

**BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE
SPECIAL MEETING**

TUESDAY, OCTOBER 15, 2019

2:30 P.M.

2180 Milvia Street, 6th Floor – Redwood Room

Committee Members:

Mayor Jesse Arreguin, Councilmembers Kate Harrison and Susan Wengraf

AGENDA

Roll Call

Public Comment

Review of Agendas

1. **Approval of Minutes: October 1, 2019**
2. **Review and Approve Draft Agendas:**
 - a. 10/29/19 – 6:00 p.m. Regular City Council Meeting
3. **Selection of Item for the Berkeley Considers Online Engagement Portal**
4. **Adjournments In Memory**

Scheduling

5. **Council Worksessions Schedule**
6. **Council Referrals to Agenda Committee for Scheduling**
7. **Land Use Calendar**

Referred Items for Review

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.

8. Discussion of Potential Revisions to the City Council Rules of Procedure and Order

Items for Future Agendas

- Discussion of items to be added to future agendas

Adjournment – Next Meeting Monday, October 28, 2019

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### Additional items may be added to the draft agenda per Council Rules of Procedure.

*Rules of Procedure as adopted by Council resolution, Article III, C3c - Agenda - Submission of Time Critical Items*

*Time Critical Items. A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or council member is received by the City Clerk after established deadlines and is not included on the Agenda Committee's published agenda.*

*The City Clerk shall bring any reports submitted as Time Critical to the meeting of the Agenda Committee. If the Agenda Committee finds the matter to meet the definition of Time Critical, the Agenda Committee may place the matter on the Agenda on either the Consent or Action Calendar.*

*The City Clerk shall not accept any item past the adjournment of the Agenda Committee meeting for which the agenda that the item is requested to appear on has been approved.*

*Written communications addressed to the Agenda Committee and submitted to the City Clerk Department by 5:00 p.m. the Friday before the Committee meeting, will be distributed to the Committee prior to the meeting. After the deadline for submission, residents must provide 10 copies of written communications to the City Clerk at the time of the meeting.*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Members of the City Council who are not members of the standing committee may attend a standing committee meeting even if it results in a quorum being present, provided that the non-members only act as observers and do not participate in the meeting. If only one member of the Council who is not a member of the committee is present for the meeting, the member may participate in the meeting because less than a quorum of the full Council is present. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 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 (510) 981-6418 (V) or (510) 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 October 10, 2019.



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 AGENDA & RULES COMMITTEE SPECIAL MEETING MINUTES

TUESDAY, OCTOBER 1, 2019

2:30 P.M.

2180 Milvia Street, 6<sup>th</sup> Floor – Redwood Room

Committee Members:

Mayor Jesse Arreguin, Councilmembers Kate Harrison and Susan Wengraf

**Roll Call:** 2:36 p.m. All present.

**Public Comment** – 4 speakers.

## Review of Agendas

### 1. Approval of Minutes: September 16, 2019

**Action:** M/S/C (Wengraf/Harrison) to approve the Minutes of 9/16/19.

**Vote:** All Ayes.

### 2. Review and Approve Draft Agendas:

a. 10/15/19 – 6:00 p.m. Regular City Council Meeting

**Action:** M/S/C (Wengraf/Harrison) to approve the agenda of the 10/15/19 meeting as revised below.

**Vote:** All Ayes.

- *Item Added: Savo Island (Bartlett)*
- *Item Added: Berkeley City Club (Hahn)*
- *Item 3 Ambulance Gurneys (City Manager) – dollar amount revised to \$74,000*
- *Item 11 Mills Act Contract (City Manager) – noted that Councilmember Wengraf will be recused for vote*
- *Item 16 Holiday Fund (Arreguin) – Councilmember Davila added as a co-sponsor*
- *Item 17 Capoeira Arts (Arreguin) – Councilmember Davila added as a co-sponsor*
- *Item 18 Health Impact Assessment (Arreguin) – revised to removed Attachment 5*
- *Item 19 NAACP Fundraiser (Bartlett) – Councilmembers Harrison and Davila added as co-sponsors; revised item submitted*
- *Item 31 AB 626 (City Manager) – moved to Consent Calendar*
- *Item 32 Traffic Circles (Task Force) – scheduled for special meeting on 11/12/10 at 4:00pm*
- *Item 33 Face Recognition Technology (Harrison) – Councilmember Davila added as a co-sponsor; Moved to Consent Calendar*
- *Item 34 Hairstyle or Headwear Discrimination (Robinson) – moved to Consent Calendar*
- *Item 35 Excused Absence (Arreguin) – moved to Consent Calendar*
- *Item 36 Old City Hall Shelter (Davila) – Councilmembers Bartlett and Kesarwani added as co-sponsors; revised item submitted; moved to Consent Calendar*
- *Item 37 UAW Strike (Harrison) – Councilmember Davila added as a co-sponsor; revised item submitted; moved to Consent Calendar*
- *Item 38 Homeless Encampments (Harrison) – Mayor Arreguin and Councilmember Robinson added as co-sponsors; revised item submitted; referred to the Health, Life Enrichment, Equity and Community Committee*
- *Item 39 Wildfire Prevention (Wengraf) – moved to Consent Calendar*
- *Item 40 Shared Streets (Robinson) – Councilmember Harrison added as a co-sponsor; moved to Consent Calendar*

- *Item 41 Seamless Transit (Droste) – Mayor Arreguin added as a co-sponsor; revised item submitted; moved to Consent Calendar*

### Order of Items on the Action Calendar

Item 21 Programmatic Agreement  
 Item 22 Kiosks  
 Item 23 Zoning Ordinance  
 Item 24 Big People Artwork  
 Item 25 Grant Writing  
 Item 26 Pathways STAIR Center  
 Item 27 Mobile Showers  
 Item 28 Workers' Compensation  
 Item 29 Wage Theft  
 Item 30 Bike and Pedestrian Improvements

- 3. Selection of Item for the Berkeley Considers Online Engagement Portal**  
 - No item selected
- 4. Adjournments In Memory**  
 - Michael Diehl, Former City Commissioner and Local Activist

## **Scheduling**

### **5. Council Worksessions Schedule**

**Action:** The Committee requested that the City Manager consult with departments to reduce the Worksessions scheduled for 11/5/19 and 1/14/20. Rescheduled the Zoning Ordinance Worksession to 5/5/20.

### **6. Council Referrals to Agenda Committee for Scheduling**

**Action:** M/S/C (Harrison/Arreguin) to refer #3 regarding City-owned parcels to the Land Use, Housing & Economic Development Committee.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Wengraf) to take no further action on #4 regarding a “vehicle dweller program.”

**Vote:** Ayes – Wengraf, Arreguin; Noes - Harrison.

### **7. Land Use Calendar – received and filed**

## Referred Items for Review

*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.*

### 8. Discussion and Selection of the Vendor for the City Manager Evaluation Process

**Action:** M/S/C (Wengraf/Arreguin) to recommend to the City Council that Management Partners be selected to perform the City Manager Evaluation with the request that Management Partners assign a consultant that has not previously worked with the City.

**Vote:** All Ayes.

### 9. Discussion of Potential Revisions to the City Council Rules of Procedure and Order

No action taken.

## Items for Future Agendas

- Discussion of items to be added to future agendas - none

## Adjournment

**Action:** M/S/C (Wengraf/Harrison) to adjourn the meeting.

**Vote:** All Ayes.

Adjourned at 3:24 p.m.

I hereby certify that this is a true and correct record of the Agenda & Rules Committee meeting held on October 1, 2019.

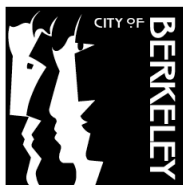
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Mark Numainville, City Clerk





## DRAFT AGENDA



### BERKELEY CITY COUNCIL MEETING

**Tuesday, October 29, 2019  
6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

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

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900.*

*The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

## Preliminary Matters

### Roll Call:

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

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

**Public Comment on Non-Agenda Matters:** *Persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.*

## Consent Calendar

*The Council will first determine whether to move items on the agenda for “Action” or “Information” to the “Consent Calendar”, or move “Consent Calendar” items to “Action.” Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent”.*

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

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

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

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

## Consent Calendar

### 1. Minutes for Approval

**From: City Manager**

**Recommendation:** Approve the minutes for the Council meetings of September 3, 2019 (special closed), September 10, 2019 (special closed and regular), September 17, 2019 (special closed and special) and September 24, 2019 (special closed and regular).

**Financial Implications:** None

Contact: Mark Numainville, City Clerk, (510) 981-6900

### 2. City Council Rules of Procedure and Order Revisions *(Reviewed by the Agenda & Rules Committee)*

**From: City Manager**

**Recommendation:** Adopt a Resolution revising the City Council Rules of Procedure and Order to integrate the previously adopted regulations for policy committees and make associated changes to other sections; update outdated references and practices; conform to the Open Government Ordinance; make other technical corrections; and rescinding any preceding amendatory resolutions.

**Financial Implications:** None

Contact: Mark Numainville, City Clerk, (510) 981-6900

## Consent Calendar

**3. Revised Conflict of Interest Code**

**From: City Manager**

**Recommendation:** Adopt a Resolution adopting a revised Conflict of Interest Code for the City of Berkeley and rescinding Resolution No. 68,201–N.S.

**Financial Implications:** None

Contact: Mark Numainville, City Clerk, (510) 981-6900

**4. Contract: Berkeley Convention and Visitor's Bureau, d.b.a. Visit Berkeley**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with the Berkeley Convention and Visitors' Bureau, d.b.a. Visit Berkeley, not to exceed \$7,966,000 of Berkeley Tourism Business Improvement District (BTBID) funds to support tourism marketing and promotion for the period through June 30, 2027.

**Financial Implications:** See report

Contact: Jordan Klein, Economic Development, (510) 981-7530

**5. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on October 29, 2019**

**From: City Manager**

**Recommendation:** Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on October 29, 2019

**Financial Implications:** Various Funds - \$160,000

Contact: Henry Oyekanmi, Finance, (510) 981-7300

**6. Recommendation and Contract: Management Partners for Management Consultancy Services** *(Reviewed by the Agenda & Rules Committee)*

**From: City Manager**

**Recommendation:** Adopt a Resolution accepting the recommendation of the City Council Agenda & Rules Committee authorizing the City Manager or her designee to execute a contract and any amendments or extensions with Management Partners in an amount not to exceed \$45,500 for the period from November 12, 2019 through July 31, 2021 to provide management consultancy services to the City Council of the City of Berkeley to conduct a performance evaluation of the City Manager.

**Financial Implications:** General Fund - \$45,500

Contact: Henry Oyekanmi, Finance, (510) 981-7300

## Consent Calendar

**7. Contract No. 103580-1 (9821) Amendment: First Alarm Security & Patrol, Inc., dba First Security Services for Citywide Security Services**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to increase the not-to-exceed value of Contract No. 103580-1 (9821) by \$300,000, from \$2,784,798 to \$3,084,798 to fund continued services through the contract expiration date of February 29, 2020. The \$300,000 additional spending authority provides the City with the necessary funding to finalize the on-going RFP #19-11316-C (Re-issued) for Citywide Unarmed Security Guard Services.

**Financial Implications:** See report

Contact: Henry Oyekanmi, Finance, (510) 981-7300

**8. Reserving General Funds for Housing Trust Fund Program Predevelopment Applications for 2526 San Pablo Avenue, 2001 Ashby Avenue, and 2321-2323 10th Street and Possible Measure U1 Funding Reservation**

**From: City Manager**

**Recommendation:** Adopt a Resolution:

1. Reserving General Funds received pursuant to Measure U1 in the following amounts: -\$500,000 for Satellite Affordable Housing Associates' new construction development at 2527 San Pablo Avenue; and -\$1.2 million for Resources for Community Development's new construction development at 2001 Ashby Avenue; and -\$50,000 for Northern California Land Trust's renovation of 2321-2323 10th Street.

2. Conditioning NCLT's predevelopment loan on the organization demonstrating compliance with the requirements of its 2017 Development Loan Agreement for 1340-48 Blake Street and 2425 California Street, including: -Updating its plan for assessing the feasibility of converting 1340-48 Blake and 2425 California to cooperatives; and -Updating its organizational documents to reflect a tripartite structure.

3. Conditioning the loan for 2001 Ashby Avenue on RCD's evaluating ways to reduce or eliminate the project's proposed parking spaces and/or parking footprint, if possible, in consideration of the needs of the residents, community services space, and climate change mitigation.

4. Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.

**Financial Implications:** See report

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

## Consent Calendar

- 9. Contract No. 10874B Amendment: Street Level Advisors for Zoning and Development Fee Feasibility Analyses**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10874B with Street Level Advisors, to analyze the impact of fees and other variables on development project feasibility, increasing the contract amount by \$150,000 to a new total not-to-exceed contract amount of \$225,400 and extending the contract period to December 31, 2022.  
**Financial Implications:** Permit Service Center Fund - \$150,000  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400
- 10. Contract: Redwood Toxicology Services for Drug and Alcohol Testing**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 10742 and any necessary future amendments with Redwood Toxicology Services for drug and alcohol testing for the Police Department, increasing the amount by \$200,000 for a total not to exceed amount of \$250,000 subject to the City's annual budget appropriation process.  
**Financial Implications:** General Fund - \$200,000  
Contact: Andrew Greenwood, Police, (510) 981-5900
- 11. Approval of One Additional Meeting for Children, Youth, and Recreation Commission in Calendar Year 2019**  
**From: Children, Youth, and Recreation Commission**  
**Recommendation:** Adopt a Resolution approving one additional meeting for the Children, Youth, and Recreation Commission in calendar year 2019.  
**Financial Implications:** Minimal  
Contact: Stephanie Chu, Commission Secretary, (510) 981-6700
- 12. Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees**  
**From: Auditor**  
**Recommendation:** We recommend City Council request that the City Manager report back by April 28, 2020, and every six months thereafter, regarding the status of our audit recommendations until reported fully implemented by the Human Resources Department. They have agreed to our findings and five of our recommendations. Please see our report for their complete response.  
**Financial Implications:** See report  
Contact: Jenny Wong, Auditor, (510) 981-6750

## Council Consent Items

- 13. Budget Referral: Berkeley Age-Friendly Continuum**  
**From: Mayor Arreguin**  
**Recommendation:** Refer to the mid-year budget process \$20,000 for the Berkeley Age-Friendly Continuum.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 14. Budget Referral: Funding Illegal Dumping Component of “Clean & Livable Commons Initiative”**  
**From: Councilmember Kesarwani, Councilmember Harrison, Mayor Arreguin**  
**Recommendation:** Refer to the November budget process consideration for providing \$200,000 to fund a key component of the “Clean & Livable Commons Initiative” unanimously passed by the City Council on February 28, 2019 to: -Add lighting, cameras and signs at strategic locations in Berkeley to help deter illegal dumping; and -Explore increasing the penalties for illegal dumping.  
**Financial Implications:** See report  
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110
- 15. Consider The Homeless Films, Food & Discussion Event on November 5, 2019: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmember Davila**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to support the Consider The Homeless “Films, Food & Discussion” Event on November 5, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$250  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120
- 16. Letter in Support of HR 1595: Secure And Fair Enforcement Banking Act of 2019**  
**From: Councilmember Davila**  
**Recommendation:** Send a Letter to Congresswoman Barbara Lee in Support of HR 1595: Secure And Fair Enforcement Banking Act of 2019, and direct the city clerk or designee to send a letter to our state representatives.  
**Financial Implications:** None  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

## Council Consent Items

**17. Budget Referral: Allocate \$27,000 from the General Fund to Secure Potential Matching State Certified Local Government Landmarks Preservation Grants From: Councilmember Harrison**

**Recommendation:** Refer to the FY 2021 November Budget Process to allocate \$27,000 from the General Fund to secure potential matching state Certified Local Government landmarks preservation grant.

**Financial Implications:** See report

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

**18. Resolution in Support of Assembly Bill 500**

**From: Councilmember Harrison**

**Recommendation:** Adopt a resolution to urge California Governor Gavin Newsom to sign Assembly Bill 500 to provide paid maternity leave for all teachers and support staff.

**Financial Implications:** None

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

## Action Calendar

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

*The Presiding Officer will request that persons wishing to speak line up at the podium to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.*

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

## Action Calendar – Public Hearings

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

*Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.*

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

## Action Calendar – Public Hearings

### 19. **Renewal of the Elmwood Avenue BID for Calendar Year 2020**

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Elmwood Business Improvement District (hereafter, “the District”, “the Elmwood BID” or “the BID”) for 2019-20 and, if no majority protest exists, levy annual assessments in the District for calendar year 2020 to finance services and improvements and authorize a fiscal agency contract with Elmwood Business Association for receipt and expenditure of District funds.

**Financial Implications:** See report

Contact: Jordan Klein, Economic Development, (510) 981-7530

### 20. **Renewal of the Solano Avenue BID for Calendar Year 2020**

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Solano Avenue Business Improvement District (hereafter, “Solano BID Advisory Board” or “the BID”) for 2019-20 and, if no majority protest exists, levy annual assessments in the District for calendar year 2020 to finance services and improvements and authorize a fiscal agency contract for receipt and expenditure of District funds.

**Financial Implications:** See report

Contact: Jordan Klein, Economic Development, (510) 981-7530

### 21. **Amend BMC Chapter 14.52 Adding the North Shattuck Metered Parking Area to the goBerkeley Program**

**From: City Manager**

**Recommendation:** Conduct a public hearing, and upon conclusion adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 14.52 to add the North Shattuck metered parking area to the goBerkeley parking program.

**Financial Implications:** See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

## Action Calendar – New Business

### 22a. **Recommendations for Allocation of FY19/20 Measure P Funds**

**From: Homeless Services Panel of Experts**

**Recommendation:** Approve recommendations for the allocation of FY19/20 General Funds at least commensurate with resources accrued to date from the passage of Measure P. Refer to the City Manager to produce data regarding the percentage of those transported with County Emergency Mental Health Transport who are homeless, and other sources that could be used to cover this cost.

**Financial Implications:** See report

Contact: Peter Radu, Commission Secretary, (510) 981-5400



## Action Calendar – New Business

### 22b. Companion Report: Recommendations for Allocation of FY19/20 Measure P Funds

**From: City Manager**

**Recommendation:** Approve the Homeless Services Panel of Experts' recommendation for the allocation of FY20 General Funds with the adjustments detailed in this report, including:

- Allow the "permanent subsidies" allocation to fund tenancy sustaining services, and dedicate 10% of total funding to homeless families.
- Allow the "Shelter and temporary accommodations" allocation to fund the creation of new programs (including for new RV parking programs) or maintenance of existing shelter programs funded by HEAP, when that funding is exhausted.
- Authorize the City Manager to award any funding for shelter expansion and tenancy sustaining services to agencies that have already responded to the FY20-23 Community Agency Request for Proposals (RFP).
- Authorize the City Manager to release one or more RFPs for an RV parking program that would require a non-profit operator and for any supportive services including street medicine, substance abuse treatment or mental health outreach;
- For any allocation of "Short and Medium Term Subsidies" to families, limit eligibility to those who are imminently at-risk of homelessness, and allow the City Manager to sole-source contracts for the implementation of these subsidies.

**Financial Implications:** See report

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

### 23a. Recommendation to Modify Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance

**From: Housing Advisory Commission**

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

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

**Financial Implications:** See report

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

## Action Calendar – New Business

- 23b. Companion Report: Recommendation to Modify Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance**  
**From: City Manager**  
**Recommendation:** The City Manager appreciates the Housing Advisory Commission's efforts to strengthen the implementation of the Smoke-free Multi-Unit Housing ordinance and recommends that the proposed modifications be referred to the City Manager Office for an analysis of the financial and legal feasibility of the proposed changes.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400
- 24. Public Works Commission Recommendation for the Five-Year Paving Plan**  
**From: Public Works Commission**  
**Recommendation:** Adopt a resolution that recommends approval of the Five-Year Paving Plan for FY2020 to FY2024 as proposed by Staff and recommends the creation of a Long-Term Paving Master Plan.  
**Financial Implications:** See report.  
Contact: Nisha Patel, Commission Secretary, (510) 981-6300

## Council Action Items

- 25. Amending Chapter 19.34 of the Berkeley Municipal Code to Expand Automatic Gas Shut-Off Valve Requirements in Multifamily, Condominium and Commercial Buildings Undergoing Renovations and to All Existing Buildings Prior to Execution of a Contract for Sale or Close of Escrow** *(Reviewed by the Facilities, Infrastructure, Technology, Environment & Sustainability Committee)*  
**From: Councilmember Harrison**  
**Recommendation:** Refer to the Disaster and Fire Safety Commission to consider an ordinance amending Berkeley Municipal Code (BMC) 19.34.040 to expand requirements for automatic natural gas shut-off valves or excess flow valves in multifamily, condominium and commercial buildings undergoing renovations and in all existing buildings prior to execution of a contract for sale or close of escrow. Ask the Commission to consider other triggers as appropriate.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

## Action Calendar – Policy Committee Track Items

- 26. Extension of the Joint Subcommittee for the Implementation of State Housing Laws**  
**From: Mayor Arreguin**  
**Recommendation:** Adopt a Resolution extending the Joint Subcommittee for the Implementation of State Housing Laws (JSISHL) to complete its work by July 2020, with Joint Subcommittee providing its recommendations to Council by the end of September 2020.  
**Financial Implications:** Staff time  
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 27. Referral to the Civic Arts Commission to develop a grant program available for arts and cultural organizations to support retaining and improving creative spaces for artists**  
**From: Councilmember Kesarwani, Councilmember Droste**  
**Recommendation:** Referral to the Civic Arts Commission to prioritize within their current Work Plan creating a process for awarding competitive grants to Berkeley-based arts and cultural organizations that will help support their ability to stay in Berkeley.  
**Financial Implications:** Staff time  
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110
- 28. Information on the City's Existing Code Enforcement Practices for Residential Properties**  
**From: Councilmember Kesarwani**  
**Recommendation:** Request the City Manager provide a brief report or presentation on the City's code enforcement practices for residential properties for the purposes of educating the City Council and the public on current practice. The requested information may include: -Reporting on the various ways in which code enforcement issues have been brought to the attention of the City over the last five years (i.e., neighbor complaint, 911 call to the property, etc.); -How various code enforcement issues at residential properties are currently handled (i.e., which City departments and which type of staff are involved, what they do, etc.); -Timeframe and mechanisms for achieving code compliance at residential properties; -Any existing assistance programs available to support property owners found to have code violations, such as financial assistance, mental health services, technical advice, etc.; -Specific learnings/change in City practices resulting from the Leonard Powell receivership case; -Other information deemed relevant and appropriate to understand the City's current code enforcement practices for resident properties.  
**Financial Implications:** Staff time  
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

## Action Calendar – Policy Committee Track Items

- 29. Oversized Vehicle Restrictions on Bicycle Boulevards**  
**From: Councilmember Harrison, Councilmember Robinson**  
**Recommendation:** Adopt an ordinance amending Berkeley Municipal Code Chapter (BMC) 14.56.070 to prohibit commercial trucks exceeding three tons gross vehicle weight from utilizing streets comprising the bicycle boulevards network.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 30. Budget Referral and Approving Installation of Cameras at Ohlone Park Mural**  
**From: Councilmembers Harrison and Kesarwani**  
**Recommendation:** 1. Pursuant to Berkeley Municipal Code 2.99.060, declare that a camera installed in Ohlone Park at the corner of Hearst Street and Milvia Street will provide benefits to the community that outweigh costs and concerns.  
2. Refer \$6,000 to the FY20 November 2018 AAO Process for the purpose of purchasing and installing a surveillance camera.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 31. Inclusionary Units in Qualified Opportunity Zones**  
**From: Councilmember Harrison**  
**Recommendation:** Adopt an ordinance amending Berkeley Municipal Code chapter 23C.12.035 requiring onsite inclusionary units in developments in Qualified Opportunity Zones (QOZs). Refer to the Adeline Corridor Subcommittee of the Planning Commission to consider how such a requirement would affect the Adeline Corridor Plan.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 32. Proposed Formula Retail (Chain Store) Regulations**  
**From: Councilmember Hahn**  
**Recommendation:**  
1. Refer to the City Manager and Planning Commission to finalize and return to the City Council for adoption an Ordinance and related amendments to the Berkeley Municipal Code, if any, based on the Draft Formula Retail Ordinance attached hereto, to establish Formula Retail regulations for Commercial and Manufacturing Districts in the City of Berkeley.  
2. Refer to the City Manager and Planning Commission to: a. Recommend establishment of Business District boundaries and names, as provided for in Section 23E.18.030(B) of the proposed Formula Retail Ordinance, and b. Through a process that includes public notice and input, as described in the proposed Formula Retail Ordinance, recommend for each Business District whether to allow unlimited Formula Retail, limited Formula Retail (some or all use categories allowed with a Use Permit, Neighborhood Notice, Design Review and findings) or to prohibit Formula Retail.  
**Financial Implications:** See report  
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

## Action Calendar – Policy Committee Track Items

**33. Referral: Measures to Address Traffic Enforcement and Bicycle Safety  
From: Councilmember Robinson**

**Recommendation:**

1. Refer to the Transportation Commission to consider a Resolution deprioritizing enforcement of the Idaho Stop and Dead Red conventions for persons operating a bicycle, after the operator has yielded to any other road users with the right of way, by prohibiting the use of any City funds or resources in assisting in the enforcement or issuance of citations for bicyclist violations of California Vehicle Code Sections 22450(a) and 21453(a).

2. Refer to the City Manager to develop a ticket diversion program to educate bicyclists as an alternative to monetary fines related to other infractions, and to ensure integration of Vision Zero principles in implementation of state Office of Traffic Safety grants.

3. Refer to the City Manager to develop a plan to calm and divert motor vehicle traffic on bicycle boulevards to provide people who bicycle and walk a safe, comfortable and convenient mobility experience by adding or reconfiguring stop signage and other traffic calming measures, per the recommendations of the 2017 Bicycle Plan.

**Financial Implications:** See report

Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

## Information Reports

**34. City Council Short Term Referral Process – Monthly Update**

**From: City Manager**

Contact: Mark Numainville, City Clerk, (510) 981-6900

**35. Referral Response: City Property for Affordable Housing and Modular Micro-Unit Buildings**

**From: City Manager**

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

**36. LPO NOD: 1440 Hawthorne Terrace/#LMIN2018-0003**

**From: City Manager**

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

**37. LPO NOD: 1450 Hawthorne Terrace/#LMIN2018-0002**

**From: City Manager**

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

**38. LPO NOD: 2018-36 University Avenue/#LMSAP2019-0002 for the UC Theater Building**

**From: City Manager**

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

## Information Reports

39. **goBerkeley Parking Management Program - Parking Rate and Time Limit Adjustments for New North Shattuck Area for December 1, 2019**  
**From: City Manager**  
Contact: Phillip Harrington, Director, Department of Public Works (510) 981-6303
40. **Children, Youth and Recreation Commission 2019 Work Plan**  
**From: Children, Youth, and Recreation Commission**  
Contact: Stephanie Chu, Commission Secretary, (510) 981-6700
41. **Civic Arts Commission Fiscal Year 2020 Work Plan**  
**From: Civic Arts Commission**  
Contact: Jennifer Lovvorn, Commission Secretary, (510) 981-7530
42. **Fiscal Year 2020 Commission on Aging Work Plan**  
**From: Commission on Aging**  
Contact: Richard Castrillon, Commission Secretary, (510) 981-5190
43. **Berkeley Energy Commission Work Plan for 2019-2020**  
**From: Energy Commission**  
Contact: Billi Romain, Commission Secretary, (510) 981-7400
44. **Report from Sister City Delegation to Gongju, Republic of Korea**  
**From: Mayor Arreguin, Councilmember Robinson**  
Contact: Jesse Arreguin, Mayor, (510) 981-7100

## Public Comment – Items Not Listed on the Agenda

### Adjournment

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

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

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

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TDD: 510-981-6903  
Fax: 510-981-6901  
Email: [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info)

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

**COMMUNICATION ACCESS INFORMATION:**

This meeting is being held in a wheelchair accessible location.

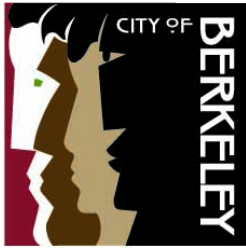
To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.

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Children, Youth, and
Recreation Commission

CONSENT CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council
 From: Elizabeth Echols, Chairperson, Children, Youth & Recreation Commission
 Submitted by: Stephanie Chu, Secretary, Children, Youth & Recreation Commission
 Subject: Approval of One Additional Meeting for Children, Youth, and Recreation
 Commission in Calendar Year 2019

RECOMMENDATION

Adopt a resolution approving one additional meeting for the Children, Youth, and Recreation Commission in calendar year 2019.

FISCAL IMPACTS OF RECOMMENDATION

Minimal staff time and resources.

CURRENT SITUATION AND ITS EFFECTS

In January, February and March of 2019, the Children, Youth, and Recreation Commission held three special meetings in order to review proposals and prepare recommendations to Council regarding the FY 20-21 funding allocations for community agencies that provide youth services.

As the Commission may only have ten meetings per year, per Council Resolution No. 68,705-N.S., Council approval is requested to allow the Commission to continue its regular meeting schedule for the remainder of the year.

At a regular meeting on Monday, September 16, 2019, the Children, Youth & Recreation Commission approved a motion to send a request for approval to City Council for one additional meeting CYRC meeting this calendar year. (M/S/C: Batista/Echols/U); Ayes: Batista, Brookshire, Freeman, Echols, Richards, Taylor; Noes: None; Absent: None; Leave of Absence: Capitelli.

BACKGROUND

On December 11, 2018, the City Council adopted Resolution No. 68,705-N.S. that established a Commission Meeting Frequency Schedule for 2019. The Resolution established that the Children, Youth, & Recreation Commission may have a maximum of ten meetings per year. Any additional meetings require Council approval.

CITY MANAGER

The City Manager concurs with the request.

CONTACT PERSON

Elizabeth Echols, Chairperson, Children, Youth & Recreation Commission, 848-4861

Steph Chu, Secretary, Children, Youth & Recreation Commission, 981-5146

Attachment:

1: Resolution

RESOLUTION ##.### N.S.

APPROVING ONE ADDITIONAL MEETING IN CALENDAR YEAR 2019 FOR THE CHILDREN, YOUTH AND RECREATION COMMISSION

WHEREAS, on December 11, 2018, Berkeley City Council adopted Resolution No. 68,705-N.S. that established a Commission Meeting Frequency Schedule for 2019, the Children, Youth, and Recreation Commission was allocated ten meetings per calendar year; and

WHEREAS, any additional meetings require Council approval.

WHEREAS, at a regular meeting on Monday, September 16, 2019, the Children, Youth & Recreation Commission approved a motion to send a request for approval to City Council for one additional meeting CYRC meeting this calendar year. M/S/C: Batista/Echols/U; Ayes: Batista, Brookshire, Freeman, Echols, Richards, Taylor; Noes: None; Absent: None; Leave of Absence: Capitelli.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that one additional meeting is approved in calendar year 2019 for the Children, Youth, and Recreation Commission.

CONSENT CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Jenny Wong, City Auditor *JW*

Subject: Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees

RECOMMENDATION

We recommend City Council request that the City Manager report back by April 28, 2020, and every six months thereafter, regarding the status of our audit recommendations until reported fully implemented by the Human Resources Department. They have agreed to our findings and five of our recommendations. Please see our report for their complete response.

FISCAL IMPACTS OF RECOMMENDATION

We estimate that our first two recommendations will require 40 hours of staff time at an approximate cost of \$5,000, and that the third, and final, recommendation will require approximately 100-300 hours at a cost of about \$13,000 - \$38,000, respectively. The Human Resources Department may need funding to implement our recommendation to provide training to their staff and supervisors. The cost is dependent upon the type of training Human Resources chooses to implement.

It is not possible to assign a price to health and safety, but the cost of not implementing the recommendations could be higher due to potential lost productivity, physical harm to employees, and legal costs.

CURRENT SITUATION AND ITS EFFECTS

Berkeley's domestic violence leave policy does not completely reflect California state law. The policy does not address sexual assault, stalking, or witnesses' rights; state factors used in determining reasonable accommodations; or allow rare exceptions for employees to self-certify their leave or accommodation requests. The policy title is also focused on leave, which is misleading as to the scope that the state law covers.

Beyond state law, the policy does not address key workplace domestic violence issues, such as addressing work performance issues for employees experiencing domestic violence. Further, there are practices that Berkeley is not currently following, but could adopt, to be better positioned to implement a coordinated and supportive domestic violence response, including: training, outreach and education, collaboration, and commitment to an inclusive and trauma-informed response.

To reflect the full extent of state law, we recommend Human Resources revise the policy to address sexual assault, stalking, and witnesses' rights, and amend the policy title to reflect its comprehensive scope. We also recommend that Human Resources allow for employees to self-certify their leave and accommodation request when, in rare instances, it is not safe to obtain other documentation, and to clarify in the policy that employees are encouraged to come to Human Resources for assistance even if they do not initially have the documentation that may be requested.

To ensure Berkeley's policy addresses relevant domestic violence issues in the workplace, we recommend Human Resources revise its policy to incorporate the model policy and best practice elements described in our audit, and communicate the guidance to city staff. Additionally, to prepare Berkeley for implementing an inclusive domestic violence response policy, we recommend Human Resources provide training to supervisors and Human Resources staff responsible for implementing the policy, conduct outreach and education for all employees, facilitate collaboration, and adopt a trauma-informed and inclusive approach.

BACKGROUND

California law grants employees experiencing domestic violence, sexual assault, or stalking the right to take time off of work to safeguard their health and wellbeing, and to request accommodations to stay safe at work. The law extends to witnesses' of domestic violence who need to take leave in order to participate in court proceedings. Berkeley has a domestic violence leave policy that focuses on leave time and accommodations for employees experiencing domestic violence.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

In a national survey, 60 percent of respondents who experienced domestic violence reported losing their jobs as a consequence of the abuse. Studies estimate that domestic violence costs \$8.3 billion a year in health costs and lost productivity in the United States. A comprehensive and coordinated response for employees experiencing domestic violence can improve their wellbeing and help keep workplaces safer.

CONTACT PERSON

Jenny Wong, City Auditor, City Auditor's Office, 510-981-6750

Attachment:

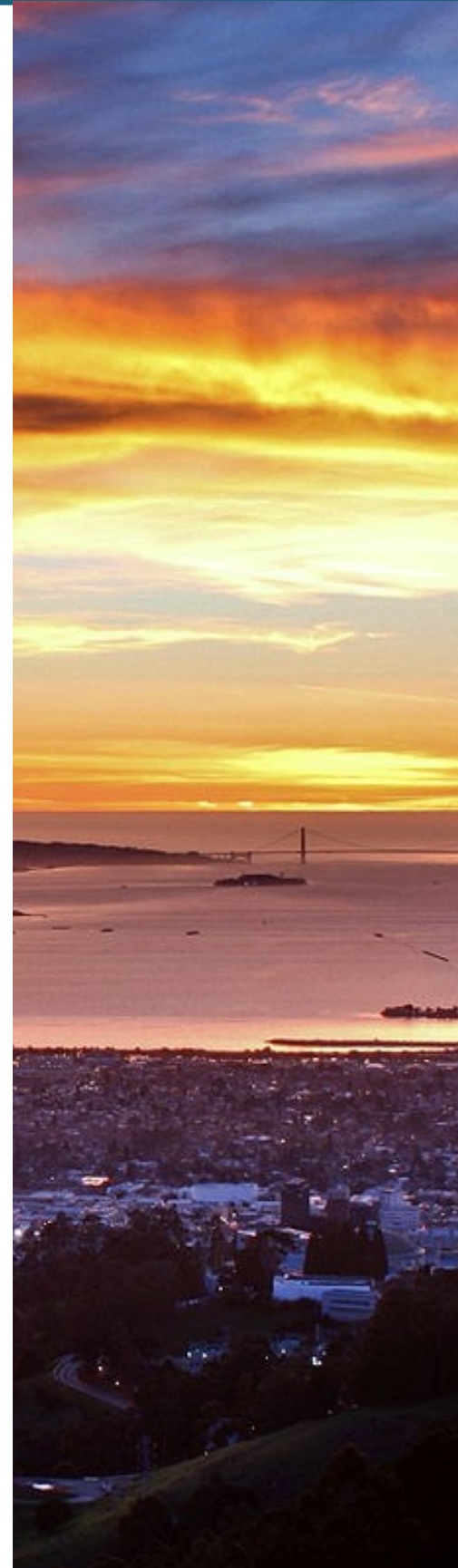
- 1: Audit Report: Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees

Audit Report
October 10, 2019

Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees



BERKELEY CITY AUDITOR



Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees

Report Highlights

October 10, 2019



Findings

1. Berkeley’s domestic violence leave policy does not include the state requirements of defining sexual assault and stalking or stating that the policy covers employees dealing with these experiences. We also found that Berkeley’s policy does not provide Human Resources the flexibility to use its discretion to allow self-certification in rare instances.
2. Berkeley’s policy does not include guidance on key domestic violence issues that affect employees or the workplace.
3. Berkeley can adopt practices to be better positioned to implement a robust, coordinated, and supportive domestic violence response, including: training, outreach and education, collaboration, and commitment to an inclusive and trauma-informed response.



Recommendations

To reflect the full extent of state law, we recommend Human Resources revise the policy to define and include sexual assault, stalking, and witnesses’ rights. We also recommend Human Resources clarify that requirements for employees to document their use of leave or request for accommodations are at the discretion of Human Resources, and that employees are encouraged to come to Human Resources for assistance even if they do not initially have the documentation that may be requested.

To ensure Berkeley’s policy addresses key domestic violence issues in the workplace, we recommend Human Resources revise its policy to incorporate all the model policy and best practice elements described in the report, and communicate this guidance to city staff.

To prepare Berkeley for implementing an inclusive domestic violence response policy, we recommend Human Resources implement best practices, including providing supervisor training, conducting ongoing employee outreach, facilitating collaboration, and adopting a trauma-informed and inclusive approach.

Objectives

To what extent does Berkeley’s policy reflect state requirements?

Does Berkeley’s policy address the key domestic violence issues in the workplace?

Is Berkeley prepared to implement a supportive domestic violence response policy?

Why This Audit Is Important

Domestic violence can extend into the workplace to threaten employee safety and wellbeing. In a national survey, 60 percent of respondents who experienced domestic violence reported losing their jobs as a consequence of the abuse. Studies estimate that domestic violence costs \$8.3 billion a year in health costs and lost productivity.

A comprehensive response for employees experiencing domestic violence can improve their wellbeing and help employees stay safe. Berkeley is a step ahead of many other workplaces in having developed a stand-alone leave policy in January 2019 to help employees experiencing domestic violence get the support they need. However, we are concerned that supervisors are not trained to comply with the policy and employees do not know about the options for assistance available to them.



BERKELEY CITY AUDITOR

For the full report, visit:
<http://www.cityofberkeley.info/auditor>

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Introduction

Domestic violence can occur anywhere, and its effects can extend into the workplace to threaten employee safety, health, and wellbeing. Nationally, one in four women and one in seven men have experienced severe violence by an intimate partner in their lifetime.¹ Domestic violence risk is higher for people of color and people who identify as LGBTQ+ or non-binary gender.² In a national survey, 60 percent of respondents who experienced domestic violence reported losing their jobs, and 96 percent reported their work performance suffered as a consequence of the abuse.³ Alarming, 43 percent of women killed in U.S. workplaces were killed by a relative or domestic partner.⁴ Studies estimate that domestic violence costs \$8.3 billion a year in health costs and lost productivity.⁵ Responding to local concerns about these distressing statistics, City Council passed a resolution in 2018 co-authored by Berkeley's Peace and Justice Commission and Commission on the Status of Women resolving that freedom from domestic violence is a human right.

A comprehensive and coordinated response for employees experiencing domestic violence can improve their wellbeing and help employees stay safe, but most workplaces do not have a domestic violence response policy.⁶ Berkeley is a step ahead of many other workplaces in having developed a stand-alone leave policy in January 2019 to help employees experiencing domestic violence get the support they need. However, we are concerned that supervisors are not trained to comply with the policy and employees do not know about the options for assistance available to them. We are also concerned that the current policy is limited. The intention for this audit is to outline a more comprehensive approach that Berkeley can adopt to be a leader in responding to domestic violence in the workplace and encouraging employees to seek the assistance available to them if needed.

Scope, Objectives, and Methodology

This audit focused on the City of Berkeley's domestic violence leave policy. Our objectives were to determine:

- 1. To what extent does Berkeley's policy reflect state requirements?**
- 2. Does Berkeley's policy address the key domestic violence issues in the workplace?**
- 3. Is Berkeley prepared to implement a supportive domestic violence response policy?**

We examined Berkeley's current policy, reviewed relevant laws and regulations, interviewed subject-matter experts and Berkeley employees, and reviewed best practices. For more information, see Appendix I.

¹ National Domestic Violence Hotline: <https://www.thehotline.org/resources/statistics/>

² Alameda County Department of Public Health: http://www.acphd.org/media/506904/dv_2018_ac.pdf

³ Workplaces Respond to Domestic and Sexual Violence: A National Resource Center: <https://www.workplacesrespond.org/facts/>

⁴ National Bureau of Labor Statistics, 2015 (most recent data available): <https://www.bls.gov/iif/oshwc/cfoi/workplace-homicides.htm>

⁵ Workplaces Respond to Domestic and Sexual Violence: A National Resource Center: <https://www.workplacesrespond.org/facts/>

⁶ National Domestic Violence Hotline: <https://www.thehotline.org/resources/statistics/>

Background

Domestic violence is a pattern of coercive behavior, including acts or threats, used by one person to gain power and control over another person. Domestic violence occurs between current or former spouses, family members, intimate partners, or parents of children or stepchildren in common. Domestic violence affects people of all walks of life regardless of race, gender, sexual orientation, income, culture, nationality, and religion. The populations at highest risk include:

- Women ages 18-44;
- Women of color, particularly African American and Native populations;
- Pregnant and postpartum women;
- LGBTQ+ people;
- People with disabilities;
- Youth and adults who witnessed or experienced domestic violence as children;
- People who are low-income or in poverty; and
- Immigrants and refugees.

Though incidents of domestic violence often occur outside of work, domestic violence is a serious issue that can affect employees in the workplace. Domestic violence can result in physical harm, health issues, trauma, and emotional distress for employees. As a result, employees experiencing domestic violence may have excessive absences from work, problems with work performance, and other interference that can threaten their ability to do their job, advance in their job, or keep their job. Maintaining sufficient employment is important for those experiencing domestic violence. About three out of four people who experience domestic violence cited economic insecurity as the main reason they stayed in an abusive situation.⁷

Table 1. Statistics on Domestic Violence in the Workplace

43%	of women killed in U.S. workplaces were killed by a relative or domestic partner. ⁸
96%	of people who experienced domestic violence reported their work performance suffered as a consequence of the abuse. ⁹
75%	of people who experience domestic violence cited economic insecurity as the main reason they stayed with the person abusing them. ⁹
64%	of employees who reported experiencing domestic violence felt their ability to work was affected by the violence. ¹⁰

Sources: See footnotes.

⁷ Workplaces Respond to Domestic and Sexual Violence: A National Resource Center: <https://www.workplacesrespond.org/facts/>

⁸ National Bureau of Labor Statistics, 2015 (most recent data available): <https://www.bls.gov/iif/oshwc/cfoi/workplace-homicides.htm>

⁹ Workplaces Respond to Domestic and Sexual Violence: A National Resource Center: <https://www.workplacesrespond.org/facts/>

¹⁰ National Domestic Violence Hotline: <https://www.thehotline.org/resources/statistics/>

In 2012, U.S. President Barack Obama issued a presidential memorandum that required federal agencies to develop or modify policies for addressing the effects of domestic violence on the workforce. At the time, California already had laws in place granting employees experiencing domestic violence, sexual assault, or stalking the right to take time off of work to safeguard their health and wellbeing, and to request accommodations to stay safe at work. In 2013, California passed a bill prohibiting employers from discriminating or retaliating against employees for taking time off work or requesting accommodations related to domestic violence. In 2015, the City of Berkeley updated its policy that allowed employees to take extended leave for family care or health issues to include domestic violence issues, as required by state and federal law. Berkeley issued a stand-alone version of the policy in early 2019 that focused on leave time and accommodations for employees experiencing domestic violence.

Domestic violence is a complex issue for employers to address. Employers are not expected to be counselors or provide supportive services such as shelter, legal services, or counseling. But a secure workplace can be a safe haven for some and safety at work is an important part of an individuals' comprehensive safety plan. Employers can also be a resource to connect employees to supportive services in the community, such as the City's existing Employee Assistance Program.¹¹ On the other hand, employers could inadvertently worsen the situation if their response to employees experiencing domestic violence does not use best practices to demonstrate sensitivity to those experiencing domestic violence. Another challenge is that employers must also balance the concerns of individual employees with the need to maintain business operations.

A note about language used in this report:

Domestic Violence: Domestic violence can take many forms, both physical and non-physical. It includes, but is not limited to: physical violence, injury, or intimidation; sexual violence or abuse; emotional and/or psychological intimidation; verbal abuse; threats; harassment; stalking; or economic abuse and control. This report uses the term domestic violence to include all of these forms of abuse.

Person/Employee, Survivor, and Victim: People are not defined by their experience. To acknowledge employees' personhood and personal right to choose how they would like to identify, we use the term "person/employee experiencing domestic violence" rather than "survivor" or "victim." We also use "person using violence or abuse" rather than "perpetrator" or "abuser."

¹¹ Berkeley contracts with Claremont Behavioral Services Employee Assistance Program, which provides city employees referrals to counseling and other supportive services, including domestic violence counseling and community resources.

Berkeley's Domestic Violence Leave Policy Does Not Completely Reflect State Requirements

Berkeley's domestic violence leave policy (Administrative Regulation 2.21) generally reflects state law by allowing employees to take time off of work and request workplace accommodations to stay safe at work. However, the policy is missing some important components and clarity that would help ensure that Berkeley complies with the requirements of state law. If Berkeley's policy does not have clear and explicit language that includes all key components of state law, city employees will not have complete information about how to support those experiencing domestic violence in a way that fully complies with the law, and city employees may not understand their rights and responsibilities.

The policy does not address sexual assault and stalking, or the rights of employees who have witnessed domestic violence.

Berkeley's domestic violence leave policy AR 2.21 does not define sexual assault and stalking or state that the policy covers employees dealing with those experiences. The policy also does not explicitly state that witnesses of domestic violence may use leave time to participate in court proceedings, though this right is included in the law. California law establishes employees' right to take time off from work to protect their health and wellness if they experience domestic violence, sexual assault, or stalking.¹² It also establishes their right to request reasonable accommodations to help them stay safe at work. The law further allows that witnesses of any of these circumstances have the right to use leave time to participate in court proceedings.

In 2018, Human Resources (HR) identified the need for a stand-alone domestic violence leave policy. In quickly meeting this need, HR based the policy on the existing Family Care Leave Policy,¹³ which did not include all the terms in the state requirements. The City Attorney's Office reviewed the policy but did not note that some language describing who is covered by the policy was missing. According to HR staff, the policy was limited to a leave policy, which could account for the omission.



Sexual assault can cause psychological, emotional, and physical distress that can lead to problems at work. More than 50 percent of people who have been stalked reported being stalked at work.

¹² California Labor Code sections 230 through 230.2: <https://bit.ly/2YO344z>

¹³ This policy allows employees to take leave, beyond what is allowed in other policies, for family care or health issues as required by state and federal law.

If Berkeley's policy does not explicitly define and address sexual violence and stalking as defined in state law, there is a risk that employees with these experiences will not know that they have rights under the policy. Additionally, supervisors may not be able to provide correct information to employees who are either facing these issues themselves or are witnesses. By not explicitly including these provisions from the law, there is an increased risk that city staff will not respond appropriately if someone experiencing sexual assault or stalking comes forward to seek assistance. As a result, employees experiencing sexual assault and/or stalking may not get the workplace assistance that they are allowed and they may face greater risk of harm, trauma, or even death. These risks can affect not only the person experiencing domestic violence but also their coworkers.

The policy does not state factors used in determining whether accommodations are reasonable.

Berkeley's policy AR 2.21 states that employees may request *reasonable* accommodations for their safety while at work, but does not include language from state law that describes how employers should evaluate whether a request is reasonable. If an employee reports that they are experiencing domestic violence and requests accommodations to stay safe at work, state law requires employers to engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations. This provision is included in Berkeley's policy, but does not explicitly state that HR considers employee circumstances and needs in addition to impact on city operations. The law requires employers to consider the following when determining whether the accommodation is reasonable:

- Employers must consider the urgency of the circumstance or danger facing the employee; and
- Employers are not required to undertake an action that constitutes an undue hardship on their business operations (requiring significant difficulty or expense).

Including this language in the policy would help city staff charged with arranging accommodations to better understand what factors to consider in determining if they are reasonable. Without this guidance, supervisors and HR staff may not consistently align with the law or apply the policy.



Impacts of domestic violence can affect not only the person experiencing domestic violence, but also their coworkers.



State law requires employers to engage in a timely, good faith, and interactive process with the employee to determine effective and reasonable accommodations.

The policy title is focused on leave and is not comprehensive.

The title of Berkeley’s policy in AR 2.21 is “Domestic Violence Leave Policy,” which implies that the topic is limited to taking leave related to domestic violence rather than a comprehensive response to employees experiencing or who have witnessed domestic violence, sexual assault, or stalking. State law goes beyond allowing leave to also granting the right for employees to request accommodations to help them stay safe at work. The title of the policy may be misleading to both employees and supervisors seeking information about the full range of support available to employees and how to access it. An accurate descriptive title can help employers easily communicate to employees what the policy covers and provide the information they need.

The policy does not allow exceptions for employees to self-certify their leave or accommodation.

Domestic violence circumstances and employee needs vary, yet Berkeley’s policy AR 2.21 does not provide HR the flexibility to tailor its response based on employees’ specific situation. If employees have an unexcused absence from work due to the effects of domestic violence, the law allows *but does not require* employers to request proof that the absence was for that reason.

Berkeley’s policy requires employees who have had an unexcused absence to retroactively provide certification to justify their use of leave in all instances. Certification can include a police report, restraining order, or note from a doctor, counselor, or domestic violence or sexual assault advocate.

Berkeley’s requirement also conflicts with guidance from domestic violence experts who state that it is important for policies to be flexible enough to allow for a case-by-case approach that responds to the unique circumstances individuals face. They also state that the needs of an individual experiencing domestic violence and how they choose to seek assistance can vary depending on many factors including their culture, support network, and access to resources. Some of the actions people take to stay safe may not provide official documentation. There is a risk that seeking services that provide documentation may result in increased danger and retaliation, especially considering that leaving an abusive relationship is usually the most dangerous point in a person’s domestic violence experience.¹⁴



California state law allows but does not require employers to request proof that the absence was for one of the reasons specified in the law.

¹⁴ National Coalition Against Domestic Violence: <https://ncadv.org/why-do-victims-stay>

Some of the actions people take to stay safe provide individuals with official documentation. For example, if law enforcement is called to a domestic violence situation, they are likely to issue an immediate temporary restraining order that could serve as documentation. Similarly, if an individual accesses services from a domestic violence agency or organization, such as staying in a shelter or participating in regular counseling, it is standard for the agency to issue documentation that clients can give to their employer.

However, some actions do not necessarily provide documentation. For example, leaving an abusive situation by moving into another family member's home may not involve domestic violence services or documentation, especially if law enforcement was not involved. Leaving a partner who harms or abuses is often the most dangerous time in a person's domestic violence experience, and there is a risk that seeking services that provide documentation may result in increased danger and retaliation. In the rare circumstances when an employee experiencing abuse may not have documentation, HR could allow employees to sign a statement certifying that they are using leave or requesting accommodations related to the allowed purpose.

HR staff reported that, in practice, they do consider individual needs and work interactively with employees to find the combination of leave time and accommodations that is the greatest benefit to the employee. They also reported that they prioritize getting employees the time off they need over getting documentation. However, it is important to document that practice in the policy to ensure it continues when new HR staff take on the role of administering the policy. It is also important that the policy state that HR may use its discretion to determine when additional supporting documentation may be necessary or when accepting a signed statement may be appropriate.

To encourage employees experiencing domestic violence to seek assistance from HR, the policy should specify that employees can come to HR regardless of whether they initially have supporting documentation. HR could also specify that a signed statement, like the one required for bereavement leave, can be acceptable to justify the need for accommodations. Domestic violence issues are unique to individual circumstances. Therefore, domestic violence leave policy elements do not necessarily need to apply to other city policies about employee leave and accommodations.



Leaving a partner who abuses is often the most dangerous time in a person's domestic violence experience. Therefore, there is a risk that seeking services that provide documentation may result in increased danger and retaliation.



Domestic violence is widely underreported. People experiencing domestic violence and abuse face many barriers to coming forward, including fear of discrimination or retaliation at work.

Recommendations

To reflect the full extent of state law, we recommend Human Resources revise the policy to:

- 1.1 Define and include sexual assault, stalking, and witnesses' rights.
- 1.2 State that when assessing safety accommodations, Human Resources takes into consideration danger to the employee and undue burden to the employer.

To clearly communicate the policy to employees and supervisors, we recommend Human Resources:

- 1.3 Revise the policy title to reflect the comprehensive scope of the policy.

To allow Human Resources the flexibility to tailor its response to individual domestic violence circumstances, we recommend Human Resources revise the policy to:

- 1.4 Clarify that requirements for employees to document their use of leave or request for accommodations are at the discretion of Human Resources and may include self-certification when appropriate. We also recommend that Human Resources clarify that employees are encouraged to come to Human Resources for assistance even if they do not initially have the documentation that may be requested.

Berkeley's Policy Does Not Address Key Workplace Domestic Violence Issues

Berkeley has taken an important first step in establishing a stand-alone domestic violence leave policy AR 2.21, but it is missing key elements that could guide staff in responding to common related issues. More than 70 percent of employers in the U.S. do not have a formal program or policy that addresses domestic violence.¹⁵ Berkeley is notable among employers because it has created a policy. However, Berkeley can do more to help navigate the challenges that result from domestic violence by adopting elements from model domestic violence response policies. Berkeley has an opportunity to develop its policy into a more comprehensive response to domestic violence in the workplace and demonstrate its commitment to keeping its workplace community safe.

Model workplace domestic violence response policies state that HR staff and supervisors need guidance on topics beyond allowing leave time and accommodations, including how to handle work performance issues for staff experiencing domestic violence and how to ensure accommodations are effective for staff in different work settings. Berkeley's policy contains only three of 12 model policy elements that address key domestic violence issues that affect the workplace (see Table 2).

¹⁵ National Domestic Violence Hotline: <https://www.thehotline.org/resources/statistics/>

Table 2. Comparison of Berkeley’s Domestic Violence Leave Policy AR 2.21 to Model Domestic Violence Response Policies

Model Policy Elements	Model Policies			Berkeley’s Policy (AR 2.21)
	Workplaces Respond	American Bar Association	Department of Justice	
Statement of support for employees	Yes	Yes	Yes	Yes
Explanation of leave time and accommodations available to employees	Yes	Yes	Yes	Yes
Statement on non-discrimination and non-retaliation related to domestic violence experience	Yes	Yes	Yes	No ¹⁶
Addresses employee work performance issues in the context of domestic violence experience	Yes	Yes	Yes	No
Designates responsibility of employer in helping employee to access unemployment insurance if maintaining work is no longer viable	Yes	Yes	No	No
Designates training requirements for domestic violence issues	No ¹⁷	Yes	Yes	No
Emphasizes prompt or immediate response to an employee reporting domestic violence	Yes	Yes	Yes	Yes
Emphasizes prompt or immediate response to domestic violence incidents between employees	Yes	Yes	Yes	No ¹⁸
Inclusion of different work locations and settings in workplace definition	N/A	N/A	Yes	No
Definitions of all relevant terms related to domestic violence issues and specified in the law	Yes	Yes	Yes	No
Section discussing the importance of maintaining domestic violence survivor confidentiality	Yes	Yes	Yes	No ¹⁹
Designates employer responsibility relative to restraining order enforcement, including if the person using violence or abuse is also a city employee	Yes	Yes	Yes	No

Sources: Policies listed in column headers, interviews with domestic violence organizations, and auditor conclusion.

¹⁶ Discussed in other workplace policies, but not Administrative Regulation 2.21: Domestic Violence Leave Policy.

¹⁷ Workplaces Respond discusses the purpose of the policy as supporting a comprehensive education and training program.

¹⁸ A separate policy on violence in the workplace specifies “immediate” response, but that is not stated in the Domestic Violence Leave Policy (AR 2.21).

¹⁹ AR 2.21 Domestic Violence Leave Policy states that supervisors and HR should keep information confidential but does not emphasize the importance of confidentiality or provide detail about how to ensure confidentiality.

In addition to elements identified in model policies, there are other best practices that could help Berkeley meet employees' needs. One recommendation from domestic violence organizations relevant to Berkeley's diverse community is that domestic violence response policies should make a commitment to providing support that is inclusive and representative of the community's cultural and linguistic diversity. This is critical to ensuring that a workplace domestic violence response policy is sensitive to the intersection between domestic violence and factors such as race, culture, and language. This view is not expressed in the City's stand-alone domestic violence leave policy. Making this commitment would distinguish Berkeley as a leader in workplace domestic violence response and align its policy with Berkeley's core values of safety, health, equity, and respect.

Without including the best practices such as those listed above, Berkeley may not be prepared to respond to many of the issues that may occur when an employee experiences domestic violence. As a result, the City may not be able to adequately protect employees experiencing domestic violence or support their success at work and continued employment. A lack of effective support for employees experiencing domestic violence could also cost Berkeley through decreased productivity and employee performance, and increase the risk of harm to employees.

Recommendation

To ensure Berkeley's policy addresses relevant domestic violence issues in the workplace, we recommend Human Resources revise its policy to:

- 2.1 Incorporate the model policy and all best practice elements described in this finding, and communicate this guidance to city staff.



Berkeley's Core Values: Service, Collaboration, Respect, Equity, Accountability, Continuous Learning, Innovation, Safety, and Health

Berkeley Needs to Take Steps to Prepare All Staff to Comply with the Policy

Berkeley employees are not prepared to implement a comprehensive domestic violence response policy. Without engaging in training, outreach, and collaboration, Berkeley cannot implement a comprehensive system to support employees experiencing domestic violence, sexual assault, or stalking. Berkeley has taken a first step in establishing a stand-alone domestic violence leave policy, but has not yet planned for how it will use best practices to fully implement the policy.

To be a leader in effective and thoughtful approaches to responding to domestic violence in the workplace, Berkeley will need to take steps to prepare all staff to comply with the policy as intended. There are practices that Berkeley is not currently following but can adopt to be better positioned to implement a robust, coordinated, and supportive domestic violence response plan. These include:

1. **Training** for all supervisors about domestic violence at work and the expectations for how they should respond;
2. **Outreach and education** to inform employees about domestic violence in the workplace and ways in which the City can support them;
3. **Collaboration** with resources in the City and in the community to strengthen Berkeley's domestic violence response; and
4. **Commitment to an inclusive and trauma-informed perspective** in addressing domestic violence at work.

Provide training and guidance for supervisors.

Supervisors need training to understand the domestic violence response policy and their role in following the policy. Supervisors and HR staff will also need training on the best practices for supporting employees experiencing domestic violence. All staff should be included in some level of information sharing about the policy because an employee experiencing domestic violence may be more willing to first report domestic violence to a coworker or supervisor they regularly work with rather than to HR. Without training on how to address performance issues that could be related to abuse, supervisors are not equipped to respond appropriately. HR should



“Employers have an important role to play [and by] providing support for employees who experience abuse, HR professionals may be able to prevent workplace tragedies.”

- Society for Human Resources Management, “When Domestic Violence Comes to Work”

provide training to help supervisors and HR personnel respond appropriately and sensitively to employees with domestic violence concerns. Trainings should include guidance on how to handle performance issues related to domestic violence.

Inform employees about the policy and encourage them to seek assistance.

