with information and resources to establish a more stable living situation.

- *Amendments to Existing Municipal Code:* As outlined in Option A, the City would revise the BMC 14.40.120 (Attachment 1) to clarify that RVs are included in the prohibition of parking for oversized vehicles from 2 – 5 a.m., as well as update the language to BMC 12.76 as proposed in the revised ordinance (Attachment 2) regarding the use of house cars for human habitation. Without the inclusion of an RV permitting process, this would lead to a ban of RVs parking on Berkeley city streets.
- *Provide Alternate Resources and/or Locations outside of Berkeley:* City staff has learned of a multi-city collaborative effort, led by the City of Union City and involving the cities of Fremont, Hayward, San Leandro, and Alameda, to leverage use of state Homeless Emergency Assistance Program (HEAP) funding to establish safe parking sites which would be open to other cities. The goal for this effort is to avoid duplicating efforts (e.g. every city start a safe parking program) and to have complimentary programs that hopefully fill gaps (e.g. RV parking) since the issue is a regional one, with individuals often moving between cities in the Bay Area. Partnership in this program would be a substantial financial investment, and would likely require use of some Measure P or HEAP funding, allocated to the City to address the homeless crisis. Additionally, staff could explore partnering with the City of Oakland on RV safe parking.

By prohibiting RVs on the City's streets, Option B would clearly address the ongoing negative issues associated with the continued presence of RVs parking for extended periods of time in the City. Staff shortages and high workloads could compromise a robust enforcement strategy associated with Option B.

Both options

Provide Outreach to people living in RVs: The City could expand outreach efforts to encourage people living in RVs to take advantage of any available shelter resources and, if resources are available, provide flexible funding to help people resolve their homeless situation. This could include housing problem solving and/or housing assistance. This approach would require additional resources for staffing and flexible funds. Providing additional outreach and flexible funding would cost up to approximately \$362,000 annually; this would include one outreach person and flexible funds in the amount of \$3,000 each for 100 vehicle dwellers.

ENVIRONMENTAL SUSTAINABILITY

Environmental sustainability is a core value of the City of Berkeley and informs all City operations. Implementation of a City pump station to collect effluent waste would have the clear benefit of reducing the possibility of human waste entering the storm drain system and consequently the Bay. This is consistent with the goals and requirements set forth in the City's NPDES Municipal Regional Permit. Alternatively, prohibiting the use of public right-of-way for RV parking throughout the City of Berkeley would

accomplish a similar goal, as it reduces the likelihood of human waste entering the storm drain system.

RATIONALE FOR RECOMMENDATION

The approaches proposed by City staff includes the amendment of existing codes to prohibit RVs parking in the City of Berkeley for extended periods of time; and an online RV Permitting system that limits the total amount of time any RV or registered owner of an RV parks their vehicle on the City's right-of-way, streets, and off-street parking lots in a calendar year. These are coupled with increased services in an effort to increase the transition to more stable living for people living in RVs.

ALTERNATIVE ACTIONS CONSIDERED

City Staff considered the option of developing a sanctioned parking location within the City borders. However, there is insufficient space within the City to accommodate such a program. Additionally, there are several liability and logistical concerns which are raised by the City assuming responsibility for such a sanctioned environment.

One additional option would be to continue current City practices regarding RV parking, which includes enforcement of existing vehicle code as well as BMC 14.36, which restricts parking of any vehicle for longer than 72 hours on the public right-of-way.

If this option was preferred, and council desired, staff could come back with pump out costs, locations and timeline. In considering the disposal of waste, staff explored installation of a City RV dump/pump station as well as contracting with a mobile pump contractor to deliver and discharge the effluent waste to an existing nearby RV dump station. The City does have the capacity to absorb the additional waste into the existing sewer collection system. A consideration of the costs associate with each option is below, with the assumption of serving approximately 100 RVs per week. Regardless of the option selected, staff recommends that the implementation costs be recovered through the permitting process.

Option 1: City RV dump/pump station. While staff does not have a set estimate for the total cost of construction of a new RV dump/pump station, this option would require a feasibility study and a planning cost estimate, including long-term maintenance and operational costs, from a professional consultant. Staff also anticipates the need to pursue information from regulatory agencies, which may impact the overall cost of the station's construction and maintenance. No specific location has been identified for this option at this time. Alternatively, staff has learned of a pump station option which could be installed for approximately \$11,000, which would allow individuals to discharge directly into the City's sewer system. While this option would result in minimal staffing costs, other issues to consider include liability, maintenance, and replacement costs.

Option 2: Contract to deliver and discharge waste. Staff are gathering estimates for this type of service. Staff believe, however, this may be the lowest cost option because

there is no need for new infrastructure and no additional cost for long term maintenance. Under this option, the mobile effluent waste contractor would visit a designated location and collect the waste from the RVs onsite, then could either dispose of the waste directly into the City's sewer collection system, or could haul the waste to an off-site location for disposal.

CONTACT PERSON

Kristen Lee, Interim Assistant to the City Manager, 981-7017

Attachments:

1. Proposed revisions to BMC 14.40.120
2. Proposed revisions to BMC 12.76
3. Referral Report from September 25, 2018
4. Referral Report from December 11, 2018

ORDINANCE NO. -N.S.

STOPPING, STANDING OR PARKING RESTRICTED OR PROHIBITED ON CERTAIN
STREETS; AMENDING BERKELEY MUNICIPAL CODE SECTION 14.40.120

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

Section 1. That Berkeley Municipal Code Section 14.40.120 is amended to read as follows:

14.40.120 No parking between two a.m. and five a.m.

A. It is unlawful for any person to park any oversize or heavy duty commercial vehicle on any street between the hours of two a.m. and five a.m. for a greater length of time than one hour.

