

AGENDA

BERKELEY CITY COUNCIL MEETING

Monday, November 10, 2025

6:00 PM

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

ADENA ISHII, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI

DISTRICT 2 – TERRY TAPLIN

DISTRICT 3 – BEN BARTLETT

DISTRICT 4 – IGOR TREGUB

DISTRICT 5 – SHOSHANA O'KEEFE

DISTRICT 6 – BRENT BLACKABY

DISTRICT 7 – CECILIA LUNAPARRA

DISTRICT 8 – MARK HUMBERT

*This meeting will be conducted in a hybrid model with both in-person and virtual attendance. Attend this meeting remotely using [Zoom](#). To request to speak, use the “raise hand” function in Zoom. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter **Meeting ID: 160 112 3117**. To provide public comment, Press *9 and wait to be recognized by the Chair. To submit a written communication for the public record, email council@berkeleyca.gov.*

Live captioned broadcasts of Council meetings are available on B-TV (Channel 33) and via [internet video stream](#). All Council meetings are recorded.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting, however, if you are feeling sick, please do not attend the meeting in person. The City Council may take action related to any subject listed on the Agenda.

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

Government Code Section 84308 (Levine Act) - Parties to a proceeding involving a license, permit, or other entitlement for use are required to disclose if they made contributions over \$500 within the prior 12 months to any City employee or officer. Parties and participants with a financial interest are prohibited from making more than \$500 in contributions to a decisionmaker for the 12 months after the final decision is rendered on the proceeding. The above contribution disclosures and restrictions do not apply when the proceeding is competitively bid, or involves a personnel or labor contract. For more information, see Government Code Section 84308.

Preliminary Matters

Roll Call:

Land Acknowledgement Statement: *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

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

1. Evie Wozniak, Berkeley Resident

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

Public Comment on Non-Agenda Matters: *Up to ten persons will be selected to address matters not on the Council agenda. If five or fewer persons are identified to provide non-agenda comment, each person selected will be allotted two minutes each. If more than five persons are selected to address matters not on the Council agenda, each person selected will be allotted one minute each.*

In-person attendees wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to the moment that the Presiding Officer calls for public comment on non-agenda items. Remote attendees must raise their hand in the videoconference application when the Presiding Officer calls for non-agenda speakers. The first five raised hands on the videoconference application will be selected to speak and the first five cards drawn at the meeting will be selected to speak. The number of in-person and remote speakers selected may be adjusted by the Presiding Officer if fewer than five speakers from either format are identified.

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.

Public Comment by Employee Unions (first regular meeting of the month): *This period of public comment is reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.*

Consent Calendar

The Council will first determine whether to move items on the agenda for “Action” or “Information” to the “Consent Calendar”, or move “Consent Calendar” items to “Action.” Three members of the City Council must agree to pull an item from the Consent Calendar or Information Calendar for it to move to Action. Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent”.

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

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

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. If ten or fewer persons are interested in speaking on an individual agenda item, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

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

Consent Calendar

- 1. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on November 10, 2025**
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager’s threshold will be returned to Council for final approval.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300

Consent Calendar

- 2. Contract: Tablet Command for Mobile CAD and Incident Command**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or their designee to enter into a contract and any amendments with Tablet Command for Mobile CAD and Incident Command by piggybacking on a contract with the City of Long Beach. The Berkeley contract will be effective November 5, 2025, and end on September 21, 2027, in an amount not to exceed \$135,000 which includes one-time startup costs. The contract may be extended for three additional one-year periods at a cost not to exceed \$85,000 per year.
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473
- 3. Contract: Protiviti Government Services Inc (“Protiviti”): Using General Services Administration (“GSA”) Vehicle for Professional Services Purchase Orders**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager, or delegate, to issue purchase orders with Protiviti for professional services using GSA purchasing vehicle no. GS35F-0280X in support of the following City Departments: Fire, Public Works, and Information Technology, for an amount not to exceed \$892,000 through June 30, 2026.
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473, Terrance Davis, Public Works, (510) 981-6300, Kevin Fong, Information Technology, (510) 981-6500
- 4. Amend Resolution No. 71,682-N.S for Joint Homekey+ Application for MLK House at 2942-44 Martin Luther King, Jr. Way**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution No. 71,682-N.S authorizing the City Manager or his designee to increase the requested grant funds amount to the State of California Housing and Community Development (HCD) Department’s Homekey+ program for the MLK House project from \$4,500,000 to \$5,000,000.
Financial Implications: See report
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

5. Grant Application: The 2025 Surrendered and Abandoned Vessel Exchange (SAVE) grant program of the California Division of Boating & Waterways

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or designee to 1) Submit a grant application to the California Division of Boating and Waterways (DBW) 2025 Surrendered and Abandoned Vessel Exchange (SAVE) grant program for the removal and disposal of anticipated abandoned vessels located at the Berkeley Marina; 2) Accept the grant; 3) Execute any amendments; and 4) Authorize a local match contribution of \$1,000.

Financial Implications: See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Council Consent Items

6. Fifteenth Annual Martin Luther King Jr. Celebration: City Sponsorship and Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund

From: Mayor Ishii (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Humbert (Co-Sponsor), Councilmember Lunaparra (Co-Sponsor)

Recommendation:

1. Adopt a Resolution co-sponsoring the 15th Annual Martin Luther King Jr. Celebration on January 19, 2026.

2. Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$500 from Mayor Ishii, to the Berkeley Rotary Endowment, the fiscal sponsor of the 15th Annual Martin Luther King Jr. celebration, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Mayor Ishii and any other Councilmembers who would like to contribute.

Financial Implications: See report

Contact: Adena Ishii, Mayor, (510) 981-7100

7. Reappointment of Dr. P. Robert Beatty to the Alameda County Mosquito Abatement District Board of Trustees

From: Mayor Ishii (Author)

Recommendation: Adopt a Resolution reappointing Dr. P. Robert Beatty to the Board of Trustees of the Alameda County Abatement District for a four-year term ending on January 1, 2030.

Financial Implications: See report

Contact: Adena Ishii, Mayor, (510) 981-7100

Council Consent Items

8. Resolution of the City of Berkeley Supporting the Bay Area Air District's Zero Emission Building Appliance Rules

From: Councilmember Tregub (Author), Councilmember Lunaparra (Co-Sponsor)

Recommendation: Adopt a resolution in support of the Bay Area Air District's Zero-Emission Building Appliance Rules phasing out the sale of polluting gas-fired water heating and space heating equipment starting in 2027 for water heaters and 2029 for furnaces. The resolution also supports common-sense amendments to the rules to ensure flexibility for residents who have particular difficulty with compliance.

Financial Implications: See report

Contact: Igor Tregub, Councilmember, District 4, (510) 981-7140

Action Calendar

The public may comment on each item listed on the agenda for action. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again during the Action Calendar public comment period on the item

The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking on an individual agenda item, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

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

The Presiding Officer may open and close an additional comment period for Action items on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters), at the start of the Action Calendar. Those who speak on an item during this comment period may not speak a second time when the item is taken up by Council.

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. For certain hearings, this is followed by five-minute presentations each by first the appellant and then the applicant. The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to be recognized and to determine the number of persons interested in speaking at that time.

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

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

Action Calendar – Public Hearings

9. Adoption of the 2025 California Fire Code with Local Amendments

From: City Manager

Recommendation:

1. Adopt the first reading of an Ordinance repealing the Berkeley Fire Code (Berkeley Municipal Chapter 19.48) and reenacting BMC Chapter 19.48;
2. Adopt a Resolution setting forth findings of local conditions that require more stringent building standards than those provided by the 2025 California Fire Code (“CFC”) and rescinding Resolution number 71,710–N.S.;
3. Conduct a public hearing and upon conclusion, adopt a Resolution establishing annual permit fees, inspection and billing rates for inspection of property sites by the Berkeley Fire Department, and rescinding Resolution number 71,837–N.S. and all Resolutions amendatory thereof.
4. In compliance with state law on adopting such codes by reference, hold a public hearing following the first reading and before the second reading, and schedule the public hearing for December 2, 2025.

Financial Implications: See report

Contact: David Sprague, Fire, (510) 981-3473

Action Calendar – New Business

10. Adoption of and Amendments to the California Wildland-Urban Interface (WUI) Code

From: City Manager

Recommendation:

1. Adopt the first reading of an Ordinance creating a new Berkeley Municipal Code Chapter 19.49 and adopting the 2025 California Wildland-Urban Interface (WUI) Code, Title 24 Part 7, along with local amendments.
2. Adopt a Resolution setting forth findings of local climatic, geological, and topographical conditions that require more stringent standards than those in the State Code.
3. In compliance with state law on adopting such codes by reference, hold a public hearing following the first reading, and before the second reading, and schedule the second reading and public hearing for December 2, 2025.

Financial Implications: See report

Contact: David Sprague, Fire, (510) 981-3473

Action Calendar – New Business

11. Annual Surveillance Technology Report for Body Worn Cameras, GPS Trackers, Fixed Surveillance Video Cameras, Parking Enforcement Officer Automated License Plate Readers, the Street Level Imagery Project, Unmanned Aerial Systems, and Fixed Automated License Plate Readers

From: City Manager

Recommendation: Pursuant to Chapter 2.99 of the Berkeley Municipal Code, adopt a Resolution accepting the Surveillance Technology Report for Body Worn Cameras, GPS Trackers, Fixed Surveillance Video Cameras, Automated License Plate Readers, the Street Level Imagery Project, Unmanned Aerial Systems, and Fixed Automated License Plate Readers.

Financial Implications: See report

Contact: Jennifer Louis, Police, (510) 981-5900

Council Action Items

12. Referral to Amend Berkeley Municipal Codes 3.24.120 and 3.24.300 to Improve Procedure for Designating Landmarks, Historic Districts and Structures of Merit

From: Councilmember Kesarwani (Author), Councilmember Humbert (Co-Sponsor)

Recommendation: Refer to the City Manager and City Attorney to amend two related Berkeley Municipal Code (BMC) sections: 3.24.120, “Landmarks, Historic Districts and Structures of Merit-Designation-Initiation Procedures,” and its related BMC section 3.24.300, “Appeals-Procedures Required-City Council Authority.”

This referral recommends refinements to the procedure for designating landmarks, historic districts, and structures of merit to discourage frivolous designations, often of sites that are planned to be redeveloped to address our City’s housing shortage.

Proposed amendments include the following two changes to the BMC:

- 1) Raising the threshold for the number of residents needed to sign the verified application of initiation of designation from 50 to 200; and
- 2) For properties located in residential zoning districts, require 51 percent of the residents within a 300-foot radius of the subject building/structure to be among the applicants signing on to initiate the landmark / structure of merit designation, similar to the threshold used for other City procedures by the Planning and Public Works departments. We note that this second requirement may necessitate the collection of more than 200 signatures.

Financial Implications: See report

Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

Public Comment – Items Not Listed on the Agenda

Adjournment

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

Archived indexed video streams are available at: berkeleyca.gov/council-agendas.
Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

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

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street, and through the City's online records portal: <https://records.cityofberkeley.info/>.

Agendas, agenda reports, and revised/supplemental material may be accessed via the online agenda for this meeting at: berkeleyca.gov/council-agendas and may be accessed at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901
Email: clerk@berkeleyca.gov

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

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

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

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900 or by email at clerk@berkeleyca.gov.

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***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on October 23, 2025.***



Mark Numainville, City Clerk

## **Communications**

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing at the City Clerk Department and through [Records Online](#).*

### **Waterside Workshops**

1. Erin Woodell

### **California Writers Club**

2. Richard Schwartz (2)

### **My Town AI**

3. John J. Parman

### **Dia de Los Muertos Event**

4. Adriana Betti on behalf of the Muertos Committee

### **Strong Shoreline Initiative**

5. Rigel Robinson

### **IKE Kiosks**

6. Sylvia

### **Care for Homeless People**

7. Diana Bohn

### **Housing Concerns**

8. Benito Romero

## **Traffic Safety**

9. Whytes

## **Business Rights**

10. Todd Andrew (2)

11. Beth Roessner

## **New CA State Legislation**

12. Todd Andrew

## **Drone Proposal**

13. Wendy Alfsen

## **Flock Concerns**

14. Margots999

## **Elementary Reading Program**

15. Marlene Cohen

## **Eid's Television**

16. Eid (3)

## **Newsletters**

17. Berkeley Art Center

18. Downtown Berkeley Association

## **Middle East Conflict**

19. Rebecca Ayers Azran (3)

## **Forwards**

20. Russbumper (3)

## **URL's**

21. Russbumper

## **E-Scooters**

22. Robert Borghese (6)

23. Devin Dollinger (4)

24. Wahid Amiri (3)

## **Supplemental Communications and Reports**

*Items received by the deadlines for submission will be compiled and distributed as follows. If no items are received by the deadline, no supplemental packet will be compiled for said deadline.*

- **Supplemental Communications and Reports 1**

Available by 5:00 p.m. five days prior to the meeting.

- **Supplemental Communications and Reports 2**  
Available by 5:00 p.m. the day before the meeting.
- **Supplemental Communications and Reports 3**  
Available by 5:00 p.m. two days following the meeting.



Office of the City Manager

CONSENT CALENDAR  
November 10, 2025

To: Honorable Mayor and Members of the City Council  
 From: Paul Buddenhagen, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance  
 Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on November 10, 2025

### RECOMMENDATION

Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.

### FISCAL IMPACTS OF RECOMMENDATION

Total estimated cost of items included in this report is **\$625,000**

| <u>PROJECT</u>                 | <u>Fund</u> | <u>Source</u>           | <u>Amount</u>         |
|--------------------------------|-------------|-------------------------|-----------------------|
| Occupational Medicine Services | 676         | Worker's Compensation   | \$75,000              |
| Return to Work Consultant      | 011         | GF - Discretionary      | \$250,000             |
| South Adeline Area Landscape   | 138<br>511  | Parks Tax<br>Measure T1 | \$50,000<br>\$250,000 |
| <b>Total:</b>                  |             |                         | <b>\$625,000</b>      |

### CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager's purchasing authority for services to \$50,000. As a result, this required report submitted by the City Manager to Council is now for those purchases in excess of \$100,000 for goods; and \$200,000 for playgrounds and construction; and \$50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and upon final notice to proceed from the requesting department, the IFB (Invitation for Bid) or RFP (Request for Proposal) may be released to the public and notices sent to the potential bidder/respondent list.

Internal

Formal Bid Solicitations and Request for Proposals  
Scheduled for Possible Issuance After Council  
Approval on November 10, 2025

CONSENT CALENDAR

November 10, 2025

BACKGROUND

On May 6, 2008, Council adopted Ordinance No. 7,035-N.S., amending the City Manager's purchasing authority for services

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The Finance Department reviews all formal bid and proposal solicitations to ensure that they include provisions for compliance with the City's environmental policies. For each contract that is subject to City Council authorization, staff will address environmental sustainability considerations in the associated staff report to City Council.

RATIONALE FOR RECOMMENDATION

Need for the goods and/or services.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Henry Oyekanmi, Director of Finance, 510-981-7329

Attachments:

1. Occupational Medicine Services
2. Return to Work Consultant
3. South Adeline Area Landscaping

Note: Original of this attachment with live signature of authorizing personnel is on file in General Services.

| SPECIFICATION NO.  | DESCRIPTION OF GOODS / SERVICES BEING PURCHASED | APPROX. RELEASE DATE | APPROX. BID OPENING DATE | INTENDED USE                                                                                                                                                                                                                                                                                                             | ESTIMATED COST    | BUDGET CODE TO BE CHARGED                                                                                                                        | DEPT. / DIVISION                                            | CONTACT NAME & PHONE                                        |
|--------------------|-------------------------------------------------|----------------------|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|-------------------------------------------------------------|
| 26-11766-C         | Occupational Medicine Services                  | 11/5/2025            | 12/4/2025                | Provide Citywide Occupational Medicine Services to all City departments to administer the City's occupational medicine program                                                                                                                                                                                           | \$75,000 per year | 50% from 676-34-343-000-0000-000-472-612240 50% from 011-34-343-000-0000-000-412-612990                                                          | Human Resources/ Workers' Compensation                      | Janelle Rodrigues<br>510-981-6807                           |
| 26-11767-C         | Return to Work Consultant                       | 11/5/2025            | 12/4/2025                | A return to work consultant will assist the Workers' Compensation division with more complicated Workers' Compensation cases to transition injured employees back into work by coordinating with the City, medical providers and Innovative Claim Solutions, the City's third-party Workers' Compensation administrator. | \$250,000.00      | 011-34-343-000-0000-000-412-612990 In addition, various funds and account codes across departments utilize this service                          | Human Resources/ Safety                                     | Kevin Walker<br>510-981-6825<br>Chaka Young<br>510-981-6821 |
| <b>DEPT. TOTAL</b> |                                                 |                      |                          |                                                                                                                                                                                                                                                                                                                          | <b>\$325,000</b>  |                                                                                                                                                  |                                                             |                                                             |
| 26-11768-C         | South Adeline Area Landscaping                  | 11/5/2025            | 12/4/2025                | Construction Services for Adeline Street Landscaping and other related improvements                                                                                                                                                                                                                                      | \$300,000.00      | Parks Tax \$50k<br>138-52-545-000-0000-000-461-663110<br>PRWPK26012<br>Measure T1<br>\$250k<br>511-52-545-000-0000-000-461-663110<br>PRWPK026012 | Parks, Recreation & Waterfront Department/ Capital Projects | Evelyn Chan 510-981-6430<br>Csilla Kenny 510-981-6346       |
| <b>DEPT. TOTAL</b> |                                                 |                      |                          |                                                                                                                                                                                                                                                                                                                          | <b>\$300,000</b>  |                                                                                                                                                  |                                                             |                                                             |
| <b>TOTAL</b>       |                                                 |                      |                          |                                                                                                                                                                                                                                                                                                                          | <b>\$625,000</b>  |                                                                                                                                                  |                                                             |                                                             |





Office of the City Manager

CONSENT CALENDAR  
November 10, 2025

To: Honorable Mayor and Members of the City Council  
 From: Paul Buddenhagen, City Manager  
 Submitted by: David Sprague, Fire Chief  
 Subject: Contract: Tablet Command for Mobile CAD and Incident Command

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or their designee to enter into a contract and any amendments with Tablet Command for Mobile CAD and Incident Command by piggybacking on a contract with the City of Long Beach. The Berkeley contract will be effective November 5, 2025, and end on September 21, 2027, in an amount not to exceed \$135,000 which includes one-time startup costs. The contract may be extended for three additional one-year periods at a cost not to exceed \$85,000 per year.

FISCAL IMPACTS OF RECOMMENDATION

Total cost of base contract period will not exceed \$135,000 and the total cost inclusive of all extension years is \$390,000. All funds required to pay for this contract are in the Department's baseline operating budget. Funding sources include Measure FF (Emergency Response and Preparedness), UC Settlement or General Funds.

CURRENT SITUATION AND ITS EFFECTS

The Department is seeking a Mobile Computer Assisted Dispatch (Mobile CAD) computer program that will provide a real-time interface and two-way mobile communication capability for responders with the City's CAD system. The system will also provide enhanced GIS mapping, integrate with existing GIS mapping software to provide enhanced mapping to responders, and provide incident commanders with a mobile solution to run and coordinate emergency incidents. Tablet Command is the Mobile CAD product used by fire departments in Alameda and Contra Costa Counties; Berkeley is one of the last jurisdictions to join this common operating software.

**BACKGROUND**

The City of Long Beach released a competitive Request for Proposal (RFP) Incident Management Application No. TI-24-492 on October 24, 2024. Five proposals were received by the December 18, 2024 deadline. All five proposals were reviewed to ensure they met the mandatory requirements outlined in the RFP and were deemed responsive to the mandatory qualification criteria. A seven-person selection committee comprising representatives from the Technology and Innovation and Fire Departments evaluated the proposals based on their subject matter expertise.

After a thorough review and evaluation of proposals, the selection committee selected three firms: Tablet Command, Locality Media Inc and Always on Scene, LLC. To interview with the City. Final scores for all evaluated proposals are shown in the table below.

| <b>VENDOR NAME SCORE (out of possible 100)</b> |     |
|------------------------------------------------|-----|
| Tablet Command                                 | 85% |
| Locality Media Inc (First Due)                 | 70% |
| Always on Scene, LLC.                          | 61% |
| Eccentex                                       | 44% |
| Bryx, Inc.                                     | 42% |

The shortlist was posted on February 13, 2025, and firms were invited to conduct demonstrations on February 24 - 26, 2025. After the selected firms conducted comprehensive demonstrations, the selection committee conducted a separate evaluation of these presentations based on the criteria stated in section 3.2 of the RFP and unanimously determined that Tablet Command of Walnut Creek, CA best satisfied the requirements in accordance with the criteria. Final scores for all evaluated demonstrations are shown in the table below. A notice of intent to award was issued to Tablet Command on March 25, 2025.

| <b>VENDOR NAME SCORE (out of possible 100)</b> |                                       |
|------------------------------------------------|---------------------------------------|
| Tablet Command                                 | 86%                                   |
| Locality Media Inc (First Due)                 | 61%                                   |
| Always on Scene, LLC.                          | N/A (didn't attend the demonstration) |

**ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

There is no identified impact.

RATIONALE FOR RECOMMENDATION

Tablet Command will provide better communication between the dispatch center and first responders operating in the field. It will also provide a tool that incident commanders can use to better track and account for emergency apparatus and first responders on the scene of an emergency. All of this enhances the Fire Department's ability to provide service, coordinate larger incidents/disasters when mutual aid assistance will be arriving in large numbers, and keep employees safe.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

David Sprague, Fire Chief, 510-981-3473

Attachments:

1: Resolution

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

CONTRACT: TABLET COMMAND FOR MOBILE CAD AND INCIDENT COMMAND

WHEREAS, the Fire Department is seeking a Mobile Computer Assisted Dispatch (Mobile CAD) computer program that will provide a real-time interface and two-way mobile communication capability for first responders with the City's CAD system, provide enhanced GIS mapping, integrate with existing GIS mapping software to provide enhanced mapping to responders, and provide incident commanders a mobile solution to run and coordinate emergency incidents, and

WHEREAS, Tablet Command is the Mobile CAD product used by fire departments in Alameda and Contra Costa Counties, and

WHEREAS, the City of Long Beach conducted a competitive Request for Proposal No. TI-24-492 on October 24, 2024. Five proposals were received by the December 18, 2024 deadline, and

WHEREAS, A notice of intent to award was issued to Tablet Command on March 25, 2025.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or their designee is authorized to execute a contract and any amendments with Tablet Command for Mobile CAD and Incident Command by piggybacking on a contract with the City of Long Beach (California). The Berkeley contract will be effective November 5, 2025, and end on September 21, 2027, in an amount not to exceed \$135,000 which includes one-time startup costs. The contract may be extended for three additional one-year periods at a cost not to exceed \$85,000 per year.



Office of the City Manager

CONSENT CALENDAR  
November 10, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: David Sprague, Chief, Fire Department  
Terrance Davis, Director, Public Works  
Kevin Fong, Director, Information Technology

Subject: Contract: Protiviti Government Services Inc (“Protiviti”): Using General Services Administration (“GSA”) Vehicle for Professional Services Purchase Orders

RECOMMENDATION

Adopt a Resolution authorizing the City Manager, or delegate, to issue purchase orders with Protiviti for professional services using GSA purchasing vehicle no. GS35F-0280X in support of the following City Departments: Fire, Public Works, and Information Technology, for an amount not to exceed \$892,000 through June 30, 2026.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract will be provided through departmental allocations in Fiscal Year (FY) 2026. Allocations are anticipated to be drawn from Measure FF (Emergency Response and Preparedness), UC Settlement and General Fund resources, Public Works departmental operating funds, and the Information Technology Cost Allocation Fund as follows:

| Department             | Amount            | Fund                                                                         |
|------------------------|-------------------|------------------------------------------------------------------------------|
| Fire                   | \$ 392,000        | Fund 164 ((Measure FF<br>Fund 147 (UC Settlement)<br>Fund 011 (General Fund) |
| Public Works           | \$ 200,000        | Fund 501 - \$100,000<br>Fund 601 -\$100,000                                  |
| Information Technology | \$ 300,000        | Fund 680 (IT Cost Allocation Plan)                                           |
|                        | <b>\$ 892,000</b> | <b>Total Professional Services</b>                                           |

CURRENT SITUATION AND ITS EFFECTS

The Fire, Public Works, and Information Technology Departments are currently managing multiple high-priority projects that require specialized expertise and staffing

capacity beyond current resources. Recruitment and retention challenges, combined with the need for concurrent project execution, have created gaps that must be filled to ensure continuity of operations.

The following are examples of situations in which temporary help is required within each department:

- Fire Department: Actively implementing projects to strengthen prevention, training, emergency response capacity, and administrative assistance.
- Public Works: Advancing infrastructure initiatives, including capital improvement projects, environmental compliance, and operations modernization.
- Information Technology: Supporting critical server hardware and software, cybersecurity initiatives, and specialized citywide technology upgrades.

Protiviti has provided professional services to the City in prior engagements, delivering critical technical and operations support. Continued use of Protiviti's services will allow departments to maintain momentum on essential projects, minimize delays, and ensure delivery of high-quality services.

This aligns with the City's strategic priority plan to "be a customer-focused organization that provides excellent, timely, easily accessible service and information to the community".

#### BACKGROUND

Protiviti provides professional services across a range of disciplines, including technology, operations and program management. Many government agencies and public entities rely on Protiviti to augment their resources, particularly in areas where specialized expertise or flexible staffing is required to meet operational and project demands.

The City of Berkeley has previously contracted with Protiviti, with Council approval, to provide supplemental staffing and consulting support for departments including Fire, Information Technology, Public Works, and Human Resources. In those engagements, Protiviti has consistently delivered high-quality resources who were able to integrate seamlessly into City operations and support timely project delivery. Their ability to respond quickly with qualified staff has enabled the City to adapt to shifting priorities, scale resources up or down as needs arise, and ensure continuity of operations during periods of heightened workload and staffing shortages.

Protiviti's support has proven essential in helping departments manage complex, interdependent projects that are time-sensitive and critical to public service delivery. By continuing to engage Protiviti, the City ensures that departments have access to specialized expertise and flexible staffing capacity necessary to meet the needs of the organization.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Where appropriate, Protiviti will conduct their work remotely thus reducing greenhouse gas emissions from travel to and from city facilities.

RATIONALE FOR RECOMMENDATION

Protiviti has demonstrated the ability to provide high-quality, flexible staffing solutions tailored to the City's operational needs. Augmented services are critical to maintain continuity, address workload surges, and ensure timely completion of priority initiatives.

ALTERNATIVE ACTIONS CONSIDERED

The City could rely solely on existing staff resources; however, this would delay project timelines and risk service interruptions.

CONTACT PERSON

David Sprague, Fire Chief, (510) 981-3473

Attachments:

1: Resolution

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

PROTIVITI GOVERNMENT SERVICES (“PROTIVITI”): USING GENERAL SERVICES ADMINISTRATION (“GSA”) VEHICLE FOR PROFESSIONAL SERVICES PURCHASE ORDERS

WHEREAS, Protiviti, formerly operated under Robert Half International, is a professional services firm that provides staffing and consulting support to government agencies and public entities across a wide range of functions, including technology, operations, and program management; and

WHEREAS, the City of Berkeley has previously contracted with Protiviti, with Council approval, and Protiviti has successfully provided timely and qualified resources to support City departments in meeting critical project and operational needs; and

WHEREAS, the Fire, Public Works, and Information Technology Departments are each managing complex, time-sensitive initiatives that are essential to the City’s ability to deliver services to the community; and

WHEREAS, due to recruitment and retention challenges and the need for specialized expertise, it is necessary for the City to maintain access to flexible, scalable staffing solutions to ensure continuity of operations and timely completion of projects; and

WHEREAS, Protiviti has demonstrated the ability to deliver high-quality resources that integrate effectively with City teams, allowing departments to advance projects efficiently and maintain alignment with Council-adopted goals; and

WHEREAS, funds are available in the Fire Department’s Measure FF, UC Settlement and General Fund resources, Public Works departmental operating funds, and the Information Technology Cost Allocation Fund; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or delegate, is authorized to issue purchase orders with Protiviti for augmented professional services in support of the Fire, Public Works, and Information Technology Departments in an amount not to exceed \$892,000 through June 30, 2026.



Office of the City Manager

CONSENT CALENDAR  
November 10, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Scott Gilman, Director, Health, Housing, and Community Services

Subject: Amend Resolution No. 71,682-N.S for Joint Homekey+ Application for MLK House at 2942-44 Martin Luther King, Jr. Way

RECOMMENDATION

Adopt a Resolution amending Resolution No. 71,682-N.S authorizing the City Manager or designee to increase the requested grant funds amount to the State of California Housing and Community Development (HCD) Department's Homekey+ program for the MLK House project from \$4,500,000 to \$5,000,000.

FISCAL IMPACTS OF RECOMMENDATION

If the joint application to the Homekey+ program is successful, the total award will increase from \$4,224,000 to \$4,554,000 (\$3,300,000 capital request and \$1,254,000 operating request). The grant funds will go directly to 2942 MLK Berkeley LLC, a Special Purpose Entity (SPE) created by Insight Housing (Insight) to own and operate the project. However, if HCD requires the City to be the recipient of funds instead of the SPE, the City will pass the funds through to the SPE for the project.

CURRENT SITUATION AND ITS EFFECTS

On August 7, 2025, HCD amended the Homekey+ 2024 Notice of Funding Availability (NOFA). One of these amendments provided an additional \$30,000 in operating funds per veteran unit. Since the MLK House project includes 11 veteran units, it is eligible for an additional \$330,000 for a total of \$4,554,000. In order to accept the additional funds, HCD requires an update to the authorizing resolution, Resolution No. 71,682-N.S. adopted by Council on March 11, 2025, which requested a total amount not to exceed \$4,500,000.

Resolution No. 71,682-N.S. with proposed changes – redlined is attached to this report as Attachment 1. It revises the total amount of requested Homekey+ grant funds to not exceed \$5,000,000. Attachment 2 is the clean version of the amended resolution if Council adopts the changes.

BACKGROUND

Homekey+ is a new program funded by Proposition 1 to build permanent supportive housing for veterans and other individuals with mental health and/or substance use

disorders. There is \$1.033 billion available for veterans and \$1.11 billion for all other eligible populations. It has a similar model to the original Homekey program which encouraged rehabilitation and conversion of existing buildings into permanent affordable housing. HCD released the Homekey+ NOFA on November 23, 2024, and HCD announced Homekey+ awards in the summer of 2025 on a rolling basis. As of September 18, 2025, almost \$285 million was awarded to create 825 affordable and supportive homes in California.

Insight requested that the City jointly apply for Homekey+ funding to support the renovation and operation of its MLK House project. MLK House (2942-2944 Martin Luther King, Jr. Way) is a Single-Room Occupancy (SRO) permanent housing project with shared bathrooms and a communal kitchen.

Insight took ownership of MLK House in November 2024 and intends to convert the property into supportive housing for 11 homeless or formerly homeless veterans. The City provided a \$2,000,988 Housing Trust Fund program loan (authorized by Council in January 2024 with Resolution No. 71,190-N.S.) to support the rehabilitation of the property. Insight intends to use the funds to add kitchenettes to each room to make them eligible for Veterans Affairs Supportive Housing (VASH) vouchers from the Department of Veterans Affairs (VA). The vouchers will provide critical operating support, but additional capital and operating funding from Homekey+ would benefit the project's long-term feasibility.

To meet the eligibility requirements of HCD's Homekey+ program, the City will need to jointly apply with the development team and provide matching funds. The application will list the City's \$2,000,988 HTF reservation as the required capital match. For the project to receive the Homekey+ funds, the City will be required to enter into the State's Standard Agreement, which will require the project to remain affordable for 55 years.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no environmental sustainability effects directly associated with the recommendations in this report. If the City's funding application is successful, the project will be rehabilitated, which is generally considered a more sustainable type of development.

#### RATIONALE FOR RECOMMENDATION

Participation in a joint Homekey+ application with Insight Housing for MLK House will support veterans experiencing homelessness with behavioral health challenges and will bring permanent supportive housing units for that population online on an expedited timeline. Adopting this revised resolution will allow MLK House to apply for an additional \$330,000 in operating funds.

ALTERNATIVE ACTIONS CONSIDERED

The City could decline to increase the total amount of grant funds. Since that would not be consistent with the City's Strategic Plan to increase affordable housing opportunities, staff is recommending participation as described above.

CONTACT PERSON

Be Tran, Community Development Project Coordinator, HHCS, (510) 981-5430

Attachments:

- 1: Draft Resolution No. 71,682-N.S with proposed changes – Redlined
- 2: Amended Resolution No. 71,682-N.S. – Clean copy

RESOLUTION NO. 71,682 -N.S.

RESOLUTION OF THE GOVERNING BODY OF CITY OF BERKELEY AUTHORIZING JOINT APPLICATION TO AND PARTICIPATION IN THE HOMEKEY+ PROGRAM

WHEREAS, The Department of Housing and Community Development (“HCD”) has issued a Notice of Funding Availability, dated November 26, 2024 (“NOFA”), for the Homekey+ Program (“Homekey+” or “Program”). HCD has issued the NOFA for Homekey+ grant funds pursuant to Health and Safety Code Section 50675.1.3 (Assem. Bill No. 140 (2021-2022 Reg. Sess.), § 20.); Health and Safety Code Section 50675.1.5 (Assem. Bill No. 531 (2023-2024 Reg. Sess.); Section 14184.402 of the Welfare and Institutions Code; Section 5891.5 of the Welfare and Institutions Code; and Round 5 and 6 of the Homeless Housing, Assistance and Prevention (HHAP) grant program. (Assem. Bill No. 129 (Chapter 40, Statutes 2023) and Assem. Bill No. 166 (Chapter 48, Statutes 2024), respectively; and

WHEREAS, City of Berkeley (“Applicant”) desires to jointly apply for Homekey+ grant funds with Insight Housing and 2942 MLK Berkeley LLC. Therefore, Applicant is joining Insight Housing and 2942 MLK Berkeley LLC in the submittal of an application for Homekey+ funds (“Application”) to HCD for review and consideration; and

WHEREAS, HCD is authorized to administer Homekey+ pursuant to the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code. Homekey+ funding allocations are subject to the terms and conditions of the NOFA, the Application, the HCD-approved STD 213, Standard Agreement (“Standard Agreement”), and all other legal requirements of the Homekey+ Program.

NOW THEREFORE, BE IT RESOLVED that Applicant is hereby authorized and directed to submit a joint Application to HCD in response to the NOFA, and to jointly apply for Homekey+ grant funds in a total amount not to exceed \$4,500,000,000.

BE IT FURTHER RESOLVED that if the Application is approved, Applicant is hereby authorized and directed to enter into, execute, and deliver a Standard Agreement in a total amount not to exceed \$4,500,000,000, any and all other documents required or deemed necessary or appropriate to secure the Homekey+ funds from HCD and to participate in the Homekey+ Program, and all amendments thereto (collectively, the “Homekey+ Documents”).

BE IT FURTHER RESOLVED that Applicant acknowledges and agrees that it shall be subject to the terms and conditions specified in the Standard Agreement, and that the NOFA and Application will be incorporated in the Standard Agreement by reference and made a part thereof. Any and all activities, expenditures, information, and timelines represented in the Application are enforceable through the Standard Agreement. Funds are to be used for the allowable expenditures and activities identified in the Standard Agreement.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the Application and the Homekey+ Documents on behalf of City of Berkeley for participation in the Homekey+ Program.

RESOLUTION NO. 71,682 -N.S.

RESOLUTION OF THE GOVERNING BODY OF CITY OF BERKELEY AUTHORIZING  
JOINT APPLICATION TO AND PARTICIPATION IN THE HOMEKEY+ PROGRAM

WHEREAS, The Department of Housing and Community Development (“HCD”) has issued a Notice of Funding Availability, dated November 26, 2024 (“NOFA”), for the Homekey+ Program (“Homekey+” or “Program”). HCD has issued the NOFA for Homekey+ grant funds pursuant to Health and Safety Code Section 50675.1.3 (Assem. Bill No. 140 (2021-2022 Reg. Sess.), § 20.); Health and Safety Code Section 50675.1.5 (Assem. Bill No. 531 (2023-2024 Reg. Sess.); Section 14184.402 of the Welfare and Institutions Code; Section 5891.5 of the Welfare and Institutions Code; and Round 5 and 6 of the Homeless Housing, Assistance and Prevention (HHAP) grant program. (Assem. Bill No. 129 (Chapter 40, Statutes 2023) and Assem. Bill No. 166 (Chapter 48, Statutes 2024), respectively; and

WHEREAS, City of Berkeley (“Applicant”) desires to jointly apply for Homekey+ grant funds with Insight Housing and 2942 MLK Berkeley LLC. Therefore, Applicant is joining Insight Housing and 2942 MLK Berkeley LLC in the submittal of an application for Homekey+ funds (“Application”) to HCD for review and consideration; and

WHEREAS, HCD is authorized to administer Homekey+ pursuant to the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code. Homekey+ funding allocations are subject to the terms and conditions of the NOFA, the Application, the HCD-approved STD 213, Standard Agreement (“Standard Agreement”), and all other legal requirements of the Homekey+ Program.

NOW THEREFORE, BE IT RESOLVED that Applicant is hereby authorized and directed to submit a joint Application to HCD in response to the NOFA, and to jointly apply for Homekey+ grant funds in a total amount not to exceed \$5,000,000.

BE IT FURTHER RESOLVED that if the Application is approved, Applicant is hereby authorized and directed to enter into, execute, and deliver a Standard Agreement in a total amount not to exceed \$5,000,000, any and all other documents required or deemed necessary or appropriate to secure the Homekey+ funds from HCD and to participate in the Homekey+ Program, and all amendments thereto (collectively, the “Homekey+ Documents”).

BE IT FURTHER RESOLVED that Applicant acknowledges and agrees that it shall be subject to the terms and conditions specified in the Standard Agreement, and that the NOFA and Application will be incorporated in the Standard Agreement by reference and made a part thereof. Any and all activities, expenditures, information, and timelines represented in the Application are enforceable through the Standard Agreement. Funds are to be used for the allowable expenditures and activities identified in the Standard Agreement.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the Application and the Homekey+ Documents on behalf of City of Berkeley for participation in the Homekey+ Program.





Office of the City Manager

CONSENT CALENDAR  
November 10, 2025

To: Honorable Mayor and Members of the City Council  
From: Paul Buddenhagen, City Manager  
Submitted by: Scott Ferris, Director, Parks, Recreation, and Waterfront  
Subject: Grant Application: The 2025 Surrendered and Abandoned Vessel Exchange (SAVE) grant program of the California Division of Boating & Waterways

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or designee to 1) Submit a grant application to the California Division of Boating and Waterways (DBW) 2025 Surrendered and Abandoned Vessel Exchange (SAVE) grant program for the removal and disposal of anticipated abandoned vessels located at the Berkeley Marina; 2) Accept the grant; 3) Execute any amendments; and 4) Authorize a local match contribution of \$1,000.

FISCAL IMPACTS OF RECOMMENDATION

The cost to remove and dispose of abandoned and derelict vessels at the Berkeley Marina through FY2026 is estimated at \$90,000. The Parks, Recreation, and Waterfront Department submitted a grant application to the DBW 2025 SAVE grant program in the amount of \$90,000 for this work. The awarded amount is \$10,000, and a local match of \$1,000 (10% of award) is required. Funding for the local match will be recommended for appropriation through the second amendment to the appropriation ordinance in the Marina Fund (Fund 608). The grant funds will be deposited in the Boating and Waterways Fund (Fund 607).

CURRENT SITUATION AND ITS EFFECTS

Each year, approximately ten (10) vessels get abandoned by their owners at the Berkeley Marina because they lack funds to repair the vessels or they lack funds to pay for their dockage fees. Due to the age and neglect of the vessels, they have no value, are not sea-worthy, and are likely to sink. These vessels occupy slips in the Berkeley Marina that could otherwise be used to generate revenue for the City, and these vessels are a visual blight and harm the Marina's reputation. This new round of funding will assist in keeping docks clear of derelict vessels in the coming year, and build upon the progress made in removing derelict vessels via previous SAVE Grants.

**BACKGROUND**

Responsibility for derelict and abandoned vessels, unfortunately, often falls on public agencies. In 2020, the Berkeley Marina was awarded a SAVE grant for \$130,000 of which 86% was used to remove twenty-five derelict vessels. In late 2020 the Berkeley Marina was awarded a SAVE grant for \$42,000 of which 100% was used to remove 8 derelict vessels. In late 2021 the Berkeley Marina was awarded a SAVE grant for \$42,000, of which 100% was used to remove 7 vessels. In late 2022 the Berkeley Marina was awarded a SAVE grant for \$60,000, of which 100% was used to remove 16 vessels. In late 2023 the Berkeley Marina was awarded a grant for \$60,000 of which 100% was used to remove 16 vessels. In late 2024 the Berkeley Marina was awarded a grant for \$50,000 of which 27% has been used so far. For the past 20 years, the Division of Boating and Waterways has provided grant funding assistance to public agencies throughout California, including the City of Berkeley, to properly remove, store, and dispose of abandoned, wrecked, or dismantled vessels or any other partially submerged objects that pose a substantial hazard to navigation, from navigable waterways or adjacent public property, or private property with the landowner’s consent.

**ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

Derelict, abandoned, and sunken vessels pose a navigational and environmental hazard to the waters of the Bay (e.g., they can leak oil fuel, oil coolant, paints and solvents, sanitary waste, etc.) Removal and proper disposal of these vessels contributes to the improvement to the health of the Bay waters.

**RATIONALE FOR RECOMMENDATION**

The Parks, Recreation, and Waterfront Department has the primary responsibility for removing derelict and abandoned vessels from local waters. SAVE grants, allow the City to substantially leverage our existing funding for these projects, and safely remove potential environmental and navigational hazards from our waters. The swift removal of derelict vessels from our Marina via SAVE Funds prevents the accumulation of such vessels on our docks improves the attractiveness of the Berkeley Marina to existing and prospective slip holders.

**CONTACT PERSON**

Alexandra Endress, Waterfront Manager, 981-6737  
Sean Crothers, Waterfront Supervisor, 981-6744

Attachments:

- 1. Resolution

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

GRANT APPLICATION: SURRENDERED AND ABANDONED VESSEL EXCHANGE  
(SAVE) GRANT PROGRAM OF THE STATE DIVISION OF BOATING AND  
WATERWAYS

WHEREAS, each year, approximately ten (10) vessels get abandoned by their owners at the Berkeley Marina because they lack funds to repair the vessels or they lack funds to pay for their dockage fees. This number is expected to increase due to financial hardships of the Covid-19 pandemic. Due to the age and neglect of the vessels, they have no value, are not sea-worthy, and are likely to sink. These vessels occupy slips in the Berkeley Marina that could otherwise be used to generate dockage revenue for the City, and these vessels are a visual blight on our Marina and harm our reputation; and

WHEREAS, responsibility for abandoned vessels, unfortunately, often falls on public agencies. For the past 20 years, the Division of Boating and Waterways (DBW) has provided grants to public agencies, including the City of Berkeley, to remove, store, and dispose of abandoned, wrecked, or dismantled water vessels or any other partially submerged objects that pose a substantial hazard to navigation, from navigable waterways or adjacent public property, or private property with the landowner's consent; and

WHEREAS, the Parks, Recreation and Waterfront (PRW) Department has the primary responsibility for removing derelict and abandoned vessels from local waters. By applying for SAVE grants, the City is able to substantially leverage our existing funding for these projects, and safely remove potential environmental and navigational hazards from our waters; and

WHEREAS, the cost to remove and dispose of ten (10) abandoned and derelict vessels at the Berkeley Marina through FY2026 is estimated at \$90,000. The PRW Department submitted a grant application to the DBW 2025 SAVE grant program in the amount of \$90,000 for this work. DBW awarded \$10,000, and a local match of \$1,000 (10% of award) is required. Funding for the local match will be recommended for appropriation through the second amendment to the appropriation ordinance in the Marina Fund (Fund 608). The grant funds will be deposited in the Boating and Waterways Fund (Fund 607).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or designee is authorized to 1) submit a grant application to the California Division of Boating and Waterways 2025 SAVE grant program for \$90,000; 2) accept the grant; 3) execute any resulting grant agreements and any amendments; and the City Council authorizes the implementation of the projects and appropriation of funding for related expenses, including \$1,000 in local match from the Marina Fund, subject to securing the grant. A record signature copy of said agreements and any amendments to be on file in the Office of the City Clerk.





CONSENT CALENDAR  
November 10, 2025

To: Honorable Members of the City Council

From: Mayor Ishii (Author), Councilmembers Bartlett, Humbert, and Lunaparra  
(Co-Sponsors)

Subject: Fifteenth Annual Martin Luther King Jr. Celebration: City Sponsorship and Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund

RECOMMENDATION

1. Adopt a Resolution co-sponsoring the 15th Annual Martin Luther King Jr. Celebration on January 19, 2026.
2. Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$500 from Mayor Ishii, to the Berkeley Rotary Endowment, the fiscal sponsor of the 15th Annual Martin Luther King Jr. celebration, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Mayor Ishii and any other Councilmembers who would like to contribute.

BACKGROUND

The annual Martin Luther King Jr Celebration, which first started in 2012, strives to bring together a diverse group of East Bay residents to celebrate and continue the work of Dr. Martin Luther King Jr. The purpose of this event is to bring the faith based, business, university, youth and civic communities together to celebrate the life and dreams of Dr. King and to honor adult and youth leaders in our community.

The theme of this year's event is "Beyond the Dream, Be the Light". This theme is in recognition that amidst the broad challenges we as a society currently face, the community and residents of Berkeley can be the light forward. This annual event provides an opportunity to recognize youth, community, and civic leaders who are furthering Dr. Martin Luther King Jr.'s legacy in their work to build community and a vision for the future.

We are proposing that City Councilmembers make individual grants of up to \$500 to the Berkeley Rotary Endowment to commemorate and honor Dr. Martin Luther King Jr and support organizations being recognized at the event. The breakfast event is being held in person at the DoubleTree Hotel at the Marina, January 19, 2024. Funding that is

raised will be used to provide scholarships to high school leaders recognized during the program along with a small honorarium to community action awardees.

FINANCIAL IMPLICATIONS

No General Fund impact; \$500 is available from Mayor Ishii's Office Budget discretionary accounts.

ENVIRONMENTAL SUSTAINABILITY

There are no environmental impacts associated with the recommendations in this report.

CONTACT PERSON

Mayor Adena Ishii 510-981-7100

Attachments: 1: Resolution for City Sponsorship 2: Resolution for Council Expenditures

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

CITY SPONSORSHIP OF THE 15TH ANNUAL DR. MARTIN LUTHER KING JR.  
CELEBRATION

WHEREAS, the Fifteenth Annual Dr. Martin Luther King Jr. Celebration will take place on January 19, 2026; and

WHEREAS, the purpose of this event is to bring the faith based, business, university, youth and civic communities together to celebrate the life and dreams of Dr. King and to honor adult and youth leaders in our community; and

WHEREAS, the theme of this year's event is "Beyond the Dream, Be the Light", in recognition that amidst the broad challenges we as a society currently face, the community and residents of Berkeley can be the light forward. This annual event provides an opportunity to recognize youth, community, and civic leaders who are furthering Dr. Martin Luther King Jr.'s legacy in their work to build community and a vision for the future, and

WHEREAS, historically the Berkeley City Council has generously provided sponsorship for this event.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley hereby co-sponsors the 15th Annual Dr. Martin Luther King Jr. Celebration, has permission to use the City's name and logo in the event's promotional materials and signage naming the City of Berkeley as a co-sponsor solely for the purpose of the City indicating its endorsement of the event.

BE IT FURTHER RESOLVED that this co-sponsorship does not: (1) authorize financial support, whether in the form of fee waivers, a grant or provision of City services for free; (2) constitute the acceptance of any liability, management, or control on the part of the City for or over the MLK Jr Celebration; or (3) constitute regulatory approval of the event.

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

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

WHEREAS, Mayor Adena Ishii has funds in her office discretionary account; and

WHEREAS, a California non-profit tax-exempt corporation, the Berkeley Rotary Endowment, seeks funds in the amount of \$500 to provide the following public services to publicly commemorate and honor the contributions of Dr. Martin Luther King Jr.; and

WHEREAS, the provision of such services would fulfill the following municipal public purpose of bringing the communities across the City, including, but not limited to faith based, business, university, youth and civic communities, together to celebrate the life and dreams of Dr. King and to honor adult and youth leaders in our community.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$500 per office shall be granted to the Berkeley Rotary Endowment to fund the following services of bringing the communities across the City, including, but not limited to faith based, business, university, youth and civic communities, together to celebrate the life and dreams of Dr. King and to honor adult and youth leaders in our community.

CONSENT CALENDAR

November 10, 2025

To: Honorable Mayor and Members of the City Council

From: Mayor Adena Ishii

Subject: Reappointment of Dr. P. Robert Beatty to the Alameda County Mosquito Abatement District Board of Trustees

RECOMMENDATION

Adopt a Resolution reappointing Dr. P. Robert Beatty to the Board of Trustees of the Alameda County Abatement District for a four-year term ending on January 1, 2030.

BACKGROUND

Each city in Alameda County is required to appoint a resident to the Alameda County Mosquito Abatement District Board of Trustees. This term lasts for four years. The District has recently notified the City that Dr. P. Robert Beatty's term is expiring at the beginning of January 2026.

Dr. Beatty has served as Berkeley's representative on the Board since April 2016. Dr. Beatty is one of fourteen members of the Board. As an infectious disease immunologist, Dr. Beatty has studied mosquitoes worldwide and provided invaluable expertise and information to the Board on dengue, Zika and other mosquito borne diseases. He has taught immunology and infectious disease classes for over 20 years in the Department of Molecular and Cellular Biology at UC Berkeley.

FINANCIAL IMPLICATIONS

None for the City of Berkeley. Trustees receive a stipend of \$100 per month paid for by the Alameda County Mosquito Abatement District.

ENVIRONMENTAL SUSTAINABILITY

No adverse effects to the environment.

CONTACT PERSON

Mayor Adena Ishii 510-981-7100

Attachments:

1: Resolution

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

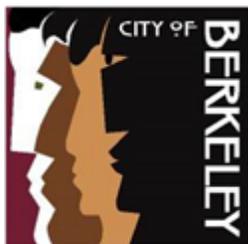
REAPPOINTING DR. P. ROBERT BEATTY AS THE CITY OF BERKELEY'S REPRESENTATIVE TO THE ALAMEDA COUNTY MOSQUITO ABATEMENT DISTRICT BOARD OF TRUSTEES

WHEREAS, Dr. P. Robert Beatty has served on the Board of Trustees of the Alameda County Mosquito Abatement District since 2016; and

WHEREAS, Dr. Beatty is an infectious disease immunologist who has taught immunology and infectious disease classes for over 20 years in the Department of Molecular and Cellular Biology at UC Berkeley; and

WHEREAS, during his term on the Board of Trustees, Dr. Beatty has provided invaluable expertise and information to the Board on Zika and other mosquito borne diseases.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Dr. P. Robert Beatty is hereby reappointed as the City of Berkeley's representative to the Alameda County Mosquito Abatement District Board of Trustees for the term commencing on January 1, 2026 ending January 1, 2030.



IGOR TREGUB, COUNCILMEMBER DISTRICT 4

CONSENT CALENDAR  
November 10, 2025

To: Honorable Mayor and Members of the City Council

From: Councilmember Igor Tregub (Author), Councilmember Cecilia Lunaparra (Co-Sponsor)

Subject: Resolution of the City of Berkeley Supporting the Bay Area Air District's Zero Emission Building Appliance Rules

**RECOMMENDATION**

Adopt a resolution in support of the Bay Area Air District's Zero-Emission Building Appliance Rules phasing out the sale of polluting gas-fired water heating and space heating equipment starting in 2027 for water heaters and 2029 for furnaces. The resolution also supports common-sense amendments to the rules to ensure flexibility for residents who have particular difficulty with compliance.

