



**BERKELEY CITY COUNCIL LAND USE, HOUSING, & ECONOMIC  
DEVELOPMENT COMMITTEE  
SPECIAL MEETING**

**Tuesday, June 10, 2025  
10:00 AM**

2180 Milvia Street, 1st Floor – Cypress Room

Committee Members:

Councilmembers Ben Bartlett, Igor Tregub, and Cecilia Lunaparra  
Alternate: Councilmember Shoshana O’Keefe

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. All Committee meetings are recorded.

Use this URL <https://cityofberkeley-info.zoomgov.com/j/1614043553> to access the meeting remotely. 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: 161 404 3553**. To provide public comment, press \*9 and wait to be recognized by the Chair. To submit a written communication for the Committee’s consideration and inclusion in the public record, email [policycommittee@berkeleyca.gov](mailto:policycommittee@berkeleyca.gov).

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.

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.

**California 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.

# AGENDA

## Roll Call

## Minutes for Approval

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

### 1. Minutes - February 3, 2025

## Committee Action Items

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

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

### 2. **Berkeley Green New Deal: Workforce Development**

**From: Councilmember Taplin (Author)**

**Referred Date: April 14, 2025**

**Due Date: September 21, 2025**

**Recommendation:** Refer to the City Manager a feasibility analysis and request for recommendations for establishing a City of Berkeley workforce development board to create pathways to green jobs and accelerate the transition to a fossil-free local economy.

**Financial Implications:** See report

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

## Committee Action Items

### 3a. **Exploitation of Vulnerable Homeowners**

**From: Commission on the Status of Women**

**Referred: May 20, 2025**

**Due: October 27, 2025**

**Recommendation:** That Council refer to the City Manager to direct the Department of Health and Human Services and other relevant departments and divisions to draft materials, written and visual (DVDs/VHS) to provide to homeowners vulnerable to exploitation, those being older and minority homeowners subject to exploitation from realtors, appraisers, lenders, speculators and others. For the appropriate department or division to identify a means of distribution of these materials to locations frequented by older and minority homeowners including senior centers, community organizations, medical providers and faith-based organizations. To promote the availability of these materials through public notices and local media. To return to Council with the draft materials and proposed locations of distribution within 6 months of the passage of this recommendation at Council. That in addition to English, materials be written, spoken, and otherwise communicated in other languages in which residents in Berkeley communicate.

**Financial Implications:** See report

Contact: Okeya Vance-Dozier, Commission Secretary, (510) 981-7100

### 3b. **Companion Report: Exploitation of Vulnerable Homeowners**

**From: City Manager**

**Referred: May 20, 2025**

**Due: October 27, 2025**

**Recommendation:** Refer the item to the Land Use, Housing & Economic Development Policy Committee to study the requirements for producing and distributing educational resources for resources and assign a budget and referral ranking.

**Financial Implications:** See report

Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

### 4. **Berkeley Nightlife Council**

**From: Councilmember Taplin (Author), Mayor Ishii (Co-Sponsor), Councilmember O'Keefe (Co-Sponsor), Councilmember Tregub (Co-Sponsor)**

**Referred Date: May 5, 2025**

**Due Date: October 13, 2025**

**Recommendation:** Adopt a Resolution to form an inaugural Berkeley Nightlife Council as an ad-hoc committee convened by the District 2 council office to return recommendations for the formation, structure, and scope of operation of a Berkeley Nightlife Council (Night Council) to support nighttime economic activity, cultural programming, and community safety in city commercial districts.

**Financial Implications:** See report

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

## Committee Action Items

5. **Referral to 4 x 4 Committee: Removing On-Site Manager Exemption Loophole for Certain Multi-Family Properties that are Adjacent and/or Share the Same From: Councilmember Tregub (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Taplin (Co-Sponsor)**

**Referred: May 5, 2025**

**Due Date: October 13, 2025**

**Recommendation:** Refer to the 4 x 4 Committee of the Berkeley City Council and Rent Stabilization Board a proposal related to the removal of an on-site manager exemption loophole, which is currently used by certain Berkeley properties to circumvent California Code Regulation, Title 25, Paragraph 42, for certain multi-family properties that are adjacent and/or share the same common area. If the recommended regulation is enacted, it is the intent of the referral to apply it to subject properties in a prospective manner that ensures that the rights of sitting tenants continue to be fully protected (i.e., a fully occupied property will not be required to rent to an on-site manager until at least one unit becomes vacant in accordance to all applicable state and local laws governing good cause eviction protections). The referral further requests that the 4 x 4 Committee discuss and provide recommendations as to: any parameters that may limit the scope of this referral, including but not limited to situations in which one or more of the subject properties are owned by limited liability corporations (LLCs) and/or owners that own multiple other properties in Berkeley, California and/or beyond, with a total number of units or properties under ownership to be determined; any exemptions to the on-site manager requirement for certain circumstances, such as for hardship of the property owner and/or LLC and/or other circumstances in which the interest of justice may supersede the public interest of this requirement; the enforcement mechanism and enforcing jurisdiction (i.e., City of Berkeley or Berkeley Rent Stabilization Board, with compensation by the City of Berkeley) that the City of Berkeley should employ in furtherance of the recommended regulation; and any other provisions pertinent to the efficient, just, and fair administration of the recommended regulation.

**Financial Implications:** See report

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

## Unscheduled Items

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

- None

## Items for Future Agendas

- Requests by Committee Members to add items to the next agenda

## Adjournment

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*Written communications addressed to the Land Use, Housing & Economic Development Committee and submitted to the City Clerk Department will be distributed to the Committee in advance of the meeting and retained as part of the official record.*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Members of the City Council who are not members of the standing committee may attend a standing committee meeting even if it results in a quorum being present, provided that the non-members only act as observers and do not participate in the meeting. If only one member of the Council who is not a member of the committee is present for the meeting, the member may participate in the meeting because less than a quorum of the full Council is present. Any member of the public may attend this meeting. Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900.*



**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](mailto: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.

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I hereby certify that the agenda for this meeting of the Standing Committee of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on June 5, 2025.

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

Mark Numainville, City Clerk

**Communications**

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





## BERKELEY CITY COUNCIL LAND USE, HOUSING, & ECONOMIC DEVELOPMENT COMMITTEE REGULAR MEETING MINUTES

**Monday, February 3, 2025  
10:00 AM**

2180 Milvia Street, Berkeley, CA 94704

Committee Members:

Councilmembers Ben Bartlett, Igor Tregub, and Cecilia Lunaparra

Alternate: Councilmember Shoshana O'Keefe

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. All Committee meetings are recorded.

To access the meeting remotely use this URL - <https://cityofberkeley-info.zoomgov.com/j/1605255295>. 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: 160 525 5295**. To provide public comment, press \*9 and wait to be recognized by the Chair. To submit a written communication for the Committee's consideration and inclusion in the public record, email [policycommittee@berkeleyca.gov](mailto:policycommittee@berkeleyca.gov).

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## MINUTES

**Roll Call:** 10:10 a.m.

**Present:** Tregub, Lunaparra, Bartlett

### **Election of Chair:**

**Action:** M/S/C (Tregub/Lunaparra) to elect Vice Mayor Bartlett as committee chair.

**Vote:** All Ayes.

**Public Comment on Non-Agenda Matters:** 3 speakers

### **Minutes for Approval**

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

1. **Minutes - December 2, 2024**

**Action:** M/S/C (Bartlett/Lunaparra) to approve the December 2, 2024 minutes.

**Vote:** All Ayes.

### **Committee Action Items**

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

2. **First Year Free - Fill Empty Storefronts Act**

**From:** Councilmember Hahn (Author)

**Date Referred:** October 15, 2024

**Date Due:** February 12, 2025

**Recommendation:** Refer to the City Manager to (1) create and implement a First Year Free Program for Berkeley, modeled after San Francisco's successful program, for an initial period of 5 years and (2) study and report back to Council on other strategies to attract new businesses and fill empty storefronts.

**Financial Implications:** See report.

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

**Action:** 3 speakers. M/S/C (Bartlett/Tregub) to forward item to Council with a negative recommendation to take no action. The committee will revisit this issue at a later date with the intention of further developing the goals of the item.

**Vote:** All Ayes.

## Committee Action Items

3. **Adopt an Ordinance to Prohibit the Sale or Use of Algorithmic Devices to Set Rents or Manage Occupancy Levels for Residential Dwelling Units**  
**From: Housing Advisory Commission**  
**Referred: January 27, 2025**  
**Date Due: May 27, 2025**  
**Recommendation:** Adopt an ordinance amending the Municipal Code adding section 13.63 to prohibit the sale or use of algorithmic devices to set rents or manage occupancy levels for residential dwelling units.  
**Financial Implications:** See report  
Contact: Mike Uberti, Commission Secretary, (510) 981-7400  
**Action:** 3 speakers. M/S/C (Lunaparra/Tregub) to forward item to Council with a Qualified Positive Recommendation to Council with a request to forward to the 4x4 Committee to review the effectiveness of the implementation.  
**Vote:** All Ayes.
4. **Referral to the City Manager and Council Budget and Finance Committee: Transfer Tax Exemption for 100% Affordable Housing Projects**  
**From: Councilmember Tregub (Author), Councilmember Bartlett (Co-Sponsor), Councilmember O'Keefe (Co-Sponsor)**  
**Referred: January 27, 2025**  
**Date Due: May 27, 2025**  
**Recommendation:** Adopt a referral to the City Manager and Council Budget and Finance Committee to study the fiscal impacts of a transfer tax exemption for 100% affordable housing projects for further Council action by March 25, 2025.  
**Financial Implications:** See report  
Contact: Igor Tregub, Councilmember, District 4, (510) 981-7140  
**Action:** 5 speakers. M/S/C (Tregub/Lunaparra) to forward item to Council with a Qualified Positive Recommendation that the Council:  
1. Clarify that the rehabilitation of the restricted properties, would be included as part of the 100% affordable [housing projects].  
2. Bolster the rationale section of the report with greater detail and analysis.  
**Vote:** All Ayes.

## Unscheduled Items

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

## Items for Future Agendas

- Study and report back on the strategies to attract new businesses to Berkeley.

## Adjournment

**Action:** M/S/C (Bartlett/Tregub) to adjourn the meeting.

**Vote:** All Ayes

Adjourned at 12:08 p.m.

I hereby certify that the foregoing is a true and correct record of the Land Use, Housing & Economic Development Committee meeting held on February 3, 2025.

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Keith Nesbit, Assistant City Clerk

## Communications

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CONSENT CALENDAR  
April 29, 2025

To: Honorable Mayor and Members of the City Council  
From: Councilmember Taplin  
Subject: Berkeley Green New Deal: Workforce Development

### RECOMMENDATION

Refer to the City Manager a feasibility analysis and request for recommendations for establishing a City of Berkeley workforce development board to create pathways to green jobs and accelerate the transition to a fossil-free local economy.

### FINANCIAL IMPLICATIONS

Staff time TBD, est. \$125,000 for 1 FTE Senior Planner. Planning staff estimates that capacity for additional Specific Area Plan work to be available in Fiscal Year 2025 at the earliest. Currently, San Pablo Avenue Specific Area Plan work is supported by grant funding from the Metropolitan Transportation Commission's Priority Development Area (PDA) program. Other grant funding opportunities, such as the Priority Conservation Area (PCA) and Priority Production Area (PPA) programs<sup>1</sup>, or the California Strategic Growth Council's Transformative Climate Communities<sup>2</sup> program, may also be available in future grant cycles.

### CURRENT SITUATION AND ITS EFFECTS

Since the passage of SB 1000 (2016), California Government Code Section 65302(h) requires an Environmental Justice Element and/or related Elements in municipal General Plans to:

*(A) Identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities by means that include, but are not limited to, the reduction of pollution exposure, including the improvement of air quality, and the promotion of public facilities, food access, safe and sanitary homes, and physical activity.*

*(B) Identify objectives and policies to promote civic engagement in the public decisionmaking process.*

<sup>1</sup> Metropolitan Transportation Commission: Land Use Programs. <https://mtc.ca.gov/planning/land-use>

<sup>2</sup> California Strategic Growth Council: Transformative Climate Communities. <https://sgc.ca.gov/programs/tcc/>

*(C) Identify objectives and policies that prioritize improvements and programs that address the needs of disadvantaged communities. (See Attachment 6)*

The City of Berkeley has incorporated Environmental Justice policies in its plans, most recently in its 2023 Housing Element Update. However, many area plans such as the most recent update to the West Berkeley Plan<sup>3</sup>, adopted in 2011<sup>4</sup>, predate SB1000 requirements.

This contributes to a growing need to update area planning with recent accomplishments including: a renewed Development Agreement with Bayer<sup>5</sup> (formerly Miles Corp) in 2021, which funded a West Berkeley Fund for community infrastructure and resilience; removal of minimum parking requirement; expansion of Research and Development (R&D)<sup>6</sup> uses to Manufacturing zones, including development of a Manufacturing - Research & Development (M-RD)<sup>7</sup> zone; development of a San Pablo Avenue Specific Area Plan.<sup>8</sup> While no single policy change will be a silver bullet, these and future efforts must inevitably also mitigate the impacts of anthropogenic climate change such as rising groundwater<sup>9</sup>; and the overall increasing risk of flooding, fires, and other natural disasters due to anthropogenic climate change.<sup>10</sup>

The increasing local demand for services and environmental mitigations, in tandem with historic investments in green energy and advanced manufacturing through the Inflation Reduction Act and the CHIPS and Science Act, present a major opportunity for the local

<sup>3</sup> City of Berkeley. (1993, Dec. 14.) Resolution 57,301-N.S. Adopting the Certification of Environmental Impact Report for the West Berkeley Plan...The West Berkeley Plan as an Area Plan and as an Amendment to the City of Berkeley Master Plan. [https://berkeleyca.gov/sites/default/files/2022-03/12\\_14\\_1993%3B%20CLK%20-%20Resolution%3B%20City%20Council%3B%2057301%3B%20West%20Berkeley%20Area%20Plan%3B.pdf](https://berkeleyca.gov/sites/default/files/2022-03/12_14_1993%3B%20CLK%20-%20Resolution%3B%20City%20Council%3B%2057301%3B%20West%20Berkeley%20Area%20Plan%3B.pdf)

<sup>4</sup> [https://berkeleyca.gov/sites/default/files/2022-03/3\\_22\\_2011%3B%20CLK%20-%20Resolution%3B%20City%20Council%3B%2065210%3B%20%3B%20West%20Berkeley%20Project%20Amending%20the%20West%20Berkeley%20Plan%20and%2C%20by%20Reference%2C%20the%20General%20Plan.pdf](https://berkeleyca.gov/sites/default/files/2022-03/3_22_2011%3B%20CLK%20-%20Resolution%3B%20City%20Council%3B%2065210%3B%20%3B%20West%20Berkeley%20Project%20Amending%20the%20West%20Berkeley%20Plan%20and%2C%20by%20Reference%2C%20the%20General%20Plan.pdf)

<sup>5</sup> City of Berkeley. (2021). Bayer Healthcare LLC – Amended and Restated Development Agreement. <https://newspack-berkeleyside-cityside.s3.amazonaws.com/wp-content/uploads/2021/12/2021-11-30-Item-24-Bayer-Healthcare-LLC-%E2%80%93-Amended-and-Restated-Development-Agreement-1.pdf>

<sup>6</sup> Robinson, R. & Chen, A. (2022). Referral: Keep Innovation in Berkeley. <https://berkeleyca.gov/sites/default/files/documents/2022-09-13%20Item%2030%20Referral%20Keep%20Innovation%20in%20Berkeley.pdf>

<sup>7</sup> City of Berkeley Planning Commission Presentation (2023, Feb. 1). [https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2023\\_02\\_01\\_Item%2012\\_Gilman%20Gateway%20Rezoning\\_Presentation.pdf](https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2023_02_01_Item%2012_Gilman%20Gateway%20Rezoning_Presentation.pdf)

<sup>8</sup> City of Berkeley: San Pablo Avenue Specific Plan. <https://berkeleyca.gov/construction-development/land-use-development/general-plan-and-area-plans/san-pablo-avenue-specific>

<sup>9</sup> kristina hill, Daniella Hirschfeld, Caroline Stanhope Lindquist, et al. Rising coastal groundwater as a result of sea-level rise will influence contaminated coastal sites and underground infrastructure. ESS Open Archive. May 25, 2023. DOI: [10.22541/essoar.168500245.55690018/v1](https://doi.org/10.22541/essoar.168500245.55690018/v1)

<sup>10</sup> City of Berkeley: January 2023 Disaster Preparedness Notice. <https://berkeleyca.gov/community-recreation/news/rains-and-winds-continue-stay-alert-and-safe-while-still-reporting>

community to reap the rewards of these challenges through workforce development. These targeted investments are intended to reduce consumer price inflation and eliminate lifecycle carbon emissions by rebuilding the material inputs of goods and services in the economy from lower-cost and renewable energy sources.<sup>11</sup> However, advanced manufacturing sectors are also facing acute workforce shortages in strategically significant goods such as semiconductors and lithium-ion batteries, with significant federal initiatives underway to address them.<sup>12</sup>

In partnership with the UC Berkeley College of Environmental Design, UC Chancellor's Office, and McGee Avenue Baptist Church, the District 2 Council Office supported field research and stakeholder outreach in the local community to determine top priorities for a Just Transition, and echoing President Biden's position on tackling climate change ("jobs, jobs, jobs"), most responses focused on the need for gainful employment and income support. These are related but distinct goals: while cash transfer programs such as a basic income may be necessary to address short-term needs, education and career development also can provide a sense of community belonging and self-actualization independent of monetary compensation. Accordingly, workforce development has been central to the City Council's reparative justice efforts, including support for Career Technical Education in the Bayer Development Agreement (see footnote 4) and a referral to study municipal support for reentry employment.<sup>13</sup>

While the City of Oakland<sup>14</sup> and the City of Richmond<sup>15</sup> both have municipal Workforce Development Boards that allocate federal Workforce Innovation and Opportunity Act (WIOA) grants and offer America's Job Centers of California (AJCC) services, Berkeley residents can only rely on the Alameda County Workforce Development Board for these services. The above Workforce Development Boards, along with the Contra Costa County Workforce Development Board, have jointly adopted a 2021-2024 Regional Plan under East Bay Regional Planning Unit as EastbayWorks.<sup>16</sup> Research in a forthcoming paper from Cuiffo & Sarkodie (2024) finds that this has resulted in a significant gap in workforce development outlays per capita.

Berkeley investing local funds into workforce development to bridge this gap would have significant reparative justice benefits, as the EastbayWorks 2021-2024 Regional Plan identifies low-income communities at risk of displacement concentrated in West

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<sup>11</sup> Glass, A. & Walter, K. (2022). How Biden's American-Style Industrial Policy Will Create Quality Jobs. Center for American Progress. Retrieved 16 May, 2024 from <https://www.americanprogress.org/article/how-bidens-american-style-industrial-policy-will-create-quality-jobs/>

<sup>12</sup> Department of Energy. (2022, March 18). Press Release: <https://www.energy.gov/articles/doe-announces-5-million-launch-lithium-battery-workforce-initiative>

<sup>13</sup> <https://berkeleyca.gov/sites/default/files/documents/2022-12-06%20Item%2006%20Office%20of%20Racial%20Equity.pdf>

<sup>14</sup> <https://www.oaklandca.gov/topics/2021-24-local-plan>

<sup>15</sup> <https://www.ci.richmond.ca.us/DocumentCenter/View/57308/RWDB-PY-2021-24-Local-Plan-FINAL?bidId=>

<sup>16</sup> <https://www.eastbayworks.com/wp-content/uploads/2021/03/EBRPU-Regional-Plan-03-11-21.pdf>

Berkeley, and at least 25% of Alameda County's largest employers located in the City of Berkeley.

Research for an Environmental Justice Element would thus naturally overlap with implementation of Just Transition principles vis a vis workforce development.

Establishing an Environmental Justice Element in the General Plan pursuant to California Government Code Section 65302(h) is a Strategic Plan Priority Project, advancing our goal to: be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

## BACKGROUND

### **Just Transition Principles**

On December 14, 2021, the Berkeley City Council adopted Resolution No. 70,171–N.S. “Resolution Committing the City of Berkeley to a Just Transition from Fossil Fuels and the Creation of a West Berkeley and South Berkeley Green New Deal” as revised (see Attachments 1 and 2). A Just Transition framework for West Berkeley Plan Amendments should be developed such that civil engagement and centering the needs of disadvantaged communities comprise an interrelated process.

The District 2 Council Office has convened several meetings of a West Berkeley Green New Deal Ad Hoc Working Group, whose work is still ongoing. The Ad Hoc Working Group expressed consensus that heavily impacted and disadvantaged communities that should be centered in a Just Transition include, at a minimum: **seniors; unhoused residents; low-income households; disabled or mobility-impaired residents; Black, Indigenous, and People of Color (BIPOC); and LGBTQIA+ residents.**

The transition away from fossil fuels must ensure that the most vulnerable in our society are protected from both the turbulence of restructuring our entire economy and the effects of global warming that the community is already facing. The core premise is: “Transition is inevitable. Justice is not.”<sup>17</sup> The environmental justice movement calls this approach to the climate crisis a “Just Transition.”

Transition is inevitable. In macroeconomic terms, any government actively working to change the composition of household consumer demand (e.g. rapid industrialization amid World Wars, a green transition, etc) will face significant distributional problems from shocks to energy and raw material costs, which manifest in price levels and/or

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<sup>17</sup> Climate Justice Alliance. (2018). Just Transition Principles. *Climate Justice Alliance*. [https://climatejusticealliance.org/wp-content/uploads/2018/06/CJA\\_JustTransition\\_Principles\\_final\\_hi-rez.pdf](https://climatejusticealliance.org/wp-content/uploads/2018/06/CJA_JustTransition_Principles_final_hi-rez.pdf)

rationing. We are already confronting such shocks locally and globally. As recent inflationary episodes and supply shocks following the COVID-19 pandemic and the 2022 Russian invasion of Ukraine have demonstrated, reliance on the fossil fuel economy increasingly undermines price stability.<sup>18</sup> Just Transition principles are partially intended to proactively mitigate both the threat of wage deflation for households depending on labor income from fossil fuel industries, and the inflationary pressures of unprecedented supply shocks. In a complementary framework, the Green New Deal<sup>19</sup> proposed by Democratic lawmakers<sup>20</sup>, some aspects of which have been passed in the Inflation Reduction Act of 2022, was designed to increase domestic high-road employment<sup>21</sup> and capacity in green energy industries to manage this transition equitably.

A Just Transition is possible. While fossil fuel supply chains must end, other resilient supply chains must replace our community's changing needs. Renewable energy and electricity transmission will have to grow to meet increasing demands for vehicle and building electrification to replace petroleum and natural gas; batteries, solar panels, and wind farms must replace oil rigs and coal mines. Californians will have to shift at least 25% of their automobile trips to other modes of transportation while converting the rest to electric vehicles<sup>22</sup>, aided by more energy-efficient housing, public transit, and e-bike access. All of this will be made possible in part by Berkeley's growing innovation ecosystem of high-wage STEM employment in green energy technology and life sciences. To illustrate, over one third of employees in Alameda County's growing life sciences sector had no college degree<sup>23</sup>. The federal government is also increasing public sector fiscal capacity for clean energy development through direct pay provisions for municipal and nonprofit entities in the Inflation Reduction Act of 2022.<sup>24</sup>

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<sup>18</sup> Weber, Isabella M.; Jauregui, Jesus Lara; Teixeira, Lucas; and Nassif Pires, Luiza, "Inflation in Times of Overlapping Emergencies: Systemically Significant Prices from an Input-output Perspective" (2022). *Economics Department Working Paper Series*. 340.

<https://doi.org/10.7275/0c5b-6a92>

<sup>19</sup> Carlock, G. & Mangan, E. (2018). A Green New Deal. *Data for Progress*.

[https://www.filesforprogress.org/pdfs/Green\\_New\\_Deal.pdf](https://www.filesforprogress.org/pdfs/Green_New_Deal.pdf)

<sup>20</sup> House Resolution 109. (2019). <https://www.congress.gov/116/bills/hres109/BILLS-116hres109ih.pdf>

<sup>21</sup> Williams, M., et al. (2022). The Inflation Reduction Act Provides Pathways to High-Quality Jobs. *Center for American Progress*. <https://www.americanprogress.org/article/the-inflation-reduction-act-provides-pathways-to-high-quality-jobs/>

<sup>22</sup> [https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report\\_SB150\\_112618\\_02\\_Report.pdf](https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report_SB150_112618_02_Report.pdf)

<sup>23</sup> City of Berkeley Staff Report: Business Support Zoning Amendment Referrals – Research and Development. (2021, June 20). pp. 13-56. <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2021-10-06%20PC%20Agenda%20Packet.pdf>

<sup>24</sup> Lala, C. (2023). Direct pay: an uncapped promise of the Inflation Reduction Act. *Center for Public Enterprise*. Retrieved from

<https://static1.squarespace.com/static/622cca56a2f5926affd807c6/t/64257e7047150f31bf02e7cf/1680178800773/Direct+Pay+101+-+Center+for+Public+Enterprise.pdf>

Just Transition policies are already being enacted globally. For example, in Poland, a 75% decline in coal mining jobs was coupled by a mining social package and special privileges for mining communities. Canada's efforts to phase out coal-powered electricity have been accompanied by a national stakeholder task force that has traveled the country to hear from Canadians on how to justly shepherd the transition. Egypt's fuel price increases were paired with minimum wage boosts, food stipends, and progressive taxation.<sup>25</sup>

The Climate Justice Alliance, a climate organization at the forefront of the fight for a Just Transition, lays out the following Just Transition principles:

### **A Just Transition moves us toward Buen Vivir**

Buen Vivir means that we can live well without living better at the expense of others. Workers, community residents, women and Indigenous Peoples around the world have a fundamental human right to clean, healthy and adequate air, water, land, food, education and shelter. We must have just relationships with each other and with the natural world, of which we are a part. The rights of peoples, communities and nature must supersede the rights of the individual.

### **A Just Transition creates Meaningful Work**

A Just Transition centers on the development of human potential, creating opportunities for people to learn, grow, and develop to their full capacities and interests. We are all born leaders, and a regenerative economy supports and nurtures that leadership. In the process, we are transforming ourselves, each other, our communities, and our society as a whole. Meaningful work is life-affirming.

### **A Just Transition upholds Self Determination**

All peoples have the right to participate in decisions that impact their lives. This requires democratic governance in our communities, including our workplaces. Communities must have the power to shape their economies, as producers, as consumers, and in our relationships with each other. Not only do we have the right to self determination, but self determination is one of our greatest tools to realize the world we need. The people who are most affected by the extractive economy — the frontline workers and the fenceline communities — have the resilience and expertise to be in the leadership of crafting solutions.

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<sup>25</sup> Gass, P. (2019). In Search of Just Transition: Examples From Around the World. *International Institute for Sustainable Development*. <https://www.iisd.org/articles/just-transition-examples>

**A Just Transition equitably redistributes Resources and Power**

We must work to build new systems that are good for all people, and not just a few. Just Transition must actively work against and transform current and historic social inequities based on race, class, gender, immigrant status and other forms of oppression. Just Transition fights to reclaim capital and resources for the regeneration of geographies and sectors of the economy where these inequities are most pervasive.

**A Just Transition requires Regenerative Ecological Economics**

Just Transition must advance ecological resilience, reduce resource consumption, restore biodiversity and traditional ways of life, and undermine extractive economies, including capitalism, that erode the ecological basis of our collective well-being. This requires a re-localization and democratization of primary production and consumption by building up local food systems, local clean energy, and smallscale production that are sustainable economically and ecologically. This also means producing to live well without living better at the expense of others.

**A Just Transition retains Culture and Tradition**

Capitalism has forced many communities to sacrifice culture and tradition for economic survival. It has also defaced and destroyed land held as sacred. Just Transition must create inclusionary spaces for all traditions and cultures, recognizing them as integral to a healthy and vibrant economy. It should also make reparations for land that has been stolen and/or destroyed by capitalism, colonialism, patriarchy, genocide and slavery.

**A Just Transition embodies Local, Regional, National and International Solidarity**

A Just Transition must be liberatory and transformative. The impacts of the extractive economy knows no borders. We recognize the interconnectedness of our communities as well as our issues. Therefore, our solutions call for local, regional, national and global solidarity that confronts imperialism and militarism.

