



**BERKELEY CITY COUNCIL FACILITIES, INFRASTRUCTURE,  
TRANSPORTATION, ENVIRONMENT & SUSTAINABILITY COMMITTEE  
REGULAR MEETING**

**Wednesday, May 4, 2022  
2:30 PM**

Committee Members:

Councilmembers Terry Taplin, Rigel Robinson, and Kate Harrison  
Alternate: Councilmember Sophie Hahn

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

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

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL <https://us02web.zoom.us/j/88133116954>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen.

To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)** and Enter Meeting ID: **881 3311 6954**. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized by the Chair.

Written communications submitted by mail or e-mail to the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record.

# AGENDA

## Roll Call

## Public Comment on Non-Agenda Matters

## Minutes for Approval

*Draft minutes for the Committee's consideration and approval.*

### 1. Minutes - April 20, 2022

## Committee Action Items

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

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

### 2. **Adopt an Ordinance Adding a Chapter 11.62 to the Berkeley Municipal Code to Regulate Plastic Bags at Retail and Food Service Establishments**

**From: Councilmembers Harrison and Hahn**

**Referred: November 25, 2019**

**Due: June 30, 2022**

**Recommendation:** Adopt an ordinance adding a Chapter 11.62 to the Berkeley Municipal Code to regulate plastic bags at retail and food service establishments.

**Financial Implications:** See report

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

### 3. **Referral Response: Community Outreach and Education Events on Proposed Regulations for the Use of Carryout and Pre-checkout Bags**

**From: Energy Commission**

**Referred: March 28, 2022**

**Due: September 3, 2022**

**Recommendation:** The Energy Commission recommends that the City Council refer this matter to the forthcoming Commission on Climate and the Environment Commission, once it is established. The Energy Commission also recommends that the City Council first allocate and appropriate funding for City staff and local community partners to conduct due diligence and analysis regarding the proposed ordinance, and consider funding a pilot project with a large grocery venue.

**Financial Implications:** See report

Contact: Billi Romain, Commission Secretary, (510) 981-7400

## Committee Action Items

- 4. Referral to the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee Policy Committee to Consider Strategies and Make Recommendations to Council and Staff to Ensure Potential Infrastructure Bond Expenditure Is Consistent With Climate Action Goals and Other Environmental Policies**  
**From: Councilmember Harrison (Author), Councilmember Hahn (Co-Sponsor)**  
**Referred: March 7, 2022**  
**Due: September 13, 2022**  
**Recommendation:** Refer to the Facilities, Infrastructure, Transportation, Environment & Sustainability (FITES) Policy Committee Policy Committee to consider strategies and make recommendations to the Council and staff to ensure that potential infrastructure bond is consistent with Climate Action goals and other environmental policies.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 5. Adopt an Ordinance Adding a New Chapter 12.01 to the Berkeley Municipal Code Establishing Emergency Greenhouse Gas Limits, Process for Updated Climate Action Plan, Monitoring, Evaluation, Reporting and Regional Collaboration**  
**From: Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor) and Councilmember Hahn (Co-Sponsor)**  
**Referred: November 15, 2021**  
**Due: May 7, 2022**  
**Recommendation:** 1. Adopt an ordinance adding a new Chapter 12.01 to the Berkeley Municipal Code (BMC) establishing Emergency Greenhouse Gas Limits with an effective date of [ ], 2022.  
2. Refer to the FY23-24 Budget Process \$[ ] consistent with implementing the requirements of Sections 12.01.040, 12.01.050, 12.01.060.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

## Unscheduled Items

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

### 6. **Equitable Safe Streets and Climate Justice Resolution**

**From: Councilmember Taplin**

**Referred: February 22, 2022**

**Due: July 12, 2022**

**Recommendation:** Adopt a resolution committing the expenditure of City and state/federal matching/recurring funds on city-maintained roads, sidewalks, and bike lanes to accelerate safety improvements in a manner consistent with City, State, and Federal policy on street safety, equity, accessibility, and climate change; refer to the City Manager fully integrate Complete Streets design as defined by the NACTO Urban Street Design Guide in the default engineering standard for city streets; restrict city use of the Manual on Uniform Traffic Control Devices (MUTCD) to only documented cases that require its use for compliance with Federal/State regulations; in all other cases, restrict use of the MUTCD to “engineering judgment.”

**Financial Implications:** See report

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

### 7. **Refer to the City Manager to Prioritize Establishment of Impact/Mitigation Fees to Address Disproportionate Private and Public Utility Impact to the Public Right of Way**

**From: Councilmember Harrison (Author)**

**Referred: February 22, 2021**

**Due: September 30, 2022**

**Recommendation:** In order to ensure equitable support of the public right of way by private and public entities that use City facilities, refer to the City Manager and City Attorney to prioritize the following in consultation with the Facilities, Infrastructure, Transportation, Environment, & Sustainability Committee:

1. establish impact and/or mitigation fees to address disproportionate private impacts to the public right of way, such as our roads and utility poles; and
2. establish transfers between sewer, waste, or other utilities as appropriate to address impacts to the public right of way.

**Financial Implications:** See report

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

## Items for Future Agendas

- **Discussion of items to be added to future agendas**



## Adjournment

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*Written communications addressed to the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee and submitted to the City Clerk Department will be distributed to the Committee prior to the meeting.*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. 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:

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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I hereby certify that the agenda for this meeting of the Standing Committee 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 Thursday, April 28, 2022.

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

Mark Numainville, City Clerk

## Communications

*Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or [policycommittee@cityofberkeley.info](mailto:policycommittee@cityofberkeley.info).*



**BERKELEY CITY COUNCIL FACILITIES, INFRASTRUCTURE,  
TRANSPORTATION, ENVIRONMENT & SUSTAINABILITY COMMITTEE  
REGULAR MEETING MINUTES**

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## MINUTES

**Roll Call:** 2:33 p.m.

**Present:** Taplin, Robinson, Harrison

**Public Comment on Non-Agenda Matters:** 1 speaker

### Minutes for Approval

*Draft minutes for the Committee's consideration and approval.*

**1. Minutes - April 13, 2022**

**Action:** M/S/C (Robinson/Taplin) to approve the April 13, 2022 minutes as presented.

**Vote:** All Ayes

### Committee Action Items

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**2. Referral to the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee Policy Committee to Consider Strategies and Make Recommendations to Council and Staff to Ensure Potential Infrastructure Bond Expenditure Is Consistent with Climate Action Goals and Other Environmental Policies**

**From:** Councilmember Harrison (Author), Councilmember Hahn (Co-Sponsor)

**Referred:** March 7, 2022

**Due:** September 13, 2022

**Recommendation:** Refer to the Facilities, Infrastructure, Transportation, Environment & Sustainability (FITES) Policy Committee Policy Committee to consider strategies and make recommendations to the Council and staff to ensure that potential infrastructure bond is consistent with Climate Action goals and other environmental policies.

**Financial Implications:** See report

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

**Action:** 2 speakers. Discussion held. Item continued to the May 4, 2022 meeting.

## Unscheduled Items

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- 3. Adopt an Ordinance Adding a Chapter 11.62 to the Berkeley Municipal Code to Regulate Plastic Bags at Retail and Food Service Establishments**  
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**Financial Implications:** See report  
Contact: Billi Romain, Commission Secretary, (510) 981-7400
- 5. Equitable Safe Streets and Climate Justice Resolution**  
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**Recommendation:** Adopt a resolution committing the expenditure of City and state/federal matching/recurring funds on city-maintained roads, sidewalks, and bike lanes to accelerate safety improvements in a manner consistent with City, State, and Federal policy on street safety, equity, accessibility, and climate change; refer to the City Manager adoption of the NACTO Urban Street Design Guide as the default engineering standard for city streets, restricting city use of the Manual on Uniform Traffic Control Devices subject to engineering judgment, and transferring legal liability for safe streets designs from individual city engineering/Public Works staff to the City of Berkeley.  
**Financial Implications:** See report  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

## Unscheduled Items

6. **Adopt an Ordinance Adding a New Chapter 12.01 to the Berkeley Municipal Code Establishing Emergency Greenhouse Gas Limits, Process for Updated Climate Action Plan, Monitoring, Evaluation, Reporting and Regional Collaboration**  
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Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
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2. establish transfers between sewer, waste, or other utilities as appropriate to address impacts to the public right of way.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

## Items for Future Agendas

- None

## Adjournment

**Action:** M/S/C (Robinson/Taplin) to adjourn the meeting.

**Vote:** All Ayes

Adjourned at 3:17 p.m.

I hereby certify that this is a true and correct record of the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee meeting held on April 20, 2022.

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Sarah K. Bunting, Assistant City Clerk

### **Communications**

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# CALPIRG

## Students

### ACTION FOR A CHANGE

Dear Honorable Members of the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee,

CALPIRG Students is a statewide student-run and student-funded nonprofit organization. We work to organize students on some of the most pressing issues of our generation - from protecting the environment, to making college more affordable, to promoting civic engagement.

So much of our plastic waste comes from plastic “stuff” we could easily live without. It can take hundreds of years to degrade. Every single piece of plastic waste invented is still out there, clogging landfills, littering our streets, polluting our oceans and beaches, and harming marine life and the public's health. But we have lots of alternatives that would prevent needless harm to the environment and to our public health.

**That’s why we want our city of Berkeley to serve as the green model for the rest of our state and issue a complete ban on all plastic bags! And it’s also why We want to see Berkeley lead our state to a greener, healthier, and more meaningful future. This ordinance has our full support, and support from the Berkeley community which is attached on the following pages.**

**Please find attached 2158 signatures and 87 photo petitions collected from students and community members, as well as sign ons from 42 small businesses in support of the Better Berkeley Bag Ban. Along with this, this semester, we signed up 800 new UC Berkeley student members who donate \$10/semester to CALPIRG Students in direct support of our work on the Better Berkeley Bag Ban.**

Thank you for your consideration and service to Berkeley. We look forward to you moving the ordinance forward to the full council with a positive recommendation.

Sincerely,

Jose Luongo, Chapter Chair

Amy Johnson-Rodas, Vice Chair

Erin Redding, Grassroots Coordinator

Paige Lieblich, External Outreach Coordinator

Derick Lietzow, Media Coordinator

Marisol Morales, Visibility Coordinator

CALPIRG Students @ UC Berkeley



**Berkeley Businesses  
42 Businesses signed on in support**

Dear Berkeley City Council,

Every year, Californians throw away 16 billion plastic bags. All of this waste not only clogs our landfills, trashes our parks, and litters our streets, but it also washes into our rivers and oceans, where it can harm wildlife.

Individuals repurposing these bags can help mitigate the problem, but unfortunately, these billions of bags still ultimately enter our ecosystems annually. Additionally, we produce vastly more waste than our waste management infrastructure can handle. As a society, we need to stop creating enormous quantities of unnecessary waste in the first place, rather than focus only on recycling and reusing waste after the fact.

**As small business owners, we encourage you to take action with campus, city, and statewide bans on all plastic bags. We encourage Berkeley City Council to enforce a bag ban that only permits reusable, recyclable, or compostable bags. We support a Better Berkeley Bag Ban to protect our environment and public health.**

Thank you for taking action,

Aisha Bell | Manager | Indigo Vintage Co-Op

Williams | Sales Manager | Bows and Arrow

Maryam Guandalini | General Manager | Mezzo/Raleigh's

Anawin Juntanamulaya | Owner | The Ink Stone

Subhash Arora | Owner | Delhi Diner

Joseph Ryan | Head Barista/Manager | Musical Offering

Tan | Manager | Dumpling Kitchen

Yeji | Manager | Kimchi Garden

Tenzin | Employee | King Pin Donut

# CALPIRG

## Students

### ACTION FOR A CHANGE

Jason Mai | Manager | Boba Time

Vikram | Owner | Punjabi Dhaba

Doris Moskomte | Owner | Moe's Books

Ernest Ip | Owner | Take Eat Easy

Tom Chondu | Manager | Multiple Businesses: Rasputin Music, Bear Basics, Anastasias Vintage Clothing

Israel | Manager | Taco & Co.

Tempe Mangn Tevec | General Manager | Angeline's Louisiana Kitchen

Noeh Lynes | Half Price Books

Ammie Young | General Manager | Berkeley Social Club

Bharat Tekham | Manager | Friendly Market

Ali Fayazi | Owner | Coffee Hut

Harvey Dons | Owner | East Wind Books

Tash Pour | Fast Imaging Ctr

Chracken | Manager | Ko Stop

Judy Sona | Manager | Friends of the Public Library

Jo Call | Manager | Marcs Mercantile

Jeff Koren | Owner | Sleepy Cat Books

Jolie Trujillo | Manager | Indigo Vintage

J. Li | Manager | Crafts and Grapes

Venicat R.Y. | Manager | Namaste

# CALPIRG

## Students

### ACTION FOR A CHANGE

Efreu Avalos | Owner | Avalos Farms

Emiley Rodriguez | Kalei Farms

Matthew | Owner | Good Faith Farms

Roberto Ghato | Owner | Golden Rule Organic

Katy Pomelo | Owner | Lifefood Garden

Leo Haertling | Achadinha Farms

Eduardo Morell | Owner | Morell's Bread

Sara Morill | Big Little Bowl Soup

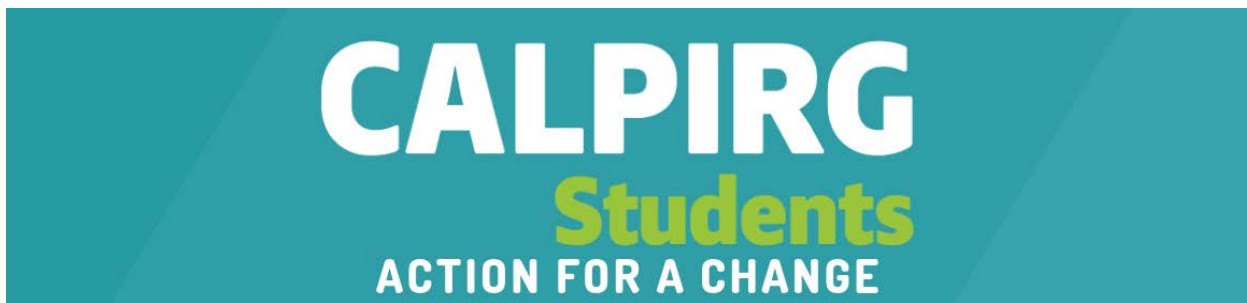
Harpreet | Phoenix

Nawang | Owner | Cafe Zaubalu

Elizabeth Prescott | Riverdog Farm

Daniel Korson | Owner | Coracao Confections

Fasika Merhrat | Owner | Sika Ethiopia



## UC Berkeley and Berkeley Residents

### 2158 Grassroots Petitions

Dear Berkeley City Council,

So much of our plastic waste comes from plastic “stuff” we could easily live without. It can take hundreds of years to degrade, so all of that plastic waste is still out there, clogging landfills, littering our streets, polluting our oceans and beaches, and harming marine life and the public's health.

**That’s why we want our city of Berkeley to serve as the green model for the rest of our state and issue a complete ban on all plastic bags! We have lots of alternatives that would prevent needless harm to the environment. We would like to see Berkeley lead the way to a greener, healthier, and more meaningful future.**

Signed,

UC Berkeley Students and Residents

Noor	A	Ishaq	Aden-Ali
Charity	Abanes	Cho	Adolfo
Hanifah	Abatcha	Thea	Adumitroaie
Mohammed Ali	Abed	Marwa	Afghani
Alex	Abillar	Max	Afifi
Caitlyn	Abragan	Vedant	Agarwal
Anjad	Abukeer	Arhaan	Aggarwal
Nonachi	Achara	Nick	Agor
Natalia	Acuesta	Shipranch	Agrawal
Lauren	Adams	Vaibhav	Agrawal

# CALPIRG

## Students

### ACTION FOR A CHANGE

Jordan	Agresti	Sajad	Alani
Brisa	Aguayo Ramirez	Sara	Alanis
Yelinne	Aguiar	Seiham	Alansary
Gabriel	Aguilar	Mia	Albano
Alondra	Aguilar	Samiyah	Alberto
Isaac	Aguilar	Sedrick	Alcantara
Alejandra	Aguilar Arce	Jacqueline	Aldrete
Sarah	Ahazie	Dania	Alfakoos
Sharon	Ahazie	Zayd	Ali
Maria	Ahmed	Maryem	Ali
Ellie	Ai	Abigail	Allen
Tom	Aiba	marie	allouche
Yezzen	Airawi	Isabella	Aloocer
Havah	Aisha Isray	Khaled	Alqahtani
Yusuf	Akbas	Auden	Alsop
Carley	Akohoshi	Chloe	Altura
Lukas	Aksena	Fátima	Alvarado
Mohammed	Al Rashid	Pamela	Alvarado
Mohammad	Alam	Giovanni	Alvarez
Mariam	Alami	Ahmed	Alzubaidi

# CALPIRG

## Students

### ACTION FOR A CHANGE

Alejandra	Amador	Matilda	Antwi
Ishan	Amin	Alexa	Apodaca
Nicole	Ammari	Brenda	Aquilar
Ken	Amornnopawong	Paelo	Aquino
Ella	Amparo	Sergio Alejandro	Araiza Robles
Joel	An	Christina	Arakelian
Stella	An	Carol	Areta
Ellie	Andersen	Jesus	Arias
Evan	Anderson	Samuel	Arias
Riley	Anderson	Erik	Armas
Leeannie	Anderson	Vijay	Arora
Michelle	Anderson	Juliana	Arrona
Mike	Andrade	Verina	Atallah
Amarra	Andresen	Riya	Athwal
Jordan	Anichini	John	Atoche
Roma	Ankolekar	Sid	Attam
Sarah	Ansell	Samikshaya	Auanthakrisknan
Sophie	Anslinger	Tyler	Auton-Smith
Kate	Anstett	Heidi	Avalos
Zoe	Antonoff	Danielle	Avelino

# CALPIRG

## Students

### ACTION FOR A CHANGE

Nathalie	Avila	Akcan	Balkir
Ivonne	Avila	JiHo	Bang
Natalie	Aviles	Sidney	Banks
Shanzay	Awan	Nilo	Banos
guadalupe	ayala	Alexa	Banuelos
Kennya	Ayala	Christie	Bao
Katem	Ayat	Hannah	Barahona
Anant	Ayyar	Oswaldo	Barba
A	B	Niko	Bardin
Fariha	Babar	Dhoha	Bareche
Rebecca	Baek	Tahmina	Barkzai
Aaron	Baeza Cerriteno	Olivia	Barman
Ipshita	Bag	lily	Barnett
Martin	Bagadion	giselle	barough
Amanjot	Bains	Laura	Barragan
Ramanjot	Bains	Ian	Barragan
Rosa	Baiza	Matias	Barraza
Kimberly	Bajarias	Felipe	Barreto
Kimberly	Baker	Brianna	Barrett
Patrick	Bales	Maayan	Barsade



# CALPIRG

## Students

### ACTION FOR A CHANGE

Mariana	Barsotti	Helen	Berg
Sarah	Barton	Emely	Bermudez
Elizabeth	Barton-Mattos	Sofia	Bernal Ramirez
Sanah	Basrai	Estefany	Berrios
safa	basravi	Riki	Bertoldi
Osmend	Bates	matthew	betti
Catherine	Bauer	Sara	Betts
Kelsey	Bautista	Anitej	Bharaduj
Jared	Bautista	Lavanya	Bhardwaj
Constance	Beckford	Manan	Bhargava
Paige	Begley	Ella	Bhat
Nicolas	Beguín	Aditi	Bhat
Evan	Belk	Savit	Bhat
Ron	Belman	Miranjan	Bhatia
Riley	Benedict	Sarthak	Bhatnagar
Jaden	Benitez	Mark	Biedlingmaier
Victor	Benitez	Nur Marsya	Binti Zuhari
Kevin	Benitez	Vivien	Black
james	Bennett	Lucia	Boadas
Bridget	Bentley	Carlos	Bocanegra

# CALPIRG

## Students

### ACTION FOR A CHANGE

martina	boga	William	Bradford
Llesi	Bogaard	kaitlyn	brady
Sushil	Bohara	Olivia	Branan
Mateo	Bohigian	Andy	Brandt
Edgar	Bojorquez	Malia	Brazil
Kiely	Bok	Madison	Brenner
Sarah	Bollinger	Nathan	Brenner
Nathalie	Bombase	Skylar	Briggs
Gaia Maria	Bonanno	Hector	Briseno
Jay	Bond	Sullivan	Brock
Sri	Bondada	Abigail	Brooks
Pace	Bongiovanni	Hannah	Brooks
Jatearoon	Boondicharern	Haley	Brower
Abby	Borchers	Kendall	Brown
Alex	Boren	Jordan	Brown
Isabella	Borkovic	Olivia	Buchbinder
Michael	Borrello	Megan	Bui
Chloe	Boss	Erin	Burke
Kimi	Boureston	Mina	Burns
alex	bovenzi	Thora	Butler

# CALPIRG

## Students

### ACTION FOR A CHANGE

Lindsey	Butner	Sabi	Can Russo
Michid	Byambajav	Rayne	Cantero
Elizabeth	Byington	Diana	Cantorán-Perez
Devon	Byrne	Azzurra	Cappuccini
Doy	C	Helena	Cardiel-Stevens
Isabelle	C. Ribeiro Minosso	Alexis	Caretti
Isabel	Cabrera	Sonoma	Carlos
Frank	Cai	Caelyn	Carlson
Caitlyn	Cai	Raafat	Caroline
Joshua	Calangian	Nina	Caron
Lauren	Calcagno	dylan	Carpenter
Paige	Callaghan	Clarisse	Carpio
Jared	Calvo	Daisy	Carranza
Frida	Calvo Huerra	Giselle	Carreno
Abigail Grace	Camacho	Kleigh	Carroll
Stephanie	Camarillo	Tyler	Cary
Trinity	Campbell	John	Cary
Mia	Campbell	Andrew	Caslow
Elena	Campell	John	Cassell
Zoe	Campion	Maria	Castaneda

# CALPIRG

## Students

### ACTION FOR A CHANGE

Fatima	Castillo	Jessica	Chan
Alma	Castillo	Shirlynn	Chan
Dayelynn	Castillo Delgado	Adelyn	Chan
Marius	Castro	Jayda	Chan
Emma	Caufield	Hsi-min	chan
Mike	Ceas	Yunling	Chan
Lester	Cedeno	Liliani	Chandranata
Katarina	Ceguerra	Lucia	Chang
Samantha	Ceja	Katie	Chang
Samantha Mae	Ceralde	Stephen	Chang
Yareli	Cervantes	Tzuyi	Chang
Calista	Cesewski	Bella	Chang
callie	cesewski	Shannon	Chang
Meyra	Ceylan	Ginger	Chang
Molly	Cha	Joey	Chao
Darshan	Chahal	Marco	Chapa
Elen	Chakhoyan	Jacqueline	Chapman
Ying	Chan	Grenier	Charlotte
Cherry	Chan	Dylan	Chau
Angelica	Chan	Anirudh	Chaudhary

# CALPIRG

## Students

### ACTION FOR A CHANGE

Grisel	Chavez	Sanjay	Chintapally
Ananya	Chawla	KAITLYN	CHIOK
Ronit	Chawla	Xiaowen	Chn
Shachi	Chemburkar	Deborah	Cho
Justin	Chen	Ara	Cho
Jessica	Chen	Shay	Choen
Yu Jun	Chen	Audrey	Choi
Lei	Chen	Mina	Choi
Cynthia	Chen	Won Jung	Choi
Kurtis	Chen	Alina	Choi
Tavis	Chen	Kaden	Chou
Yaozong	Chen	Tzu Chieh	Chou
Calculus	Chen	Zach	Christiansen
Bruce	Chen	Catherine	Chu
Jenna	Cheng	Elma	Chuang
Ming	Cheng	Vivian	Chung
Natalie	Cheng	Manuel	Cisneros
Chantal	Chew	Logan	Citroen
Sachin	Chhabria	Nicholas	Clark
Yuriko	Chiaki-Robb	Lucas	Clark

# CALPIRG

## Students

### ACTION FOR A CHANGE

Florante	Claudio	Quinn	Corcoran
Wyatt	Clay	Taylor	Cordoba
Caitlin	Clift	John	Cornejo
Rena	Co	Gabriela	Cornejo
Taleen	Cochran	Victor	Cornejo
Jevon	Cochran	Jairo	Corral Chavez
Shay	Cohen	larissa	corry
Francesca	Cohen	Liliana	Cortes
Simon	Colburn	Viviane	Cortes
malcolm	collins	Ana	Cortez
Claudia	compas	Kristel	cosio
Raphael	Condor	Katheryn	Cota
James	Conklin	Ridge	Coughlin
Brandon	Contreras	Ainslie	Coughran
Daniel	Conway	Maxwell	Coy
John	Cook	Elizabeth	crass
Angela	Cooley	Emily	Crofoot
Isobel	Cooper	Richard	Crorch
Mahlet	Copeland	Jessica	Croysdill
Abigail	Corcio	Pedro	Cruz

# CALPIRG

## Students

### ACTION FOR A CHANGE

Luis	Cruz	Aashna	Dalal
Ricardo	Cruz	Aiden	Damirez
James	Cruz	Valdezti	Dandekar
Juana	Cruz Sampedro	Marcus	DAngelo
Emerson	Cruz-Ramirez	Claire	DaQuino
Kennedy	Cuello	Katie	DaQuino
Dixun	Cui	Carlo	Daquioag
Tingyue	Cui	Raj	Dasani
Austin	Culp	Nishita	Dashpute
Nick	Currie	Isabella	Daste
Ava	Currie	Kat	Davenport
Eugeniu	Cuznetov	Derek	Davis
Sehr	Dada	Mohammad	Dawood
diksha	dahal	Kiki	de Bruijne
Sanaya	Dahanukar	Arissa	De La Cerda
Chen	Dai	Cassandra	De La Pena
Gracie	Dai	Jack or Jace	De La Riona
Jason	Dai	Sophia	De la Rocha
Aditya	Daita	Tatiana	De La Sancha
Daisy	Dal	Natalia	De La Torre

# CALPIRG

## Students

### ACTION FOR A CHANGE

Niko	De La Torre	Ella	Diamond
Gavin	de Leon	Rachel	Diao
Xavier	De Leon	Shaylan	Dias
Samantha	DeCosta	Jackelyn	Diaz
Salaah	Deen	Gilberto	Diaz
Morgan	Dehdashti	Emily	Diaz
Monica	Deherrera	William	Diaz
Karleigh	Dehlsen	Luis	Diego Riojas
Aidan	del real	Xintong	Ding
Gianna	Delgado	Ella	Dittmann
Sofia	Delpriore	Michaia	Dixon
Jon	Dena	Caleb A.	Dixon
Bruce	Deng	Megchiani	Diya
Boyuan	Deng	Nam	Doan
Daniel	Deng	Donn	Dolorito
Pallavi	Desai	Maria	Dominguez
Elise	Deshazer	Jacqueline	Dominguez
rahul	deshmane	Ericka	Dominguez
Asrith	Devalaraju	Ariana	Dominick
Shivreet	Dhillon	Saghen	Dommes