**CURRENT SITUATION AND ITS EFFECTS**

The Bay Area Air District's mandate is to protect public health through rules and regulations reducing air pollution. The combustion of gas in building equipment such as furnaces and water heaters, is one of the largest sources of air pollution in the region, generating a range of air pollutants linked to poor health outcomes, including nitrogen oxides (NOx),<sup>1</sup> fine particle pollution (PM2.5),<sup>2</sup> formaldehyde,<sup>3</sup> carbon monoxide,<sup>4</sup> and benzene, all of which contribute to breathing problems, cardiovascular issues, and dementia. Furthermore, these pollutants cause up to 85 premature deaths<sup>5</sup> and 15,000

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<sup>1</sup> American Lung Association, [Nitrogen Dioxide](#)

<sup>2</sup> American Lung Association, [Particle Pollution](#)

<sup>3</sup> American Lung Association, [Formaldehyde](#)

<sup>4</sup> American Lung Association, [Carbon Monoxide](#)

<sup>5</sup> Bay Area Air District, [Air District strengthens building appliance rules to reduce harmful NOx emissions, protect air quality and public health](#)

asthma attacks per year,<sup>6</sup> costing the region \$890 million annually in health-related costs<sup>7</sup> from air pollution exposure. The Bay Area Air District adopted groundbreaking standards in 2023 that will phase out the sale of residential gas water heaters in 2027 (Rule 9-6), and the sale of gas-furnaces in 2029 (Rule 9-4). Both rules include an implementation working group process which has thus far examined challenges and recommended solutions for the successful, equitable rollout of zero-emission residential water heating. Each implementation working group process will be followed by an amendment process to act on recommendations to provide flexibility for residents who might be unduly harmed by the rule.

The Air District's Zero Emission Building Appliance Rules align with Berkeley's Strategic Plan Goal to “[b]e a global leader in addressing climate change, advancing environmental justice, and protecting the environment.”<sup>8</sup> Adoption of these rules aligns with California's commitment<sup>9</sup> to achieving zero-emission space and water heating standards<sup>10</sup> statewide by 2030, and with the City of Berkeley's goal of reaching net zero emissions by 2045 or sooner.

Clean air and health: The Bay Area is ranked among the worst regions in the nation with respect to air quality, failing to achieve national ambient air quality standards for ozone for nearly 30 consecutive years<sup>11</sup> and for fine particulate matter for 15 straight years. Gas-fired heating equipment is one of the chief contributors to health harming emissions. The region's gas-burning appliances in buildings emit more NOx pollution than all passenger vehicles<sup>12</sup>—and more than six times as much NOx as all the power plants in the region combined.<sup>13</sup> Implementing the Bay Area Air District Zero-Emission Building Appliance Rules would prevent 15,000 asthma attacks annually and save up to \$890 million annually in healthcare costs due to air pollution exposure across the Bay Area,<sup>14</sup> amounting to roughly \$2,000 of health damage per new gas-fired water heater installed and \$4,000 per new furnace installed. This pollution contributes to higher

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<sup>6</sup> Bay Area Air District, [Final Staff Report](#)

<sup>7</sup> Bay Area Air District, [Air District strengthens building appliance rules to reduce harmful NOx emissions, protect air quality and public health](#)

<sup>8</sup> City of Berkeley, Strategic Plan, <https://berkeleyca.gov/your-government/our-work/strategic-plan>

<sup>9</sup> California Air Resources Board, [Appendix F, Building Decarbonization, 2022 Scoping Plan](#)

<sup>10</sup> California Air Resources Board, [Zero-Emission Space and Water Heater Standards](#)

<sup>11</sup> U.S. Environmental Protection Agency, [California Nonattainment/Maintenance Status for Each County by Year for All Criteria Pollutants](#)

<sup>12</sup> Bay Area Air District, [Final Staff Report: Proposed Amendments to Building Appliance Rules – Regulation 9, Rule 4: Nitrogen Oxides from Fan Type Residential Central Furnaces and Rule 6: Nitrogen Oxides Emissions from Natural Gas-Fired Boilers and Water Heaters](#)

<sup>13</sup> U.S. Environmental Protection Agency, [2020 National Emissions Inventory](#)

<sup>14</sup> Bay Area Air District, [Final Staff Report](#)

asthma rates and poor health outcomes in communities of color and low-income communities.<sup>15</sup>

*Meeting climate commitments:* Burning fossil fuels in homes for heating is responsible for roughly 11% of California’s statewide climate emissions.<sup>16</sup> Berkeley’s Climate Action Plan has a goal that new and existing Berkeley buildings achieve zero net energy consumption by 2045 or sooner.<sup>17</sup> Heat pumps reduce lifetime space heating emissions by up to 93% compared to gas equipment in California.<sup>18</sup> The Bay Area rules represent the best opportunity for Bay Area jurisdictions to reduce fossil fuel emissions from buildings and meet their net-zero targets for the buildings sector.

## **BACKGROUND**

The Bay Area Air District adopted groundbreaking standards in 2023 that will help accelerate adoption of efficient electric heat pumps, cutting deadly air pollution and making energy bills more affordable. The standards will only apply when existing fossil fuel equipment needs replacement and will phase in gradually starting in 2027 for water heaters and 2029 for furnaces. The Air District is also currently working to amend these rules to include common-sense flexibility measures.

## **RATIONALE FOR RECOMMENDATION**

There is concern that the fossil fuel industry and its allies will use the amendment process at the Bay Area Air District to pressure the District to roll back these clean air standards entirely. Environmental, health, community, climate and environmental justice groups are mobilizing to protect these standards while working with staff to incorporate flexibility measures to help ensure smooth, affordable, and equitable implementation.

Resolutions of support from Bay Area jurisdictions will bolster the Bay Area Air District in its efforts to conduct reasoned and fact-based rulemaking and avoid politicization of a critical regulatory effort with consequences for the health and wellbeing of Bay Area residents.

## **ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

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<sup>15</sup> Tessum, et al. [PM2.5 pollutants disproportionately and systemically affect people of color in the United States](#)

<sup>16</sup> California Air Resources Board, [California Greenhouse Gas Emissions from 2000 to 2021: Trends of Emissions and Other Indicators](#)

<sup>17</sup> City of Berkeley, [Climate Action Plan](#)

<sup>18</sup> Jack Teener and Lacey Tan, *RMI*, [Now Is the Time to Go All In on Heat Pumps](#)

The resolution expresses support for the Air District's Zero Emission Building Appliance Rules, which will have the following impacts if implemented fully:

As noted above, implementing the Bay Area Air District Zero-Emission Building Appliance Rules would prevent 15,000 asthma attacks annually and save up to \$890 million annually in healthcare costs due to air pollution exposure across the Bay Area, with disproportionate impacts for communities of color and low-income communities.<sup>19</sup>

Also noted above, burning fossil fuels in homes for heating is responsible for roughly 11% of California's statewide climate emissions. Heat pumps reduce lifetime space heating emissions by up to 93% compared to gas equipment in California. In denser urban settings like Berkeley, burning gas in buildings makes up a larger proportion of greenhouse gas emissions. Berkeley's Climate Action Plan 2023 update estimated that burning gas in residential and commercial buildings makes up 35 percent of Berkeley's greenhouse gas emissions.<sup>20</sup> The Air District's rules would ensure that as gas-fired heating appliances break or reach the end of their useful lives, that they are replaced with zero-emission alternatives like high-efficiency heat pumps. This would likely put Berkeley on the path to eliminating the bulk of its greenhouse gas emissions from burning gas in buildings simply by complying with the Air District rules.

## **FINANCIAL IMPLICATIONS**

Limited staff time associated with communicating the city's position to the Bay Area Air District

## **CONTACT PERSON**

Councilmember Igor Tregub, Council District 4  
510-981-7140  
Itregub@berkeleyca.gov

Amy Johnson, Legislative Aide, Council District 4  
amjohnson@berkeleyca.gov

Attachments:

1. Resolution
2. [Air District Factsheet](#)
3. BACA Two-pager on Air District Rules

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<sup>19</sup> Bay Area Air District, [Final Staff Report](#)

<sup>20</sup> City of Berkeley, [Climate Action Plan and Resilience Update, Item 23](#)

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

**RESOLUTION OF THE CITY OF BERKELEY SUPPORTING THE BAY AREA AIR DISTRICT'S ZERO-EMISSION BUILDING APPLIANCE RULES**

**WHEREAS**, the combustion of gas in building equipment like furnaces and water heaters generates a range of air pollutants linked to poor health outcomes, including nitrogen oxides (NOx), fine particle pollution (PM2.5), formaldehyde, carbon monoxide, and benzene, which contribute to breathing problems, asthma attacks, cardiovascular issues, dementia, and premature death; and

**WHEREAS**, gas-powered furnaces and water heaters are major contributors to smog-forming NOx pollution and PM2.5 in the Bay Area, which together cause up to 85 premature deaths and 15,000 asthma attacks per year, and cost the region \$890 million annually in health-related costs from air pollution exposure; and

**WHEREAS**, communities of color are disproportionately exposed to health-harming pollution from gas combustion in homes and businesses, both nationally and in the Bay Area; and

**WHEREAS**, the Bay Area faces an ongoing air quality crisis – it has failed for nearly 30 consecutive years to achieve national ambient air quality standards for ozone failed to achieve fine particulate matter standards – and further reductions of particulate matter and ozone pollution through the implementation of all feasible measures are needed for attainment and maintenance of these health-protective standards; and

**WHEREAS**, gas-burning building equipment in the region's homes and businesses emits more NOx pollution than all the Bay Area's passenger cars combined, making it one of the top sources of pollution in the region; and

**WHEREAS**, the Bay Area Air District's Board of Directors adopted Rules 9-4 and 9-6 in March of 2023 unanimously, establishing future zero-NOx standards for water heaters and furnaces, and these rules will accelerate the transition to zero-polluting heating equipment in the region as businesses' and residents' old equipment reaches end of life; and

**WHEREAS**, the Air District's Implementation Working Group has worked with the Air District to achieve a successful and equitable implementation of the zero-emission rules to residential water heating in 2027; and

**WHEREAS**, the Air District is now conducting an additional rulemaking to introduce common-sense flexibility measures into the zero-NOx equipment rules to provide options for businesses and residents who may face challenges complying with them; and

**WHEREAS**, switching from gas-powered space and water heating to efficient zero-emission appliances like electric heat pumps reduces smog-forming pollution, enhances climate resilience, and improves household resilience by introducing reliable cooling and improved air filtration to homes without air conditioning; and

**WHEREAS**, the Air District's zero-NOx furnace and water heater rules help the City of Berkeley make substantial progress toward achieving its/our climate goals of reducing and eventually eliminating the burning of fossil fuels, a step required to curb global warming and mitigate sea level rise, extreme heat, and climate related natural disasters; and

**WHEREAS**, adoption of these rules aligns with California's commitment to achieving zero-emission space and water heating standards statewide by 2030, and with the City of Berkeley's goal of reaching net zero emissions by 2045 or sooner; and

**WHEREAS**, the City of Berkeley has been integrally involved in planning for the implementation of these rules and has participated in the Air District's Implementation Working Group, which has thus far examined challenges and recommended solutions for the successful, equitable rollout of zero-emission residential water heating.

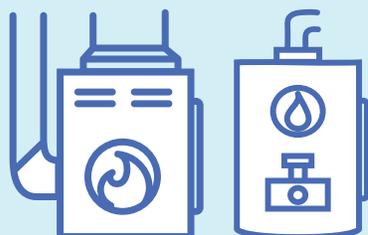
**NOW THEREFORE, BE IT RESOLVED**, that the City of Berkeley supports the timely implementation of the Bay Area Air District's Rules 9-4 and 9-6 to accelerate the transition to zero-emission water heaters and furnaces, with common-sense amendments to ensure flexibility for residents who have particular difficulty with compliance.

# Air District Appliance Rules – Furnaces and Water Heaters

**Amendments to two Air District rules will support improvements to regional air quality and public health –**

**Regulation 9, Rule 4: Nitrogen Oxides from Fan Type Residential Central Furnaces, and Regulation 9, Rule 6: Nitrogen Oxides Emissions from Natural Gas-Fired Boilers and Water Heaters.**

*The rule changes will not apply to gas appliances used for cooking, such as gas stoves.*



The amended rules will affect Bay Area households that use natural gas appliances – roughly 2/3 of all households currently – and will:

- Improve overall regional air quality from the outdoor venting of these appliances

- Prevent up to 85 premature deaths per year
- Lower PM<sub>2.5</sub> exposure, particularly in communities of color
- Avoid up to \$890M per year in health impacts due to air pollution exposure:
  - About 60% of benefits can be achieved through elimination of NOx and secondary PM<sub>2.5</sub> emissions by switching to zero-NOx appliances.
  - About 40% of benefits can be achieved through additional elimination of primary PM<sub>2.5</sub> emissions by switching to fully zero-emission appliances.
  - Currently, the only zero-NOx appliances available are electric appliances.

## Health impacts from short- and long-term exposure

### NOx

- Coughing, wheezing, difficulty breathing
- Asthma
- Increased susceptibility to respiratory infections



### PM<sub>2.5</sub>

- Asthma and other respiratory conditions
- Neurological disease
- Heart attack
- Stroke
- Lung cancer
- Premature death



## Compliance Timeline

*The rule amendments will apply only to new appliances, and do not mandate retrofitting of existing appliances.*

**2027** – only zero NOx water heaters can be sold or installed in the Bay Area.

**2029** – only zero NOx furnaces can be sold or installed in the Bay Area.

**2031** – only zero NOx large commercial water heaters can be sold or installed in the Bay Area.



Information on available incentives and funding can be found at [SwitchIsOn.org](http://SwitchIsOn.org)

For more information:  
[baaqmd.gov/building-appliances](http://baaqmd.gov/building-appliances)



# PROTECT CLEAN AIR STANDARDS THAT LOWER ENERGY BILLS WITH EFFICIENT HEAT PUMPS



The Bay Area Air District adopted groundbreaking standards in 2023 that will help accelerate adoption of efficient electric heat pumps, cutting deadly air pollution and making energy bills more affordable. The standards will only apply when existing fossil fuel equipment needs replacement and will phase in gradually starting in 2027 for water heaters and 2029 for furnaces.

Ahead of the 2027 implementation date, the Air District is working to amend these rules to common-sense flexibility measures. Unsurprisingly, the fossil fuel industry and its allies are hoping to use this process to roll back these clean air standards entirely. Environmental, health, community, climate and environmental justice groups are mobilizing to protect these standards while working with staff to incorporate measures to help ensure smooth and equitable implementation.

## STAND UP FOR CLEAN AIR STANDARDS AND AGAINST FOSSIL FUEL OPPOSITION

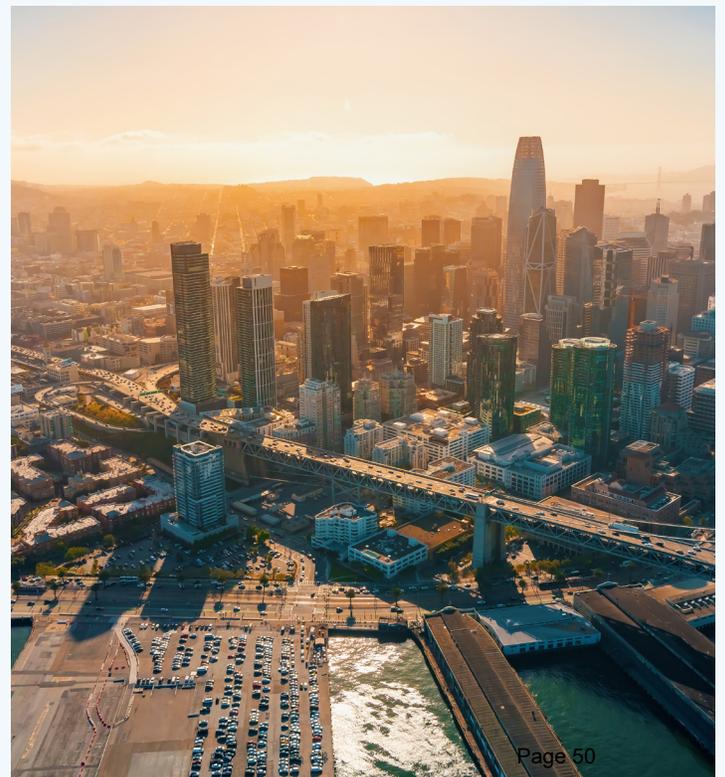
- **Join the Bay Area Clean Air Coalition** to amplify community voices against fossil fuel industry pressure. Please reach out to Sam Fishman <[sfishman@spur.org](mailto:sfishman@spur.org)> to express interest.
- **Send supportive comments** to Bay Area Air District Board members defending these health-protective standards.
- Spread the word on social media about the health and economic benefits to counter fossil fuel industry misinformation.

## HEALTH BENEFITS FOR BAY AREA COMMUNITIES

The San Francisco Bay Area has some of the worst air quality in the nation, and gas equipment in buildings is a key pollution driver, **responsible for more smog-forming NOx pollution than the region's passenger cars**. Implementing these rules would:

- Prevent 15,000 asthma attacks annually
- Save up to \$890 million annually in healthcare costs due to air pollution exposure

This pollution contributes to higher asthma rates and poor health outcomes in communities of color and low-income communities. 99% of disadvantaged communities in California live in an area with unhealthy levels of smog.



## HEAT PUMPS DELIVER LOWER BILLS AND MORE COMFORTABLE HOMES

Heat pumps deliver bill savings through their superior efficiency, **two to four times more efficient** than conventional gas water heaters. The typical California household switching from gas to heat pumps can **save \$370 per year**, according to analysis from RMI.

This superior performance is driving consumer sales: In 2024, U.S. households bought **32% more air-source heat pumps** than gas furnaces. Implementing these standards will position the Bay Area as a leader in a nation-wide technology revolution for lower bills and more efficient homes.

## BAY AREA CONTRACTORS ARE LEADING THE REVOLUTION

Appliance installers across the Bay Area are already capitalizing on soaring demand to grow their businesses. Contractor training programs throughout the region are equipping professionals with skills to install state-of-the-art equipment:

- More than **30,500 contractors** across California— including electricians, plumbers, and HVAC technicians— are licensed in the trades needed to install heat pumps and can be trained on this growing technology.
- A survey found that **68% of contractors** in the region are aware of the upcoming clean air standards, helping to ensure early preparedness.
- 128 different contractor firms installed more than **4,000** heat pump water heaters in the Bay Area under the TECH Clean California incentive program.



## COMMONSENSE FLEXIBILITY MEASURES TO PROTECT LOW-INCOME HOUSEHOLDS

The Bay Area Air District is working to incorporate commonsense flexibility measures into the rule that will help ensure low-income households aren't burdened by upfront costs. The Bay Area Clean Air (BACA) coalition is advocating for measures designed to reduce air pollution and make the transition more equitable and accessible for all Bay Area residents, while also ensuring low-income households aren't left behind in the transition to heat pumps.

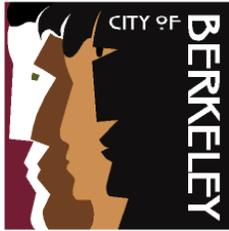
## CLIMATE PROGRESS THAT COUNTS

Burning fossil fuels in homes for heating is responsible for **roughly 11%** of California's statewide climate emissions. The state cannot meet its climate targets without eliminating this pollution. Heat pumps reduce lifetime space heating emissions by **up to 93%** compared to gas equipment in California. The Bay Area rules represent the nation's most ambitious heating electrification standards, serving as a model for other state and regional policymakers.

### MAKE YOUR VOICE HEARD

**The fossil fuel industry and its allies are working to eliminate these life-saving standards entirely. Bay Area residents, health advocates, and environmental justice groups must unite to protect these clean air standards while ensuring flexible, equitable implementation. [Click here to take action.](#)**





Office of the City Manager

PUBLIC HEARING  
November 10, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: David Sprague, Fire Chief

Subject: Adoption of the 2025 California Fire Code with Local Amendments

### RECOMMENDATION

1. Adopt the first reading of an Ordinance (Attachment 1) repealing the Berkeley Fire Code (Berkeley Municipal Chapter 19.48) and reenacting BMC Chapter 19.48;
2. Adopt a Resolution (Attachment 2) setting forth findings of local conditions that require more stringent building standards than those provided by the 2025 California Fire Code ("CFC") and rescinding Resolution number 71,710–N.S.;
3. Conduct a public hearing and upon conclusion, adopt a Resolution (Attachment 3) establishing annual permit fees, inspection and billing rates for inspection of property sites by the Berkeley Fire Department, and rescinding Resolution number 71,837–N.S. and all Resolutions amendatory thereof.
4. In compliance with state law on adopting such codes by reference, hold a public hearing following the first reading and before the second reading, and schedule the public hearing for December 2, 2025.

### SUMMARY

The State of California has adopted a new, 2025 fire code which will go into effect on January 1, 2026. Local jurisdictions may adopt local amendments to the California Fire Code (CFC), but the CFC will go into effect as written throughout the state on January 1, 2026. If Berkeley wishes to continue to apply our local fire code amendments the Berkeley City Council must act to adopt the CFC with our local amendments before January 1, 2026. Berkeley has local conditions specific to our community that affect our local fire and life safety and has adopted multiple fire code amendments in the past that are designed to address these concerns. Staff recommend that the City Council adopt local amendments to the California Fire Code as set forth in the attached documents to maintain and improve our current local level of fire safety.

FISCAL IMPACTS

The fiscal impact to the City will be approximately \$15,000 for the purchase of new fire code books, inspection guides, inspection forms, and training. The fire department has allocated the expenditure as part of its FY2026 budget.

Neither the new State codes overall, or our continuing local amendments, are expected to create significant cost increases for homeowners, builders or developers beyond those costs already mandated by current codes and statutes.

CURRENT STATUS AND EFFECTS

As part of a regular three-year cycle, the California Building and Standards Commission promulgated the 2025 California Fire Code. The California Fire Code (Title 24, Part 9 of the California Code of Regulations) will take effect on January 1, 2026. The California Fire Code provides minimum standards for fire and life safety.

To create the 2025 California Fire Code, the State of California amended and adopted a model fire code published by the International Code Council. The 2025 California Fire Code reflects the 2024 International Fire Code (“IFC”) with State amendments. Local jurisdictions must enforce the California Fire Code, as adopted by the state beginning January 1, 2026. A major change from the 2022 to 2025 California Fire Code is that the requirements in Chapter 49 (Requirements for Wildland Urban Interface Fire Areas) were removed from the California Fire Code and inserted into the newly created California Wildland Urban Interface Code.

A city, county, or city and county may establish more restrictive building standards as reasonably necessary because of local climatic, geological or topographical conditions. Findings of the local condition(s) and the adopted local building standard(s) must be filed with the California Building Standards Commission.

Budget trailer bill AB 130 (Chapter 22, Statutes of 2025, see Sections 29-31 and 37-42 of the bill) became effective June 30, 2025, and enacted a moratorium on state and local building standards affecting residential units beginning October 1, 2025, and ending June 1, 2031. AB 130 amends Health and Safety Code Sections 17958, 17958.5, 17958.7, and 18941.5 relative to local amendments to Title 24, and prohibits cities and counties from making changes that are applicable to residential units, unless one of the following conditions is met:

- (1) The changes or modifications are substantially equivalent to changes or modifications that were previously filed by the governing body of the city or county and were in effect as of September 30, 2025.
- (2) The commission deems those changes or modifications necessary as emergency standards to protect health and safety.
- (3) The changes or modifications relate to home hardening.
- (4) The building standards relate to home hardening and are proposed for adoption by a fire protection district pursuant to Section 13869.7.

- (5) The changes or modifications are necessary to implement a local code amendment that is adopted to align with a general plan approved on or before June 10, 2025, and that permits mixed-fuel residential construction consistent with federal law while also incentivizing all-electric construction as part of an adopted greenhouse gas emissions reduction strategy.

Accordingly, in light of the changes to the California code and AB 130, the City may carry forward local amendments previously filed with the California Building Standards Commission and adopt new local amendments affecting residential units if they meet one of the five criteria and adopt new local amendments that do not affect residential units.

The majority of amendments to previously established local standards consist primarily of renumbering local amendments to maintain consistency with the structure and organization of the new California Fire Code. Where new or modified code language is being proposed by staff, the recommended changes are general code provisions for fire and life safety.

Staff recommend adoption of the following modifications to local amendments, that are not simple re-numberings or previously approved local amendments:

- 1) Adopting and amending Sections 103 (Code Compliance Agency), 104.7 (Official Records), 104.7.2 (Inspections), 104.7.6 (Fees), 104.9.1 (Materials and Equipment Reuse), 105.3.1 (Expiration), 105.3.1.1 (Expiration), 109 (Inspections), 115 (Unsafe Structures or Equipment) to align with the Berkeley Building Code and/or Berkeley Wildland Urban Interface Code.
- 2) Amending Section 903.4.3 (Alarms) by removing the exception for one- and two-family dwellings since the visibility of a visual alarm in foggy and low light conditions and an audible alarm will assist firefighters in identifying the residence with a sprinkler waterflow activation.
- 3) Adopting 907.1.6 (Certification), 907.1.7 (Fire Alarm System Monitoring), and 907.9.1 (Certification and monitoring) and amending and adopting 907.6.6 (Monitoring) and 907.9 (Where Required in Existing Buildings and Structures) to provide guidance on certification and monitoring of fire alarms systems.
- 4) No longer adopting Appendix L (Firefighter Air Replenishment System).
- 5) Adopting Appendix O (Valet Trash and Recycling Collection in Group R-2 Occupancies) to provide guidance on valet trash collection.

## BACKGROUND

The City of Berkeley has unique climatic, geological, and topographical conditions, which require local amendments to mitigate potential hazards, and to reduce loss of life caused by fires or natural disasters.

To address local fire and life safety impacts, the City of Berkeley has adopted local amendments to address sprinkler system and fire alarm requirements for existing hotels, fraternities, sororities; fire apparatus access; hazardous materials transportation restrictions; and firefighter safety. Without the adoption of the local amendments, the new and past amendments cannot be enforced.

In addition to the fire code adoptive ordinance itself and the findings-of-fact resolution required by state law for the adoption of local amendments which qualify as building standards, the City of Berkeley creates and adopts by resolution a fee schedule which specifies fees associated with operational and construction permits required by the fire code, and for other general and specific fire inspection services as well as establishing billing and collection procedures and setting forth delinquency charges.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Unwanted fires have a significant, detrimental effect on the environment, climate, and the sustainability of our society. Air emissions from fires include soot/carbon particulate as well as carbon-dioxide and many undesirable fire byproducts. The water used to extinguish fires not only becomes runoff and may transport pollutants into waterways and other portions of the environment, but is often treated, potable water that must be processed and transported into the City via a water utility service at some financial expense and expense to the City's overall carbon-footprint. Fires also damage structures and other built-environment infrastructure that ultimately must be removed and replaced, generally with an associated financial and carbon-footprint cost to remove, manufacture, transport and reinstall the infrastructure. The adoption of a strong fire code ultimately serves to reduce the frequency, severity and cost of fires to society, environment, and the climate.

### RATIONALE FOR RECOMMENDATION

Local amendments to the California Fire Code must be adopted every three years, or the California Fire Code goes into effect without local amendments. Adoption of local amendments and findings are needed to customize the State code to Berkeley's particular topographic, geologic and climatic conditions. The fire and seismic danger and other local conditions, as described in detail in the attached resolution justify the proposed local amendments that are stricter than the California Fire Code.

The previously adopted fee ordinance was based on the 2022 Fire Code. The 2025 California Fire Code (and 2024 International Fire Code) have added permits regulating indoor plant cultivation; mobile food preparation vehicles; heating and cooking in tents, wildfire areas, and construction sites; renumbered certain code sections mandating permits and made editorial changes to follow changes in the main body of the new code. Without amending the fee schedule to track these changes, it may prove impossible to recover costs associated with permits or inspections for such critical work as the installation of fire alarm and sprinkler systems, standpipe systems, fire pumps, and private fire hydrants.

The 2025 California Fire Code adds new operational permits. Currently, there are no permit fees set forth which would allow the fire department to recover costs associated

with permitting, inspection and regulation of these activities. Staff proposes the following additions to the fire permitting and inspection fee schedule, with adjustment of fee amounts beginning January 1, 2026:

- a. *A new operational permit be established for the permitting, inspection and regulation of Indoor Plant Cultivation as required in Section 105.5.26.*

This is a new permit which has been added to the State fire code and therefore mandates regulation by the local fire agency.

- b. *A new operational permit be established for the permitting, inspection and regulation of Mobile Food Preparation Vehicles as required in Section 105.5.34.*

This is a new permit which has been added to the State fire code and therefore mandates regulation by the local fire agency.

- c. *A new operational permit be established for the permitting, inspection and regulation of Temporary Heating or Cooking in Tents or Membrane Structures as required in Section 105.5.55.*

This is a new permit which has been added to the State fire code and therefore mandates regulation by the local fire agency.

- d. *A new operational permit be established for the permitting, inspection and regulation of Temporary Heating or Cooking in Wildfire Risk Areas as required in Section 105.5.56.*

This is a new permit which has been added to the State fire code and therefore mandates regulation by the local fire agency.

- e. *A new operational permit be established for the permitting, inspection and regulation of Temporary Heating for Construction Sites as required in Section 105.5.57.*

This is a new permit which has been added to the State fire code and therefore mandates regulation by the local fire agency.

- f. *A new construction permit be established for the installation of Automatic Sprinkler Systems as required in Section 105.6.2, differentiating them from Automatic Fire-Extinguishing Systems (Section 105.6.1).*

This is a new permit which has been added to the State fire code and therefore mandates regulation by the local fire agency.

Upon review of the California Fire Code, staff proposed that the Berkeley Fire Code inspection fee schedule shall include changes and clarifications based on the California code language, including the renumbering of permit sections as needed.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Drew Whyte, Fire Marshal, Berkeley Fire Department, 981-5585.

Attachments

- 1 Ordinance - Repealing and Re-Enacting BMC 19.48 (Fire Code)
- 2 Resolution - "Adopting Findings as to Local Climatic, Geological And Topographical Conditions Rendering Reasonably Necessary Various Enumerated Local Fire Standards That Are More Stringent Than Those Mandated By The California Fire Code And Rescinding Resolution No. 71,710-N.S."
- 3 Resolution - Establishing Annual Permit Fees, Inspection and Billing Rates for Inspection of Property Sites by the Berkeley Fire Department, and Rescinding Resolution number 71,837–N.S. and all Resolutions Amendatory Thereof".
- 4 "Summary of Proposed Fee Amendments document"
- 5 Public Hearing Notice

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**ORDINANCE NO. ##,###-N.S.  
REPEALING AND RE-ENACTING BERKELEY MUNICIPAL CODE CHAPTER 19.48  
(BERKELEY FIRE CODE)**

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

**Section 1.** That Berkeley Municipal Code Chapter 19.48 is hereby repealed and reenacted as to read as follows:

**Chapter 19.48  
BERKELEY FIRE CODE\***

**Sections:**

- 19.48.010 Adoption of the California Fire Code**
- Article 1. Scope and Administrative Provisions**
- 19.48.020 Adoption of Chapter 1 Scope and Administration**
- Article 2. Definitions**
- 19.48.030 Amendments to Chapter 2 Definitions**
- Article 3. Fire Service Features**
- 19.48.040 Amendments to Chapter 5 Fire Service Features**
- Article 4. Fire and Smoke Protection Features**
- 19.48.050 Amendments to Chapter 7 Fire and Smoke Protection Features**
- Article 5. Fire Protection and Life Safety Systems**
- 19.48.060 Amendments to Chapter 9 Fire Protection and Life Safety Systems**
- Article 6. Means of Egress**
- 19.48.070 Amendments to Chapter 10 Means of Egress**
- Article 7. Construction Requirements for Existing Buildings**
- 19.48.080 Amendments to Chapter 11 Construction Requirements for Existing Buildings**
- Article 8. Hazardous Materials – General Provisions**
- 19.48.090 Amendments to Chapter 50 Hazardous Materials - General Provisions**
- Article 9. Explosives and Fireworks**
- 19.48.100 Amendments to Chapter 56 Explosives and Fireworks**
- Article 10. Flammable and Combustible Liquids**
- 19.48.110 Amendments to Chapter 57 Flammable and Combustible Liquids**
- Article 11. Liquid Petroleum Gas**
- 19.48.120 Amendments to Chapter 61 Liquid Petroleum Gas**
- Article 12. Fire-Flow Requirements for Buildings**
- 19.48.130 Amendments to Appendix B Fire-Flow Requirements for Buildings**
- 19.48.140 Validity**

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**Section 19.48.010 Adoption of the California Fire Code**

A. The California Fire Code, 2025 edition, as adopted in Title 24, Part 9 of the California Code of Regulations published by the International Code Council not included in the California Building Standards Code, are adopted by this reference into this Chapter, and are hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth in this ordinance, including:

- Chapter 1, Administration, in its entirety as amended
- Chapter 2, Definitions, in its entirety as amended
- Chapter 3, General Requirements, in its entirety
- Section 503, Fire Apparatus Access Road, of Chapter 5, in its entirety
- Section 504.1.1, Marking of Exterior Building Openings, additional section as amended
- Section 705.2.5, Smoke- and Heat-Activated Doors, as amended
- Chapter 9, Fire Protection and Life Safety Systems, as amended
- Section 1031.2, [Emergency Escape and Rescue] Where Required, as amended
- Chapter 11, Construction Requirements for Existing Buildings, as amended
- Section 5001.7, Hazardous Materials Transport Restrictions, additional section as amended
- Section 5601.1.3, Fireworks, and 5604.1, General [Explosive Materials Storage and Handling], as amended
- Section 5701.4.1, Transfer of Flammable and Combustible Liquids, and 5704.2.11.1.1, Restrictions on Underground Storage Tanks, additional sections as amended
- Section 5704.2.13.1.4, Tanks Abandoned in Place, and 5704.2.14, Removal and Disposal of Tanks, as amended
- Section 6104.1.1, Restrictions on Storage of LP-Gas Containers, additional section as amended
- Appendix B, Fire-Flow Requirements for Buildings, as amended
- Appendix D, Fire Apparatus Access Roads, in its entirety
- Appendix E, Hazard Categories, in its entirety
- Appendix F, Hazard Ranking, in its entirety
- Appendix O, Valet Trash and Recycling Collection in Group R-2 Occupancies, in its entirety
- Appendix P, Temporary Haunted Houses, Ghost Walks and Similar Amusement, in its entirety

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One copy of this Code is on file in the office of the City Clerk of the City of Berkeley.

- B. This chapter shall be known as the "Berkeley Fire Code" and shall be referred to in this chapter as "this code".
- C. This Chapter will become effective on January 1, 2026.

**Article 1. Scope and Administrative Provisions**

**19.48.020 Adoption of Chapter 1 Scope and Administration**

Chapter 1 of the California Fire Code is adopted in its entirety subject to the modifications thereto which are set forth below.

**CHAPTER 1 – SCOPE AND ADMINISTRATION**

**SECTION 101 – SCOPE AND GENERAL REQUIREMENTS**

**101.1 Title.** These regulations shall be known as the Berkeley Fire Code of [NAME OF JURISDICTION], hereinafter referred to as "this code."

**SECTION 102 – APPLICABILITY**

**102.6 Historic buildings.** The provisions of this code relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings where such buildings or structures do not constitute a distinct hazard to life or property. Fire protection in designated historic buildings shall be provided with an approved fire protection plan as required in Section 1103.1.1 in accordance with the 2025 California Historical Code.

**SECTION 103 – CODE COMPLIANCE AGENCY**

**103.1 Creation of enforcement agency.** The Berkeley Fire Department [~~INSERT NAME OF DEPARTMENT~~] is hereby created and the official in charge thereof shall be known as the Fire Chief ~~fire code official~~. The function of the agency shall be the implementation, administration and enforcement of the provisions of this code.

**103.2 Appointment.** The Fire Chief ~~fire code official~~ shall be appointed by the City Manager ~~chief appointing authority of the jurisdiction~~.

**103.3 Deputies.** In accordance with the prescribed procedures of ~~this jurisdiction~~ the City of Berkeley and with the concurrence of the appointing authority, the Fire Chief, hereinafter referred to as the fire code official shall have the authority to appoint a ~~Deputy~~ Fire Chief, Fire Marshal, Fire Plans Examiner and code official, other related technical officers, inspectors and other employees. Such employees shall have powers as delegated by the fire code official. For purposes of this code, the term "code official" shall also include their designees.

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**SECTION 104 – DUTIES AND POWERS OF THE FIRE CODE OFFICIAL**

**104.7 Official records.** The fire code official shall keep official records as required by Sections 104.7.1 through 104.7.6. Such official records shall be retained for not less than 5 years or for as long as the building, ~~or structure~~ or activity to which such records relate remains in existence, unless otherwise ~~provided by other regulations required for~~ a longer period by the retention of public record policy of the city.

**104.7.2 Inspections.** The fire code official shall keep a record of each inspection made, including notices of violations issued, notices and orders issued, administrative citation warning letters issued, citations issued and appeals received showing the findings and disposition of each.

**104.7.6 Fees.** The fire code official shall keep a record of invoices issued, fees collected and fees refunded in accordance with Section 108.

**104.9.1 Materials and equipment reuse.** Materials, equipment and devices shall not be reused unless such elements are in good working order with proper reports and tests justifying the condition, labeled and graded as required and expressly approved by the fire code official.

**104.12. Authority to arrest and issue citations.** The Fire Chief, or their designee shall have authority to arrest or to cite any person who violates any provision of this Chapter involving the International Fire Code or the California Building Standards Code regulations relating to fire and panic safety as adopted by the State Fire Marshal, in the manner provided for the arrest or release on citation and notice to appear with respect to misdemeanors or infractions, as prescribed by Chapters 5, 5c and 5d of Title 3, Part 2 of the California Penal Code, including Section 853.6, or as the same hereafter may be amended. It is the intent of the City Council that the immunities provided in Penal Code Section 836.5 are applicable to aforementioned officers and employees exercising their arrest or citation authority within the course and scope of their employment pursuant to this Chapter.

**104.13 Authority to abate fire nuisance.** The Fire Chief or the Fire Chief's designee shall have the authority to order the abatement of fire nuisances.

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**SECTION 105 – PERMITS**

**105.3.1 Expiration.** An operational permit shall remain in effect until reissued, renewed or revoked, or for such a period of time as specified in the permit. Operational permits shall expire 12 months after the date of issue. Construction permits shall automatically become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Before such work recommences, a new permit shall be first obtained and the fee to recommence work, if any, shall be one-half the amount required for a new permit for such work, provided that changes have not been made and will not be made in the original construction documents for such work, and provided further that such suspension or abandonment has not exceeded one year. Permits are not transferable and any change in occupancy, operation, tenancy or ownership shall require that a new permit be issued.

**105.3.1.1 Expiration.** On or after January 1, 2019, every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 12 months after its issuance or if the work authorized on the site by such permit is suspended or abandoned for a period of 12 months after the time the work is commenced. The building fire code official is authorized to grant, in writing, one or more extensions of time for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. (See Health and Safety Code Section 18938.5 and 18938.6.)

**105.5.18 Flammable and combustible liquids.** An operational permit is required:

1. To use or operate a pipeline for the transportation within facilities of flammable or combustible liquids. This requirement shall not apply to the offsite transportation in pipelines regulated by the Department of Transportation (DOT) nor does it apply to piping systems.
2. To store, handle or use Class I liquids in excess of 5 gallons (19 L) in a building or in excess of 10 gallons (37.9 L) outside of a building, except that a permit is not required for the following:
  - 2.1 The storage or use of Class I liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant, unless such storage, in the opinion of the fire code official, would cause an unsafe condition.
  - 2.2 The storage or use of paints, oils, varnishes or similar flammable mixtures where such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days.
3. To store, handle or use Class II or Class IIIA liquids in excess of 25 gallons (95 L) in a building or in excess of 60 gallons (227 L) outside a building, except for fuel oil used in connection with oil-burning equipment.
4. To store, handle or use Class IIIB liquids in excess of 110 gallons in containers, or in tanks or portable tanks for fueling motor vehicles at motor fuel-dispensing facilities or where connected to fuel-burning equipment.

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**Exception:** Fuel oil and used motor oil used for space heating or water heating.

5. To remove Class I or II liquids from an underground storage tank used for fueling motor vehicles by any means other than the approved, stationary on-site pumps normally used for dispensing purposes.
6. To operate tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.
7. To place temporarily out of service (for more than 90 days) an underground, protected above-ground or above-ground flammable or combustible liquid tank.
8. To change the type of contents stored in a flammable or combustible liquid tank to a material that poses a greater hazard than that for which the tank was designed and constructed.
9. To manufacture, process, blend or refine flammable or combustible liquids.
10. To engage in the dispensing of liquid fuels into the fuel tanks of motor vehicles at commercial, industrial, governmental or manufacturing establishments in accordance with Section 5706.5.4 or to engage in on-demand mobile fueling operations in accordance with Section 5707.
11. To utilize a site for the dispensing of liquid fuels from tank vehicles into the fuel tanks of motor vehicles, marine craft and other special equipment at commercial, industrial, governmental or manufacturing establishments in accordance with Section 5706.5.4 or, where required by the fire code official, to utilize a site for on-demand mobile fueling operations in accordance with Section 5707.

**105.5.60 Christmas tree sales lot.** An operational permit is required to operate a Christmas tree sales lot.

**105.5.61 Escort convoy service.** Police and/or Fire Department convoy service is required for vehicle transportation of extremely hazardous materials.

**Section 105.5.64 Fire Fighter Air Replenishment System (FARS).** An annual operational permit is required to maintain a FARS system in accordance with Appendix L.

**Section 105.5.62 General use permit.** For any activity or operation not specifically described in this code, which the fire code official reasonably determines, may produce conditions hazardous to life or property.

**105.5.63 Parking facility, special events.** An operational permit is required to use buildings or structures for vehicle parking, including parking for special events (i.e. football games, etc.).

**105.6.26 Window bars, operational constraints and opening control devices.** A building permit is required to install window bars or other equipment which imposes operational constraints and opening controls on emergency escape and rescue openings on exterior doors or windows of any sleeping rooms in accordance with fire code Section 1031.2.1 of this code.

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**SECTION 108 – FEES**

**108.2 Schedule of permit fees.** Where a permit is required, a fee for each permit shall be paid as required, in accordance with the schedule ~~as established by the applicable governing authority.~~ of fees for permits and inspections as set forth by resolution of the City Council.

**108.4 Work commencing before permit issuance.** A person who commences any work, activity or operation regulated by this code before obtaining the necessary permits shall be subject to a fee ~~established by the applicable governing authority, which shall be in addition to the required permit fees.~~ as set forth by resolution of the City Council to be twice the amount of the required fees to obtain a permit for that work, activity or operation regulated by this code. This is in addition to the permit fees for the portion of the scope of work performed without the permit.

**108.7. Expense of securing emergencies.** The expense of securing any emergency that is within the responsibility for enforcement of the fire code official as given in Sections 104.1 or 104.10 is a charge against the person who caused the emergency. Damages and expenses incurred by any public agency having jurisdiction or any public agency assisting the agency having jurisdiction shall constitute a debt of such person and shall be collectible by the fire code official for proper distribution in the same manner as in the case of an obligation under contract expressed or implied. Expenses as stated above shall include, but not be limited to, equipment and personnel committed and any payments required by the public agency to outside business firms requested by the public agency to secure the emergency, monitor remediation, and clean up.

**SECTION 109 – INSPECTIONS**

**109.2.3 Reinspections.** To determine compliance with this code, the fire code official can cause a structure to be reinspected. A fee can be assessed for each inspection or reinspection where work for such inspection is called is not complete or where corrections called for are not made.

Reinspection fees can be assessed where the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested or for deviating from plans requiring the approval of the fire code official.

To obtain a reinspection, the applicant shall pay the reinspection fee as set forth in the fee schedule adopted by the jurisdiction. Where reinspection fees have been assessed, additional inspection of the work will not be performed until the required fees have been paid.

**109.2.3.1 Testing.** Installations shall be tested as required in this code and in accordance with Sections 109.1.4.1 through 109.1.4.3. Tests shall be made by the permit holder or authorized agent and observed by the fire code official.

**109.2.3.2 New, altered, extended or repaired installations.** New installations and parts of existing installations that have been altered, extended, renovated or repaired, shall be tested as prescribed herein to disclose defects.

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**109.2.3.3 Apparatus, instruments, material and labor for tests.** Apparatus, instruments, material and labor required for testing an installation or part thereof shall be furnished by the permit holder or authorized agent.

**109.2.3.4 Reinspection and testing.** Where any work or installation does not pass an initial test or inspection, the necessary corrections shall be made so as to achieve compliance with this code. The work or installation shall then be resubmitted to the fire code official for inspection and testing.

**109.2.3.5 Re-inspection fees.** A re-inspection fee, as set forth by resolution of the City Council, may be assessed for each re-inspection when such portion of work for which an inspection is scheduled is not complete, is required to be reinspected after receiving a previously approved inspection for the same work or when corrections previously called for are not made.

Re-inspection fees shall not be required each time a job is disapproved for failure to comply with the requirements of this Code. This section shall be invoked for the following reasons:

1. When the work is not ready for inspection when the inspector arrives at the site.
2. When excessive scheduling of inspections for work not yet completed at the site.
3. When the approved plans, permit and inspection card are not readily available to the inspector at the work site.
4. For failure to provide access on the date for which the inspection is requested.
5. When work deviates from the approved plans and no approved revision to approved plans has been obtained by the permittee.
6. When other reasons, as determined by the fire code official, requires a re-inspection fee to be assessed.

The applicant shall pay the re-inspection fee as set forth by resolution of the City Council. In instances where re-inspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

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**SECTION 112 – MEANS OF APPEALS**

**112.1 General Appeals Procedure.** ~~In order to hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the applicable governing authority and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the fire code official.~~ The City Council shall hear and decide on appeals of orders, decisions, or determinations made by the Fire Code Official relative to the application and interpretation of this code. A property owner may appeal an order, decision, or determination of the Fire Code Official within 10 calendar days of the date of mailing of the appealable action. The notice of appeal shall contain a statement of the reasons for the appeal and be filed with the City Clerk of the City of Berkeley. The City Clerk shall forward one copy thereof to the Fire Code Official, who shall transmit to the City Council all their records pertaining to the decision being appealed.

**Section 112.1.1 Payment of Fees and Fines.** Prior to the deadline to appeal, the property owner must pay the appeal fee, per the adopted fee schedule, in addition to an advance deposit of the fine or file an application for an advanced deposit hardship waiver. If the hardship waiver is not granted, the fine must be deposited to the City within 14 days of mailed notice of that decision. No hearing shall be scheduled prior to receipt of payment or approval of the hardship waiver.

**112.1.2 Stay of Proceedings.** The filing of the notice of appeal shall stay all proceedings by all parties in connection with the matter upon which the appeal is taken until determination of the appeal as hereinafter provided, unless the fire code official determines that such a stay could result in an imminent threat to public safety.

**112.2 Limitations on authority.** An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equivalent or better form of construction is proposed. The board-City Council shall not have authority to waive requirements of this code.

**112.3 Qualifications.** ~~The board of appeals shall consist of members who are qualified by experience and training on matters pertaining to the provisions of this code and are not employees of the jurisdiction.~~ **Decisions.** The City Council shall review the action of the fire code official and shall do any one of the following:

- a. Refer the matter back to the fire code official.
- b. If the facts stated in, or ascertainable from the, Notice of Appeal, the written statement of the fire code official setting forth the reason for their decision, and the other papers, if any, constituting the record do not, in the opinion of the City Council, warrant further hearing, the City Council may affirm the decision of the fire code official. Such decision shall be final.

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- c. If, in the opinion of the City Council, said facts warrant further hearing, the City Council shall set the matter for hearing and shall give notice of the time and place of said hearing by mailing a copy of such notice by certified mail to the address of the appellant as stated in the Notice of Appeal, at least ten (10) days before the time fixed for the hearing. The City Council may continue the hearing from time to time.
- d. Following such hearing, the City Council shall reverse, affirm wholly or partly modify any decision of the fire code official, or make any other decisions or determinations or impose such conditions as the facts warrant. Such decision or determination shall be final.
- e. If none of the above actions have been taken by the City Council within thirty (30) days from the date the appeal first appears on the City Council agenda, then the decision of the fire code official shall be deemed affirmed and the appeal shall be deemed dismissed.
- f. If the appeal is set for hearing but the disposition of the appeal has not been determined within ninety (90) days from the date the appeal first appears on the City Council agenda, then the decision of the fire code official shall be deemed affirmed and the appeal deemed dismissed.

**112.4 Administration.** The fire code official shall take action without delay in accordance with the decision of the ~~board~~ City Council.

## **SECTION 113 – VIOLATIONS**

**113.1 Unlawful acts.** It shall be unlawful for a person, firm or corporation to erect, construct, alter, repair, remove, demolish or utilize a building, occupancy, premises or system regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code, or to create, maintain or allow to continue any fire hazard.

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**113.4 Violation penalties.** Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, construct, alter, repair or do work for a building or structure in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a [SPECIFY OFFENSE], punishable by a fine of not more than [AMOUNT] dollars or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment subject to penalties as prescribed by law. Violations of this code are misdemeanors, but may be cited or charged, at the election of the enforcing officer, code official, or City Attorney, as infractions, subject to an election by the defendant under Penal Code Subsection 17 (d). Nothing in this section shall prevent any other remedy afforded by law. Each day that a violation continues after due notice has been served shall be deemed a separate offense. In addition to all other legal remedies, civil or criminal (as set forth above), any violation of this code constitutes a public nuisance in accordance with B.M.C Chapter 1.26, and is subject to all provisions of B.M.C. Chapter 1.26, as well as abatement under B.M.C. Chapter 1.24, "Abatement of Nuisances," with the exception of Section 112 (Means of Appeals) which supersedes these provisions. All such violations are also subject to the issuance of an administrative citation in accordance with B.M.C Chapter 1.28 at the discretion of the enforcing officer or the City Attorney.

## **SECTION 115 – UNSAFE STRUCTURES OR EQUIPMENT**

**115.4 Notice.** If an unsafe condition is found, the fire code official shall serve on the ~~owner of the structure or the~~ owner's authorized agent or person in control of the building, structure or premises, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or requires the unsafe structure to be demolished ~~within a stipulated time.~~ Such notice shall require the person, or their designee, thus notified to declare ~~immediately~~ to the fire code official, within a stipulated time, acceptance or rejection of the terms of the order.

**115.7 Summary abatement.** Where conditions exist that are deemed hazardous to life and property, the fire code official or fire department official in charge of the incident is authorized to abate summarily such hazardous conditions that are in violation of this code. Where the owner does not comply with an abatement order under Section 115.4 within the period specified, the City of Berkeley may perform or cause to be performed the necessary work. The costs incurred shall be recoverable under the procedures in Section 115.7.1

**115.7.1 Abatement process.** The abatement process shall be conducted in accordance with the notice and hearing requirements of the nuisance abatement provisions of Berkeley Municipal code chapter 1.24, including summary abatements of structures or premises determined by the City of Berkeley to constitute an imminent hazard or emergency condition.

## **Article 2. Definitions**

### **19.48.030 Amendments to Chapter 2 Definitions**

ATTACHMENT 1

Chapter 2 of the California Fire Code is adopted in its entirety subject to the modifications thereto which are set forth below.

**CHAPTER 2 – DEFINITIONS**

**SECTION 202 – GENERAL DEFINITIONS**

**202 BERKELEY MARINA.** The area shall mean all those, parts of the City of Berkeley west of the Interstate 80 Freeway

**202 FIRE HAZARD.** Any thing or act which increases or could cause an increase of the hazard or menace of fire to a greater degree than that is customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing or extinguishing fire or any thing or act which could obstruct, delay, hinder or interfere with the operations of the fire department or the egress of occupants in the event of fire. Fire hazards as defined herein are hereby declared to be public nuisances subject to abatement by the City of Berkeley.