**A Just Transition builds What We Need Now**

We must build the world we need now. This may begin at a local small scale, and must expand to begin to displace extractive practices. We must build and flex the muscles needed to meet our communities' needs.<sup>26</sup>

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<sup>26</sup> Climate Justice Alliance. (2018). Just Transition Principles. *Climate Justice Alliance*.  
[https://climatejusticealliance.org/wp-content/uploads/2018/06/CJA\\_JustTransition\\_Principles\\_final\\_hi-rez.pdf](https://climatejusticealliance.org/wp-content/uploads/2018/06/CJA_JustTransition_Principles_final_hi-rez.pdf)

With these frameworks, staff and commissioners can study robust and flexible development standards in the General Plan

### **Transportation Demand Management**

The West Berkeley Plan as originally adopted in 1993 was prescient in calling for a “reduction of single occupant automobile trips.” The Plan envisioned several mitigations for increased traffic congestion, including implementation of Transportation Demand Management (TDM) plans “to encourage carpooling and vanpooling, walking and bicycle use, the use of transit, flexible scheduling of work hours, and other methods to reduce travel demand[.]”

However, the Transportation impact mitigations in the Plan are still codified under Level Of Service (LOS) standards, i.e. delay in vehicle throughput. As of 2020, state law requires transportation impacts to be assessed under a Vehicle Miles Traveled (VMT) standard for environmental review, measuring the total volume of traffic. Reducing VMT is of critical importance for Berkeley and the state of California’s climate goals, as the California Air Resources Board has illustrated in a 2018 report: “Even if the share of new car sales that are ZEVs [zero-emission vehicles] grows nearly 10-fold from today, California would still need to reduce VMT per capita 25 percent to achieve the necessary reductions for 2030.”<sup>27</sup> Any amendments to the West Berkeley Plan’s Transportation mitigations would have to incorporate the goal of absolute VMT reduction to be consistent with state environmental standards.

### **ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

In 2006, Berkeley voters approved Measure G, committing to reduce the entire community’s greenhouse gas emissions by 80% below 2000 levels by 2050. The City Council approved Berkeley’s first Climate Action Plan in 2009.<sup>28</sup>

The California Air Resources Board released an updated Scoping Plan<sup>29</sup> in 2022. Following this plan, the state of California’s goals by 2045 are:

- *Cut greenhouse gas emissions by 85% below 1990 levels*
- *71% reduction in smog-forming air pollution*
- *Reduce fossil fuel consumption (liquid petroleum) to less than one-tenth of what we use today – a 94% reduction in demand.*

<sup>27</sup> California Air Resources Board: 2018 Progress Report. [https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report\\_SB150\\_112618\\_02\\_Report.pdf](https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report_SB150_112618_02_Report.pdf)

<sup>28</sup> City of Berkeley: Climate Action Plan. <https://berkeleyca.gov/sites/default/files/2022-01/Berkeley-Climate-Action-Plan.pdf>

<sup>29</sup> California Air Resources Board: 2022 Scoping Plan. <https://ww2.arb.ca.gov/news/california-releases-final-2022-climate-scoping-plan-proposal>

- *Create 4 million new jobs.*
- *Save Californians \$200 billion in health costs due to pollution in 2045.*

All planning efforts must achieve and exceed these thresholds in order to advance Environmental Justice.

CONTACT PERSON

Councilmember Taplin      Council District 2      510-981-7120

Attachments:

- 1: 2021-12-14 Annotated Agenda - Berkeley City Council Meeting
- 2: 2021-12-14 Item 35 Commit the City of Berkeley to a Just Transition (Supp. 2)
- 3: Fact Sheet: The Weight of Cities - United Nations International Resources Panel
- 4: Senate Bill 1000 (2016)
- 5: Workforce Development Recommendations to Advance Berkeley's Green New Deal Policy by Yaa Freemah Sarkodie and Kathryn Cuiffo



**ANNOTATED AGENDA  
BERKELEY CITY COUNCIL MEETING  
Tuesday, December 14, 2021  
6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

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

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

*Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.*

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/83481524655>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)** and enter Meeting ID: **834 8152 4655**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.*

*To submit a written communication for the City Council's consideration and inclusion in the public record, email [council@cityofberkeley.info](mailto:council@cityofberkeley.info).*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

## Preliminary Matters

**Roll Call:** 6:21 p.m.

**Present:** Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Arreguin

**Absent:** Bartlett, Droste

Councilmember Droste present at 6:22 p.m.

Councilmember Bartlett present at 6:27 p.m.

### Ceremonial Matters:

1. Adjourned in Memory of Bob Meola, Peace & Justice Commissioner

### City Manager Comments:

The City Manager shared a presentation on the efforts and data reports of the Homeless Response Team.

**Public Comment on Non-Agenda Matters:** 10 speakers.

**Action:** M/S/C (Arreguin/Wengraf) to accept supplemental material from Mayor Arreguin on Item 7.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Wengraf) to accept supplemental material from Mayor Arreguin on Item 48.

**Vote:** All Ayes.

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 20 speakers.

**Action:** M/S/C (Arreguin/Robinson) to adopt the Consent Calendar in one motion except as indicated.

**Vote:** All Ayes.

## Consent Calendar

- 1. Bayer Healthcare LLC – Amended and Restated Development Agreement**  
**From: City Manager**  
**Recommendation:** Adopt the second reading of Ordinance No. 7,792-N.S. to certify the Final Subsequent Environmental Impact Report, adopt Findings and a Mitigation Monitoring and Reporting Program, and approve the Amended and Restated Development Agreement between the City of Berkeley and Bayer Healthcare LLC.  
**First Reading Vote:** All Ayes  
**Financial Implications:** See report  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** Adopted second reading of Ordinance No. 7,792–N.S.
- 2. Amendments to the Berkeley Election Reform Act**  
**From: Fair Campaign Practices Commission**  
**Recommendation:** Adopt the second reading of Ordinance No. 7,793-N.S amending the Berkeley Election Reform Act (BMC Chapter 2.12) to (1) make public financing available to candidates for the offices of Auditor, School Board Director, and Rent Stabilization Board Commissioner, (2) further clarify the use of Fair Elections funds, (3) clarify the requirements for returning unspent Fair Elections funds, (4) add a new process for requesting return of previously repaid Fair Elections funds, and (5) require the FCPC to make a cost of living adjustment to the contribution limit to candidates in January of each odd-numbered year.  
**First Reading Vote:** All Ayes  
**Financial Implications:** None  
Contact: Sam Harvey, Commission Secretary, (510) 981-6950  
**Action:** Adopted second reading of Ordinance No. 7,793–N.S.
- 3. Commission Reorganization: Creating the Parks, Recreation, and Waterfront Commission**  
**From: City Manager**  
**Recommendation:** Adopt the second reading Ordinance No. 7,794-N.S. repealing and re-enacting Berkeley Municipal Code Chapter 3.26 to create the Parks, Recreation, and Waterfront Commission, and repealing Berkeley Municipal Code Chapters 3.27 (Children, Youth, and Recreation Commission) and 3.08 (Berkeley Animal Care Commission).  
**First Reading Vote:** Ayes – Kesarwani, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Taplin, Bartlett, Harrison  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted second reading of Ordinance No. 7,794–N.S.

## Consent Calendar

- 4. Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference, initially ratified by the City Council on September 28, 2021, and subsequently reviewed and ratified on October 26, 2021 and November 16, 2021.  
**Financial Implications:** To be determined  
Contact: Farimah Brown, City Attorney, (510) 981-6950  
**Action:** Adopted Resolution No. 70,144–N.S.
- 5. Resolution Reviewing and Ratifying the Proclamation of Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution reviewing the need for continuing the local emergency due to the spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19) and ratifying the Proclamation of Local Emergency issued by the Director of Emergency Services on March 3, 2020, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the Council on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, and November 9, 2021.  
**Financial Implications:** To be determined  
Contact: Farimah Brown, City Attorney, City Attorney’s Office (510) 981-6998  
**Action:** Adopted Resolution No. 70,145–N.S.
- 6. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the council meetings of November 2 (closed), November 4 (special), November 9 (closed and regular), November 16 (closed and regular), November 18 (closed) and November 30 (closed and regular).  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Approved minutes as submitted.

## Consent Calendar

- 7. City of Berkeley's 2022 State and Federal Legislative Platform**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the City of Berkeley's 2022 State and Federal Legislative Platform.  
**Financial Implications:** See report  
Contact: Dee Williams-Ridley, City Manager, (510) 981-7000  
**Action:** Adopted Resolution No. 70,146–N.S. as revised in Supplemental Material from Mayor Arreguin introduced at the meeting.
- 8. Extension of Interim Director of Police Accountability Appointment**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution extending the appointment of Katherine J. Lee as Interim Director of Police Accountability and approving an employment contract to be effective January 1, 2022 at an annual salary of \$182,260.65.  
**Financial Implications:** See report  
Contact: Dee Williams-Ridley, City Manager, (510) 981-7000  
**Action:** Adopted Resolution No. 70,147–N.S. and to authorize the City Manager to make clarifying corrections on the term of the agreement.
- 9. Protiviti Government Services: Using General Services Administration (GSA) Vehicle for Professional Services Purchase Orders**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to issue purchase orders with Protiviti Government Services for the purchase of professional services using the General Services Agency's (GSA) purchasing vehicle no. GS-35F-0280X for an amount not to exceed \$70,000 through November 8, 2022.  
**Financial Implications:** General Fund - \$70,000  
Contact: Matthai Chakko, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 70,148–N.S.
- 10. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on December 14, 2021**  
**From: City Manager**  
**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.  
**Financial Implications:** General Fund - \$960,000  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Approved recommendation.

## Consent Calendar

- 11. Contract: RLH & Associates for Providing Temporary Governmental Financial Consulting Services for the Finance Department**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract, with any amendments, with RLH Associates for providing temporary governmental financial consulting as required by the Finance Department for an initial term of two years. The total not to exceed contract amount is \$150,000.  
**Financial Implications:** General Fund - \$150,000  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted Resolution No. 70,149–N.S.
- 12. Contract: Valdes and Moreno for Professional Services for the Microbond Financing Pilot Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract, with any amendments, with Valdes and Moreno for professional services needed to establish and administer full-services consulting and other services related to a Microbond Financing Program. The total not to exceed amount is \$150,000.  
**Financial Implications:** General Fund - \$150,000  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted Resolution No. 70,150–N.S.
- 13. Contract: Gainey Scientific for Project Management & Consulting**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Ganey Scientific. (Contractor) to provide project management and consulting services for the Fire Department (Department) from September 13, 2021 to August 31, 2022 in an amount not to exceed \$300,000 with an option to extend for an additional two years, for a total contract amount not to exceed \$900,000.  
**Financial Implications:** See report  
 Contact: Abe Roman, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 70,151–N.S.
- 14. Revenue: FY2022 Federal COVID-19 Funding from HHS CARES Act Provider Relief Fund**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to accept payments from the Health and Human Services (HHS) CARES Act Provider Relief Fund and to execute any resultant revenue agreements and amendments to conduct and implement mitigation strategies in response to COVID-19 in the estimated amount of \$80,000 for FY 2022.  
**Financial Implications:** See report  
 Contact: Abe Roman, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 70,152–N.S.

## Consent Calendar

- 15. Revenue Contract: Funding from an Instructional Service Agreement with Los Positas College to support Fire Department Training**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to enter an Instructional Service Agreement (ISA) with Los Positas Community College (LPC) to provide contract instruction, assessment, and counseling services from July 20, 2021, to July 19, 2024 for an amount not to exceed \$250,000 per fiscal year.  
**Financial Implications:** See report  
Contact: Abe Roman, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 70,153–N.S.
- 16. Contract: Statewide Prevention and Early Intervention Project Participation Agreement - California Mental Health Services Authority**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a Participation Agreement and any amendments with the California Mental Health Services Authority (CalMHSA) to allocate Mental Health Services Act (MHSA) funds in the amount of \$65,956 to participate in the Statewide Prevention and Early Intervention (PEI) Project, for a total amount not to exceed \$65,956 through June 30, 2022.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 70,154–N.S. as revised by the city Manager in Supplemental Communications Packet #2.
- 17. Contract: 2022 Community Services Block Grant**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to accept the Community Services Block Grant (CSBG) Contract Number 22F-5001 for the amount of \$274,202 to provide services for low-income people for the period January 1, 2022 to May 31, 2023.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 70,155–N.S.

## Consent Calendar

- 18. Resolution Authorizing an Amendment to the Miscellaneous CalPERS Contract Pursuant to California Government Code 20516**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution revising Resolution No 70,081 N.S to initiate a process to amend the contract between the Board of Administration, California Public Employees' Retirement System and the City Council for the City of Berkeley pursuant to California Government Code 20516 to effectuate changes to the cost sharing agreement between the City and Unrepresented PEPRA members in the Unrepresented Employees Group.  
**Financial Implications:** See report  
 Contact: Donald E. Ellison, Human Resources, (510) 981-6800  
**Action:** Adopted Resolution No. 70,156–N.S.
- 19. Contract 32100185 Amendment: Digital Hands for Endpoint Detection and Response (EDR) Monitoring**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend contract number 32100185 with Digital Hands, for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM), increasing the previously authorized contract amount by \$381,137, for a total not to exceed amount of \$996,117 from December 15, 2021 to June 30, 2024.  
**Financial Implications:** IT Cost Allocation Fund - \$381,137  
 Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 70,157–N.S.
- 20. Contract: Alcor Solutions, Inc. for Managed Services and Upgrade Support of the ServiceNow Application**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Alcor Solutions, Inc. to provide managed support services and upgrade support for the ServiceNow application from July 1, 2022 to June 30, 2024 for an amount not-to-exceed \$300,000.  
**Financial Implications:** IT Cost Allocation Fund - \$300,000  
 Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 70,158–N.S.
- 21. Contract No. 31900197 Amendment: Accela, Inc. for Software Maintenance**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 31900197 with Accela, Inc., for software maintenance, increasing the amount by \$133,420 for a total not to exceed \$2,192,611 from December 12, 2011 to June 30, 2023.  
**Financial Implications:** Various Funds - \$133,420  
 Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 70,159–N.S.

## Consent Calendar

- 22. Contract No. 114159-1 Amendment: Tyler Technologies, Inc. for Professional Services and Computer Aided Dispatch (CAD) Software**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 114159-1 with Tyler Technologies, Inc. for additional professional services and an extension of the Computer Aided Dispatch (CAD) software, increasing the amount not-to-exceed by \$733,720 for a total contract value not-to-exceed \$2,288,950, and extending the term of the contract through June 30, 2024.  
**Financial Implications:** Various Funds - \$733,720  
 Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 70,160–N.S.
- 23. Donation: New Fencing for a Dog Park at Aquatic Park**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting a cash donation in the amount of \$26,566 to install fencing for a dog park at Aquatic Park.  
**Financial Implications:** See report  
 Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 70,161–N.S.
- 24. Contract: Cumming Management Group, Inc. for Project Management Services for the African American Holistic Resource Center**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a not-to-exceed \$900,000 contract with the Cumming Management Group, Inc. for project management services for the African American Holistic Resource Center (AAHRC) for a contract period of January 3, 2021 through June 30, 2025.  
**Financial Implications:** Various Funds - \$900,000  
 Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 70,162–N.S. revised to correct all instances of “January 3, 2021” to “January 3, 2022” in the report and resolution.
- 25. Contract: Get IT Tech – New Electronic Gate System at the Waterfront**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract with Get IT Tech to provide a new electronic gate system at the Waterfront in an amount not-to-exceed of \$100,000, which includes a contract amount of \$91,748.67 and a 9% contingency in the amount of \$8,251.33, rescinding Resolution No. 69,929-N.S.  
**Financial Implications:** Marina Fund - \$100,000  
 Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 70,163–N.S.

## Consent Calendar

**26. Contract: Best Contracting Services, Inc. for Fire Station No.3 Re-Roofing Project at 2710 Russell Street. Specification No. 20-11408**

**From: City Manager**

**Recommendation:** Adopt a Resolution:

1. Approving plans and specifications for the Fire Station No.3 Re-roofing Project, Specification No.20-11408;
2. Accepting the bid of Best Contracting Services, Inc. as the lowest responsive and responsible bidder; and
3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, for an amount not to exceed \$326,733.

**Financial Implications:** Capital Improvement Fund - \$326,733

Contact: Liam Garland, Public Works, (510) 981-6300

**Action:** Adopted Resolution No. 70,164–N.S.

**27. Purchase Order: Arata Equipment Company for one 18-yard Rear Loader**

**From: City Manager**

**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the city to participate in Sourcewell (formerly NJPA) bid procedures and authorize the City Manager to execute a purchase order for one 18-yard rear loader with Arata Equipment Company in an amount not to exceed \$345,000.

**Financial Implications:** General Fund - \$345,000

Contact: Liam Garland, Public Works, (510) 981-6300

**Action:** Adopted Resolution No. 70,165–N.S.

**28. Authorization for Additional Public Works Commission Meeting in 2021**

**From: Public Works Commission**

**Recommendation:** Adopt a Resolution authorizing one additional meeting of the Public Works Commission in 2021.

**Financial Implications:** None

Contact: Joe Enke, Commission Secretary, (510) 981-6300

**Action:** Adopted Resolution No. 70,166–N.S.

## Council Consent Items

- 29. Allocating Remainder of Berkeley Relief Fund**  
**From: Mayor Arreguin (Author), Councilmember Robinson (Co-Sponsor), and Councilmember Bartlett (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution accepting a \$28,142.38 payment from the East Bay Community Foundation of funds raised by the Berkeley Relief Fund and authorizing the City Manager to allocate these funds to the following:  
 \$10,000 to the Starry Plough Pub and Music Venue  
 \$18,142.38 to the Eviction Defense Center for the Housing Retention Program  
**Financial Implications:** Berkeley Relief Fund - \$28,142.38  
 Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Adopted Resolution No. 70,167–N.S.
- 30. Eleventh 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 Arreguin (Author), Councilmember Taplin (Co-Sponsor), Councilmember Bartlett (Co-Sponsor), and Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** 1. Adopt a Resolution co-sponsoring the 11th Annual Martin Luther King Jr. Celebration Breakfast on January 17, 2022.  
 2. Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$500 from Mayor Arreguin, to the Berkeley Rotary Endowment, the fiscal sponsor of the 11th 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 Arreguin and any other Councilmembers who would like to contribute.  
**Financial Implications:** See report  
 Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** 1. Adopted Resolution No. 70,168–N.S. (MLK Jr. Breakfast) 2. Adopted Resolution No. 70,169–N.S. (Expenditure) amended to include contributions from the following Councilmembers up to the amounts listed: Councilmember Harrison - \$250; Councilmember Wengraf - \$250; Councilmember Hahn - \$300; Councilmember Kesarwani - \$100; Councilmember Robinson - \$100.
- 31. Resolution in Support of Bay Adapt: Regional Strategy for a Rising Bay**  
**From: Mayor Arreguin (Author) and Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution in support of Bay Adapt: Regional Strategy for a Rising Bay.  
**Financial Implications:** See report  
 Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Councilmembers Harrison and Taplin added as co-sponsors. Adopted Resolution No. 70,170–N.S.

## Council Consent Items

- 32. Referral to the City Manager to Streamline Accessory Dwelling Unit (ADU) Permit Review and Approval** (*Reviewed by the Land Use, Housing and Economic Development Policy Committee*)  
**From: Councilmember Rashi Kesarwani (Author) and Councilmembers Susan Wengraf, Lori Droste, and Ben Bartlett (Co-Sponsors)**  
**Recommendation:** Refer to the City Manager to streamline the Accessory Dwelling Unit (ADU) permitting process in order to reduce staff time spent on review and enhance customer service. Further, assess effectiveness of process improvements specified below by reviewing over time: the number of ADUs permitted, average amount of staff time spent on ADU permit review, and permit fee levels. Recommend that the City Manager develop for Planning staff use an ADU Universal Checklist and accompanying user-friendly webpage:  
 ADU Universal Checklist. A clear set of universal guidelines and construction requirements should be developed among staff from Planning (both Land Use and Building and Safety Divisions), Fire, and Public Works Departments that is easy to follow in order to eliminate (or significantly reduce) the need for multiple departments to review ADU permit applications and for multiple rounds of review by the same department. The Universal Checklist should be a single document utilized by (1) all City staff to review ADU permit applications and (2) by customers to understand code requirements and development standards. The Universal Checklist should enable all City staff and customers to have the same clear understanding of all of the requirements that, if adhered to, would expedite the permitting process and lead to lower permit fees over time. *Progress To Date:* Recently, the City of Berkeley's Planning Department has added both a Single-Family ADU/JADU Checklist and a Multi-Family ADU Checklist which clearly delineate development standards as adopted by the State of California, effective January 1, 2020. An ADU Universal Checklist would take these checklists one step farther by including current amendments to Berkeley's local ADU ordinance (once adopted) as well as the full list of fire and safety code requirements.  
 Accompanying User-Friendly Webpage. As a companion to the ADU Universal Checklist, the City should also create a user-friendly webpage for customers (and prospective customers) with up-to-date information that provides clarity and greater certainty about the process and expected timeline for the creation of an ADU or Junior ADU, which is within a main dwelling unit.  
 At a minimum, the webpage should include: A list of relevant fees and expected payment amounts for permits, inspections, and other requirements; Plan requirements, worksheets, and projected timelines for each step of the process; and Consolidated up-to-date state and local regulations that are easy to understand. *Progress To Date:* The City now has a dedicated webpage that contains: A Graphic Summary; Table of our local ADU ordinance; An ADU flow-chart detailing allowable development standards; A Single-Family ADU/JADU Checklist; A Multi-Family ADU Checklist; Deed Restrictions Forms; A list of Impact Fees.  
 Additional information that could prove useful to prospective residents, builders and architects includes: Links to fire safety and emergency access requirements; A list of site conditions that do not warrant easy installation of an ADU; A list of Frequently Asked Questions; Additional frequently requested Planning and Development forms,

## Council Consent Items

such as our Tree Protection Instructions and Creek Protection Instructions forms, and our Public Works Engineering forms pertaining to Curbs, Gutters, Sidewalks and Driveway Approaches listed elsewhere on the City of Berkeley website; Information about financing options; and Links to additional resources, such as The Casita Coalition, an organization that disseminates information on policies and programs, best practices, and resources throughout the state.

Recommend that the City Manager consider adoption of the following two best practices: Pre-Approved ADU Design Plans. Consider development of (1) free ADU designs available to download--of varying sizes and styles--that already conform to all City and state requirements and safety codes; and/or (2) a list of vendors with architectural designs, construction drawings, or pre-fabricated units that have already been approved by the City.

ADU Ally. Consider creation of a single point of contact e-mail address dedicated to serving those interested in ADU construction, along the lines of an "ADU Ally." The ADU Ally would be a customer-facing staff person(s) who is an expert on all current state and local ADU regulations and acts as an ally to customers through the planning and building process. Currently, our Planning Department does have a team of planners with an expertise in ADU laws and requirements, although the public lacks an easy and efficient way to access this team.

*Policy Committee Recommendation: On November 4, 2021 the Land Use, Housing and Economic Development policy committee took the following action: M/S/C (Droste/Robinson) Qualified positive recommendation with direction for the item to be updated to include progress already made in this area as described by the Planning Director.*

**Financial Implications:** See report

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

**Action:** Approved recommendation.

### 33. **Budget Referral: Pedestrian Crossing Improvements at Ashby and Acton** **From: Councilmember Taplin (Author)**

**Recommendation:** That the City Council refers to the FY2023 budget process the funding of Rectangular Rapid Flashing Beacons (RRFB) at Ashby Avenue and Acton Street.

**Financial Implications:** See report

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

**Action:** Approved recommendation.

## Council Consent Items

- 34. Budget Referral: Russell Street Bicycle and Pedestrian Improvements**  
**From: Councilmember Taplin (Author)**  
**Recommendation:** That the City Council refers to the FY2023 budget process the funding of the following bicycle and pedestrian improvements along Russell Street:  
 Traffic Circle at Russell & King Street  
 Cycle Track Crossing at Russell & San Pablo Avenue  
 Pedestrian Hybrid Beacons at Russell & Sacramento Street  
**Financial Implications:** See report  
 Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Approved recommendation.
- 35. Commit the City of Berkeley to a Just Transition from the Fossil Fuel Economy**  
*(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee)*  
**From: Councilmember Taplin (Author), Councilmember Bartlett, Councilmember Hahn, and Mayor Arreguin (Co-Sponsors)**  
**Recommendation:** Adopt a resolution (1) committing the City of Berkeley to a Just Transition from the fossil fuel economy, that secures a livable future for all Berkeleyans, combats environmental racism, ensures access to good paying jobs, and cultivates economic and social prosperity for Berkeley in the 21st century and beyond and (2) requiring that all Council reports related to climate include a Just Transition section.  
*Policy Committee Recommendation: On June 2, 2021, the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee took the following action: M/S/C (Harrison/Robinson) to send the item to Council with a positive recommendation as submitted in the supplemental material and further revised to include a recommendation that all Council reports related to climate include a just transition section.*  
**Financial Implications:** None  
 Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Adopted Resolution No. 70,171–N.S. as revised by Councilmember Taplin in Supplemental Communications Packet #2, and further revised at the meeting to be renamed West and South Berkeley Green New Deal.
- 36. Reaffirming the City Council’s Endorsement of a Carbon Fee and Dividend**  
**From: Councilmember Taplin (Author)**  
**Recommendation:** Readopt Resolution No. 67,595–N.S urging the United States Congress to enact a national revenue-neutral carbon tax and send a copy of the resolution to Representative Barbara Lee, Senator Dianne Feinstein and Senator Alex Padilla urging them to take action.  
**Financial Implications:** None  
 Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Adopted Resolution No. 70,172–N.S.

## Council Consent Items

### 37. Health Care Facility Oversight

**From: Councilmember Bartlett (Author)**

**Recommendation:** Refer to the City Manager and the Community Health Commission an assessment of the breadth of regulatory control the City of Berkeley can exert on skilled nursing facilities, and create a process of accountability if complaints are found to be substantiated that threaten, or could potentially escalate to the point of threatening, the wellbeing of patients and/or violate federal, state, or local law; the business license of the offending facility will be suspended until the skilled nursing facility submits a report demonstrating rectification of the situation.

**Financial Implications:** See report

Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

**Action:** Councilmembers Harrison and Hahn added as co-sponsors. Approved recommendation.

### 38. Consideration of Expansion of Paid Parking to Support the Parking Meter Fund and Improved Pedestrian and Bicycle Facilities

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

**Recommendation:** 1. Refer to the City Manager and the Transportation Commission to consider the extension of paid metered parking to include all days of the week, paralleling the calendar for off-street parking garages.

2. Consider a pilot, phasing-in, and/or exempting certain areas, and conduct broad outreach to merchants, faith-based and other institutions and organizations, neighborhood groups, and others potentially supported or impacted by change.

3. Consider allocation of potential additional revenues to help offset losses to the Parking Meter Fund incurred during COVID. Once the Fund has recovered, consider allocations to support pedestrian and bicycle facilities to help achieve Berkeley's Climate Action and Vision Zero goals on an accelerated basis.

**Financial Implications:** See report

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

**Action:** Approved recommendation.

### 39. Letter to UC President Michael Drake in Support of Student Researchers United-UAW

**From: Councilmember Robinson (Author) and Councilmember Hahn (Co-Sponsor)**

**Recommendation:** Send a letter to UC President Drake and Provost Michael Brown in support of the full recognition of the Student Researchers United-UAW labor union.

**Financial Implications:** None

Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

**Action:** Councilmembers Harrison and Taplin added as co-sponsors. Approved recommendation.

## Council Consent Items

### 40. Support for H.R. 4194: The People's Response Act

**From: Councilmember Robinson (Author) and Councilmember Hahn (Co-Sponsor)**

**Recommendation:** Adopt a Resolution supporting H.R. 4194, the People's Response Act, which would create a Division of Community Safety and provide grants to local governments, state governments, and community-based organizations to support non-carceral approaches to public safety. Furthermore, send a letter of support to Representative Cori Bush, Representative Barbara Lee, Senator Alex Padilla, and Senator Dianne Feinstein.