B. For the purpose of this section, oversize or heavy duty commercial vehicle shall mean a single vehicle or combination of vehicles having more than two axles, a single vehicle or combination of vehicles 20 feet or more in length, or a single vehicle or combination of vehicles six feet six inches or more in width, and shall include, but shall not be limited to dump trucks, moving vans, tractors, pole or pipe dollies, recreational vehicles (RVs), campers.

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.

ORDINANCE NO. -N.S.

HOUSE CARS; AMENDING BERKELEY MUNICIPAL CODE CHAPTER 12.76

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

Section 1. That Berkeley Municipal Code Section 12.76.010 is amended to read as follows:

12.76.010 Definitions.

A. "Camper" means a structure designed to be mounted upon or attached to a motor vehicle, ~~in order and~~ to provide facilities for human habitation or camping purposes.

B. "House car" means a motor vehicle originally designed or permanently or temporarily altered and equipped for human habitation, or to which a camper has been permanently or temporarily attached. ~~A house car need not contain any plumbing or cooking facilities.~~

Section 2. That Berkeley Municipal Code Section 12.76.020 is amended to read as follows:

12.76.020 Use for human habitation prohibited – Exception.

A. No person shall use or occupy or permit the use or occupancy of any house car or camper for human habitation within the City, provided that not more than one house car may be placed, kept and maintained in the rear of any single-family or duplex residential building and used for sleeping purposes only for not more than three successive nights in any 90-day period. Such house car shall not be placed closer than five feet to any property line or closer than ten feet to any building, and the sanitary and cooking facilities therein shall not be used.

B. ~~For purposes of this Chapter, "human habitation" means residing in or using any camper or house car for living accommodation, lodging, or sleeping purposes, as exemplified by remaining for prolonged or repeated periods of time not associated with ordinary use for transportation purposes, with one's possessions (including, but not limited to, clothing, sleeping bags, bed rolls, blankets, sheets, or other sleeping implements, luggage, cooking and eating utensils, cookware, food or beverages or toiletries). These activities constitute human habitation when it reasonably appears, in light of all of the circumstances, that a person is using a house car or camper as a living, lodging, or sleeping accommodation regardless of his or her intent, or the nature of any other activities in which he or she might also be engaged.~~

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.



LINDA MAIO
COUNCILMEMBER

ACTION CALENDAR
September 25, 2018

TO: Honorable Mayor and Members of the City Council

FROM: Councilmembers Maio, Hahn, and Mayor Arreguin

SUBJECT: Managing RV Parking Via Permit Process

RECOMMENDATION

Refer to the City Manager to look into how other cities use permitting to manage RV parking and suggest a permit process that Council can consider to enable RV parking but place some sensible limits.

BACKGROUND

The flatlands in Berkeley have become home to an increasing number of RVs parking for very long periods of time. District 1 residents, schools, and business have been reporting increasing numbers and also problems associated with long term parking. These concerns include taking up parking that is needed for residents and businesses. The most problematic of issues is public safety and health. Berkeley has no pump-out facilities and therefore reports of using garbage cans and storm drains for disposing of personal waste have come to our attention.

This Item asks the City Manager to look into what other cities have done to place reasonable limits on RVs. Here is a link to what Antioch has in place: <http://www.antiochca.gov/police/rv-permit>. This item requests consideration of a 2-week permit.

ENVIRONMENTAL SUSTAINABILITY

Positive impact on storm drain systems.

FINANCIAL IMPLICATIONS

Staff time for education and enforcement.

CONTACT

Office of Councilmember Linda Maio, District 1

510.981.7110 | lmaio@cityofberkeley.info | cityofberkeley.info/lindamaio

Office of Councilmember Kate Harrison, District 4

510.981.7140 | kharrison@cityofberkeley.info | cityofberkeley.info/councildistrict4

Office of Councilmember Sophie Hahn, District 5

510.981.7150 | shahn@cityofberkeley.info | cityofberkeley.info/district5

Office of Mayor Jesse Arreguin



Kate Harrison
Councilmember District 4

CONSENT CALENDAR
December 11, 2018

To: Honorable Mayor and Members of the City Council
 From: Councilmembers Harrison and Davila
 Subject: Referral to City Manager to establish Recreational Vehicle Waste Discharge Facility on City Property and Referral to FY 2020/21 Budget Process

RECOMMENDATION

1. Refer to the City Manager to establish a recreational vehicle waste discharge facility on City property and equitable administrative fee program, and
2. Refer costs associated with the facility to the FY 2020/21 Budget Process.

BACKGROUND

A limited number of RV waste discharge facilities exist across the Bay Area; no such public facility is currently available in Berkeley. The nearest public facility appears to be miles away in San Leandro. The ability to discharge human waste into municipal sewers protects public health and meets a basic human need. It is in the interest of the City to prevent the improper discharge of untreated waste into the environment and to provide equitable and convenient access to municipal services.

The City's Parks, Recreation & Waterfront Department reported in June of 2018 that some 200 vehicle dwellers, including visitors, parked overnight in the Berkeley Marina. Vehicle dwellers also park in streets throughout Berkeley. Vehicles provide them with critical respite from the elements but vehicle dwellers lack basic sanitary services.

The Council established an informal Council-staff task force in June of 2018 to explore the feasibility of establishing a sanctioned vehicle dweller park with restrooms and potentially a discharge facility. The task force is making progress, but the long-term nature of the exploration process leaves RV dwellers without critical services. The City can reasonably establish a waste discharge facility on City property in the short term, while pursuing a comprehensive RV park over the long term.