**202 FIRE NUISANCE.** Any thing or act, which is annoying, unpleasant, offensive or obnoxious because of fire.

**202 JURISDICTION.** The City of Berkeley. ~~The governmental unit that has adopted this code.~~

**202 WASTE OIL.** A Class III-B liquid waste resulting from the use of Class III-B combustible liquids such as waste motor oil, hydraulic oil, lubricating oil, brake fluids and transmission fluids.

**Article 3. Fire Service Features**

**19.48.040 Amendments to Chapter 5 Fire Service Features**

Chapter 5 of the California Fire Code is adopted in its entirety subject to the modifications thereto which are set forth below.

**CHAPTER 5 – FIRE SERVICE FEATURES**

**SECTION 504 – ACCESS TO BUILDING OPENINGS AND ROOFS**

**504.1.1 Marking of Exterior Building Openings.** Where exterior doorways are not otherwise marked with identification such as building addresses, room/suite numbers or business names which identify the area(s) they provide access to, or a functional description for the space, such openings shall be provided with signs or labels indicating the areas they serve. Doorways to be marked shall include, but are not limited to, doors serving building circulation (such as stairwells/exit passageways), potential hazards (such as trash rooms), and building service and utility spaces (such as electrical, gas, HVAC and elevator machine rooms). Signs/labels shall be permanent, weather and sunlight resistant with lettering not less than 3/4" high with a 1/16" width stroke on a contrasting background. Such signs or labels shall be affixed to the door frame or wall above the door. Such signs and labels shall be maintained.

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**Exception:** Doors associated with private dwellings, the main entrance to normally occupied spaces or when determined to be unnecessary by the fire code official.

**Article 4. Fire and Smoke Protection Features**

**19.48.050 Amendments to Chapter 7 Fire and Smoke Protection Features**

Chapter 7 of the California Fire Code is partially adopted with adopted sections below. (Sections adopted by the State Fire Marshal remain unless modified below.)

**CHAPTER 7 – FIRE AND SMOKE PROTECTION FEATURES**

**SECTION 705 – DOOR AND WINDOW OPENINGS**

**705.2.5 Smoke- and heat-activated doors.** Smoke-activated doors shall be maintained to self-close or automatically close upon detection of smoke. Existing fusible-link-type automatic-door closing devices are permitted if the fusible link rating does not exceed 135°F (57°C). Doors required for fire and smoke separation for interior exit stairways and floor separation in R-1 or R-2 occupancies shall not be maintained in an open position with fusible links.

**Article 5. Fire Protection and Life Safety Systems**

**19.48.060 Amendments to Chapter 9 Fire Protection and Life Safety Systems**

Chapter 9 of the California Fire Code is partially adopted with adopted sections below. (Sections adopted by the State Fire Marshal remain unless modified below.)

**CHAPTER 9 – FIRE PROTECTION AND LIFE SAFETY SYSTEMS**

**SECTION 903 – AUTOMATIC SPRINKLER SYSTEMS**

**903.2.10.1 Commercial parking garages.** An automatic sprinkler system shall be provided throughout buildings used for storage of commercial motor vehicles ~~where the fire area exceeds 5,000 square feet (464 m<sup>2</sup>).~~

**903.2.11.1 Stories without openings.** An automatic sprinkler system shall be installed throughout all buildings having stories, including basements, ~~of all buildings where the floor area exceeds 1,500 square feet (139.4 m<sup>2</sup>) and~~ where the story does not comply with the following criteria for exterior wall openings:

1. Openings below grade that lead directly to ground level by an exterior stairway complying with Section 1011 or an outside ramp complying with Section 1012. Openings shall be located in each 50 linear feet (15 240 mm), or fraction thereof, of exterior wall in the story on not fewer than one side. The required openings shall be distributed such that the lineal distance between adjacent openings does not exceed 50 feet (15 240 mm).

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2. Openings entirely above the adjoining ground level totaling not less than 20 square feet (1.86 m<sup>2</sup>) in each 50 linear feet (15 240 mm), or fraction thereof, of exterior wall in the story on not fewer than one side. The required openings shall be distributed such that the lineal distance between adjacent openings does not exceed 50 feet (15 240 mm) The height of the bottom of the clear opening shall not exceed 44 inches (1118 mm) measured from the floor.

**903.2.11.2. Rubbish, recycling and linen chutes.** An automatic sprinkler system shall be installed at the top of rubbish, recycling and linen chutes and in their terminal rooms. Chutes shall have additional sprinkler heads installed at alternate floors and at the lowest intake. Where a rubbish chute extends through a building more than one floor below the lowest intake, the extension shall have sprinklers installed that are recessed from the drop area of the chute and protected from freezing in accordance with Section 903.3.1.1. Such sprinklers shall be installed at alternate floors, beginning with the second level below the last intake and ending with the floor above the discharge. Access to sprinklers in chutes shall be provided for servicing. Activation of any fire sprinkler in a chute shall activate a separate water flow switch to indicate waterflow in the chute. All fire sprinklers in the chute shall be controlled by a separate, electrically supervised control valve with a tamper switch.

**903.2.22 Structures in the Berkeley Marina Area.** An automatic sprinkler system shall be installed in all structures located in the Berkeley Marina Area in accordance with NFPA 13 standards.

**Exceptions:** Gear lockers not designed to permit human entry, municipal restrooms unattached to other structures, the existing City of Berkeley Harbor Master's office, and any temporary construction site structures.

**903.2.23 Public Self-Storage Buildings.** An automatic sprinkler system shall be installed in any building erected or existing that was converted and/or subdivided for public self-storage use on or after August 19, 1982, in accordance with NFPA 13 standards.

**903.2.24 Environmental Safety - Residential District.** Reserved

**903.3.1.2 NFPA 13R sprinkler systems.** Automatic sprinkler systems in Group R occupancies shall be permitted to be installed throughout in accordance with NFPA 13R *as amended in Chapter 80* where the Group R occupancy meets all of the following conditions:

1. Four stories or less above grade plane.
2. For other than Group R-2 occupancies, the floor level of the highest story is 30 feet (9144mm) or less above the lowest level of fire department vehicle access.

For Group R-2 occupancies, the roof assembly is less than 45 feet (13 716 mm) above the lowest level of fire department vehicle access. The height of the roof assembly shall be determined by measuring the distance from the lowest required fire vehicle access road surface adjacent to the building to the eave of the highest pitched roof, the intersection of the highest roof to the exterior wall, or the top of the highest parapet, whichever yields the greatest distance.

3. The floor level of the lowest story is 30 feet (9144mm) or less below the lowest level of fire department access.

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The number or stores of Group R occupancies constructed in accordance with Sections 510.2 and 510.4 of the *California Building Code* shall be measured from grade plane.

**Exception:** Sprinkler systems in residential / commercial mix-use buildings are to be in accordance with NFPA 13.

**903.3.10 Floor control valves.** *Floor control valves and waterflow detection assemblies shall be installed at each floor where any of the following occur:*

1. *Buildings where the floor level of the highest story is located ~~more than~~ 30 feet or more above the lowest level of fire department vehicle access.*
2. *Buildings that are ~~four~~ three or more stories in height.*
3. *Buildings that are two or more stories below the highest level of fire department vehicle access.*

**Exception:** *In Group R-3 and R-3.1 occupancies, floor control valves and waterflow detection assemblies shall not be required.*

**903.4.3 Alarms.** An approved audible and visual sprinkler waterflow alarm device, located on the exterior of the building in an approved location, shall be connected to each automatic sprinkler system. Such sprinkler waterflow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Where a waterflow switch is required by Section 903.4.1 to be electrically supervised, such sprinkler waterflow alarm devices shall be powered by a fire alarm control unit or, where provided, a fire alarm system. Where a fire alarm system is provided, actuation of the automatic sprinkler system shall actuate the building fire alarm system.

**Exception:** Automatic sprinkler systems protecting ~~one- and two-family dwellings.~~

## SECTION 907 – FIRE ALARM AND DETECTION SYSTEMS

**907.1.6 Certification.** New fire alarm systems shall be Nationally Recognized Testing Laboratory (NRTL) certificated or placarded for Central Station Service Alarm Systems in accordance with NFPA 72, Chapter 26, Section 26.3. The NRTL shall be acceptable to the fire code official and capable of issuing serially numbered certificates or placards. A certificate of completion and other documentation as listed in NFPA 72 shall be provided for all new fire alarm system installations and stored in the document box onsite. It is the responsibility of the building owner or owner's representative to obtain and maintain a current and valid NRTL issued certificate or placard for the life of the installed system(s).

### **Exceptions:**

1. Fire warning and fire alarm systems in one- and two-family dwellings.
2. Fire alarm control units in which the primary function is to monitor an automatic sprinkler system or other dedicated function fire alarm system.

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**907.1.7 Fire Alarm System Monitoring.** Fire alarm systems shall transmit distinctly different alarm, supervisory and trouble signals and shall be monitored in accordance with NFPA 72, Chapter 26, Section 26.3, Central Station Service Alarm Systems.

**907.2 Where required—new buildings and structures.** An approved fire alarm system installed in accordance with the provisions of this code and NFPA 72 shall be provided in new buildings and structures in accordance with Sections 907.2.1 through 907.2.29 and provide occupant notification in accordance with Section 907.5, unless other requirements are provided by another section of this code.

Not fewer than one manual fire alarm box shall be provided in an approved location to initiate a fire alarm signal for fire alarm systems employing automatic fire detectors or water-flow detection devices. ~~Where an automatic and manual, or a manual fire alarm system is required by this code or Berkeley local ordinance, other sections of this code allow elimination of fire alarm boxes is prohibited. due to sprinklers or automatic fire alarm systems,~~ a single fire alarm box shall be installed at a ~~location approved by the enforcing agency.~~

**Exceptions:**

~~1. The manual fire alarm box is not required for fire alarm systems dedicated to elevator recall control and supervisory service and fire sprinkler monitoring.~~

~~2. The manual fire alarm box is not required for Group R-2 occupancies unless required by the fire code official to provide a means for fire watch personnel to initiate an alarm during a sprinkler system impairment event. Where provided, the manual fire alarm box shall not be located in an area that is open to the public.~~

~~3. The manual fire alarm box is not required to be installed when approved by the fire code official.~~

**907.2.1 Group A.** A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group A occupancies where the occupant load due to the assembly occupancy is 300 or more, or where the Group A occupant load is more than 100 persons above or below the lowest level of exit discharge. Group A occupancies not separated from one another in accordance with Section 707.3.10 of the *California Building Code* shall be considered as a single occupancy for the purposes of applying this section. Portions of Group E occupancies occupied for assembly purposes *with an occupant load of less than 1000* shall be provided with a fire alarm system as required for the Group E occupancy.

**Exceptions:**

~~1. Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.~~

~~2. Manual fire alarm boxes and the associated occupant notification system or emergency voice/alarm communication system are not required for Group A-5 outdoor bleacher-type seating having an occupant load of greater than or equal to 300 and less than 15,000 occupants, provided that all of the following are met:~~

~~2.1. A public address system with standby power is provided.~~

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- ~~2.2. Enclosed spaces attached to or within 5 feet (1524 mm) of the outdoor bleacher type seating compose, in the aggregate, a maximum of 10 percent of the overall area of the outdoor bleacher type seating or 1,000 square feet (92.9 m<sup>2</sup>), whichever is less.~~
- ~~2.3. Enclosed accessory spaces under or attached to the outdoor bleacher type seating shall be separated from the bleacher type seating in accordance with Section 1030.1.1.1.~~
- ~~2.4. All means of egress from the bleacher type seating are open to the outside.~~
- ~~3. Manual fire alarm boxes and the associated occupant notification system or emergency voice/alarm communication system are not required for temporary Group A-5 outdoor bleacher type seating, provided that all of the following are met:~~
  - ~~3.1. There are no enclosed spaces under or attached to the outdoor bleacher type seating.~~
  - ~~3.2. The bleacher type seating is erected for a period of less than 180 days.~~
  - ~~3.3. Evacuation of the bleacher type seating is included in an approved fire safety plan.~~

*Every Group A building used for educational purposes shall be provided with a manual or automatic fire alarm system. This provision shall apply to, but shall not necessarily be limited to, every community college and university.*

*Exception: Privately owned trade or vocational schools or any firm or company which provides educational facilities and instruction for its employees.*

**907.2.2 Group B.** A manual fire alarm system, which activates the occupant notification system in accordance with Section 907.5, shall be installed in Group B occupancies where one of the following conditions exists:

- 1. The combined Group B occupant load of all floors is 500 or more.
- 2. The Group B occupant load is more than 100 persons above or below the lowest level of exit discharge.
- 3. The fire area contains an ambulatory care facility.
- 4. *For Group B occupancies containing educational facilities, see Section 907.2.2.2.*

**Exception:** Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.

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**907.2.4 Group F.** A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group F occupancies where both of the following conditions exist:

1. The Group F occupancy is two or more stories in height.
2. The Group F occupancy has a combined occupant load of 500 or more above or below the lowest level of exit discharge.

**Exception:** ~~Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.~~

**907.2.7 Group M.** Fire alarm system shall be required in Group M occupancies in accordance with Sections 907.2.7.1 and 907.2.7.2.

**907.2.7.1 Occupant Load.** A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group M occupancies where one of the following conditions exists:

1. The combined Group M occupant load of all floors is 500 or more persons.
2. The Group M occupant load is more than 100 persons above or below the lowest level of exit discharge.

**Exceptions:**

1. A manual fire alarm system is not required in covered or open mall buildings complying with Section 402 of the *California Building Code*.
2. ~~Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will automatically activate throughout the notification zones upon sprinkler water flow.~~

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**907.2.8.1 Manual and Automatic fire alarm system.** A manual and automatic fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R-1 occupancies. **Exceptions:**

1. ~~A manual fire alarm system is not required in buildings not more than two stories in height where all individual sleeping units and contiguous attic and crawl spaces to those units are separated from each other and public or common areas by not less than 1-hour fire partitions and each individual sleeping unit has an exit directly to a public way, egress court or yard.~~
2. ~~Manual fire alarm boxes are not required throughout the building where all the following conditions are met:~~
  - 2.1. ~~The building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.~~
  - 2.2. ~~The notification appliances will activate upon sprinkler water flow.~~
  - 2.3. ~~Not fewer than one manual fire alarm box is installed at an approved location.~~

**907.2.8.2 Manual and Automatic fire alarm systems smoke detection system.** ~~An A manual and automatic smoke detection fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed throughout all interior corridors and common areas of Group R-1 occupancies. The detection device for this purpose shall be a smoke detector (or heat detector as approved), which is system connected and electronically supervised serving sleeping units.~~

**Exception:** ~~An automatic smoke detection system is not required in buildings that do not have interior corridors serving sleeping units and where each sleeping unit has a means of egress door opening directly to an exit or to an exterior exit access that leads directly to an exit.~~

**907.2.9.1 Automatic and Manual fire alarm system.** ~~An automatic and manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R-2 occupancies where any of the following conditions apply:~~

1. ~~The building is three or more stories in height and Any any dwelling unit or sleeping unit is located three or more stories above the lowest level of exit discharge.~~
2. ~~Any dwelling unit or sleeping unit is located more than one story below the highest level of exit discharge of exits serving the dwelling unit or sleeping unit.~~
3. ~~The building contains more than 16 dwelling units or sleeping units.~~
4. ~~Congregate residences with more than 16 occupants.~~

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**Exceptions:**

1. A fire alarm system is not required in buildings not more than two stories in height where all dwelling units or sleeping units and contiguous attic and crawl spaces are separated from each other and public or common areas by not less than 1-hour fire partitions and each dwelling unit or sleeping unit has an exit directly to a public way, egress court or yard.
2. ~~Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 and the occupant notification appliances will automatically activate throughout the notification zones upon a sprinkler water flow.~~
3. 2. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units and are protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that dwelling units either have a means of egress door opening directly to an exterior exit access that leads directly to the exits or are served by open-ended corridors designed in accordance with Section 1027.6, Exception 3.

**907.6.6 Monitoring.** All fire alarm, detection, and communication systems required by this code chapter or by the *California Building Code* shall be monitored by an approved supervising station in accordance with NFPA 72, Chapter 26, Section 26.3, Central Station Service Alarm Systems, and this section.

**907.7 Acceptance tests and completion.** Upon completion of the installation, the fire alarm system and all fire alarm components shall be tested in accordance with NFPA 72. Fire alarm systems shall obtain a UL certificate for the system prior to final inspection.

**Exceptions:**

1. Fire warning and fire alarm systems in one- and two-family dwellings.
2. Fire alarm control units in which the primary function is to monitor an automatic sprinkler system or other dedicated function fire alarm system.

**907.9 Where required in existing buildings and structures.** An approved fire alarm system shall be provided in existing buildings and structures where required in Chapter 11.

**907.9.1 Certification and monitoring.** Certification per 907.1.6 and monitoring per 907.1.7 is required for an existing fire alarm system when one of the following is met:

1. When a fire alarm control unit is replaced, for any reason.
2. When there are multiple unwanted alarms and/or nuisance alarms that are repetitive and not corrected, as determined by the fire code official.
3. When the fire code official determines that the severity of life safety hazards or systems on the premises require certification of the fire alarm system.

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**Article 6. Means of Egress****19.48.070 Amendments to Chapter 10 Means of Egress**

Chapter 10 of the California Fire Code is partially adopted with adopted sections below. (Sections adopted by the State Fire Marshal remain unless modified below.)

**CHAPTER 10 – MEANS OF EGRESS****SECTION 1031 – EMERGENCY ESCAPE AND RESCUE**

**1031.2 Where required.** In addition to the means of egress required by this chapter, emergency escape and rescue openings shall be provided in *Group R* occupancies.:

1. ~~Group R-2 occupancies located in stories with only one exit or access to only one exit as permitted by Tables 1006.3.4(1) and 1006.3.4(2).~~
2. ~~Group R-3 and R-4 occupancies.~~

Basements and sleeping rooms below the fourth story above grade plane shall have not fewer than one emergency escape and rescue opening in accordance with this section. Where basements contain one or more sleeping rooms, an emergency escape and rescue opening shall be required in each sleeping room, but shall not be required in adjoining areas of the basement. Such openings shall open directly into a public way or to a yard or court that opens to a public way, or to an egress balcony that leads to a public way.

**Exceptions:**

1. *In Groups R-1 and R-2 occupancies constructed of Type I, Type IIA, Type IIIA or Type IV construction equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1.*
2. *Group R-2.1 occupancies meeting the requirements for delayed egress in accordance with Section 1010.2.13 may have operable windows that are breakable in sleeping rooms permanently restricted to a maximum of 4-inch open position.*
3. Basements with a ceiling height of less than 80 inches (2032 mm) shall not be required to have emergency escape and rescue openings.
4. Emergency escape and rescue openings are not required from basements or sleeping rooms that have an exit door or exit access door that opens directly into a public way or to a yard, court or exterior egress balcony that leads to a public way.
5. Basements without habitable spaces and having not more than 200 square feet (18.6 m<sup>2</sup>) in floor area shall not be required to have emergency escape and rescue openings.
6. Storm shelters are not required to comply with this section where the shelter is constructed in accordance with ICC 500.
7. Within individual dwelling and sleeping units in Groups R-2 and R-3, where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3, sleeping rooms in basements shall not be required to have emergency escape and rescue openings provided that the basement has one of the following:

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- 7.1. One means of egress and one emergency escape and rescue opening.
- 7.2. Two means of egress.
8. *In Group R-2.2 occupancies a certified fire escape is acceptable as a secondary means of egress of existing buildings for this section of the code.*

## Article 7. Construction Requirements for Existing Buildings

### 19.48.080 Amendments to Chapter 11 Construction Requirements for Existing Buildings

Chapter 11 of the California Fire Code is partially adopted with adopted sections below. (Sections adopted by the State Fire Marshal remain unless modified below.)

#### CHAPTER 11 – CONSTRUCTION REQUIREMENTS FOR EXISTING BUILDINGS

##### SECTION 1103 – FIRE SAFETY REQUIREMENTS FOR EXISTING BUILDINGS

**1103.5 Sprinkler systems.** An automatic sprinkler system shall be provided in existing buildings in accordance with Section 1103.5.1 through 1103.5.5-6.3

##### SECTION 1103.5.6 AUTOMATIC SPRINKLER REQUIREMENTS FOR EXISTING HOTELS

**1103.5.6.1 Definitions.** For the purposes of this Section, the following terms shall be defined as follows:

1. "Hotel" shall mean any building, including motels, dormitories, rooming houses, Greek houses and congregate residences, which contain six or more rooms which were intended or designed to be used, or which are used, for the purposes of renting, hiring or letting (with monetary or non-monetary means of payment or permission) to residential occupants for sleeping purposes but shall not include apartment buildings as defined in this code.
2. "Story" is as defined in the Berkeley Building Code.
3. "First Story" is as defined in the Berkeley Building Code.
4. "Basement" is as defined in the Berkeley Building Code.
5. "Balcony, Exterior Exit" shall mean a landing or porch projecting from the wall of a building which serves as a required exit. The long side shall be at least 50 percent directly open to the exterior, and the open area above the guardrail shall be so configured as to prevent the accumulation of smoke or toxic gases.

**Application:** This section shall apply to every hotel in which the rooms used for sleeping are located above the ground floor, if the hotel was built prior to 1992, and also meets one of the following two conditions:

The height of the hotel is three or more stories or two stories plus an inhabited basement, which is used for purposes other than exclusively servicing the maintenance and other needs of the building; or the hotel contains 20 or more rooms, or regularly accommodates 20 or more residential occupants.

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**Exception:** No hotel in which the exits from sleeping rooms lead either to the outside of the building either directly or via approved exit balconies with approved exterior stairways(s) in accordance with the requirements of the Berkeley Building Code is required to comply with this section.

**1103.5.6.2 Types of Fire Sprinklers.** In the sleeping units of the building, only residential or quick response sprinkler heads shall be used.

**1103.5.6.3 Supervision of fire sprinkler systems.** All automatic sprinkler systems installed under this subsection shall be monitored for supervision and alarms in accordance with Section 903.4.

**1103.7 Fire Alarm Systems.** An approved fire alarm system shall be installed in existing buildings and structures in accordance with Sections 1103.7.1 through 1103.7.6 and provide occupant notification in accordance with Section 907.5 unless other requirements are provided by other sections of this code. *Existing high-rise buildings shall comply with Section 1103.7.9.* Where an automatic and manual or a manual fire alarm system is required by this code or Berkeley local ordinance, elimination of fire alarm boxes in buildings equipped with an approved sprinkler system is prohibited.

**Exception:** Occupancies with an existing, previously approved fire alarm system.

**1103.7.5.1 Group R-1 hotels, and motels, and congregate residences manual and automatic fire alarm system.** A manual and automatic fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in existing Group R-1 hotels, and motels, and congregate residences more than one story in height with three or more stories or with more than 20 or more dwelling units or sleeping units in aggregate.

**Exceptions:**

1. ~~A manual fire alarm system is not required in buildings less than two stories in height where all dwelling units, sleeping units, attics and crawl spaces are separated by 1-hour fire-resistance-rated construction and each sleeping unit has direct access to a public way, egress court or yard.~~
2. ~~A manual fire alarm system is not required in buildings not more than three stories in height with not more than 20 dwelling units or sleeping units in aggregate and equipped throughout with an automatic sprinkler system installed in accordance with Sections 903.3.1.1 or 903.3.1.2.~~
3. ~~Manual fire alarm boxes are not required throughout the building where the following conditions are met:~~
  - 3.1. ~~The building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.~~
  - 3.2. ~~The notification appliances will activate upon sprinkler water flow.~~
  - 3.3. ~~Not less than one manual fire alarm box is installed at an approved location.~~

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**1103.7.6 Group R-2.** A manual and automatic fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in existing Group R-2 occupancies ~~three or more than three~~ stories in height or with 16 or more dwelling or sleeping units. Congregate residences shall retrofit existing manual-only fire alarm systems with manual and automatic fire detection. Other types of R-2 occupancies (such as apartment buildings) shall retrofit existing manual-only fire alarm systems with manual and automatic fire detection when the existing fire alarm control unit is replaced for any reason. Automatic detection shall be accomplished by use of a smoke detector (or heat detector as approved), which is system connected and electronically supervised. Detectors shall be installed in all interior corridors and common areas.

**Exceptions:**

1. Where each living unit is separated from other contiguous living units by fire barriers having a fire-resistance rating of not less than 3/4 hour, and where each living unit has either its own independent exit or its own independent stairway or ramp discharging at grade.
2. ~~A separate fire alarm system is not required in buildings that are equipped throughout with an approved supervised automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 and having a local alarm to notify all occupants.~~
- ~~2.3.~~ A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units and are protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that dwelling units either have a means of egress door opening directly to an exterior exit access that leads directly to the exits or are served by open ended corridors designed in accordance with Section 1027.6, Exception 3.
- ~~3.4.~~ A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units, do not exceed three stories in height and comply with both of the following:
  - ~~3.14.1.~~ Each dwelling unit is separated from other contiguous dwelling units by fire barriers having a fire-resistance rating of not less than ¾ hour.
  - ~~3.24.2.~~ Each dwelling unit is provided with smoke alarms complying with the requirements of Section 907.2.11.

**1103.7.10 Monitoring of Group R Occupancies.** All existing R occupancies that are required to provide both a fire alarm and fire suppression system shall have the system monitored by a supervising station in accordance with NFPA 72, Chapter 26, Section 26.3, Central Station Service Alarm Systems, and this section.

**SECTION 1104 – MEANS OF EGRESS FOR EXISTING BUILDINGS**

**1104.24 Stairway floor number signs.** Existing stairways shall be marked in accordance with Section 1023.9.

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**SECTION 1114 – EXISTING HIGH-RISE BUILDINGS [SFM]**

**1114.27 Automatic sprinkler system–Existing high-rise buildings. Regardless of any other provisions of these regulations, every existing high-rise building of Type II-B, Type III-B or Type V-B construction shall be provided with an approved automatic sprinkler system conforming to NFPA 13.**

Building owners shall file a compliance schedule with the fire code official not later than 365 days after receipt of a written notice. The compliance schedule shall not exceed 12 years for completion of the automatic sprinkler system retrofit.

**Article 8. Hazardous Materials – General Provisions**

**19.48.090 Amendments to Chapter 50 Hazardous Materials – General Provisions**

Chapter 50 of the California Fire Code is partially adopted with adopted sections below. (Sections adopted by the State Fire Marshal remain unless modified below.)

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**CHAPTER 50 – HAZARDOUS MATERIALS – GENERAL PROVISIONS****SECTION 5001 – GENERAL**

**5001.7 Hazardous materials transportation restrictions.** No vehicle containing hazardous materials, including a hazardous materials transportation tank truck, trailer, semi-trailer or tank wagon containing flammable or combustible liquids, hazardous chemicals, liquefied petroleum gases, poisonous gases, or cryogenic fluids, shall be operated on any city street without a permit from the fire code official. A map showing the proposed route of the vehicle shall accompany applications for such permits. If a permit is granted, the map shall be carried at all times in the vehicle and the vehicle shall not deviate from the approved route as shown on the map. Such a permit may contain conditions, including restrictions on the hours within which certain routes may be used and limitations on the size of the vehicle allowed to travel the approved route. No route shall be approved that includes passage over or adjacent to subway entry or vent structures, through the Northbrae Tunnel, in any area designated an environmental safety residential district by the City of Berkeley's Zoning Ordinance, or in an area which may be designated as a hazardous fire area. Departure from the approved route, travel outside the permitted hours, violation of any vehicle size limitation imposed, or failure to carry a map showing route approval shall constitute a violation of this Code. The transportation of extremely hazardous materials may, in the discretion of the fire code official, require both a permit and accompaniment by a Fire Department or Police Department convoy. The following streets contain purge chamber openings which lead directly into the subway section of the Bay Area Rapid Transit (BART) System in Berkeley and their use by tank vehicles or trailers for transportation or delivery of flammable or combustible liquids, hazardous chemicals, liquefied petroleum gases, poisonous gases, or cryogenic fluids is prohibited and a violation of this Code:

- a. On Addison Street between Martin Luther King Jr. Way and Oxford Street;
- b. On Shattuck Avenue between University Avenue and Dwight Way;
- c. On Virginia Street between Franklin and Sacramento Streets;
- d. On Sacramento Street between Virginia Street and Hearst Avenue;
- e. On Hearst Avenue between McGee Avenue and Milvia Street;
- f. On Adeline Street between Ward and Stuart Streets; and
- g. On Adeline Street between Ashby Avenue and Woolsey Street

**Article 9. Explosives and Fireworks****19.48.100 Amendments to Chapter 56 Explosives and Fireworks**

Chapter 56 of the California Fire Code is partially adopted with adopted sections below. (Sections adopted by the State Fire Marshal remain unless modified below.)

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**CHAPTER 56 – EXPLOSIVES AND FIREWORKS**

**SECTION 5601 – GENERAL**

**5601.1.3 Fireworks.** The possession, manufacture, storage, sale, handling and use of fireworks, including fireworks which are classified as Safe and Sane fireworks by the California State Fire Marshal's Office, are prohibited within the City of Berkeley.

**Exceptions:**

- ~~1. Storage and handling of fireworks as allowed in Section 5604.~~
- ~~2. Manufacture, assembly and testing of fireworks as allowed in Section 5605 and Health and Safety Code Division 11.~~
- ~~31. The use of fireworks for fireworks displays, pyrotechnics before a proximate audience and pyrotechnic special effects in motion pictures, television, theatrical or group entertainment productions as allowed in Title 19, Division 1, Chapter 6 Fireworks reprinted in Section 5608 and Health and Safety Code Division 11 when stored, transported, handled and used under the required fire department permit(s) and in accordance will all applicable requirements of Chapter 56.~~
42. The possession, storage, sale, handling and use of specific types of Division 1.4G fireworks where allowed by applicable laws, ordinances and regulations, provided that such fireworks and facilities comply with the 2006 edition of NFPA 1124, CPSC 16 CFR Parts 1500 and 1507, and DOTn 49 CFR Parts 100–185, as applicable for consumer fireworks *and Health and Safety Code Division 11.*

**SECTION 5604 – EXPLOSIVE MATERIALS STORAGE AND HANDLING**

**5604.1 General.** The storage and handling of explosives within City of Berkeley limits is prohibited. Storage of explosives and explosive materials, small arms ammunition, small arms primers, propellant-actuated cartridges and smokeless propellants in magazines shall comply with the provisions of this section

**Exception:** Where expressly permitted by applicable laws, ordinances or regulations provided such storage and handling of explosives and explosive materials, small arms ammunition, small arms primers, propellant-actuated cartridges and smokeless propellants in magazines is conducted in accordance with Section 5604 and all applicable provisions of Chapter 56.

**Article 10. Flammable and Combustible Liquids**

**19.48.110 Amendments to Chapter 57 Flammable and Combustible Liquids**

Chapter 57 of the California Fire Code is partially adopted with adopted sections below. (Sections adopted by the State Fire Marshal remain unless modified below.).

ATTACHMENT 1

**CHAPTER 57 – FLAMMABLE AND COMBUSTIBLE LIQUIDS**

**SECTION 5701 – GENERAL**

**5701.4.1 Transfer of flammable and combustible liquids.** Transfer of flammable and combustible liquids, to or from containers or mobile tanks into above ground or underground tanks shall not be made from or on the street or public way except by written approval by the fire code official.

**Exceptions:**

1. Transfer of not more than 5 gallons flammable or combustible liquids using a listed or approved portable fuel container of not more than 5 gallons capacity.
2. The transfer of combustible liquids to or from approved, fixed mechanical or electrical system equipment such as a Standby or Emergency electric power generator when the transfer is completed by a commercial fuel vendor using approved dispensing equipment via a previously approved, fixed tank filling port which met code requirements at the time of installation.

**SECTION 5704 – STORAGE**

**5704.2.11.1.1 Restrictions on underground storage tanks.** The storage of flammable and combustible liquids in underground tanks is prohibited in all areas zoned solely for residential occupancies, closely built commercial properties, and any other area deemed unsafe by the fire code official.

**5704.2.13.1.4 Tanks abandoned in place.** Tanks may be abandoned only under permit and following City of Berkeley Fire Department procedures. The owner shall demonstrate to the satisfaction of the City of Berkeley Toxics Management Division (TMD) that no unauthorized release has occurred. If the soil is contaminated, mitigation must be completed to the satisfaction of the Toxics Management Division (TMD). A notice shall be placed in the deed to the property. This notice shall describe the precise location of the closed underground storage tank, the hazardous substances that it contained, and the closure method. Tanks abandoned in place shall be as follows:

1. Flammable and combustible liquids shall be removed from the tank and connected piping.
2. The suction, inlet, gauge, vapor return and vapor lines shall be disconnected.
3. The tank shall be filled completely with an approved inert solid material.
4. Remaining underground piping shall be capped or plugged.
5. A record of tank size, location and date of abandonment shall be retained.
6. All exterior above-grade fill piping shall be permanently removed when tanks are abandoned or removed.

ATTACHMENT 1

**5704.2.14 Removal and disposal of tanks.** Removal and disposal of tanks shall comply with Sections 5704.2.14.1 and 5704.2.14.2. Removal of all tanks shall be authorized under a fire permit, abiding by City of Berkeley Fire Department procedures. The applicant shall submit the following:

1. A site plan showing the location of the tanks.
2. A detailed description of the scope of work.
3. A site safety plan.
4. A vicinity map to the closest hospital, in an event of an emergency.
5. Proof of workers compensation insurance.

The owner shall demonstrate to the satisfaction of the City of Berkeley Toxics Division that no unauthorized release has occurred. If the soil is contaminated, mitigation must be completed to the satisfaction of the Toxics Division or the California Water Board.

## **Article 11. Liquefied Petroleum Gas**

### **19.48.120 Amendments to Chapter 61 Liquefied Petroleum Gas**

Chapter 61 of the California Fire Code is partially adopted with adopted sections below. (Sections adopted by the State Fire Marshal remain unless modified below.)

#### **CHAPTER 61 – LIQUIFIED PETROLEUM GASES**

##### **SECTION 6104 – LOCATION OF LP-GAS CONTAINERS**

**6104.1.1 Restrictions on storage of LP-gas containers.** It shall be unlawful to store any liquefied petroleum gas cylinder with a capacity greater than 2-1/2 lbs. water capacity or a portable tank within any structure or building with an occupancy classification of A, R-1, R-2 or R-4, unless specifically authorized by this Code.

ATTACHMENT 1

**Article 12. Fire Flow Requirements for Buildings**

**19.48.130 Amendments to Appendix B Fire Flow Requirements for Buildings**

Appendix B of the California Fire Code is partially adopted with adopted sections below. (Sections adopted by the State Fire Marshal remain unless modified below.)

**APPENDIX B – FIRE FLOW REQUIREMENTS FOR BUILDINGS**

**Section B105.2 (Appendix B), Table B105.2, “Required Fire-Flow for Buildings Other Than One- And Two-Family Dwellings, Group R-3 And R-4 Buildings And Townhouses”**

| <b>TABLE B105.2 - REQUIRED FIRE-FLOW FOR BUILDINGS OTHER THAN ONE- &amp; TWO-FAMILY DWELLINGS, GROUP R-3 &amp; R-4 BUILDINGS AND TOWNHOUSES</b> |                                                    |                                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|------------------------------------------------------|
| <b>AUTOMATIC SPRINKLER SYSTEM<br/>(Design Standard)</b>                                                                                         | <b>MINIMUM FIRE-FLOW<br/>(gallons per minute)</b>  | <b>FLOW DURATION<br/>(hours)</b>                     |
| No automatic sprinkler system                                                                                                                   | Value in Table B105.1(2)                           | Duration in Table B105.1(2)                          |
| Section 903.3.1.1 of the <i>California Fire Code</i>                                                                                            | 2550% of the value in Table B105.1(2) <sup>a</sup> | Duration in Table B105.1(2) at the reduced flow rate |
| Section 903.3.1.2 of the <i>California Fire Code</i>                                                                                            | 2550% of the value in Table B105.1(2) <sup>b</sup> | Duration in Table B105.1(2) at the reduced flow rate |
| For SI: 1 gallon per minute= 3.785 Lit.                                                                                                         |                                                    |                                                      |
| a. The reduced fire-flow shall be not less than 1,000 gallons per minute.                                                                       |                                                    |                                                      |
| b. The reduced fire-flow shall be not less than 1,500 gallons per minute.                                                                       |                                                    |                                                      |

**Section 19.48.140 Validity.** Should any section, paragraph, sentence or word of this Chapter or of the Code or Standards be declared invalid, all other portions of this Chapter shall remain in effect.

**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 Old City Hall, 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.

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

ADOPTING FINDINGS AS TO LOCAL CLIMATIC, GEOLOGICAL AND TOPOGRAPHICAL CONDITIONS RENDERING REASONABLY NECESSARY VARIOUS ENUMERATED LOCAL FIRE STANDARDS THAT ARE MORE STRINGENT THAN THOSE MANDATED BY THE CALIFORNIA FIRE CODE AND RESCINDING RESOLUTION NO. 71,710–N.S.

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

WHEREAS, the City is proposing to adopt various enumerated changes and modifications to the California Fire Code, as set forth below; and

WHEREAS, Health & Safety Code §17958 allows the City to make modifications or changes to the California Fire Code and other regulations adopted pursuant to Health & Safety Code §17921(a) which result in more stringent local requirements; and

WHEREAS, Health & Safety Code §17925, §17958.5 and §17958.7 require that such changes be supported by findings made by the governing body that such more stringent local requirements are necessary because of “local climatic, geological or topographical conditions or factors;” and

WHEREAS, such findings must be made available as a public record and a copy thereof with each such modification or change shall be filed with the California Building Standards Commission:

NOW THEREFORE, BE IT RESOLVED by the City Council that it finds that each of the various proposed changes or modifications to the California Fire Code which are enumerated below are reasonably necessary because of local conditions in the area encompassed by the City of Berkeley, as set forth below:

**1. LOCAL CONDITIONS**

a. Climatic Conditions

i. Discussion

The City of Berkeley is located at the geographic center of the Bay Area. The western limits are defined by the Bay at near sea level and the eastern limits by the abruptly rising Berkeley Hills to 1,200 feet. The eastern limit faces open parklands and open space (covered with vegetative fuel loading) to the east and is exposed to a unique danger from wildland fires during periods of hot, dry weather in the summer months. Many of the Berkeley homes in this area have wood shake and shingle roofs and are surrounded by brush type vegetation. The situation is made even worse by the negative effects of high wind conditions during the fire season. During May to October, critical climatic fire conditions occur where the temperature is greater than 80°F, wind speed is greater than 15 mph, fuel moisture is less than or equal to 10 percent, wind direction is from north to

the east-southeast and the ignition component is 65 or greater. These conditions occur more frequently during the fire season but this does not preclude the possibility that a serious fire could occur during other months of the year. The critical climate fire conditions create a situation conducive to rapidly moving, high intensity fires. Fires starting in the wildland areas along the easterly border are likely to move rapidly westward into Berkeley's urban areas.

- In September 1923, critical climatic fire conditions were in effect and Berkeley sustained one of the most devastating fires in California's history. A fire swept over the range of the hills to the northeast of Berkeley and within two hours was attacking houses within the City limits. A total of 130 acres of built-up territory burned. 584 Berkeley buildings were wholly destroyed and about 30 others seriously damaged. By far the greater portion were single-family dwellings, but among the number were 63 apartments, 13 fraternity, sorority and students' house clubs and 6 hotels and boarding houses.
- In September 1970, during critical climatic fire conditions characterized by hot, dry winds out of the northeast, a fire started along Fish Ranch Road and Grizzly Peak. This fire rapidly spread into the surrounding neighborhoods of Oakland and Berkeley, burning 400 acres and destroying 37 homes. An additional 18 homes were badly damaged before the fire was brought under control.
- In December of 1980, during critical climatic fire conditions, a small fire started at Berkeley's northeast limits and within minutes five homes were totally destroyed by fire.
- On October 20, 1991, a disastrous firestorm swept down from the Oakland hills. Within the first few hours, thousands of people were evacuated. Ultimately, over 3,000 dwelling units were destroyed, of which more than 70 were in Berkeley. This fire matched the pattern established by the fires of 1923 and 1980. Additionally, the conditions that led to it were the same as the conditions that led to a 1970 fire that destroyed 37 homes in Berkeley and Oakland.

#### ii. Summary.

Local climatic conditions of limited rainfall, low humidity, high temperatures and high winds along with existing building construction create extremely hazardous fire conditions that adversely affect the acceleration intensity and size of fires in the City. The same climatic conditions may result in the concurrent occurrence of one or more fires, which may spread in the more populated areas of the City without adequate fire department personnel to protect against and control such a situation.

#### b. Geological Conditions.

##### i. Discussion.

The City of Berkeley is in a region of high seismic activity and is traversed by the Hayward fault. It has the San Andreas earthquake fault to the west and the Calaveras earthquake fault to the east. All three faults are known to be active as evidenced by the damaging earthquakes they have produced in the last 100 years and can, therefore, be expected to do the same in the future. Of primary concern to Berkeley is the Hayward

Fault, which has been estimated to be capable of earthquakes exceeding a magnitude of 7.0 on the Richter scale. It extends through many residential areas and passes through a small business district and the University of California. A large number of underground utilities cross the fault, including major water supply lines. Intensified damage during an earthquake may be expected in those areas of poorer ground stability along the Bay, west of Interstate 80 and in known slide areas, as well as hillside areas (occupied mainly by dwellings) located within or near the fault zone; some areas are steep and have been subjected to slides.

The waterfront areas and areas in the Berkeley flatlands immediately adjacent to creeks and water streams present a major potential for soil liquefaction hazard. The Eastshore Freeway may liquefy and fail under heavy shaking or it may be inundated by a tsunami. The north hill area is most susceptible to landslides because of the presence of soft and unconsolidated sediments, extensive water content in the ground and the steepness of slopes.

Great potential damage can be related to the likely collapse of freeway overpasses. In the event of a major earthquake, Berkeley's firefighting capability could be greatly affected by loss of its main water supply. There is also the strong possibility of inundation due to failure of water reservoirs in the hill area. The replacement of Summit Reservoir at the Kensington border in Berkeley was completed in December 2018. Berryman Reservoir North has been demolished and replaced by a steel tank in 2012. Berryman Reservoir South has received a seismic upgrade. Additional potential situations following an earthquake include broken natural gas mains and ensuing fires in the streets; building fires, as the result of broken service connections; trapped occupants in collapsed structures; and rendering of first aid and other medical attention to a large number of people.

#### ii. Summary.

Local geological conditions include high seismic activity and large concentrations of residential type buildings as well as a major freeway. Since the City of Berkeley is located in a densely populated area having buildings and structures constructed over and near a vast array of fault systems capable of producing major earthquakes, the modifications cited herein are intended to better limit life safety hazards and property damage as a result of a seismic activity.

#### c. Topographical Conditions.

##### i. Discussion.

The City of Berkeley has many homes built throughout the urban portion of the Berkeley Hills that are reached by narrow and often winding paved streets which hamper access for fire apparatus and escape routes for residents. In addition, many of the hillside homes are on the extreme eastern edge of the City and require longer response times for the total required firefighting force. Panoramic Way and other hill areas with narrow and winding streets may face the problem of isolation from the rest of the City.

In the areas north and south of the University of California, there are large concentrations of apartments, rooming houses, and fraternity and sorority houses. A number of apartments in these areas are of wood frame construction and are up to five stories in

height from grade level. The fire potential is moderately high due to building congestion, heights, and wood shingle roof coverings and siding. Fires can be expected to involve large groups of buildings in these areas. It is noted that Berkeley most probably has more physically impaired people per capita than any other community in the United States. It is estimated that 11% of the approximate population of 121,077 per 2020 Census in Berkeley are physically impaired. Emergency egress and rescue for these people are more difficult during a fire or other life safety emergency.

The Eastshore Highway, running along the western edge of Berkeley, is one of the most heavily used and congested freeway sections in the state. Noted impacts have been increased rates of asthma, particularly among children. The proximity of Berkeley to this freeway and its location downwind from prevailing patterns negatively affects air quality, thus increasing the impact of wood smoke in Berkeley.

d. Summary.

Local topographical conditions include hillside housing with many narrow and winding streets with slide potential for blockage in the abruptly rising Berkeley Hills. These conditions create an extremely serious problem for the Fire Department when a major fire or earthquake occurs. Many situations will result in limiting or total blockage of fire department emergency vehicular traffic, overtaxed fire department personnel and a total lack of resources for the suppression of fire in buildings and structures in the City of Berkeley. In addition, under these local conditions, the presence of wood smoke can cause increased disease, including asthma, and increased deaths from heart and lung disease.

**2. REASONABLE NECESSITY**

The proposed changes and modifications to the California Fire Code are reasonably necessary due to the local climatic, geological and topographical conditions set forth above. They are further justified for the reasons set forth below.

In adopting the California Fire Code as the Berkeley Fire Code, the City proposes to make certain substantive modifications whose effect is to impose more stringent requirements locally than are mandated by the California Fire Code. These are specifically listed below, but may be generally characterized as relating to: the preservation of building and roof accessibility and emergency egress; maintenance of building compartmentation using fusible links; amendment of automatic sprinkler requirements; amendment of fire alarm system requirements; amendment of fire flow requirements; requirements for high-rise air supply and the regulation of hazards including hazardous materials, Wildland-Urban Interface management, temporary assembly attractions, fireworks and explosives. These more stringent local requirements are reasonably necessary to address risks created by local conditions set forth above for the following reasons:

1. Section 503 (Fire Apparatus Access Roads) and Appendix D (Fire Apparatus Access Roads) are adopted in their entirety as local code amendments. They are adopted due to: local geological conditions of severe earthquake potential which may result in landslides and the collapse of "built-environment" features which may block access roads; local topographical conditions including narrow streets and steep hills which slow and hinder emergency response and evacuation; and local climatic

conditions including the need for rapid, unhindered citizen evacuation from and emergency responder access into wildfire prone areas of the City.

2. Section 504.1.1 (Marking of Exterior Building Openings) is added due to local topographical conditions which promote multi-story and on-slope construction to maximize buildable space within the City. The limited space available for development encourages developers and designers to crowd exterior openings into limited available space, often resulting in groups of building openings without any obvious cues for firefighters as to the area(s) served within the building or the purpose of the openings. This amendment is intended to inform firefighters as to the area served and/or purpose of an exterior opening and therefore reduce the amount of time firefighters may spend searching for or forcing entry into otherwise unmarked doorways.
3. Section 705.2.5 (Smoke- and Heat-Activated Doors) is amended due to the increased risks caused by fires resulting from earthquakes and proximity to the wildland-interface. These risks, which are particularly severe in Berkeley due to its high population density, are shown by its past history of above average death and property loss due to fire in these types of occupancies. This amendment will maintain the fire and smoke separation requirements and prevent spread of smoke and fire in apartments, boarding houses, and congregate living spaces.
4. Sections 903.2.10.1, 903.2.11.1, 903.2.11.2, 903.2.22, 903.2.23, 903.3.1.2, 903.3.10 and 1103.5, 1103.5.6, 1103.5.6.1, 1103.5.6.2, 1103.5.6.3 (Fire Sprinkler Systems) are amended due to the increased risks caused by fires resulting from earthquakes and proximity to the wildland-interface. These risks, which are particularly severe in Berkeley due to its high population density, are shown by its past history of above average death and property loss due to fire in these types of occupancies. Automatic fire sprinkler systems significantly reduce the loss of life and fire spread with early suppression and control of a fire. Additionally, these amendments will maintain the standards established in 1992 after the 1990 fraternity fire and 1991 Berkeley Oakland firestorm.
5. Amendments and additions to Sections 907.1.6, 907.1.7, 907.2, 907.2.1, 907.2.2, 907.2.4, 907.2.7, 907.2.7.1, 907.2.8.1, 907.2.8.2, 907.2.9.1, 907.6.6, 907.9, 907.9.1, 1103.7, 1103.7.5.1, 1103.7.6, and 1103.7.10 (Fire Alarm Systems) are amended due to the increased risks caused by fires resulting from earthquakes and proximity to the wildland-interface. These risks, which are particularly severe in Berkeley due to its high population density, are shown by its past history of above average death and property loss due to fire in these types of occupancies. Automatic fire alarm systems significantly reduce the loss of life and fire spread with early detection and notification of firefighting personnel. Additionally, these amendments will maintain the standards adopted in 1998 as part of the Berkeley Fire Code.
6. Section 5704.2.11.1.1 (Restrictions on Underground Storage Tanks), Section 5704.2.13.1.4 (Tanks Abandoned in Place), Section 5704.2.14 (Removal and Disposal of Tanks) and section 6104.1.1 (Restrictions on Storage of LP-Gas Containers) of the Berkeley Fire Code are local amendments to the California Fire Code. These subsections are necessitated by local topographical conditions

including the dense population of residential dwellings throughout the City; the narrow winding streets of the hazardous hill area; and the presence of a major transportation system underground (BART with its surge chambers and other openings at the street level in various areas of the city). These factors make it very important for purposes of fire safety to regulate hazardous material storage to ensure that it does not intrude in these areas.

7. Section B105.2 (Appendix B, "Fire Flow Requirements for Buildings", Table B105.2, "Required Fire-Flow For Buildings Other Than One- And Two-Family Dwellings, Group R-3 And R-4 Buildings And Townhouses") is amended due to the geological conditions of the City with its proximity to major earthquake faults. Predictions by the local water utility company are that many water mains will break as the result of a magnitude 6.7 earthquake on the Hayward Fault.
8. Appendix P (Temporary Haunted Houses, Ghost Walks and Similar Amusement Uses) is adopted as a local amendment to the California Fire Code and is adopted based on local geological conditions (the potential for severe earthquake with accompanying fire and/or structural collapse) and local topographical conditions including the need to ensure adequate separation of structures and uses in densely developed urban areas. Fire alarm systems (as required in this appendix) are shown to significantly reduce the life safety threat to occupants of structures during fire events. Regulation of these structures and activities ensures that adequate safety provisions have been made for limiting occupancy to safe numbers of guests and for the evacuation of attraction guests in crowded urban environments. Adoption of this appendix also allows for the regulation of related features such as the combustibility of decorations and the management of hazards such as temporary electrical wiring and the use of portable generators.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that certain local amendments to the codes are not building standards more stringent than the provisions of the California Fire Code but rather cover matters not addressed by those codes as building standards, or are administrative in nature, as follows:

1. Berkeley Fire Code Chapter 19.48, Article 1, Scope and Administrative Provisions, as amended, details local ordinances and regulations necessary to carry out and enforce the Berkeley Fire Code in the City of Berkeley relating to civil, administrative, or criminal procedures.
2. Berkeley Fire Code Chapter 19.48, Article 2, Definitions, as amended, provides additional definitions required to clarify and implement the local adoption of the fire code.
3. Chapter 3 (General Requirements) is adopted in its entirety. The adopted sections of this chapter impose controls on a wide range of hazards that are not building standards. Hazards addressed include asphalt kettles, combustible waste materials, control of ignition sources, open burning/recreational fires, open flames, powered industrial equipment, smoking, securing of vacant premises, vehicle impact protection, fueled equipment, general storage and hazards to firefighters.
4. Section 1031.2, ([Emergency Escape and Rescue] Where Required) is a local

amendment to correct the Berkeley Fire Code language to match the Berkeley Building Code language.