# CALPIRG

## Students

### ACTION FOR A CHANGE

Zhen	Dong	Armaan	Dwivedi
Kalea	Doryon	Val	E Machado
Samantha	Doyle-Jacobson	Maxine	E.
Justice	Drake	Violet	Edwards
Savannah	Dryden	Benjamin	Eisley
Kau	Du	Rachel	Eizner
Lianna	Duag	Kaleb	Elarms-Orr
XUANYU	DUAN	Emmanuel	Elizalde-Ocampo
Siddarth	Dukkipati	Maria	Elizarraras
Lindsey	Duncan	Ryan	Elkhouri
Alida	Dunleavy	Mahiya	Ellis
Kalani	Dunn	Kevin	en
Alexa	Dunn	Cooper	Endicott
Sabrina	Dunn	Gigi	engalla
Liam	Dupeyron	Saum	Entezasi
Lanah	Duque	Payamullah	Erfan
Chris	Duran	Jesnine	Erillo
Samantha	Duran	Sara	Ertac
Damian	Duran	Sara	Ertae
Brian	Durnell	Ariel	Esagoff

# CALPIRG

## Students

### ACTION FOR A CHANGE

Deanna	Escarises	He	Fang
Maxine	Eschger	Charlie	Faramarzi
Nathan	Escobar	Vice	Farley
Steve	Escobar	Naasie	Farooqi
Nora	Espinoza	Alina	Fatima
Ethel	Espinoza	Greyson	feather
Gabriela	Espinoza Alfaro	Karla	Feldmann
Emeli	Esquivias	Ronan	Felton-Priestner
Nathan	Essman	Carly	Feng
Jonathan	Estrada	Tulsi	Fernandez
Paulina	Estrada	Vanessa	Fernandez
Melvin	Estrada	isabella	ferrucci
Mark	Eusterman	Maximo	Fierro
Garrett	Evans	Aubrey	Fife
Jordan	Evans-Polockow	Brianna	Figuroa
Sophie	Everett	Martin	Figuroa
Francesca	Ezra	Lucas	Fink
Mona	Faham	Kayleen	Fiscal
Lorianne	Fan	Jessie	Fisher
Jeffrey	Fan	Colin	FitzGerald

# CALPIRG

## Students

### ACTION FOR A CHANGE

Rayna	Fitzgerald	Alia	Franczyk
David	Fitzoerald	Thalissa Malagoli	Frazon
isabel	flanders	Misie	French
Zoe	Flemate	kyle	friend
Nick	Fleming	Angelo	Frisina
alfie	fletcher	Vivian	Frisk
Crizel	Flores	Julia	Fu
Fernando	Flores	Guanhua	Fu
Naomi	Flores	Zaman	Fualmooh
Roberto	Flores Blancas	Zaira	Fuentes
Lia	Flores Palacios	Filson	Fugfugosh
Alfredo	Florez	Kenzo	Fukuda
Ari	Fomalont	Kathryn	Funderburg
Chrissa	Foscolos	Madeline	Furey Peters
Ava	Foster	Constance	Gaard Storvestre
Rachel	Fox	Emily	Gabion
Valerie	Fraga	Natalie	Gaffney
Marisol	Franco	Kate	Gaffney
Emmanuel	Franco	Graeson	Gajewski
Tomas	Francois	Arly	Galindo

# CALPIRG

## Students

### ACTION FOR A CHANGE

Samantha	Galindo	Armando	Garcia
Emily	Gallardo	Miguel	Garcia
Joshua	Gallo	Grecia	Garcia
Lindsay	Galperson	JP	Garcia
Jocelyn	Galvan	Robert	Garcia
Jocelyn	Gama	Debbie	Garcia
Hannah	Gammon	Josselin	Garcia Sereno
Genna	Gams	Kimberly	Garcia-Aguilar
Rustam	Gandhi	Martin	Garcia-Angel
Mehul	Gandhi	Preshtha	Garg
Liam	Ganion	Khislenn	Garino
Cynthia	Gao	Adamaris	Gasca
Shihan	Gao	Aaron	Gaspar
Annie	Gao	Sara	Gastelum
Tiffany	Gao	Bryanna	Gavino
Kush	Gara	Olivier	Gennart
Gianna	Garcia	Renuka	Gentela
Kaylee	Garcia	Declan	Gessel
Jessica	Garcia	Nare	Gharibi
Julian	Garcia	Allie	Giang

# CALPIRG

## Students

### ACTION FOR A CHANGE

Carla	Gil	Ronny	Gonzales
Manraj	Gill	Ari	Gonzalez
Jaadé	Gillespie	Sebastian	Gonzalez
lucas	gilmour	Moncerrath	Gonzalez
Mateo	Giovannini	Eitalia	Gonzalez
Vikash	Giritharan	Katherine	Gonzalez
Asiah	Giuntoni	Jose	Gonzalez
Jordan	Gleaton	David	Gonzalez
Madeline	Godbey	Tomas	Gonzalez
Emerson	Goebels	Mayra	Gonzalez-Gomez
Tyler	Goldstein	Sophia	Gorlato
Kevin	Gomes	Priyanka	Goswami
Julieta	Gomez	Ryan	Gottschalk
Carlos	Gomez	rohan	goyal
Stefany	Gomez	Jack	Grable
Angel	Gómez	Ian	Grace
Ana Alice	Goncalves	Eva	Grace
Sreya	Gonugunta	Amy	Granados
D'Angelo	Gonzales	Brooklyn	Grant
Ana	Gonzales	Maurice	Grayson

# CALPIRG

## Students

### ACTION FOR A CHANGE

Thomas	Green	Aayush	Gupta
Moss	Gridley	Raghav	Gupta
Alexander	Griffin	Anish	Gupta
Olivia	Grimes	Sitara	Gupta
Natalie	Grover	Sonya	Guralnyk
Carter	Gruebel	Camila	Gutierrez
Zeze	Gu	Heriberto	Gutierrez
Grace	Guan	Jonathan	Gutierrez
Maggie	Guan	Guz	Guzman Gomez
Akhil	Gudapati	Ann-Marie	Ha
Alexia	Guerra	Aliya	Haas Blinman
Melanie	Guerrola	Grace	Haase
Adalma	Guevara	Denna	Hadipour
Jacqueline	Guevara	Sierra	Hahn
Aishi	Gulati	Rebecca	Haile
David	Guo	Jonathan	Hale
Arinna	Guo	Crystal	Halk
Ishrita	Gupta	Andrew	Hall
Agam	Gupta	Helen	Halliwell
Rijul	Gupta	Charles	Halstead

# CALPIRG

## Students

### ACTION FOR A CHANGE

Andrea	Halsted	Matthew	Haynam
Fumiko	Halteman	jada	hays
Isabela	Hamasaki	Shadow	Hayward
Tehreem	Hamid	Yiwei	He
Samuel	Han	Qing Qing	He
Michelle	Han	Shuyao	He
Zikang	Han	Qiting	He
Tatum	Handel	Madison	Heath
Tommy	Hang	Madeline	Heller
Cornelius	Hant	Benjamin	Henriquez
Asaad	Haroun	Na Lee	Her
Chad	Harper	Rosa	Heraldez
Samuel	Harris	Dionne	Herbold
Cyndi	Harris	Ross	Herling
Katelyn	Harter	Sofia	Hernandez
Lauren	Harvey	Francis	Hernandez
Said	Hashmat	Yvette	Hernandez
Seemal	Hassan	Abigail	Hernandez
William	Hayes	Angelica	Hernandez
Nathaniel	Haynam	Brisa	Hernandez

# CALPIRG

## Students

### ACTION FOR A CHANGE

Enmanuel	Hernandez	Anthony	Hoang
Julie	Hernandez	Tawny	Hoang
Daniela	Hernández	Emma	Hoehn
Diego	Hernandez Callejas	Claudia	Holland
Yamilekx	Hernandez Guzman	Imani	Holmer
Ana	Hernandez Vega	Tara	Hong
Richard	Herrera	Andrew	Hong
Luis	Herrera-Silva	Xochitl	Hood
Kelsey	Hetherington	Geneva	Hopwood
Joshua	Hickel	Maya	Horenstein
Sansan	Hien	Samantha	Horne
Heather	Highland	Anders	Hosek
Amaya	Hill	Jerry	Hou
Corwin	Hill	Elena	Hsieh
Nina	Hill	Claire	Hsu
Heidi	Hirsohn	Zin	Htet
Bailee	Ho	Sherry	Hu
Stanley	Ho	Nancy	Hu
Austin	Ho	Summer	Hua
davian	Ho	Chun	Huang



# CALPIRG

## Students

### ACTION FOR A CHANGE

Cynthia	Huang	Ji soo	Hwang
Weiping	Huang	Olinna	Ian
Junting	Huang	Carolina	Ibanez
Jeremy	Huang	Madison	Idso
Ellie	Huang	Kaitlyn	Iglesias
Vienna	Huang	Kyle	Igo
Zhiyuan	Huang	Omar	Imam-Darling
Clement	Hudson	Irmak	Incedayi
Ana	Huerta	Stefanie	Iojica
Vivienne	Huerta Guimont	Mehrazin	Iranbakhsh
Rocky	Hughes	Jade	Isaacs
Alexander	Huizar	Cyrhil	Ishi Soriente
yuri	humrich	Laila	Ismail
Dylan	Hungate	Pranav	Iyer
Ines	Huret	Amanda	Jackson
kilty	huskisson	kathryn	jackson
Lindzi	Hutchinson	Clarissa	Jacobo Hernandez
Nhi	Huynh	Manish	Jaganath
Andy	Huynh	Taya	jain
Yoon	Hwang	Jasmine	Jalloh

# CALPIRG

## Students

### ACTION FOR A CHANGE

Emme	James	Naia	johnson
Aimen	Jamshed	Meghan	Johnson
Kishan	Jani	Amy	Johnson
kendall	jensen	Auxiliadora	Johnson
Emma	Jensen	Ahmi	Johnston-Ponell
Kristen	Jeong	Braeden	Jones
Charlie Cheng-Jie Ji		Jacqlyn	Jones
Skyler	Ji	Bennie	Jordan
Jerry	Ji	Edwin	Jorge-Benitez
Xiangli	Jia	Hector	Juarez-Vargas
Jacob	Jiang	Ari	Jujin
Nick	Jiang	Anna	Julian
Anais	Jimenez	Amalia	Junco
fatima	jimenez	Jacoby	Junes
Lina	Jimenez	Ayeon	Jung
Mathew	Jimenez	Terry	Jung
Yoon	Jin Loom	Hailey	Jung
Abhinar	Jin-joo Veduti	Micheal	Jungh
Leah	Jizelle	Raina	Jupay
Jordan	Johl	Aldo	Jusso Ramirez

# CALPIRG

## Students

### ACTION FOR A CHANGE

Elizaveta	K	mahek	kaur
Abd	Kahhaleh	Maho	Kawai
Meher	Kajaria	Ashley	Kaya
Anastasia	Kaloshina	Lia	Keener
Marina	Kamezawa	Sai	Keerthana Puvvuls
Emma	Kang	Allison	Kelley
Woojung	Kang	Zoe	Kelly
Liang	Kang	Robert	Kelly
Yoga	Kanneboina	Angelique	Kelly-Patino
Austin	Kao	John	Kenny
Michael	Kao	Jessica	Keszey
Selin	Kaptana	Benjamin	Key-Rodriguez
Charitha	Kari	Sundus	Khan
Arjun	Karnik	sana	khan
Sheer	Karny	Maria	Khan
Swetha	Karthikeyan	Tina	Khangtintsang
Jayanth	Karuturi	Shivani	Kharbanda
Anvi	Kasargod	Kirsten	Kho
Sage	Kasick	Jana	Kikhia
Amar	Kaul	sueji	Kim

# CALPIRG

## Students

### ACTION FOR A CHANGE

Dani	Kim	ruby	king
Erica	Kim	Emmett	King
Jaremy	Kim	Kayla	Kirkorian
Tommy	Kim	Savannah	Klein
Allison	Kim	Rowen	Kliethermes
Katie	Kim	Peyton	Kn
Gamin	Kim	Anna	Knall
Hyun Ho	Kim	Isabella	Knott
Madeline	Kim	David	Ko
Kailin	Kim	Rosa	Kobusch
Amy	Kim	J. Michael	Kochera
Karis	Kim	Priscilla	Koetting
Rachel	Kim	Adeola	Kofo-Abayomi
Vivian	Kim	Katelyn	Kolberg
seungyeon	kim	Pranathi	Kolla
Christina	Kim	Xiang	Kong
Minji	Kim	Federico	Kong-Gonzalez
Min	Kim	Samuel	Kooset
Youngjin	Kim	Satoshi	Kori
tristan	kimball	Zara	Koroma

# CALPIRG

## Students

### ACTION FOR A CHANGE

Akhil	Korupolu	Roshni	Kumar
Deepika	Korupolu	Hamza	Kundi
Samantha	Kotta	Raquel	Kunugi
Po-ou	Kouch	Olivia	Kurtz
Gursimar	Kouli	Aleen	Kuyumjian
Emma	Kraft	Abraham	Kwok
Maxim	Kraft	Jack	Kwon
Emma	Kraus	Andrew	Kwon
linda	Krellner	Ryan	Kwong
Ariana	Kretz	Mallika	L
Markus	Kreutzer	Marco	L.
Sejal	Krishnan	Sean	La
Uma	Krishnaswamy	Tuong	La
Arjun	Kshirsagar	Maximus	Lacey
Yiming	Kuang	Sophia	Ladyzhensky
Kylie	Kubota	Angel	lagunas
Jacob	Kuczynski	Susan	Lai
Zoe	Kuebrich	Connor	Lam
Pranesh	Kumar	Oscar	Lam
Akshat	Kumar	Janice	Lam

# CALPIRG

## Students

### ACTION FOR A CHANGE

Annabelle	Lampson	Francis	Ledesum
Lucia	Landeros	Dylan	Lee
Lukas	Lane	Jana	Lee
Arianna	Laolagi	Kristen	Lee
Luz	Lara	Hellas	Lee
henry	Larkin	Colette	Lee
Amanda	Larsen	Kevin	Lee
Ho Yin	Lat	Megan	Lee
Tilema	Latu	Shanon	Lee
Sam	Laur	Seul Ah	Lee
Danielle	Lavitt	Kaylin	Lee
Catherine	Lawrence	sydney	lee
Garrett	Layton	Jean	Lee
Khoi	Le	Viola	lee
Han	Le	Cyrus	Lee
Trang	Le	Tyler	Lee
Megan	Le	Tommy	Lee
Vi	Le	Sophia	Lee
Vanessa	Lechuga	Jenny	Lee
Natalie	Leclerc	Joshua	Lee

# CALPIRG

## Students

### ACTION FOR A CHANGE

Aisan	Lee	Chunyuan	Li
Jaelyn	Lee	Mona	Li
Yechan	Lee	Andrew	Li
Mengziang	Lei	Grace	Li
Karina	Lei	Beike	Li
Casey	Lei	Sophie	Li
Constantina	Leibe	Jerry	Li
Lukas	Leitzgen	Chenyi	Li
Jocelyn	Lemos	Tongdan	Li
Kiana	Leong	Crystal	Li
Aidan	Leung	Bowen	li
Lauren	Leung	Esther	Li-Chen
Jenna	Levin	Katie	Liang
Alexander	Levy	natalie	liang
Benjamin	Lewis	Kathy	Liang
Jeremy	Lewis	Jason	Liao-zeng
Shawntrell	Lewis	Henry	Libermann
Abigail	Lewis	Paige	Lieblich
Ben	Lewis	Kennedy	Liem
Xiangyang	Li	Robert	Lietzow

# CALPIRG

## Students

### ACTION FOR A CHANGE

Sehee	Lim	Brandon	Liu
Evan	Lim	Fang	Liu
Kylie	Lim	Yingpian	Liu
Joshua	Lim	Doris	Liu
Maria	Lima	Tingyu	Liu
Andrea	Limon	Lianna	Liu
Isaac	Lin	Youxun	Liu
Jinjian	Lin	Wenjin	Liu
Yati	Lin	Aaron	Liu
Maggie	Lin	Ryder	Liulin
Charlotte	Lin	Jessica	Llanos-Gamboa
Branden	Lin	Laura	Llerena
James	Lin	Hayden	Loarie
Yihan	Lin	Sonam	Lobras
William	Lindstrom	Kaori	Lock
Yunjun	Ling	Anuja	Lohia
Camille	Linh	Priyanka	Lohia
Yanlin	Liu	Kathryn	Look
Ricky	Liu	Claire	Loos
Ambrose	Liu	Melany	Lopez



# CALPIRG

## Students

### ACTION FOR A CHANGE

iris	lopez	Xinyin	Lu
Bella	Lopez	David	Lu
Francisco	Lopez	Lauren	Lu
Andrew	Lopez	CJ	Lu Sing
Frankie	Lopez	Diana	Lucas
Jocelyne	Lopez	Anaely	Lugo
Allen	Lopez	Raul	Luis
Vanessa	Lopez	Jana	Lukas
Rin	Lopez	David	Luna Cruz
Imalay	Lopez-Corona	Cecilia	Lunaparra
David	Lopez-Larios	Matthew	Luo
Hannah	Lothrop	James L	Luo
Nicole	Louie	Tatum	Luoma
Thomas	Louther	Maya	Luong
Asthon	Love	Joaquin	Luongo
Juliette	Lovell	Madeline	Ly
Emma	Lowe	Alexander	Ly
Camila	Lozano	Caylee	Lyman
Nick	Lu	Grace	Lytle
Ducheng	Lu	Tong	Lyu

# CALPIRG

## Students

### ACTION FOR A CHANGE

Bingbing	Ma	Marcelo	Makhlof
Celina	Mac	Marc	Makornwattana
Andrea	Macairan	Abigail	Malakun
Emmanuel	Macedo	Andrea	Maldonado
Inigo	Macey	Emiliano	Maldonado
Thais	Macias	Michelle	Maldonado
Nhaovaleth	Macias	Arika	Malik
Laishaa	Maciel	Iskita	Malik
Carlyle	Mackenzie	Tanaya	Malik
Aaron	Mackenzie	Star	Mallamo
Aditya	Madaraju	Giselle	Malveda
Raghava	Madireddy	Samuel	Mankoff
David	Madriz	Meher	Mann
Julio	Magana	Justin	Marc Alvarez
Declan	Mahaffey-Dowd	Selian	Marie Grogan
Niamh	Maher	Kaleo	Mark
Sara	Mahjoobi	David	Marquez
Haania	Mahmood	Ella	Marsh
Duong	Mai	Caleb	Marsh
Sinan	Makdisi	Adrian	Martinez

# CALPIRG

## Students

### ACTION FOR A CHANGE

Judith	Martinez	Emily	McCabe
Claudia	Martinez	Bridget	McCabe
Christian	Martinez	Olivia	McCauley
Allyson	Martinez	Floyd	McCluhan
Frank	Martinez	Jake	McCullough
Jenna	Martinez	Annabelle	McCutcheon
Joan	Martinez	Claire	Mcdonald
Lavanya	Maruthapandian	Jessie	Mcginley
Ali	Marvin	Liam	McHugh
Alex	Masci	John	McKay
Jiroum	Masoudi	Jameson	McKenna
Jordan	Masterson	Maggie	McLean
Elaina	Matos	Asha	McLyn
Alisa	Matsoyan	Kevin	McNally
Sylvia	Mau	Tyler	McNierney
Milo	Maurer	Raina	McRae
Jay	Maytorena	Maureen	McSweeney
Armina	Mayya	Hilary	Medel
Maddie	Mc Elheney	Hillary	Medel
Allie	McAndrews	Elizabeth	Megaw

# CALPIRG

## Students

### ACTION FOR A CHANGE

Alexander	Mehregan	Luis	Meza
Yingyan	Mei	Yutorey	Mi
Monise	Mejia	Mariatereza	Michael Lidou
Jaye	Mejia-Duwan	Leonard	Milea
Mehaa	Mekala	Anna	Miller
Kayra	Mendez	Ellie	Miller
Melissa	Mendieta	Lia	Mimun
Ashley	Mendiola	Yeirell	Minder
Janet	Mendoza	Arlet	Miranda
Ulyses	Mendoza	Sara	Mirza
Bella	Mendoza	Ashi	Mishra
Therese	Mendoza	Tilak	Misner
Nadav	Mendoza	Maya	Mitchell
Juana	Mendoza Cruz	Margot	Mitchell
Maya	Mendrx	Ian	Mitchell
Ines	Menendez	Adi	Mittal
Miguel	Mercado	Kanav	Mittal
Aminah	Merchant	Megan Moe	Moe
cooper	mervin	Saahit	Mogan
James	Meyer	Niki Sanieenia	Moghaddam

# CALPIRG

## Students

### ACTION FOR A CHANGE

Shreya	Mohanty	Julia	Moreno
Madison	Mohblea	Alisson	Moreno
Madeline	Molina	Miguel	Moreno
Andrea	Molina	Nadia	Morenore
Molly	Monahan	Mimi	Morgan
Ishan	Monie	Marietta	Morgan
Richel	Monis	Sky	Morgen
Nate	Monocchio	Evelyne	Morisseau
Ruth	Montes Avila	Caden	Moskowitz
Ryan	Montevo	Sarah	Moss
Pascale	Montgomery	Farouk	Mostafa
Jacqueline	Montoya	Dylan	Motley
Rohith	Moolakatt	Ava	Moubi
Gun	Moon	Abram	Moudi
Avalon	Moore	Max	Mueller
Jocelyn	Moore	Ahmad	Muhammad
Kristie	Moore	Valmic	Mukund
Gracy	Mora	Christiane	Munda
Nazly	Moran	Jennifer	Mundo
Julissa	Moreno	Michelle	Munera

# CALPIRG

## Students

### ACTION FOR A CHANGE

Maureen	Munoz	Lara	Nahcivan
Melissa	Munoz	Varun	Nair
Quintin	Munoz	Ria	Nakahara
Jesica	Muñoz	Miku	Nakamura
Orlando	Muñoz	Sevina	Nanda
Ashwini	Murali	Cecilia	Naranjo
Alexus	Murchison	Nainika	Narayanan
Daniel	Murphy	Patricia	Narro
Sheila	Murthy	Japinder	Narula
Riteka	Muruges	Miles	Nash
Karina	Murugesu	Shabnam	Nasiri
Yuuki	Mutsumoto	Rania	Nasser
Prachitesh	Mysorekar	Layla	Nasseri
Emeline	Myung	Shruti	Natarajan
Iris	Myung	Krithika	Nathamuni
armando	na	Vanessa	Nauarro
Ramona	Naddaff	Christopher	Naughton
Anup	Nadesan	Deisi	Nava
imaan	nadir	Natalia	Nava-Urbina
Samhita	Nagubandi	Ayanna	Navarro

# CALPIRG

## Students

### ACTION FOR A CHANGE

Saloni	Nayak	Alyssa	Nguyen
Ryan	Nayebi	Andzin	Ngwa
Ryan	Nayeli	Katerina	Nierotka
Eman	Nazir	Melody	Ning
Heather	Nelson	Jennifer	Nnoli
Samantha	Nelson	Kenichiro	Nojiri
Miguel	Nepomuceno	Jazmin	Nolasco
Rachel	Ng	Mia	Norris
Raissa	Ngoma	Tania	Norzagaray
Brigitta	Nguyen	Emily	Nowak
Minh	Nguyen	Benjamin	Nunez
Thuy	Nguyen	Ryan	Nuqui
Jackie	Nguyen	Angel	Nwosu
Shelby	Nguyen	Dylan	O'Doyer
Catherine	Nguyen	Colin	O'Malley
Jazmine	Nguyen	Doah	Obaid
Juliana	Nguyen	Jack	Oberdorfer
Truong	Nguyen	Emmariel	Obero
Christina	Nguyen	Alex	Ocampo Espinoza
Giang	Nguyen	Alejandra	Oceguera

# CALPIRG

## Students

### ACTION FOR A CHANGE

Cristina	Ochoa	Alejandro	Orozco
Jose	Ochoa	Antonio	Orozco
Michael	Ofengenden	Paolo	Orozco
Hanser	Oh	Julianna	Ortega
Andie	Oh	Angelica	Ortega
jackee	ohara	Daniel	Ortega-Mendez
Emily	Ohman	Marilyn	Ortez-Bonilla
Arnold	Olguin	Cristina	Ortiz
Jaqueline	Olivares	Katrina	Osborn
Tyler	Onderdonk	Julianne	Oshiro
Nicholas	Ong	Harrison	Oswald
Noel	Onuoha	Carli	Oxenham
Thin Rati	Oo	Taishi	Oyamada
Angelica	Oram	Sanni	Oyinkansola
Justine	Oribello	Merve	Ozdemir
Charles	Orlando	Nate	Pacheco Lopez
Jakeline	Orollo	Daniel	Pack
Anaruby	Oropeza	Kirk	Paderes
Rosa	Oropeza	Esperanza	Padilla
Mary	Orozco	Kaitlyn	Pak



# CALPIRG

## Students

### ACTION FOR A CHANGE

Victor	Pak	Erin	Park
Hayley	Palilla	Pritish	Parmar
Rasmus	Pallisgaard	Sofia	Parsons
Joel	Palma	Diya	Patel
Mike	Palmer	Akshay	Patel
Uriel	Palmos	muhammad	patel
Yiwen	Pan	Valdehi	Patel
Yu Han	Pang	Khushi	patel
Anoohya	Panidapv	Nidhi	Patel
Anuj	Panta	Joshua	Paul
Ayush	Panta	Pancham	Pawan
Kalea	Papandrew	Ozan	Paydak
Kim	Pape	Danielle	payopay
Khushi	Parashar	Ariana	Pemberton
Lily	Parcells	Natalie	Pena Serafin
keya	pardasani	Jialiang	Peng
Krishna	Parekh	Daria	Peppler
Su Min	Park	Dasha	Peppler
Hailey	Park	Cassandra	Peralta
Eric	Park	Natalie	Peret

# CALPIRG

## Students

### ACTION FOR A CHANGE

Alad	Peretz	Chiara	Pilato
Diana	Perez	Jennifer	Pineda
Marcela	Perez	Alberto	Pineda
Rachel	Perez	Izayah	Pineda
Lakshman	Peri	Daniela	Plascencia Delgado
Claudia	Peri	William	Pleasant
Kevin	Peter	Xavier	Plourde
Margaret	Peterson	Emily	Poland
Michael	Petrides	Caleb	Pollack
Charlotte	Petty	Neel	Polle
Rebecca	Peyriere	Pranav	Ponam
Beatrice	Pham	Graciela	Ponce
Danh	Pham	Lauren	Pong
Wendy	Pham	Isabella	Porras
Ava	Phillips	Letnel	Portillo
Myet Chael	Phone	Samuel	Potter
Jade	Phrty	Ethan	Preston
Phoebe	Pierce	Georgiana	Prevost
Molly	Pigot	Jemma	Prichard
Gyasi	Pigott	Makayla	Propst

