

ORDINANCE NO. 7,934-N.S.

AMENDING SECTIONS 7.52.060 OF THE BERKELEY MUNICIPAL CODE

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

Section 1. That Berkeley Municipal Code 7.52.060, Real Property Transfer Tax Exceptions, is amended to add Sub-section L. and read as follows:

BMC 7.52.60 Sub-section L

L. 1. Up to one-third of the tax imposed by this chapter shall be rebated, on a dollar for dollar basis, for all expenses incurred on or after January 1, 2025 to "wildfire harden" either any structure which is used exclusively for residential purposes, or any mixed-use structure which contains two or more dwelling units. Multiple rebate applications may be submitted for a partial rebate of the tax paid. However, the total rebate for any combination of seismic retrofit and/or wildfire hardening shall not exceed the maximum of one-third (1/3) of the tax paid per property.

2. The term "wildfire harden" within the meaning of this chapter means work which is the process of increasing resistance to wildfire by replacing combustible materials with ignition resistant and/or non-combustible materials and other scientifically proven actions. The work must be permanent and not vegetation management or gardening adaptations that require continued maintenance. To be eligible for a rebate, the parcel level mitigations set forth in the California Department of Insurance "Safer from Wildfires" Framework REG-2020-00015 adopting California Code of Regulations Title 10, Chapter 5, Subchapter 4.8, Article 4, Section 2644.9 must be satisfactorily completed as determined by the Building Official (when a permit is required) and a Berkeley Fire Department Defensible Space Inspection. These include:

- (a) All improvements must be permanent and comply with design, material and construction methods as described in the California Building Code, Chapter 7A. and BMC 19.28.030.
- (b) Structures with a wood shake roof must be replaced with a Class A fire rated roof before qualifying for the transfer tax rebate.
- (c) Clearing combustible materials including fences and gates, and all movable combustible objects, from the area within five (5) feet of the building being evaluated (Replace with only noncombustible materials.).
- (d) At least six (6) inches of noncombustible vertical clearance at the bottom of the exterior surface of the building, measured from the ground up.

- (e) Fire-Resistant Vents and Gutter Covers of 1/16 to 1/8 inch noncombustible, corrosion-resistant metal mesh or OSFM Category 8165 approved ember resistant vents.
- (f) Multi-paned windows, including dual pane windows, or functional shutters, which when closed, cover the entire window and do not have openings.
- (g) Enclosed eaves.
- (h) Remove combustible materials and debris from under decks and installation of non-combustible siding or ember resistant mesh of 1/8" or finer around deck perimeter.
- (i) Removal or absence of combustible structures, including sheds and other outbuildings, from the area within thirty (30) feet of the building being evaluated or, in the event that the applicant does not control the entirety of the area extending thirty feet from the building being evaluated, removal of combustible structures from as much of such area as is under the control of the applicant.
- (j) Block spaces between roof covering and sheathing with noncombustible materials (bird stops).
- (k) The property upon which the building being evaluated is situated complies with Section 4291 of the Public Resources Code, when applicable, and any applicable local ordinances, governing defensible space.
- (l) Any other work found by the Building Official or Fire Marshal (or their designee) to substantially increase the capability of those structures, specified in subsection L.1, to withstand destruction or damage in the event of a wildfire.

3. The work to wildfire harden as provided herein shall be completed either up to one-year prior to the transfer of property or as provided in subsection L.5.

4. If the work to wildfire harden structures and property provided for herein is to be performed after the transfer of property which is subject to the tax imposed by this chapter, upon completion of such work and certification by the building official as to the amount of the expenses of such work the City Manager or their designee may refund such expenses not to exceed one-third of the tax imposed to the parties to the sale in accordance with the terms of such sale. Any remaining tax shall be retained by the City.

5. From the date of the recordation of the transfer document, the applicant shall have one year to complete all wildfire hardening work and submit a wildfire hardening verification application to the Codes and Inspection Division of the City of Berkeley. If

the work is not completed at the end of one year, that portion which has been completed may be credited as a rebate to the applicant upon submission of a Home Hardening verification application and substantiating documentation, as required by the codes and inspections division of the City of Berkeley, showing the dollar amount of work completed up to that date.

6. Within the one-year period established by paragraph 5, an applicant may request, and the City Manager may approve, an extension of up to one year. The City Manager or their designee may grant such an extension only for good cause. The decision of the City Manager or their designee shall be entirely within their discretion and shall be final.

(a) "Good cause" includes (i) the inability of the applicant, after a prompt and diligent search to find and retain the services of an architect, engineer, contractor or other service provider whose services are necessary for the Home Hardening work; (ii) unforeseen and unforeseeable circumstances such as a significant change in the scope of the Wildfire Hardening work due to circumstances in the field which could not reasonably have been known earlier; and (iii) serious illness or other extraordinary and unforeseeable circumstances that prevented the timely commencement or completion of the Wildfire Hardening work.

(b) "Good cause" does not include (i) ignorance of the applicable City ordinances or regulations concerning the Wildfire Hardening rebate provided in this chapter or state or local laws relating to the standards with which wildfire hardening work must comply; or (ii) any delays which were within the control or responsibility of the applicant.

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.

At a regular meeting of the Council of the City of Berkeley held on September 10, 2024, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Hahn, Humbert, Kesarwani, Lunaparra, Taplin, Tregub, Wengraf, and Arreguin.

Noes: None.

Absent: Bartlett.