

Office of the City Manager

SUPPLEMENTAL AGENDA MATERIAL

Meeting Date: October 28, 2025

Item Description: Remove Pre-Transfer Eligibility Restriction of the Transfer Tax Rebate for Wildfire Hardening

Submitted by: David Sprague, Fire Department

Following direction from the Budget & Finance Committee and in coordination with the Disaster Fire and Safety Commission, Staff have amended the Ordinance to:

- Provide a five-year pre/one-year post transfer eligibility timeline.
- Limit eligibility to High and Very High Fire Hazard Severity Zones.
- Clarify what types of vegetation mitigation are eligible.
- Establish a requirement that eligible parcels must not only be located within the High or Very High Fire Hazard Severity Zones designated by the City of Berkeley but also have a property sales value less than \$3,000,000, as adjusted by the City.
- Include other minor language clean up to clarify intent and process.

ORDINANCE NO. ##### -N.S.

AMENDING SECTION 7.52.060 OF THE BERKELEY MUNICIPAL CODE; REAL PROPERTY TRANSFER TAX EXCEPTIONS

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, Sub-section L, is amended to 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-home~~ 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-home~~ hardening shall not exceed the maximum of one-third (1/3) of the tax paid per ~~p~~Property.

L 2. The term "~~wildfire-home~~ harden" within the meaning of this chapter means ~~improving, moving, removing, or taking other evidence-based actions to existing structures that reduce the risk of ignition from wildfire and emberswork 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.~~ Parcels eligible for this program must be located within the High or Very High Fire Hazard Severity Zones designated by the City of Berkeley and have a property sales value less than \$3,000,000. The property sales value shall be adjusted annually by the City of Berkeley on January 1 of each subsequent year to a number equal to the value of consideration for the transaction at the 95th percentile of transactions that occur in the City of Berkeley during the 12 months preceding September 1 of the preceding year, as recorded by the Alameda County Assessor, rounded to the nearest \$100,000 increment; provided, that in no case shall any adjustment lower the threshold below \$3,000,000.;

Structures with a wood shake roof must be fully replaced with a Class A fire rated roof before any other mitigations can qualify for this transfer tax rebate. Replacement costs for the new Class A roof are eligible costs. All improvements must be permanent and comply with design, material and construction methods as described in the current version of the California Building Code, Chapter 5. and BMC 19.28.030. The work must be permanent and not vVegetation management _or

gardening adaptations that require continued maintenance are not eligible with the one exception noted below in (2)(j). To be eligible for a rebate, Mitigations performed 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/or a Berkeley Fire Department Defensible Space Inspection when a permit is not required.
These include “Home harden” within the meaning of this chapter means any of the following:

~~(a) All improvements must be permanent and comply with design, material and construction methods as described in the 2025 California Building Code, Chapter 7A5, and BMC 19.28.030.~~

~~(ba) Full replacement of Structures with a wood shake roof must be replaced with a Class A fire rated roof is an eligible cost before qualifying for the transfer tax rebate. Partial replacements of a wood shake roof with a Class A roof, or repairs to wood shake roofs are not eligible.~~

~~(cb) Clearing Removal of combustible materials including fences and gates from the area within five (5) feet of the building being evaluated (Replace with only noncombustible materials.), and/or replacement with non-combustible alternatives.~~

~~(dc) Creation of Aat least six (6) inches of noncombustible vertical clearance at the bottom of the exterior surface of the building, measured from the ground up.~~

~~(ed) Purchase and installation of 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.~~

~~(fe) Purchase and installation of mMulti-paned windows, including dual pane windows, that have at least one layer of tempered glass or functional shutters, which when closed, cover the entire window and do not have openings.~~

~~(gf) Modifications so eaves are eEnclosed eaves.~~

~~(hg) Remove combustible materials and debris from under decks and Purchase and installation of non-combustible siding or ember resistant mesh of 1/8” or finer around deck perimeter.~~

(ih) ~~Relocating or removing~~ Relocating or removing ~~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.

(ji) Installation of Block spaces between roof covering and sheathing with noncombustible materials (bird stops).

(j) City-ordered tree removals within Zone 0 (within 0–5 ft of structures) when a tree has a Diameter at Breast Height (DBH) of less than 12".