5. Section 5001.7 (Hazardous Materials Transport Restrictions) is a local amendment to the California Fire Code that restricts the transportation, storage and transfer of hazardous materials but does not create or modify any building standards. It simply imposes additional requirements necessitated by local conditions. This additional subsection is necessitated by the dense population of residential dwellings throughout the City; the narrow winding streets of the hazardous hill area; and the presence of a major transportation system underground (BART with its surge chambers and other openings at the street level in various areas of the city). These factors make it very important for purposes of fire safety to regulate hazardous material transportation to ensure that it does not intrude in these areas.
6. Section 5601.1.3 (Fireworks) prohibits (with suitable exceptions) the possession, manufacture, storage, sale, handling and use of fireworks within the jurisdiction (including fireworks classified by the State Fire Marshal as Safe and Sane fireworks). Section 5604.1 (General [Explosive Materials Storage and Handling]) is modified to prohibit the storage and handling of explosives within the jurisdiction. Both sections are intended to preserve the ban on storage, handling and use of these materials within City limits which have historically been deemed unsafe and inappropriate activities within the jurisdiction.
7. Section 5701.4.1 (Transfer of Flammable and Combustible Liquids) prohibits dispensing of flammable liquids on or from a street or public way and provides administrative provisions, additional clarification and non-building standard approval or permit requirements required to implement the fire code.
8. Appendix E (Hazard Categories) and Appendix F (Hazard Ranking) are local amendments to the California Fire Code related to hazardous materials management. These chapters define the hazard categories and rankings associated with the storage, handling and use of hazardous materials, and provide the qualitative and quantitative rankings used on hazardous materials information signs posted for the benefit of firefighters and other first responders. These hazard categories and rankings are administrative in nature and do not constitute building standards.
9. Appendix O (Valet Trash and Recycling Collection in Group R-2 Occupancies) provide specific guidelines on operating valet trash service in a Group R-2 Occupancy.

BE IT FURTHER RESOLVED, that Resolution No. 70,710–N.S is hereby rescinded.

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

ESTABLISHING ANNUAL PERMIT FEES, INSPECTION AND BILLING RATES FOR INSPECTION OF PROPERTY SITES BY THE BERKELEY FIRE DEPARTMENT, AND RESCINDING RESOLUTION NO. 71,837-N.S. AND ALL RESOLUTIONS AMENDATORY THEREOF

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

Section 1. ANNUAL PERMIT FEES

For every permit issued under the provisions of the Berkeley Fire Code (Berkeley Municipal Code Chapter 19.48, Sections 105.5, 105.6, 5001.7), a fee therefore shall be paid in advance to the Fire Department or upon completion of services rendered as specified by the Fire Department as follows:

| Code Section               | Fee Description                                                                                                                                                                                                                                                                                                                            | Current Fee |
|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| <b>OPERATIONAL PERMITS</b> |                                                                                                                                                                                                                                                                                                                                            |             |
| Section 105.5.1            | <b>Additive manufacturing.</b> An operational permit is required to conduct additive manufacturing operations regulated by Section 4106.3.                                                                                                                                                                                                 | \$250.00    |
| Section 105.5.2            | <b>Aerosol products, aerosol cooking spray products and plastic aerosol 3 products.</b> An operational permit is required to manufacture, store or handle an aggregate quantity of Level 2 or Level 3 aerosol products, aerosol cooking spray products or plastic aerosol 3 products in excess of 500 pounds (227 kg) net weight.          | \$500.00    |
| Section 105.5.3            | <b>Amusement buildings.</b> An operational permit is required to operate a special amusement building.                                                                                                                                                                                                                                     | \$500.00    |
| Section 105.5.4            | <b>Aviation facilities.</b> An operational permit is required to use a Group H or Group S occupancy for aircraft servicing or repair and aircraft fuel-servicing vehicles. Additional permits required by other sections of this code include, but are not limited to hot work, hazardous materials and flammable or combustible finishes. | \$500.00    |
| Section 105.5.5            | <b>Carnivals and fairs.</b> An operational permit is required to conduct a carnival or fair.                                                                                                                                                                                                                                               | \$500.00    |
| Section 105.5.6            | <b>Cellulose nitrate film.</b> An operational permit is required to store, handle or use cellulose nitrate film in a Group A occupancy.                                                                                                                                                                                                    | \$500.00    |

| Code Section     | Fee Description                                                                                                                                                                                                                                                                                                                                                      | Current Fee      |
|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| Section 105.5.60 | <b>Christmas tree sales lot.</b> An operational permit is required to operate a Christmas tree sales lot.                                                                                                                                                                                                                                                            | \$500.00         |
| Section 105.5.7  | <b>Combustible dust-producing operations.</b> An operational permit is required to operate a grain elevator, flour starch mill, feed mill, or a plant pulverizing aluminum, coal, cocoa, magnesium, spices or sugar, or other operations producing combustible dusts as defined in Chapter 2.                                                                        | \$500.00         |
| Section 105.5.8  | <b>Combustible fibers.</b> An operational permit is required for the storage and handling of combustible fibers in quantities greater than 100 cubic feet (2.8m <sup>3</sup> ).<br><b>Exception:</b> A permit is not required for agricultural storage.                                                                                                              | \$500.00         |
| Section 105.5.9  | <b>Compressed gases.</b> An operational permit is required for the storage, use or handling at normal temperature and pressure (NTP) of compressed gases in excess of the amounts listed in Table 105.5.9.<br><b>Exception:</b> Vehicles equipped for and using compressed gas as a fuel for propelling the vehicle.                                                 | \$500.00 minimum |
| Section 105.5.10 | <b>Covered and open mall buildings.</b> An operational permit is required for:<br>1. The placement of retail fixtures and displays, concession equipment, displays of highly combustible goods and similar items in the mall.<br>2. The display of liquid- or gas-fired equipment in the mall.<br>3. The use of open-flame or flame-producing equipment in the mall. | \$500.00 minimum |
| Section 105.5.11 | <b>Cryogenic fluids.</b> An operational permit is required to produce, store, transport on site, use, handle or dispense cryogenic fluids in excess of the amounts listed in Table 105.5.11<br><b>Exception:</b> Permits are not required for vehicles equipped for and using cryogenic fluids as a fuel for propelling the vehicle or for refrigerating the lading. | \$500.00 minimum |
| Section 105.5.12 | <b>Cutting and welding.</b> An operational permit is required to conduct cutting or welding operations within the jurisdiction.                                                                                                                                                                                                                                      | \$250.00         |
| Section 105.5.13 | <b>Dry cleaning.</b> An operational permit is required to engage in the business of dry cleaning or to change to a more hazardous cleaning solvent used in existing dry cleaning equipment.                                                                                                                                                                          | \$500.00         |

| Code Section     | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Current Fee      |
|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| Section 105.5.14 | <b>Energy storage systems.</b> An operational permit is required for stationary and mobile energy storage systems regulated by Section 1207. <i>Operational permits shall not be required for ESS located at detached one- and two-family dwellings and townhouses, other than Group R-4.</i>                                                                                                                                                                                                                                                                                                                                                                                                            | \$500.00 minimum |
| Section 105.5.61 | <b>Escort convoy service.</b> Police and/or Fire Department convoy service for vehicle transportation of extremely hazardous materials.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | \$500.00 minimum |
| Section 105.5.15 | <b>Exhibits and trade shows.</b> An operational permit is required to operate exhibits and trade shows.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | \$500.00         |
| Section 105.5.16 | <p><b>Explosives.</b> An operational permit is required for the manufacture, storage, handling, sale or use of any quantity of explosives, explosive materials, fireworks or pyrotechnic special effects within the scope of Chapter 56. <i>See Health and Safety Code Division 11, Part 1, Sections 12000, et seq. for additional requirements.</i></p> <p><b>Exception:</b> Storage in Group R-3 occupancies of smokeless propellant, black powder and small arms primers for personal use, not for resale and in accordance with Section 5606.</p> <p>To conduct a public fireworks display ..... \$1500.00 minimum</p> <p>To continue the use of a public fireworks display permit..... \$250.00</p> | \$618.00         |
| Section 105.5.62 | <b>Fire fighter air replenishment system (FARS).</b> An annual operational permit is required to maintain a FARS system in accordance with Appendix L.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | \$250.00         |
| Section 105.5.17 | <p><b>Fire hydrants and valves.</b> An operational permit is required to use or operate fire hydrants or valves intended for fire suppression purposes that are installed on water systems and provided with ready access from a fire apparatus access road that is open to or generally used by the public.</p> <p><b>Exception:</b> A permit is not required for authorized employees of the water company that supplies the system or the fire department to use or operate fire hydrants or valves.</p>                                                                                                                                                                                              | \$250.00         |
| Section 105.5.18 | <p><b>Flammable and combustible liquids.</b> An operational permit is required:</p> <ol style="list-style-type: none"> <li>To use or operate a pipeline for the transportation within</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                  |

| Code Section | Fee Description                                                                                                                                                                                                                                                  | Current Fee         |
|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
|              | facilities of flammable or combustible liquids. This requirement shall not apply to the off-site transportation in pipelines regulated by the Department of Transportation (DOTn) nor does it apply to piping systems. ....                                      | \$500.00<br>minimum |
|              | 2. To store, handle or use Class I liquids in excess of 5 gallons (19 L) in a building or in excess of 10 gallons (37.9 L) outside of a building, except that a permit is not required for the following:.....                                                   | \$500.00            |
|              | 2.1 The storage or use of Class I liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant, unless such storage, in the opinion of the fire code official, would cause an unsafe condition.                  |                     |
|              | 2.2 The storage or use of paints, oils, varnishes or similar flammable mixtures where such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days.                                                               |                     |
|              | 3. To store, handle or use Class II or Class IIIA liquids in excess of 25 gallons (95 L) in a building or in excess of 60 gallons (227 L) outside a building, except for fuel oil used in connection with oil-burning equipment. ....                            | \$500.00            |
|              | 4. To store, handle or use Class IIIB liquids <u>in excess of 110 gallons in containers, or in tanks or portable tanks</u> for fueling motor vehicles at motor fuel-dispensing facilities or where connected to fuel-burning equipment.                          |                     |
|              | <b>Exception:</b> Fuel oil and used motor oil used for space heating or water heating.                                                                                                                                                                           | \$250.00            |
|              | 5. To remove Class I or Class II liquids from an underground storage tank used for fueling motor vehicles by any means other than the approved, stationary on-site pumps normally used for dispensing purposes.....                                              | \$250.00            |
|              | 6. To operate tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used. .... | \$250.00            |
|              | 7. To place temporarily out of service (for more than 90 days)                                                                                                                                                                                                   | \$250.00            |

| Code Section     | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Current Fee                                                     |
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|                  | <p>an underground, protected above-ground or above-ground flammable or combustible liquid tank. ....</p> <p>8. To change the type of contents stored in a flammable or combustible liquid tank to a material that poses a greater hazard than that for which the tank was designed and constructed.....</p> <p>9. To manufacture, process, blend or refine flammable or combustible liquids.....</p> <p>10. To engage in the dispensing of liquid fuels into the fuel tanks of motor vehicles at commercial, industrial, governmental or manufacturing establishments in accordance with Section 5706.5.4 or to engage in on-demand mobile fueling operations in accordance with Section 5707.. ....</p> <p>11. To utilize a site for the dispensing of liquid fuels from tank vehicles into the fuel tanks of motor vehicles, marine craft and other special equipment at commercial, industrial, governmental or manufacturing establishments in accordance with Section 5706.5.4 or, where required by the fire code official, to utilize a site for on-demand mobile fueling operations in accordance with Section 5707. ...</p> | <p>\$250.00</p> <p>\$500.00</p> <p>\$500.00</p> <p>\$500.00</p> |
| Section 105.5.19 | <b>Floor finishing.</b> An operational permit is required for floor finishing or surfacing operations exceeding 350 square feet (33 m <sup>2</sup> ) using Class I or Class II liquids.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | \$500.00                                                        |
| Section 105.5.20 | <b>Fruit and crop ripening.</b> An operational permit is required to operate a fruit- or crop-ripening facility or conduct a fruit-ripening process using ethylene gas.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | \$500.00                                                        |
| Section 105.5.21 | <b>Fumigation and insecticidal fogging.</b> An operational permit is required to operate a business of fumigation or insecticidal fogging, and to maintain a room, vault or chamber in which a toxic or flammable fumigant is used.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | No permit required                                              |
| Section 105.5.63 | <b>General use permit.</b> For any activity or operation not specifically described in this code, which the fire code official reasonably determines, may produce conditions hazardous to life or property.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | \$500.00 minimum                                                |
| Section 105.5.22 | <b>Hazardous materials.</b> An operational permit is required to store, transport on site, dispense, use or handle hazardous                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | \$500.00 minimum                                                |



| Code Section     | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Current Fee      |
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| Section 105.5.29 | <b>Lithium batteries.</b> An operational permit is required for an accumulation of more than 15 cubic feet (0.42 m) of lithium-ion and lithium metal batteries, where required by Section 322.1.                                                                                                                                                                                                                                                                                                                                                       | \$500.00         |
| Section 105.5.30 | <b>LP-gas.</b> An operational permit is required for: <ol style="list-style-type: none"> <li>1. Storage and use of LP-gas. <p><b>Exception:</b> A permit is not required for individual containers with a 500-gallon (1893 L) water capacity or less or multiple container systems having an aggregate quantity not exceeding 500 gallons (1893 L), serving occupancies in Group R-3.</p> </li> <li>2. Operation of cargo tankers that transport LP-gas.</li> </ol>                                                                                    | \$500.00 minimum |
| Section 105.5.31 | <b>Lumber yards and woodworking plants.</b> An operational permit is required for the storage or processing of lumber exceeding 100,000 board feet (8,333 ft <sup>3</sup> ) (236 m <sup>3</sup> ).                                                                                                                                                                                                                                                                                                                                                     | \$500.00         |
| Section 105.5.32 | <b>Magnesium.</b> An operational permit is required to melt, cast, heat treat or grind more than 10 pounds (4.54 kg) of magnesium.                                                                                                                                                                                                                                                                                                                                                                                                                     | \$500.00         |
| Section 105.5.33 | <b>Miscellaneous combustible storage.</b> An operational permit is required to store in any building or on any premises in excess of 2,500 cubic feet (71 m <sup>3</sup> ) gross volume of combustible empty packing cases, boxes, barrels or similar containers, combustible pallets, rubber tires, rubber, cork, or similar combustible material.                                                                                                                                                                                                    | \$500.00         |
| Section 105.5.34 | <b>Mobile food preparation vehicles.</b> An operational permit is required for mobile food preparation vehicles equipped with appliances that produce smoke or grease-laden vapors.                                                                                                                                                                                                                                                                                                                                                                    | \$125.00 minimum |
| Section 105.5.58 | <b>Mobile fueling of hydrogen-fueled vehicles.</b><br><i>An operational permit is required:</i> <ol style="list-style-type: none"> <li>1. <i>To engage in the mobile dispensing of gaseous hydrogen as a fuel into the fuel tanks of motor vehicles.</i></li> <li>2. <i>Where required by the fire code official, to utilize a site for the dispensing of gaseous hydrogen as a fuel from tank vehicles into the fuel tanks of motor vehicles.</i></li> </ol> <p><b>Exception:</b> <i>In cases of an emergency, a site permit is not required.</i></p> | \$500.00 minimum |
| Section 105.5.35 | <b>Motor fuel-dispensing facilities.</b> An operational permit is required for the operation of automotive, marine, and fleet                                                                                                                                                                                                                                                                                                                                                                                                                          | \$500.00 minimum |

| Code Section     | Fee Description                                                                                                                                                                                                                                                                                                                                                                                           | Current Fee          |
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|                  | <p>motor fuel-dispensing facilities, or for mobile fueling operations using flammable liquids and which are conducted at facilities or locations which are not permanent, permitted motor fuel dispensing facilities.</p> <p><b>Exception:</b> Transfer of not more than 5 gallons flammable or combustible liquids using a listed or approved portable fuel container of 5 gallons or less capacity.</p> |                      |
| Section 105.5.36 | <p><b>Open burning.</b> An operational permit is required for the kindling or maintaining of an open fire or a fire on any public street, alley, road, or other public or private ground. Instructions and stipulations of the permit shall be complied with.</p> <p><b>Exception:</b> Recreational fires.</p>                                                                                            | \$250.00             |
| Section 105.5.37 | <p><b>Open flames and torches.</b> An operational permit is required to remove paint with a torch; or to use a torch or open-flame device in a wildfire risk area.</p>                                                                                                                                                                                                                                    | \$250.00             |
| Section 105.5.38 | <p><b>Open flames and candles.</b> An operational permit is required to use open flames or candles in connection with assembly areas, dining areas of restaurants or drinking establishments.</p>                                                                                                                                                                                                         | \$250.00             |
| Section 105.5.39 | <p><b>Organic coatings.</b> An operational permit is required for any organic-coating manufacturing operation producing more than 1 gallon (4 L) of an organic coating in one day.</p>                                                                                                                                                                                                                    | \$500.00             |
| Section 105.5.40 | <p><b>Outdoor assembly event.</b> An operational permit is required to conduct an <i>outdoor assembly event</i> where planned attendance exceeds 1,000 persons.</p>                                                                                                                                                                                                                                       | \$500.00 minimum     |
| Section 105.5.64 | <p><b>Parking facility, special events.</b> An operational permit is required to use buildings or structures for vehicle parking, including parking for special events (i.e. football games, etc.)</p> <p>A. Less than 15 parking spaces .....</p> <p>B. 15 or more parking spaces .....</p>                                                                                                              | \$250.00<br>\$500.00 |
| Section 105.5.41 | <p><b>Places of assembly.</b> An operational permit is required to operate a place of assembly.</p> <p>A. <u>Occupant load less than 300</u> .....</p> <p>B. <u>Occupant load 300 or more</u> .....</p>                                                                                                                                                                                                   | \$500.00<br>\$750.00 |
| Section 105.5.42 | <p><b>Plant extraction systems.</b> An operational permit is required to use plant extraction systems.</p>                                                                                                                                                                                                                                                                                                | \$500.00             |
| Section 105.5.43 | <p><b>Private fire hydrants.</b> An operational permit is required for the removal from service, use or operation of private fire</p>                                                                                                                                                                                                                                                                     | \$250.00             |

| Code Section     | Fee Description                                                                                                                                                                                                                                                                                                                                                      | Current Fee       |
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|                  | hydrants.<br><b>Exception:</b> A permit is not required for private industry with trained maintenance personnel, private fire brigade or fire departments to maintain, test and use private hydrants.                                                                                                                                                                |                   |
| Section 105.5.44 | <b>Pyrotechnic special effects material.</b> An operational permit is required for use and handling of pyrotechnic special effects material. <i>See Health and Safety Code Division 11, Part 2, Sections 12500, et seq. for additional requirements.</i>                                                                                                             | \$500.00          |
| Section 105.5.45 | <b>Pyroxylin plastics.</b> An operational permit is required for storage or handling of more than 25 pounds (11 kg) of cellulose nitrate (pyroxylin) plastics, and for the assembly or manufacture of articles involving pyroxylin plastics.                                                                                                                         | \$500.00          |
| Section 105.5.46 | <b>Refrigeration equipment.</b> An operational permit is required to operate a mechanical refrigeration unit or system regulated by Chapter 6.                                                                                                                                                                                                                       | \$500.00 minimum  |
| Section 105.5.47 | <b>Repair garages and motor fuel-dispensing facilities.</b> An operational permit is required for operation of repair garages.                                                                                                                                                                                                                                       | \$500.00 minimum  |
| Section 105.5.48 | <b>Rooftop heliports.</b> An operational permit is required for the operation of a rooftop heliport.                                                                                                                                                                                                                                                                 | \$500.00          |
| Section 105.5.49 | <b>Spraying or dipping.</b> An operational permit is required to conduct a spraying or dipping operation utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24.                                                                                                                                              | \$500.00          |
| Section 105.5.50 | <b>Storage of scrap tires and tire byproducts.</b> An operational permit is required to establish, conduct or maintain storage of scrap tires and tire byproducts that exceeds 2,500 cubic feet (71 m <sup>3</sup> ) of total volume of scrap tires, and for indoor storage of tires and tire byproducts.                                                            | \$500.00          |
| Section 105.5.65 | <b>Tank vehicles.</b> An operational permit is required to operate a tank vehicle (other than flammable and combustible liquids tank vehicles as listed and regulated in 105.5.18, item 6) including those hazardous materials transportation vehicles defined in Section 5001.7 of the Berkeley Fire Code for the transportation of hazardous liquids or materials. | \$500.00 annually |
| Section 105.5.51 | <b>Temporary membrane structures, special event structures and tents.</b> An operational permit is required to operate an air-supported temporary membrane structure, a temporary special event structure or a tent having an area in excess of 400 square feet (37 m <sup>2</sup> )                                                                                 | \$500.00          |

| Code Section     | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Current Fee      |
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|                  | <p><b>Exceptions:</b></p> <ol style="list-style-type: none"> <li>1. Tents used exclusively for recreational camping purposes.</li> <li>2. Tents, curtains and extensions attached thereto, when used for funeral services.</li> <li>3. Tents open on all sides, which comply with all of the following:               <ol style="list-style-type: none"> <li>3.1 Individual tents having a maximum size of 700 square feet (65 m<sup>2</sup>).</li> <li>3.2 The aggregate area of multiple tents placed side by side without a fire break clearance of not less than 12 feet (3658 mm) shall not exceed 700 square feet (65 m<sup>2</sup>) total.</li> <li>3.3 A minimum clearance of 12 feet (3658 mm) to structures and other tents shall be provided.</li> </ol> </li> </ol> |                  |
| Section 105.5.52 | <b>Tire-rebuilding plants.</b> An operational permit is required for the operation and maintenance of a tire-rebuilding plant.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | \$500.00         |
| Section 105.5.53 | <b>Waste handling.</b> An operational permit is required for the operation of wrecking yards, junk yards and waste material-handling facilities.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | \$500.00         |
| Section 105.5.54 | <b>Wood products.</b> An operational permit is required to store chips, hogged material, lumber or plywood in excess of 200 cubic feet (6 m <sup>3</sup> ).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | \$500.00         |
| Section 105.5.55 | <b>Temporary heating or cooking in tents or membrane structures.</b> An operational permit is required to operate temporary heating or cooking equipment within tents or membrane structures.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | \$125.00 minimum |
| Section 105.5.56 | <b>Temporary heating or cooking in wildfire risk areas.</b> Where required by local regulations, an operational permit is required to operate temporary heating or cooking equipment in wildfire risk areas.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | \$125.00 minimum |
| Section 105.5.57 | <b>Temporary heating for construction sites.</b> An operational permit is required to operate temporary heating equipment in structures during the course of construction, alteration or demolition.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | \$125.00 minimum |
| Section 105.5.59 | <b>Additional permits.</b> <i>In addition to the permits required by Section 105.6, the following permits shall be obtained from the Bureau of Fire Prevention <u>Division</u> prior to engaging in the following activities, operations, practices or functions:</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | \$500.00         |

| Code Section                  | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Current Fee                                                                                                                                                                                                 |
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|                               | <ol style="list-style-type: none"> <li>1. <i>Production facilities. To change use or occupancy, or allow the attendance of a live audience, or for wrap parties.</i></li> <li>2. <i>Pyrotechnics and special effects. To use pyrotechnic special effects, open flame, use of flammable or combustible liquids and gases, welding, and the parking of motor vehicles in any building or location used for the purpose of motion picture, television and commercial production.</i></li> <li>3. <i>Live audiences. To install seating arrangements for live audiences in approved production facilities, production studios and sound stages. See Chapter 48.</i></li> </ol> |                                                                                                                                                                                                             |
| <b>CONSTRUCTION PERMITS</b>   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                             |
| <p>Section 105.6.1</p>        | <p><b>Automatic fire-extinguishing systems.</b> A construction permit is required for installation of or modification to an automatic fire-extinguishing system, <u>other than an automatic sprinkler system</u>. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.</p> <p style="margin-left: 40px;">A. Range Hood System.....</p> <p style="margin-left: 40px;">B. Chemical Suppression System.....</p> <p style="margin-left: 40px;">C. All others.....</p> <p>Field Inspection .....</p>                                                                                                        | <p style="margin-left: 40px;">\$500.00*</p> <p style="margin-left: 40px;">\$500.00*</p> <p style="margin-left: 40px;">\$500.00*</p> <p>\$125.00 / qtr hour*</p> <p>*minimum</p>                             |
| <p>Section <u>105.6.2</u></p> | <p><b>Automatic sprinkler systems.</b> A construction permit is required for installation of or modification to an automatic <u>sprinkler system</u>. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.</p> <p style="margin-left: 40px;"><u>A. Automatic Sprinkler</u> .....</p> <p style="margin-left: 40px;"><u>B. Automatic Sprinkler (small alteration or repairs to an existing system with 20 heads or less)</u> .....</p> <p style="margin-left: 40px;"><u>C. Underground</u> .....</p> <p style="margin-left: 40px;"><u>D. All others</u> .....</p>                                        | <p style="margin-left: 40px;"><u>\$500.00*</u></p> <p style="margin-left: 40px;"><u>\$250.00*</u></p> <p style="margin-left: 40px;"><u>\$500.00*</u></p> <p style="margin-left: 40px;"><u>\$500.00*</u></p> |

| Code Section    | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Current Fee                                                                                            |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
|                 | <u>Field Inspection</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <u>\$125.00 /</u><br><u>qtr hour*</u><br><br><u>*minimum</u>                                           |
| Section 105.6.3 | <p><b>Compressed gases.</b> Where the compressed gases in use or storage exceed the amounts listed in Table 105.5.9, a construction permit is required to install, repair damage to, abandon, remove, place temporarily out of service, or close or substantially modify a compressed gas system.</p> <p><b>Exceptions:</b></p> <ol style="list-style-type: none"> <li>1. Routine maintenance.</li> <li>2. For emergency repair work performed on an emergency basis, application for permit shall be made within two working days of commencement of work.</li> </ol> | \$500.00                                                                                               |
| Section 105.6.4 | <p><b>Cryogenic fluids.</b> A construction permit is required for installation of or alteration to outdoor stationary cryogenic fluid storage systems where the system capacity exceeds the amounts listed in Table 105.5.11. Maintenance performed in accordance with this code is not considered to be an alteration and does not require a construction permit.</p>                                                                                                                                                                                                 | \$500.00<br>minimum                                                                                    |
| Section 105.6.5 | <p><b>Emergency responder communication coverage system.</b> A construction permit is required for installation of or modification to in-building, two-way emergency responder communication coverage systems and related equipment. Maintenance performed in accordance with this code is not considered to be a modification and does not require a construction permit.</p>                                                                                                                                                                                         | \$500.00<br>minimum                                                                                    |
| Section 105.6.6 | <p><b>Energy storage systems.</b> A construction permit is required to install energy storage systems regulated by Section 1207.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                   | \$500.00<br>minimum                                                                                    |
| Section 105.6.7 | <p><b>Fire alarm and detection systems and related equipment.</b> A construction permit is required for installation of or modification to fire alarm and detection systems and related equipment. Maintenance performed in accordance with this code is not considered to be a modification and does not require a construction permit.</p> <ol style="list-style-type: none"> <li>A. Under 12 devices.....</li> <li>B. 12-30 devices .....</li> <li>C. 31-49 devices.....</li> <li>D. 50 or more devices.....</li> <li>E. Water flow alarms .....</li> </ol>         | <br><br><br><br><br><br><br><br><br><br>\$500.00*<br>\$750.00*<br>\$1250.00*<br>\$1500.00*<br>\$250.00 |



| Code Section     | Fee Description                                                                                                                                                                                                                                                                                                                                                                  | Current Fee                                                         |
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|                  | 2. For repair work performed on an emergency basis, application for permit shall be made within two working days of commencement of work.                                                                                                                                                                                                                                        |                                                                     |
| Section 105.6.14 | <b>High-piled combustible storage.</b> A construction permit is required for the installation of or modification to a structure with more than 500 square feet (46 m <sup>2</sup> ), including aisles, for high-piled combustible storage. Maintenance performed in accordance with this code is not considered to be a modification and does not require a construction permit. | Fire Dept. Review is under a building permit. Std. Bldg. fees apply |
| Section 105.6.15 | <b>Industrial ovens.</b> A construction permit is required for installation of industrial ovens covered by Chapter 30.<br><br><b>Exceptions:</b><br>1. Routine maintenance.<br>2. For repair work performed on an emergency basis, application for permit shall be made within two working days of commencement of work.                                                         | \$500.00                                                            |
| Section 105.6.16 | <b>LP-gas.</b> A construction permit is required for installation of or modification to an LP-gas system. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.                                                                                                                                               | \$500.00                                                            |
| Section 105.6.17 | <b>Motor vehicle repair rooms and booths.</b> A construction permit is required to install or modify a motor vehicle repair room or booth. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.                                                                                                              | Fire Dept. Review is under a building permit. Std. Bldg. fees apply |
| Section 105.6.18 | <b>Plant extraction systems.</b> A construction permit is required for installation of or modification to plant extraction systems. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.                                                                                                                     | Fire Dept. Review is under a building permit. Std. Bldg. fees apply |
| Section 105.6.19 | <b>Private fire hydrants.</b> A construction permit is required for the installation of or modification of private fire hydrants. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit. Hydrant(s) or hydrant groups.....                                                                                     |                                                                     |

| Code Section     | Fee Description                                                                                                                                                                                                                                                                                                                                                                 | Current Fee                                                          |
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|                  | Field Inspection .....                                                                                                                                                                                                                                                                                                                                                          | \$500.00<br>\$125.00<br>/qtr hour*<br>*minimum                       |
| Section 105.6.20 | <b>Smoke control or smoke exhaust systems.</b> Construction permits are required for installation of or alteration to smoke control or smoke exhaust systems. Maintenance performed in accordance with this code is not considered to be an alteration and does not require a permit.                                                                                           | \$500.00<br>minimum                                                  |
| Section 105.6.21 | <b>Solar photovoltaic power systems.</b> A construction permit is required to install or modify solar photovoltaic power systems. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.                                                                                                                      | Fire Dept. Review is under a building permit. Std. Bldg. fees apply  |
| Section 105.6.22 | <b>Special event structure.</b> A single construction permit is required to erect and take down a temporary special event structure in accordance with Section 105.5.51.                                                                                                                                                                                                        | Fire Dept. Review is under a building permit. Std. Bldg. fees apply  |
| Section 105.6.23 | <b>Spraying or dipping.</b> A construction permit is required to install or modify a spray room, dip tank or booth. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.                                                                                                                                    | \$500.00                                                             |
| Section 105.6.24 | <b>Standpipe Systems.</b> A construction permit is required for the installation, modification or removal from service of a standpipe system. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.<br>A. Standpipe, Class I, II and III Combined.....<br>B. Underground .....<br><br>Field Inspection ..... | \$500.00*<br>\$500.00*<br><br>\$125.00*<br>/qtr hour<br><br>*minimum |
| Section 105.6.25 | <b>Temporary membrane structures and tents.</b> A construction permit is required to erect an air-supported temporary                                                                                                                                                                                                                                                           | \$500.00                                                             |

| Code Section     | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Current Fee |
|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
|                  | membrane structure, a temporary stage canopy or a tent having an area in excess of 400 square feet (37 m <sup>2</sup> )<br><br><b>Exceptions:</b> <ol style="list-style-type: none"> <li>1. Tents used exclusively for recreational camping purposes.</li> <li>2. Funeral tents and curtains, or extensions attached thereto, when used for funeral services.</li> <li>3. Tents and awnings open on all sides, which comply with all of the following:               <ol style="list-style-type: none"> <li>3.1 Individual tents shall have a maximum size of 700 square feet (65 m<sup>2</sup>).</li> <li>3.2 The aggregate area of multiple tents placed side by side without a fire break clearance of not less than 12 feet (3658 mm) shall not exceed 700 square feet (65 m<sup>2</sup>) total.</li> <li>3.3 A minimum clearance of 12 feet (3658 mm) to structures and other tents shall be maintained.</li> </ol> </li> </ol> |             |
| Section 105.6.26 | <b>Window bars, operational constraints and opening control devices.</b> A construction permit is required to install window bars or other equipment which imposes operational constraints and opening controls on exterior doors or windows of any sleeping rooms below the fourth floor in apartment houses, hotels, and motels.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | \$250.00    |

## Section 2. ANNUAL FIRE CLEARANCE

For every annual fire clearance certificate issued by the Berkeley Fire Department, a fee shall be paid in advance of issuance of such certificate (Berkeley Fire Code Section 107.2), to the Fire Department as follows:

|                                                                                                                                                                                                                                                                                                                                                                                                                                                               |          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| <b>Group Homes</b> , institutions for children, certified family care homes, board and care facilities, and maternity homes (each accommodating more than six persons, not including employees or relatives), and <u>NOT</u> classified as a Community Care Facility as defined in the California Health & Safety Code (H&SC) section 1502, or as a Residential Care Facility for the Elderly (H&SC 1569.2), or as a Child Day Care Facility (H&SC 1596.750). | \$500.00 |
| <b>Convalescent Hospitals</b> , nursing homes, and homes for the aged (each accommodating not more than six persons, not including employees or relatives) and <u>NOT</u> classified as a Community Care Facility as defined in                                                                                                                                                                                                                               | \$500.00 |

|                                                                                                                                                                                                                                                                                                                                                                                                                          |                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| the Calif. Health & Safety Code (H&SC) section 1502, or as a Residential Care Facility for the Elderly (H&SC 1569.2), or as a Child Day Care Facility (H&SC 1596.750).                                                                                                                                                                                                                                                   |                               |
| <b>Convalescent Hospitals</b> , nursing homes, and homes for the aged (each accommodating not more than six persons and less than 100, not including employees or relatives) and <u>NOT</u> classified as a Community Care Facility as defined in the Calif. Health & Safety Code (H&SC) section 1502, or as a Residential Care Facility for the Elderly (H&SC 1569.2), or as a Child Day Care Facility (H&SC 1596.750). | \$750.00                      |
| <b>Convalescent Hospitals</b> , nursing homes, and homes for the aged (each accommodating 100 or more persons, not including employees or relatives).                                                                                                                                                                                                                                                                    | \$1000.00                     |
| <b>Hospitals</b>                                                                                                                                                                                                                                                                                                                                                                                                         | \$500.00 per hour             |
| <b>Community Care Facilities</b> as defined in the Calif. Health & Safety Code (H&SC) section 1502, <b>Residential Care Facility for the Elderly</b> as defined in H&SC 1569.2, and <b>Child Day Care Facilities</b> (H&SC 1596.750).<br>Pre-inspection Fee (25 or fewer client capacity)                                                                                                                                | qtr. hour minimum<br>\$125.00 |
| Pre-inspection Fee (26 or more client capacity)                                                                                                                                                                                                                                                                                                                                                                          | \$125.00                      |
| [Ref. Calif. Health & Safety Code, section 13235(a)] states that the inspecting agency may charge "a fee equal to, but not exceeding the actual cost of the preinspection services."                                                                                                                                                                                                                                     |                               |

**Section 3. MISCELLANEOUS FEES**

A. For copies of fire reports prepared by the Fire Department, a fee shall be paid in advance as follows:

1. Staff cost for file review and preparation of subpoena documents \$ 6.00 qtr. hr.
2. Copy of each report \$ 0.10 per pg.

B. State Requested Fire & Life Safety Review, Consultation, \$125.00/qtr hr  
Inspection & Permit Clearances

C. General inspection and investigation fees

1. Fees for services rendered by the Fire Department for inspections of fire protection systems, re-inspections of citizen complaints with violations, nuisance inspections research, report preparation and file review services (except for subpoena documents, city records, publications and meeting tapes)

\$125.00/qtr hr

|                                                                                                                        |                                          |
|------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| 2. Fire code consultation services for building development, construction and modifications and pre-permit application | \$500.00/hour                            |
| 3. Overtime fire & life safety inspection                                                                              | \$500.00/hour<br>(2 hr min.)             |
| 4. After-hours call-back for fire & life safety inspection                                                             | \$500.00/hour<br>(4 hr min.)             |
| 5. Accelerated plan review services (as-available, billed at 1.5x the standard hourly rate \$500.00)                   | \$750.00/hour                            |
| D. Fire and Life Safety Investigations or Stand-by Services .....                                                      | \$500.00<br>minimum                      |
| E. Indoor Entertainment Inspection .....                                                                               | \$125.00 per<br>initial<br>inspection    |
| Subsequent inspections shall be billed at \$125.00 per quarter hour                                                    |                                          |
| F. Fire Permit Application & Fire Permit Extension Fees .....                                                          | Standard<br>Building Dept.<br>Fees Apply |

NOTE: All permits and inspection fees under this Resolution are based on average estimated staff and clerical time for applicable plan checking, research, field inspections, etc. Where a fee is indicated as a minimum, and where staff time exceeds one hour, an additional charge will be made at the rate of \$125.00 per quarter hour.

Section 4. INSPECTION AND BILLING RATE

That a rate of \$125.00 per quarter hour (15 minutes) is hereby established as both the billing rate and the billing unit for a given Fire Prevention inspection of a property. A minimum charge of \$125.00 will be made for each property inspected (e.g. each property and/or business address) with an additional charge for each additional quarter hour unit, or portion thereof.

Exception: Properties that have abated all fire code violations prior to the first re-inspection shall not be charged a fee for the re-inspection.

Section 5. DELINQUENCY CHARGE

That a delinquency charge of 20% may be imposed on each account that remains unpaid, sixty (60) days following the initial mailing of the bill.

Section 6. BILLING AND COLLECTION PROCEDURES

That the billing and collection procedures are to be done by the Finance Department and will allow the City to recover unpaid fees through all available remedies, including the lien process. That in the event of billing disputes, the Fire Chief or his designated

representative may review and make recommendations for adjustments to the Finance Department.

BE IT FURTHER RESOLVED that this Resolution shall be in full force and in effect on and after January 1, 2026.

## Summary of Proposed Fee Amendments

The following details proposed amendments and changes to the fire permit and inspection fee schedule for fire department fire permitting, fire inspection, and service fees:

- A. Re-numbered and reorganized sub-sections under 105.5 and 105.6 to reflect changes in the 2025 California Fire Code.
  - a. 105.5.27 through 105.5.65, operational permits
  - b. 105.6.2 through 105.6.25, construction permits
- B. Updated section references in the permit fee language to reflect changes in the 2025 California Fire Code.
  - a. 105.5.1 Additive Manufacturing (§320.3 to §4106.3)
- C. Amended text in the permit fee language to reflect the 2025 California Fire Code language.
  - a. 105.5.14 Energy Storage Systems
  - b. 105.5.40 Outdoor Assembly Event
  - c. 105.5.51 Temporary Membrane Structures, Special Event Structures and Tents
  - d. 105.6.1 Automatic Fire-Extinguishing Systems
  - e. 105.6.22 Special Event Structure
- D. Established new fees to reflect the new permits in the 2025 California Fire Code and established a minimum fee of \$125.00, which is the lowest fee charged in the fire fee schedule.
  - a. 105.5.26 Indoor Plant Cultivation
  - b. 105.5.34 Mobile Food Preparation Vehicles
  - c. 105.5.55 Temporary heating or cooking in tents or membrane structures
  - d. 105.5.56 Temporary heating or cooking in wildfire risk areas
  - e. 105.5.57 Temporary heating for construction sites
- E. Divided the former Automatic Fire-Extinguishing Systems fee into two fees: §105.6.1 Automatic Fire-Extinguishing Systems and §105.6.2 Automatic Sprinkler Systems, which reflect changes in the 2025 California Fire Code. No new fees were created.
- F. Rescinded §105.6.25 Fire Fighter Air Replenishment System (FARS) construction permit since the Berkeley Fire Code is no longer adopting Appendix L, Requirements for Firefighter Air Replenishment Systems, in the 2025 California Fire Code. Appendix L was not adopted by the Office of the State Fire Marshal.
- G. There are no proposed fee changes in Sections 2, 3, 4, 5, or 6.

## Summary of Proposed Fee Amendments

Section 1 of the proposed fee schedule is reproduced below for reference:

| Code<br>Section            | Fee Description                                                                                                                                                                                                                                                                                                                            | Current<br>Fee | Proposed<br>Fee |
|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------|
| <b>OPERATIONAL PERMITS</b> |                                                                                                                                                                                                                                                                                                                                            |                |                 |
| Section<br>105.5.1         | <b>Additive manufacturing.</b> An operational permit is required to conduct additive manufacturing operations regulated by Section <del>4106.3320.3</del> .                                                                                                                                                                                | \$250.00       | \$250.00        |
| Section<br>105.5.2         | <b>Aerosol products, aerosol cooking spray products and plastic aerosol 3 products.</b> An operational permit is required to manufacture, store or handle an aggregate quantity of Level 2 or Level 3 aerosol products, aerosol cooking spray products or plastic aerosol 3 products in excess of 500 pounds (227 kg) net weight.          | \$500.00       | \$500.00        |
| Section<br>105.5.3         | <b>Amusement buildings.</b> An operational permit is required to operate a special amusement building.                                                                                                                                                                                                                                     | \$500.00       | \$500.00        |
| Section<br>105.5.4         | <b>Aviation facilities.</b> An operational permit is required to use a Group H or Group S occupancy for aircraft servicing or repair and aircraft fuel-servicing vehicles. Additional permits required by other sections of this code include, but are not limited to hot work, hazardous materials and flammable or combustible finishes. | \$500.00       | \$500.00        |
| Section<br>105.5.5         | <b>Carnivals and fairs.</b> An operational permit is required to conduct a carnival or fair.                                                                                                                                                                                                                                               | \$500.00       | \$500.00        |
| Section<br>105.5.6         | <b>Cellulose nitrate film.</b> An operational permit is required to store, handle or use cellulose nitrate film in a Group A occupancy.                                                                                                                                                                                                    | \$500.00       | \$500.00        |
| Section<br>105.5.60<br>55  | <b>Christmas tree sales lot.</b> An operational permit is required to operate a Christmas tree sales lot.                                                                                                                                                                                                                                  | \$500.00       | \$500.00        |
| Section<br>105.5.7         | <b>Combustible dust-producing operations.</b> An operational permit is required to operate a grain elevator, flour starch mill, feed mill, or a plant pulverizing aluminum, coal, cocoa, magnesium, spices or sugar, or other operations producing combustible dusts as defined in Chapter 2.                                              | \$500.00       | \$500.00        |

## Summary of Proposed Fee Amendments

| Code<br>Section     | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                        | Current<br>Fee      | Proposed<br>Fee     |
|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------|
| Section<br>105.5.8  | <p><b>Combustible fibers.</b> An operational permit is required for the storage and handling of combustible fibers in quantities greater than 100 cubic feet (2.8m<sup>3</sup>).</p> <p><b>Exception:</b> A permit is not required for agricultural storage.</p>                                                                                                                                                                       | \$500.00            | \$500.00            |
| Section<br>105.5.9  | <p><b>Compressed gases.</b> An operational permit is required for the storage, use or handling at normal temperature and pressure (NTP) of compressed gases in excess of the amounts listed in Table 105.5.9.</p> <p><b>Exception:</b> Vehicles equipped for and using compressed gas as a fuel for propelling the vehicle.</p>                                                                                                        | \$500.00<br>minimum | \$500.00<br>minimum |
| Section<br>105.5.10 | <p><b>Covered and open mall buildings.</b> An operational permit is required for:</p> <ol style="list-style-type: none"> <li>1. The placement of retail fixtures and displays, concession equipment, displays of highly combustible goods and similar items in the mall.</li> <li>2. The display of liquid- or gas-fired equipment in the mall.</li> <li>3. The use of open-flame or flame-producing equipment in the mall.</li> </ol> | \$500.00<br>minimum | \$500.00<br>minimum |
| Section<br>105.5.11 | <p><b>Cryogenic fluids.</b> An operational permit is required to produce, store, transport on site, use, handle or dispense cryogenic fluids in excess of the amounts listed in Table 105.5.11</p> <p><b>Exception:</b> Permits are not required for vehicles equipped for and using cryogenic fluids as a fuel for propelling the vehicle or for refrigerating the lading.</p>                                                        | \$500.00<br>minimum | \$500.00<br>minimum |
| Section<br>105.5.12 | <p><b>Cutting and welding.</b> An operational permit is required to conduct cutting or welding operations within the jurisdiction.</p>                                                                                                                                                                                                                                                                                                 | \$250.00            | \$250.00            |
| Section<br>105.5.13 | <p><b>Dry cleaning.</b> An operational permit is required to engage in the business of dry cleaning or to</p>                                                                                                                                                                                                                                                                                                                          | \$500.00            | \$500.00            |

## Summary of Proposed Fee Amendments

| Code Section           | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Current Fee                                                               | Proposed Fee                                                              |
|------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|---------------------------------------------------------------------------|
|                        | change to a more hazardous cleaning solvent used in existing dry cleaning equipment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                           |                                                                           |
| Section 105.5.14       | <b>Energy storage systems.</b> An operational permit is required for stationary and mobile energy storage systems regulated by Section 1207. <i>Operational permits shall not be required for ESS located at detached one- and two-family dwellings and townhouses, other than Group R-4.</i>                                                                                                                                                                                                                                                                                                                                                                           | \$500.00 minimum                                                          | \$500.00 minimum                                                          |
| Section 105.5.61<br>56 | <b>Escort convoy service.</b> Police and/or Fire Department convoy service for vehicle transportation of extremely hazardous materials.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | \$500.00 minimum                                                          | \$500.00 minimum                                                          |
| Section 105.5.15       | <b>Exhibits and trade shows.</b> An operational permit is required to operate exhibits and trade shows.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | \$500.00                                                                  | \$500.00                                                                  |
| Section 105.5.16       | <b>Explosives.</b> An operational permit is required for the manufacture, storage, handling, sale or use of any quantity of explosives, explosive materials, fireworks or pyrotechnic special effects within the scope of Chapter 56. <i>See Health and Safety Code Division 11, Part 1, Sections 12000, et seq. for additional requirements.</i><br><br><b>Exception:</b> Storage in Group R-3 occupancies of smokeless propellant, black powder and small arms primers for personal use, not for resale and in accordance with Section 5606.<br><br>To conduct a public fireworks display .....<br><br>To continue the use of a public fireworks display permit ..... | \$618.00<br><br><br><br><br><br><br><br>\$1500.00 minimum<br><br>\$250.00 | \$618.00<br><br><br><br><br><br><br><br>\$1500.00 minimum<br><br>\$250.00 |
| Section 105.5.62<br>57 | <b>Fire fighter air replenishment system (FARS).</b> An annual operational permit is required to maintain a FARS system in accordance with Appendix L.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | \$250.00                                                                  | \$250.00                                                                  |
| Section 105.5.17       | <b>Fire hydrants and valves.</b> An operational permit is required to use or operate fire hydrants                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | \$250.00                                                                  | \$250.00                                                                  |

## Summary of Proposed Fee Amendments

| Code<br>Section     | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Current<br>Fee                                                                                      | Proposed<br>Fee                                                                                     |
|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
|                     | <p>or valves intended for fire suppression purposes that are installed on water systems and provided with ready access from a fire apparatus access road that is open to or generally used by the public.</p> <p><b>Exception:</b> A permit is not required for authorized employees of the water company that supplies the system or the fire department to use or operate fire hydrants or valves.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                     |                                                                                                     |
| Section<br>105.5.18 | <p><b>Flammable and combustible liquids.</b> An operational permit is required:</p> <ol style="list-style-type: none"> <li>1. To use or operate a pipeline for the transportation within facilities of flammable or combustible liquids. This requirement shall not apply to the off-site transportation in pipelines regulated by the Department of Transportation (DOTn) nor does it apply to piping systems.....</li> <li>2. To store, handle or use Class I liquids in excess of 5 gallons (19 L) in a building or in excess of 10 gallons (37.9 L) outside of a building, except that a permit is not required for the following: .....</li> </ol> <ol style="list-style-type: none"> <li>2.1 The storage or use of Class I liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant, unless such storage, in the opinion of the fire code official, would cause an unsafe condition.</li> <li>2.2 The storage or use of paints, oils, varnishes or similar flammable mixtures where such liquids are stored for maintenance, painting or similar purposes</li> </ol> | <p style="text-align: center;">\$500.00<br/>minimum</p> <p style="text-align: center;">\$500.00</p> | <p style="text-align: center;">\$500.00<br/>minimum</p> <p style="text-align: center;">\$500.00</p> |

## Summary of Proposed Fee Amendments

| Code<br>Section | Fee Description                                                                                                                                                                                                                                                                                                                       | Current<br>Fee | Proposed<br>Fee |
|-----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------|
|                 | for a period of not more than 30 days.                                                                                                                                                                                                                                                                                                |                |                 |
|                 | 3. To store, handle or use Class II or Class IIIA liquids in excess of 25 gallons (95 L) in a building or in excess of 60 gallons (227 L) outside a building, except for fuel oil used in connection with oil-burning equipment. ....                                                                                                 | \$500.00       | \$500.00        |
|                 | 4. To store, handle or use Class IIIB liquids <u>in excess of 110 gallons in containers, or in tanks or portable tanks</u> for fueling motor vehicles at motor fuel-dispensing facilities or where connected to fuel-burning equipment.<br><br><b>Exception:</b> Fuel oil and used motor oil used for space heating or water heating. | \$250.00       | \$250.00        |
|                 | 5. To remove Class I or Class II liquids from an underground storage tank used for fueling motor vehicles by any means other than the approved, stationary on-site pumps normally used for dispensing purposes. ....                                                                                                                  | \$250.00       | \$250.00        |
|                 | 6. To operate tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used. ....                                                                      | \$250.00       | \$250.00        |
|                 | 7. To place temporarily out of service (for more than 90 days) an underground, protected above-ground or above-ground flammable or combustible liquid tank. ....                                                                                                                                                                      | \$250.00       | \$250.00        |
|                 | 8. To change the type of contents stored in a flammable or combustible liquid tank to a material that poses a greater hazard than that for which the tank was designed and constructed.....                                                                                                                                           | \$250.00       | \$250.00        |

## Summary of Proposed Fee Amendments

| Code<br>Section           | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Current<br>Fee                                  | Proposed<br>Fee                                 |
|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|-------------------------------------------------|
|                           | <p>9. To manufacture, process, blend or refine flammable or combustible liquids. ....</p> <p>10. To engage in the dispensing of liquid fuels into the fuel tanks of motor vehicles at commercial, industrial, governmental or manufacturing establishments in accordance with Section 5706.5.4 or to engage in on-demand mobile fueling operations in accordance with Section 5707. ....</p> <p>11. To utilize a site for the dispensing of liquid fuels from tank vehicles into the fuel tanks of motor vehicles, marine craft and other special equipment at commercial, industrial, governmental or manufacturing establishments in accordance with Section 5706.5.4 or, where required by the fire code official, to utilize a site for on-demand mobile fueling operations in accordance with Section 5707. ....</p> | <p>\$500.00</p> <p>\$500.00</p> <p>\$500.00</p> | <p>\$500.00</p> <p>\$500.00</p> <p>\$500.00</p> |
| Section<br>105.5.19       | <b>Floor finishing.</b> An operational permit is required for floor finishing or surfacing operations exceeding 350 square feet (33 m <sup>2</sup> ) using Class I or Class II liquids.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | \$500.00                                        | \$500.00                                        |
| Section<br>105.5.20       | <b>Fruit and crop ripening.</b> An operational permit is required to operate a fruit- or crop-ripening facility or conduct a fruit-ripening process using ethylene gas.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | \$500.00                                        | \$500.00                                        |
| Section<br>105.5.21       | <b>Fumigation and insecticidal fogging.</b> An operational permit is required to operate a business of fumigation or insecticidal fogging, and to maintain a room, vault or chamber in which a toxic or flammable fumigant is used.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | No permit<br>required                           | No permit<br>required                           |
| Section<br>105.5.63<br>58 | <b>General use permit.</b> For any activity or operation not specifically described in this code, which the fire code official reasonably determines, may produce conditions hazardous to life or property.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | \$500.00<br>minimum                             | \$500.00<br>minimum                             |