**Financial Implications:** None

Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

**Action:** Adopted Resolution No. 70,173–N.S.

## Action Calendar

*The public may comment on each item listed on the agenda for action as the item is taken up. 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.*

*The Presiding Officer will request that persons wishing to speak use the "raise hand" function to determine the number of persons interested in speaking at that time. Up to ten (10) speakers 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.*

## Action Calendar – Public Hearings

*Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak use the "raise hand" function to be recognized and to determine the number of persons interested in speaking at that time.*

*Up to ten (10) speakers 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.*

*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

41. **Proposed Ordinance Rescinding Ordinance 7,788-N.S. and Amending Paragraph ‘NN’ of Berkeley Municipal Code Section 19.48.020 (“Amendments to the California Fire Code”) to Restore Language Which Existed Prior to October 26, 2021**

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, adopt the second reading of an Ordinance No. 7,791-N.S. which rescinds Ordinance 7,788-N.S. and modifies the language of Paragraph ‘NN.’ of Berkeley Municipal Code Section 19.48.020 (“Amendments to the California Fire Code”) by adopting a building standard which is more restrictive than that standard currently contained in the California Fire Code and restores language which existed prior to October 26, 2021.

**First Reading Vote:** All Ayes

**Financial Implications:** None

Contact: Abe Roman, Fire, (510) 981-3473

**Public Testimony:** The Mayor opened the public hearing. 8 speakers.

M/S/C (Arreguin/Robinson) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Wengraf) to adopt the second reading of Ordinance No. 7,791-N.S.

**Vote:** All Ayes.

42. **Public Hearing: Implement Residential Preferential Parking (RPP) Program on the 1600 Block of Lincoln Street**

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon its conclusion, adopt a Resolution amending Resolution No. 56,508-N.S. Section 25E by adding a subsection to implement Residential Preferential Parking (RPP) on both sides of the 1600 block of Lincoln Street in Area E.

**Financial Implications:** See report

Contact: Liam Garland, Public Works, (510) 981-6300

**Public Testimony:** The Mayor opened the public hearing. 1 speaker.

M/S/C (Arreguin/Robinson) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Bartlett) to adopt Resolution No. 70,174–N.S.

**Vote:** All Ayes.

## Action Calendar – Public Hearings

**43. Fees: Vital Records**

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution establishing a new fee schedule for Vital Records effective January 1, 2022 and rescinding Resolution No. 70,116-N.S. This fee adjustment is to become effective January 1, 2022 pursuant to Assembly Bill (AB) 128 (Chapter 21, Statutes of 2021), and Health & Safety (H&S) Codes, § 103627, 100425, 100430, and 100435.

**Financial Implications:** See report

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

**Public Testimony:** The Mayor opened the public hearing. 0 speakers.  
M/S/C (Arreguin/Wengraf) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Robinson) to adopt Resolution No. 70,175–N.S.

**Vote:** All Ayes.

Recess 8:10 p.m. – 8:21 p.m.

## Action Calendar – New Business

### 44. FY 2021 Year-End and FY 2022 First Quarter Budget Update

**From:** City Manager

**Recommendation:** Discuss and determine the funding allocations for FY 2022 based on the FY 2021 Excess Equity and Excess Property Transfer Tax for the following: 1) the General Fund Reserves 2) City Manager Budget Recommendations and 3) the Council Budget Referrals approved during FY 2022 to be considered in November 2021.

**Financial Implications:** See report

Contact: Rama Murty, Budget Office, (510) 981-7000

**Action:** M/S/C (Arreguin/Robinson) to accept supplemental material from the City Manager on Item 45.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Robinson) to suspend the rules and extend the meeting to 11:15 p.m. to complete Items 44 and 45; and to continue Items 46 and 47 to January 18, 2022.

**Vote:** All Ayes.

**Action:** 23 speakers. M/S/C (Arreguin/Kesarwani) to adopt the budget recommendations for excess equity as contained in the supplemental materials submitted at the meeting with the amendment that funding of the security cameras is conditioned on development and implementation of a Use Policy prior to deployment and Siting of Cameras in District 1, District 2 and District 8 locations as proposed by the Police Department and at 62nd & King (District 3). Policy will be adopted administratively and presented to the City Council as an off-agenda memo; repayment of the Workers Comp fund will be a top priority in the June budget process.

**Vote:** All Ayes.

## Action Calendar – New Business

**45. Amendment: FY 2022 Annual Appropriations Ordinance**

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance amending the FY 2022 Annual Appropriations Ordinance No. 7,779–N.S. for fiscal year 2022 based upon recommended re-appropriation of committed FY 2021 funding and other adjustments authorized since July 1, 2021, in the amount of \$177,309,914 (gross) and \$163,076,585 (net).

**Financial Implications:** See report

Contact: Rama Murty, Budget Office, (510) 981-7000

**Action:** 2 speakers. M/S/C (Arreguin/Robinson) to adopt first reading of Ordinance No. 7,795–N.S. as presented in the supplemental materials from the City Manager.

Second reading scheduled for January 18, 2021.

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Harrison, Droste.

Councilmember Harrison absent 11:10 p.m. – 11:13 p.m.

Councilmember Droste absent 11:10 p.m. – 11:13 p.m.

## Action Calendar – Public Hearings

**46. Response to City Council Action on October 26, 2021 regarding Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance**

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt the first reading of a local Accessory Dwelling Unit (ADU) Ordinance [Berkeley Municipal Code (BMC) Chapter 23.306] and amendments to relevant Defined Terms [BMC Chapter 23.502.020] in the Zoning Ordinance.

**Financial Implications:** None

Contact: Jordan Klein, Planning and Development, (510) 981-7400

**Action:** Item 46 continued to January 18, 2022 including supplemental material from Councilmember Kesarwani.

**47. Response to City Council Action on October 26, 2021 regarding Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns**

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt the first reading of a local Ordinance enacting Chapter 12.99 (Accessory Dwelling Units in Wildfire Hazard Areas) Accessory, and amending (BMC) Chapter 23.306.

**Financial Implications:** None

Contact: Jordan Klein, Planning and Development, (510) 981-7400

**Action:** Item 47 continued to January 18, 2022 including supplemental material from the City Manager.

## Action Calendar – New Business

### 48. Ratification of Police Accountability Board’s Standing Rules

**From:** Police Accountability Board

**Recommendation:** Review and approve Standing Rules of the Police Accountability Board.

**Financial Implications:** None

Contact: Katherine Lee, Interim Director of Police Accountability, (510) 981-4950

**Action:** Moved to Consent Calendar. Referred the item to the Police Accountability Board with the revisions submitted at the meeting by Mayor Arreguin.

## Information Reports

### 49. City of Berkeley, State Tobacco Prevention Program (STPP) Overview

**From:** City Manager

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda** - 0 speakers.

## Adjournment

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

**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Harrison, Droste.

Adjourned at 11:13 p.m.

## Communications – December 14, 2021

*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.*

### **Item #41: Proposed Ordinance Rescinding Ordinance 7,788-N.S. and Amending Paragraph ‘NN’ of Berkeley Municipal Code Section 19.48.020 (“Amendments to the California Fire Code”) to Restore Language Which Existed Prior to October 26, 2021**

1. Patricia Hart and Hans Stahlschmidt

### **Support the Berkeley Plastic Bag Ordinance**

2. 30 similarly-worded form letters

### **Solano-Peralta Park**

3. Amber Turley
4. Carol Hirth

5. Alyse Jacobson
6. Holly Smith
7. Csilla Kenny
8. Finn Michaelson
9. Mary Foretich
10. Kim Thompson
11. Janice Murota
12. Cherilyn Parsons
13. Jason Gardner & Maureen Phelan

**Tenant Opportunity to Purchase Act (TOPA)**

- 14.4 similarly-worded form letters

**Free Speech**

15. Nilang Gor

**Alta Bates Hospital**

16. Praveen Soo, Chair of the Human Welfare Community Action Commission

**Crime Suppression Unit**

17. Diana Bohn

**Fee Parking at Marina**

18. Nancy Bartell

**Traffic Safety Enforcement**

19. Keith Nickolaus

**Hopkins Street Traffic and Placemaking Study**

20. Ben, Karen, Chuck, and Liza on behalf of Walk Bike Berkeley
21. Barbara Fritz

**Housing & Absentee Investors**

22. V. Sommer

**Happy Thanksgiving**

23. Dirk Neyhart

**Leonard Powell**

24. Diana Bohn

**No masks**

25. David Lerman

**Elmwood Parking**

26. Dona Bretherick

**Pilot for Transportation Dept.**

27. Sheila Goldmacher

**GoBerkeley SmartSpace Parking Pilot**

28. Jean H.

**Banning Gendered Language**

29. Jo Foley

**Rapid Rehousing Funding**

30. Diana Bohn

**November Newsletter**

31. Eden I&R

**East Bay Community Energy**

32. Board of Directors Agenda

**Climate Change**

33. Thomas Lord

**Housing Crisis**

34. JE

**Supplemental Communications and Reports 1**

**Item #44: FY 2021 Year-End and FY 2022 First Quarter Budget Update**

35. Revised material, submitted by City Manager

36. Elizabeth Dillon

37. Catherine Betts

38. Joshua Miller

39. Leslie Roulias

40. Rachel Gold

41. Norman Gold

42. Mari Vlastos

43. Brick Conway

44. Liz Grubin

45. EJ Holowicki

46. Simona Nass

47. Niccole Blanchet

48. Jessica Jennings

49. Phoebe Tussey

**Item #45: Amendment: FY 2022 Annual Appropriations Ordinance**

50. Joe Rapoza

- 51. Julia Goodman
- 52. Tanya Stiller
- 53. Michael Rodriguez
- 54. Susan Black
- 55. Regina Fletcher
- 56. 20 similarly-worded form letters

## **Supplemental Communications and Reports 2**

### **Item #16: Contract: Statewide and Early Intervention Project Participation Agreement – California Mental Health Services Authority**

- 57. Supplemental material, submitted by Health, Housing and Community Services Department

### **Item #35: Commit the City of Berkeley to a Just Transition from the Fossil Fuel Economy**

- 58. Supplemental material, submitted by Councilmember Taplin

### **Item #41: Proposed Ordinance Rescinding Ordinance 7,788-N.S. and Amending Paragraph ‘NN’ of Berkeley Municipal Code Section 19.48.020 (“Amendments to the California Fire Code”) to Restore Language Which Existed Prior to October 26, 2021**

- 59. Christina Bucey, Greenfire Law, PC

### **Item #44: FY 2021 Year-End and FY 2022 First Quarter Budget Update**

- 60. Revised material, submitted by the City Manager’s Office
- 61. Supplemental material, submitted by the Mayor
- 62. Angie Garling
- 63. Sheridan Pauker
- 64. Alfred Twu
- 65. Homeless Commission
- 66. Nathan Tsuizaki
- 67. Jason Spangenthal
- 68. Amy Petersen
- 69. Timothy Burroughs
- 70. Paku Khan
- 71. Chizu Hamada
- 72. Phyllis Stowell
- 73. Ben Werner
- 74. Carolyn Werner
- 75. Shelley Golomb
- 76. John Sterns
- 77. Jacalyn Thompson
- 78. Beth Rhine

**Item #45: Amendment: FY 2022 Annual Appropriations Ordinance**

- 79. 14 similarly-worded form letters
- 80. Brian LaFranchi
- 81. Frances Haselsteiner
- 82. Lauren Salvo
- 83. Sam Kang

**Item #46: Response to City Council Action on October 26, 2021 regarding Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance**

- 84. Supplemental material, submitted by Councilmember Kesarwani
- 85. Debra Sanderson

**Item #47: Response to City Council Action on October 26, 2021 regarding Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns**

- 86. Revised material, submitted by Planning and Development Department

**Supplemental Communications and Reports 3**

**Item #7: City of Berkeley's 2022 State and Federal Legislative Platform**

- 87. Supplemental material, submitted by the Mayor

**Item #44: FY 2021 Year-End and FY 2022 First Quarter Budget Update**

- 88. Paul Preston
- 89. David Williamson
- 90. Laurie Nardinelli
- 91. Andrea Mullarkey
- 92. Leah Zoller
- 93. Kira Deutch
- 94. Mary Zernicke
- 95. Ira Serkes
- 96. Dennis Weikel
- 97. Pat Hill
- 98. Stephen Jahn
- 99. Yuri Murphy
- 100. Kathryn Murphy
- 101. Frances Haselsteiner
- 102. Jane Scantlebury
- 103. Robbin Henderson
- 104. William Springer
- 105. Allie Pape
- 106. Elisa Mikiten
- 107. Angad Bhalla
- 108. Akiko Minaga
- 109. Jen Antonuccio
- 110. Michael Dillingham

111. Doug Woos
112. Linda Franklin (3)
113. Tonette Vazquez
114. Igor Tregub, on behalf of the Sierra Club
115. Holly Scheider
116. Terri Saul
117. Alfred Twu
118. Mark Misoshnik
119. Zoe Stahl
120. Kasey Harboe
121. Beth Auclair
122. Izzy Meckler
123. Kathy Dervin, on behalf of 350 East Bay
124. Anita Ayers
125. Juli Dickey
126. Tome Luce

**Item #45: Amendment: FY 2022 Annual Appropriations Ordinance**

127. Revised material, submitted by the City Manager's Office
128. Michelle Schurig
129. Carol Cho
130. Debra and David Summers
131. Greg Martin
132. Arabelle Mailinis
133. hakiah@

**Item #47: Response to City Council Action on October 26, 2021 regarding Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns**

134. Steven Segal
135. Lisa Goodman
136. Robert Sonderegger and Joanna Moss
137. George Porter
138. Robert Sonderegger
139. Catherine Lazio

**Item #48: Ratification of Police Accountability Board's Standing Rules**

140. Supplemental material, submitted by the Mayor

**Miscellaneous**

141. Presentation on Homeless Response Team, submitted by the City Manager



**SUPPLEMENTAL  
AGENDA MATERIAL  
For Supplemental Packet 2**

**Meeting Date:** December 14, 2021

**Item Number:** 35

**Item Description:** Resolution Committing the City of Berkeley to a Just Transition from Fossil Fuels and the Creation of a West Berkeley Green New Deal

**Submitted by:** Councilmember Taplin

Amendment would make the following additions to the referral:

- Change in title
- Addition of recommendations for future Just Transition policies
- Formatting changes



CONSENT CALENDAR

December 14, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin (Author), Councilmember Ben Bartlett, Councilmember Sophie Hahn, and Mayor Jesse Arreguín (Co-Sponsors)

Subject: Resolution Committing the City of Berkeley to a Just Transition from Fossil Fuels and the Creation of a West Berkeley Green New Deal~~Commit the City of Berkeley to a Just Transition from the Fossil Fuel Economy~~

RECOMMENDATION

Adopt a resolution committing the City of Berkeley to a Just Transition from the fossil fuel economy and establishing a West Berkeley Green New Deal; that secures a livable future for all Berkeleyans, combats environmental racism, ensures access to good paying jobs, and cultivates economic and social prosperity for Berkeley in the 21st century and beyond.

POLICY COMMITTEE RECOMMENDATION

On June 2, 2021, the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee took the following action: M/S/C (Harrison/Robinson) to send the item to Council with a positive recommendation as submitted in the supplemental material and further revised to include a recommendation that all Council reports related to climate include a just transition section.

BACKGROUND

**Climate Change is Here**

At this moment, our atmosphere has a higher concentration of carbon dioxide than ever before in human history. This concentration, and the fossil fuel emissions that have caused it, is rapidly making our planet into a hotter and more volatile place for all of its inhabitants. Estimates of the degree of warming that we can expect over the course of the next century vary and are contingent on how policymakers respond to the growing threat in the next decade. Still, there is enormous consensus that a certain amount of warming is inevitable and that rising sea levels, higher frequency of extreme weather events, declining public health, and economic volatility will certainly follow. With estimates ranging from increases in temperature between 1.4 and 5.8 degrees Celsius

by 2100, global warming will have severe impacts at even the most modest of estimates.<sup>1</sup>

Here in the Bay Area, we are already seeing a wide range of impacts including more extreme El Niño seasons some years, dramatic droughts in other years, a decline in coastal fog, 8 inches of sea-level rise, and more intense fire seasons in the rest of the state which have regularly brought smoke and ash to Berkeley.<sup>2</sup> Just this year, Berkeley's Echo Lake Camp near Lake Tahoe narrowly escaped the ravaging impacts of the Caldor Fire that burned 221,775 acres in the Lake Tahoe area. This year also marked the 30th anniversary of the Oakland firestorm of 1991, which took 25 lives and remains a dark memory for many who have lived in the East Bay their whole lives. Even though the Berkeley hills have avoided cataclysmic events in recent years, the Oakland firestorm reminds us of the real dangers in our backyard. These effects, which are already impossible to ignore, are just the beginning. The future will bring deeper and longer droughts, unreliable precipitation, an overall increase in temperature, and as much as 3 meters of sea-level rise by 2100.<sup>3</sup> On top of the weather and climate-related impacts, projections paint a grim picture for national economies under extreme warming scenarios. The reach of global warming will leave no stone unturned, with consequences for agriculture, trade, and industry internationally and at the national and local levels. At the national level, estimates currently project -0.1 to 1.7% GDP loss at 1.5 degrees Celsius of warming, 1.5 to 5.6% loss at 4 degrees, and 6.4 to 15.7% loss at 8 degrees.<sup>4</sup> All who call Berkeley and the Bay Area home are feeling the early impacts of climate change and will continue to be affected as warming intensifies, but not all effects are felt equally across demographic groups.

### **Unequal Impacts: Environmental Racism and Economic Dangers**

Poor Americans and people of color have always had a relationship with their environments characterized by poor health and unique exposures to environmental hazards and extreme weather conditions, often in ways designed and perpetuated by government policies that seek to segregate and discriminate against people of color. As the effects of climate change intensify in the coming decades, this relationship will only be exacerbated as extreme weather, declining public health, and economic devastation disproportionately harm poor Americans and drag more and more into poverty. As the economy takes on damage, the unemployment rate will rise and bring the poverty rate

<sup>1</sup> <https://www.nature.com/articles/nature04188>

<sup>2</sup> [https://www.energy.ca.gov/sites/default/files/2019-11/Reg\\_Report-SUM-CCCA4-2018-005\\_SanFranciscoBayArea\\_ADA.pdf](https://www.energy.ca.gov/sites/default/files/2019-11/Reg_Report-SUM-CCCA4-2018-005_SanFranciscoBayArea_ADA.pdf)

<sup>3</sup> [https://www.energy.ca.gov/sites/default/files/2019-11/Reg\\_Report-SUM-CCCA4-2018-005\\_SanFranciscoBayArea\\_ADA.pdf](https://www.energy.ca.gov/sites/default/files/2019-11/Reg_Report-SUM-CCCA4-2018-005_SanFranciscoBayArea_ADA.pdf)

<sup>4</sup> <https://science.sciencemag.org/content/356/6345/1362>

up with it.<sup>5</sup> Economic damage at the scale of climate change will subject millions more to the poor health, extreme weather vulnerabilities, and general ruin that is all but guaranteed for those who enter the coming decades already in impoverished conditions.

Climate justice is inextricably linked to racial justice and housing justice. To illustrate just one facet of this, Hoffman et al (2020) find that “94% of 108 urban regions in the United States display consistent city-scale patterns of elevated land surface temperatures in formerly redlined areas relative to their non-redlined neighbors by as much as 7 degrees Celsius...Nationally, land surface temperatures in redlined areas are approximately 2.6 degrees Celsius warmer than in non-redlined areas.”<sup>6</sup> As heat waves intensify, low income neighborhoods and communities of color subjected to legacies of racial segregation will bear the worst impacts due to well-documented disparities of urban heat island effects. Surveying neighborhoods in Baltimore, Dallas, and Kansas City, Wilson (2020) also finds: “Areas of these cities that were targeted for systematic disinvestment in the past have higher mean land surface temperatures than those that received more favorable ratings. Poor and minority residents are also overrepresented in formerly redlined areas in each of the three study cities.”<sup>7</sup>

The disparate impacts of extreme weather between racial and economic groups have been repeatedly demonstrated in recent history, with dire warnings for Berkeley’s approach to climate resilience. In the summer of 1995, a year when global temperatures had already increased by nearly half a degree Celsius above pre-industrial levels, Chicago, Illinois was hit by a record-breaking heat wave.<sup>8</sup> “Temperatures reached 106 degrees; the heat index, or experienced heat, climbed to 120 degrees; uncommonly ‘high lows’ (daily low temperatures that were themselves dangerously high), sparse cloud cover, and a dearth of cooling winds kept the city broiling, without relief, for a full week”<sup>9</sup>. After a week of intense heat, “medical examiners confirmed that over five-hundred Chicagoans had died directly from the heat, public health workers reported over seven-hundred deaths in excess of the weekly average, and hospitals registered thousands of visits for weather-related problems”<sup>10</sup>. The entire Chicago area felt the 1995 heat wave, but the effects of this extreme weather event were not leveled evenly across the entire area of the event. It was reported very quickly during and after the event that the victims of the heat wave were mostly elderly, poor, and Black<sup>11</sup>. The more

<sup>5</sup> <https://www.aeaweb.org/articles?id=10.1257/089533006776526102>

<sup>6</sup> Hoffman, J. S., Shandas, V., & Pendleton, N. (2020). The effects of historical housing policies on resident exposure to intra-urban heat: a study of 108 US urban areas. *Climate*, 8(1), 12.

<sup>7</sup> Wilson, B. (2020). Urban heat management and the legacy of redlining. *Journal of the American Planning Association*, 86(4), 443-457.

<sup>8</sup> <https://link.springer.com/article/10.1023/A:1006995507723>

<sup>9</sup> <https://link.springer.com/article/10.1023/A:1006995507723>

<sup>10</sup> <https://link.springer.com/article/10.1023/A:1006995507723>

<sup>11</sup> <https://journals.sagepub.com/doi/abs/10.1177/000312240607100407?>

fragile health of the elderly makes the raised vulnerability of older residents of Chicago less of a surprise, but the disproportionately poor and Black victimhood during this disaster further demonstrates the incredible exposure these groups have during extreme weather events.

The unequal effects of the 1995 heat wave in Chicago were neither wholly natural nor apolitical despite occurring in the early years of global climate change. The disproportionate victimhood of poor people of color in this case occurred as a result of political decisions. On top of the financial conditions that limit healthcare access and quality air-conditioning in the homes of the groups that ended up most vulnerable to the heat wave, the Chicago and Illinois government also acted in ways that led to an excess of deaths among elderly, poor, and Black residents during the heat crisis. The Chicago Police Department's own senior assistance unit was neglected to be activated at all and the Department of Human Services failed to contact isolated seniors or transport them to any of the few public cooling centers that the city erected.<sup>12</sup> State and local governments have demonstrated both a lack of preparedness for extreme weather events and a bias against poor people and people of color in the few preparation policies they do have. Governments can learn from their mistakes, but they must do so in a way that moves faster than escalating global warming. The impacts of environmental racism and the unique relationship between poverty and ecological hazards has continued to this day and will continue under more and more extreme climate change. Chicago's 1995 heat wave is just one example among many demonstrating the ways in which climate change has already begun to exacerbate poverty and racism in the United States.

Beyond the unique vulnerability of people of color and the poor to climate change, the deeply embedded nature of fossil fuels in our economy means that the jobs of many in Berkeley are dependent on carbon-emitting industries. While Berkeley may not be home to any coal mines, oil refineries, or other industries widely associated with climate change, Berkeley's economy is no less reliant on fossil fuel extraction and combustion. Transitioning off of fossil fuels will inevitably mean existing jobs and businesses will have to radically change or cease to exist at all. Berkeley's transition must take into account the economic consequences of all of its climate initiatives, not to stifle what the City must do to curb climate change, but to ensure that the workers most proximate to those economic consequences are supported as we rework our economy for a carbon neutral world. The transition off of fossil fuels can ignore the economic realities of the dramatic changes that are necessary to fight warming no more than it can ignore the unequal threat that climate change poses to the poor and people of color.

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<sup>12</sup> <https://link.springer.com/article/10.1023/A:1006995507723>

On a broader scale, studies indicate that a national transition to a 100%-renewable energy sector would likely result in the loss of around 3.9 million jobs while creating 5.9 million jobs.<sup>13</sup> Exact job loss and gain forecasts in Berkeley are unknown, but it stands to reason that the job impacts will be comparable to the national figures if the transition is done proactively. The net gain in employment opportunities from the fossil fuel transition provides an optimistic vision for the transition, but does not mean that the road to net-zero will be easy. Not every lost job will be immediately accompanied by the creation of a new job, nor is it guaranteed that those who lose their job will automatically be offered employment in newly created industries or that those new jobs will offer the same wages and benefits as the jobs that are lost. Governments, including the City of Berkeley, must play an active role in ensuring that their transitions provide a net-gain in quality, good-paying jobs and that those who lose their job to the transition are prioritized for newly created jobs. Job losses are not a reason not to transition off of fossil fuels. To secure a prosperous future and save millions of lives, the transition must continue at an aggressive pace. Reckoning with future job losses, however, will help ensure that those losses are overshadowed by the benefits of the transition and that an ample supply of new jobs are available for all.

Governments have a small window that they can and should take advantage of to justly transition their economies, industries, and infrastructures to net-zero carbon emissions. This is the bare minimum, and will only stop the most extreme levels of climate change towards the end of this century. A properly planned and justly executed transition should stand to be an economic opportunity for Berkeley rather than an economic downturn. Berkeley must recognize what is coming, and the unique vulnerabilities of people of color and the poor, and enact policies to mitigate damages to these communities from warming and the transition to carbon neutrality.

### ***The Green New Deal***

Congresswoman Alexandria Ocasio-Cortez's House Resolution recognizing the duty of the federal government to create a Green New Deal calls for a fair and just transition for all communities and workers to achieve net-zero greenhouse gas emissions and the creation of millions of high-wage union jobs to ensure prosperity and economic opportunity.<sup>14</sup> It also calls for investments in infrastructure and 21st century industry to secure resilience for generations to come, the spurring of massive growth in clean manufacturing, and the remediation of hazardous and abandoned sites to ensure economic development and sustainability on said sites.

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<sup>13</sup> <http://web.stanford.edu/group/efmh/jacobson/Articles/I/USStatesVWS.pdf>

<sup>14</sup> <https://www.congress.gov/bill/116th-congress/house-resolution/109/text>

The success of the Green New Deal hinges on the Just Transition and close partnership and consultation with front line and vulnerable communities, indigenous peoples, labor unions, worker cooperatives, business leaders, academia, civil society groups, and climate justice activists to prevent further harm to vulnerable and frontline communities, curtail the reliance of persons in our communities on the benefits of fossil fuel jobs, and mobilize the Green New Deal at the Local Level.

Here in Berkeley we are well positioned to model a Just Transition towards a regenerative green economy. The West Berkeley Plan has been the foundation for the City's industrial land use and economic development policies. West Berkeley has long been a major center for jobs and remains an economic driver in the region. However, due to the history of redlining and environmental racism, adverse health impacts of proximity to I-80 and polluting industries have disproportionately impacted the low income and families of color who have called this part of the city home. Sites such as Pacific Steel have shut down, taking their jobs with them and leaving behind acres of contaminated soil and health disparities in their wake.

When the West Berkeley Plan was created, numerous stakeholders including the faith community, environmentalists, labor leaders, neighborhood organizations, business leaders and more came together to articulate a collective vision to guide the future of growth. The time has come for us to return to this work under the guiding principles of equity, sustainability, and climate justice in the pursuit of a Green New Deal for West Berkeley.

### **What is a Just Transition?**

At varying levels, the consumption of fossil fuels is immersed in every aspect of daily life in modern society. Shifting our entire way of life towards carbon-neutrality will require significantly more than changing our energy sources to renewables. The truly comprehensive embeddedness of fossil fuels in our lives means that achieving net-zero fossil fuel emissions within just a few decades will be difficult, but not necessarily equally difficult for everyone.