Consultations with officials managing waste discharge facilities at the Central Marin Sanitation Agency and with the Contra Costa County Fairgrounds indicate that the cost of constructing a discharge facility would be relatively inexpensive as fees can be established to cover the cost. Both facilities consist of a sewer drain and RV tank connection equipment, as well as a clean water hose for cleaning. Central Marin reported that their facility cost \$150,000 and was completed ten years ago, which,

adjusted for inflation, is approximately \$176,000. Both Marin and Contra Costa charge \$10 for each use of the facility, report very low management costs, and serve an average of 10 users per month.

FINANCIAL IMPLICATIONS

Costs associated with building the facility, approximately \$150,000 – \$200,000, offset by fees, and staff time to collect fees. On average, an RV occupied by two people needs to discharge waste every week. Thus for every 50 RVs, 2,400 discharges annually could be expected, generating \$36,000 with a \$15 per use fee. Under this scenario, costs would be recouped in approximately 5 years and a small percentage of the fee could go towards subsidizing service for very low-income vehicle dwellers.

ENVIRONMENTAL SUSTAINABILITY

Reduces public health hazards, as well as environmental pollutants entering our waterways due to poor sanitation and/or a lack of sanitation services. Reduces travel time and resulting emissions.

CONTACT PERSON

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



Councilmember Ben Bartlett

City of Berkeley, District 3
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
PHONE 510-981-7130
EMAIL: bbartlett@cityofberkeley.info

ACTION CALENDAR
April 23, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Ben Bartlett
Subject: Creation of Vehicle Dwellers Governance Body

RECOMMENDATION

Refer to City Manager for policy language to create a Governance Body for permitted vehicle dwellers in Berkeley. This proposal is meant to engender purpose and responsibility among participants. Accordingly, the Governance Body should be self-governing, self-organizing, and self-funding. Governance body will uphold the following conditions:

1. All residents must be registered with Berkeley’s Coordinated Entry Program.
2. At all times, vehicles must be registered and fully operable.
3. No illegal substances, weapons, violence, or disruptive behavior will be tolerated either on site or in the immediate neighborhood.
4. Vehicle repairs are not to be performed on-site.
5. No property will be stored outside the vehicle, excluding items exceeding 6 feet in length, and one propane BBQ grill. Personal and immediate areas must remain trash free.
6. A noise curfew will be instituted in agreement with the neighbors.
7. A council including area neighbors and RV dwellers will be established. Participation is mandatory.
8. All residents are expected to pay monthly rent of no more than \$200 per month.

The Governance Body will convene weekly at a set time, and act as the final decision making body and conflict resolution forum. All residents, whether in attendance or not, agree to comply with the Body’s decisions.

Matters related specifically to drugs, weapons, violence, and/or criminal activity will result in immediate termination of residents’ tenancy. Such matters may be taken up at the discretion of the Governance Body which may uphold, modify, or set aside termination.

In cases of conflict among residents, the following procedures will take place:

1. A complaint is filed by a resident to the Governance Body. The complaint will be heard at the Governance Body meeting.
2. The Governance Body investigates the complaint and makes a determination. If the determination is that the complaint is legitimate, a notice of cease and desist is issued. The recipient of the cease and desist letter will have 72 hours to comply or leave.
3. If the recipient received a cease and desist letter, they may appeal the decision to the Governance Body. The Governance Body will have the ability to meet outside its normal weekly meeting schedule in case of an appeal.
4. If the appeal is upheld, no further action will be taken and the recipient of the cease and desist letter can stay in the community. If the appeal is rejected, the recipient of the cease and desist letter has 24 hours to comply or leave. Governance Body decisions can only be appealed once.

CURRENT SITUATION

Berkeley has an estimated 200 RVs parking in areas in West Berkeley for long periods of time. This has caused local businesses and residents to report health and safety complaints to the City. Berkeley City Council has expressed a desire to find a long-term solution which grants RV owners stability and a ladder to being healthy and housed while ensuring the safety and quality of life for neighbors and prosperity of Berkeley's businesses.

BACKGROUND

As the housing crisis continues, many California residents have transitioned to living in RVs as a cost-saving effort. Berkeley Police Department have counted roughly 200 RVs throughout the city. In April of 2018, Berkeley Police Department distributed warning notices to about 20 RVs parked in the parking lot of DoubleTree Hotel after receiving safety complaints from Marina visitors. In July 2018, Berkeley gave them a week's notice to move relocate. Several dozen RVs moved to West Berkeley, particularly the area near Eighth and Harrison streets, lining several blocks.

In September 2018, City Council directed city staff to look into options for managing RV parking. On March 26, 2019 City Council approved a ban on RVs parking from 2-5 AM, with enforcement suspended until a 14-day permitting system and a three-month permit system for persons with disabilities, families with children, students, and persons with existing connections to Berkeley is in place. Council also directed staff to seek out plots of available land in unincorporated Alameda and Contra Costa Counties, neighboring cities, the Berkeley Unified School District, private lots, and churches that would allow RVs to park for longer periods of time with the condition that RV owners be engaged in city homelessness services and attempt to procure housing. Council voted to approve these elements with the acknowledgement that it would follow up with a more long-term solution to the issue of RV parking.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, LAWS

Berkeley will begin enforcing a ban on unpermitted parking from 2-5 AM. With a request to the City Manager to create a permitting program as described above. This Item seeks to add to that permitting program.