Ongoing outreach and education about the domestic violence response policy can both inform employees about their options to address domestic violence and provide encouragement for them to seek the available assistance. In one national survey of U.S. workplaces, two out of three respondents reported that they were not aware of their workplace having a domestic violence response policy.²⁰ Employees who do not know about their rights or the City's policy, or who do not feel comfortable reporting their domestic violence experience, may not request the time off or accommodations they need to address domestic violence concerns. Informing all staff about the domestic violence response policy can also help staff understand the expectations of their role and mitigate the risk that Berkeley may be liable if staff are not sufficiently informed to follow the policy as intended. Actions HR could take to facilitate ongoing outreach include:

- Developing outreach materials using different types of media to let employees know about their rights as specified in the City's domestic violence response policy. Outreach materials should include language that is supportive, understandable, and trauma-informed (see text box below);
- Making sure outreach materials and information about domestic violence resources in the community are accessible to all employees, including on the City's website on a page that uses web-safety protocols; and
- Informing employees about the policy through the employee newsletter, Berkeley Matters, all-staff email communications, and, for staff without computer or internet access, by asking managers to share this information.



Considering current workload and capacity constraints, Human Resources can explore options such as providing short video trainings for supervisors and including domestic violence training in existing supervisor trainings.



Web safety protocols are steps organizations can take to help people stay safe by keeping their internet use private when accessing information online. Protocols include adding a safety alert header or a quick escape button to a website. More tips for technology safety can be found at NNEDV.org.

²⁰ Corporate Alliance to End Partner Violence: <http://www.ncdsv.org/images/CAEPVSurvey.WorkPlace.pdf>

A **trauma-informed** approach 1) takes into account that all people may have experienced trauma, 2) includes the individuals in decisions about their wellbeing, and 3) promotes a culture of safety, empowerment, and healing.

An **inclusive** response considers employees' needs across differences in socio-economic status, race, culture, language, age, gender, and sexual orientation. Resources and information should be accessible to people across these differences.

Collaborate with city staff on domestic violence response.

By collaborating with city employees who have expertise in domestic violence and crisis response, such as mental health providers and law enforcement, Berkeley can build capacity to promote a supportive and safe workplace. HR and city staff are not expected to be experts in domestic violence or provide supportive services such as shelter, counseling, or legal services. Convening a domestic violence response team would help HR access the knowledge and experience needed to develop a comprehensive domestic violence response that considers the many different perspectives of Berkeley's diverse employees. Actions HR could take to facilitate collaboration include:

- Convening a domestic violence response team with City staff, such as mental health providers and law enforcement, who are informed about domestic violence to advise on policies, outreach, and education;
- Communicating with representatives in each department that may be involved in a workplace accommodation to establish a response process and clarify roles. Those departments may include: HR, IT, OSHO/building security, public works, police, the City Attorney's Office, and the City Manager's Office; and
- Contacting domestic violence organizations and the City's Employee Assistance Program provider to develop a list of culturally-specific and linguistically-representative resources to refer employees to when they request help.



The City has department experts on issues and services related to domestic violence, such as mental health professionals in the Health Housing & Community Services Department and Berkeley Police Department's Domestic Violence Prevention Unit. These experts can advise Human Resources on the tone and language of the policy, training, and outreach materials.

Adopt a trauma-informed and inclusive approach.

Domestic violence organizations emphasize the importance of using a trauma-informed approach to developing a domestic violence response policy and response. Doing so takes into consideration the needs of people who have experienced trauma and provides referrals to resources that can support healing. They also emphasize that experiences of domestic violence can vary depending on an individual's circumstances and that a domestic violence response should be inclusive. An inclusive response considers employees needs across differences in socio-economic status, race, culture, language, age, gender, and sexual orientation. A thorough explanation of trauma-informed and inclusive principles is beyond the scope of this audit, but we included a high-level summary in the textbox above. A trauma-informed approach can help prevent employers from causing additional harm to someone experiencing domestic violence. An inclusive perspective is also essential to developing a domestic violence response that is as effective as possible for employees from different backgrounds. Actions HR could take to adopt a trauma-informed and inclusive approach include:

- Providing training to HR staff and supervisors about trauma-informed and inclusive principles;
- Applying a trauma-informed lens to addressing performance issues;
- Using a supportive and non-judgmental tone for policy and related communication;
- Ensuring flexibility in policy and options to reasonably meet unique needs of each individual; and
- Maintaining an up-to-date and accurate directory of resources to refer employees to, including culturally-specific and linguistically appropriate options (see Appendix III).

Recommendation

To prepare Berkeley employees for implementing an inclusive domestic violence response policy, we recommend Human Resources:

3.1 Implement best practices, including:

- Training supervisors and Human Resources staff about their role in responding to employees experiencing domestic violence and providing information for employees about the domestic violence response policy;
- Conducting periodic outreach to employees to inform them about the policy, encourage them to come forward, and provide general information about domestic violence;
- Facilitating collaboration among city staff who have a role in implementing the policy, and convening a domestic violence response team to advise on policies, ongoing outreach and education, and Human Resources' implementation of recommendations from this audit; and
- Adopting a trauma-informed and inclusive approach.

Appendix I—Methodology and Statement of Compliance

Methodology

We audited the City of Berkeley’s current domestic violence leave policy for city employees. We performed a risk assessment of the City’s policy and of domestic violence in the workplace to identify potential internal control weakness, health and safety concerns, and fraud risks. There were no fraud risks significant to our objectives. We focused our audit on the City’s policy and preparedness to respond to domestic violence concerns. We did not review how the City responded to current or past instances of employees experiencing domestic violence. We provided a copy of the draft report to the Health, Housing, and Community Services Department, the City Attorney, and the Police Department. To accomplish our audit objectives, we:

- Reviewed State of California Labor Code Sections 230, 230.1, and 230.2 governing employers’ responsibilities to employees who report experiencing domestic violence, sexual assault, or stalking, or who have witnessed such circumstances.
- Reviewed California Government Code Section 12926 to understand the legal definition of “undue hardship” and California Labor Code Section 6400 to understand the legal definition of a “place of employment that is safe and healthful” as both are referred to in California Labor Code Section 230.
- Reviewed Administrative Regulation 2.21: Domestic Violence Leave Policy; Administrative Regulation 2.4: Family Care Leave; Employee Violence in the Workplace and Employee Security Policy; and Bereavement Leave Policy to understand the city policies relevant to employee leave and safety.
- Interviewed Human Resources staff to gain an understanding of their process for developing and using the policy, and to understand their needs when supporting staff using the policy.
- Interviewed City Attorney staff to understand the process that city policies go through for review and approval in the City Attorney’s Office, and the specific review of Administrative Regulation 2.21: Domestic Violence Leave Policy.
- Reviewed best practices and studies from organizations focused on helping persons experiencing domestic violence to understand the impact of domestic violence in the workplace and what subject-matter experts suggest employers do to address the concern. Specifically, we looked at information from National Domestic Violence Hotline; Futures Without Violence; Rape, Abuse & Incest National Network; National Network to End Domestic Violence; Narika; Women Organized to Make Abuse Nonexistent, Inc. (W.O.M.A.N., Inc.); National Coalition Against Domestic Violence; Maine Department of Labor: Family Crisis Services; and Society for Human Resources Management.
- Reviewed model policies from organizations that focus on domestic violence in the workplace to understand what information policies need to include. Specifically, we looked at policies from Workplaces Respond to End Domestic and Sexual Violence: National Resource Center; American

Bar Association; U.S. Department of Justice; and Legal Momentum: The Women’s Legal Defense and Education Fund.

- Reviewed King County, Washington’s audit, *Domestic Violence Resources for County Employees Are Limited and Hard to Find*, to identify best practices, model policies, and common issues found in government jurisdictions in regards to responding to those experiencing domestic violence. We also reviewed Kind County’s Peer Review, which concluded the organization and sufficient quality control system were in place. We, therefore, concluded we could rely on the results of their audit.
- Reviewed policies on domestic violence in the workplace from the City and County San Francisco, City of Los Angeles, and King County, Washington to understand what other local government jurisdictions have developed.
- Obtained Berkeley City Resolution 68,301-N.S. co-authored by Berkeley’s Peace and Justice Commission and Commission on the Status of Women resolving that freedom from domestic violence is a human right to understand local concerns regarding the effects of domestic violence.
- Obtained the City of Berkeley’s Strategic Plan to understand the core values as they may apply to the city’s workforce.
- Reviewed labor agreements between the City of Berkeley and its unions, associations, and bargaining units to understand which contracts include explicit language regarding domestic violence leave.
- Gathered statistics on domestic violence at the national, state, and local level to understand the prevalence of domestic violence. We specifically obtained statistics from National Domestic Violence Hotline; Alameda County Department of Public Health; National Bureau of Labor Statistics; National Coalition Against Domestic Violence; Workplaces Respond to End Domestic and Sexual Violence: A National Resource Center; and Corporate Alliance to End Partner Violence.

Domestic Violence Statistics

Domestic violence is a sensitive topic making it difficult to obtain current, complete data. Research relies on people to self-report their domestic violence experiences and many people are unable to do so. Additionally, the organizations we cite in this report used varying sources, dates, population sizes, and other factors in their studies. As a result, some of the statistics we use in this report are several years old or do not match precisely across studies, e.g., one statistic may say 70 percent while another says 65 percent for the same topic. However, what is consistently true is that domestic violence is a severe and prevalent problem, it shows up in the workplace, and it can have devastating effects on those experiencing domestic violence and their colleagues. Further, the organizations that conducted the studies are knowledgeable on the effects of domestic

violence and, therefore, credible in their work. As such, we determined that the statistics were sufficiently reliable for providing context in our report.

Independence Assessment

The lead auditor for this report serves as our office's Area Safety Monitor (ASM). The role of the ASM is to discuss safety issues with the City's Occupational Health & Safety Officer (OHSO) during regular safety committee meetings for city employees, and to share safety information between the OHSO and our office. It was serving in this capacity that the concern regarding the City's domestic violence leave policy came to our attention. The lead auditor also has had prior experience working and volunteering with people experiencing domestic violence. We assessed the role of the ASM and the lead auditor's former experience. This included consulting with an external audit expert on audit independence standards. We concluded that no independence impairments exist. Nonetheless, to support our commitment to independence, we put safeguards in place to address any potential perception that impairments did exist. Safeguards include disclosing this information in this report, and ensuring that the Audit Manager verified that our audit findings, conclusions, and recommendations are supported by unbiased, factual, sufficient, and appropriate audit evidence.

Statement of Compliance

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II—Management Response

We provided a draft of this report to City Management and the Human Resources Department (HR) for review and comment. HR provided comments, which are reproduced in full below. In its comments, HR agreed to our findings and conclusions and agreed with five recommendations, but did not agree with one recommendation.

HR concurred with our recommendation 1.1 to revise the policy to define and include sexual assault, stalking, and witnesses' rights as well as with recommendation 1.2 to revise the policy on considerations in assessing safety accommodations. They also agreed to revise the title in recommendation 1.3 to be more comprehensive.

HR did not agree to allow employees to self-certify their leave request as we proposed in recommendation 1.4. The department said that, in its efforts to be consistent in its application of leave protected by legal mandate, that it is essential for employees to obtain documentation as allowed by law. We understand their perspective but note that the state law uses the language “may obtain” rather than “mandate.” for the list of possible documentation. In our work focusing on identifying risks, we want to ensure that in rare circumstances employees can attest to their unique situation. For some, obtaining documentation poses an obstacle that they may be unable to overcome even in life-threatening circumstances. This is a risk that could be addressed through self-certification. HR agreed to our proposal in recommendation 1.4 to encourage employees to come forward for help even if they do not have documentation. HR also informed us that they will work closely with employees to first prioritize their safety and connect them with help through the Employee Assistance Program to obtain documentation. While we understand the confines within which HR must operate, we continue to encourage flexibility to allow for employees to forego the certification requirement in rare circumstances.

HR expressed its commitment to the intent of recommendations 2.1 and 3.1. While the department agreed to those recommendations, it is still evaluating how best to fully implement them within the boundaries of its operations. Our recommendations are not meant to require HR to take actions for which they are not qualified. Therefore, as part of our follow-up process, we will be actively engaging with HR to continue to help them understand the purpose of our recommendations so that they implement them only as intended. We want to emphasize the importance of collaborating with domestic violence experts working in the city in developing policies and trainings, and that these are created and implemented through a trauma-informed lens. Ultimately, we made these recommendations with the intention of mitigating safety and harm risks to the city when addressing domestic violence issues.

Below are HR planned corrective actions and proposed implementation dates. We will monitor their progress through our follow-up process and the department will provide City Council with regular updates on its actions until they address all of our recommendations.

1.1 To reflect the full extent of state law, we recommend Human Resources revise the policy to define and include sexual assault, stalking, and witnesses' rights.

Management Response: Concur

Proposed Implementation Plan: Note: Proposed changes to the language of the current policy are indicated by italics.

Add Witnesses To Policy: Human Resources proposes to modify the language of Administrative Regulation No. 2.21 at Section II "Policy," such that the first sentence reads as follows: "The City of Berkeley is committed to promoting a work environment that is supportive of victims of domestic violence, *testifying witnesses*, and the effects the abuse can have on employees and the workplace."

Add Witnesses To Definitions: Human Resources proposes to add language to Administrative Regulation No. 2.21 at Section III "Definitions," to include the following sentence: "*D. Witness -- A witness is an employee required by subpoena or other court order to testify as a witness at any judicial proceeding.*"

Add Witnesses To Procedures: Human Resources proposes to modify Administrative Regulation No. 2.21 at Section IV "Procedures" to reflect the provisions in Labor Code Section 230(b), regarding witnesses. The following paragraph may be added under IV, A., 6: "*6. Procedure for Witnesses: An employee who requests time off to serve as a witness in any judicial proceeding must produce either a subpoena or other court order to immediate supervisor requiring their appearance as a witness in any judicial proceeding, including but not limited to restraining orders hearings, family court hearings, and trial.*"

Note Re Accused/Alleged Perpetrators As Witnesses: Human Resources may also add a brief note indicating that the City also permits leave under this policy for testifying witnesses who are accused of domestic violence, sexual violence, stalking, etc. Labor Code Section 230(b) protects subpoenaed witnesses when required to testify in "any judicial proceeding."

Modify Definition of Perpetrator: Because of the updates related to sexual assault and stalking, HR proposes to revise the definition of perpetrator in Administrative Regulation No. 2.21 at Section III. "Definitions," C. "Perpetrator" as follows: "*Perpetrator – The individual who commits or threatens to commit an act of domestic violence, sexual assault or stalking.*"

Adding Sexual Assault And Stalking: Human Resources proposes to modify Administrative Regulation No. 2.21 at Section IV "Procedures," A. "Request for Time Off" to read as follows: "Employees who are victims of domestic violence, *sexual assault and/or stalking* [...]"

Proposed Implementation Date: January 1, 2020

1.2 To reflect the full extent of state law, we recommend Human Resources revise the policy to state that when assessing safety accommodations, Human Resources takes into consideration danger to the employee and undue burden to the employer.

Management Response: Concur

Proposed Implementation Plan: Human Resources proposes to revise Administrative Regulation No. 2.21 at Section V. “Responsibilities,” C. “Human Resources Department,” to provide, in accordance with Labor Code Section 230(f), that: *“In determining whether the accommodation is reasonable, the City of Berkeley shall consider an exigent circumstance or danger facing the employee. This does not require the City to undertake any action that constitutes an undue hardship on the employer’s business operations.”*

The above sentence would be inserted prior to the last sentence in the current Regulation. The last sentence reads: “To the extent required by law, the Human Resources staff will maintain confidentiality of any employee requesting time off.”

Proposed Implementation Date: January 1, 2020

1.3 To clearly communicate the policy to employees and supervisors, we recommend Human Resources revise the policy title to reflect the comprehensive scope of the policy.

Management Response: Concur

Proposed Implementation Plan: Human Resources proposes to revise the title to read: *Domestic Violence, Other Protections and Leave Policy*, and advise employees of changes to the policy which include protections for victims of sexual violence, stalking and witnesses giving testimony. Additionally, further definitions listed in Section 1.1 give sufficient notice of bases for leave and reasonable accommodation.

Proposed Implementation Date: January 1, 2020

1.4 To allow Human Resources the flexibility to tailor its response to individual domestic violence circumstances, we recommend Human Resources revise the policy to clarify that requirements for employees to document their use of leave or request for accommodations are at the discretion of Human Resources and may include self-certification when appropriate. We also recommend that Human Resources clarify that employees are encouraged to come to Human Resources for assistance even if they do not initially have the documentation that may be requested.

Management Response: Disagree

Proposed Implementation Plan: This recommendation is not reflective of requirements under Labor Code Section 230.

Request for time off: Section 230 provides that when an unscheduled absence occurs, employer shall not take any action against employee until employee provides certification within a reasonable time. The mandatory certification requirements listed in Administrative Regulation No. 2.21 are already within legal parameters for taking leave/time off as delineated in Labor Code Section 230(d)(2)(A-C). Self-certification is not included or discussed in this portion of the statute. Human Resources proposes to add a Section IV. A. 2. iv. Which provides as follows: “*iv. A written declaration or statement by employee request for the applicable leave and agreement to submit one of the listed items listed in i. through iii. within ten (10) calendar days within leave request.*”

Request for an accommodation: When employee requests an accommodation, however, the self-certification *may* be requested by the employer and submitted by the employee. The statute at Section 230(f)(7)(A) refers to self-certification as “a written statement signed by the employee or individual acting on the employee’s behalf, certifying that the accommodation is for a purpose authorized [...]” by the statute.

To be clear, the City is obligated to obtain certification from employees requesting leave for unauthorized absences in the form of police reports, court orders or documentation from a professional. However, when the employee requests a reasonable accommodation, the City may accept self-certification (i.e., a written statement from the employee). To ensure that accommodation requests are consistent with other policies (e.g., FMLA and/or ADA), Human Resources proposes to add a Section IV. B.1. which provides as follows: “*1. In support of a request for reasonable accommodation, an employee shall provide written certification documentation from a medical professional or other healthcare provider concurrent with the accommodation request. Alternatively, an employee may provide a written declaration*

or statement by the employee followed by documentation from a medical professional or other healthcare provider within thirty (30) calendar days of the accommodation request.”

The Human Resources staff will engage the employee in an interactive process to determine effective reasonable accommodations that can be provided to aid her/him in safeguarding their health and safety. *When implementing any accommodations Human Resources will ensure that all appropriate benefits are provided, i.e. EAP.* Any reasonable accommodation involving changes to an employees working conditions will be in accordance with the terms of the employee’s MOU, Personnel Rules and Regulations.

HR proposes to add to Section IV. 3 Confidentiality: *The City recognizes the importance of maintaining confidentiality.* The immediate supervisor shall maintain the confidentiality of any employee requesting leave under this regulation.

Proposed Implementation Date: January 1, 2020

2.1 **To ensure Berkeley’s policy addresses relevant domestic violence issues in the workplace, we recommend Human Resources revise its policy to incorporate the model policy and all best practice elements described in this finding, and communicate this guidance to city staff.**

Management Response: Concur

Proposed Implementation Plan: Human Resources intends to distribute the policy to city staff via email on a quarterly basis with an explanation of changes. Human Resources may notify employees in Berkeley Matters, highlighting changes and notifying supervisors about changes of which they need to be aware. Following the model policies provided by the Audit Team, Human Resources will add a) the statement of non-discrimination and non-retaliation; b) further definitions of key terms; and c) a sentence addressing the importance of survivor confidentiality.

In addition, Human Resources will assess the feasibility of adopting additional elements from model policies and will add as appropriate at a later date.

Proposed Implementation Date: January 1, 2020

3.1 To prepare Berkeley employees for implementing an inclusive domestic violence response policy, we recommend Human Resources implement best practices, including:

- Training supervisors and Human Resources staff about their role in responding to employees experiencing domestic violence and providing information for employees about the domestic violence response policy;
- Conducting periodic outreach to employees to inform them about the policy, encourage them to come forward, and provide general information about domestic violence;
- Facilitating collaboration among city staff who have a role in implementing the policy, and convening a domestic violence response team to advise on policies, ongoing outreach and education, and Human Resources' implementation of recommendations from this audit; and
- Adopting a trauma-informed and inclusive approach.

Management Response: Concur

Proposed Implementation Plan:

Training (To Be Implemented By Approx. January 1, 2020): Human Resources may coordinate with organizational trainer Wilhelmina Parker to add policy review to supervisor training to include revised domestic violence policy. Additionally, training announcement to be placed in Berkeley Matters.

Human Resources Will Request Appropriate Resources: Human Resources will be requesting resources to conduct additional year-round training outside of what is currently proposed. The department does not have resources to prioritize domestic violence policy as a program, but aims to make its leave administration consistent with other such as FMLA, ADA, and collaborative with the needs of employees experiencing workplace violence.

Collaborative Approached Already Implemented: Human Resources already collaborates with other departments regarding necessary resources for the employee, including building security, workplace violence prevention, and information technology (changing computer, phone, email, work location). Administrative Regulation No. 2.21 Section IV, 1 ("Procedures") already provides that employees will give reasonable advance notice to their immediate supervisor re leaves and unscheduled absences. In addition, Human Resources already has applicable Leave Specialist in the department available to process leave requests. A response team requires additional resources and may create potential liabilities re HIPAA, privacy and confidentiality as well as inefficient administration.

Human Resources employees are not trained social workers or therapists equipped to provide Response Team services which are outside of the scope of leave administration.

Critical to future deployment and operational implementation, Human Resources will seek broad input from various departments in administration and in training development around this policy.

Proposed Implementation Date: Specified for individual components of the implementation plan, above.

Appendix III—Domestic Violence Resources

Domestic Violence Resources

To further our intention of providing a roadmap for Berkeley, we wanted to provide some resources for those who could benefit. If you or someone you know are experiencing domestic violence or abuse, sexual assault, or stalking, you are not alone and help is available. Please reach out to one of the following resources for more support:

- If your life is in danger, please call **9-1-1** or your local emergency number.
- **National Domestic Violence Hotline:** Advocates are available 24 hours a day, 365 days a year to help you create a plan to stay safe and refer you to services in your community. Help is available by phone or online chat:

1-800-799-7233 (English and Spanish) | 1-800-787-3224 (TTY) | thehotline.org

- **Employee Assistance Program:** City of Berkeley employees have access to counselors through Claremont Employee Assistance Program. Counselors are available by phone 24 hours a day, 365 days a year. Claremont can also refer members to counselors or domestic violence services in your local community. Services are available in many languages and translation services are available:

1-800-834-3773

- **Alameda County Family Justice Center (ACFJC):** The ACFJC website provides helpful information and resources for people experiencing domestic abuse in Alameda County. Information is available that addresses domestic violence and teens, the LGBTQ+ community, immigrants, children, people with disabilities. There is also information about restraining orders, technology safety, housing, and employment. Visit their website:

http://www.acfjc.org/resource_library/domestic_violence

Appendix III—Domestic Violence Resources

Domestic Violence Resource Guide for Alameda County Guía de Recursos de Violencia Domestica para el Condado de Alameda

24-HOUR CRISIS LINES

Lineas de crisis las 24 hrs. del día

A Safe Place	510-536-7233
Building Futures with Women and Children	1-866-292-9688
Crisis Support Svcs of the E-Bay	1-800-309-2131
Ruby's Place	888-339-7233
Tri-Valley Haven	1-800-884-8119 925-449-5842
Center for Domestic Peace (Español)	415-924-6616 415-924-3456
WOMAN, Inc. – referrals (SF) (Español)	415-864-4722 877-384-3578
Next Door	408-279-2962
Family Violence Law Center... Mobile Response Team	1-800-947-8301
National Domestic Violence Hotline	1-800-799-7233
Queer Asian Women & Transgender Hotline	877-751-0880
Bay Area Women Against Rape	510-845-7273

BATTERER'S TREATMENT

Tratamiento para agresores/golpeadores

Associated Counseling (SL)	510-357-0550
Davis Street Family Resource Ctr. (SL)	415-472-3275
John Hamel & Associates (B)	510-644-8190
Men Creating Peace (O/SF)	510-730-0184
Peace Creations (CV)	925-833-9505
Second Chance (H) (N)	510-886-8696 510-792-4357
Terra Firma Diversion (H)	510-675-9362
Triumph (O)	510-636-4111
West Oakland Health Council (O)	510-729-8800

CHILD ABUSE SERVICES

Servicios de abuso infantil

Child and Family Services (Alameda Co.)	510-259-1800
(SF)	415-558-2650

COUNSELING SERVICES

Servicios de asesoramiento/Consejería

ACCESS Mental Health Referrals	1-800-491-9099
Alameda Family Services (A)	510-629-6300
Asian Health Services (O)	510-986-6800
CARE Program (children) (O)	510-428-3407
Center for Non-abusive Relationships (O)	510-208-5006
Community Health for ... Asian Americans (A)	510-835-2777
Earth Circles Counseling Center (O)	510-601-1929
Family Paths (O) (H)	510-893-9230 510-893-9230
La Familia (H)	510-881-5921
Mujeres con Esperanza (O)	510-300-3156
Mujeres Unidas y Activas (O) (SF)	510-261-3398 415-621-8140
Rainbow Psychotherapy Assoc. (B)	510-420-8083
Shimtih Korean Center (SL) Korean	510-547-2360 844-828-2254
The D.O.V.E.S Project (O)	510-428-3135
Triumph (O)	510-636-4111
Berkeley Therapy Institute (B)	510-841-8484

2/08/2019 A. Flores & M. Minard, Alameda County Family Justice Center, 510-267-8800

Blue Oak Therapy Center (B)	510-649-9818
Jewish Family & Children Services (SF)	415-449-1200

COUNSELING *continued*

Servicios de asesoramiento, *continua*

Oak Creek Counseling Center (B)	1-888-637-7404
UC Psychology Clinic (Sept.-May) (B)	510-642-5292
Hume Center (F) (P)	510-745-9151 925-223-8047
Simi Markar, MFT (F)	510-273-9126
Davis Street Family Resource Ctr (SL)	510-347-4620
Family Services Counseling Ctr (SL)	510-483-6715
Pathways Counseling Center/Girls Inc. (SL)	510-357-5515
Tri-Valley Haven	925-449-5845
Cameron House (Chinese) (SF)	415-781-0401
Women's Daytime Drop-In Center (B)	510-548-2884

CULTURALLY SPECIFIC RESOURCES

Recursos culturalmente específicos

Arab Cultural and Community Center (SF)	415-664-2200
Asian Health Services (O)	510-986-6800
Korean Community Center East Bay (O)	510-547-2662
La Clinica de la Raza (O)	510-535-4000
Maitri-Indian (San Jose)	1-888-862-4874
Narika-South Asian (B)	1-800-215-7308
Shalom Bayit-Jewish (O)	866-742-5667
Terra Firma Diversion-Spanish (H)	510-675-9362

DEAF RESOURCES

Recursos para sordos

DCARA	510-343-6670
DeafHope (O)	deafhope@deaf-hope.org Video Phone: 510-735-8553
Deaf Community Counseling Center (DCCS) (SF) (SL)	415-474-7310
Video Phone (SL):	510-343-7277
Video Phone (SF):	415-255-5848

ELDER ABUSE SERVICES

Servicios para personas mayores victimas de abusos

Adult Protective Services (Alameda County) (SF)	510-577-3500 415-557-5230
API Legal Outreach (O) (SF)	510-251-2846 415-567-6255
Area Agency on Aging (Alameda County)	510-577-1900
Institute on Aging (SF)	415-750-4111
Legal Assistance for Seniors (O)	510-832-3040
Victim Witness (O)	510-272-6180

HEALTHCARE RESOURCES

Recursos para el cuidado de la salud

Axis Community Health (P)	925-462-1755
Berkeley Free Clinic (B)	510-548-2570
Davis Street Family Resource Ctr. (SL)	510-347-4620
Healthy Communities (O)	510-444-9655
Highland Hospital (O)	510-437-4800
La Clinica de la Raza (O)	510-535-4000
La Familia (H)	510-881-5921
Native American Health Center (O)	510-535-4400
Public Health Dept. Immunizations (O)	510-267-3230
Tiburcio Vasquez (H/U)	510-471-5907
Tri-City Health Center (Fremont)	510-770-8133

Location Key: Oakland (O), Berkeley (B), Fremont (F), Hayward (H), Livermore (L), Newark (N), Pleasanton (P), San Leandro (SL), San Ramon (SR), Santa Clara County (SC), Castro Valley (CV)

Appendix III—Domestic Violence Resources

Domestic Violence Resource Guide for Alameda County Guía de Recursos de Violencia Domestica para el Condado de Alameda

Urban Indian Health Board (O) 510-535-4400
West Oakland Health Center (O) 510-835-9610

LAW ENFORCEMENT

Aplicación y ejecución de la ley

For life-threatening emergencies call 911

Alameda Police Department 510-337-8340
Albany Police Department 510-525-7300
Berkeley Police Department 510-981-5900
Dublin Police Department 925-833-6670
Emeryville Police Department 510-596-3700
Fremont Police Department 510-790-6800
Hayward Police Department 510-293-7272
Livermore Police Department 925-371-4900
Newark Police Department 510-578-4237
Oakland Police Department 510-777-3333
Pleasanton Police Department 925-931-5100
San Leandro Police Department 510-577-2740
Union City Police Department 510-471-1365
Alameda Co. Sheriff's Department 510-670-5048

LEGAL SERVICES

Servicios legales

Alameda County BAR Association (O) 510-302-2222
API Legal Outreach (O) 510-251-2846
(SF) 415-567-6255
Bay Area Legal Aid (O) 1-800-663-4744
Family Violence Law Center (O) 1-510-208-0220
Family & Children Law Center (SF) 415-492-9230
Self-Help Center (H) 510-272-1393
Employment Law Center (SF) 415-864-8848
Tri-Valley Haven 925-449-5842

LGBT RESOURCES

Recursos para lesbianas, homosexuales,

bi-sexuales y transexuales

CUAV (SF) 415-777-5500
Hayward Lighthouse Center (referrals) 510-881-8167
Pacific Center (B) 510-548-8283
Project Eden (H) 510-413-3487
Queer Asian Women Services (SF) (Shelter) 415-751-7110
San Francisco LGBT Center 415-865-5555
Tri-Valley Haven 800-884-8119

SEXUAL ASSAULT

Ayuda para víctimas de asaltos sexuales

Bay Area Women Against Rape (O) 510-430-1298
CALCASA (Sacramento) 916-446-2520
Contra Costa Rape Crisis 1-800-670-7273
Highland Hospital (O) 510-437-4800
San Francisco Women Against Rape 415-861-2024
Tri-Valley Haven 1-800-884-8119

SHELTERS

Albergues/Refugios

A Safe Place 510-536-7233
Asian Women's Shelter 415-751-0806
Building Futures with Women and Children 1-866-292-9688
Eden I&R 2-1-1
510-537-2710
Ruby's Place 888-339-7233
La Casa de Las Madres 415-503-0500
Next Door 415-487-3300
Riley Center 415-597-7960
SAVE 510-794-6055
Second Chance 510-792-4357
Shepherd's Gate 925-443-4283
Tri-Valley Haven 1-800-884-8119
WOMAN, Inc. – referrals (SF) 415-864-4722

TRANSITIONAL HOUSING

Alojamiento de transición

Alameda Point Collaborative (O) 510-898-7800
Bonita House (B) 510-526-4765
BOSS 510-841-5572
Henry Robinson (O) 510-238-5091

IMMIGRATION ASSISTANCE

Asistencia de inmigración

Bay Area Legal Aid (O) 510-663-4744
Centro legal de la Raza (O) 510-437-1554
East Bay Sanctuary (B) 510-540-5296
Immigration Center for Women & Children (SF) 415-861-1449
International Institute of the Bay Area (O) 415-538-2846

MISCELLANEOUS

Misceláneo

Alameda County Community Food Bank 510-636-3773
Department of Child Support Services (P) 1-866-901-3212
District Attorney's Office (O) 510-272-6222
Family and Children's Bureau (O) 510-690-2500
Victim Witness Assistance Division (O) 510-272-6180
Victim Compensation Program (O) 510-272-5044

SERVICES FOR MALE VICTIMS

Servicios para las víctimas masculinas

Except for shelter, most of the agencies listed make their services available to male victims of domestic violence. Please call agency for more information.

**For a wide range of domestic violence related services call
Alameda County Family Justice Center
(510) 267-8800**

Mission Statement

Promoting transparency and accountability in Berkeley government.

Audit Team

Claudette Biemeret, Audit Manager
Caitlin Palmer, Auditor-in-Charge
Tracy Yarlott-Davis, Audit Team Member

City Auditor

Jenny Wong

Office of the City Auditor

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Copies of our audit reports are available at
www.cityofberkeley.info/Auditor/Home/Audit_Reports.aspx



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Office of the Mayor

CONSENT CALENDAR

October 29, 2019

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín

Subject: Budget Referral: Berkeley Age-Friendly Continuum

RECOMMENDATION

Refer to the mid-year budget process \$20,000 for the Berkeley Age-Friendly Continuum.

BACKGROUND

The goal of the Berkeley Continuum is to implement an integrated, replicable and citywide continuum of services and supports for older adults and people with disabilities as they navigate the transitions of aging. The Age-Friendly Berkeley Action Plan was published in December 2018, and is the culmination of several years of community and stakeholder input. It is now in implementation mode. It is a 3-year plan and priority actions for the first year are being finalized. An internal cross-department steering committee has been appointed for the City and the Community Partners Team is also meeting. The City of Berkeley was recently awarded the SCAN Foundation Innovation Award for the State of California for the Continuum's approach to preparing Berkeley for growth in the older population and for people with disabilities.

There are several programs that have been and are in the process of being implemented as a part of the Age-Friendly Continuum:

- The Gateway Program, a prevention/intervention program that helps older adults proactively plan for their aging experience. Three seniors from the community have been trained and are doing well with the visits. An evaluation has been completed and the coming year will focus on how to move this to a sustainable future.
- The project to create a senior portal for easy access to information is in contract with the county vendor and includes collaboration with the county, the Area Agency on Aging, the Berkeley Libraries and the Senior Center.
- The model service linked senior housing/community center project has left the gate and will continue to be developed over the next few years, and the Berkeley Home Match pilot with the University has met its targets and will continue.
- ...and several other projects are in process.

Ashby Village, the fiscal sponsor for the Berkeley Age-Friendly Continuum, has requested \$20,000 from the City for the third year of its implementation. This funding will be matched through other sources.

FINANCIAL IMPLICATIONS

\$20,000

ENVIRONMENTAL SUSTAINABILITY

Berkeley Age-Friendly Continuum aims to improve the quality of life and the health and well-being of older adults.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100



Rashi Kesarwani
Councilmember District 1

CONSENT CALENDAR
October 29, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmembers Rashi Kesarwani, Kate Harrison, and Mayor Arreguin
Subject: Budget Referral: Funding Illegal Dumping Component of “Clean & Livable Commons Initiative”

RECOMMENDATION

Refer to the November budget process consideration for providing \$200,000 to fund a key component of the “Clean & Livable Commons Initiative” unanimously passed by the City Council on February 28, 2019 to:

- Add lighting, cameras and signs at strategic locations in Berkeley to help deter illegal dumping; and
- Explore increasing the penalties for illegal dumping.

FISCAL IMPACTS OF RECOMMENDATION

Staff time and costs associated with acquiring and installing additional lighting, security cameras, and signage to discourage illegal dumping in strategic locations throughout Berkeley. We note that the security cameras would not have any facial recognition or biometric analytic capabilities.

CURRENT SITUATION AND ITS EFFECTS

Funding the illegal dumping component of the Clean & Livable Commons Initiative is a Strategic Plan Priority Project, advancing our goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

BACKGROUND

At a Special Council Meeting on February 28, 2019, the City Manager presented the “Clean and Livable Commons Initiative” to do the following:

- Add lighting, cameras and signs at strategic locations in Berkeley to help deter illegal dumping.
- Create a Livable Commons Action Team, made up of new staff in the Public Works, Parks, HHCS and City Manager’s office to increase the City’s ability to quickly address debris and other negative impacts related to homeless encampments.
- Add portable toilets and a second homeless locker program near encampments.

- Create a citizen awareness campaign to publicize these efforts and educate the public regarding illegal dumping and the best practices or ways to provide donations to homeless encampments.
- Explore increasing the penalties for illegal dumping.
- Refer to the City Manager and the budget process to expand the streets clean up employment program.
- Explore short-term pump-out options.

The City Manager's report noted that many of these initiatives could be funded through one-time Homeless Emergency Aid Program (HEAP) state funding as follows:

The remaining HEAP funds (\$1,099,894) would cover many of the actions outlined in this report:

- Partially fund two years of encampment servicing/trash removal: \$730,000;
- Fund two years (FY2020 and 2021) of portable toilet and handwashing stations at existing and expanded locations: \$270,000;
- Capital and services costs for one year (FY2020) of the pilot homeless locker program expansion to a second site: \$100,000.

However, because of rules related to the use of HEAP funds, it is unlikely that they would be available for the City Manager's proposed actions to discourage illegal dumping, which necessitates this budget referral for the November budget allocation process. This referral requests the purchase of security cameras without the use of any facial recognition or biometric analytic capabilities.

The City Manager's report from February 28, 2019 included the following additional information about illegal dumping:

In calendar year 2018, reports of illegal dumping represented 33% of all code enforcement complaints. Thousands of complaints related to illegal dumping are currently received through the City's 311 system and forwarded to the Public Works Department, which removes dumped items from the public right-of-way. If more than three complaints are received related to an accumulation of debris related to private property, the City's Code Enforcement Unit is contacted to begin enforcement procedures. Property owners are responsible for the condition of their property, up to and including the sidewalk, landscaping strip and/or street. If a vehicle has been videoed or photographed in the act of illegal dumping, city staff refer the incident to the Berkeley Police Department (BPD) for enforcement. BMC violations are penalized through the issuance of an administrative citation. Penalties are \$100 per violation/per day for a first citation, \$200 per violation/per day for a second violation (within 1 year of previous issuance) and \$500 per violation/per day for third and subsequent violations.

There is a spike in complaints related to illegal dumping in May and June, which corresponds to the period when UC Berkeley students move out of their apartments. City staff currently partner with staff at UC Berkeley as part of the Move Out program. Illegal dumping, especially of construction debris, is particularly problematic near the I-80 corridor in West Berkeley where there is easy on/off access and lighting is poor. City staff are currently working to encourage owners of private property to install additional lighting and share surveillance camera footage with the Berkeley Police Department.

The City can develop signs to warn potential violators about the consequences of illegal dumping. These signs could be placed throughout Berkeley at a nominal cost. The main hurdle to deterring illegal dumping, however, is enforcement.

Cameras could also be used as a deterrent and potential mechanism for tracking down illegal dumpers. The City's current surveillance policy was adopted on March 27, 2018 when City Council added BMC Chapter 2.99, the "Surveillance Technology Use and Community Safety Ordinance". This ordinance contains requirements regarding the procurement and use of Surveillance Technology that "carefully balances the City's interest in protecting public safety with its interest in protecting the privacy and civil rights of its community members". City Council could consider, as it did in San Pablo Park following a shooting last year, adding additional locations where cameras could be installed to act as a deterrent to illegal dumping. Reviewing camera footage to catch illegal dumping would require additional staff time not currently available in the Berkeley Police Department. The cost of additional cameras and staffing to review footage may be outweighed, however, by the success rate at prosecuting violators. The City may want to consider additional dedicated patrol resources or a sting operation to make a dent in illegal dumping.

The City Manager's report from February 28, 2019 included the following additional information about improved lighting:

As part of existing capital replacement cycle, the City of Berkeley could upgrade existing lights or add installation of new lights in areas where there are reports of illegal dumping. Public Work staff was recently deployed to four locations on 2nd Street near the Pathways STAIR center to take light level readings and determine what the impact of increased wattage would be in these areas. There are several streets in this area of West Berkeley where additional lighting may help thwart illegal dumping. Additional lighting would require a range of actions, including evaluating whether additional low-voltage wiring would need to be installed in some locations. The cost of this work, until further defined, is unknown.

ENVIRONMENTAL SUSTAINABILITY

Reducing the amount of bulky debris that litters our public spaces and encouraging proper disposal of bulky waste at the transfer station promotes our goal to be an environmentally sustainable community.

RATIONALE FOR RECOMMENDATION

The City Council unanimously voted to provide direction to the City Manager in February 2019 to

CONTACT PERSON

Rashi Kesarwani, City Council Member District 1
510-981-7110

Attachment: Clean and Livable Commons Initiative



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: Clean and Livable Commons Initiative

RECOMMENDATION

Provide guidance on actions the City Manager should take to enhance livability in Berkeley.

SUMMARY

The City of Berkeley has, over the past few decades, invested significant resources for a city its size in homeless services designed to help people obtain permanent housing. Despite many homeless people being housed through these efforts, there are still a lot of people living unsheltered in Berkeley. A variety of community impacts have been attributed to the large number of unsheltered Berkeley residents. These impacts include accumulations of living structures and other items which sometimes spill into the public right-of-way and large amounts of garbage and human waste, creating health and safety problems.

The City Manager proposes the following actions to address this issue:

- Add lighting, cameras and signs at strategic locations in Berkeley to help deter illegal dumping;
- Create a Livable Commons Action Team, made up of new staff in the Public Works, Parks, HHCS and City Manager's office to increase the City's ability to quickly address debris and other negative impacts related to homeless encampments;
- Add portable toilets and a second homeless locker program near encampments; and
- Create a citizen awareness campaign to publicize these efforts and educate the public regarding illegal dumping and the best practices or ways to provide donations to homeless encampments.

City staff recommend that Council utilize a significant portion of new Homeless Emergency Aid Program (HEAP) funding to fund the actions listed above. HEAP is a flexible but time-limited and one-time source of funding from the State of California to address the homelessness crisis. Additional resources will be necessary, however, to create a more proactive response to the crisis. Berkeley voters passed Measure P in November 2018 which is expected to generate \$6 to \$8 million annually in revenues for homeless related services. A portion of these resources will be needed to sustain any of the efforts listed above.

FISCAL IMPACTS OF RECOMMENDATION

City staff will be bringing an item for Council consideration on the March 12, 2019 agenda, requesting approval of a contract with the Alameda County Housing & Community Development Department for \$4,032,711 in State HEAP funds. The item proposes funding key city priorities and minimizes risk of underspending by utilizing \$2,832,000 for the Pathways and Dorothy Day House shelters and \$100,818 for administration (2.5% - the maximum allowable). The remaining HEAP funds (\$1,099,894) would cover many of the actions outlined in this report:

- Partially fund two years of encampment servicing/trash removal: \$730,000;
- Fund two years (FY2020 and 2021) of portable toilet and handwashing stations at existing and expanded locations: \$270,000;
- Capital and services costs for one year (FY2020) of the pilot homeless locker program expansion to a second site: \$100,000.

Because HEAP funds must be spent by June 2021, additional resources will be required to continue these expenditures beyond June 2021 and fund other aspects of the recommendations included in this report.

CURRENT SITUATION AND ITS EFFECTS

The prevalence of unhoused people living on streets, sidewalks, parks and other open space has been increasing all over the Bay Area for many years. Despite the fact that many jurisdictions have made significant progress towards housing people, the number of people becoming homeless and living outside of shelters is higher than the rate at which communities are able to house them. There are significant community impacts related to large numbers of unhoused people who lack sufficient infrastructure to be able to survive unsheltered without also sometimes creating impacts to the surrounding community. These impacts are increasingly being felt in Berkeley.

The latest reliable data related to the number of homeless people living in Berkeley is from the 2017 Homeless Point-In-Time Count, undertaken by Alameda County with the help of local Berkeley volunteers (a new count was done in January 2019, but data will not be ready for several months). In January 2017, approximately 664 people were living unsheltered on Berkeley streets, sidewalks, in cars or RVs, and encampments.

This far exceeds to number of shelter beds – currently 286 -- that are available on any given night. As reported in a prior council report, over the course of a year, nearly 2000 people experience homelessness of some duration in Berkeley. This number has been steadily growing at an average rate of 10% every 2 years. In December 2018, Berkeley Police staff counted 193 RVs, campers, converted busses, and vehicles that have been set up and/or designed for human habitation within the City's borders.

The City of Berkeley has over the past few decades invested significant resources for a city its size in homeless services designed to help people obtain permanent housing. In addition, in just the past three years, the City more than doubled homeless resources by funding:

1. The Pathways STAIR center, a 45-bed, 24/7, service-rich shelter housed in a series of modular trailer buildings on 2nd Street between Cedar and Virginia Streets in West Berkeley has successfully housed 53 people¹ since it opened in late June 2018. The STAIR center also includes two outreach workers to specifically offer shelter and other services to people living in encampments;
2. Expanded homeless outreach, creating a four-person HOTT team using a combination of state Mental Health Services Act funding and City General Fund;
3. Expanded shelter for the street homeless population by allocating \$400,000 to and contracting with Dorothy Day House to open a shelter for 52 individuals in the basement of 1931 Center Street;
4. A Coordinated Entry System which focuses resources on people who have been on the streets for one year or more²;

In addition to investing more local funds in homeless efforts, the Berkeley Housing Authority applied for and received additional Section 8 housing vouchers, 30 of which will be dedicated to homeless people prioritized through the Coordinated Entry System. The City was also recently awarded \$1.5 million in federal Department of Housing and Urban Development funding for an expansion of an existing Shelter Plus Care program, which will provide supportive services and permanent housing vouchers for approximately 45 people beginning in January 2020.

Despite these efforts, there continue to be a significant number of people living on the streets and the impact to the surrounding community is high. The City Manager is committed to having a cleaner and more humane city that is enjoyable for everyone.

¹ For more details, see report and presentation from the October 19, 2018 Council worksession, located here: https://www.cityofberkeley.info/Clerk/City_Council/2018/10_Oct/City_Council_10-09-2018_-_Special_Meeting_Agenda.aspx

² For more information on the City's Coordinated Entry System, see https://www.cityofberkeley.info/Clerk/City_Council/2017/03_Mar/City_Council_03-28-2017_-_Special_Meeting_Agenda.aspx

Therefore we have identified a variety of efforts to help mitigate the negative impacts that are often associated with encampments and have several recommendations for City Council to consider.

1. Illegal Dumping

In calendar year 2018, reports of illegal dumping represented 33% of all code enforcement complaints. Thousands of complaints related to illegal dumping are currently received through the City's 311 system and forwarded to the Public Works Department, which removes dumped items from the public right-of-way. If more than three complaints are received related to an accumulation of debris related to private property, the City's Code Enforcement Unit is contacted to begin enforcement procedures. Property owners are responsible for the condition of their property, up to and including the sidewalk, landscaping strip and/or street. If a vehicle has been videoed or photographed in the act of illegal dumping, city staff refer the incident to the Berkeley Police Department (BPD) for enforcement. BMC violations are penalized through the issuance of an administrative citation. Penalties are \$100 per violation/per day for a first citation, \$200 per violation/per day for a second violation (within 1 year of previous issuance) and \$500 per violation/per day for third and subsequent violations.

There is a spike in complaints related to illegal dumping in May and June, which corresponds to the period when UC Berkeley students move out of their apartments. City staff currently partner with staff at UC Berkeley as part of the Move Out program³. Illegal dumping, especially of construction debris, is particularly problematic near the I-80 corridor in West Berkeley where there is easy on/off access and lighting is poor. City staff are currently working to encourage owners of private property to install additional lighting and share surveillance camera footage with the Berkeley Police Department.

The City can develop signs to warn potential violators about the consequences of illegal dumping. These signs could be placed throughout Berkeley at a nominal cost. The main hurdle to deterring illegal dumping, however, is enforcement.

Cameras could also be used as a deterrent and potential mechanism for tracking down illegal dumpers. The City's current surveillance policy was adopted on March 27, 2018 when City Council added BMC Chapter 2.99, the "Surveillance Technology Use and Community Safety Ordinance". This ordinance contains requirements regarding the procurement and use of Surveillance Technology that "carefully balances the City's interest in protecting public safety with its interest in protecting the privacy and civil rights of its community members". City Council could consider, as it did in San Pablo Park following a shooting last year, adding additional locations where cameras could be installed to act as a deterrent to illegal dumping. Reviewing camera footage to catch

³ More information on this program can be found here:
https://www.cityofberkeley.info/Clerk/City_Council/2018/09_Sep/Documents/2018-09-25_Item_36_Referral_Response_Move_Out_Initiatives.aspx

illegal dumping would require additional staff time not currently available in the Berkeley Police Department. The cost of additional cameras and staffing to review footage may be outweighed, however, by the success rate at prosecuting violators. The City may want to consider additional dedicated patrol resources or a sting operation to make a dent in illegal dumping.

2. Improved Lighting

As part of existing capital replacement cycle, the City of Berkeley could upgrade existing lights or add installation of new lights in areas where there are reports of illegal dumping. Public Work staff was recently deployed to four locations on 2nd Street near the Pathways STAIR center to take light level readings and determine what the impact of increased wattage would be in these areas. There are several streets in this area of West Berkeley where additional lighting may help thwart illegal dumping. Additional lighting would require a range of actions, including evaluating whether additional low-voltage wiring would need to be installed in some locations. The cost of this work, until further defined, is unknown.

3. Livable Commons Action Team

When the City takes steps to enforce laws regarding camping in the public right-of-way, it is driven by concerns about a) accessibility issues related to path of travel on sidewalks and other access points, b) health and safety (including the risks of camping on street medians on busy arterial streets), c) persistent complaints from neighbors and businesses about illegal activities, or d) special events requiring that an area be temporarily made available for a specific purpose. In 2018 City staff picked up garbage at and required that 11 encampments be disbanded. From July to December 2018, 95 tons (190,000 pounds) of debris were collected.

City of Berkeley Public Works Department and Parks, Recreation and Waterfront departments spend significant amounts of time and money on intermittent homeless debris removal throughout the City. This effort displaces time and funding for maintenance of our existing infrastructure. City Council authorized \$400,000 in 2018 to fund garbage removal related to encampments. Additional resources will be needed, however, to increase the rate at which negative conditions near encampments can be abated. We are recommending \$1,000,000 per year, with \$370,000 of this coming from HEAP in FY 20 and 21, and the remaining portion from Measure P., for a Livable Commons Action Team. This funds:

- 1 FTE staff from Code Enforcement, 2 FTE staff from Public Works, and 1 FTE HHCS outreach staff to provide full-time, year-round encampment response;
- Costs for regular trash and debris removal service at encampments, storage, safe disposal, and protective equipment;

- Costs to cover contract(s) with outside agencies to assist with additional debris removal at encampments or encampment-impacted locations.

4. Facility Improvements

Staff have been working to implement Councilmember Davila and Droste's effort to bring a portable shower service, to Berkeley for a 6- to 8-week pilot. The mobile shower entity Lava Mae will operate two days per week for 6-8 weeks at a location or locations to be determined. Showers will be operational from 9 a.m. to 2:30 p.m. The City currently funds two shower programs, one at Willard School (2701 Telegraph) and one at the MASC (1931 Center Street basement). The Willard Shower Program is open Monday through Friday from 7:30 – 8:30 p.m. and Saturdays and Sundays from 9 – 10 a.m. The MASC shower program is open Monday through Sunday from 8 a.m. to 11:30 a.m. It is expected that the Lava Mae pilot will improve hygiene by bringing it closer to areas where there are larger numbers of people camping. Should the Lava Mae pilot prove successful, an extension may be possible depending on Lava Mae's continued capacity.

City staff expect to continue the provision of additional portable toilets and handwashing stations at various location throughout the City. This is an annual cost of approximately \$65,000. In addition, the City could add five additional portable toilets at \$6,500 per year for a total additional cost of \$32,500. This grand total amount (\$270,000) is expected to be covered by HEAP funds until June 30, 2021. Funding for this effort thereafter would need to be borne by the General Fund.

The City is expecting to continue piloting a homeless locker program, expanding the existing program, located in the basement of 1931 Center Street providing 60 lockers, to a second site for a one-time cost of \$50,000 and annual cost of \$50,000. The provision of lockers enables homeless residents a safe and secure space to store belongings. The lockers are integral to keeping city sidewalks, parks, and other public spaces more free of objects.

5. Citizen Awareness

City staff involved in encampment clean ups report that sometimes well-meaning residents donate their unwanted household items and food to encampment dwellers. This has the unintended impact of contributing to the overflow of items in encampments and uneaten food which lures vermin, exacerbating health and safety issues. The City Manager's office will develop a "good neighbor" campaign to publicize the efforts listed above and to urge Berkeley citizens to help mitigate environmental impacts by not leaving unwanted items out for people living in encampments. Staff will present the community with other ways to better support our unhoused community members, such as donating to nonprofits.

BACKGROUND

The City of Berkeley currently directs millions of dollars in federal, state and local funds into a comprehensive constellation of services to help homeless people lead better lives. This includes direct services such as transitional and permanent housing, shelter, meals, mental health care and indirect services such as parks clean-up and 311 calls to name just a few. These programs are operated by City staff, nonprofit agencies, faith institutions, businesses and others, often in partnership. Despite the coordinated efforts and funds put towards reducing homelessness and helping people experiencing homelessness, there continue to be significant numbers of people living on the streets of Berkeley. This fact belies the significant efforts made to serve them.

In FY2019 the City allocated \$3.8 million across 16 agencies to address homelessness. These funds support 286 emergency shelter beds, 3 daytime drop-in centers, a shower program, three meal programs, 38 transitional housing beds, and other services including drug and alcohol treatment, domestic violence services, money management, benefits advocacy, employment services, and county-wide homeless coordination. The City also administers over \$4.5 million in federal HUD funding for the Shelter Plus Care program, keeping approximately 260 formerly homeless people in housing.

Despite these efforts, on any given night in Berkeley, there are nearly 1,000 people experiencing homelessness and, for the past several years, homelessness has nonetheless steadily increased. The City of Berkeley has declared a homeless state of emergency in January 2016 and again in October 2017. The City of Berkeley has also approved sending a letter to Governor Newsom urging a statewide declaration of homeless emergency.

ENVIRONMENTAL SUSTAINABILITY

Adopting this resolution will add \$729,847 to the budget for encampment trash and debris removal, which will positively impact the environment by removing many tons of debris, including hazardous and human waste, from encampments. This reduces the likelihood such waste will wind up in the city's creeks, wetlands, or other environmentally sensitive areas.

RATIONALE FOR RECOMMENDATION

The obvious solution to homelessness is affordable housing. While we continue our efforts to create more housing opportunities in Berkeley, the City needs to invest more resources in improving conditions on our streets and sidewalks. To that end, we recommend that Council set aside additional resources for these recommended service augmentations described above.

ALTERNATIVE ACTIONS CONSIDERED

Redirect staff from providing other city services to focus on debris abatement and a more livable commons.

CONTACT PERSON

Kristen Lee, Temporary Assistant to the City Manager, City Manager's Office, 981-5427



Cheryl Davila
Councilmember
District 2

CONSENT CALENDAR
October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila

Subject: Consider The Homeless Films, Food & Discussion Event on November 5, 2019:
Relinquishment of Council Office Budget Funds to General Fund and Grant of
Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to support the Consider The Homeless "Films, Food & Discussion" Event on November 5, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute.

BACKGROUND

Our office is proposing that the City Council make a minimum grant of \$250 to support the Consider The Homeless's "Films, Food & Discussion" event on November 5, 2019. This engaging event highlights some of the "Unhoused" population residing in Berkeley with a discussion of the problems facing those on the streets as well as their impact on the housed residents that have been their neighbors. Every Face. Every Tent Has A Story! Consider The Homeless is a 501(c) 3 tax exempt organization. Federal Tax ID #81-0707909.

FISCAL IMPACTS OF RECOMMENDATION

No General Fund impact. \$250 is available from Councilmember Cheryl Davila's Council Office Budget discretionary account (011-11-102-000-0000-000-411).

ENVIRONMENTAL SUSTAINABILITY

The protection of life under all circumstances is itself an act of environmental sustainability.

CONTACT PERSON

Cheryl Davila
Councilmember, District 2
510.981.7120
cdavila@cityofberkeley.info

ATTACHMENT:

1. Flyer
2. Resolution



Every Face... Every Tent Has A Story

Tuesday, November 5, 2019 at 5:30 PM – 10:30 PM
Neyborly (at Poet's Corner)
2043 San Pablo Ave., Berkeley, California 94702

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Councilmember Cheryl Davila has surplus funds in her office expenditure account (budget code 011-11-102-000-0000-000-411); and

WHEREAS, a California non-profit tax-exempt corporation Consider The Homeless, a community-serving non-profit is seeking donations of support in the amount of \$250 for the fundraiser, "Films, Food & Discussion" Event on November 5, 2019; and

WHEREAS, Consider The Homeless and volunteers serve delicious, nutritious homemade soup with fresh bread and distributes survival supplies that are donated, such as clothing, socks, blankets, shoes, etc. CTH visits the homeless communities throughout our fair City on Thursday and Sunday nights to bring free hardie soup and bread that brings warmth and leaves one's belly full and satisfied; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$250 per Council office shall be granted to Consider The Homeless for their fundraiser at Neyborly's Poet Corner, 5:30PM-10:30PM, "Films, Food & Discussion" event on November 5, 2019.



Cheryl Davila
Councilmember
District 2

CONSENT CALENDAR
October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila

Subject: Letter in Support of HR 1595: Secure And Fair Enforcement Banking Act of 2019

RECOMMENDATION

Send a Letter to Congresswoman Barbara Lee in Support of HR 1595: Secure And Fair Enforcement Banking Act of 2019, and direct the city clerk or designee to send a letter to our state representatives.

BACKGROUND

Since the passage of Proposition 64 (Adult Use of Marijuana Act) in November 2016, California represents about a third of the North American cannabis market with the state taking in more than \$345 million in revenue last year. Proposition 64 was designed to create new revenue for the state. However, these efforts are being compromised by cannabis businesses' inability to engage in traditional banking services.

At the April 23, 2019 City Council Meeting, the Council authorize sending a letter of support for AB-953 "Cannabis: state and local taxes: payment by digital asset" to Assemblymember Phil Ting.

Most legal cannabis-related businesses across the nation do not have a bank account, meaning this entire industry is run almost entirely in cash, creating profound implications for the industry's sustainability, safety, and ability to pay taxes.

HR 1595 would prohibit United States banking regulators from penalizing financial institutions for providing banking services to a legitimate cannabis business. Specifically, the bill prohibits federal banking regulators from:

- Terminating or limiting deposit or share insurance of a financial institution solely because the financial institution provides services to a legitimate marijuana-related business;
- Prohibits or otherwise discourages a financial institution from offering services to such a business;
- Recommending, incentivizing, or encouraging a depository institution not to offer financial services to an account holder solely because the account holder is affiliated with such a business;
- Taking any adverse or corrective supervisory action on a loan made to a person solely because the person either owns such a business or owns real estate or equipment leased or sold to such a business;

- Penalizing a financial institution for processing or collecting payments for such a business.

The intent of HR. 1595 is to increase safety by ensuring cannabis related businesses access financial services.

FINANCIAL IMPACTS OF RECOMMENDATION

None.

ENVIRONMENTAL SUSTAINABILITY

None.

CONTACT PERSON

Cheryl Davila
Councilmember, District 2
510.981.7120
cdavila@cityofberkeley.info

ATTACHMENTS:

1. Letter of Support
2. Link to HR 1595 Bill Text:
<https://www.congress.gov/bill/116th-congress/house-bill/1595/text>

Congresswoman Barbara Lee
2470 Rayburn House Office Building
Washington, DC 20515

To: Congresswoman Barbara Lee and Congressman

Date: October 29, 2019

Re: Letter in Support of HR 1595: Secure And Fair Enforcement Banking Act of 2019

Dear Congresswoman Lee:

Since the passage of Proposition 64 - the Adult Usage Marijuana Act. Today, California represents about a third of the North American cannabis market with the state taking in more than \$345 million in taxes last year alone. Proposition 64 was designed to create new revenue for the state and address public safety concerns by driving out the illegal market. However, these efforts are being compromised by cannabis businesses' inability to engage in traditional banking services.