Due to historic discrimination, impoverishment, and proximity to environmental hazards, people of color and poor people are disproportionately vulnerable to the impacts of climate change. In rebuilding our economy, policymakers at every level must be intentional in ensuring that the fossil-free economy of the future does not reproduce the same inequities and societal harms of today. There are wrong ways to fight the climate crisis. Governments can achieve net-zero emissions in such a way that enriches those who profited off of fossil fuel extraction and consumption and protects the already well-

off from warming while abandoning the historically disadvantaged to the ravages of extreme weather and economic chaos. The transition away from fossil fuels must ensure that the vulnerable in our society are protected from both the turbulence of restructuring our entire economy and the effects of global warming that are already set in stone. “After centuries of global plunder, the profit-driven industrial economy rooted in patriarchy and white supremacy is severely undermining the life support systems of the planet. Transition is inevitable. Justice is not.”<sup>15</sup> The environmental justice movement calls this approach to the climate crisis a “Just Transition.”

The Climate Justice Alliance, a climate organization at the forefront of the fight for a Just Transition, lays out the following Just Transition principles:

### **A Just Transition moves us toward Buen Vivir**

Buen Vivir means that we can live well without living better at the expense of others. Workers, community residents, women and Indigenous Peoples around the world have a fundamental human right to clean, healthy and adequate air, water, land, food, education and shelter. We must have just relationships with each other and with the natural world, of which we are a part. The rights of peoples, communities and nature must supersede the rights of the individual.

### **A Just Transition creates Meaningful Work**

A Just Transition centers on the development of human potential, creating opportunities for people to learn, grow, and develop to their full capacities and interests. We are all born leaders, and a regenerative economy supports and nurtures that leadership. In the process, we are transforming ourselves, each other, our communities, and our society as a whole. Meaningful work is life-affirming.

### **A Just Transition upholds Self Determination**

All peoples have the right to participate in decisions that impact their lives. This requires democratic governance in our communities, including our workplaces. Communities must have the power to shape their economies, as producers, as consumers, and in our relationships with each other. Not only do we have the right to self determination, but self determination is one of our greatest tools to realize the world we need. The people who are most affected by the extractive economy — the frontline workers and the frontline communities — have the resilience and expertise to be in the leadership of crafting solutions.

### **A Just Transition equitably redistributes Resources and Power**

We must work to build new systems that are good for all people, and not just a few. Just Transition must actively work against and transform current and historic social inequities based on race, class, gender, immigrant status and other forms of oppression. Just Transition fights to reclaim capital and resources for the regeneration of geographies and sectors of the economy where these inequities are most pervasive.

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<sup>15</sup> [https://climatejusticealliance.org/wp-content/uploads/2018/06/CJA\\_JustTransition\\_Principles\\_final\\_hi-rez.pdf](https://climatejusticealliance.org/wp-content/uploads/2018/06/CJA_JustTransition_Principles_final_hi-rez.pdf)

### **A Just Transition requires Regenerative Ecological Economics**

Just Transition must advance ecological resilience, reduce resource consumption, restore biodiversity and traditional ways of life, and undermine extractive economies, including capitalism, that erode the ecological basis of our collective well-being. This requires a re-localization and democratization of primary production and consumption by building up local food systems, local clean energy, and smallscale production that are sustainable economically and ecologically. This also means producing to live well without living better at the expense of others.

### **A Just Transition retains Culture and Tradition**

Capitalism has forced many communities to sacrifice culture and tradition for economic survival. It has also defaced and destroyed land held as sacred. Just Transition must create inclusionary spaces for all traditions and cultures, recognizing them as integral to a healthy and vibrant economy. It should also make reparations for land that has been stolen and/or destroyed by capitalism, colonialism, patriarchy, genocide and slavery.

### **A Just Transition embodies Local, Regional, National and International Solidarity**

A Just Transition must be liberatory and transformative. The impacts of the extractive economy knows no borders. We recognize the interconnectedness of our communities as well as our issues. Therefore, our solutions call for local, regional, national and global solidarity that confronts imperialism and militarism.

### **A Just Transition builds What We Need Now**

We must build the world we need now. This may begin at a local small scale, and must expand to begin to displace extractive practices. We must build and flex the muscles needed to meet our communities' needs.<sup>16</sup>

Embarking on a Just Transition would make Berkeley a leader on climate action done right, but existing Just Transition examples from around the world can provide much guidance. In Poland, a 75% decline in coal mining jobs was coupled by a mining social package and special privileges for mining communes. Canada's efforts to phase out coal-powered electricity have been accompanied by a national stakeholder task force that has travelled the country to hear from Canadians on how to justly shepherd the transition. Egypt's fuel price increases were paired with minimum wage boosts, food stipends, and progressive taxation.<sup>17</sup>

#### **Climate Action Plan and Policies to Date**

In 2006, Berkeley voters issued a call to action on the climate change challenge by overwhelmingly endorsing ballot Measure G: Reduce our entire community's greenhouse gas emissions by 80% below 2000 levels by 2050. The Berkeley Climate Action Plan was written through a community-wide process and was adopted by City Council on June 2, 2009.

<sup>16</sup> [https://climatejusticealliance.org/wp-content/uploads/2018/06/CJA\\_JustTransition\\_Principles\\_final\\_hi-rez.pdf](https://climatejusticealliance.org/wp-content/uploads/2018/06/CJA_JustTransition_Principles_final_hi-rez.pdf)

<sup>17</sup> <https://www.iisd.org/articles/just-transition-examples>

On June 12, 2018, City Council adopted a resolution<sup>18</sup> establishing the goal of becoming a Fossil Fuel-Free city. On June 12, 2018, City Council adopted a Climate Emergency Declaration.<sup>19</sup> On May 11, 2021, City Council adopted a resolution to commit to the C40 Race to Zero Campaign, including a commitment to reaching net-zero emissions in 2045 or sooner.

### CALeVIP

East Bay Community Energy (EBCE) is making electric vehicle charging more accessible in Alameda County through a partnership with the California Electric Vehicle Infrastructure Project (CALeVIP). Funded by the California Energy Commission and implemented by the Center for Sustainable Energy (CSE), the project promotes access to electric vehicle (EV) charging infrastructure by providing rebates for Level 2 (L2) and DC Fast Chargers (DCFC) for businesses and property owners, with additional rebates available for disadvantaged and low-income communities.<sup>20</sup>

### West Berkeley Plan

Adopted in 1993, the West Berkeley Plan establishes land use patterns and aspirational policy goals for Berkeley's industrial job center and surrounding residential areas. Given its concentration of manufacturing and Research & Development, updating this plan will be central to meeting Berkeley's climate action goals.

Using granular data from the 1980 census, the West Berkeley Plan reported that employees in this area were 30% more likely to drive alone to work than in other parts of the city. Reducing single-occupancy automobile trips, encouraging workforce housing closer to jobs and promoting more public transit use has been central to the Plan's goals for decades, but several policies outlined in the Plan were either not adopted or are anachronistic given current policies.

The Plan correctly notes that the larger share of workers who do not live in the community will result in increased traffic congestion. Pursuant to SB 743, the state now mandates that California jurisdictions can no longer use automobile delay – commonly measured by Level of Service (LOS) – in transportation analysis under the California Environmental Quality Act (CEQA). The State has issued guidelines calling for the use

<sup>18</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/06\\_June/Documents/06-12\\_Annotated\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/06_June/Documents/06-12_Annotated_Agenda.aspx)

<sup>19</sup> [chrome-extension://efaidnbnmnibpcjpcglclefindmkaj/viewer.html?pdfurl=https%3A%2F%2Fwww.cityofberkeley.info%2FuploadedFiles%2FCouncil\\_2%2FLevel\\_3\\_-\\_General%2FClimate%2520Emergency%2520Declaration%2520-%2520Adopted%252012%2520June%25202018%2520-%2520BCC.pdf&clen=424348](chrome-extension://efaidnbnmnibpcjpcglclefindmkaj/viewer.html?pdfurl=https%3A%2F%2Fwww.cityofberkeley.info%2FuploadedFiles%2FCouncil_2%2FLevel_3_-_General%2FClimate%2520Emergency%2520Declaration%2520-%2520Adopted%252012%2520June%25202018%2520-%2520BCC.pdf&clen=424348)

<sup>20</sup> <https://ebce.org/drive-electric-business/>

of a broader measure called Vehicle Miles Traveled (VMT), which measures the total amount of driving over a given area. These changes became mandatory on July 1, 2020.

The West Berkeley Plan's transportation section<sup>21</sup> is outdated in its use of LOS, but it does caution that "LOS is a moving target" because "drivers are continually seeking uncongested routes."

Indeed, the Plan was prescient in calling for a VMT reduction in its policy goals. Policy 1.1 of the transportation section states: "Seek trip reduction--reduction of single occupant automobile trips--through a variety of education and regulatory efforts including implementation of a City of Berkeley Trip Reduction Ordinance, cooperation with the Air Quality Management District's transportation control measures, conditions on development and other mechanisms." While a Trip Reduction Ordinance does not exist, SB 743 now makes VMT reduction one of the default "conditions on development" for certification of Environmental Impact Reports.

The City Council has recently adopted policies that are consistent with the West Berkeley Plan's policy goals. Policy 5.1 states: "Adopt and implement a revised Truck Route Ordinance." On October 12, 2021, the City Council adopted an Ordinance "Amending BMC Section 14.56.070 for 3-Ton Commercial Truck Weight Limit on Berkeley's Bicycle Boulevards and on At-Risk West Berkeley Residential Streets."<sup>22</sup>

By committing to a Green New Deal framework, the City can establish climate justice and equity parameters for future revisions of the West Berkeley Plan.

### **Potential policy directives for a Just Transition**

Policies aimed at resource redistribution and infrastructure investment to eliminate carbon emissions should be calibrated to maximize carbon reduction for funds allocated to support a Just Transition.

#### Reducing car use

According to the Climate Action Plan 2020 Update staff report, Berkeley has made significant progress in reducing greenhouse gas emissions since 2000, but more progress is needed: "The residential sector decreased electricity usage by 20% and natural gas usage by 26%, and the commercial and industrial sectors decreased electricity usage by 32% and natural gas usage by 2%...Transportation accounts for

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<sup>21</sup> [https://www.cityofberkeley.info/Planning\\_and\\_Development/Home/West\\_Berkeley\\_-\\_Transportation.aspx](https://www.cityofberkeley.info/Planning_and_Development/Home/West_Berkeley_-_Transportation.aspx)

<sup>22</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/10\\_Oct/Documents/2021-10-12\\_Item\\_02\\_Amending\\_BMC\\_Section\\_14\\_56\\_070.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/10_Oct/Documents/2021-10-12_Item_02_Amending_BMC_Section_14_56_070.aspx)

59% of Berkeley's total 2018 GHG inventory. This is the largest sector of GHG emissions and the most challenging to tackle."<sup>23</sup>

Electrifying the car and truck fleet is critical to reducing emissions, but even with aggressive vehicle electrification, we will not come close to meeting the 2045 net-zero goal. Changing out our entire vehicle fleet will take decades. Auto manufacturers are not even planning on having full electric lines until 2035<sup>24</sup> and the most aggressive state and federal plans are on similar timetables<sup>25</sup>. The vast majority of the vehicles on the road will be gas powered far beyond 2030.<sup>26</sup> Additionally, electric cars and trucks continue to produce particulate emissions, deteriorate our already vulnerable roads, lead to congestion, and critically, injure and kill Berkeley residents just as frequently as gas powered vehicles do. Only by reducing car use, regardless of fuel source, can Berkeley meet its many goals of becoming a safer and healthier city.

Berkeley can help its residents reduce their dependence on car trips through a three pronged approach of

- a) building infill housing to reduce distances that residents need to travel to meet their needs,
- b) building a network of pedestrian and micromobility infrastructure throughout the city with safe bike lanes and crossings and secure storage in neighborhoods and destinations and
- c) affordable access to e-bikes and other microbilty technology options.

*Infill housing:* Because urban core areas such as Berkeley present major opportunities for households to meet their needs with fewer Vehicle Miles Traveled (VMT), Wheeler et al (2018) find that infill housing is the most effective policy tool our local government has to reduce emissions: "Low carbon footprint cities that make housing available at all income levels help share the burden of meeting housing demand, while lessening the impact on the climate across the population...Mixed income urban core cities (e.g., Berkeley) hold the most potential for urban infill, with statewide GHG benefits."<sup>27</sup>

<sup>23</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/2020-07-21\\_Special\\_Item\\_05\\_Climate\\_Action\\_Plan\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_Special_Item_05_Climate_Action_Plan_pdf.aspx)

<sup>24</sup> For example, General Motors Sets All-Electric Target For Vehicles By 2035, NPR, February 1, 2021 <https://www.npr.org/2021/02/01/962946561/general-motors-sets-all-electric-target-for-vehicles-by-2035>

<sup>25</sup> California to phase out sales of new gas-powered cars by 2035, Washington Post, Sept 23, 2020 <https://www.washingtonpost.com/climate-environment/2020/09/23/california-electric-cars/>

<sup>26</sup> Even if we do succeed in stopping selling all gas powered cars by 2035, our transportation sector will not reach zero emissions until at least 2050. Electric Cars Are Coming. How Long Until They Rule the Road? New York Times, March 10, 2021 <https://www.nytimes.com/interactive/2021/03/10/climate/electric-vehicle-fleet-turnover.html>

<sup>27</sup> Wheeler, S. M., Jones, C. M., & Kammen, D. M. (2018). Carbon footprint planning: quantifying local and state mitigation opportunities for 700 California cities. *Urban Planning*, 3(2), 35-51.

The California Air Resources Board (CARB) has reported: “Even if the share of new car sales that are ZEVs grows nearly 10-fold from today, California would still need to reduce VMT per capita 25 percent to achieve the necessary reductions for 2030”<sup>28</sup> to meet state emissions targets pursuant to Senate Bill 375.

Reducing VMT per capita even beyond the minimum that CARB recommends will require a holistic policy approach to reduce the marginal cost of modal shifts from single-occupancy vehicles to cycling, walking, and public transit.

*A network of safe active transportation infrastructure:* The potential benefits of Berkeley’s urban core area and additional infill housing for reduced VMT can not be realized if people do not feel they can safely get to their destinations outside of a car. The vast majority of Berkeley residents (71%) are interested in using bicycles but are concerned that the infrastructure does not currently feel safe enough<sup>29</sup>. Secure storage is also needed in neighborhoods and at destinations for bikes, e-bikes and other micromobility devices. Creating walking, bicycling, and other micromobility infrastructure that both feels safe and easily links all residential areas with schools, retail, and workplaces, and accompanying these efforts with secure storage throughout the city, can facilitate major shifts in VMT.

*Affordable micromobility:* E-bikes - and to some extent other micromobility modes - overcome many of the challenges people have with traditional bicycles. E-bikes are great at climbing hills, beating headwinds, hauling kids & loads and tackling long commutes all with no sweat (unless you want it). Plus e-bike riders feel safer navigating traffic with the extra acceleration power. They do all this at significant savings over electric cars. E-bikes get 1000 to 4000 MPGe and are 20 times more efficient than electric cars - meaning they can go twenty times farther than an electric car for the same charging electricity carbon emissions.<sup>30</sup> The manufacture of an e-bike takes at least an order of magnitude less embodied energy and carbon. With all that they offer, e-bikes are a bargain compared to cars, with prices ranging from \$1,000 to \$5,000 for a good cargo e-bike. Nevertheless, this investment remains out of reach for many low and some middle income residents. Targeted subsidies can unlock this potential while helping make up for historical lack of mobility access.

*Support home electrification retrofits*

<sup>28</sup> [https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report\\_SB150\\_112618\\_02\\_Report.pdf](https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report_SB150_112618_02_Report.pdf)

<sup>29</sup> Page 11: [https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Transportation/Berkeley-Bicycle-Plan-2017-Executive%20Summary.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017-Executive%20Summary.pdf)

<sup>30</sup> E-Bike 1000 MPG Study-Results, <https://sites.google.com/view/ebikestudy/results>, E-Bike 1000 MPG Project

On November 3, 2021 the Budget & Finance Policy Committee passed a qualified positive recommendation to the full council for a Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and Just Transition Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings.<sup>31</sup>

In the realm of mitigating climate change, the retrofitting of residential buildings for electrification and enhanced energy efficiency is a necessary – and expensive – component of any transition towards a sustainable Berkeley. Estimates suggest that all-electric single-family homes can “reduce annual GHG emissions by 33 - 56% in 2020 and by 76 – 88% in 2050 compared to a natural gas-fueled home.”<sup>32</sup> Residential emissions can also be reduced through the densification of our community and a long-term shift away from single-family homes as a primary form of living, but Berkeley’s existing stock of single-family homes isn’t just going to go away.<sup>33</sup> Retrofitting and electrifying our existing housing stock is important, but is too expensive a lift for the City to expect or require all homeowners to go about alone.<sup>34</sup> A Just Transition in building electrification would involve the City dedicating its own resources as well as engaging the state and federal governments to fund retrofits and support residential homeowners through the process of electrifying their homes, particularly low- and middle-income households.

#### *Advance equitable mobility access*

Berkeley’s Electric Mobility Roadmap appropriately identifies improved infrastructure safety and connectivity and support for access to e-bikes and other micromobility as key to addressing Berkeley’s transportation emissions. From recreational bike paths to electric car and truck subsidies, this country’s efforts to reduce transportation emissions have too often focused on supporting wealthier communities and consumers. Berkeley can both improve cost effectiveness and address historical inequities by prioritizing safe connectivity and secure bike parking for under-resourced communities as it accelerates implementation and expansion of its pedestrian and bicycle plans and by targeting its efforts to subsidize access to e-bikes and other micromobility on low income residents.

#### *Strengthen worker protections*

While Berkeley has been at the forefront of guaranteeing a generous minimum wage, any Just Transition must ensure that all workers in Berkeley earn a living wage into the future as the global economy is shaken by the impacts of climate change. On top of the direct economic impacts of climate change, the ongoing shift in employment

<sup>31</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/11\\_Nov/Documents/2021-11-30\\_Item\\_21\\_Budget\\_Referral\\_and\\_Resolution\\_Establishing\\_a\\_Pilot\\_Existing\\_Building.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/11_Nov/Documents/2021-11-30_Item_21_Budget_Referral_and_Resolution_Establishing_a_Pilot_Existing_Building.aspx)

<sup>32</sup> [https://www.ethree.com/wp-content/uploads/2019/04/E3\\_Residential\\_Building\\_Electrification\\_in\\_California\\_April\\_2019.pdf](https://www.ethree.com/wp-content/uploads/2019/04/E3_Residential_Building_Electrification_in_California_April_2019.pdf)

<sup>33</sup> <https://www.pnas.org/content/117/32/19122>

<sup>34</sup> [https://www.nahb.org/-/media/NAHB/nahb-community/docs/committees/construction-codes-and-standards-committee/home-innovation-electrification-report-2021.pdf?\\_ga=2.114118479.990433442.1620163394-283412800.1620163394](https://www.nahb.org/-/media/NAHB/nahb-community/docs/committees/construction-codes-and-standards-committee/home-innovation-electrification-report-2021.pdf?_ga=2.114118479.990433442.1620163394-283412800.1620163394)

opportunities toward gig-based and contractor work that does not always guarantee a living wage and good benefits presents a threat to the livelihoods of workers in Berkeley and elsewhere. On a warming planet with rapidly intensifying weather conditions, access to food, shelter, and quality healthcare will be more important – and more precarious – than ever before. Local and state policies, such as ensuring that minimum wage laws apply to app-based contract work<sup>35</sup>, will go a long way in a warming-afflicted future towards shoring up the health and economic stability of workers. Additionally, Berkeley’s Living Wage Ordinance, which ensures “that businesses in a contractual relationship with the City pay their employees a wage that can support a family at, or above, the poverty level”<sup>36</sup>, is an important labor policy that can be upheld and even strengthened as economic stresses require more support for employees on the part of employers. Beyond the active role that Berkeley’s City government must play in ensuring a Just Transition, workers themselves need to be empowered to ensure that the sweeping economic changes of the transition to a sustainable economy does not leave them behind. Berkeley must, at every turn, protect the rights of workers to organize and bargain collectively and support the efforts of workers in the private-sector to assert their rights in every instance possible.

#### *Develop just and climate sensitive smart growth policies*

There is a wealth of potential policies in academic literature and real-world examples that the City Council can draw upon in enacting a Just Transition for Berkeley. “Smart growth” strategies offer effective and just climate mitigation and adaptation policies that Berkeley can draw upon to effectively manage its transition off of fossil fuels and foster economic opportunities for the City. These include planning for a denser city, preserving green spaces, discouraging new construction in areas at risk of extreme weather conditions such as wildfires, upgrading stormwater systems, and generally encouraging energy efficient land use patterns.<sup>37</sup>

Areas of the city that are zoned for lower densities and single-family residential contribute disproportionately to carbon emissions from automobile travel. The City’s upcoming Housing Element will have to align with its Climate Action Plan and pursue decarbonization of transportation by permitting density in formerly single-family neighborhoods such that increased transit access, micromobility, and pedestrian safety infrastructure can reduce Vehicle Miles Traveled. Moreover, the City will need to reallocate subsidies for private automobile travel, such as free or underpriced parking and road space, and dedicate these resources to housing and infrastructure that enables VMT reduction.

#### *Identifying new local revenue streams for zero-carbon transport*

Most carbon pollution in Berkeley comes from cars, both those driven by city residents and by the commuters who come to the city for work or school. In many cases, the city

<sup>35</sup> <https://cities-today.com/seattle-passes-minimum-wage-for-rideshare-drivers/>

<sup>36</sup> [https://www.cityofberkeley.info/Finance/Home/Vendors\\_Living\\_Wage\\_Ordinance.aspx#:~:text=Effective%20July%201%2C%202021%2C%20the,of%20not%20less%20than%20%2419.67.](https://www.cityofberkeley.info/Finance/Home/Vendors_Living_Wage_Ordinance.aspx#:~:text=Effective%20July%201%2C%202021%2C%20the,of%20not%20less%20than%20%2419.67.)

<sup>37</sup> <https://www.epa.gov/smartgrowth/smart-growth-and-climate-change#:~:text=Smart%20growth%20policies%20contribute%20to,effects%20of%20a%20changing%20climate.>

incentivizes driving by subsidizing its cost. Free or below-cost parking in retail/commercial and residential zones, streets that omit higher-throughput bus and bike lanes, and mandates for parking in new developments are all a form of subsidy for driving. Both the California Department of Transportation (Caltrans)<sup>38</sup> and California Air Resources Board (CARB) have found that parking pricing strategies have the potential to reduce VMT and encourage a modal shift that reduces greenhouse gas emissions.<sup>39</sup>

According to UCLA parking scholar Donald Shoup, motorists searching for underpriced or free parking rather than paying demand-based parking prices in a parking garage can increase the average VMT of a local trip by as much as 0.5 miles per trip<sup>40</sup>, or 5 additional miles per day per curb space.<sup>41</sup> Collecting parking fees based on fair market value can reduce the overcrowding of parking spaces, increase parking availability, and increase funding for public services.<sup>42</sup> According to the US Department of Transportation<sup>43</sup>, over 59% of automobile trips were six miles or less, and three-fourths of trips by any mode were less than ten miles, suggesting a major potential for emissions reductions by shifting transportation modes for short trips away from private automobiles. Shoup's research has also found that market-priced curb parking can yield 5-8% of a city's total land rent.<sup>44</sup>

Berkeley can equitably address these subsidies by enacting fees, phased in over time, that charge the cost to the city and its residents of building and maintaining car infrastructure, including the "hidden" costs of pollution, public health impacts, and traffic-related violence. Since lower-income households will have less ability to pay these fees, the city could determine a methodology to phase-in fees by household income and car registration, and use the revenues to provide lower-cost mobility subsidies to lower-income households.

These fees must be coupled with transportation policy reforms that prioritize bus lanes, bike lanes, and "safe routes to school" on streets owned and maintained by the city. By re-allocating public rights-of-way to zero-carbon forms of mobility, and phasing out city subsidies for driving, the city can chart a path to zeroing out its emissions from transportation. *Identifying new local revenue streams for zero-carbon transport*

<sup>38</sup><https://dot.ca.gov/-/media/dot-media/programs/research-innovation-system-information/documents/preliminary-investigations/final-pricing-parking-management-to-reduce-vehicles-miles-traveled-pi-a11y.pdf>

<sup>39</sup>[https://ww2.arb.ca.gov/sites/default/files/2020-06/Impacts\\_of\\_Parking\\_Pricing\\_Based\\_on\\_a\\_Review\\_of\\_the\\_Empirical\\_Literature\\_Policy\\_Brief.pdf](https://ww2.arb.ca.gov/sites/default/files/2020-06/Impacts_of_Parking_Pricing_Based_on_a_Review_of_the_Empirical_Literature_Policy_Brief.pdf)

<sup>40</sup> Newton, D. (2008). Professor Donald Shoup: How About Congestion Parking? Streetsblog LA. Retrieved from <https://la.streetsblog.org/2008/01/12/professor-donald-shoup-how-about-congestion-parking/>

<sup>41</sup> Shoup, D. C. (2006). Cruising for parking. *Transport policy*, 13(6), 479-486.

<sup>42</sup> Shoup, D., Yuan, Q., & Jiang, X. (2017). Charging for parking to finance public services. *Journal of Planning Education and Research*, 37(2), 136-149.

<sup>43</sup> <https://www.energy.gov/eere/vehicles/articles/fotw-1042-august-13-2018-2017-nearly-60-all-vehicle-trips-were-less-six-miles>

<sup>44</sup> Shoup, D. C. (2004). The ideal source of local public revenue. *Regional Science and Urban Economics*, 34(6), 753-784.

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<sup>46</sup>[https://www2.arb.ca.gov/sites/default/files/2020-06/Impacts\\_of\\_Parking\\_Pricing\\_Based\\_on\\_a\\_Review\\_of\\_the\\_Empirical\\_Literature\\_Policy\\_Brief.pdf](https://www2.arb.ca.gov/sites/default/files/2020-06/Impacts_of_Parking_Pricing_Based_on_a_Review_of_the_Empirical_Literature_Policy_Brief.pdf)

<sup>47</sup>Newton, D. (2008). Professor Donald Shoup: How About Congestion Parking? Streetsblog LA. Retrieved from <https://la.streetsblog.org/2008/01/12/professor-donald-shoup-how-about-congestion-parking/>

<sup>48</sup>Shoup, D. C. (2006). Cruising for parking. *Transport policy*, 13(6), 479-486.

<sup>49</sup>Shoup, D., Yuan, Q., & Jiang, X. (2017). Charging for parking to finance public services. *Journal of Planning Education and Research*, 37(2), 136-149.

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~~subsidies for driving, the city can chart a path to zeroing out its emissions from transportation.~~

~~Whether branded as a Just Transition or not, Berkeley can draw plenty of inspiration from around the world in its efforts to ensure that workers, people of color, and the poor are elevated and protected in our fight against climate change, rather than left behind.~~

### RATIONALE FOR RECOMMENDATION

In 2006, Berkeley residents voted in favor of Measure G, which committed the City of Berkeley to reduce its emissions by 80% below 2000 levels by 2050. The City Council, staff, and the community subsequently worked in tandem to develop the Berkeley Climate Action Plan, which lays out the City's path to achieving the stated goal on Measure G.<sup>52</sup> In 2018, the City Council voted to declare a Climate Emergency citing an "existential Climate Emergency that threatens our city, state, nation, civilization, humanity, and the natural world."<sup>53</sup> Both the establishment of the Berkeley Climate Action Plan and the declaration of a Climate Emergency put the City leagues ahead of other cities, states, and even the country on initiating climate action, but we're still nowhere near enough.

At the state level, California's environmental efforts place it well ahead of most other states. Even California's efforts, however, are insufficient at best and ineffective at reducing emissions at worst.<sup>54</sup> The City of Berkeley must lead the state and the country both in aggressive and ambitious climate legislation that gets us to net-zero carbon emissions as soon as possible as well as climate mitigation and adaptation efforts that overcome and reverse historic environmental racism and lessen the economic turbulence that will accompany reshaping our economy in the coming decades so that all working Berkeleyans have the right to a good job and secure future. Past and future efforts to eliminate ~~reach net-zero~~ fossil fuel emissions must be examined in an active pursuit of a Just Transition for Berkeley.

### ENVIRONMENTAL IMPACTS

This proposal advances and enhances Berkeley's climate goals.

### FISCAL IMPACTS

None.