## Summary of Proposed Fee Amendments

| Code<br>Section     | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Current<br>Fee                                                       | Proposed<br>Fee                                                      |
|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|----------------------------------------------------------------------|
| Section<br>105.5.22 | <b>Hazardous materials.</b> An operational permit is required to store, transport on site, dispense, use or handle hazardous materials in excess of the amounts listed in Table 105.5.22.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | \$500.00<br>minimum                                                  | \$500.00<br>minimum                                                  |
| Section<br>105.5.23 | <b>HPM Facilities.</b> An operational permit is required to store, handle or use hazardous production materials.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | \$500.00                                                             | \$500.00                                                             |
| Section<br>105.5.24 | <b>High-piled storage.</b> An operational permit is required to use a building or portion thereof with more than 500 square feet (46 m <sup>2</sup> ), including aisles, of high-piled combustible storage.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | \$500.00<br>minimum                                                  | \$500.00<br>minimum                                                  |
| Section<br>105.5.25 | <p><b>Hot work operations.</b> An operational permit is required for hot work including, but not limited to:.</p> <ol style="list-style-type: none"> <li>1. Public exhibitions and demonstrations where hot work is conducted.</li> <li>2. Use of portable hot work equipment inside a structure.<br/><b>Exception:</b> Work that is conducted under a construction permit.</li> <li>3. Fixed-site hot work equipment such as welding booths.</li> <li>4. Hot work conducted within a wildfire risk area.</li> <li>5. Application of roof coverings with the use of an open-flame device.</li> <li>6. When approved, the fire code official shall issue a permit to carry out a hot work program. This program allows approved personnel to regulate their facility's hot work operations. The approved personnel shall be trained in the fire safety aspects denoted in this chapter and shall be responsible for issuing permits requiring compliance with the requirements found in Chapter 35. These permits shall be issued only to their</li> </ol> | <p>\$500.00<br/>(unless<br/>otherwise<br/>noted)</p> <p>\$125.00</p> | <p>\$500.00<br/>(unless<br/>otherwise<br/>noted)</p> <p>\$125.00</p> |

## Summary of Proposed Fee Amendments

| Code Section            | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                               | Current Fee      | Proposed Fee            |
|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-------------------------|
|                         | employees or hot work operations under their supervision.                                                                                                                                                                                                                                                                                                                                                                                                     |                  |                         |
| <u>Section 105.5.26</u> | <b>Indoor plant cultivation.</b> An operational permit is required for plant cultivation where a carbon dioxide (CO2) enriched environment is created.                                                                                                                                                                                                                                                                                                        | ---              | <u>\$125.00 minimum</u> |
| Section 105.5.27<br>26  | <b>Industrial ovens.</b> An operational permit is required for operation of industrial ovens regulated by Chapter 30.                                                                                                                                                                                                                                                                                                                                         | \$500.00         | \$500.00                |
| Section 105.5.28        | <b>Liquid- or gas-fueled vehicles or equipment in assembly buildings.</b> An operational permit is required to display, operate or demonstrate liquid- or gas-fueled vehicles or equipment in assembly buildings.                                                                                                                                                                                                                                             | \$500.00         | \$500.00                |
| Section 105.5.29<br>53  | <b>Lithium batteries.</b> An operational permit is required for an accumulation of more than 15 cubic feet (0.42 m) of lithium-ion and lithium metal batteries, where required by Section <u>320.2322.1</u> .                                                                                                                                                                                                                                                 | \$500.00         | \$500.00                |
| Section 105.5.30<br>29  | <b>LP-gas.</b> An operational permit is required for: <ol style="list-style-type: none"> <li>Storage and use of LP-gas. <p><b>Exception:</b> A permit is not required for individual containers with a 500-gallon (1893 L) water capacity or less or multiple container systems having an aggregate quantity not exceeding 500 gallons (1893 L), serving occupancies in Group R-3.</p> </li> <li>Operation of cargo tankers that transport LP-gas.</li> </ol> | \$500.00 minimum | \$500.00 minimum        |
| Section 105.5.31<br>27  | <b>Lumber yards and woodworking plants.</b> An operational permit is required for the storage or processing of lumber exceeding 100,000 board feet (8,333 ft <sup>3</sup> ) (236 m <sup>3</sup> ).                                                                                                                                                                                                                                                            | \$500.00         | \$500.00                |
| Section 105.5.32<br>30  | <b>Magnesium.</b> An operational permit is required to melt, cast, heat treat or grind more than 10 pounds (4.54 kg) of magnesium.                                                                                                                                                                                                                                                                                                                            | \$500.00         | \$500.00                |

## Summary of Proposed Fee Amendments

| Code Section           | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Current Fee         | Proposed Fee        |
|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------|
| Section 105.5.33<br>34 | <b>Miscellaneous combustible storage.</b> An operational permit is required to store in any building or on any premises in excess of 2,500 cubic feet (71 m <sup>3</sup> ) gross volume of combustible empty packing cases, boxes, barrels or similar containers, combustible pallets, rubber tires, rubber, cork, or similar combustible material.                                                                                                                                                                                     | \$500.00            | \$500.00            |
| Section 105.5.58<br>32 | <b>Mobile fueling of hydrogen-fueled vehicles.</b><br><i>An operational permit is required:</i><br><br>1. <i>To engage in the mobile dispensing of gaseous hydrogen as a fuel into the fuel tanks of motor vehicles.</i><br><br>2. <i>Where required by the fire code official, to utilize a site for the dispensing of gaseous hydrogen as a fuel from tank vehicles into the fuel tanks of motor vehicles.</i><br><br><b>Exception:</b> <i>In cases of an emergency, a site permit is not required.</i>                               | \$500.00<br>minimum | \$500.00<br>minimum |
| Section 105.5.34       | <b>Mobile food preparation vehicles.</b> An operational permit is required for mobile food preparation vehicles equipped with appliances that produce smoke or grease-laden vapors.                                                                                                                                                                                                                                                                                                                                                     | ---                 | \$125.00<br>minimum |
| Section 105.5.35<br>33 | <b>Motor fuel-dispensing facilities.</b> An operational permit is required for the operation of automotive, marine, and fleet motor fuel-dispensing facilities, or for mobile fueling operations using flammable liquids and which are conducted at facilities or locations which are not permanent, permitted motor fuel dispensing facilities.<br><br><b>Exception:</b> <u>Transfer of not more than 5 gallons flammable or combustible liquids using a listed or approved portable fuel container of 5 gallons or less capacity.</u> | \$500.00<br>minimum | \$500.00<br>minimum |
| Section 105.5.36<br>34 | <b>Open burning.</b> An operational permit is required for the kindling or maintaining of an open fire or a fire on any public street, alley, road, or other                                                                                                                                                                                                                                                                                                                                                                            | \$250.00            | \$250.00            |

## Summary of Proposed Fee Amendments

| Code<br>Section           | Fee Description                                                                                                                                                                                                                                                                                     | Current<br>Fee           | Proposed<br>Fee          |
|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|
|                           | public or private ground. Instructions and stipulations of the permit shall be complied with.<br><br><b>Exception:</b> Recreational fires.                                                                                                                                                          |                          |                          |
| Section<br>105.5.37<br>35 | <b>Open flames and torches.</b> An operational permit is required to remove paint with a torch; or to use a torch or open-flame device in a wildfire risk area.                                                                                                                                     | \$250.00                 | \$250.00                 |
| Section<br>105.5.38<br>36 | <b>Open flames and candles.</b> An operational permit is required to use open flames or candles in connection with assembly areas, dining areas of restaurants or drinking establishments.                                                                                                          | \$250.00                 | \$250.00                 |
| Section<br>105.5.39<br>37 | <b>Organic coatings.</b> An operational permit is required for any organic-coating manufacturing operation producing more than 1 gallon (4 L) of an organic coating in one day.                                                                                                                     | \$500.00                 | \$500.00                 |
| Section<br>105.5.40<br>38 | <b>Outdoor assembly event.</b> An operational permit is required to conduct an <i>outdoor assembly event</i> where planned attendance exceeds 1,000 persons.                                                                                                                                        | \$500.00<br>minimum      | \$500.00<br>minimum      |
| Section<br>105.5.64<br>59 | <b>Parking facility, special events.</b> An operational permit is required to use buildings or structures for vehicle parking, including parking for special events (i.e. football games, etc.)<br><br>A. <u>Less than 15 parking spaces</u> .....<br><br>B. <u>15 or more parking spaces</u> ..... | \$250.00<br><br>\$500.00 | \$250.00<br><br>\$500.00 |
| Section<br>105.5.41<br>39 | <b>Places of assembly.</b> An operational permit is required to operate a place of assembly.<br><br>A. <u>Occupant load less than 300</u> .....<br><br>B. <u>Occupant load 300 or more</u> .....                                                                                                    | \$500.00<br><br>\$750.00 | \$500.00<br><br>\$750.00 |
| Section<br>105.5.42<br>40 | <b>Plant extraction systems.</b> An operational permit is required to use plant extraction systems.                                                                                                                                                                                                 | \$500.00                 | \$500.00                 |

## Summary of Proposed Fee Amendments

| Code<br>Section           | Fee Description                                                                                                                                                                                                                                                                                                                                 | Current<br>Fee      | Proposed<br>Fee     |
|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------|
| Section<br>105.5.43<br>44 | <p><b>Private fire hydrants.</b> An operational permit is required for the removal from service, use or operation of private fire hydrants.</p> <p><b>Exception:</b> A permit is not required for private industry with trained maintenance personnel, private fire brigade or fire departments to maintain, test and use private hydrants.</p> | \$250.00            | \$250.00            |
| Section<br>105.5.44<br>42 | <p><b>Pyrotechnic special effects material.</b> An operational permit is required for use and handling of pyrotechnic special effects material. <i>See Health and Safety Code Division 11, Part 2, Sections 12500, et seq. for additional requirements.</i></p>                                                                                 | \$500.00            | \$500.00            |
| Section<br>105.5.45<br>43 | <p><b>Pyroxylin plastics.</b> An operational permit is required for storage or handling of more than 25 pounds (11 kg) of cellulose nitrate (pyroxylin) plastics, and for the assembly or manufacture of articles involving pyroxylin plastics.</p>                                                                                             | \$500.00            | \$500.00            |
| Section<br>105.5.46<br>44 | <p><b>Refrigeration equipment.</b> An operational permit is required to operate a mechanical refrigeration unit or system regulated by Chapter 6.</p>                                                                                                                                                                                           | \$500.00<br>minimum | \$500.00<br>minimum |
| Section<br>105.5.47<br>45 | <p><b>Repair garages and motor fuel-dispensing facilities.</b> An operational permit is required for operation of repair garages.</p>                                                                                                                                                                                                           | \$500.00<br>minimum | \$500.00<br>minimum |
| Section<br>105.5.48<br>46 | <p><b>Rooftop heliports.</b> An operational permit is required for the operation of a rooftop heliport.</p>                                                                                                                                                                                                                                     | \$500.00            | \$500.00            |
| Section<br>105.5.49<br>47 | <p><b>Spraying or dipping.</b> An operational permit is required to conduct a spraying or dipping operation utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24.</p>                                                                                                                  | \$500.00            | \$500.00            |

## Summary of Proposed Fee Amendments

| Code<br>Section           | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Current<br>Fee       | Proposed<br>Fee      |
|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------|
| Section<br>105.5.50<br>48 | <p><b>Storage of scrap tires and tire byproducts.</b><br/>An operational permit is required to establish, conduct or maintain storage of scrap tires and tire byproducts that exceeds 2,500 cubic feet (71 m<sup>3</sup>) of total volume of scrap tires, and for indoor storage of tires and tire byproducts.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | \$500.00             | \$500.00             |
| Section<br>105.5.65<br>60 | <p><b>Tank vehicles.</b> An operational permit is required to operate a tank vehicle (other than flammable and combustible liquids tank vehicles as listed and regulated in 105.5.18, item 6) including those hazardous materials transportation vehicles defined in Section 5001.7 of the Berkeley Fire Code for the transportation of hazardous liquids or materials.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | \$500.00<br>annually | \$500.00<br>annually |
| Section<br>105.5.51<br>49 | <p><b>Temporary membrane structures and tents.</b><br/>An operational permit is required to operate an air-supported temporary membrane structure, a temporary special event structure or a tent having an area in excess of 400 square feet (37 m<sup>2</sup>)</p> <p><b>Exceptions:</b></p> <ol style="list-style-type: none"> <li>1. Tents used exclusively for recreational camping purposes.</li> <li>2. <u>Tents, curtains and extensions attached thereto, when used for funeral services.</u></li> <li>2. <u>3.</u> Tents open on all sides, which comply with all of the following: <ul style="list-style-type: none"> <li>2.13.1 Individual tents having a maximum size of 700 square feet (65 m<sup>2</sup>).</li> <li>2.23.2 The aggregate area of multiple tents placed side by side without a fire break clearance of not less than 12 feet (3658 mm) shall not exceed 700 square feet (65 m<sup>2</sup>) total.</li> </ul> </li> </ol> | \$500.00             | \$500.00             |

## Summary of Proposed Fee Amendments

| Code Section           | Fee Description                                                                                                                                                                                                                                                                                                                                                                                            | Current Fee | Proposed Fee            |
|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-------------------------|
|                        | 2.33.3 A minimum clearance of 12 feet (3658 mm) to structures and other tents shall be provided.                                                                                                                                                                                                                                                                                                           |             |                         |
| Section 105.5.52<br>50 | <b>Tire-rebuilding plants.</b> An operational permit is required for the operation and maintenance of a tire-rebuilding plant.                                                                                                                                                                                                                                                                             | \$500.00    | \$500.00                |
| Section 105.5.53<br>54 | <b>Waste handling.</b> An operational permit is required for the operation of wrecking yards, junk yards and waste material-handling facilities.                                                                                                                                                                                                                                                           | \$500.00    | \$500.00                |
| Section 105.5.54<br>52 | <b>Wood products.</b> An operational permit is required to store chips, hogged material, lumber or plywood in excess of 200 cubic feet (6 m <sup>3</sup> ).                                                                                                                                                                                                                                                | \$500.00    | \$500.00                |
| Section 105.5.55       | <b><u>Temporary heating or cooking in tents or membrane structures.</u></b> An operational permit is required to operate temporary heating or cooking equipment within tents or membrane structures.                                                                                                                                                                                                       | ---         | <u>\$125.00 minimum</u> |
| Section 105.5.56       | <b><u>Temporary heating or cooking in wildfire risk areas.</u></b> Where required by local regulations, an operational permit is required to operate temporary heating or cooking equipment in wildfire risk areas.                                                                                                                                                                                        | ---         | <u>\$125.00 minimum</u> |
| Section 105.5.57       | <b><u>Temporary heating for construction sites.</u></b> An operational permit is required to operate temporary heating equipment in structures during the course of construction, alteration or demolition.                                                                                                                                                                                                | ---         | <u>\$125.00 minimum</u> |
| Section 105.5.59<br>54 | <b><i>Additional permits.</i></b> In addition to the permits required by Section 105.6, the following permits shall be obtained from the <u>Bureau of Fire Prevention Division</u> prior to engaging in the following activities, operations, practices or functions:<br><br>1. <i>Production facilities. To change use or occupancy, or allow the attendance of a live audience, or for wrap parties.</i> | \$500.00    | \$500.00                |

## Summary of Proposed Fee Amendments

| Code Section                | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Current Fee                                                                                                                                                          | Proposed Fee                                                                                                                                                         |
|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                             | <p>2. <i>Pyrotechnics and special effects. To use pyrotechnic special effects, open flame, use of flammable or combustible liquids and gases, welding, and the parking of motor vehicles in any building or location used for the purpose of motion picture, television and commercial production.</i></p> <p>3. <i>Live audiences. To install seating arrangements for live audiences in approved production facilities, production studios and sound stages. See Chapter 48.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                      |                                                                                                                                                                      |
| <b>CONSTRUCTION PERMITS</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                      |                                                                                                                                                                      |
| Section 105.6.1             | <p><b>Automatic fire-extinguishing systems.</b> A construction permit is required for installation of or modification to an automatic fire-extinguishing system, <u>other than an automatic sprinkler system</u>. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.</p> <p style="padding-left: 40px;">A. Range Hood System.....</p> <p style="padding-left: 40px;">B. Chemical Suppression System.....</p> <p style="padding-left: 40px;"><del>C. Automatic Sprinkler .....</del></p> <p style="padding-left: 40px;"><del>D. Automatic Sprinkler (small alteration or repairs to an existing system with 20 heads or less) .....</del></p> <p style="padding-left: 40px;">E. Underground.....</p> <p style="padding-left: 40px;"><u>C.</u> All Others.....</p> <p style="padding-left: 40px;">Field Inspection .....</p> | <p>\$500.00*</p> <p>\$500.00*</p> <p><del>\$500.00*</del></p> <p><del>\$250.00*</del></p> <p>\$500.00*</p> <p>\$500.00*</p> <p>\$125.00 / qtr hour*<br/>*minimum</p> | <p>\$500.00*</p> <p>\$500.00*</p> <p><del>\$500.00*</del></p> <p><del>\$250.00*</del></p> <p>\$500.00*</p> <p>\$500.00*</p> <p>\$125.00 / qtr hour*<br/>*minimum</p> |
| <u>Section 105.6.2</u>      | <p><b>Automatic sprinkler systems.</b> A construction permit is required for installation of or modification to an automatic sprinkler system.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                      |                                                                                                                                                                      |

## Summary of Proposed Fee Amendments

| Code Section     | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Current Fee                                            | Proposed Fee                                                                                                                                                         |
|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                  | <p><u>Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.</u></p> <p><u>A. Automatic Sprinkler</u></p> <p><u>B. Automatic Sprinkler (small alteration or repairs to an existing system with 20 heads or less)</u></p> <p><u>C. Underground</u></p> <p><u>D. All others</u></p> <p><u>Field Inspection</u></p>                                                                                                                                                                                     | <p>---</p> <p>---</p> <p>---</p> <p>---</p> <p>---</p> | <p><u>\$500.00*</u></p> <p><u>\$250.00*</u></p> <p><u>\$500.00*</u></p> <p><u>\$500.00*</u></p> <p><u>\$125.00 /</u><br/><u>qtr hour*</u></p> <p><u>*minimum</u></p> |
| Section 105.6.32 | <p><b>Compressed gases.</b> Where the compressed gases in use or storage exceed the amounts listed in Table 105.5.9, a construction permit is required to install, repair damage to, abandon, remove, place temporarily out of service, or close or substantially modify a compressed gas system.</p> <p><b>Exceptions:</b></p> <ol style="list-style-type: none"> <li>1. Routine maintenance.</li> <li>2. For emergency repair work performed on an emergency basis, application for permit shall be made within two working days of commencement of work.</li> </ol> | \$500.00                                               | \$500.00                                                                                                                                                             |
| Section 105.6.43 | <p><b>Cryogenic fluids.</b> A construction permit is required for installation of or alteration to outdoor stationary cryogenic fluid storage systems where the system capacity exceeds the amounts listed in Table 105.5.11. Maintenance performed in accordance with this code is not considered to be an alteration and does not require a construction permit.</p>                                                                                                                                                                                                 | \$500.00<br>minimum                                    | \$500.00<br>minimum                                                                                                                                                  |
| Section 105.6.54 | <p><b>Emergency responder communication coverage system.</b> A construction permit is required for installation of or modification to in-</p>                                                                                                                                                                                                                                                                                                                                                                                                                          | \$500.00<br>minimum                                    | \$500.00<br>minimum                                                                                                                                                  |

## Summary of Proposed Fee Amendments

| Code Section     | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Current Fee                                                                                                                     | Proposed Fee                                                                                                                    |
|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
|                  | building, two-way emergency responder communication coverage systems and related equipment. Maintenance performed in accordance with this code is not considered to be a modification and does not require a construction permit.                                                                                                                                                                                                                                                                                                            |                                                                                                                                 |                                                                                                                                 |
| Section 105.6.65 | <b>Energy storage systems.</b> A construction permit is required to install energy storage systems regulated by Section 1207.                                                                                                                                                                                                                                                                                                                                                                                                                | \$500.00 minimum                                                                                                                | \$500.00 minimum                                                                                                                |
| Section 105.6.76 | <p><b>Fire alarm and detection systems and related equipment.</b> A construction permit is required for installation of or modification to fire alarm and detection systems and related equipment. Maintenance performed in accordance with this code is not considered to be a modification and does not require a construction permit.</p> <p>A. Under 12 devices.....</p> <p>B. 12-30 devices .....</p> <p>C. 31-49 devices.....</p> <p>D. 50 or more devices.....</p> <p>E. Water flow alarms .....</p> <p>F. Field Inspection .....</p> | <p>\$500.00*</p> <p>\$750.00*</p> <p>\$1250.00*</p> <p>\$1500.00*</p> <p>\$250.00</p> <p>\$125.00 /qtr hr.*</p> <p>*minimum</p> | <p>\$500.00*</p> <p>\$750.00*</p> <p>\$1250.00*</p> <p>\$1500.00*</p> <p>\$250.00</p> <p>\$125.00 /qtr hr.*</p> <p>*minimum</p> |
| Section 105.6.25 | <del><b>Fire fighter air replenishment system (FARS).</b> A construction permit is required for installation of or modification to a FARS system in accordance with Appendix L.</del>                                                                                                                                                                                                                                                                                                                                                        | \$500.00 minimum                                                                                                                | ---                                                                                                                             |

## Summary of Proposed Fee Amendments

| Code Section       | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Current Fee      | Proposed Fee     |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------|
| Section 105.6.87   | <b>Fire pumps and related equipment.</b> A construction permit is required for installation of or modification to fire pumps and related fuel tanks, jockey pumps, controllers and generators. Maintenance performed in accordance with this code is not considered to be a modification and does not require a construction permit.                                                                                                                                                                                                                                                                                                          | \$500.00         | \$500.00         |
| Section 105.6.98   | <b>Flammable and combustible liquids.</b> A construction permit is required: <ol style="list-style-type: none"> <li>1. To install, repair or modify a pipeline for the transportation of flammable or combustible liquids.</li> <li>2. To install, construct or alter tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.</li> <li>3. To install, alter, remove, abandon or otherwise dispose of a flammable or combustible liquid tank.</li> </ol> | \$500.00 minimum | \$500.00 minimum |
| Section 105.6.109  | <b>Fuel cell power systems.</b> A construction permit is required to install stationary fuel cell power systems.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | \$250.00         | \$250.00         |
| Section 105.6.1140 | <b>Gas detection systems.</b> A construction permit is required for the installation of or modification to gas detection systems. Maintenance performed in accordance with this code is not considered a modification and shall not require a permit.                                                                                                                                                                                                                                                                                                                                                                                         | \$250.00 minimum | \$250.00 minimum |
| Section 105.6.1244 | <b>Gates and barricades across fire apparatus access roads.</b> A construction permit is required for the installation of or modification to a gate or barricade across a fire apparatus access road.                                                                                                                                                                                                                                                                                                                                                                                                                                         | \$500.00 minimum | \$500.00 minimum |
| Section 105.6.1342 | <b>Hazardous materials.</b> A construction permit is required to install, repair damage to, abandon, remove, place temporarily out of service, or close                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | \$500.00         | \$500.00         |

## Summary of Proposed Fee Amendments

| Code Section           | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                             | Current Fee                                                         | Proposed Fee                                                        |
|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|
|                        | <p>or substantially modify a storage facility or other area regulated by Chapter 50 where the hazardous materials in use or storage exceed the amounts listed in Table 105.5.22.</p> <p><b>Exceptions:</b></p> <ol style="list-style-type: none"> <li>1. Routine maintenance.</li> <li>2. For repair work performed on an emergency basis, application for permit shall be made within two working days of commencement of work.</li> </ol> |                                                                     |                                                                     |
| Section 105.6.14<br>43 | <p><b>High-piled combustible storage.</b> A construction permit is required for the installation of or modification to a structure with more than 500 square feet (46 m<sup>2</sup>), including aisles, for high-piled combustible storage. Maintenance performed in accordance with this code is not considered to be a modification and does not require a construction permit.</p>                                                       | Fire Dept. Review is under a building permit. Std. Bldg. fees apply | Fire Dept. Review is under a building permit. Std. Bldg. fees apply |
| Section 105.6.15<br>44 | <p><b>Industrial ovens.</b> A construction permit is required for installation of industrial ovens covered by Chapter 30.</p> <p><b>Exceptions:</b></p> <ol style="list-style-type: none"> <li>1. Routine maintenance.</li> <li>2. For repair work performed on an emergency basis, application for permit shall be made within two working days of commencement of work.</li> </ol>                                                        | \$500.00                                                            | \$500.00                                                            |
| Section 105.6.16<br>45 | <p><b>LP-gas.</b> A construction permit is required for installation of or modification to an LP-gas system. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.</p>                                                                                                                                                                                                   | \$500.00                                                            | \$500.00                                                            |
| Section 105.6.17<br>46 | <p><b>Motor vehicle repair rooms and booths.</b> A construction permit is required to install or modify a motor vehicle repair room or booth. Maintenance performed in accordance with this</p>                                                                                                                                                                                                                                             | Fire Dept. Review is under a building permit. Std. Bldg.            | Fire Dept. Review is under a building permit. Std. Bldg.            |

## Summary of Proposed Fee Amendments

| Code Section           | Fee Description                                                                                                                                                                                                                                                                                                                      | Current Fee                                                         | Proposed Fee                                                        |
|------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|
|                        | code is not considered to be a modification and does not require a permit.                                                                                                                                                                                                                                                           | fees apply                                                          | fees apply                                                          |
| Section 105.6.18<br>47 | <b>Plant extraction systems.</b> A construction permit is required for installation of or modification to plant extraction systems. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.                                                                         | Fire Dept. Review is under a building permit. Std. Bldg. fees apply | Fire Dept. Review is under a building permit. Std. Bldg. fees apply |
| Section 105.6.19<br>48 | <b>Private fire hydrants.</b> A construction permit is required for the installation of or modification of private fire hydrants. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.<br><br>Hydrant(s) or hydrant groups.....<br><br>Field Inspection<br>..... | \$500.00<br><br>\$125.00 /qtr hour*<br>*minimum                     | \$500.00<br><br>\$125.00 /qtr hour*<br>*minimum                     |
| Section 105.6.20<br>49 | <b>Smoke control or smoke exhaust systems.</b> Construction permits are required for installation of or alteration to smoke control or smoke exhaust systems. Maintenance performed in accordance with this code is not considered to be an alteration and does not require a permit.                                                | \$500.00 minimum                                                    | \$500.00 minimum                                                    |
| Section 105.6.21<br>20 | <b>Solar photovoltaic power systems.</b> A construction permit is required to install or modify solar photovoltaic power systems. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.                                                                           | Fire Dept. Review is under a building permit. Std. Bldg. fees apply | Fire Dept. Review is under a building permit. Std. Bldg. fees apply |
| Section 105.6.22<br>24 | <b>Special event structure.</b> A single construction permit is required to erect and take down a temporary special event structure.                                                                                                                                                                                                 | Fire Dept. Review is under a building permit.                       | Fire Dept. Review is under a building permit.                       |

## Summary of Proposed Fee Amendments

| Code Section           | Fee Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Current Fee                                                                                                                                                 | Proposed Fee                                                                                                                                                |
|------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Std. Bldg. fees apply                                                                                                                                       | Std. Bldg. fees apply                                                                                                                                       |
| Section 105.6.23<br>22 | <b>Spraying or dipping.</b> A construction permit is required to install or modify a spray room, dip tank or booth. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | \$500.00                                                                                                                                                    | \$500.00                                                                                                                                                    |
| Section 105.6.24<br>23 | <p><b>Standpipe Systems.</b> A construction permit is required for the installation, modification or removal from service of a standpipe system. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.</p> <p style="margin-left: 40px;">A. Standpipe, Class I, II and III Combined.....</p> <p style="margin-left: 40px;">B. Underground .....</p> <p>Field Inspection .....</p>                                                                                                                                                                                                                                                                                                              | <p style="margin-left: 40px;">\$500.00</p> <p style="margin-left: 40px;">\$500.00</p> <p style="margin-left: 40px;">\$125.00<br/>/qtr hour,<br/>minimum</p> | <p style="margin-left: 40px;">\$500.00</p> <p style="margin-left: 40px;">\$500.00</p> <p style="margin-left: 40px;">\$125.00<br/>/qtr hour,<br/>minimum</p> |
| Section 105.6.25<br>24 | <p><b>Temporary membrane structures and tents.</b> A construction permit is required to erect an air-supported temporary membrane structure, a temporary stage canopy or a tent having an area in excess of 400 square feet (37 m<sup>2</sup>)</p> <p><b>Exceptions:</b></p> <ol style="list-style-type: none"> <li>1. Tents used exclusively for recreational camping purposes.</li> <li>2. Funeral tents and curtains, or extensions attached thereto, when used for funeral services.</li> <li>3. Tents and awnings open on all sides, which comply with all of the following:                             <ol style="list-style-type: none"> <li>3.1 Individual tents shall have a maximum size of 700 square feet (65 m<sup>2</sup>).</li> </ol> </li> </ol> | \$500.00                                                                                                                                                    | \$500.00                                                                                                                                                    |

## Summary of Proposed Fee Amendments

| Code Section     | Fee Description                                                                                                                                                                                                                                                                                                                           | Current Fee | Proposed Fee |
|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|--------------|
|                  | <p>3.2 The aggregate area of multiple tents placed side by side without a fire break clearance of not less than 12 feet (3658 mm) shall not exceed 700 square feet (65 m<sup>2</sup>) total.</p> <p>3.3 A minimum clearance of 12 feet (3658 mm) to structures and other tents shall be maintained.</p>                                   |             |              |
| Section 105.6.26 | <p><b>Window bars, operational constraints and opening control devices.</b> A construction permit is required to install window bars or other equipment which imposes operational constraints and opening controls on exterior doors or windows of any sleeping rooms below the fourth floor in apartment houses, hotels, and motels.</p> | \$250.00    | \$250.00     |

Section 2. ANNUAL FIRE CLEARANCE

For every annual fire clearance certificate issued by the Berkeley Fire Department, a fee shall be paid in advance of issuance of such certificate (Berkeley Fire Code Section 107.2), to the Fire Department as follows:

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |          |          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------|
| <p><b>Group Homes</b>, institutions for children, certified family care homes, board and care facilities, and maternity homes (each accommodating more than six persons, not including employees or relatives), and <u>NOT</u> classified as a Community Care Facility as defined in the California Health &amp; Safety Code (H&amp;SC) section 1502, or as a Residential Care Facility for the Elderly (H&amp;SC 1569.2), or as a Child Day Care Facility (H&amp;SC 1596.750).</p> | \$500.00 | \$500.00 |
| <p><b>Convalescent Hospitals</b>, nursing homes, and homes for the aged (each accommodating not more than six persons, not including employees or relatives) and <u>NOT</u> classified as a Community Care Facility as defined in the Calif. Health &amp; Safety Code (H&amp;SC) section 1502, or as a Residential Care Facility for the Elderly (H&amp;SC 1569.2), or as a Child Day Care Facility (H&amp;SC 1596.750).</p>                                                        | \$500.00 | \$500.00 |

## Summary of Proposed Fee Amendments

|                                                                                                                                                                                                                                                                                                                                                                                                                          |                                      |                                      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|--------------------------------------|
| <b>Convalescent Hospitals</b> , nursing homes, and homes for the aged (each accommodating not more than six persons and less than 100, not including employees or relatives) and <u>NOT</u> classified as a Community Care Facility as defined in the Calif. Health & Safety Code (H&SC) section 1502, or as a Residential Care Facility for the Elderly (H&SC 1569.2), or as a Child Day Care Facility (H&SC 1596.750). | \$750.00                             | \$750.00                             |
| <b>Convalescent Hospitals</b> , nursing homes, and homes for the aged (each accommodating 100 or more persons, not including employees or relatives).                                                                                                                                                                                                                                                                    | \$1000.00                            | \$1000.00                            |
| <b>Hospitals</b>                                                                                                                                                                                                                                                                                                                                                                                                         | \$500.00<br>per hour                 | \$500.00<br>per hour                 |
| <b>Community Care Facilities</b> as defined in the Calif. Health & Safety Code (H&SC) section 1502, <b>Residential Care Facility for the Elderly</b> as defined in H&SC 1569.2, and <b>Child Day Care Facilities</b> (H&SC 1596.750).<br><br>Pre-inspection Fee (25 or fewer client capacity)                                                                                                                            | qtr. hour<br>minimum<br><br>\$125.00 | qtr. hour<br>minimum<br><br>\$125.00 |
| Pre-inspection Fee (26 or more client capacity)                                                                                                                                                                                                                                                                                                                                                                          | \$125.00                             | \$125.00                             |
| [Ref. Calif. Health & Safety Code, section 13235(a)] states that the inspecting agency may charge "a fee equal to, but not exceeding the actual cost of the preinspection services."                                                                                                                                                                                                                                     |                                      |                                      |

Section 3. MISCELLANEOUS FEES

- A. For copies of fire reports prepared by the Fire Department, a fee shall be paid in advance as follows:
1. Staff cost for file review and preparation of subpoena documents \$ 6.00 qtr. hr.
  2. Copy of each report \$ 0.10 per pg.
- B. State Requested Fire & Life Safety Review, Consultation, Inspection & Permit Clearances \$125.00 /qtr hr
- C. General inspection and investigation fees
1. Fees for services rendered by the Fire Department for inspections of fire protection systems, re-inspections of citizen complaints with \$125.00 / qtr hr

## Summary of Proposed Fee Amendments

|                                                                                                                                                                            |                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| violations, nuisance inspections research, report preparation and file review services (except for subpoena documents, city records, publications and meeting tapes) ..... |                                                |
| 2. Fire code consultation services for building development, construction and modifications and pre-permit application.....                                                | \$500.00<br>per hour                           |
| 3. Overtime fire & life safety inspection .....                                                                                                                            | \$500.00<br>per hour<br><br>(2 hr min.)        |
| 4. After-hours call-back for fire & life safety inspection .....                                                                                                           | \$500.00<br>per hour<br><br>(4 hr min.)        |
| 5. Accelerated plan review services (as-available, billed at 1.5x the standard hourly rate \$500.00).....                                                                  | \$750.00<br>per hour                           |
| D. Fire and Life Safety Investigations or Stand-by Services .....                                                                                                          | \$500.00<br>minimum                            |
| E. Indoor Entertainment Inspection .....                                                                                                                                   | \$125.00<br>per initial<br>inspection          |
| Subsequent inspections shall be billed at \$125.00 per quarter hour                                                                                                        |                                                |
| F. Fire Permit Application & Fire Permit Extension Fees .....                                                                                                              | Standard<br>Building<br>Dept.<br>Fees<br>Apply |

NOTE: All permits and inspection fees under this Resolution are based on average estimated staff and clerical time for applicable plan checking, research, field inspections, etc. Where a fee is indicated as a minimum, and where staff time exceeds one hour, an additional charge will be made at the rate of \$125.00 per quarter hour.

Section 4.    INSPECTION AND BILLING RATE

## Summary of Proposed Fee Amendments

That a rate of \$125.00 per quarter hour (15 minutes) is hereby established as both the billing rate and the billing unit for a given Fire Prevention inspection of a property. A minimum charge of \$125.00 will be made for each property inspected (e.g. each property and/or business address) with an additional charge for each additional quarter hour unit, or portion thereof.

Exception: Properties that have abated all fire code violations prior to the first re-inspection shall not be charged a fee for the re-inspection.

### Section 5. DELINQUENCY CHARGE

That a delinquency charge of 20% may be imposed on each account that remains unpaid, sixty (60) days following the initial mailing of the bill.

### Section 6. BILLING AND COLLECTION PROCEDURES

That the billing and collection procedures are to be done by the Finance Department and will allow the City to recover unpaid fees through all available remedies, including the lien process. That in the event of billing disputes, the Fire Chief or his designated representative may review and make recommendations for adjustments to the Finance Department.

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**ADOPTION OF AMENDED FIRE PERMIT AND INSPECTION FEE  
SCHEDULE**

**The public may participate in this hearing by remote video or in-person.**

The Department of Fire and Emergency Services is proposing the amending and adoption of the fire permit and inspection fee schedule as follows:

- A. Re-numbered and reorganized sub-sections under 105.5 and 105.6 to reflect changes in the 2025 California Fire Code.
  - a. 105.5.27 through 105.5.65, operational permits
  - b. 105.6.2 through 105.6.25, construction permits
- B. Updated section references in the permit fee language to reflect changes in the 2025 California Fire Code.
  - a. 105.5.1 Additive Manufacturing (§320.3 to §4106.3)
- C. Amended text in the permit fee language to reflect the 2025 California Fire Code language.
  - a. 105.5.14 Energy Storage Systems
  - b. 105.5.40 Outdoor Assembly Event
  - c. 105.5.51 Temporary Membrane Structures, Special Event Structures and Tents
  - d. 105.6.1 Automatic Fire-Extinguishing Systems
  - e. 105.6.22 Special Event Structure
- D. Established new fees to reflect the new permits in the 2025 California Fire Code and established a minimum fee of \$125.00, which is the lowest fee charged in the fire fee schedule.
  - a. 105.5.26 Indoor Plant Cultivation
  - b. 105.5.34 Mobile Food Preparation Vehicles
  - c. 105.5.55 Temporary heating or cooking in tents or membrane structures
  - d. 105.5.56 Temporary heating or cooking in wildfire risk areas
  - e. 105.5.57 Temporary heating for construction sites
- E. Divided the former Automatic Fire-Extinguishing Systems fee into two fees: §105.6.1 Automatic Fire-Extinguishing Systems and §105.6.2 Automatic Sprinkler Systems, which reflect changes in the 2025 California Fire Code. No new fees were created.
- F. Rescinded §105.6.25 Fire Fighter Air Replenishment System (FARS) construction permit since the Berkeley Fire Code is no longer adopting Appendix L, Requirements for Firefighter Air Replenishment Systems, in the 2025

California Fire Code. Appendix L was not adopted by the Office of the State Fire Marshal.

G. There are no proposed fee changes in Sections 2, 3, 4, 5, or 6.

The hearing will be held on, **November 10, 2025**, at **6:00 P.M.** in the School District Board Room, located at 1231 Addison Street, Berkeley CA 94702.

A copy of the agenda material for this hearing will be available on the City’s website at <https://berkeleyca.gov/> as of October 23, 2025. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

For further information, please contact **Fire Marshal Drew Whyte** at 510-981-5584.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to [council@berkeleyca.gov](mailto:council@berkeleyca.gov) in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at (510) 981-6900 or [clerk@berkeleyca.gov](mailto:clerk@berkeleyca.gov) for further information.