At the April 23, 2019, City Council Meeting, the Council authorize sending a letter of support for AB-953 "Cannabis: state and local taxes: payment by digital asset" to Assemblymember Phil Ting.

Most legal cannabis-related businesses across the nation do not have a bank account, meaning this entire industry is run almost entirely in cash, creating profound implications for the industry's sustainability, safety, and ability to pay taxes.

HR 1595 proposes to prohibit United States banking regulators from penalizing a financial institution for providing banking services to a legitimate cannabis business. Specifically, the bill prohibits federal banking regulators from:

- Terminating or limiting deposit or share insurance of a financial institution solely because the financial institution provides services to a legitimate marijuana-related business;
- Prohibits or otherwise discourages a financial institution from offering services to such a business;
- Recommending, incentivizing, or encouraging a depository institution not to offer financial services to an account holder solely because the account holder is affiliated with such a business;
- Taking any adverse or corrective supervisory action on a loan made to a person solely because the person either owns such a business or owns real estate or equipment leased or sold to such a business;
- Penalizing a financial institution for processing or collecting payments for such a business.

The intent of HR. 1595 is to increase safety by ensuring cannabis related businesses access financial services.

Best regards,

The Berkeley City Council



Kate Harrison
Councilmember District 4

CONSENT CALENDAR
October 29, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmember Harrison
 Subject: Budget Referral: Allocate \$27,000 from the General Fund to Secure Potential Matching State Certified Local Government Landmarks Preservation Grants

RECOMMENDATION

Refer to the FY 2021 November Budget Process to allocate \$27,000 from the General Fund to secure potential matching state Certified Local Government landmarks preservation grant.

BACKGROUND

Each year the State of California Office of Historic Preservation (SHPO) allocates Federal funds to local governments through its Certified Local Government (CLG) Grant program.¹ The program is funded by the federal Historic Preservation Fund Grants Program. Berkeley is an eligible CLG city.

Grant proposals may include a historic study or documentation of a neighborhood, or a specific historic building project, or other types of preservation activities. The CLG grants are often used to hire expert consultants to conduct studies or prepare reports that can support local preservation work by the City.

Although the grants are competitive, not every city or county in California has a historic preservation ordinance, a requirement which limits the pool of applicants. According to current Berkeley Landmarks Preservation (LPC) commissioners, certain preference is also given to cities such as Berkeley that have not applied in recent years.

The City last received a CLG grant for the 2014/2015 fiscal year which was used to successfully prepare a Historic Context Statement for Downtown Berkeley. For the past two years the Berkeley LPC has unanimously supported applying for a grant, but without matching funds identified well in advance of the submission deadline, it proved impossible to prepare a successful application.

The details of the 2020/21 grant cycle have not yet been announced, but for several years the SHPO has allocated up to \$40,000 per grant, and required a local match of

¹ 2019-2020 CLG Grant Program, California Department of Parks and Recreation, http://ohp.parks.ca.gov/?page_id=24493.

40%, or approximately \$27,000. With a state grant, the City would have a total budget of \$67,000. Grant applications are typically due by May 1, and funds are awarded in the summer and are made available for disbursement by October 1.

Possible themes for a grant application which would be relevant to Berkeley, including for city-owned buildings, include:

- Design Guidelines for Historic Properties
- Historic Structure Reports / Preservation Plans
- Historic Context Studies and Surveys
- National Register of Historic Places District applications
- Archaeological Preservation Plans / Ordinances
- Preservation Education and Outreach Programs

The LPC already has a subcommittee established to generate grant proposals and welcomes suggestions from Councilmembers with regard to geographical or topical areas of focus. The LPC plans to adopt specific grant proposals in early 2020.

Council would vote on the LPC grant proposal in spring 2020, and therefore would have discretion as to whether the \$27,000 should be assigned to the grant application or returned to the General Fund. By allocating matching funds in November, the Council is not pre-approving a particular grant. A specific grant proposal would come back to the Council through the normal grant approval process. This budget referral merely provides the LPC with the certainty that funds are available should Council approve a grant approval next year.

FINANCIAL IMPLICATIONS

Council may decide in 2020 to assign \$27,000 from the General Fund to secure potential matching State Certified Local Government Landmarks Preservation grant.

ENVIRONMENTAL SUSTAINABILITY

Historic studies and surveys can help protect existing buildings, including civic buildings, which are associated with substantial embodied carbon.

CONTACT PERSON

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



Kate Harrison
Councilmember District 4

CONSENT CALENDAR
October 29, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Kate Harrison
Subject: Resolution in Support of Assembly Bill 500

RECOMMENDATION

Adopt a resolution to urge California Governor Gavin Newsom to sign Assembly Bill 500 to provide paid maternity leave for all teachers and support staff.

BACKGROUND

On February 13, 2019, Assembly Member Lorena Gonzales (D-San Diego) introduced a bill that would mandate greater support for a crucial subset of Californians.¹ AB 500 would require K-12 school districts and community colleges to grant at least six weeks of paid leave for pregnancy, childbirth, miscarriage, and recovery for both certificated and classified school employees.

Although existing law mandates that educators receive some leave of absence during and after pregnancy, it currently falls short on a number of fronts. California Paid Family Leave guarantees six weeks of absence for many employees, but only at partial pay of 60-70% depending on income.² Over all, governing boards of school and community college districts are authorized “to provide for a leave of absence from duty as it deems appropriate for a female employee ... [and] whether the leave granted shall be with or without pay.”³ At some community colleges, adjunct employees can take just one day of maternity leave, after which additional paid leave must come out of accumulated sick days.⁴ Thereafter, the part-time employee can take up to 12 weeks of leave, but receives pay at only 50% of their salary.

¹ California Legislature, “An act to amend Sections 44965, 45193, 87766, and 88193 of the Education Code, relating to employees.” February 13, 2019, https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB500.

² California Employment Development Department, “About Paid Family Leave.” https://edd.ca.gov/disability/About_PFL.htm

³ California Legislature, “An act to amend Sections 44965, 45193, 87766, and 88193 of the Education Code, relating to employees.” February 13, 2019, https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB500.

⁴ California Federation of Teachers, “Paid maternity leave: AB 500 empowers female educators, staff and their families.” May 14, 2019, <https://www.cft.org/article/paid-maternity-leave-ab-500-empowers-female-educators-staff-and-their-families>.

AB 500 rectifies its shortcomings by setting the minimum length of leave at six weeks with full pay for all employees, ensuring that they need not use sick leave or vacation days to supplement their income. Moreover, it requires charter schools to be held to the same standards as public institutions, closing their previous exemption.

Given California's teacher shortage⁵ and reports of educators leaving school districts due to affordability issues,⁶ it is paramount for the state government to address this matter. Financial constraints are cited as a top reason why Americans choose not to have kids, or have fewer than they desire to have,⁷ and stronger paid family leave protections ease those financial constraints, giving more people the ability to have children if they so choose.

Part-time educators, in particular, would greatly benefit from AB 500's provisions. Many part-time teachers receive merely a handful of paid maternity leave days, after which they must draw upon their sick leave and parental leave, often compensated with only half of the employee's usual salary.⁸

The City of Berkeley made strides to address the issue of paid leave more broadly in the city earlier this year. The City Council passed an item requiring employers to supplement California Paid Family Leave (CPFL) to guarantee full pay for a six-week leave.⁹

Educators and support staff are pillars of the Berkeley and wider California community. AB 500 gives them an equal chance at starting a family without fearing job loss or diminished income. No longer should teachers across California feel forced to plan their pregnancies around the school calendar to avoid getting by without pay.

Passed by the State Assembly and Senate with overwhelming majorities, AB 500 has reached Gov. Gavin Newsom's desk ready for signing.

Berkeley City Council stands in solidarity with California teachers and support staff in their right to both stable jobs and healthy families. The Council urges Gov. Gavin Newsom to side with California educators and sign AB 500 into law.

⁵ Brandman University, "A closer look at the critical California teacher shortage." May 7, 2019, <https://www.brandman.edu/news-and-events/blog/a-closer-look-at-the-critical-california-teacher-shortage>.

⁶ CNBC, "California's housing affordability crisis looms over the state's problems with teachers." January 17, 2019, <https://www.cnbc.com/2019/01/17/california-housing-affordability-crisis-looms-over-education-problems.html>.

⁷ <https://www.peoplespolicyproject.org/projects/family-fun-pack/>

⁸ California Federation of Teachers, "Paid maternity leave: AB 500 empowers female educators, staff and their families." May 14, 2019, <https://www.cft.org/article/paid-maternity-leave-ab-500-empowers-female-educators-staff-and-their-families>.

⁹ Berkeley City Council, "Paid Family Leave Policy in Berkeley to Supplement California Paid Family Leave Program." https://www.cityofberkeley.info/uploadedFiles/Council_3/paid%20family%20leave%20march%2025%202019%20combined.pdf.

FISCAL IMPACTS OF RECOMMENDATION

No impact. Clerk time necessary to send letter.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

Kate Harrison, Berkeley City Councilmember, (510) 981-7140

ATTACHMENTS

1. Resolution
2. Letter

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

RESOLUTION IN SUPPORT OF ASSEMBLY BILL 500

WHEREAS, on September 4, 2019, the California legislature approved the passage of Assembly Bill (AB) 500; and

WHEREAS, AB 500 would guarantee that classified school employees receive a leave of absence of at least six weeks with full pay because of pregnancy, miscarriage, childbirth, and recovery from those conditions; and

WHEREAS, AB 500 would ensure that classified school employees receive at least six weeks of paid leave without having to go on disability or parental leave or use their sick days and vacation days in the case of pregnancy, miscarriage, childbirth, and recovery from those conditions; and

WHEREAS, while existing law does not apply to charter schools, AB 500 requires that all educators and their support staff in the private and public sector receive a paid leave of absence; and

WHEREAS, AB 500 would assist part-time educators in particular in limiting the financial hit of pregnancy leave; and

WHEREAS, California has been suffering from a teacher shortage and educators,

NOW, THEREFORE BE IT RESOLVED that the Council of the City of Berkeley supports the signing of AB 500.

The Honorable Lorena Gonzales
State Capitol, Room 2114
1303 Tenth Street
Sacramento, CA 95814

Re: Support from the Berkeley City Council for Assembly Bill 500

Honorable Assembly Member Gonzales,

We, the Berkeley City Council, wish to express our support of Assembly Bill 500, which extends a paid leave of absence of at least six weeks to classified school employees in the case of pregnancy, miscarriage, childbirth, and recovery from those conditions.

The City of Berkeley has itself made strides towards guaranteeing a six-week paid family leave for many of its residents, obligating employers to supplement California Paid Family Leave (CPFL) to ensure full pay. Berkeley welcomes the effort to tailor paid leave toward educators in the case of pregnancy, miscarriage, childbirth, and recovery from those conditions across California. We see it as an important step toward increasing the quality of life for both educators and their families.

Paid leave for employees in the case of pregnancy, miscarriage, childbirth, and recovery allows for greater time for parents to bond with their newborns, to physically and mentally recuperate and ease the transition back into their work lives.

Ensuring financial predictability for a vital part of the California community during such a critical time in the lives of these employees, is a particularly important step toward supporting this vital part of the California community. What is more, AB 500 expands these requirements beyond public schools to include charter schools and community colleges, requiring equal benefits for all educators. It is a comprehensive move toward better working conditions that the Berkeley City Council wishes to see signed into law.

Please find enclosed a Resolution in support.

Thank you sincerely for your leadership on this issue.
Sincerely,

Berkeley City Council
Mayor Arreguin,
Councilmembers

CC:
Gavin Newsom
Nancy Skinner
Buffy Wicks



Homeless Services Panel of Experts

ACTION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council
 From: Homeless Services Panel of Experts
 Submitted by: Katharine Gale, Chairperson
 Subject: Recommendations for Allocation of FY19/20 Measure P Funds

RECOMMENDATION

Approve recommendations for the allocation of FY19/20 General Funds at least commensurate with resources accrued to date from the passage of Measure P. Refer to the City Manager to produce data regarding the percentage of those transported with County Emergency Mental Health Transport who are homeless, and other sources that could be used to cover this cost.

SUMMARY

The Homeless Services Panel of Experts recommends that the City allocate general funds to a variety of critical activities including permanent housing, shelter, supportive services and other program types to address the current crisis of homelessness in Berkeley. The recommended priority order, percentages, types of activities and subpopulation considerations are included as Attachment 1 to this report.

FISCAL IMPACTS OF RECOMMENDATION

Recommendations covered by this report allocate general fund resources for homeless housing and services in an undetermined amount to be at least commensurate with those raised to date under the transfer tax authorized under Measure P (minus those previously allocated by Council).

CURRENT SITUATION AND ITS EFFECTS

Homeless is increasing in the City of Berkeley and throughout the Bay Area. Between 2017 and 2019 homelessness in Berkeley at a point-in-time has risen by 13%, affecting more than 1,100 people on any given night. Recognizing the need for additional housing and services and for humane measures to address the impacts of homelessness, the Voters of Berkeley passed Measure P in November 2018 which collects a specified transfer tax with the intention to use these additional funds to address homelessness in the City of Berkeley.

Measure P established a Homeless Services Panel of Experts to advise the City Council. The Panel consists of nine members with a deep level of expertise in areas relevant to homelessness, including persons with extensive professional and/or lived

experience with homelessness. The Panel began meeting in May 2019. Katharine Gale and Yesica Prado are the elected chair and vice-chair of the Panel.

Addressing homelessness is a Strategic Plan Priority Project, advancing the City's goal to create affordable housing and supportive services for our most vulnerable community members.

Process

This report provides the Panel's first recommendations for initial investments from General Funds to increase and improve housing and services to address homelessness in Berkeley. In order to develop these recommendations, the Panel first adopted a Purpose Statement (attached). The Panel reviewed all of the referrals made to us since the Measure's passage in light of our adopted statement. This included the funding requests and referrals included in the January 2019 Measure P Informational report to Council as well as additional referrals, formal and informal, sent to the Panel since that time. We also considered information we were presented by City staff regarding current City of Berkeley investments, local and regional strategies, the 2019 Point-in-Time Count, and the 1,000 Person Plan.

A Mission and Budget Subcommittee of the Panel meet and categorized the referrals we received by areas of investment (permanent housing, shelter, etc.) and proposed initial percentages to each area, as well as a process to determine the final recommendations. The full Panel reviewed the investment areas, added additional activities/program types to the areas, prioritized the program types within each area, and made recommended adjustments to the percentages, resulting in the recommended allocations attached to this report. Our recommendation regarding shelter and temporary accommodations includes the potential to use funds to support sanctioned encampments if approved by a Council policy and we encourage the City to give consideration to this approach.

The Panel also adopted subpopulation priorities within the key investment areas of permanent housing subsidies, and flexible housing subsidies. These include establishing a \$500,000 set-aside for permanent housing subsidies for homeless families with children. This also includes a recommended 20% set-aside for families and transition-age youth in flexible housing subsidies, using the McKinney-Vento (i.e. Berkeley Unified School Districts) definition of homelessness, though not limited to families with school-age children.

As stated above, the actual amount of funding to be allocated has yet to be determined. The agreed upon order of priority and percentages is included as Attachment 1. The Panels' priorities within each area are expressed in the order of activities. We recommend that higher ranked activities be given a greater priority for resources, but we recognize that some activities we have recommended may be funded using other resources at the City's disposal. Activities left out of our table, such as Public Works

street cleaning, and general street outreach, were not recommended for funding from Measure P at this time.

Objection to Full Funding for Emergency Mental Health Transport

The Panel notes that the amount available for us to allocate was reduced by nearly \$1.5 million in FY19/20 based on commitments recommended previously by the City Manager for City staff and for Mental Health Emergency Transport. We understand that FY19/20 funding is already committed but we wish to express our strong objection to the pre-allocation of \$2.4 million in FY20/21 Measure P-generated funding to fully cover these transportation costs. Measure P was passed by the voters of Berkeley to address the crisis of homelessness; while some people who experience homelessness may require emergency mental health transportation, this service is not limited to people who are homeless and was not budgeted with consideration that most people who will be transported will be people who are housed. In addition, this service does not result in greater housing or shelter for people who are homeless and we believe is not consistent with the purpose of Measure P. ***We recommend the Council refer to the City Manager to produce information regarding the percentage of those transported who are homeless and other potential sources to cover this expense.*** We hope to make recommendations for next year's investments with consideration to this.

Next Steps

The HSPE recognizes that it was established not only to make recommendations about investment amounts but also to advise on methods and practices. A companion letter will be sent to Council to accompany this report with additional recommendations and considerations for how to ensure Berkeley's programming is consistent with best practices.

Future work of the Panel will include developing an Action Plan for the coming year, and coordinating with Measure O to plan for future developments. Future work may include recommendations regarding establishing a goal of ending family homelessness or other City-wide goals.

BACKGROUND

Measure P was passed by the voters of Berkeley in 2018. The Homeless Services Panel of Experts began meeting in May of 2019. To guide our work, in August 2019 we have adopted a Statement of Purpose. This Statement is provided as Attachment 2 to this report and is a guide to the recommendations made in this Report.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental costs or opportunities associated with these recommendations; the determination regarding how to invest in shelter expansion activities may require environmental consideration.

RATIONALE FOR RECOMMENDATION

The exact amount of funds that will be generated by Measure P are unknown at this time, and additional State and local funds may become available to the City to cover similar cost areas to address homelessness as those recommended by the Panel. Thus, the Panel is recommending key categories for investment, relative priorities expressed as percentages, and priorities within each of these areas. City staff and Council are encouraged to use these recommendations to determine the specific investments within each area.

ALTERNATIVE ACTIONS CONSIDERED

The HSPE considered various options for allocating resources to families and Transition Age Youth (TAY) including allocating resources based on each population's percentages in the Point in Time (PIT) count, establishing a specific priority for unsheltered families, and adopting a significant percentage of housing resources for families. The HSPE ultimately adopted and recommends a specific set-aside in the first allocation of at least \$500,000 of funding for permanent housing for families and a 20% percent set-aside in flexible subsidies for families and transition age youth.

CITY MANAGER

See Companion Report.

CONTACT PERSON

Peter Radu, Homeless Services Coordinator and Secretary to the Homeless Services Panel of Experts, HHCS, (510) 981-5435.

Attachments:

- 1: Recommendations for First Year Measure P Allocations - By Category and Activity
- 2: Homeless Services Panel of Experts Statement of Purpose

**ATTACHMENT 1:
Recommendations for General Fund Allocations Associated with Measure P - By
Category and Activity**

Because the total amount of funding available is unknown, recommendations are based on a percentage of funding to each category. Within investment areas, activities are listed in the order they were prioritized and we generally recommend higher priority be given to these activities over those that are listed further down in higher priority categories. Additional considerations and recommendations include subpopulation priorities and service types considered within each activity.

Investment Area and Sub-Category Activities listed in Priority Order	Percent	Additional Considerations/ Recommendations
<p>1. PERMANENT HOUSING</p> <p>Permanent Housing Subsidies and Services</p>	30%	Establish a minimum set-aside of \$500,000 for homeless families in this category. Transition-age youth should be included in funding for Adults.
<p>2. SHELTER & TEMPORARY ACCOMMODATIONS</p> <p>1. Expand Shelter Capacity</p> <p>2. Invest in improving existing shelter capacity</p>	30%	<p>1. Adding new sheltering capacity may include the development of dedicated RV parking, use of tiny houses, or other means to increase shelter capacity. If the City should adopt a policy approving sanctioned encampments then this use would also be included. City should ensure there is a focus on meeting needs of any families living on the street.</p> <p>2. Increase services and housing connections in existing shelters so that they are able to function as Navigation Centers.</p>
<p>3. IMMEDIATE STREET CONDITIONS & HYGIENE</p> <p>1. Toilets and Hygiene Stations, including for encampments</p> <p>2. Lockers and Storage Units</p>	14%	Note: These funds were not recommended for general clean-up and other Public Works functions and should be spent on activities that directly benefit homeless people.

Investment Area and Sub-Category Activities listed in Priority Order	Percent	Additional Considerations/ Recommendations
<p>4. SUPPORTIVE SERVICES</p> <p>1. Health Care services</p> <p>2. Employment and Income Development Activities</p> <p>3. Substance Use Treatment</p>	14%	<p>1. Health care services dedicated to people experiencing homelessness which may include street medicine.</p> <p>2. Activities may include job development and support as well as benefits advocacy and other services to improve incomes.</p> <p>3. Substance use treatment services dedicated for persons who are experiencing homelessness.</p>
<p>5. FLEXIBLE HOUSING SUBSIDIES</p> <p>Flexible housing subsidies may include prevention, diversion and/or rapid resolution support.</p>	10%	Establish a 20% set-aside for homeless families and transition-age youth, using the McKinney-Vento definition of homelessness.
<p>6. INFRASTRUCTURE</p> <p>1. Training ~80%</p> <p>2. Evaluation ~20%</p>	2%	<p>1. Use resources in this category for training for Berkeley community-based organizations working with people who are homeless.</p> <p>2. Use resources in this category to ensure that the experiences of service users are captured and considered in performance evaluation.</p>
TOTAL	100%	

ATTACHMENT 2:
Homeless Services Panel of Experts Mission/Purpose Statement
(adopted August 14, 2019)

The Voters of Berkeley passed Measure P to generate additional General Funds to use to address the crisis of homelessness. The Homeless Services Panel of Experts created by the Measure was established to “make recommendations on how and to what extent the City should establish and/or fund programs to end or prevent homelessness in Berkeley and provide humane services and support.”

We understand the current crisis of homelessness requires investments in prevention, health services and permanent housing which we know to be the solution to homelessness, as well as in shelters, supports and other temporary measures that get people immediately out of the elements. We will seek to strike a balance between these needs in our recommendations.

We will consider currently unmet needs, gaps and opportunities, best practices and currently available data on outcomes. We will make recommendations for increased local investment, including program types, target populations and geographic areas as appropriate. We will seek to consider the best use of these investments in the context of other available Federal, State and local funding. In general, we will not make recommendations on the specific agencies to receive funding, nor run our own proposal process, recognizing this as a role for staff and the Council. We will request updates on the performance of Measure P investments and the homeless service system overall, including the experience of service users, and use this information to inform future recommendations and provide oversight.

We recognize that homelessness is a regional issue and requires a regional approach, including recognizing that people from Berkeley may live in other places and remain connected to Berkeley services.

To ensure Measure P funding recommendations further efforts to create more housing for people experiencing homelessness in Berkeley, we will coordinate with the Measure O panel to ensure that very low cost housing is connected to services and operating support so that it can successfully targeted to people who are homeless.

We will meet as needed to fulfill this Mission, and to make recommendations to the City Council at least annually.



Housing Advisory Commission

ACTION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Housing Advisory Commission

Submitted by: Xavier Johnson, Chairperson, Housing Advisory Commission

Subject: Recommendation to Modify Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance

RECOMMENDATION

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

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

SUMMARY

At its July 11, 2019 meeting, the HAC took the following actions:

Action: M/S/C (Tregub/Sharenko) to recommend that City Council modify certain policies related to the enforcement of the Smoke-Free Multi-Unit Housing Ordinance, as follows:

- 1) Increase staffing to implement enforcement of the ordinance as part of the next budget;
- 2) Improve signage related to the ordinance in residential buildings;

- 3) Make the complaint process less onerous and more user-friendly, including enabling complainants to submit complaints electronically, providing complaint forms in different languages, and removing language requiring the statements to be “sworn,” and considering other, less threatening language that still expects a complaint be provided under the best of appellant’s knowledge; and
- 4) Relax the current requirements around how the Ordinance-based complaint form must be completed in order to be processed (e.g., removing the requirement of providing two separate complaints from different individuals within a six-month period, if the building contains two or fewer units, removing the requirement of providing a sworn statement under penalty of perjury).

Vote: Ayes: Johnson, Lewis, Sargent, Tregub, and Wright. Noes: Lord and Sharenko. Abstain: None. Absent: Mendonca (excused), Owens (unexcused), Simon-Weisberg (excused), and Wolfe (excused).

Action: M/S/C (Tregub/Sharenko) to recommend that City Council modify certain policies related to the enforcement of the Smoke-Free Multi-Unit Housing Ordinance, as follows:

- 5) Refer to the Community Health and Cannabis Commissions the question of whether the use of recreational (non-medical) cannabis should be incorporated into the Smoke-Free Housing Ordinance.

Vote: Ayes: Johnson, Sargent, Sharenko, Tregub, and Wright. Noes: Lewis and Lord. Abstain: None. Absent: Mendonca (excused), Owens (unexcused), Simon-Weisberg (excused), and Wolfe (excused).

FISCAL IMPACTS OF RECOMMENDATION

Unknown direct costs. Staff time would be needed to implement these recommendations and to administer a possibly increased volume of complaints should the process of filing a complaint become less onerous. However, savings in staff time would potentially be realized as a result of implementing the efficiencies being proposed.

CURRENT SITUATION AND ITS EFFECTS

The HAC’s recommendation to modify certain policies related to the enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members.

Ordinance No. 7,321-N.S., The Berkeley Smoke-Free Multi-Unit Housing Ordinance was adopted in early 2014 and, as of May 1, 2014, prohibits smoking in 100% of multi-unit housing with two or more units. This also includes common areas such as private

decks, balconies, and porches of units.¹ Enforcement of the ordinance is complaint-based and modeled after the “Events” section of the Community Noise Ordinance² and Barking Dog Ordinance, in that the standard for enforcement is “two non-anonymous citizen noise complaints.” In the case of the Smoke-Free Housing Ordinance, the City must “[receive] at least two complaints from residents of at least two separate units of the same multi-unit residence, or in the case of a two-unit multi-unit residence, from a resident of the other unit of a violation of [the Ordinance] by the same person provided notice...” in order for the complaints to be sustained. Further, both of these notices must be received within “a six month period following issuance of a [first] notice” to the resident allegedly in violation of the Ordinance.³ The existing complaint form appears to only be available in English on the City website⁴ and includes the following information that a complainant is required to acknowledge:

1. I am a resident in a multi-unit residence within the City of Berkeley;
2. This Complaint is not confidential and may be shared with the person responsible for the violation;
3. If this is the 3rd complaint, City of Berkeley Code Enforcement staff will review the complaint and if they find the complaint contains enough information to move forward, they will consider the matter for further action;
4. If an administrative citation is issued, and the recipient(s) appeals, I will be called to testify at an administrative appeal hearing. I agree to make myself available to testify, and understand that if I fail to testify, the citation may be dismissed.”⁵

As part of the declaration, the complainant must also attest to the following statement: “I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.”⁶

BACKGROUND

Over the prior twenty months, the Berkeley Housing Advisory Commission (HAC) received and heard several concerns from members of the public about the difficulty they encountered in an attempt to bring the City of Berkeley to enforce its Smoke-Free Multi-Unit Housing Ordinance. The HAC recommended to the City Council that a Berkeley Considers survey be conducted, an action that was adopted and completed.

¹ https://www.cityofberkeley.info/Health_Human_Services/Public_Health/Smoke_Free_MUH.aspx

² https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/2009/1n2Dec/2009-12-08_Item_01_Ordinance_7122.pdf

³ https://www.cityofberkeley.info/uploadedFiles/Health_Human_Services/Level_3_-_Public_Health/TobaccoFreeMultiUnitOrdinance.pdf

⁴ https://www.cityofberkeley.info/Health_Human_Services/Public_Health/Smoke_Free_MUH.aspx

⁵ https://www.cityofberkeley.info/uploadedFiles/Health_Human_Services/Level_3_-_Public_Health/SFMUH-ComplaintForm-02-28-18.pdf

⁶ *Ibid.*

The survey results point to similar challenges, primarily associated with:

- 1) The real or perceived difficulty of having a complaint sustained due to the standard applied to the complaint in order for the City to process it;
- 2) The real or perceived onerous nature of filling out and submitting the present complaint form in the manner required by the City;
- 3) The undesirable nature of pursuing action under the Ordinance against a neighboring property owner or tenant, particularly since the complaint is required to be non-anonymous; and
- 4) The perception that, even if the complaint process is followed as required, the City will not enforce it due to the high standard associated with enforcement and complaint-based nature of the enforcement mechanism.

At its March 2019 meeting, the HAC convened a Smoke-Free Housing Ordinance Subcommittee which met in April 2019. Members of the subcommittee reached consensus on several recommendations to the HAC, which were discussed at the April 2019 HAC meeting. Additional feedback was solicited from HAC members as well as members of the public at that meeting. Although the subcommittee did not meet a second time to finalize these recommendations, one of the members of the subcommittee discussed these recommendations with the Eviction Defense Center and the East Bay Community Law Center and modified the draft recommendations so that the idea of empowering inspectors to integrate proactive inspections at the same time that they are conducting other city-mandated inspections (e.g., the Rental Housing Safety Program), exploring the legality of allowing anonymous complaints to be processed, and relaxing the requirement of having to provide two separate complaints within a six-month period in buildings of *all* unit counts were removed from the proposed recommendations that were discussed and approved at the July meeting.

ENVIRONMENTAL SUSTAINABILITY

Insofar as the ability of every occupant of multi-family housing to reside in a smoke-free environment has a nexus to environmental sustainability and environmental justice, these recommendations support the City of Berkeley's environmental sustainability goals.

RATIONALE FOR RECOMMENDATIONS

The recommendations above address the primary challenges associated with enforcement that have been previously described. A brief rationale for each recommendation is presented below.

- 1) Increase staffing to implement enforcement of the ordinance as part of the next budget;

- 2) Improve signage related to the ordinance in residential buildings;

The recommendations above were made at the request of several members of the public who credibly claimed that the current staffing level to enforce the ordinance and required signage are inadequate to meet the goals of this ordinance.

- 3) Make the complaint process less onerous and more user-friendly, including enabling complainants to submit complaints electronically, providing complaint forms in different languages, and removing language requiring the statements to be “sworn,” and considering other, less threatening language that still expects a complaint be provided under the best of appellant’s knowledge; and
- 4) Relax the current requirements around how the Ordinance-based complaint form must be completed in order to be processed (e.g., removing the requirement of providing two separate complaints from different individuals within a six-month period, if the building contains two or fewer units, removing the requirement of providing a sworn statement under penalty of perjury).

These four recommendations would address the following concerns that the HAC noted from members of the public as well as from survey responses:

- 1) The real or perceived difficulty of having a complaint sustained due to the standard applied to the complaint in order for the City to process it;
- 2) The real or perceived onerous nature of filling out and submitting the present complaint form in the manner required by the City;
- 3) The undesirable nature of pursuing action under the Ordinance against a neighboring property owner or tenant, particularly since the complaint is required to be non-anonymous; and
- 4) The perception that, even if the complaint process is followed as required, the City will not enforce it due to the high standard associated with enforcement and complaint-based nature of the enforcement mechanism.

The current process requires an extremely high bar of evidence and effort for a complainant, and in a situation in which the complainant resides in close quarters with the allegedly offending party, may expose the complainant to possible retaliation (due to the lack of anonymity of the complaint). In addition, while the correctness of a complaint is fundamental to its ability to be processed, using the same language in the complaint form that is seen in a sworn affidavit is likely to intimidate some would-be complainants from undergoing the process of completing and submitting the form.

Furthermore, while the Smoke-Free Multi-Unit Housing Ordinance page on the City of Berkeley website currently includes several forms in Spanish as well as English, the complaint form itself is only available in English. No other languages besides English and Spanish were found anywhere on the site.⁷ The requirement that only a hard copy can be submitted and that electronic submission mechanisms are not accepted is overly burdensome, in an age where even police reports can be filed online. The provision that three separate complaints (two of them from separate individuals) must be received within the span of six months shifts the burden of policing onto the complainants rather than City, which is charged with enforcing this ordinance. Each of these recommendations addresses these and related concerns mentioned above.

The final recommendation approved by a separate vote by the HAC is as follows:

- 5) Refer to the Community Health and Cannabis Commissions the question of whether the use of recreational (non-medical) cannabis should be incorporated into the Smoke-Free Housing Ordinance.”

The Smoke-Free Housing Subcommittee and several additional members of the HAC and public felt that, with the recent relaxation of state law around the use of recreational (non-medical) cannabis, it would be worthwhile for these two commissions, both comprised of subject matter experts in their respective fields, to study this question. Only further study rather than any concrete actions is recommended at this time.

ALTERNATIVE ACTIONS CONSIDERED

Members of the HAC Smoke-Free Housing Subcommittee briefly discussed but dismissed the notion of making changes to the underlying Berkeley Smoke-Free Multi-Unit Housing Ordinance itself. Based on discussions with the eviction defense community, several elements were removed from the initial recommendations. These recommendations that are no longer proposed included the following:

- 1) Empowering inspectors to integrate proactive inspections regarding the smoke-free Ordinance enforcement at the same time that the inspectors are conducting other city-mandated inspections (e.g., the Rental Housing Safety Program);
- 2) Exploring the legality of allowing anonymous complaints to be processed;
- 3) Relaxing the requirement of having to demonstrate two separate complaints within a six-month period in buildings of *all unit sizes*.

Therefore, though some of the recommended actions, if approved, may trigger the need to provide subtle adjustments to the enforcement of the Ordinance, none of the actions above alter the fundamental architecture of the Ordinance.

⁷ https://www.cityofberkeley.info/Health_Human_Services/Public_Health/Smoke_Free_MUH.aspx

Recommendation to Modify Policies Related to the Enforcement
of the Smoke-Free Multi-Unit Housing Ordinance

ACTION CALENDAR
October 29, 2019

CITY MANAGER

See companion report.

CONTACT PERSON

Mike Uberti, Commission Secretary, HHCS, (510) 981-5114



Public Works Commission

ACTION CALENDAR
October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Public Works Commission

Submitted by: Ray Yep, Chair, Public Works Commission

Subject: Public Works Commission Recommendation for the Five-Year Paving Plan

RECOMMENDATION

Adopt a resolution that recommends approval of the Five-Year Paving Plan for FY2020 to FY2024 as proposed by Staff and recommends the creation of a Long-Term Paving Master Plan.

SUMMARY

This Report to Council is comprised of three sections:

1. Recommendations on the City's Proposed 5-Year Paving Plan
2. Report to Council on requested actions from 2017 and 2018
3. Recommendation from the Public Works Commission (PWC) to address the on-going paving condition deficit through the creation and implementation of a Long-Term Paving Master Plan.

The City of Berkeley's Street Rehabilitation and Repair Policy (Street Policy) requires that a 5-year paving plan be reviewed each year and adopted formally by the City Council, with advice from the PWC. The Rehabilitation Plan (commonly called the Paving Plan) for FY 2020 to FY 2024 has been reviewed by the PWC and it is recommending adoption of all five years of the plan.

At their meetings in December 2017 and 2018, City Council directed Staff to coordinate with the PWC on the items outlined in their motions. A progress report on the action items was submitted to Council on July 24, 2018. All of the action items have been worked on and this report highlights the status.

Berkeley's streets are in an "at-risk" condition, far from the City's target of having our streets in "good" condition, and continue to decline year on year. The PWC recommends that a master plan be prepared to understand the funding and resources needed to improve Berkeley's streets to a "good" condition.

FISCAL IMPACTS OF RECOMMENDATION

This Paving Plan is based on the Adopted Biennial Budget for Fiscal Years 2020 & 2021, and on the following estimated available funding levels from all sources, including State Transportation (Gas) Tax, Measure B, Measure BB, Measure F, and the General Fund.

Five-Year Paving Program Funding Sources by Year, in \$					
Fund Description	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
State Transportation Tax	495,303	495,303	495,303	495,303	495,303
State Transportation Tax –SB1	1,500,000	1,700,000	1,700,000	2,000,000	2,000,000
Measure B - Local Streets & Roads	700,000	1,000,000	700,000	0	0
Measure BB – Local Streets & Roads	2,200,000	1,700,000	2,000,000	2,700,000	2,700,000
Measure F Vehicle -Registration Fee	155,000	155,000	155,000	155,000	155,000
Capital Improvement Fund	1,925,000	1,925,000	1,925,000	1,925,000	1,925,000
TOTAL	6,975,303	6,975,303	6,975,303	7,272,303	7,272,303

In addition to the City's program funding, additional grant and bond funding has been made available for paving in FY 2020 and 2021, summarized below.

Other Funding for Paving by Year, in \$					
Funding Source	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Measure T1 approved	6,054,888	2,445,112	0	0	0
Grants	2,777,000	1,200,000	0	0	0
TOTAL	11,554,888	3,645,112	0	0	0

The PWC is recommending the preparation of a Long-Term Paving Master Plan. This is currently not budgeted and a request to fund the work needs to be prepared and submitted.

CURRENT SITUATION AND ITS EFFECTS

In December 2017 and 2018, the PWC made recommendations on the 5-year paving plan and provided a detailed analysis of Berkeley's street condition in our reports to Council. Based on the city-wide Pavement Condition Index (PCI), Berkeley's streets continue to be evaluated as "at risk," and do not meet the City's target to be in "good" condition. Council requested certain analysis and action be taken.

This report addresses the following topics:

1. Recommendations on the City's Proposed 5-Year Paving Plan
2. Report to Council on requested actions from 2017 and 2018

3. Recommendation from the Public Works Commission (PWC) to address the on-going paving condition deficit through the creation and implementation of a Long-Term Paving Master Plan.

Review of 5-year Paving Plan

A significant amount of street paving was done in the summer of 2019. This includes the paving delayed from 2018, the paving approved for 2019, and paving the Panoramic Hill area.

Staff prepared a list of paving projects for the new 5-year planning period (FY 2020 – 2024). This was prepared using guidance from Berkeley’s Street Rehabilitation Policy, StreetSaver program analysis, knowledge of what has been accomplished in recent years, and available funding. The proposed plan is summarized as follows.

	FY2020	FY2021	FY2022	FY2023	FY2024	Total	% of Total
<u>Square Footage of Paving</u>							
Arterials, sq. ft.	84,360	0	77,580	6,600	0	168,540	6
Collectors, sq. ft.	400,480	6,900	58,810	63,250	163,170	754,710	26
Residential, sq. ft.	284,758	477,584	474,528	36,6739	365,668	1,969,277	68
Total sq. ft.	769,598	546,584	610,918	436,589	528,838	2,892,527	100
<u>Miles</u>							
Arterials, miles	0.32	0.00	0.41	0.04	0.00	0.77	5
Collectors, miles	1.77	0.51	0.23	0.62	0.81	3.94	24
Residential, miles	1.58	3.33	2.39	2.17	1.93	11.40	71
Total miles	3.67	3.84	3.03	2.83	2.74	16.11	100
<u>Cost</u>							
Arterials, \$millions	\$0	\$0	\$0.896	\$0.078	\$0	\$0.974	3
Collectors, \$millions	\$2.521	\$0.881	\$0.956	\$1.290	\$1.946	\$7.594	24
Residential, \$millions	\$3.744	\$5.041	\$2.996	\$3.252	\$3.957	\$18.990	60
Discretionary, \$millions	\$0	\$1.046	\$1.046	\$1.091	\$1.091	\$4.274	13
Total cost, \$millions	\$6.265	\$6.968	\$5.895	\$5.711	\$6.994	\$31.833	100

The above summary does not include \$6.055 million in FY 2020, and \$2.445 million in FY 2021 from Measure T1 funding. It also does not include \$3.98 million in grant funding in FY2020 and FY2021.

The PWC paving subcommittee discussed the plan with Public Works Department staff and we have the following comments.

1. The Paving Plan uses asphalt paving technology. As such, the plan is not contributing to reducing greenhouse gas emissions. The PWC encourages staff to use greener and more sustainable technologies to help meet our climate action

goals. One suggestion is to start calling this a “street surface treatment plan” and not paving plan.

2. Staff prepared a process flow diagram that describes the inputs used to prepare the 5-year paving plan. This document provides a high-level overview of all the work that staff puts into the development of the paving plan and it has been very informative for the PWC. This has been included as Attachment 3 to this report for Council’s review.
3. Many of the City’s streets with the lowest PCI are residential streets. The proposed plan by staff shifts more focus of the paving plan to residential streets. While this is outside of the City’s Paving Policy for allocation of paving funds by street type, this plan helps address the roads that are in the greatest need and will do the most to improve the City-wide average PCI. The PWC believes that on a long-term basis, the Paving Policy is still valid to prioritize funding for arterials, collectors, bike routes, and bus routes. The following is a breakdown as compared to the Paving Policy:

	Cost Breakdown Per Paving Policy	Cost Breakdown Per 5-Year Paving Plan (FY2020-2024)
Arterial streets	10%	3%
Collector streets	50%	24%
Residential streets	25%	60%
Discretionary	15%	13%

4. The plan was reviewed with the City of Berkeley’s Bicycle Plan 2017. Of the total length of streets to be paved, 5.8 miles (36%) are current or future bike routes. However, of those 5.8 miles, 1.6 miles (27%) are on Hopkins or Cedar and just doing the pavement does not bring the streets to the requirements of the Berkeley Bicycle Plan. To complete the bikeways on these streets, additional funding is needed from the Transportation Division and a project is needed prior to paving beginning on these streets. The plan was also reviewed with the Transportation Commission and with their concerns about bike routes.
5. The PWC has reviewed the plan for contiguous streets and that the work is bundled for cost effective implementation. This is balanced with having the paving work be spread across all Council Districts of the City. Over the 5-year Paving Plan, the cost is distributed between 7% to 16% for each District.
6. The PWC agrees with including the streets that were approved under Phase 1 of Measure T1. However, the PWC recommends that bond funds be used only for work that will last for at least as long as the duration of the bond repayment period (this would be 40 years in the case of projects funded by Measure T-1 bond proceeds). Road treatments that match this recommendation only include full street reconstruction work, as other standard maintenance may extend the life of these assets beyond the duration of the bond repayment period. Maintenance work, such

as overlays, cape and slurry seals, should be funded from the Paving Program funds or the General Fund.

7. Specific attention should be given to the Adeline Corridor Specific Plan and its proposed changes to the street alignment. The street will be repaved using Measure T1 funds. This means that changes to the street may occur before the debt financing is paid off.
8. The PWC agrees that 15% of the available funding should be reserved for discretionary and/or demonstration projects. The PWC is in the process of developing a recommendation for criteria to help prioritize projects to be funded with the discretionary reserve.

Progress with Council Requested Actions

At their meetings in December 2017 and 2018, City Council directed Staff to coordinate with the PWC on the items outlined in their motions. A progress report on the action items was submitted to Council on July 24, 2018. Progress continues to be made on the action items and we would like to highlight the following.

1. Use of life cycle cost analysis – The City received a grant from the Metropolitan Transportation Commission (MTC) for technical assistance to evaluate life cycle cost analysis for street paving technologies. The MTC has retained Pavement Engineering Inc. (PEI) to conduct the analysis. The PWC paving sub-committee is working closely with PEI and staff on the study. The study will evaluate the life cycle cost of asphalt and alternative technologies, including permeable pavement, and will consider multiple benefits from each. These benefits, called externalities, include considerations for attenuating storm water peak flows, improving water quality, reducing traffic speeds, enhanced public safety, and reducing greenhouse gas emissions. PEI's analysis is projected to be completed in fall 2019.
2. Use of 15% discretionary and demonstration funds – The PWC paving sub-committee is working with staff to identify potential sites for permeable pavement projects or alternative durable pavement technologies. We are developing a matrix of criteria and candidate locations. The criteria include current condition, soil permeability, constructability, location attributes, life cycle cost analysis, and other factors. An allocation of 15% discretionary and demonstration funds has been included in FY2021-2024.
3. Work with consultants who have experience with long-lasting innovative technologies – The City retained several new on-call civil engineering consultants in 2018. The consultants include Bellecci and Associates, Harrison Engineering Inc., Pavement Engineering Inc., and Mark Thomas Company. All of these firms have demonstrated experience with long-lasting innovative and green infrastructure.
4. Report to Council on funding sources for scheduled and completed paving – A report to Council was made on September 10, 2019 on the breakdown of paving costs.

5. Annual report to Council on Measure M – The Public Works Department staff will prepare a report on the performance of Measure M at the completion of the 2019 paving season and the completion of the Woolsey Street stormwater cistern project.
6. Consult with Transportation Commission – Members from the Transportation Commission have participated at the PWC’s paving sub-committee meetings and a presentation of the 5-year paving plan was given to the Transportation Commission on June 20, 2019.

Master Plan to Improve the Condition of Berkeley’s Streets

The current citywide average PCI is 58 on a scale of 100, and is firmly in the “at risk,” category. Streets in this category tend to degrade at a more accelerated rate than those in a “good” or “fair” condition. Under the proposed paving plan, the PCI is estimated to dip to 52 by 2023. This is far from the City’s target of having our streets in “good” condition (PCI of 70 -79), and it is clear that action is needed to reverse this trend before our road fall into “failing” condition. Below is a summary of the current conditions of Berkeley’s streets by road type. This information was prepared by staff and PEI.

Section/Area	PCI in 2019
Overall system	58
Arterial streets	66
Collector streets	64
Residential streets	55
Bus routes	66
Bike lanes	62

The PWC recommends that a master plan be prepared to understand the funding and resources needed to improve Berkeley’s streets to a “good” condition. The master plan should represent street paving priorities that align with the values of the city and should consider the following:

1. Update the Street Policy – The policy was last updated in 2009. The policy should be reviewed and updated to incorporate current thinking about using life cycle cost analysis, Vision Zero, equity, sustainable multi-benefit technologies, the Bicycle Plan recommendations, Climate Action Plan, Resilience Strategy, Local Hazard Mitigation Plan, and other factors. With these considerations in mind, the updated policy should include new performance metrics that capture the diverse objectives the City holds for our road network.
2. A long-term paving capital plan – The Master Plan should include a 40-year paving or road surfacing plan to help the City identify the most efficient path to move the current PCI from “at risk” to “good.” This approach spans two cycles of typical asphalt roads expected useful life, and allows for decisions on street surfacing to be

optimized for the greatest bang for our buck over the full life of our assets, rather than the current short-term approach.

3. Equity -- The City's Street Policy calls for street paving to be equitably allocated among the City's nine districts. This is a worthy goal; however, the policy stops there and does not provide a clear method for how to evaluate equity. Should it be measured by dollars spent, miles paved, miles treated, the average PCI in a district, and should this equity be for each year of the paving plan over the full five years of the paving plan, or measured retrospectively? The Master Plan will propose a more definitive metric that will provide a clear directive to staff moving forward and provide the community with enhanced transparency in the City's paving decisions.
4. Financing Strategy -- Lack of funding for street paving plays a major role in the overall condition of the City's streets. As part of the Master Plan, the work should include a long-term funding gap analysis, a financial plan to address the funding gap, a cost-of-service rate study to develop recommended rates needed to sustainably finance the Paving Program, and an impact fee analysis to allow the City to recoup the cost of accelerated wear on our roads imposed by heavy vehicles. We also recommend the master plan include an evaluation of grant funding opportunities.
5. Public Engagement -- Public feedback is critical to the successful implementation of any City Plan. The Master Plan should provide guidance for public engagement strategies that will allow the collection and synthesis of public feedback regarding the future of the City streets.

The recommendation to approve both the 5-year paving plan and the recommendation for a Paving Master Plan and to forward it to Council was discussed by the Public Works Commission at its July 11, 2019 meeting.

Action: M/S/C (Schueler/Dominguez)

Vote: (8 Ayes: Yep, Schueler, Dominguez, Hitchen, Constantine, Krpata, Erbe, Freiberg; 0 Noes; 1 Absent: McGrath; 0 Abstain)

ENVIRONMENTAL SUSTAINABILITY

Permeable pavers provide a way of reducing the volume of storm water entering the City storm drain system; improving the quality of urban runoff from the roadway that is conveyed to local creeks and the Bay; and reducing greenhouse gas emissions by installing a durable product that requires less maintenance than traditional asphalt concrete.

Full Depth Reclamation (FDR), a cost-effective alternative to traditional street reconstruction methods, is planned for use in several of the streets selected for rehabilitation. It recycles much of the existing pavement on site, and incorporates it into the pavement subgrade, thereby reducing truck trips to and from construction sites.

In addition, the Paving Plan includes repair of the City's deteriorating storm drain infrastructure that minimizes degradation of water quality in local creeks and the Bay. These repairs are consistent with the City of Berkeley's 2011 Watershed Management Plan. Furthermore, the Paving Plan also proposes approximately 5.8 miles of improvements to bicycle routes, and improvements to sidewalk and curb ramps adopted from the Bicycle and Pedestrian Plans. These steps result in lower emissions of greenhouse gases into the environment, which is consistent with the goals of the 2009 Berkeley Climate Action Plan.

RATIONALE FOR RECOMMENDATION

It is the policy of the City of Berkeley that there shall be a Five-year Street Rehabilitation Plan for the entire City to be adopted by the City Council. Further, the proposed plan provides for much needed street infrastructure improvements that are consistent with the City's Street Policy.

ALTERNATIVE ACTIONS CONSIDERED

None

CITY MANAGER REPORT

See companion report.

CONTACT PERSON

Ray Yep, Chair, Public Works Commission (510) 318-4894

Nisha Patel, Manager of Engineering (510) 981-6406

Joe Enke, Supervising Civil Engineer (510) 981-6411

Attachments:

1. Resolution

Exhibit A: Five-Year Street Rehabilitation Plan Update to Council, July 24, 2018

2. 5-Year Paving Plan Process Flow Diagram

Attachment 1

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

APPROVAL OF THE FIVE-YEAR PAVING PLAN FOR FY 2020 TO FY2024 AND
RECOMMENDATION FOR THE CREATION OF A LONG-TERM PAVING MASTER
PLAN

WHEREAS, the Street Rehabilitation Policy, Resolution No. 55,384-N.S. approved on May 22, 1990, requires there be a Five-Year Street Paving Plan for the entire City to be adopted by the City Council, and

WHEREAS, the City Council requests advice from the Public Works Commission on the Five-Year Paving Plan; and

WHEREAS, on July 11, 2019, the Public Works Commission voted to approve submitting the FY 2020 to FY2024 Five-year Paving Plan to City Council, attached as Exhibit A;

WHEREAS, the condition of Berkeley's streets are at an "at risk" condition and a long-term strategy is needed to improve the condition to the "good" level,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the FY 2020 to FY2024 Five-Year Paving Plan attached as Exhibit A hereof and the request to create a long-term paving master plan, are hereby adopted.

Exhibit A: Five-Year Paving Plan for FY2020 to FY2024

EXHIBIT A
5-YEAR STREET REHABILITATION PLAN FOR FY 2020 TO FY 2024

Revised: 05/22/2019

Fiscal Year	Street ID	Section ID	Street Name	From	To	Class	Treatment (from StreetSaver)	Updated Total Cost	District	P	Mileage	Current PCI	Last M&R Date	Last M&R	Last Paved
2020	321100	30	CEDAR ST	6TH ST	SAN PABLO AVE	C	Reconstruct	\$ 1,239,036	1	3C*	0.31	27	10/1/1994	O -	MILL AND OVERLAY W/FABRIC
2020	320685	10	MARINA BLVD	SPINNAKER WAY	UNIVERSITY AVE	C	Heavy Mtce		1	N	0.43	58	9/1/1986	A - AC	OVERLAY
2020	735382	60	MILVIA ST	BLAKE ST	RUSSELL ST	R	Heavy Rehab	\$ 764,300	3	3E	0.44	28	9/1/1993	A - AC	RECONSTRUCT SURFACE (AC)
2020	516492	75	ROSE ST	LE ROY AVE	LA LOMA AVE	R	Reconstruct	\$ 205,000	6	N	0.14	0		A - AC	
2020	319525	35	SANTA FE AVE	GILMAN ST	CORNELL AVE & PAGE	R	Heavy Rehab	\$ 409,600	1	3C*	0.27	49	7/1/1995	A - AC	RECONSTRUCT STRUCTURE (AC)
2020	319525	30	SANTA FE AVE	NORTH CITY LIMIT	GILMAN ST	R	Light Mtce	\$ 37,355	1	3C*	0.11	60	8/31/2004	O -	MILL AND THIN OVERLAY
2020	115532	77	SHASTA RD	GRIZZLY PEAK BLVD	PARK GATE	C	Heavy Rehab	\$ 86,667	6	N	0.05	14	11/1/1988	A - AC	RECONSTRUCT SURFACE (AC)
2020	115532	79	SHASTA RD	PARK GATE	EAST CITY LIMIT (GOLF	C	Reconstruct	\$ 234,789	6	N	0.11	10	11/1/1988	A - AC	RECONSTRUCT SURFACE (AC)
2020	320686	10	SPINNAKER WAY	BREAKWATER DR	MARINA BLVD	R	Reconstruct	\$ 1,000,000	1	N	0.28	24	8/1/1991	A - AC	OVERLAY
2020	213386	22	MONTEREY AVE	THE ALAMEDA	HOPKINS ST	C	Heavy Rehab	\$ 960,667	5	2A	0.57	54	11/30/2011	A - AC	MILL AND OVERLAY
2020	933653	40	WARD ST	SAN PABLO AVE	ACTON ST	R	Reconstruct	\$ 1,328,400	2	N	0.31	20	9/1/1991	A - AC	MILL AND OVERLAY W/FABRIC
2020	320620	15	UNIVERSITY AVE	MARINA BLVD	WEST FRONTAGE RD	C	Reconstruct		1, 2	N	0.30	0	12/1/1989	A - AC	OVERLAY
2020	729533	55	SHATTUCK AVE	CENTER ST	ALLSTON WAY	A	Reconstruct		4		0.06	2	7/1/1994	O -	MILL AND OVERLAY W/FABRIC
2020	729533	57	SHATTUCK AVE (SB)	CENTER ST	UNIVERSITY AVE	A	Reconstruct		4		0.13	12	7/1/1994	O -	MILL AND OVERLAY W/FABRIC
2020	729007	64	ADDISON ST	SHATTUCK AVE	SHATTUCK AVE	R	Heavy Rehab		4		0.03				
2020	729051	52	BERKELEY SQUARE	ADDISON ST	CENTER ST	A	Heavy Rehab		4		0.06				
2020	729535	50	SHATTUCK SQUARE	UNIVERSITY AVE	ADDISON	A	Heavy Rehab		4		0.07	28	7/1/1994	O -	MILL AND OVERLAY W/FABRIC
								\$ 6,265,814			3.69				

Note: Column P denotes presence of bike facility type (1 paved path, 2A 2B bike lane, 3A sign-only, 3C Sharrows, 3E bike blvd, 4 cycle track); C for bus route; and N for none.

*Proposed bike facilities from 2017 Bike Plan.

EXHIBIT A
5-YEAR STREET REHABILITATION PLAN FOR FY 2020 TO FY 2024

Revised: 05/22/2019

Fiscal Year	Street ID	Section ID	Street Name	From	To	Class	Treatment (from StreetSaver)	Updated Total Cost	District	P	Mileage	Current PCI	Last M&R Date	Last M&R	Last Paved
2021	940005	70	ACTON ST	ASHBY ST	66TH ST	R	Light Mtce	\$ 83,640	2	N	0.23	60	8/29/2007	A - AC	RECONSTRUCT STRUCTURE (AC)
2021	516020	30	ARCADE AVE	GRIZZLY PEAK BLVD	FAIRLAWN DR	R	Heavy Rehab	\$ 63,378	6	N	0.06	7	6/1/1995	O -	MILL AND OVERLAY W/FABRIC
2021	628042	78	BANCROFT WAY	BOWDITCH ST	COLLEGE AVE	C	Heavy Mtce	\$ 161,036	7	3C*	0.13	62	12/1/1990	O -	MILL AND OVERLAY W/FABRIC
2021	627042	80	BANCROFT WAY	COLLEGE AVE	PIEDMONT AVE	C	Heavy Rehab	\$ 254,076	7	3C*	0.13	57	12/1/1990	O -	MILL AND OVERLAY W/FABRIC
2021	829102	60	CENTER ST	MARTIN LUTHER KING	MILVIA ST	R	Heavy Rehab	\$ 315,645	4		0.13	59	7/1/1991	A - AC	RECONSTRUCT SURFACE (AC)
2021	729102	63	CENTER ST	MILVIA ST	SHATTUCK	R	Heavy Rehab	\$ 564,000	4	2A*	0.13	72	7/1/1991	A - AC	RECONSTRUCT SURFACE (AC)
2021	111127	10	CRESTON RD	GRIZZLY PEAK BLVD	SUNSET LANE	R	Heavy Mtce	\$ 93,378	6	N	0.36	67	6/1/1995	A - AC	RECONSTRUCT STRUCTURE (AC)
2021	115127	20	CRESTON RD	SUNSET LANE	GRIZZLY PEAK BLVD	R	Heavy Mtce	\$ 116,258	6	N	0.36	64	11/1/1988	A - AC	RECONSTRUCT SURFACE (AC)
2021	728140	50	DANA ST	BANCROFT WAY	DWIGHT WAY	R	Heavy Rehab	\$ 467,400	7	2A to 2B*	0.25	51	12/1/1989	O -	MILL AND OVERLAY W/FABRIC
2021	739141	70	DEAKIN ST	ASHBY AVE	PRINCE ST	R	Light Mtce	\$ 45,920	3	N	0.16	76	4/3/2008	A - AC	RECONSTRUCT STRUCTURE (AC)
2021	736141	68	DEAKIN ST	RUSSELL ST	ASHBY AVE	R	Light Rehab	\$ 109,200	3	N	0.10	57	7/1/1988	O -	MILL AND OVERLAY W/FABRIC
2021	940148	70	DOHR ST	ASHBY AVE	PRINCE ST	R	Heavy Rehab	\$ 176,569	2	N	0.14	53	10/1/1992	A - AC	RECONSTRUCT STRUCTURE (AC)
2021	115344	80	LATHAM LANE	MILLER AVE	GRIZZLY PEAK	R	Heavy Mtce	\$ 38,500	6	N	0.10	61	6/1/1994	A - AC	RECONSTRUCT STRUCTURE (AC)
2021	115380	70	MILLER AVE	HILLDALE AVE	SHASTA RD	R	Light Rehab	\$ 425,880	6	N	0.66	58	6/1/1994	A - AC	RECONSTRUCT STRUCTURE (AC)
2021	830491	58	ROOSEVELT AVE	CHANNING WAY	DWIGHT WAY	R	Light Rehab	\$ 172,480	4	N	0.13	65	12/1/1989	A - AC	RECONSTRUCT SURFACE (AC)
2021	728584	50	TELEGRAPH AVE	BANCROFT WAY	DWIGHT WAY	C	Heavy Rehab	\$ 473,060	7	3C*	0.25	52	7/1/1988	O -	MILL AND OVERLAY W/FABRIC
2021	931657	55	WEST ST	BANCROFT WAY	DWIGHT WAY	R	Heavy Mtce	\$ 263,822	2	N	0.25	65	10/1/1994	O -	MILL AND OVERLAY W/FABRIC
2021	320528	47	2ND ST	DELAWARE ST	HEARST AVE	R	Reconstruct	\$ 775,833	1	N	0.09	2	NA		
2021	320528	48	2ND ST	HEARST AVE	UNIVERSITY AVE	R	Heavy Rehab	\$ 762,222	1	N	0.09	46	NA		
2021	920528	50	2ND ST	UNIVERSITY AVE	ADDISON ST	R	Heavy Rehab	\$ 560,000	2	N	0.09	0	8/27/1997		MILL AND OVERLAY W/FABRIC
2021			15% DISCRETIONARY					\$ 1,046,295							
								\$ 6,968,593			3.84				

Note: Column P denotes presence of bike facility type (1 paved path, 2A 2B bike lane, 3A sign-only, 3C Sharrows, 3E bike blvd, 4 cycle track); C for bus route; and N for none.

*Proposed bike facilities from 2017 Bike Plan.