# CALPIRG

## Students

### ACTION FOR A CHANGE

Elizabeth	Pugh	Aditya	Rajavelu
Ruben	Pulido	Shivani	Rajkumar
Vishal	Pulugurtha	Shriya	Ramdas
Kartik	Punia	Eduardo	Ramirez
Sapna	Puri	Isabella	Ramirez
Yash	Purohit	Jocelyn	Ramirez
Shane	Puthuparambil	Adam	Ramirez
Yushu	Qiu	Carlos	Ramirez
Patrici	Quaye	Juliana	Ramirez
Arella	Queirolo	Ashley	Ramirez
Martha	Quezada	Mayra	Ramirez
Nick	Quinlan	Galilea	Ramirez
Ariana	Quintana	Rodrigo	Ramirez-Perez
angela	Quintero	Jessica	Ramos
Cristina	Quintero	Varun	Rao
Francisco	Quiroga	Kenda	Rauscher
Jaymie	R	Julie	Ray
Shanmukh	Rachakunta	Presley	Rayon
Lea	Raha	Fizza	Raza
Abrar	Rahman	Safiyan	Razzak

# CALPIRG

## Students

### ACTION FOR A CHANGE

Ryan	Read	Gavin	Richard
Edwardo	Realegen	Brazil	Richards
Kailey	Reardon	River	Richart
Stella	Recht	Joaquin	Richmond
Niahl	Reddy	Chloe	Richmond
Isabella	Reeves	alicia	rifkin
Allie	Rehm Kashaka	Priya	Riley
Ashley	Reilly	Thea	Rime
Trinity	Reimer	Stephanie	Rios
Vitto	Remick	Adolfo	Rios
Yixing	Ren	Ashly	Rivas
Xingying	Ren	Ryan	Rivas
Jake	Rengifo	Paris	Rivera
Mia	Revelle	Benjamin	Rivero
Lucy	Revina	Gerald	Roberts
Joely	Reyes	Sara	Robertson
Cristobal	Reyes	Chyna	Robeson
Maia	Reyes	Jonah	Robinson
Anali	Reyes Reyes	Phoenix	Robledo
Sarah	Ricci	Annabell	Robles

# CALPIRG

## Students

### ACTION FOR A CHANGE

William	Roddy	Anshu	Rudraraju
Jennifer	Rodriguez	Kybeth	Ruiz
Sally	Rodriguez	Savanah	Ruiz
Alondra	Rodriguez	Jordan	Ruiz
Victoria	Rodriguez	Francis	Ruiz-marengo
Haley	Rodriguez	whitley	rummel
Arleen	Rodriguez	Preksha	Rungta
James	Rogers	Julien Michael	Ruppert
Lilia	Rohmann	Tristan	Ruppert
Maria	Rojas	Meena	Ruqaiya
Ilse	Rojo	Mahathi	Ryali
Nelitsa	Roman	Jewook	Ryu
Kristal	Roman	Jeongmin	Ryu
Rebecca	Romero	Misbah	S
Mariano	romero ochoa	Anthony	S
Romeo	Rong	Anchit	Sadana
Mayra	Rosales	Mekayla	Saechao
Cerys	Rotondo	Anna	Saez
Oliver	Rowe	Jacob	Saffarian
Wendy	Ruan	Najja	Saheli

# CALPIRG

## Students

### ACTION FOR A CHANGE

Teqhpreet	Sahni	Agnese	Sanavio
Hannah	Saib	Tatiana	Sanchez
Zara	Saif	Natalie	Sanchez
Samara	Saigal	Emily	Sanchez
Jackie	Sala	Lucero	Sanchez
Sabahun	Salam	Oscar	Sanchez
Cynthia	Salazar	Ryan	Sandan
Miguel	Salazar-Rivera	Mukt	Sandhu
Tania	Salceda	Michelle	Santiago
maricela	salcido	Rebeca	Santiago
ana	saldana	Angel	Santiago
Hayden	Salfen	Sofia	Santiago
Anthony	Salinas Suarez	Jacqueline	Santizo
Shantal	Saloma	Magaly	Santos
Michael	Salon	Tanya	Santos
Imaan	Saltan	Carolina	Santos-Paez
Michael	Samaha	Milla	Sapienza
Avik	Samanta	Amy	Saravia
melack	Samson	Sofia	Sarmiento
camilla	San Juan	Madeline	Sarvey

# CALPIRG

## Students

### ACTION FOR A CHANGE

Neha	Sathishkumar	Anish	Seshadri
Adhya	Satish	Shira	Shabtian
Cassidy	Saunar	Zaiyana	Shafqut
Alison	Savage Brooks	Afreen	Shah
Ichchitaa	Sawrika	Mira	Shah
Ichchitaa	Sawrikar	Atiya	Shah
Savannah	Sawyer	Anya	Shah
Aishani	Saxena	Adit	Shah
brianna	Schafheitle	Ishan	Shah
Zane	Schemmer	Noor	Shahkarami
Otto	Schmidt	Irah	Shaikh
Aanya	Schoetz	Sukniti	Sharma
Deleree	Schornack	Neha	Sharma
Shane	Schulte	Sukriti	Sharma
Isaac	Schultz	Satuik	Sharma
Antonia	Schwartz	Sankalp	Sharna
Lorenzo	Scotto Di Carlo	Devan	Shauber
Anna	Senjem	Jenny	Shaw
Sam	Seo	Michaela	Shaw
Tijmen	Sep	Ryan	Sheehan

# CALPIRG

## Students

### ACTION FOR A CHANGE

Rohan	Shelke	Leila	Shook
Jordan	Shellow	debora	Shosh
Ty	Shelton	Khushi	Shrivastava
Connie	Shen	Sakshi	Shrivastava
Chenkun	Sheng	Samyurta	Shrivatsa
Kevin	sheny	Kelly	Shu
Arjun	Sheoran	Kexin	Shu
Annie	Sheoran	Millie	Shukla
Sunsaara	Shergill	Lincoln	Si Bansai
Anant	Sherwal	Odilia	Sianto
Viva	Sheth	Andres	Sibrian
Althea	Shi	Katie	Sie
Sotonyas	Shibre	Alison	Siebert
rhody	Shiel	Delaney	Siegmund
Ella	Shih	Amanpreet	Sihra
Joanne	Shin	Alisia	Silva
Parth	Shisode	Ricardo	Silva
Abi	Shiva	Jorge	Silva
Marissa	Shoji	Catalina	Silvestre
Maya	Sholia	Serah	Sim



# CALPIRG

## Students

### ACTION FOR A CHANGE

Adaya	Simanian	Milla	Skowron
Safak	Simsek	Cal	Slatten
Arpine	Sinani	Merbel	Slothouwer
Jack	Singer	Megan	Slovatizki
stella	singer	John	Smif
Samiha	Singh	Anastasiaijh	Smirnova
Anindita	Singh	Alexander	Smith
Karm	Singh	Rachelle	Smith
sukhveer	singh	Alyssa	Smith
Harsimran	Singh	Deverin	Smith
Sahana	Singh	Aaron	Smith
Indianjit	Singh	Clio	Smith
Shreya	Singh	Mark	Smith
Triesha	Singh	Clara	So
Dilsher	singh	Klaire	Sobrepena
Patrick	Skat	Kristen	Sobschak
Talia	Skeen	tania	sodhi
Kelci	Skinner	Jairo	Sohwartz
Ronald	Skocytec	Vyalice	Sok
Annika	Skov	Jozelle	Solatorio

# CALPIRG

## Students

### ACTION FOR A CHANGE

Adam	solorlao	Amna	Steinberg
Dennis	Song	Christina	Steinmeier
Vivian	Song	Mateus	Stellet
Stephen	Song	Kayla Ann	Stephens
Shuxuan	Song	Kira	sterling
Ko	Songin	Milena	Stern
Isha	Soni	Brynne	Stevens
Noora	Soroushnejad	Adam	Stickney
Andrea	Soto	Jaden	Stillman
Christian	Sotomayor	Katelynn	Stinson
Matthew	Spankowski	Eva	Stolarz
Betina	Spiegel	Lucas	Stremba
Sara	Spinner	Ruby	Strickland
Domenico	Squillaro	Canon	Stringer
Katherine	Squire	Fe	Su
Tatteera	Srethbhakdi	Andrew	Su
Ramya	Sridhar	Berenisse	Suarez
Sarabaesh	Srikumar	Chloe	Suarez
Bryant	Srioudom	Shelsea	Suazo
ViviAnne	Steer	Natalie	Suboc

# CALPIRG

## Students

### ACTION FOR A CHANGE

Misha	suink	Karen	Tahuite
Romelio	Suliva III	Helvia	Taina
cassidy	sullivan	Alex	Tam
Manaal	Sultan	Olinha	Tan
Tiffany	Sun	Teddy	Tan
Yue	Sun	Hanze	Tan
Youjia	Sun	Cindy	Tang
Kavin	Suresh	Michelle	Tang
Sara	Susanto	Christa	Tang
Ayana	Sutton	Kalynna	Tang
William	Sutton	Keefe	Tankeh
Sitara	Swaroop	Vibha	Tantry
Hafsah	Syed	Michael	Tao
Nicholas	syphera	Emily	Tapia-Delgado
Jenny	Szu	Naomi	Tatarsky-Bridges
Ellena	Tabbal	Keri	Tate
Jessica	Tablante	Clara	Tawadrous
Maha	Tabrez	Alice	Taylor
Juliette	Tafoya	Reyna	Taylor
alvina	tahir	David	Teasue

# CALPIRG

## Students

### ACTION FOR A CHANGE

Sundiata Chaka	Tellem	Ava	Ting
Myriam	Tellez	Artem	Tkachuk
Maria	Tello	Danial	Toktarbayev
Sophia	Teng	Maria	Toldi
Christian	Tepper	Kirsten	Tomas
Kaitlin	Thach	Beck	Tompkins
Muadh	Thaika	Ellen	Tong
Carrie	Thang	Grace	Toolsie
Mai Te	Thao	Crystal	Torres
Tavisha	Thapar	Leandro	Torres Mantilla
Saanvi	Thapliyal	Sienna	Totah
Jackie	Thibault	Michelle	Toyooka
Blake	Thomas	Isaac	Tragarz
Roy	Thommas	Man	Tran
Maya	Thompson	Triet	Tran
Tanvi	Thummala	mila	tran
Ananya	Thyagarajan	Bryan	Tran
Christian	Tibernard	Danny	Tran
Lola	Tieslau	Danielle	Tran
Chun Him	Tin	Albert	Tran

# CALPIRG

## Students

### ACTION FOR A CHANGE

Andrew	Tran	Anyssa	Underdue
Alice	Tran	Annette	Ungermann
Quan	Tran	Sinai	Urbano
Benjamin	Trefry	Eve	Uriarte
ELLA	TREINEN	salvador	uribe
Mariah	Trinity	Camryn	Uyesato
Citlali	Troncoso	Gladys	Valadez
Chayan	Tronson	Matthew	Valderrama
David	Truumees	Isabelle	Valdes
Amanda	Tsang	cynthia	valdez
Da Chien	Tsui	ysabelle clarice	valdez
Niko	Tsukino	Angel	Valdivia
Clara	Tu	Arely	Valencia
Brandon	Tu	Diana	Valenzuela
Emily	Tu	Katarina	Vallero
Alexander	Tung	Anahi	Valverde
Reese	Turner	Mara	Van Tussel
Aditya	Udgaonkar	Katie	Vanegas
Jordan	Ullman	Amanda	Vang
Lance	Ultsch	Andrew	Vang

# CALPIRG

## Students

### ACTION FOR A CHANGE

daniela	vargas	Cinthia	Villalobos
Yuridia	Vargas Perez	Paola	Villanueva
Julian	Vargo	Amrita	Vinjamury
Marcus	Varni	Alex	Vitara
Erica	Varon	Samantha	Vitela
Ansh	Vashisth	Jocelyn	Vivaldo
Mercedes	Vasquez	Evelyn	Vo
Emelliah	Vaught	Ahana	Vora
Eric	Vazquez	Jean-Luc	Votichenko
Brandon	Vecchio	Michelle	Vuong
Justin	Vecchio	Kendall	Wade
Noemi	Vega	Tushita	Wadhawan
Aaron	Velasquez	luke	wagner
Kat	Velazquez	Hazel	Walia
Damaris	Velazquez	Arria	Walsh
Erick	Vergara	Natalie	Walzer
Sabreena	Verma	Madeleine	Wang
Shambhavi	Verma	Jace	Wang
Vamsi	Vetsa	James	Wang
Rafael	Villagomez	Shushan	Wang

# CALPIRG

## Students

### ACTION FOR A CHANGE

Fiona	Wang	Benjamin	Weinberger
Caitlin	Wang	elizabeth	weinstein
Ashley	Wang	Satyamuny	Weir
Perri	Wang	Bella	Weksler
Anderson	Wang	Miguel	Wences
Connie	Wang	Romina	Weng
Qin	Wang	Megan	Wesche
Mary	Wang	Amber	White
Chuck	Wang	Lauren	White
Alicia	Wang	Tai	White
Winnie	Wang	Doole	Wiener
Patrick	Wang	Sydney	Wiernicki
Yijnn	Wang	Charlie	Wigul
Taylor	Washington	Chelsea	Wijaya
Asbah	Wasim	Anna	Wilcox
Mia	Watanabe	Zofia	Wilk
Hannah	Weaver	Fella	Williams
Nimangie	Weerakoon	Maddie	Williams
Valevra	wehzwj	Chanel	Williams
Zixiao	Wei	Nyla	Williams

# CALPIRG

## Students

### ACTION FOR A CHANGE

Hayden	Willy	Luke	Wonzen
Malia	Wilson	Ruby	Woo
piper	wilson	Kimberly	Woo
Logan	Wilson	Emma	Wood
Imani	Wilson	Theodora	Worledge
Dylan	Wilson	Saman	Wright
Gia	Wirjawan	Wai Shuen	Wu
Karina	Wisén	Jessie	Wu
Yushao	Wo	Aaron	Wu
Camille	Woicekowski	Megan	Wu
Mathilde	Wokeveer	Aileen	Wu
William	Wolfe	Yiwen	Wu
Christina	Wong	Emma	Wu
Charlie	Wong	Emily	Wu
Katherine	Wong	Edward	Wu
Candace	Wong	Catherine	Wwang
Ana	Wong	Erin	Wynden
Anson	Wong	Theodore	Wyss-Flamm
Jade	Wong	Sophia	Xiau
napassorn	wongakkarakhun	Shiqi	Xie



# CALPIRG

## Students

### ACTION FOR A CHANGE

Junyi	Xu	Jack	Yang
Kexin	Xu	Lanyi	Yang
Bradley	Xu	Vivian	Yang
Terry	Xu	Aldrich	Yanga
Scarlett	Xu	Olivia	Yanover
Mo	Xu	Jiahao	Yao
Xiaokang	Xue	Murtaza	Yar Hiraj
Yuning	Xue	Su	Yardimci
Emma	Yakutis	Sara	Yavas
catherine	yamasaki	Parker	Yazzie-Umberger
Akira	Yamashita	Yingshan	Ye
Roo	Yan	Yaoxing	Yi
Becks	Yang	Geena	Yin
Lily	Yang	Michael	Yin
Bryan	Yang	Nick	Ying
Joyce	Yang	Robin	Ying
Rachel	Yang	Eunice	Yoon
qi	yang	Andrea	Yoon
Shuran	Yang	Eva	You
Yifan	Yang	Audrey	Young

# CALPIRG

## Students

### ACTION FOR A CHANGE

Jason	Yu	Yongshi	Zhan
Michael	Yu	Haolin	Zhang
Gily	Yu	Katherine	Zhang
Zlyan	Yu	Maureen	Zhang
Xiaowen	Yuan	Zhiming	Zhang
Geraldine	Yue	Trista	Zhang
Natalie	Yun	Yumeng	Zhang
Ivan	Yun	Silin	Zhang
Berlin	Z	Alicin	Zhang
Felicia	Z	Xue Jie	Zhang
shauna	Zahabi	Sarah	Zhang
Griffin	Zajac	Elaine	Zhang
Lucia	Zamora Gonzalez	Pufan	Zhang
Eliana	Zapata	Hanzhe	Zhang
Addison	Zaring	Chibin	Zhang
Diego	Zavala	Cindy	Zhang
Mille	Zavala	Gefei	Zhang
diego	zevallos valdizan	Helen	Zhao
Kelly	Zhan	selena	Zhao
Wengi	Zhan	Alan	Zhao

# CALPIRG

## Students

### ACTION FOR A CHANGE

Anna	Zhao	Cosette	Zhou
Zihan	Zhao	Angela	Zhou
Micaal	Zhaque	David	Zhu
Ashley	Zheng	Leo	Zhuang
Athena	Zhong	Kristina	Zlatinova
Fenmiao	Zhong	Brianna	Zobler
Anthony	Zhou	Melinda	Zou
Elizabeth	Zhou	Owen	Zuidema
Melissa	Zhou	Wildfredo	Zuloaga

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### 87 Individuals in Photo Petitions



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ORDINANCE NO. –N.S.

ADDING CHAPTER 11.62 TO THE BERKELEY MUNICIPAL CODE TO REGULATE ~~PLASTIC~~THE USE OF CARRYOUT AND PRODUCE BAGS AT RETAIL AND FOOD SERVICE ESTABLISHMENTS ~~AND PROMOTING THE USE OF REUSABLE BAGS~~

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

Section 1. That Chapter 11.62 of the Berkeley Municipal Code is added to read as follows:

**Chapter 11.62**

**PLASTIC BAGS – RETAIL AND FOOD SERVICE ESTABLISHMENTSREGULATING THE  
USE OF CARRYOUT AND PRODUCE BAGS AND PROMOTING THE USE OF  
REUSABLE BAGS**

**Sections:**

**11.62.010 Findings and Purposepurpose.**

**11.62.020 Definitions.**

~~11.62.030 Types of Checkout Bags permitted at Retail Service and Food Service Establishments.~~

~~11.62.040 Checkout Bag charge for paper or Reusable Checkout Bags at Retail Service establishments.~~

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

**11.62.040 Produce Bag restrictions for Grocery Stores.**

**11.62.050 ~~Use of Compostable Produce Bags at Retail Service Establishments~~General exemptions.**

~~11.62.060 Hardship Exemption~~

**Undue hardship exemption.**

**11.62.070 City of Berkeley—purchases prohibited.**

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

~~11.62.080 City of Berkeley—purchases prohibited~~

**11.62.090 Liability and ~~Enforcement.~~enforcement.**

**11.62.100 Severability.**

**11.62.110 Construction.**

~~11.62.120 Chapter supersedes existing laws and regulations.~~

~~11.62.130 Effective Date.~~

**date.**

**11.62.010 Findings and ~~Purpose~~purpose.**

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

- A. Single-use plastic bags, ~~plastic produce bags,~~ and plastic ~~product~~produce bags are a ~~major~~significant contributor to street litter, ocean pollution, marine and other wildlife harm and greenhouse gas emissions.
- B. The production, consumption and disposal of plastic based bags contribute significantly to the depletion of natural resources. Plastics in waterways and oceans break down into smaller pieces that are not biodegradable, and present a great harm to global environment.
- C. Among other hazards, plastic debris attracts and concentrates ambient pollutants in seawater and freshwater, which can transfer to fish, other seafood and salt that is eventually sold for human consumption. Certain plastic bags can also contain microplastics that present a great harm to our seawater and freshwater life, which ~~implicitly~~indirectly presents a threat to human life.
- D. It is in the interest of the health, safety and welfare of all who live, work and do business in the City that the amount of litter on public streets, parks and in other public places be reduced.
- E. The City of Berkeley must eliminate solid waste at its source and maximize recycling and composting in accordance with its Zero Waste Goals. Reduction of plastic bag waste furthers this goal.
- ~~F.~~—The State of California ~~regulates and Alameda County Waste Management Authority both regulate~~ single-use, ~~paper, and reusable~~ carryout bags ~~as directed~~respectively under ~~Senate Bill SB 270, but numerous local governments, including San Francisco and Palo Alto, have imposed more stringent regulations/~~Proposition 67 and Ordinance 2012-02 (as amended by Ordinance 2016-02). However, neither currently address ~~problems related to reduce the toll plastic bags inflict upon the environment.~~
- ~~G.F.~~ ~~Stores often provide customers with plastic~~ pre-checkout bags to ~~package~~carry fruits, vegetables, and other loose or bulky items while shopping, before reaching the checkout area. ~~They~~These bags, which are often plastic, share many of the same physical qualities as single-use plastic carryout bags no longer permitted in California, and are difficult to recycle ~~or,~~ reuse or compost.
- ~~H.G.~~ ~~SB 270 permits local governments to increase~~also does not regulate the price of bags provided at the point of sale by restaurants and ~~leaves open any regulation on pre-checkout~~streets events, including farmers' markets. While the County's Ordinance 2016-02 regulates restaurant carryout bags, such as at meat or vegetable stands within grocery stores, it falls short of completely phasing out single-use film bags, and does not impose a meaningful point of sale charges for reusable and paper bags.
- ~~I.H.~~ ~~The City of Berkeley~~ currently regulates a number of disposable plastic items through the Single-Use Foodware and Litter Reduction Ordinance (Ord. 7639-NS § 1 (part), 2019), but does not currently impose regulations ~~on~~with respect to bags. It is in the public interest to reduce plastic and paper waste in areas not preempted by the State of California.
- ~~J.I.~~ This Chapter is consistent with the City of Berkeley's 2009 Climate Action Plan, the County of Alameda Integrated Waste Management Plan, as amended, and the



CalRecycle recycling and waste disposal regulations contained in Titles 14 and 27 of the California Code of Regulations.

### 11.62.20 Definitions.

~~“Checkout”~~A. “Carryout Bag” means a bag provided by a Retail Service Establishment at the checkstand~~check stand~~, cash register, point of sale or other ~~point of departure~~location for the purpose of transporting food or merchandise out of ~~the establishment~~. ~~Checkout~~Covered Entity. Carryout Bags do not include Produce ~~Bags~~ or Product Bags.

~~“Recyclable Paper Checkout Bag”~~B. “Covered Entity” means a paper bag that meets any of the following criteria:

- ~~1. Contains no old growth fiber;~~
- ~~2. Is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content;~~

~~Displays the word “Recyclable”~~(1) any restaurant, take-out food establishment or other business (including, but not limited to, food sales from vehicles or temporary facilities open to the public) that receives 90% or more of its revenue from the sale of prepared and ready-to-consume foods and/or drinks to the public and is not subject to the requirements of Public Resources Code Section 42281; and

~~(2) any event, or Person therein, requiring a street event permit pursuant to Berkeley Municipal Code 13.44.040 and not subject to the requirements of Public Resources Code Section 42281.~~

~~C. “Customer” means any Person obtaining goods from a Covered Entity or Grocery Store.~~

~~“Grocery Store” means a supermarket, grocery store, convenience food store, foodmart, or other entity engaged in the retail sale of goods that include perishable or nonperishable food items;~~

~~“Recycled Content Paper Bag” means either a Carryout Bag provided by a covered Entity or a Produce Bag provided by a Grocery Store that contains no old growth fiber and a minimum of one hundred percent (100%) postconsumer recycled material; is one hundred percent (100%) recyclable and compostable, consistent with the timeline and specifications of the American Society of Testing and Materials (ASTM) Standard D6400; and has printed in a highly visible manner on the outside of the bag along with the the words “Recyclable,” the name and location of the manufacturer, and the percentage of postconsumer recycled content.~~

~~“Reusable Bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and meets all of the following requirements:~~

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

~~(2) has a minimum volume of 15 liters;~~

~~(3) is machine washable or is made from a material that can be cleaned or disinfected;~~

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

3. (5) has printed on the bag, or on a tag that is permanently affixed to the bag, the name of the manufacturer, the location (country) where the bag was manufactured, a statement that the bag does not contain lead, cadmium, or any other heavy metal in toxic amounts, and the percentage of post-consumer/postconsumer recycled content in an easy-to-read size font; material used, if any; and

4. ~~Or is made from alternative material or meets alternative standards approved by the City Manager or their designee.~~

~~“Reusable Checkout Bag” means all Checkout Bags defined as reusable under Cal. PRC §42280-42288, such as cloth or other washable woven bags, but do not include film bags considered reusable under Cal. PRC §42280-42288.~~

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

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

“Produce Bag” means a bag provided to a customer to carry produce, meats, bulk food, or other food items to the point of sale inside a store and protects food or merchandise from being damaged or contaminated by other food or merchandise~~when items are placed together in a Reusable Checkout Bag or Recyclable Paper Checkout Bag.~~

~~“Compostable Produce Bags” means paper bags and bags made of plastic-like material if the material meets the ASTM Standard Specifications for compostability D6400 or D6868, or the product is Biodegradable Products Institute (BPI) certified, or is considered acceptable within the City’s compost collection program.~~

~~“Product Bag” means a bag provided to a customer to protect merchandise from being damaged or contaminated by other merchandise when items are placed together in a Reusable Checkout Bag or Recyclable Paper Checkout Bag; a bag~~“Product Bag” are bags that are integral to the packaging of the product; a bag provided to the Customer to hold prescription medication dispensed from a pharmacy; or a bag without handles that is designed to be placed over articles of clothing on a hanger.

~~“Retail Food Establishment” means any establishment, located or providing food within the City, which provides prepared and ready to consume food or beverages, for public consumption including but not limited to any Retail Service Establishment, eating and drinking service, takeout service, supermarket, delicatessen, restaurant, food vendor, sales outlet, shop, cafeteria, catering truck or vehicle, cart or other sidewalk or outdoor vendor or caterer which provides prepared and ready to consume food or beverages, for public consumption, whether open to the general public or limited to certain members of the public (e.g., company cafeteria for employees).~~

~~“Retail Service Establishment” means a for-profit or not-for-profit business that where goods, wares or merchandise or services are sold for any purpose other than resale in the regular course of business (BMC Chapter 9.04.135).~~

### ~~11.62.030 Types of Checkout Bags permitted at Retail Service and Food Service Establishments.~~

#### 11.62.30 Retail Service Establishments and Food Service Establishments Carryout Bag restrictions for Covered Entities.



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

B. A Covered Entity may provide or make available for sale to a customer-only Customer:

(1) Recycled Content Paper Bags at no charge;

(2) Reusable Bags for a minimum price of twenty-five cents (\$0.25).

**11.62. Checkout Bags, Compostable 040 Produce Bags, or Recyclable Paper Checkout Bags for the purpose of carrying away goods or Bag restrictions for Grocery Stores.**

A. No Grocery Store or Covered Entity shall provide Produce Bags other materials from the point of sale, subject to the terms of this Chapter. than Recycled Content Paper Bags and Reusable Bags.

Exception: Single-use plastic bags

**11.62.050 General exemptions**

1. A. Bags exempt from the Chapter include those integral to the packaging of the product, Product Bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste or yard waste bags.