~~(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.~~

(lk) Any other work found by the Building Official or Fire ~~Marshal~~ Code Official (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.

L 3. The work to ~~wildfire~~ harden structures as provided herein shall be completed ~~either up to five (5) years up to one-year~~ prior to the recordation of the transfer document transfer of property and/or up to one (1) year after transfer, plus any extensions granted, as provided in ~~subsection L. paragraph 565~~.

L 4. If hardening work, as provided for in this Ordinance, is completed up to five (5) years prior to the recordation of the transfer document, of any property subject to the tax imposed herein, the applicant may be eligible for a rebate of expenses incurred in connection with such work, subject to the following conditions:

- (a) Upon completion of the hardening work and certification by the Building Official and/or Fire Code Official of the actual costs incurred for such work, and
- (b) Upon the subsequent sale or transfer of the property, the applicant may apply to the City Manager, or the City Manager's designee, for a rebate of such certified expenses, and
- (c) The City Manager or their designee may require that a rebate applicant self-certification that the hardening measures remain in service and functional, and
- (d) Applicants may be required to produce photographic documentation of current conditions, subject to the verification by the City at the time of transfer, and

- (e) To be eligible to receive the rebate, the applicant shall, at the time of application, have a current calendar year's defensible space inspection from the Berkeley Fire Department showing no violations present, and
- (f) Upon verification, the City Manager or their designee shall authorize a rebate in an amount not to exceed one-third (1/3) of the total tax imposed pursuant to this Ordinance.
- (g) The rebate shall be issued to the parties to the property transfer, in accordance with the terms of the sale agreement. Any remaining portion of the tax shall be retained by the City.

L 4.5. If hardening work, as provided for in this Ordinance, is completed up to one (1) year following recordation of the transfer document for any property subject to the tax imposed herein, the applicant may be eligible for a rebate of expenses incurred in connection with such work, subject to the following conditions:

- (a) Upon completion of the hardening work and certification by the Building Official and/or Fire Code Official of the actual costs incurred for such work, and
- (b) The applicant may apply to the City Manager, or the City Manager's designee, for a rebate of such certified expenses. This application shall include eligible hardening work performed in the five years prior to the property transfer, and
- (c) The City Manager or their designee may require the applicant to produce photographic documentation of current conditions, and
- (d) To be eligible to receive the rebate, the applicant shall, at the time of application, have a current calendar year's defensible space inspection from the Berkeley Fire Department showing no violations present, and
- (e) Upon verification, the City Manager or their designee shall authorize a rebate in an amount not to exceed one-third (1/3) of the total tax imposed pursuant to this Ordinance, and
- (f) The rebate shall be issued to the parties to the property transfer, in accordance with the terms of the sale agreement. Any remaining portion of the tax shall be retained by the City, and
- (g) If the work is not completed within one year of the recordation of the transfer document, that portion which has been completed shall be credited as a rebate to the applicant upon submission of an application and substantiating documentation, as required by the City, showing the dollar amount of work completed up to that date.

~~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.~~

~~To be eligible to receive the rebate, the applicant shall, at the time of application to the Codes and Inspection Division, have a current calendar year's defensible space inspection from the Fire Department showing no violations present.~~

L ~~66~~. Within the one-year period established by paragraph ~~55~~, 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 to~~ complete the Home Hardening-hardening work; (ii) unforeseen and unforeseeable circumstances such as a significant change in the scope of the Wildfire-home Hardening-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 Wildfirehome Hardening-hardening work.

(b) "Good cause" does not include (i) ignorance of the applicable City ordinances or regulations concerning the Wildfire-home Hardening-hardening rebate provided in this chapter or state or local laws relating to the standards with which wildfirehome 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 Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

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L 2. The term "home harden" within the meaning of this chapter means improving, moving, removing, or taking other evidence-based actions to existing structures that reduce the risk of ignition from wildfire and embers. Parcels eligible for this program must be located within the High or Very High Fire Hazard Severity Zones designated by the City of Berkeley and have a property sales value less than \$3,000,000. The property sales value shall be adjusted annually by the City of Berkeley on January 1 of each subsequent year to a number equal to the value of consideration for the transaction at the 95th percentile of transactions that occur in the City of Berkeley during the 12 months preceding September 1 of the preceding year, as recorded by the Alameda County Assessor, rounded to the nearest \$100,000 increment; provided, that in no case shall any adjustment lower the threshold below \$3,000,000.