EXHIBIT A
5-YEAR STREET REHABILITATION PLAN FOR FY 2020 TO FY 2024

Revised: 05/22/2019

Fiscal Year	Street ID	Section ID	Street Name	From	To	Class	Treatment (from StreetSaver)	Updated Total Cost	District	P	Mileage	Current PCI	Last M&R Date	Last M&R	Last Paved
2022	931073	50	BROWNING ST	ADDISON ST	DWIGHT WAY	R	Heavy Rehab	\$ 911,600	2	N	0.50	63	10/1/1995	O -	MILL AND OVERLAY W/FABRIC
2022	638115	70	COLLEGE AVE	ASHBY AVE	SOUTH CITY LIMIT	A	Heavy Rehab	\$ 896,480	8	N	0.41	51	8/23/2000	A - AC	RECONSTRUCT STRUCTURE (AC)
2022	729152	60	DURANT AVE	MILVIA ST	SHATTUCK AVE	C	Reconstruct	\$ 693,355	4	N	0.13	0	11/1/1992	O -	MILL AND OVERLAY W/FABRIC
2022	729152	64	DURANT AVE	SHATTUCK AVE	FULTON ST	C	Heavy Rehab	\$ 262,880	4	N	0.10	28	8/12/1997	O -	MILL AND OVERLAY W/FABRIC
2022	728180	50	ELLSWORTH ST	BANCROFT WAY	DWIGHT WAY	R	Reconstruct	\$ 422,400	7	N	0.25	20	11/1/1992	O -	MILL AND OVERLAY W/FABRIC
2022	736180	60	ELLSWORTH ST	DWIGHT WAY	WARD ST	R	Light Mtce	\$ 129,360	7	N	0.38	83	5/11/2011	A - AC	RECONSTRUCT SURFACE (AC)
2022	736180	65	ELLSWORTH ST	WARD ST	ASHBY AVE	R	Light Mtce	\$ 99,307	3	N	0.29	87	5/11/2011	A - AC	RECONSTRUCT SURFACE (AC)
2022	736227	60	FULTON ST	DWIGHT WAY	BLAKE ST	R	Heavy Mtce	\$ 76,128	3	3E*	0.06	61	6/1/1993	O -	MEDIUM AC OVERLAY (2 INCHES)
2022	736227	61	FULTON ST	BLAKE ST	PARKER ST	R	Heavy Mtce	\$ 27,840	3	3E*	0.07				
2022	736227	63	FULTON ST	PARKER ST	STUART ST	R	Heavy Mtce	\$ 321,592	3	3E*	0.25	61	2/1/1992	O -	THIN AC OVERLAY(1.5 INCHES)
2022	835431	65	OTIS ST	RUSSELL ST	ASHBY AVE	R	Heavy Rehab	\$ 224,000	3	N	0.13	61	4/1/2001	A - AC	RECONSTRUCT STRUCTURE (AC)
2022	736561	70	STUART ST	FULTON ST	HILLEGASS AVE	R	Heavy Rehab	\$ 784,000	7	N	0.46	54	11/13/1998	A - AC	RECONSTRUCT STRUCTURE (AC)
2022			15% DISCRETIONARY					\$ 1,046,295							
								\$ 5,895,237			3.03				

Note: Column P denotes presence of bike facility type (1 paved path, 2A 2B bike lane, 3A sign-only, 3C Sharrows, 3E bike blvd, 4 cycle track); C for bus route; and N for none.

*Proposed bike facilities from 2017 Bike Plan.

EXHIBIT A
5-YEAR STREET REHABILITATION PLAN FOR FY 2020 TO FY 2024

Revised: 05/22/2019

Fiscal Year	Street ID	Section ID	Street Name	From	To	Class	Treatment (from StreetSaver)	Updated Total Cost	District	P	Mileage	Current PCI	Last M&R Date	Last M&R	Last Paved
2023	729042	65	BANCROFT WAY	SHATTUCK AVE	FULTON ST	C	Heavy Rehab	\$ 277,778	4	4*	0.09	32	8/7/1997	O -	MILL AND OVERLAY W/FABRIC
2023	729042	60	BANCROFT WAY	MILVIA WAY	SHATTUCK AVE	C	Heavy Rehab	\$ 359,836	4	N	0.13	28	12/1/1989		MILL AND OVERLAY W/FABRIC
2023	736140	65	DANA ST	BLAKE ST	WARD ST	R	Light Rehab	\$ 454,080	7	3E*	0.25	45	7/30/2008	A - AC	RECONSTRUCT STRUCTURE (AC)
2023	739186	60	EMERSON ST	ADELINE ST	SHATTUCK AVE	R	Light Rehab	\$ 180,320	3	N	0.15	65	4/1/2001	A - AC	RECONSTRUCT STRUCTURE (AC)
2023	839191	60	ESSEX ST	ADELINE ST	TREMONT ST	R	Heavy Mtce	\$ 76,160	3	N	0.06	76	4/1/2001	A - AC	RECONSTRUCT STRUCTURE (AC)
2023	739191	62	ESSEX ST	TREMONT ST	SHATTUCK AVE	R	Light Rehab	\$ 129,920	3	N	0.11	62	4/1/2001	A - AC	RECONSTRUCT STRUCTURE (AC)
2023	637217	80	FOREST AVE	COLLEGE AVE	CLAREMONT BLVD	R	Heavy Rehab	\$ 600,000	8	N	0.36	50	8/1/1996	A - AC	RECONSTRUCT STRUCTURE (AC)
2023	516340	36	LA LOMA AVE	ROSE ST	BUENA VISTA WAY	C	Heavy Rehab	\$ 248,827	6	N	0.16	36	6/1/1995	O -	MILL AND OVERLAY W/FABRIC
2023	516340	38	LA LOMA AVE	BUENA VISTA WAY	CEDAR ST	C	Heavy Rehab	\$ 221,340	6	N	0.14	51	6/1/1995	O -	MILL AND OVERLAY W/FABRIC
2023	834371	65	MC GEE AVE	DERBY ST	RUSSELL ST	R	Light Rehab	\$ 461,992	3	N	0.25	60	12/10/1998	A - AC	RECONSTRUCT STRUCTURE (AC)
2023	834371	60	MC GEE AVE	DWIGHT WAY	DERBY ST	R	Light Rehab	\$ 302,400	3	N	0.26	59	7/1/1988	O -	THIN OVERLAY w/FABRIC
2023	319293	47	HOPKINS ST	GILMAN ST	SACRAMENTO ST	R	Heavy Rehab	\$ 203,942	5	3A, C	0.10	0	9/13/2002		MILL AND OVERLAY W/FABRIC
2023	213293	50	HOPKINS ST	HOPKINS CT	MONTEREY AVE	C	Light Rehab	\$ 75,193	5	3A, C	0.05	54	9/13/2002		MILL AND OVERLAY W/FABRIC
2023	213293	52	HOPKINS ST	MONTEREY AVE	MC GEE AVE	C	Heavy Rehab	\$ 107,167	5	2A, C	0.05	71	12/1/1989		RECONSTRUCT STRUCTURE (AC)
2023	319293	45	HOPKINS ST	NORTHSIDE AVE	PERALTA AVE	R	Light Mtce	\$ 233,587	1	N	0.10	78	9/13/2002		MILL AND OVERLAY W/FABRIC
2023	319293	46	HOPKINS ST	PERALTA AVE	GILMAN ST	R	Heavy Mtce	\$ 433,031	1, 5	N	0.27	64	9/13/2002		MILL AND OVERLAY W/FABRIC
2023	319293	49	HOPKINS ST	SACRAMENTO ST	HOPKINS CT	A	Heavy Rehab	\$ 77,755	5	3A, C	0.04	30	9/13/2002		MILL AND OVERLAY W/FABRIC
2023	319293	40	HOPKINS ST	SAN PABLO AVE	STANNAGE AVE	R	Light Mtce	\$ 19,188	1	N	0.09	73	9/13/2002		MILL AND OVERLAY W/FABRIC
2023	319293	42	HOPKINS ST	STANNAGE AVE	NORTHSIDE AVE	R	Heavy Mtce	\$ 157,658	1	N	0.17	80	9/13/2002		MILL AND OVERLAY W/FABRIC
2023			15% DISCRETIONARY					\$ 1,091,295							
								\$ 5,711,469			2.86				

Note: Column P denotes presence of bike facility type (1 paved path, 2A 2B bike lane, 3A sign-only, 3C Sharrows, 3E bike blvd, 4 cycle track); C for bus route; and N for none.

*Proposed bike facilities from 2017 Bike Plan.

EXHIBIT A
5-YEAR STREET REHABILITATION PLAN FOR FY 2020 TO FY 2024

Revised: 05/22/2019

Fiscal Year	Street ID	Section ID	Street Name	From	To	Class	Treatment (from StreetSaver)	Updated Total Cost	District	P	Mileage	Current PCI	Last M&R Date	Last M&R	Last Paved
2024	729014	63	ALLSTON WAY	MILVIA ST	SHATTUCK AVE	R	Heavy Rehab	\$ 228,800	4	N	0.14	19	11/1/1990	O -	MILL AND THIN OVERLAY
2024	729014	65	ALLSTON WAY	SHATTUCK AVE	OXFORD ST	R	Reconstruct	\$ 344,036	4	N	0.11	10	11/1/1992	O -	MILL AND OVERLAY W/FABRIC
2024	729104	63	CHANNING WAY	MILVIA ST	SHATTUCK AVE	R	Heavy Rehab	\$ 267,640	4	2A to 2B*	0.13	27	9/1/1991	O -	MILL AND OVERLAY W/FABRIC
2024	829104	60	CHANNING WAY	MARTIN LUTHER KING	MILVIA ST	R	Reconstruct	\$ 462,920	4	2A to 2B*	0.13	10	5/1/1995	O -	THIN AC OVERLAY(1.5 INCHES)
2024	322142	48	DELAWARE ST	ACTON ST	SACRAMENTO ST	C	Heavy Mtce	\$ 78,175	1	4*	0.13				
2024	636146	78	DERBY ST	HILLEGASS AVE	COLLEGE AVE	R	Reconstruct	\$ 498,560	8	3E*	0.14				
2024	627155	85	DWIGHT WAY	HILLSIDE AVE	DEAD END ABOVE	R	Reconstruct	\$ 406,204	8	N	0.11	0	9/1/1993	A - AC	RECONSTRUCT SURFACE (AC)
2024	627155	83	DWIGHT WAY	PIEDMONT AVE	HILLSIDE AVE	R	Reconstruct	\$ 526,688	7, 8	N	0.14	3	9/1/1993	O -	MILL AND OVERLAY W/FABRIC
2024	111249	17	GRIZZLY PEAK BLVD	KEELER AVE	MARIN AVE	C	Reconstruct	\$ 843,578	6	3C*	0.27				
2024	920275	40	HEINZ AVE	7TH ST	SAN PABLO AVE	R	Reconstruct	\$ 897,408	2	3E	0.26				
2024	739285	70	HILLEGASS AVE	ASHBY AVE	CITY LIMIT (WOOLSEY)	R	Light Mtce	\$ 68,400	8	3E	0.16	83	7/28/2003	A - AC	RECONSTRUCT STRUCTURE (AC)
2024	736285	60	HILLEGASS AVE	DWIGHT WAY	ASHBY AVE	R	Light Mtce	\$ 256,000	8	3E	0.61	83	5/31/2000	A - AC	RECONSTRUCT STRUCTURE (AC)
2024	213293	53	HOPKINS ST	MC GEE AVE	CARLOTTA AVE	C	Heavy Rehab	\$ 149,680	5	2A, C	0.06	47	12/1/1989		RECONSTRUCT STRUCTURE (AC)
2024	213293	55	HOPKINS ST	CARLOTTA AVE	JOSEPHINE ST	C	Heavy Rehab	\$ 874,580	5	2A, C	0.35	60	12/1/1989		MILL AND OVERLAY
2024			15% DISCRETIONARY					\$ 1,091,295							
								\$ 6,993,964			2.74				

Note: Column P denotes presence of bike facility type (1 paved path, 2A 2B bike lane, 3A sign-only, 3C Sharrows, 3E bike blvd, 4 cycle track); C for bus route; and N for none.

*Proposed bike facilities from 2017 Bike Plan.

FISCAL YEAR 2020 TOTALS

Total Estimated Cost and Miles		\$ 6,265,814	3.67 miles	
	MILEAGE	District	Miles	Cost
ARTERIALS	0.32	1	0.69	\$1,685,991
COLLECTORS	1.77	2	0.31	\$1,328,400
RESIDENTIALS	1.58	3	0.44	\$764,300
	3.67	4	0.03	\$0
		5	0.57	\$960,667
		6	0.30	\$526,456
		7	0.00	\$0
		8	0.00	\$0
		Arterial/PRW	1.33	\$1,000,000
			3.67	\$6,265,814

6975303

FISCAL YEAR 2021 TOTALS

Total Estimated Cost and Miles		\$ 6,968,593	3.84 miles	
	MILEAGE	District	Miles	Cost
ARTERIALS	0.00	1	0.18	\$1,538,055
COLLECTORS	0.51	2	0.71	\$1,084,031
RESIDENTIALS	3.33	3	0.26	\$155,120
	3.84	4	0.39	\$1,052,125
		5	0.00	\$0
		6	1.54	\$737,394
		7	0.76	\$1,355,572
		8	0.00	\$0
		15%		\$1,046,295
<hr/>			3.84	\$6,968,592
				6975303

FISCAL YEAR 2022 TOTALS

Total Estimated Cost and Miles		\$ 5,895,237	3.03 miles	
	MILEAGE	District	Miles	Cost
ARTERIALS	0.41	1	0.00	\$0
COLLECTORS	0.23	2	0.50	\$911,600
RESIDENTIALS	2.39	3	0.80	\$748,867
	3.03	4	0.23	\$956,235
		5	0.00	\$0
		6	0.00	\$0
		7	1.09	\$1,335,760
		8	0.00	\$0
<hr/>		Arterial	0.41	\$896,480
		15%		\$1,046,295
			3.03	\$5,895,237
				6975303

FISCAL YEAR 2023 TOTALS

Total Estimated Cost and Miles		\$ 5,711,469	2.83 miles	
	MILEAGE	District	Miles	Cost
ARTERIALS	0.04	1	0.50	\$626,949
COLLECTORS	0.62	2	0.00	\$0
RESIDENTIALS	2.17	3	0.83	\$1,150,792
	2.83	4	0.22	\$637,614
		5	0.34	\$602,817
		6	0.30	\$470,167
		7	0.25	\$454,080
		8	0.36	\$600,000
		Arterial	0.04	\$77,755
		15%		\$1,091,295
<hr/>			2.83	\$5,711,469
				7275303

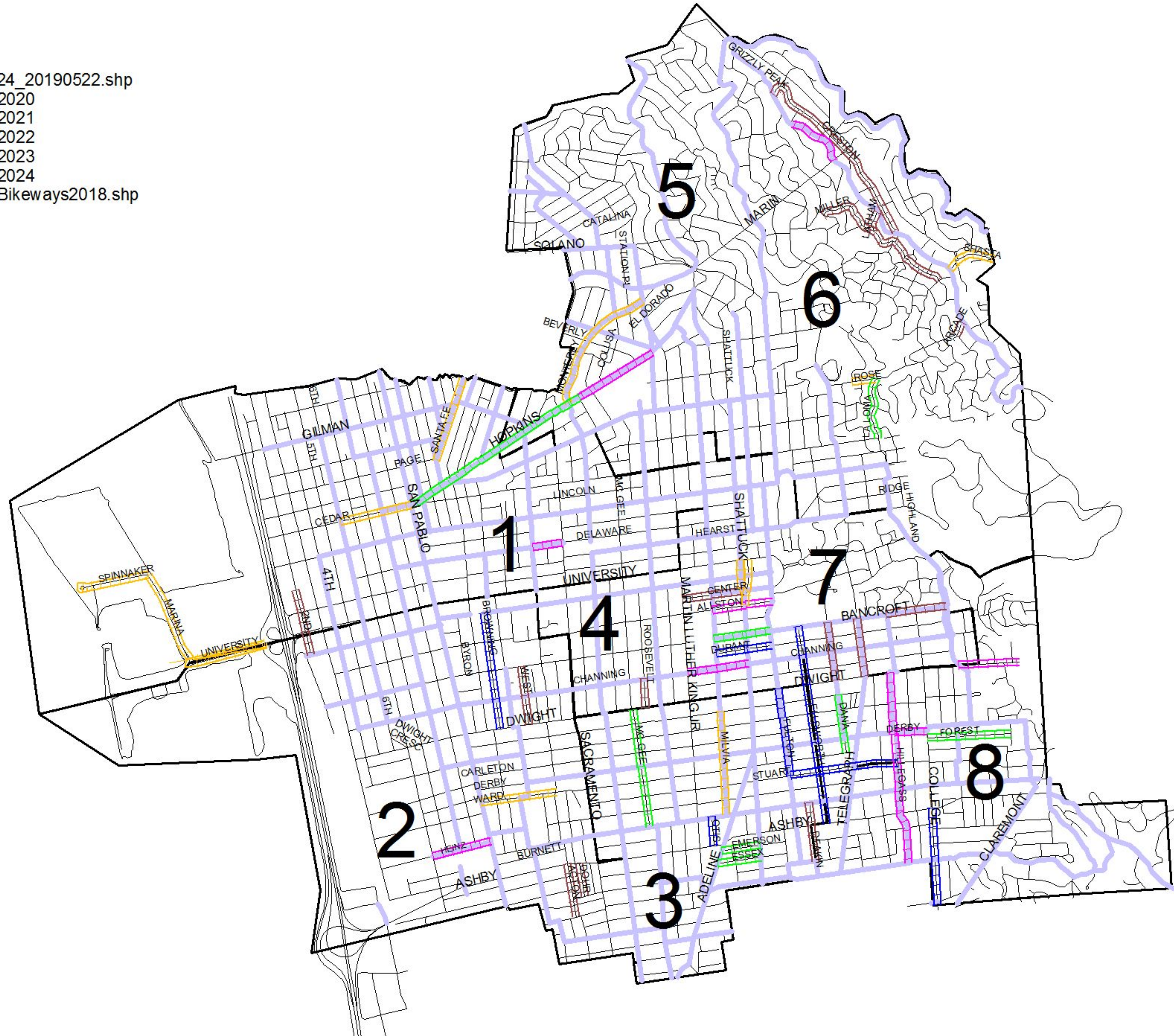
FISCAL YEAR 2024 TOTALS

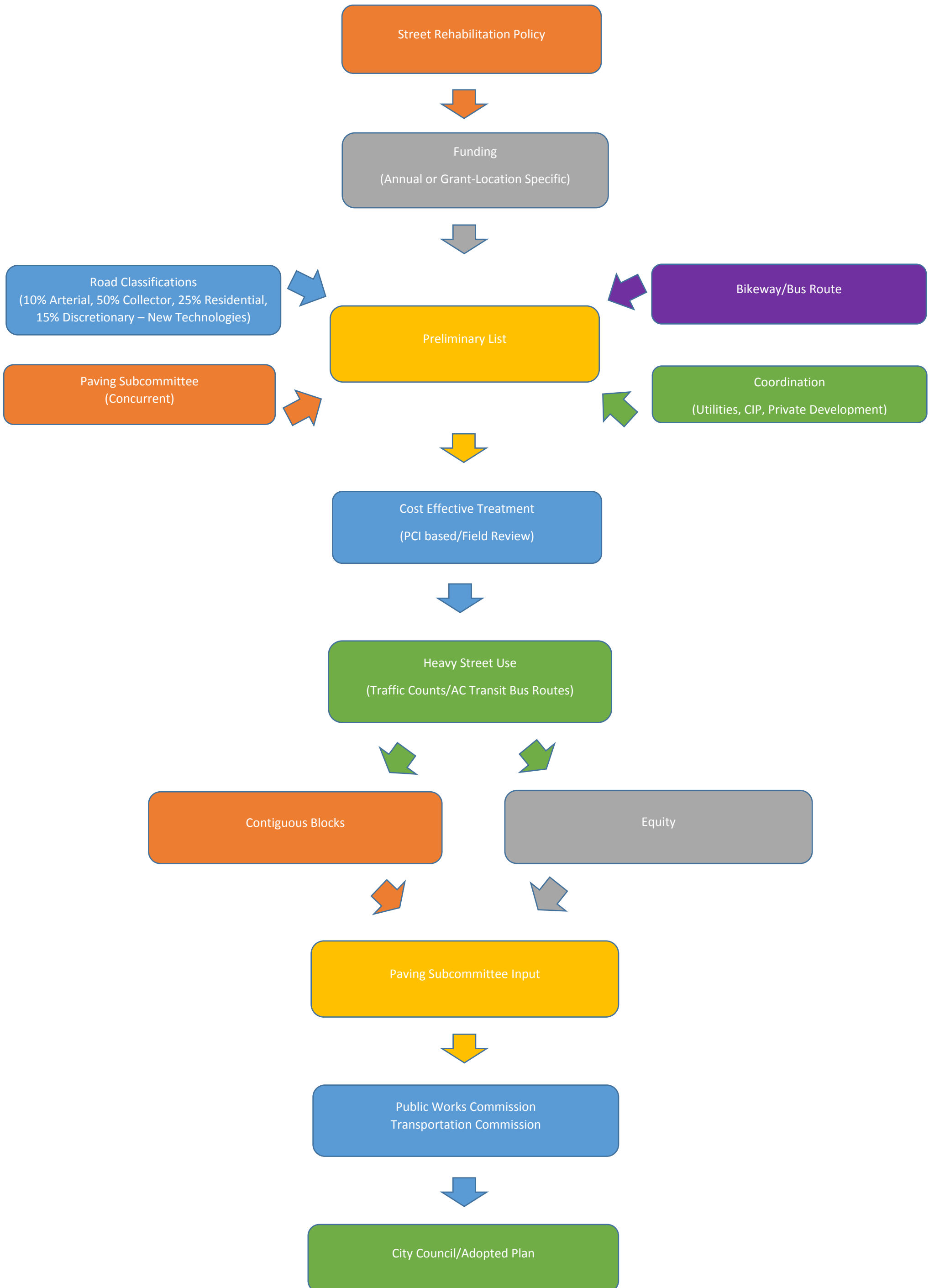
Total Estimated Cost and Miles		\$ 6,993,964	2.74 miles	
	MILEAGE	District	Miles	Cost
ARTERIALS	0.00	1	0.13	\$78,175
COLLECTORS	0.81	2	0.26	\$897,408
RESIDENTIALS	1.93	3	0.00	\$0
	2.74	4	0.51	\$1,303,396
		5	0.41	\$1,024,260
		6	0.27	\$843,578
		7	0.00	\$0
		8	1.16	\$1,755,852
		Arterial	0.00	\$0
		15%		\$1,091,295
			2.74	\$6,993,964
				7275303

FISCAL YEAR 2020 to 2024 TOTALS

Total Estimated Cost and Miles					\$ 31,835,077	16.11 miles	
	MILEAGE	%	% COST	% MILE	District	Miles	Cost
ARTERIALS	0.77	5%	12%	9%	1	1.50	\$3,929,170
COLLECTORS	3.94	24%	13%	11%	2	1.78	\$4,221,439
RESIDENTIALS	11.40	71%	9%	14%	3	2.33	\$2,819,079
	16.11	100%	12%	9%	4	1.38	\$3,949,370
			8%	8%	5	1.32	\$2,587,744
			8%	15%	6	2.41	\$2,577,595
			10%	13%	7	2.10	\$3,145,412
			7%	9%	8	1.52	\$2,355,852
			6%	11%	Arterial/PRW	1.78	\$1,974,235
			13%	0%	15%		\$4,275,180
			100%	100%		16.11	\$31,835,076
							\$35,476,515

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Kate Harrison
Councilmember District 4

ACTION CALENDAR
October 29, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Harrison
Subject: Amending Chapter 19.34 of the Berkeley Municipal Code to Expand Automatic Gas Shut-Off Valve Requirements in Multifamily, Condominium and Commercial Buildings Undergoing Renovations and to All Existing Buildings Prior to Execution of a Contract for Sale or Close of Escrow

RECOMMENDATION

Refer to the Disaster and Fire Safety Commission to consider an ordinance amending Berkeley Municipal Code (BMC) 19.34.040 to expand requirements for automatic natural gas shut-off valves or excess flow valves in multifamily, condominium and commercial buildings undergoing renovations and in all existing buildings prior to execution of a contract for sale or close of escrow. Ask the Commission to consider other triggers as appropriate.

POLICY COMMITTEE RECOMMENDATION

On October 3, 2019, the Facilities, Infrastructure, Technology, Environment & Sustainability Committee adopted the following action: M/S/C (Harrison/Robinson) to send the item with a Positive Qualified Recommendation back to the City Council with the following amendments.

Amend the recommendation revised to read as follows:

1. Refer to the Disaster and Fire Safety Commission to consider an ordinance amending Berkeley Municipal Code (BMC) 19.34.040 to expand requirements for automatic natural gas shut-off valves or excess flow valves in multifamily, condominium and commercial buildings undergoing renovations and in all existing buildings prior to execution of a contract for sale or close of escrow and to ask the Commission to consider other triggers as appropriate.

Amend the Financial Implications to read:

Staff savings realized from responders not having to shut off gas in an emergency.

Vote: All Ayes.

BACKGROUND

The California Building Standards Code, or Title 24 of the California Code of Regulations, specifies the standards for buildings and other structures in California. Title 24 is intended to protect public health, safety, and general welfare building occupants, and is updated at the state level and adopted by local jurisdictions every three years. Municipalities are permitted to make local amendments to the Building Standards Code¹ as deemed necessary for general welfare, as long as they are submitted to the California Building Standards Commission with the necessary findings. The ideal time to update local buildings codes is before the next code cycle. Berkeley will adopt the 2019 code on January 1, 2020.

Natural gas in buildings poses significant risks to health and safety. A recent ordinance adding Chapter 12.80 to the Berkeley Municipal Code phases out natural gas in new buildings.² This will make Berkeley's new building stock safer and greener over time, but there is an outstanding need to prevent seismic and other disasters in existing buildings.

Gas shut-off valves are a component of a plumbing system capable of preventing the flow within a gas piping system. Shut-off valves allow for a resident to stop the flow of gas in their homes in case of an emergency, such as an earthquake or a gas leak.

All existing buildings, if they have natural gas, should have a shut-off valve of some kind. However, manual shut-off valves require timely attention during a seismic event, physical access and exertion, and mechanical knowledge to operate. In case of a natural disaster, relying purely on manual shut-off valves can be dangerous. For example, following the 2010 San Bruno explosion, Pacific Gas & Electric officials testified before the National Transportation Safety Board that "gas feeding the flames could have been shut off an hour earlier if PG&E had automatic or remotely controlled valves on the pipeline that exploded."³ Since the San Bruno explosion, gas companies across California have urged a fast transfer to automatic shut-off valves.

Currently, BMC 19.34.040 requires automatic gas shut-off valves in all new construction or existing buildings that undergo repair or alteration exceeding \$50,000 consistent with sewer lateral requirements. However, it makes blanket exceptions for buildings with individually metered residential units when the building contains five or more residential units, unless the units are condominiums, putting renters at risk of physical harm.

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

² Susie Cagle, "Berkeley became first US city to ban natural gas. Here's what that may mean for the future," The Guardian, <https://www.theguardian.com/environment/2019/jul/23/berkeley-natural-gas-ban-environment>.

³ Paul Rogers, "PG&E officials grilled about automatic shut of valves," Mercury News, March 1, 2011, <https://www.mercurynews.com/2011/03/01/pge-officials-grilled-about-automatic-shut-off-valves-3/>.

In recommending this exception for multi-unit buildings in 2010, City staff intended to reduce the cost burden to property owners. For example, City staff were concerned that the ordinance would require very large multifamily buildings to install shut-off valves in every unit in a 50 unit building when completing a \$50,000 renovation.⁴

While financial costs are important, there will also likely be significant costs to human life and property resulting from natural gas infrastructure during seismic events that far outweigh the costs to property owners for installing shut-off valves. A more-tailored and comprehensive approach was adopted by the City of Los Angeles's 1997 policy in the wake of the Northridge Earthquake, requiring valves in all multifamily, condominium and commercial units when a permit for any addition, alteration or repair valued in excess of \$10,000 is taken out affecting the entire building, or in specific units affected by work in excess of \$10,000.⁵

This item proposes to apply the \$50,000 threshold for all work affecting multifamily, condominium and commercial buildings exclusive of work affecting the units and apply a \$10,000 threshold to work in excess of \$10,000 inclusive of any individual unit. In addition, this item proposes maintaining the current single-family home requirement when a permit is taken out of any addition, alteration or repair valued in excess of \$50,000.

Consistent with the Los Angeles code, the item removes the exception for commercial occupancies and uses in mixed use buildings of residential and non-residential occupancies with a single gas service line larger than 1 1/2 inches that serves the entire building. Berkeley City staff in 2010 previously suggested that pipes larger than 1 1/2 inches were marginally more expensive to retrofit with valves and therefore warranted an exception. Though upon further review, the few additional hundred dollars in labor and materials per valve does not warrant an exception due to ongoing risks to health and safety.

Berkeley is on top of one of California's most dangerous fault lines, the Hayward fault, making it prone to earthquakes. The extreme fire risk associated with natural gas infrastructure is illustrated by the 2017 U.S. Geological Survey stimulation of "a 7.0 quake on the Hayward fault line with the epicenter in Oakland." The agency's report predicted that "about 450 large fires could result in a loss of residential and commercial building floor area equivalent to more than 52,000 single-family homes and cause

⁴ "Installation of Automatic Gas Shut-off Valves," Berkeley Planning and Development Department, July 13, 2010, <https://www.cityofberkeley.info/recordsonline/api/Document/Af7NhvRQQKZ1%C3%81%C3%89xY9QpwmChW6QBqKp%C3%89scsKBclRXOVsvA1QlgXjP%C3%89Rs2zLVn2kCnCNjn918yaZSDbGqiogM WpBM%3D/>

⁵ City of Los Angeles Ordinance No. 171874, December 16, 1997, http://clkrep.lacity.org/onlinedocs/1995/95-0217-S1_ORD_171874_02-05-1998.pdf; See also, City of Los Angeles Plumbing Code Section 94.1217.0.

property (building and content) losses approaching \$30 billion.”⁶ The report identified ruptured gas lines as a key fire risk factor. This finding mirrors the destructive gas fires resulting from the Loma Prieta (1989) and Northridge (1994) earthquakes. According to the most recent census, 59.1% of units in Berkeley are occupied by renters.⁷ It is vital to extend the shut-off valve requirement to rental units to prioritize the health and safety of all Berkeley residents and the broader community.

Beyond extending this protection to large rental buildings during major renovations, this ordinance amends BMC 19.34 to mirror the City of Los Angeles’s code to require installing automatic shut-off valves prior to execution of a contract for sale in all buildings and units therein.

The transfer of property triggers various state and local building code requirements. For example, at time of sale the state health and safety code requires that, gas water heaters are seismically braced, anchored, or strapped.⁸ Other local ordinances related to environment, such as the BMC 19.81: the Building Energy Saving Ordinance, require energy efficiency reports prior to time of sale. The intention of Section 1209.4.2 is to ensure that all buildings that are sold in Berkeley include automatic gas shut-off valves, therefore enhancing seismic safety across the existing building stock.

FINANCIAL IMPLICATIONS

Staff savings realized from first responders not having to shut off valves manually in case of emergency.

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

ENVIRONMENTAL SUSTAINABILITY

Mandating shut-off valves in rental units undergoing renovation and all units at sale will prevent the excess release of greenhouse gases (methane) due to gas leaks and fires during seismic events and other related emergencies.

CONTACT PERSON

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

ATTACHMENTS

1: Ordinance

⁶ “The HayWired earthquake scenario—Engineering implications,” U.S. Geological Survey, April 18, 2018, <https://pubs.er.usgs.gov/publication/sir20175013v2>.

⁷ “Bay Area Census: City of Berkeley” <http://www.bayareacensus.ca.gov/cities/Berkeley.htm>

⁸ Health and Safety Code § 18031.7, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=18031.7.&lawCode=HSC

AMENDING CHAPTER 19.34 OF THE BERKELEY MUNICIPAL CODE TO EXPAND
AUTOMATIC GAS SHUT-OFF VALVE REQUIREMENTS IN MULTIFAMILY,
CONDOMINIUM AND COMMERCIAL BUILDINGS UNDERGOING RENOVATIONS
AND TO ALL EXISTING BUILDINGS PRIOR TO EXECUTION OF A CONTRACT FOR
SALE OR CLOSE OF ESCROW

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

Section 1. That Berkeley Municipal Code Section 19.36.040 is hereby amended to read as follows:

19.34.040 Gas Shut-Off Valves.

Chapter 12 of the 2016~~9~~ California Plumbing Code is adopted in its entirety subject to the modifications thereto which are set forth below.

1209.2 General Requirements for Gas Shut-Off Valves. Automatic gas shut-off valves installed either in compliance with this Section or voluntarily pursuant to a plumbing permit issued on or after the effective date of this Section, shall comply with the following:

1209.2.1 All valves shall:

1. Comply with all applicable requirements of the Berkeley Plumbing Code.
2. Be tested and listed by recognized testing agencies such as the Independent Laboratory of the International Approval Services (IAS), Underwriter's Laboratory (UL), International Association of Plumbing and Mechanical Officials (IAPMO) or any other agency approved by the State of California Office of the State Architect (OSA).
3. Be listed by the State of California Office of the State Architect (OSA).
4. Be installed on downstream side of the gas utility meter.
5. Be installed in accordance with the manufacturer's instructions.
6. Be installed in accordance with a plumbing permit issued by the City of Berkeley.
7. Provide a method for expedient and safe gas shut-off in an emergency.
8. Provide a capability for ease of consumer or owner resetting in a safe manner.

1209.2.2 Motion activated seismic gas shut-off valves shall be mounted rigidly to the exterior of the building or structure containing the fuel gas piping, unless otherwise specified in the manufacturer's installation instructions.

1209.3 Definitions

For the purpose of this Section terms shall be defined as follows:

AUTOMATIC GAS SHUT-OFF VALVE shall mean either a motion activated gas shut-off valve or device or an excess flow gas shut-off valve or device.

DOWNSTREAM OF GAS UTILITY METER shall mean all gas piping on the property owner's side of the gas meter and after the service tee.

EXCESS FLOW GAS SHUT-OFF VALVE shall mean an approved valve or device that is activated by significant gas leaks or overpressure surges that can occur when pipes rupture inside a structure. Such valves are installed at each appliance, unless otherwise specified by the manufacturer's installation instructions.

MOTION ACTIVATED GAS SHUT OFF VALVE shall mean an approved gas valve activated by motion. Valves are set to activate in the event of a moderate or strong seismic event greater than 5.0 on the Richter scale.

UPSTREAM OF GAS UTILITY METER shall mean all gas piping installed by the utility up to and including the meter and the utility's service tee.

1209.4 Devices When Required. Approved automatic gas shut-off or excess flow valves shall be installed as follows:

1209.4.1 New Construction. In any new building construction containing gas piping for which a building permit is first issued on or after the effective date of this Section.

1209.4.2 Existing Buildings. In any existing building, when any addition, alteration or repair is made for which a building permit is issued on or after the effective date of this Section and the valuation for the work exceeds \$50,000.

1209.4.2.1 Multifamily, Condominium and Commercial Buildings.

1. In any existing commercial, multifamily and condominium and commercial building, and applicable to all units and tenant spaces therein if the building is individually metered and lacks a central automatic shut-off valve downstream of the utility delivery point, when any addition, alteration or repair exclusive of individual units or tenant spaces is made for which a building permit is issued on or after the effective date of this Section and the valuation for the work exceeds \$50,000.
2. In any existing commercial, multifamily and condominium unit for all gas piping serving only those individual units, when any addition, alteration or repair inclusive of individual units or tenant spaces is made for which a building permit is issued on or after the effective date of this Section and the valuation for the work exceeds \$10,000.

1209.4.3 Sale of Existing Buildings.

The requirement to install seismic gas shutoff or excess flow shutoff valves shall apply

prior to entering into a contract of sale, or prior to the close of escrow when an escrow agreement has been executed in connection with a sale as follows:

1. in any building or structure, and all units therein when gas piping serving those units lacks a central automatic shut-off valve downstream of the utility delivery point; or
2. in an individual condominium unit for all gas piping serving that individual unit.

1209.4.4 Exceptions:

~~1.—Buildings with individually metered residential units when the building contains 5 or more residential units, unless the units are condominiums.~~

~~2.—For residential or mixed use condominium buildings, valves are required when the value of the work exceeds \$50,000 in any single condominium unit or when any work done outside of the units exceeds \$50,000.~~

~~3.—Commercial occupancies and uses in mixed use buildings of residential and non-residential occupancies with a single gas service line larger than 1 1/2 inches that serves the entire building.~~

14. Automatic gas shut-off valves installed with a building permit on a building prior to the effective date of this Section provided the valves remain installed on the building or structure and are adequately maintained for the life of the building or structure.

25. Automatic gas shut-off valves installed on a gas distribution system owned or operated by a public utility.

Section 2. The effective date of this amendment shall be January 1, 2020, or the effective adoption date of the 2019 California Building Standards Code, whichever is sooner.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



Office of the Mayor

CONSENT CALENDAR
October 29, 2019

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín

Subject: Extension of the Joint Subcommittee for the Implementation of State Housing Laws

RECOMMENDATION

Adopt a Resolution extending the Joint Subcommittee for the Implementation of State Housing Laws (JSISHL) to complete its work by July 2020, with Joint Subcommittee providing its recommendations to Council by the end of September 2020.

BACKGROUND

Established in January 2018, the Joint Subcommittee for the Implementation of State Housing Laws (JSISHL) advises Council regarding issues around density bonuses, the Housing Accountability Act, inclusionary zoning, and permit streamlining to attain compliance with state law and to take advantage of new opportunities for the development of affordable housing. The Joint Subcommittee consists of members from the Zoning Adjustments Board, Planning Commission, and Housing Advisory Commission, with at least one appointee from each, in accordance with the Fair Representation Act. Under its enabling legislation, Resolution No. 68,308-N.S., the Joint Subcommittee is to complete its work by January 2020, presenting its findings to Council by the end of March 2020.

JSISHL has been meeting regularly since April 2018. With the deadline fast approaching and new state legislation being recently approved that falls into the purview of the Joint Subcommittee, it is necessary for an extension in order for JSISHL to adequately and thoroughly review the materials. This includes providing recommendations on units per acre density standards, Floor to Area Ratios (FARs) and daylight plane shadowing standards, along with anything else such as an objective definition of detriment.

FINANCIAL IMPLICATIONS

Staff time.

ENVIRONMENTAL SUSTAINABILITY

Developing housing standards based on State law will help encourage the development of dense, transit-orientated development consistent with the goals of the Climate Action Plan.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

1: Resolution

2: Resolution No. 68,308-N.S.: Establishing a Joint Subcommittee for the Implementation of State Housing Laws

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

EXTENSION OF THE JOINT SUBCOMMITTEE FOR THE IMPLEMENTATION OF
STATE HOUSING LAWS

WHEREAS, the Joint Subcommittee for the Implementation of State Housing Laws (JSISHL) was established under Resolution No. 68,308-N.S. in January 2018; and

WHEREAS, the mission of JSISHL is to advise Council regarding issues around density bonuses, the Housing Accountability Act, inclusionary zoning, and permit streamlining to attain compliance with state law and take advantage of new opportunities for the development of affordable housing; and

WHEREAS, under its enabling legislation, JSISHL is tasked with completing its work by January 2020, reporting to Council by March 2020; and

WHEREAS, in order to fulfill its mission an extension is needed to provide adequate time to review recently passed State housing laws, and to provide adequate feedback on recommendations on units per acre density standards, Floor to Area Ratios (FARs) and daylight plane shadowing standards, along with anything else such as an objective definition of detriment.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby extends the timeline for the Joint Subcommittee for the Implementation of State Housing Laws to complete its work by July 2020, with the recommendations being brought to the City Council for consideration by the end of September 2020.

RESOLUTION NO. 68,308–N.S.

ESTABLISHING A JOINT SUBCOMMITTEE FOR THE IMPLEMENTATION OF STATE HOUSING LAWS

WHEREAS, Berkeley and California is facing an unprecedented housing affordability crisis; and

WHEREAS, rents for a two bedroom apartment in Berkeley have risen by 62.5% over the past five years; and

WHEREAS, Berkeley has so far achieved 48% of its housing allocation goals for 2014-2022 set out by the Association of Bay Area Governments, including 0% for extremely low income and moderate income; and

WHEREAS, many residential developments that have received zoning approval have yet to receive a building permit; and

WHEREAS, to address the rising crisis of housing in the State of California, 15 state bills were signed into law, with many dealing with how local municipalities respond to the development of new units; and

WHEREAS, issues around density bonuses, the Housing Accountability Act, inclusionary zoning, and permit streamlining need to be addressed by the City to be compliant with state law and to take advantage of new opportunities for the development of affordable housing; and

WHEREAS, because the Zoning Adjustments Board, Housing Advisory Commission, and Planning Commission have policy and quasi-judicial powers around housing, it would be beneficial for representatives of these commissions to meet jointly to develop policies for consideration by the Planning Commission and City Council; and

WHEREAS, community input is of vital importance in the review and implementation of these housing policies, and such input can be encouraged by regular publicly-noticed meetings of the Task Force; and

WHEREAS, the Joint Subcommittee should be comprised of nine voting members, with representatives from each commission.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley does hereby establish a Joint Subcommittee composed of members from the Zoning Adjustments Board, Housing Advisory Commission, and Planning Commission.

BE IT FURTHER RESOLVED that the Joint Subcommittee members shall be appointed from the membership of the Zoning Adjustments Board, Planning Commission or Housing Advisory Commission. Any Commissioner on any of those commissions is eligible for appointment to the Joint Subcommittee, as long as there is representation from each commission on the Joint Subcommittee.


BE IT FUTHER RESOLVED that the Joint Subcommittee shall complete its work by January 2020. Staff shall forward the Joint Subcommittee's recommendations to each parent Commission for comment, and bring the Joint Subcommittee's recommendations to the City Council for consideration by the end of March 2020, along with comments by any parent commissions.

The foregoing Resolution was adopted by the Berkeley City Council on January 23, 2018 by the following vote:

Ayes: Davila, Droste, Hahn, Harrison, Maio, Wengraf, Worthington and Arreguin.

Noes: None.

Absent: Bartlett.



Jesse Arreguin, Mayor

Attest: 

Mark Numalville, City Clerk



Rashi Kesarwani
Councilmember District 1

CONSENT CALENDAR
October 29, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmembers Rashi Kesarwani and Lori Droste
Subject: Referral to the Civic Arts Commission to develop a grant program available for arts and cultural organizations to support retaining and improving creative spaces for artists

RECOMMENDATION

Referral to the Civic Arts Commission to prioritize within their current Work Plan creating a process for awarding competitive grants to Berkeley-based arts and cultural organizations that will help support their ability to stay in Berkeley.

FINANCIAL IMPLICATIONS

Staff time to develop a grant program.

CURRENT SITUATION AND ITS EFFECTS

A stated priority within the City's current strategic plan is providing state-of-the-art amenities such as those our arts and cultural institutions make available. More than 150 Berkeley arts and cultural institutions enrich our community and provide a significant economic engine that generates millions of dollars and employs thousands of workers. However, rising real estate costs and lack of affordable housing, office, and studio space of any kind pose a significant challenge to the ability of these institutions to remain in Berkeley.¹

This referral to the Civic Arts Commission asks that they prioritize within their current work plan the development of a competitive grant program framework through which any arts and cultural institution would be able to apply for City funds to assist in staying in Berkeley, such as through capital improvements, the acquisition of a permanent location, or temporary rental assistance.

According to The City of Berkeley Arts and Culture Plan, 2018-2027 Update, the first of the five strategic goals towards actualizing our City's vision for the arts is to "support the long-term sustainability of the arts and culture sector by expanding the availability of affordable housing and spaces for both artists and arts organizations."² In an effort to ensure equitable distribution of City funds for these purposes, this referral requests the

¹ See April 25, 2019 [Berkeleyside](#) article: "Why new office space in Berkeley is so hard to find."

² City of Berkeley Arts and Culture Plan, 2018-2027 Update, page iii

creation of a competitive grant application and fair selection process that would be available to any Berkeley art and cultural institution.

In providing a framework for a grant application and selection process for arts and cultural organizations, the Civic Arts Commission may consider the following:

- Recommending an annual award amount (or range) available to each institution;
- Recommending funding stream(s) to fund the grant from existing or new sources and a total amount to make available;
- Establishing a fair and transparent process for reviewing grant applications, including determining the reviewing body (i.e., Office of Economic Development staff or Civic Arts Commission);
- How the funds are to be used.

BACKGROUND

On January 26, 2016, the Berkeley City Council approved capital improvement grants totaling \$250,000 to the U.C. Theatre (\$150,000) and Kala Art Institute (\$100,000) to assist with critically needed facilities upgrades. Without these funds, these anchor art institutions were at risk of becoming non-operational. On the October 15, 2019 City Council agenda, the City Council considered a grant totaling \$150,000 to the Capoeira Arts Foundation (CAF) to assist this globally recognized arts and cultural institution in purchasing their current building on San Pablo Avenue in Berkeley. Without this financial support to assist in purchasing the building, Capoeira would likely be forced to leave Berkeley due to a prohibitive rent increase once their lease expires at the end of this year.

Many arts institutions struggle to remain in Berkeley due to the high cost of living and housing. Given that the City has already supported U.C. Theatre and Kala Art Institute, and Capoeira Arts Foundation is seeking assistance, it is apparent that an open and transparent process that enables any Berkeley-based arts and cultural organization to apply for funding would be an equitable approach to handling this challenge. Smaller and less established arts institutions often do not have the capacity to raise the necessary funds for capital improvements, site acquisition, or temporary rental assistance.

ENVIRONMENTAL SUSTAINABILITY

To the extent that arts and cultural organizations can acquire their buildings and develop on-site housing, this item could reduce vehicle miles traveled.

CONTACT PERSON

Councilmember Rashi Kesarwani, Council District 1
510-981-7110



Rashi Kesarwani
Councilmember District 1

CONSENT CALENDAR
October 29, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Rashi Kesarwani
Subject: Information on the City's Existing Code Enforcement Practices for Residential Properties

RECOMMENDATION

Request the City Manager provide a brief report or presentation on the City's code enforcement practices for residential properties for the purposes of educating the City Council and the public on current practice. The requested information may include:

- Reporting on the various ways in which code enforcement issues have been brought to the attention of the City over the last five years (i.e., neighbor complaint, 911 call to the property, etc.)
- How various code enforcement issues at residential properties are currently handled (i.e., which City departments and which type of staff are involved, what they do, etc.)
- Timeframe and mechanisms for achieving code compliance at residential properties
- Any existing assistance programs available to support property owners found to have code violations, such as financial assistance, mental health services, technical advice, etc.
- Specific learnings/change in City practices resulting from the Leonard Powell receivership case
- Other information deemed relevant and appropriate to understand the City's current code enforcement practices for resident properties

FISCAL IMPACTS OF RECOMMENDATION

Staff time.

BACKGROUND

The proposed recommendation is made in partial response to a June 11, 2019 referral from the City Council to the Health, Life Enrichment, Equity & Community Committee on recommendations from the Housing Advisory Commission and Peace and Justice Commission related to the Leonard Powell case. This portion of the referral response was discussed by the Health, Life Enrichment, Equity & Community Committee and is submitted in order for City staff to begin preparing the requested report on the City's existing code enforcement practices.

The referral to the Committee was in response to the receivership case of Mr. Leonard Powell, who in 2014 was ordered by the City to address the health and safety violations discovered on his property (1911 Harmon St.).¹ Despite some no-interest loans and fee waivers offered by the City and the assistance of Habitat for Humanity, over the ensuing years the costs for repairs, inspections, receivership and relocation fees spiraled to close to \$800,000. With assistance from local community groups and after some court and City involvement, Mr. Powell was able to return home in June 2019. This recommendation seeks to clarify City code enforcement practices and procedures.

RATIONALE FOR RECOMMENDATION

This request seeks to clarify for both the City Council and the general public existing code enforcement practices for residential properties.

CONTACT PERSON

Rashi Kesarwani, Council Member, District 1
510-981-7110

¹ See [March 5, 2019](#) Berkeleyside article "Berkeley Homeowner Caught in Costly Code Violation Sprial"; and [June 10, 2019](#) Berkeleyside article "Elderly Homeowner, Forced to Leave Home Because of Code Violations, Moves Back In."



Kate Harrison
Councilmember District 4

ACTION CALENDAR
October 29, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmembers Harrison and Robinson
Subject: Oversized Vehicle Restrictions on Bicycle Boulevards

RECOMMENDATION

Adopt an ordinance amending Berkeley Municipal Code Chapter (BMC) 14.56.070 to prohibit commercial trucks exceeding three tons gross vehicle weight from utilizing streets comprising the bicycle boulevards network.

BACKGROUND

The Berkeley Bicycle Boulevard Network is a series of streets that are intended to be low-speed, low-volume, and optimized for bicycle traffic and other mobility users. The boulevards, now in the second phase of implementation, were approved by the City Council in 2000¹ and are key to improving bicycle safety and convenience.²

Restricting oversized vehicles from sharing streets with bicycles is intended as legal protection to complement the physical protection from protected bicycle lanes and other infrastructure. Additional referrals from Council, including the 2017 Bicycle Plan³ and Vision Zero⁴, seek to build out physical infrastructure, but the majority of streets in the network currently do not feature protected bike lanes and there are no restrictions on which vehicles may share the road with bicyclists. Although Bicycle Boulevards are typically narrower streets with lower than average speed limits, oversized vehicle operators may utilize these streets to avoid congestion.

The 2017 Bicycle Plan found that individuals who may otherwise cycle are hesitant to do so because they deem routes unsafe. Even though Berkeley has the highest rate of bicycling to work in the U.S. of cities with greater than 100,000 residents, City research uncovered that “90 percent of Berkeley residents already bicycle or *would consider* bicycling if the right bikeway facility or roadway conditions were available.” Maximizing

¹ [Use full citation notation]

https://www.cityofberkeley.info/Public_Works/Transportation/Bicycle_Boulevard_History.aspx

² <https://www.cityofberkeley.info/bicycleboulevards/>

³ <https://www.cityofberkeley.info/berkeleybikeplan/>

⁴ <https://www.cityofberkeley.info/visionzero.aspx>

participation from bicyclists and other mobility users is vital to achieving Berkeley's health, safety and climate goals. BMC 14.56: Movement of Heavy Vehicles and Equipment specifies streets on which it is unlawful to drive vehicles over five tons (approximately any vehicle with six or more tires) and streets on which it is unlawful to drive vehicles over three tons (approximately any vehicle larger than a pick-up truck). The network of streets on which vehicles over three tons are not permitted (hereafter referred to as "restricted streets") covers about 27.2 miles worth of Berkeley streets,⁵ and are especially concentrated in residential areas of Districts 1, 4, and 7. However, there are about nine miles of bicycle boulevards that are not restricted streets (see Attachment 4). This ordinance intends to include bicycle boulevards in the list of restricted streets.

FISCAL IMPLICATIONS

Staff time in the Parking Code Enforcement Division to extend enforcement. Currently approximately 27.2 miles of City streets do not permit vehicles over three tons. The stretch of Bicycle Boulevards on which oversized vehicles are not currently restricted is approximately 8.8 miles, which would represent a 32% increase.

ENVIRONMENTAL SUSTAINABILITY

Protecting the safety of dedicated bicycle lanes is directly in line with the Climate Action Plan and subsequent plans as it has the potential to lower greenhouse gas emissions by encouraging residents to use bicycles and other low-carbon methods of transportation.

CONTACT PERSON

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

ATTACHMENTS

- 1: Ordinance
- 2: Map of streets where vehicles over 3 tons are currently not permitted
- 3: Map of Berkeley's Bicycle Boulevard network
- 4: Map of streets to be affected by the adoption of this ordinance

⁵ See Attachment 2

ORDINANCE NO. -N.S.

AMENDING CHAPTER 14.56.070 OF THE BERKELEY MUNICIPAL CODE
"PROHIBITING THE USE OF CERTAIN STREETS BY COMMERCIAL TRUCKS
EXCEEDING THREE TONS GROSS VEHICLE WEIGHT."

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

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

14.56.070 Prohibiting the use of certain streets by commercial trucks exceeding three tons gross vehicle weight.

A. It is unlawful for any person to operate any commercial vehicle exceeding three tons gross vehicle weight on the following portions of streets, hereafter referred to as "restricted streets":

1. Hearst Avenue between 6th Street and San Pablo Avenue;
2. Hearst Avenue between San Pablo Avenue and Sacramento Street;
3. 7th Street between University Avenue and Cedar Street;
4. 8th Street between University Avenue and Cedar Street;
5. 9th Street between University Avenue and Cedar Street;
6. 10th Street between University Avenue and Cedar Street;
7. Delaware Street between San Pablo Avenue and 6th Street;
8. Delaware Street between San Pablo Avenue and Sacramento Street;
9. Virginia Street between San Pablo Avenue and 6th Street;
10. Virginia Street between San Pablo Avenue and Sacramento Street;
11. Francisco Street between San Pablo Avenue and Sacramento Street;
12. Hopkins Street west of Gilman Street;
13. Blake Street between Shattuck Avenue and Telegraph Avenue;
14. Blake Street between San Pablo Avenue and Sacramento Street;
15. Parker Street between Shattuck Avenue and Telegraph Avenue;
16. Carleton Street between Shattuck Avenue and Telegraph Avenue;
17. Carleton Street between San Pablo Avenue and Sacramento Street;
18. Channing Way between San Pablo Avenue and Sacramento Street;
19. Derby Street between Shattuck Avenue and Telegraph Avenue;
20. Ward Street between Shattuck Avenue and Telegraph Avenue;
21. Stuart Street between Shattuck Avenue and Telegraph Avenue;
22. Oregon Street between Shattuck Avenue and Telegraph Avenue;
23. Parker Street between San Pablo Avenue and Sacramento Street;
24. Russell Street between Shattuck Avenue and Telegraph Avenue;
25. Howe Street between Ellsworth Street and Telegraph Avenue;
26. Fulton Street between Ashby Avenue and Dwight Way;
27. Ellsworth Street between Ashby Avenue and Dwight Way;
28. Dana Street between Ward Street and Dwight Way;
29. Spaulding Avenue between Dwight Way and Addison Street;

30. California Street between Dwight Way and University Avenue;
31. Jefferson Avenue between Dwight Way and University Avenue;
32. McGee Avenue between Dwight Way and University Avenue;
33. Roosevelt Avenue between Dwight Way and Addison Street;
34. McKinley Avenue between Dwight Way and Addison Street;
35. Addison Street between Sacramento Street and Martin Luther King Jr. Way;
36. Allston Way between Sacramento Street and Martin Luther King Jr. Way;
37. Bancroft Way between Sacramento Street and Martin Luther King Jr. Way;
38. Channing Way between Sacramento Street and Martin Luther King Jr. Way;
39. Grant Street between Dwight Way and University Avenue;
40. Cedar Street east of 6th Street;
41. Dwight Way between San Pablo Avenue and Martin Luther King Jr. Way;
42. Claremont Avenue between Ashby Avenue and Belrose Avenue;
43. Belrose Avenue between Claremont Avenue and Derby Street;
44. Derby Street between Belrose Avenue and Warring Street;
45. Warring Street between Derby Street and Dwight Way;
46. Piedmont Avenue between Dwight Way and Bancroft Way;
47. Milvia Street between Dwight Way and Hopkins Street;
48. The Uplands between Claremont Avenue and Tunnel Road;
49. Panoramic Way between Canyon Road and Berkeley/Oakland city limits;
50. Kains Avenue between Virginia Street and Harrison Street;
51. Virginia Street between Shattuck Avenue and Martin Luther King Jr. Way;
52. Francisco Street between Shattuck Avenue and Martin Luther King Jr. Way;
53. Delaware Street between Shattuck Avenue and Martin Luther King Jr. Way;
54. Hearst Avenue between Shattuck Avenue and Martin Luther King Jr. Way;
55. Berkeley Way between Shattuck Avenue and Martin Luther King Jr. Way;
56. 8th Street between Camelia Street and Berkeley/Albany city limits;
57. Camelia Street between 8th Street and 9th Street;
58. 9th Street between Camelia Street and Cedar Street;
59. 9th Street between University Avenue and Heinz Street;
60. Channing Way between 4th Street and San Pablo Avenue;
61. Channing Way between Martin Luther King Jr. Way and Piedmont Avenue;
62. California Street between Hopkins Street and University Avenue;
63. California Street between Dwight Way and Russell Street;
64. Milvia Street between Dwight Way and Russell Street;
65. King Street between Russell Street and Stanford Avenue;
66. Russell Street between San Pablo Avenue and Shattuck Avenue;
67. Russell Street between Telegraph Avenue and Claremont Avenue;
68. Virginia Street between Sacramento Street and Martin Luther King Jr. Way;
69. Virginia Street between Shattuck Avenue and Euclid Avenue.




























B. All inter-city buses and tourist buses will be prohibited on these streets. School buses, emergency vehicles, and buses converted for use by disabled people will be allowed to use three-ton commercial truck weight limit routes.

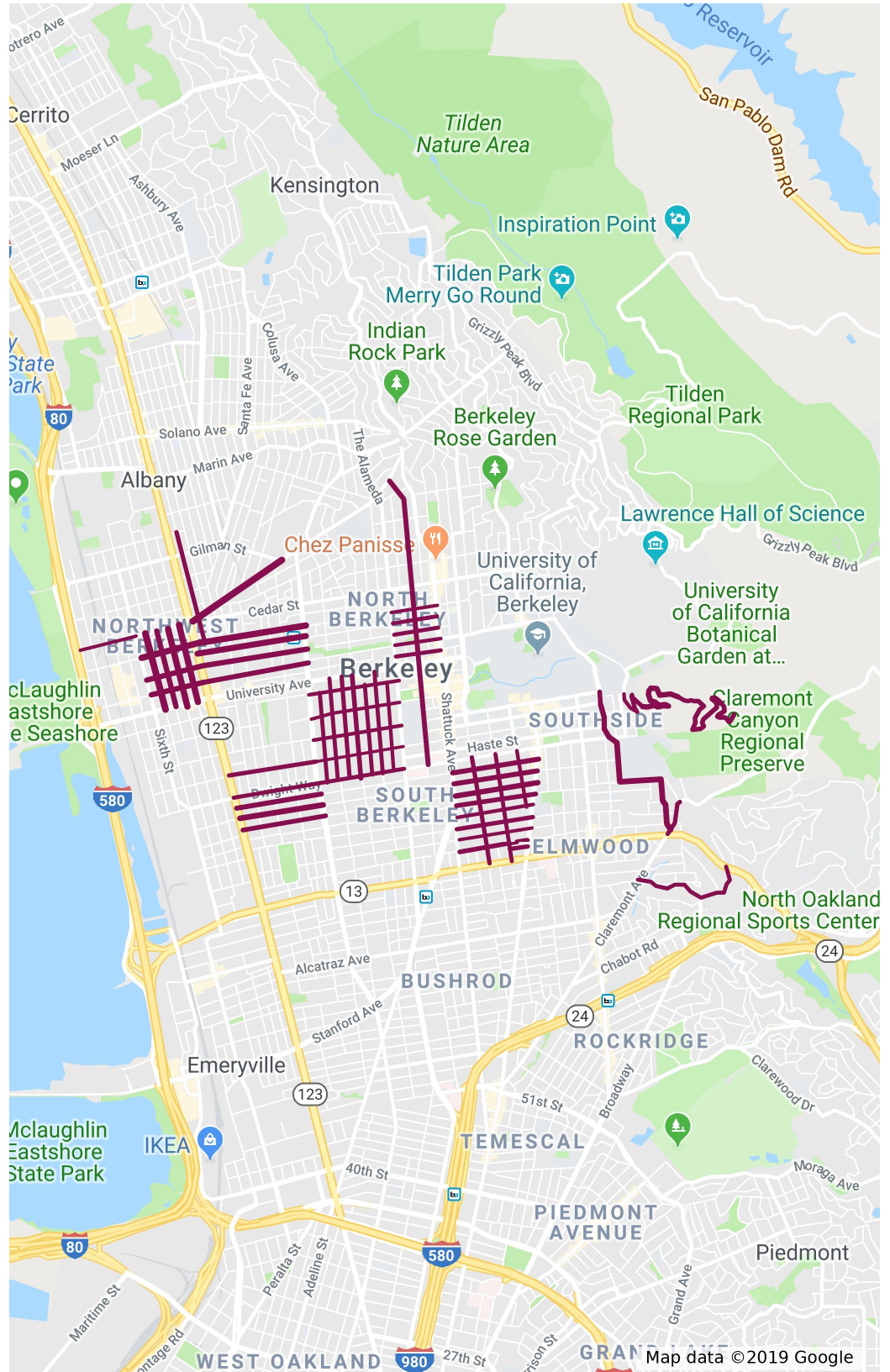
C. The provisions of this section shall not apply to subsections 14.56.050 B and C.