~~B. Effective [ ], 2020, farmers markets shall only provide Compostable Produce Bags to hold produce, meats, bulk food or other food items. Single-use Plastic Checkout Bags, Produce Bags or Product Bags shall not be provided by farmers markets for produce or meat.~~

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

**11.62.040 Checkout Bag charge for paper or Reusable Checkout Bags at Retail Service Establishments.**

~~A. Effective [ ], 2020, no Retail Service Establishment shall provide a Compostable Produce Bag, Recyclable Paper Checkout Bag or Reusable Checkout Bag to a customer at the point of sale, unless the store charges the customer a Checkout Bag charge of at least twenty-five cents (\$0.25) per bag to cover the costs of compliance with the Chapter, the actual costs of providing Recyclable Paper Checkout Bags, educational materials or other costs of promoting the use of Reusable Checkout Bags.~~

~~B. Retail Service Establishments shall establish a system for informing the customer of the charge required under this section prior to completing the transaction. This system can include store clerks inquiring whether customers who do not present their own Reusable Checkout Bag at point of checkout want to purchase a Checkout Bag.~~

~~C. The Checkout Bag charge shall be separately stated on the receipt provided to the customer at the time of sale and shall be identified as the Checkout Bag charge. Any other transaction fee charged by the Retail Service Establishment in relation to providing a Checkout Bag shall be identified separately from the checkout bag charge. The Checkout Bag charge may be completely retained by the Retail Service Establishment and used for public education and administrative enforcement costs.~~

~~D. Retail services establishments shall keep complete and accurate records of the number and dollar amount collected from Recyclable Paper Checkout Bags and Reusable Checkout Bags sold each month and provide specifications demonstrating that paper and reusable bags meet the standards set forth in Section 11.62.030 using either the electronic or paper reporting format required by the city. This information is required to be made available to city staff upon request up to three times annually and must be provided within seven days of request. Reporting false information, including information derived from incomplete or inaccurate records or documents, shall be a violation of the Chapter. Records submitted to the city must be signed by a responsible agent or officer of the establishment attesting that the information provided on the form is accurate and complete.~~

~~**11.62.050 Use of Compostable Produce Bags at Retail Service Establishments.**  
Effective [ ], 2020, Retail Service Establishments shall only provide Compostable Produce Bags to carry produce, meats, bulk food, or other food items to point of sale within the store.~~

~~**11.62.060 Hardship Exemption.**  
**Undue hardship— exemption.**~~

A. The City Manager, or their designee, may exempt a ~~retail service or food service establishment~~Covered Entity or Grocery Store from the requirements of this Chapter for a period of up to ~~one year,~~[x months], upon sufficient evidence by the applicant that the provisions of this Chapter would cause undue hardship. An undue hardship exemption request must be submitted in writing to the ~~city~~City. The phrase "undue hardship" may include, but is not limited to, the following:

~~1. Situations where there are no acceptable alternatives to single-use plastic Checkout Bags for reasons which are unique to the Retail Service Establishment or Food Service Establishment.~~

~~2.~~ (1) Situations where compliance with the requirements of this Chapter would deprive a person of a legally protected right.

~~B. Retail Service Establishments shall not enforce the ten cent (\$0.25) store charge for customers participating in the California Special Supplemental Food Program for Women, Infants, and Children, or in CalFresh, or in the Supplemental Nutrition Assistance Program (SNAP).~~

~~**11.62.070**~~**11.62.070 City of Berkeley—purchases prohibited.**

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

~~**11.62.080**~~ **Duties, responsibilities and authority of the City of Berkeley.**

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



~~11.62.080 City of Berkeley—purchases prohibited.~~

~~The City of Berkeley shall not purchase any Foodware or Bag that is not Compostable, Recyclable or Reusable under Disposable Foodware and Bag Standards in Section 11.64.080, nor shall any City-sponsored event utilize non-compliant Disposable Foodware and Bag.~~

**11.62.090 Liability and ~~Enforcement~~enforcement.**

- A. Anyone violating or failing to comply with any requirement of this Chapter may be subject to an Administrative Citation pursuant to Chapter 1.28 or charged with an infraction as set forth in Chapter 1.20 of the Berkeley Municipal Code; however, no administrative citation may be issued or infraction charged for violation of a requirement of this Chapter until one year after the effective date of such requirement.
- B. Enforcement shall include written notice of noncompliance and a reasonable opportunity to correct or to demonstrate initiation of a request for a waiver or waivers pursuant to Section 11.~~64.090~~62.060.
- C. The City Attorney may seek legal, injunctive, or other equitable relief to enforce this Chapter.
- D. The remedies and penalties provided in this section are cumulative and not exclusive.

**11.62.100 Severability.**

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

**11.62.110 Construction.**

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

**11.62.120 ~~Chapter supersedes existing laws and regulations~~Effective date.**

~~The provisions of this Chapter shall supersede any conflicting law or regulations.~~

~~11.62.130 Effective Date.~~

The provisions in this ordinance are effective [ ], 2020~~2022~~.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall

be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



ORDINANCE NO. –N.S.

ADDING CHAPTER 11.62 TO THE BERKELEY MUNICIPAL CODE TO REGULATE  
THE USE OF CARRYOUT AND PRODUCE BAGS AND PROMOTING THE USE OF  
REUSABLE BAGS

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

Section 1. That Chapter 11.62 of the Berkeley Municipal Code is added to read as follows:

**Chapter 11.62**

**REGULATING THE USE OF CARRYOUT AND PRODUCE BAGS AND PROMOTING  
THE USE OF REUSABLE BAGS**

**Sections:**

**11.62.010 Findings and purpose.**

**11.62.020 Definitions.**

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

**11.62.040 Produce Bag restrictions for Grocery Stores.**

**11.62.050 General exemptions.**

**11.62.060 Undue hardship exemption.**

**11.62.070 City of Berkeley—purchases prohibited.**

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

**11.62.090 Liability and enforcement.**

**11.62.100 Severability.**

**11.62.110 Construction.**

**11.62.120 Effective date.**

**11.62.010 Findings and purpose.**

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

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

**11.62.20 Definitions.**

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



(1) any restaurant, take-out food establishment or other business (including, but not limited to, food sales from vehicles or temporary facilities open to the public) that receives 90% or more of its revenue from the sale of prepared and ready-to-consume foods and/or drinks to the public and is not subject to the requirements of Public Resources Code Section 42281; and

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

C. "Customer" means any Person obtaining goods from a Covered Entity or Grocery Store.

"Grocery Store" means a supermarket, grocery store, convenience food store, foodmart, or other entity engaged in the retail sale of goods that include perishable or nonperishable food items;

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

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

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

(2) has a minimum volume of 15 liters;

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

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

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

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

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

"Produce Bag" means a bag provided to a customer to carry produce, meats, bulk food, or other food items to the point of sale inside a store and protects food or merchandise from being damaged or contaminated by other food or merchandise.

"Product Bag" are bags that are integral to the packaging of the product; a bag provided to the Customer to hold prescription medication dispensed from a pharmacy; or a bag without handles that is designed to be placed over articles of clothing on a hanger.

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

A. No Covered Entity shall provide or sell a Carryout Bag other than Recycled Content Paper Bags or Reusable Bags at the check stand, cash register, point of sale or

other location to a Customer for the purpose of transporting food or merchandise out of such establishment or event.

B. A Covered Entity may provide or make available for sale to a Customer:

- (1) Recycled Content Paper Bags at no charge;
- (2) Reusable Bags for a minimum price of twenty-five cents (\$0.25).

**11.62.040 Produce Bag restrictions for Grocery Stores.**

No Grocery Store or Covered Entity shall provide Produce Bags other than Recycled Content Paper Bags and Reusable Bags.

**11.62.050 General exemptions**

A. Bags exempt from the Chapter include Product Bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste or yard waste bags.

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

**11.62.060 Undue hardship exemption.**

A. The City Manager, or their designee, may exempt a Covered Entity or Grocery Store from the requirements of this Chapter for a period of up to [x months], upon sufficient evidence by the applicant that the provisions of this Chapter would cause undue hardship. An undue hardship exemption request must be submitted in writing to the City. The phrase "undue hardship" may include, but is not limited to, the following:

- (1) Situations where compliance with the requirements of this Chapter would deprive a person of a legally protected right.

**11.62.070 City of Berkeley—purchases prohibited.**

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

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

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

**11.62.090 Liability and enforcement.**

A. Anyone violating or failing to comply with any requirement of this Chapter may be subject to an Administrative Citation pursuant to Chapter 1.28 or charged with an infraction as set forth in Chapter 1.20 of the Berkeley Municipal Code; however, no administrative citation may be issued or infraction charged for violation of a requirement of this Chapter until one year after the effective date of such requirement.



- B. Enforcement shall include written notice of noncompliance and a reasonable opportunity to correct or to demonstrate initiation of a request for a waiver or waivers pursuant to Section 11.62.060.
- C. The City Attorney may seek legal, injunctive, or other equitable relief to enforce this Chapter.
- D. The remedies and penalties provided in this section are cumulative and not exclusive.

**11.62.100 Severability.**

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

**11.62.110 Construction.**

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

**11.62.120 Effective date.**

The provisions in this ordinance are effective [ ], 2022.

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.



Kate Harrison  
Councilmember District 4

ACTION CALENDAR  
December 10, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Harrison and Hahn  
Subject: Adopt an Ordinance Adding a Chapter 11.62 to the Berkeley Municipal Code to Regulate Plastic Bags at Retail and Food Service Establishments

RECOMMENDATION

Adopt an ordinance adding a Chapter 11.62 to the Berkeley Municipal Code to regulate plastic bags at retail and food service establishments.

BACKGROUND

Californians throw away 123,000 tons of plastic bags each year, and much of it finds its way into regional and international waterways.<sup>1</sup> The situation is only getting worse with 18 billion more pounds of plastic added to the already colossal amount in our seas.<sup>2</sup> Today, there are 100 million tons of trash in the North Pacific Subtropical Gyre;<sup>3</sup> in some parts, plastic outweighs plankton 6 to 1.<sup>4</sup>

Legislative action at the state level has been successful in achieving reductions in plastic bag pollution. According to the 2018 Change the Tide report, restrictions on plastic bags such as that in effect in California have resulted in a “steady drop” in plastic grocery bags found on California beaches. Berkeley has also recently made substantial progress on its restriction of plastic litter in the city through the Single Use Foodware and Litter Reduction ordinance (BMC Chapter 11.64).<sup>5</sup> The ordinance restricts food providers from offering take-out and dine-in food in single-use disposable ware. These items include “containers, bowls, plates, trays, cartons, boxes, pizza boxes, cups, utensils, straws, lids, sleeves, condiment containers, spill plugs, paper or foil wrappers, liners and any

<sup>1</sup> Environment California, “Keep Plastic Out of the Pacific,”

<https://environmentcalifornia.org/programs/cae/keep-plastic-out-pacific>.

<sup>2</sup> Division of Boating and Waterways, “The Changing Tide,”

[http://dbw.parks.ca.gov/pages/28702/files/Changing%20Tide%20Summer%202018%20HQ%20\(1\).pdf](http://dbw.parks.ca.gov/pages/28702/files/Changing%20Tide%20Summer%202018%20HQ%20(1).pdf).

<sup>3</sup> The North Pacific Gyre, also known as the North Pacific Subtropical Gyre, is a system of ocean currents that covers much of the northern Pacific Ocean. It stretches from California to Japan and contains the Great Pacific Trash Patch, or Pacific trash vortex. National Geographic, “Great Pacific Garbage Patch,” <https://www.nationalgeographic.org/encyclopedia/great-pacific-garbage-patch/>.

<sup>4</sup> Environment California, “Keep Plastic Out of the Pacific,”

<https://environmentcalifornia.org/programs/cae/keep-plastic-out-pacific>.

<sup>5</sup> Berkeley Municipal Code, Chapter 11.64 Single Use Foodware and Litter Reduction.

other items used to hold, serve, eat, or drink Prepared Food.”<sup>6</sup> Notably, plastic bags do not fall within the purview of the Single Use Foodware and Litter Reduction ordinance.

In order to take a further step in protecting the environment and reaching our zero waste goal, Berkeley must consider more aggressive action to close critical loopholes in state law with regard to plastic bags.

California currently prohibits the sale of plastic bags that fall into several categories, based on composition, intended use and business size and type. The statewide Single-Use Carryout Bag Ban prevents the sale of single-use plastic carryout bags in most large grocery stores, retail stores with a pharmacy, convenience stores, food marts, and liquor stores. Affected stores may offer reusable or recycled paper bags to a customer at the point of sale. Despite these restrictions, the law provides for the sale of plastic bags that are more than 2.25 mils thick in these stores, and exempts a number of key commercial establishments such as restaurants, general retailers, farmers markets, and other smaller businesses. State law also fully exempts plastic bags in grocery stores used for carrying produce from the shelf to the check stand.<sup>7</sup>

This proposed ordinance intends to expand the scope of existing regulation to further reduce plastic waste across these exempt categories, avoiding further destruction of the local, regional and global environment.

### **State Restrictions on Plastic Bags**

California’s legislature decided in 2014 to take a step to limit single-use plastic bag waste. Senate Bill 270 mandates that stores of a certain size and type offer only reusable bags at checkout and sets a minimum price of at least \$0.10.<sup>8</sup> As a result, thin film bags, known as t-shirt bags, are no longer available at larger retail and grocery stores.

The scope of state regulation includes minimum percentage of post-consumer recycled plastics the bag must include and banning plastic bags deemed adequate for only one use. The state defines single-use plastic bags as thin film bags—bags made out of flexible sheets of plastic usually of polyethylene resin. Legislation often distinguishes between single-use film bags and reusable ones based on their thickness, measured in mils—1 thousandth of an inch.

The ban however does not apply to other types of plastic bags deemed reusable or to smaller retailers and restaurants. Many plastic film bags, in particular, are still permitted under SB 270. They are permitted for sale as long as: the bags contain more than 20%

<sup>6</sup> Berkeley Municipal Code Section 11.64.020D.

<sup>7</sup> Ban on Single-Use Carryout Bags (SB 270 / Proposition 67) Frequently Asked Questions, Office of the Attorney General and CalRecycle, April 2017, <https://www.calrecycle.ca.gov/Plastics/CarryOutBags/FAQ/>.

<sup>8</sup> California Legislature, Senate Bill 270,

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201320140SB270](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201320140SB270)



post-consumer recycled material<sup>9</sup>; are recyclable in the state of California; are properly labeled as containing post-consumer recycled material; can carry over 22lb for a minimum of 175ft for at least 125 uses; and are at least 2.25 mils thick.

Despite the assumption of reusability, there is limited evidence to suggest that plastic bags are being repurposed to the degree accounted for by SB 270. Some studies suggest that fewer than 1% of people actually reuse the thicker and thus technically-reusable film bags.<sup>10</sup> This erroneous legislative assumption can be addressed at the local level.

Aside from SB 270, the only other legislation governing plastic bag usage in Berkeley is an Alameda County ordinance implementing SB 270 and local ordinances regulating the type of plastic allowed in food packaging.<sup>11</sup> By not addressing plastic produce bags and defining reusable bags as any film bag exceeding 2.25 mils, current regional and local law shares many of the shortcomings of state legislation.<sup>12,13</sup>

### Local Restrictions on Plastic Bags

Contested but upheld in a 2016 ballot measure,<sup>14</sup> SB 270 set a statewide code that has been built upon by numerous local governments, including many in the Bay Area.

Palo Alto is one of the most recent cities to amend its municipal code and take the extra step in limiting the distribution of film bags. By splitting plastic bags into three categories by use—produce bags, checkout bags, and product bags—the city is able to differentiate regulation for each purpose. Its ordinance<sup>15</sup> bans grocery stores and farmers markets from packaging food in film bags, requiring instead the use of compostable plastics. For checkout, Palo Alto mandates that all stores only offer their customers recycled paper bags or reusable bags, a term it defines in accordance with California law as a bag thicker than 2.25 mils.

<sup>9</sup> [In 2020, the percentage required will increase to 40% post-consumer recycled material.](#)

<sup>10</sup> Save Our Shores, “Help Ban Plastic Bags,” <https://saveourshores.org/help-ban-plastic-bags/>

<sup>11</sup> Alameda County Waste Management Authority, “Ordinance Regulating the use of carryout bags and promoting the use of reusable bags,” <http://reusablebagsac.org/acwma-ordinance-2012-2-amended-ordinance-2016-2>.

<sup>12</sup> Berkeley Municipal Code Chapter 11.58 Prohibition of Chlorofluorocarbon-Processed Food Packaging, <https://www.codepublishing.com/CA/Berkeley/cgi/NewSmartCompile.pl?path=Berkeley11/Berkeley1158/Berkeley1158.html>.

<sup>13</sup> Berkeley Municipal Code Chapter 11.60 Polystyrene Foam, Degradable and Recyclable Food Packaging, <https://www.codepublishing.com/CA/Berkeley/cgi/NewSmartCompile.pl?path=Berkeley11/Berkeley1160/Berkeley1160.html>.

<sup>14</sup> Ballotpedia, “California Proposition 67, Plastic Bag Ban Veto Referendum (2016),” [https://ballotpedia.org/California\\_Proposition\\_67,\\_Plastic\\_Bag\\_Ban\\_Veto\\_Referendum\\_\(2016\)](https://ballotpedia.org/California_Proposition_67,_Plastic_Bag_Ban_Veto_Referendum_(2016))

<sup>15</sup> Palo Alto Municipal Code, “Chapter 5.35 Retail and Food Service Establishment Checkout Bag Requirements,” <https://www.cityofpaloalto.org/civicax/filebank/documents/63550>.

San Francisco has similar provisions.<sup>16</sup> It decided in July 2019<sup>17</sup> to both increase the amount of money charged for checkout bags from \$0.10 to \$0.25 and ban what it calls “pre-checkout bags”—defined as a “bag provided to a customer before the customer reaches the point of sale,” nearly identical in definition to Palo Alto’s produce bag language. San Francisco drew inspiration from Monterey, Pacifica, Santa Cruz and Los Altos, all of which charge more than SB270 requires for plastic bags.<sup>18</sup> The ordinance also specifically referenced an Irish law, which increased the price of plastic checkout bags from 15 cents to 22 cents, reducing plastic checkout usage by more than 95 percent, as precedent.<sup>19</sup>

Yet there are some cities that have gone even farther in their restriction of single-use plastics. Although Capitola does not ban produce/pre-checkout bags, it notably redefined the thickness of a reusable bag as equal or exceeding 4 mils, instead of 2.25 mils.<sup>20</sup> This means that any carryout bag provided by a retailer in the city is more durable than those considered multi-use by the state of California.

New York State recently introduced a plastic bag reduction ordinance that provides a number of precedents for a potential Berkeley ordinance. It bans “the provision of plastic carryout bags at any point of sale.”<sup>21</sup> It exempts compostable bag and *non*-film plastic bags and does away with any distinction between reusable and non-reusable film bags based on their thickness. Where the New York ban falls short is in its regulation of non-checkout bags: bags for produce, meat, newspapers, take-out food and garments remain legal.

Given the progress many cities and states have made in regulating plastic bags, Berkeley has many examples to emulate.

### Past Efforts in Berkeley

<sup>16</sup> San Francisco Municipal Code Chapter 17: Plastic Bag Reduction Ordinance, [http://library.amlegal.com/nxt/gateway.dll/California/environment/chapter17plasticbagreductionordinance?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco\\_ca](http://library.amlegal.com/nxt/gateway.dll/California/environment/chapter17plasticbagreductionordinance?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca).

<sup>17</sup> San Francisco Municipal Code, “Ordinance amending the Environment Code,” <https://sfbos.org/sites/default/files/o0172-19.pdf>.

<sup>18</sup> Isabela Agnus, “San Francisco bumps bag fee up to 25 cents,” <https://www.sfgate.com/news/article/SF-bumps-bag-fee-25-cents-plastic-produce-ban-14102908.php>.

<sup>19</sup> Republic of Ireland Department of Communications, Climate Action & Environment, “Plastic Bags,” <https://www.dccae.gov.ie/en-ie/environment/topics/waste/litter/plastic-bags/Pages/default.aspx>.

<sup>20</sup> Capitola Municipal Code Chapter 8.07: Single-use Plastic and Paper Carryout Bag Reduction, <https://www.codepublishing.com/CA/Capitola/#!/Capitola08/Capitola0807.html#8.07>.

<sup>21</sup> New York State Governor’s Office, “An act to amend the environmental conservation law, in relation to prohibiting plastic carryout bags,” <https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/PlasticBagBan.pdf>.

Berkeley attempted to pass its own plastic bag ban in 2010.<sup>22</sup> In the years following councilmembers have pushed for reform, calling for an ordinance to improve upon county and state legislation.<sup>23</sup> Yet the threat of lawsuits<sup>24</sup> and movement on the state and county level appear to have delayed local reform.

### The Proposed Ordinance

This proposed ordinance picks up where prior attempts failed, bringing Berkeley on par with many of its neighbors in tightening restrictions on plastic bag sales. On some points, this ordinance ensures that the City again becomes a leader in environmental regulation. The following details the key changes that close loopholes in state and local law:

- Plastic bag regulations would now apply to a number of retail service establishments previously omitted from the state ban. Restaurants and food vendors would no longer be able to distribute single-use plastic carryout bags. Grocery stores and other retailers selling prepared food would be required to move away from single-use plastic produce bags.
- Retail service establishments of all sizes would be included, closing exemptions for smaller stores.
- Reusable plastic bags would be redefined as non-film plastic bags, adjusting the criteria to more accurately reflect common perceptions of reusability and the tendency for consumers treat all film bags as disposable, regardless of thickness.
- The price per non-plastic bag increases from \$0.10 to \$.25, to avoid a substitution effect.

The most common concern in reducing plastic bag waste is that the alternatives are even less sustainable. Substituting paper bags for plastic could be equally, if not more, hazardous for the environment because of the energy, transport and disposal processes required.<sup>25</sup> Cloth bags are also imperfect options, because of the large amount of energy and water necessary to produce them.<sup>26</sup> The California ban on bags thinner than 2.25

<sup>22</sup> Berkeley City Council, "Berkeley Bag Reduction Ordinance," [https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Solid\\_Waste/BagReductionDraftOrdinance.100316.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Solid_Waste/BagReductionDraftOrdinance.100316.pdf).

<sup>23</sup> Kriss Worthington, "Adopt Expanded Single Use Plastic Bag Ban/Paper Bag Fee Ordinance," [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_City\\_Council/2012/01Jan/2012-01-31\\_Item\\_25\\_Adopt\\_Expanded\\_Single\\_Use\\_Plastic\\_Bag.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/2012/01Jan/2012-01-31_Item_25_Adopt_Expanded_Single_Use_Plastic_Bag.pdf).

<sup>24</sup> Doug Oakley, "Berkeley's plan for plastic bag ban part of larger movement," <https://www.mercurynews.com/2009/12/23/berkeleys-plan-for-plastic-bag-ban-part-of-larger-movement/>.

<sup>25</sup> The Environmental Literacy Council, "Paper or Plastic?" <https://enviroliteracy.org/environment-society/life-cycle-analysis/paper-or-plastic/>.

<sup>26</sup> Patrick Barkham, "Paper bags or plastic bags: which are best?" <https://www.theguardian.com/environment/shortcuts/2011/dec/20/paper-plastic-bags-which-best>.



mils may also have resulted in a substitution toward thicker and less sustainable film bags.<sup>27</sup> Moreover, international studies confirm that even single-use bags are reused to a limited degree for other household functions, such as garbage disposal or to pick up dog feces.<sup>28</sup> A University of Sydney economist found that garbage bag consumption increased when California placed restrictions on single-use plastic bags, likely because consumers no longer had as many free single-use film bags at hand in which to dispose their waste. Yet that same study also concluded that the benefits of the ban were still significant: Californians consumed 28 million pounds fewer plastic than they did before.<sup>29</sup>

Still, eliminating plastic bags cannot be the only approach to combat the cycle of consumer waste. It must come, as this ordinance would ensure, in combination with higher prices and greater requirements for the percentage of recycled content in paper bags. Any paper bags sold in Berkeley must per this resolution contain no old growth fiber, be 100% recyclable overall and contain a minimum of 40% post-consumer recycled content.

Data from Alameda County as a whole seems to indicate that when the cost of single-use paper bags was set at \$0.10, consumption *decreased* by approximately 40% within three years.<sup>30</sup> The same report revealed that “plastic bags found in storm drains decreased by 44 percent, indicating that the ordinance has been successful in reducing single use plastic bag litter.” Further price increases have been shown to realize even larger benefits.

### FISCAL IMPLICATIONS

Staff or contractor costs for the launch, for outreach and education, enforcement, administration and analysis.

### ENVIRONMENTAL SUSTAINABILITY

Reducing the amount of discarded plastic bags—previously classified as multi-use—in the city of Berkeley will result in less over all waste and fewer plastic that makes it into local and regional waterways.

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<sup>27</sup> Christian Britschgi, “California Plastic Bag Bans Spur 120 Percent Increase in Sales of Thicker Plastic Garbage Bags,” <https://reason.com/2019/04/11/california-plastic-bag-bans-spur-120-per/>.

<sup>28</sup> NPR Planet Money, “Are Plastic Bag Bans Garbage?” <https://www.npr.org/sections/money/2019/04/09/711181385/are-plastic-bag-bans-garbage>.

<sup>29</sup> Rebecca L.C. Taylor, “Bag leakage: The effect of disposable carryout bag regulations on unregulated bags,” <https://www.sciencedirect.com/science/article/pii/S0095069618305291>.

<sup>30</sup> Alameda County Waste Management Authority, “Addendum to the Final Environmental Impact Report Mandatory Recycling and Single Use Bag Reduction Ordinances,” <http://reusablebagsac.org/resources/addendum-final-environmental-impact-report-2016>.

Furthermore, a switch toward bags made from polyester or plastics like polypropylene, which are more sustainable than film bags and sold at many grocery stores will lead to greater environmental sustainability.<sup>31</sup>

CONTACT PERSON

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

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<sup>31</sup> Claire Thompson, "Paper, Plastic or Reusable?" [https://stanfordmag.org/contents/paper-plastic-or-reusable?utm\\_source=npr\\_newsletter&utm\\_medium=email&utm\\_content=20190408&utm\\_campaign=money&utm\\_term=nprnews](https://stanfordmag.org/contents/paper-plastic-or-reusable?utm_source=npr_newsletter&utm_medium=email&utm_content=20190408&utm_campaign=money&utm_term=nprnews).



Energy Commission

CONSENT CALENDAR  
April 12, 2022

To: Honorable Mayor and Members of the City Council  
 From: Berkeley Energy Commission  
 Submitted by: Bentham Paulos, Chairperson, Energy Commission  
 Subject: Referral Response: Community Outreach and Education Events on Proposed Regulations for the Use of Carryout and Pre-checkout Bags

RECOMMENDATION

The Energy Commission recommends that the City Council refer this matter to the forthcoming Commission on Climate and the Environment Commission, once it is established. The Energy Commission also recommends that the City Council first allocate and appropriate funding for City staff and local community partners to conduct due diligence and analysis regarding the proposed ordinance, and consider funding a pilot project with a large grocery venue.

SUMMARY

The Energy Commission discussed and considered Council's referral to conduct community outreach and education events regarding the proposed ordinance regulating the use of plastic carryout and pre-checkout bags. We support the City of Berkeley's zero waste and fossil fuel free goals, and recommend that Council consider referring this matter to the forthcoming Commission on Climate and the Environment Commission, once it is established. Due to the imminent disbanding of the Energy Commission, it is not able to administer a robust public consultation process at this time regarding this important proposed ordinance on reducing plastic pollution stemming from single-use plastic bags. The Energy Commission also recommends that Berkeley City Council first allocate and appropriate funding for City staff and local community partners to conduct due diligence and analysis regarding the proposed ordinance, and consider funding a pilot project with a large grocery venue.

FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts to this recommendation. If a robust public consultation process is eventually pursued, there could be costs for the staff time, consultants, stakeholder engagement, and/or public events associated with implementing such a consultation process.