ACTIONS/ALTERNATIVES CONSIDERED

On September 25, 2018, City Council approved a recommendation to “Refer to the City Manager to look into how other cities use permitting to manage RV parking and suggest a permit process that Council can consider to enable RV parking but place some sensible limits.” Additionally, on December 11, 2018 the City Council approved a recommendation to “Refer to the City Manager to establish a recreational vehicle waste discharge facility on City property and equitable administrative fee program, including consideration of method of pump out, cost, locations, and capacity, and refer costs associated with the facility to the FY 2020/21 Budget Process.” In order to understand how other neighboring cities are responding to this regional challenge, City staff gathered information on other cities in the Bay Area (Oakland, San Francisco, Fairfield, Richmond, Albany, Emeryville, Alameda and Antioch) and their policies and laws regarding RV parking. Findings include:

Only Oakland and Alameda have special RV policies. Oakland is building a designated slot for RVs, and Alameda runs a hygiene bus to provide RV dwellers with services.

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT To be determined.

FISCAL IMPACTS OF RECOMMENDATION No further impacts to the General Fund. The administration of the Safe Parking Community


ENVIRONMENTAL SUSTAINABILITY

Providing longer-term solutions for vehicle dwellers in Berkeley discourages moving fossil fuel-burning vessels such as RVs, thereby positively impacting the environment. Greater stability for RV-dwellers could also reduce garbage and other waste by giving these individuals a more predictable lifestyle, enabling them to consume goods more efficiently and leading to less waste.

OUTCOMES AND EVALUATION To be determined.

CONTACT PERSON

Councilmember Ben Bartlett:	510-981-7130
Matthew Napoli	510-981-7131

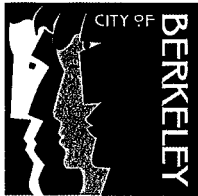


No Material
Available for
this Item

There is no material for this item.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

The City of Berkeley Health, Life Enrichment, Equity & Community Committee Webpage:
https://www.cityofberkeley.info/Clerk/Home/Policy_Committee__Health,_Life_Enrichment,_Equity__Community.aspx



CITY COUNCILMEMBER
RIGEL ROBINSON
DISTRICT 7

RECEIVED AT
COUNCIL MEETING OF:
MAY 13 2019

05

OFFICE OF THE CITY CLERK
CITY OF BERKELEY
March 26, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmembers Rigel Robinson, Cheryl Davila, and Ben Bartlett, and Sophie Hahn
Subject: Ban Racial, Ethnic, Cultural, and Religious Discrimination on the Basis of Hairstyle or Headwear

RECOMMENDATION

~~Ban racial discrimination on the basis of a person's natural hairstyle by either:~~

- ~~• Adopt a new Section of the Berkeley Municipal Code: Chapter 13.23 RACIAL DISCRIMINATION ON THE BASIS OF HAIRSTYLE OR HEADWEAR IN EMPLOYMENT, HOUSING, AND PUBLIC ACCOMMODATIONS, prohibiting grooming or appearance policies which target natural or traditional hair, or hairstyles, or headwear.~~

~~Or~~

- ~~• Issue local legislative interpretation guidelines regarding both the illegality of disparate impact grooming or appearance policies under the Fair Employment and Housing Act, and the illegality of refusing public services on the basis of mutable characteristics under California Civil Code Section 51.~~

BACKGROUND

~~In February 2019, the New York City Commission on Human Rights (NYCCHR) issued new Legal Enforcement Guidance on Race Discrimination on the Basis of Hair, under the New York City Human Rights Law (NYCHRL). The City of Berkeley should follow in New York's footsteps, and take similar action to expressly prohibit racially discriminatory hair styling and appearance requirements in the areas of employment, housing, school, and other areas of daily living. In doing so, the Council should consider a number of approaches.~~

In New York, the NYCCHR found the contemporary manifestation of racial bias to include discrimination based on characteristics and cultural practices associated with being African American, including prohibitions on natural hair. In the 2019 Enforcement Guide, NYCCHR states current anti-discrimination law should be interpreted to give people of color "the right to maintain natural hair, treated or untreated hairstyles such as locs, cornrows, twists, braids, Bantu knots, fades, Afros, and/or the right to keep hair in an uncut or untrimmed state."

OFFICE OF THE CITY CLERK
CITY OF BERKELEY

EDRS 5.1 YAM

This falls under the range of human rights issues which The Berkeley Municipal Code (BMC) identifies as its mission to solve. As stated in BMC Section 1.22.010, "the City of Berkeley shall promote: (1) Higher standards of living, full employment, and conditions of economic and social progress and development; (2) Solutions of local economic, social, health and related problems; and regional cultural and educational cooperation; and (3) Universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."

~~In To achieving achieve~~ these goals, the Council has ~~multiple potential legislative routes to consider.~~ Firstly, Berkeley could should adopt a new ordinance, BMC Chapter 13.23, a draft of which is attached. Chapter 13.23 would prohibit racial, ethnic, cultural, or religious discrimination on the basis of hair, or hair styling, or headwear, and enumerate the rights of all persons to maintain natural, untreated, and traditional hairstyles and headwear in all sectors of employment, housing, and public accommodations. Chapter 13.23 is modeled after other sections of the code dealing with anti-discrimination law, including Chapters 13.20, 13.28, and 13.30, as well as Chapter 13.101, the Berkeley Family Friendly and Environment Friendly Workplace Ordinance.