### CONTACT

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

### ATTACHMENTS

<sup>52</sup> <https://www.cityofberkeley.info/climate/>

<sup>53</sup> [https://www.cityofberkeley.info/uploadedFiles/Council\\_2/Level\\_3\\_-\\_General/Climate%20Emergency%20Declaration%20-%20Adopted%2012%20June%202018%20-%20BCC.pdf](https://www.cityofberkeley.info/uploadedFiles/Council_2/Level_3_-_General/Climate%20Emergency%20Declaration%20-%20Adopted%2012%20June%202018%20-%20BCC.pdf)

<sup>54</sup> <https://www.kqed.org/science/1972957/state-auditor-says-california-air-regulator-overstated-emission-reductions>

1. Resolution
2. California's Fourth Climate Change Assessment: San Francisco Bay Area Region Report
3. Climate Justice Alliance: Just Transition Principles

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

COMMIT THE CITY OF BERKELEY TO A JUST TRANSITION FROM THE FOSSIL FUEL ECONOMY

WHEREAS, a national Green New Deal calls for a fair and just transition for all communities and workers to achieve net-zero greenhouse gas emissions and the creation of millions of high-wage union jobs to ensure prosperity and economic opportunity; and

WHEREAS, in Berkeley, fossil fuel-driven global warming has already caused sea level rise, droughts, extreme weather conditions, and longer and more intense fire seasons; and

WHEREAS, business-as-usual fossil fuel emissions will lead to major increases in temperature, more dramatic droughts, more frequent extreme weather, and up to 3 meters of sea level rise; and

WHEREAS, historic inequities and environmental racism leave people of color and the poor in a uniquely vulnerable position when faced with dramatic warming, economic turbulence, and extreme weather; and

WHEREAS, the transition off of fossil fuels will have inevitable economic consequences including the loss of jobs and industries that are reliant on fossil fuel extraction and consumption; and

WHEREAS, the COVID-19 pandemic has demonstrated the vulnerability of the global economy to sudden natural events and the need for proactive preparation for economic shocks; and

~~WHEREAS, the COVID-19 pandemic has demonstrated the vulnerability of the global economy to sudden natural events and the need for proactive preparation for economic shocks; and~~

~~WHEREAS, a proactively planned and equitably executed transition away from the fossil fuel economy can be an opportunity to correct historic wrongs and boost Berkeley's economy; and~~

WHEREAS, Berkeley voters approved Measure G in 2006, calling for the City to "reduce our entire community's greenhouse gas emissions by 80% below 2000 levels by 2050," and the Berkeley Climate Action Plan was adopted by City Council on

June 2, 2009, and the City will need to eliminate its emissions at an even more ambitious scale; and

WHEREAS, the City of Berkeley was among the founding member-jurisdictions of East Bay Community Energy (EBCE), the community choice electricity provider serving Alameda County, all of its eligible cities, and the City of Tracy in San Joaquin County; and

WHEREAS, the City of Berkeley can lead by example to equitably reduce community-wide greenhouse gas emissions by utilizing the local programs and electric service options provided by EBCE. These include, but are not limited to 1) partnering with EBCE to make its 100% renewable energy option the City-wide default for most residential and commercial electric accounts; 2) electrifying the City's buildings and municipal fleets; and 3) advancing the deployment of publicly available electric vehicle (EV) charging infrastructure; and

WHEREAS, the City of Berkeley has been a regional leader in building electrification by prohibiting natural gas lines in new residential construction and exploring building electrification subsidies for middle- and lower-income households, and

WHEREAS, transportation accounts for 59% of Berkeley's total 2018 greenhouse gas inventory and Berkeley's Electric Mobility Roadmap recognizes that active transportation - walking and bicycling, including e-bikes and other micromobility technologies - is key to reducing those emissions; and

WHEREAS, the California Air Resources Board (CARB) has reported that even with a tenfold increase in market share of new electric vehicles, "California would still need to reduce Vehicle Miles Traveled (VMT per capita) by 25 percent to achieve the necessary reductions for 2030" to meet emissions reduction targets pursuant to Senate Bill 375; and

WHEREAS, both government agencies and leading academic researchers have found that parking pricing strategies have the potential to reduce VMT per capita; and

WHEREAS, the City will need to reallocate subsidies for private automobile travel toward active transportation infrastructure and infill housing in order to achieve VMT per capita reductions needed to eliminate transportation emissions; and

WHEREAS, the City adopted the West Berkeley Plan in 1993, which calls for a "reduction of single occupant automobile trips", and

WHEREAS, a proactively planned and equitably executed transition away from the fossil fuel economy can be an opportunity to correct historic wrongs and boost Berkeley's economy; and

WHEREAS, the principles of a Just Transition offer Berkeley a path towards eliminating fossil fuel emissions that minimizes economic shock, leaves no one behind, and plants the seeds of a resilient Berkeley;

NOW THEREFORE, BE IT RESOLVED, that the City Council commits the City of Berkeley to a Just Transition to ~~net~~-zero carbon emissions that secures a livable future for all Berkeleyans, pursues a Green New Deal for West Berkeley, combats environmental racism and the unique vulnerabilities of people of color, and ensures that all Berkeleyans have access to good paying jobs and equitable living standards free from the fossil fuel economy;

BE IT FURTHER RESOLVED, that all City Council reports with a section on Climate and Environmental Impacts include a Just Transition analysis wherein maximum potential for reducing greenhouse gas emissions while advancing equity is evaluated.



# THE WEIGHT OF CITIES: RESOURCE REQUIREMENTS OF FUTURE URBANIZATION

1

## 1. CHALLENGES OF THE FUTURE

- ▶ The proportion of the global population living in cities and towns is expected to rise from 54 percent in 2015 to 66 percent by 2050. Most of this transition will take place in the Global South, especially in Asia and Africa, and will require a **significant expansion of existing cities, as well as the construction of new cities.**
- ▶ Business as usual could result in the annual resource requirements of urban areas growing from 40 billion tonnes in 2010 to nearly 90 billion tonnes by 2050. The high demand for such raw materials will far exceed what the planet can sustainably provide. **Resources should now become a central policy concern**, in addition to concerns over CO<sub>2</sub>, which are now well recognized.
- ▶ In addition, the long-term historic **sprawl of cities by 2 percent per year** threatens to increase global urban land use from just below 1 million km<sup>2</sup> to over 2.5 million km<sup>2</sup> by 2050, **putting agricultural land and food supplies at risk** (see IRP report on *Food Systems and Natural Resources*, 2015).
- ▶ Cities that become more resource-efficient in transport, commercial buildings, and building heating/cooling could achieve **reductions of between 36 to**

**54 percent** in energy use, GHG emissions, metals, land and water use.

## 2. RETHINKING URBANIZATION: RECOMMENDATIONS FOR POLICYMAKERS

**A transition towards low-carbon, resource-efficient and socially just cities** is crucial to advance towards the Sustainability Development Goals and the New Urban Agenda. The concept of **'urban metabolism' (the flow of resources through a city)** can be used to frame thinking about how cities can improve citizens' access to essential services (a focus on well-being for all) while managing their resources wisely and producing minimal waste. This transition could be achieved through the following approaches:

- 1. Urban metabolisms must shift from 'linear' to 'circular':** This implies new ways of managing the movement of resources through the city. Businesses and cities will have to focus on offering high value services rather than selling artefacts; providing heat instead of heaters, mobility instead of highways and cars, light instead of light bulbs. Concepts such as 'urban mining', 'resource cascading' and 'industrial symbiosis' and the various manifestations of the 're-economy' (reduce, reuse, recycle) will define the new urbanism.



## 2. Urban metabolisms must be monitored to assist strategic planning at local government level:

Local governments must understand cities' inputs (e.g. biomaterials) and outputs (e.g. waste and emissions), using these to develop resource efficiency strategies.<sup>1</sup> In addition, the relationship between gross domestic product (GDP)<sup>2</sup> and material flows, global land use and GHG emissions must be measured, and targets must be set. The negative externalities of various resource uses must be priced in to provide economic incentives for behavioural change.

## 3. City planning 'defaults' must be changed:

Cityscapes need to be designed for people rather than cars, and must allow the poor, in particular, to access the opportunities on offer in the city and prevent uncontrolled sprawl:

- ▶ **Create compact urban growth:** a network of high-density nodes of people, jobs and amenities (approximately 15,000 people per km<sup>2</sup>) that are connected by efficient and affordable mass transit systems (e.g. light rail, rail, bus rapid transit) and are surrounded by medium-density areas (7,500 to 10,000 people per km<sup>2</sup>). Transit-oriented development (TOD) and area development should be approached as integrated portfolios.
- ▶ **Human-scale sustainable design** that creates conditions for liveable functionally and socially mixed-use neighbourhoods, with options for soft mobility (e.g. walking, cycling) and 'passive' heating, cooling and lighting at the building level.
- ▶ **Resource-efficient urban components**, such as vehicle sharing, electric vehicles and charging point networks, efficient energy, waste and water systems, smart grids, cycle paths, energy-efficient buildings, new heating, cooling and lighting technology, etc.

- ▶ **Urban infrastructure planning for cross-sector efficiency**, such as using waste heat in district energy systems and waste materials in construction, such as fly-ash bricks.

- ▶ **Promotion of sustainable behaviours**, such as reducing and/or separating waste at source for recycling, using public transport, walking or cycling, enjoying public spaces, etc.

## 4. A new governance model and politics of new imaginative business propositions and experimentation can provide hope for a better future:

An 'entrepreneurial urban governance' is proposed, which envisages an active and goal-setting role for the State, but in ways that allows broader coalitions of urban 'agents of change' to emerge. This would foster new imaginative business propositions to guide strategic planning for vibrant, green and socially inclusive cities and promote experimentation. It would also connect to global city networks and 'twin town' or 'sister city' initiatives to foster systemic learning between cities. Concepts such as 'living labs', city deals, innovation hubs and special zones indicate that cities are now thinking much more in terms of 'learning by doing'. Experimentation needs to result in a contextually appropriate balance between economic, social, technological and sustainable development.

## 5. Higher levels of government must support city-level innovation for resource efficiency:

Collaboration with higher levels of government is essential if cities are to overcome regulatory barriers and access funding for innovation. It is crucial that existing infrastructure budgets are channelled in new directions. A low-carbon scenario would require adding only 5 percent to infrastructure spending (Global Commission on the Economy and Climate, 2014).

<sup>1</sup> Resource efficiency strategies use fewer resources to achieve the same level of output or use the same amount of resources to achieve a greater output.

<sup>2</sup> There is a need to move beyond GDP as the only measurement of progress, and to shift to a system that assesses well-being.



For more information please contact the Secretariat of the International Resource Panel at:  
**resourcepanel@unep.org**

The full report and Summary for Policymakers can be downloaded at:  
**<http://www.resourcepanel.org/reports/weight-cities>**

**Senate Bill No. 1000**

CHAPTER 587

An act to amend Section 65302 of the Government Code, relating to land use.

[Approved by Governor September 24, 2016. Filed with Secretary of State September 24, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1000, Leyva. Land use: general plans: safety and environmental justice.

(1) The Planning and Zoning Law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city and of any land outside its boundaries that bears relation to its planning. That law requires this general plan to include several elements, including, among others, a safety element for the protection of the community from unreasonable risks associated with the effects of various geologic hazards, flooding, wildland and urban fires, and climate adaptation and resilience strategies. That law requires that the safety element be reviewed and updated, in the case of flooding and fire hazards, upon the next revision of the housing element after specified dates or, in the case of climate adaptation and resilience strategies, upon either the next revision of a local hazard mitigation plan after a specified date or on or before January 1, 2022, as applicable. That law also requires, after the initial revision of the safety element to address flooding, fires, and climate adaptation and resilience strategies, that for each subsequent revision the planning agency review and, if necessary, revise the safety element to identify new information that was not available during the previous revision of the safety element.

This bill would instead require a planning agency to review and revise the safety element to identify new information, as described above, only to address flooding and fires.

This bill would, in addition, add to the required elements of the general plan an environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities, as defined, within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. The bill would also require the environmental justice element, or related environmental justice goals, policies, and objectives integrated in other elements, to identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities, as specified, identify objectives and policies to promote civil engagement in the public decisionmaking process, and identify objectives

and policies that prioritize improvements and programs that address the needs of disadvantaged communities. The bill would require the environmental justice element, or the environmental justice goals, policies, and objectives in other elements, to be adopted or reviewed upon the adoption or next revision of 2 or more elements concurrently on or after January 1, 2018. By adding to the duties of county and city officials, this bill would impose a state-mandated local program.

(2) This bill would incorporate additional changes to Section 65302 of the Government Code, proposed by AB 2651 that would become operative only if this bill and AB 2651 are enacted and become effective on or before January 1, 2017, and this bill is chaptered last.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The location and designation of the extent of the uses of the land for public and private uses shall consider the identification of land and natural resources pursuant to paragraph (3) of subdivision (d). The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify and annually review those areas covered by the plan that are subject to flooding identified by flood plain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources. The land use element shall also do both of the following:

(1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5).

(2) Consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas,

when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities shall be considered. Cities and counties shall address military impacts based on information from the military and other sources.

(B) The following definitions govern this paragraph:

(i) “Military readiness activities” mean all of the following:

(I) Training, support, and operations that prepare the men and women of the military for combat.

(II) Operation, maintenance, and security of any military installation.

(III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or suitability for combat use.

(ii) “Military installation” means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense as defined in paragraph (1) of subsection (g) of Section 2687 of Title 10 of the United States Code.

(b) (1) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

(2) (A) Commencing January 1, 2011, upon any substantive revision of the circulation element, the legislative body shall modify the circulation element to plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways for safe and convenient travel in a manner that is suitable to the rural, suburban, or urban context of the general plan.

(B) For purposes of this paragraph, “users of streets, roads, and highways” mean bicyclists, children, persons with disabilities, motorists, movers of commercial goods, pedestrians, users of public transportation, and seniors.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) (1) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies, including flood management, water conservation, or groundwater agencies that have developed, served, controlled, managed, or conserved water of any type for any purpose in the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information

described in Section 65352.5, if that information has been submitted by the water agency to the city or county.

(2) The conservation element may also cover all of the following:

- (A) The reclamation of land and waters.
- (B) Prevention and control of the pollution of streams and other waters.
- (C) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
- (D) Prevention, control, and correction of the erosion of soils, beaches, and shores.
- (E) Protection of watersheds.
- (F) The location, quantity and quality of the rock, sand, and gravel resources.

(3) Upon the next revision of the housing element on or after January 1, 2009, the conservation element shall identify rivers, creeks, streams, flood corridors, riparian habitats, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) (1) A noise element that shall identify and appraise noise problems in the community. The noise element shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

- (A) Highways and freeways.
- (B) Primary arterials and major local streets.
- (C) Passenger and freight online railroad operations and ground rapid transit systems.
- (D) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.
- (E) Local industrial plants, including, but not limited to, railroad classification yards.
- (F) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

(2) Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average sound level ( $L_{dn}$ ). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

(3) The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

(4) The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence; liquefaction; and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wildland and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

(2) The safety element, upon the next revision of the housing element on or after January 1, 2009, shall also do the following:

(A) Identify information regarding flood hazards, including, but not limited to, the following:

(i) Flood hazard zones. As used in this subdivision, “flood hazard zone” means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency (FEMA). The identification of a flood hazard zone does not imply that areas outside the flood hazard zones or uses permitted within flood hazard zones will be free from flooding or flood damage.

(ii) National Flood Insurance Program maps published by FEMA.

(iii) Information about flood hazards that is available from the United States Army Corps of Engineers.

(iv) Designated floodway maps that are available from the Central Valley Flood Protection Board.

(v) Dam failure inundation maps prepared pursuant to Section 8589.5 that are available from the Office of Emergency Services.

(vi) Awareness Floodplain Mapping Program maps and 200-year flood plain maps that are or may be available from, or accepted by, the Department of Water Resources.

(vii) Maps of levee protection zones.

(viii) Areas subject to inundation in the event of the failure of project or nonproject levees or floodwalls.

(ix) Historical data on flooding, including locally prepared maps of areas that are subject to flooding, areas that are vulnerable to flooding after wildfires, and sites that have been repeatedly damaged by flooding.

(x) Existing and planned development in flood hazard zones, including structures, roads, utilities, and essential public facilities.

(xi) Local, state, and federal agencies with responsibility for flood protection, including special districts and local offices of emergency services.

(B) Establish a set of comprehensive goals, policies, and objectives based on the information identified pursuant to subparagraph (A), for the protection of the community from the unreasonable risks of flooding, including, but not limited to:

- (i) Avoiding or minimizing the risks of flooding to new development.
  - (ii) Evaluating whether new development should be located in flood hazard zones, and identifying construction methods or other methods to minimize damage if new development is located in flood hazard zones.
  - (iii) Maintaining the structural and operational integrity of essential public facilities during flooding.
  - (iv) Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities or identifying construction methods or other methods to minimize damage if these facilities are located in flood hazard zones.
  - (v) Establishing cooperative working relationships among public agencies with responsibility for flood protection.
- (C) Establish a set of feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to subparagraph (B).
- (3) Upon the next revision of the housing element on or after January 1, 2014, the safety element shall be reviewed and updated as necessary to address the risk of fire for land classified as state responsibility areas, as defined in Section 4102 of the Public Resources Code, and land classified as very high fire hazard severity zones, as defined in Section 51177. This review shall consider the advice included in the Office of Planning and Research's most recent publication of "Fire Hazard Planning, General Plan Technical Advice Series" and shall also include all of the following:
- (A) Information regarding fire hazards, including, but not limited to, all of the following:
    - (i) Fire hazard severity zone maps available from the Department of Forestry and Fire Protection.
    - (ii) Any historical data on wildfires available from local agencies or a reference to where the data can be found.
    - (iii) Information about wildfire hazard areas that may be available from the United States Geological Survey.
    - (iv) General location and distribution of existing and planned uses of land in very high fire hazard severity zones and in state responsibility areas, including structures, roads, utilities, and essential public facilities. The location and distribution of planned uses of land shall not require defensible space compliance measures required by state law or local ordinance to occur on publicly owned lands or open-space designations of homeowner associations.
    - (v) Local, state, and federal agencies with responsibility for fire protection, including special districts and local offices of emergency services.
  - (B) A set of goals, policies, and objectives based on the information identified pursuant to subparagraph (A) for the protection of the community from the unreasonable risk of wildfire.

(C) A set of feasible implementation measures designed to carry out the goals, policies, and objectives based on the information identified pursuant to subparagraph (B) including, but not limited to, all of the following:

(i) Avoiding or minimizing the wildfire hazards associated with new uses of land.

(ii) Locating, when feasible, new essential public facilities outside of high fire risk areas, including, but not limited to, hospitals and health care facilities, emergency shelters, emergency command centers, and emergency communications facilities, or identifying construction methods or other methods to minimize damage if these facilities are located in a state responsibility area or very high fire hazard severity zone.

(iii) Designing adequate infrastructure if a new development is located in a state responsibility area or in a very high fire hazard severity zone, including safe access for emergency response vehicles, visible street signs, and water supplies for structural fire suppression.

(iv) Working cooperatively with public agencies with responsibility for fire protection.

(D) If a city or county has adopted a fire safety plan or document separate from the general plan, an attachment of, or reference to, a city or county's adopted fire safety plan or document that fulfills commensurate goals and objectives and contains information required pursuant to this paragraph.

(4) Upon the next revision of a local hazard mitigation plan, adopted in accordance with the federal Disaster Mitigation Act of 2000 (Public Law 106-390), on or after January 1, 2017, or, if a local jurisdiction has not adopted a local hazard mitigation plan, beginning on or before January 1, 2022, the safety element shall be reviewed and updated as necessary to address climate adaptation and resiliency strategies applicable to the city or county. This review shall consider advice provided in the Office of Planning and Research's General Plan Guidelines and shall include all of the following:

(A) (i) A vulnerability assessment that identifies the risks that climate change poses to the local jurisdiction and the geographic areas at risk from climate change impacts, including, but not limited to, an assessment of how climate change may affect the risks addressed pursuant to paragraphs (2) and (3).

(ii) Information that may be available from federal, state, regional, and local agencies that will assist in developing the vulnerability assessment and the adaptation policies and strategies required pursuant to subparagraph (B), including, but not limited to, all of the following:

(I) Information from the Internet-based Cal-Adapt tool.

(II) Information from the most recent version of the California Adaptation Planning Guide.

(III) Information from local agencies on the types of assets, resources, and populations that will be sensitive to various climate change exposures.

(IV) Information from local agencies on their current ability to deal with the impacts of climate change.

(V) Historical data on natural events and hazards, including locally prepared maps of areas subject to previous risk, areas that are vulnerable, and sites that have been repeatedly damaged.

(VI) Existing and planned development in identified at-risk areas, including structures, roads, utilities, and essential public facilities.

(VII) Federal, state, regional, and local agencies with responsibility for the protection of public health and safety and the environment, including special districts and local offices of emergency services.

(B) A set of adaptation and resilience goals, policies, and objectives based on the information specified in subparagraph (A) for the protection of the community.

(C) A set of feasible implementation measures designed to carry out the goals, policies, and objectives identified pursuant to subparagraph (B) including, but not limited to, all of the following:

(i) Feasible methods to avoid or minimize climate change impacts associated with new uses of land.

(ii) The location, when feasible, of new essential public facilities outside of at-risk areas, including, but not limited to, hospitals and health care facilities, emergency shelters, emergency command centers, and emergency communications facilities, or identifying construction methods or other methods to minimize damage if these facilities are located in at-risk areas.

(iii) The designation of adequate and feasible infrastructure located in an at-risk area.

(iv) Guidelines for working cooperatively with relevant local, regional, state, and federal agencies.

(v) The identification of natural infrastructure that may be used in adaptation projects, where feasible. Where feasible, the plan shall use existing natural features and ecosystem processes, or the restoration of natural features and ecosystem processes, when developing alternatives for consideration. For the purposes of this clause, “natural infrastructure” means the preservation or restoration of ecological systems, or utilization of engineered systems that use ecological processes, to increase resiliency to climate change, manage other environmental hazards, or both. This may include, but is not limited to, floodplain and wetlands restoration or preservation, combining levees with restored natural systems to reduce flood risk, and urban tree planting to mitigate high heat days.

(D) (i) If a city or county has adopted the local hazard mitigation plan, or other climate adaptation plan or document that fulfills commensurate goals and objectives and contains the information required pursuant to this paragraph, separate from the general plan, an attachment of, or reference to, the local hazard mitigation plan or other climate adaptation plan or document.

(ii) Cities or counties that have an adopted hazard mitigation plan, or other climate adaptation plan or document that substantially complies with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by

reference into the safety element the other general plan provisions, climate adaptation plan or document, specifically showing how each requirement of this subdivision has been met.

(5) After the initial revision of the safety element pursuant to paragraphs (2) and (3) upon each revision of the housing element, the planning agency shall review and, if necessary, revise the safety element to identify new information relating to flood and fire hazards that was not available during the previous revision of the safety element.

(6) Cities and counties that have flood plain management ordinances that have been approved by FEMA that substantially comply with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by reference into the safety element the other general plan provisions or the flood plain ordinance, specifically showing how each requirement of this subdivision has been met.

(7) Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the California Geological Survey of the Department of Conservation, the Central Valley Flood Protection Board, if the city or county is located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, and the Office of Emergency Services for the purpose of including information known by and available to the department, the agency, and the board required by this subdivision.

(8) To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

(h) (1) An environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. The environmental justice element, or related environmental justice goals, policies, and objectives integrated in other elements, shall do all of the following:

(A) Identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities by means that include, but are not limited to, the reduction of pollution exposure, including the improvement of air quality, and the promotion of public facilities, food access, safe and sanitary homes, and physical activity.

(B) Identify objectives and policies to promote civil engagement in the public decisionmaking process.

(C) Identify objectives and policies that prioritize improvements and programs that address the needs of disadvantaged communities.

(2) A city, county, or city and county subject to this subdivision shall adopt or review the environmental justice element, or the environmental

justice goals, policies, and objectives in other elements, upon the adoption or next revision of two or more elements concurrently on or after January 1, 2018.

(3) By adding this subdivision, the Legislature does not intend to require a city, county, or city and county to take any action prohibited by the United States Constitution or the California Constitution.

(4) For purposes of this subdivision, the following terms shall apply:

(A) “Disadvantaged communities” means an area identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code or an area that is a low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation.

(B) “Public facilities” includes public improvements, public services, and community amenities, as defined in subdivision (d) of Section 66000.

(C) “Low-income area” means an area with household incomes at or below 80 percent of the statewide median income or with household incomes at or below the threshold designated as low income by the Department of Housing and Community Development’s list of state income limits adopted pursuant to Section 50093.

SEC. 1.5. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, greenways, as defined in Section 816.52 of the Civil Code, and other categories of public and private uses of land. The location and designation of the extent of the uses of the land for public and private uses shall consider the identification of land and natural resources pursuant to paragraph (3) of subdivision (d). The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify and annually review those areas covered by the plan that are subject to flooding identified by flood plain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources. The land use element shall also do both of the following:

(1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5).

(2) Consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas,

when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities shall be considered. Cities and counties shall address military impacts based on information from the military and other sources.

(B) The following definitions govern this paragraph:

(i) “Military readiness activities” mean all of the following:

(I) Training, support, and operations that prepare the men and women of the military for combat.

(II) Operation, maintenance, and security of any military installation.

(III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or suitability for combat use.

(ii) “Military installation” means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense as defined in paragraph (1) of subsection (g) of Section 2687 of Title 10 of the United States Code.

(b) (1) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

(2) (A) Commencing January 1, 2011, upon any substantive revision of the circulation element, the legislative body shall modify the circulation element to plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways for safe and convenient travel in a manner that is suitable to the rural, suburban, or urban context of the general plan.

(B) For purposes of this paragraph, “users of streets, roads, and highways” mean bicyclists, children, persons with disabilities, motorists, movers of commercial goods, pedestrians, users of public transportation, and seniors.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) (1) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies, including flood management, water conservation, or groundwater agencies that have developed, served, controlled, managed, or conserved water of any type for any purpose in the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information

described in Section 65352.5, if that information has been submitted by the water agency to the city or county.

(2) The conservation element may also cover all of the following:

- (A) The reclamation of land and waters.
- (B) Prevention and control of the pollution of streams and other waters.
- (C) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
- (D) Prevention, control, and correction of the erosion of soils, beaches, and shores.
- (E) Protection of watersheds.
- (F) The location, quantity, and quality of the rock, sand, and gravel resources.

(3) Upon the next revision of the housing element on or after January 1, 2009, the conservation element shall identify rivers, creeks, streams, flood corridors, riparian habitats, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) (1) A noise element that shall identify and appraise noise problems in the community. The noise element shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

- (A) Highways and freeways.
- (B) Primary arterials and major local streets.
- (C) Passenger and freight online railroad operations and ground rapid transit systems.
- (D) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.
- (E) Local industrial plants, including, but not limited to, railroad classification yards.
- (F) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

(2) Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average sound level ( $L_{dn}$ ). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

(3) The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

(4) The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence; liquefaction; and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wildland and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

(2) The safety element, upon the next revision of the housing element on or after January 1, 2009, shall also do the following:

(A) Identify information regarding flood hazards, including, but not limited to, the following:

(i) Flood hazard zones. As used in this subdivision, “flood hazard zone” means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency (FEMA). The identification of a flood hazard zone does not imply that areas outside the flood hazard zones or uses permitted within flood hazard zones will be free from flooding or flood damage.

(ii) National Flood Insurance Program maps published by FEMA.

(iii) Information about flood hazards that is available from the United States Army Corps of Engineers.

(iv) Designated floodway maps that are available from the Central Valley Flood Protection Board.

(v) Dam failure inundation maps prepared pursuant to Section 8589.5 that are available from the Office of Emergency Services.

(vi) Awareness Floodplain Mapping Program maps and 200-year flood plain maps that are or may be available from, or accepted by, the Department of Water Resources.

(vii) Maps of levee protection zones.

(viii) Areas subject to inundation in the event of the failure of project or nonproject levees or floodwalls.

(ix) Historical data on flooding, including locally prepared maps of areas that are subject to flooding, areas that are vulnerable to flooding after wildfires, and sites that have been repeatedly damaged by flooding.