## CURRENT SITUATION AND ITS EFFECTS

The Energy Commission recognizes that the negative environmental and health impacts from the extraction of fossil fuels for the production, use, and disposal of plastic bags are substantial. We also applaud the City of Berkeley, its residents and local businesses, and our innovative community organizations, for the collective leadership that has been demonstrated over decades on pioneering zero waste initiatives, from banning Styrofoam to curbside recycling and composting and the 2019 ban on single-use disposable plastic foodware and packaging.<sup>1</sup> We also recognize that there are gaps in existing regulations governing plastic carryout and pre-checkout bags, which the proposed ordinance strives to address.

Our understanding of the current context for achieving waste reduction goals in the City of Berkeley are that the priorities are: (1) implementing and complying with SB 1383, the State of California's law to reduce short-lived climate pollutants that requires substantial reductions and diversions of organic waste going to the landfill with regulations going into effect in January 2022; (2) compliance with existing State diversion laws AB 341 and AB 1826; and (3) implementing and complying with the existing ordinance on single-use foodware and litter reduction.

In addition, the Energy Commission's discussion of this Referral at the October 27, 2021 Commission meeting was in the context of our Commission's proposed consolidation with other City Commissions and a requested completion date of said public process by December 31, 2021. While the deadline was later clarified as a target, not a requirement, the Energy Commission still faced consolidation resulting in uncertainty in our membership, expertise, and timeframe for taking on significant new responsibilities.

At its meeting of February 23, 2022, the Energy Commission voted to send this recommendation to the City Council by a vote of 5-0-1-1 [Moved (Paulos), Second (Guliasi), Ayes (Paulos, Wolf, Moore, Guliasi, Zuckerman), Nays (none), Abstain (Tahara), Recused (de Tournay Birkhahn)].

## BACKGROUND

In 2018, the Zero Waste Commission led community outreach, education, and input-gathering events for the proposed single-use disposable foodware ordinance. The ZWC designed a robust public process, holding three extended comment periods at Commission meetings, three public physical informational presentation sessions, and collected comments from over 60 restaurateurs, environmental advocates, members of the people with disabilities communities, and other community members. The process was supported by City staff, outside consultants and The Ecology Center. There was substantial due diligence and a timeline of approximately eight months. The ordinance

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[https://www.cityofberkeley.info/Public\\_Works/Zero\\_Waste/Berkeley\\_Single\\_Use\\_Foodware\\_and\\_Litter\\_Reduction\\_Ordinance.aspx](https://www.cityofberkeley.info/Public_Works/Zero_Waste/Berkeley_Single_Use_Foodware_and_Litter_Reduction_Ordinance.aspx)

was complex and touched numerous types of stakeholders, as the process was designed to get input from the full range of affected stakeholders and the general Berkeley public.

On September 14, 2021, City Council approved a referral to the Zero Waste and Energy Commission (or Successor Commission) to Hold Joint Meetings to Conduct Community Outreach and Education Events with Regard to the Proposed Ordinance Regulating the Use of Carryout and Pre-checkout Bags and to Make Recommendations to the Facilities, Infrastructure, Transportation, Environment & Sustainability (FITES) Committee. The proposed ordinance to regulate the use of carryout and pre-checkout bags and promote the use of reusable bags is similarly complex. The Energy Commission does not believe that we have the necessary expertise, resources, or initial due diligence and analysis to design a public consultation process as robust as necessary in the time left before the Energy Commission disbands and consolidates into the new Commission on Climate and the Environment.

The Energy Commission recommends that Berkeley City Council allocate and appropriate funding for City staff and local community partners like the Ecology Center to conduct due diligence and analysis regarding the proposed ordinance on issues including: jurisdiction and administration of the ordinance (which City departments have jurisdiction, and how does this relate to Alameda County bag ordinances); the number of type of stakeholders that would be affected by this ordinance and need to be included in the consultation process; City staff enforcement needs for the new ordinance; progress to-date on implementation and compliance with existing laws and ordinances like SB 1383, AB 341, AB 1826 and the SUDS ordinance; and how the new ordinance fits with other Zero Waste goals, priorities, and diversion rates, among other issues. A pilot demonstration project with a large grocery venue is a potential option.

#### ENVIRONMENTAL SUSTAINABILITY

The Energy Commission recognizes that plastic pollution from plastic bags will definitely need to be addressed for Berkeley to meet its Zero Waste and Fossil Fuel Free city goals.

#### RATIONALE FOR RECOMMENDATION

At the time the Referral was considered – in the face of the City’s proposal to merge the Zero Waste, Energy, Community Environmental Advisory and Animal Care Commissions – the Energy Commission concluded that our Commission could not responsibly commit to undertaking a robust public outreach process because the Commission did not have the time, the staff or financial resources, the zero waste expertise on the Commission, or the preliminary due diligence and analysis of affected stakeholders and City department jurisdictions.

#### ALTERNATIVE ACTIONS CONSIDERED

The Energy Commission considered doing a minimal virtual and online public consultation process. We decided it was not feasible to conduct such a process before

the December 2021 winter holidays and get any reasonable level of engagement from affected businesses. In addition, we did not think that a minimal or rushed process was advisable given the complexity of the issues involving a wide range of stakeholders and businesses in Berkeley.

CITY MANAGER

The City Manager takes no position the content and recommendations of the Commission's Report.

CONTACT PERSON

Billi Romain, Manager, Office of Energy & Sustainable Development – Planning Department, 510-981-9732





Kate Harrison  
Vice Mayor, District 4

CONSENT CALENDAR  
March 22, 2022

To: Honorable Mayor and Members of the City Council

From: Vice Mayor Harrison

Subject: Referral to the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee Policy Committee to Consider Strategies and Make Recommendations to Council and Staff to Ensure Potential Infrastructure Bond Expenditure Is Consistent With Climate Action Goals and Other Environmental Policies

RECOMMENDATION

Refer to the Facilities, Infrastructure, Transportation, Environment & Sustainability (FITES) Policy Committee Policy Committee to consider strategies and make recommendations to the Council and staff to ensure that potential infrastructure bond is consistent with Climate Action goals and other environmental policies.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

The City is facing a historic crisis of underinvestment in its infrastructure. Perhaps the most visible area is the City's streets, sidewalks, and other infrastructure vulnerable to climate change.

Council agreed at its January 20, 2022 special Council meeting to provide direction to staff to explore and prepare a draft \$300-\$600 million infrastructure bond and/or parcel tax ahead of the November 2022 election.

While the condition of the City's streets is of paramount concern to the Berkeley community, in the spirit of the Vision 2050 report, the Climate Action Plan, Climate Emergency Declaration and various other policies, Berkeley cannot afford to merely rebuild the same infrastructure dating from the past century. Rather, new expenditures on infrastructure should holistically contribute to building a Berkeley of the future, which is much less carbon intensive, greener, modern, and more equitable. Doing so will require intentional policies and consideration.

To this end, it is in the public interest to refer to the Facilities, Infrastructure, Transportation, Environment & Sustainability (FITES) Policy Committee Policy Committee to consider strategies and make recommendations to the Council and staff to ensure that potential infrastructure bond is consistent with Climate Action goals and other environmental policies.

## BACKGROUND

At the Council's direction, the Facilities, Infrastructure, Transportation, Environment & Sustainability (FITES) Policy Committee has spent two years investigating the overall paving situation, paving policies, and multi-faceted paving funding/bonding solutions. As part of its work, the Committee collaborated with staff and the Public Works Commission to update the City's Paving Policy to include certain environmental and green paving considerations. However, the Paving Policy was largely adopted in light of status quo paving funding levels, and was not designed for a potential once in a generation opportunity to reenvision the City's infrastructure.

If carefully crafted, the Bond could simultaneously stabilize PCI and include critical complimentary upgrades that support health, safety, and the environment/climate.

For example, the Committee should consider investigating and making recommendations with respect to the following concepts:

- **Future-proofing / Curbside EV** Integrate conduit and infrastructure to support public curbside EV charging, fiber optic cables, and electrification infrastructure upgrades (e.g., transformers) with paving work. Work with regional agencies such as EBCE to explore opportunities to leverage capital and other resources;
- **Green Paving Techniques** Explore how the bond expenditures can be structured to maximize durability/lifecycle and minimize greenhouse gasses, to include concrete, pavers and potentially stabilized gravel or hybrid. For example, Marin Avenue has not been substantially paved for nearly a half century because of its design;
- **Efficiency** Consider strategies to pave whole neighborhoods or sections of the City at once to capitalize on equipment and labor economies of scale, reduce greenhouse gas emissions associated with repositioning equipment, and as an opportunity to make projects attractive to unionized labor;
- **Bike/Pedestrian/Transit Upgrades** Explore the maximum amount of mobility goals we can accomplish as part of the Bond and how to best achieve Vision 2050, Vision Zero, and Climate Action goals;
- **Trees and Bio Diversity** Explore how to integrate street trees and plants into upgrades to improve local air quality and urban canopy as well as reduce heat islanding;
- **Stormwater Quality** Ensure new stormwater infrastructure minimizes plastics and debris flushed into creeks, and avoids standing water that can enable mosquito breeding. Support capture of point source waste, including that from RV's. Explore options for maximizing oil/containment stormwater capture.

- **Road Diets** Explore narrowing certain wider streets by extending curbs and reducing maintenance and paving costs overtime, calming traffic, and reducing embodied greenhouse gases;
- **Car-free Zones** Carefully, strategically, and equitably consider whether and which streets might be made vehicle-free (e.g., Telegraph) except for emergency, certain delivery, and senior/disabled access;
- **Climate Resiliency** Provide feedback and input on climate impacts and resilience aspects of the bond, including identifying areas vulnerable to sea level rise.
- **Tax Equity** Consider applying any parcel taxes to include space designated for indoor parking in order to broaden the tax base, reflect the fact that many designated interior parking spaces are used for other purposes and ensure a more progressive and equitable distribution of potential tax impacts.

#### FISCAL IMPACTS OF RECOMMENDATION

Carefully considering the potential infrastructure bond in the context of existing climate and infrastructure policies could lead to cost savings in terms of lifecycle and upfront expenditures.

#### ENVIRONMENTAL SUSTAINABILITY

FITES recommendations can help guide how potential bond funds are spent to further accelerate mode shifts away from fossil fuel vehicles, reduce embodied carbon, and enhance urban bio diversity.

#### CONTACT PERSON

Vice Mayor Kate Harrison, (510) 981-7140







Kate Harrison  
Councilmember District 4

ACTION CALENDAR  
November 30, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison

Subject: Adopt an Ordinance Adding a New Chapter 12.01 to the Berkeley Municipal Code Establishing Emergency Greenhouse Gas Limits, Process for Updated Climate Action Plan, Monitoring, Evaluation, Reporting and Regional Collaboration

RECOMMENDATION

1. Adopt an ordinance adding a new Chapter 12.01 to the Berkeley Municipal Code (BMC) establishing Emergency Greenhouse Gas Limits with an effective date of [ ], 2022.
2. Refer to the FY23-24 Budget Process \$[ ] consistent with implementing the requirements of Sections 12.01.040, 12.01.050, 12.01.060.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

Scientific evidence indicates that between the industrial period of 1850 and 2021, economic systems, namely state and free-market forms of capital accumulation and economic growth have increased global atmospheric carbon dioxide levels to a staggering 418 parts per million (ppm), beyond the established planetary boundary of 350 ppm, and warmed global average temperature by approximately 1.1 degrees Celsius. Available scientific evidence indicates there is no 'safe' level of warming beyond 350 ppm, only gradations of risk with respect to habitability.

Berkeley is already experiencing unprecedented negative effects of warming associated with 1 degree of warming, and current global growth trends and policies could push humanity past 1.5 degrees by mid-century, leading to a devastating 2-4 degrees by the end of the century. The 'Global North,' which includes Berkeley, has far exceeded its fair share of the emissions comprising and exceeding the boundary, and must reduce its emissions rapidly and justly.

The City of Berkeley has engaged with the issue of global warming for at least three decades and has unquestionably been a leader in certain climate actions. Yet, in light of the current gravity of the climate emergency, current strategies and targets are not adequate. Exceptionally risky “mitigation” strategies, namely midcentury ‘net-zero’ pledges have provided for unbridled economic and emissions growth and thus severely dwindled carbon budgets, effectively rendering Berkeley’s gradual reduction goals: 80% by 2050 (Measure G, 2005 and Resolution 64,480-N.S., 2009) and net-zero by 2045 (Resolution 69,852–N.S., 2021), untenable. The majority of risk associated with each additional ton of greenhouse gas emitted will be borne by generations who will have not consented to current reduction goals and strategies. Current policies could exacerbate or lead to exceedingly dangerous new tipping points.

This item is timely in light of ongoing reports that national “pledges” under Paris Agreement could lead to at least 3 degrees of catastrophic warming, the inability for Congress to pass meaningful domestic and international climate policies and legislation, and the failure of world leaders to reach an effective and substantive agreement at the 26th UN Climate Change Conference of the Parties (COP26) in Glasgow.

#### BACKGROUND

The ordinance establishes emergency greenhouse gas limits aimed at reducing sector-based greenhouse gas emissions 90% below 2000 levels and consumption-based emissions 90% below 2013 levels by 2030. These limits would bring Berkeley closer to its global ‘fair share’ and science-based reduction obligations, and could help achieve reductions at scale as part of a program of regional coordination and collaboration.

While such targets are ambitious, mitigating and minimizing global warming risk and maximizing adaptation, resilience and adherence to planetary boundaries earlier in the century rather than later will likely result in less disruption to society over the long term, and will generate opportunities for more inclusive and sound democratic decision making as compared to waiting until atmospheric carbon levels reach increasingly catastrophic levels.

These limits are consistent with the City’s 2006 “precautionary principle” established by BMC 12.29, and which states:

“The purpose of this chapter is to promote the health, safety, and general welfare of the community by minimizing health risks, improving air quality, protecting the quality of ground and surface water, minimizing consumption of resources, and minimizing the City’s contribution to global climate change by implementing in a phased manner, as provided in this chapter, the City’s use of a precautionary principle approach in its decisions.”

As enacted by Council, BMC 12.29 requires the City to apply the following precautionary principle tenets in the course of action and decision-making:

1. Anticipatory Action: Anticipatory action may prevent harm. Government, business, community groups, and the public share this responsibility.



2. Right to Know: The community has a right to know complete and accurate information on potential health and environmental impacts associated with the selection of products, services, operations or plans.
3. Alternatives Assessment: Examine a full range of alternatives and select the alternative with the least potential impact on health and the environment including the alternative of doing nothing.
4. Consideration of Significant Costs: Consider significant short-term and long-term costs in comparing product alternatives, when feasible. This includes evaluation of significant costs expected during the lifetime of a product, (e.g. raw materials, manufacturing and production, transportation, use, clean-up, acquisition, extended warranties, operation, supplies, maintenance, disposal costs, long and short-term environmental and health impacts); and that expected lifetime compared to other alternatives.
5. Participatory Decision Process: Decisions applying the Precautionary Principle should be transparent, participatory by including community input, and informed by the best available information.

The ordinance requires the City to develop a new Climate Action Plan and consistent with these GHG limits and precautionary principle tenets, and to establish relevant legislative and budgetary timelines to help the City reach its objectives.

In addition, the ordinance requires the City to consider post-growth climate mitigation strategies and policies as potential alternatives to the growth and market-based and other policies that created the crisis and remain a persistent obstacle to meaningful action. The City's policies and programs *must not* aim to merely increase economic growth for growth's sake, but rather to support the provision of basic human needs and happiness.

It also provides an institutional framework to build solidarity with neighboring Bay Area communities and jurisdictions to achieve collective limits that could change rate of global warming while simultaneously providing sister cities in other countries precious time to improve living standards and pursue decarbonization.

#### ENVIRONMENTAL SUSTAINABILITY

This item is consistent with the latest climate science and the precautionary principle established by BMC 12.29.

#### ATTACHMENTS

1. Proposed Ordinance adding a new Chapter 12.01.

FINANCIAL IMPLICATIONS

Staff time will be necessary to implement the new ordinance. This item refers \$[ ] to the FY23-24 Budget Process consistent with implementing the requirements of Sections 12.01.040, 12.01.050, 12.01.060.

CONTACT PERSON

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

ORDINANCE NO. –N.S.

ADDING CHAPTER 12.01 TO THE BERKELEY MUNICIPAL CODE TO ESTABLISH  
EMERGENCY GREENHOUSE GAS EMISSIONS LIMITS

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

Section 1. That Chapter 12.01 of the Berkeley Municipal Code is added to read as follows:

**Chapter 12.01**

**EMERGENCY GREENHOUSE GAS EMISSIONS LIMITS**

**Sections:**

**12.01.010 Findings and purpose.**

**12.01.020 Definitions.**

**12.01.030 Greenhouse Gas Emissions Limits.**

**12.01.040 Climate Action Plan.**

**12.01.050 Monitoring, Evaluation, And Reporting.**

**12.01.060 Regional Collaboration.**

**12.01.070 Severability.**

**12.01.080 Construction.**

**12.01.090 Effective date.**



**12.01.010 Findings and purpose.**

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

- A. Available scientific evidence indicates that between the industrial period of 1850 and 2021 economic systems, namely state and free-market forms of capital accumulation and economic growth, have increased global atmospheric carbon dioxide levels to a staggering 418 parts per million (ppm) beyond the established planetary boundary of 350 ppm, and warmed global average temperature by approximately 1.1 degrees Celsius. The 'Global North,' which includes Berkeley, has far exceeded its fair share the emissions comprising and exceeding the boundary, and must reduce its emissions rapidly and equitably.
- B. Available scientific evidence indicates there is no 'safe' level of warming beyond 350 ppm, only gradations of risk with respect to habitability. Berkeley, California, the United States, and the world is already experiencing unprecedented negative effects of warming associated with 1 degree of warming, and current global growth trends and policies will push humanity past 1.5 degrees as early as the 2030s and 3 to 4 degrees by the end of the century. Global warming between 1.5 to 2 degrees Celsius is expected to further accelerate existential risks to health and safety including but not limited to, extreme weather, mass extinction, water and food shortages, violent conflict, fire, forced migration, economic collapse, disease, heat stress, and sea level rise. The majority of risk associated with each additional ton of greenhouse gas emitted will be borne by generations who will have not consented to current reduction strategies.
- C. In the twenty-first century, Berkeley, California, and the United States have largely and irresponsibly relied on ineffective market-based mechanisms, unrealistic expectations of absolutely decoupling GDP growth from energy use, speculative mass deployment of negative emission reduction technologies and 'net-zero' practices to offset continued fossil fuel production and consumption, and underappreciation of irreversible tipping points, aerosol masking, and non-carbon greenhouse gasses. In light of the current gravity of the climate emergency, these strategies have unequivocally failed; between Measure G and 2018, each jurisdiction only reduced greenhouse gasses by a respective 10%, 12%, and 26%, while at the same time globally, nearly a third of all anthropogenic carbon dioxide was emitted. Exceptionally risky strategies pursued by the Global North, namely midcentury 'net-zero' pledges have provided for unbridled economic and emissions growth and thus severely dwindled carbon budgets, effectively rendering Berkeley's gradual reduction goals: 80% by 2050 (Measure G, 2005 and Resolution 64,480-N.S., 2009) and net-zero by 2045 (Resolution 69,852–N.S., 2021), untenable.
- D. It is the intent of the Council to adopt stringent and equitable science-based greenhouse gas emissions limits and related action plans and reports, consistent with the precautionary principle approach established by Chapter 12.29, for the purpose of achieving the rapid, far-reaching, unprecedented and just changes in all aspects of society associated with mitigating and minimizing global warming risk and maximizing adaptation, resilience and adherence to planetary boundaries.
- E. The Council further intends to endeavor to build solidarity with neighboring communities and jurisdictions to achieve collective limits that could change rate of global warming while simultaneously providing sister cities in other countries precious time to improve living standards and pursue decarbonization.

**12.01.020 Definitions.**

A. "Climate Action Plan" means the document required under Section 12.01 outlining the specific actions the City will endeavor to take to reduce Greenhouse gas emissions and to mitigation, resilience and adaptation efforts with respect to climate impacts.

B. "Consumption-Based Greenhouse Gas Emissions" means all the Greenhouse Gas emissions associated with producing, transporting, using, and disposing of products and services consumed by a particular community or entity in a given time period, including emissions generated outside the boundaries of the community or the geographic area where the entity is located.

C. "Greenhouse Gas" means any and all of the following gases: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.

D. "Sector-Based Greenhouse Gas Emissions" means all of the Greenhouse Gas emissions generated within the geographic boundaries of the City in a given time period.

E. "Responsible Production and Consumption" means improving how materials and products are extracted, manufactured, delivered, acquired, used, reused, recycled, and disposed of to ensure that the production and consumption of materials and products promote basic human needs, are distributed in a socially equitable manner, and carried out in a way that minimizes environmental impacts over the lifecycle of those materials and products while matching the carrying capacity of the earth's resources and adding value so as not to jeopardize present and future generations. "Lifecycle" means the complete material life of a product, good, or service, including resource extraction, manufacture, assembly, construction, maintenance, transportation, operations or use, and end of life (reuse, recycling/composting, and disposal). "Carrying capacity" means the number or amount of people, plants, and other living organisms that an ecosystem can support indefinitely without causing environmental degradation.

F. "Post-Growth Emissions Mitigation" means Greenhouse Gas mitigation strategies and policies that acknowledge and support the following:

- (1) rapid emissions reductions may not be compatible with economic policies that support limitless growth, especially growth in the production and consumption of commodities that do not support basic human needs,
- (2) in jurisdictions with high aggregate wealth there may be a disassociation between additional capital accumulation, economic growth, and GDP, and key social outcomes, to include but not limited to, health, social wellbeing, happiness and equity,
- (3) fairer distribution of income and wealth, and guaranteed access to universal public services.

**12.01.030 Emergency Greenhouse Gas Emissions Limits.**

A. The following Greenhouse Gas emissions limits are hereby established:

- (1) By 2030, reduce Sector-Based Greenhouse Gas Emissions [90%] below 2000 levels.
- (2) By 2030, reduce Consumption-Based Greenhouse Gas Emissions to [5] mtCO<sub>2</sub>e per household or less, equivalent to a [90%] reduction compared to 2013 levels.
- (3) By 2026, the Council shall determine an appropriate deadline for achieving 100% zero emissions across both Sector and Consumption-Based inventories.

**12.01.040 Climate Action Plan.**

A. By [ ], 2022, the City Manager or designee shall prepare and submit for relevant Council policy committee and Council approval a Climate Action Plan (CAP) which shall

do all of the following:

- (1) Align with the emissions limits established in Section 12.01.030.
  - (2) Consider equitable Post-growth Climate Mitigation strategies and policies.
  - (3) Incorporate an equity framework that addresses historic racial, class-based, and social inequalities; prioritizes social, economic, and environmental benefits derived from implementing the CAP; and ensures an equitable distribution of those benefits. This framework shall consider:
    - (a) The engagement and prioritization of those who are most impacted by climate change and have historically had the least influence in decision-making processes, including low-income communities of color, communities with disabilities, and other impacted populations;
    - (b) Burdens and/or unintended consequences of related actions, especially for low-income communities of color, communities with disabilities, and other vulnerable populations; and
    - (c) Social interventions needed to secure workers' rights and livelihoods when economies are shifting to responsible production and consumption, collectively referred to as a "just transition" framework, and other impacts on workforce and job opportunities.
  - (4) Include, but not be limited to, the following elements: energy supply; transportation and land use; building operations; housing; Responsible Production and Consumption; carbon sequestration and water conservation.
  - (5) Identify strategies and/or make recommendations to achieve emissions limits for all elements. The CAP shall recommend approaches on goals and principles. Each strategy or recommendation shall:
    - (a) Identify parties responsible for implementation;
    - (b) Incorporate an estimated cost; and
    - (c) Incorporate estimated legislative and budgetary timelines based consistent with Section 12.01.030; and
    - (d) Contain key performance indicators and explicit equity metrics to measure progress.
- B. The City Manager or their designee shall update the Climate Action Plan at least every two years.

#### **12.01.050 Monitoring, Evaluation, And Reporting.**

- A. The City shall demonstrate its long-term commitment to reducing Greenhouse Gas emissions and advancing racial and social equity by measuring and reporting emissions, tracking key performance indicators and equity metrics, and monitoring the City's progress on meeting its climate action goals and commitments.
- B. The City Manager or their designee shall, with the assistance from relevant City agencies:
- (1) Measure and monitor Sector-Based Greenhouse Gas Emissions, including municipal emissions, using best available global protocols for preparing Citywide Greenhouse Gas emission inventories.
  - (2) Measure production and consumption emissions using best available global methodologies for preparing consumption-based emission inventories.
  - (3) Evaluate Sector-Based Greenhouse Gas Emissions against set limits, document production and consumption emissions, and produce an annual Greenhouse Gas emissions report.
  - (4) Establish a monitoring and reporting process for the implementation of the CAP that:
    - (a) Tracks key performance indicators and equity metrics for strategies to help



monitor their progress and implementation;

(5) Request and receive data from City departments to support:

(a) The annual Greenhouse Gas emissions inventory. City departments may be asked to provide data on, but not limited to, the following: their energy use; types of fuels used for their operations; fuel volume; vehicle-miles travelled (if applicable) within their jurisdictions; and private sector Greenhouse Gas emission sources regulated by the department. Departments may also be requested to verify emission estimates and assumptions and review resulting reports;

(b) Monitoring and reporting of Climate Action Plan implementation. City departments may be asked to provide data on key performance indicators and equity metrics related to adopted strategies and actions; and

(6) Coordinate with other City agencies to monitor, track, and report on climate action progress to local, state, national, and global partners.

(7) Report its findings in a progress report to the Council and public every year.

(8) Report on at least a biannual basis to relevant Council policy committees and commissions to support policy and budget development consistent with reduction limits established in Section 12.01.030.

#### **12.01.060 Regional Collaboration.**

The Council and City staff, working alongside the public, shall endeavor to build solidarity and coalitions with neighboring communities, jurisdictions, and agencies to achieve equitable collective Greenhouse Gas limits and observe planetary boundaries.

#### **11.63.070 Severability.**

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

#### **12.01.080 Construction.**

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

#### **12.01.090 Effective date.**

The provisions in this ordinance are effective [ ], 2022.

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.



ACTION CALENDAR  
MARCH 8, 2022

To: Honorable Mayor and Members of the City Council  
From: Councilmember Taplin  
Subject: Equitable Safe Streets and Climate Justice Resolution

### RECOMMENDATION

Adopt a resolution committing the expenditure of City and state/federal matching/recurring funds on city-maintained roads, sidewalks, and bike lanes to accelerate safety improvements in a manner consistent with City, State, and Federal policy on street safety, equity, accessibility, and climate change; refer to the City Manager fully integrate Complete Streets design as defined by adoption of the NACTO Urban Street Design Guide in theas the default engineering standard for city streets; restricting city use of the Manual on Uniform Traffic Control Devices (MUTCD) to only documented cases that require its use for compliance with Federal/State regulations; in all other cases, restrict use of the MUTCD subject to "engineering judgment," and establish as City policy that the City of Berkeley shall hold harmless, and/or accept transfer of liability from, any City engineer/Public Works staff who face legal jeopardy due to approval and construction of safe streets under this item. transferring legal liability for safe streets designs from individual city engineering/Public Works staff to the City of Berkeley.