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.

D4 restricted streets











Restricted 3 ton

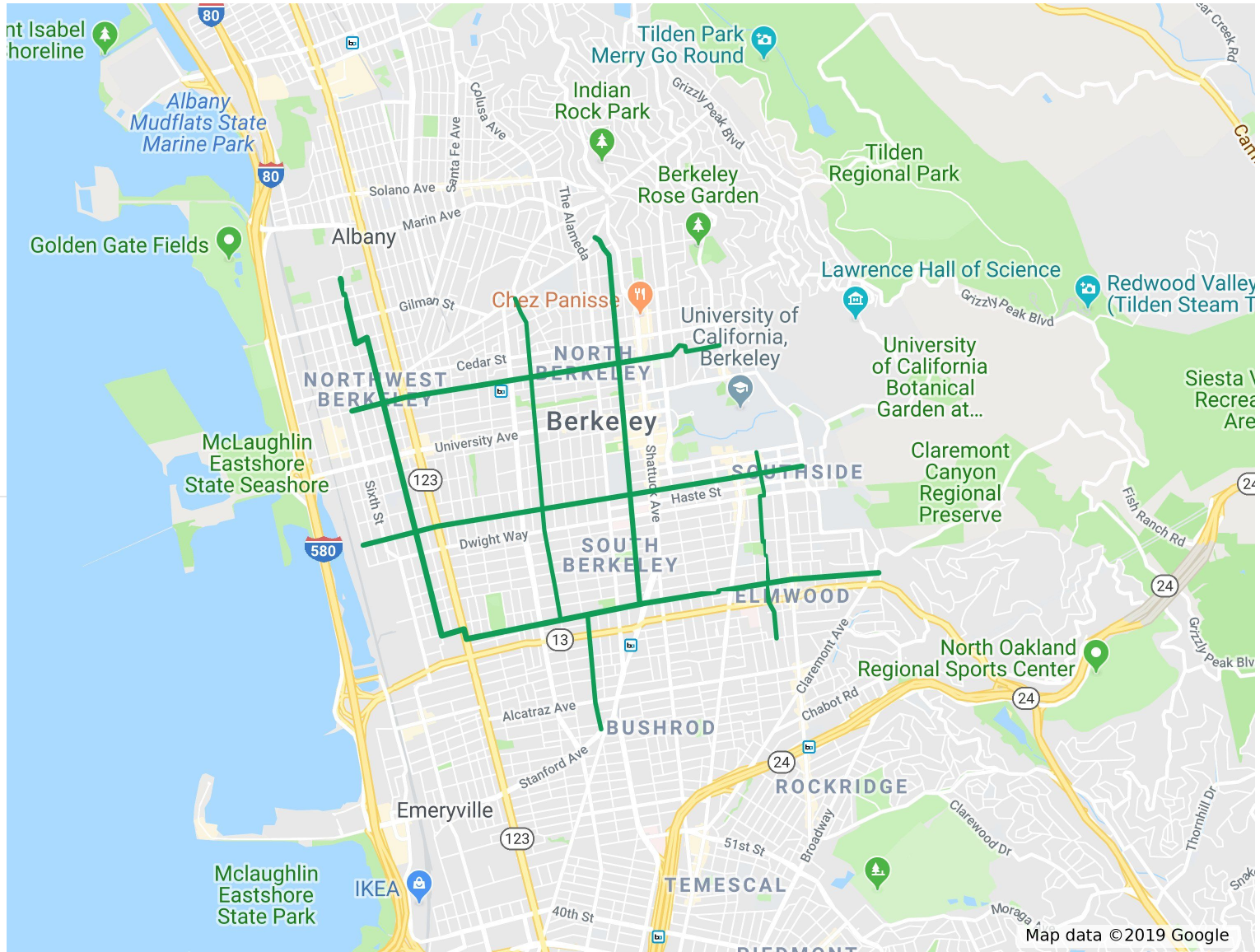
-  Line 1
-  Line 2
-  Line 3
-  Line 4
-  Line 5
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-  Line 7
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- Line 34
- Line 35



D4 restricted streets













Bike Boulevard – Full

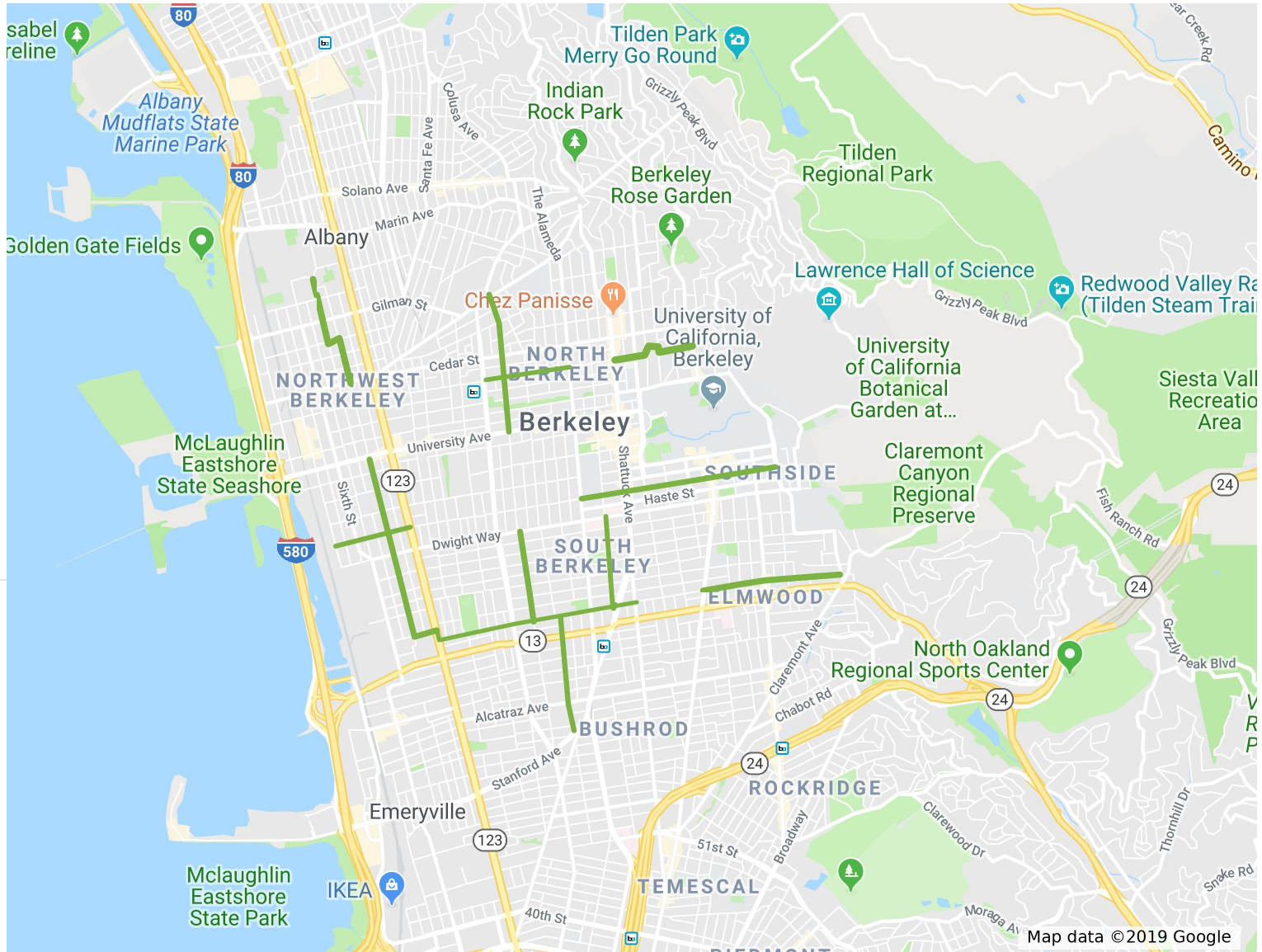
-  Line 2
-  Line 3
-  Line 4
-  Line 7
-  Line 8
-  Line 9
-  Line 10
-  Line 11
-  Line 12
-  Line 13



D4 restricted streets

Bike Boulevard – Not Protected

-  Line 1
-  Line 2
-  Line 3
-  Line 4
-  Line 5
-  Line 6
-  Line 7
-  Line 9
-  Line 10
-  Line 11
-  Line 12
-  Line 13





Kate Harrison
Councilmember District 4

CONSENT CALENDAR
October 29, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmembers Harrison and Kesarwani
Subject: Budget Referral and Approving Installation of Cameras at Ohlone Park Mural

RECOMMENDATION

1. Pursuant to Berkeley Municipal Code 2.99.060, declare that a camera installed in Ohlone Park at the corner of Hearst Street and Milvia Street will provide benefits to the community that outweigh costs and concerns.
2. Refer \$6,000 to the FY20 November 2018 AAO Process for the purpose of purchasing and installing a surveillance camera.

BACKGROUND

Ohlone Park is a greenway that runs for five blocks through Berkeley, connecting our Downtown to the North Berkeley neighborhood and North Berkeley BART.¹ The park includes four children's playgrounds, a nationally recognized dog park, a four-sided mural commemorating the culture and legacy of the Ohlone people, a community garden, and many other amenities.²

Unfortunately, Ohlone Park is also the site significant illegal dumping³ particularly on the East side of the park between Milvia Street and Bonita Street. For over a year, there have been huge piles of garbage that pile up on the median strip adjacent to Hearst Street. Much of this garbage is next to the Ohlone mural, which should be kept clean out of respect for both the arts and the Ohlone heritage. This garbage presents a health hazard and falls into the bike lane. City Code Enforcement and Zero Waste staff have done an excellent job cleaning up these garbage piles as they occur, but preventative measures are appropriate to deter this dumping in the first place.

Security cameras are extremely effective at deterring crimes. In a Swedish scholarly study on crime deterrents, the existence of a security camera reduced burglaries about 25%, other factors being equal.⁴ Security cameras are an effective enough deterrent to work

¹ [https://www.cityofberkeley.info/Parks_Rec_Waterfront/Trees_Parks/PARKS_OHLONE_PARK\(1\).aspx](https://www.cityofberkeley.info/Parks_Rec_Waterfront/Trees_Parks/PARKS_OHLONE_PARK(1).aspx)

² <http://ohlone.transbay.net/>

³ <https://www.jesseeareguin.com/blog-1/2019/2/15/illegal-dumping>

⁴ Mikael Priks, "The Effects of Surveillance Cameras on Crime: Evidence from the Stockholm Subway." 2015.

even when the security camera is not real.⁵ Crime in San Pablo Park has reduced significantly since the installation of cameras, a success we want to replicate in Ohlone Park.

A safe and clean Ohlone Park is crucial to the quality of life for Berkeley residents, particularly in Districts 1 and 4. After the North Berkeley Senior Center re-opens in the summer of 2020,⁶ Ohlone Park east of Martin Luther King, Jr. Way will be a high-traffic area for people with physical disabilities, and a park clear of debris will be even more important. Typical surveillance cameras, without any biometric analytics, deter crime effectively enough to improve the quality of life for our residents.

We request two camera without any facial recognition or biometric analytic capabilities.

This referral accompanies our referral to the November 2019 budget process for BigBelly trash cans which will also reduce debris in the park by preventing trash overflow in and riffling through the trash cans.

FISCAL IMPLICATIONS

Installation of cameras at San Pablo Park cost \$30,000⁷ for 17 cameras. Assuming that the cost for wiring to a park is still significant, and to account for staff installation time, we estimate \$6,000 to purchase and install two surveillance camera from the AAO November budgeting process.

ENVIRONMENTAL SUSTAINABILITY

In line with our Zero Waste goals.

CONTACT PERSON

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

⁵ <https://www.globalsecurityexperts.com/home-security/fool-a-deter-the-bad-guys-todays-smartly-designed-dummy-security-cameras.html>

⁶

https://www.cityofberkeley.info/Health_Human_Services/Division_on_Aging/North_Berkeley_Senior_Center_is_Undergoing_Renovation.aspx

⁷ <https://www.berkeleyside.com/2019/03/15/security-cameras-now-live-at-san-pablo-park-in-berkeley>



Kate Harrison
Councilmember District 4

ACTION CALENDAR
October 29, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmember Kate Harrison
Subject: Inclusionary Units in Qualified Opportunity Zones

RECOMMENDATION

Adopt an ordinance amending Berkeley Municipal Code chapter 23C.12.035 requiring onsite inclusionary units in developments in Qualified Opportunity Zones (QOZs). Refer to the Adeline Corridor Subcommittee of the Planning Commission to consider how such a requirement would affect the Adeline Corridor Plan.

BACKGROUND

Qualified Opportunity Zones are urban areas associated with the 2017 Trump tax cuts.¹ The stated goal of QOZs is to incentivize investment in under-resourced urban areas by delaying capital gains taxes and circumventing altogether federal taxes on profits made in QOZs.² Ten years after an initial investment into a QOZ, the investor can sell the real estate and not owe any taxes on the profits. Investments in Qualified Opportunity Zones can increase an investor’s returns by 70%, according to the Congressional Research Service.³ Though touted as a way to invest in under-resourced communities, many of the QOZs are in rapidly growing areas, with 75% of the tracts experiencing significant economic growth between 2001 and 2015⁴ and 64% of tracts seeing a significant increase in new businesses during the same period.⁵ Also, in the Bay Area, QOZs are often in gentrifying areas, reflecting a national pattern: almost 70% of all neighborhoods in America that gentrified between 2000 and 2017 either are in a Qualified Opportunity Zone or are adjacent to one.⁶

¹ <https://www.nytimes.com/2019/08/31/business/tax-opportunity-zones.html>

² *Ibid.*

³ https://www.novoco.com/sites/default/files/atoms/files/crs_tax_incentives_for_ozs_112018.pdf

⁴ <https://www.opportunityzonelaw.com/single-post/2018/07/03/Five-Keys-from-the-Novogradac-2018-Opportunity-Zones-Workshop>

⁵ *Ibid.*

⁶ <https://ncrc.org/oz/>

Five census tracts in Berkeley have been designated as Qualified Opportunity Zones, including Downtown, the Adeline Corridor and South Shattuck, South Berkeley between Sacramento and Shattuck, and part of West Berkeley between University and Dwight, San Pablo and 5th Street.⁷ The five census tracts⁸ in Berkeley are almost all low-income and predominantly Black communities and communities of color. They are as follows:

Berkeley Opportunity Zone Demographics

Tract Number	Bordering Streets	Poverty Rate	Average Income
4232	West Berkeley between University and Dwight; San Pablo and 5 th St	19.2%	\$81,453
4229	Downtown Berkeley between University and Dwight; Oxford and MLK	47.3%	\$52,250
4235	South Berkeley between Dwight and Ashby; Fulton and MLK	20.9%	\$62,386
4239.01	Southern end of Adeline Corridor	13.9% ⁹	\$90,882
4240.01	Southern Berkeley between Ashby and City Limits; Sacramento and Adeline	18.1%	\$60,809

Inclusionary Housing in Berkeley

The Berkeley Housing Trust Fund (HFT) was established in 1990 to pool money from a variety of sources (including developer in-lieu fees) into a single pot for the purpose of constructing affordable housing.¹⁰ From 2009¹¹ to 2017, localities were required by state law to offer project applicants the option of either building affordable units onsite or paying the in-lieu fee. Thus, pursuant to BMC 23C.12, all new projects in Berkeley with five or more units are currently required to *either* set aside 20% of their units as affordable, pay an in-lieu fee to the HFT, or some combination of both.

⁷ <https://opzones.ca.gov/oz-map/>

⁸ <https://www.arcgis.com/home/item.html?id=92e085b0953348a2857d3d3dac930337#visualize>

⁹ Please note that this poverty rate is too low to be considered a “low income census tract.”

¹⁰ <https://www.cityofberkeley.info/ContentDisplay.aspx?id=6532>

¹¹ http://www.reubenlaw.com/palmer_case_shakes_up_inclusionary_housing_rules_for_rental_projects/

AB 2502 (known as the “Palmer Fix”) passed in 2017 and gives jurisdictions the authority to require onsite units instead of giving developers the option to pay an in-lieu fee. The decision to charge in-lieu fees, require inclusionary units, or leave the decision to developers is now set according to prevailing market forces and the desires of local policymakers.¹² Berkeley traditionally incentivized paying in-lieu fees, because the HTF was under-resourced and other funding sources were not available. This approach allowed construction of entirely affordable buildings by non-profits but had several drawbacks:

- Constructing affordable housing projects using in-lieu fees requires capital to be accrued over many years and results in delays in production that market-rate developers may not face.
- Building affordable units in primarily market-rate developments promotes integration of housing throughout the City.
- The state density bonus requires projects to set aside 10% of units for very low income households (at 30-50% the area median income), but there are not comparable state incentives for units affordable to low income households (earning from 50%-80% of area median income). Thus, the majority of project applicants who invoke the state density bonus build 10% of their units to be affordable to very low income households and then pay the in-lieu fee for the remaining local obligation, which would otherwise be required to be built for low-income households. According to the 2019 Housing Pipeline Report, of the 56 market-rate developments currently in the pipeline, 24 elected to utilize the density bonus and pay fees in lieu of the other 10% of affordable units and an additional 21 did not take advantage of the state density bonus and paid in-lieu fees for all or substantial proportion of the requirement. In contrast, 11 projects provided all 20% affordable units onsite. Thus, 80% (24 plus 21 out of 56) paid fees in lieu of some of the required units. Of the 23 projects listed that are now in a Qualified Opportunity Zone, 11 had no onsite affordable units, and seven took advantage of the state density bonus (see attachment 2).
- As a result of these mismatched incentives, Berkeley has achieved only 15% of its low income housing target¹³ and 65% of the target set for very low income housing.¹⁴
- Since the passage of Measure O, much more funding for non-profit built affordable housing is available. It is critical, given the displacement occurring in Berkeley, to consider requiring some on-site units instead of providing the option of in-lieu fees.

Qualified Opportunity Zones are an ideal place to begin to require inclusionary on-site units. QOZs are intended to revitalize low-income communities, and requiring units

¹² <http://inclusionaryhousing.org/designing-a-policy/off-site-development/in-lieu-fees/>

¹³ <https://abag.ca.gov/our-work/housing/rhna-regional-housing-need-allocation>

¹⁴ We see in the 2019 Housing Pipeline Report that Berkeley has achieved 65% of its Very Low Income housing goals, 15% of its Low Income housing goals, and 0% of both Extremely Low and Moderate Income goals.

affordable to lower-income households in these zones will prevent low-income individuals from being priced out of their own communities. Developers are given significant financial benefits under Opportunity Zones, and thus can include on-site units and still realize a profit.

FINANCIAL IMPLICATIONS

Will reduce contributions to the Affordable Housing Trust Fund.

ENVIRONMENTAL SUSTAINABILITY

The Qualified Opportunity Zones in Berkeley are along major transit corridors (Shattuck, Adeline, and San Pablo). Last year, Berkeley researchers concluded that infill housing along transit corridors is one of the most impactful policies municipalities can adopt to combat climate change.¹⁵

CONTACT PERSON

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

ATTACHMENTS

- 1: Ordinance
- 2: 2019 Housing Pipeline Report, highlighted with projects that are in Qualified Opportunity Zones as currently defined.

¹⁵ <https://rael.berkeley.edu/wp-content/uploads/2018/04/Jones-Wheeler-Kammen-700-California-Cities-Carbon-Footprint-2018.pdf>

AMENDING CHAPTER 23C.12.035 OF THE BERKELEY MUNICIPAL CODE TO
REQUIRE ON-SITE INCLUSIONARY HOUSING UNITS IN QUALIFIED
OPPORTUNITY ZONES

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

Section 1. That Berkeley Municipal Code Section 23C.12.035 is hereby amended to read as follows:

23C.12.035 Payment of In-Lieu Fees as an Alternative to Providing Inclusionary Units within a Project

A.

1. Applicability. As an alternative to providing inclusionary units required in an ownership project, the applicant may elect to enter in an agreement with the City to pay fees as set forth in this section, in-lieu of providing units that are not required to be provided at below market prices pursuant to Government Code Section 65915.

2. The contents of Section 23C.12.035 are not applicable to residential housing projects in Qualified Opportunity Zones

B. Purpose. The fee shall be deposited in the City's Housing Trust Fund.

C. Amount of Fee.

1. The in-lieu fee shall be sixty two and a half percent (62.5%) of the difference between the permitted sale price for inclusionary units and the amounts for which those units are actually sold by the applicant.

2. This fee shall be calculated and collected based on the sales prices of all of the units in a project to which the inclusionary requirement applies, such that the fee as charged shall be a percentage of the difference between the actual sales price for each unit, and the sales price that would have been permitted had that unit been an inclusionary unit. The percentage shall be determined using the following formula: the number of units for which an in-lieu fee is substituted for an inclusionary unit divided by the total number of units to which the inclusionary ordinance applies, multiplied by 62.5%.

3. This fee shall only be applicable to units in a project that are counted in determining the required number of inclusionary units in a project and shall not be applicable to any units provided as a density bonus.

4. In the event that the City Manager makes a determination that an actual sales price does not reflect the fair market value of a unit, the City Manager shall propose an alternate price based on the fair market value of the unit. In the event that the developer and the City Manager cannot agree on a fair market value the City Manager shall select an appraiser to carry out an appraisal of the unit and the appraised value shall be used as the market value.

D. Calculation of Inclusionary Sales Price.

1. The allowable inclusionary sales price for the purpose of calculating the in-lieu fee pursuant to this section shall be three (3) times eighty percent (80%) of the Area Median Income (AMI) last reported as of the closing date of the sale of the unit, with the exception that if the developer has already been authorized to charge an inclusionary sale price based on development costs pursuant to Ordinance 6,790-N.S. (adopted January 27, 2004, sunsetted February 19, 2006) the allowable inclusionary sale price for the purposes of this section shall be the price permitted under that ordinance.

2. Area median income (AMI) shall be calculated in accordance with the affordability regulations established by the City Manager pursuant to Section 23C.12.090.

E. Time of Payment of Fee. The developer shall be required to pay the applicable in-lieu fee no later than the closing date of the sale of a unit as a condition of said closing.

F. Use Permit Obtained Prior to Adoption of This Section. This section shall apply to projects for which all required Permits have already been issued, as long as no units on those projects to which this section would apply have been sold. (Ord. 6946-NS § 1, 2006)

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.

Table 2 - Approved projects with more than 5 units: No Active Building Permit.															
#	Street Name	Zoning	Ext Low <30% AMI	VLI 31%-50% AMI	LI 51%-80% AMI	MOD 81-120% AMI	BMR Total	Above MOD	Total Units	Entitlement Year	By:	Building Permit Applied For?	Subtotals		
2009	Addison	C-DMU					0	44	44	2018/2019	ZAB	No	Units in Approved projects, no BP yet applied for: 1,289		
2902	Adeline	C-SA & R-4		4	4	1	9	41	50	2017	Council				
3051	Adeline	C-SA		0	0	0	0	11	11	2016	ZAB				
2028	Bancroft	C-DMU		2			2	35	37	2019	ZAB				
2012	Berkeley Way	C-DMU	53	54	17		124	1	125	2018	SB35				
2211	Harold	C-DMU		0	0	0	0	302	302	2015	Council				
1601	Oxford	R-3		13	21	0	34	3	37	2018	SB35				
1200	San Pablo	C-W		5			5	52	57	2018	ZAB				
1201	San Pablo	C-W		0	0	5	5	22	27	2006	Council				
1740	San Pablo	C-W		4			4	48	52	2018	ZAB				
2100	San Pablo	C-W		0	0	0	0	96	96	2017/2019	ZAB				
2198	San Pablo	C-W		5			5	52	57	2019	ZAB				
2720	San Pablo	C-W		0	3	0	3	15	18	2007	ZAB				
2190	Shattuck	C-DMU		0	0	0	0	274	274	2019	Council				
2701	Shattuck	C-SA		0	0	4	4	20	24	2007	Council				
3000	Shattuck	C-SA		2	2	0	4	19	23	2018	Council				
1040	University	C-W & R-3		27	0	0	27	0	27	2012	ZAB				
1717	University	C-1		3	0	0	3	25	28	2017	ZAB				
2072	Addison	C-DMU					0	55	55	2018/2019	ZAB			10/26/18	Units in Approved projects, BP applied for: 284
2542	Durant	C-T		0	0	0	0	32	32	2018	ZAB			4/4/19	
2527	San Pablo	C-W		6	5	0	11	57	68	2018	Council	8/17/18			
3020	San Pablo	C-W		2	2	0	4	25	29	2007	ZAB	2/11/15			
2628	Shattuck	C-SA					0	78	78	2019	ZAB	5/9/19			
2556	Telegraph	C-T					0	22	22	2018	ZAB	12/19/18			
Totals:			53	127	54	10	244	1,329	1,573						

Table 3 – Approved projects with more than 5 units: Building permit issued.

#	Street Name	Zoning	VLI 31%-50% AMI	LI 51%-80% AMI	MOD 81-120% AMI	BMR Total	Above MOD	Total Units	Entitlement Year	By:	Building Permit Issued	Est. Completion Date
1950	Addison	C-DMU	5	0	0	5	106	111	2016	ZAB	11/17/17	2019
2126	Bancroft	C-DMU	5	0	0	5	45	50	2016	ZAB	11/6/17	2019
2580	Bancroft	C-T	11			11	111	122	2018	ZAB	5/21/19	2020
2035	Blake	C-SA	4	0	0	4	78	82	2016	Council	8/10/17	2020
739	Channing	MU-R				0	10	10	2018	ZAB	6/12/18	Unknown
2510	Channing	C-T	3			3	37	40	2018	ZAB	4/5/18	2020
2631	Durant	R-SMU	0	0	0	0	56	56	2016	Council	12/1/17	2020
1500	San Pablo	C-W & R-1A	16	0	0	16	154	170	2016	Council	12/21/17	2020
2747	San Pablo	C-W	3	3	0	6	33	39	2007	ZAB	8/18/17	2020
2748	San Pablo	C-W	23	0	0	23	0	23	2014	ZAB	5/17/18	2019
2539	Telegraph	C-T	6	0	0	6	64	70	2016	ZAB	10/20/17	2019
2597	Telegraph	C-T & R-2	1	0	0	1	9	10	2017	Council	8/9/18	2020
1698	University	C-1	3	0	0	3	33	36	2014	ZAB	10/19/18	2020
2067	University	C-DMU	4	0	0	4	46	50	2016	ZAB	10/10/18	2020
2111	University	C-DMU	6	0	0	6	62	68	2013	ZAB	6/27/18	2020
2131	University	C-DMU	2	0	0	2	19	21	2013	ZAB	6/27/18	2020
2145	University	C-DMU	3	0	0	3	33	36	2013	ZAB	6/27/18	2020
1900	Walnut	C-DMU	7	0	0	7	73	80	2013	ZAB	6/27/18	2020
Totals:			102	3	0	105	969	1,074				

Table 4 – Approved projects with more than 5 units: Building Permit Issued after 2014 and now occupied.												
#	Street Name	Zoning	VLI 31%-50% AMI	LI 51%-80% AMI	MOD 81-120% AMI	BMR Total	Above MOD	Total Units	Entitlement Year	By:	Building Permit Issued	Complete Date
1935	Addison	C-DMU	0	0	0	0	69	69	2013	Council	10/17/14	5/26/17
2002	Addison	C-DMU	0	0	0	0	6	6	2016	ZAB	2/1/18	8/28/18
2024	Durant	C-DMU	0	0	0	0	78	78	2013	Council	7/8/14	12/7/15
2526	Durant	C-T	0	0	0	0	44	44	2014	ZAB	2/18/14	6/30/17
2532	Durant	C-T	0	0	0	0	7	7	2016	ZAB	6/23/17	1/30/19
2107	Dwight	C-DMU	9	0	0	9	90	99	2012	ZAB	12/1/17	3/24/17
2201	Dwight	R-S	7	0	0	7	70	77	2013	ZAB	6/3/15	11/17/16
2227	Dwight	R-3	0	0	0	0	6	6	2013	Council	9/7/15	5/25/18
2001	Fourth	C-W	12	0	0	12	140	152	2014	ZAB	4/1/16	7/31/18
2441	Haste	C-T	0	0	0	0	42	42	2013	ZAB	5/7/14	6/27/16
3132	MLK	C-SA	0	41	0	41	1	42	2007	ZAB	11/20/15	12/7/17
3015	San Pablo	C-W	8	7	0	15	83	98	2007	Council	3/19/14	2/16/16
2598	Shattuck	C-SA & R-2A	4	3	0	7	25	32	2014	Council	5/1/15	5/31/17
2600	Shattuck	C-SA & R-2A	12	12	0	24	99	123	2014	Council	1/1/14	3/17/17
2711	Shattuck	C-SA	0	0	0	0	18	18	2016	ZAB	9/6/17	9/1/18
800	University	C-W	4	0	0	4	54	58	2013	ZAB	7/15/14	12/2/15
824	University	C-W	4	0	0	4	44	48	2015	ZAB	8/20/15	2/6/18
1812	University	C-1	4	0	0	4	40	44	2014	ZAB	6/25/15	3/7/17
1974	University	C-DMU	8	0	0	8	90	98	2014	ZAB	9/29/15	10/3/17
Totals:			72	63	0	135	1,006	1,141				



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ACTION CALENDAR
October 29, 2019

To: Honorable Members of the City Council
From: Councilmember Sophie Hahn
Subject: Proposed Formula Retail (Chain Store) Regulations

RECOMMENDATION

1. Refer to the City Manager and Planning Commission to finalize and return to the City Council for adoption an Ordinance and related amendments to the Berkeley Municipal Code, if any, based on the Draft Formula Retail Ordinance attached hereto, to establish Formula Retail regulations for Commercial and Manufacturing Districts in the City of Berkeley.
2. Refer to the City Manager and Planning Commission to:
 - a. Recommend establishment of Business District boundaries and names, as provided for in Section 23E.18.030(B) of the proposed Formula Retail Ordinance, and
 - b. Through a process that includes public notice and input, as described in the proposed Formula Retail Ordinance, recommend for each Business District whether to allow unlimited Formula Retail, limited Formula Retail (some or all use categories allowed with a Use Permit, Neighborhood Notice, Design Review and findings) or to prohibit Formula Retail.

SUMMARY STATEMENT

Small businesses are the backbone of Berkeley’s economic health, and represent a significant portion of our living-wage jobs. Unfortunately, they are threatened by increasing costs, displacement, and growing competition from online stores and chain retailers. Though chain or “Formula Retail” establishments have a role in the mix of businesses operating in Berkeley, an oversaturation of Formula Retail negatively impacts the local character of business districts and makes it more difficult for small businesses to become established, to survive, and to thrive.

Berkeley can strengthen protections for small, local and diverse businesses by limiting the number and location of Formula Retail uses in each business district. Formula Retail restrictions, in place in San Francisco for over 15 years and operative in other California cities that value local business and character, are simple and flexible, and tailored to meet the unique needs, values and sensibilities of each business district.

Formula Retail restrictions establish a definition of Formula Retail and then determine, on a business district by business district basis, whether the district will allow an unlimited amount of Formula Retail; limited Formula Retail; Formula Retail only under specified conditions; or whether a business district will prohibit Formula Retail entirely. Where Formula Retail is limited or allowed only under specified conditions, a Use Permit to establish a Formula Retail Use is required. In districts where no Formula Retail is allowed, or where unlimited Formula Retail is allowed, a Formula Retail Use Permit is not required. Businesses that do not meet the definition of Formula Retail -- smaller and local businesses, including small local chains with up to 20 outlets -- have no new requirements under the regulations.

San Francisco's Formula Retail Ordinance is an excellent model for Berkeley to adapt and follow. It has been in place for more than 15 years, and was the subject of a comprehensive evaluation, which resulted in a revised -- and improved -- regulatory framework. This item proposes that the City of Berkeley implement Formula Retail legislation, patterned after San Francisco, to limit saturation of Formula Retail, support small and local businesses, and preserve the character and quality of our business districts and neighborhood shopping areas.

BACKGROUND

Berkeley's unique character is owed in large part to the presence of small businesses, and these businesses contribute significantly to the economic and cultural vitality of the City. However, small and locally owned businesses face significant challenges due to increasing costs of doing business, constraints of available space, and growing competition from online stores and expanding chain retailers.

Challenges Facing Small and Local Businesses

A basic challenge that many small and local businesses face is finding an affordable location. Commercial rents throughout the Bay Area, including in Berkeley, have risen dramatically in recent years. One estimate found that between 2016 and 2018 office rents in Berkeley increased 15% to 20%.¹ Small businesses are much less likely than chain stores to be able to afford high initial rents when finding new space or to endure annual rent increases, while chain stores are well-equipped to negotiate better rents or afford higher ones. Berkeley's rent stabilization ordinance, which protects and regulates residential rents, does not apply to commercial property as commercial rent control is prohibited by the State.

Small businesses also struggle to find appropriately-sized store fronts. In the Bay Area, 80% of local, independent businesses occupy locations smaller than 3,000 square feet, while 85% of

¹ https://www.cityofberkeley.info/uploadedFiles/Manager/Economic_Development/2017-01-16%20WS%20Item%2001%20Economic%20Development%20Worksession.pdf

chain retailers occupy a space larger than 3,000 square feet.² As demand for small commercial space has increased in urban neighborhoods, supply has not kept pace. In addition, once a space has been occupied by a chain store, or several spaces have been combined for a chain store, and the space has been changed to suit larger-scale needs, it is less likely that a smaller retailer will be able to occupy the space in the future. Thus, storefronts that have been occupied by chain stores can prohibit small businesses from taking hold, even when a property is vacant.

Because most existing commercial spaces in neighborhood commercial districts are small, the proliferation of larger-floorplate uses -- whether through the combination of existing spaces or construction of new buildings -- not only displaces existing neighborhood businesses but can permanently destroy the character and scale of the district.

With the benefits of global supply chains, public subsidies, and, often, reduced competition, chain and online stores are able to undercut small and independent businesses. A study of West Side Chicago businesses found that the opening of a Walmart in 2006:

*"led to the closure of about one-quarter of the businesses within a four-mile radius [...] By the second year, 82 of the businesses had closed. Businesses within close proximity of Walmart had a 40 percent chance of closing. The probability of going out of business fell 6 percent with each mile away from Walmart."*³

This data suggests that large chain retailers negatively impact surrounding businesses because they undercut prices. However these reduced prices do not last for long:

*"Once the chain has eliminated the local competition, prices tend to rise. In Virginia, a survey of several Walmart stores statewide found prices varied by as much as 25 percent. The researchers concluded that prices rose in markets where the retailer faced little competition. A similar conclusion was reached in a survey of Home Depot. Prices were as much as 10 percent higher in Atlanta compared to the more competitive market in Greensboro, North Carolina."*⁴

Local independent businesses are also threatened by online platforms and online marketing by chain retailers. For example, one study showed that 55% of online shoppers search for products directly on Amazon, bypassing search engines that may show local results. This means a local retailer wishing to sell its products and services online can easily be undercut and driven out of business, even if demand for their products persists in their community. In part due to market consolidation, the number of new businesses launched each year has fallen by nearly two-thirds in recent decades. Between 2005 and 2015, the number of small retailers fell by 21%.

² <https://ilsr.org/watch-san-franciscos-anmarie-rodders-on-how-the-citys-formula-business-policy-works/>

³ <http://journals.sagepub.com/doi/abs/10.1177/0891242412457985>

⁴ Elizabeth Humstone and Thomas Muller, "Impact of Wal-Mart on Northwestern Vermont," prepared for the Preservation Trust of Vermont, the Vermont Natural Resources Council, and Williston Citizens for Responsible Growth, 1995; Chris Rouch, "Home Depot using predatory pricing tactics, critics say," *Atlanta Journal & Constitution*, March 18, 1995, p. 1B.

Large chains and online retailers are able to absorb costs and suffer losses where small and local businesses cannot. Amazon, as an extreme example, can regularly undercut other online prices for extended periods of time to drive out competition, even if it means taking a temporary loss on those items; monopoly pricing on other items is a more than adequate offset. By contrast, small businesses, often run on razor-thin margins, lack the necessary financial and structural cushions to survive even a few months' downturn in sales or rise in rent, and cannot match anti-competitive pricing at below cost levels.

Benefits of Small and Local Businesses

Small and locally-owned businesses provide numerous benefits to the communities they serve through the creation of locally-owned supply chains and investment in local employees. In fact, they stimulate local economies to a greater degree than chains. Small businesses reinvest a higher percentage of their profits into the local economy than chains, recirculating 45% of their revenue back into the local economy, compared to 17% recirculated locally by chain stores.⁵ A study in Austin, Texas, showed that independent book and music stores returned more than three times as many dollars to the local economy than a proposed large chain book and music outlet would have returned.⁶

Local businesses tend to purchase goods and services from other local businesses, while large chains leverage global supply chains and sometimes even global workforces. Chains have little reason to invest capital in a local economy when more profitable alternatives exist elsewhere, which leads to a lower percentage of their revenue recirculating into the local economy.⁷

Besides contributing to local economic activity, the presence of small and locally-owned businesses results in higher incomes and lower levels of poverty in their communities, while big-box retailers depress wages and benefits for retail employees. Workers in chain retailers also rely more heavily on government subsidies and public assistance, due to the low wages they receive. In Massachusetts, a report showed that of the 50 companies that had the most employees enrolled in the state's low-income and safety net health insurance programs, about half were employees of retail and restaurant chains.⁸

Beyond economic factors, small and locally-owned businesses also contribute to vibrant and engaged commercial centers and neighborhoods. High concentrations of small businesses can lead to improved public health outcomes,⁹ stronger social ties, higher levels of civic

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<http://nebula.wsimg.com/31f003d5633c543438ef0a5ca8e8289f?AccessKeyId=8E410A17553441C49302&disposition=0&alloworigin=1>

⁶ <https://www.amiba.net/resources/multiplier-effect/>

⁷ http://www.independentwestand.org/wp-content/uploads/ThinkingOutsidetheBox_1.pdf

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<http://ilsr.org/wp-content/uploads/2011/12/massachusetts-50-plus-employers.pdf>

⁹ "The Health and Wealth of US Counties: How the Small Business Environment Impacts Alternative Measures of Development," Troy C. Blanchard, et al., *Cambridge Journal of Regions, Economy, and Society*, 2011

engagement, and more resilient communities overall.¹⁰ Data from three major cities (San Francisco, Seattle, and Washington D.C.) showed that commercial districts within cities with fewer chain stores and more local businesses performed better in certain economic, social, and environmental outcomes, by increasing the walk and transit score of the city, offering business districts that are more affordable and flexible to a larger variety of entrepreneurs, and helping the local economy thrive by providing more jobs per square foot.^{11,12}

What is Formula Retail?

Formula retailers -- chain stores -- are establishments with multiple locations that utilize standardized features or a recognizable appearance to encourage patronage. Recognition is dependent upon the repetition of characteristics of one store in multiple locations. Though formula retailers can serve a role within a shopping district, an oversaturation of formula retail outlets reduces the unique character of a district and can contribute to reduced economic activity overall, and make it more difficult for small businesses to survive. Moreover, the generic quality of formula retail runs contrary to General Plan and other Berkeley policies which support enhancement of the unique character of shopping districts and a diversity of business types.

Regulating Formula Retail

Communities across the country have employed different strategies to address problems raised by over-concentration of formula retail. Formula retail legislation typically seeks to define the following factors:

- Number of worldwide locations a retailer must have to qualify as a “formula retailer”
- Characteristics that create a recognizable brand across multiple locations, including standardized features, employee uniforms, products, displays, or signage
- Types of retail uses or services that are subject to formula retail legislation and districts where formula retail is limited or prohibited, and
- Administrative process for prohibiting, managing, or modifying formula retail across the community or in specific districts.

San Francisco’s Formula Retail Framework

Of the many communities that have implemented a formula retail ordinance, San Francisco has most fully articulated these principles in crafting its policies. Because of the significant resources San Francisco has committed to formula retail regulation, and the length of time regulations have been in place, its regulatory framework has been subject to improvements over time, and provides an excellent model for Berkeley to adapt and follow.

¹⁰ <https://ilsr.org/why-care-about-independent-locally-owned-businesses/>

¹¹

<http://forum.savingplaces.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=b73e8fc7-7fb2-0fc7-202c-d0ed58ff3089&forceDialog=0>

¹² <https://www.frbatlanta.org/community-development/publications/discussion-papers/2013/01-do-local-business-ownership-size-matter-for-local-economic-well-being-2013-08-19.aspx>

In 2004, San Francisco first enacted legislation to regulate formula retail. The ordinance was revised in 2014, reflecting recommendations outlined in a study of the first ten years of the policy.¹³ The ordinance remains in force, and is an effective deterrent against a proliferation of chain stores. Thanks in part to its formula retail policies, San Francisco has more independent businesses and fewer chains per capita than other big cities.¹⁴

The San Francisco ordinance establishes a conditional use application process for any retail store or restaurant that meets the definition of formula retail. A formula retailer is defined as:

*“a type of retail sales activity or retail sales establishment that has eleven or more other retail sales establishments in operation, or with local land use or permit entitlements already approved, located anywhere in the world. In addition to the **eleven or more** other retail sales establishments located in the World, maintains two or more of the following features: a **standardized** array of **merchandise**, a **standardized facade**, a **standardized decor and color scheme**, a **uniform apparel**, **standardized signage**, a **trademark** or a **servicemark**.” In other words, retail stores with multiple locations and a recognizable “look” or appearance.” (SF Planning Code, § 303.1)*

In certain districts, formula retail is unrestricted (e.g., the downtown district) or entirely disallowed (e.g., North Beach, parts of Chinatown). In most of San Francisco, including the city’s Neighborhood Commercial Districts, formula retail is allowed through a conditional use process in which the business application is reviewed by the SF Planning Commission, discussed at a public hearing, and approved (or denied) on a case-by-case basis. Each application is evaluated based on a number of factors:

- Existing concentration of formula retail businesses within the neighborhood
- Availability of similar goods or services within the area
- Compatibility of the proposed business with the character of the neighborhood (including aesthetic features)
- Retail vacancy rates in the area, and
- The balance of neighborhood-serving versus citywide or regional-serving businesses.¹⁵

This process allows the SF Planning Commission to exercise discretion and respond to on a case-by-case basis to each business district’s unique character and mix of businesses. By limiting formula retail, rents have remained lower in some districts, reducing costs for independent retailers.¹⁶ San Francisco’s conditional use permits allow the City to require formula retailers to have pedestrian friendly designs, aesthetics that do not detract from local character, and meet other aesthetic standards.¹⁷ Of the applications submitted by formula

¹³ http://208.121.200.84/ftp/files/legislative_changes/form_retail/Final_Formula_Retail_Report_06-06-14.pdf

¹⁴ <https://ilsr.org/rule/formula-business-restrictions/2321-2/>

¹⁵ <https://ilsr.org/rule/formula-business-restrictions/2321-2/>

¹⁶ http://default.sfplanning.org/legislative_changes/form_retail/Final_Formula_Retail_Report_06-06-14.pdf

¹⁷ <https://ilsr.org/watch-san-franciscos-anmarie-rodgers-on-how-the-citys-formula-business-policy-works/>

retailers during 2004-14, approximately 70% were approved, often with modifications, demonstrating that the conditional permit process is well crafted to balance interests, without unduly restricting formula retail.

Research conducted by San Francisco in 2014 found that only 5% of “chains” had 20 or fewer worldwide locations.¹⁸ While San Francisco did not adopt 20 as the threshold for defining a formula retail activity or enterprise, we are proposing 20 as the threshold to ensure that fast-growing start-ups in the region can grow and thrive. Many small businesses that originate in Berkeley or the Bay Area establish outlets region-wide to help make their businesses sustainable. Berkeley can benefit by having these local emerging small chains in our community while still receiving the economic benefits of local or regional ownership.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

General Plan

The City of Berkeley has taken an active role in economic development and legislation to better serve the needs of the small and local business community, and to promote the positive economic and social outcomes associated with a thriving small business environment. The policies of the General Plan and Office of Economic Development guide the City's actions towards actively promoting community and neighborhood values with independent, locally owned, and neighborhood serving businesses.

- Goal #1 of the General Plan is to “Preserve Berkeley’s unique character & quality of life”, which includes protecting the City’s economic diversity.
- Goal #2 of the General Plan also identifies supporting local businesses and neighborhood-serving businesses as a key step toward ensuring Berkeley’s supply of decent housing, living-wage jobs, and businesses providing basic goods and services, further stating that a limited number of chain stores “contribut[es] to the vitality of Berkeley’s commercial areas”.¹⁹
- More specifically, Economic Development Actions ED-3 and ED-4 directly address retaining and developing businesses that serve local neighborhood needs, implementing a small business preference program, and utilizing zoning mechanisms to limit “development of undesirable chain stores, formula businesses, and big-box developments” while enabling the expansion of local businesses.²⁰

Berkeley Policies that Support Small Businesses

¹⁸ http://default.sfplanning.org/legislative_changes/form_retail/Final_Formula_Retail_Report_06-06-14.pdf

¹⁹

https://www.cityofberkeley.info/Planning_and_Development/Home/General_Plan_-_Economic_Development_and_Employment_Element.aspx

²⁰ https://www.cityofberkeley.info/Planning_and_Development/Home/General_Plan_-_Economic_Development_and_Employment_Element.aspx

The City of Berkeley has taken action in the past to support local business and limit chains by banning new fast food chains, limiting the number of pharmacies in close proximity to each other, establishing a maximum square footage for big box stores and imposing quotas in commercial districts.

In response to merchant concerns about rising rents demanded by commercial landlords, the City Council in 1985 enacted the “Telegraph Urgency Ordinance”.²¹ At the time, the ordinance was the nation’s only program of commercial rent regulation. After commercial rent control was outlawed by the State, Berkeley enacted quotas on various use types in some retail districts, which were intended to preserve diversity and local ownership among businesses and discourage unwanted commercial uses as defined in each commercial district’s purposes. These quotas, which could be violated with a Use Permit and were often exceeded, were eventually removed or greatly simplified.²²

Berkeley has also acted to limit the size, number and concentration of drugstores that can operate in the City.²³ This was done to prevent pharmacy chains from opening too close to each other while leaving other areas of Berkeley underserved and to preserve a diversity of uses in neighborhood business districts, allowing them to retain their unique character.²⁴

In April 2017, the City Council approved a Small Business Support Package, authored by Councilmember Hahn and Mayor Arreguin, to support new and sustain existing small and locally-owned businesses.²⁵ The package included measures to provide financial support to small businesses and nonprofits impacted by development projects; fees on vacant storefronts and empty lots; a local business advocacy center; streamlining of zoning, permitting, and licensing for small businesses; strengthening Berkeley’s Revolving Loan Fund program; expanding Buy Local preferences; and exploring a Legacy Business-type program for Berkeley.

In April 2019, the Council approved another important measure to support Berkeley businesses interested in the worker cooperative ownership model.²⁶ Owned and run by employees, worker cooperatives typically provide higher wages, benefits, professional development, job security, and upward mobility for low to moderate income people. Also, these small businesses provide a diversity of locally owned services. In Berkeley, worker cooperatives such as The Cheese Board Collective, Biofuel Oasis, and Missing Link Bicycle Cooperative have become an integral part of

²¹ https://www.cityofberkeley.info/Planning_and_Development/Home/Southside_Plan_-_DSS_6_Economic_Development.aspx

²² https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2015-12-16_Item%209_Quotas-Combined.pdf

²³ https://www.cityofberkeley.info/Clerk/City_Council/2014/07_Jul/Documents/2014-07-01_Item_01_Ordinance_7354.aspx

²⁴ <https://www.cityofberkeley.info/recordsonline/export/16418086.pdf>

²⁵ https://www.cityofberkeley.info/Clerk/City_Council/2017/04_Apr/Documents/2017-04-25_Item_41_Small_Business.aspx

²⁶ https://www.cityofberkeley.info/Clerk/City_Council/2019/02_Feb/Documents/2019-02-26_Revised_Packet_2019-02-26_Item_A_Referral_Response_Supporting_Worker_Cooperatives_pdf.aspx

the community's fabric. These and other worker owned businesses create higher quality jobs, increase local reinvestment, and have demonstrable positive impact on business retention.

According to the City of Berkeley's Office of Economic Development (OED),

“small businesses are a critical part of our local economy: they provide access to essential goods and services, create jobs and economic opportunities, and make essential contributions to Berkeley's vitality and distinct character. In recent years, the viability of small businesses has been threatened by a broad range of issues including the increasing costs of doing business, physical conditions of commercial districts, competition from the Internet, and difficulty engaging with the City of Berkeley.”

The OED is focused on supporting small and local businesses, cooperatives, not for profits and arts organizations -- which make up the majority of Berkeley enterprises. In response to Council direction, and in light of the important role of these types of enterprises in the economic and cultural vitality of the City, the OED has launched five new policy initiatives²⁷:

- Improve outreach and communications with small businesses
- Increase support for businesses navigating the permitting process
- Recommend modifications to the zoning ordinance to support small businesses
- Pilot small business retention programs, and
- Support independently owned retailers with marketing, networking and education.

The objectives of these programs include boosting the profitability and sustainability of small businesses, preventing the closure and displacement of small businesses, sustaining and growing business-related municipal revenues, and improving Berkeley's reputation as a place to do business.

ACTIONS/ALTERNATIVES CONSIDERED

San Francisco, Sausalito, San Juan Bautista, Pacific Grove, and other cities across the country have passed legislation regulating formula retailers, tailored to the unique character and needs of their communities. Nantucket, MA, banned all formula retail from its historic downtown district. Cities such as San Francisco, Ojai, and Arcata, CA, and Bristol, RI, have implemented a conditional use framework to limit the number of formula retailers allowed in their commercial districts. Rather than impose outright bans or quotas on formula retail, these cities have a special application process and require robust findings for formula retailers to operate in regulated districts.

Communities have the power to maintain their integrity and character as set forth by their general plans. Only one formula retail ordinance has been challenged and overturned. Islamorada, a vacation destination in the Florida Keys, implemented formula retail restrictions nearly a decade ago. The court reviewing a legal challenge to the ordinance found it would fail

²⁷ https://www.cityofberkeley.info/Clerk/City_Council/2019/02_Feb/Documents/2019-02-05_WS_Item_02_Referral_Response_Small_Business_pdf.aspx

to “help the town preserve its character,” noting for the record that Islamorada “has not demonstrated that it has any small town character to preserve”.²⁸

The goal of formula retail legislation is not to eliminate formula retail entirely. A key to crafting effective formula retail regulations is to avoid arbitrary quotas or limits on formula retailers, to be responsive to existing community and local flavor, and to adapt any regulations accordingly.

As noted above, Berkeley has experimented with commercial rent control and quotas, among other measures, but currently has very limited regulations in place to support the establishment and continuation of small, local and diverse businesses and curtail the proliferation of chains. Currently, formula retail regulation is considered to be the best tool to achieve these goals.

CONSULTATION/OUTREACH OVERVIEW AND RESULTS

Because this item proposes an Ordinance, it will be routed to a Council Committee for discussion. Through this process we will reach out to small businesses and property owners to invite them to bring their comments to the committee. In addition, this item is a referral to the City Manager and Planning Commission. Assuming it is sent from the policy committee with a positive recommendation to the City Council and is referred by Council to the City Manager and Planning Commission, there will be many opportunities for citizen, business and property-owner input through the many public meetings envisioned to make this ordinance a reality.

RATIONALE FOR RECOMMENDATION

Berkeley’s small businesses, which are vital to the city’s character and economic health, are threatened by the growth of online stores and chain retailers. Other communities have successfully protected their small and independent businesses by placing restrictions on formula retail. San Francisco’s comprehensive, longstanding and carefully crafted formula retail regulations are an appropriate model for Berkeley -- adapted and carefully tailored to fit Berkeley’s specific qualities and needs, and to help preserve the important character and quality of the City’s commercial districts and neighborhood shopping areas.

This item refers to the City Manager and Planning Commission to undertake all elements necessary to craft and implement successful formula retail regulations in Berkeley.

A draft ordinance is provided, starting the process of adapting San Francisco’s formula retail regulations to Berkeley’s existing regulatory framework and processes. The City Manager and Planning Commission are tasked with completing the ordinance and preparing any complementary code amendments necessary to achieve the full regulatory framework. It is expected that the “Uses Permitted” Section of each Commercial and Manufacturing District will require small amendments to reflect the addition of the new Formula Retail Use.

The City Manager is further requested to recommend boundaries and names, if applicable, for Business Districts and, through a process that includes robust community outreach, to

²⁸ <https://ilsr.org/bloomberg-restrict-chains/>

recommend for each Business District whether formula retail will be allowed without restriction; allowed with a Use Permit, Neighborhood Notification, Design Review and findings; or disallowed.

Public meetings to discuss whether a Business District should allow, disallow or allow with a Use Permit the establishment of formula retail uses are expected to be organized by the Office of Economic Development and/or Planning Department in collaboration with Councilmember representatives of Business Districts. Notice for such meetings shall, at a minimum, be the same as the notice proposed to obtain a Use Permit for Formula Retail. Several Business Districts can be considered at one meeting, so long as each Business District and surrounding area are noticed.

Notice to obtain a Use Permit for Formula Retail includes the following:

In addition to the public notice requirements for a Use Permit pursuant to Section 23B.32.020, public notice shall include all businesses and residents (all mailing addresses) and all owners of properties within the Business District where the Formula Retail use is proposed and within a 500 foot radius of the proposed Formula Retail use.

Formula retail legislation, modeled after San Francisco's policy, will help Berkeley maintain the unique character of its business districts and complement existing efforts and policies to support independent and local merchants. By carefully tailoring Formula Retail legislation to Berkeley's specific needs, the City can ensure a balanced mix of national brands while making sure that small and local businesses lacking the economic muscle to pay high rents and weather downturns still have a chance to thrive.

IMPLEMENTATION, ADMINISTRATION, AND ENFORCEMENT

At the outset, implementation will require creating new forms to be filled out by applicants for business licenses to establish new business or new ownership of existing businesses in Berkeley and zoning permits for new or expanded uses. These can be adapted from San Francisco's forms. Additional forms may require amendment, and some training will be required for staff who process licenses and permit applications.

Once in place, Use Permits for Formula Retail will be administered in the same manner as all other Use Permits and Design Review will also be undertaken in the usual manner. Enhanced notice requirements will require more notices to be sent than in the usual case for a Use Permit, representing minor additional costs.

Regular fees for a Use Permit will be required, ensuring that the Planning Department's costs are covered by the Formula Retail applicant. It is not expected that a large number of applications for Formula Retail Use Permits will be processed in any given year, as a limited number of new businesses open each year and many will not meet the definition of Formula Retail. For those that do meet the definition, only a subset, those that seek to establish themselves in business districts that limit formula retail, will be required to obtain a Use Permit.

ENVIRONMENTAL SUSTAINABILITY

This item supports the Berkeley General Plan goal to protect local and regional environmental quality, as local stores help to sustain vibrant, compact, walkable town centers, which in turn are essential to reducing sprawl, automobile use, habitat loss, and air and water pollution. As stated in a recent OED report, “small businesses often contribute to sustainable transportation and consumer behavior by providing opportunities for residents to shop locally in neighborhood commercial districts that are accessible by foot, bicycle and transit. Successful initiatives that support small businesses in turn promote both environmental and economic sustainability.”

FISCAL IMPACTS

By regulating formula retail, Berkeley should reap the well-documented benefits of local ownership. As noted above, small and locally-owned businesses stimulate local economies to a greater degree than chain retailers, increasing tax revenues overall. Automobile sales, one of the largest sales-tax generating use uses in Berkeley, is not subject to Formula Retail regulations; income from this sector would not be impacted.

Once established, formula retail regulations will require limited additional staff time to implement, in the form of new Use Permits being processed by the Planning Department. A new form will need to be created for businesses seeking permits to attest to the number of outlets affiliated with their establishment. This and other forms and administrative regulations are easily adapted from San Francisco’s models.

Processing of Formula Retail Use Permits will be done simultaneously with other permit processing, and will only be required in the few instances where a Formula Retail use is seeking to establish itself in a business district that requires a Use Permit for formula retail. In these instances, applicants will pay the usual fees for Use Permit processing, which cover the costs of permit administration.

All non-Formula Retail uses *are exempt* from these regulations, so their permitting process will not be impacted in any way, other than needing to fill out a new form attesting that they do not meet the definition of Formula Retail. A successful formula retail policy will provide significant community and economic benefits and help realize Berkeley’s strong commitment to supporting small and local businesses; incurring few costs for the City of Berkeley and increasing economic activity overall.

OUTCOMES AND EVALUATION

San Francisco did an evaluation of their original Formula Retail regulations ten years after the program was in place. The evaluation resulted in improvements to their ordinance. The version of the San Francisco ordinance proposed for adoption in Berkeley reflects those improvements.

Berkeley’s formula retail regulations will be considered successful if the business community and neighborhoods surrounding Berkeley’s business districts have had the opportunity to weigh in on the appropriateness of bringing specific formula retail uses into the business district, and

some, but not all, formula retail businesses will have received Use Permits. In addition, it is hoped that the implementation of these regulations will result in less rapid inflation of rents, which often reflect rental rates that can be sustained by chains, but are prohibitive for locally owned businesses.

Data about formula retail and the impacts of these regulations should be included in the Office of Economic Development's Economic Dashboards and other reports to the City Council.

CONTACT INFORMATION

Councilmember Sophie Hahn, Council District 5, (510) 981-7150

ATTACHMENTS/SUPPORTING MATERIALS

1. Draft Formula Retail Ordinance for Berkeley
2. Commission Guide for Formula Retail, San Francisco Planning Department, August 2018
3. San Francisco Planning Code Section 303.1: Formula Retail Uses
4. San Francisco Municipal Code Section 703.4: Conditional Use Authorization for Formula Retail Uses
5. San Francisco Municipal Code Section 803.6: Formula Retail Uses in Article 8 Districts
6. Stacy Mitchell, Institute for Local Self-Reliance, "The Impact of Chain Stores on Community"
7. Marie Donahue, Institute for Local Self-Reliance, "Why Care about Independent, Locally Owned Businesses?"

ORDINANCE NO. ####-N.S.

ADDING CHAPTER 23E.XX TO THE BERKELEY MUNICIPAL CODE TO ADOPT THE BERKELEY FORMULA RETAIL ORDINANCE

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

Section 1. That a new Chapter 23E.18 is hereby added to the Berkeley Municipal code to read as follows:

Chapter 23E.18
FORMULA RETAIL USES

Sections:

- 23E.18.010 Findings and Purpose
- 23E.18.020 Applicability
- 23E.18.030 Definitions
- 23E.18.040 Business Districts - Formula Retail Prohibited
- 23E.18.050 Business Districts - Formula Retail Permitted Without Restrictions
- 23E.18.060 Business Districts - Formula Retail Permitted with Use Permit, Neighborhood Notification, Design Review and Findings
- 23E.18.070 Formula Retail Use Permit - Neighborhood Notification - Design Review - Findings
- 23E.18.080 Determination of Formula Retail Use
- 23E.18.090 Change, Enlargement or Intensification of Formula Retail Use

23E.18.010 Findings and Purpose

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

- (1) The first goal of the City of Berkeley’s General Plan is to “Preserve Berkeley’s unique character and quality of life.” Berkeley’s diverse and distinct neighborhoods are strongly identified by the local character of their commercial and manufacturing districts.
- (2) A top priority of Berkeley’s General Plan Economic Development and Employment Element is to “support businesses that are independent, locally owned and neighborhood serving.”
- (3) Policy ED-3 of Berkeley’s General Plan Economic Development and Employment Element is to “[p]romote policies, programs, and services that support a diverse local economy providing a range of goods and services, that support existing local businesses, and that encourage new, independent business ventures.”