~~Modeling a different approach, the NYCCHR 2019 Enforcement Guide is written as a statutory interpretation document, under the NYCHRL. Similarly, the Council could issue local interpretation guidelines for two comparable California State laws: The 1959 Fair Employment Housing Act (FEHA) to cover discrimination in employment, and the 1959 Unruh Civil Rights Act (Unruh Act) to cover discrimination in places of public accommodation.~~

~~One component of FEHA's ban on discriminatory workplace practices covers disparate impact discrimination, which implicates rules that apply to all employees but have a disproportionate impact on members of a protected class. Any hair styling rule that permits members of some groups to wear their hair naturally, but requires others to use more extensive procedures, could be interpreted to be in violation of FEHA.~~

~~The Unruh Act, California Civil Code sections 51 through 52, states that a broad range of protected demographic categories "are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever." According to settled legal precedent, the Unruh Act is understood broadly to prohibit public businesses from refusing service based on arbitrary or appearance-based characteristics. Thus, any denial of access to a place of public accommodation based on hairstyle is a clear violation of the Unruh Act.~~

ALTERNATIVE ACTIONS CONSIDERED

An alternative considered was to issue local legislative interpretation guidelines regarding both the illegality of disparate impact grooming or appearance policies under the Fair Employment and Housing Act, and the illegality of refusing public services on the basis of mutable characteristics under California Civil Code Section 51. It was found

that adopting new code language to codify these findings would be more enforceable and legally defensible, as City staff have greater leeway in interpreting local statute than state or federal law.

FINANCIAL IMPLICATIONS

Limited. Enforcement would mostly be done on a complaint basis and by private right of action, limiting staff time required after adoption. None.

ENVIRONMENTAL SUSTAINABILITY

None.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170
Mars Svec-Burdick, Intern to Councilmember Rigel Robinson

Attachments:

1: Ordinance

2: NYC Commission on Human Rights Legal Enforcement Guidance on Race
Discrimination on the Basis of Hair

<https://www1.nyc.gov/assets/cchr/downloads/pdf/Hair-Guidance.pdf>

3: Unruh Civil Rights Act, California Civil Code Section 51

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV§ionNum=51

4: Fair Employment and Housing Act

https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=GOV&division=3.&title=2.&part=2.8.&chapter=&article=

ORDINANCE NO. -N.S.

ADOPT BERKELEY MUNICIPAL CODE CHAPTER 13.23 TO PROHIBIT RACIAL DISCRIMINATION ON THE BASIS OF HAIRSTYLE IN EMPLOYMENT, HOUSING, AND PUBLIC ACCOMMODATIONS

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

Section 1. That Berkeley Municipal Code Chapter 13.23 is added to read as follows:

Chapter 13.23
RACIAL DISCRIMINATION ON THE BASIS OF HAIRSTYLE IN EMPLOYMENT, HOUSING, AND PUBLIC ACCOMMODATIONS

Chapter-13.23.010 Purpose

The purpose of this Chapter is to protect public health, safety and welfare. It does this by seeking to eliminate all forms of racial, ethnic, cultural, and religious discrimination within the City.

Chapter-13.23.020 Findings

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

A) Discrimination against racial, ethnic, cultural, and religious minorities in employment, housing, and public accommodations exists within the City. The council further finds that the existence of such discrimination poses a substantial threat to the economic and social welfare of a sizeable segment of the community, namely, racial minority groups.

B) Racial, ethnic, cultural, and religion based by discriminatory grooming or appearance policies exist in places of employment, housing, and public accommodations within the City. These policies exacerbate inequality in the workplace and housing market.

C) The overall effect of grooming or appearance policies which target the natural or traditional hair styles and headwear of racial, ethnic, cultural, and religious minority groups is to require a disproportionate outlay of monetary and time resources from members of these groups in order to participate in daily living, and to restrict these groups from fully and freely participating in public life.

D) Discrimination through grooming and appearance policies falls most heavily on low income communities, but cuts across all racial, ethnic, cultural, religious, and economic levelsgroups.

Chapter-13.23.030 Definitions

As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this subsection:

A) "Department" means the City of Berkeley's Health, Housing, and Community Services Department, or any successor department, or any other Department as designated by the City Manager.

A)B) "Grooming or appearance policies" or "appearance policies" means any code of dress, grooming, or appearance, written or unwritten, under which an individual is in any way penalized for noncompliance.

B)C) "Natural hair" means all natural patterns of hair growth across all racial and ethnic groups, including but not limited to treated or untreated hairstyles such as locs, cornrows, twists, braids, Bantu knots, fades, Afros, and/or the right to keep hair in an uncut or untrimmed state.

C)D) "Place of public accommodation" or "public accommodations" means providers, whether licensed or unlicensed, of goods, services, facilities, accommodations, advantages or privileges of any kind, and places, whether licensed or unlicensed, where goods, services, facilities, accommodations, advantages or privileges of any kind are extended, offered, sold, or otherwise made available. This unambiguously includes schools, due to the historical proliferation of racially discriminatory grooming and appearance policies in educational settings.

E) "Traditional hair" means styles of maintaining hair of cultural or religious significance to any racial, ethnic, cultural, or religious group, including keeping hair uncut or completely shaven.

F) "Traditional headwear" means clothing that is worn on the head that is culturally or religiously significant to any racial, ethnic, cultural, or religious group.

Chapter 13.23.040 Unlawful activities

It is unlawful for any employer, business owner, property owner, provider of public accommodation, or any agent or employee thereof to discriminate in the conditions or enforcement of a grooming or appearance policy. Such prohibited discrimination includes but is not limited to the following:

A) Publish, verbally state, or otherwise communicate an explicitly or implicitly mandatory appearance policy which includes any condition prohibiting natural or traditional hair or headwear, either textually or in practice;

B) Require, in order to access employment opportunities, housing accommodations, public accommodations, or the negotiation or carrying out thereof, individual adherence to a grooming or appearance policy which explicitly or ~~implicitly~~implicitly bans any natural or traditional hair style or headwear.