**Published:** October 24, 2025 and October 31, 2025 - The Berkeley Voice  
**Published pursuant to Government Code 6062a**

~~~~~  
I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on October 23, 2025.

Mark Numainville, City Clerk



Office of the City Manager

ACTION CALENDAR
November 10, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: David Sprague, Fire Chief

Subject: Adoption of and Amendments to the California Wildland-Urban Interface (WUI) Code

RECOMMENDATION

1. Adopt the first reading of an Ordinance creating a new Berkeley Municipal Code Chapter 19.49 and adopting the 2025 California Wildland-Urban Interface (WUI) Code, Title 24 Part 7, along with local amendments.
2. Adopt a Resolution (Attachment 2) setting forth findings of local climatic, geological, and topographical conditions that require more stringent standards than those in the State Code.
3. In compliance with state law on adopting such codes by reference, hold a public hearing following the first reading, and before the second reading, and schedule the second reading and public hearing for December 2, 2025.

FISCAL IMPACTS OF RECOMMENDATION

Implementation will require the purchase of code books and staff time to update inspection software, forms, training, and public-facing materials. No additional funding is currently required.

CURRENT SITUATION AND ITS EFFECTS

First, the State of California has consolidated wildfire safety standards into a new, stand-alone Wildland-Urban Interface Code, effective January 1, 2026. Local governments must adopt this code by reference and may adopt stricter amendments where local conditions warrant. This action pulls all WUI code provisions out of the Berkeley Fire Code and places them in a new separate Chapter within the Berkeley Municipal Code.

Second, on June 17, 2025, the City Council referred to the City Manager a request to create a working group of Berkeley residents and stakeholders to review the vegetation management portion of the Fire Code to ensure that it is clear, reflects unique local

conditions, and incorporates the best available fire science; then return with additional amendments to the City Council before December 31, 2025.

Staff convened the Wildland Urban Interface Vegetation Code Workgroup (WUI Workgroup) inclusive of Eric Weaver, Richard Illgen, Margit Roos-Collins and George Perez-Velez who have met weekly beginning August 20, 2025. Their commitment and willingness to engage in robust discussion has resulted in substantial enhancements to the previously adopted code language including:

- Clarification that mature trees are permitted in Zone 0 (Section 604.3.2 (1) (b))
- Clarification regarding “Continuous Tree Canopy” (Section 604.3.1 (7) (e))
- Made substantial enhancements and simplifications to language within the sections that outline the requirements for Zone 0, Zone 1 and Zone 2 (Section 604.3.1 and 604.3.2).
- Provided clarification around annual vegetation in Zone 1, such as vegetable gardens, seasonal wildflowers, etc.
- Staff continue to work with the WUI Workgroup to create a process by which property owners can demonstrate alternate means they have pursued, or alternate measures they have identified, that meet or exceed the intent of the code by achieving the same practical effect of the fire code. This Wildfire Alternate Means and Measures process would allow for unique conditions on a given property that cannot be captured by a general code applied to the region. Additionally, this workgroup provides an excellent resource to help build a resident guide to assist property owners in navigating the new requirements while following best practices for preventing invasive vegetative species, maintaining residential character, and other supportive actions. Staff will continue to meet weekly with this group through the original timeline.

Third, staff removed the local amendment language regarding misdemeanors from the new California Wildland-Urban Interface Code.

- Note: This section remains in the Berkeley Fire Code and serves as an important enforcement tool for the City of Berkeley to address persistent life safety violations. It is intended for use only in the most severe circumstances, when a property owner or business owner has created or allowed a condition that poses a significant threat to life safety for themselves, their occupants, or the surrounding community. This provision is exercised only after multiple documented attempts by Fire Department staff to achieve voluntary compliance have been unsuccessful and all other reasonable avenues for correction have been exhausted.

Fourth, Staff has created a new tool that residents can use to visualize the Fire Hazard Severity Zones and Mitigation Areas, by adding a new section to the City's Community GIS Portal titled "Fire and Emergency Services" which includes the following layers:

- Local Fire History
- Local Fire Pathways
- Very High Fire Hazard Severity Zone
- High Fire Hazard Severity Zone
- Grizzly Peak Mitigation Area
- Panoramic Mitigation Area
- Evacuation Zones

Finally, Staff re-built www.berkeleyfiresafe.org so a visitor can now enter their address using a tool on the site and understand what Fire Hazard Severity Zone or Mitigation Area the property is within and view customized information (based on location) for Personal Preparedness, Defensible Space Requirements, and Home Hardening.

BACKGROUND AND DISCUSSION

The new California Wildland-Urban Interface Code consolidates WUI requirements formerly spread across Chapter 7A of the California Building Code and Chapter 49 of the Fire Code.

Berkeley's climate, vegetation, and topography create an extreme wildfire risk, as evidenced by regional fire history and the identification by CalFIRE of certain portions of the City to be Very High and High Fire Hazard Severity Zones. Local amendments are necessary to reduce the chance of wildfire spreading into neighborhoods and transitioning to structure-to-structure conflagration.

Berkeley has a history of devastating fires, and the City Council declared wildfire safety a priority in 2019. The community validated this priority by passing Measure FF in 2020 which funds a variety of wildfire risk reduction measures, and the Council adopted Zone 0 (the EMBER resistant zone) into the City's Fire Code on June 17, 2025.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Preventing wildfires from spreading into urban areas reduces greenhouse gas emissions, toxic smoke, and contaminated runoff. Adoption of stricter WUI standards also improves community resilience, protects public health, and reduces future rebuilding emissions.

RATIONALE FOR RECOMMENDATION

Adopting the California Wildland-Urban Interface Code with local amendments provides Berkeley with protections tailored to local conditions. These actions align city code with best practices, reduce risk of loss of life and property, and ensure compliance with state law.

Substantially similar defensible space provisions adopted by Council on June 17, 2025 were determined to be statutorily exempt from CEQA pursuant to Public Resources Code 21080.49(c) because the ordinance was a project consisting of establishment or enhancement of residential home hardening or defensible space for wildfire risk reduction within 200 feet of a legal structure. The amendments proposed in this item, as well as adoption of the California Wildland-Urban Interface Code along with other local amendments, is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that adoption of this ordinance will not have a significant effect on the environment.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

David Sprague, Fire Chief, 510-981-3473

Attachments:

- 1: Ordinance – Adding Section 19.49 of the Berkeley Municipal Code (California Wildland-Urban Interface Code)
- 2: Resolution - Adopting Findings as to Local Climatic, Geological and Topographical Conditions Rendering Reasonably Necessary Various Enumerated Local WUI Interface Code Standards That Are More Stringent Than Those Mandated by The California Wildland-Urban Interface Code.

ORDINANCE NO. -N.S.

ADOPTION OF THE 2025 CALIFORNIA WILDLAND-URBAN INTERFACE CODE AND CONSOLIDATING BERKELEY'S WILDLAND URBAN INTERFACE (WUI) FIRE CODES INTO A NEW BERKELEY MUNICIPAL CODE CHAPTER 19.49, AND REMOVING PREVIOUS WUI CODE REFERENCES FROM BERKELEY BUILDING CODE (BMC CHAPTER 19.28), BERKELEY RESIDENTIAL CODE (BMC CHAPTER 19.29) AND THE BERKELEY FIRE CODE (BMC CHAPTER 19.48)

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

Section 1. That Berkeley Municipal Code Chapter 19.49 is hereby introduced:

Chapter 19.49

BERKELEY WILDLAND-URBAN INTERFACE CODE

Sections:

- 19.49.010 Adoption of the California Wildland-Urban Interface Code**
- Article 1. Scope and Administrative Provisions**
 - 19.49.020 Adoption of Chapter 1 Scope and Administration**
- Article 2. Definitions**
 - 19.49.030 Amendments to Chapter 2 Definitions**
- Article 3. Wildland-Urban Interface Areas**
 - 19.49.040 Amendments to Chapter 3 Wildland-Urban Interface Areas**
- Article 4. Wildland-Urban Interface Area Requirements**
 - 19.49.050 Amendments to Chapter 4 Wildland-Urban Interface Area Requirements**
- Article 5. Special Building Construction Regulations**
 - 19.49.060 Technical Amendments to Chapter 5 Special Building Construction Regulations**
- Article 6. Fire Protection Requirements**
 - 19.49.070 Amendments to Chapter 6 Fire Protection Requirements Including Defensible Space regulations**
- Article 7. Referenced Standards**
 - 19.49.080 Amendments to Chapter 7 Referenced Standards**
- Article 8. General Requirements**
 - 19.49.090 Adoption of Appendix A with amendments**

19.49.010 Adoption of the California Wildland-Urban Interface Code.

The California Wildland-Urban Interface Code, 2025 edition, as adopted in Title 24 Part 7 of the California Code of Regulations, including Appendix A is hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth in this Chapter. One copy of this Code is on file in the office of the City Clerk of the City of Berkeley (“City”).

Article 1. Scope and Administrative Provisions

19.28.020 Adoption of Chapter 1 Scope and Administration

Chapter 1 of the 2025 California Wildland-Urban Interface Code is partially adopted with adopted sections below. (Sections adopted by the State Fire Marshal remain unless modified below.)

CHAPTER 1 SCOPE AND ADMINISTRATION

SECTION 101 – SCOPE AND GENERAL REQUIREMENTS

101.1 Title. These regulations shall be known as the *California Berkeley* Wildland-Urban Interface Code of ~~[NAME OF JURISDICTION]~~, hereinafter referred to as “this code”.

101.3.1 Application. *New buildings and structures, additions, alterations, repairs and re-roofs located in any Fire Hazard Severity Zone or Wildland-Urban Interface (WUI) Fire Area designated by the enforcing agency constructed after the application date shall comply with the provisions of this code. This shall include all new buildings and structures, additions, alterations, repairs and re-roofs with residential, commercial, educational, institutional or similar occupancy type uses, which shall be referred to in this code as “applicable buildings,” as well as new buildings and structures, additions, alterations, repairs and re-roofs accessory to those applicable buildings.*

Exceptions:

- 1. Group U occupancy accessory buildings or structures of any size located at least 50 feet (15 240 mm) from an applicable building on the same lot.*
- 2. Group U occupancy agricultural buildings or structures, as defined in Section 202 of the California Building Code of any size located at least 50 feet (15 240 mm) from an applicable building.*
- 3. Group C occupancy special buildings or structures conforming to the limitations specified in Section 450.4.1 of the California Building Code.*
- 4. New accessory buildings and miscellaneous structures specified in Section 504.11 shall comply only with the requirements of that section.*
- 5. Additions to and remodels of buildings originally constructed prior to July 1, 2008.*

101.3.1.1 Application date and where required. ~~New buildings or structures for which an application for a building permit is submitted on or after July 1, 2008; or buildings and structures, additions, alterations, repairs and re-roofs for which an application for a building permit is submitted on or after July 1, 2008 located in any Fire Hazard Severity Zone or Wildland-Urban Interface Area shall comply with this code, including all land designated as a wildland-urban interface area by the City of Berkeley. ~~of the following areas:~~~~

~~All unincorporated lands designated by the State Board of Forestry and Fire Protection as State Responsibility Area (SRA) including:~~

~~Moderate Fire Hazard Severity Zones.~~

~~High Fire Hazard Severity Zones.~~

~~Very High Fire Hazard Severity Zones.~~

~~Land designated as a Very High Fire Hazard Severity Zone by cities and other local agencies.~~

~~Land designated as a wildland-urban interface area by cities and other local agencies.~~

Exceptions:

~~1. New buildings located in any Fire Hazard Severity Zone within a State Responsibility Area, for which an application for a building permit is submitted on or after January 1, 2008, shall comply with this code.~~

~~2. New buildings located in any Fire Hazard Severity Zone within a State Responsibility Area or any wildland-urban interface area designated by cities and other local agencies for which an application for a building permit is submitted on or after December 1, 2005, but prior to July 1, 2008, shall only comply with the following sections of this chapter:~~

~~2.1. Section 507 — Replacement or Repair of Roof Coverings.~~

~~2.2. Section 504.10 — Vents.~~

101.5 Additions, ~~or alterations~~ or re-roofs. Additions, ~~or alterations~~ or re-roofs shall be permitted to be made to any building or structure without requiring the existing building or structure to comply with all of the requirements of this code, provided that the additions, ~~or alterations~~ or re-roofs conforms to that required for a new building or structure.

Exception: Provisions of this code that specifically apply to existing conditions are retroactive.

Additions, ~~or alterations~~ or re-roofs shall not be made to an existing building or structure that will cause the existing building or structure to be in violation of any of the provisions of this code nor shall such additions or alterations cause the existing building or structure to become unsafe. An unsafe condition shall be deemed to have been created if an addition, ~~or alteration~~ or re-roof will cause the existing building or structure to become structurally unsafe or overloaded; will not provide adequate access in compliance with the provisions of this code or will obstruct existing exits or access; will create a fire hazard;

will reduce required fire resistance or will otherwise create conditions dangerous to human life.

102.4.1 Conflicts. Where conflicts occur between provisions of this code and the referenced standards, the provisions of the most restrictive referenced standards ~~this code~~ shall govern.

102.4.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of the referenced code or standard ~~this code~~, as applicable, shall take precedence over the provisions in this code ~~the referenced standard~~.

SECTION 103 – CODE COMPLIANCE AGENCY

103.1 Creation of enforcement agency. The Berkeley Fire Department ~~[INSERT NAME OF DEPARTMENT]~~ is hereby created and the official in charge thereof shall be known as the Fire Chief. The function of the agency shall be the implementation, administration and enforcement of the provisions of this code.

103.2 Appointment. The Fire Chief shall be appointed by the ~~chief appointing authority of the jurisdiction~~ City Manager and confirmed by City Council pursuant to Berkeley Charter, Section 28(b) of Article VII.

103.3 Deputies. In accordance with the prescribed procedures of ~~this jurisdiction~~ the City of Berkeley, and ~~with the concurrence of the appointing authority~~ the Fire Chief, hereinafter referred to as the code official, shall have the authority to appoint a ~~Deputy Fire Chief, Fire Marshal, Fire Plans Examiners and~~ other related technical officers, inspectors and other employees. Such employees shall have powers as delegated by the code official. For purposes of this code, the term “code official” shall also include their designees.

SECTION 104 – DUTIES AND POWERS OF CODE OFFICIAL

104.7 Official records. The code official shall keep official records as required by Sections 104.7.1 through 104.7.5. Such official records shall be retained for not less than 5 years or for as long as the building, structure or activity to which such records relate remains in existence, unless ~~otherwise provided by other regulations~~ required for a longer period by the retention of public record policy of the city.

104.7.2 Inspections. The code official shall keep a record of each inspection made, including notices of violations issued, notices and orders issued, administrative citation warning letters issued, citations issued and appeals received showing the findings and disposition of each.

104.7.5 Fees. The code official shall keep a record of invoices issued, fees collected and fees refunded in accordance with Section 108.

104.9.1 Materials and equipment reuse. Materials, equipment and devices shall not be reused unless such elements are in good working order with proper reports and tests justifying the condition, labeled and graded as required and expressly approved by the code official.

104.14 Liability for Damage. The expenses of fighting fires and securing emergencies, which result from a violation of this code, Chapter 6.15.030 of the Berkeley Municipal Code (“Unauthorized barbecues and fire on public property”), Sections 13000-13011 of the California Health and Safety Code, Sections 4421-4446 of the California Public Resources Code, or Sections 451, 451.5, 452 or 455 of the California Penal Code is a charge against the person(s) whose violation of the code section(s) caused the fire. Damages caused by such fires shall constitute a debt of such person(s) and shall be collectable by the code official in accordance with Section 104.14.1 (“Expense of securing emergencies”) of this code.

Section 104.14.1 Expense of securing emergencies. The expense of securing any emergency that is within the responsibility for enforcement of the code official as given in Sections 104.1 is a charge against the person who caused the emergency. Damages and expenses incurred by any public agency having jurisdiction or any public agency assisting the agency having jurisdiction shall constitute a debt of such person and shall be collectible by the code official for proper distribution in the same manner as in the case of an obligation under contract expressed or implied. Expenses as stated above shall include, but not be limited to, equipment and personnel committed and any payments required by the public agency to outside business firms requested by the public agency to secure the emergency, monitor remediation, and clean up.

SECTION 105 – PERMITS

105.3 Work exempt from permit. Exemption from the permit requirements of this code or in other Parts of Title 24 shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

The code official is authorized to stipulate conditions for permits. Permits shall not be issued where public safety would be at risk, as determined by the code official.

105.4 Permit Application. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the ~~code enforcement agency~~ City for that purpose. Such application shall not become valid until accepted by the City as complete and appropriate fees paid. Every such application shall:

1. Identify and describe the work, activity, operation, practice or function to be covered by the permit for which application is made.
2. Describe the land on which the proposed work, activity, operation, practice or function is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building, work, activity, operation, practice or function.
3. Indicate the use or occupancy for which the proposed work, activity, operation, practice or function is intended.

4. Be accompanied by plans, diagrams, computation and specifications and other data as required in Section 106 of this code or in other Parts of Title 24.
5. State the valuation of any new building or structure or any addition, remodeling, or alteration or re-roof to an existing building.
- ~~6. Be signed by the applicant or the applicant's authorized agent.~~
- ~~7.~~ 6. Give such other data and information as required by the code official.

105.4.2 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned ~~180-365~~ days after the date of filing, unless it can be demonstrated by the applicant that such application has been pursued in good faith or a permit has been issued; except that the code official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each per extension. The extension shall be requested in writing and justifiable cause demonstrated on a form furnished by the Building and Safety Division for that purpose. Requests for time extensions shall be accompanied by the payment of a fee set by resolution of the City Council. An application, once abandoned, shall be deemed expired and a new application will be required to be submitted.

Exception. If an application is associated with a code enforcement case, the dates specified in the code enforcement notices take precedence over the timelines specified in this section.

105.6.1 Refusal to issue a permit. Where the application or construction documents do not conform to the requirements of pertinent laws or when public safety would be at risk, the code official shall reject such application in writing, stating the reasons therefor.

105.8 Expiration of Permit. *On or after January 1, 2019, every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 12 months after its issuance or if the work authorized on the site by such permit is suspended or abandoned for a period of 12 months after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. (See Health and Safety Code Section 18938.5 and 18938.6.)*

The extension shall be requested in writing and justifiable cause demonstrated on a form furnished by the Building and Safety Division for that purpose. Requests for time extensions shall be accompanied by the payment of a fee set by resolution of the City Council.

The issuance of a building permit shall not excuse the permittee or any other person from compliance with deadlines imposed in any notice and/or order to correct a code violation issued by the City. If a permit is for a project associated with a code enforcement case, the dates specified in the code enforcement notices take precedence over the timelines specified in this section.

When a permit is deemed expired and a new permit is required to complete the work, a new permit application and plans shall be filed describing the remaining work to be done.

Fees shall be assessed based on the valuation of the work remaining to be completed or itemized as allowed by adopted fee schedule. If a site visit or other review is required to determine the extent of the remaining work, a fee may be charged to make such determination.

For the purposes of this section “suspended or abandoned for a period of 12 months after the time the work is commenced” shall mean that no activity or progress has been made on site for the work approved under the issued permit in the time period the permit is active and a completed and approved city inspection, per Section 109.1 of this code and/or California Building Code Section 110.3, has not been acquired.

106.2 Information on plans and specifications. Plans and specifications shall be drawn to scale ~~on substantial paper or cloth~~ and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed, and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules and regulations.

106.4 Vegetation management compliance. *Prior to the building permit final approval, the property shall be in compliance with the vegetation management requirements prescribed in Section 603, including California Public Resources Code 4291 or California Government Code Section 51182, and Section 302.3. Acceptable methods of compliance inspection and documentation shall be determined by the enforcing agency and shall be permitted to include any of the following:*

- 1. Local, state or federal fire authority or designee authorized to enforce vegetation management requirements.*
- 2. ~~Enforcing agency~~ Berkeley Fire Department inspection and/or vegetation management plan submittal, review, and approval.*
- 3. Third-party inspection and certification authorized to enforce vegetation management requirements.*
- 4. Property owner certification authorized by the ~~enforcing agency~~ Berkeley Fire Department.*
- 5. Compliance with hazardous vegetation and fuel mitigation and home hardening requirements in Section 604.3.1 and Section 604.3.2.*

106.5 Fire protection plan. Where required by the code official pursuant to Section 602, a fire protection plan shall be prepared and shall be submitted to the code official for review and approved as a part of the plans required for a permit. The Fire Protection Plan shall be enforced and maintained by the responsible party or their designated agent. The Berkeley Fire Department may charge an appropriate fee for the review, approval and processing of the Fire Protection Plan as established by City Council resolution.

106.8 Retention of plans. One set of approved plans, specifications and computations shall be retained by the code official for a period of not less than ~~180 days~~ 5 years from date of completion of the permitted work or as required by state or local laws or per the public records retention policy of the city, whichever is longer; and one set of approved plans and specifications shall be returned to the applicant, and said set shall be kept on

the site of the building, use or work at all times during which the work authorized thereby is in progress. *Refer to Building Standards Law, Health and Safety Code Sections 19850 and 19851 for permanent retention of plans.*

106.11 Previous approvals. This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within ~~480~~ 365 days after the effective date of this code and has not been abandoned.

SECTION 108 – FEES

108.1 Payment of fees. Except when fees are deferred, a permit application shall not be deemed valid until the fees set forth by resolution of City Council have been paid. A permit shall not be valid until the fees prescribed by law as set forth by resolution of City Council have been paid. An amendment to a permit shall not be released until the additional fee, if any, has been paid.

108.2 Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems, or alterations ~~Where~~ a permit is required, a fee for each permit shall be paid as required, in accordance with the fee schedule as established by the applicable governing authority set forth by resolution of the City Council. Fees for permits and inspections and other related services under this code shall be assessed and paid as set forth by resolution of the City Council. Unless waived or deferred, as provided by local regulations, a plan review fee and other fees as specified in the resolution shall be paid at the time of submitting any documents for review and additional fees as specified in the resolution shall be paid at issuance of the permit.

108.4 Work commencing before permit issuance. Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee established by the applicable governing authority, which shall be in addition to the required permit fees as set forth by resolution of the City Council to be twice the amount of the required fees to obtain a permit for that work, activity or operation regulated by this code. This is in addition to the permit fees for the portion of the scope of work performed without the permit.

SECTION 109—INSPECTION AND ENFORCEMENT

109.1.3.1 Re-inspection fees. A re-inspection fee, as set forth by resolution of the City Council, may be assessed for each re-inspection when such portion of work for which an inspection is scheduled is not complete, is required to be reinspected after receiving a previously approved inspection for the same work or when corrections previously called for are not made.

Re-inspection fees shall not be required each time a job is disapproved for failure to comply with the requirements of this Code. This section applies for the following reasons:

1. When the work is not ready for inspection when the inspector arrives at the site.
2. When excessive scheduling of inspections for work not yet completed at the site.

3. When the approved plans, permit and inspection card are not readily available to the inspector at the work site.
4. For failure to provide access on the date for which the inspection is requested.
5. When work deviates from the approved plans and no approved revision to approved plans has been obtained by the permittee.
6. When other reasons, as determined by the code official, requires a re-inspection fee to be assessed.

The applicant shall pay the re-inspection fee as set forth by resolution of the City Council. In instances where re-inspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

109.2.3 Corrective Actions. The code official is authorized to take enforcement actions as necessary to achieve compliance with this code, including but not limited those actions specified in Sections 109.3.7 (“Violation penalties”) and 109.3.5.5 (“Summary abatement”) of this code, and as authorized by Berkeley Municipal Code, Chapter 1.24, “Abatement of Nuisances”, and in accordance with all other applicable portions of the Berkeley Municipal Code. Corrective actions may also include the use of abatement warrants and the imposition of property liens as appropriate and in accordance with law.

109.3.2 Compliance with tags. A building or premises shall not be used when in violation of this code as noted on a tag affixed in accordance with Section ~~109.3.1~~ 109.3.5.3.

109.3.5 Unsafe conditions. Structures or existing equipment that are or hereafter become structurally or otherwise unsafe, insanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a structural or fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the building official deems necessary and as provided for in this section. A vacant structure that is not secured against unauthorized entry shall be deemed unsafe.

All such unsafe buildings, equipment, structures or appendages are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in Chapters 1.24, 19.28, 19.40 and/or 19.44 of the BMC as applicable. As an alternative, the building official, or other employee or official of this jurisdiction as designated by the City Council, may institute any other appropriate action to prevent, restrain, correct or abate the violation.

109.3.5.3 Safety Assessment Placards. Placarding. Upon failure of the owner, the owner’s authorized agent or the person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word “UNSAFE” and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

109.3.5.3.1 Posting. The code official or designee shall post the appropriate placard at each entry point to a building or structure upon completion of a safety assessment.

109.3.5.3.2 Application of provisions. The provisions of this section are applicable to all buildings and structures of all occupancies regulated by the City of Berkeley. The City Council may extend the provisions as necessary.

109.3.5.3.3 Safety Assessment. Safety Assessment is a visual, non-destructive examination of a building or structure for the purpose of determining the condition for continued occupancy.

109.3.5.3.4 Placards. This section establishes standard placards to be used to indicate the condition of a building or structure for occupancy after a natural or human-caused disaster and a rapid evaluation by authorized personnel.

Following are titles and descriptions of the official jurisdiction placards to be used to designate the condition of a building or structure for continued occupancy, partial or conditional occupancy, or unsafe to enter. Copies of placards are on file in the Building and Safety Division of the Planning and Development Department.

INSPECTED – Lawful Occupancy Permitted is to be posted on any building or structure wherein no apparent hazard has been found. This placard is not intended to mean there is no damage to the building or structure, but that any damage that occurred does not present a hazard to occupants.

RESTRICTED USE is to be posted on each building or structure that has been damaged wherein the damage has resulted in some form of restriction to the continued occupancy. The individual who posts this placard will note in general terms the type of damage encountered and will clearly and concisely note the restrictions on continued occupancy.

UNSAFE – “Do Not Enter or Occupy” is to be posted on each building or structure that has been damaged such that continued occupancy poses a threat to life safety. Building or structures posted with this placard shall not be entered under any circumstances except as authorized in writing by the building official, or the building official’s authorized representative. Safety assessment teams shall be authorized to enter these building at any time. This placard is not to be used or considered as a demolition order. The individual who posts this placard will note in general terms the type of damage encountered.

109.3.5.3.5 Content of placard. The BMC Section number and the words "City of Berkeley" shall be permanently affixed to each placard.

109.3.5.3.6 Unlawful to remove. Once a placard has been attached to a building or structure, it is not to be removed, altered or covered until done so by an authorized representative of the code official. It shall be unlawful for any person, firm or corporation to alter, remove, cover or deface a placard unless authorized pursuant to this section.

109.3.5.3.17 Placard removal. The code official shall remove the unsafe condition placard whenever the defect or defects on which the unsafe condition and placarding action were based have been eliminated. Any person who defaces or removes a safety assessment ~~an unsafe condition~~ placard without the approval of the code official shall be subject to the penalties provided by this code.

109.3.5.5 Summary abatement. Where conditions exist that are deemed hazardous to life and property, the code official is authorized to abate or correct summarily such hazardous conditions that are in violation of this code, including fire nuisances. Where the owner does not comply with an abatement order under Section 109.3.5.2 within the period specified, the City of Berkeley may perform or cause to be performed the necessary work. The costs incurred shall be recoverable under the procedures in Section 109.3.5.4.1.

109.3.5.4.1 Abatement process. The abatement process shall be conducted in accordance with the notice and hearing requirements of the nuisance abatement provisions of Berkeley Municipal Code Chapter 1.24, including summary abatements of structures or premises determined by the City of Berkeley to constitute an imminent hazard or emergency condition.

109.3.7 Violation penalties. Persons who shall violate a provision of this code or fail to comply with any of the requirements thereof or who shall erect, install, construct, alter, repair or do work for a building or structure in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a [~~SPECIFY OFFENSE~~], punishable by a fine of not more than [AMOUNT] dollars or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment. subject to penalties as prescribed by law. Each day that a violation continues after due notice has been served shall be deemed a separate offense. In addition to all other legal remedies, civil or criminal (as set forth above), any violation of this code constitutes a public nuisance in accordance with B.M.C Chapter 1.26, and is subject to all provisions of B.M.C. Chapter 1.26, as well as abatement under B.M.C. Chapter 1.24, "Abatement of Nuisances," with the exception of section 112 (Means of Appeal) which supersedes these provisions. All such violations are also subject to the issuance of an administrative citation in accordance with B.M.C Chapter 1.28 at the discretion of the enforcing officer or the City Attorney.

109.3.7.1 Unlawful acts. *It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish, ~~or~~ occupy, or utilize any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code or create, maintain or allow to continue any fire hazard.*

109.4 Restricted Entry of Wildland-Urban Interface Areas. The code official shall determine and publicly announce when Wildland-Urban Interface areas shall be closed to entry and when such areas shall again be opened to entry. Entry on and occupation of Wildland-Urban Interface areas, except public roadways, inhabited areas or established trails and camp sites which have not been closed during such time when the Wildland-Urban Interface areas are closed to entry, is prohibited.

Exceptions:

1. Residents and owners of private property within Wildland-Urban Interface areas and their invitees and guests going to or being upon their lands;

2. Entry, in the course of duty, by peace officers, and other duly authorized public officers, members of a fire department and members of the United States Forest Service.

109.5 Trespassing on Posted Property

109.5.1 General. When the code official determines that a specific area within a Wildland-Urban Interface Areas, as listed in Section 302.3, presents an exceptional and continuing fire danger because of the density of natural growth, difficulty of terrain, proximity to structures or accessibility to the public, such areas shall be closed until changed conditions warrant termination of closure. Such areas shall be posted as hereinafter provided.

109.5.2 Signs. Approved signs prohibiting entry by unauthorized persons and referring to this section shall be placed on every closed area.

109.5.3 Trespassing. Entering and remaining within areas closed and posted is prohibited.

Exception: Owners and occupiers of private or public property within closed and posted areas, their guests or invitees, and local, state and federal public officers and their authorized agents acting in the course of duty.

SECTION 110—CERTIFICATE OF COMPLETION OCCUPANCY

110.1 General. A building, structure or premises shall not be used or occupied, and a change in the existing use or occupancy classification of a building, structure, premise or portion thereof shall not be made until the code official has issued a certificate of completion occupancy therefor as provided herein. The certificate of occupancy shall not be issued until the code official has determined that the project is in compliance with this code. *The code official shall, upon completion of construction, provide the owner or applicant with a copy of the final inspection report that demonstrates the building was constructed in compliance with all applicable state and local building standards, including those for materials and construction methods for wildfire exposure as described in this code. Issuance of a certificate of occupancy by the local building official for the proposed building shall be considered to indicate compliance with this code.*

110.2 Certificate of occupancy. Issuance of a certificate of occupancy is the responsibility of the local building official. The issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other pertinent laws and ordinances of the jurisdiction. Certificates presuming to give authority to violate or cancel the provisions of this code or other laws or ordinances of the jurisdiction shall not be valid.

Exceptions:

~~1. Certificates of occupancy are not required for work exempt from permits under Section 105.3.~~

~~2. Accessory structures.~~

110.3 Temporary occupancy. The code official, in agreement with the local building official, is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The code official shall set a time period during which the temporary certificate of occupancy is valid.

110.4 Revocation. The code official, in agreement with the local building official, is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, on the basis of incorrect information supplied, or where it is determined that the building or structure, premise or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

SECTION 111 – SERVICE UTILITIES

111.1 Authority for ~~c~~Connection of service utilities. A person shall not make connections from a utility, a source of energy, fuel, power, water system or sewer system to any building, structure or system that is regulated by this code for which a permit is required until ~~authorized~~ authorization to connect by the code official has been obtained.

111.1.2 Authority to connect utilities. Clearance for connection of one utility, either gas or electrical, will be withheld until final building, electrical, plumbing, and/or mechanical inspections are made and approval has been given for any new building or change in occupancy classification to an existing building for which connection to such utilities is sought, unless approval has been first obtained from the code official, as provided by a Temporary Certificate of Occupancy or Final Certificate of Occupancy.

111.3 Authority to disconnect service utilities in emergencies. The code official shall have the authority to authorize ~~disconnection of utility service to~~ disconnect electrical power or other energy service supplied to ~~the a~~ building, structure, ~~or~~ system or building service equipment therein regulated by this code and the referenced codes and standards in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without the approval required by Section 111.1 or 111.2. The code official shall notify the serving utility and, where possible, the owner or the owner's authorized agent and the occupant of the building, structure, ~~or~~ service system or equipment of the decision to disconnect prior to taking such action. If not notified prior to disconnection, the owner, the owner's authorized agent or the occupant of the building, structure, ~~or~~ service system or equipment shall be notified in writing as soon as practical thereafter.

111.4 Unsafe service utilities. Unsafe service utilities are hereby declared to be public nuisances and shall be abated, repaired, rehabilitated, demolished or removed in accordance with the procedures set forth in this code and/or per Chapter 19.40 of the Berkeley Municipal Code (BMC) for residential buildings and Berkeley Building Code for all other buildings, or any alternate procedure that may be adopted by the City of Berkeley. In addition, the City Attorney may pursue other appropriate action to prevent, restrain, correct or abate the violation as provided for in the BMC. Remedies under this section are cumulative. When service utilities are maintained in violation of this Code and in

violation of a notice issued pursuant to the provisions of this section, the code official shall institute appropriate action to prevent, restrain, correct or abate the violation.

111.5 Authority to condemn electrical, plumbing and/or mechanical systems and equipment. Whenever the code official determines that an electrical, plumbing, or mechanical system or equipment regulated by this code is hazardous to life, health or property, the building official may order in writing that such systems or equipment either be removed or restored to a safe working condition. The written notice shall fix a reasonable time limit for compliance with such order. Persons shall not use or maintain defective systems or equipment after receiving such notice except as may be provided therein.

When equipment or an installation is to be disconnected, a written notice of such disconnection and the reasons therefore shall be given within 24-hours of the order to disconnect to the serving utility, the owner and occupants of the building, structure or premises.

When equipment or an installation is maintained in violation of this Code and in violation of a notice issued pursuant to the provisions of this section, the building official shall institute appropriate action to prevent, restrain, correct or abate the violation.

Unsafe electrical, plumbing, and/or mechanical systems or equipment are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in Chapter 19.40 of the BMC for residential buildings and Berkeley Building Code for all other buildings, or any alternate procedure adopted by the City of Berkeley. In addition, the City Attorney may pursue other appropriate action to prevent, restrain, correct or abate the violation as provided for in the BMC. Remedies under this section are cumulative.

111.6 Connection after order to disconnect. Persons shall not make connections to a service utility, a source of energy, fuel, or power, or a water system or sewer system or equipment that has been disconnected or ordered to be disconnected by the building official, or the use of which has been ordered to be discontinued by the code official, until the building official authorizes the reconnection and use of the disconnected service systems or equipment.

SECTION 112 – MEANS OF APPEALS

112.1 ~~General Appeals Procedure.~~ ~~In order to hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the applicable governing authority and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the fire code official.~~ The City Council shall hear and decide on appeals of orders, decisions, or determinations made by the Fire Code Official relative to the application and interpretation of this code. A property owner may appeal an order, decision, or determination of the Fire Code Official within 10 calendar days of the date of mailing of the appealable action. The notice of appeal shall contain a statement of the reasons for the appeal and be filed with the City Clerk of the City of Berkeley. The City Clerk shall forward one copy thereof to the Fire Code Official, who shall transmit to the City Council all their records pertaining to the decision being appealed.

Section 112.1.1 Payment of Fees and Fines. Prior to the deadline to appeal, the property owner must pay the appeal fee, per the adopted fee schedule, in addition to an advance deposit of the fine or file an application for an advanced deposit hardship waiver. If the hardship waiver is not granted, the fine must be deposited to the City within 14 days of mailed notice of that decision. No hearing shall be scheduled prior to receipt of payment or approval of the hardship waiver.

112.1.2 Stay of Proceedings. The filing of the notice of appeal shall stay all proceedings by all parties in connection with the matter upon which the appeal is taken until determination of the appeal as hereinafter provided, unless the fire code official determines that such a stay could result in an imminent threat to public safety.

112.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equivalent or better form of construction is proposed. ~~The board~~ City Council shall not have authority to waive requirements of this code.

112.3 Qualifications. ~~The board of appeals shall consist of members who are qualified by experience and training on matters pertaining to the provisions of this code and are not employees of the jurisdiction.~~ **Decisions.** The City Council shall review the action of the fire code official and shall do any one of the following:

Refer the matter back to the fire code official.

If the facts stated in, or ascertainable from the, Notice of Appeal, the written statement of the fire code official setting forth the reason for their decision, and the other papers, if any, constituting the record do not, in the opinion of the City Council, warrant further hearing, the City Council may affirm the decision of the fire code official. Such decision shall be final.

If, in the opinion of the City Council, said facts warrant further hearing, the City Council shall set the matter for hearing and shall give notice of the time and place of said hearing by mailing a copy of such notice by certified mail to the address of the appellant as stated in the Notice of Appeal, at least ten (10) days before the time fixed for the hearing. The City Council may continue the hearing from time to time.

Following such hearing, the City Council shall reverse, affirm wholly or partly modify any decision of the fire code official, or make any other decisions or determinations or impose such conditions as the facts warrant. Such decision or determination shall be final.

If none of the above actions have been taken by the City Council within thirty (30) days from the date the appeal first appears on the City Council agenda, then the decision of the fire code official shall be deemed affirmed and the appeal shall be deemed dismissed.

If the appeal is set for hearing but the disposition of the appeal has not been determined within ninety (90) days from the date the appeal first appears on the City Council agenda, then the decision of the fire code official shall be deemed affirmed and the appeal deemed dismissed.

112.4 Administration. The fire code official shall take action without delay in accordance with the decision of the ~~board~~ City Council.

Article 2. Definitions

19.49.030 Adoption of Chapter 2 Definitions

Chapter 2 of the 2025 California Wildland-Urban Interface Code is partially adopted with adopted sections below. (Sections adopted by the State Fire Marshal remain unless modified below.)

ACCESSORY STRUCTURE. A structure that is accessory to and incidental to that of the primary structure and that is located on the same lot. A building or structure used to shelter or support any material, equipment, chattel or occupancy other than a habitable building.

APPLICABLE BUILDING. *A building or structure that has residential, commercial, educational, institutional or similar occupancy type use.*

BERKELEY BUILDING STANDARDS CODE. The Berkeley Building Standards Code includes the most recently adopted Berkeley Building Code, Berkeley Residential Code, Berkeley Existing Building Code, Berkeley Historical Building Code, Berkeley Electrical Code, Berkeley Mechanical Code, Berkeley Plumbing Code, Berkeley Green Code, and Berkeley Energy Code.

BOLE OF A TREE. A bole of a tree is its main trunk, specifically the part extending from the roots up to the first branches and canopy.

FIRE HAZARD. Anything or act which increases or could cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing or extinguishing fire or anything or act which could obstruct, delay, hinder or interfere with the operations of the fire department or the egress of occupants in the event of fire. Fire hazards as defined herein are hereby declared to be public nuisances subject to abatement by the City of Berkeley.

FIRE HAZARD SEVERITY ZONES. Geographical areas designated pursuant to California Public Resources Codes, Sections 4201 through 4204 and classified as Very High, High, or Moderate in State Responsibility Area or as Local Agency Very High Fire Hazard Severity Zones designated pursuant to California Government Code, Sections 51175 through 51189, and locally amended and adopted under ordinance 7958 N.S.

The California Code of Regulations, Title 14, Section 1280 entitles the maps of these geographical areas as "Maps of the Fire Hazard Severity Zones in the State Responsibility Area of California." The map, approved by the Office of the State Fire Marshal, is hereby incorporated by reference and entitled "State Responsibility Area Fire Hazard Severity Zones," dated September 29, 2023 April 1, 2024. The map is available at <https://osfm.fire.ca.gov/fire-hazard-severity-zones>.

In the City of Berkeley, the wildland-urban interface areas that include high and very high fire hazard severity zones are described in Section 302.3 of this code.

FIRE NUISANCE. Anything or act, which is annoying, unpleasant, offensive or obnoxious because of fire.

FIRE PROTECTION PLAN. A document prepared for a specific premises, project or development, either existing or proposed for the wildland-urban interface area. It describes ways to minimize and mitigate potential for loss from wildfire exposure.

FORBS. Forbs are herbaceous (non-woody) flowering plants that are not grasses, sedges, or rushes.

FUEL BREAK. (applicable to CCR, Title 14 provisions only). A strategically located area where the volume and arrangement of vegetation has been managed to limit fire intensity, fire severity, rate of spread, crown fire potential and/or ember production. [CCR Title 14§1270.01(n)].

IGNITION-RESISTANT BUILDING MATERIAL. A type of building material that resists ignition or sustained flaming combustion sufficiently so as to reduce losses from wildfire exposure of burning embers and small flames, and complies with the requirements of this code.

JURISDICTION. The City of Berkeley.

OUTBUILDING(S). (applicable to CCR, Title 14 provisions only). Any buildings or structures that are less than 120 square feet (11.15 m²) in size and not used for human habitation. An "Outbuilding" is not a "Building" or "Structure" as defined herein. [CCR Title 14 §1299.02(c)]

WILDLAND-URBAN INTERFACE AREA (WUI). *A geographical area identified by the state as a “Fire Hazard Severity Zone” in accordance with the Public Resources Code Sections 4201 through 4204 and Government Code Sections 51175 through 51189, and other areas designated by the City enforcing agency to be at a significant risk from wildfires. For the City of Berkeley’s WUI areas see section 302.3.*

Article 3. Wildland-Urban Interface Areas

19.49.040 Chapter 3 Wildland-Urban Interface Areas

Chapter 3 of the 2025 California Wildland-Urban Interface Code is partially adopted with adopted sections below. (Sections adopted by the State Fire Marshal remain unless modified below.)

302.3 WUI Areas in Berkeley. The High Fire Hazard Severity Zone, Very High Fire Hazard Severity Zone, Panoramic Mitigation Area, and Grizzly Peak Mitigation Area are designated as Wildland-Urban Interface Area (WUI) and are described as follows:

302.3.1 FLATLANDS AREA. The Flatlands Area encompasses the entire City of Berkeley except for areas in the High and Very High Fire Hazard Severity Zones, which includes the Panoramic Mitigation Area and Grizzly Peak Mitigation Area.

302.3.2 HIGH FIRE HAZARD SEVERITY ZONE. Encompasses those areas identified as High Fire Hazard Severity Zones, locally amended and designated by ordinance pursuant to California Government Code Sections 51176 through 51189. These areas are available on the City of Berkeley publicly accessible GIS map.

This area includes areas of the City east / northeast of the line formed by these roads. Homes addressed on, or with a structural frontage on either side of these road segments are included in the zone:

- a. The Arlington Avenue from the Kensington Border to Marin Avenue
- b. Fountain Walk from Marin Avenue to Sutter Street
- c. Sutter Street from the southern portal of the Northbrae Tunnel to Eunice Street
- d. Eunice Street from Sutter Street to Spruce Street
- e. Spruce Street from Eunice Street to Hearst Avenue
- f. Hearst Avenue from Spruce Street to Gayley Road
- g. Gayley Road from Hearst Avenue to Piedmont Avenue
- h. Piedmont Avenue from Gayley Road to Bancroft Way
- i. Piedmont Crescent from Piedmont Avenue to Warring Street
- j. Warring Street from Dwight Way to Derby Street
- k. Derby Street from Warring Street to Belrose Avenue
- l. Belrose Avenue from Derby Street to Garber Street

- m. Claremont Boulevard from Garber Street to Claremont Avenue
- n. Claremont Avenue from Claremont Boulevard to the Oakland Border

302.3.5 VERY HIGH FIRE HAZARD SEVERITY ZONE. The Very High Fire Hazard Severity Zone encompasses those areas identified by CalFIRE as Very High Fire Hazard Severity Zones pursuant to California Government Code 51175-51189, locally amended and designated by ordinance. These areas are available on the City of Berkeley publicly accessible GIS map.

PANORAMIC MITIGATION AREA. The Panoramic Mitigation Area encompasses those areas of the city bounded by the line formed by these roads and by the City Limit to the east. The entirety of the Panoramic Mitigation Area is designated, by ordinance, as a Very High Fire Hazard Severity Zone. Homes addressed on, or with a structural frontage on either side of these road segments are included in the zone:

- a. Centennial Drive from the Oakland border to Stadium Rim Way
- b. Stadium Rim Way from Centennial Drive to Canyon Road
- c. Canyon Road from Stadium Rim Way to Bancroft Way
- d. Bancroft Way from Canyon Road to Bancroft Steps
- e. Bancroft Steps from Bancroft Way to Bancroft Way
- f. Bancroft Way from Bancroft Steps to Piedmont Avenue
- g. Piedmont Avenue from Bancroft Way to Dwight Way
- h. Dwight Way East from Piedmont Avenue to the eastern terminus of Dwight Way.
- i. A straight line extending East from the terminus of Dwight Way to the Oakland border.

GRIZZLY PEAK MITIGATION AREA. The Grizzly Peak Mitigation Area encompasses those areas of the city east of Grizzly Peak Boulevard to the city boundary. Homes addressed on, or with a structural frontage on either side of Grizzly Peak Boulevard are included in the area. The Grizzly Peak Mitigation Area is designated, by ordinance, as a Very-High Fire Hazard Severity Zone.

302.4 Restrictions in Wildland-Urban Interface Areas. Code requirements in this code apply to the High Fire Hazard Severity Zone, Very High Fire Hazard Severity Zone, Panoramic Mitigation Area, and Grizzly Peak Mitigation Area.

Article 4. Wildland-Urban Interface Area Requirements

19.49.050 Chapter 4 Wildland-Urban Interface Area Requirements

Chapter 4 of the 2025 California Wildland-Urban Interface Code is partially adopted with adopted sections below. (Sections adopted by the State Fire Marshal remain unless modified below.)

402.3 Existing conditions. *Existing buildings shall be provided with address markers in accordance with Sections 403.2.4 and 403.2.5. Existing roads and fire protection equipment shall be provided with markings in accordance with Sections ~~403.4~~403.2.2 and ~~403.2.3-404.8~~, respectively.*

SECTION 403—ACCESS

USER NOTE: The standards in Section 403 applicable to roads shall not apply to roads used solely for agriculture; mining; or the management of timberland or harvesting of forest products. [CCR, Title 14 §1270.03(d)]

403.1 General. Roads and driveways, whether public or private, unless exempted under 14 CCR § 1270.03(d), shall provide for safe access for emergency wildfire equipment and civilian evacuation concurrently, and shall provide unobstructed traffic circulation during a wildfire emergency consistent 403.1.1 to 403.1.9. [CCR, Title 14 §1273.00]

Where conflicts occur between Section 403 – Access and the Berkeley Fire Code Appendix D – Fire Apparatus Access Roads, the provisions of the most restrictive code shall govern.

403.2.4 Addresses for Buildings.

(a) All Buildings shall be issued an address by the ~~Local Jurisdiction~~ City of Berkeley which conforms to ~~that jurisdiction's~~ the City's overall address system. Utility and miscellaneous Group U Buildings are not required to have a separate address; however, each Residential Unit within a Building shall be separately identified.

(b) The size of letters, numbers and symbols for addresses shall conform to the standards in the California Fire Building Code Section 502.1, ~~California Code of Regulations Title 24, Part 9.~~

(c) Addresses for residential Buildings shall be reflectorized.

404.5 Adequate water supply. *Fire-flow requirements shall be determined in accordance with Appendix B or BB of the California-Berkeley Fire Code, as applicable.*

Article 5. Special Building Construction Regulations

19.49.060 Chapter 5 Special Building Construction Regulations

Chapter 5 of the 2025 California Wildland-Urban Interface Code is partially adopted with adopted sections below. (Sections adopted by the State Fire Marshal remain unless modified below.)

501.1 Scope. New Buildings and structures, additions, alterations, repairs and re-roofs constructed in a wildland-urban interface area shall be constructed in accordance with the California Building Code, California Fire Code and this code.

Exceptions:

1. Group U accessory buildings or structures not exceeding 120 square feet (11 m²) in floor area where located not less than 50 feet (15240 mm) from applicable buildings on the same lot.
2. Group U agricultural buildings or structures not less than 50 feet (15 240 mm) from applicable buildings.

501.1.1 Purpose. The purpose of this chapter is to establish minimum standards for the protection of life and property by increasing the ability of a building located in any Fire Hazard Severity Zone within a State Responsibility Area (SRA) or Local Responsibility Areas (LRA) or any building or structure in the wildland-urban interface (WUI) areas as specified in Section 302.3 to resist the intrusion of flames or burning embers projected by a vegetation fire and contributes to a systematic reduction in conflagration losses.

501.1.2 Application. Construction of new buildings and structures, additions, alterations, repairs, and re-roofs located in any Fire Hazard Severity Zone or new buildings and structures, additions, alterations, repairs and re-roofs located in any wildland-urban interface (WUI) area designated by the enforcing agency constructed after the application date shall comply with the provisions of this chapter. This shall include all new buildings and structures, additions, alterations, repairs and re-roofs with residential, commercial, educational, institutional or similar occupancy type uses, which shall be referred to in this chapter as “applicable building(s)” (see definition in Chapter 2), as well as new buildings and structures, additions, alterations, repairs and re-roofs accessory to those applicable buildings.

501.2.1 Construction methods and requirements within established limits.

Within the limits established by law, construction methods intended to mitigate wildfire exposure shall comply with the wildfire protection building construction requirements contained in this code, the Berkeley Fire Code, and the Berkeley Building Standards whichever is most restrictive.

503.1 General. Buildings and structures hereafter constructed, added to, modified, repaired, re-roofed or relocated into or within wildland-urban interface areas shall meet the construction requirements in accordance with *Chapter 5*. Materials required to be ignition-resistant *building* materials shall comply with the requirements of Section 503.2.

Exceptions:

1. *New accessory buildings and miscellaneous structures complying with Section 504.11.*
2. ~~*Additions to and remodels of buildings originally constructed prior to July 1, 2008.*~~
2. *Group C occupancy special buildings conforming to the limitations specified in Section 450.4.1 of the California Building Code.*

504.2 Roof assembly. Roofs shall have a roof assembly that complies with a Class A fire classification when tested in accordance with ASTM E108 or UL 790. For additional compliance see California Building Code Chapter 15, Section 1505.2 for Class A roof assemblies. The roof assembly shall be installed in accordance with its listing and the manufacturer's installation instructions.

Wooden shakes and shingles are prohibited roof coverings regardless of the assembly rating of the roof system

Exceptions: *The following assemblies are exempt from testing and shall be considered as equivalent to the Class A fire classification:*

1. Roof assemblies with coverings of brick, masonry or an exposed concrete roof deck.
2. Roof assemblies with ferrous or copper shingles or sheets, metal sheets and shingles, clay or concrete roof tile or slate installed on noncombustible decks or ferrous, copper or metal sheets installed without a roof deck on noncombustible framing.
3. Roof assemblies *with* minimum 16 oz/sq ft (0.0416 kg/m²) copper sheets installed over combustible roof decks.
4. *Roof assemblies of slate roof covering installed over ASTM D226, Type II underlayment over combustible decks.*

505 – RESERVED REPLACEMENT OF EXTERIOR WALL COVERING

505.1 Replacement of Exterior Wall Covering. Materials for replacement of existing exterior wall covering shall meet or exceed the standards set forth in Section 504.5 of this code.

Exception: Where less than 50% of any wall surface is being replaced or repaired, and the matching of the new plane to the existing plane on that wall is not possible.

506 – RESERVED UNDERGROUND UTILITY CONNECTIONS

506.1 Underground utility connections. For new construction, provisions shall be made for the undergrounding of all utilities serving the property, including but not limited to

electrical, telephone and cable television, by the installation of appropriately sized underground conduits extending from the parcel.

SECTION 507—REPLACEMENT OR REPAIR OF ROOF COVERINGS

507.1 General. The roof covering on buildings or structures in existence prior to the adoption of this code that are entirely replaced or have 50 percent or more replaced in a 12-month period shall be replaced with a roof covering as required for new construction in accordance with Sections 504.2 and 504.2.1. All portions of a roof covering applied during an addition, alteration or repair to an existing structure shall meet at least a Class A fire classification in accordance with Sections 504.2 and 504.2.1.

The entire roof covering of every existing building or structure where more than 50 percent of the total roof area is replaced within any 5-year period shall be replaced with a fire-retardant roof covering in accordance with Sections 504.2 and 504.2.1.

SECTION 508—ADDITIONAL REQUIREMENTS IN THE PANORAMIC MITIGATION AREA.

508.1 General. In addition to meeting the other requirements of this code, buildings or structures hereinafter erected, constructed, moved, altered, added, or repaired within the Panoramic Mitigation Area shall comply with the following requirements for buildings and structures.

508.1.2 Fire warning system. All residential units shall be equipped with a Fire Warning System as specified by the residential smoke alarm requirements in the most recently adopted California Building Code and/or California Residential Code and with an audible exterior alarm. The exterior alarm must meet the requirements of NFPA 72 or equivalent and generate 45 decibels ten feet from the alarm, or more.

508.1.3 Automatic fire sprinkler systems. Automatic fire sprinkler system requirements shall be as set forth in Berkeley Fire Code Section 903.2.24.

508.1.4 Utilities. Utilities, pipes, furnaces, water heaters or other mechanical devices located in an exposed underfloor area of a building or structure shall be enclosed with material as required for exterior one hour fire resistive construction. Adequate covered access openings for servicing and ventilation of such facilities shall be provided as required by the applicable code.

508.1.5 Water Service. The water service to the site shall be installed with a 3/4" hose bib connection prior to beginning any construction involving any wood forming or framing. The person responsible for the construction shall have at the site a 75 ft 3/4" hose available at all times.

Article 6. Fire Protection Requirements

19.49.070 Chapter 6 Fire Protection Requirements

Chapter 6 of the 2025 California Wildland-Urban Interface Code is partially adopted with adopted sections below. (Sections adopted by the State Fire Marshal remain unless modified below.)

SECTION 604—MAINTENANCE OF DEFENSIBLE SPACE

604.3 Requirements. *Hazardous vegetation and fuels around all buildings and structures shall be maintained in accordance with the following laws and regulations:*

