

ORDINANCE NO. 7,989 -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 "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 home hardening shall not exceed the maximum of one-third (1/3) of the base 1.5% transfer tax paid per Property.

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) Removal of mature woody brush and shrubs within Zone 0 or Zone 1 (0 - 30 ft of structures) that the Fire Code Official, or their designee, deems would be difficult for the resident to manually remove and that would likely require the use of chainsaws, stump grinders, or professional removal services, including but not limited to juniper, manzanita, ceanothus, and similar established species.

(l) 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.

At a regular meeting of the Council of the City of Berkeley held on October 28, 2025, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Kesarwani, Lunaparra, Taplin, Tregub, and Ishii.

Noes: Blackaby, Humbert.

Abstain: O'Keefe.

Absent: None.