C) Refuse to enter into negotiations regarding hiring, employment, compensation, lease or rental of property, or otherwise withhold from any person any provision of public accommodations because of their natural or traditional hair style or headwear;

D) Represent to any person because of their natural or traditional hair style or headwear that employment opportunities, housing accommodations, or public accommodations are not available when such opportunities or accommodations are in fact available;

E) Include a clause or provision in any legal document or agreement that the employee, tenant, or recipient of public accommodations shall adhere to a grooming or appearance policy which compromises their ability to maintain a natural or traditional hair style or headwear;

F) Penalize an employee, tenant, or recipient of public accommodations for violating an appearance policy which unlawfully bans natural or traditional hair or headwear, in any manner including financial penalties, termination, withholding of wage increases, or denial of services, housing or access.

G) Enforce grooming or appearance policies inconsistently between members of different groups, to the effect of enacting unequal and discriminatory grooming standards.

13.23.050 Exemptions – Health and Safety

A) The Department, in consultation with the Director of Human Resources, may exempt non-City Employees upon request of their non-City Employers, based upon operational requirements related to health and safety according to criteria developed by the Agency and the Director of Human Resources. Such criteria shall advance public safety or public health.

B) Department Directors may request an exemption from this Chapter from the Director of Human Resources for certain classifications of City employees based upon operational requirements related to health and safety according to criteria developed by the Director of Human Resources. Such criteria shall advance public safety or public health.

Chapter 13.23.0650 Enforcement

A) Any aggrieved person may enforce the provisions of this chapter by means of a civil action.

B) Any person who commits, or proposes to commit, an action in violation of this chapter may be enjoined therefrom by any court of competent jurisdiction.

C) Action for injunction under this subsection may be brought by any aggrieved person, by the city attorney, by the district attorney, or by any person or entity which will fairly and adequately represent the interests of the protected class.

Chapter 13.23.0760 Liability for costs and damages

Any person who violates the provisions of this chapter shall be liable to each person injured by such violation for reasonable attorney's fees and costs as determined by the court, plus damages equaling three times the amount of actual damages or a minimum of five hundred dollars.

Chapter 13.23.0870 Criminal penalties

Any person who is found by a court of competent jurisdiction to be guilty of a willful violation of the provisions of this chapter shall be guilty of a misdemeanor as set forth in Chapter 1.20 of this code.

Chapter 13.23.0980 Limitation on action.

Actions under this chapter must be filed within one year of the alleged discriminatory acts.

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.



CITY COUNCILMEMBER
RIGEL ROBINSON
DISTRICT 7

CONSENT CALENDAR
March 26, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmembers Rigel Robinson, Cheryl Davila, Ben Bartlett and Sophie Hahn
Subject: Ban Racial Discrimination on the Basis of Hairstyle

RECOMMENDATION

Ban racial discrimination on the basis of a person's natural hairstyle by either:

- Adopt a new Section of the Berkeley Municipal Code: Chapter 13.23 RACIAL DISCRIMINATION ON THE BASIS OF HAIRSTYLE IN EMPLOYMENT, HOUSING, AND PUBLIC ACCOMMODATIONS, prohibit grooming or appearance policies which target natural hair or hairstyles.

Or

- Issue local legislative interpretation guidelines regarding both the illegality of disparate impact grooming or appearance policies under the Fair Employment and Housing Act, and the illegality of refusing public services on the basis of mutable characteristics under California Civil Code Section 51.

BACKGROUND

In February 2019, the New York City Commission on Human Rights (NYCCHR) issued new Legal Enforcement Guidance on Race Discrimination on the Basis of Hair, under the New York City Human Rights Law (NYCHRL). The City of Berkeley should follow in New York's footsteps, and take similar action to expressly prohibit racially discriminatory hair styling requirements in the areas of employment, housing, school, and other areas of daily living. In doing so, the Council should consider a number of approaches.

In New York, the NYCCHR found the contemporary manifestation of racial bias to include discrimination based on characteristics and cultural practices associated with being African American, including prohibitions on natural hair. In the 2019 Enforcement Guide, NYCCHR states current anti-discrimination law should be interpreted to give people of color "the right to maintain natural hair, treated or untreated hairstyles such as locs, cornrows, twists, braids, Bantu knots, fades, Afros, and/or the right to keep hair in an uncut or untrimmed state."

This falls under the range of human rights issues which The Berkeley Municipal Code (BMC) identifies as its mission to solve. As stated in BMC Section 1.22.010, "the City of Berkeley shall promote: (1) Higher standards of living, full employment, and conditions

of economic and social progress and development; (2) Solutions of local economic, social, health and related problems; and regional cultural and educational cooperation; and (3) Universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.”

In achieving these goals, the Council has multiple potential legislative routes to consider. Firstly, Berkeley could adopt BMC Chapter 13.23, a draft of which is attached. Chapter 13.23 would prohibit racial discrimination on the basis of hair or hair styling, and enumerate the rights of all persons to maintain natural, untreated hairstyles in all sectors of employment, housing, and public accommodations.

Modeling a different approach, the NYCCHR 2019 Enforcement Guide is written as a statutory interpretation document, under the NYCHRL. Similarly, the Council could issue local interpretation guidelines for two comparable California State laws: The 1959 Fair Employment Housing Act (FEHA) to cover discrimination in employment, and the 1959 Unruh Civil Rights Act (Unruh Act) to cover discrimination in places of public accommodation.

One component of FEHA’s ban on discriminatory workplace practices covers disparate impact discrimination, which implicates rules that apply to all employees but have a disproportionate impact on members of a protected class. Any hair styling rule that permits members of some groups to wear their hair naturally, but requires others to use more extensive procedures, could be interpreted to be in violation of FEHA.