Structures with a wood shake roof must be fully replaced with a Class A fire rated roof before any other mitigations can qualify for this transfer tax rebate. Replacement costs for the new Class A roof are eligible costs. All improvements must be permanent and comply with design, material and construction methods as described in the current version of the California Building Code, Chapter 5. and BMC 19.28.030. Vegetation management or gardening adaptations that require continued maintenance are not eligible with the one exception noted below in (2)(j). Mitigations performed must be satisfactorily completed as determined by the Building Official (when a permit is required) or a Berkeley Fire Department Defensible Space Inspection when a permit is not required. "Home harden" within the meaning of this chapter means any of the following:

- (a) Full replacement of a wood shake roof with a Class A fire rated roof is an eligible cost. Partial replacements of a wood shake roof with a Class A roof, or repairs to wood shake roofs are not eligible.
- (b) Removal of combustible fences and gates from the area within five (5) feet of the building being evaluated, and/or replacement with non-combustible alternatives.
- (c) Creation of at least six (6) inches of noncombustible vertical clearance at the bottom of the exterior surface of the building, measured from the ground up.
- (d) Purchase and installation of 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.
- (e) Purchase and installation of multi-paned windows, including dual pane windows, that have at least one layer of tempered glass.
- (f) Modifications so eaves are enclosed.
- (g) Purchase and installation of non-combustible siding or ember resistant mesh of 1/8" or finer around deck perimeter.
- (h) Relocating or removing 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.
- (i) Installation of block spaces between roof covering and sheathing with noncombustible materials (bird stops).
- (j) City-ordered tree removals within Zone 0 (within 0–5 ft of structures) when a tree has a Diameter at Breast Height (DBH) of less than 12".
- (k) Any other work found by the Building Official or Fire Code Official (or their designee) to substantially increase the capability of those structures, specified in subsection 1, to withstand destruction or damage in the event of a wildfire.

L 3. The work to harden structures as provided herein shall be completed up to five (5) years prior to the recordation of the transfer document and up to one (1) year after, plus any extensions granted, as provided in paragraph 5.

L 4. If hardening work, as provided for in this Ordinance, is completed up to five (5) years prior to the recordation of the transfer document, of any property subject to the tax imposed herein, the applicant may be eligible for a rebate of expenses incurred in connection with such work, subject to the following conditions:

- (a) Upon completion of the hardening work and certification by the Building Official and/or Fire Code Official of the actual costs incurred for such work, and
- (b) Upon the subsequent sale or transfer of the property, the applicant may apply to the City Manager, or the City Manager's designee, for a rebate of such certified expenses, and
- (c) The City Manager or their designee may require that a rebate applicant self-certification that the hardening measures remain in service and functional, and
- (d) Applicants may be required to produce photographic documentation of current conditions, subject to the verification by the City at the time of transfer, and
- (e) To be eligible to receive the rebate, the applicant shall, at the time of application, have a current calendar year's defensible space inspection from the Berkeley Fire Department showing no violations present, and
- (f) Upon verification, the City Manager or their designee shall authorize a rebate in an amount not to exceed one-third (1/3) of the total tax imposed pursuant to this Ordinance.
- (g) The rebate shall be issued to the parties to the property transfer, in accordance with the terms of the sale agreement. Any remaining portion of the tax shall be retained by the City.

L 5. If hardening work, as provided for in this Ordinance, is completed up to one (1) year following recordation of the transfer document for any property subject to the tax imposed herein, the applicant may be eligible for a rebate of expenses incurred in connection with such work, subject to the following conditions:

- (a) Upon completion of the hardening work and certification by the Building Official and/or Fire Code Official of the actual costs incurred for such work, and
- (b) The applicant may apply to the City Manager, or the City Manager's designee, for a rebate of such certified expenses. This application shall include eligible hardening work performed in the five years prior to the property transfer, and
- (c) The City Manager or their designee may require the applicant to produce photographic documentation of current conditions, and
- (d) To be eligible to receive the rebate, the applicant shall, at the time of application, have a current calendar year's defensible space inspection from the Berkeley Fire Department showing no violations present, and