- (4) Policy ED-3 (E) of Berkeley's General Plan Economic Development and Employment Element speaks directly to the need to regulate chain, formula and big-box businesses by developing and implementing "[p]lanning and zoning mechanisms that promote community-serving commercial diversity and that limit development of undesirable chain stores, formula businesses, and big-box developments without limiting the ability of local businesses to grow and expand and, when needed, to establish additional outlets in various parts of the city."
- (5) Policy ED-4 (B) of Berkeley's General Plan Economic Development and Employment Element, relating to Neighborhood and Avenue Commercial Districts, seeks to "[m]aintain a diverse mix of commercial goods and services in the shopping districts" and to "establish criteria" for "local ownership."
- (6) Policy ED-9.1 of the Downtown Area Plan recommends economic development strategies that encourage the establishment of new businesses with ownership structures that keep consumer dollars in the local economy
- (7) Policy ED-5 (A) of Berkeley's Southside Plan seeks to support the attraction and retention of locally owned, small businesses and provide technical assistance through citywide programs for potential small business owners.
- (8) Policy Goal 7 of the West Berkeley Plan is to, "Protect small businesses, particularly arts and crafts businesses, so they can continue to flourish in West Berkeley."
- (9) Policy Strategies 12 and 13 of the University Avenue Strategic Plan broadly support small and local business. Strategy 13(C) outlines the importance of attracting locally-owned businesses.
- (10) The unregulated establishment of Formula Retail uses negatively impacts business establishment opportunities for smaller and medium-size businesses and decreases the diversity and uniqueness of merchandise and services available to residents and visitors, and the diversity of business owners.
- (12) Formula Retail regulations are in place in numerous California cities that value the local character of business districts and support local, diverse and unique retail stores, services and ownership including San Francisco, Sausalito, San Juan Bautista, Pacific Grove, Ojai and Arcata.
- (13) Formula Retail regulations have been in place for more than 15 years in San Francisco; their impacts have been studied and their regulations have been updated and refined over time, providing a carefully crafted and successful model for Berkeley to adapt and follow.
- (14) Formula Retail regulations, based on the San Francisco model, are inherently flexible, allowing different criteria for Formula Retail to be applied in each district, and allowing for

adjustments over time in response to changing neighborhood and district values, goals and needs.

23E.18.020 Applicability

Formula Retail Regulations shall be applicable in all Commercial (C) and Manufacturing (M) Districts, as defined in BMC Title 23(E).

23E.18.030 Definitions

- A. A **Formula Retail** use is a type of retail sales or service activity or establishment that has twenty (20) or more other retail sales or service activities or establishments in operation, or with local land use or permit entitlements already approved, under the same or different ownership, located anywhere in the world, that maintains two or more of the following features in common with such other activities or establishments:
 - 1. A Standardized Array of Merchandise or Services
 - 2. Standardized Uniform Apparel
 - 3. A standardized Facade
 - 4. Standardized Decor and/or Color Scheme
 - 5. Standardized Signage
 - 6. A standardized Trademark
 - 7. A Standardized Servicemark.

- B. **Business District** shall be defined as any Commercial or Manufacturing District, or portion thereof, with business activities or enterprises clustered together, usually at one or more corners or on contiguous, abutting, confronting or adjacent blocks.

For purposes of this Chapter, Business Districts shall be: *[Business Districts to be recommended by staff or Planning Commission as entire Zoning Districts or meaningful sub-areas of large Zoning Districts. Where a Business District is not an entire Zoning District, the borders of such District, and a name, will need to be expressly provided. The following are examples/suggestions]*

- 1. C-1 - South Telegraph (Parker to Oakland Border?)
- 2. C-1 - University Corridor (MLK to Curtis?)
- 3. C-N - Euclid District *[to be delineated]*
- 4. C-N - Hopkins/Monterey District *[to be delineated]*
- 5. C-N - El Dorado District *[to be delineated]*
- 6. C-N - Alcatraz District *[to be delineated]*
- 7. C-N - Dwight/Sacramento *[to be delineated]*
- 8. C-N - MLK/Virginia *[to be delineated]*
- 9. C-N - Gilman *[to be delineated]*
- 10. C-N - Neighborhood *[Etc. - each node to be delineated]*
- 11. C-E - Elmwood District
- 12. C-NS + C-1 - North Shattuck District (Rose to Hearst)
- 13. C-T Telegraph District
- 14. C-SO Solano District

15. C-DMU - Central Downtown District (University to Bancroft?)
16. C-DMU - North Downtown District (North of University Ave.)
17. C-DMU - South Downtown District (South of Bancroft?)
18. C-SA - Lorin District *[to be delineated]*
19. C-SA - South Sacramento (Stuart to Oakland Border?)
20. C-SA - Dwight/Sacramento *[to be delineated]*
21. C-SA - *[Etc. - each Business District to be delineated]*
22. C-W - Fourth Street (C-W West of 6th from Addison to Virginia?)
23. C-W + C-1 - International District (University from 6th to Curtis & San Pablo from Delaware to Dwight?)
24. C-W - South San Pablo (Dwight to Oakland Border + areas West of San Pablo?)
25. C-W - North San Pablo (Delaware to Albany Border + areas West of San Pablo?)
26. *[ETC.]*

- C. **Standardized Array of Merchandise or Services** shall be defined as 50% or more of merchandise from a single distributor or bearing uniform markings or 50% or more of merchandise or services uniform across activities or establishments in the United States.
- D. **Trademark** shall be defined as a word, phrase, name, symbol or design, or a combination of words, phrases, names, symbols, or designs that identifies and distinguishes the source of merchandise from one establishment from those of others.
- E. **Servicemark** shall be defined as a word, phrase, name, symbol, or design, or a combination of words, phrases, names, symbols or designs that identifies and distinguishes a service or array of services from one establishment from those of others.
- F. **Decor** shall be defined as the style of interior finishes and furnishings, which may include but is not limited to wall coverings, carpeting, furniture, layout, color scheme, interior signage, and fixtures.
- G. **Facade** is defined as provided in BMC Section 23F.04.010
- H. **Signage** is defined as provided in BMC Section 20.08.220.
- I. **Uniform Apparel** shall be defined as standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags) and standardized colors of apparel.
- J. **Retail Sales or Service Activity or Retail Sales or Service Establishment**
For the purposes of this Section, a retail sales or service activity or retail sales or service establishment shall include the following uses, whether functioning as a principal, Accessory, Ancillary or Incidental Use.

- Adult-oriented Business
- Alcoholic Beverage Sales
- Alcoholic Beverage Service
- Amusement Device Arcade
- Appliance Store
- Automobile Repair and Service
- Automobile Used Car Establishment
- Bakery
- Bingo Parlor
- Business Support Service
- Cannabis Uses
- Childcare Business or Facility
- Clothing Store
- Commercial Recreation Center
- Dance, Exercise, Martial Arts or Music Studio
- Department Store
- Drive-in Use
- Drugstore
- Dry Cleaning and Laundry Agent
- Entertainment Establishment
- Financial Services, Retail
- Food Products Store
- Food Service establishment
- Gift/Novelty Shop
- Hobby Shop
- Hotel, Tourist
- Personal/household Service
- Retail Products Store
- Service use
- Smoke Shop
- Tobacco Retailers

[These business types are taken from Definitions (+ Tobacco Retailers). There may be additional Business types defined elsewhere in the code to be considered for listing or exclusion]

[NOT included - do not list:

- *Automatic teller machine*
- *Automobile Parts Store*
- *Automobile Rentals*
- *Automobile Sales*
- *Automobile Use Automobile Wrecking Establishment*
- *Chair Massage*
- *Charitable Use*
- *Commercial Use*
- *Community Care Facility*
- *Community and Institutional Use*
- *Firearm/Munitions Business*
- *Gasoline/Automobile Fuel Station*
- *Media Production*
- *Medical Practitioner Office*
- *Mini-Storage Warehouse*
- *Non-Chartered Financial Institution*
- *Nursing Home*
- *Plumbing Shop*
- *Recycling Redemption Center*
- *Seasonal Product Sales*
- *Theater]*

23E.18.040 Business Districts - Formula Retail Prohibited

Formula Retail is prohibited in the following Business Districts:

[list]

[Business Districts where Formula Retail is Prohibited to be recommended through public meetings organized by Economic Development and/or Planning Department in collaboration with Councilmember representatives of Business Districts. Notice for such meetings shall, at a minimum, be the same as required notice to obtain a Use Permit for Formula Retail. Several Business Districts can be considered at one meeting. Recommendations go to Planning Commission(?) and then Council for approval]

23E.18.050 Business Districts - Formula Retail Permitted Without Restrictions

Formula Retail is permitted without restrictions in the following Business Districts:

[list]

[Business Districts where Formula Retail is allowed without restriction to be recommended through public meetings organized by Economic Development and/or Planning Department in collaboration with Councilmember representatives of Business Districts. Notice for such meetings shall, at a minimum, be the same as required notice to obtain a Use Permit for Formula Retail. Several Business Districts can be considered at one meeting. Recommendations go to Planning Commission(?) and then Council for approval]

23E.18.060 Business Districts - Formula Retail Permitted with Use Permit, Neighborhood Notification, Design Review and Findings

Formula Retail or specific types of Formula Retail is permitted with a Use Permit, Neighborhood Notification, Design Review and Findings in the following Business Districts:

[list]

[Business Districts where Formula Retail is allowed with a Use Permit, Neighborhood Notification, Findings and Design Review to be recommended through public meetings organized by Economic Development and/or Planning Department in collaboration with Councilmember representatives of Business Districts. Notice for such meetings shall, at a minimum, be the same as required notice to obtain a Use Permit for Formula Retail. Several Business Districts can be considered at one meeting. Recommendations go to Planning Commission(?) and then Council for approval.]

Formula Retail with a Use Permit may be allowed in a District only for certain Retail Sales or Service Activity or Retail Sales or Service Establishment types (and not for others) and, in addition to the findings required for a Use Permit and findings required for Formula Retail (Section 23E.18.070), may be subject to additional findings unique to a specific District or type of Retail Sales or Service Activity or Retail Sales or Service Establishment (i.e., restaurants, financial services, etc.)]

23E.18.070 Formula Retail Use Permit - Neighborhood Notification - Design Review - Findings

To obtain a Use Permit for a Formula Retail use, in addition to the requirements at Chapter 23B.32, in this Chapter, and elsewhere in the Berkeley Municipal Code, Neighborhood Notification, Design Review and additional findings are required, as provided below:

- A. **Neighborhood Notification.** In addition to the public notice requirements for a Use Permit pursuant to Section 23B.32.020, public notice shall include all businesses and

residents (all mailing addresses) and all owners of properties within the Business District where the Formula Retail use is proposed and within a 500 foot radius of the proposed Formula Retail use.

B. **Design Review.** Facades, Signage and all other features visible from the public right of way shall be subject to Design Review pursuant to BMC Sections 23B.08, 23E.08, and 23E.12 and in accordance with Design Review Guidelines promulgated pursuant to BMC Section 23E.08.040.A.

C. **Findings.** In addition to the Use Permit findings required in BMC 23B.32.040 and any additional findings required by this Chapter or the Berkeley Municipal Code, the Zoning Adjustments Board shall make the following findings with regard to any proposed Formula Retail use:

1. The Formula Retail use at its proposed location conforms with or largely supports the Purposes, as stated in BMC Title 23E, of the Commercial or Manufacturing District in which such use is proposed. In making this finding, all Purposes for the Commercial or Manufacturing District in which the Formula Retail Use is proposed shall be explicitly considered.
2. The Formula Retail use at its proposed location conforms with or largely supports any Plan adopted by the City Council that covers some or all of the Business District in which it is proposed. Such plans include, but are not limited to, the Southside Plan, the South Shattuck Strategic Plan, the University Avenue Strategic Plan, the West Berkeley Plan and the South Berkeley Area Plan and Appendices.
3. The existing concentration of Formula Retail uses is appropriate for the Business District in which the Formal Retail use is proposed, and the addition of the Formula Retail use will not substantially change the character of the Business District, nor contribute to, or create, an over-concentration of Formula Retail within the Business District.
4. The proposed Formula Retail use provides goods or services that are not otherwise available within the Business District or that would complement existing uses.
5. The proposed Formula Retail use is compatible with the existing architectural and aesthetic character of the district.
6. In Business Districts with average vacancy rates of more than [10%? 5%?] over the 3 years preceding the year in which the application for the Formula Retail Use Permit was filed, the proposed Formula Retail Use will bring needed vitality to the Business District.

23E.18.080 Determination of Formula Retail Use

- A. In Business Districts in which Formula Retail uses are prohibited pursuant to Section 23E.18.040 or subject to a Use Permit pursuant to Section 23E.18.060, any application for a [Business License or Zoning Permit] determined by the City to be for a Formula Retail use that does not identify the use as a Formula Retail use is incomplete and cannot be processed until the omission is corrected.
- B. Any [license granted or] entitlement approved that is determined by the City to have been, at the time of application, for a Formula Retail use that did not identify the use as Formula Retail is subject to revocation at any time.
- C. If the City determines that a [license or] entitlement, or an application for the same, is for a Formula Retail use, the applicant or holder of the license or entitlement bears the burden of proving to the City that the proposed or existing use is not a Formula Retail use.

23E.18.090 Change, Enlargement or Intensification of Formula Retail Use

- A. In Business Districts subject to to BMC Section 23E.18.040, a change to another Formula Retail use or enlargement or intensification in use for a nonconforming Formula Retail use is prohibited.
- B. In Business Districts subject to BMC Section 23E.18.060:
 - 1. Enlargement or intensification of existing Formula Retail uses and changes of Formula Retail from one use category to another, including a change from one use to another within the sub-categories of uses set forth in the definitions of Food Products Store, Food Service Establishment, Personal/Household Service and Retail Products Store at BMC Section 23R.04.010, require a new Formula Retail Use Permit.
 - 2. Changes of Formula Retail owner or operator within the same use category do not require a new Use Permit but any changes to the Facade, Signage and other features visible from the public right of way are subject to Design Review, applied and approved administratively by the Zoning Officer [subject to an appropriate fee as set forth in XXX.]

[Concept to Consider from SF Regs - add to .070(C)(3)?: To determine the existing concentration of Formula Business Uses within a Business District, the Planning Department shall calculate the percentage of the total linear street frontage within the Business District that is occupied by Formula Retail and non-Formula Retail businesses. For each property, the Planning Department shall divide the total linear frontage of the lot facing a public-right of way by the number of storefronts, and then calculate the percentage of the total linear frontage for Formula Retail and non-Formula Retail.

Use Tables for each C and M District will need to be amended to specify the conditions under which Formula Retail, if any, is allowed in the District or in Business Districts within the District, and additional District or Business District-specific findings, if any, required]

DRAFT



SAN FRANCISCO
PLANNING
DEPARTMENT

Commission Guide for Formula Retail

DETERMINING LOCATIONAL APPROPRIATENESS AND
PERFORMANCE-BASED DESIGN GUIDELINES

SAN FRANCISCO PLANNING DEPARTMENT | UPDATED: AUGUST 2018





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In addition to the project team, this work was informed by the formula retail stakeholder group and the project consultant, Strategic Economics.

Cover Photograph: GGP Inc.

The purpose of this document is to evaluate the appropriateness of each individual formula retail establishment's use, design, and necessity, to help preserve the character of the City's neighborhoods.



Photos by Matthew Dito



PURPOSE

The Commission Guide to Formula Retail is intended to maintain the character and aesthetic qualities of San Francisco neighborhoods. It is designed to encourage harmony between retailers and the districts they reside in.

This document seeks to promote such harmony in two ways. First, the document establishes the methodology the Department will use in evaluating the appropriateness of the formula retail use in the neighborhood. Second, this document articulates Performance-Based Design Guidelines to ensure that the proposed formula retail use is aesthetically compatible with the neighborhood.

RELEVANT CODE SECTIONS

Section 303.1: Formula Retail Uses

Section 703.4: Conditional Use Authorization for Formula Retail Uses

Section 803.6: Formula Retail Uses in Article 8 Districts

Article 6: Signs

Article 11: Preservation of Buildings and Districts of Architectural, Historical, and Aesthetic Importance in the C-3 Districts

INTRODUCTION

Formula retail can act as a homogenizing force in neighborhoods if its presence overwhelms neighborhood character. Formula retail, by nature, is repetitive. If not properly regulated, this repetition can detract from San Francisco's vibrant neighborhoods by inundating them with familiar brands that lack the uniqueness the City strives to maintain.

San Francisco is a city of surprises. Its diverse and distinct neighborhoods are identified in large part by the character of their commercial areas. This feeling of surprise invites both residents and visitors alike to explore the City.

Urban neighborhood streets should invite walking and bicycling. The City's mix of architecture contributes to a strong sense of neighborhood community within the larger City. Many formula retail concepts are developed and refined in suburban locations. Standard store design that primarily accommodates automobile traffic may not work in dense, transit-oriented cities.

The Performance-Based Design Guidelines can improve pedestrian walkability and encourage more walking in neighborhoods by helping to preserve a safe, aesthetically pleasing area that feels connected from beginning to end. This is achieved by improving pedestrian accessibility and by creating stores with unique visual identities that also don't overpower one another.

The increase of formula retail businesses in the City's neighborhood commercial areas, if not monitored and regulated, will hamper the City's goal of a diverse retail



While any one formula retail establishment may fit well in a neighborhood, overconcentration of formula retail can degrade the character of a street.

Illustration by Raven Keller
for The Bold Italic

base with distinct neighborhood retailing personalities comprised of a mix of businesses.

These standards are intended to lessen the visual impacts that the repetitiveness of formula retail brings by first evaluating whether the formula retail use is either necessary or desirable in the neighborhood. See a discussion of this topic in Part I: Determining Locational Appropriateness. Once the use is deemed appropriate, the next step is to ensure aesthetic compatibility. For more information on this topic, see "Part II: Performance-Based Design Guidelines."

While a factor in the homogenization of neighborhoods, formula retail does provide lower-cost goods and services, and is generally recognized to provide more employment opportunities to minorities and low-income workers. Formula retail is neither good nor bad – and it plays an irrefutable role in the City. To best accentuate the benefits of formula retail, the City should regulate it with care, helping to reduce its standardized features.

San Francisco needs to protect its vibrant small business sector and create a supportive environment for new business innovations. One of the eight Priority Policies of the City's General Plan resolves that "existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhances."

The Planning Department recognizes the benefits formula retail can bring to the City. Where the use would provide a necessary or desirable addition to the neighborhood, staff will work with applicants to improve their aesthetics, including signage, storefront design, transparency, and pedestrian accessibility, to help them successfully integrate into San Francisco's neighborhoods.

I. Determining Locational Appropriateness

For every conditional use authorization the Planning Commission must determine if the proposed use is necessary or desirable for the community and compatible with the neighborhood, per Planning Code Sec. 303(c) (1). Beyond the general consideration of “necessary or desirable,” the Commission reviews five more specific criteria in consideration of conditional use authorization for formula retail. This document establishes the methodology the department will use in assessing these five determining criteria, as required by Planning Code Sec. 303.1.

Determining location appropriateness should be by informed quantitative and qualitative analysis. In general, professional discretion should be used to identify factors not specifically required in this document. For example, if a daily need use is located immediately outside the selected appropriate vicinity, it should still be discussed in the case report. In addition to analyzing the five Planning Code required criteria, professional analysis of locational appropriateness should include the following:

A characterization of the district as a whole, based on the stated intent of the district as well as how the district has evolved since it was created. Describe the scale and massing of buildings and uses. Discuss the dominant design orientation people vs. auto-orientation. Consider if the district can be described in other ways: family oriented, entertainment district, culturally-specific, for example. Determine whether there are capital

improvements or large development projects in the pipeline.

A characterization of the immediate vicinity of the proposed establishment location. A characterization of the immediate vicinity within 300’ of the subject property is a standard distance that would generally be appropriate. For projects that require conditional use authorization for use size, or occupy a tenant space larger than 10,000 square feet, a one-quarter mile vicinity is more appropriate and should be used. The vicinity concentration should include all commercial uses, not just those within the same Zoning District.

A description of the commercial nature of the district.
Are there retail anchors or clusters present or developing?
Are there retail or other trends emerging?

Identification of long term vacancies and/or any commercial use related issues and concerns.

Identification of the unique characteristics of the District and/or neighborhood, where appropriate.

CRITERIA AND METHODOLOGY

The five criteria and methodology for analyzing locational appropriateness should be examined as described below:

Existing concentrations of formula retail uses within general vicinity of the proposed project.

- The concentration of formula retail uses is the percentage (%) of formula retail ground floor commercial uses amongst all ground floor commercial uses within the vicinity.
- Generally, the appropriate “vicinity” when determining a concentration is 300’. However, if the proposed use requires conditional use authorization for use size, or proposes to occupy a tenant space that is equal to or greater than 10,000 square feet, a one-quarter mile vicinity should be used.
- Calculation shall include all parcels that are wholly or partially located within the selected radius that are also zoned commercial or contain commercial uses.
- An evaluation of the linear frontage concentration of formula retail establishments within the selected vicinity shall be done.
- An evaluation of the linear frontage concentration of formula retail establishments within the selected vicinity. Concentration is based on Planning Commission Resolution No. 18843, adopted on April 11, 2013 and summarized below. Staff will calculate the concentration of formula retail linear frontage within the selected vicinity of the subject property. Corner parcels are more heavily weighted when counting linear frontage due to their greater aesthetic impacts.
- The methodology is as follows: for each property, including the subject property, the total linear frontage of the lot facing a public right-of-way is divided by the number of storefronts. Formula retail storefronts and their linear frontage are separated from the non-formula retail establishments and their linear frontage. The final calculations are the percentages (%) of formula retail and non-formula retail frontages (half of a percentage shall be rounded up).
- An evaluation of the number of formula retail uses as a percentage (%) of all commercial uses within the selected vicinity. This calculation will count all ground floor storefronts as a commercial use.

→ The Department does not identify an ideal concentration threshold because it varies significantly by zoning district. This variation is based on pre-existing uses, vacancy rates, massing and use sizes, and neighborhood needs. Comparisons of the formula retail concentration to citywide numbers and to comparable neighborhoods are encouraged.

→ Concentration thresholds may also vary significantly based on proximity to a zoning district more favorable to formula retail, or to a Commercial District that principally permits formula retail.

The availability of other similar uses within the vicinity of the proposed project.

- An evaluation of similar retail uses within the district requires a concentration calculation of retail sales and/or service uses that offer the similar products or services to those being proposed. This concentration shall be based on the number of available uses as a percentage of all commercial uses.
- Using the same selected appropriate vicinity as identified in criterion 1B, an evaluation and accompanying map shall be produced showing the location of similar uses throughout the vicinity. If no similar uses are available within the vicinity or district, the closest offerings may be identified.

The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the district.

- Use the Performance-Based Design Guidelines to ensure compatibility with the signage, storefront design, storefront transparency, and pedestrian accessibility.
- Identify the business’ place in the District (corner, anchor, recessed from street) and whether it is in a protected viewshed in the General Plan.

The existing retail vacancy rates within the district.

- Identify current vacancy rates in district and compared to historic vacancy rates, if this information is available.

→ Identify vacancies within the selected vicinity and discuss the conditions and potential impacts of vacant buildings within the selected vicinity.

The existing mix of Citywide-serving retail uses and daily needs serving retail uses within the appropriate vicinity of the proposed location. Neighborhood Commercial Districts are intended to serve the daily needs of the neighborhood residents. As such, daily needs service retailers are those that provide goods and services that residents want within walking distance of their residence or workplace.

It is important to note that formula retail uses can also be daily needs serving uses; the terms are not mutually exclusive. For example, banks and other financial institutions are subject to formula retail controls; however, having a bank within walking distance is a valuable amenity to a neighborhood.

→ Evaluate the provision of daily needs for the immediate vicinity in relation to the district's defined intent. Some districts are intended to only support residents. Conversely, the district may be intended to meet resident needs and wider shopping or tourist needs.

→ The following uses are considered "Daily Needs" uses:

- Limited Restaurant, as defined by Planning Code Sec. 102
- Specific Other Retail, Sales, and Services, as defined by the following subsections of Planning Code Sec. 102:
 - (a) General Grocery
 - (b) Specialty Grocery
 - (c) Pharmaceutical drugs and personal toiletries
 - (e) Self-service Laundromats and dry cleaning
 - (f) Household goods and services
 - (g) Variety merchandise, pet supply stores, and pet grooming services
 - (l) Books, music, sporting goods, etc.
- Personal services, as defined by Planning Code Sec. 102
- Limited Financial Service, as defined by Planning Code Sec. 102, and/or Financial Service, as defined by Planning Code Sec. 102
- Trade Shops as defined by the following subsections of Planning Code Sec. 102
 - (1) Repair of personal apparel, accessories, household goods, appliances, furniture and similar items, but excluding repair of motor vehicles and structures
 - (6) Tailoring

II. Performance-Based Design Guidelines



FORMULA RETAIL SIGNAGE

This section establishes design guidelines to ensure the aesthetic compatibility of formula retail uses.

Signage creates visual impacts which affect how residents feel about their neighborhood and play a role in the attraction of visitors who are important to the City's economy. Signs serve as markers and create individual identities for businesses that add to the greater identity of a neighborhood and district, hence the need for guidelines to ensure compatibility between businesses and their surroundings.

Formula retail uses can have a homogenizing effect on neighborhood character. This is largely due to standardized signage and branded features that promote recognition. These Performance-Based Design Guidelines seek to minimize the uniform aspects of formula retail signage.

Business signs are generally regulated to ensure an appropriate and equitable degree of commercial communication without contributing to visual clutter.

Photos by Matthew Dito



Scale of sign is inappropriate and extends beyond the storefront entrance.



Sign does not extend out and beyond the width of the storefront opening.

Signage guidelines for formula retail business signs¹ are as follows:

- One sign per tenant shall be permitted. A ground floor establishment with a corner storefront may have one sign on each building façade. Signs should not extend beyond with width of the storefront opening.
- Signage, painted on glass doors, windows, and transoms, where the sign does not exceed 25% of the glazed area, is permitted.
- Sign depth should be reduced by placing the transformer in a remote location and not housed within the sign itself.
- Signs that are located on the inside of a storefront should be setback a minimum of 6" from the display glass.
- Scale of signs and placement on the building should be appropriate to the elements of the building and the character of the neighborhood.

- Upper story establishments with a corner storefront may have one sign adjacent to the building entrance. It should be a small identification sign or plaque, installed adjacent to the ground floor entrances.
- Signs should be constructed of durable high-quality materials that retain their characteristics within a high-traffic area over time. Acrylic and vinyl signs are discouraged.
- Signage is to be scaled and placed primarily for pedestrian legibility, and secondarily for vehicular visibility.
- Materials should be compatible with the craftsmanship, and finishes associated with the District. Glossy or highly reflective surfaces will not be approved.
- Signs should be attached in a manner that avoids damaging or obscuring any of the character-defining features associated with the subject building. Signs should be attached in a manner that allows for their removal without adversely impacting the exterior of the building, ideally pin-mounted.

¹ A business sign is defined as a sign which directs attention to a business, commodity, service, industry, or other activity which is sold, offered, or conducted, other than incidentally, on the premises upon which such sign is located, or to which it is affixed.

Photos by Matthew Dito



NOT RECOMMENDED

There is an excessive number of wall signs attached to the building facade, and the windows are covered, preventing visibility.



NOT RECOMMENDED

Sign is directly lit with visible lighting conduits.



NOT RECOMMENDED

Scale, placement, and design of sign are inappropriate to the building and its surroundings.



RECOMMENDED

A corner storefront with one sign on each building facade, as permitted.



RECOMMENDED

Sign is indirectly lit with a reduced profile due to a light emitting diode (LED) method of illumination.



RECOMMENDED

Sign is attached above the entrance bay, and does not detract from the buildings aesthetic qualities.

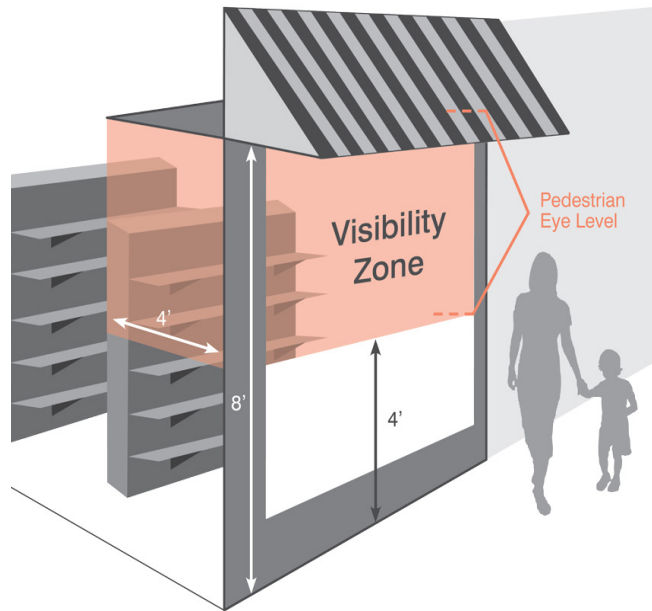
- Signs should be externally illuminated, or appear to be indirectly illuminated, such as by installing an external fixture to illuminate the sign or by using a reverse channel halo-lit means of illumination.
- Signs should have an opaque background that does not transmit light and text.
- Signs should be minimized in profile or depth, for example, by using a light emitting diode method of illumination.

- Sign legibility shall be of minimum appropriate intensity to be visible while not being visually dominating.
- Signage lights should be dimmed or off when business is closed.
- Businesses should not use exterior digital or LED screens to amplify branding beyond the signage limits.

FORMULA RETAIL TRANSPARENCY

A transparent storefront welcomes customers inside with products and services on display, discourages crime with more “eyes on the street”, reduces energy consumption by allowing natural light into stores, and enhances the curb appeal and value of the store, as well as the entire neighborhood. As mentioned earlier, successful city living depends on surprise to maintain interest. Even if the formula retailer is familiar, a view into the store may spur interest in the people and products inside.

The City strives to ensure that tenant spaces remain transparent to the exterior, contribute to the activity of the public realm and do not devolve into de facto sign boards for tenants.



Visibility Requirements

To ensure visibility into active spaces, any fenestration provided at eye level must have visibility beyond a window display and into the store.

The following definitions apply:

- **Pedestrian Eye Level:** the space between 4-feet and 8-feet in height above the adjacent sidewalk level, following the slope if applicable.
- **Visibility to the Inside of the Building:** the area inside the building within 4-feet of the window surface at pedestrian eye level must be 75 percent (%) open to perpendicular view.

Therefore, any fenestration of frontages with active uses must have visibility to the inside of the building with at least 75 percent (%) open to perpendicular view with a 4-foot by 4-foot “visibility zone” at pedestrian eye level. In addition, 60 percent (%) of all street frontages must be transparent windows, while any railings or grillwork placed in front of or behind storefront windows must be at least 75 percent (%) transparent at a perpendicular view.

To ensure visibility, business signs may not exceed one-third the area of the window in which the sign is located. The Department will work with applicants to improve visibility wherever possible.

The Performance-Based Design Guidelines require formula retail applicants to work with staff to determine what transparency improvements can be made. Changes required may include converting windows to transparent glazing, relocating shelving and displays away from windows, or removing security grilles and other window coverings.

Photos by Matthew Dito



NOT RECOMMENDED

Views through the frontage fenestration are obstructed by advertising signs and business identifiers.



NOT RECOMMENDED

The 4-foot by 4-foot visibility zone inside the establishment is obstructed by excessive signage.



NOT RECOMMENDED

The security grille does not have at least 75% transparency at a perpendicular view.



RECOMMENDED

The space between 4 feet and 8 feet above the sidewalk has at least 75% of its frontage fenestrations open to perpendicular view.



RECOMMENDED

Limited window signage maximizes visibility inside the store.



RECOMMENDED

The security grille allows for visibility of at least 75% at a perpendicular view.

What This Means For Formula Retail Uses

1. Windows that have been covered over with boards, film, or paint must be restored to transparency.
2. Security gates or grillwork on the inside or outside of the window glass must be primarily transparent (at least 75 percent (%) open to perpendicular view).
3. Shelving, display cases, appliances, and other items placed within four feet of the window glass must be no taller than four feet or be primarily transparent (at least 75 percent [%] open to perpendicular view).
4. All exterior signs must have a sign permit or must be removed.
5. Business signs affixed to the window (painted or adhered to the glass) can be no larger than one-third the size of the window on which they are placed.

FORMULA RETAIL STOREFRONT DESIGN

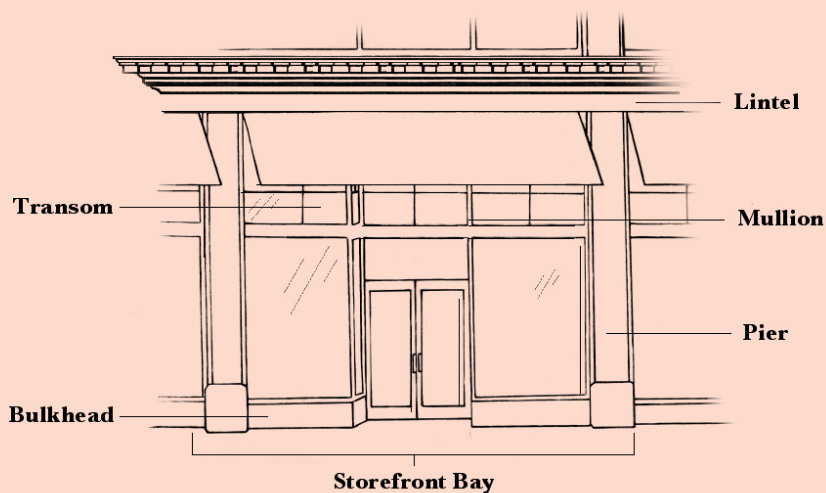
Storefront design can be used to extend branding beyond the dimensions of signage. To maintain emphasis on architecture and to prevent formula retail from overwhelming neighborhood character, it's important to prevent facades from becoming defacto branding opportunities.

Historic qualities present in a storefront should be preserved and maintained, as well as integrated into additions or modifications made to the storefront. The most successful storefronts combine contemporary design with sensitivity to the character defining storefront components.



Storefront Components

The components of Performance-Based Design Guidelines for Storefront Design are: facades and street walls, corner lots, storefront bays, entrances, bulkheads, and display windows.



TYPICAL FEATURES INCLUDE:

Bulkhead: The low paneled base of a storefront bay that supports the glazing and elevates merchandise for pedestrian viewing.

Façade Materials: Original exterior cladding, typically brick, wood or stone provide a sense of permanence, scale and texture and often convey the work of skilled craftsmen.

Lintel: The horizontal structural element that spans above the storefront bays to support the weight of the upper façade.

Mullion: The vertical element that separates window units or storefront glazing; typically not a structural support for the building.

Pier: The vertical structural or decorative elements, also known as a column, which supports and/or frames the glazing.

Storefront Bay: Defined by the height of the lintel and separated by piers, a storefront bay is composed of bulkhead, glazing, transom, and entry.

Transom: The small, operable or inoperable framed windows above the glazing and below the lintel that filter light into the ground floor space; sometimes sheltered by awnings.

Photos by Matthew Dito



Design, including colors, finish, and texture, is inconsistent with the surrounding buildings.



Storefront design is consistent with surrounding buildings, and the setback creates a continuous street wall and edge.

Façades and Street Walls

The façade is the exterior wall of the building, or frontage, and should utilize traditional building materials such as terra cotta, brick, stone, and scored stucco. The color should be limited to different tones of one color, and said color should be similar in profile to the surrounding buildings. Buildings should have a finished texture that is smooth and painted with a satin or light finish. Color washing an entire storefront to extend branding detracts from the character of a neighborhood and will not be permitted.

The design should remain consistent with surrounding buildings in the neighborhood. As such, the setback should be as such that it creates a consistent, continuous street wall and edge.

Corner Lots

Many buildings on corner lots exhibit special features that emphasize the corner and add accent to both intersecting streets, providing visual interest to pedestrians. Corner entrances, storefront windows, and displays that extend along both street façades emphasize corner lots are encouraged.

Where entrances are not located at the corner, storefront windows should turn the corner, in addition to windows on each side of the building.

Storefront Bays

Appropriate alignment and proportions of the storefront bay are critical in creating a unified appearance within the district.

Windows should be consistent in height and design with storefront doors to create a cohesive appearance, however, slight variations in alignment can add visual interest. Piers and lintels should be treated and designed as a single component. The lintel establishes the top of the storefront bay, visually separating it from upper floors. Proper proportions must be maintained between windows and the lintel. Elements such as signs and awnings that obscure the spacing of the bays or other elements that define those bays should be avoided. Colors should be similar in profile to the surrounding buildings, and limited to different tones of one color.

Entrances

Typically, entrances are recessed by about two to six feet from the sidewalk, allowing for protection from the rain, providing additional display frontage, and creating a rhythm of defined commercial spaces. Together, these features can establish a sense of scale and identify business entrances. In San Francisco, entrances for people should be emphasized and entrances for cars should be minimized.

A service door may also exist for access to building systems.



Colorwashing a building facade in branded color serves as oversized signage and is not permitted.

Bulkhead

The bulkhead is the one to two foot high based of the building, upon which the storefront display window is placed. Traditionally, bulkheads are made of painted wood, decorative metal, small ceramic tiles, or masonry. Replacements should match or be compatible with original materials. Bulkheads should be consistent with surrounding buildings in the neighborhood, and are typically between 18 inches and 24 inches.



Transparent display with simple, effective signage on the bulkhead.

Storefront Displays

Storefront display windows typically consist of large panes of plate glass set in metal or wood frames, with the primary purpose of allowing passerby to see goods or services available inside. Individual panes of a window are separated by mullions, which should be as narrow and as limited in number as possible. This maximizes visibility into interior activity and merchandising.



While the establishment utilizes the corner lot with its entrance, the facade and bulkhead are incompatible with the surrounding buildings.

Photos by Matthew Dito

PEDESTRIAN ACCESSIBILITY

Ensuring that businesses are easily accessible creates a more inviting environment in commercial neighborhoods. For smaller formula retail establishments, pedestrian accessibility is usually not a problem. Larger formula retail establishments, however, tend to limit and control entrances. A suburban design may cater to those who arrive by car. In order to preserve the City's walkable character, formula retail in particular must be designed for pedestrians. Entrances that are distinguishable from the façade of a building invite and allow pedestrian access. Entrances should be located in a manner that keeps with the rhythm established by surrounding buildings. This consistency creates a familiarity that draws the attention of pedestrians.

Requirements for pedestrian accessibility are as follows:

- All businesses must have an ADA compliant entrance
- Corner lot locations should have at least an entrance on the corner, or one on each street
- Improve the pedestrian environment with clearly visible, easy, safe routes to business entries, including through parking lots and to the public sidewalk and transit stops.
- Provide pedestrian access onto the site from the main street on which the business is located.
- All existing street-facing doors, with the exception of emergency and service entrances, shall remain unlocked and open to the public during regular business hours.



The business entrance is not distinguishable from the corner lot window, and is located in a manner that does not utilize or promote pedestrian access to the building.



Business entrances are distinguishable from the building facade with a consistent rhythm that creates a familiarity to draw attention of pedestrians. Entrances are also visually compatible with the entrances to upper residences.

Photos by Matthew Dito

LIMITED FINANCIAL SERVICES

Limited Financial Services are defined in Planning Code Sections 102 as a retail use which provides banking services, when not occupying more than 15 feet of linear frontage or 200 square feet of gross floor area. Automated teller machines (ATM), if installed within such a facility or on an exterior wall as a walk-up facility, are included in this category. A Conditional Use authorization is required for all Limited Financial Services that are also a formula retail use, with the exception of single automated teller machines located within another use that are not visible from the street [Sec. 303.1(b)(13)].

When placing an ATM, the feature should be integrated into the overall composition of the storefront, so as to not detract from the architecture or the quality of the pedestrian experience.

A single ATM at a street façade may be permitted without conditional use authorization if the machine meets the Performance-Based Design Guidelines in this document. A single automated teller machine may not be permitted at the street front if it compromises the storefront's ability to meet other Performance-Based Design Guidelines, including visibility and transparency goals.



This illustration represents the design guidelines for ATMs.

General guidelines for ATMs are as follows:

- Minimize lighting elements and brightness intensity.
- Areas using materials that need to be lit, or backlit, should be minimized.
- ATMs should be proportionate to the storefront or building facade.
- Framing elements should be used, as appropriate, to integrate ATMs into the facade composition.
- Architectural quality should be maximized.

Photos by Matthew Dito



This requires a conditional use permit because there is more than one ATM at the street front.



Colorwashing a building facade in branded color serves as oversized signage and is not permitted.



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PLANNING
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No appointment is necessary.*

San Francisco Planning Code

SEC. 303.1. FORMULA RETAIL USES.**New Ordinance Notice**

Publisher's Note: This section has been **AMENDED** by new legislation (Ord. [205-19](#), approved 9/11/2019, effective 10/12/2019). The text of the amendment will be incorporated under the new section number when the amending legislation is effective.

(a) Findings.

(1) San Francisco is a city of diverse and distinct neighborhoods identified in large part by the character of their commercial areas.

(2) One of the eight Priority Policies of the City's General Plan resolves that "existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced."

(3) Retail uses are the land uses most critical to the success of the City's commercial districts.

(4) Formula Retail businesses are increasing in number in San Francisco, as they are in cities and towns across the country.

(5) San Francisco is one of a very few major urban centers in the State in which housing, shops, work places, schools, parks and civic facilities intimately co-exist to create strong identifiable neighborhoods. The neighborhood streets invite walking and bicycling and the City's mix of architecture contributes to a strong sense of neighborhood community within the larger City community.

(6) Notwithstanding the marketability of a retailer's goods or services or the visual attractiveness of the storefront, the standardized architecture, color schemes, decor and signage of many Formula Retail businesses can detract from the distinctive character and aesthetics of certain Neighborhood Commercial Districts.

(7) The increase of Formula Retail businesses in the City's neighborhood commercial areas, if not monitored and regulated, will hamper the City's goal of a diverse retail base with distinct neighborhood retailing personalities comprised of a mix of businesses. Specifically, the unregulated and unmonitored establishment of additional Formula Retail uses may unduly limit or eliminate business establishment opportunities for smaller or medium-sized businesses, many of which tend to be non-traditional or unique, and unduly skew the mix of businesses towards formula retailers in lieu of unique or start-up retailers, thereby decreasing the diversity of merchandise available to residents and visitors and the diversity of purveyors of merchandise.

(8) If, in the future, neighborhoods determine that the needs of their Neighborhood Commercial Districts are better served by eliminating the notice requirements for proposed Formula Retail uses, by converting Formula Retail uses into conditional uses in their district, or by prohibiting Formula Retail uses in their district, they can propose legislation to do so.

(9) Neighborhood Commercial Districts are intended to preserve the unique qualities of a district while also serving the daily needs of residents living in the immediate neighborhood; however, community members have reported loss of daily needs uses due to inundation of formula retailers that target larger citywide or regional audiences. The City strives to ensure that goods and services that residents require for

daily living are available within walking distance and at an affordable price. Establishments that serve daily needs and Formula Retail establishments are neither mutually exclusive nor completely overlapping.

(10) The San Francisco retail brokers' study of 28 Neighborhood Commercial Districts conducted in 2014 found that the healthiest and most viable retail environments offer a mix of retailers who vary in size and offerings; including a mix of conventional and cutting edge retailers as well as established players and newcomers.

(11) Formula retailers are establishments with multiple locations and standardized features or a recognizable appearance. Recognition is dependent upon the repetition of the same characteristics of one store in multiple locations. The sameness of Formula Retail outlets, while providing clear branding for consumers, counters the general direction of certain land use controls and General Plan Policies which value unique community character and therefore need controls, in certain areas, to maintain neighborhood individuality.

(12) The homogenizing effect of Formula Retail, based on its reliance on standardized branding, is greater if the size of the Formula Retail use, in number of locations or size of use or branded elements, is larger. The increased level of homogeneity distracts from San Francisco's unique neighborhoods, which thrive on a high level of surprise and interest maintained by a balanced mix of uses and services, both independent and standardized.

(13) Due to the distinct impact that Formula Retail uses have on a neighborhood, these uses are evaluated for concentration as well as compatibility within a neighborhood. As neighborhoods naturally evolve over time, changes and intensifications of Formula Retail uses should also be re-evaluated for concentration and compatibility within a neighborhood.

(14) According to an average of ten studies done by the firm Civic Economics and published by the American Independent Business Alliance in October of 2012, spending by independent retailers generated 3.7 times more direct local spending than that of Formula Retail chains.

(15) Money earned by independent businesses is more likely to circulate within the local neighborhood and City economy than the money earned by Formula Retail businesses which often have corporate offices and vendors located outside of San Francisco.

(16) According to a 2014 study by the San Francisco Office of Economic Analysis (OEA) report "Expanding Formula Retail Controls: Economic Impact Report" the uniqueness of San Francisco's neighborhoods is based on a combination of unique visual characteristics and a sense of community fostered by small merchants and resident relationships. A Formula Retail establishment is determined by its recognizable look which is repeated at every location, therefore, detracting from the unique community character.

(17) The OEA Report found that in general, chain stores charge lower prices and provide affordable goods, but may spend less within the local economy, and can be unpopular with some residents because they can be seen to diminish the character of the neighborhood. At the same time, this OEA Report found that excessively limiting chain stores can reduce commercial rents and raise vacancy rates.

(18) Through a 2014 study commissioned by the Planning Department, titled "San Francisco Formula Retail Economic Analysis," staff and consultants conducted one-on-one interviews and worked with small groups including independent retailers, small business owners, merchants associations, formula retailers, commercial brokers, neighborhood representatives and other stakeholders. The Study found that landlords often perceive a benefit in renting to large established chains, which landlords believe typically have better credit and can sign longer leases than local, independent retailers, lowering the risk that the tenant will be unable to pay its rent. The existing land use controls for Formula Retail may create a disincentive for formula retailers to locate where the formula retail controls apply.

(b) **Definition.** A Formula Retail use is hereby defined as a type of retail sales or service activity or retail sales or service establishment that has eleven or more other retail sales establishments in operation, or

with local land use or permit entitlements already approved, located anywhere in the world. In addition to the eleven establishments either in operation or with local land use or permit entitlements approved for operation, the business maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, uniform apparel, standardized signage, a trademark or a servicemark.

(1) Standardized array of merchandise shall be defined as 50% or more of in-stock merchandise from a single distributor bearing uniform markings.

(2) Trademark shall be defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.

(3) Servicemark shall be defined as word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

(4) Decor shall be defined as the style of interior furnishings, which may include but is not limited to, style of furniture, wall coverings or permanent fixtures.

(5) Color Scheme shall be defined as selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.

(6) Facade shall be defined as the face or front of a building, including awnings, looking onto a street or an open space.

(7) Uniform Apparel shall be defined as standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags) as well as standardized colors of clothing.

(8) Signage shall be defined as business sign pursuant to Section 602.3 of the Planning Code.

(c) **"Retail Sales or Service Activity or Retail Sales or Service Establishment."** For the purposes of this Section 303.1, a retail sales or service activity or retail sales or service establishment shall include the following uses whether functioning as a Principal or Accessory Use, as defined in Articles 1, 2, 7, and 8 of this Code:

- Bar § 102;
- Drive-up Facility §§ 102, 890.30;
- Eating and Drinking Use § 102;
- Liquor Store § 102;
- Sales and Service, Other Retail § 890.102 and Retail Sales and Service, General;
- Restaurant § 102;
- Limited-Restaurant § 102;
- Sales and Service, Retail §§ 102, 890.104;
- Service, Financial §§ 102, 890.110;
- Movie Theater §§ 102, 890.64;
- Amusement Game Arcade §§ 102, 890.4;
- Service, Limited Financial, except single automated teller machines at the street front that meet the Commission's adopted Performance-Based Design Guidelines and automated teller machines located

within another use that are not visible from the street § 102;

- Service, Fringe Financial §§ 102, 890.113;
- Tobacco Paraphernalia Establishment §§ 102, 890.123;
- Massage Establishment §§ 102, 890.60;
- Service, Personal §§ 102, 890.116
- Service, Instructional § 102 ;
- Gym; § 102
- General Grocery § 102;
- Specialty Grocery § 102;
- Pharmacy § 102;
- Jewelry Store §§ 102, 890.51;
- Tourist Oriented Gift Store §§ 102, 890.39;
- Non-Auto Vehicle Sales or Rental §§ 102, 890.69; and
- Cannabis Retail §§ 102, 890.125.

(d) **Conditional Use Criteria.** With regard to a Conditional Use authorization application for a Formula Retail use, the Planning Commission shall consider, in addition to the criteria set forth in Section 303, the criteria below and the Performance-Based Design Guidelines adopted by the Planning Commission to implement the criteria below.

(1) The existing concentrations of Formula Retail uses within the district and within the vicinity of the proposed project. To determine the existing concentration, the Planning Commission shall consider the percentage of the total linear street frontage within a 300-foot radius or a quarter of a mile radius, at the Planning Department's discretion, from the subject property that is occupied by Formula Retail and non-Formula Retail businesses. The Department's review shall include all parcels that are wholly or partially located within the 300-foot radius or quarter-mile radius. If the subject property is a corner parcel, the 300-foot radius or quarter mile radius shall include all corner parcels at the subject intersection. For each property, the Planning Department shall divide the total linear frontage of the lot facing a public-right of way by the number of storefronts, and then calculate the percentage of the total linear frontage for Formula Retail and non-Formula Retail. Half percentage points shall be rounded up.

For the Upper Market Street Neighborhood Commercial District only, if the application would bring the formula retail concentration within a 300-foot radius to a concentration of 20% or above, Planning Department staff shall recommend disapproval of the application to the Planning Commission. If the application would not bring the formula retail concentration within the 300-foot radius to a concentration of 20% or above, Planning Department staff shall assess the application according to all the other criteria listed in this Subsection 303.1(d), and recommend approval or disapproval to the Planning Commission, according to its discretion and professional judgment. In either case, the Planning Commission may approve or reject the application, considering all the criteria listed in this Subsection 303.1(d).

(2) The availability of other similar retail uses within the district and within the vicinity of the proposed project.

(3) The compatibility of the proposed Formula Retail use with the existing architectural and aesthetic character of the district.

(4) The existing retail vacancy rates within the district and within the vicinity of the proposed project.

(5) The existing mix of Citywide-serving retail uses and daily needs-serving retail uses within the district and within the vicinity of the proposed project.

(6) Additional relevant data and analysis set forth in the Performance-Based Design Guidelines adopted by the Planning Commission.

(7) For Formula Retail uses of 20,000 gross square feet or more, except for General or Specialty Grocery stores as defined in Articles 2, 7 and 8 of this Code, the contents of an economic impact study prepared pursuant to Section 303(i) of this Code.

(8) Notwithstanding anything to the contrary contained in Planning Code Article 6 limiting the Planning Department's and Planning Commission's discretion to review signs, the Planning Department and Planning Commission may review and exercise discretion to require changes in the time, place and manner of the proposed signage for the proposed Formula Retail use, applying the Performance-Based Design Guidelines.

(e) **Conditional Use Authorization Required.** A Conditional Use Authorization shall be required for a Formula Retail use in the following zoning districts unless explicitly exempted:

- (1) All Neighborhood Commercial Districts in Article 7;
- (2) All Mixed Use-General Districts in Section 840;
- (3) All Urban Mixed Use Districts in Section 843;
- (4) All Residential-Commercial Districts as defined in Section 209.3;
- (5) Chinatown Community Business District as defined in Section 810;
- (6) Chinatown Residential/Neighborhood Commercial District as defined in 812;
- (7) Western SoMa Planning Area Special Use District as defined in 823;
- (8) Limited Commercial Uses in RH, RM, RTO, and RED Districts, as permitted by Sections 186, 186.3, and 231;
- (9) Third Street Formula Retail Restricted Use District, as defined in Section 786;
- (10) The C-3-G District with frontage on Market Street, between 6th Street and the intersection of Market Street, 12th Street and Franklin Street; and
- (13)¹ The Central SoMa Special Use District as defined in Section 848, except for those uses not permitted pursuant to subsection (f) below.

(f) **Formula Retail Uses Not Permitted.** Formula Retail uses are not permitted in the following zoning districts:

- (1) Hayes-Gough Neighborhood Commercial Transit District;
- (2) North Beach Neighborhood Commercial District;
- (3) Chinatown Visitor Retail District;
- (4) Upper Fillmore District does not permit Formula Retail uses that are also Restaurant or Limited-Restaurant uses;
- (5) Broadway Neighborhood Commercial District does not permit Formula Retail uses that are also Restaurant or Limited-Restaurant uses;
- (6) Mission Street Formula Retail Restaurant Subdistrict does not permit Formula Retail uses that are also Restaurant or Limited-Restaurant uses;

(7) Geary Boulevard Formula Retail Pet Supply Store and Formula Retail Eating and Drinking Subdistrict does not permit Formula Retail uses that are also either a Retail Pet Supply Store or an Eating and Drinking use as set forth in Section 781.4;

(8) Taraval Street Restaurant Subdistrict does not permit Formula Retail uses that are also Restaurant or Limited-Restaurant uses;

(9) Chinatown Mixed Use Districts do not permit Formula Retail uses that are also Restaurant or Limited-Restaurant uses; and

(10) Central SoMa Special Use District does not permit Formula Retail Uses that are also Bar, Restaurant, or Limited Restaurant Uses as defined in Section 102.

(g) **Neighborhood Notification and Design Review.** Any application for a Formula Retail use as defined in this section shall be subject to the notification and review procedures of Sections 311 or 333, as applicable, of this Code.

(h) **Determination of Formula Retail Use.** In those areas in which Formula Retail uses are prohibited or subject to the provisions of Subsections 303.1(d) or (e), any application for an entitlement or determination determined by the City to be for a Formula Retail use that does not identify the use as a Formula Retail use is incomplete and cannot be processed until the omission is corrected. Any entitlement approved or determination made that is determined by the City to have been, at the time of application, for a Formula Retail use that did not identify the use as a Formula Retail use is subject to revocation at any time. If the City determines that an entitlement or determination, or an application for the same, is for a Formula Retail use, the applicant or holder of the entitlement bears the burden of proving to the City that the proposed or existing use is not a Formula Retail use.

(i) **Performance-Based Design Guidelines.** All new, enlarged, intensified or non-intensified Formula Retail uses or establishments must comply with the Commission's adopted Performance-Based Design Guidelines for Formula Retail, as directed by the Planning Department and Planning Commission.

(j) **Change of Use.** Changes of Formula Retail establishments are generally described below, except that a change of a Formula Retail use that is also a nonconforming use pursuant to Section 182 is prohibited. In all other instances, changes of Formula Retail establishments from one use category to another, including a change from one use to another within the sub-categories of uses set forth in the definition of Retail Sales and Services in Section 102 and in Section 890.102 for Mixed Use Districts, require a new Conditional Use authorization as a new Formula Retail use. Changes of Formula Retail owner or operator within the same use category that are determined to be an enlargement or intensification of use pursuant to subsection 178(c) are required to obtain Conditional Use authorization and shall meet the Commission's adopted Performance-Based Design Guidelines for Formula Retail. In cases determined not to be an enlargement or intensification of use, the Performance-Based Design Guidelines for Formula Retail may be applied and approved administratively by the Planning Department, unless the applicant requests a Conditional Use hearing at the Planning Commission. The applicant shall also pay an administrative fee to compensate Planning Department and City staff for its time reviewing the project under this subsection (j), as set forth in Section 360 of this Code.

(k) **Accessory Uses.** Conditional Use authorization shall be required for all Accessory Uses within those use categories subject to Formula Retail controls as defined in this Section 303.1, except for the following:

(1) Single automated teller machines falling within the definition of Limited Financial Services that are located at the street front that meet the Commission's adopted Performance-Based Design Guidelines for automated teller machines;

(2) Automated teller machines located within another use that are not visible from the street;

(3) Vending machines that do not exceed 15 feet of street frontage or occupy more than 200 square feet of area facing a public right of way.

(Added by Ord. [235-14](#), File No. 140844, App. 11/26/2014, Eff. 12/26/2014; amended by Ord. [22-15](#), File No. 141253, App. 2/20/2015, Eff. 3/22/2015; Ord. [129-17](#), File No. 170203, App. 6/30/2017, Eff. 7/30/2017; Ord. [229-17](#), File No. 171041, App. 12/6/2017, Eff. 1/5/2018; Ord. [202-18](#), File No. 180557, App. 8/10/2018, Eff. 9/10/2018; Ord. [179-18](#), File No. 180423, App. 7/27/2018, Eff. 8/27/2018, Oper. 1/1/2019; Ord. [296-18](#), File No. 180184, App. 12/12/2018, Eff. 1/12/2019)

AMENDMENT HISTORY

Divisions (c)(18) and (19) added; Ord. [22-15](#), Eff. 3/22/2015. Division (a)(9) amended; former divisions (c)(1)-(19) merged into division (c) and current division (c) amended; divisions (d) and (e)(4) amended; former divisions (e)(5) and (e)(9) deleted; former divisions (e)(6)-(8) and (e)(10)-(12) redesignated as (e)(5)-(10) and amended; divisions (g), (j), and (k) amended; Ord. [129-17](#), Eff. 7/30/2017. Division (c) amended; Ord. [229-17](#), Eff. 1/5/2018. Divisions (c), (f)(4)-(6), (f)(8)-(9), and (j) amended; Ord. [202-18](#), Eff. 9/10/2018. Division (g) amended; Ord. [179-18](#), Oper. 1/1/2019. Divisions (e)(13)¹ and (f)(10) added; Ord. [296-18](#), Eff. 1/12/2019.

CODIFICATION NOTE

1. So in Ord. 296-18.

[Print](#)

San Francisco Planning Code

SEC. 703.4. CONDITIONAL USE AUTHORIZATION FOR FORMULA RETAIL USES.

(a) This Section 703.4 shall be known as the Small Business Protection Act.

(b) Except for those zoning districts where Formula Retail uses are not permitted as set forth in Section 303.1(f), establishment of a Formula Retail use, as defined in Section 303.1, in any Neighborhood Commercial District, as identified in Article 7, shall require Conditional Use authorization pursuant to the criteria of Sections 303(c) and 303.1 and be subject to the terms of Sections 303.1(g) and (h).

(c) Nothing herein shall preclude the Board of Supervisors from adopting more restrictive provisions for Conditional Use authorization of Formula Retail use or prohibiting Formula Retail use in any Neighborhood Commercial District.

(Added by Proposition G, 11/7/2006; amended by Ord. [235-14](#), File No. 140844, App. 11/26/2014, Eff. 12/26/2014; Ord. [129-17](#), File No. 170203, App. 6/30/2017, Eff. 7/30/2017)

AMENDMENT HISTORY

Division (b) amended; Ord. [235-14](#), Eff. 12/26/2014. Section amended; Ord. [129-17](#), Eff. 7/30/2017.

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San Francisco Planning Code

SEC. 803.6. FORMULA RETAIL USES IN ARTICLE 8 DISTRICTS.

The Formula Retail controls set forth in Section 303.1 of this Code apply to Article 8 Districts.