The Unruh Act, California Civil Code sections 51 through 52, states that a broad range of protected demographic categories “are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.” According to settled legal precedent, the Unruh Act is understood broadly to prohibit public businesses from refusing service based on arbitrary or appearance-based characteristics. Thus, any denial of access to a place of public accommodation based on hairstyle is a clear violation of the Unruh Act.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

None.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170
Mars Svec-Burdick, Intern to Councilmember Rigel Robinson

Attachments:

1: Ordinance

2: NYC Commission on Human Rights Legal Enforcement Guidance on Race Discrimination on the Basis of Hair

<https://www1.nyc.gov/assets/cchr/downloads/pdf/Hair-Guidance.pdf>

3: Unruh Civil Rights Act, California Civil Code Section 51

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV§ionNum=51

4: Fair Employment and Housing Act

https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=GOV&division=3.&title=2.&part=2.8.&chapter=&article=

ORDINANCE NO. -N.S.

ADOPT BERKELEY MUNICIPAL CODE CHAPTER 13.23 TO PROHIBIT RACIAL DISCRIMINATION ON THE BASIS OF HAIRSTYLE IN EMPLOYMENT, HOUSING, AND PUBLIC ACCOMMODATIONS

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

Section 1. That Berkeley Municipal Code Chapter 13.23 is added to read as follows:

Chapter 13.23 RACIAL DISCRIMINATION ON THE BASIS OF HAIRSTYLE IN EMPLOYMENT, HOUSING, AND PUBLIC ACCOMMODATIONS

Chapter 13.23.010 Purpose

The purpose of this Chapter is to protect public health, safety and welfare. It does this by seeking to eliminate all forms of racial discrimination within the City.

Chapter 13.23.020 Findings

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

- A) Discrimination against racial minorities in employment, housing, and public accommodations exists within the City. The council further finds that the existence of such discrimination poses a substantial threat to the economic and social welfare of a sizeable segment of the community, namely, racial minority groups.
- B) Racially discriminatory grooming or appearance policies exist in places of employment, housing, and public accommodations within the City. These policies exacerbate inequality in the workplace and housing market.
- C) The overall effect of grooming or appearance policies which target the natural hair styles of racial minority groups is to require a disproportionate outlay of monetary and time resources from members of these groups in order to participate in daily living.
- D) Discrimination through grooming and appearance policies falls most heavily on low income communities, but cuts across all racial, ethnic and economic levels.

Chapter 13.23.030 Definitions

As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this subsection:

- A) "Grooming or appearance policies" or "appearance policies" means any code of dress, grooming, or appearance, written or unwritten, under which an individual is in any way penalized for noncompliance.

B) "Natural hair" means all natural patterns of hair growth across all racial and ethnic groups, including treated or untreated hairstyles such as locs, cornrows, twists, braids, Bantu knots, fades, Afros, and/or the right to keep hair in an uncut or untrimmed state.

C) "Place of public accommodation" or "public accommodations" means providers, whether licensed or unlicensed, of goods, services, facilities, accommodations, advantages or privileges of any kind, and places, whether licensed or unlicensed, where goods, services, facilities, accommodations, advantages or privileges of any kind are extended, offered, sold, or otherwise made available. This unambiguously includes schools, due to the historical proliferation of racially discriminatory grooming and appearance policies in educational settings.

Chapter 13.23.040 Unlawful activities

It is unlawful for any employer, business owner, property owner, provider of public accommodation, or any agent or employee thereof to discriminate in the conditions or enforcement of a grooming or appearance policy. Such prohibited discrimination includes but is not limited to the following:

A) Publish, verbally state, or otherwise communicate an explicitly or implicitly mandatory appearance policy which includes any condition prohibiting natural hair, either textually or in practice;

B) Require, in order to access employment opportunities, housing accommodations, public accommodations, or the negotiation or carrying out thereof, individual adherence to a grooming or appearance policy which explicitly or implicitly bans any natural hair style.

C) Refuse to enter into negotiations regarding hiring, employment, compensation, lease or rental of property, or otherwise withhold from any person any provision of public accommodations because of their natural hair style;

D) Represent to any person because of their natural hair style that employment opportunities, housing accommodations, or public accommodations are not available when such opportunities or accommodations are in fact available;

E) Include a clause or provision in any legal document or agreement that the employee, tenant, or recipient of public accommodations shall adhere to a grooming or appearance policy which compromises their ability to maintain a natural hair style;

F) Penalize an employee, tenant, or recipient of public accommodations for violating an appearance policy which unlawfully bans natural hair, in any manner including financial penalties, termination, withholding of wage increases, or denial of services, housing or access.

G) Enforce grooming or appearance policies inconsistently between members of different groups, to the effect of enacting unequal and discriminatory grooming standards.

Chapter 13.23.050 Enforcement

A) Any aggrieved person may enforce the provisions of this chapter by means of a civil action.

B) Any person who commits, or proposes to commit, an action in violation of this chapter may be enjoined therefrom by any court of competent jurisdiction.

C) Action for injunction under this subsection may be brought by any aggrieved person, by the city attorney, by the district attorney, or by any person or entity which will fairly and adequately represent the interests of the protected class.

Chapter 13.23.060 Liability for costs and damages

Any person who violates the provisions of this chapter shall be liable to each person injured by such violation for reasonable attorney's fees and costs as determined by the court, plus damages equaling three times the amount of actual damages or a minimum of five hundred dollars.

Chapter 13.23.070 Criminal penalties

Any person who is found by a court of competent jurisdiction to be guilty of a willful violation of the provisions of this chapter shall be guilty of a misdemeanor as set forth in Chapter 1.20 of this code.

Chapter 13.23.080 Limitation on action.

Actions under this chapter must be filed within one year of the alleged discriminatory acts.

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.