### FINANCIAL IMPLICATIONS

According to the Federal Highway Administration:

"It is generally significantly less expensive to install safety improvements as part of a resurfacing project than to build it as a standalone project ... The cost for adding bike lanes during a resurfacing project costs approximately 40 percent of the cost of adding the lanes as a standalone project."<sup>1</sup>

This resolution calls for the full integration of safety features at the time of re-paving of all streets in the city, in a manner consistent with City, State,<sup>2</sup> and Federal<sup>3</sup> policy,

<sup>1</sup> [https://www.fhwa.dot.gov/environment/bicycle\\_pedestrian/publications/resurfacing/page04.cfm#cost\\_a2](https://www.fhwa.dot.gov/environment/bicycle_pedestrian/publications/resurfacing/page04.cfm#cost_a2)

<sup>2</sup> "Caltrans to Require 'Complete Streets' Features in Planning and Design of All New Projects <https://dot.ca.gov/news-releases/news-release-2021-039>

<sup>3</sup> Under the Infrastructure Investment and Jobs Act of 2021, "MPOs must use 2.5 percent of their overall funding to develop and adopt complete streets policies, active transportation plans, transit access plans, transit-oriented development plans, or regional intercity rail plans." <https://nacto.org/program/state-and-federal-policy/>



which will result in substantial material and staff time savings, while also saving the lives of Berkeley residents.

### CURRENT SITUATION AND ITS EFFECTS

Under current practices in Berkeley, safe streets interventions like bikeways, separated lanes, raised pedestrian crossings, and corner bulb-outs are often implemented only after a pedestrian or cyclist has been injured or killed by a driver. Many examples exist of streets that had been recently re-paved without safety features that were then re-designed after residents expressed their anger over pedestrians and cyclists being severely injured or killed by a driver.

According to the Federal Highway Administration, implementing safe streets features at the time of re-paving, rather than as stand-alone, post-facto projects, can significantly cut the costs of these safety interventions.<sup>4</sup> This resolution calls for the full integration of safety features at the time of re-paving of all streets in the city, which will result in substantial material and staff time savings, while also saving the lives of Berkeley residents.

The Equitable Safe Streets and Climate Justice Resolution is a Strategic Plan Priority Project, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

### BACKGROUND

Personal cars and trucks are the leading source of climate pollution in the City of Berkeley, causing 59% of all greenhouse gasses within city limits – more than all residential and commercial energy use, combined.<sup>5</sup> They are also among the leading causes of violent injury and death in the city, with a growing number of deadly and injurious conflicts between people driving cars and vulnerable road users including pedestrians, the elderly, residents who use mobility devices, and bicyclists. Lower income Berkeley residents and people of color are disproportionately impacted by the risk of traffic injuries and fatalities.<sup>6</sup>

Berkeley also has among the highest percentages of people who take transit, walk, and ride bicycles of any city of its size in the United States.<sup>7</sup> In spite of this fact, most of our streets are designed in such a way that makes them unsafe for pedestrians, transit users, or for use by people who use mobility devices or bicycles.

This disparity can be resolved through better engineering and design of our city streets, which will save lives and often result in substantial savings for the city. In addition, new state legislation (AB-43, 2021) recognizes that high vehicle speeds are a primary factor

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<sup>4</sup> [https://www.fhwa.dot.gov/environment/bicycle\\_pedestrian/publications/resurfacing/page04.cfm#cost\\_a2](https://www.fhwa.dot.gov/environment/bicycle_pedestrian/publications/resurfacing/page04.cfm#cost_a2)

<sup>5</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/2020-07-21\\_Presentations\\_Item\\_5\\_\(6pm\)\\_Pres\\_CMO\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_Presentations_Item_5_(6pm)_Pres_CMO_pdf.aspx)

<sup>6</sup> Berkeley Vision Zero Action Plan, March 10, 2019, page 13.

<sup>7</sup> <https://www.vitalsigns.mtc.ca.gov/commute-mode-choice>

in deadly and dangerous street conditions, and empowers California cities to lower speed limits on certain city streets to reduce traffic collisions and protect vulnerable road users.<sup>8</sup>

### Recent History: Safety Measures Follow Tragedy, Increase Costs

According to the Federal Highway Administration:

“It is generally significantly less expensive to install safety improvements as part of a resurfacing project than to build it as a standalone project ... The cost for adding bike lanes during a resurfacing project costs approximately 40 percent of the cost of adding the lanes as a standalone project.”<sup>9</sup>

Over the past several years, safety conditions for Berkeley residents and visitors who do not drive have deteriorated, as evidenced by the growing number of crashes in Berkeley that have resulted in pedestrian and cyclist injury or death.<sup>10</sup> In spite of the deaths and injuries on our streets, these crashes often do not result in safety improvements.

However, when local residents express sufficient outrage to City Hall over deadly conditions, the City sometimes rapidly responds with permanent or semi-permanent safety features – but had these features preceded, rather than followed, the crashes, they would have resulted in both lower costs to the city, and fewer traumatic injuries and deaths.

Examples of recent Berkeley street re-paving projects that led to increased costs due to a lack of safety features include:

- **Fulton (Oxford):** In 2015, Berkeley Public Works repaved Fulton/Oxford Street between Bancroft Way and Dwight, but did not add a safe bikeway as called for in Berkeley’s 2000 Bicycle Plan. Shortly afterward, Megan Schwarzman was hit and severely injured by a driver while bicycling.<sup>11</sup> After being pressured by the community to act, the City Council directed staff to re-stripe the roadway with a safer bikeway, adding 3 months of unplanned work and staff time. Costs would have been lower if the bikeway had been planned and implemented in a manner more consistent with existing city policy, and concurrent with re-paving.
- **Hearst:** After adoption of the 2000 Berkeley Bicycle Plan, Berkeley Public Works repaved Hearst Avenue, but did not include a safe bikeway, as called for in the

<sup>8</sup> Assembly Bill 43, Traffic Safety, 2021  
[https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB43](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB43)

<sup>9</sup> [https://www.fhwa.dot.gov/environment/bicycle\\_pedestrian/publications/resurfacing/page04.cfm#cost\\_a2](https://www.fhwa.dot.gov/environment/bicycle_pedestrian/publications/resurfacing/page04.cfm#cost_a2)

<sup>10</sup> <https://www.sfchronicle.com/local/article/Berkeley-bicycle-activist-struck-by-car-hours-16037329.php>

<sup>11</sup> Raguso, E. (2016). Bike lane opens by near-fatal crash site. *Berkeleyside*. Retrieved from <https://www.berkeleyside.org/2016/05/12/bike-lane-opens-in-berkeley-by-near-fatal-crash-site-no-charges-filed-yet-against-driver-who-police-say-was-high>

Bicycle Plan. After years of pressure from residents concerned about street safety, Berkeley finally rebuilt and repaved the street in 2016 with safer facilities, and at significant cost. Costs would have been lower if the bikeway had been planned and implemented in a manner consistent with existing city policy, and concurrent with re-paving.

- **Milvia Street:** Berkeley repaved Milvia Street downtown using Measure BB funds (2014), and then in 2019, repaved Milvia Street in south Berkeley. But neither repaving included safe streets interventions called for in the then-approved bike plans. Berkeley then added extensive safe bicycling facilities in 2021/2022. Costs would have been lower if the bikeway had been planned and implemented in a manner consistent with existing city policy, and concurrent with re-paving.
- **Dwight/California:** In 2021, Berkeley embarked on safety improvements at the corner of Dwight and California, a “bicycle boulevard” and a “safe route to school,” after local residents expressed outrage over two children who were struck by drivers on their way to school. California and Dwight Streets were re-surfaced in 2015, but did not include enhancements to improve pedestrian and cyclist crossing conditions at this intersection.
- **Concrete diagonal diverters:** Berkeley installed many concrete diagonal diverters back in the 1970’s, and had to come back later with separate concrete work to make bicycle cut-throughs in these diverters for bikes to access neighborhood streets. Costs would have been lower if the cut-throughs had been included in the original design.

### Street Safety First: Berkeley City Policy

In recent years, the traffic engineering profession has developed extensive tools and engineering guidelines for cities that seek to safely meet the mobility needs of all residents, including those who drive cars, walk, use mobility devices, ride bicycles, and/or use transit.

Many of these new tools, such as the Urban Streets Design Guide by the National Association of City Transportation Officials (NACTO), provide turnkey solutions for cities seeking to design and engineer roads to improve street safety for all road users. The Design Guide was developed in part to help cities seeking to enhance safety, and in part out of growing concern over the proven inadequacy of the Federal Highway Administration’s Manual on Uniform Traffic Control Devices (MUTCD), which has led to dangerous and deadly conditions for vulnerable road users.<sup>121314</sup>

<sup>12</sup> Schmitt, A. (2021). Let’s Throw Away These Rules of the Road. *Bloomberg*. Retrieved from <https://www.bloomberg.com/news/articles/2021-05-05/it-s-time-to-rewrite-the-road-builders-rule-book>

<sup>13</sup> National Association of City Transportation Officials. (2021). 25,000 Comments Calling for Safety and Equity Reforms to Once-Obscure Federal Street Manual. *NACTO*. Retrieved from <https://nacto.org/2021/05/20/25000-comments-call-for-reforming-mutcd/>

<sup>14</sup> Shill, G. & Bronin, S. (2021). Rewriting Our Nation’s Deadly Traffic Manual. *Harvard Law Review*. Retrieved from <https://harvardlawreview.org/2021/10/rewriting-our-nations-deadly-traffic-manual/>



In fact, in several cases, the proscriptions of the MUTCD have delayed or precluded street safety improvements in Berkeley.<sup>15</sup> Part of the reason may be that, under current case law, engineers may sometimes be held personally liable for deaths or injuries that can be proven to be the result of street engineering and design.

Over the past year, both the Federal Highway Administration<sup>16</sup><sup>17</sup> and Caltrans<sup>18</sup> have issued guidance that allows city traffic engineers to use NACTO's Urban Streets Design Guide in place of the MUTCD for projects that use Federal or State transportation funds. In addition, FHWA has issued guidance that, in states where vulnerable road users make up 15% or more of the total number of fatalities in a state in a given year, the state is required to dedicate at least 15% of its Highway Safety Improvement Program funds the following fiscal year to projects that address the safety of these road users. Additionally, the new guidance incorporates legislative changes to permit 100% Federal funding for certain pedestrian and bicyclist projects.<sup>19</sup>

### **Adopt New Complete Streets Engineering Guidelines**

This resolution directs all City departments with a role in the design, engineering, maintenance, and administration of Berkeley surface streets to formally adopt the NACTO Urban Streets Design Guide as the primary design and engineering manual for Berkeley city streets.

The resolution further directs all City departments to restrict use of the MUTCD, which has been proven to lead to unsafe street designs,<sup>20</sup> to only those projects where the Public Works Director certifies, in writing, that the MUTCD is better suited to achieving the City's goal of reducing vehicle speeds, enhancing safety features for pedestrians, cyclists, and people who use mobility devices, and ending traffic conflicts between cars and other road users.

In all cases where the MUTCD must be used, all City departments shall first exercise "engineering judgment," as defined in the MUTCD, to ensure safe street designs, including such judgment as may result in modification or overruling of MUTCD standards. In cases where "engineering judgment" can not be used to reduce vehicle speeds or otherwise enhance street safety conditions for all road users, all City departments shall issue formal findings, approved by the Public Works director, that

<sup>15</sup> Harrington, T. (2021). Berkeley's plans to make Dwight and California safer get mixed reviews. *Berkeleyside*. Retrieved from <https://www.berkeleyside.org/2021/05/16/berkeley-plans-to-make-dwight-and-california-safer-get-mixed-reviews>

<sup>16</sup> "National Roadway Safety Strategy," US Department of Transportation, Jan 2022 <https://www.transportation.gov/NRSS>

<sup>17</sup> "Bicycle and Pedestrian Facility Design Flexibility," US Department of Transportation - FHWA, Aug 2013 [https://www.fhwa.dot.gov/environment/bicycle\\_pedestrian/guidance/design\\_flexibility.cfm](https://www.fhwa.dot.gov/environment/bicycle_pedestrian/guidance/design_flexibility.cfm)

<sup>18</sup> "Caltrans to Require 'Complete Streets' Features in Planning and Design of All New Projects," Dec 20, 2021 <https://dot.ca.gov/news-releases/news-release-2021-039>

<sup>19</sup> [https://safety.fhwa.dot.gov/hsip/rulemaking/docs/BIL\\_HSIP\\_Eligibility\\_Guidance.pdf](https://safety.fhwa.dot.gov/hsip/rulemaking/docs/BIL_HSIP_Eligibility_Guidance.pdf)

<sup>20</sup> See footnote 12.

document why a street can not be made safe for all road users, and vehicle speed and throughput must be prioritized.

The resolution directs city departments to ensure that all requests for funding related to any project, on any surface street, sidewalk, bicycle facility, or other transportation infrastructure within city borders, prioritize and implement designs that ensure the safety of vulnerable users who are not in private automobiles, as established in numerous past policy directives of the Berkeley City Council.<sup>21</sup>

This resolution further prohibits all City departments from spending any city financial resources on any street that does not include the “best in class” design for Complete Streets unless the safety benefits are outweighed by other considerations, ~~all of which are fully documented in a transparent manner for legal review, and approved by the Public Works Director.~~

It further prohibits City departments from requiring traffic studies or other measurements related to impacts on “Level of Service” (vehicle speed/throughput) in consideration of street safety improvements, if such improvements will either a) improve safe travel conditions for vulnerable road users, or b) reduce Vehicle Miles Traveled, as established by State of California<sup>22</sup> and City of Berkeley climate and land use policies, or c) if such improvements are otherwise consistent with guidance in the Complete Streets provisions of NACTO and Caltrans.

It further directs all departments to maintain the priority of street safety interventions in situations where budget is a limiting factor in street repair/improvements, by prioritizing the use of “quick build”<sup>23</sup> approaches which improve street safety via rapidly-deployed, lower-cost, temporary measures. ~~In such cases, the Public Works Director will provide the City with a memo explaining the budget shortfall and define a process for closing the funding gap to install permanent safety features when funds become available; or if City departments demonstrate, via appropriate studies and documentation approved by the Public Works Director, an urgent need to complete such repairs/improvements without temporary or permanent safety interventions.~~

<sup>21</sup> e.g. Berkeley Bicycle Plan, 2017; Berkeley Pedestrian Plan, 2020; BIBIMBAP [[https://www.cityofberkeley.info/Clerk/City\\_Council/2019/10\\_Oct/Documents/2019-10-29\\_Item\\_31\\_Referral\\_Develop\\_a\\_Bicycle\\_Lane\\_-\\_Rev\\_\(2\).aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/10_Oct/Documents/2019-10-29_Item_31_Referral_Develop_a_Bicycle_Lane_-_Rev_(2).aspx)]; Berkeley Pedestrian Safety Report 1998; Downtown Area Plan, 2012; West Berkeley Plan, 1993; Adeline Corridor Specific Plan (in progress); University Avenue Plan, 1996.

<sup>22</sup> California Senate Bill 743, passed in 2013, mandates that jurisdictions can no longer use automobile delay – commonly measured by Level of Service (LOS) – in transportation analysis under the California Environmental Quality Act (CEQA). Full implementation was delayed until 2019. <https://www.vta.org/projects/level-service-los-vehicle-miles-traveled-vmt-transition>

<sup>23</sup>“Quick build” projects are reversible, adjustable traffic safety improvements that can be installed relatively quickly. Unlike major capital projects that may take years to plan, design, bid and construct, quick-build projects are constructed within weeks or months and are intended to be evaluated and reviewed within the initial 24 months of construction. <https://www.sfmta.com/vision-zero-quick-build-projects>

~~Finally, this resolution establishes that it is the policy of the City of Berkeley to prioritize human lives and safety over the speed and convenience of private automobiles and, as such, in cases where the city engineering staff's approved safe street designs are found to be at fault for damages from a crash, the city will accept legal and financial responsibility for such damages should a court of law so find, and release engineering staff from any personal or professional liability.~~

~~The resolution finally establishes, as a matter of policy, that spending City funds to repair a damaged car is always the preferred outcome to spending city resources on the medical bills or death expenses of any non-motorist road user in the City of Berkeley.~~

#### Definitions:

- [Complete Streets](#): On December 11, 2012, Berkeley City Council adopted a Complete Streets Policy (Resolution 65,978-N.S.) to guide future street design and repair activities. "Complete Streets," describes a comprehensive, integrated transportation network with infrastructure and design that allows safe and convenient travel along and across streets for all users, including pedestrians, bicyclists, persons with disabilities, motorists, movers of commercial goods, users and operators of public transportation, emergency vehicles, seniors, children, youth, and families.<sup>24</sup>
- [NACTO Urban Street Design Guide](#): An engineering manual for cities that adopt Complete Streets policies.
- [Level of Service](#) (LOS): A discontinued method of evaluating transportation infrastructure projects based on vehicle speed and throughput; SB 743, passed in 2013, prohibited LOS in CEQA analysis in the State of California, but the law is under-enforced and LOS is still commonly used.
- [Vehicle Miles Traveled](#) (VMT): A measure of the impact of car use on air quality and street safety based on the number of miles traveled by car. It is long-standing policy of the City of Berkeley and the State of California to reduce VMT to achieve climate and safe streets policies.
- [MUTCD](#): The Manual on Uniform Traffic Control Devices. This controversial manual has been blamed for dangerous street designs throughout the United States. Federal and State transportation authorities are in the process of revising it, and have encouraged jurisdictions that seek to accelerate progress on safe streets to use other engineering and street design guidelines.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

While cars represent the majority of the climate pollution within the city at 59%, Berkeley also has a very high mode share<sup>25</sup> among residents and visitors who walk, ride transit, use mobility devices, and ride bicycles. These modes of travel are the lowest-carbon

<sup>24</sup> <https://www.cityofberkeley.info/completestreetspolicy/>

<sup>25</sup> [https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Transportation/Berkeley-Bicycle-Plan-2017-Executive%20Summary.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017-Executive%20Summary.pdf)



options available, and the City has many policies focused on incentivizing and increasing their use.

However, abundant research about mode choice shows that people hesitate to shift to more sustainable forms of mobility in areas with deadly and dangerous car traffic – which describes most of the City of Berkeley.<sup>26</sup>

In addition to having a high mode share for non-car modes, Berkeley also has among the highest rates, per capita, of traffic violence involving people not in cars. The correlation is direct: Our unsafe streets are harming people, and preventing the city from achieving its goals on both climate action, and safe mobility.

#### CONTACT PERSON

Councilmember Taplin      Council District 2      510-981-7120

#### ATTACHMENTS

1. Resolution
2. City of Palo Alto resolution adopting the NACTO Urban Bikeway Design Guide
3. City of Oakland Public Works Director letter of endorsement of NACTO Urban Street Design Guide
4. Assembly Bill 43 (2021)

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<sup>26</sup> Raguso, E. (2020). Berkeleyside interactive maps: Cyclist and pedestrian injury crashes in 2019. *Berkeleyside*. Retrieved from <https://www.berkeleyside.org/2020/01/28/berkeleyside-interactive-maps-cyclist-and-pedestrian-injury-crashes-in-2019>

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

EQUITABLE SAFE STREETS AND CLIMATE JUSTICE RESOLUTION

WHEREAS, Berkeley's climate action plan calls for an 80% reduction in climate pollution by 2050, and private automobiles represent 59% of the City's climate pollution; and

WHEREAS, progress on Berkeley's climate action plan will depend in large part on reducing "vehicle miles traveled," or the amount people drive private cars within city limits; and

WHEREAS, Berkeley's bicycle plan proposed in 1971 called for a city-wide network of safe bicycle routes; and

WHEREAS, Berkeley adopted an action plan for Vision Zero in 2019; and

WHEREAS, Berkeley's existing policy on street engineering and safety calls for "Complete Streets" as defined by the National Association of City Transportation Officials (NACTO); and

~~WHEREAS, the overwhelming majority of Berkeley's streets, traffic signals, intersections, and related transportation infrastructure have been designed, engineered, and maintained for the priority of automobile speed/"Level of Service" above safe travel options for people who walk, take transit, use mobility devices, or ride bicycles; and~~

~~WHEREAS, the city follows the inadequate, outdated and discredited guidance of the Manual on Uniform Traffic Control Devices in determining appropriate street safety designs; and~~

~~WHEREAS, some case law suggests that engineers are, on occasion, held personally liable for street designs they have approved in their professional capacity;~~

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NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that any and all funds ~~generated or otherwise allocated by the City and its voters via taxes, bonds, state/federal grants, and other revenues~~ that are to be used for the design of major roadway projects such as roadway reconstruction/repaving of more than one city block~~design, engineering, construction, and maintenance~~ of city streets and related facilities shall only be disbursed for projects that fully integrate Complete Streets (as defined by NACTO) and all feasible safety interventions designed to reduce automobile speed and protect the lives of people outside of automobiles;

BE IT FURTHER RESOLVED that in all cases where Complete Streets can not be fully implemented, or in cases where the MUTCD must be used in place of the NACTO Urban

Streets Design Guide, City Staff shall use “engineering judgment” to prioritize the safety of vulnerable road users, and not rely on MUTCD “warrants” and other proscriptions;

~~BE IT FURTHER RESOLVED that in all cases where the MUTCD must be used, and where “engineering judgment” can not be used to reduce vehicle speeds or otherwise enhance street safety conditions for all road users, all City departments shall issue formal findings, approved by the Public Works director, that document why a street can not be made safe for all road users, and vehicle speed and throughput must be prioritized;~~

BE IT FURTHER RESOLVED that pursuant to AB-43 (2021), no city official shall apply the “85th percentile” rule in the process of setting speed limits on city streets, but rather, determine via safety studies and other documented engineering findings by the Public Works Director, when higher speeds are appropriate and are the safest option for all road users, provided however, that all criteria for setting local speed limits set forth in the California Vehicle Code, including Sections 22358.6 to 22358.9, are complied with in setting speed limits, even if inconsistent with this clause.;

~~BE IT FURTHER RESOLVED that it is the policy of the City of Berkeley that, should a court of law find the city legally liable for any damages that result from a driver crashing into a “safe street” intervention under this resolution, the City of Berkeley shall assume liability, and not city traffic engineering or public works staff; and that accepting legal and financial liability for such damages are the City’s preferred alternative to traffic fatalities and injuries on our streets.~~





ACTION CALENDAR  
MARCH 8, 2022

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin (Author), Councilmember Bartlett (Co-Sponsor),  
Councilmember Hahn (Co-Sponsor)

Subject: Equitable Safe Streets and Climate Justice Resolution

### RECOMMENDATION

Adopt a resolution committing the expenditure of City and state/federal matching/recurring funds on city-maintained roads, sidewalks, and bike lanes to accelerate safety improvements in a manner consistent with City, State, and Federal policy on street safety, equity, accessibility, and climate change; refer to the City Manager adoption of the NACTO Urban Street Design Guide as the default engineering standard for city streets, restricting city use of the Manual on Uniform Traffic Control Devices subject to engineering judgment, and transferring legal liability for safe streets designs from individual city engineering/Public Works staff to the City of Berkeley.

### FINANCIAL IMPLICATIONS

According to the Federal Highway Administration:

“It is generally significantly less expensive to install safety improvements as part of a resurfacing project than to build it as a standalone project ... The cost for adding bike lanes during a resurfacing project costs approximately 40 percent of the cost of adding the lanes as a standalone project.”<sup>1</sup>

This resolution calls for the full integration of safety features at the time of re-paving of all streets in the city, in a manner consistent with City, State,<sup>2</sup> and Federal<sup>3</sup> policy, which will result in substantial material and staff time savings, while also saving the lives of Berkeley residents.

### CURRENT SITUATION AND ITS EFFECTS

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<sup>1</sup> [https://www.fhwa.dot.gov/environment/bicycle\\_pedestrian/publications/resurfacing/page04.cfm#cost\\_a2](https://www.fhwa.dot.gov/environment/bicycle_pedestrian/publications/resurfacing/page04.cfm#cost_a2)

<sup>2</sup> “Caltrans to Require ‘Complete Streets’ Features in Planning and Design of All New Projects”  
<https://dot.ca.gov/news-releases/news-release-2021-039>

<sup>3</sup> Under the Infrastructure Investment and Jobs Act of 2021, “MPOs must use 2.5 percent of their overall funding to develop and adopt complete streets policies, active transportation plans, transit access plans, transit-oriented development plans, or regional intercity rail plans.” <https://nacto.org/program/state-and-federal-policy/>

Under current practices in Berkeley, safe streets interventions like bikeways, separated lanes, raised pedestrian crossings, and corner bulb-outs are often implemented only after a pedestrian or cyclist has been injured or killed by a driver. Many examples exist of streets that had been recently re-paved without safety features that were then re-designed after residents expressed their anger over pedestrians and cyclists being severely injured or killed by a driver.

According to the Federal Highway Administration, implementing safe streets features at the time of re-paving, rather than as stand-alone, post-facto projects, can significantly cut the costs of these safety interventions.<sup>4</sup> This resolution calls for the full integration of safety features at the time of re-paving of all streets in the city, which will result in substantial material and staff time savings, while also saving the lives of Berkeley residents.

The Equitable Safe Streets and Climate Justice Resolution is a Strategic Plan Priority Project, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

## BACKGROUND

Personal cars and trucks are the leading source of climate pollution in the City of Berkeley, causing 59% of all greenhouse gasses within city limits – more than all residential and commercial energy use, combined.<sup>5</sup> They are also among the leading causes of violent injury and death in the city, with a growing number of deadly and injurious conflicts between people driving cars and vulnerable road users including pedestrians, the elderly, residents who use mobility devices, and bicyclists. Lower income Berkeley residents and people of color are disproportionately impacted by the risk of traffic injuries and fatalities.<sup>6</sup>

Berkeley also has among the highest percentages of people who take transit, walk, and ride bicycles of any city of its size in the United States.<sup>7</sup> In spite of this fact, most of our streets are designed in such a way that makes them unsafe for pedestrians, transit users, or for use by people who use mobility devices or bicycles.

This disparity can be resolved through better engineering and design of our city streets, which will save lives and often result in substantial savings for the city. In addition, new state legislation (AB-43, 2021) recognizes that high vehicle speeds are a primary factor in deadly and dangerous street conditions, and empowers California cities to lower

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<sup>4</sup> [https://www.fhwa.dot.gov/environment/bicycle\\_pedestrian/publications/resurfacing/page04.cfm#cost\\_a2](https://www.fhwa.dot.gov/environment/bicycle_pedestrian/publications/resurfacing/page04.cfm#cost_a2)

<sup>5</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/2020-07-21\\_Presentations\\_Item\\_5\\_\(6pm\)\\_Pres\\_CMO\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_Presentations_Item_5_(6pm)_Pres_CMO_pdf.aspx)

<sup>6</sup> Berkeley Vision Zero Action Plan, March 10, 2019, page 13.