(Added by Ord. 204-06, File No. 060482, App. 7/25/2006; amended by Ord. 269-08, File No. 081234, App. 11/25/2008; Ord. [298-08](#), File No. 081153, App. 12/19/2008; Ord. [140-11](#), File No. 110482, App. 7/5/2011, Eff. 8/4/2011; Ord. [75-12](#), File No. 120084, App. 4/23/2012, Eff. 5/23/2012; Ord. [106-12](#), File No. 120047, App. 6/22/2012, Eff. 7/22/2012; Ord. [42-13](#), File No. 130002, App. 3/28/2013, Eff. 4/27/2013; Ord. [56-13](#), File No. 130062, App. 3/28/2013, Eff. 4/27/2013; Ord. [235-14](#), File No. 140844, App. 11/26/2014, Eff. 12/26/2014)

AMENDMENT HISTORY

Section amended in its entirety; Ord. [235-14](#), Eff. 12/26/2014.



The Impact of Chain Stores on Community

BY STACY MITCHELL | DATE: 18 APR 2000 |    

A speech by ILSR's Stacy Mitchell delivered at the annual conference of the American Planning Association, April 2000

Chain store proliferation has weakened local economies, eroded community character, and impoverished civic and cultural life. Moreover, consolidation has reduced competition and may harm consumers over the long-term. Contrary to conventional wisdom, the decline of independent businesses is not inevitable, nor is it simply the result of free market forces. Rather, public policy has played a major role, particularly through tax incentives and other development subsidies that give national chains a significant advantage. Meanwhile, a growing number of communities are taking a different approach. They are adopting land use rules that deter chain stores and actively encourage local ownership.

Let me begin by reading something that Jane Jacobs wrote in her book, *The Death and Life of Great American Cities*, about the relationship between locally owned businesses and community. Community is one of those words so overused that we rarely pause to consider its meaning. For Jacobs, what constitutes community is not any one particular thing, but rather the many small interactions that occur in our everyday lives.

"It grows," she writes, "out of people stopping by the bar for a beer, getting advice from the grocer and giving advice to the newsstand man, comparing opinions with other customers at the bakery and nodding hello to the two boys drinking pop on the stoop . . . hearing about a job from the hardware man and borrowing a dollar from the druggist . . ."

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“Most of it is ostensibly utterly trivial, but the sum is not trivial at all. The sum of such casual, public contact at the local level. . . most of it fortuitous, most of it associated with errands . . . is a feeling for the public identity of people, a web of public respect and trust, and a resource in time of personal or neighborhood need. The absence of this trust is a disaster to a city street.” ¹

What Jacobs describes here could be an urban neighborhood or a small town. Its defining feature—and indeed the very foundation of this close-knit community—is a vibrant local retail economy. It is a place of small stores and sidewalks; a place where public and private space overlaps; and a place where we buy goods and services from businesses owned by our neighbors.

Such places are increasingly rare. Small-scale, pedestrian streets are giving way to massive, impersonal shopping centers. Street life has suffered, as our daily errands revolve increasingly around stores accessible only by car. Locally owned businesses are disappearing, displaced by national chains that have limited ties and no long-term commitment to the community.

The loss of locally owned stores and the pace of retail consolidation is staggering. 11,000 independent pharmacies have closed since 1990. Independent bookstores have fallen from 58 percent of book sales in 1972 to just 17 percent today. Local hardware dealers are on the decline, while two companies have captured 30 percent of the market. Blockbuster rents one out of three videos nationwide. Five firms control one-third of the grocery market, up from 19 percent just five years ago. A single firm, Wal-Mart, now accounts for 7 percent of all consumer spending. ²

If the current trends continue, independent retailers might soon be a thing of the past. But, in the midst of this unprecedented expansion by national retail corporations, another trend is underway: a growing number of communities are rejecting chain stores.

Last summer, residents of Ashland, Virginia mounted a spirited campaign to block a proposed Wal-Mart. In October, the Planning Commission voted unanimously to reject the store. In Chelsea, Michigan, residents organized a picnic to protest plans for a Rite Aid drugstore. The event drew a crowd of 1100 people. Rite Aid quickly backed down. Similar events are occurring across the country.

Indeed, over the past two years, dozens, or perhaps hundreds, of neighborhood groups have sprung up to protect their homegrown businesses. In Lake Placid, New York, a group known as the Residents for Responsible Growth is working with neighboring towns to form a regional response to chain store expansion. In Flagstaff, Arizona, it was the arrival of a Barnes & Noble and a Home Depot that prompted residents to form the Friends of Flagstaff’s Future. In Northfield, Minnesota, the Citizens for Responsible Development is working to defend the town’s historic Main Street and local shops.

CONSUMERS

The debate over chain stores is often characterized as a struggle between our hearts and wallets. We may mourn the loss of the corner drugstore, a fixture in the neighborhood for three generations, or the local independent bookstore, but ultimately we believe that, as consumers, we are better off. We tend to take as self-evident the chain stores’ claims that they bring us lower prices and wider selection.

Over the long-term, however, consumers are best served when there are numerous competitors in the market. The big retail corporations, like Home Depot, Toys R Us, and Best Buy, are known in the industry as “category killers.” The name is significant. These businesses do not intend to compete with local stores; they aim to be the only game in town.

Typically, a chain store will enter a new market sporting deep discounts. Many chains employ loss leaders to attract customers. Wal-Mart has been known to sell gallons of milk for 25 cents or to price entire departments below its own acquisition costs. This sets up a battle that local merchants cannot win. If they

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don't match the chain's prices, they risk losing customers. If they do match the chain's prices, they will lose money on every sale. While a chain can afford to operate a new outlet at a loss indefinitely, it's only a matter of time before the local business will be forced to close.

Once the chain has eliminated the local competition, prices tend to rise. In Virginia, a survey of several Wal-Mart stores statewide found prices varied by as much as 25 percent. The researchers concluded that prices rose in markets where the retailer faced little competition. A similar conclusion was reached in a survey of Home Depot. Prices were as much as 10 percent higher in Atlanta compared to the more competitive market in Greensboro, North Carolina. ³

As for wider selection, consumers should be especially wary of the claims made by chain stores. Independent merchants are usually the first to sell products made by small companies. By contrast, most national chains refuse to do business with small and mid-sized companies. They prefer to deal only with large manufacturers. The result is that small manufacturers—even those that make innovative products, publish great books, or distribute ground-breaking films—are having an increasingly difficult time reaching consumers. ⁴

Consider the impact of this on book publishing. Borders Books and Barnes & Noble certainly stock a large number of titles under one roof, but these are virtually the same titles found in each of their 2,000 stores. Although local bookstores tend to be smaller, collectively they stock — and promote — far more titles than either of the chains. They take risks on unknown authors and small publishers. A number of best-selling writers, including Barbara Kingsolver and Amy Tan, contend that, without independent booksellers, their first books would have gone quietly out of print.

LOCAL ECONOMIES

Even if chain stores do save us a few dollars now and again, it comes at a great cost. Chain stores contribute far less to the local economy than independent businesses.

Developers often present new chain store developments as major additions to the local economy. They note the growth in retail sales and shopping options. They tally up the number of new jobs and the added tax revenue that the development will bring.

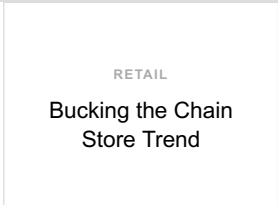
What is often overlooked is the other side of the balance sheet. Unlike new manufacturing facilities, which do create real economic growth, new retail stores simply shift consumer spending from one area of town to another. A new big box store can only be successful at the expense of existing businesses.

A study in Iowa, for example, found that new Wal-Mart stores derive on average of 84 percent of their sales from existing businesses within the community. ⁵ Similar conclusions have been reached in studies of big box development in Massachusetts, Maine, Vermont, New York, California, and Virginia.

What all of the studies find is that very little of the sales generated by a new retail store represent new retail spending. Instead these developments simply shift economic activity from one part of town to another. The end result is not economic development, but rather economic displacement.

One study in Greenfield, Massachusetts concluded that a proposed Wal-Mart store would cost existing businesses \$35 million in sales. The 177 jobs expected to be gained by the Wal-Mart would be offset by the loss of 148 jobs at other businesses. ⁶ A similar study in Saint Albans, Vermont found that a new Wal-Mart would derive 76 percent of its sales from local businesses. Many of these stores would be forced to close, leading to a significant net decline in total retail employment and property tax revenue. ⁷

Trading locally owned businesses for chain stores also entails the loss of significant secondary economic benefits.



Local stores keep profits circulating within the local economy. They also support a variety of other local businesses. They create opportunities for service providers, like accountants and printers. They do business with the community bank. They advertise through independent radio stations and other local media outlets. They purchase goods from local or regional distributors. In this way, a dollar spent at a locally owned businesses sends a ripple of economic benefits through the community.

By contrast, chain stores typically centralize these functions at their head offices. They keep local investment and spending to a minimum. They bank with big national banks. They bypass local radio stations in favor of national advertising. In this way, much of a dollar spent at a chain store leaves the community immediately.

Small, independent stores also create economic diversity and stability. Because they are locally owned, these stores are firmly rooted in the community. They are unlikely to move and will do their best to weather economic hard times.

Chain stores, by contrast, tend to be fair-weather friends. They are highly mobile and will abandon a location if profit margins do not meet their expectations. The worst case scenario is when a big box store builds on the edge of town, destroys the central business district, and, then a few years later, decides that it too will close its doors. The town is left with a dead Main Street and nothing to show for it. Nationwide, there are more than 300 empty Wal-Mart's.⁸ It's very difficult to find a tenant for these single-purpose buildings and they often remain vacant for many years.

A community that loses its local businesses to national chains also risks losing other economic development opportunities. New technologies have enabled many companies to operate virtually anywhere. When these companies consider location options, towns with a vibrant commercial core and a unique character are often at the top of the list.

COMMUNITY

From an economic perspective, there is much to suggest that chain stores may not be our best value. But perhaps more significant than any of the economic considerations are the qualitative benefits of local ownership. Locally owned businesses build strong communities. They provide a foundation for the web of connections and trust that Jane Jacobs believed so essential to a healthy neighborhood.

There are several reasons for this. The first is that independent stores tend to be located in humanly-scaled, pedestrian-oriented shopping districts, as opposed to the sprawling, isolated experience of a chain store parking lot.

The second reason is that local stores create a sense of place and community identity. They reflect the local culture. They give neighborhoods their distinct flavor. They are often a source of community pride and an attraction to visitors.

Chain stores, by contrast, are sapping communities of their character and individuality. Even the most famous American cities are losing their unique appeal. Kmart, Costco, and Home Depot are building in Manhattan. Fifth Avenue is home to Starbucks and The Gap. These same stores can be found on Michigan Avenue in Chicago, Market Street in San Francisco, and thousands of other locations worldwide.

The arrival of chain stores may also entail the destruction of important local landmarks. An 1876 Friends Meeting house in Richmond, Indiana, for example, was demolished for a CVS drugstore. In Nashville, the Jacksonian Apartments, eligible for the National Register of Historic Places, were torn down for a Walgreen drugstore.⁹

The third way that independent businesses strengthen community is through their contributions to civic and cultural life. Local merchants are more than providers of goods and services. They often take a

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organize local festivals. According to the U.S. Small Business Administration, small businesses give more time and money to charitable organizations than do their large competitors.¹⁰

Because they live in the places where they do business, local merchants tend to be far more committed to the community's well-being and long-term stability than distant corporations. This commitment manifests itself in a variety of ways. In St. Paul, Minnesota, for example, the local food cooperative recently opened a new store in a low income neighborhood on a lot that had been vacant for years. As with many construction projects, the coop ran into higher than expected costs. Several independent merchants, including the local bookseller, stepped in and provided a sizable and much-needed loan. Meanwhile, Barnes & Noble and Borders Books, both of which operate stores in the city, were nowhere to be found.

Finally, the shift from local to absentee-owned stores means that business decisions are no longer made locally by members of the community. Who decides whether to close a store in a distressed neighborhood, stock a controversial book, sell produce from local farms, pay a living wage, or contribute to a local charity? In the case of chain stores, these decisions occur in distant boardrooms, where the values of the local community carry little or no weight.

This loss of local decision-making and the growing power of a small number of large corporations has implications for democracy. In 1952, Senator Hubert Humphrey asked, "Do we want an America where the economic market place is filled with a few Frankensteins and giants? Or do we want an America where there are thousands upon thousands of small entrepreneurs, independent businessmen, and landholders who can stand on their own feet and talk back to their Government or to anyone else?"¹¹

NEW RULES

There are tremendous benefits to choosing the latter path. Our ability to do so will depend not only on the decisions we make as consumers, but on the decisions we make as citizens. The actions of policymakers, and, in particular, planners, are critical to reviving the homegrown economy and ensuring that local businesses continue to be a vital part of our communities.

Many contend that public policy should have no role in shaping the retail economy. This is, after all, a free market.

But public policy is never neutral, and has, in fact, played a major role in the expansion of national chain stores. In many ways, public policy has undermined local retailers by giving large retail corporations unfair advantages.

Examples can be found at all levels of government. Congress, for instance, has exempted retailers like Amazon.com and Barnes & Noble from collecting sales tax on internet sales. This effectively gives these companies a 6 to 8 percent price advantage over local stores.

At the city and state level, tax incentives and other kinds of subsidies are routinely made available to chain stores. In Wisconsin, nearly \$20 million was provided a few years ago for a distribution center for Target stores. The city of Rochester, Minnesota spent \$3 million attracting a Barnes & Noble. Long Beach, California waived \$6 million in taxes for a development that included Kmart. In Florida, Walgreens has requested \$4.5 million in state and county tax breaks for the construction of a new warehouse.¹²

Similar examples can be found all over the country. Even if your hometown does not provide such subsidies, the chains that expand there are able to do so in part because of public funding they've received elsewhere. Rarely are tax breaks and subsidies given to locally owned businesses. Instead, they often see their tax dollars used to subsidize a competitor.

In other cases, city governments have evicted local businesses to make room for chain store developments. A proposal currently under consideration in Pittsburgh would level 60 buildings and

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three dozen chain stores. The beneficiaries of this plan include The Gap, Borders Books, and FAO Schwartz.¹³

Under these circumstances, even the most competitive, efficient, and popular independent businesses are struggling to stay afloat.

What these examples make clear is that the loss of independent businesses is not inevitable. Rather than undermining the local economy, many communities are taking a different approach. They have made sustaining humanly scaled, unique homegrown businesses a primary focus of planning and economic development decisions.

They are adopting a variety of land use rules that deter chain stores and foster local ownership. Many have restricted the physical size of new stores. Others allow new retail development only if it meets specific criteria defined by the community. Some have banned uniformity, by prohibiting “formula” businesses. Others have barred new retail development outside of the town’s central business district. (Examples of these policies, including the full text of the local ordinance, can be found on the New Rules web site, created by the Institute for Local Self-Reliance, at <http://www.ilsr.org>.)

By designing policies that put community first, local businesses can once again become a key component in a dynamic retail economy and a vibrant community.

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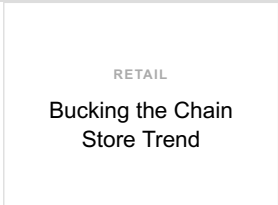
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13. Tom Barnes, "Eminent Domain Debate Heats Up," *Pittsburgh Post-Gazette*, March 2, 2000, p. B1.



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Stacy Mitchell is a researcher for the Institute for Local Self-Reliance (ILSR), a national nonprofit organization advancing community-oriented economic development through research and educational activities.



About Author

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Stacy Mitchell

Stacy Mitchell is co-director of the Institute for Local Self-Reliance and directs its Independent Business Initiative, which produces research and designs policy to counter concentrated corporate power and strengthen local economies.

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Why Care about Independent, Locally Owned Businesses?

BY MARIE DONAHUE | DATE: 23 JUL 2018 |



Locally owned businesses play a central role in healthy communities and are among the best engines that cities and towns have for advancing economic opportunity and building resilient places. Small business ownership has been a pathway to the middle class for generations of Americans and continues to be a crucial tool for expanding prosperity and community self-determination. Here, we outline five important reasons for local officials to support independent businesses, based on a growing body of research.

1 | Local small businesses are linked to higher incomes and less inequality.

Enacting policies that strengthen small businesses and expand opportunities for local entrepreneurs is one of the most effective ways of reducing inequality and expanding the middle class.

In 2013, for example, an economist at the Federal Reserve Bank of Atlanta found that counties with larger shares of local small businesses outperform their peers on three critical economic indicators: they have stronger per capita income growth, faster employment growth, and lower poverty rates.^[1] Using two decades of data from a number of countries, another study found that areas with more small and mid-size businesses had lower levels of income inequality.^[2]

2 | Entrepreneurship fuels job creation.

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Across the country, the rate of new business formation has fallen sharply over the last 20 years, contributing to sluggish job growth and wage stagnation. “New businesses account for nearly all net new job creation,” concludes a Kauffman Foundation research brief.^[3]

Cities that achieve higher rates of entrepreneurship and new business creation than the national average are better off. They generate more jobs, which in turn lifts wages. While cities may be tempted to focus only on tech startups, expanding opportunities for residents to launch businesses that meet community needs in retail, services, food production, and other sectors can have even greater impact.

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3 | Independent businesses generate more tax revenue at lower public cost.

Locally owned businesses in dense, mixed-use commercial districts generate more tax revenue for cities than sprawling shopping centers, while also costing less in public services. An analysis from the Government Finance Review, drawing on data from a sample of 30 cities in 10 states, found that a community earns about \$7 in property taxes per acre on the average big-box retail store, compared to \$287 per acre on a mixed-use, mid-rise business district.^[4] The compact nature of these districts also means they make more efficient use of public infrastructure and services.

4 | Local businesses foster community cohesion and well-being.

The social fabric of a community is tightly coupled with the health of its independent businesses. Research has shown that communities with a larger share of local businesses have more social capital, stronger social ties, higher levels of civic engagement, and better success solving problems.

A 2011 study from the Cambridge Journal of Regions, Economy, and Society, for example, found that areas with a greater concentration of small businesses, all else being equal, have improved public health outcomes than those with fewer small businesses.^[5] The authors speculate that local ownership of business enhances a community's capacity to solve problems. Other research has found the presence of independent retailers helps communities retain their residents, especially those with college degrees.^[6]

Taken together, these studies show that cultivating a vibrant independent business sector not only strengthens the economy; doing so can advance social goals as well.

5 | Community-scaled businesses reduce pollution and improve environmental sustainability.

Independent businesses help to sustain compact downtown and neighborhood commercial districts, which curb sprawl and automobile use, and enable residents to fulfill more of their daily needs close to home.

Several studies have found that people who live near small stores walk more for errands and, when they do drive, their trips are shorter. That's not all: small retailers also influence how likely people are to take public transit. A study of 3,200 households in King County, Wash. (the Seattle area), for example, found that residents of neighborhoods with the most local businesses logged 26 percent fewer automobile miles than people living in areas with few neighborhood stores, and they were significantly more likely to take public transit to work.^[7]

By supporting local retailers, local officials can create a healthier, more sustainable community.

This list is part of our **Local Policy Action Toolkit** for independent businesses and is available to download and share as a **two-page PDF**.

Why Care about Independent, Locally Owned Businesses?

Locally owned businesses play a central role in healthy communities, and are among the best engines that cities and towns have for advancing economic opportunity and building resilient places. Small business ownership has been a pathway to the middle class for generations of Americans and continues to be a crucial tool for expanding prosperity and community self-determination. Here, we outline five important reasons for local officials to support independent businesses, based on a growing body of research.

- 1 | Local small businesses contribute to higher incomes and less inequality.** Cities that achieve higher rates of entrepreneurship and new business creation than the national average are better off. They generate more jobs, which in turn lifts wages. While one may be tempted to focus only on high salaries, expanding opportunities for residents to launch businesses that meet community needs in retail services, food production, and other sectors can have greater impact. In 2015, for example, an environment at the Federal Reserve Bank of Atlanta found that counties with larger shares of local small businesses outperformed their peers on three critical economic indicators: they have stronger per capita income growth, faster employment growth, and lower poverty rates. "Using two decades of data from a number of counties, our study found that areas with more small and mid-size businesses had lower levels of income inequality."
- 2 | Independent businesses generate more job opportunities.** Across the country, the rate of new business formation has fallen sharply over the last 20 years, contributing to sluggish job growth and wage stagnation. Two business experts at nearly all her new job creation, "concludes a new Foundation research brief."
- 3 | Independent businesses generate more tax revenue for towns and cities.** An analysis from the Government Finance Research Institute found that a community with 10 percent more small businesses can expect to see an average 10 percent increase in tax revenue.
- 4 | Local businesses foster community cohesion and well-being.** The social fabric of a community is tightly coupled with the health of its independent businesses. Research has shown that communities with a larger share of local businesses have more social capital, stronger social ties, higher levels of civic engagement, and better success solving problems. A 2017 study from the Cambridge Journal of Regions, Economy, and Society, for example, found that areas with a greater concentration of small businesses and also being a good have improved public health outcomes that relate with local small businesses. The authors speculate that local ownership of businesses is a community's capacity to resolve problems. Other research has found the presence of independent retailers helps communities resist that residents, especially those with college degrees. "Taken together, these studies show that cultivating a vibrant independent business sector not only strengthens the economy, doing so can advance social goals as well."
- 5 | Community scaled businesses reduce pollution and improve environmental sustainability.** Independent businesses help to sustain compact downtown and neighborhood commercial districts, which walk and bike friendly, and make residents to build more of their daily needs close to home. Several studies have found that people who live near small stores walk more for errands and spend more time at work, their trips are shorter. That's not all: small retailers also indicate that their people are in local public transit. A study of 2,000 households in King County, Wash. (the Seattle area), for example, found that residents of neighborhoods with the most local businesses walked 24 percent more than those who were people living in areas with less neighborhood stores, and they were significantly more likely to take public transit to work. "By supporting local retailers, local officials can create a healthier, more sustainable community."

Find more details about the studies mentioned here, and others, by going to the Institute for Local Self-Reliance's resource page on "Key Studies: Why Local Matters?" www.iflslr.org/why-local-matters/

1 Local Policy Matters: How to Grow Independent Businesses in Your City is a guide for local officials. The opening guide is available online. www.iflslr.org/local-business-city-policy-guide

2 Local Policy Matters: How to Grow Independent Businesses in Your City is a guide for local officials. The opening guide is available online. www.iflslr.org/local-business-city-policy-guide

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Click to download a two-page PDF version of this "Why Care" resource.

Find more details about the studies mentioned here, and others, by going to the Institute for Local Self-Reliance's resource page — **Key Studies: Why Local Matters**. Additional resources about the importance of independent businesses to the local economy can be found on our **Why Local** page.

Notes

- [1] "Locally Owned: Do Local Business Ownership and Size Matter for Local Economic Well-being?" Anil Rupasingha, Federal Reserve Bank of Atlanta. 2013.
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- [3] "The Importance of Young Firms for Economic Growth," Jason Wiens & Chris Jackson, *Entrepreneurship Policy Digest*, Kauffman Foundation, 2015.
- [4] "Thinking Differently About Development." Joe Minicozzi, Government Finance Review, 2013.
- [5] "The Health and Wealth of US Counties: How the Small Business Environment Impacts Alternative Measures of Development," Troy C. Blanchard, et al., *Cambridge Journal of Regions, Economy, and Society*, 2011.
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At the Independent Business initiative at the Institute for Local Self-Reliance, we research and advocate for policies that strengthen independent businesses and reduce the power of dominant corporations. **Check out more of our work**, and sign up for our **monthly newsletter** so that you don't miss our latest research.

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Marie Donahue was a Research Associate with the Institute for Local Self-Reliance's Energy Democracy and Independent Business Initiatives in 2018-2019. She analyzed and wrote about the implications of corporate concentration and monopoly in these sectors.

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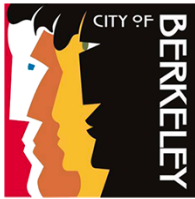
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CITY COUNCILMEMBER
RIGEL ROBINSON
 DISTRICT 7

CONSENT CALENDAR
 October 29, 2019

To: Honorable Mayor and Members of the City Council
 From: Councilmember Rigel Robinson
 Subject: Referral: Measures to Address Traffic Enforcement and Bicycle Safety

RECOMMENDATION

1. Refer to the Transportation Commission to consider a Resolution deprioritizing enforcement of the Idaho Stop and Dead Red conventions for persons operating a bicycle, after the operator has yielded to any other road users with the right of way, by prohibiting the use of any City funds or resources in assisting in the enforcement or issuance of citations for bicyclist violations of California Vehicle Code Sections 22450(a) and 21453(a).
2. Refer to the City Manager to develop a ticket diversion program to educate bicyclists as an alternative to monetary fines related to other infractions, and to ensure integration of Vision Zero principles in implementation of state Office of Traffic Safety grants.
3. Refer to the City Manager to develop a plan to calm and divert motor vehicle traffic on bicycle boulevards to provide people who bicycle and walk a safe, comfortable and convenient mobility experience by adding or reconfiguring stop signage and other traffic calming measures, per the recommendations of the 2017 Bicycle Plan.

SUMMARY

The proposed Resolution seeks to improve safety and incentivize bicycling by creating common-sense traffic enforcement priorities that align with our stated Vision Zero goals. This item further asks staff to create a ticket diversion program for bicyclists and explore adding and reconfiguring traffic calming measures and stop signage to maximize the efficiency of travel on bicycle boulevards.

BACKGROUND

Currently, VEH Section 21200 requires bicyclists and other pedal-operated vehicle riders to abide by the same laws as motorists. Under VEH Section 22450(a), "the driver of any vehicle approaching a stop sign at the entrance to, or within, an intersection shall stop at a limit line, if marked, otherwise before entering the crosswalk on the near side of the intersection. If there is no limit line or crosswalk, the driver shall stop at the entrance to the intersecting roadway." Under VEH Section 21453(a), "a driver facing a steady circular red signal alone shall stop [...] before entering the intersection, and shall remain stopped until an indication to proceed is shown," unless turning right. If ticketed for violating either section, bicyclists receive the same monetary fine as a motorist:

around \$200 for rolling through a stop sign, and around \$400 for proceeding through a red light.

As of September 2015, new amendments to VEH Section 42005(3) created the option for cities and local law enforcement departments to implement a ticket diversion program for bicyclists, offering an educational alternative to heavy fines.¹ Although the UC Berkeley Police Department waives on-campus infraction fines in exchange for proof of Bicycle Education & Safety Training class attendance, the City at large does not offer any such option to reduce or waive fees.²

This results in ticketing practices like those demonstrated on August 13th, August 21st, and September 6th of this year, when Berkeley residents observed BPD officers issue a series of \$200 citations to bicyclists for rolling through stop signs. According to traffic enforcement division data, 55 total stops of this nature have occurred since July 2019, with 36 resulting in fines.³ The City should consider developing a ticket diversion program to replace overly punitive fines with bicyclist education.

For bicyclists, confusion may arise from the inconsistent legal status of this common energy-conserving maneuver, known as the 'California roll' or 'Idaho Stop' at a stop sign. When approaching an empty intersection with traffic light signals, the 'Dead Red' convention allows cyclists to proceed after stopping and waiting to verify that the intersecting road is clear, in order to compensate for the under-detection of bikes by traffic signal sensors.

Application of traffic stop laws to bicyclists and human-powered vehicle operators is not uniform between states, nor enforced consistently across California cities. In 1982, the state of Idaho passed a law allowing bicyclists to treat stop signs as yield signs, and red lights as stop signs.⁴ In the following decades, similar Idaho Stop and Dead Red laws have been adopted by other states, including Delaware's 2017 passage of an amendment to "permit safe yielding by bicycle operators at stop sign-controlled intersections with minor roads."⁵ This year, Oregon enacted new legislation permitting bicyclists "to enter [an] intersection controlled by specified traffic control devices without stopping," effective January 1, 2020.⁶ Currently undergoing debate in Utah, House Bill 161 proposes the same revisions to the state traffic code.⁷

Internationally, Paris recently adopted Idaho Stop and Dead Red policies at right turns and T-junctions, in conjunction with a larger initiative to incentivize bicycling.⁸ Prior to

¹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB902

² <https://ucpd.berkeley.edu/laws-and-policies/vehicles-and-bicycles-campus>

³ <https://www.sfchronicle.com/bayarea/article/Berkeley-cyclists-cry-foul-over-238-citations-14432685.php?psid=mC2Zz>

⁴ <https://legislature.idaho.gov/statutesrules/idstat/title49/t49ch7/sect49-720/>

⁵ <https://ohs.delaware.gov/bicycle.shtml>

⁶ <https://olis.leg.state.or.us/liz/2019R1/Measures/Overview/SB998>

⁷ <https://le.utah.gov/~2019/bills/static/HB0161.html>

⁸ <https://www.bbc.com/news/magazine-33773868>

adoption, France tested rolling stops in Bordeaux and other small cities, and was encouraged by the resulting decrease in collisions between bicycles and cars.

Achieving a similar outcome in the City of Berkeley would differ in implementation because the City does not have jurisdiction over state vehicle code. Instead of codifying a traffic law exemption, the City would deprioritize enforcement of the Idaho Stop and Dead Red conventions by prohibiting the use of City funds or resources in issuing citations or otherwise conducting enforcement. Because this proposal does not entail a change to vehicle code, it would not affect any legal ramifications, as found in a court of law, of a bicyclist-at-fault collision caused by violation of California Vehicle Code Sections 22450(a) or 21453(a).

A 2010 UC Berkeley School of Public Health Environmental Science Division study, which compared injury and fatality rates in Idaho with data from structurally similar cities in states still lacking a traffic stop exemption, found that these conventions make our streets safer.⁹ Quantitative results demonstrated Idaho conditions to be 30.4 percent safer for bicyclists overall, with an immediate 14.5 percent decrease in injuries in the year following the law's implementation. In researcher interviews with police officers, public officials, bicycle advocacy groups, and the general public, "these inquiries strongly supported adoption of the Idaho Law, and no entity whatsoever identified any negative safety result associated with passage of the law."

Currently, Office of Traffic Safety (OTS) statistics consistently rank the City of Berkeley number one in bicycle-related injury collisions, when compared to fifty-seven other cities of similar population density.¹⁰ Adoption of the Idaho Stop and Dead Red conventions should be explored as one possible mitigation strategy.

In addition to evidentiary merit as a bicyclist safety initiative, this proposal would also improve the quality and convenience of bike travel. Highlighting the disparate impact of mandatory stop signs on bicyclists, a 2001 UC Berkeley Physics Department study determined that on routes with frequent stops, a person operating a bike must exert five times the energy in order to maintain speed.¹¹ In absence of oncoming traffic, permitting bicyclists to conduct a rolling stop conserves energy without increasing collision risk. It also allows bicyclists to more quickly clear the intersection, where they are most vulnerable to being hit by a driver. Equipped with twice the visual field of an average SUV, bicycle riders are uniquely qualified to determine if a complete stop is required for safety.¹²

Another action the City should take to improve bicycling safety is to calm and divert motor vehicle traffic on bicycle boulevards, as outlined in the Chapter 5.2.3 of the

⁹ <http://denver.streetsblog.org/wp-content/uploads/sites/14/2018/02/idaho-law-jasonmeggs-2010version-2.pdf>

¹⁰ <https://www.ots.ca.gov/ots-and-traffic-safety/>

¹¹ <https://nacto.org/wp-content/uploads/2012/06/Fajans-J.-and-M.-Curry.-2001..pdf>

¹² <http://denver.streetsblog.org/wp-content/uploads/sites/14/2018/02/idaho-law-jasonmeggs-2010version-2.pdf>

Bicycle Plan.¹³ Infrastructure such as traffic circles, diverters, bulbouts, and speed humps can improve mobility experience by establishing bicycle priority and reducing the speed and volume of automobile traffic. Along bicycle boulevards at intersections where stop signs do not achieve their stated purpose of managing conflicting traffic flows, the City should consider reconfiguring signage or replacing stop signs with more effective traffic calming measures.

These proposals are consistent with the goals and policies laid out by Vision Zero¹⁴ and the Bicycle Plan,¹⁵ which champion “a model bicycle-friendly city where bicycling is a safe, comfortable, and convenient form of transportation and recreation for people of all ages and abilities.”

FINANCIAL IMPLICATIONS

Adoption of the Resolution may slightly reduce ongoing City expenditures associated with the enforcement of civil penalties relating to traffic stop law violation by bicyclists. Staff time will be necessary to explore options for a bicycle ticket diversion program and consider signage changes.

ENVIRONMENTAL SUSTAINABILITY

Improved efficiency and ease of navigation will increase the mode share of bicycles and other human-powered vehicles, which aligns with the City’s Climate Action Plan and contributes to long-term sustainability.

CONTACT PERSON

Councilmember Robinson, District 7, 510-981-7170
Mars Svec-Burdick, Intern, msvec-burdick@cityofberkeley.info

Attachments:

1: Resolution

¹³ https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017_Ch5_ProposedBikewayNetwork.pdf

¹⁴ https://www.cityofberkeley.info/Clerk/City_Council/2017/12_Dec/Documents/2017-12-07_WS_Item_02_Vision_Zero_Traffic_Safety_Policy_-_Pres.aspx

¹⁵ https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017_Ch2_GoalsPoliciespdf.pdf

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

RESOLUTION SUPPORTING SAFE AND EFFICIENT BICYCLING PRACTICES AND DECLARING THAT THE CIVIL CITATION OF INDIVIDUALS OPERATING A BICYCLE IN A MANNER WHICH VIOLATES CALIFORNIA VEHICLE CODE SECTIONS 22450(A) OR 21453(A) SHALL BE AMONGST THE LOWEST PRIORITY FOR THE CITY OF BERKELEY

WHEREAS, California law requires bicyclists to abide by the same laws as motorists when approaching an intersection, even in the absence of oncoming traffic, despite the disparate impact of mandatory stops on the operator's safety and efficiency of travel; and

WHEREAS, at empty intersections, frequent stops create an undue burden on bicyclists by multiplying the amount of energy the operator must exert order to maintain speed over the course of a journey; and

WHEREAS, it is the stated goal of the 2017 Berkeley Bicycle Plan to become a model bicycle-friendly city where bicycling is a safe, comfortable, and convenient form of transportation; and

WHEREAS, the city's Vision Zero policy prioritizes enforcement of violations that cause the most severe and fatal injuries; and

WHEREAS, from 2006-2018, motorist-at-fault violations were the top four causes of severe and fatal collisions in Berkeley, accounting for 46% of all severe and fatal collisions; and

WHEREAS, bicyclists not stopping at stop signs comparatively cause very few severe and fatal collisions, comprising of only four collisions in 13 years; and

WHEREAS, incentivizing transportation by bicycle and other human-operated vehicles mitigates greenhouse gas emissions, and is aligned with the City's Climate Action Plan; and

WHEREAS, the City of Berkeley wishes to declare its desire not to expend City resources in any citation arising out of alleged violation of state traffic stop laws by a person operating a bicycle in an otherwise safe manner.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that it shall be the policy of the City that no department, agency, board, commission, officer or employee of the city, including without limitation, Berkeley Police Department personnel, shall use any city funds or resources to assist in the enforcement of laws imposing civil penalties for the violation of California Vehicle Code Sections 22450(a) 21453(a) by a person operating a bicycle and approaching an empty intersection. When approaching a stop sign, the operator of a bicycle shall slow to a reasonable speed and yield the right-

of-way to any vehicle or pedestrian in the intersection, or approaching on another highway so closely as to constitute an immediate hazard, before cautiously making a turn or proceeding through the intersection without stopping. When approaching a red light signal, the operator of a bicycle shall stop and yield the right-of-way to any vehicle or pedestrian in the intersection, or approaching on another highway so closely as to constitute an immediate hazard, before cautiously making a turn or proceeding through the intersection without waiting for a green light signal. For the purposes of this resolution, the definition of 'cyclist' shall include a person operating a bicycle or other human-powered vehicle, including e-bikes.

BE IT FURTHER RESOLVED that this resolution does not authorize bicyclists to proceed through stop signs without stopping, or proceed against a red light signal, unless the intersecting roadway is empty of oncoming vehicles and pedestrians.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley urges bicyclists to take utmost safety precautions when proceeding through a stop sign or against a red light.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley hereby declares that it shall be the policy of the City of Berkeley that the citation of bicyclists for violating California Vehicle Code Sections 22450(a) 21453(a) shall be amongst the lowest law enforcement priority for the City of Berkeley.

BE IT FURTHER RESOLVED that if any provision of this resolution is declared by a court of competent jurisdiction to be contrary to any statute, regulation or judicial decision, or its applicability to any agency, person, or circumstances is held invalid, the validity of the remainder of this resolution and its applicability to any other agency, person, or circumstance shall not be affected.

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to Alameda County Supervisor Keith Carson, Assemblymember Buffy Wicks, State Senator Nancy Skinner, Congresswoman Barbara Lee, Senator Dianne Feinstein, and Senator Kamala Harris, and that the Council of the City of Berkeley formally requests that they take action in their respective legislative bodies to sanction common-sense traffic stop exemptions for bicyclists.



Parks and Waterfront Commission

INFORMATION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council
 From: Children, Youth, and Recreation Commission
 Submitted by: Elizabeth Echols, Chairperson
 Subject: Children, Youth and Recreation Commission 2019 Work Plan

INTRODUCTION

The Children, Youth, and Recreation Commission has updated its work plan, which outlines Commission objectives for the upcoming year. This work plan includes making recommendations to City Council to further the goals of 2020 Vision; identify the needs and gaps in services for Berkeley Youth; provide support regarding outreach and marketing of programs; and examine out of school time/afterschool resources for Berkeley youth.

CURRENT SITUATION AND ITS EFFECTS

At the regular meeting on September 16, 2019, the Children, Youth, and Recreation Commission approved the Commission's 2019 Work Plan, which will be used to guide the Commission's work throughout the year.

M/S/C (Freeman/Echols/U) to approve the work plan and submit an Information Report to City Council.

Ayes: Batista, Brookshire, Freeman, Echols, Richards, Taylor

Noes: None

Absent: None

Leave of Absence: Capitelli

BACKGROUND

See attached Work Plan.

ENVIRONMENTAL SUSTAINABILITY

No environmental impacts or opportunities were identified as a result of this recommendation.

POSSIBLE FUTURE ACTION

Based on Commission research and public input, new initiatives and recommendations to City Council may be submitted to City Council at such time deemed necessary.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No fiscal impacts identified at this time.

CONTACT PERSON

Steph Chu, Secretary, Children, Youth, and Recreation Commission, 981-5146
Elizabeth Echols, Chairperson

Attachment: 1: Children, Youth, and Recreation Commission 2019 Work Plan

CHILDREN, YOUTH, AND RECREATION COMMISSION ANNUAL WORK PLAN (Approved on September 16, 2019)

MISSION STATEMENT

The Children, Youth, and Recreation Commission shall be an advisory board and shall seek to achieve equity in policies, programs, planning efforts, activities, and funding associated with youth, families, early childhood education, recreation, and other related City-sponsored activities. The Commission shall advise the City Council on these matters.

- 1. Make recommendations to City Council to further the goals of the 2020 Vision for Berkeley's Children and Youth to close the opportunity gap and ensure that all young people in Berkeley grow up with equitable opportunities to achieve high outcomes and realize their full potential.**
- 2. Identify needs/gaps in City's community and recreation services for Berkeley's youth.**
 - a. Invitations for public input at regular Commission Meetings and report to Council on findings.
 - b. Review program data including, but not limited to, demand, utilization, demographics, and funding for existing programs.
 - c. Make recommendations to Council.
- 3. Examine out-of-school time/afterschool resources throughout community for Berkeley youth.**
 - a. Engage with 2020 Vision staff to document current successes and potential gaps in educational offerings in out-of-school time programs, including afterschool and summer programs.
 - b. Provide recommendations to Council regarding academics in afterschool programs.
- 4. Provide support to Recreation Division staff and make Council recommendations regarding the outreach and marketing of programs to the Berkeley community.**
 - a. Make recommendations to Council regarding approaching outreach through equity lens (entire community), particularly access to scholarships, free programs, and youth employment opportunities.
 - b. Make recommendations to Council regarding city-wide communication (which can include City of Berkeley, Community Agency contractors, and BUSD).
 - c. Review data on outcomes of outreach strategies.
- 5. Coordinate with Parks & Waterfront Commission regarding alignment of future T1 facility improvement and program provision.**
 - a. Develop a tool/rubric to recommend to Council for staff to use when determining alignment for:

**CHILDREN, YOUTH, AND RECREATION COMMISSION
ANNUAL WORK PLAN (Approved on September 16, 2019)**

- i. Equity/Access
 - ii. Adaptability for program shifts in the future
 - b. Identify opportunities for synergy with other projects.
- 6. Review and recommend revisions to Community Agency Grant application and review process.**
 - a. Document current successes and potential gaps/inconsistencies in scoring and report to Council.
 - b. Develop a process to work closely with 2020 Vision staff to evaluate the progress of grantees.
 - c. Receive quarterly updates on grantees from 2020 Vision staff.
 - d. Make recommendations to City Council regarding RFP outreach to new organizations.



Civic Arts Commission

INFORMATION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Civic Arts Commission

Submitted by: Lisa Bullwinkel, Chairperson, Civic Arts Commission

Subject: Civic Arts Commission Fiscal Year 2020 Work Plan

INTRODUCTION

The Civic Arts Commission has updated its work plan, which outlines Commission objectives for the 2020 fiscal year based upon goals articulated in the *City of Berkeley Arts & Culture Plan (2018 - 2027 Update)* and reflective of previously initiated projects that are already under way. This work plan includes a variety of objectives in a number of civic arts areas: Policy, Grants, Public Art, Arts Education, and Design Review.

CURRENT SITUATION AND ITS EFFECTS

At the regular meeting on September 25, 2019, the Civic Arts Commission unanimously approved a recommendation to accept the updated work plan, which is used to guide the Commission's work throughout the year. M/S/C: (Anno/Slattery) to approve the Civic Arts Program FY20 work plan. Ayes—Anno, Blecher, Bullwinkel, Covarrubias, Ozol, Passmore, Ross, Slattery, Tamano; Noes—none; Abstain—none; Absent—none.

BACKGROUND

See attached Work Plan.

ENVIRONMENTAL SUSTAINABILITY

No environmental impacts or opportunities were identified as a result of this recommendation.

POSSIBLE FUTURE ACTION

Based on Commission research and public hearings, new initiatives and recommendations to City Council may be submitted to City Council at such time deemed necessary.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No fiscal impacts determined at this time.

CONTACT PERSON

Jennifer Lovvorn, Commission Secretary, Civic Arts Commission, (510) 981-7533
Attachment: 1: Civic Arts Commission Fiscal Year 2020 Work Plan



Civic Arts Commission

FY20 Civic Arts Commission Work Plan

Civic Arts Commission Date: 9/25/19

Policy Committee

1. Advocate to Council for one-third of Short Term Rental Revenues to be allocated to Civic Arts Grants.
2. (With Grants Committee) Review and approve Civic Art Grants Guideline Revisions for FY21 for Arts Organizations, Individual Artists, and Festivals.
3. (With Grants Committee) Develop guidelines for an Art Space Capital Projects Grant Program in preparation for any possible Significant Community Benefit Funds.
4. Advocate to Council for funding to support an Art Space Capital Projects Grant Program on an ongoing basis to help stem displacement of Berkeley-based arts and culture nonprofits.
5. (With Grants Committee and Berkeley Arts Education Steering Committee "BAESC") Develop guidelines for an Arts Education Grant Program and advocate to Council for funding for this program from Cannabis tax revenue.
6. (With Public Art Committee) Review and approve revised Public Art Guidelines updated to reflect best practices and recommend corresponding updates to the Municipal Code where relevant.
7. Advise Council on baseline grants funding of \$500,000 for Arts Organizations and Individual Artists.
8. Advise Council on waivers for construction related entitlement/building permit fees for Nonprofit Arts Organizations' building projects.
9. Create Guidelines for the selection of the City of Berkeley Poet Laureate.
10. Advise Council on the inclusion of Affordable Housing Strategies for Artists and Cultural Workers in the City's Affordable Housing Policy Framework.
11. Develop a process for certifying Artists and Cultural Workers for eligibility for

affordable housing.

12. (With Public Art Committee) Advocate to Council to establish an ordinance to properly implement the 1.5% for Public Art requirement for City Construction Projects.

Grants Committee

1. (With Policy Committee) Review and approve Civic Art Grants Guideline Revisions for FY21 for Arts Organizations, Individual Artists, and Festivals.
2. (With Policy Committee) Develop guidelines for an Art Space Capital Projects Grant Program in preparation for any possible Significant Community Benefit Funds.
3. (With Policy Committee and BAESC) Develop guidelines for an Arts Education Grant Program and advocate to Council for funding for this program from Cannabis tax revenue.
4. Review Grant Panel Scores and determine Civic Art Grant award amounts for FY21.
5. Review analysis prepared by staff of geographic spread of FY21 grants funds throughout City of Berkeley.

Public Art Committee

1. (With Policy Committee) Review and approve revised Public Art Guidelines updated to reflect best practices and recommend corresponding updates to the Municipal Code where relevant.
2. Review and approve selected artists and proposals for T1 Project at San Pablo Park.
3. Review and approve selected curator for Cube Space.
4. Review and approve 2020 Civic Center Exhibition artists and artwork purchases.
5. Review and approve Private Percent for Art Plans at the following phases: Conceptual, Preliminary, and Final.
6. Review and approve specific installation site for the donated Assyrian Queensculpture.
7. Review and approve the Call for Artists for the Homelessness Social Practice Public Art Project.
8. Determine the disposition of the "Berkeley Big People" sculpture

Commission Representatives to the Berkeley Arts Education Steering Committee

1. (With Policy & Grants Committees) Develop guidelines for an Arts Education Grant Program and advocate to Council for funding for this program from Cannabis tax revenue.
2. Assist with grant application to the California Arts Council for additional funding for the BEARS Arts Summer Program.
3. Build relationships with Berkeley Unified School District Board Members by attending office hours and sharing Create CA student declaration of rights.
4. Research feasibility of arts organizations participating in Youth Works or obtaining workforce development funding for high school students to be summer arts instructors.
5. Explore feasibility of developing partnerships with colleges and universities to offer unit credit for teaching in BUSD afterschool and summer arts programs.
6. Discuss advocacy to BUSD Board to provide theater, dance, and visual arts education comparable to the district's successful music instruction program.

Commission Representative to the Design Review Committee

1. Ensure proposed building projects reviewed by DRC comply with the Private Percent for Art Ordinance.

Commission Representatives to the Civic Center Visioning Work Group

1. (With entire Commission) Participate in the Civic Center visioning process for the Veterans Building, City Hall, and Civic Center Park.



Commission on Aging

INFORMATION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council

From: Commission on Aging

Submitted by: George Porter, Chairperson, Commission on Aging

Subject: Fiscal Year 2020 Commission on Aging Work Plan

INTRODUCTION

The Commission on Aging (the CoA) has updated its work plan, which outlines Commission objectives for the upcoming fiscal year. This work plan includes researching and gathering information; supporting Berkeley Age Friendly Initiatives; addressing concerns from other municipal agencies; focusing on Age Friendly housing initiatives and non-commute-related transportation efforts; broadening awareness of, and communication with, other Commissions with regards to policies that affect the older adult population.

CURRENT SITUATION AND ITS EFFECTS

At the regular meeting on July 31, 2019, the Commission on Aging approved the commission's 2019-2020 Work Plan, which will be used to guide the Commission's work throughout the year.

M/S: Porter/ Murphy

Ayes: Porter, Murphy, Lasell, Candau Noes: None

Abstain: Gordon

Leave of Absence: Young

BACKGROUND

See attached Work Plan.

ENVIRONMENTAL SUSTAINABILITY

No environmental impacts or opportunities were identified as a result of this recommendation.

POSSIBLE FUTURE ACTION

Based on Commission research and public hearings, new initiatives and recommendations to City Council may be submitted to City Council at such time deemed necessary.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No fiscal impacts identified at this time.

CONTACT PERSON

Richard Castrillon, Commission Secretary, HHCS, (510) 981-7777

Attachments:

1: Commission on Aging 2020 Work Plan



Commission on Aging

Commission on Aging 2020 Workplan

Commission Mission Statement:

To enhance the quality of life for people 55 years and older in the Berkeley Community, and to increase public awareness of their contributions and needs by actively promoting their health, safety, independence and participation in our community.

To carry out its mission, the Commission on Aging (the CoA) will work in the following areas over the next year:

1: Support “Berkeley Age Friendly Initiatives”

- a. Resources
 - i. Staff time
- b. Program activities
 - i. Staff time will be used to coordinate commission meeting presentations from guests relevant to Age Friendly Initiative issues, and for the preparation of council submissions.
 - ii. When deemed necessary, the commission will hold Age Friendly Forums to inform the public of progress of Age Friendly Initiatives in presenting strategic plan to council. .
- c. Output(s)
 - i. Commission will develop recommendations for City Council regarding Age Friendly Initiatives.
 - ii. Public/commission information exchange
- d. Outcomes
 - i. Short-term desired changes: Council adoption of Age Friendly Initiatives.
Long- term desired changes: Aging being considered in all city policies
 - ii. Broader awareness and more informed recommendations

2: Address referrals from other Municipal Agencies

- a. Resources
 - i. Staff time

- b. Program activities
 - i. As usual, the CoA will do its best to take into consideration all items referred to it by Council, Municipal Departments and other commissions and make comment when necessary.
- c. Output(s)
 - i. Communications with agencies mentioned above
- d. Outcomes
 - i. Better alignment of City policies with the CoA's mission

3: Focus on Aging Friendly Housing Initiatives and Non-Commute Related Transportation

- a. Resources
 - i. Staff time
- b. Program activities
 - i. Staff time will be used to coordinate commission meeting presentations from guests relevant to the Age-Friendly survey's identification of Housing and Transportation as Berkeley's older residents' most pressing concerns.
 - ii. As regards housing, in addition to the growing problem of senior homeless, particular emphasis will be placed on examining existing policies and/or proposing new ones that will more effectively allow for and encourage seniors to healthfully age in their homes or apartments or, when appropriate, shift to other, affordable living circumstances within the community.
 - iii. iii.. In the case of Transportation, particular emphasis will be put on non-workforce-commute related "daily-activity" transportation issues within the city itself (and nearby) that are of particular importance to seniors. The CoA will work to ensure that policies reflect that demographics' needs, especially as regards inclusive (as opposed to segregating) public transportation and including examination of possible new transportation models (i.e., a coordinated shuttle bus system, personalized demand-responsive transit service, "around town" carpooling cooperatives, etc.) that might better serve these needs.
- c. Output(s)
 - i. Communications with agencies mentioned above including sending liaisons to the Housing and Transportation Commissions when deemed necessary.
- d. Outcomes
 - i. Constantly expanding housing and transportation opportunities that better serve the needs of elders.

4: Broader awareness of and communication with other Commissions as regards policies the effect the Elder population.

a. Resources

i. Staff time.

b. Program activities

i. To the best of our abilities, individual commission members - with informational assistance of staff - will do their best to examine the work-plans and agendas of other commissions for items that may affect the health, well-being and community participation of the aging population, attend their meetings when necessary as liaison and report back to the Commission as a whole.

ii. When deemed necessary, the CoA will request these liaisons to other commissions to state our specific position on relevant items. In other cases, we will simply communicate through our secretary with these other commissions.

c. Output(s)

i. Commission will develop recommendations for these other commissions (and/or Council) regarding those elements of their policy development and/or planning that we deem relevant to senior concerns.

a. Outcomes

i. To ensure that the concerns of our elder community are addressed in all phases of all policy making and planning processes.



Energy Commission

INFORMATION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council
 From: Energy Commission
 Submitted by: Cate Leger, Chairperson, Energy Commission
 Subject: Berkeley Energy Commission Work Plan for 2019-2020

INTRODUCTION

The Berkeley Energy Commission is charged with advising the City Council on matters related to energy conservation and alternative energy development in the City of Berkeley. To fulfill this mission, the Energy Commission proposes taking action in the following strategic areas over the next year:

- Promoting carbon reductions in the built environment
- Reducing transportation energy use
- Supporting Citywide greenhouse gas reduction plans

CURRENT SITUATION AND ITS EFFECTS

The attached work plan outlines the specific activities and deliverables the Energy Commission will work on over the next year. The members of the Energy Commission developed this work plan in consultation with City staff to ensure alignment of priorities and gives priority to existing referrals to the Commission from the City Council.

At its meeting June 26, 2019 the Energy Commission voted to approve the attached work plan and send it to the City Council as follows: Motion/second (Schlachter, Weems). The motion carried 6-0-0-3; Ayes: Zuckerman, Weems, Bell, Leger, Stromberg. Noes: None. Abstain: None. Absent: Luce, Paulos, Patel.

BACKGROUND

In 2016, the City Council directed all commissions to submit annual work plans to the City Council at the beginning of each fiscal year.

ENVIRONMENTAL SUSTAINABILITY

The Energy Commission's Work Plan helps advance energy efficiency, clean energy, and the City's greenhouse gas reduction goals.

POSSIBLE FUTURE ACTION

The projects contemplated in the attached work plan could result in recommended actions which, if subsequently adopted by the City Council, could entail a variety of costs and benefits.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

To be determined.

CONTACT PERSON

Billi Romain, Commission Secretary, Department of Planning and Development, (510)
981-7432

Attachments:

1: Berkeley Energy Commission's 2019-20 Work Plan

Berkeley Energy Commission's 2019-2020 Work Plan

MISSION

The Berkeley Energy Commission advises the City Council on climate protection, energy conservation, and renewable energy transition with a priority on equitable leadership and access to energy resources and technology.

STRATEGIC ISSUE AREAS

To carry out its mission, the Energy Commission will work in the following areas over the next year:

- Promoting carbon reductions in the built environment
- Promoting the use of clean, renewable energy
- Reducing transportation energy use
- Advancing zero net energy and environmentally friendly municipal building upgrades and renewable energy installation
- Supporting Berkeley Climate Action Plan and Climate Emergency Declaration
- Value perspectives and narratives of marginalized and underrepresented communities by prioritizing diverse leadership and equitable access to energy sources and emerging technology

ACTIVITIES

Within each of these strategic issue areas, the Commission will focus on the following specific activities over the next year.

Strategic Issue Area: Promoting carbon reductions in the built environment

1. Advance Berkeley's codes, policies, and programs for promoting building energy efficiency, electrification, reduced embodied energy, and green building practices

- *Deliverables:*
 - Track Building Energy Savings Ordinance performance and suggest improvements during current review and evaluation process including development of transfer tax program for energy efficiency and electrification upgrades.
 - Track and comment on other relevant City Council and staff initiatives.
- *Lead Commissioner:* Leger, Stromberg
- *Timing:* Ongoing

2. Support municipal building electrification and energy efficiency upgrades and development of municipal green building programs as outlined in Berkeley Deep Green Building.

- *Deliverables:* Track municipal building remodels and encourage adoption of municipal building green building standards.
- *Lead Commissioner:* Leger
- *Timing:* Ongoing

Strategic Issue Area: Promoting the use of clean, renewable energy

3. Track the development of East Bay Community Energy (EBCE)

- *Deliverables:*
 - Advise the City Council on EBCE decisions and provide comments on their programs, electricity mix, default offerings, and opportunities to advance City priorities.
- *Lead Commissioner:* Stromberg
- *Timing:* Ongoing

4. Encourage resilient renewable energy

- *Deliverables:*
 - Identify Berkeley municipal facilities for participation in EBCE study on critical facilities.
 - Encourage inverters for new installations and islandable inverter replacements through appropriate permit process and education of installers and customers.
- *Lead Commissioner:* Paulos
- *Timing:* Ongoing

Strategic Issue Area: Reducing transportation energy use

5. Track Electric Mobility Roadmap Initiative

- *Deliverables:*
 - Review and provide input on current Electric Mobility Roadmap Initiative.
 - Host stakeholder outreach meetings in Fall 2019
 - Support City efforts to rapidly build out dockless bikeshares, a protected bike lane network, EV charging stations, and bidirectional EV hookups for resilient power
- *Lead Commissioner:* Weems, Schlachter
- *Timing:* Ongoing

6. Support active transit and alternative transportation technologies and infrastructure issues that could reduce fossil fuel vehicle use

- *Deliverables:*
 - Create standing liaison with Transportation Commission
 - Support City efforts to build out alternative and emerging technology
 - Support expansion of public transport
- *Lead Commissioner:* Paulos
- *Timing:* Ongoing

Strategic Issue Area: Supporting City wide greenhouse gas reduction plans

7. Support progress on meeting Climate Action Plan and Climate Emergency goals

- *Deliverables:*
 - Track Berkeley progress on greenhouse gas emission reductions.
 - Support new initiatives such as modifications to the Utility User's Tax and other funding sources and a new Climate Action Plan referendum to accelerate greenhouse gas reduction.

- Hold public meetings to study funding mechanisms for climate action
- *Lead Commissioner:* All
- *Timing:* Ongoing

8. Identify relevant state and regional energy and climate policies and programs.

- *Deliverables:* Provide comments for City Council on relevant State and regional energy and climate policies and programs
- *Lead Commissioner:* all
- *Timing:* Ongoing

IMPACTS

1-3 years: Accelerated reductions in greenhouse gas emissions, so that Berkeley, at the very least, achieves its 2020 Climate Action Plan goal of reducing greenhouse gas emissions 33% below 2000 levels while avoiding unintended side effects.

4-6 years: Accelerated reductions in greenhouse gas emissions so that Berkeley is on track, at the very least, to achieve its 2050 Climate Action Plan goal of reducing greenhouse gas emissions 80% below 2000 levels while avoiding unintended side effects.



INFORMATION CALENDAR

October 29, 2019

To: Members of the City Council
 From: Mayor Jesse Arreguin and Councilmember Rigel Robinson
 Subject: Report from Sister City Delegation to Gongju, Republic of Korea

INTRODUCTION

In the spring of 2017, a delegation which included officials from Gongju, South Korea, and local Korean American leaders met with the Mayor's Office regarding the establishment of Sister City relations. Gongju is located in the central South Korea and is home to the Kongju National University, and has a population of similar size to Berkeley. The Gongju city government was interested in expanding partnerships with UC Berkeley, increasing exposure for students and residents to American culture and establishing stronger ties to American officials.

In October 2017, the previous Mayor of Gongju visited Berkeley to discuss establishing a formal Sister City partnership. On February 27, 2018, the Berkeley City Council approved the establishment of a Sister City with Gongju, Republic of Korea. To formalize the Sister City relationship, the current Mayor of Gongju, Kim Jeong-seob invited the Mayor to visit the City of Gongju to sign the Sister City Agreement and to meet with officials.

Mayor Arreguin, Councilmember Robinson and staff in the Mayor's office visited Korea from September 25th – 29th, 2019, including visiting Gongju to sign the Sister City Agreement, meet with Gongju officials, and participate in the Baekje Cultural Festival.

FINANCIAL IMPLICATIONS

\$4,583.93 from the Discretionary Office Budgets of Mayor Arreguin and Councilmember Robinson. These costs covered airfare, food, and transportation. This reimbursement was authorized by Resolution No. 69,094-N.S., "*Approving the Reimbursement of Expenses Relating to travel to Berkeley's Sister City, Gongju, Republic of Korea*". The Resolution permitted up to \$6,136.80 to be reimbursable for travel costs, however due to budgeting the amount spent was approximately 26% under the authorized budget.

BACKGROUND

From September 25th to September 29th, 2019, Mayor Jesse Arreguin and Councilmember Rigel Robinson, Berkeley's first Korean American council member, traveled to South Korea as a goodwill delegation to formally establish the City of

Berkeley's Sister City relationship with the City of Gongju. This report outlines the details of their trip.



Berkeley currently has [17 Sister City relationships](#) throughout the world. The first establishment of a Sister City was in 1967 with Sakai, Japan. The next most recent visit by a delegation from Berkeley to a Sister City was also to Sakai, Japan, in 2017.

Gongju is a historic city in South Korea with a population similar to Berkeley (116,870 in 2013). Gongju, formerly known as Ungjin, was the capital of the Baekje Dynasty from AD 475 - 538, and is home to many national cultural sites, including the Gongsanseong Fortress and the Tomb of King Muryeong, which were designated as UNESCO World Cultural Heritage¹ sites in 2015.