(x) Existing and planned development in flood hazard zones, including structures, roads, utilities, and essential public facilities.

(xi) Local, state, and federal agencies with responsibility for flood protection, including special districts and local offices of emergency services.

(B) Establish a set of comprehensive goals, policies, and objectives based on the information identified pursuant to subparagraph (A), for the protection of the community from the unreasonable risks of flooding, including, but not limited to:

- (i) Avoiding or minimizing the risks of flooding to new development.
  - (ii) Evaluating whether new development should be located in flood hazard zones, and identifying construction methods or other methods to minimize damage if new development is located in flood hazard zones.
  - (iii) Maintaining the structural and operational integrity of essential public facilities during flooding.
  - (iv) Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities or identifying construction methods or other methods to minimize damage if these facilities are located in flood hazard zones.
  - (v) Establishing cooperative working relationships among public agencies with responsibility for flood protection.
- (C) Establish a set of feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to subparagraph (B).
- (3) Upon the next revision of the housing element on or after January 1, 2014, the safety element shall be reviewed and updated as necessary to address the risk of fire for land classified as state responsibility areas, as defined in Section 4102 of the Public Resources Code, and land classified as very high fire hazard severity zones, as defined in Section 51177. This review shall consider the advice included in the Office of Planning and Research's most recent publication of "Fire Hazard Planning, General Plan Technical Advice Series" and shall also include all of the following:
- (A) Information regarding fire hazards, including, but not limited to, all of the following:
    - (i) Fire hazard severity zone maps available from the Department of Forestry and Fire Protection.
    - (ii) Any historical data on wildfires available from local agencies or a reference to where the data can be found.
    - (iii) Information about wildfire hazard areas that may be available from the United States Geological Survey.
    - (iv) General location and distribution of existing and planned uses of land in very high fire hazard severity zones and in state responsibility areas, including structures, roads, utilities, and essential public facilities. The location and distribution of planned uses of land shall not require defensible space compliance measures required by state law or local ordinance to occur on publicly owned lands or open space designations of homeowner associations.
    - (v) Local, state, and federal agencies with responsibility for fire protection, including special districts and local offices of emergency services.
  - (B) A set of goals, policies, and objectives based on the information identified pursuant to subparagraph (A) for the protection of the community from the unreasonable risk of wildfire.

(C) A set of feasible implementation measures designed to carry out the goals, policies, and objectives based on the information identified pursuant to subparagraph (B) including, but not limited to, all of the following:

(i) Avoiding or minimizing the wildfire hazards associated with new uses of land.

(ii) Locating, when feasible, new essential public facilities outside of high fire risk areas, including, but not limited to, hospitals and health care facilities, emergency shelters, emergency command centers, and emergency communications facilities, or identifying construction methods or other methods to minimize damage if these facilities are located in a state responsibility area or very high fire hazard severity zone.

(iii) Designing adequate infrastructure if a new development is located in a state responsibility area or in a very high fire hazard severity zone, including safe access for emergency response vehicles, visible street signs, and water supplies for structural fire suppression.

(iv) Working cooperatively with public agencies with responsibility for fire protection.

(D) If a city or county has adopted a fire safety plan or document separate from the general plan, an attachment of, or reference to, a city or county's adopted fire safety plan or document that fulfills commensurate goals and objectives and contains information required pursuant to this paragraph.

(4) Upon the next revision of a local hazard mitigation plan, adopted in accordance with the federal Disaster Mitigation Act of 2000 (Public Law 106-390), on or after January 1, 2017, or, if a local jurisdiction has not adopted a local hazard mitigation plan, beginning on or before January 1, 2022, the safety element shall be reviewed and updated as necessary to address climate adaptation and resiliency strategies applicable to the city or county. This review shall consider advice provided in the Office of Planning and Research's General Plan Guidelines and shall include all of the following:

(A) (i) A vulnerability assessment that identifies the risks that climate change poses to the local jurisdiction and the geographic areas at risk from climate change impacts, including, but not limited to, an assessment of how climate change may affect the risks addressed pursuant to paragraphs (2) and (3).

(ii) Information that may be available from federal, state, regional, and local agencies that will assist in developing the vulnerability assessment and the adaptation policies and strategies required pursuant to subparagraph (B), including, but not limited to, all of the following:

(I) Information from the Internet-based Cal-Adapt tool.

(II) Information from the most recent version of the California Adaptation Planning Guide.

(III) Information from local agencies on the types of assets, resources, and populations that will be sensitive to various climate change exposures.

(IV) Information from local agencies on their current ability to deal with the impacts of climate change.

(V) Historical data on natural events and hazards, including locally prepared maps of areas subject to previous risk, areas that are vulnerable, and sites that have been repeatedly damaged.

(VI) Existing and planned development in identified at-risk areas, including structures, roads, utilities, and essential public facilities.

(VII) Federal, state, regional, and local agencies with responsibility for the protection of public health and safety and the environment, including special districts and local offices of emergency services.

(B) A set of adaptation and resilience goals, policies, and objectives based on the information specified in subparagraph (A) for the protection of the community.

(C) A set of feasible implementation measures designed to carry out the goals, policies, and objectives identified pursuant to subparagraph (B) including, but not limited to, all of the following:

(i) Feasible methods to avoid or minimize climate change impacts associated with new uses of land.

(ii) The location, when feasible, of new essential public facilities outside of at-risk areas, including, but not limited to, hospitals and health care facilities, emergency shelters, emergency command centers, and emergency communications facilities, or identifying construction methods or other methods to minimize damage if these facilities are located in at-risk areas.

(iii) The designation of adequate and feasible infrastructure located in an at-risk area.

(iv) Guidelines for working cooperatively with relevant local, regional, state, and federal agencies.

(v) The identification of natural infrastructure that may be used in adaptation projects, where feasible. Where feasible, the plan shall use existing natural features and ecosystem processes, or the restoration of natural features and ecosystem processes, when developing alternatives for consideration. For the purposes of this clause, “natural infrastructure” means the preservation or restoration of ecological systems, or utilization of engineered systems that use ecological processes, to increase resiliency to climate change, manage other environmental hazards, or both. This may include, but is not limited to, floodplain and wetlands restoration or preservation, combining levees with restored natural systems to reduce flood risk, and urban tree planting to mitigate high heat days.

(D) (i) If a city or county has adopted the local hazard mitigation plan, or other climate adaptation plan or document that fulfills commensurate goals and objectives and contains the information required pursuant to this paragraph, separate from the general plan, an attachment of, or reference to, the local hazard mitigation plan or other climate adaptation plan or document.

(ii) Cities or counties that have an adopted hazard mitigation plan, or other climate adaptation plan or document that substantially complies with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by

reference into the safety element the other general plan provisions, climate adaptation plan or document, specifically showing how each requirement of this subdivision has been met.

(5) After the initial revision of the safety element pursuant to paragraphs (2) and (3) upon each revision of the housing element, the planning agency shall review and, if necessary, revise the safety element to identify new information relating to flood and fire hazards that was not available during the previous revision of the safety element.

(6) Cities and counties that have flood plain management ordinances that have been approved by FEMA that substantially comply with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by reference into the safety element the other general plan provisions or the flood plain ordinance, specifically showing how each requirement of this subdivision has been met.

(7) Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the California Geological Survey of the Department of Conservation, the Central Valley Flood Protection Board, if the city or county is located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, and the Office of Emergency Services for the purpose of including information known by and available to the department, the agency, and the board required by this subdivision.

(8) To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

(h) (1) An environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community. The environmental justice element, or related environmental justice goals, policies, and objectives integrated in other elements, shall do all of the following:

(A) Identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities by means that include, but are not limited to, the reduction of pollution exposure, including the improvement of air quality, and the promotion of public facilities, food access, safe and sanitary homes, and physical activity.

(B) Identify objectives and policies to promote civil engagement in the public decisionmaking process.

(C) Identify objectives and policies that prioritize improvements and programs that address the needs of disadvantaged communities.

(2) A city, county, or city and county subject to this subdivision shall adopt or review the environmental justice element, or the environmental

justice goals, policies, and objectives in other elements, upon the adoption or next revision of two or more elements concurrently on or after January 1, 2018.

(3) By adding this subdivision, the Legislature does not intend to require a city, county, or city and county to take any action prohibited by the United States Constitution or the California Constitution.

(4) For purposes of this subdivision, the following terms shall apply:

(A) “Disadvantaged communities” means an area identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code or an area that is a low-income area that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation.

(B) “Public facilities” includes public improvements, public services, and community amenities, as defined in subdivision (d) of Section 66000.

(C) “Low-income area” means an area with household incomes at or below 80 percent of the statewide median income or with household incomes at or below the threshold designated as low income by the Department of Housing and Community Development’s list of state income limits adopted pursuant to Section 50093.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 65302 of the Government Code proposed by this bill and Assembly Bill 2651. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 65302 of the Government Code, and (3) this bill is enacted after Assembly Bill 2651, in which case Section 65302 of the Government Code, as amended by Assembly Bill 2651, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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# WORKFORCE DEVELOPMENT RECOMMENDATIONS TO ADVANCE THE CITY OF BERKELEY'S GREEN NEW DEAL POLICY

AUGUST 2024



West Berkeley Vision 2020



# ACKNOWLEDGMENTS

Our understanding of residents' priorities was deeply informed by the insights shared by numerous community leaders and members, both named and unnamed. We extend our gratitude to the residents of West and South Berkeley and the many organizations that contributed to this effort, including the Councilmember Terry Taplin's Office, Just Cities, Dellums Clinic, McGee Baptist Church, Student Environmental Resource Center, Green the Church, Ecology Center, Rising Sun, the City of Berkeley Economic Development Department, Alameda County Workforce Development, Goldman School of Public Policy, the Berkeley Food Network, Environment of Planning, Vice Chancellor's Office, Climate Center - Reimagining Public Safety Community Task Force, Homeless Force Coalition, Berkeley Unified School District Board Member, the Confederated Villages of Lisjan, Healthy Black Families, Alameda County Workforce Development Boards, and many others.



**JUST CITIES**  
Restorative Justice in Planning & Policy



BERKELEY CITY COUNCILMEMBER  
**TERRY TAPLÍN**  
DISTRICT 2



## EXECUTIVE SUMMARY

The City of Berkeley's Green New Deal (GND) is a transformative policy initiative that addresses climate change and social inequities, focusing on vulnerable communities in West and South Berkeley. Since the passage of the city-wide Green New Deal Resolution in 2021, Councilmember Terry Taplin has advocated for targeted efforts to address historical environmental injustices and ensure a just transition for the area's most impacted populations. However, gaps remain in how these policies address the needs of low-income and marginalized residents, particularly in the area of workforce development.

Key challenges include high unemployment rates in West and South Berkeley, especially among Black and other underrepresented communities. Interviews with city staff and community members revealed that the current reliance on the Alameda County Workforce Investment Board (WIB) does not adequately serve Berkeley residents, with a lack of data on the number of local beneficiaries and insufficiently targeted job training programs for emerging green jobs.

### Recommendations

The City of Berkeley should **prioritize job training for low-income residents** to prepare them for employment opportunities in the growing green economy. Specifically:

- 1) **The City of Berkeley should prioritize job training for low-income residents to access new jobs in the green economy.** The City should have its own job-training programs and create a new local funding stream for Berkeley residents rather than only utilizing the current Alameda County Workforce Investment Board programs.
- 2) **Create a dedicated local funding stream** to support these job-training initiatives rather than relying solely on Alameda County Workforce Investment Board programs, which have not adequately addressed the City's unique workforce needs.

By adopting these recommendations, Berkeley can take proactive steps to ensure that all Berkeley residents, particularly those from historically marginalized communities, secure a livable future, combat environmental racism, and have access to good-paying jobs. This approach addresses unemployment and fosters an equitable transition to a sustainable economy.



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## 1. Introduction

Workforce development is a critical component in advancing the City of Berkeley’s Green New Deal, as it directly aligns with the initiative’s goals of promoting environmental sustainability and economic equity. To achieve a transformative impact, it is essential to not only implement green policies but also ensure that the local workforce is equipped with the skills and knowledge required to thrive in a green economy. This entails creating job training programs that focus on emerging industries such as renewable energy, sustainable construction, and green technology, while also addressing the needs of vulnerable populations. By strategically developing and implementing these workforce initiatives, Berkeley can support its Green New Deal objectives, drive economic growth, and foster a more inclusive and resilient community.

### A. Background

#### I. The City of Berkeley’s Green New Deal

Councilmember Terry Taplin has made the Berkeley Green New Deal a central initiative, particularly addressing the distinct needs of West Berkeley. The City of Berkeley introduced and passed a city-wide Green New Deal Resolution in 2021, which commits to a Just Transition and a West Berkeley Green New Deal, acknowledging the severity of environmental injustice. Vulnerable residents, including seniors, disabled individuals, and those with low incomes, face barriers to accessing climate change mitigation programs<sup>1</sup>. The Green New Deal Project emphasizes targeted strategies, aligning with a Just Transition within the local context. This approach ensures inclusivity and addresses the unique challenges faced by West Berkeley’s vulnerable populations, demonstrating a commitment to balancing industrial activities, transportation pollution, and sustainability in the area.

A **Green New Deal** is a transformative policy initiative designed to tackle economic inequality and climate change simultaneously. It aims to shift from fossil fuels to clean energy by mobilizing public resources to create dignified jobs and promote sustainable industries. Cities cannot wait for the federal government to act, so the City of Berkeley lays out a framework for tackling climate change while securing a livable future for ALL Berkeleyans by repairing societal injustices, like economic inequality and environmental racism. With five goals, the primary goals

1. **Goal #1: Achieve Net Zero Emission**
2. **Goal #2: Secure Basic Needs**
3. **Goal #3: Increase Access to Quality Jobs**

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<sup>1</sup>Taplin, Council Member Terry . “Resolution Committing the City of Berkeley to a Just Transition from Fossil Fuels and the Creation of a West Berkeley Green New Deal,” December 14, 2021



- 4. **Goal #4: Invest in Green Infrastructure**
- 5. **Goal #5: Repair environmental oppression**

**Figure 1: Summary of Green New Deal**

Figure 1 presents the five major goals developed through interactions with Berkeley residents, reflecting their needs and understanding of the Green New Deal. This figure also includes an overview of existing Green New Deal policies, highlighting those that have been passed and those that have failed at both the federal and city levels. These insights help illustrate the alignment between community priorities and broader policy outcomes.



The Office of Councilmember Taplin partnered with the Goldman School of Public Policy (GSPP) and the College of Environmental Design (CED) at UC Berkeley through the Dellums Clinic, and the Just Cities Institute (Just Cities) to engage in research, analysis, development and rollout the steps of the implementation of Green New Deal policies and plans. In the initial proposal presented by Councilmember Terry Taplin office, focused on implementing a Green New Deal with a specific emphasis on prioritizing communities of color and the construction of decarbonized homes for low-income families<sup>2</sup>. This partnership will benefit Berkeley residents by incorporating the values of social justice, equity, and ethics into the vision and plan of how Berkeley government, led by D2’s Green New Deal, can design its city, infrastructure, and public services in ways that not only sustainable and climate resilient, but accessible and inclusive as well. The target population for this project are low- and middle-income residents of D2. The geographic area of the project is bounded by University Avenue on the north side, Sacramento

<sup>2</sup> Council Member Terry Taplin Grant Application, February 6, 2023.



Street on the east side, Alcatraz Avenue/Haskell Street on the south side, and extending to the Berkeley Marina and Waterfront. As of the 2020 Census, there are 16,177 residents within District 2, of which 17.9% are Black (2,902), 17.4% are Latino (2,809), and 12.9% are Asian (2,082).<sup>3</sup>

## II. Addressing Historical Inequities: Why Prioritize West and South Berkeley Needs

West Berkeley, represented by Council Member Terry Taplin, has long borne the scars of historical injustices, primarily due to redlining and the ongoing impact of environmental racism. For example, this area has suffered disproportionately from air pollution caused by nearby sources like Interstate 80 and soil and groundwater contamination stemming from a legacy of heavy industrial activities.<sup>4</sup>

U.S. Census data from 2010 to 2020 reveals that Census Tract 4220 in West Berkeley experienced the fastest growth during this period.<sup>5</sup> However, this growth comes with significant environmental risks, including rising sea levels and toxic groundwater exposure. Recognizing these challenges, Councilmember Taplin saw the need to specify just transition goals for these areas to ensure that development is both equitable and sustainable.

Recognizing the intersection of environmental justice and economic development, the City Council has expanded its focus to include South Berkeley in its resolutions. This broader scope acknowledges the shared struggles of historically marginalized communities in both regions and underscores the necessity of implementing equitable strategies for a just transition.

The data also shows a dramatic decline in the Black population across various Berkeley neighborhoods from the 1970s to 2020. In West Berkeley-Industrial, the Black population decreased, dropping from 29.25% in the 1970s to 18.7% in 2020. South Berkeley experienced similar trends, reflecting a significant demographic shift and displacement of the Black community over the past five decades.

### **Figure 5: The Environmental Justice Urgency**

Figure 5 illustrates the severity of historical redlining in Districts 2 and 3, encompassing West and South Berkeley, and highlights how these areas have been disproportionately impacted by

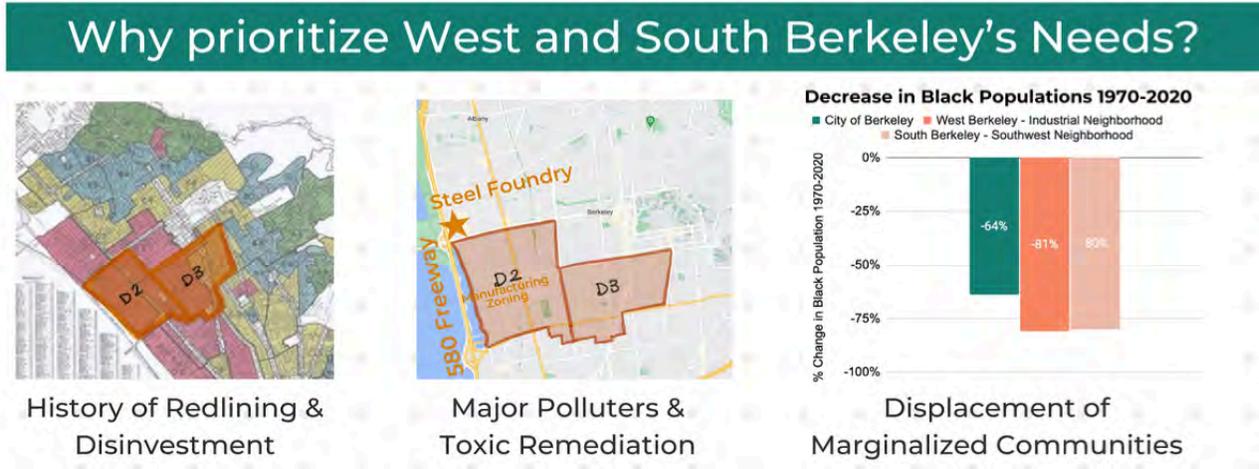
<sup>3</sup> Taplin, Council Member Terry . “Resolution Committing the City of Berkeley to a Just Transition from Fossil Fuels and the Creation of a West Berkeley Green New Deal,” December 14, 2021

<sup>4</sup> Hernandez Story, Ruben (Chief of staff, Council Member Terry Taplin), December 5, 2023

<sup>5</sup>Barber, J. (2023, February 27). Redlining: The history of Berkeley’s segregated neighborhoods. *Berkeleyside*. <https://www.berkeleyside.org/2018/09/20/redlining-the-history-of-berkeleys-segregated-neighborhoods>



major pollutants. The figure also shows a significant decline in the Black population in these districts, spanning from 1970 to 2020, underscoring the long-lasting effects of both environmental and social inequities.



This stark reduction points to systemic issues such as gentrification, rising housing costs, and economic pressures that have disproportionately impacted Black residents. These figures underscore the pressing challenges faced by the remaining Black community in these areas, reflecting broader trends of displacement and economic inequity.

**Figure 6: The Decline of Black Berkeley Residents from 1970 to 2020**

Figure 6 illustrates how Black residents have been particularly marginalized by practices such as redlining and gentrification, which have endured for decades..

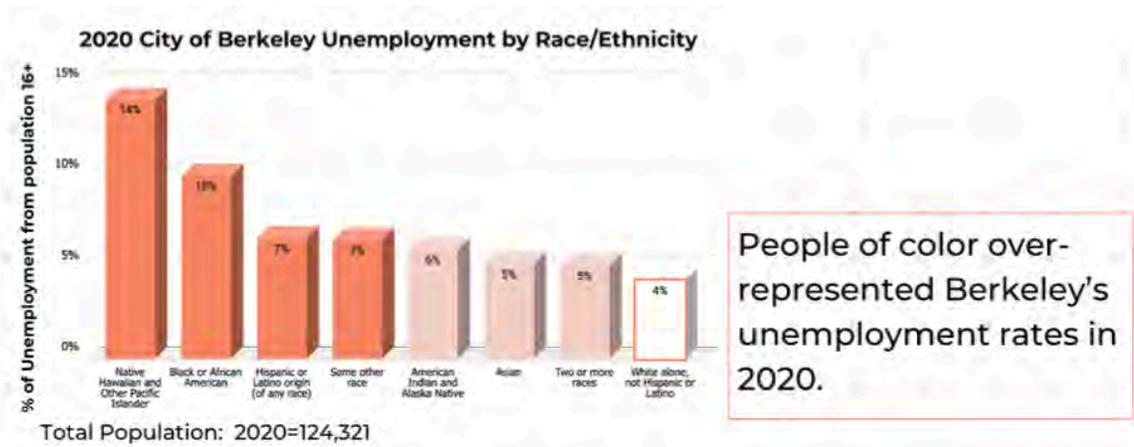
Black Population 1970s		Black Population 2020		Change Between 1970 to 2020
West Berkeley-Industrial	29.25%	West Berkeley-Industrial	18.7%	<b>-36.07%</b>
San Pablo Park	85.7%	San Pablo Park	21.7%	<b>-74.68%</b>
Southwest Berkeley	88.1%	Southwest Berkeley	17.4%	<b>-80.25%</b>



South Berkeley	78.8	South Berkeley	19.9%	-74.75%
West Berkeley- south		West Berkeley- south	16.9%	

Figure 7 shows The 2020 unemployment data for Berkeley shows marked racial disparities. Black or African American residents had a 10% unemployment rate, and Native Hawaiian and Other Pacific Islanders faced the highest rate at 14.2%, compared to 4.3% for White (non-Hispanic) residents. Other groups, including Hispanic or Latino (6.6%) and American Indian or Alaska Native (6%), also had elevated unemployment rates. These figures indicate ongoing inequities in employment, suggesting a need for targeted workforce support for affected communities.

**Figure 7: 2020 City of Berkeley Unemployment by Race/ Ethnicity**



**Evidence and community needs**—Surveys and interviews indicate a strong need for localized workforce development solutions and for examining unemployment rates by race and geography.

## B. The Problem

Councilmember Taplin’s initial proposal highlighted the importance of centering communities of color in the Green New Deal policy, particularly by constructing decarbonized homes for



low-income families.<sup>6</sup> However, the existing resolution did not specify clear goals for achieving a Just Transition, nor did it outline the steps needed to address and reverse historical environmental racism. To address these gaps, it is essential to identify the top priorities for unhoused and low-income tenants in West Berkeley and other low-income communities. The goal is to ensure that Green New Deal policies in Berkeley promote a livable future for all residents, combat environmental racism, and provide access to well-paying jobs.

### C. This Report

This report seeks to provide actionable implementation recommendations that translate the broader City of Berkeley Green New Deal policy into specific, practical strategies. The primary goal is to develop clear, detailed recommendations that address the immediate needs of Berkeley's diverse communities, particularly those who are District 2 and District 3. These recommendations will focus on creating targeted initiatives that ensure equitable access to jobs, and environmental justice. By outlining actionable steps, the report aims to guide policymakers, community organizations, and stakeholders in effectively implementing the Green New Deal, ensuring that the policy not only addresses climate change but also promotes social and economic equity for all Berkeley residents.

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<sup>6</sup> Taplin, Council Member Terry . “Resolution Committing the City of Berkeley to a Just Transition from Fossil Fuels and the Creation of a West Berkeley Green New Deal,” December 14, 2021



## 2. Methods, Analysis, & Findings

To develop these recommendations, this analysis utilizes a methodology that emphasizes the importance of empathy, inclusivity, and community-centered approaches. Lived experiences of marginalized communities such as the impacts of historical redlining, exposure to toxic pollutants, and the displacement of BIPOC residents from Berkeley, are crucial to creating equitable policies. These experiences highlight long-standing racial inequities and emphasize the need for policies that directly confront these systemic challenges to ensure a more just and inclusive future.

This report develops policy recommendations rooted in the realities faced by those most affected by systemic inequities. This approach ensures that our initiatives are responsive to immediate needs and aligned with long-term goals of community empowerment and equity.

The authors conducted extensive community engagement and demographic analysis, and identified a critical need for new job creation, particularly in light of significant demographic shifts, including a decline in Black or African American, American Indian, and Alaska Native populations.

### A. Interviews

#### I. Interviews with Community Members

This report reflects interviews with diverse stakeholders including long-term residents, displaced individuals, community leaders, environmental advocates, and founders of non-profit organizations. These conversations were instrumental in identifying the immediate needs for environmental resilience, assessing existing community resources, and uncovering the root causes of service gaps. The Berkeley Subpopulation Needs and Service Matrix was developed to translate these insights into actionable strategies.<sup>7</sup> This tool enabled us to systematically organize and analyze information about various subpopulations, including the unhoused, seniors, disabled individuals, youth, rent-burdened tenants, and low-income residents. By identifying their unique needs and evaluating the availability of services, we were able to craft targeted approaches to address these challenges. We identified six critical needs for each subpopulation, including job creation and training, food security, health, electricity/energy, resilient housing, and recycling/repurposing (refer to **Appendix B** for a detailed analysis of our findings). These findings provide a comprehensive framework for addressing community concerns and promoting a more equitable and sustainable future.

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<sup>7</sup>[https://docs.google.com/spreadsheets/d/1tTxvowllIAFush\\_dvhGyEDaZUIrWJ3WyhmUKiAFCE5c/edit?usp=share\\_link](https://docs.google.com/spreadsheets/d/1tTxvowllIAFush_dvhGyEDaZUIrWJ3WyhmUKiAFCE5c/edit?usp=share_link)



## II. Key Insights from Interviews with Community Members

Common themes include the need for localized services, better communication between agencies and residents, and tailored support for different community segments—all united around the community perspective that the Green New Deal should prioritize basic human needs, including job training so that low-income residents could access jobs in the new green economy. This priority aligns with the broader issue of supporting BIPOC, low-income residents in securing a livable future, combating environmental racism, and accessing well-paying jobs, as outlined in the problem statement: “What are the top priorities for West Berkeley’s unhoused and low-income tenants within the Berkeley Green New Deal policies that allow all residents to secure a livable future?”

Our analysis also revealed that while non-BIPOC residents shared many concerns with their BIPOC counterparts, such as affordable housing and energy security, they also expressed additional interests in environmental sustainability and job creation with the evolving green economy. Notably, the concept of “energy” differed significantly across subpopulations: for example, for the unhoused, energy access might mean finding locations to charge mobile devices, while for rent-burdened tenants, it could involve managing high utility costs. These nuanced needs underscore the importance of developing inclusive strategies and tailored solutions that address the specific challenges faced by each group, ensuring that our initiatives are responsive to both the unique and shared concerns across Berkeley's diverse population.

After engaging with residents, feedback highlighted the community’s most pressing concerns. While decarbonization was recognized as important, it was not an immediate priority. Instead, residents emphasized more urgent needs, such as access to Job training, food security, and reliable electricity. There was broad agreement on the importance of workforce development programs to better integrate unhoused and low-income populations into the local economy. This feedback underscored the necessity of addressing practical, immediate needs before focusing on long-term environmental goals.

Council Member Terry Taplin has been responsive to these findings, acknowledging that decarbonization, while vital, does not address the community’s immediate concerns and agreed for a shift in focus towards more pressing issues, particularly workforce development, as a key strategy to address local needs. His support reflects a commitment to aligning city policies with the real-time needs of the community, specifically by empowering low-income and unhoused residents through job training and employment opportunities. This shift in focus will help stabilize these populations and build a more inclusive, resilient community.