<sup>7</sup> <https://www.vitalsigns.mtc.ca.gov/commute-mode-choice>

speed limits on certain city streets to reduce traffic collisions and protect vulnerable road users.<sup>8</sup>

### Recent History: Safety Measures Follow Tragedy, Increase Costs

According to the Federal Highway Administration:

“It is generally significantly less expensive to install safety improvements as part of a resurfacing project than to build it as a standalone project ... The cost for adding bike lanes during a resurfacing project costs approximately 40 percent of the cost of adding the lanes as a standalone project.”<sup>9</sup>

Over the past several years, safety conditions for Berkeley residents and visitors who do not drive have deteriorated, as evidenced by the growing number of crashes in Berkeley that have resulted in pedestrian and cyclist injury or death.<sup>10</sup> In spite of the deaths and injuries on our streets, these crashes often do not result in safety improvements.

However, when local residents express sufficient outrage to City Hall over deadly conditions, the City sometimes rapidly responds with permanent or semi-permanent safety features – but had these features preceded, rather than followed, the crashes, they would have resulted in both lower costs to the city, and fewer traumatic injuries and deaths.

Examples of recent Berkeley street re-paving projects that led to increased costs due to a lack of safety features include:

- **Fulton (Oxford):** In 2015, Berkeley Public Works repaved Fulton/Oxford Street between Bancroft Way and Dwight, but did not add a safe bikeway as called for in Berkeley’s 2000 Bicycle Plan. Shortly afterward, Megan Schwarzman was hit and severely injured by a driver while bicycling.<sup>11</sup> After being pressured by the community to act, the City Council directed staff to re-stripe the roadway with a safer bikeway, adding 3 months of unplanned work and staff time. Costs would have been lower if the bikeway had been planned and implemented in a manner more consistent with existing city policy, and concurrent with re-paving.
- **Hearst:** After adoption of the 2000 Berkeley Bicycle Plan, Berkeley Public Works repaved Hearst Avenue, but did not include a safe bikeway, as called for in the Bicycle Plan. After years of pressure from residents concerned about street

<sup>8</sup> Assembly Bill 43, Traffic Safety, 2021

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB43](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB43)

<sup>9</sup> [https://www.fhwa.dot.gov/environment/bicycle\\_pedestrian/publications/resurfacing/page04.cfm#cost\\_a2](https://www.fhwa.dot.gov/environment/bicycle_pedestrian/publications/resurfacing/page04.cfm#cost_a2)

<sup>10</sup> <https://www.sfchronicle.com/local/article/Berkeley-bicycle-activist-struck-by-car-hours-16037329.php>

<sup>11</sup> Raguso, E. (2016). Bike lane opens by near-fatal crash site. *Berkeleyside*. Retrieved from <https://www.berkeleyside.org/2016/05/12/bike-lane-opens-in-berkeley-by-near-fatal-crash-site-no-charges-filed-yet-against-driver-who-police-say-was-high>



safety, Berkeley finally rebuilt and repaved the street in 2016 with safer facilities, and at significant cost. Costs would have been lower if the bikeway had been planned and implemented in a manner consistent with existing city policy, and concurrent with re-paving.

- **Milvia Street:** Berkeley repaved Milvia Street downtown using Measure BB funds (2014), and then in 2019, repaved Milvia Street in south Berkeley. But neither repaving included safe streets interventions called for in the then-approved bike plans. Berkeley then added extensive safe bicycling facilities in 2021/2022. Costs would have been lower if the bikeway had been planned and implemented in a manner consistent with existing city policy, and concurrent with re-paving.
- **Dwight/California:** In 2021, Berkeley embarked on safety improvements at the corner of Dwight and California, a “bicycle boulevard” and a “safe route to school,” after local residents expressed outrage over two children who were struck by drivers on their way to school. California and Dwight Streets were re-surfaced in 2015, but did not include enhancements to improve pedestrian and cyclist crossing conditions at this intersection.
- **Concrete diagonal diverters:** Berkeley installed many concrete diagonal diverters back in the 1970’s, and had to come back later with separate concrete work to make bicycle cut-throughs in these diverters for bikes to access neighborhood streets. Costs would have been lower if the cut-throughs had been included in the original design.

### Street Safety First: Berkeley City Policy

In recent years, the traffic engineering profession has developed extensive tools and engineering guidelines for cities that seek to safely meet the mobility needs of all residents, including those who drive cars, walk, use mobility devices, ride bicycles, and/or use transit.

Many of these new tools, such as the Urban Streets Design Guide by the National Association of City Transportation Officials (NACTO), provide turnkey solutions for cities seeking to design and engineer roads to improve street safety for all road users. The Design Guide was developed in part to help cities seeking to enhance safety, and in part out of growing concern over the proven inadequacy of the Federal Highway Administration’s Manual on Uniform Traffic Control Devices (MUTCD), which has led to dangerous and deadly conditions for vulnerable road users.<sup>121314</sup>

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<sup>12</sup> Schmitt, A. (2021). Let’s Throw Away These Rules of the Road. *Bloomberg*. Retrieved from <https://www.bloomberg.com/news/articles/2021-05-05/it-s-time-to-rewrite-the-road-builders-rule-book>

<sup>13</sup> National Association of City Transportation Officials. (2021). 25,000 Comments Calling for Safety and Equity Reforms to Once-Obscure Federal Street Manual. *NACTO*. Retrieved from <https://nacto.org/2021/05/20/25000-comments-call-for-reforming-mutcd/>

<sup>14</sup> Shill, G. & Bronin, S. (2021). Rewriting Our Nation’s Deadly Traffic Manual. *Harvard Law Review*. Retrieved from <https://harvardlawreview.org/2021/10/rewriting-our-nations-deadly-traffic-manual/>

In fact, in several cases, the proscriptions of the MUTCD have delayed or precluded street safety improvements in Berkeley.<sup>15</sup> Part of the reason may be that, under current case law, engineers may sometimes be held personally liable for deaths or injuries that can be proven to be the result of street engineering and design.

Over the past year, both the Federal Highway Administration<sup>16</sup> and Caltrans<sup>17</sup> have issued guidance that allows city traffic engineers to use NACTO's Urban Streets Design Guide in place of the MUTCD for projects that use Federal or State transportation funds. In addition, FHWA has issued guidance that, in states where vulnerable road users make up 15% or more of the total number of fatalities in a state in a given year, the state is required to dedicate at least 15% of its Highway Safety Improvement Program funds the following fiscal year to projects that address the safety of these road users. Additionally, the new guidance incorporates legislative changes to permit 100% Federal funding for certain pedestrian and bicyclist projects.<sup>18</sup>

### **Adopt New Complete Streets Engineering Guidelines**

This resolution directs all City departments with a role in the design, engineering, maintenance, and administration of Berkeley surface streets to formally adopt the NACTO Urban Streets Design Guide as the primary design and engineering manual for Berkeley city streets.

The resolution further directs all City departments to restrict use of the MUTCD, which has been proven to lead to unsafe street designs,<sup>19</sup> to only those projects where the Public Works Director certifies, in writing, that the MUTCD is better suited to achieving the City's goal of reducing vehicle speeds, enhancing safety features for pedestrians, cyclists, and people who use mobility devices, and ending traffic conflicts between cars and other road users.

In all cases where the MUTCD must be used, all City departments shall first exercise "engineering judgment," as defined in the MUTCD, to ensure safe street designs, including such judgment as may result in modification or overruling of MUTCD standards. In cases where "engineering judgment" can not be used to reduce vehicle speeds or otherwise enhance street safety conditions for all road users, all City departments shall issue formal findings, approved by the Public Works director, that

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<sup>15</sup> Harrington, T. (2021). Berkeley's plans to make Dwight and California safer get mixed reviews. *Berkeleyside*. Retrieved from <https://www.berkeleyside.org/2021/05/16/berkeleys-plans-to-make-dwight-and-california-safer-get-mixed-reviews>

<sup>16</sup> "National Roadway Safety Strategy," US Department of Transportation, Jan 2022 <https://www.transportation.gov/NRSS>

<sup>17</sup> "Caltrans to Require 'Complete Streets' Features in Planning and Design of All New Projects," Dec 20, 2021 <https://dot.ca.gov/news-releases/news-release-2021-039>

<sup>18</sup> [https://safety.fhwa.dot.gov/hsip/rulemaking/docs/BIL\\_HSIP\\_Eligibility\\_Guidance.pdf](https://safety.fhwa.dot.gov/hsip/rulemaking/docs/BIL_HSIP_Eligibility_Guidance.pdf)

<sup>19</sup> See footnote 12.

document why a street can not be made safe for all road users, and vehicle speed and throughput must be prioritized.

The resolution directs city departments to ensure that all requests for funding related to any project, on any surface street, sidewalk, bicycle facility, or other transportation infrastructure within city borders, prioritize and implement designs that ensure the safety of vulnerable users who are not in private automobiles, as established in numerous past policy directives of the Berkeley City Council.<sup>20</sup>

This resolution further prohibits all City departments from spending any city financial resources on any street that does not include the “best in class” design for Complete Streets unless the safety benefits are outweighed by other considerations, all of which are fully documented in a transparent manner for legal review, and approved by the Public Works Director.

It further prohibits City departments from requiring traffic studies or other measurements related to impacts on “Level of Service” (vehicle speed/throughput) in consideration of street safety improvements, if such improvements will either a) improve safe travel conditions for vulnerable road users, or b) reduce Vehicle Miles Traveled, as established by State of California<sup>21</sup> and City of Berkeley climate and land use policies, or c) if such improvements are otherwise consistent with guidance in the Complete Streets provisions of NACTO and Caltrans.

It further directs all departments to maintain the priority of street safety interventions in situations where budget is a limiting factor in street repair/improvements, by prioritizing the use of “quick build”<sup>22</sup> approaches which improve street safety via rapidly-deployed, lower-cost, temporary measures. In such cases, the Public Works Director will provide the City with a memo explaining the budget shortfall and define a process for closing the funding gap to install permanent safety features when funds become available; or if City departments demonstrate, via appropriate studies and documentation approved by the Public Works Director, an urgent need to complete such repairs/improvements without temporary or permanent safety interventions.

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<sup>20</sup> e.g. Berkeley Bicycle Plan, 2017; Berkeley Pedestrian Plan, 2020; BIBIMBAP [[https://www.cityofberkeley.info/Clerk/City\\_Council/2019/10\\_Oct/Documents/2019-10-29\\_Item\\_31\\_Referral\\_Develop\\_a\\_Bicycle\\_Lane\\_-\\_Rev\\_\(2\).aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/10_Oct/Documents/2019-10-29_Item_31_Referral_Develop_a_Bicycle_Lane_-_Rev_(2).aspx)]; Berkeley Pedestrian Safety Report 1998; Downtown Area Plan, 2012; West Berkeley Plan, 1993; Adeline Corridor Specific Plan (in progress); University Avenue Plan, 1996.

<sup>21</sup> California Senate Bill 743, passed in 2013, mandates that jurisdictions can no longer use automobile delay – commonly measured by Level of Service (LOS) – in transportation analysis under the California Environmental Quality Act (CEQA). Full implementation was delayed until 2019. <https://www.vta.org/projects/level-service-los-vehicle-miles-traveled-vmt-transition>

<sup>22</sup>“Quick build” projects are reversible, adjustable traffic safety improvements that can be installed relatively quickly. Unlike major capital projects that may take years to plan, design, bid and construct, quick-build projects are constructed within weeks or months and are intended to be evaluated and reviewed within the initial 24 months of construction. <https://www.sfmta.com/vision-zero-quick-build-projects>



Finally, this resolution establishes that it is the policy of the City of Berkeley to prioritize human lives and safety over the speed and convenience of private automobiles and, as such, in cases where the city engineering staff's approved safe street designs are found to be at fault for damages from a crash, the city will accept legal and financial responsibility for such damages should a court of law so find, and release engineering staff from any personal or professional liability.

The resolution finally establishes, as a matter of policy, that spending City funds to repair a damaged car is always the preferred outcome to spending city resources on the medical bills or death expenses of any non-motorist road user in the City of Berkeley.

#### Definitions:

- [Complete Streets](#): On December 11, 2012, Berkeley City Council adopted a Complete Streets Policy (Resolution 65,978-N.S.) to guide future street design and repair activities. "Complete Streets," describes a comprehensive, integrated transportation network with infrastructure and design that allows safe and convenient travel along and across streets for all users, including pedestrians, bicyclists, persons with disabilities, motorists, movers of commercial goods, users and operators of public transportation, emergency vehicles, seniors, children, youth, and families.<sup>23</sup>
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options available, and the City has many policies focused on incentivizing and increasing their use.

However, abundant research about mode choice shows that people hesitate to shift to more sustainable forms of mobility in areas with deadly and dangerous car traffic – which describes most of the City of Berkeley.<sup>25</sup>

In addition to having a high mode share for non-car modes, Berkeley also has among the highest rates, per capita, of traffic violence involving people not in cars. The correlation is direct: Our unsafe streets are harming people, and preventing the city from achieving its goals on both climate action, and safe mobility.

#### CONTACT PERSON

Councilmember Taplin      Council District 2      510-981-7120

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WHEREAS, Berkeley's climate action plan calls for an 80% reduction in climate pollution by 2050, and private automobiles represent 59% of the City's climate pollution; and

WHEREAS, progress on Berkeley's climate action plan will depend in large part on reducing "vehicle miles traveled," or the amount people drive private cars within city limits; and

WHEREAS, Berkeley's bicycle plan proposed in 1971 called for a city-wide network of safe bicycle routes; and

WHEREAS, Berkeley adopted an action plan for Vision Zero in 2019; and

WHEREAS, Berkeley's existing policy on street engineering and safety calls for "Complete Streets" as defined by the National Association of City Transportation Officials (NACTO); and

WHEREAS, the overwhelming majority of Berkeley's streets, traffic signals, intersections, and related transportation infrastructure have been designed, engineered, and maintained for the priority of automobile speed/"Level of Service" above safe travel options for people who walk, take transit, use mobility devices, or ride bicycles; and

WHEREAS, the city follows the inadequate, outdated and discredited guidance of the Manual on Uniform Traffic Control Devices in determining appropriate street safety designs; and

WHEREAS, some case law suggests that engineers are, on occasion, held personally liable for street designs they have approved in their professional capacity;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that any and all funds generated or otherwise allocated by the City and its voters via taxes, bonds, state/federal grants, and other revenues that are to be used for the design, engineering, construction, and maintenance of city streets and related facilities shall only be disbursed for projects that fully integrate Complete Streets (as defined by NACTO) and all feasible safety interventions designed to reduce automobile speed and protect the lives of people outside of automobiles;

BE IT FURTHER RESOLVED that in all cases where Complete Streets can not be fully implemented, or in cases where the MUTCD must be used in place of the NACTO Urban Streets Design Guide, City Staff shall use "engineering judgment" to prioritize the safety of vulnerable road users, and not rely on MUTCD "warrants" and other proscriptions;



BE IT FURTHER RESOLVED that in all cases where the MUTCD must be used, and where “engineering judgment” can not be used to reduce vehicle speeds or otherwise enhance street safety conditions for all road users, all City departments shall issue formal findings, approved by the Public Works director, that document why a street can not be made safe for all road users, and vehicle speed and throughput must be prioritized;

BE IT FURTHER RESOLVED that pursuant to AB-43 (2021), no city official shall apply the “85th percentile” rule in the process of setting speed limits on city streets, but rather, determine via safety studies and other documented engineering findings by the Public Works Director, when higher speeds are appropriate and are the safest option for all road users;

BE IT FURTHER RESOLVED that it is the policy of the City of Berkeley that, should a court of law find the city legally liable for any damages that result from a driver crashing into a “safe street” intervention under this resolution, the City of Berkeley shall assume liability, and not city traffic engineering or public works staff; and that accepting legal and financial liability for such damages are the City’s preferred alternative to traffic fatalities and injuries on our streets.



# City of Palo Alto

## City Council Staff Report

(ID # 6222)

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**Report Type: Consent Calendar**

**Meeting Date: 10/26/2015**

**Summary Title: Adoption of NACTO Design Guidelines**

**Title: Adoption of a Resolution to Adopt the National Association of City Transportation Officials (NACTO) Design Guidelines**

**From: City Manager**

**Lead Department: Planning and Community Environment**

### **Recommendation**

Adopt the proposed Resolution (Attachment A) to adopt the National Association of City Transportation Officials (NACTO) Urban Street Design Guide and Urban Bikeway Design Guide as supplements to the City of Palo Alto Bicycle and Pedestrian Plan.

### **Executive Summary**

Adopting the National Association of City Transportation Officials (NACTO) street design guides will provide additional support in the City's efforts to introduce complete street ideas into the design and operation of streets by providing design guidance on transportation infrastructure. City staff will continue to work proactively with the community to provide convenient, safe, and context-sensitive facilities that promote increased use by people who walk and bicycle. When NACTO guidance or other design guidance is used, the City will continue to utilize sound planning and engineering judgment when determining the best solution for a local need.

### **Background**

Streets often fail to provide their surrounding communities with a space where people can safely walk, bicycle, drive, take transit, and socialize. Complete Streets integrates people and place in the planning, design, construction, operation, and maintenance of our transportation networks. Cities are leading the movement to redesign and reinvest in our streets as cherished public spaces for people, as well as critical arteries for traffic.

The National Association of City Transportation Officials (NACTO) facilitates the exchange of transportation ideas, insights and best practices among cities, while fostering a cooperative approach to key issues facing cities and metropolitan areas. The NACTO Urban Street Design Guide and Urban Bikeway Design Guide offer a vision for improving the safety and livability of our streets for people who walk, bicycle, drive, and ride transit. The guidance and flexibility

articulated in these guides serve as an additional tool for planning modern city streets to safely accommodate current and future residents, workers and visitors within limited space.

In September 2014, Governor Jerry Brown signed Assembly Bill 1193, the Protected Bikeways Act. AB 1193 eliminates a requirement previously imposed on local agencies to follow Caltrans bikeway design rules on local streets and roads. AB 1193 grants cities flexibility to use alternative design standards, such as those published by the National Association of City Transportation Officials (NACTO), on locally-owned streets and roads. Prior to utilizing alternative designs, the law requires all of the following conditions be met:

- (1) The alternative criteria have been reviewed and approved by a qualified engineer with consideration for the unique characteristics and features of the proposed bikeway and surrounding environs.
- (2) The alternative criteria, or the description of the project with reference to the alternative criteria, are adopted by resolution at a public meeting, after having provided proper notice of the public meeting and opportunity for public comment.
- (3) The alternative criteria adhere to guidelines established by a national association of public agency transportation officials.

## Discussion

The City of Palo Alto Comprehensive Plan, Climate Action Plan, and Bicycle and Pedestrian Transportation Plan establish clear support and priority for investing in non-motorized transportation, improving access to transit, and reducing dependence on single-occupant vehicles to improve the overall efficiency of the transportation system.

The passage of the Protected Bikeways Act in September 2014 requires that if a local agency wishes to use an alternative design standard, that this design standard be adopted by resolution at a public meeting.

Adopting the NACTO street design guides will provide additional support in the City's efforts to introduce complete street ideas into the design and operation of streets by providing design guidance on transportation infrastructure. City staff will continue to work proactively with the community to provide convenient, safe, and context-sensitive facilities that promote increased use by people who walk and bicycle. When NACTO guidance or other design guidance is used, the City will continue to utilize sound planning and engineering judgment when determining the best solution for a local need.

Attachment A provides a proposed Resolution to adopt the NACTO Design Guidelines.

The NACTO Guides may be reviewed or ordered online as outlined in Attachment B. A hardcopy is available *for review only* at the City of Palo Alto Transportation Division, 250 Hamilton Avenue, 5<sup>th</sup> floor.



### NACTO Urban Bikeway Design Guide

The NACTO Urban Bikeway Design Guide is based on the experience of the best cycling cities in the world. To create the guide, the authors conducted a worldwide literature search of design guidelines and real-life experience and worked closely with a panel of planning professionals from NACTO member cities, as well as traffic engineers, planners, and academics.

Most of these treatments are not directly referenced in the current version of the AASHTO Guide to Bikeway Facilities, although they are virtually all (with two exceptions) permitted under the Manual on Uniform Traffic Control Devices (MUTCD). The MUTCD is published by the Federal Highway Administration (FHWA) to define the standards used by road managers nationwide to install and maintain traffic control devices on all public streets, highways, bikeways, and private roads open to public travel. The MUTCD, which has been administered by the FHWA since 1971, is a compilation of national standards for all traffic control devices, including road markings, highway signs, and traffic signals. It is updated periodically to accommodate the nation's changing transportation needs and address new safety technologies, traffic control tools and traffic management techniques.

In August 2013, the Federal Highway Administration issued a memorandum officially supporting use of the NACTO Urban Bikeway Design Guide. All of the NACTO Urban Bikeway Design Guide treatments are in use internationally and in many cities around the United States.

For each treatment in the Urban Bikeway Design Guide, NACTO provides three levels of guidance:

- Required: elements for which there is a strong consensus that the treatment cannot be implemented without.
- Recommended: elements for which there is a strong consensus of added value.
- Optional: elements that vary across cities and may add value depending on the situation.

NACTO emphasizes that treatments must be tailored to the individual situation with thorough documentation of decisions. To assist with this, the NACTO Urban Bikeway Design Guide links to companion reference material and studies.

### Palo Alto Pedestrian and Bicycle Advisory Committee Review

Staff brought a draft proposed Resolution to the Palo Alto Pedestrian and Bicycle Advisory Committee (PABAC) for input on August 4, 2015. PABAC members suggested minor edits to the Resolution which have been incorporated by staff. On September 1, 2015, PABAC reviewed the revised Resolution and passed a unanimous motion recommending adoption of the NACTO guidelines by the City Council.

Planning and Transportation Commission Review

On September 9, 2015, the Planning and Transportation Commission unanimously recommended the City Council adopt the Resolution adopting the NACTO guidelines.

**Resource Impact**

Adopting the NACTO Design Guidelines will give the City flexibility in designing bicycle and pedestrian facilities. There is no definable impact on the cost of future capital projects.

**Policy Implications**

Adoption of the NACTO Design Guides as supplementary guidelines is consistent with the Comprehensive Plan, Bicycle + Pedestrian Transportation Plan, and Climate Action Plan.

**Environmental Review**

Adoption of this resolution does not meet the definition of a project, therefore no environmental review is required.

**Attachments:**

- Attachment A: Resolution to Adopt NACTO Urban Street and Bikeway Design Guidelines (PDF)
- Attachment B: Design Guides (PDF)

Resolution No. \_\_\_\_  
Resolution of the Council of the City of Palo Alto Adopting the National  
Association of City Transportation Officials Urban Street Design and Bikeway  
Design Guidelines

**RECITALS**

- A. The City of Palo Alto Comprehensive Plan, Climate Action Plan, and Bicycle and Pedestrian Plan establish clear support and priority for investing in non-motorized transportation, improving access to transit, and reducing dependence on single-occupant vehicles to improve the overall efficiency of the transportation system.
- B. The National Association of City Transportation Officials (NACTO) Urban Street Design Guide available at <http://nacto.org/publication/urban-street-design-guide> and Urban Bikeway Design Guide available at <http://nacto.org/publication/urban-bikeway-design-guide/> offers supplementary guidance on complete streets to cities nationally.
- C. The NACTO Urban Street Design Guide and Urban Bikeway Design Guide offer a vision for improving the safety and livability of our streets for people who walk, bicycle, drive, and ride transit. The guidance and flexibility articulated in these guides serve as an additional tool for planning modern city streets to safely accommodate current and future residents, workers and visitors within limited space.
- D. The State Department of Transportation (Caltrans) has endorsed NACTO guides to “put additional tools in the tool box for both Caltrans staff and local agencies to reference when making project decisions on facilities for which they are responsible.”
- E. The NACTO Urban Street Design Guide and Urban Bikeway Design Guide are intended as supplemental guidelines and do not create mandatory requirements.
- F. The City of Palo Alto will work proactively with the community to provide convenient, safe, and context-sensitive facilities that promote increased use by people who walk and bicycle.
- G. When NACTO guidance or other design guidance is utilized, the City of Palo Alto will continue to utilize sound planning and engineering judgment when determining the best solution for a local need.
- H. The Palo Alto Pedestrian and Bicycle Advisory Committee and Planning and Transportation Commission have transmitted their recommendations.



NOW, THEREFORE, the Council of the City of Palo Alto RESOLVES as follows:

SECTION 1. The Council hereby adopts the NACTO Urban Street Design Guide and Urban Bikeway Design Guide referenced in Paragraph B above, and as amended from time to time, as supplements to the City of Palo Alto Bicycle Plan.

SECTION 2. The Council finds that the adoption of this resolution does not meet the definition of a project under Public Resources Code Section 21065, thus, no environmental assessment under the California Environmental Quality Act is required.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

APPROVED:

\_\_\_\_\_  
Senior Assistant City Attorney

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Director of Planning and Community  
Environment

\_\_\_\_\_  
Director of Administrative Services

## NACTO Urban Street Design Guide

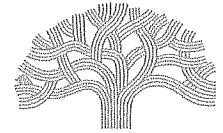
Please visit:

<http://nacto.org/publication/urban-street-design-guide/>

## NACTO Urban Bikeway Design Guide

Please visit:

<http://nacto.org/publication/urban-bikeway-design-guide/>



CITY OF OAKLAND

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December 16, 2013

Janette Sadik-Khan  
National Association of City Transportation Officials (NACTO)  
55 Water Street, Floor 9  
New York, NY 10041

**RE: Letter of Endorsement for the NACTO Urban Street Design Guide**

Dear Ms. Sadik-Khan:

On behalf of the City of Oakland, I am writing to express support for the National Association of City Transportation Officials (NACTO) *Urban Street Design Guide*, and endorse the Guide's use in the design of Oakland streets.

The Guide represents a vision for world-class city street design that matches Oakland's leadership goals and community desires. Urban transportation is in the midst of unprecedented change as the demands placed upon our streets and the needs of our citizens require an increasingly multimodal transportation network. Pressures, from public health to climate change to mobile technology, are redefining urban streets and opening opportunities for innovation.

The *Urban Street Design Guide* offers concrete guidance to meet these challenges and improve the safety and livability of our streets for pedestrians, bicyclists, drivers, and transit users. City streets demand a unique approach that are often not adequately addressed by conventional design guidelines. In Oakland, we value NACTO's role in developing targeted national guidance that allows local agencies to design and implement more successful projects. The *Urban Street Design Guide* provides a new and important direction for cities, and will be an indispensable tool in planning and designing Oakland's streets.

As such, the City of Oakland officially adopts the NACTO *Urban Street Design Guide* as an integral and effective tool for designing streets and public spaces.

Sincerely,

Brooke A. Levin  
Interim Director, Public Works Agency

cc: Michael J. Neary, Assistant Director, Department of Engineering and Construction



Assembly Bill No. 43

CHAPTER 690

An act to amend Sections 627, 21400, 22352, 22354, 22358, and 40802 of, and to add Sections 22358.6, 22358.7, 22358.8, and 22358.9 to, the Vehicle Code, relating to traffic safety.

[Approved by Governor October 8, 2021. Filed with Secretary of State October 8, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 43, Friedman. Traffic safety.

(1) Existing law establishes various default speed limits for vehicles upon highways, as specified. Existing law authorizes state and local authorities to adjust these default speed limits, as specified, based upon certain findings determined by an engineering and traffic survey. Existing law defines an engineering and traffic survey and prescribes specified factors that must be included in the survey, including prevailing speeds and road conditions. Existing law authorizes local authorities to consider additional factors, including pedestrian and bicyclist safety.