Gongju, South Korea approached Berkeley in 2017 with the request to become a Sister City. The City of Gongju sent two delegations to the City of Berkeley to discuss establishing a Sister City relationship.

¹ <https://whc.unesco.org/en/list/1477/>

On February 27, 2018, the City Council approved the recommendation of the Peace and Justice Commission to establish a Sister City relationship with the municipality of Gongju, in the South Chungcheong Province of the Republic of Korea.

The City Council established a Sister City relationship with the City of Gongju in recognition of the many traits shared by the two cities, in acknowledgment of the large Korean-American community in Berkeley, and to provide new opportunities to experience Korean culture and share ideas that can mutually benefit our two cities. Given the current political climate surrounding the Korean Peninsula, it is even more important to form a relationship that will promote peace and good will.

The Sister City proposal presented by the City of Gongju called for mutual visits of delegations during festivals, for Gongju during their Baekje Cultural Festival, and for Berkeley during the Kite Festival. In addition, the City of Gongju proposed establishing student exchanges between our two cities.

Recently, Mayor Kim Jeong-seob sent an invitation to visit Gongju where they hosted an event for their Sister Cities to exchange ideas, in conjunction with the 65th Annual Baekje Cultural Festival². This event took place from September 26 to September 28, 2019. This visit officially commemorated and solidified our Sister City relationship with Gongju.

Resolution No. 69,094-N.S. was adopted on September 10, 2019 approving the reimbursement of travel expenses up to \$6,136.80 from the discretionary Council Office Budgets of Mayor Arreguin and Councilmember Robinson for the purpose of visiting Berkeley's Sister City, Gongju, Republic of Korea to officially commemorate the establishment of Sister City relations and to participate in the 65th Annual Baekje Cultural Festival.

The City of Gongju, South Korea, provided all lodging, meals, transportation for the City of Berkeley delegation during their time in Gongju. The Offices of Mayor Arreguin and Councilmember Rigel Robinson paid for airfare, ground travel from the airport to Seoul, as well as meals and lodging in Seoul before departure to Gongju City.

The delegation consisting of Mayor Arreguin, Councilmember Robinson and a staff member who speaks basic Korean, allowed our two cities to deepen our Sister City partnership, share ideas on issues mutually beneficial to our two cities, and provide for cultural learning and exchange.

SISTER CITY AGREEMENT SIGNING CEREMONY

On the evening of September 26, 2019, the official Sister City Agreement Signing Ceremony took place. Mayor Arreguin and Councilmember Robinson visited Gongju

² <http://baekje.org/kor/>

City Hall, where they were met by local elected officials, city staff, Gongju residents, and various press and photographers.

The Mayor of Gongju led the Berkeley delegation through the welcome crowd into City Hall, where he pointed out the decorative kite from the Berkeley Kite Festival that had been gifted to the City of Gongju two years prior.



After viewing a promotional video for the City of Gongju, Mayor Kim Jeong-seob led the ceremony with opening remarks. Mayor Kim spoke at length of the importance of our partnership, and how special it was to be hosting Berkeley in Gongju and to share their history and culture traditions.

Following Mayor Kim Jeong-seob's remarks, Mayor Jesse Arreguin gave his remarks, elaborating on the context for Berkeley's visit to Gongju, his appreciation for Mayor Kim's hospitality, and his eagerness for a long and productive partnership. After the Mayor gave his remarks, Councilmember Robinson spoke, in both English and Korean, about his relationship to Korea and the many similarities between Berkeley and Gongju that he had observed already in their short time in the city. Councilmember Robinson emphasized that both cities host premier public institutions of higher education, are working to build more housing, and have rich cultural heritage.





The Vice Mayor of Gongju then gave remarks, and the ceremony transitioned to the presentation of gifts.

The Sister City Signing Ceremony was covered by Express News³ and KPN News⁴, both Korean publications.

HIGH LEVEL GOVERNMENT MEETINGS

Mayor Arreguin and Councilmember Robinson met with a number of high ranking Gongju City Republic of Korea government officials including but not limited to: Mayor

Kim Jeong-seob; Vice Mayor Son Kwon-bae; Chairman Park Byeong-su; Councillor Park Ki-young; Director of Safety and Industry Park Seung-gu; Director General of Culture, Tourism and Welfare Sim Kyoo-duk, and Team Leader of H.R. Yang Hui-jin. They toured Gongju City Hall where the Sister City Signing Ceremony was held, the Agricultural Technology Center, and the GOMA Center.

They had dinner and intimate conversation with the Mayor and his cabinet on the first evening of arrival and with the Vice Mayor and a few select government leaders on the second evening. During these meals, the Mayors, the Councilmember, and the Gongju City staff were able to discuss wide ranging topics including: exchanges between their respective universities, sustainability, infrastructure and transportation policy, housing, and the local impact of recent national political events in Korea.

Throughout various site visits and tours, the delegation, accompanied by city staff, regularly discussed elements of local government that were similar to or differed from each other. In particular, the regularity and seamlessness of public transportation was a subject of frequent discussion. Gongju has a new Bus Rapid Transit system that is being launched, as well as a publicly-owned and free-to-operate bikeshare system. Additionally, the delegation discussed at length the approach to housing density in Gongju. Housing development is focused in a few extremely dense clusters, rather than spread across the city. Furthermore, the delegation consistently noticed new and creative ways to make public spaces more accessible. Much like the tactile paving on curb cuts found in the United States, textured tiles make entire pathways clear to the visually impaired across the campus of Kongju National University and through much of the city.

³ <http://www.expressnews.co.kr/news/articleView.html?idxno=111810>

⁴ http://www.kpnnews.org/bbs/board.php?bo_table=local&wr_id=507499&city=lc_12&gugun=lc_12_02

CULTURAL EXPERIENCES

Mayor Arreguin and Councilmember Robinson were able to experience the Congratulatory Performance that was designed to celebrate Gongju City's accomplishment being listed as a UNESCO World Heritage Site, including a 1,500 person choir to mirror the 1,500 years of the Baekje Kingdom; historical stories depicting the Kingdom's successes; a traditional drum performance; and traditional dance performances. Before the Congratulatory Performance, the Berkeley delegation attended a dinner during which Mayor Arreguin gave remarks to Gongju officials as well as delegations attending the Baekje Cultural Festival from the Philippines and Mexico.

The Mayor and Councilmember Robinson toured the Gongju National Museum and Songsalli Ancient Tomb which is also the Tomb of King Muryeong who ruled the Kingdom of Baekje from 501 to 523. The Tomb was untouched when it was discovered in 1971 allowing archeologists a chance to view the burials exactly as they had been placed 1,448 years ago. The artifacts that were uncovered included the royal diadem of the King and Queen, replicas of which make up the formal gift that Gongju City and Mayor Kim Jeong-seob gave to the Mayor during the Sister City Signing Ceremony.

The Mayor and Councilmember Robinson visited the Magoksa Temple, the head temple of the Jogye Order of Korean Buddhism⁵. They toured the grounds learning about the daily routine of the monks who live on-site year round, bearing witness to the wooden gods who protect the path from the living world to the spirit world, and enjoyed learning about the creation of roofs on the temples.

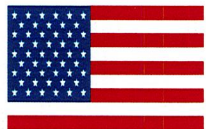
ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects.

CONTACT PERSON

Mayor Jesse Arreguin	510-981-7100
Councilmember Rigel Robinson Council District 7	510-981-7170

⁵ <https://en.wikipedia.org/wiki/Magoksa>



Agreement on Sister City Relationship

Between Gongju City, Republic of Korea and
City of Berkeley, the United States of America



Gongju City of the Republic of Korea and City of Berkeley of the United States of America have agreed as follows to enter the friendship city relationship in order to respect and understand each other's cultural traditions and to make good friendship with each other based on the principles of mutual benefits and equality.

1. Both cities will establish a close friendly relationship based on mutual respect and benefits to promote cooperation between the two cities.
2. Both cities shall respect each other's cultural traditions and support exchange activities of (including but not limited to) administrative, economic, cultural, artistic, and educational natures.
3. Both cities shall fully commit to creating a supportive environment in order to ease the process of mutual exchanges in various areas and forms, such as knowledge exchange, for the mutual benefit and development of the involved parties.
4. Both cities will encourage the relevant departments or organizations to promote mutual cooperation in the mutually agreed areas.

This agreement shall come into effect upon being signed by the mayors of Gongju City, Republic of Korea and Berkeley City, United States of America, being translated into Korean and English, then being exchanged between the two cities.

September 26, 2019



**City of Berkeley,
United States of America**

Mayor Jesse Arreguin



**Gongju City,
Republic of Korea**

Mayor Kim Jeong-seob



대한민국 공주시와 미합중국 버클리시와의

자매결연 협약서



대한민국 공주시와 미합중국 버클리시는 호혜평등의 원칙에 의해 서로의 문화 전통을 존중하고 이해하며 서로 좋은 자매로서 우호관계를 맺기 위하여 자매결연을 체결하고 다음과 같이 합의 하였다.

1. 양 도시의 협력 증진을 위하여 상호 존중과 이익을 바탕으로 긴밀한 우호관계를 확립한다.
2. 양 도시는 문화 전통을 존중하며 행정, 경제, 문화예술, 교육 등 상호 공동 관심분야의 교류활동을 지원한다.
3. 양 도시는 공동이익과 발전을 위하여 지식정보 교환 등 다방면에서 다양한 형태의 교류와 협력을 전개하여 공동 번영과 발전을 촉진하기 위한 우호적인 환경을 조성한다.
4. 양 도시는 관련 부서나 조직으로 하여금 필요시 구체적인 상호협력 분야에 대한 업무를 추진하도록 한다.

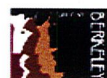
본 협약서는 대한민국 공주시와 미합중국 버클리시의 시장이 서명하며 한글과 영문 각 1부씩 작성 협정서를 교환함으로써 효력을 발생한다.

2019년 9월 26일



대한민국 공주시

시장 김정섭



미합중국 버클리시

시장 Jesse Arreguin

Upcoming Worksessions – <i>start time is 6:00 p.m. unless otherwise noted</i>	
Scheduled Dates	
Oct. 22	<ol style="list-style-type: none"> 1. Berkeley's 2020 Vision Update 2. Census 2020 Update 3. Short Term Rentals
Nov. 5	<ol style="list-style-type: none"> 1. Transfer Station Feasibility Study 2. Vision Zero Action Plan
Jan. 14	<ol style="list-style-type: none"> 1. Civic Center Visioning 2. Systems Realignment
Feb. 4	<ol style="list-style-type: none"> 1. Discussion of Community Poll (Ballot Measures) 2. Adeline Corridor Plan
March 17	<ol style="list-style-type: none"> 1. CIP Update (PRW and Public Works) 2. Measure T1 Update
May 5	<ol style="list-style-type: none"> 1. Budget Update 2. Crime Report
June 23	<ol style="list-style-type: none"> 1. Climate Action Plan/Resiliency Update 2. Digital Strategic Plan/ERMA/Website Update
July 21	<ol style="list-style-type: none"> 1. 2.

Unscheduled Workshops

1. Cannabis Health Considerations

Unscheduled Presentations (City Manager)

1. Update: goBerkeley (RPP)
2. BMASP/Berkeley Pier-WETA Ferry (November 2020)

	City Council Referrals to the Agenda Committee and Unfinished Business for Scheduling
1.	<p>61a. Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley <i>(Referred from the July 24, 2018 agenda)</i> From: Housing Advisory Commission Recommendation: That the City Council not use U1 funds to backfill the Workers' Compensation Fund for the acquisition of the properties located at 1001, 1007, and 1011 University Avenue, and 1925 Ninth Street, City of Berkeley. Financial Implications: See report Contact: Amy Davidson, Commission Secretary, 981-5400</p> <p>61b. Companion Report: Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley <i>(Referred from the July 24, 2018 agenda)</i> From: City Manager Recommendation: Accept staff's recommendation to use \$4,730,815 of Measure U1 revenue over a 5 year period (\$946,163 annually) to repay the Workers' Compensation Fund for the acquisition of the properties located at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley. Financial Implications: See report Contact: Dee Williams-Ridley, City Manager, 981-7000</p>
2.	<p>68. Revisions to Ordinance No. 7,521--N.S. in the Berkeley Municipal Code to increase compliance with the city's short-term rental ordinance <i>(Referred from the July 24, 2018 agenda. Agenda Committee to revisit in April 2019.)</i> March 18, 2019 Action: <i>Item to be agendized at future Agenda and Rules Committee Meeting pending scheduling confirmation from City Manager.</i> From: Councilmember Worthington Recommendation: Refer the City Manager to look into adopting revisions to Ordinance No. 7,521--N.S by modeling after the Home-Sharing Ordinance of the City of Santa Monica and the Residential Unit Conversion Ordinance of the City of San Francisco in order to increase compliance with city regulations on short-term rentals of unlicensed properties. Financial Implications: Minimal Contact: Kriss Worthington, Councilmember, District 7, 981-7170</p>

CITY CLERK DEPARTMENT				
WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS BEFORE THE CITY COUNCIL				
Address	Board/ Commission	Appeal Period Ends	Determination on Appeal Submitted	Public Hearing
NOD – Notices of Decision				
1825 Berkeley Way (construct two additional dwelling units)	ZAB	10/21/2019		
Public Hearings Scheduled				
2701 Shattuck Ave (construct mixed-use building) (Remanded)	ZAB			11/12/2019
0 Euclid Ave - Berryman Reservoir (denial of 4G telecom facility)	ZAB			TBD
Remanded to ZAB or LPC				
1155-73 Hearst Ave (develop two parcels) 90-Day Deadline: May 19, 2019	ZAB			
Notes				

Last Updated: 10/8/19

This version incorporates changes and amendments approved by the Agenda & Rules Committee on September 16, 2019 for approval by the City Council.

The Berkeley City Council Rules of Procedure and Order

Adopted by Resolution No. ~~##,###~~–N.S.
Effective October 29, 2019

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I. DUTIES

A. Duties of Mayor

The Mayor shall preside at the meetings of the Council and shall preserve strict order and decorum at all regular and special meetings of the Council. The Mayor shall state every question coming before the Council, announce the decision of the Council on all subjects, and decide all questions of order, subject, however, to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order. In the Mayor's absence, the Vice President of the Council (hereafter referred to as the Vice-Mayor) shall preside.

B. Duties of Councilmembers

Promptly at the hour set by law on the date of each regular meeting, the members of the Council shall take their regular stations in the Council Chambers and the business of the Council shall be taken up for consideration and disposition.

C. Motions to be Stated by Chair

When a motion is made, it may be stated by the Chair or the City Clerk before debate.

D. Decorum by Councilmembers

While the Council is in session, the City Council will practice civility and decorum in their discussions and debate. Councilmembers will value each other's time and will preserve order and decorum. A member shall neither, by conversation or otherwise, delay or interrupt the proceedings of the Council, use personal, impertinent or slanderous remarks, nor disturb any other member while that member is speaking or refuse to obey the orders of the presiding officer or the Council, except as otherwise provided herein.

All Councilmembers have the opportunity to speak and agree to disagree but no Councilmember shall speak twice on any given subject unless all other Councilmembers have been given the opportunity to speak. The Presiding Officer may set limits on the speaking time allotted to Councilmembers during Council discussion.

The presiding officer has the affirmative duty to maintain order. The City Council will honor the role of the presiding officer in maintaining order. If a Councilmember believes the presiding officer is not maintaining order, the Councilmember may move that the Vice-Mayor, or another Councilmember if the Vice-Mayor is acting as the presiding officer at the time, enforce the rules of decorum and otherwise maintain order. If that motion receives a second and is approved by a majority of the Council, the Vice-Mayor, or other designated Councilmember, shall enforce the rules of decorum and maintain order.

E. Voting Disqualification

No member of the Council who is disqualified shall vote upon the matter on which the member is disqualified. Any member shall openly state or have the presiding officer announce the fact and nature of such disqualification in open meeting, and shall not be subject to further inquiry. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the member affected, be

decided by the other members of the Council, by motion, and such decision shall determine such member's right and obligation to vote. A member who is disqualified by conflict of interest in any matter shall not remain in the Chamber during the debate and vote on such matter, but shall request and be given the presiding officer's permission to recuse themselves. Any member having a "remote interest" in any matter as provided in Government Code shall divulge the same before voting.

F. Requests for Technical Assistance and/or Reports

A majority vote of the Council shall be required to direct staff to provide technical assistance, develop a report, initiate staff research, or respond to requests for information or service generated by an individual council member.

II. MEETINGS

A. **Call to Order - Presiding Officer**

The Mayor, or in the Mayor's absence, the Vice Mayor, shall take the chair precisely at the hour appointed by the meeting and shall immediately call the Council to order. Upon the arrival of the Mayor, the Vice Mayor shall immediately relinquish the chair. In the absence of the two officers specified in this section, the Councilmember present with the longest period of Council service shall preside.

B. **Roll Call**

Before the Council shall proceed with the business of the Council, the City Clerk shall call the roll of the members and the names of those present shall be entered in the minutes. The later arrival of any absentee shall also be entered in the minutes.

C. **Quorum Call**

During the course of the meeting, should the Chair note a Council quorum is lacking, the Chair shall call this fact to the attention of the City Clerk. The City Clerk shall issue a quorum call. If a quorum has not been restored within two minutes of a quorum call, the meeting shall be deemed automatically adjourned.

D. **Council Meeting Conduct of Business**

The agenda for the regular business meetings shall include the following: Ceremonial Items (including comments from the City Auditor if requested); Comments from the City Manager; Comments from the Public; Consent Calendar; Action Calendar (Appeals, Public Hearings, Continued Business, Old Business, New Business); Information Reports; and Communication from the Public. Presentations and workshops may be included as part of the Action Calendar. The Chair will determine the order in which the item(s) will be heard with the consent of Council.

Upon request by the Mayor or any Councilmember, any item may be moved from the Consent Calendar or Information Calendar to the Action Calendar. Unless there is an objection by the Mayor or any Councilmember, the Council may also move an item from the Action Calendar to the Consent Calendar.

A public hearing that is not expected to be lengthy may be placed on the agenda for a regular business meeting. When a public hearing is expected to be contentious and lengthy and/or the Council's regular meeting schedule is heavily booked, the Agenda & Rules Committee, in conjunction with the staff, will schedule a special meeting exclusively for the public hearing. No other matters shall be placed on the agenda for the special meeting. All public comment will be considered as part of the public hearing and no separate time will be set aside for public comment not related to the public hearing at this meeting.

Except at meetings at which the budget is to be adopted, no public hearing may commence later than 10:00 p.m. unless there is a legal necessity to hold the hearing or make a decision at that meeting or the City Council determines by a two-thirds vote that there is a fiscal necessity to hold the hearing.

E. Adjournment

1. No Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items; and any motion to extend the meeting beyond 11:00 p.m. shall include a list of specific agenda items to be covered and shall specify in which order these items shall be handled.
2. Any items not completed at a regularly scheduled Council meeting may be continued to an Adjourned Regular Meeting by a two-thirds majority vote of the Council.

F. Unfinished Business

Any items not completed by formal action of the Council, and any items not postponed to a date certain, shall be considered Unfinished Business. All Unfinished Business shall be referred to the Agenda & Rules Committee for scheduling for a Council meeting that occurs within 60 days from the date the item last appeared on a Council agenda. The 60 day period is tolled during a Council recess.

G. City Council Schedule and Recess Periods

Pursuant to the Open Government Ordinance, the City Council shall hold a minimum of twenty-four (24) meetings, or the amount needed to conduct City business in a timely manner, whichever is greater, each calendar year.

Regular meetings of the City Council shall be held generally two to three Tuesdays of each month; the schedule to be established annually by Council resolution taking into consideration holidays and election dates.

Regular City Council meetings shall begin no later than 6:00 p.m.

A recess period is defined as a period of time longer than 21 days without a regular meeting of the Council.

When a recess period occurs, the City Manager is authorized to take such ministerial actions for matters of operational urgency as would normally be taken by the City Council during the period of recess except for those duties specifically reserved to the Council by the Charter, and including such emergency actions as are necessary for the immediate preservation of the public peace, health or safety; the authority to extend throughout the period of time established by the City Council for the period of recess.

The City Manager shall have the aforementioned authority beginning the day after the Agenda & Rules Committee meeting for the last regular meeting before a Council recess and this authority shall extend up to the date of the Agenda & Rules Committee meeting for the first regular meeting after the Council recess.

The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required and confirm said actions of the City Manager.

H. Pledge of Allegiance to the Flag

At the first meeting of each year following the August recess and at any subsequent meeting if specifically requested before the meeting by any member of the Council in order to commemorate an occasion of national significance, the first item on the Ceremonial Calendar will be the Pledge of Allegiance.

I. Ad Hoc Subcommittees

From time to time the Council or the Mayor may appoint several of its members but fewer than the existing quorum of the present body to serve as an ad hoc subcommittee. Only Councilmembers may be members of the ad hoc subcommittee; however, the subcommittee shall seek input and advice from residents, related commissions, and other groups. Ad Hoc Subcommittees must be reviewed annually by the Council to determine if the subcommittee is to continue.

Upon creation of an ad hoc subcommittee, the Council shall allow it to operate with the following parameters:

1. A specific charge or outline of responsibilities shall be established by the Council.
2. A target date must be established for a report back to the Council.
3. Maximum life of the subcommittee shall be one year, with annual review and possible extension by the Council.

Subcommittees shall conduct their meetings in locations that are open to the public and meet accessibility requirements under the Americans with Disabilities Act. Meetings may be held at privately owned facilities provided that the location is open to all that wish to attend and that there is no requirement for purchase to attend. Agendas for subcommittee meetings must be posted in the same manner as the agendas for regular Council meetings except that subcommittee agendas may be posted with 24-hour notice. The public will be permitted to comment on agenda items but public comments may be limited to one minute if deemed necessary by the Committee Chair. Agendas and minutes of the meetings must be maintained and made available upon request.

Ad hoc subcommittees will be staffed by City Council legislative staff. As part of the ad hoc subcommittee process, City staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item(s) under consideration. Staff analysis at ad hoc subcommittees is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

Subcommittees must be comprised of at least two members. If only two members are appointed, then both must be present in order for the subcommittee meeting to be held. In other words, the quorum for a two-member subcommittee is always two.

Ad hoc subcommittees may convene a closed session meeting pursuant to the conditions and regulations imposed by the Brown Act.

III. AGENDA

A. Declaration of Policy

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon before the Council at its meeting without prior thereto its having been published on the agenda of the meeting and posted in accordance with Section III.D.2. Exceptions to this rule are limited to circumstances listed in Section III.D.4.b and items continued from a previous meeting and published on a revised agenda.

B. Definitions

For purposes of this section, the terms listed herein shall be defined as follows:

1. "Agenda Item" means an item placed on the agenda (on either the Consent Calendar or as a Report For Action) for a vote of the Council by the Mayor or any Councilmember, the City Manager, the Auditor, or any board/commission/committee created by the City Council, or any Report For Information which may be acted upon if the Mayor or a Councilmember so requests. For purposes of this section, appeals shall be considered action items. All information from the City Manager concerning any item to be acted upon by the Council shall be submitted as a report on the agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney client communication concerning a litigation matter. Council agenda items are limited to a maximum of three Co-Sponsors (in addition to the Primary Author). Co-Sponsors to Council reports may only be added in the following manner:
 - In the original item as submitted by the Primary Author
 - In a revised item submitted by the Primary Author at the Agenda & Rules Committee
 - By verbal request of the Primary Author at the Agenda & Rules Committee
 - In a revised item submitted by the Primary Author in Supplemental Reports and Communications Packet #1 or #2
 - By verbal or written request of the Mayor or any Councilmember at the Policy Committee meeting or meeting of the full council at which the item is considered

Agenda items shall contain all relevant documentation, including the information listed below.

- a) A descriptive title that adequately informs the public of the subject matter and general nature of the item or report;
- b) Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
- c) Recommendation of the report author that describes the action to be taken on the item, if applicable;

- d) Fiscal impacts of the recommendation;
 - e) A description of the current situation and its effects;
 - f) Background information as needed;
 - g) Rationale for recommendation;
 - h) Alternative actions considered;
 - i) For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
 - j) Person or persons to contact for further information, with telephone number.
 - k) Additional information and analysis as required. It is recommended that reports include the recommended points of analysis in the Council Report Guidelines in Appendix B.
2. "Primary Author" means the Mayor or Councilmember that initiated, authored, and submitted a council agenda item.
 3. "Co-Sponsor" means the Mayor or other Councilmembers designated by the Primary Author to be co-sponsor of the council agenda item.
 4. "Agenda" means the compilation of the descriptive titles of agenda items submitted to the City Clerk, arranged in the sequence established in Section III.E hereof.
 5. "Packet" means the agenda plus all its corresponding duplicated agenda items.
 6. "Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the Council determines that:
 - a) A work stoppage or other activity which severely impairs public health, safety, or both;
 - b) A crippling disaster, which severely impairs public health, safety or both. Notice of the Council's proposed consideration of any such emergency matter shall be given in the manner required by law for such an emergency pursuant to Government Code Section 54956.5.
 7. "Continued Business" Items carried over from a prior agenda of a meeting occurring less than 11 days earlier.
 8. "Old Business" Items carried over from a prior agenda of a meeting occurring more than 11 days earlier.

C. Procedure for Bringing Matters Before City Council

1. Persons Who Can Place Matters on the Agenda.

Matters may be placed on the agenda by the Mayor or any Councilmember, the City Manager, the Auditor, or any board/commission/committee created by the City Council. All items, other than board and commission items shall be subject to review by the Agenda & Rules Committee, which shall be a standing committee of the City Council.

The Agenda & Rules Committee shall meet 15 days prior to each City Council meeting and shall approve the agenda of that City Council meeting. Pursuant to BMC Section 1.04.080, if the 15th day prior to the Council meeting falls on a holiday, the Committee will meet the next business day. The Agenda & Rules Committee packet, including a draft agenda and Councilmember, Auditor, and Commission reports shall be distributed by 5:00 p.m. 4 days before the Agenda & Rules Committee meeting.

The Agenda & Rules Committee shall have the powers set forth below.

- a) **Items Authored by the Mayor, a Councilmember, or the Auditor.** As to items authored by the Mayor, a Councilmember, or the Auditor, the Agenda & Rules Committee shall review the item and may recommend that the matter be referred to a commission, to the City Manager, a Policy Committee, or back to the author for adherence to required form or for additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

The author of a “referred” item must inform the City Clerk within 24 hours of the adjournment of the Agenda & Rules Committee meeting whether they prefer to: 1) hold the item for a future meeting pending modifications as suggested by the Committee; 2) have the item appear on the Council agenda under consideration as originally submitted; 3) pull the item completely; or 4) re-submit the item with revisions as requested by the Agenda & Rules Committee within 24 hours of the adjournment of the Agenda & Rules Committee meeting for the Council agenda under consideration. Option 2 is not available for items eligible to be referred to a Policy Committee.

In the event that the City Clerk does not receive guidance from the author of the referred item within 24 hours of the Agenda & Rules Committee’s adjournment, the recommendation of the Agenda & Rules Committee will take effect.

Items held for a future meeting to allow for modifications will be placed on the next available Council meeting agenda at the time that the revised version is submitted to the City Clerk.

- b) **Items Authored by the City Manager.** The Agenda & Rules Committee shall review agenda descriptions of items authored by the City Manager. The Committee can recommend that the matter be referred to a commission or back to the City Manager for adherence to required form, additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

If the City Manager determines that the matter should proceed notwithstanding the Agenda & Rules Committee's action, it will be placed on the agenda as directed by the Manager. All City Manager items placed on the Council agenda against the recommendation of the Agenda & Rules Committee will automatically be placed on the Action Calendar.

- c) **Items Authored by Boards and Commissions.** Council items submitted by boards and commissions are subject to City Manager review and must follow procedures and timelines for submittal of reports as described in the Commissioners' Manual. The content of commission items is not subject to review by the Agenda & Rules Committee.

- i) For a commission item that does not require a companion report from the City Manager, the Agenda & Rules Committee may act on an agendaized commission report in the following manner:

1. Move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar.
2. Re-schedule the commission report to appear on one of the next three regular Council meeting agendas that occur after the regular meeting under consideration. Commission reports submitted in response to a Council referral shall receive higher priority for scheduling.
3. Allow the item to proceed as submitted.

- ii) For any commission report that requires a companion report, the Agenda & Rules Committee may schedule the item on a Council agenda. The Committee must schedule the the commission item for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the Agenda & Rules Committee. A commission report submitted with a complete companion report may be scheduled pursuant to subparagraph c.i. above.

- d) The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in Chapter III, Section E.

2. **Scheduling Public Hearings Mandated by State, Federal, or Local Statute.**
The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.
3. **Submission of Agenda Items.**
- a) **City Manager Items.** Except for Continued Business and Old Business, as a condition to placing an item on the agenda, agenda items from departments, including agenda items from commissions, shall be furnished to the City Clerk at a time established by the City Manager.
 - b) **Council and Auditor Items.** The deadline for reports submitted by the Auditor, Mayor and City Council is 5:00 p.m. on Monday, 22 days before each Council meeting.
 - c) **Time Critical Items.** A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published agenda.

The author of the report shall bring any reports submitted as Time Critical to the meeting of the Agenda & Rules Committee. Time Critical items must be accompanied by complete reports and statements of financial implications. If the Agenda & Rules Committee finds the matter to meet the definition of Time Critical, the Agenda & Rules Committee may place the matter on the Agenda on either the Consent or Action Calendar.

- d) The City Clerk may not accept any agenda item after the adjournment of the Agenda & Rules Committee meeting, except for items carried over by the City Council from a prior City Council meeting occurring less than 11 days earlier, which may include supplemental or revised reports, and reports concerning actions taken by boards and commissions that are required by law or ordinance to be presented to the Council within a deadline that does not permit compliance with the agenda timelines in BMC Chapter 2.06 or these rules.
4. **Submission of Supplemental and Revised Agenda Material.**
Berkeley Municipal Code Section 2.06.070 allows for the submission of supplemental and revised agenda material. Supplemental and revised material cannot be substantially new or only tangentially related to an agenda item. Supplemental material must be specifically related to the item in the Agenda Packet. Revised material should be presented as revised versions of the report or item printed in the Agenda Packet. Supplemental and revised material may be submitted for consideration as follows:
- a) Supplemental and revised agenda material shall be submitted to the City Clerk no later than 5:00 p.m. seven calendar days prior to the City Council

meeting at which it is to be considered. Supplemental and revised items that are received by the deadline shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. five calendar days prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation.

- b) Supplemental and revised agenda material submitted to the City Clerk after 5:00 p.m. seven days before the meeting and no later than 12:00 p.m. one day prior to the City Council meeting at which it is to be considered shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. one day prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Council evaluation.
- c) After 12:00 p.m. one calendar day prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 42 copies of the supplemental/revised material to the City Clerk for distribution at the meeting. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a factual determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the agenda item in order for the material to be considered.

5. Scheduling a Presentation.

Presentations from staff are either submitted as an Agenda Item or are requested by the City Manager. Presentations from outside agencies and the public are coordinated with the Mayor's Office. The Agenda & Rules Committee may adjust the schedule of presentations as needed to best manage the Council Agenda.

D. Packet Preparation and Posting

1. Preparation of the Packet.

Not later than the thirteenth day prior to said meeting, the City Clerk shall prepare the packet, which shall include the agenda plus all its corresponding duplicated agenda items. No item shall be considered if not included in the packet, except as provided for in Section III.C.4 and Section III.D.4.

2. Distribution and Posting of Agenda.

- a) The City Clerk shall post each agenda of the City Council regular meeting no later than 11 days prior to the meeting and shall post each agenda of a special meeting at least 24 hours in advance of the meeting in the official bulletin board. The City Clerk shall maintain an affidavit indicating the location, date and time of posting each agenda.
- b) The City Clerk shall also post agendas and annotated agendas of all City Council meetings and notices of public hearings on the City's website.
- c) No later than 11 days prior to a regular meeting, copies of the agenda shall be mailed by the City Clerk to any resident of the City of Berkeley who so requests in writing. Copies shall also be available free of charge in the City Clerk Department.

3. Distribution of the Agenda Packet.

The Agenda Packet shall consist of the Agenda and all supporting documents for agenda items. No later than 11 days prior to a regular meeting, the City Clerk shall:

- a) distribute the Agenda Packet to each member of the City Council;
- b) post the Agenda Packet to the City's website;
- c) place copies of the Agenda Packet in viewing binders in the office of the City Clerk and in the main branch of the Berkeley Public Library; and
- d) make the Agenda Packet available to members of the press.

4. Failure to Meet Deadlines.

- a) The City Clerk shall not accept any agenda item or revised agenda item after the deadlines established.
- b) Matters not included on the published agenda may be discussed and acted upon as otherwise authorized by State law or providing the Council finds one of the following conditions is met:
 - A majority of the Council determines that the subject meets the criteria of "Emergency" as defined in Section III.B.5.
 - Two thirds of the Council determines that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the agenda as required by law.
- c) Matters listed on the printed agenda but for which supporting materials are not received by the City Council on the eleventh day prior to said meeting as part of the agenda packet, shall not be discussed or acted upon.

E. Agenda Sequence and Order of Business

The Council agenda for a regular business meeting is to be arranged in the following order:

1. Preliminary Matters: (Ceremonial, Comments from the City Manager, Comments from the City Auditor, Non-Agenda Public Comment)
2. Consent Calendar
3. Action Calendar
 - a) Appeals
 - b) Public Hearings
 - c) Continued Business
 - d) Old Business
 - e) New Business
4. Information Reports
5. Non-Agenda Public Comment
6. Adjournment
7. Communications

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

The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in this section.

F. Closed Session Documents

This section establishes a policy for the distribution of, and access to, confidential closed session documents by the Mayor and Members of the City Council.

1. Confidential closed session materials shall be kept in binders numbered from one to nine and assigned to the Mayor (#9) and each Councilmember (#1 to #8 by district). The binders will contain confidential closed session materials related to Labor Negotiations, Litigation, and Real Estate matters.
2. The binders will be maintained by City staff and retained in the Office of the City Attorney in a secure manner. City staff will bring the binders to each closed session for their use by the Mayor and Councilmembers. At other times, the binders will be available to the Mayor and Councilmembers during regular business hours for review in the City Attorney's Office. The binders may not be removed from the City Attorney's Office or the location of any closed session meeting by the Mayor or Councilmembers. City staff will collect the binders at the end of each closed session meeting and return them to the City Attorney's Office.

3. Removal of confidential materials from a binder is prohibited.
4. Duplication of the contents of a binder by any means is prohibited.
5. Confidential materials shall be retained in the binders for at least two years.
6. This policy does not prohibit the distribution of materials by staff to the Mayor and Councilmembers in advance of a closed session or otherwise as needed, but such materials shall also be included in the binders unless it is impracticable to do so.

G. Regulations Governing City Council Policy Committees

1. Legislative Item Process

All agenda items begin with submission to the Agenda & Rules Committee.

Full Council Track

Items under this category are exempt from Agenda & Rules Committee discretion to refer them to a Policy Committee. Items in this category may be submitted for the agenda of any scheduled regular meeting pursuant to established deadlines (same as existing deadlines). Types of Full Council Track items are listed below.

- a. Items submitted by the City Manager and City Auditor
- b. Items submitted by Boards and Commissions
- c. Resolutions on Legislation and Electoral Issues relating to Outside Agencies/Jurisdictions
- d. Position Letters and/or Resolutions of Support/Opposition
- e. Donations from the Mayor and Councilmember District Office Budgets
- f. Referrals to the Budget Process
- g. Proclamations
- h. Sponsorship of Events
- i. Information Reports
- j. Presentations from Outside Agencies and Organizations
- k. Ceremonial Items
- l. Committee and Regional Body Appointments

The Agenda & Rules Committee has discretion to determine if an item submitted by the Mayor or a Councilmember falls under a Full Council Track exception or if it will be processed as a Policy Committee Track item. If an item submitted by the Mayor or a Councilmember has 1) a significant lack of background or supporting information, or 2) significant grammatical or readability issues the Agenda & Rules committee may refer the item to a Policy Committee.

Policy Committee Track

Items submitted by the Mayor or Councilmembers with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts will go first to the Agenda & Rules Committee on a draft City Council agenda.

The Agenda & Rules Committee must refer an item to a Policy Committee at the first meeting that the item appears before the Agenda & Rules Committee. The Agenda & Rules Committee may only assign the item to a single Policy Committee.

For a Policy Committee Track item, the Agenda & Rules Committee, at its discretion, may either route item directly to 1) the agenda currently under consideration, 2) one of the next three full Council Agendas (based on completeness of the item, lack of potential controversy, minimal impacts, etc.), or 3) to a Policy Committee.

Time Critical Track

A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published agenda.

The Agenda & Rules Committee retains final discretion to determine the time critical nature of an item.

- a) Time Critical items submitted on the Full Council Track deadlines, that would otherwise be assigned to the Policy Committee Track, may bypass Policy Committee review if determined to be time critical. If such an item is deemed not to be time critical, it may be referred to a Policy Committee.
- b) Time Critical items on the Full Council Track or Policy Committee Track that are submitted at a meeting of the Agenda & Rules Committee may go directly on a council agenda if determined to be time critical.

2. Council Referrals to Committees

The full Council may refer any agenda item to a Policy Committee by majority vote.

3. Participation Rules for Policy Committees Pursuant to the Brown Act

- a. The quorum of a three-member Policy Committee is always two members. A majority vote of the committee (two 'yes' votes) is required to pass a motion.
- b. Two Policy Committee members may not discuss any item that has been referred to the Policy Committee outside of an open and noticed meeting.
- c. Notwithstanding paragraph (b) above, two members of a Policy Committee may co-author an item provided that one of the authors will not serve as a committee member for consideration of the item, and shall not participate in the committee's discussion of, or action on the item. For purposes of the item, the appointed

- alternate will serve as a committee member in place of the non-participating co-author.
- d. All three members of a Policy Committee may not be co-authors of an item that will be heard by the committee.
 - e. Only one co-author who is not a member of the Policy Committee may attend the committee meeting to participate in discussion of the item.
 - f. If two or more non-committee members are present for any item or meeting, then all non-committee members may act only as observers and may not participate in discussion. If an author is present to participate in the discussion of their item, no other Councilmembers, nor the Mayor, may attend as observers.
 - g. An item may be considered by only one Policy Committee before it goes to the full Council.

4. Functions of the Committees

Committees shall have the following qualities/components:

- a. All committees are Brown Act bodies with noticed public meetings and public comment. Regular meeting agendas will be posted at least 72 hours in advance of the meeting.
- b. Minutes shall be available online.
- c. Committees shall adopt regular meeting schedules, generally meeting once or twice per month; special meetings may be called when necessary, in accordance with the Brown Act.
- d. Generally, meetings will be held at 2180 Milvia Street in publicly accessible meeting rooms that can accommodate the committee members, public attendees, and staff.
- e. Members are recommended by the Mayor and approved by the full Council no later than January 31 of each year. Members continue to serve until successors are appointed and approved.
- f. Chairs are elected by the Committee at the first regular meeting of the Committee after the annual approval of Committee members by the City Council. In the absence of the Chair, the committee member with the longest tenure on the Council will preside.
- g. The Chair, or a quorum of the Committee may call a meeting or cancel a meeting of the Policy Committee.
- h. Committees will review items for completeness in accordance with Section III.B.2 of the City Council Rules of Procedure and Order and alignment with Strategic Plan goals.
- i. Reports leaving a Policy Committee must adequately include budget implications, administrative feasibility, basic legal concerns, and staff resource demands in order to allow for informed consideration by the full Council.
- j. Per Brown Act regulations, any such materials must be direct revisions or supplements to the item that was published in the agenda packet.

Items referred to a Policy Committee from the Agenda & Rules Committee or from the City Council must be agendized for a committee meeting within 60 days of the referral date.

Within 120 days of the referral date, the committee must vote to either (1) accept the author's request that the item remain in committee until a date certain (more than one extension may be requested by the author); or (2) send the item to the Agenda & Rules Committee to be placed on a Council Agenda with a Committee recommendation consisting of one of the four options listed below.

1. Positive Recommendation (recommending Council pass the item as proposed),
2. Qualified Positive Recommendation (recommending Council pass the item with some changes),
3. Qualified Negative Recommendation (recommending Council reject the item unless certain changes are made) or
4. Negative Recommendation (recommending the item not be approved).

The Policy Committee's recommendation will be included in a separate section of the report template for that purpose.

A Policy Committee may not refer an item under its consideration to a city board or commission.

The original Council author of an item referred to a Policy Committee is responsible for revisions and resubmission of the item back to the full Council. Items originating from the City Manager are revised and submitted by the appropriate city staff. Items from Commissions are revised and resubmitted by the members of the Policy Committee. Items and Recommendations originating from the Policy Committee are submitted to the agenda process by the members of the committee.

If a Policy Committee does not take final action by the 120-day deadline, the item is returned to the Agenda & Rules Committee and appears on the next available Council agenda. The Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the next Council agenda. Items appearing on a City Council agenda due to lack of action by a Policy Committee may not be referred to a Policy Committee and must remain on the full Council agenda for consideration.

Non-legislative or discussion items may be added to the Policy Committee agenda by members of the Committee with the concurrence of a quorum of the Committee. These items are not subject to the 120-day deadline for action.

Once the item is voted out of a Policy Committee, the final item will be resubmitted to the agenda process by the author, and it will return to the Agenda & Rules Committee on the

next available agenda. The Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the following Council agenda. Only items that receive a Positive Recommendation can be placed on the Consent Calendar.

The lead author may request expedited committee review for items referred to a committee. Criteria for expedited review is generally to meet a deadline for action (e.g. grant deadline, specific event date, etc.). If the committee agrees to the request, the deadline for final committee action is 45 days from the date the committee approves expedited review.

5. Number and Make-up of Committees

Six committees are authorized, each comprised of three Councilmembers with a fourth Councilmember appointed as an alternate. Each Councilmember and the Mayor will serve on two committees. The Mayor shall be a member of the Agenda and Rules Committee. The committees are as follows:

1. Agenda and Rules Committee
2. Budget and Finance Committee
3. Facilities, Infrastructure, Transportation, Environment, and Sustainability
4. Health, Life Enrichment, Equity, and Community
5. Land Use, Housing, and Economic Development
6. Public Safety

The Agenda & Rules Committee shall establish the Policy Committee topic groupings, and may adjust said groupings periodically thereafter in order to evenly distribute expected workloads of various committees.

All standing Policy Committees of the City Council are considered “legislative bodies” under the Brown Act and must conduct all business in accordance with the Brown Act.

6. Role of City Staff at Committee Meetings

Committees will be staffed by appropriate City Departments and personnel. As part of the committee process, staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item. Staff analysis at the Policy Committee level is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

IV. CONDUCT OF MEETING

A. Comments from the Public

Public comment will be taken in the following order:

- An initial ten-minute period of public comment on non-agenda items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- Public comment on the Consent and Information Calendars.
- Public comment on action items, appeals and/or public hearings as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

A member of the public may only speak once at public comment on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry.

1. Public Comment on Consent Calendar and Information Items.

The Council will first determine whether to move items on the agenda for “Action” or “Information” to the “Consent Calendar,” or move “Consent Calendar” items to “Action.” Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent.”

The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. No additional items can be moved onto the Consent Calendar once public comment has commenced.

At any time during, or immediately after, public comment on Information and Consent items, the Mayor or any Councilmember may move any Information or Consent item to “Action.” Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

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

2. Public Comment on Action Items.

After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

This procedure also applies to public hearings except those types of public hearings specifically provided for in this section.

3. Appeals Appearing on Action Calendar.

With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of proposed special assessment lien, the appellant shall have seven minutes to comment.

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.

4. Public Comment on Non Agenda Matters.

Immediately following Ceremonial Matters and the City Manager Comments and prior to the Consent Calendar, persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting.

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.

For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at the podium to be recognized to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate given the number of speakers.

Pursuant to this document, no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agenda item remains unfinished at 11:00 p.m. or the expiration of any extension after 11:00 p.m., it will be referred to the Agenda & Rules Committee for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for public comment on non-agenda items.

5. Ralph M. Brown Act Pertaining to Public Comments.

The "Brown Act" prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the agenda. However, the Council may refer a matter to the City Manager.

B. Consent Calendar

There shall be a Consent Calendar on all regular meeting agendas on which shall be included those matters which the Mayor, Councilmembers, boards, commissions, City Auditor and City Manager deem to be of such nature that no debate or inquiry will be necessary at the Council meetings. Ordinances for second reading may be included in the Consent Calendar.

It is the policy of the Council that the Mayor or Councilmembers wishing to ask questions concerning Consent Calendar items should ask questions of the contact person identified prior to the Council meeting so that the need for discussion of consent calendar items can be minimized.

Consent Calendar items may be moved to the Action Calendar by the Council. Action items may be reordered at the discretion of the Chair with the consent of Council.

C. Information Reports Called Up for Discussion

Reports for Information designated for discussion at the request of the Mayor or any Councilmember shall be added to the appropriate section of the Action Calendar and may be acted upon at that meeting or carried over as pending business until discussed or withdrawn. The agenda will indicate that at the request of Mayor or any Councilmember a Report for Information may be acted upon by the Council.

D. Communications

Letters from the public will not appear on the Council agenda as individual matters for discussion but will be distributed as part of the Council agenda packet with a cover sheet identifying the author and subject matter and will be listed under "Communications." All such communications must have been received by the City Clerk no later than 5:00 p.m. fifteen days prior to the meeting in order to be included on the agenda.

In instances where an individual forwards more than three pages of email messages not related to actionable items on the Council agenda to the Council to be reproduced in the "Communications" section of the Council packet, the City Clerk will not reproduce the entire email(s) but instead refer the public to the City's website or a hard copy of the email(s) on file in the City Clerk Department.

All communications shall be simply deemed received without any formal action by the Council. The Mayor or a Councilmember may refer a communication to the City Manager for action, if appropriate, or prepare a consent or action item for placement on a future agenda.

Communications related to an item on the agenda that are received after 5:00 p.m. fifteen days before the meeting are published as provided for in Chapter III.C.4.

E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters

The City Council, in setting the time and place for a public hearing, may limit the amount of time to be devoted to public presentations. Staff shall introduce the public hearing item and present their comments.

Following any staff presentation, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Such reports shall include a brief statement describing the name, date, place, and content of the contact. Written reports shall be available for public review

in the office of the City Clerk prior to the meeting and placed in a file available for public viewing at the meeting.

This is followed by five-minute presentations each by the appellant and applicant. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have five minutes to comment and the applicant shall have five minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have five minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have five minutes to comment and the persons supporting the action of the board or commission on appeal shall have five minutes to comment. In the case of a public nuisance determination, the representative(s) of the subject property shall have five minutes to present.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Any person that addressed the Council during one of the five-minute periods may not speak again during the public comment period on the appeal. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

F. Work Sessions

The City Council may schedule a matter for general Council discussion and direction to staff. Official/formal action on a work session item will be scheduled on a subsequent agenda under the Action portion of the Council agenda.

In general, public comment at Council work sessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again.

H. Protocol

People addressing the Council may first give their name in an audible tone of voice for the record. All remarks shall be addressed to the Council as a body and not to any member thereof. No one other than the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a Councilmember except through the Presiding Officer.

V. PROCEDURAL MATTERS

A. Persons Authorized to Sit at Tables

No person, except City officials, their representatives and representatives of boards and commissions shall be permitted to sit at the tables in the front of the Council Chambers without the express consent of the Council.

B. Decorum

No person shall disrupt the orderly conduct of the Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Council Dais without consent. Any written communications addressed to the Council shall be delivered to the City Clerk for distribution to the Council.

C. Enforcement of Decorum

When the public demonstrates a lack of order and decorum, the presiding officer shall call for order and inform the person(s) that the conduct is violating the Rules of Order and Procedure and provide a warning to the person(s) to cease the disruptive behavior. Should the person(s) fail to cease and desist the disruptive conduct, the presiding officer may call a five (5) minute recess to allow the disruptions to cease.

If the meeting cannot be continued due to continued disruptive conduct, the presiding officer may have any law enforcement officer on duty remove or place any person who violates the order and decorum of the meeting under arrest and cause that person to be prosecuted under the provisions of applicable law.

D. Precedence of Motions

When a question is before the Council, no motion shall be entertained except:

1. To adjourn,
2. To fix the hour of adjournment,
3. To lay on the table,
4. For the previous question,
5. To postpone to a certain day,
6. To refer,
7. To amend,
8. To substitute, and
9. To postpone indefinitely.

These motions shall have precedence in order indicated. Any such motion, except a motion to amend or substitute, shall be put to a vote without debate.

E. Roberts Rules of Order

Roberts Rules of Order have been adopted by the City Council and apply in all cases except the precedence of motions in Section V.D shall supersede.

F. Rules of Debate

1. Presiding Officer May Debate.

The presiding officer may debate from the chair; subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges as a member of the Council by reason of that person acting as the presiding officer.

2. Getting the Floor - Improper References to be avoided.

Members desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine themselves to the question under debate.

3. Interruptions.

A member, once recognized, shall not be interrupted when speaking unless it is to call a member to order, or as herein otherwise provided. If a member, while speaking, were called to order, that member shall cease speaking until the question of order is determined, and, if in order, the member shall be permitted to proceed.

4. Privilege of Closing Debate.

The Mayor or Councilmember moving the adoption of an ordinance or resolution shall have the privilege of closing the debate. When a motion to call a question is passed, the Mayor or Councilmember moving adoption of an ordinance, resolution or other action shall have three minutes to conclude the debate.

5. Motion to Reconsider.

A motion to reconsider any action taken by the Council may be made only during the same session such action is taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by a member on the prevailing side, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or other motion at a subsequent meeting of the Council.

6. Repeal or Amendment of Action Requiring a Vote of Two-Thirds of Council, or Greater.

Any ordinance or resolution which is passed and which, as part of its terms, requires a vote of two-thirds of the Council or more in order to pass a motion pursuant to such an ordinance or resolution, shall require the vote of the same percent of the Council to repeal or amend the ordinance or resolution.

G. Debate Limited

1. Consideration of each matter coming before the Council shall be limited to 20 minutes from the time the matter is first taken up, at the end of which period consideration of such matter shall terminate and the matter shall be dropped to the foot of the agenda, immediately ahead of Information Reports; provided that either of the following two not debatable motions shall be in order:
 - a) A motion to extend consideration which, if passed, shall commence a new twenty-minute period for consideration; or
 - b) If there are one or more motions on the floor, the previous question, which, if passed, shall require an immediate vote on pending motions.
2. The time limit set forth in subparagraph 1 hereof shall not be applicable to any public hearing, public discussion, Council discussion or other especially set matter for which a period of time has been specified (in which case such specially set time shall be the limit for consideration) or which by applicable law (e.g. hearings of appeals, etc.), the matter must proceed to its conclusion.
3. In the interest of expediting the business of the City, failure by the Chair or any Councilmember to call attention to the expiration of the time allowed for consideration of a matter, by point of order or otherwise, shall constitute unanimous consent to the continuation of consideration of the matter beyond the allowed time; provided, however, that the Chair or any Councilmember may at any time thereafter call attention to the expiration of the time allowed, in which case the Council shall proceed to the next item of business, unless one of the motions referred to in Section D hereof is made and is passed.

H. Motion to Lay on Table

A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed only upon a motion of a member voting with the majority and with consent of two-thirds of the members present.

I. Division of Question

If the question contains two or more propositions, which can be divided, the presiding officer may, and upon request of a member shall, divide the same.

J. Addressing the Council

Under the following headings of business, unless the presiding officer rules otherwise, any interested person shall have the right to address the Council in accordance with the following conditions and upon obtaining recognition by the presiding officer:

1. Written Communications.

Interested parties or their authorized representatives may address the Council in the form of written communications in regard to matters of concern to them by submitting their written communications at the meeting, or prior to the meeting pursuant to the deadlines in Chapter III.C.4.

2. Public Hearings.

Interested persons or their authorized representatives may address the Council by reading protests, petitions, or communications relating to matters then under consideration.

3. Public Comment.

Interested persons may address the Council on any issue concerning City business during the period assigned to Public Comment.

K. Addressing the Council After Motion Made

When a motion is pending before the Council, no person other than the Mayor or a Councilmember shall address the Council without first securing the permission of the presiding officer or Council to do so.

VI.FACILITIES

A. Council Chamber Capacity

Attendance at council meetings shall be limited to the posted seating capacity of the meeting location. Entrance to the meeting location will be appropriately regulated by the City Manager on occasions when capacity is likely to be exceeded. While the Council is in session, members of the public shall not remain standing in the meeting room except to address the Council, and sitting on the floor shall not be permitted.

B. Alternate Facilities for Council Meetings

The City Council shall approve in advance a proposal that a Council meeting be held at a facility other than the School District Board Room.

If the City Manager has reason to anticipate that the attendance for a meeting will be substantially greater than the capacity of the Board Room and insufficient time exists to secure the approval of the City Council to hold the meeting at an alternate facility, the City Manager shall make arrangements for the use of a suitable alternate facility to which such meeting may be recessed and moved, if the City Council authorizes the action.

If a suitable alternate facility is not available, the City Council may reschedule the matter to a date when a suitable alternate facility will be available.

Alternate facilities are to be selected from those facilities previously approved by the City Council as suitable for meetings away from the Board Room.

C. Signs, Objects, and Symbolic Materials

Objects and symbolic materials such as signs which do not have sticks or poles attached or otherwise create any fire or safety hazards will be allowed within the meeting location during Council meetings.

D. Fire Safety

Exits shall not be obstructed in any manner. Obstructions, including storage, shall not be placed in aisles or other exit ways. Hand carried items must be stored so that such items do not inhibit passage in aisles or other exit ways. Attendees are strictly prohibited from sitting in aisles and/or exit ways. Exit ways shall not be used in any way that will present a hazardous condition.

E. Overcrowding

Admittance of persons beyond the approved capacity of a place of assembly is prohibited. When the meeting location has reached the posted maximum capacity, additional attendees shall be directed to the designated overflow area.

APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

Purpose

To establish a uniform policy regarding the naming and renaming of existing and future parks, streets, pathways and other public facilities.

Objective

- A. To ensure that naming public facilities (such as parks, streets, recreation facilities, pathways, open spaces, public building, bridges or other structures) will enhance the values and heritage of the City of Berkeley and will be compatible with community interest.

Section 1 – Lead Commission

The City Council designates the following commissions as the ‘Lead Commissions’ in overseeing, evaluating, and ultimately advising the Council in any naming or renaming of a public facility. The lead commission shall receive and coordinate comment and input from other Commissions and the public as appropriate.

Board of Library Trustees

Parks and Recreation Commission –Parks, recreation centers, camps, plazas and public open spaces

Public Works Commission –Public buildings (other than recreation centers), streets and bridges or other structures in the public thoroughfare.

Waterfront Commission –Public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.

Section 2 – General Policy

- A. Newly acquired or developed public facilities shall be named immediately after acquisition or development to ensure appropriate public identity.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. Public facilities that are renamed must follow the same criteria for naming new facilities. In addition, the historical significance and geographical reference of the established name should be considered when weighing and evaluating any name change.
- D. The City encourages the recognition of individuals for their service to the community in ways that include the naming of activities such as athletic events, cultural presentations, or annual festivals, which do not involve the naming or renaming of public facilities.
- E. Unless restricted by covenant, facilities named after an individual should not necessarily be considered a perpetual name.

Section 3 – Criteria for Naming of Public Facilities

When considering the naming of a new public facility or an unnamed portion or feature within an already named public facility (such as a room within the facility or a feature within an established park), or, the renaming of an existing public facility the following criteria shall be applied:

- A. Public Facilities are generally easier to identify by reference to adjacent street names, distinct geographic or environmental features, or primary use activity. Therefore, the preferred practice is to give City-owned property a name of historical or geographical significance and to retain these names.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. The naming of a public facility or any parts thereof in recognition of an individual posthumously may only be considered if the individual had a positive effect on the community and has been deceased for more than 1 year.
- D. When a public facility provides a specific programmatic activity, it is preferred that the activity (e.g. skateboard park, baseball diamond) be included in the name of the park or facility.
- E. When public parks are located adjacent to elementary schools, a name that is the same as the adjacent school shall be considered.
- F. When considering the renaming of an existing public facility, in addition to applying criteria A-E above, proper weight should be given to the fact that: a name lends a site or property authenticity and heritage; existing names are presumed to have historic significance; and historic names give a community a sense of place and identity, continuing through time, and increases the sense of neighborhood and belonging.

Section 4 –Naming Standards Involving a Major Contribution

When a person, group or organization requests the naming or renaming of a public facility, all of the following conditions shall be met:

- A. An honoree will have made a major contribution towards the acquisition and/or development costs of a public facility or a major contribution to the City.
- B. The honoree has a record of outstanding service to their community
- C. Conditions of any donation that specifies that name of a public facility, as part of an agreement or deed, must be approved by the City Council, after review by and upon recommendation of the City Manager.

Section 5 –Procedures for Naming or Renaming of Public Facilities

- A. Any person or organization may make a written application to the City Manager requesting that a public facility or portion thereof, be named or renamed.
 - 1. Recommendations may also come directly of the City Boards or Commissions, the City Council, or City Staff.
- B. The City Manager shall refer the application to the appropriate lead commission as defined in Section 1 of the City's policy on naming of public facilities, for that commission's review, facilitation, and recommendation of disposition.
 - 1. The application shall contain the name or names of the persons or organization making the application and the reason for the requested naming or renaming.
- C. The lead commission shall review and consider the application, using the policies and criteria articulated to the City Policy on Naming and Renaming to make a recommendation to Council.
 - 1. All recommendations or suggestion will be given the same consideration without regard to the source of the nomination
- D. The lead commission shall hold a public hearing and notify the general public of any discussions regarding naming or renaming of a public facility.

1. Commission action will be taking at the meeting following any public hearing on the naming or renaming.
- E. The commission's recommendation shall be forwarded to Council for final consideration.

The City of Berkeley Policy for Naming and Renaming Public Facilities was adopted by the Berkeley City Council at the regular meeting of January 31, 2012.

APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the Agenda & Rules Committee to request that the author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as Applicable:
 - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
 - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
 - c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
 - d. Fiscal impacts of the recommendation;
 - e. A description of the current situation and its effects;
 - f. Background information as needed;
 - g. Rationale for recommendation;
 - h. Alternative actions considered;
 - i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
 - j. Person or persons to contact for further information, with telephone number. If the author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.

Guidelines for City Council Items:

1. Title
 2. Consent/Action/Information Calendar
 3. Recommendation
 4. Summary Statement/Current situation and its effects
 5. Background
 6. Review of Existing Plans, Programs, Policies and Laws
 7. Actions/Alternatives Considered
 8. Consultation/Outreach Overview and Results
 9. Rationale for Recommendation
 10. Implementation, Administration and Enforcement
 11. Environmental Sustainability
 12. Fiscal Impacts
 13. Outcomes and Evaluation
 14. Contact Information
 15. Attachments/Supporting Materials
-

1. Title

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

2. Consent/Action/Information Calendar

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

3. Recommendation

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
- Adopt a resolution
- Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
- Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
- Referral to a Commission or to a Standing or Ad Hoc Council Committee
- Referral to the budget process
- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action

4. Summary Statement/ “Current situation and its effects”

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):
Winter rains are lasting longer than expected. Berkeley’s winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley’s winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.

5. Background

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

6. Review of Existing Plans, Programs, Policies and Laws

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan

- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

7. Actions/Alternatives Considered

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

8. Consultation/Outreach Overview and Results

- Review/list external and internal stakeholders that were consulted
 - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
 - **Internal:** staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

9. Rationale for Recommendation

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented,

but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

10. Implementation, Administration and Enforcement

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

11. Environmental Sustainability

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

12. Fiscal Impacts

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

13. Outcomes and Evaluation

State the specific outcomes expected, if any (i.e., "*it is expected that 100 homeless people will be referred to housing every year*") and what reporting or evaluation is recommended.

14. Contact Information

15. Attachments/Supporting Materials