Workforce development plays a pivotal role within the Green New Deal (GND) framework, particularly in the context of Berkeley's commitment to sustainability and social equity. At its



core, the GND aims to reduce greenhouse gas emissions and promote green infrastructure, which Berkeley actively pursues through initiatives in energy and sustainable development. However, crucially expanding the GND's scope, Berkeley recognizes that true sustainability includes ensuring equitable access to green jobs. These jobs not only contribute to environmental goals but also provide a pathway to economic stability and social inclusion for all residents, including BIPOC communities disproportionately affected by historical inequities and gentrification pressures. By focusing on workforce development initiatives that create accessible pathways to green employment, Berkeley not only strengthens its environmental resilience but also fosters a more inclusive community where diverse populations can thrive economically and contribute to the city's sustainable future. This integrated approach aligns with Berkeley's commitment to addressing both environmental challenges and social justice, ensuring that the benefits of a green economy are shared equitably among all Berkeleyans.

### **III. Interviews with City of Berkeley Staff and Alameda County Workforce Development Board**

Discussions with Berkeley City staff from the Economic Development Department have revealed a significant gap in data regarding the number of Berkeley residents benefiting from job training programs facilitated through partnerships between the City and other organizations. No City staff could identify who represents Berkeley on the Alameda County Workforce Development Board. County officials confirmed that the Board currently does not have dedicated personnel or a specific representative for the City of Berkeley. This lack of representation exacerbates the problem of inadequate advocacy for Berkeley's specific workforce development needs at the county level.

### **IV. Insights from Interviews with City of Berkeley Staff and Alameda County Workforce Development Board**

Berkeley relies on the Alameda County Workforce Development Board, unlike Oakland and Richmond, which have more localized workforce development programs. This board serves multiple municipalities across the county, resulting in a less targeted approach to Berkeley's specific needs. While Berkeley benefits from workforce-related activities facilitated by the Office of Economic Development, including talent recruitment and support for STEM education, these efforts are not part of a unified, city-wide strategy. Additionally, while institutions like Berkeley City College offer various training opportunities, there is no coordinated approach to address the specific needs of Berkeley's low-income residents. This fragmented approach limits the effectiveness of workforce development initiatives in the city, as programs often operate in silos, lacking alignment with community-specific challenges. Without a unified strategy that



directly targets the economic barriers and skill gaps faced by low-income residents, these initiatives struggle to provide long-term, sustainable solutions for upward mobility.

Initiatives like the Berkeley Startup Cluster, which aims to foster inclusive growth in the tech sector, also operate independently with separate fiscal oversight rather than being directly managed by the city. Although the Alameda County Workforce Development Board provides training programs and support for individuals facing employment barriers, there remains a disconnect between these programs and local hiring practices.

Alameda County funds its workforce development with *a \$7.2 million budget for 2023-2024, projected to increase to \$8 million*. This budget covers special programs and staffing across four sub-regions, aiming to distribute services equitably based on demographic and economic factors;<sup>8</sup> the absence of specific data on the number of Berkeley residents served by these programs makes it challenging to assess their direct impact on Berkeley's workforce needs.

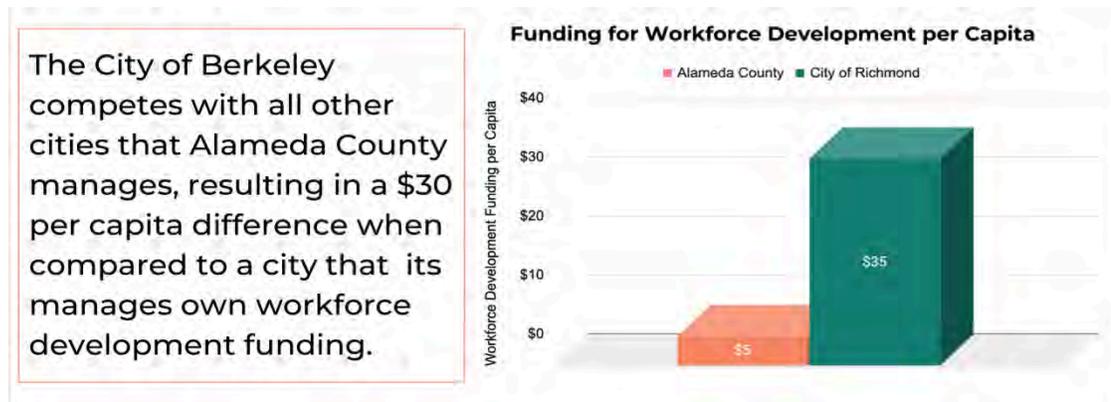
Examining the current allocation of federal dollars for job training in Alameda County reveals that workforce development is relatively small, which limits the scope and impact of the programs that can be implemented. With such limited funding, it's challenging to address the diverse and complex needs of the county's workforce.

Richmond Workforce Development Board provides a useful comparison, illustrating the need for a localized job training strategy in Berkeley. *With a \$4 million budget, Richmond invests approximately \$35 per resident, serving a smaller population. In contrast, Alameda County's job training funding is just \$4.93 per resident.* This significant discrepancy in per capita funding highlights the pressing need for a localized job training strategy for Berkeley. Berkeley should explore the possibilities of establishing local job training programs and allocating a substantially higher budget per resident. By doing so, the city can provide more comprehensive and effective training opportunities tailored to its residents' specific needs. This localized approach will enable Berkeley to equip its workforce with the relevant skills necessary to thrive in the evolving green economy.

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<sup>8</sup> ALAMEDA COUNTY WORKFORCE DEVELOPMENT BOARD. (2024, April 10). acwdb.org. Retrieved May 6, 2024, from <https://acwdb.org/wp-content/uploads/2024/04/4.10.24-OE-Packet.pdf>

**Figure 8: Funding for Workforce Development per Capita**



Such a program would advocate for Berkeley’s diverse populations, including low-income, BIPOC, formerly incarcerated, and unhoused residents, and align workforce development efforts with the city’s socioeconomic landscape. It would also foster collaboration between local businesses, educational institutions, and community organizations to create a more integrated and effective approach to workforce development. This strategy could pave the way for Berkeley to make a significant impact, akin to the successes of neighboring towns like Richmond and Oakland. Investing more heavily in residents' skills development will be crucial in positioning Berkeley with greater control over its economic development strategies, fostering inclusive growth, and better equipping its workforce for success in an evolving job market and sustainability initiatives.

### B. Comparative Analysis

To better understand this we reviewed comparable city-based resolutions to understand better how other cities are addressing equity-focused Green New Deals and Just Transitions. Our analysis mapped key environmental policy themes present in these resolutions, including green jobs, decarbonization, sea level rise, and Just Transition initiatives.

Figure 2 compares how cities are addressing equity-focused Green New Deals and Just Transitions. We analyzed city-based resolutions, mapping key environmental policy themes. While Berkeley’s resolution covers green jobs, decarbonization, sea level rise, and a Just Transition, it falls short of the more comprehensive vision seen in other cities. This comparison highlights areas where Berkeley’s approach could be further developed to align with more robust frameworks seen elsewhere

**Figure 2; Green New Deal Policies From Other Jurisdictions**



While Berkeley's resolution includes language on these important themes, it falls short in offering a holistic vision compared to the more detailed and enforceable frameworks in other cities like Richmond and Seattle. This absence of specificity makes Berkeley's resolution feel less accountable and actionable. For example, Richmond's resolution emphasizes a planning process to establish a clear vision and actionable steps, likewise Ithaca's Green New Deal provides specific targets and timelines for achieving its goals. Appendix A provides a comparative analysis highlighting the particular targets, timelines, and enforceable measures included in the Green New Deals from other cities.

This mapping exercise highlights these discrepancies and assists council members in drafting a more comprehensive Green New Deal resolution for Berkeley. Such a resolution would capture the full breadth of the community's needs and ensure that the city's commitments are clear, enforceable, and aligned with the best practices observed in other leading cities.



### 3. Targeted Recommendations– Prioritizing Local Job Training and Addressing Historical Inequities

#### A. Recommendations

The City of Berkeley should **prioritize job training for low-income residents to access new jobs in the green economy.** The City should have its own job-training programs and create a new local funding stream for Berkeley residents rather than only utilizing the current Alameda County Workforce Investment Board programs.

#### B. Rationale: Why Should the City of Berkeley Take the Recommended Action?

##### I. Lack of Data on Berkeley Residents Served by Alameda County Workforce Investment Board WIB Programs:

- The City of Berkeley currently lacks data on how many residents benefit from Alameda County Workforce Investment Board (WIB) programs.
- The Alameda County WIB does not track the information of residents who have benefitted from the training programs at the municipal level, and no city office explicitly addresses the basic, immediate workforce needs of Berkeley residents, mainly through the lens of environmental sustainability and resilience.

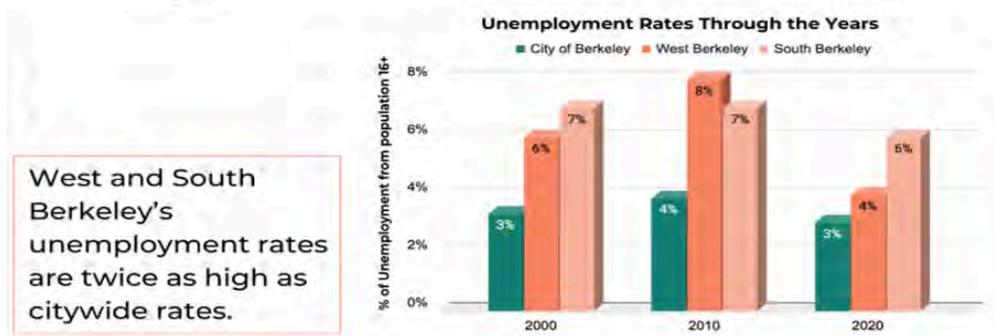
##### II. Berkeley residents who are unemployed or underemployed need help.

- The Unemployment Disparities By Neighborhood and Race Data below confirms this.

**Figure 3** reveals that citywide unemployment in Berkeley has remained relatively steady, but regional disparities persist. West Berkeley, in particular, experienced fluctuations, with unemployment rates rising from 6% in 2000 to 8% in 2010 before dropping to 4% in 2020. In contrast, South Berkeley's rates have been more stable, slightly decreasing from 7% to 6% over the same period.

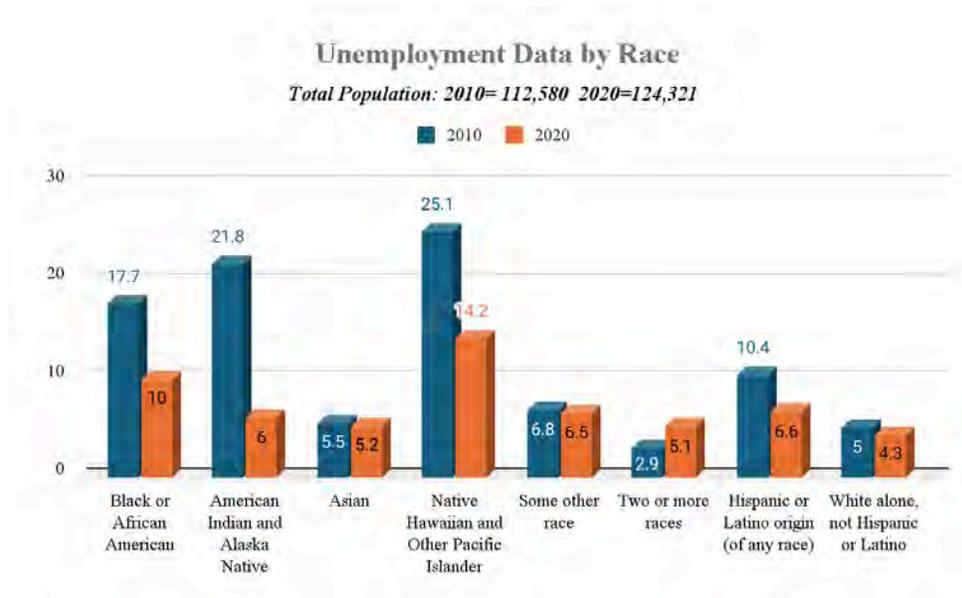


**Figure 3: Unemployment Disparities By Neighborhood<sup>9</sup>**



Similarly, **Figure 4** highlights significant racial disparities in unemployment across Berkeley between 2010 and 2020. Substantial gaps remain despite unemployment rates decreasing for Native Hawaiian, Other Pacific Islander, American Indian, and Alaska Native populations. Moreover, Black or African American unemployment has also declined yet remains disproportionately high. Meanwhile, Asian unemployment rates have remained stable, and unemployment among individuals of two or more races has increased.

**Figure 4: City of Berkeley's Unemployment Data by Race**



<sup>9</sup>Explore Census Data. (n.d.). <https://data.census.gov/>



The persistent disparities in unemployment rates across Berkeley indicate underlying systemic issues beyond mere fluctuations. Research identifies several factors contributing to high unemployment rates, including barriers related to access to job skills, inadequate training opportunities, and limited resources for job search and career advancement.<sup>10</sup> For example, communities experiencing higher unemployment rates often have lower levels of formal education and fewer opportunities for skill development.<sup>11</sup>

In areas like West Berkeley and South Berkeley, where conditions are more fragile, these gaps are exacerbated by the lack of targeted job training programs. Evidence suggests that without tailored workforce development initiatives, residents may struggle to acquire the skills necessary for high-demand jobs, which can contribute to persistent employment disparities.<sup>12</sup> Addressing these issues through localized job training programs is crucial for providing residents with the necessary skills and support. By investing in such programs, Berkeley can work towards bridging skill gaps and improving employment outcomes, particularly for its most vulnerable populations.

- III. Financial stability is fundamental to all basic needs uplifted from community interviews.**
- IV. Green workforce development is a main tenet of Green New Deal definitions across all governmental levels.**
- V. Developing a new revenue stream provides the city with greater spending flexibility than federal or state funding, allowing for investment in resources tailored to local needs.**

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<sup>10</sup> Smith, A., Jones, B., & Davis, C. (2022). *Barriers to Employment and Skill Development in Urban Areas*. Journal of Labor Economics, 45(2), 123-145

<sup>11</sup> Johnson, Robert. *Educational Attainment and Employment Outcomes in High-Unemployment Areas*. Boston: Academic Publications, 2021.

<sup>12</sup> Brown, Lisa, and Michael Lee. *Barriers to Employment: The Role of Job Training Programs in Addressing Unemployment Disparities*. New York: Employment Studies Press, 2023.



## 4. Case Study: How Local Job Training Programs Make a Difference for Low-Income Communities of Color

To illustrate the transformative potential of local job training programs, the Richmond case study provides a compelling example of how workforce development initiatives can positively impact low-income communities of color. Richmond's approach highlights the benefits of tailored, community-focused strategies that address both immediate employment needs and long-term economic resilience. This case study was selected because of its relevance to Berkeley, particularly in demonstrating how comprehensive workforce development can reduce unemployment, improve economic mobility, and support marginalized populations.

### Richmond Case Study

Richmond is a compelling example of the transformative impact of well-planned workforce development initiatives on a community. Since its establishment in 2017, the Richmond Workforce Development Board (RWDB) has consistently addressed the diverse needs of job seekers and employers in the region.<sup>13</sup> In response to the challenges posed by the COVID-19 pandemic and ongoing economic difficulties, the RWDB swiftly adapted to virtual platforms, ensuring the continued delivery of vital workforce services. This responsiveness and dedication illustrate the significant benefits of localized, tailored workforce development strategies.

The RWDB was established with a clear vision and defined goals. It initially operated with a budget of \$4 million to maximize its impact on the local economy and workforce. Key objectives include maintaining strong ties with the City of Richmond, leveraging resources to create customized pre-apprenticeship programs, and fostering collaborative relationships with employers, educational institutions, unions, and community organizations.

The RWDB's primary goals underscore a commitment to building a skilled labor force that meets the evolving needs of the job market. These efforts include year-round employment opportunities, career advancement training programs, and support services for youth. The RWDB also focuses on forming partnerships with regional organizations to help individuals enter high-growth, well-paying industries and prepare residents for careers in the construction trades.

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<sup>13</sup>COMMUNITY SERVICES - EMPLOYMENT & TRAINING. (2024, January). City Richmond Ca Budget Book. Retrieved February 6, 2024, from <https://city-richmond-ca-budget-book.cleargov.com/9811/departments/library-and-community-services-employment-training>



In 2023, the RWDB developed a targeted strategy to address the specific needs of Richmond residents. This plan included establishing training programs to enhance technical skills, creating job opportunities with competitive wages and benefits, and providing comprehensive workforce preparation services aligned with local labor market demands. Additionally, the RWDB aimed to provide work-based learning opportunities to 500 youth and train 100 residents for careers in the construction and renewable energy sectors.

The RWDB's achievements illustrate its significant impact on the Richmond community, allocating over \$4 million to employment and training services for diverse individuals, including adult workers, youth, dislocated workers, ESL learners, individuals with disabilities, and formerly incarcerated individuals. The RWDB's initiatives, such as the Richmond Beautification Program and support for the Richmond Housing Authority, highlight its holistic approach to community development. The RWDB also served more than 7,000 individuals at their career center, providing professional development, occupational skills training, and paid work experience opportunities to 500 youth across Richmond.<sup>14</sup>

The Regional Workforce Development Board's (RWDB) success is largely due to its well-structured organizational framework, led by the Deputy Director for Employment and Training. This framework includes key departments such as fiscal services, youth programs, construction initiatives, and contract compliance. To enhance its reach and effectiveness, the RWDB has established partnerships with 14 organizations, including the EASTBAY Works One-Stop Career Centers, the business community, and labor representatives.

The RWDB is committed to inclusivity, strictly following the Workforce Innovation and Opportunity Act (WIOA) requirements.<sup>15</sup> These requirements prioritize services for vulnerable

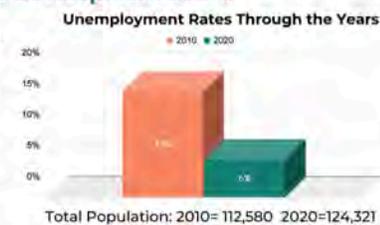
<sup>14</sup> *COMMUNITY SERVICES - EMPLOYMENT & TRAINING*. (2024, January). City Richmond Ca Budget Book. Retrieved February 6, 2024, from <https://city-richmond-ca-budget-book.cleargov.com/9811/departments/library-and-community-services-employment-training>

<sup>15</sup> *COMMUNITY SERVICES - EMPLOYMENT & TRAINING*. (2024, January). City Richmond Ca Budget Book. Retrieved February 6, 2024, from <https://city-richmond-ca-budget-book.cleargov.com/9811/departments/library-and-community-services-employment-training>

## Workforce Development Model

### Richmond Workforce Development Board

Established in 2017, Richmond's WFDB has contributed to an 11% improvement in unemployment.



### Results of Investment

- Served over 7000 people in the Career Center
- Served over 500 youth providing career development
- Awarded over \$4 million dollars to provide employment and training services to Richmond residents: Adult workers, Youth, Dislocated Workers, ESL, Formerly Incarcerated, Construction Trades



populations, including low-income individuals, English language learners, veterans, and individuals with disabilities. Through programs like Accelerating Careers through Essential Skills Academy and YouthBUILD, the RWDB aims to empower individuals from diverse backgrounds to achieve economic mobility and self-sufficiency.

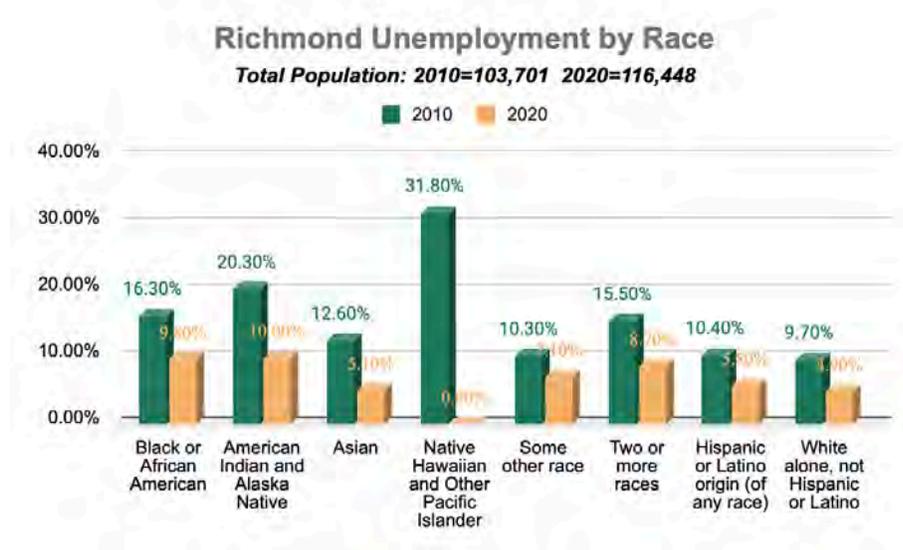
### Comparison of Richmond Unemployment Data by Race Before and After The Establishment of Local WFDB

Richmond's employment data demonstrates a significant decline in unemployment rates from 2010 to 2020, coinciding with the establishment of the local workforce development board. **In 2010, the total unemployed population stood at 9,108, accounting for 16.53% of the workforce. By 2020, this number had significantly decreased to 3,733 individuals, representing a much lower unemployment rate of 6.32%.** The creation of RWDB in 2017 likely substantially impacted this decline. The introduction of workforce development programs and initiatives played a crucial role in providing job opportunities, skills training, and support services, thereby reducing unemployment.

**Figure 8: Richmond's Unemployment and Employment Data from 2010 to 2020**<sup>16</sup>

Year	Employment Status Population 16+ = Civilian Labor Force	Unemployment Status Population 16+ =Civilian Labor Force	Percent
2010	55111	9108	16.53%
2020	59042	3733	6.32%

<sup>16</sup> *Black Census Berkeley Analysis*. (n.d.). [https://darrelowensrcd.github.io/infoTransit/1970\\_vs\\_2020.html](https://darrelowensrcd.github.io/infoTransit/1970_vs_2020.html)

**Figure 9: Richmond Unemployment Data By Race**


Census data on race from 2010 to 2020 shows significant reductions in unemployment rates across various racial groups in Richmond. Notable decreases were observed for Black or African American individuals (16.30% to 9.80%), American Indian and Alaska Native individuals (20.30% to 10.00%), Asian individuals (12.60% to 5.10%), Some other race (10.30% to 7.10%), Two or more races (15.50% to 8.70%), Hispanic or Latino origin (10.40% to 5.80%), and White alone, not Hispanic or Latino individuals (9.70% to 4.90%). These reductions suggest positive employment opportunities and economic growth trends across various racial demographics in Richmond over the past decade, amplifying the positive impact the RWDB has made.

### What Berkeley Can Learn:

Richmond's experiences and successes, mainly through the work of the RWDB, provide valuable insights from which Berkeley could benefit. Richmond's commitment to comprehensive workforce development has significantly impacted its community, evidenced by the reduction in unemployment rates and the creation of numerous opportunities for diverse groups, including youth, low-income individuals, and those facing employment barriers. The RWDB's strategic partnerships, targeted training programs, and inclusive initiatives serve as a model for effectively addressing local economic challenges.

Berkeley stands to gain considerably by adopting a similar approach. By establishing a dedicated local workforce development board, Berkeley can ensure that the unique needs of its residents, especially the unhoused and low-income populations, are met more effectively. This could involve creating customized pre-apprenticeship programs, forming robust partnerships with employers, educational institutions, and community organizations, and focusing on industries



poised for growth, such as renewable energy and construction. Emulating Richmond's model would address immediate employment needs and foster long-term economic stability and inclusivity. Such a strategic shift would align with Berkeley's goals of providing sustainable livelihoods, combating environmental racism, and ensuring that all residents have access to well-paying jobs and a secure future.



## 5. Implementation Considerations: Financial, Staffing, and Economic Impacts of Localized Job Training

### A. Financing: Tax Revenue Models

To understand how cities can fund essential services, especially those targeting vulnerable populations, this section examines case studies that highlight progressive tax policies. These models provide useful lessons on how targeted tax initiatives can generate substantial revenue for homelessness services, workforce development, and other critical programs. By analyzing these policies, potential strategies for Berkeley to ensure sustainable funding for its community programs can be identified.

#### I. Case Study 1: San Francisco, CA Proposition C, Special Tax for Homelessness Services

In November 2022, Proposition C, a gross receipts business tax initiative to fund homelessness services, was voted into law with 61% approval. This policy imposes an additional tax on San Francisco individuals and businesses earning more than **\$50 million** in total annual income. It impacts roughly 300 to 400 businesses (2-3%) of the 13,000 already paying gross receipts tax before the proposition was approved. The additional tax on businesses earning more than **\$50 million** ranges from 0.175 to 0.69 percent. For businesses earning more than **\$50 million** and that pay the payroll tax instead of the gross receipts tax, their payroll tax rate would increase by 1.5%. This increase in business tax is estimated to generate \$250 million to \$300 million annually. The newly generated revenue is deposited into the City, The Home Fund, distributed across Housing and Community Development, Homelessness and Supportive Housing, and the Department of Public Health to support shelters, hygiene programs, mental health services, and permanent affordable housing.<sup>17</sup>

This municipal tax policy increased the tax burden on high-earner businesses and individuals, creating a new local revenue stream dedicated to a specific set of services reserved for unhoused individuals. The strategic tax increase structure and focus on businesses and individuals earning more than **\$50 million** introduce a more progressive tax policy than applying a flat tax increase across all individuals or businesses that pay the gross receipts or payroll tax. This tax policy differs from a general tax change or charter amendment because it reserves the generated revenue for a specific purpose. Proposition C establishes a baseline level of funding for homelessness programs, ensuring that this revenue remains dedicated to these initiatives rather

<sup>17</sup> Spur. (2023, December 16). *San Francisco Prop C - Business Tax for Homeless Services*. SPUR. <https://www.spur.org/voter-guide/2018-11/sf-prop-c-business-tax-homeless-services>



than being diverted to other city programs. This strategy actively redistributes wealth from some of San Francisco's highest-earning entities to its lowest-income residents.

This policy received some litigation when a taxpayer association raised a lawsuit that argued its special tax nature required a  $\frac{2}{3}$  majority vote instead of a simple majority vote ( $\frac{1}{2} + 1$  vote) to pass. The California State Supreme Court ultimately denied the review, upholding San Francisco's right to use a majority vote since the proposition was placed on the ballot through a citizen signature petition. The Coalition on Homelessness, Flide, and other homeless advocates gathered voter signatures to put the measure on the ballot, citing the California Supreme Court's Upland decision determined that a tax measure placed on a local ballot by citizen petition only requires a simple majority to pass. The ruling in Proposition C's lawsuit confirmed that the two-thirds supermajority vote requirement for local special taxes in California applies to tax measures referred to the ballot by lawmakers but not to citizen initiatives.<sup>18</sup>

In reviewing San Francisco's successful models, it becomes clear that strategic and well-planned workforce development and funding initiatives can significantly enhance community support services. San Francisco's Proposition C demonstrates the power of leveraging high-earning businesses to fund critical services for the unhoused population.

By imposing a progressive tax on businesses earning over \$50 million, San Francisco has created a dedicated revenue stream annually, generating \$250 million to \$300 million for homelessness

**San Francisco: Special Tax Policy**  
**Proposition C: Special Tax Increase for Homelessness Services**

<p>Option 1:                  Impose special tax increase businesses earning more than \$50 million through citizen signature petition</p>	<p>Option 2:                  Impose special tax increase on businesses earning more than \$50 million through city council petition</p>
<p><b>SIMPLE MAJORITY</b>  <b>(50% + 1 votes to pass)</b></p>	<p><b>2/3 MAJORITY</b>  <b>(66% votes to pass)</b></p>

services. This initiative ensures a consistent funding baseline for shelters, hygiene programs, mental health services, and permanent affordable housing, illustrating a robust model for addressing homelessness through

<sup>18</sup>San Francisco, California, Proposition C, Gross Receipts Tax for Homelessness Services. (2018, November). BALLOTPEDIA. Retrieved March 2024, from [https://ballotpedia.org/San\\_Francisco,\\_California,\\_Proposition\\_C,\\_Gross\\_Receipts\\_Tax\\_for\\_Homelessness\\_Services\\_\(November\\_2018\)](https://ballotpedia.org/San_Francisco,_California,_Proposition_C,_Gross_Receipts_Tax_for_Homelessness_Services_(November_2018))



strategic taxation and dedicated funding.