1. *Public Resources Code, Section 4291.*
2. *California Code of Regulations, Title 14, Division 1.5, Chapter 7, Subchapter 3, Article 3, Section 1299.03.*
3. *California Government Code, Section 51182.*
4. *California Code of Regulations, Title 19, Division 1, Chapter 7, Subchapter 1, Section 3.07.*
5. *H106azardous vegetation and fuel mitigation and home hardening requirements in Section 604.3.1 and Section 604.3.2.*

604.3 Defensible Space Requirements.

604.3 Requirements. The code official may require a property owner to perform hazardous vegetation and fuel management on their land to maintain defensible space up to 100 feet from structures located on adjacent properties.

Property owners are not required or authorized by this code to enter the properties of another person to implement the requirements of this Section.

604.3.1 Mitigations Required. Within the locally designated Very High Fire Hazard Severity Zone a person who owns, leases, controls, operates, or maintains lands shall at all times:

1. Remove all branches within 10 feet of any chimney or stovepipe outlet.
2. Maintain the roof and roof gutters of any structure, and the surface of any attached deck, porch, landing, or stairs free of leaves, needles, or other deposited vegetative materials.
3. Maintain 6 feet of vertical clearance between branches and all other parts of trees or other vegetation overhanging the roof or other portion of any Structure or attached deck.
4. Zone 0: 0-5 feet from any structure: The requirements of 604.3.1.5 (Zone 1) below apply to this zone.
5. Zone 1: 5 to 30 feet from any structure:
 - a. Remove contiguous vegetation without adequate fuel separation to prevent spread to the structure.
 - b. Maintain any tree, shrub, or other plant adjacent to or overhanging any Structure or attached deck free of dead or dying wood.
 - c. Maintain trees to remove Ladder Fuels so that foliage, twigs, or branches are greater than 6' feet above the ground or surface fuels.
 - d. Where shrubs or small trees are located below or within a tree's drip line, the lowest tree branch shall be a minimum of three times the height of the understory shrubs or 6 feet, whichever is greater.
 - e. For structures on the same property, such as a shed, hot tub, and playset, ensure these structures are spaced at least 10 feet apart. Have at most three (3) of these structures within 30 feet of a building or structure.
 - i. Existing moveable structures shall comply with the above.
 - f. Relocate exposed firewood piles or lumber further than zone 1, unless they are completely covered in a fire-resistant covering approved by the State Fire Marshal's Building Material Listing Service.
6. Zone 2: 30 to 100 feet from any structure:
 - a. All exposed wood piles or lumber must have a perimeter of a minimum of ten feet (10 ft.) of non-combustible material, such as bare mineral soil, in all directions.
7. For both Zones 1 and 2:
 - a. Remove vegetative and combustible material capable of transmitting fire to a structure as determined by the Fire Code Official.
 - b. Dead and dying woody surface fuels and aerial fuels shall be removed. Loose surface litter, normally consisting of fallen leaves or needles, twigs, bark, cones, and small branches, shall be permitted to a maximum depth of three inches (3 in.).

- c. Cut annual grasses and annual forbs to a maximum height of four inches (4 in.) prior to, or upon reaching the senescent or ripening phase when the preponderance of vegetative material is cured or dead.
- d. Vertical Spacing: Limb trees by removing hanging bark, debris and branches that are within six feet (6 ft.) of the ground.
- e. Create horizontal and vertical spacing among shrubs and trees using the “Fuel Separation” method, the “Continuous Tree Canopy” method or a combination of both to achieve defensible space clearance requirements. Further guidance regarding these methods is contained in the State Board of Forestry and Fire Protection's, “General Guidelines for Creating Defensible Space, February 8, 2006,” incorporated herein by reference.
- f. Maintain horizontal spacing between shrubs.
 - i. Flat or mild slope (less than 20%): Two times the height of the shrub.
 - ii. Mild to moderate slope (20-40%): Four times the height of the shrub
 - iii. Moderate to steep slope (greater than 40%): Six times the height of the shrub
 - iv. Shrubs maintained as trees, such as limited stems and limbed up 6 feet or one third the height, whichever is greater, shall comply with requirements for trees, and not this section.
 - v. Consistent with fuel management objectives, steps should be taken to minimize erosion, soil disturbance, and the spread of flammable, non-native grasses and weeds.
- g. New trees shall be planted and maintained so that the tree's drip line at maturity is a minimum of 10 feet from any structure or the canopy of other trees.

604.3.2 Specific requirements for Panoramic Mitigation Area and Grizzly Peak Mitigation Area. Effective January 1, 2026 the Grizzly Peak Mitigation Area and Panoramic Mitigation Area shall be subject to 604.3.2 in addition to 604.3.1

A person who owns, leases, controls, operates, or maintains lands shall at all times:

1. Zone 0: 0 to 5 feet from any structure:

- a. Maintain all areas within five (5) horizontal feet of any structure, outbuildings, attached deck or stairs, and the area under attached decks and stairs free of vegetative and non-vegetative combustible material.
 - i. This includes but is not limited to shrubs, vegetative ground cover, climbing vines, combustible boards, timbers, firewood, debris, synthetic lawn, wood mulch products, playsets, plastic trash and recycle cans, trellises, pergolas, shade coverings, planters, attached window boxes, privacy walls, boats, RVs, and other material that could be ignited by embers, radiant heat, or direct flame.
 - ii. Hardscape materials, such as gravel, pavers, concrete, and other noncombustible materials, including bare mineral soil, are permitted.
 - iii. Exception: Plants in pots are allowable if they are in areas that are not directly beneath, above, or adjacent to a window or eave; are kept in an unaffixed, non-combustible pot or container that is no larger than 5-gallon capacity; and set apart by 1.5 times the height of the plant or 12 inches, whichever is greater, from the structure and each other. These plants shall be no greater than 18 inches in height. Dead or dying material on, around and under the plants shall be removed.
 - iv. Exception: Hot tubs may be installed within five (5) horizontal feet of a structure, provided they comply with all Zone 0 clearance requirements applicable to structures.
- b. Trees: Existing trees and shrubs are permitted in Zone Zero if:
 - i. Maintained free of dead material.
 - ii. The crown (canopy) is maintained to create:
 1. Six feet (6') above the adjacent building or structure's roof
 2. Ten feet (10') away from chimneys and stovepipe outlets; and
 3. Five feet (5') of horizontal clearance from the sides of any Building, Structure, attached deck, porch, landing or stairs, and hot tubs within five (5) feet of a structure.
 - a. Exception: trees integrated into a deck must maintain 5 feet horizontal separation from the adjacent structure and branches must be 6 feet above the deck.
 4. 6' of vertical clearance above attached decks, attached, landing or stairs, and hot tubs within 5' of a structure.

- c. The roof and rain gutters of a Building or Structure shall be kept clear of leaves, needles, and vegetative material.
- d. Existing fences that are directly attached to a Building or Structure shall have a five foot (5 ft) non-combustible span at the point of attachment.
 - i. Existing fences that are not parallel to the adjacent structure wall, and are within 5 feet of that wall, shall have a non-combustible span within the first 5 feet of the structure perpendicular to the exterior structure wall.
 - ii. Existing parallel fences that do not touch the structure are allowed.
- e. After the effective date of this regulation, no new or replacement sections of combustible fence are permitted within 5 feet of a building or structure including an attached deck.
- f. Outbuildings are not permitted in Zone 0, unless constructed according to the standards in Chapter 7A (commencing with Section 701A.1) of Part 2 of Title 24 of the California Code of Regulations. Outbuildings that meet these standards shall be considered part of the Building or Structure for the purpose of measuring Zone 0.

SECTION 605—SPARK ARRESTORS

605.1 General. Chimneys serving fireplaces, barbecues, incinerators or ~~decorative~~ heating appliances in which solid or liquid fuel is used shall be provided with a spark arrestor. Spark arrestors shall be constructed of woven or welded wire screening of 12 USA standard gage wire (0.1046 inch) (2.66 mm) having openings not exceeding 1/2 inch (12.7 mm). The arrestor shall be securely attached to the chimney or stovepipe and shall be adequately supported. The use of bands, mollies, masonry anchors or mortar ties are recommended depending upon the individual need. See California Building Code Section 2113A.9.2 (“Spark arrestors”) for specifications.

SECTION 606—LIQUEFIED PETROLEUM GAS INSTALLATIONS

606.1 General. The storage of liquefied petroleum gas (LP-gas) and the installation and maintenance of pertinent equipment shall be in accordance with the ~~California~~ Berkeley Fire Code.

606.2 Location of containers or tanks. LP-gas containers or tanks shall be located within the defensible space in accordance with the ~~California~~ Berkeley Fire Code.

Article 7. Referenced Standards

19.49.080 Chapter 7 Referenced Standards

Chapter 7 of the 2025 California Wildland-Urban Interface Code is partially adopted with adopted sections below. (Sections adopted by the State Fire Marshal remain unless modified below.)

BOF State Board of Forestry and Fire Protection

RPC 2 (c) - General Guidelines for Creating Defensible Space, February 8, 2006

CEC

CEnC – 2025: California Energy Code

1.1.8.2,

IAPMO

CPC – 2025: California Plumbing Code

201.3

CMC – 2025: California Mechanical Code

201.3

NEC

CEC – 2025: California Electrical Code

201.3

Article 8. General Requirements

19.49.090 APPENDIX A – GENERAL REQUIREMENTS

Appendix A of the 2025 Wildland-Urban Interface Code is adopted and reproduced in its entirety subject to the modifications thereto which are set forth below.

SECTION A101—GENERAL

A101.1 Scope. The provisions of this appendix establish general requirements applicable to new and existing properties located within wildland-urban interface areas.

A101.2 Objective. The objective of this appendix is to provide necessary fire protection measures to reduce the threat of wildfire in a wildland-urban interface area and improve the capability of controlling such fires.

SECTION A102—VEGETATION CONTROL

A102.1 General. Vegetation control shall comply with Sections A102.2 through A102.4.

A102.2 Clearance of brush or vegetative growth from roadways. The code official is authorized to require areas within 10 feet (3048 mm) on each side of portions of fire apparatus access roads and driveways to be cleared of *nonfire-smart* vegetation growth.

Exception: Single specimens of trees, ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents or similar plants used as ground cover, provided they do not form a means of readily transmitting fire.

~~**A102.3 Clearance of brush and vegetative growth from electrical transmission and distribution lines.** Clearance of brush and vegetative growth from electrical transmission and distribution lines shall be in accordance with Sections A102.3.1 through A102.3.2.3.~~

Exception: Sections A102.3.1 through A102.3.2.3 do not authorize persons not having legal right of entry to enter on or damage the property of others without consent of the owner.

A102.3.1 Support clearance. Persons owning, controlling, operating or maintaining electrical transmission or distribution lines shall have an approved program in place that identifies poles or towers with equipment and hardware types that have a history of becoming an ignition source, and provides a combustible free space consisting of a clearing of not less than 10 feet (3048 mm) in each direction from the outer circumference of such pole or tower during such periods of time as designated by the code official.

Exception: Lines used exclusively as telephone, telegraph, messenger call, alarm transmission or other lines classed as communication circuits by a public utility.

A102.3.2 Electrical distribution and transmission line clearances. Clearances between vegetation and electrical lines shall be in accordance with Sections A102.3.2.1 through A102.3.2.3.

A102.3.2.1 Trimming clearance. At the time of trimming, clearances not less than those established by Table A102.3.2.1 shall be provided. The radial clearances shown are minimum clearances that shall be established, at time of trimming, between the vegetation and the energized conductors and associated live parts.

Exception: The code official is authorized to establish minimum clearances different than those specified by Table A102.3.2.1 when evidence substantiating such other clearances is submitted to and approved by the code official.

TABLE A102.3.2.1—MINIMUM CLEARANCES BETWEEN VEGETATION AND ELECTRICAL LINES AT TIME OF TRIMMING	
LINE VOLTAGE	MINIMUM RADIAL CLEARANCE FROM CONDUCTOR (feet)
2,400–72,000	4
72,001–110,000	6
110,001–300,000	10
300,001 or more	15
For SI: 1 foot = 304.8 mm.	

102.3.2.2 Minimum clearance to be maintained. Clearances not less than those established by Table A102.3.2.2 shall be maintained during such periods of time as designated by the code official. The site specific clearance achieved, at time of pruning, shall vary based on species growth rates, the utility company specific trim cycle, the potential line sway due to wind, line sag due to electrical loading and ambient temperature and the tree's location in proximity to the high voltage lines.

Exception: The code official is authorized to establish minimum clearances different than those specified by Table A102.3.2.2 when evidence substantiating such other clearances is submitted to and approved by the code official.

TABLE A102.3.2.2—MINIMUM CLEARANCES BETWEEN VEGETATION AND ELECTRICAL LINES TO BE MAINTAINED	
LINE VOLTAGE	MINIMUM CLEARANCE (inches)
750–35,000	6
35,001–60,000	12
60,001–115,000	19
115,001–230,000	30.5
230,001–500,000	115
For SI: 1 inch = 25.4 mm.	

102.3.2.3 Electrical power line emergencies. During emergencies, the utility shall perform the required work to the extent necessary to clear the hazard. An emergency can include situations such as trees falling into power lines or trees in violation of Table A102.3.2.2.

A102.4 Correction of condition. The code official is authorized to give notice to the owner of the property on which conditions regulated by Section A102 exist to correct such conditions. If the owner fails to correct such conditions, the legislative body of the jurisdiction is authorized to cause the same to be done and make the expense of such correction a lien on the property where such condition exists.

SECTION A103—ACCESS RESTRICTIONS

A103.1 Restricted entry to public lands. The code official is authorized to determine and publicly announce when wildland-urban interface areas shall be closed to entry and when such areas shall again be opened to entry. Entry on and occupation of wildland-urban interface areas, except public roadways, inhabited areas or established trails and campsites that have not been closed during such time when the wildland-urban interface area is closed to entry, is prohibited.

Exceptions:

1. Residents and owners of private property within wildland-urban interface areas and their invitees and guests going to or being on their lands.
2. Entry, in the course of duty, by peace or police officers, and other duly authorized public officers, members of a fire department and members of the Wildland Firefighting Service.

A103.2 Trespassing on posted private property. Where the code official determines that a specific area within a wildland-urban interface area presents an exceptional and continuing fire danger because of the density of natural growth, difficulty of terrain, proximity to structures or accessibility to the public, such areas shall be restricted or closed until changed conditions warrant termination of such restriction or closure. Such areas shall be posted in accordance with Section A103.2.1.

A103.2.1 Signs. Approved signs prohibiting entry by unauthorized persons and referring to this code shall be placed on every closed area.

A103.2.2 Trespassing. Entering and remaining within areas closed and posted is prohibited.

Exception: Owners and occupiers of private or public property within closed and posted areas; their guests or invitees; authorized persons engaged in the operation and maintenance of necessary utilities such as electrical power, gas, telephone, water and sewer; and local, state and federal public officers and their authorized agents acting in the course of duty.

A103.3 Use of fire roads, fire breaks, fire trails and defensible space. Motorcycles, motor scooters and motor vehicles shall not be driven or parked on, and trespassing is prohibited on, fire roads, fire breaks, fire trails or defensible space beyond the point where travel is restricted by a cable, gate or sign, without the permission of the property owners. Vehicles shall not be parked in a manner that obstructs the entrance to a fire road or defensible space.

Exception: Public officers acting within their scope of duty.

A103.3.1 Obstructions. Radio and television aerials, guy wires thereto, and other obstructions shall not be installed or maintained on fire roads, fire breaks, fire trails or defensible spaces, unless located 16 feet (4877 mm) or more above such fire road or defensible space.

A103.3.2 Public access roads, fire roads, firebreaks and fire trails. No person(s) shall use any public access road, fire road, firebreak or fire trail for the storage of any construction material, stationary construction equipment, construction office, portable refuse container, earth from any grading or excavating, or any other construction related activity.

A103.4 Use of motorcycles, motor scooters, ultralight aircraft and motor vehicles. Motorcycles, motor scooters, ultralight aircraft and motor vehicles shall not be operated within wildland-urban interface areas, without a permit by the code official, except on clearly established public or private roads designated for use by motorcycles, motor scooters, ultralight aircraft and motor vehicles. Permission from the property owner shall be presented when requesting a permit.

A103.5 Tampering with locks, barricades, signs and address markers. Locks, barricades, seals, cables, signs and address markers installed within wildland-urban interface areas, by or under the control of the code official, shall not be tampered with, mutilated, destroyed or removed.

A103.5.1 Gates, doors, barriers and locks. Gates, doors, barriers and locks installed by or under the control of the code official shall not be unlocked.

SECTION A104—IGNITION SOURCE CONTROL

A104.1 General. Ignition sources shall be controlled in accordance with Sections A104.2 through A104.10.

A104.2 Objective. Regulations in this section are intended to provide the minimum requirements to prevent the occurrence of wildfires.

A104.3 Clearance from ignition sources. Clearance between ignition sources and grass, brush or other combustible materials shall be maintained at not less than 30 feet (9144 mm).

A104.4 Smoking. Where required by the code official, signs shall be posted stating NO SMOKING. ~~Persons shall not smoke within 15 feet (4572 mm) of combustible materials or nonfire-smart vegetation. Lighting, igniting or otherwise setting fire to or smoking tobacco, cigarettes, pipes, cigars, joints, or other device used to burn or heat a substance for inhalation in Wildland-Urban Interface areas are prohibited.~~

Exception: Places of habitation or in the boundaries of established smoking areas or campsites as designated by the code official.

A104.5 Equipment and devices generating heat, sparks or open flames. Equipment and devices generating heat, sparks or open flames capable of igniting nearby combustibles shall not be used in wildland-urban interface areas without a permit from the code official. See Berkeley Fire Code Sections 308.1.5 Open Flame Devices in Wildfire Risk Areas and 308.1.5.1 Signals and Markers.

Exception: Use of approved equipment within inhabited premises or designated campsites that are not less than 30 feet (9144 mm) from grass-, grain-, brush- or forest-covered areas.

A104.6 Fireworks. Fireworks shall not be used or possessed in wildland-urban interface areas.

Exception: Fireworks allowed by the code official under permit in accordance with the California Fire Code where not prohibited by applicable local or state laws, ordinances and regulations.

A104.6.1 Authority to seize. The code official is authorized to seize, take, remove or cause to be removed fireworks in violation of this section.

A104.7 Outdoor fires. Outdoor fires in wildland-urban interface areas shall comply with Sections A104.7.1 through A104.7.3.

A104.7.1 General. Persons shall not build, ignite or maintain any outdoor fire of any kind for any purpose in or on any wildland-urban interface area, except by the authority of a written permit from the code official.

Exception: Outdoor fires within inhabited premises or designated campsites where such fires are in a permanent barbecue, portable barbecue, outdoor fireplace, incinerator, fire pits or grill and are not less than 30 feet (9144 mm) from any combustible material or *nonfire-smart* vegetation.

A104.7.2 Permits. Permits shall incorporate such terms and conditions that will reasonably safeguard public safety and property. Outdoor fires shall not be built, ignited or maintained in or on hazardous fire areas under any of the following conditions:

1. When red flag conditions exist as defined by the National Oceanic and Atmospheric Administration.

2.4. When high winds are blowing.

3.2. When a person 17 years old or over is not present at all times to watch and tend such fire.

4.3. When a public announcement is made that open burning is prohibited. Permanent barbecues, portable barbecues, outdoor fireplaces, fire pits or grills shall not be used if solid or liquid fueled.

A104.7.3 Restrictions. Persons shall not use a permanent barbecue, portable barbecue, outdoor fireplace, incinerator, fire pit or grill for the disposal of rubbish, trash or combustible waste material.

A104.8 Incinerators, outdoor fireplaces, permanent barbecues, fire pits and grills. Incinerators, outdoor fireplaces, permanent barbecues, fire pits and grills shall not be built, installed or maintained in wildland-urban interface areas without prior approval of the code official. Existing incinerators, outdoor fireplaces, fire pits, permanent barbecues and grills shall be maintained in good repair and in a safe condition at all times. Openings in such appliances shall be provided with an approved spark arrester, screen or door.

Exception: When approved, unprotected openings in barbecues and grills necessary for proper functioning shall be allowed.

A104.8.1 Maintenance. Incinerators, outdoor fireplaces, permanent barbecues and grills shall be maintained in good repair and in a safe condition at all times. Openings in such appliances shall be provided with an approved spark arrester, screen or door.

Exception: Where approved by the code official, unprotected openings in barbecues and grills necessary for proper functioning.

A104.9 Reckless behavior. The code official is authorized to stop any actions of a person or persons if the official determines that the action is reckless and could result in an ignition of fire or spread of fire.

A104.10 Planting vegetation under or adjacent to energized electrical lines. Vegetation that, at maturity, would grow to within 10 feet (3048 mm) of the energized conductors shall not be planted under or adjacent to energized power lines.

A104.11 Tracer Bullets, Tracer Charges, Rockets and Model Aircraft. Tracer bullets and tracer charges shall not be possessed, fired or caused to be fired into or across Wildland-Urban Interface areas. Rockets, model planes, gliders and balloons powered with an engine, propellant or other feature liable to start or cause fire shall not be fired or projected into or across Wildland-Urban Interface Areas.

A104.12 Explosives and Blasting. Explosives shall not be possessed, kept, stored, sold, offered for sale, given away, used, discharged, transported or disposed of within Wildland-Urban Interface areas except by permit from the code official.

A104.13 Apiaries. Lighted and smoldering material shall not be used in connection with smoking bees in or upon Wildland-Urban Interface areas except by permit from the code official.

SECTION A105—CONTROL OF STORAGE

A105.1 General. In addition to the requirements of the California Fire Code, storage and use of the materials shall be in accordance with Sections A105.2 through A105.4.2.

A105.2 Hazardous materials. Hazardous materials in excess of 10 gallons (37.8 L) of liquid, 200 cubic feet (5.66 m³) of gas, or 10 pounds (4.54 kg) of solids require a permit and shall comply with nationally recognized standards for storage and use.

A105.3 Explosives. Explosives shall not be possessed, kept, stored, sold, offered for sale, given away, used, discharged, transported or disposed of within wildland-urban interface areas, except by permit from the code official.

A105.4 Combustible materials. Outside storage of combustible materials such as, but not limited to, wood, rubber tires, building materials or paper products shall comply with the other applicable sections of this code and this section.

A105.4.1 Individual piles. Individual piles shall not exceed 5,000 square feet (465 m²) of contiguous area. Piles shall not exceed 50,000 cubic feet (1416 m³) in volume or 10 feet (3048 mm) in height.

A105.4.2 Separation. A clear space of not less than 40 feet (12 192 mm) shall be provided between piles. The clear space shall not contain combustible material or *nonfire-smart* vegetation.

SECTION A106—DUMPING

A106.1 Waste material. Waste material shall not be placed, deposited or dumped in wildland-urban interface areas or in, on or along trails, roadways or highways or against structures in wildland-urban interface areas.

Exception: Approved public and approved private dumping areas.

A106.2 Ashes and coals. Ashes and coals shall not be placed, deposited or dumped in or on wildland-urban interface areas.

Exceptions:

1. In the hearth of an established fire pit, camp stove or fireplace.
2. In a noncombustible container with a tightfitting lid, which is kept or maintained in a safe location not less than 10 feet (3048 mm) from *nonfire-smart* vegetation or structures.
3. Where such ashes or coals are buried and covered with 1 foot (305 mm) of mineral earth not less than 25 feet (7620 mm) from *nonfire-smart* vegetation or structures.

SECTION A107—PROTECTION OF PUMPS AND WATER STORAGE FACILITIES

A107.1 General. The reliability of the water supply shall be in accordance with Sections A107.2 through A107.5.

A107.2 Objective. The intent of this section is to increase the reliability of water storage and pumping facilities and to protect such systems against loss from intrusion by fire.

A107.3 Fuel modification area. Water storage and pumping facilities shall be provided with a defensible space of not less than 30 feet (9144 mm) clear of nonfire-resistive vegetation or growth around and adjacent to such facilities.

Persons owning, controlling, operating or maintaining water storage and pumping systems requiring this defensible space are responsible for clearing and removing *nonfire-smart* vegetation and maintaining the defensible space on the property owned, leased or controlled by said person.

A107.4 Trees. Portions of trees that extend to within 30 feet (9144 mm) of combustible portions of water storage and pumping facilities shall be removed.

A107.5 Protection of electrical power supplies. Where electrical pumps are used to provide the required water supply, such pumps shall be connected to a standby power source to automatically maintain electrical power in the event of power loss. The standby power source shall be capable of providing power for not less than 2 hours in accordance with Chapter 27 of the California Building Code, Section 1203 of the California Fire Code and the California Electrical Code.

Exception: A standby power source is not required where the primary power service to pumps is underground as approved by the code official.

SECTION A108—LAND USE LIMITATIONS

A108.1 General. Temporary fairs, carnivals, public exhibitions and similar uses must comply with all other provisions of this code in addition to enhanced ingress and egress requirements.

A108.2 Objective. The increased public use of land or structures in wildland-urban interface areas increases the potential threat to life safety. The provisions of this section are intended to reduce that threat.

A108.3 Permits. Temporary fairs, carnivals, public exhibitions or similar uses shall not be allowed in a designated wildland-urban interface area, except by permit from the code official.

Permits shall incorporate such terms and conditions that will reasonably safeguard public safety and property.

A108.4 Access roadways. In addition to the requirements in Section 403, access roadways shall be not less than 24 feet (7315 mm) wide and posted NO PARKING. Two access roadways shall be provided to serve the permitted use area.

Where required by the code official to facilitate emergency operations, approved emergency vehicle operating areas shall be provided.

SECTION A109—REFERENCED STANDARDS

A109.1 General. See Table A109.1 for standards that are referenced in various sections of this appendix. Standards are listed by the standard identification with the effective date, standard title and the section or sections of this appendix that reference the standard.

TABLE A109.1—REFERENCED STANDARDS		
STANDARD ACRONYM	STANDARD NAME	SECTIONS HEREIN REFERENCED
<i>CBC—25</i>	<i>California Building Code</i>	<i>A107.5</i>
<i>CFC—25</i>	<i>California Fire Code</i>	<i>A104.6, A105.1, A107.5</i>
<i>CEC—25</i>	<i>California Electrical Code</i>	<i>A107.5</i>

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 Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

* * * * *

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

ADOPTING FINDINGS AS TO LOCAL CLIMATIC, GEOLOGICAL AND TOPOGRAPHICAL CONDITIONS RENDERING REASONABLY NECESSARY VARIOUS ENUMERATED LOCAL FIRE STANDARDS THAT ARE MORE STRINGENT THAN THOSE MANDATED BY THE CALIFORNIA WILDLAND-URBAN INTERFACE CODE AND RESCINDING RESOLUTION NO. 71,710-N.S.

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

WHEREAS, the City is proposing to adopt various enumerated changes and modifications to the California Wildland-Urban Interface Code, as set forth below; and

WHEREAS, Health & Safety Code §17958 allows the City to make modifications or changes to the California Wildland-Urban Interface Code and other regulations adopted pursuant to Health & Safety Code §17921(a) which result in more stringent local requirements; and

WHEREAS, Health & Safety Code §17925, §17958.5 and §17958.7 require that such changes be supported by findings made by the governing body that such more stringent local requirements are necessary because of “local climatic, geological or topographical conditions or factors;” and

WHEREAS, such findings must be made available as a public record and a copy thereof with each such modification or change shall be filed with the California Building Standards Commission.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that it finds that each of the various proposed changes or modifications to the California Wildland-Urban Interface Code which are enumerated below are reasonably necessary because of local conditions in the area encompassed by the City of Berkeley, as set forth below:

1. LOCAL CONDITIONS

a. Climatic Conditions

i. Discussion

The City of Berkeley is located at the geographic center of the Bay Area. The western limits are defined by the Bay at near sea level and the eastern limits by the abruptly rising Berkeley Hills to 1,200 feet. The eastern limit faces open parklands and open space (covered with vegetative fuel loading) to the east and is exposed to a unique danger from wildland fires during periods of hot, dry weather in the summer months. Many of the Berkeley homes in this area have wood shake and shingle roofs and are surrounded by brush type vegetation. The situation is made even worse by the negative effects of high wind conditions during the fire season. During May to October, critical climatic fire

conditions occur where the temperature is greater than 80°F, wind speed is greater than 15 mph, fuel moisture is less than or equal to 10 percent, wind direction is from north to the east-southeast and the ignition component is 65 or greater. These conditions occur more frequently during the fire season but this does not preclude the possibility that a serious fire could occur during other months of the year. The critical climate fire conditions create a situation conducive to rapidly moving, high intensity fires. Fires starting in the wildland areas along the easterly border are likely to move rapidly westward into Berkeley's urban areas.

- In September 1923, critical climatic fire conditions were in effect and Berkeley sustained one of the most devastating fires in California's history. A fire swept over the range of the hills to the northeast of Berkeley and within two hours was attacking houses within the City limits. A total of 130 acres of built-up territory burned. 584 Berkeley buildings were wholly destroyed and about 30 others seriously damaged. By far the greater portion were single-family dwellings, but among the number were 63 apartments, 13 fraternity, sorority and students' house clubs and 6 hotels and boarding houses.
- In September 1970, during critical climatic fire conditions characterized by hot, dry winds out of the northeast, a fire started along Fish Ranch Road and Grizzly Peak. This fire rapidly spread into the surrounding neighborhoods of Oakland and Berkeley, burning 400 acres and destroying 37 homes. An additional 18 homes were badly damaged before the fire was brought under control.
- In December of 1980, during critical climatic fire conditions, a small fire started at Berkeley's northeast limits and within minutes five homes were totally destroyed by fire.
- On October 20, 1991, a disastrous firestorm swept down from the Oakland hills. Within the first few hours, thousands of people were evacuated. Ultimately over 3,000 dwelling units were destroyed, of which more than 70 were in Berkeley. This fire matched the pattern established by the fires of 1923 and 1980. Additionally, the conditions that led to it were the same as the conditions that led to a 1970 fire that destroyed 37 homes in Berkeley and Oakland.

ii. Summary.

Local climatic conditions of limited rainfall, low humidity, high temperatures and high winds along with existing building construction create extremely hazardous fire conditions that adversely affect the acceleration intensity and size of fires in the City. The same climatic conditions may result in the concurrent occurrence of one or more fires, which may spread in the more populated areas of the City without adequate fire department personnel to protect against and control such a situation.

b. Geological Conditions.

i. Discussion.

The City of Berkeley is in a region of high seismic activity and is traversed by the Hayward fault. It has the San Andreas earthquake fault to the west and the Calaveras earthquake fault to the east. All three faults are known to be active as evidenced by the

damaging earthquakes they have produced in the last 100 years and can, therefore, be expected to do the same in the future. Of primary concern to Berkeley is the Hayward Fault, which has been estimated to be capable of earthquakes exceeding a magnitude of 7.0 on the Richter scale. It extends through many residential areas and passes through a small business district and the University of California. A large number of underground utilities cross the fault, including major water supply lines. Intensified damage during an earthquake may be expected in those areas of poorer ground along the Bay, west of Interstate 80 and in known slide areas, as well as hillside areas (occupied mainly by dwellings) located within or near the fault zone; some areas are steep and have been subjected to slides.

The waterfront areas and areas in the Berkeley flatlands immediately adjacent to creeks and water streams present a major potential for soil liquefaction hazard. The Eastshore Freeway may liquefy and fail under heavy shaking or it may be inundated by a tsunami. The north hill area is most susceptible to landslides because of the presence of soft and unconsolidated sediments, extensive water content in the ground and the steepness of slopes.

Great potential damage can be related to the likely collapse of freeway overpasses. In the event of a major earthquake, Berkeley's firefighting capability could be greatly affected by loss of its main water supply. There is also the strong possibility of inundation due to failure of water reservoirs in the hill area. The replacement of Summit Reservoir at the Kensington border in Berkeley was completed in December 2018. Berryman Reservoir North has been demolished and replaced by a steel tank in 2012. Berryman Reservoir South has received a seismic upgrade. Additional potential situations following an earthquake include broken natural gas mains and ensuing fires in the streets; building fires, as the result of broken service connections; trapped occupants in collapsed structures; and rendering of first aid and other medical attention to a large number of people.

ii. Summary.

Local geological conditions include high seismic activity and large concentrations of residential type buildings as well as a major freeway. Since the City of Berkeley is located in a densely populated area having buildings and structures constructed over and near a vast array of fault systems capable of producing major earthquakes, the modifications cited herein are intended to better limit life safety hazards and property damage as a result of a seismic activity.

c. Topographical Conditions.

i. Discussion.

The City of Berkeley has many homes built throughout the urban portion of the Berkeley Hills that are reached by narrow and often winding paved streets which hamper access for fire apparatus and escape routes for residents. In addition, many of the hillside homes are on the extreme eastern edge of the City and require longer response times for the total required firefighting force. Panoramic Way and other hill areas with narrow and winding streets may face the problem of isolation from the rest of the City.

In the areas north and south of the University of California, there are large concentrations

of apartments, rooming houses, and fraternity and sorority houses. A number of apartments in these areas are of wood frame construction and are up to five stories in height from grade level. The fire potential is moderately high due to building congestion, heights, and wood shingle roof coverings and siding. Fires can be expected to involve large groups of buildings in these areas. It is noted that Berkeley most probably has more physically impaired people per capita than any other community in the United States. It is estimated that 11% of the approximate population of 121,077 per 2020 Census in Berkeley are physically impaired. Emergency egress and rescue for these people are more difficult during a fire or other life safety emergency.

The Eastshore Highway, running along the western edge of Berkeley, is one of the most heavily used and congested freeway sections in the state. Noted impacts have been increased rates of asthma, particularly among children. The proximity of Berkeley to this freeway and its location downwind from prevailing patterns negatively affects air quality, thus increasing the impact of wood smoke in Berkeley.

d. Summary.

Local topographical conditions include hillside housing with many narrow and winding streets with slide potential for blockage in the abruptly rising Berkeley hills. These conditions create an extremely serious problem for the Fire Department when a major fire or earthquake occurs. Many situations will result in limiting or total blockage of fire department emergency vehicular traffic, overtaxed fire department personnel and a total lack of resources for the suppression of fire in buildings and structures in the City of Berkeley. In addition, under these local conditions, the presence of wood smoke can cause increased disease, including asthma, and increased deaths from heart and lung disease.

2. REASONABLE NECESSITY

The proposed changes and modifications to the California Wildland-Urban Interface Code are reasonably necessary due to the local climatic, geological and topographical conditions set forth above. They are further justified for the reasons set forth below.

In adopting the California Wildland-Urban Interface Code as the Berkeley Wildland-Urban Interface Code, the City proposes to make certain substantive modifications whose effect is to impose more stringent requirements locally than are mandated by the California Wildland-Urban Interface Code. These are specifically listed below and may be generally characterized as relating to: designation of the wildland-urban interface areas (WUI), vegetation management guidelines, defensible space requirements, emergency and fire protection access requirements, construction regulations, and fire & life safety provisions in the wildland-urban interface areas.

The following more stringent local requirements are reasonably necessary to address risks created by local conditions set forth above for the following reasons:

1. Berkeley Wildland-Urban Interface Code Chapter 19.49, Article 3, Wildland-Interface Areas defines the areas that the State of California Office of the Fire Marshal has identified as moderate, high or very high fire hazard severity zones, and areas that the City of Berkeley has designated as high or very high fire hazard severity zones that were not identified by the State Fire Marshal, within the City of Berkeley. The

State of California Office of the Fire Marshal Fire Hazard Severity Zone (FHSZ) maps were developed using a science-based and field-tested model that assigns a hazard score based on the factors that influence fire likelihood and fire behavior. Many factors are considered such as fire history, existing and potential fuel (natural vegetation), predicted flame length, blowing embers, terrain, population density, and typical fire weather for the area. Section 302.4 (Restrictions in the Wildland-Urban Interface Areas) establish that the provisions in the Berkeley WUI code apply to the high and very high fire hazard severity zones. The Panoramic Mitigation Area and Grizzly Peak Mitigation Area within the City of Berkeley, which are topographically steep and can develop windy conditions, are included in the Very High Fire Hazard Severity Zone. They represent a subset of that geographic area which is subject to additional provisions within the Code.

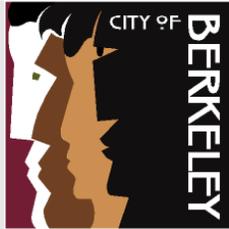
2. Berkeley Wildland-Urban Interface Code Chapter 19.49, Article 4, Wildland-Interface Area Requirements clarify the proper code sections for identifying and addressing structures within the wildland-urban interface area and the water supply requirement per the Berkeley Fire Code. The address identification requirements in the Berkeley Fire Code permit identification of addresses in smokey conditions during a fire and foggy conditions that regularly occur in the WUI.
3. Berkeley Wildland-Urban Interface Code Chapter 19.49, Article 5, Special Building Construction Regulations align the model code language with previous local amendments to the Berkeley Building Code and Berkeley Residential Code with some revisions and updates in the code language and code sections that are recommended for continuance in the Berkeley WUI code.
4. Berkeley Wildland-Urban Interface Code Chapter 19.49, Article 6, Fire Protection Requirements align the model code language with the previous local amendments to the Berkeley Fire Code in regards to the high and very high fire hazard severity zones in the City of Berkeley.
5. Berkeley Wildland-Urban Interface Code Chapter 19.49, Article 8, General Requirements, align the model code language with the previous local amendments to the Berkeley Fire Code in regards to regulations and restrictions in the WUI area.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that certain local amendments to the codes are not building standards more stringent than the provisions of the California Wildland-Urban Interface Code but rather cover matters not addressed by those codes as building standards, or are administrative in nature, as follows:

1. Berkeley Wildland-Urban Interface Code Chapter 19.49, Article 1, Scope and Administrative Provisions, as amended, details local ordinances and regulations necessary to carry out and enforce the Berkeley Fire Code in the City of Berkeley relating to civil, administrative, or criminal procedures.
2. Berkeley Wildland-Urban Interface Code Chapter 19.49, Article 2, Definitions, as amended, provides additional definitions required to clarify and implement the local adoption of the fire code.
3. Berkeley Wildland-Urban Interface Code Chapter 19.49, Article 7, Referenced

Standards, aligns the referenced standards to include standards that are applicable to construction in the WUI area, including the energy, plumbing, mechanical, and electrical codes.

BE IT FURTHER RESOLVED, that Resolution No. 71,710–N.S is hereby rescinded.



Office of the City Manager

ACTION CALENDAR
November 10, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Jennifer Louis, Chief of Police

Subject: Annual Surveillance Technology Report for Body Worn Cameras, GPS Trackers, Fixed Surveillance Video Cameras, Parking Enforcement Officer Automated License Plate Readers, the Street Level Imagery Project, Unmanned Aerial Systems, and Fixed Automated License Plate Readers

RECOMMENDATION

Pursuant to Chapter 2.99 of the Berkeley Municipal Code, adopt a resolution accepting the Surveillance Technology Report for Body Worn Cameras, GPS Trackers, Fixed Surveillance Video Cameras, Automated License Plate Readers, the Street Level Imagery Project, Unmanned Aerial Systems, and Fixed Automated License Plate Readers.

FISCAL IMPACTS OF RECOMMENDATION

These technologies have existing budget approval and there are no new fiscal impacts associated with adopting the attached resolution.

CURRENT SITUATION AND ITS EFFECTS

On March 27, 2018, the City Council adopted Ordinance 7,592-N.S., adding Chapter 2.99 to the Berkeley Municipal Code, which is also known as the Surveillance Technology Use and Community Safety Ordinance (referred to here as the Ordinance). Section 2.99.070 of the Ordinance requires that the City Manager must submit to the City Council a Surveillance Technology Report as defined by Section 2.99.020(2) of the Ordinance annually, at the first regular City Council meeting in November.

The purpose of the Ordinance is to provide transparency surrounding the use of surveillance technology, as defined by Section 2.99.020 of the City's Municipal Code, and to ensure that decisions surrounding the acquisition and use of surveillance technology consider the impacts that such technology may have on civil rights and civil liberties. Further, the Ordinance requires that the City evaluate all costs associated with

the acquisition of surveillance technology and regularly report on their use. The purpose of this staff report and attached resolution is to satisfy the annual reporting requirement as outlined in Section 2.99.070. For each of the seven approved technologies, Annual Surveillance Technology Report and accompanying audits (where required by BPD policy) are attached to this report. These reports fulfill all section-by-section reporting requirements of the Ordinance.

One of the mandated reporting categories of the Ordinance is whether complaints have been received by the community about Police Department's use of surveillance technologies. To date, Berkeley Police Department Internal Affairs Bureau (IAB) has not received any external personnel complaints surrounding these technologies. External complaints from community members can be made in writing, via email, in person or via telephone. Complaints can be received with direct communication to the Internal Affairs Bureau from the complainant and/or be received by any member of the Department and then forwarded through the chain of command. If a community member initiates a complaint against a subject employee and during the investigation it is determined the subject employee violated policy regarding the misuse of technology, an additional complaint is initiated by the Chief of Police.

Community members also have the right to initiate complaints against employees of BPD by reporting directly to the Office of the Director of Police Accountability (ODPA). The Director of Police Accountability notifies the Chief of Police when an investigation into a complaint is initiated by the PAB, which would prompt a parallel IAB investigation.

An additional reporting category covers audits. All audits required by policy were completed during this reporting period. The only audit finding resulted from the fixed automated license plate reader (ALPR) audit, the first audit conducted since this technology was fully implemented earlier this year. The complete audit is included in Attachment 8. The audit confirmed that all Berkeley Police Department users complied with Policy 1305 requirements. External agencies demonstrated 100% authorized access and 99.81% compliance with permitted search reasons. In response to the small number of statewide searches that included federal acronyms, the Department tightened sharing controls to exclude out-of-region agencies, disabled the statewide lookup feature, and instituted new protocols to revoke access when a partner agency's search appears inconsistent with policy. Additional roll call training and vendor-side safeguards are being developed to ensure that the system continues to align with both state law and Berkeley's Sanctuary City Ordinance.

During this reporting period, the City advanced a major surveillance technology initiative with the ALPR system. The ALPR network, consisting of 52 cameras approved by Council, became fully operational following the conclusion of its introductory phase in January 2025, and has since resulted in more than 50 arrests and 40 recovered stolen vehicles that likely would not have occurred without the technology.

Work is also underway on the Council referrals related to additional fixed surveillance cameras. This technology, like the existing ALPR system, works to support public safety and criminal investigations.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

City Council is being requested to adopt the attached resolution for the City to be in compliance with the Ordinance.

CONTACT PERSON

Jennifer Louis, Chief of Police, (510) 981-5700

Arlo Malmberg, Strategic Planning and Accountability Manager, (510) 981-5747

ATTACHMENTS

1. Resolution
2. Surveillance Technology Report: Body Worn Cameras
3. Surveillance Technology Report: Global Positioning System (GPS) Tracking Devices
4. Surveillance Technology Report: Fixed Surveillance Video Cameras
5. Surveillance Technology Report: Parking Enforcement Automated License Plate Readers
6. Surveillance Technology Report: Street Level Imagery Project
7. Surveillance Technology Report: Unmanned Aerial Systems (UAS)
8. Surveillance Technology Report: Fixed Automated License Plate

RESOLUTION NO. XX,XXX-N.S.

A RESOLUTION ACCEPTING THE SURVEILLANCE TECHNOLOGY REPORT FOR BODY WORN CAMERAS, GPS TRACKERS, FIXED SURVEILLANCE VIDEO CAMERAS, PARKING ENFORCEMENT OFFICER AUTOMATED LICENSE PLATE READERS, THE STREET LEVEL IMAGERY PROJECT, UNMANNED AERIAL SYSTEMS, AND FIXED AUTOMATED LICENSE PLATE READERS

WHEREAS, on March 27, 2018, the City Council adopted Ordinance 7,592-N.S., which is known as the Surveillance Technology Use and Community Safety Ordinance (“Ordinance”); and

WHEREAS, Section 2.99.070 of the Ordinance requires that the City Manager must submit to the City Council a Surveillance Technology Report as defined by Section 2.99.020(2) of the Ordinance at the first regular City Council meeting in November; and

WHEREAS, the Surveillance Technology Reports satisfy the requirements of the Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby accepts the Surveillance Technology Reports for Body Worn Cameras, GPS Trackers, Fixed Surveillance Video Cameras, Parking Enforcement Officer Automated License Plate Readers, the Street Level Imagery Project, Unmanned Aerial Systems, and Fixed Automated License Plate Readers.

Surveillance Technology Report: Body Worn Cameras

October 1, 2024 – Sept. 30, 2025

<p>Description</p>	<p>A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</p> <p>Body Worn Cameras are used to capture video recordings of contacts between department personnel and the public, to provide an objective record of these events. These recording are used in support of criminal prosecutions, to limit civil liability, increase transparency and enhance professionalism and accountability in the delivery of police services to the community. Body Worn Camera (BWC) files are shared with the Alameda County District Attorney’s office in support of prosecution for crime and may be shared with other law enforcement agencies to support criminal investigations.</p> <p>Policy regarding activation of the Body Worn Camera BPD Policy 425.7</p> <p>Members shall activate the BWC as required by this policy in (a)-(f) below and may activate the BWC at any time the member believes it would be appropriate or valuable to record an incident within the limits of privacy described herein.</p> <p>The BWC shall be activated in any of the following situations:</p> <p>(a) All in-person enforcement and investigative contacts including pedestrian stops and field interview (FI) situations.</p> <p>(b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.</p> <p>(c) Self-initiated field contacts in which a member would normally notify the Communications Center.</p> <p>(d) Any search activity, including the service of search or arrest warrants; probation, parole, or consent searches where the member is seeking evidence of an offense, or conducting a safety sweep or community caretaking sweep of the premises. Once a location has been secured and the member is not interacting with detainees or arrestees, the member may mute their BWC when conducting a search for evidence.</p>
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(e) Any other contact that the member determines has become adversarial after the initial contact in a situation where the member would not otherwise activate BWC recording.

(f) Transporting any detained or arrested person and where a member facilitates entry into or out of a vehicle, or any time the member expects to have physical contact with that person.

What data is captured by this technology:

BWC use is limited to enforcement and investigative activities involving members of the public. The BWC recordings will capture video and audio evidence for use in criminal investigations, administrative reviews, training, civil litigation, and other proceedings protected by confidentiality laws and department policy. Improper use or release of BWC recordings may compromise ongoing criminal and administrative investigations or violate the privacy rights of those recorded and is prohibited.

How the data is stored:

BWC videos are stored on a secure server. All BWC data will be uploaded and stored on Axon Cloud Services, Evidence.com. Axon complies with the EU-U.S. Privacy Shield Framework and the Swiss-U.S. Privacy Shield Framework as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of personal information transferred from the European Union and Switzerland to the United States (collectively, "Privacy Shield"). Axon has certified to the U.S. Department of Commerce that it adheres to the Privacy Shield Principles.

Retention duration of digital data:

All BWC videos and digital evidence are assigned a category. The categories are used to organize data. Each category also defines the retention duration. The category definitions and retention durations are as follows:

Category	Retention Duration
Uncategorized	Until manually deleted
187 / Felony Sex Assault	Until manually deleted
Civil / City / Non-Evidence	1 year
Collision	2 years
Consent / Aid	108 weeks
Detention / Warrant Only	108 weeks
Felony Evidence	5 years

	<table border="1"> <tr> <td>Litigation</td> <td>Until manually deleted</td> </tr> <tr> <td>Misdemeanor Evidence</td> <td>2 years</td> </tr> <tr> <td>Officer Injury</td> <td>Until manually deleted</td> </tr> <tr> <td>OIS / Critical Incident</td> <td>Until manually deleted</td> </tr> <tr> <td>Pending Review</td> <td>Until manually deleted</td> </tr> <tr> <td>Personnel / VSA</td> <td>3 years</td> </tr> <tr> <td>Personnel Complaint</td> <td>Until manually deleted</td> </tr> <tr> <td>Traffic Stop</td> <td>108 weeks</td> </tr> <tr> <td>Training</td> <td>60 days</td> </tr> <tr> <td>Use of Force</td> <td>108 weeks</td> </tr> </table> <p>Summary of Body Worn Camera Videos Uploaded Oct. 1, 2024 to Sept. 30, 2025:</p> <table border="1"> <thead> <tr> <th>Metric</th> <th>Value</th> </tr> </thead> <tbody> <tr> <td>Number of BWC Videos</td> <td>67,803</td> </tr> <tr> <td>Hours of Videos</td> <td>15,853</td> </tr> <tr> <td>GB of Videos</td> <td>27,561</td> </tr> </tbody> </table> <p>Summary of all other active digital evidence uploaded, Oct. 1, 2024 to Sept. 30, 2025:</p> <table border="1"> <thead> <tr> <th>Type</th> <th>File Count</th> </tr> </thead> <tbody> <tr> <td>Audio</td> <td>1,509</td> </tr> <tr> <td>Document</td> <td>2,745</td> </tr> <tr> <td>Image</td> <td>70,854</td> </tr> <tr> <td>Other</td> <td>1,188</td> </tr> <tr> <td>Other Video*</td> <td>9,870</td> </tr> <tr> <td>Total</td> <td>86,166</td> </tr> </tbody> </table> <p>* Includes all uploaded non-BWC videos and other videos booked into the evidence management system. Other videos include iPhone videos, security camera video, and copies of BWC videos (for redaction, etc.).</p>	Litigation	Until manually deleted	Misdemeanor Evidence	2 years	Officer Injury	Until manually deleted	OIS / Critical Incident	Until manually deleted	Pending Review	Until manually deleted	Personnel / VSA	3 years	Personnel Complaint	Until manually deleted	Traffic Stop	108 weeks	Training	60 days	Use of Force	108 weeks	Metric	Value	Number of BWC Videos	67,803	Hours of Videos	15,853	GB of Videos	27,561	Type	File Count	Audio	1,509	Document	2,745	Image	70,854	Other	1,188	Other Video*	9,870	Total	86,166
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Geographic Deployment	<p>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</p> <p>Body Worn Cameras are worn by all BPD uniformed officers city-wide at all times; BWC's are not deployed based on geographic considerations.</p>																																										
Complaints	A summary of each complaint, if any, received by the City about the Surveillance Technology.																																										

	<p>There have been no complaints about the deployment and use of Body Worn Cameras.</p>
<p>Audits and Violations</p>	<p>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</p> <p>File meta-data are routinely reviewed by our BWC manager, to ensure required metadata fields are completed. There have been no complaints with regards to violations of the Surveillance Use Policy.</p>
<p>Data Breaches</p>	<p>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</p> <p>There have been no known data breaches or other unauthorized access to BWC data.</p>
<p>Effectiveness</p>	<p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p> <p>Body Worn Cameras have proven effective in supporting criminal prosecutions, as video footage is available for all criminal prosecutions. Body Worn Cameras have been effective for training purposes, as footage can be reviewed in incident de-briefs. Body Worn Cameras have been extremely effective in support of Internal Affairs investigations and Use of Force Review.</p>
<p>Costs</p>	<p>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</p> <p>The annual cost for the Body Worn Cameras, including cameras, replacement cameras, software, and Axon’s secure digital evidence management system is \$222,442 per year over a five-year, \$1,112,213 contract. The contract started in 2022 and will expire in August, 2026. There is one full-time employee assigned to the BWC program, an Applications Programmer Analyst II, at a cost of \$168,940 per year, including benefits.</p>

Surveillance Technology Report: Global Positioning System Tracking Devices

October 1, 2024 – Sept. 30, 2025

<p>Description</p>	<p>A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</p> <p>Global Positioning System Trackers are used to track the movements of vehicles, bicycles, other items, and/or individuals.</p> <p>What data is captured by this technology:</p> <p>A GPS Tracker data record consists of date, time, latitude, longitude, map address, and tracker identification label. The data does not contain any images, names of subjects, vehicle information or other identifying information on individuals.</p> <p>How the data is stored:</p> <p>The data from the GPS tracker is encrypted by the vendor. The data is only accessible through a secure website to BPD personnel who have been granted security access.</p> <p>Retention period of data:</p> <p>Tracker data received from the vendor shall be kept in accordance with applicable laws, BPD policies that do not conflict with applicable law or court order, and/or as specified in a search warrant.</p> <p>The Global Positioning System “Electronic Stake Out” (ESO) devices were not deployed during this reporting period.</p> <p>COVERTTRACK Stealth V GPS devices were used in four separate investigations during this reporting period:</p> <ul style="list-style-type: none"> • An investigation of a shooting. The suspect was arrested for PC 245 numerous other violations. • An investigation of a carjacking. The suspect was arrested for PC 215 (via gun) and firearm violations.
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	<ul style="list-style-type: none"> • An investigation of a robbery. The suspect was arrested for PC 211 and multiple counts of PC 459/PC 487 (Organized Retail Theft). • An investigation of a robbery. The investigation is ongoing. <p>Data may be shared with the District Attorney’s Office for use as evidence to aid in prosecution, in accordance with laws governing evidence; other law enforcement personnel as a part of an active criminal investigation; and other third parties, pursuant to a court order.</p>
<p>Geographic Deployment</p>	<p>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</p> <p>COVERTTRACK Stealth V GPS devices are deployed with judicial pre-approval, based on suspect location, rather than geographical consideration.</p>
<p>Complaints</p>	<p>A summary of each complaint, if any, received by the City about the Surveillance Technology.</p> <p>There were no complaints made regarding GPS Trackers.</p>
<p>Audits and Violations</p>	<p>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</p> <p>There were no known violations relating to GPS Trackers.</p>
<p>Data Breaches</p>	<p>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</p> <p>There were no known data breaches relating to GPS Trackers.</p>
<p>Effectiveness</p>	<p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p> <p>The GPS ESO trackers were not used during this time period. The program was suspended in mid-March 2020 due to the COVID-19 pandemic and has not been reimplemented. Our subscription was renewed and we upgraded our equipment, however, we have not used the trackers during this reporting period.</p> <p>COVERTTRACK Stealth V GPS trackers are effective in that they provide invaluable information on suspect vehicle locations. During complex investigations, many suspects are moving throughout the Bay area and beyond. These devices assist investigators with developing information regarding suspect locations that may never have been discovered without GPS assistance.</p>

	<p>GPS trackers greatly reduce costs associated with surveillance operations. Surveillance operations generally involve three or more officers for the entire duration of an operation. A moving surveillance is extremely resource-intensive, requiring multiple officers in multiple vehicles for extended periods of time.</p> <p>Evidence can be fleeting, and GPS trackers allow officers to investigate in a timely manner. GPS trackers have assisted officers with recovering evidence that may have been removed or discarded if officers were unable to quickly develop a location for a suspect.</p>
<p>Costs</p>	<p>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</p> <p>The annual cost for the COVERTTRACK Stealth V GPS data service is \$1,834.53.</p> <p>There was no cost for the GPS “Electronic Stake Out” (ESO) this year. In April of 2022, the police department paid \$2,364.88 to upgrade the devices and for three years of tracking service.</p> <p>There are staff time costs associated with preparing and placing COVERTTRACK GPS trackers. The investigator must prepare a search warrant and obtain a judge’s approval, and a small number of officers must place the tracker on the suspect’s car. The total number of hours is a fraction of the time it would take to do a full surveillance operation involving numerous officers.</p> <p>There are staff time costs associated with preparing ESO trackers and placing ESO tracker-equipped bikes for bait bike operations. The time associated to prepare an ESO GPS equipped surveillance is approximately two-four hours. The total number of hours is extremely small, given the large number of operations, and resulting arrests from prior cases.</p>

Surveillance Technology Report: External Fixed Surveillance Video Cameras

October 1, 2024 – Sept. 30, 2025

<p>Description</p>	<p>A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</p> <p>External fixed surveillance cameras record video (without audio) to support investigations. Officers can view live feeds and access recordings stored for up to 180 days. These cameras provide situational awareness during active incidents and supply evidence that strengthens investigations and helps the District Attorney make charging decisions.</p> <p>What data is captured by this technology:</p> <p>The external fixed surveillance cameras record and capture non-audio activity (data) for the following purposes:</p> <ul style="list-style-type: none"> i. To address identified areas of criminal activity. ii. To respond to critical incidents. iii. To assist in identifying, apprehending and prosecuting offenders. iv. To document officer and offender conduct during interactions to safeguard the rights of the public and officers. v. To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations. vi. To document employee, employer, and/or customer conduct during interactions to safeguard the employee, employer, and customer from misconduct. <p>How the data is stored:</p> <p>The data on the external fixed video surveillance cameras is stored in secure servers that are managed by the City of Berkeley Radio Shop. Each camera system (San Pablo Park, Berkeley Marina, University Avenue and Sixth Street) has its own respective server for data storage.</p>