This bill would authorize local authorities to consider the safety of vulnerable pedestrian groups, as specified.

(2) Existing law establishes a prima facie speed limit of 25 miles per hour on any highway, other than a state highway, located in any business or residence district, as defined. Existing law authorizes a local authority to change the speed limit on any such highway, as prescribed, including erecting signs to give notice thereof.

This bill would establish a prima facie speed limit of 25 miles per hour on state highways located in any business or residence district and would authorize the Department of Transportation (Caltrans) to change the speed limit on any such highway, as prescribed, including erecting signs to give notice thereof.

(3) Existing law establishes a speed limit of 65 miles per hour on state highways, as specified. Existing law authorizes Caltrans to declare a speed limit on any such highway, as prescribed, of 60, 55, 50, 45, 40, 35, 30, or 25 miles per hour, including erecting signs to give notice thereof. Existing law also authorizes a local authority, on a section of highway, other than a state highway, where the speed limit is 65 miles per hour to declare a lower speed limit, as specified.

This bill would additionally authorize Caltrans and a local authority to declare a speed limit of 20 or 15 miles per hour, as specified, on these highways.

(4) Existing law authorizes a local authority, without an engineering and traffic survey, to declare a lowered speed limit on portions of highway, as

specified, approaching a school building or school grounds. Existing law limits this authority to sections of highway meeting specified requirements relating to the number of lanes and the speed limit of the highway before the school zone.

This bill would similarly authorize a lowered speed limit on a section of highway contiguous to a business activity district, as defined, and would require that certain violations be subject to a warning citation, for the first 30 days of implementation.

(5) Existing law requires Caltrans, by regulation, to provide for the rounding up or down to the nearest 5 miles per hour increment of the 85th percentile speed of free-flowing traffic on a portion of highway as determined by a traffic and engineering survey. Existing law requires the Judicial Council to create and implement an online tool by June 30, 2024, for the adjudication of traffic infractions, among other things.

This bill would authorize a local authority to further reduce the speed limit, as specified, and require that certain violations be subject to a warning citation, for the first 30 days of implementation. The bill would, in some circumstances, authorize the reduction of a speed limit beginning June 30, 2024, or when the Judicial Council has developed an online tool for adjudicating traffic infraction violations, whichever is sooner. The bill would require Caltrans to accordingly revise the California Manual on Uniform Traffic Control Devices, as specified.

(6) Existing law defines a speed trap and prohibits evidence of a driver's speed obtained through a speed trap from being admissible in court in any prosecution against a driver for a speed-related offense. Existing law deems a road where the speed limit is not justified by a traffic and engineering survey conducted within the previous 7 years to be a speed trap, unless the roadway has been evaluated by a registered engineer, as specified, in which case the speed limit remains enforceable for a period of 10 years. Existing law exempts a school zone, as defined, from certain provisions relating to defining a speed trap.

This bill would extend the period that a speed limit justified by a traffic and engineering survey conducted more the 7 years ago remains valid, for purposes of speed enforcement, if evaluated by a registered engineer, as specified, to 14 years.

This bill would also exempt a senior zone and business activity district, as defined, from those provisions.

*The people of the State of California do enact as follows:*

SECTION 1. Section 627 of the Vehicle Code is amended to read:

627. (a) "Engineering and traffic survey," as used in this code, means a survey of highway and traffic conditions in accordance with methods determined by the Department of Transportation for use by state and local authorities.

(b) An engineering and traffic survey shall include, among other requirements deemed necessary by the department, consideration of all of the following:

- (1) Prevailing speeds as determined by traffic engineering measurements.
- (2) Accident records.
- (3) Highway, traffic, and roadside conditions not readily apparent to the driver.

(c) When conducting an engineering and traffic survey, local authorities, in addition to the factors set forth in paragraphs (1) to (3), inclusive, of subdivision (b) may consider all of the following:

(1) Residential density, if any of the following conditions exist on the particular portion of highway and the property contiguous thereto, other than a business district:

(A) Upon one side of the highway, within a distance of a quarter of a mile, the contiguous property fronting thereon is occupied by 13 or more separate dwelling houses or business structures.

(B) Upon both sides of the highway, collectively, within a distance of a quarter of a mile, the contiguous property fronting thereon is occupied by 16 or more separate dwelling houses or business structures.

(C) The portion of highway is longer than one-quarter of a mile but has the ratio of separate dwelling houses or business structures to the length of the highway described in either subparagraph (A) or (B).

(2) Safety of bicyclists and pedestrians, with increased consideration for vulnerable pedestrian groups including children, seniors, persons with disabilities, users of personal assistive mobility devices, and the unhoused.

SEC. 2. Section 21400 of the Vehicle Code is amended to read:

21400. (a) The Department of Transportation shall, after consultation with local agencies and public hearings, adopt rules and regulations prescribing uniform standards and specifications for all official traffic control devices placed pursuant to this code, including, but not limited to, stop signs, yield right-of-way signs, speed restriction signs, railroad warning approach signs, street name signs, lines and markings on the roadway, and stock crossing signs placed pursuant to Section 21364.

(b) The Department of Transportation shall, after notice and public hearing, determine and publicize the specifications for uniform types of warning signs, lights, and devices to be placed upon a highway by a person engaged in performing work that interferes with or endangers the safe movement of traffic upon that highway.

(c) Only those signs, lights, and devices as are provided for in this section shall be placed upon a highway to warn traffic of work that is being performed on the highway.

(d) Control devices or markings installed upon traffic barriers on or after January 1, 1984, shall conform to the uniform standards and specifications required by this section.

SEC. 3. Section 22352 of the Vehicle Code is amended to read:



22352. The prima facie limits are as follows and shall be applicable unless changed as authorized in this code and, if so changed, only when signs have been erected giving notice thereof:

(a) Fifteen miles per hour:

(1) When traversing a railway grade crossing, if during the last 100 feet of the approach to the crossing the driver does not have a clear and unobstructed view of the crossing and of any traffic on the railway for a distance of 400 feet in both directions along the railway. This subdivision does not apply in the case of any railway grade crossing where a human flagperson is on duty or a clearly visible electrical or mechanical railway crossing signal device is installed but does not then indicate the immediate approach of a railway train or car.

(2) When traversing any intersection of highways if during the last 100 feet of the driver's approach to the intersection the driver does not have a clear and unobstructed view of the intersection and of any traffic upon all of the highways entering the intersection for a distance of 100 feet along all those highways, except at an intersection protected by stop signs or yield right-of-way signs or controlled by official traffic control signals.

(3) On any alley.

(b) Twenty-five miles per hour:

(1) On any highway, in any business or residence district unless a different speed is determined by local authority or the Department of Transportation under procedures set forth in this code.

(2) When approaching or passing a school building or the grounds thereof, contiguous to a highway and posted with a standard "SCHOOL" warning sign, while children are going to or leaving the school either during school hours or during the noon recess period. The prima facie limit shall also apply when approaching or passing any school grounds which are not separated from the highway by a fence, gate, or other physical barrier while the grounds are in use by children and the highway is posted with a standard "SCHOOL" warning sign. For purposes of this subparagraph, standard "SCHOOL" warning signs may be placed at any distance up to 500 feet away from school grounds.

(3) When passing a senior center or other facility primarily used by senior citizens, contiguous to a street other than a state highway and posted with a standard "SENIOR" warning sign. A local authority may erect a sign pursuant to this paragraph when the local agency makes a determination that the proposed signing should be implemented. A local authority may request grant funding from the Active Transportation Program pursuant to Chapter 8 (commencing with Section 2380) of Division 3 of the Streets and Highways Code, or any other grant funding available to it, and use that grant funding to pay for the erection of those signs, or may utilize any other funds available to it to pay for the erection of those signs, including, but not limited to, donations from private sources.

SEC. 4. Section 22354 of the Vehicle Code is amended to read:

22354. (a) Whenever the Department of Transportation determines upon the basis of an engineering and traffic survey that the limit of 65 miles

per hour is more than is reasonable or safe upon any portion of a state highway where the limit of 65 miles is applicable, the department may determine and declare a prima facie speed limit of 60, 55, 50, 45, 40, 35, 30, 25, 20, or 15 miles per hour, whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe, which declared prima facie speed limit shall be effective when appropriate signs giving notice thereof are erected upon the highway.

(b) This section shall become operative on the date specified in subdivision (c) of Section 22366.

SEC. 5. Section 22358 of the Vehicle Code is amended to read:

22358. (a) Whenever a local authority determines upon the basis of an engineering and traffic survey that the limit of 65 miles per hour is more than is reasonable or safe upon any portion of any street other than a state highway where the limit of 65 miles per hour is applicable, the local authority may by ordinance determine and declare a prima facie speed limit of 60, 55, 50, 45, 40, 35, 30, 25, 20, or 15 miles per hour, whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe, which declared prima facie limit shall be effective when appropriate signs giving notice thereof are erected upon the street.

(b) This section shall become operative on the date specified in subdivision (c) of Section 22366.

SEC. 6. Section 22358.6 is added to the Vehicle Code, to read:

22358.6. The Department of Transportation shall, in the next scheduled revision, revise and thereafter maintain the California Manual on Uniform Traffic Control Devices to require the Department of Transportation or a local authority to round speed limits to the nearest five miles per hour of the 85th percentile of the free-flowing traffic. However, in cases in which the speed limit needs to be rounded up to the nearest five miles per hour increment of the 85th-percentile speed, the Department of Transportation or a local authority may decide to instead round down the speed limit to the lower five miles per hour increment. A local authority may additionally lower the speed limit as provided in Sections 22358.7 and 22358.8.

SEC. 7. Section 22358.7 is added to the Vehicle Code, to read:

22358.7. (a) If a local authority, after completing an engineering and traffic survey, finds that the speed limit is still more than is reasonable or safe, the local authority may, by ordinance, determine and declare a prima facie speed limit that has been reduced an additional five miles per hour for either of the following reasons:

(1) The portion of highway has been designated as a safety corridor. A local authority shall not deem more than one-fifth of their streets as safety corridors.

(2) The portion of highway is adjacent to any land or facility that generates high concentrations of bicyclists or pedestrians, especially those from vulnerable groups such as children, seniors, persons with disabilities, and the unhoused.

(b) (1) As used in this section, “safety corridor” shall be defined by the Department of Transportation in the next revision of the California Manual

on Uniform Traffic Control Devices. In making this determination, the department shall consider highways that have the highest number of serious injuries and fatalities based on collision data that may be derived from, but not limited to, the Statewide Integrated Traffic Records System.

(2) The Department of Transportation shall, in the next revision of the California Manual on Uniform Traffic Control Devices, determine what constitutes land or facilities that generate high concentrations of bicyclists and pedestrians, as used in paragraph (2) of subdivision (a). In making this determination, the department shall consider density, road use type, and bicycle and pedestrian infrastructure present on a section of highway.

(c) A local authority may not lower a speed limit as authorized by this section until June 30, 2024, or until the Judicial Council has developed an online tool for adjudicating infraction violations statewide as specified in Article 7 (commencing with Section 68645) of Chapter 2 of Title 8 of the Government Code, whichever is sooner.

(d) A local authority shall issue only warning citations for violations of exceeding the speed limit by 10 miles per hour or less for the first 30 days that a lower speed limit is in effect as authorized by this section.

SEC. 8. Section 22358.8 is added to the Vehicle Code, to read:

22358.8. (a) If a local authority, after completing an engineering and traffic survey, finds that the speed limit is still more than is reasonable or safe, the local authority may, by ordinance, retain the current speed limit or restore the immediately prior speed limit if that speed limit was established with an engineering and traffic survey and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit.

(b) This section does not authorize a speed limit to be reduced by any more than five miles per hour from the current speed limit nor below the immediately prior speed limit.

(c) A local authority shall issue only warning citations for violations of exceeding the speed limit by 10 miles per hour or less for the first 30 days that a lower speed limit is in effect as authorized by this section.

SEC. 9. Section 22358.9 is added to the Vehicle Code, to read:

22358.9. (a) (1) Notwithstanding any other law, a local authority may, by ordinance, determine and declare a 25 or 20 miles per hour prima facie speed limit on a highway contiguous to a business activity district when posted with a sign that indicates a speed limit of 25 or 20 miles per hour.

(2) The prima facie limits established under paragraph (1) apply only to highways that meet all of the following conditions:

(A) A maximum of four traffic lanes.

(B) A maximum posted 30 miles per hour prima facie speed limit immediately prior to and after the business activity district, if establishing a 25 miles per hour speed limit.

(C) A maximum posted 25 miles per hour prima facie speed limit immediately prior to and after the business activity district, if establishing a 20 miles per hour speed limit.



(b) As used in this section, a “business activity district” is that portion of a highway and the property contiguous thereto that includes central or neighborhood downtowns, urban villages, or zoning designations that prioritize commercial land uses at the downtown or neighborhood scale and meets at least three of the following requirements in paragraphs (1) to (4), inclusive:

(1) No less than 50 percent of the contiguous property fronting the highway consists of retail or dining commercial uses, including outdoor dining, that open directly onto sidewalks adjacent to the highway.

(2) Parking, including parallel, diagonal, or perpendicular spaces located alongside the highway.

(3) Traffic control signals or stop signs regulating traffic flow on the highway, located at intervals of no more than 600 feet.

(4) Marked crosswalks not controlled by a traffic control device.

(c) A local authority shall not declare a prima facie speed limit under this section on a portion of a highway where the local authority has already lowered the speed limit as permitted under Sections 22358.7 and 22358.8.

(d) A local authority shall issue only warning citations for violations of exceeding the speed limit by 10 miles per hour or less for the first 30 days that a lower speed limit is in effect as authorized by this section.

SEC. 10. Section 40802 of the Vehicle Code is amended to read:

40802. (a) A “speed trap” is either of the following:

(1) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.

(2) A particular section of a highway with a prima facie speed limit that is provided by this code or by local ordinance under paragraph (1) of subdivision (b) of Section 22352, or established under Section 22354, 22357, 22358, or 22358.3, if that prima facie speed limit is not justified by an engineering and traffic survey conducted within five years prior to the date of the alleged violation, and enforcement of the speed limit involves the use of radar or any other electronic device that measures the speed of moving objects. This paragraph does not apply to a local street, road, school zone, senior zone, or business activity district.

(b) (1) For purposes of this section, a local street or road is one that is functionally classified as “local” on the “California Road System Maps,” that are approved by the Federal Highway Administration and maintained by the Department of Transportation. It may also be defined as a “local street or road” if it primarily provides access to abutting residential property and meets the following three conditions:

(A) Roadway width of not more than 40 feet.

(B) Not more than one-half of a mile of uninterrupted length. Interruptions shall include official traffic control signals as defined in Section 445.

(C) Not more than one traffic lane in each direction.

(2) For purposes of this section, “school zone” means that area approaching or passing a school building or the grounds thereof that is

contiguous to a highway and on which is posted a standard “SCHOOL” warning sign, while children are going to or leaving the school either during school hours or during the noon recess period. “School zone” also includes the area approaching or passing any school grounds that are not separated from the highway by a fence, gate, or other physical barrier while the grounds are in use by children if that highway is posted with a standard “SCHOOL” warning sign.

(3) For purposes of this section, “senior zone” means that area approaching or passing a senior center building or other facility primarily used by senior citizens, or the grounds thereof that is contiguous to a highway and on which is posted a standard “SENIOR” warning sign, pursuant to Section 22352.

(4) For purposes of this section, “business activity district” means a section of highway described in subdivision (b) of Section 22358.9 in which a standard 25 miles per hour or 20 miles per hour speed limit sign has been posted pursuant to paragraph (1) of subdivision (a) of that section.

(c) (1) When all of the following criteria are met, paragraph (2) of this subdivision shall be applicable and subdivision (a) shall not be applicable:

(A) When radar is used, the arresting officer has successfully completed a radar operator course of not less than 24 hours on the use of police traffic radar, and the course was approved and certified by the Commission on Peace Officer Standards and Training.

(B) When laser or any other electronic device is used to measure the speed of moving objects, the arresting officer has successfully completed the training required in subparagraph (A) and an additional training course of not less than two hours approved and certified by the Commission on Peace Officer Standards and Training.

(C) (i) The prosecution proved that the arresting officer complied with subparagraphs (A) and (B) and that an engineering and traffic survey has been conducted in accordance with subparagraph (B) of paragraph (2). The prosecution proved that, prior to the officer issuing the notice to appear, the arresting officer established that the radar, laser, or other electronic device conformed to the requirements of subparagraph (D).

(ii) The prosecution proved the speed of the accused was unsafe for the conditions present at the time of alleged violation unless the citation was for a violation of Section 22349, 22356, or 22406.

(D) The radar, laser, or other electronic device used to measure the speed of the accused meets or exceeds the minimal operational standards of the National Highway Traffic Safety Administration, and has been calibrated within the three years prior to the date of the alleged violation by an independent certified laser or radar repair and testing or calibration facility.

(2) A “speed trap” is either of the following:

(A) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.

(B) (i) A particular section of a highway or state highway with a prima facie speed limit that is provided by this code or by local ordinance under paragraph (1) of subdivision (b) of Section 22352, or established under Section 22354, 22357, 22358, or 22358.3, if that prima facie speed limit is not justified by an engineering and traffic survey conducted within one of the following time periods, prior to the date of the alleged violation, and enforcement of the speed limit involves the use of radar or any other electronic device that measures the speed of moving objects:

(I) Except as specified in subclause (II), seven years.

(II) If an engineering and traffic survey was conducted more than seven years prior to the date of the alleged violation, and a registered engineer evaluates the section of the highway and determines that no significant changes in roadway or traffic conditions have occurred, including, but not limited to, changes in adjoining property or land use, roadway width, or traffic volume, 14 years.

(ii) This subparagraph does not apply to a local street, road, or school zone, senior zone, or business activity district.

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Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
March 9, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmembers Harrison

Subject: Refer to the City Manager to Prioritize Establishment of Impact/Mitigation Fees to Address Disproportionate Private and Public Utility Impact to the Public Right of Way

RECOMMENDATION

In order to ensure equitable support of the public right of way by private and public entities that use City facilities, refer to the City Manager and City Attorney to prioritize the following in consultation with the Facilities, Infrastructure, Transportation, Environment, & Sustainability Committee:

1. establish impact and/or mitigation fees to address disproportionate private impacts to the public right of way, such as our roads and utility poles; and
2. establish transfers between sewer, waste, or other utilities as appropriate to address impacts to the public right of way.

BACKGROUND

A Metropolitan Transportation Commission report warns that Berkeley's overall paving condition is "At Risk," meaning on the cusp of falling into "Failing" category.<sup>1</sup> The current five-year paving plan is the result of historic deferred maintenance and an underfunded, imperfect and complex balance between arterial, collector and residential streets distributed across Council districts. The City's bicycle, pedestrian and Vision Zero projects are severely underfunded. Meanwhile, neighboring cities in the Bay Area, such as Richmond, El Cerrito, San Francisco have "Excellent/Very Good" to "Fair/Good" streets conditions.

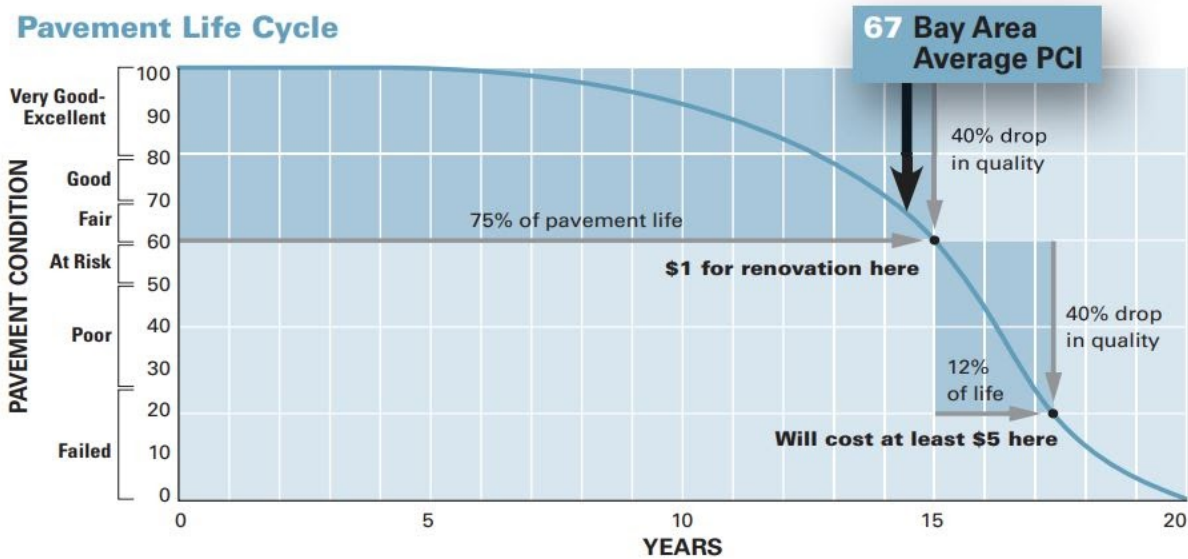
Critically, maintenance of the public right of way has been underfunded due to (1) historic lack of impact/mitigation fees levied against private corporations who

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<sup>1</sup> "The Pothole Report: Bay Area Roads At Risk," Bay Area Metropolitan Transportation Commission, September 2018, [https://mtc.ca.gov/sites/default/files/Pothole%20Report%20III\\_September%202018.pdf](https://mtc.ca.gov/sites/default/files/Pothole%20Report%20III_September%202018.pdf)

disproportionally cause negative impacts to Berkeley’s streets and (2) an absence of transfers from public utility ratepayers to the Berkeley Public Works Department to mitigate utility-related damage to the right of way. The public right of way is key part of the City’s “commons,” a public resource that is available to all community members and to be managed for the collective benefit. As learned during recent FITES hearings, it appears that certain private actor and public utilities have not been paying their fair share to address their disproportionate impact on the condition of Berkeley’s right of way.

The Public Works Department has advised that ongoing funding under the rolling 5-Year Street Plan will not be enough to stabilize Berkeley’s streets. In fact, if street investment is not increased, Public Works warns that the City could face \$1 billion in future repair costs as the cost of deferred paving maintenance increases exponentially each year.



Since January 2020, the Facilities, Infrastructure, Transportation, Environment, & Sustainability (FITES) Committee has been working with the Public Works Department and Public Works Commission to explore funding opportunities to enhance the Paving Condition Index (PCI) of Berkeley’s streets. In addition, it has been reviewing the City’s Paving Policy, which was last updated in 2009, and has been working to develop a Paving Master Plan.

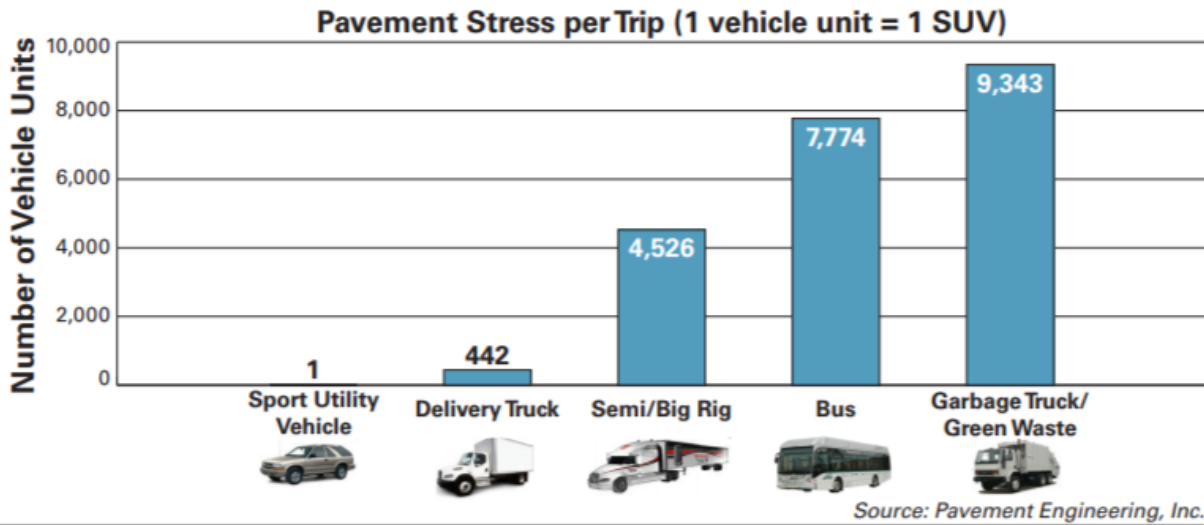
To stabilize street conditions, the City will likely need to pursue a combination of investment strategies ranging from increasing General Fund allocations, initiating



transfers from waste, sewer and other utility accounts, initiating impact/mitigation fees in response to heavy private vehicle use and potentially issuing bonds. However, before going to the voters for new bonds, who already pay significant sales, property and other taxes, which contribute to paving maintenance, it is critical that the Council exhaust all equitable alternatives, including leveraging the proceeds of new fees and transfers from private corporations and public utilities who contribute disproportionately to the deterioration of Berkeley’s streets and greenhouse gas emissions.

The current 2009 Paving Plan, which is being revised by the Public Works Commission, Public Works Department and the FITES Committee, explicitly specifies that “fees [may be] assessed to mitigate for excessive deterioration on and wear and tear of streets resulting from construction activities, public or private, shall be used for street rehabilitation.”<sup>2</sup> However, the FITES Committee has not been able to identify historical evidence of such fee being levied upon private users for such excessive deterioration.

During hearings on the paving policy, the FITES Committee has learned that large private vehicles such as delivery trucks, big rigs, private buses and construction vehicles contributed heavily to excessive deterioration. The same is true for vehicles acting on behalf of public utilities, such as AC Transit, the City’s Sanitary Sewer Program, Recology waste services, and gas, electric and telecommunications utilities.



<sup>2</sup> “City of Berkeley Street Rehabilitation and Repair Policy,” Public Works Department, March 2009, [https://www.cityofberkeley.info/Public\\_Works/Sidewalks-Streets-Utility/Street\\_Rehabilitation\\_and\\_Repair\\_Policy\\_updated\\_March\\_2009.aspx](https://www.cityofberkeley.info/Public_Works/Sidewalks-Streets-Utility/Street_Rehabilitation_and_Repair_Policy_updated_March_2009.aspx)

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Public Works staff indicate that transfers could bring in approximately \$1 million per year in additional paving funding, but more research will need to be done to calculate potential revenue from impact fees.

It is in the public interest to ensure an equitable and rapid as possible assessment of such private and public actors for the purpose of providing supplemental funding to Berkeley's Street Repair Program.

FINANCIAL IMPLICATIONS

The item would require staff time to develop potential fees and transfers, however it could potentially offset and supplemental millions of dollars in existing City paving funding.

ENVIRONMENTAL SUSTAINABILITY

Supporting low-carbon asphalt alternatives and building bicycle and alternative mobility infrastructure will compliment and accelerate Berkeley's ongoing efforts to reduce carbon emissions at an emergency and equitable pace in line with the Climate Action Plan and Climate Emergency Declaration.

CONTACT PERSON

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