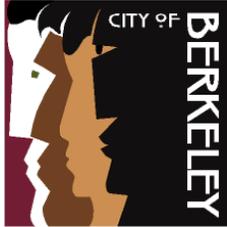
- (e) Upon verification, the City Manager or their designee shall authorize a rebate in an amount not to exceed one-third (1/3) of the total tax imposed pursuant to this Ordinance, and
- (f) The rebate shall be issued to the parties to the property transfer, in accordance with the terms of the sale agreement. Any remaining portion of the tax shall be retained by the City, and
- (g) If the work is not completed within one year of the recordation of the transfer document, that portion which has been completed shall be credited as a rebate to the applicant upon submission of an application and substantiating documentation, as required by the City, showing the dollar amount of work completed up to that date.

L 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 to complete the home hardening work; (ii) unforeseen and unforeseeable circumstances such as a significant change in the scope of the home 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 home hardening work.

(b) "Good cause" does not include (i) ignorance of the applicable City ordinances or regulations concerning the home hardening rebate provided in this chapter or state or local laws relating to the standards with which home 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 Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



CONSENT CALENDAR
October 28, 2025

To: Honorable Mayor and Members of the City Council
From: Disaster and Fire Safety Commission
Submitted by: Greg Murphy, Chairperson
Subject: Remove pre-transfer eligibility restriction of the transfer tax rebate for wildfire hardening

RECOMMENDATION

Adopt first reading of an ordinance removing the 1-year pre-transfer eligibility restriction of the transfer tax rebate for wildfire hardening from BMC 7.52.060, to encourage early mitigation efforts.

POLICY COMMITTEE RECOMMENDATION

On September 11, 2025, the Budget & Finance Committee adopted the following action: M/S/C (Kesarwani/Blackaby) to send the item to Council with a Qualified Positive Recommendation to request that staff submit an amended ordinance with the item that includes the following:

- 5-year/1-year eligibility timeline
- Limit eligibility to High and Very High Fire Hazard Severity Zones
- Clarify eligible vegetation as proposed by staff
- Include other minor language clean up proposed by staff

Also, include analysis and options for an eligibility cap based on home value.

Vote: All Ayes.

FISCAL IMPACTS OF RECOMMENDATION

Increased utilization of the transfer tax exemption will result in less revenue to the City. Reduced risk of significant costs due to wildfire disaster.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley has responded to wildfire risk with a variety of mitigation measures to improve prevention. One type of mitigation measure to reduce risk is through home “hardening” 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 including:

- Reducing the home’s vulnerability to heat.
- Creating fire-resistant surfaces
- Blocking any potential points of ingress for embers and other flammable material.

Remove pre-transfer eligibility restriction of the transfer tax rebate for wildfire hardening

CONSENT CALENDAR
May 20, 2025

Retrofitting our homes against seismic damage and destruction has proven to be good policy; hardening against wildfire will be as well.

On September 10, 2024, the council approved the first reading of the Ordinance amending BMC 7.52.060 to include “Wildfire Hardening” in the Real Property Transfer Tax Exceptions. While this encourages homeowners to implement wildfire hardening at the time of sale, the limitation of eligibility to projects undertaken within a year prior to the time of transfer discourages early action, and, to the extent that such measures could be required within Fire Zone 4 as part of EMBER or a future program, dampens the ability to require the recommended measures without imposing hardship. It appears that this was an unintended consequence of the original action.

Therefore, the Commission recommends that the City Council amend Berkeley Municipal Code 7.50.060.L.3 to strike the words “up to one-year” from the current ordinance. The Commission notes that the existing rebate program for seismic upgrades does not have a one-year restriction prior to sale. While the point of sale is often an important opportunity for home renovations, the recent adoption of this ordinance with a one year prior to sale restriction could have the unintended consequence of discouraging homeowners from making wildfire hardening improvements early. Project delivery and property transfer dates are also subject to delay, which contributes to uncertainty, thereby discouraging action without this correction. Possible concerns to address permanence and verification should be studied over the next few years to integrate appropriate documentation filing requirements and/or re-inspection.