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06

CONSENT CALENDAR
April 23, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmembers Ben Bartlett, Kate Harrison & Cheryl Davila
Subject: Air Quality Monitoring Program

RECOMMENDATION:

Referral to the Public Health Department to establish an advanced air quality monitoring program in Berkeley to provide data about how air quality in the city varies over time and between neighborhoods. To better implement this program, the City should form partnerships with technology companies, environmental research groups, and healthcare providers.

CURRENT SITUATION

Berkeley has had a history of poor air quality, with causes ranging from smoke caused by regional wildfires to air pollution emitted by high amounts of vehicular traffic throughout the Bay Area. While this is harmful to all Berkeley residents in general, it is particularly harmful to those with respiratory issues and without adequate healthcare. By upgrading air quality monitoring in Berkeley, the City can provide more accurate reports to its residents and identify which areas of Berkeley contain the highest levels of air pollutants and address these issues accordingly. The program will also have the benefit of identifying poor air quality areas that coincide with low-income neighborhoods. Since these particular neighborhoods are less likely to have access to affordable and necessary medical services, they will be at much higher risk of health issues caused by air pollutants. Therefore, this program, in conjunction with the Health Innovation Zone, will not only benefit the general population but also serve to provide better, more equitable healthcare to underserved and low-income neighborhoods in Berkeley.

BACKGROUND:

Currently, Berkeley's primary air monitoring station is located in the Berkeley Aquatic Park area. This single station provides daily Air Quality Index (AQI) measurements as well as ozone and fine particulate matter (PM_{2.5}) levels¹. The station can provide only a single aggregate estimate for the entire city of Berkeley once every hour. However, it is unable to provide any measurements for different areas of the city which may experience disparate levels of air pollution due to Berkeley's varied geography and the

¹ <http://www.baaqmd.gov/about-air-quality/current-air-quality/air-monitoring-data?DataViewFormat=daily&DataView=aqi&ParameterId=316>

natural formation of inversion layers in the Bay Area.² These factors, along with the layout of the city, tend to place wealthier neighborhoods at higher elevations (such as on tops of hills) and low-income neighborhoods at lower elevations, with air pollutants possibly accumulating at ground level.³ Neighborhoods near high-traffic roadways are also believed to have higher levels of air pollution due to vehicle emissions.⁴ While all people are harmed by the effects of air pollution, those who consistently live in areas with poorer air quality are at a higher risk of developing long-term respiratory and other health-related issues. If these areas also happen to be low-income neighborhoods, then residents here may have more difficulty affording access to the healthcare necessary to treat or prevent the adverse health effects of air pollution.

In order to determine how different the levels of air pollution are between high-elevation and low-elevation neighborhoods as well as high-traffic and low-traffic areas, the City of Berkeley should upgrade its air monitoring network by installing sensors in different neighborhoods throughout the city. These smaller, less expensive sensors will complement the Berkeley Aquatic Park station by enhancing it with highly localized data that may reveal the differences in air quality in separate parts of Berkeley. Should these disparities exist, the City of Berkeley will be better equipped and informed to address these and other health-related issues.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

Currently, The Bay Area Air Quality Management District maintains an air quality monitoring network consisting of over 30 stations distributed among the nine Bay Area counties. This network measures concentrations of pollutants for which health-based ambient air quality standards have been set by the U.S. Environmental Protection Agency and the California Air Resources Board. The network also measures concentrations of various pollutants designated as Toxic Air Contaminants by the state of California.⁵ However, only one of these stations is located within Berkeley. Thus, to upgrade the quality of air monitoring within the city, a network of sensors should be installed throughout the city.

ACTIONS/ALTERNATIVES CONSIDERED

This program is modeled after the Breathe London project.

OUTREACH OVERVIEW AND RESULTS

² <http://static.lawrencehallofscience.org/scienceview/scienceview.berkeley.edu/html/view/plume.php>

³ <https://www.berkeleyside.com/2013/01/04/a-map-details-berkeley-gulf-between-rich-and-poor>

⁴ <https://cen.acs.org/environment/pollution/London-starts-worlds-largest-air/97/web/2019/02>

⁵ <http://www.baaqmd.gov/about-air-quality/air-quality-measurement/ambient-air-monitoring-network>

This legislation is designed to make it possible for the City of Berkeley to form partnerships with organizations such as technology companies, environmental groups, and healthcare groups to better implement this program. Recommendations were also received from former Councilmember Gordon Wozniak.

RATIONALE FOR RECOMMENDATION

Currently, Berkeley's single air monitoring station is located in the Berkeley Aquatic Park area, which provides daily measurements of air pollutant levels for the entire city once every hour. However, it is unable to provide any measurements for different areas of the city which may experience disparate levels of air pollution due to Berkeley's varied geography and the natural formation of inversion layers in the Bay Area. In order to determine how different the levels of air pollution are between high-elevation and low-elevation neighborhoods as well as high-traffic and low-traffic areas, the City of Berkeley should upgrade its air monitoring network by installing sensors in different neighborhoods throughout the city. By identifying poor air quality areas that coincide with low-income neighborhoods, the City can address health-related issues caused by air pollution more easily.

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

The program will be financed by the City of Berkeley with support from possible partnerships with interested organizations.

FISCAL IMPACTS OF RECOMMENDATION

Staff time and costs associated with purchasing, installing, and maintaining equipment.

ENVIRONMENTAL SUSTAINABILITY

This program will provide better measurements of air quality and help identify and address environmental issues related to air pollution.

OUTCOMES AND EVALUATION

It is expected that the City of Berkeley and Public Health Department will partner with other organizations to create an effective and cost-efficient program to upgrade Berkeley's air quality monitoring system.

CONTACT PERSON

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Brian Gan

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