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	<p>Retention period of data:</p> <p>Video surveillance recordings are not government records pursuant to California Government Code 34090 in and of themselves. Except as otherwise permitted in this section, video surveillance recordings shall be purged within one hundred and eighty (180) days of recording.</p> <p>The external fixed video surveillance cameras at University Avenue and Sixth Street were accessed 17 times during this reporting period for investigations of robbery and assault with a deadly weapon cases.</p> <p>The external fixed video surveillance cameras at San Pablo Park were accessed 15 times during this reporting period for investigations of homicide, robbery, property crime and traffic cases.</p> <p>The external fixed video surveillance cameras at the Berkeley Marina were accessed 24 times during this reporting period for investigations of property crimes and robbery cases.</p> <p>The Avigilon platform was accessed 5 times for administrative reasons during this reporting period.</p> <p>Data may be shared with the District Attorney’s Office for use as evidence to aid in prosecution, in accordance with laws governing evidence; other law enforcement personnel as a part of an active criminal investigation; and other third parties, pursuant to a court order.</p>
<p>Geographic Deployment</p>	<p>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</p> <p>The external fixed video surveillance cameras are geographically deployed at San Pablo Park, the Berkeley Marina, and at the intersection of University Avenue and Sixth Street.</p>
<p>Complaints</p>	<p>A summary of each complaint, if any, received by the City about the Surveillance Technology.</p> <p>There were no known complaints associated with the external fixed video surveillance cameras.</p>
<p>Audits and Violations</p>	<p>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</p> <p>The required audits were completed and are attached below.</p>

<p>Data Breaches</p>	<p>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</p> <p>There were no known data breaches related to the external fixed video surveillance cameras.</p>
<p>Effectiveness</p>	<p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p> <p>External fixed video surveillance cameras monitor pedestrian and vehicle activity and can assist investigators with criminal and traffic related investigations. The cameras are also meant to prevent and deter criminal activity and augment police resources in a cost-effective manner.</p>
<p>Costs</p>	<p>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</p> <p>The initial cost of the San Pablo Park Cameras was \$64,829.46</p> <p>The initial cost of the Marina cameras was \$106,620.14</p> <p>The annual cost for maintenance and other ongoing costs, including compliance and other reporting and oversight requirements is \$13,443.20.</p> <p>The amount originally made available for the Edgeworth contract was \$600,000.</p>



Berkeley Police Department Memorandum



To: Chief Louis

From: Arlo Malmberg, Strategic Planning and Accountability Manager

RE: Avigilon Surveillance Camera Audit – July 2024 to December 2024

OVERVIEW

The Berkeley Police Department's Strategic Planning and Accountability Manager conducted an audit of the Avigilon camera system to assess compliance with Policy 1304, Surveillance Use Policy – External Fixed Video Surveillance Cameras. The audit scope included access records for the Avigilon camera system between July 1, 2024 and December 31, 2024 at the following locations: Marina, San Pablo Park, and the intersection of 6th Street and University Avenue. The audit methodology involved analyzing these access records for unauthorized access, data breaches, and prohibited uses.

The audit found full compliance with Policy 1304, with no instances of unauthorized access, data breaches, data errors, or prohibited uses detected. All system access was made by authorized personnel as stipulated in the policy.

BACKGROUND

Policy 1304 requires that surveillance camera data may only be accessed by trained and authorized BPD members for legitimate law enforcement purposes. Prohibited uses include discriminatory targeting, unauthorized dissemination of video footage, or surveillance inconsistent with civil liberties protections

SCOPE AND METHODOLOGY

The scope of this audit included all access records for the Avigilon camera system between July 1, 2024 and December 31, 2024.

The audit methodology involved:

1. Retrieving Avigilon camera system access records for the specified timeframe from the Avigilon platform.

2. Analyzing the records for any instances of unauthorized access, data breaches, or prohibited uses.
3. Verifying that all system access was made by authorized personnel as stipulated in Policy 1304.

SUMMARY OF FINDINGS

Objective #	Audit Objectives	% Meeting Standards
1	Authorized access to camera system	100%
2	No data breaches	100%
3	No prohibited uses	100%

DETAILED FINDINGS

Objective 1: Authorized access

Criteria:

1304.4 DATA ACCESS: “Access to video surveillance cameras data shall be limited to BPD personnel utilizing the camera database for uses described above and pursuant to Use Policy 351”

Inspection Procedure:

- Review all access records for the Avigilon camera system during the audit period.
- Verify that all access was made by authorized personnel.

Findings:

- All access by BPD staff to the Avigilon camera system was made by authorized personnel.
- System maintenance access by other City of Berkeley staff was also noted.

Recommendations:

- None. The 100% compliance rate meets department standards.

Objective 2: No prohibited uses

Criteria:

1304.11 AUDITING AND OVERSIGHT: " BPD will enforce against prohibited uses of this policy pursuant to Policy 1010, Personnel Complaints or other applicable law or policy. The City Manager shall enforce against any prohibited use of the cameras and/or access to data by other City of Berkeley personnel."

Inspection Procedure:

- Review access records for any indication of prohibited uses of the camera system or data.

Findings:

- No prohibited uses of the camera system or associated data were detected during the audit period.
- Marina: 3 accesses, all for property crime investigations.
- San Pablo Park: 23 accesses, including 9 for homicide investigations, 3 for robbery investigations, 3 for traffic investigations, 2 for property crimes investigations, and 6 accesses for administrative purposes.
- 6th Street & University: 6 accesses, including 2 for robbery investigations, 2 for traffic investigations, 1 for a property crime investigation and 1 for a homicide investigation.

Recommendations:

- None. The 100% compliance rate meets department standards.



Berkeley Police Department Memorandum



To: Chief Louis
From: Arlo Malmberg, Strategic Planning and Accountability Manager
RE: Avigilon Surveillance Camera Audit – January 2025 to June 2025

OVERVIEW

The Berkeley Police Department's Strategic Planning and Accountability Manager conducted an audit of the Avigilon camera system to assess compliance with Policy 1304, Surveillance Use Policy – External Fixed Video Surveillance Cameras. The audit scope included access records for the Avigilon camera system between January 1, 2025 and June 30, 2025 at the following locations: Marina, San Pablo Park, and the intersection of 6th Street and University Avenue. The audit methodology involved analyzing these access records for unauthorized access, data breaches, and prohibited uses.

The audit found full compliance with Policy 1304, with no instances of unauthorized access, data breaches, data errors, or prohibited uses detected. All system access was made by authorized personnel as stipulated in the policy.

BACKGROUND

Policy 1304 requires that surveillance camera data may only be accessed by trained and authorized BPD members for legitimate law enforcement purposes. Prohibited uses include discriminatory targeting, unauthorized dissemination of video footage, or surveillance inconsistent with civil liberties protections

SCOPE AND METHODOLOGY

The scope of this audit included all access records for the Avigilon camera system between January 1, 2025 and June 30, 2025.

The audit methodology involved:

1. Retrieving Avigilon camera system access records for the specified timeframe from the Avigilon platform.

2. Analyzing the records for any instances of unauthorized access, data breaches, or prohibited uses.
3. Verifying that all system access was made by authorized personnel as stipulated in Policy 1304.

SUMMARY OF FINDINGS

Objective #	Audit Objectives	% Meeting Standards
1	Authorized access to camera system	100%
2	No data breaches	100%
3	No prohibited uses	100%

DETAILED FINDINGS

Objective 1: Authorized access

Criteria:

1304.4 DATA ACCESS: “Access to video surveillance cameras data shall be limited to BPD personnel utilizing the camera database for uses described above and pursuant to Use Policy 351”

Inspection Procedure:

- Review all access records for the Avigilon camera system during the audit period.
- Verify that all access was made by authorized personnel.

Findings:

- All access by BPD staff to the Avigilon camera system was made by authorized personnel.
- System maintenance access by other City of Berkeley staff was also noted.

Recommendations:

- None. The 100% compliance rate meets department standards.

Objective 2: No prohibited uses

Criteria:

1304.11 AUDITING AND OVERSIGHT: " BPD will enforce against prohibited uses of this policy pursuant to Policy 1010, Personnel Complaints or other applicable law or policy. The City Manager shall enforce against any prohibited use of the cameras and/or access to data by other City of Berkeley personnel."

Inspection Procedure:

- Review access records for any indication of prohibited uses of the camera system or data.

Findings:

- No prohibited uses of the camera system or associated data were detected during the audit period.
- Marina: 14 accesses, including 12 for property crimes investigations and 2 for robbery investigations.
- San Pablo Park: 9 accesses, including 4 for robbery investigations, 3 for property crime investigations, and 1 for a traffic investigation, and 1 for a disturbance investigation.
- 6th Street & University: 5 accesses, including 3 for robbery investigations and 2 for assault with a deadly weapon investigations.

Recommendations:

- None. The 100% compliance rate meets department standards.

Surveillance Technology Report: PEO Automated License Plate Readers

October 1, 2024 – Sept. 30, 2025

<p>Description</p>	<p>A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</p> <p>Automated License Plate Readers (ALPRs) are used by Parking Enforcement Officers (PEOs) for time zone parking. The City’s Transportation Division uses anonymized information for purposes of supporting the City’s Go Berkeley parking management program. PEO ALPR use replaced the practice of physically “chalking” tires, which a more effective means of identifying violators.</p> <p>What data is captured by this technology:</p> <p>ALPR technology functions by automatically capturing an image of a vehicle's license plate, transforming that image into alphanumeric characters using optical character recognition software, and storing that information, along with relevant metadata (e.g. geo-location and temporal information, as well as data about the PEO ALPR).</p> <p>How the data is stored:</p> <p>The data is stored on a secure server by the vendor.</p> <p>Retention period of data:</p> <p>During this reporting period collected images and metadata of hits were stored no more than 365 days. Reads and metadata of reads were not stored more than 14 days in accordance with policy 1302. Current use policy adopted September 13, 2022 sets new retention periods that are now in effect.</p> <p>Summary of PEO ALPR Time Zone Enforcement Data</p> <p>Genetec is the vendor for the PEO ALPR Time Zone enforcement system. A “read” indicates the PEO ALPR system successfully read a license plate. The information that is generated when a plate is viewed by the PEO ALPR camera is the license plate number, state and geographical (GPS) location it was viewed.</p> <p>A “hit” indicates the PEO ALPR system detected a possible violation, which prompts the Parking Enforcement Officer to further assess the vehicle. At hit is</p>
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when the read information is recognized as a license plate that matches, or does not match an entry in a list such as permit list or the stolen vehicle "hot list". In many cases, hits are "rejected" or "not enforced", meaning no enforcement action is taken, because the Parking Enforcement Officer determines the vehicle has an appropriate placard or permit, or there is other information or assignment which precludes citation.

The following are key statistics for this reporting period:

- 2,901,622 reads
- 117,937 hits
- 41,734 enforced hits resulted in citation issuance.
- 1,519 not-enforced hits due to either, 1) PEO ALPR experiencing technical issues and PEO unable to validate the hit in the system, which only gives option to not enforce, or 2) PEO error in accepting the hit initially.
- 74,684 hits were not acted upon for a variety of reasons including but not limited to:
 - Customer comes out to move a vehicle. PEO's are directed not to issue that citation.
 - PEO gets to the dashboard and sees a permit not visible from a previous location.
 - PEO does a vehicle evaluation and confirms that the vehicle moved from the hit location (e.g. across the street within GPS range).
 - Stolen car.
 - Similar plates.
 - GIG cars or Revel scooters.
 - PEOs mistakenly leave their PEO ALPR on collecting data, but leave the area being enforced to drive to another location on another assignment, such as a traffic post at a collision scene.

	<p>All BPD PEO ALPR data may only be shared with other law enforcement or prosecutorial agencies for official law enforcement purposes, or as otherwise permitted by department policy and law. All PEO ALPR data is subject to the provisions of BPD Policy 415 - Immigration Law, and therefore may not be shared with federal immigration enforcement officials.</p> <p>During this reporting period there were no law enforcement investigative vehicle inquiries.</p>
<p>Geographic Deployment</p>	<p>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</p> <p>Only Parking Enforcement Vehicles are equipped with PEO ALPRs. PEO ALPRs are deployed based on areas where there are parking time restrictions. PEO ALPRs are not deployed based on geographic considerations not related to parking enforcement.</p>
<p>Complaints</p>	<p>A summary of each complaint, if any, received by the City about the Surveillance Technology.</p> <p>There have been no complaints about the deployment and use of Automated License Plate Readers.</p>
<p>Audits and Violations</p>	<p>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</p> <p>The required audits were completed and are attached below.</p>
<p>Data Breaches</p>	<p>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</p> <p>There have been no known data breaches or other unauthorized access to Automated License Plate Reader data.</p>
<p>Effectiveness</p>	<p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p> <p>PEO ALPRs have proven effective in parking enforcement for time zone enforcement.</p> <p>The PEO ALPRs' ability to read and check license plates while being driven greatly increases efficiency, allowing an operator to cover larger areas more quickly without having to stop except to confirm a hit.</p>

	<p>An additional benefit of the Parking Enforcement PEO ALPR system is that sometimes hits indicate a possible stolen vehicle. These hits allow for the timelier recovery of stolen vehicles in the City of Berkeley.</p>
Costs	<p>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</p> <p>The annual system maintenance cost for Genetec is \$51,720. This cost is borne by the Transportation Division, which covers warranties, support, and cellular connection costs.</p> <p>Genetec PEO ALPR units are installed on 22 Parking Enforcement vehicles. Parking Enforcement personnel perform a variety of parking enforcement activities and are not limited solely to time zone enforcement. Therefore, personnel costs specifically attributable to time zone enforcement are not tracked.</p>



Berkeley Police Department Memorandum



To: Chief Louis

From: Arlo Malmberg, Strategic Planning and Accountability Manager

RE: Genetec Automated License Plate Reader Audit – July 2024 to December 2024

OVERVIEW

The Berkeley Police Department's Strategic Planning and Accountability Manager conducted an audit of the Genetec ALPR system to assess compliance with Policy 1302, Surveillance Use Policy – Automated License Plate Reader (ALPR). The audit scope included access records for the Genetec ALPR system between July 1, 2024 and December 31, 2024. The audit methodology involved analyzing these access records for unauthorized access, data breaches, and prohibited uses.

The audit found full compliance with Policy 1302, with no instances of unauthorized access, data breaches, data errors, or prohibited uses detected. All system access was made by authorized personnel as stipulated in the policy.

BACKGROUND

Policy 1302 outlines the requirements for use and access to the Genetec ALPR systems by Parking Enforcement Officers. The policy mandates biannual audits of the ALPR system to ensure compliance and detect any unauthorized access or data breaches.

SCOPE AND METHODOLOGY

The scope of this audit included all access records for the Genetec ALPR system between July 1, 2024 and December 31, 2024.

The audit methodology involved:

1. Retrieving Genetec ALPR system access records for the specified timeframe from the Parking Enforcement Manager.
2. Analyzing the records for any instances of unauthorized access, data breaches, or prohibited uses.

3. Verifying that all system access was made by authorized personnel as stipulated in Policy 1302.

SUMMARY OF FINDINGS

Objective #	Audit Objectives	% Meeting Standards
1	Authorized access to ALPR system	100%
2	No data breaches	100%
3	No prohibited uses	100%

DETAILED FINDINGS

Objective 1: Authorized access to ALPR system

Criteria:

1302.5 DATA ACCESS (a): "Only properly trained Parking Enforcement Officers, Sworn Officers as selected by the Investigation's Division Captain, and Information Technology personnel are allowed access to the Genetec ALPR system or to collect ALPR information."

Inspection Procedure:

- Review all access records for the Genetec ALPR system during the audit period.
- Verify that all access was made by authorized personnel.

Findings:

- All access to the Genetec ALPR system was made by authorized personnel
- System maintenance access by Genetec personnel and City of Berkeley IT was also noted and deemed appropriate.

Recommendations:

- None. The 100% compliance rate meets department standards.

Objective 2: No data breaches

Criteria:

1302.11 AUDITING AND OVERSIGHT (1): “Any unauthorized access or data breach shall be reported immediately to the City Manager...”

Inspection Procedure:

- Analyze access records for any signs of data breaches.
- Confirm with the Parking Enforcement Manager that no data breaches were reported during the audit period.

Findings:

- No data breaches were detected or reported during the audit period.

Recommendations:

- None. The 100% compliance rate meets department standards.

Objective 3: No prohibited uses

Criteria:

1302.11 AUDITING AND OVERSIGHT (1): “...BPD will enforce against prohibited uses of the Genetec ALPR system, associated ALPR Read and Hit metadata, and lists and databases pursuant to Policy P-26, or other applicable law or policy.”

Inspection Procedure:

- Review access records for any indication of prohibited uses of the ALPR system.

Findings:

- No prohibited uses of the ALPR system or associated data were detected during the audit period.
- Most system accesses were by Genetec personnel for IT support and user management. The remaining accesses were primarily by the Parking Enforcement Manager and Supervisors for reviewing system configurations.

Recommendations:

- None. The 100% compliance rate meets department standards.



Berkeley Police Department Memorandum



To: Chief Louis

From: Arlo Malmberg, Strategic Planning and Accountability Manager

RE: Genetec Automated License Plate Reader Audit – January 2025 to June 2025

OVERVIEW

The Berkeley Police Department's Strategic Planning and Accountability Manager conducted an audit of the Genetec ALPR system to assess compliance with Policy 1302, Surveillance Use Policy – Automated License Plate Reader (ALPR). The audit scope included access records for the Genetec ALPR system between January 1, 2025 and June 30, 2025. The audit methodology involved analyzing these access records for unauthorized access, data breaches, and prohibited uses.

The audit found full compliance with Policy 1302, with no instances of unauthorized access, data breaches, data errors, or prohibited uses detected. All system access was made by authorized personnel as stipulated in the policy.

BACKGROUND

Policy 1302 outlines the requirements for use and access to the Genetec ALPR systems by Parking Enforcement Officers. The policy mandates biannual audits of the ALPR system to ensure compliance and detect any unauthorized access or data breaches.

SCOPE AND METHODOLOGY

The scope of this audit included all access records for the Genetec ALPR system between January 1, 2025 and June 30, 2025.

The audit methodology involved:

1. Retrieving Genetec ALPR system access records for the specified timeframe from the Parking Enforcement Manager.
2. Analyzing the records for any instances of unauthorized access, data breaches, or prohibited uses.

3. Verifying that all system access was made by authorized personnel as stipulated in Policy 1302.

SUMMARY OF FINDINGS

Objective #	Audit Objectives	% Meeting Standards
1	Authorized access to ALPR system	100%
2	No data breaches	100%
3	No prohibited uses	100%

DETAILED FINDINGS

Objective 1: Authorized access to ALPR system

Criteria:

1302.5 DATA ACCESS (a): "Only properly trained Parking Enforcement Officers, Sworn Officers as selected by the Investigation's Division Captain, and Information Technology personnel are allowed access to the Genetec ALPR system or to collect ALPR information."

Inspection Procedure:

- Review all access records for the Genetec ALPR system during the audit period.
- Verify that all access was made by authorized personnel.

Findings:

- All access to the Genetec ALPR system was made by authorized personnel
- System maintenance access by Genetec personnel and City of Berkeley IT was also noted and deemed appropriate.

Recommendations:

- None. The 100% compliance rate meets department standards.

Objective 2: No data breaches

Criteria:

1302.11 AUDITING AND OVERSIGHT (1): “Any unauthorized access or data breach shall be reported immediately to the City Manager...”

Inspection Procedure:

- Analyze access records for any signs of data breaches.
- Confirm with the Parking Enforcement Manager that no data breaches were reported during the audit period.

Findings:

- No data breaches were detected or reported during the audit period.

Recommendations:

- None. The 100% compliance rate meets department standards.

Objective 3: No prohibited uses

Criteria:

1302.11 AUDITING AND OVERSIGHT (1): “...BPD will enforce against prohibited uses of the Genetec ALPR system, associated ALPR Read and Hit metadata, and lists and databases pursuant to Policy P-26, or other applicable law or policy.”

Inspection Procedure:

- Review access records for any indication of prohibited uses of the ALPR system.

Findings:

- No prohibited uses of the ALPR system or associated data were detected during the audit period.
- Most system accesses were by Genetec personnel for IT support and user management. The remaining accesses were primarily by the Parking Enforcement Manager and Supervisors for reviewing system configurations.

Recommendations:

- None. The 100% compliance rate meets department standards.

Surveillance Technology Report: Street Level Imagery Project

October 1, 2024 – Sept. 30, 2025

<p>Description</p>	<p>A description of all non-privileged and non-confidential information about the use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report will include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</p> <p>Street level imagery is utilized exclusively by authorized City staff for infrastructure asset management and planning activities. The street level imagery of City infrastructure assets in the Public Right of Way that is provided to the City will not consist of information that is capable of being associated with any individual or group.</p>
<p>Geographic Deployment</p>	<p>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</p> <p>Street level imagery was collected by driving through the entire community over a three week period in December of 2020. It is accessible to the City through a proprietary third-party application, Street Smart TM.</p>
<p>Complaints</p>	<p>A summary of each complaint, if any, received by the City about the Surveillance Technology.</p> <p>There have been no complaints about the use of Street Smart TM.</p>
<p>Audits and Violations</p>	<p>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</p> <p>There have been no complaints with regards to the Street Level Imagery Project.</p>
<p>Data Breaches</p>	<p>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</p> <p>There have been no known data breaches or other unauthorized access to Cyclomedia Street Level Imagery data.</p>
<p>Effectiveness</p>	<p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p> <p>Staff considered hiring contractors to use GPS in the field to create and update the infrastructure asset GIS data. This method is costly and time consuming. Cyclomedia’s unique and patented processing techniques allow positionally-</p>

	<p>accurate GIS data to be collected in a cost-effective way and over a shorter period of time than a “boots on the ground” GPS field survey.</p> <p>The Imagery extracted the following Citywide Infrastructure assets to create accurate and current Geographic Information Systems (GIS) data inventories:</p> <ul style="list-style-type: none"> • Bus pads / stops • Maintenance Access Holes • Pavement Striping • Curb paint color • Parking meters • Pedestrian Signal • Pavement marking • Storm drains • Signs • Street trees • Traffic lights <p>The street level imagery captured was used to:</p> <p>Create a street sign GIS layer with condition assessment to support compliance with the Manual on Uniform Traffic Control Devices Code and provide an accurate inventory of City signs. The prior sign inventory is contained in a spreadsheet that does not have accurate location data.</p> <p>Created a curb color layer with condition assessment to indicate where there are red, yellow, blue, white and green colors. This is critical to support Public Safety.</p> <p>Created pavement striping and paint symbol layers to support Transportation Planning and Vision Zero.</p> <p>Benefits:</p> <p>The data from the street level imagery was integrated into the City’s work order and asset management system for planning activities and to document repair and maintenance.</p> <p>Planners can use the street level imagery provided to the City to take measurements remotely, such as sidewalk width and public right of way impacts at proposed development locations.</p> <p>The data provides a comprehensive snapshot of the City that would be helpful for cost recovery in the event of a major disaster.</p>
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	<p>City staff can use the street level imagery to plan the location of road markings for pedestrian crossings, bike lanes or other striping.</p> <p>City staff can remotely take accurate measurements of infrastructure assets to adequately plan for repair and replacement.</p> <p>City staff can use street level imagery to enhance community engagement. The street level imagery can be used to identify and depict the impact of development such as an intersection restriping plan in order to article before and after conditions.</p>																												
<p>Costs</p>	<p>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</p> <p>The total cost of the system is \$232,611 and is itemized below.</p> <table border="1" data-bbox="373 766 1393 1554"> <thead> <tr> <th>Year No.</th> <th>Description</th> <th>Cost</th> <th>Notes</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Licenses</td> <td>\$48,000</td> <td>Resolution No: 69,482-N.S. 30JUN20</td> </tr> <tr> <td>1</td> <td>Professional Services for asset extraction</td> <td>\$139,401</td> <td>Resolution No: 69,482-N.S. 30JUN20</td> </tr> <tr> <td>2</td> <td>Licenses and Support – One-Time</td> <td>\$41,100</td> <td>Resolution No: 70,487-N.S. 26JUL22</td> </tr> <tr> <td>3</td> <td>License and Support – Ongoing Annual Costs</td> <td>\$4,110</td> <td>Resolution No: 70,487-N.S. 26JUL22</td> </tr> <tr> <td>4</td> <td>License and Support – Ongoing Annual Costs</td> <td>\$4,110</td> <td>Resolution No: 70,487-N.S. 26JUL22</td> </tr> <tr> <td>5</td> <td>License and Support – Ongoing Annual Costs</td> <td>\$4,110</td> <td>Resolution No: 70,487-N.S. 26JUL22</td> </tr> </tbody> </table>	Year No.	Description	Cost	Notes	1	Licenses	\$48,000	Resolution No: 69,482-N.S. 30JUN20	1	Professional Services for asset extraction	\$139,401	Resolution No: 69,482-N.S. 30JUN20	2	Licenses and Support – One-Time	\$41,100	Resolution No: 70,487-N.S. 26JUL22	3	License and Support – Ongoing Annual Costs	\$4,110	Resolution No: 70,487-N.S. 26JUL22	4	License and Support – Ongoing Annual Costs	\$4,110	Resolution No: 70,487-N.S. 26JUL22	5	License and Support – Ongoing Annual Costs	\$4,110	Resolution No: 70,487-N.S. 26JUL22
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Surveillance Technology Report: Unmanned Aerial Systems

October 1, 2024 – Sept. 30, 2025

<p>Description</p>	<p>A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</p> <p>Unmanned Aerial Systems (UAS) also commonly referred to as a drone are requested pursuant to our Mutual Assistance protocols. If a situation arises wherein the safety to the community, officers, or the offender can be increased through the means of de-escalation (adding time and distance to the situation) a supervisor can make the request. During this reporting period, the Police Department sought mutual assistance for drones on 5 occasions.</p> <p>What data is captured by this technology:</p> <p>Unmanned Aerial Systems are owned and operated by the respective agency. While each piece of equipment is unique, generally UAS can both record video and audio, while transmitting the data to the operator, thereby qualifying as a piece of Surveillance Technology pursuant to BMC 2.99.020.</p> <p>How the data is stored:</p> <p>During this reporting period Concord Police Department (CPD), Oakland Police Department (OPD), and Danville Police Department (DPD) assisted the Berkeley Police Department by providing drones. Per their policy, those agencies retain images captured during a UAS mission if there is reasonable suspicion of criminal activity. BPD personnel would request that evidence from those agencies if it was needed in support of criminal activity. During this reporting period no data was stored by BPD.</p> <p>Retention period of data:</p> <p>Policy 1303.7: If available, any data collected by the use of a UAS should be purged by BPD within 60 days if it doesn't contain any data of evidentiary value. If the data has evidentiary value, it should be uploaded into BPD's evidence database and kept pursuant to the established retention guidelines set forth in policy 804-Records Maintenance and Release.</p> <p>Summary of Uses of UAS</p>
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	<ul style="list-style-type: none"> • Case 24-00014436 (10/17/24, Antioch): Antioch PD drone deployed during a high-risk homicide warrant service. Use aligned with policy provisions for high-risk warrant service. • Case 24-00049593 (10/23/24, Berkeley): San Francisco PD drone deployed during high-risk warrant service requested by SFPD for a burglary suspect with prior firearms history. Use aligned with policy provisions for high-risk warrant service. • Case 25-00010214 (3/5/25, Antioch): Antioch PD drone deployed during a high-risk homicide warrant service. Use aligned with policy provisions for high-risk warrant service. • Case 25-00012777 (3/20/25, Oakland): Oakland PD drone deployed during a high-risk warrant service for armed robbery suspects. Use aligned with policy provisions for high-risk warrant service. • Case 25-00027771 (9/3/25, San Francisco): San Francisco PD drone deployed during BPD SRT operation to serve a high-risk arrest and search warrant. Use aligned with policy provisions for high-risk warrant service.
<p>Geographic Deployment</p>	<p>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</p> <p>A UAS was used 5 times during this reporting period; twice in Antioch, and once in Berkeley, Oakland and San Francisco.</p>
<p>Complaints</p>	<p>A summary of each complaint, if any, received by the City about the Surveillance Technology.</p> <p>During this reporting period the City received no complaints about the deployment of UAS.</p>
<p>Audits and Violations</p>	<p>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</p> <p>There were no known violations relating to the UAS Surveillance Use Policy.</p>
<p>Data Breaches</p>	<p>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</p> <p>There have been no known data breaches or other unauthorized access to any of the data from UAS.</p>

<p>Effectiveness</p>	<p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p> <p>UAS are often used to search properties before officers. This allows officers to see video from the UAS and confirm a suspect is not waiting inside with a weapon. By sending the UAS in before officers, the risk of a confrontation that could result in death or serious injury to the suspect, others inside the house and officers, is significantly reduced.</p>
<p>Costs</p>	<p>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</p> <p>The annual cost for UAS is zero as the uses were covered by the responding agencies under the Mutual Assistance agreement. The only costs associated is staff time at each respective incident, however no costs for the use of the technology were incurred. It should be noted that some agencies have indicated an intent to charge for personnel costs associated with providing a drone.</p>

Surveillance Technology Report: Fixed Automated License Plate Readers

October 1, 2024 – September 30, 2025

<p>Description</p>	<p>A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</p> <p>Fixed Automated License Plate Readers (ALPRs) capture images of license plates and convert them to alphanumeric characters. Each detection includes time, GPS location, plate state, and camera ID. The system flags plates against hotlists or BOLOs set by BPD for law-enforcement purposes. No facial recognition is used.</p> <p>What data is captured by this technology:</p> <ul style="list-style-type: none">• Plate image and cropped plate image• Parsed plate number and state• Date/time and GPS location• Camera identifier and system metadata <p>How the data is stored:</p> <p>Flock hosts the data in its secure cloud environment.</p> <p>Retention period of data:</p> <p>Retention follows BPD’s ALPR policy for fixed systems. Plate detections (“reads”) are retained 30 days. Images and metadata associated with investigative “hits” are retained 30 days unless preserved by case hold.</p> <p>Summary of Fixed ALPR Data</p> <p>The alert figures below represent the number of times the system flagged license plates during the reporting period. The first three categories—felony vehicle, stolen vehicle, and stolen license plate alerts—were generated through the California SVS (Stolen Vehicle System). The “hotlist alerts” reflect license plates tied to ongoing BPD investigations into specific crimes.</p>
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	<ul style="list-style-type: none"> ○ 73 felony vehicle alerts ○ 643 stolen vehicle alerts ○ 48,398 stolen license plate alerts ○ 253 hotlist alerts <p>BPD shares ALPR data only with California law-enforcement agencies for official law-enforcement purposes, not for federal immigration enforcement. During this period, access was limited to California agencies that signed a letter agreeing to follow state law with respect to ALPR usage.</p>
<p>Geographic Deployment</p>	<p>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</p> <p>The 52 cameras are fixed at locations across Berkeley. Positioning focuses on city ingress/egress points and high-traffic corridors that support crime-prevention and investigative leads.</p>
<p>Complaints</p>	<p>A summary of each complaint, if any, received by the City about the Surveillance Technology.</p> <p>There have been no submitted complaints about the deployment and use of Automated License Plate Readers.</p>
<p>Audits and Violations</p>	<p>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</p> <p>The required audit was completed and is attached below.</p>
<p>Data Breaches</p>	<p>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</p> <p>There have been no known data breaches or other unauthorized access to Fixed Automated License Plate Reader data.</p>
<p>Effectiveness</p>	<p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p> <p>Fixed ALPRs generated investigative leads for stolen vehicles and other priority cases. The network provides time-stamped detections across major corridors, which shortens suspect-vehicle identification and recovery timelines during active investigations.</p>

Costs	Total annual costs for the Surveillance Technology, including personnel and other ongoing costs. \$179,500 for year one, and \$165,000 in year two and any subsequent years.
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Berkeley Police Department Memorandum



To: Chief Louis

From: Arlo Malmberg, Strategic Planning and Accountability Manager

RE: Flock Automated License Plate Reader Audit – January 2025 to June 2025

OVERVIEW

The Berkeley Police Department's Strategic Planning and Accountability Manager conducted an audit of the Flock ALPR system to assess compliance with Policy 1305, Surveillance Use Policy – Fixed Automated License Plate Reader (ALPR). The audit scope included access records for the Flock ALPR system between January 1, 2025 and June 30, 2025. The audit methodology involved analyzing these access records for unauthorized access, data breaches, and prohibited uses.

The audit found 100% compliance by Berkeley PD personnel with ALPR policy and 100% compliance with authorized access by external agencies. The audit also found 99.81% compliance with permitted search reasons by external agencies.

BACKGROUND

Policy 1305 outlines the requirements for use and access to the Flock ALPR systems by BPD staff. The policy mandates biannual audits of the ALPR system to ensure compliance and detect any unauthorized access or data breaches.

SCOPE AND METHODOLOGY

The scope of this audit included all access records for the Flock ALPR system between January 1, 2025 and June 30, 2025.

The audit methodology involved:

1. Reviewing system access records for the specified timeframe from the Flock platform.
2. Analyzing the records for any instances of unauthorized access, data breaches, or prohibited uses as stipulated in Policy 1305.

SUMMARY OF FINDINGS

Objective #	Audit Objectives	% Meeting Standards
1	BPD – Authorized access	100%
2	BPD – Permitted uses	100%
3	External – Authorized access	100%
4	External – Permitted uses	99.81%

DETAILED FINDINGS

Objective 1: BPD – Authorized Access

Criteria:

1305.3 AUTHORIZED AND PROHIBITED USES (j): " Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data, which has the ability to be fully audited."

Inspection Procedure:

- Review all access records for the Flock ALPR system during the audit period.
- Verify user roles.

Findings:

- All access to the Flock ALPR system was made by authorized personnel.

Objective 2: BPD – Permitted Uses

Criteria:

1305.3 AUTHORIZED AND PROHIBITED USES (k): "Permitted/Impermissible Uses. The ALPR system, and all data collected, is the property of the Berkeley Police Department. Department personnel may only access and use the ALPR system for official and legitimate California law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

1. Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).
2. Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.
3. Use Based on a Protected Characteristic. It is a violation of this policy to use the LPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.
4. Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.
5. First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights."

Inspection Procedure:

- Query access records for terms associated with impermissible use.
- Confirm that each search recorded a case/incident number and/or reason.

Findings:

- No impermissible uses detected across officer activity. Reasons documented in line with Policy 1305's requirement to capture case/incident number and/or reason.

Objective 3: External – Authorized Access

Criteria:

1305.10 THIRD PARTY DATA-SHARING: "The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law....The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP)."

Inspection Procedure:

- Query access records for Federal and out-of-state agencies.

Findings:

- No Federal or out-of-state agencies searched across BPD's ALPR network.

Objective 4: External – Permitted Uses**Criteria:**

1305.10 THIRD PARTY DATA-SHARING: "The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law....The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CBP)."

Inspection Procedure:

- Query access records for terms associated with impermissible use.

Findings:

- 0.19% of searches made reference to a federal agency acronym.
- All of those searches were broad searches of all available California networks; none targeted Berkeley specifically.
- 1 search included the term "ICE", and 2 unique searches included the term "CBP". These searches correspond to "statewide lookup" searches that affected all California agencies that had the "statewide lookup" feature enabled at the time. We have since disabled this feature (see Departmental Actions below).
- As verified in Objective 3, no federal agencies, and no agencies outside of California accessed Berkeley's ALPR network.
- The presence of those terms does not by itself establish a violation of California law or Policy 1305. We cannot conclude a state-law violation from reason-field text alone. For example, 5 searches included the term "DHS." Upon closer examination, they were in reference to DHS PD, or Desert Hot Springs Police Department.

DEPARTMENTAL ACTIONS

Recognizing potential risks revealed both via this audit and as discovered by incidents in other jurisdictions, BPD implemented several preventative measures to further protect Berkeley data while still maintaining the technology's public safety value.

- **Access narrowing during audit.** After the finding above, by order of the Chief, BPD tightened access in response to community concerns and to align strictly with Policy 1305's sharing provisions:
 - Revoked network access for all agencies outside the nine Bay Area counties plus Sacramento County.
 - Turned off the statewide lookup tool.
 - Nationwide lookup had already been disabled before rollout.
 - Since undertaking these actions, 0 searches have referenced "ICE", "CBP", or any other federal immigration enforcement agency.
- **Ongoing controls.** BPD now by protocol will revoke sharing for any agency if a search reason appears to fall outside of that which is permitted by BPD policy, ordinance or law until that agency provides a written explanation and assurances that its use of our data is consistent with Policy 1305 and California law.
 - To promote regional compliance, we will notify requesting agencies whenever a search reason includes language that may fall outside the allowable parameters.
 - To ensure continued full compliance internally, BPD will conduct roll call training regarding use policies for ALPRs, access controls and the intersection with state law and the recently passed Sanctuary City Ordinance.

VENDOR ACTIONS

Flock acknowledged that permissive default sharing was a flaw and has taken corrective steps to support California law and Berkeley's Sanctuary City policy.

- Flock shifted to **restrictive-by-default sharing**, paused all federal pilots, created a distinct "Federal" organization label, removed federal users from Statewide and National Lookup, and began publishing ongoing compliance updates.
- Flock now enforces state-border sharing limits, **prevents federal or out-of-state access to California data**, blocks searches tied to immigration or reproductive-health enforcement through keyword filters, and presents clearer prompts on share requests.

- Flock is developing **proactive audit alerts** for 2026 to make it easy to screen for unpermitted uses in real time.



Rashi Kesarwani
Councilmember, District 1

CONSENT CALENDAR
November 10, 2025

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author) and Councilmember Mark Humbert (Co-Sponsor)

SUBJECT: Referral to Amend Berkeley Municipal Codes 3.24.120 and 3.24.300 to Improve Procedure for Designating Landmarks, Historic Districts and Structures of Merit

RECOMMENDATION

Refer to the City Manager and City Attorney to amend two related Berkeley Municipal Code (BMC) sections: 3.24.120, "Landmarks, Historic Districts and Structures of Merit-Designation-Initiation Procedures," and its related BMC section 3.24.300, "Appeals-Procedures Required-City Council Authority."

This referral recommends refinements to the procedure for designating landmarks, historic districts, and structures of merit to discourage frivolous designations, often of sites that are planned to be redeveloped to address our City's housing shortage.

Proposed amendments include the following two changes to the BMC:

- 1) Raising the threshold for the number of residents needed to sign the verified application of initiation of designation from 50 to 200; and
- 2) For properties located in residential zoning districts,¹ require 51 percent of the residents within a 300-foot radius of the subject building/structure to be among the applicants signing on to initiate the landmark / structure of merit designation, similar to the threshold used for other City procedures by the Planning and Public Works departments.² We note that this second requirement may necessitate the collection of more than 200 signatures.

¹ As defined in Berkeley Municipal Code section 23.202 - <https://berkeley.municipal.codes/BMC/23.202>

² These numbers were chosen to be congruent with other criteria used within the city regarding community outreach and involvement. Our Planning Department, for instance, requires that Projects of Community or Neighborhood Interest meet with owners, residents and community groups within

Specifically, the proposed amendments to the Berkeley Municipal Code (BMC) 3.24.120, “Landmarks, Historic Districts and Structures of Merit-Designation-Initiation Procedures” would read as follows:

Initiation of designation shall be by the commission, or by a resolution of intention of the City Council, or by the Planning Commission, or by the Civic Arts Commission, or by the verified application of the owners of the property to be designated or their authorized agents, or by the verified application of at least fifty 200 residents of the City and, for properties located in residential zoning districts, requiring 51 percent of the residents residing within a 300 foot radius of the subject property. Any such application shall be filed with the commission upon forms prescribed by the commission and shall be accompanied by all data required by the commission. Where such application is submitted for designation of an historic district, the application must be subscribed by or on behalf of a majority of the property owners or residents of the proposed district. (Ord. 5686-NS § 1 (part), 1985: Ord. 4694-NS § 4, 1974)³

Similarly, BMC 3.24.300(A)(1) is proposed to read as follows:

An appeal may be taken to the City Council by the City Council on its own motion, by motion of the Planning Commission, by motion of the Civic Art Commission, by the verified application of the owners of the property or their authorized agents, or by the verified application of at least fifty 200 residents and, for properties located in residential zoning districts, requiring 51 percent of the residents residing within a 300-foot radius of the subject property of the City aggrieved or affected by any determination of the commission made under the provisions of this chapter.⁴

CURRENT SITUATION AND ITS EFFECTS

A Low Threshold for Residents to Seek a Landmark / Structure of Merit Designation Leads to Frivolous Applications That Create Delay and Uncertainty. . . .

Currently, individuals at liberty to initiate and appeal the process of designating a home, building, structure or district as an historic landmark or structure of merit are City Council members; appointed commissioners of the Landmarks Preservation Commission, Planning Commission, or Civic Arts Commission; property owner(s) of the subject property; and any random group of at least 50 residents living

300 feet of the project (<https://berkeleyca.gov/sites/default/files/2022-02/Instructions-Regarding-Community-Outreach.pdf>) and our Transportation Division requires that 51 percent of residents on a given block sign the petition to adopt the Residential Preferential Parking (RPP) program (see RPP opt-in guide, page 3): <https://berkeleyca.gov/sites/default/files/documents/RPP%20Opt-In%20How-To%20Guide.pdf>

³ Berkeley Municipal Code section 3.24.120: <https://berkeley.municipal.codes/BMC/3.24.120>

⁴ Berkeley Municipal Code section 3.24.300(A)(1): <https://berkeley.municipal.codes/BMC/3.24.300>

anywhere in the City. The relatively low bar for residents to initiate designation of a landmark / structure of merit for property that they do not own—by simply collecting the signatures of 50 people—has led to disputes between neighbors and homeowners, and—for larger proposed developments—uncertainty and delay as well as a significant amount of work for City staff.⁵ In the background section below, we describe two notable cases in which at least 50 residents submitted a petition to initiate a landmark / structure of merit designation after the subject property was proposed for development or demolition. In both cases, the landmark designation was found to be inappropriate.

. . . And Can Be In Tension with the Spirit of State Housing Law. In two other cases presented as background below, the Landmarks Preservation Commission approved landmark designations after proposed development projects had already vested—meaning a developer had submitted a preliminary housing application deemed complete, which locks in the zoning, design, and preservation standards that were in place at the time of the application’s submission—under state law Chapter 654, Statutes of 2019 (SB 330, Skinner).⁶ Known as the Housing Crisis Act of 2019, SB 330 is intended to safeguard housing projects from shifting local rules. Local governments are limited from imposing new regulations retroactively if those rules would reduce housing capacity or introduce additional discretionary barriers.⁷ In essence, state law SB 330 renders the landmark designation unenforceable, but the process still causes months of delay and creates uncertainty related to financing.

BACKGROUND

In the following four case studies, we show how the current procedure for initiating a landmark or structure of merit has been weaponized by opponents of neighborhood change.

Case Study #1: Neighbors’ Attempt to Landmark Unremarkable House to Block High-Density Development at 1915 Berryman Street. In May 2020, a development application to construct a ten-unit residential project at 1915 Berryman Street in North Berkeley was submitted to Berkeley’s Planning Department. The property, known as the Payson House, was originally built in 1889 for First Unitarian Church co-founder William Payson. The proposed project would expand the property by constructing six townhouses containing ten units. Close to two weeks after the construction application was submitted, a neighbor submitted an application to designate the

⁵ We note that a property owner who believes their property is worthy of landmark / structure of merit status will continue to have the option of contacting the Landmarks Preservation Commission to request that the body initiate the landmark / structure of merit designation proceedings.

⁶ SB 330, Skinner. Housing Crisis Act of 2019 -

https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB330

⁷ California Government Code § 65589.5(o)(1) “...a housing development project shall be subject only to the ordinances, policies, and standards adopted and in effect when a preliminary application including all of the information required by subdivision (a) of Section 65941.1 was submitted.”

structure a city landmark or structure of merit in accordance with Berkeley Municipal Code Section 3.24.120. The neighbor was joined by 65 other residents, and the group was represented by the Berkeley Architectural Heritage Association. In August 2020, the Landmarks Preservation Commission conducted a public hearing on the designation request; the staff report concluded that there was not enough evidence showing the property to have historical value nor was it representative of exemplary design or the notable accomplishments of persons important to history.⁸ Nearby neighbors who supported the landmark designation wanted to preserve the “aesthetic of their street,” and felt that the Payson House was historically significant to the neighborhood while those in support of staff’s finding saw the landmark designation process as an attempt to preempt a larger development proposed to replace the current house. In the end, the Landmarks Preservation Commission voted 7-2 in support of the staff report opposing the designation of landmark status.⁹ Two months later, the commission’s decision was appealed to the City Council, and the City Council upheld the Landmark Preservation Commission’s decision.¹⁰ In October 2021, the Zoning Adjustments Board approved the redesigned 11-unit project under the state’s density bonus law, which included three low-income units to meet affordability requirements. The failed effort to halt redevelopment of the Payson House took approximately 18 months, and significant staff time was devoted to this attempt at maintaining the “aesthetic of the street” and the low density neighborhood.

Case Study #2: Neighbors Attempt to Landmark Property to Maintain Neighborhood Feel at 910 Indian Rock Avenue. The single-family home at 910 Indian Rock Avenue, known as the Marrenner House, was built in 1916. It became the subject of a landmark designation effort after its owners, the Emersons, submitted plans to demolish it to build a larger home to accommodate Mrs. Emerson’s aging and disabled mother. Concerned neighbors submitted a landmark structure of merit application,¹¹ which included a petition and a group letter signed by 57 residents. The group suggested preserving the existing character of the house by constructing a suitable addition at the rear of the property, rather than the demolition that the property owner sought, as a way to maintain the neighborhood character.

⁸ Public Hearing during January 21, 2021 Special City Council Meeting: “Appeal of Landmarks Preservation Commission Decision – Denial of City Landmark or Structure of Merit Designation for 1915 Berryman Street”

<https://records.cityofberkeley.info/PublicAccess/api/Document/Af5kp6E4KrPvxdHVNpBjf2CjOz0IX%3%81ewE6%C3%81X1jBcBbjMKWpiv7zIL1A6iB0BFLH6J4fTxFwPsUIhnlSQplixfY%3D/>

⁹ Minutes from the August 6, 2020 Landmarks Preservation Commission Meeting:

https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2020-08-06_LPC_Minutes_FINAL.pdf

¹⁰ Public Hearing during January 21, 2021 Special City Council Meeting: “Appeal of Landmarks Preservation Commission Decision – Denial of City Landmark or Structure of Merit Designation for 1915 Berryman Street”

<https://records.cityofberkeley.info/PublicAccess/api/Document/Af5kp6E4KrPvxdHVNpBjf2CjOz0IX%3%81ewE6%C3%81X1jBcBbjMKWpiv7zIL1A6iB0BFLH6J4fTxFwPsUIhnlSQplixfY%3D/>

¹¹ 910 Indian Rock Avenue Landmark Support Letters sent to the Landmarks Preservation Commission, May 4, 2023 https://berkeleyca.gov/sites/default/files/documents/2023-05-04_Item%207_910%20Indian%20Rock%20.pdf

The Landmarks Preservation Commission reviewed the matter over several meetings in May, July, and November 2023.¹² During the November 2023 meeting, the commission voted not to approve the designation application. The Emersons had argued all along that their house did not satisfy the requirements to designate it as a landmark or structure of merit, contrary to the neighbors' assertions. However, well into the petition process, and following an offer from Kit Ratcliff, grandson of the home's original architect, the Emersons agreed to renovate the property, maintain the street facing facade and partner with Kit Ratcliff who would oversee a remodel and rear addition to the home. The Emersons themselves wrote a letter to the Landmarks Preservation Commission requesting they take no action on designating their house as a landmark or structure of merit, emphasizing that the original petitioners also no longer supported the designation as demolition was no longer an issue and the front facade of the house would remain intact.¹³ In the end, all stakeholders were satisfied as the Emersons could renovate their home to accommodate the growing needs of their family, Kit Ratcliff could honor the architectural work of his grandfather, and the surrounding neighbors would not have to see the newly constructed addition. This reveals yet again how the subject property's merit as a historical landmark was secondary to preserving a neighborhood context as perceived through the eyes of some of the neighbors.

Case Study #3: Landmarking Attempt in Tension With Spirit of State Law SB 330 at 2425 Durant Avenue. The landmark dispute over 2425 Durant Avenue emerged not from long-standing recognition of historic value but from a petition filed only after a housing project was already in motion. The property, part of Berkeley's early College Homestead and Beaver Tracts, had no prior designation on state or national registers and had not been the subject of preservation campaigns before. In November 2024, the developer filed a Preliminary Use Permit application under SB 330 (the Housing Crisis Act of 2019), which the City deemed complete on November 21, vesting the project under the rules then in effect. Weeks later, in December 2024, the Berkeley Architectural Heritage Association filed to landmark 2421 Durant Avenue, initiating a process that culminated in the Landmarks Preservation Commission's March 6, 2025 vote to designate the property as a landmark.¹⁴ This sequence created an immediate legal and procedural conflict. Under SB 330, once a housing project vests, local governments cannot impose new standards, including

¹² Landmarks Preservation Commission Meeting Agenda, Thursday May 4, 2023, https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-05-04_LPC_Agenda_linked.pdf; July 6 Landmark Preservation Commission meeting, item #7: https://berkeleyca.gov/sites/default/files/documents/2023-07-06_LPC_Item%207_910%20Indian%20Rock_Packet.pdf; Agenda packet for November 2, 2023 Landmarks Preservation Commission meeting: https://berkeleyca.gov/sites/default/files/documents/2023-11-02_LPC_Item%207_910%20Indian%20Rock_Staff%20Report%20and%20Attachments.pdf

¹³ November 2, 2023 LPC agenda packet (see above), page 41 of 43.

¹⁴ <https://berkeleyca.gov/sites/default/files/documents/2025-07-23%20Special%20Item%20001%20Landmarks%20Preservation%20Commission%20Appeal%202425%20Durant.pdf>

landmark protections, on the housing project. The developer argued that the late-filed petition and subsequent Landmarks Preservation Commission designation had no legal effect, but nonetheless imposed significant practical burdens. In their appeal, filed in April 2025, the developer emphasized that the designation had already caused four months of delay, introduced uncertainty for lenders and insurers, and jeopardized the project's financing¹⁵—exactly the types of obstacles state law sought to eliminate.

In the public hearing of the appeal on July 23, 2025,¹⁶ Planning staff recommended reversing the Landmarks Preservation Commission decision, noting that while the designation technically existed, it could not be applied to the vested housing project. Staff also noted that this would be purely a symbolic landmark. Preservation advocates, including BAHA, urged the City Council to uphold the designation, citing the property's role in illustrating the layered history of the Southside neighborhood. They argued that even symbolic landmarking could have educational value and underscored the City's failure to complete a comprehensive historic survey. But Councilmembers highlighted broader concerns, including the applicability of SB 330. Keeping the designation in place risked exposing the City to legal liability and would further chill housing development at a time when Berkeley already faces a housing shortage. Ultimately, staff concluded that state housing law precluded applying the designation to the housing project, and the matter presented a broader conflict between housing production mandates and preservation priorities. The Council ultimately voted unanimously to uphold the appeal and reverse the Landmarks Preservation Commission designation.¹⁷

Case Study #4: Landmarking Attempt in Tension With Spirit of State Law SB 330 at 2138 Kittredge Street. The dispute over 2138 Kittredge Street followed a familiar pattern in Berkeley's ongoing tension between housing production and historic preservation. The property, associated with the Fitzpatrick House and later the Pepper Tree Tea Room, had long been noted in neighborhood surveys but was never designated at the state, federal, or local level as a landmark. In April 2024, the developer submitted a Preliminary Use Permit application under SB 330, which was deemed complete that same month, vesting the project under existing planning and zoning standards. Several months later, in February 2025, the Berkeley Architectural Heritage Association filed an application to landmark the property.¹⁸ Similar to the

¹⁵ As per comments by the appellant as part of the City Council meeting, held on July 23, 2025 https://berkeley.granicus.com/player/clip/5488?publish_id=6b79d3c7-68a7-11f0-b7f5-005056a89546&redirect=true

¹⁶ <https://berkeleyca.gov/sites/default/files/documents/2025-07-23%20Special%20Item%20001%20Landmarks%20Preservation%20Commission%20Appeal%202425%20Durant.pdf>

¹⁷ Agenda packet for July 23, 2025 City Council meeting <https://berkeleyca.gov/sites/default/files/city-council-meetings/2025-07-23%20Annotated%20Agenda%20-%20Council.pdf>

¹⁸ https://berkeleyca.gov/sites/default/files/documents/2025-02-06_LPC_Item%207_2138%20Kittredge_Staff%20Report%20and%20Attachments.pdf

case of Durant Avenue, the Landmarks Preservation Commission voted to approve the designation, citing architectural features and the property being present in the downtown area surrounded by other historic structures.

City planning staff recommended overturning the Landmarks Preservation Commission's designation due to the same application of state housing law—under SB 330, once a housing application is deemed complete, new regulations, including landmark designations cannot be imposed retroactively on the housing project. The City Council grappled with the same tension that had defined the Durant Avenue case. They acknowledged the symbolic intent of the petition but underscored that the designation carried no enforceable weight and introduced costly delays and economic uncertainty. The Council voted unanimously to uphold the appeal and overturn the Landmarks Preservation Commission designation,¹⁹ and reinforced the same conclusion reached in the Durant case.

FISCAL IMPACTS

Staff time on a one-time basis to amend and incorporate the re-worded code sections into the BMC, and ongoing savings to staff time due to anticipated fewer landmark attempts that turn out to be frivolous.

ALTERNATIVE ACTIONS CONSIDERED

The city could reconsider funding a historic context statement. A historic context statement is a document that includes a comprehensive understanding and structure for grouping information about the City's history, historic properties and the built environment. An historic context statement would provide transparency by providing a planning document with guidance on identifying and evaluating historic buildings and resources. It would include an evaluative framework and guidance for staff and Landmarks Preservation Commission decisions regarding historic resources thus decreasing staff time involved in researching each property initiated for landmark designation and ad hoc decisions about properties based on commissioners' and residents' comfort with growth. The requested funding for an historic context statement was projected to be between \$250,000 to \$275,000 and was not approved in FY 2024-25 or in FY 2025-26. Given this relatively high one-time cost, it is unclear whether Council would have the funding available to pursue a historic context statement in the near future.

Despite the relatively high one-time cost, there is broad recognition that the benefits of an historic context statement could outweigh the expense. It would not only generate a vetted list of potential landmarks and structures of merit but would also

¹⁹ Agenda packet for July 23, 2025 City Council meeting <https://berkeleyca.gov/sites/default/files/city-council-meetings/2025-07-23%20Annotated%20Agenda%20-%20Council.pdf>

provide greater predictability for developers, staff, and residents alike. Other cities, such as San Francisco²⁰ and Los Angeles²¹ have already commissioned historic context statements that serve as standard references for preservation planning and environmental review. While a citywide context study in Berkeley may take considerable time to complete, the recommendations in this ordinance can provide a practical framework in the interim - tiding the City over until a formal survey is adopted.

RATIONALE FOR RECOMMENDATION

This referral is submitted in the spirit of eliminating one particular way people have used our municipal code to delay the construction of much-needed homes. It would also help address conflicts among neighbors that pit “maintaining the feel of a neighborhood” against property owners’ interests in renovating their own homes. Berkeley has successfully adopted a Housing Element and has received the state’s Prohousing Designation; the referred BMC amendment would be an additional step furthering our commitment to this designation and our efforts to provide more housing.

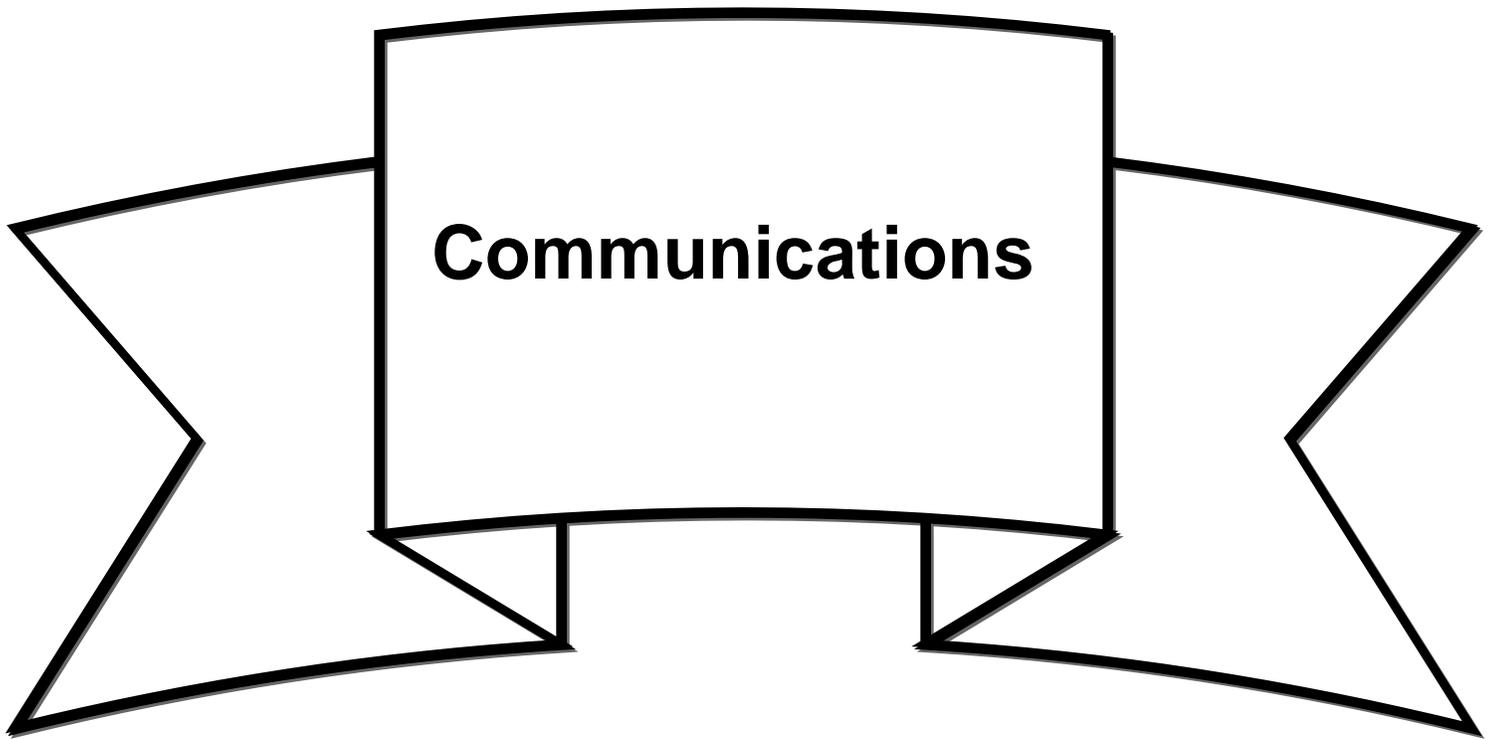
CONTACT PERSON

Councilmember Rashi Kesarwani, District 1

(510) 981-7110

²⁰ <https://sfplanning.org/project/citywide-historic-context-statement>

²¹ <https://planning.lacity.gov/preservation-design/historic-resources/historic-themes>



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City Clerk Department

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