The inherent wildfire risk Berkeley faces because of the natural topography and weather conditions is increasing due to climate change which is bringing more frequent and substantial draughts, and higher temperatures. The City of Berkeley has and will continue to implement strategies that reduce the wildfire risk to our community, and should a wildfire occur, improve the emergency response. However, the City is able to address only part of the wildfire risk that the community faces as much of the risk within the City proper lies on private property in the form of structures that pre-date modern fire resistive building codes. While some of the retrofit work that must occur is inexpensive, much of it is expensive and requires professionals. Thus, there is a significant challenge to getting this work completed, even for motivated residents. There is a need to be nimble and adapt our legislation to incentivize the work we know has to get done, work that will help slow an advancing fire so firefighters can protect the community. This amendment will provide an opportunity and mechanism for the City to incentivize homeowners in making these improvements.

Action: Motion to approve the Commission recommendation Katz. Second: Kinosian.

Remove pre-transfer eligibility restriction of the transfer tax rebate for wildfire hardening

CONSENT CALENDAR
May 20, 2025

Votes: Ayes: 7 Katz, Wilson, Bradstreet, Herzer-Baptiste, Gordon, Murphy, Kinosian;

Noe's: 0

Abstain: 0

Absent: 2 Dean, Darling

BACKGROUND

Maintaining our housing stock is essential to the health and welfare of our city. The impacts from a wildfire are not just seen in the structures; it has devastating consequences on mental health, individual sense of security, and our financial stability as a community. The Loma Prieta Earthquake took the Bay Area by surprise on October 17, 1989. According to the California Department of Conservation, that 6.9 magnitude earthquake killed 63 people, injured close to 4,000 and displaced over 12,000 people. Less than two years later, June 25, 1991, Berkeley City Council voted for an exception on transfer property taxes to help homeowners pay for seismically upgrading their homes, and BMC 7.52.060, Sub-section K was established. In the last 10 years, the Finance Department processed approximately 1,200 seismic upgrade rebates for a total of \$7.2M. Since the seismic retrofit exception was included in BMC 7.52.060 in 1991 no expanded safety exceptions have been added. The City of Berkeley is in one of the highest wildfire risk areas in the state. We have a long history of catastrophic wildfire here in Berkeley.

Most notably, in 1923, when a wildfire destroyed more than 600 homes, leaving more than 1,000 residents homeless. In 1991, the Berkeley/Oakland Tunnel Fire was responsible for 25 deaths and destroyed more than 3,000 homes. In 2024 valuation, that conflagration cost 4 billion dollars. Now is the time to improve and adapt policies, and help residents harden their homes against wildfire. Fire science studies are decisive. Wildfire hardening reduces the chances of a home catching fire.

ALTERNATIVE ACTIONS CONSIDERED

- The Commission previously evaluated requiring that some investment to harden against wildfire while making major renovations and / or additions to the property will comply owners to undertake these important upgrades and reduce our vulnerability to destruction and damage as a result of a wildfire. This approach was found to be difficult for the Building Department to implement in a broader area, indicating that incentive approaches are important until staff can develop more experience after implementation of these aspects of the EMBER program within Fire Zone 4.

- The Commission considered recommending that pre-transfer rebate value be indexed to inflation, so homeowners not planning to transfer property ownership in the near term retain the real value of the incentive. The Commission did not recommend this feature at this time based on the Council declining to adopt a similar, although higher inflation adjustment for the rebate of home energy efficiency deposits. This feature could be considered in the future after further review.

CITY MANAGER

The City Manager concurs with the content and recommendations of the Commission's report to the extent that it can motivate Berkeley residents to perform work on the homes to reduce fire ignition and spread. Following direction from the Budget and Finance Committee, the Ordinance has been revised to extend the pre-transfer eligibility period, limit eligibility to the highest risk areas of the City, define what types of vegetation mitigation are permissible, introduce a sale price cap, and perform other minor language cleanup.

CONTACT PERSON

Keith May, Commission Secretary, Deputy Fire Chief, (510) 510-981-5508.

Attachments:

- 1: Ordinance Amending Sections of 7.52.060 of the BMC

ORDINANCE NO. ##### -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, Sub-section L, is amended to 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.