Given San Francisco's successes, the City of Berkeley should consider adopting similar strategies since establishing and maintaining a local job training system will require significant funding. Berkeley could explore implementing a **progressive tax on high-earning businesses to create a dedicated fund** for homelessness services and other critical community needs.

## II. Case Study 2: Oakland Progressive Business Tax

In November 2022, a Ballot Measure was introduced by 4 Councilmembers and was unanimously voted for placement on the ballot by the Council on May 26, 2022. The objective is to modernize Oakland's 20-year-old, regressive business tax structure and raise nearly \$22 million to protect and expand essential city services to address homelessness, fix, and clean streets, and provide tax relief and COVID recovery support to more than 20,000 struggling small businesses, many owned by women and people of color.<sup>19</sup>

Oakland's proposed progressive business tax increase offers a critical opportunity to promote fiscal equity while sustaining the city's long-term economic vitality. By introducing a tiered-rate structure, this initiative ensures that larger businesses, particularly multi-million-dollar corporations that have experienced significant profit growth during the pandemic, contribute more fairly to the city's tax base. Currently, 18% of businesses, representing a small fraction of taxable gross receipts, contribute 34% of all business taxes. In contrast, larger businesses, which account for 82% of gross receipts, contribute a disproportionately smaller share. This imbalance highlights the need for reform.<sup>20</sup>

The new tax structure is designed to relieve small businesses from excessive tax burdens. Over 20,000 small enterprises comprising 39% of all businesses in Oakland are expected to benefit from reduced taxes. Retailers, restaurants, grocers, wholesalers, and various service firms with up to \$2.5 million in gross receipts and manufacturers with up to \$1 million in gross receipts will see tax cuts. This policy ensures that 97% of Oakland businesses will either maintain their current tax rates or experience reductions, fostering a more supportive environment for local enterprises.

The proposal introduces higher tax rates for the top 3% of Oakland's largest businesses, which generate \$100 million or more annually. The goal is to balance fiscal responsibility with maintaining regional competitiveness. Increased contributions from these high-revenue

<sup>19</sup>Oakland, C. O. (2022, May 26). *Progressive Business Tax Proposal*. City of Oakland.  
<https://www.oaklandca.gov/resources/progressive-business-tax-proposal>

<sup>20</sup> Oakland, C. O. (2022, May 26). *Progressive Business Tax Proposal*. City of Oakland.  
<https://www.oaklandca.gov/resources/progressive-business-tax-proposal>



businesses are expected to enhance city services without imposing additional tax burdens on homeowners and renters.

However, the proposed tax increases, which could reach up to 760% for some businesses, have sparked valid concerns about their potential impact on Oakland's economic landscape.<sup>21</sup> The substantial rise in tax rates may lead some large employers to reconsider their presence in the city, possibly resulting in job losses and a slowdown in economic activity. The city must closely monitor these effects to ensure the tax policy does not inadvertently hinder the region's business growth or economic expansion.

This progressive business tax proposal represents a significant step forward for Oakland by increasing taxes on higher gross income levels and promoting a fairer tax system. By implementing a tiered-rate structure, the city aims to ensure that the largest and most profitable businesses contribute their fair share of revenue, addressing existing disparities. This approach not only supports small businesses with tax reductions but also strengthens the city's revenue base in a manner that is progressive and consistent with Oakland's economic and fiscal objectives.

### **III. Alternatives: Richmond, CA Measure H, and Measure E – General Tax Increase and Charter Amendment**

In June 2018, Measure E, a charter amendment authorizing the city to dedicate a portion of the city's general funds for youth programs and services, was voted into law with 76% approval. This measure proposed a gradual increase in the portion of city funds that would be dedicated to youth services, beginning with \$700,000 in its first year of implementation, 1% of the general fund in its second year, 2% of the general fund in its third year, and then 3% of the general fund in its 3rd year and every year after. The funding was intended to establish a department of children and youth within the city manager's office and a 15-member oversight board, also known as the Kid's First Initiative<sup>22</sup>. Then, in November 2018, Measure H, a property transfer tax initiative to increase the transfer tax for properties valued at more than **\$1 million**, was voted into law with 64% approval. Properties valued over \$1 million would experience some tax increase between 0.55%-2.3%, while properties valued below \$1 million would see no change in their existing 0.7% transfer tax fee. This increase in property transfer tax is estimated to generate \$4.8 million annually and had no determined specific use for the revenue as it would be

<sup>21</sup>An Analysis of Oakland's Proposed Business Tax Increase. (2022). In *Bay Area Council Economic Institute – Oakland Business Tax – March 2022*.

[https://www.bayareaeconomy.org/files/pdf/Oakland\\_BusinessTaxAnalysis\\_BACEI\\_March2022.pdf](https://www.bayareaeconomy.org/files/pdf/Oakland_BusinessTaxAnalysis_BACEI_March2022.pdf)

<sup>22</sup>*Richmond Kids Initiative Fund: The Richmond Fund for Kids and Youth*. (n.d.). Retrieved February 2024, from <https://www.ci.richmond.ca.us/DocumentCenter/View/48207/Richmond-Kids-First-Measure-E?bidId=>



deposited into the city's general fund “for a public purpose”.<sup>23</sup>

Tax Revenue Models

**Richmond: General Tax Policy**  
**Measure H and Measure E: Charter Amendment & General Tax Increase**

<p>Step 1: Amend charter to create a new distribution of general fund to a specific cause</p>	<p>Step 2: Impose general tax increase on transfer tax for properties valued more than \$1 million.</p>
<p><b>SIMPLE MAJORITY</b>  <b>(50% + 1 votes to pass)</b></p>	<p><b>SIMPLE MAJORITY</b>  <b>(50% + 1 votes to pass)</b></p>

This policy strategy combined a charter amendment that dedicated a portion of the city’s general fund to a specific purpose and a general tax increase in the form of a property transfer tax to increase the general fund’s overall value. This set of policies had a similar objective to San Francisco’s Proposition C: they generated a new local revenue source to fund a specific purpose. However,

by going the general tax and charter amendment route, this policy strategy avoided the challenges of special taxes. No citizen signature petitions were needed to get the measures on the ballot, and no two thirds  $\frac{2}{3}$  votes were required to pass the measures. Also, charter amendments to distribute existing funding to causes that voters care about often result in more easily adopted campaigns than introducing new taxes. So, Measure H being introduced before Measure E was both a tactical move and a risk if Measure E did not pass because then the Kid’s First Initiative would be dipping into the existing general fund already supporting other needed services. Measure E had an advantage in getting approved as a general tax since it only required a simple majority to pass one half plus one vote ( $\frac{1}{2} + 1$  vote).

## B. Implementation Consideration

The case studies of San Francisco’s Proposition C, Oakland’s progressive business tax, and Richmond’s Measures H and E collectively offer valuable insights into innovative funding mechanisms for municipal services. Proposition C demonstrates the effectiveness of leveraging high-earning businesses through a targeted gross receipts tax to generate substantial revenue for homelessness services. Oakland's progressive business tax illustrates how a tiered-rate structure can balance fiscal equity by ensuring that large businesses contribute more fairly to city revenues. Richmond’s Measures H and E highlight a dual approach where a charter amendment

<sup>23</sup>Rosales, B. M. (2018, December 12). *The breakdown: three local ballot measures explained*. Richmond Confidential. <https://richmondconfidential.org/2018/10/13/the-breakdown-three-local-ballot-measures-explained/>



dedicates funds to specific services while a general tax increase enhances overall revenue, demonstrating flexibility in funding strategies.

These case studies underscore several key takeaways for the City of Berkeley. First, targeted tax initiatives, such as progressive taxes on high-earning businesses or property transfer taxes, can create dedicated revenue streams for essential services without overburdening small businesses or residents. Second, combining specific allocations with broader revenue increases can offer a balanced approach to addressing diverse community needs. Finally, ensuring a clear connection between revenue sources and their intended purposes can increase public support and the effectiveness of funding initiatives.

In light of these insights, Berkeley should consider implementing a multifaceted funding strategy that integrates elements from these case studies. This could involve introducing a progressive tax on high-earning businesses to support targeted community programs, such as homelessness services or workforce development. Additionally, exploring general revenue-enhancing measures, like a property transfer tax, could provide a supplementary funding source for broader municipal needs. By adopting these strategies, Berkeley can create a sustainable and equitable funding framework that supports its diverse community needs and promotes long-term economic stability.

### **The Economic Impact of a Local Job Training Program**

Investing in job training programs can enhance the skill set of the local workforce, potentially leading to benefits for both businesses and the broader economy. By focusing on training programs in high-demand fields such as renewable energy, technology, and healthcare, the City of Berkeley can help residents acquire valuable skills that align with current job market needs. This approach may improve the employability of the local workforce and create an environment that attracts businesses seeking skilled talent. Additionally, a well-trained workforce has the potential to contribute to increased productivity and innovation within local businesses. This, in turn, could support job creation and contribute to economic growth. While these outcomes are promising, the actual impact will depend on the effectiveness of the training programs and their alignment with industry requirements. The broader economic benefits could include improved employment rates and increased consumer spending, which would contribute to a more resilient local economy.



## Appendices

### Appendix A: Summary of Green New Deal Policy Comparison Matrix From Other Jurisdictions

City and Policy Name	Main Policy Areas	Bill Language	Enforceability
Berkeley, CA- Commit The City of Berkeley to A Just Transition from The Fossil Fuel Economy	Green Jobs Decarbonization/ Electrification Sea level Just Transition	NOW THEREFORE, BE IT RESOLVED that the City Council commits the City of Berkeley to a Just Transition to zero carbon emissions that secures a livable future for all Berkeleyans, pursue a Green New Deal for West Berkeley, combats environmental racism and the unique vulnerabilities of people of color, and ensures that all Berkeleyans have access to good-paying jobs and equitable living standards free from the fossil fuel economy. BE IT FURTHER RESOLVED that all City Council reports with a section on Climate and Environmental Impacts include a Just Transition analysis wherein maximum potential for reducing greenhouse gas emissions while advancing equity is evaluated.	Not implemented
Richmond, CA-Resolution To Begin A Planning Process To Establish A Vision And	Green Jobs Decarbonization/ Electrification Community Governance Clean Air and Water Access	BE IT RESOLVED, that such a plan will Draft a principled and practical concrete implantation plan (including both low-hanging fruit and long-term projects) to address the climate crisis with a multi-year approach to new job	The City Manager's office released a Request for Proposal in October 2021 to solicit professional services to develop/implement a



<p>Identify Actions To Implement A Local Green-Blue New Deal That Will Provide 21 St Century Jobs For Our Richmond Community</p>	<p>Sea level Just Transition</p>	<p>creation.</p> <ul style="list-style-type: none"> <li>• Maintain a responsibility to deliver environmental justice and equity through an inclusive economy, producing results at the community level, guided by communities themselves.</li> <li>• Provide a pathway to the green and blue economies, creating pipelines to good paying, sustainable jobs with labor and union-friendly agreements, such as PLAs and a just transition as we enter an era of changing work trends.</li> <li>• Provide ideas for public investment in good jobs for our residents, as well as policy ideas for advancing the latest sustainability practices and regulation of polluting industries, as we begin to shift away from dependency on the fossil fuel industry so that no workers and no communities are left behind.</li> <li>• Demonstrate a resolve to demonstrate the art of the possible and lead the way, walking the walk and using our people and our budget to drive change.</li> </ul> <p>BE IT FURTHER RESOLVED that such a planning process will include reaching out to:</p> <ul style="list-style-type: none"> <li>• Experts, authors and other specialists on the Green New Deal and the Blue New Deal.</li> <li>• The overall Richmond community and stakeholders through community meetings, town hall gatherings, workshops, webinars and other outreach methods. Stakeholder meetings should include (but not be limited</li> </ul>	<p>community-based workforce development plan using the Green-Blue New Deal/JT Framework. Appraccel, LLC was awarded the contract in April 2022.</p>
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		<p>to) Richmond environmental justice and environmental health organizations, climate change organizations, shoreline groups, neighborhood councils, unions (public sector and private sector), the business community, and nonprofits.</p> <p>BE IT FINALLY RESOLVED that this planning process should be approximately a one (1) year to 18-month process with study session updates presented to the City Council every 6 months to update the Council and the public at large. Given the urgency of the climate crisis, these updates should also advise the Council on potential implementation of certain recommendations, even prior to the end of the planning process.<sup>24</sup></p>	
<p>Seattle, WA -Resolution For Green New Deal For Seattle</p>	<p>Green Jobs Decarbonization/ Electrification Community Governance Clean Air and Water Access Resource for Low Income Food Security Just Transition</p>	<p>BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE THAT:</p> <p>Section 1. The City of Seattle (“City”) supports policies that promote strong families and communities, including paid family and sick leave, affordable child care, universal health care, and high-quality, free educational opportunities for all as laid out by the federal Green New Deal resolution and urges the United States Congress to pass the Green New Deal.</p> <p>Section 2. The City recognizes</p>	<p>Green New Deal Executive Order<sup>26</sup></p>

<sup>24</sup> <https://www.ci.richmond.ca.us/ArchiveCenter/ViewFile/Item/11284>

<sup>26</sup>Durkan, J. A. (2020). *Executive Order 2020-01: Advancing a Green New Deal for Seattle*. [https://wayback.archive-it.org/3241/20211218155953/https://durkan.seattle.gov/wp-content/uploads/sites/9/2020/01/Final-Executive-Order-2020-01-Advancing-a-Green-New-Deal-for-Seattle\\_.pdf](https://wayback.archive-it.org/3241/20211218155953/https://durkan.seattle.gov/wp-content/uploads/sites/9/2020/01/Final-Executive-Order-2020-01-Advancing-a-Green-New-Deal-for-Seattle_.pdf)



		<p>that, while it has made some progress towards reducing its dependence on fossil fuels, that progress is insufficient to make the necessary changes to shift Seattle’s economy to be more equitable and ecologically sustainable.</p> <p>Section 3. The City envisions a future where Seattle residents can live healthy, prosperous lives, free of toxic chemicals and fossil fuels, and all people's social and ecological well-being is prioritized over the profit of private corporations.</p> <p>Section 4. To achieve this vision, the City commits to creating a Green New Deal for Seattle with the following goals:</p> <p>A. Make Seattle free of climate pollutants, meaning those that cause shifts in climate patterns, including carbon dioxide, black carbon, methane, nitrogen oxides, and fluorinated gasses, by 2030;</p> <p>B. Prioritize investment in communities historically most harmed by economic, racial, and environmental injustice;</p> <p>SEATTLE CITY COUNCIL Page 5 of 12 Printed on 4/2/2022<sup>25</sup></p>	
<p>Ithaca, NY- Adoption of Ithaca Green New Deal-Resolution)</p>	<p>Green Jobs Decarbonization/ Electrification Community Governance Resource for Low Income Food Security</p>	<p>RESOLVED, That the City of Ithaca endorses the following actions to achieve these goals: Create a climate action plan (CAP) in 2020 to provide details on how to achieve the Ithaca Green New Deal, and update the CAP regularly;</p>	<p>City's department of Planning and development released Ordinance to Amend Chapter 8 (Advisory Commission) of Part I (Administrative Legislation) of the</p>

<sup>25</sup>SEATTLE CITY COUNCIL - Office of the City Clerk (n.d.). <http://seattle.legistar.com/Default.aspx>



	<p>Just Transition</p>	<p>Track and annually report on progress towards the goals listed above                  Adopt a Green Building Policy for new buildings in 2019;                  Adopt a Green Building Policy for existing buildings by 2021; and                  Assign additional staff as needed to implement the plan                  ; and, be it further                  RESOLVED, That the Mayor and Common Council will work with department heads and city staff, members of appropriate boards and commissions, businesses, community groups, academic institutions, organizations, and other local governments to develop a comprehensive public input process to enable achievement of these goals; · and, be it further                  RESOLVED, That the City of Ithaca will ensure that the benefits of the Ithaca Green New Deal are shared among all of our local communities to reduce historical social and economic inequities; and, be it further<sup>27</sup></p>	<p>Code of the City of Ithaca to Establish a Sustainability and Climate Justice Commission<sup>28</sup></p>
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**Appendix B: Brief High-level Analysis of Findings Berkeley Subpopulation Needs Matrix**

**Unhouse People**

Analyzing the unhoused need matrix reveals that alongside the immediate needs of emergency shelter and long-term housing, addressing access to food security, clean water, and reliable electricity is paramount for the well-being of the unhoused population. Moreover, comprehensive

<sup>27</sup>Adoption of the Ithaca Green New Deal- Resolution. (n.d.). cityofithaca.org. Retrieved October 2023, from <https://www.cityofithaca.org/DocumentCenter/View/11052/Ithaca-Green-New-Deal-Resolution-FINAL-cert?bidId=>

<sup>28</sup>Proposed Amendment to §258-10 of the City Code (By L. Nicholas,). (2022, November 28). cityofithaca.org. Retrieved October 2023, from <https://www.cityofithaca.org/DocumentCenter/View/14501/Chapter-8-Circulation-Memo-with-Ordinance?bidId=>



health services are crucial for addressing their physical and mental health needs. Furthermore, the analysis highlights the nuanced understanding of energy needs among the unhoused population, where access to electricity is crucial for charging essential devices. Mobility justice is also substantial, particularly for disabled individuals who require assistive devices like wheelchairs and walkers, which rely on access to electricity. However, equally important is the emphasis on workforce development programs, which play a pivotal role in facilitating the integration of unhoused individuals into society and breaking the cycle of

Homelessness. While specific West Berkeley community services/resources tailored to the unhoused population may be limited, existing city services such as Health, Housing, and Community Services play a crucial role in providing essential support.

By prioritizing access to workforce development initiatives, such as job training programs and employment assistance services, we can empower unhoused individuals to acquire the skills and resources necessary for sustainable employment opportunities. This enhances inclusion in the green economy and economic stability and fosters a sense of dignity and purpose, facilitating their transition towards self-sufficiency and long-term stability.

It's imperative to recognize that addressing the multifaceted needs of the unhoused population requires a comprehensive and holistic approach. By combining efforts to provide essential services like housing and healthcare with targeted interventions in workforce development, we can create pathways toward a brighter and more secure future for individuals experiencing homelessness. Through collaboration and innovation, we can work towards building inclusive communities where every individual has the opportunity to thrive.

### **Rent Burdened Residents**

Analyzing the needs of rent-burdened residents in Berkeley reveals that, alongside addressing food security, health, and access to utilities, there is a crucial demand for high-paying jobs and a sustainable cash flow. One resident emphasized, "Quality jobs are essential for us to break the cycle of financial instability. It's not just about paying rent; it's about building a future." Organizations such as Rising Sun and SERC, with the support of the Office of Economic Development, are pivotal in providing quality job opportunities that can help alleviate the financial stress experienced by these residents. Ensuring access to well-paying employment allows individuals to manage their rent more effectively and contributes to their overall economic stability and well-being.

In addition to job opportunities, the need for sustainable living conditions remains paramount. The Ecology Center and other local entities are instrumental in promoting energy efficiency, water savings, and recycling practices. Another community member noted, "Sustainable jobs



mean we can care for our families and the planet simultaneously." By integrating workforce development initiatives with these sustainability efforts, residents can benefit from a holistic approach that addresses immediate financial needs and long-term environmental goals. This comprehensive strategy empowers rent-burdened individuals by providing them with the necessary skills and resources to secure stable employment, thereby reducing rent burdens and fostering a more resilient and inclusive community.

### **Low-Income Homeowners**

Examining the low-income homeowners' subpopulation highlights a multifaceted landscape of needs essential for improving their well-being and socio-economic stability. Beyond addressing fundamental requirements like food security and access to clean water, ensuring affordable and sustainable housing options remains a priority. Additionally, energy concerns extend beyond mere access to electricity; for low-income homeowners, it translates to lower utility bills, enabling them to allocate savings towards critical expenses such as mortgage payments. Moreover, the significance of quality job opportunities cannot be overstated. Empowering low-income homeowners with access to stable and well-paying employment is integral to breaking the cycle of poverty and fostering long-term financial security. Health services also emerge as a crucial component, necessitating accessible and affordable healthcare options tailored to their needs.

Despite this, there seems to be a scarcity of community services/resources tailored explicitly to low-income homeowners in West Berkeley. Nonetheless, certain city services such as Planning and Development - Office of Energy & Sustainable Development play a crucial role in addressing some of these needs. Integrating workforce development programs into the equation becomes imperative, as it provides individuals with the skills and resources necessary for securing stable employment and contributes to broader community development efforts. Addressing these multifaceted needs comprehensively creates a more inclusive and equitable environment for low-income homeowners in West Berkeley.

These voices served as reminders that basic needs lay in the heart of the Green New Deal. These insights inspired us to develop a Subpopulation Service Need Matrix tailored to Berkeley's unique demographics. We sought to understand their distinct needs and how they tie into the Green New Deal and evaluate existing community services to fill any gaps.

### **Analysis from the Service Need Matrix**

One need that ran similar across the subpopulation was **workforce development**, as this also was one way to help BIPOC low-income residents of South and West Berkeley meet the more extensive umbrella of our problem statement **“What are the top priorities for West Berkeley unhoused and low-income tenants and low income in Berkeley Green New Deal policies**



**that allow all Berkeley residents to secure a livable future, combat environmental racism, and access to good paying jobs.”**

After engaging with residents in West Berkeley to understand their priority areas, we received a range of reactions that highlighted the community's immediate concerns. Many residents expressed that while decarbonization is essential, it is perceived as expensive and not an urgent priority for them. Instead, they emphasized the need for immediate support, particularly in areas such as access to affordable housing, food security, and reliable electricity. There was a strong consensus on the importance of comprehensive health services and targeted workforce development programs to help integrate the unhoused and low-income populations into the local economy. The feedback underscored that practical and immediate needs should precede long-term environmental goals.

We would also like to acknowledge Council Member Terry Taplin’s responsiveness to our findings. Recognizing that decarbonization, though crucial, does not represent the most immediate concerns of the residents, he supported the redirection of efforts toward more pressing needs. Council Member Taplin highlighted the importance of workforce development as a core component of addressing the community's issues. His willingness to adjust priorities based on resident feedback demonstrates a commitment to ensuring that city policies align with the community's needs, particularly in empowering low-income and unhoused individuals through job training and employment opportunities. This alignment will support the residents' journey toward stability and self-sufficiency while building a more inclusive and resilient community.

This became our project's narrowed scope and focus, with the definition of a more tailored problem solution: *“The creation of green jobs is happening right now through building decarbonization, retrofits, and investment in green infrastructure. Green job training organizations and apprenticeship programs like Rising Sun have expressed that the interest to enter the construction industry is non-existent in Berkeley, not because they believe there are no people interested in finding quality jobs in this industry, but because they are having trouble connecting with people who would benefit most from filling these types of roles.”*

In analyzing what specific policy solution, we scanned through two leading solutions: 1) *Expanding the City’s current First Source Hire policy and programs to expand concrete opportunities for low-income youth, formerly incarcerated, formerly unhoused (the people in critical job training programs)* 2) *New sustainable funding stream such to invest in publicly funded green construction projects and increase funding for impactful job training programs.*

Workforce development plays a pivotal role within the Green New Deal (GND) framework, particularly in the context of Berkeley's commitment to sustainability and social equity. At its core, the GND aims to reduce greenhouse gas emissions and promote green infrastructure, which



Berkeley actively pursues through energy and sustainable development initiatives. However, crucially expanding the GND's scope, Berkeley recognizes that true sustainability includes ensuring equitable access to green jobs. These jobs not only contribute to environmental goals but also provide a pathway to economic stability and social inclusion for all residents, including BIPOC communities disproportionately affected by historical inequities and gentrification pressures. By focusing on workforce development initiatives that create accessible pathways to green employment, Berkeley strengthens its environmental resilience. He fosters a more inclusive community where diverse populations can thrive economically and contribute to the city's sustainable future. This integrated approach aligns with Berkeley's commitment to addressing environmental challenges and social justice, ensuring that the benefits of a green economy are shared equitably among all Berkeleyans.

### **Appendix C: Defining Green**

**Green New Deal:** Cities cannot wait for the federal government to act, so the City of Berkeley lays out a framework for tackling climate change while securing a livable future for ALL Berkeleyans by repairing societal injustices, like economic inequality and environmental racism.

With five goals, the primary goals

6. **Goal #1: Achieve Net Zero Emission**
7. **Goal #2: Secure Basic Needs**
8. **Goal #3: Increase Access to Quality Jobs**
9. **Goal #4: Invest in Green Infrastructure**
10. **Goal #5: Repair environmental oppression**

**Green Industry:** New and traditional industry sectors that are implementing environmentally conscious and/or energy-efficient standards. Green industries can include, but are not limited to, sustainable construction, transportation, clean and renewable energy, water conservation, waste management, sustainable farming and food production, bio pharm, and tech companies.

**Green Jobs:** any living-wage, family-supporting job within a green industry company or environmentally conscious small business that assists with environmental protection and renewable energy development or promotion. Examples of Green Jobs include solar panel designers and small green business owners to wind turbine facility janitors and home energy auditors. Most construction and installation-based green jobs are likely to be “middle-skill” jobs, requiring workers to possess training or education beyond a high school diploma but less than a 4-year college degree.<sup>29</sup>

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<sup>29</sup> Center for American Progress. Green Recovery: A Program to Create Good Jobs and Start Building a Low-Carbon Economy. September 2008



**Green Workforce Training:** Any private or publicly financed professional effort to train current or potential employees in technical skills and “soft skills” appropriate for emerging green industry sectors. Green workforce training can be provided in a classroom, at the workplace, online, or through internships, residential programs and apprenticeships.<sup>30</sup>

**Inclusive Green Workforce Training:** Any professional training program that actively recruits and serves a significant portion of low-income individuals in gaining technical and “soft skills” appropriate for emerging green industry sectors. Inclusive green workforce training includes options for wrap-around services such as childcare, transportation assistance and case management for participants needing additional services.<sup>31</sup>

### **Appendix D: Policy Summary: Racial Equity Impact Assessment for Seattle’s Building Emissions Performance Standard (BEPS) Ordinance**

As part of Seattle’s building decarbonization effort under their Green New Deal goals, Seattle’s Building Emissions Performance Standard (BEPS) seeks to transition Seattle’s large buildings (over 20,000 sqft) to net-zero emissions by 2050. Buildings make up 37% of Seattle’s greenhouse emissions, and large buildings<sup>32</sup> – including commercial, municipal, multifamily and affordable housing – comprise 27% of overall building emissions.<sup>33</sup> The policy establishes greenhouse gas intensity targets (GHGIT) – levels of buildings emissions per square foot) – which scale incrementally to net-zero over three compliance periods, each 5 years. Each compliance interval begins with the largest buildings (with the greatest emissions impact) reporting progress towards their GHGITs first and ends with smallest buildings.<sup>34</sup>

To provide flexibility to building owners, especially of affordable housing, low-income market-rate housing, and buildings providing social services like shelters, the BEPS offers several “pathways” to achieving net-zero:

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<sup>30</sup> “Soft Skills” refers to any training in office/workplace etiquette– ranging from punctuality and computer skills to language development.

<sup>31</sup> Renee Willette Inclusive Green Jobs, May 2009

<sup>32</sup> Office of Sustainability & Environment, “City of Seattle Draft Ordinance on a Building Emissions Performance Standard,” *OSE* (June 5, 2023), 1, [https://www.seattle.gov/documents/Departments/OSE/Building%20Energy/1-Draft\\_BEPS\\_Ordinance\\_06.05.23.pdf](https://www.seattle.gov/documents/Departments/OSE/Building%20Energy/1-Draft_BEPS_Ordinance_06.05.23.pdf).

<sup>33</sup> Climate Solutions and Rocky Mountain Institute, “Technical recommendations for Seattle’s BEPS proposal,” (April 14, 2023).

<sup>34</sup> Seattle Office of Sustainability & Environment, “Director’s Report: Seattle Building Emissions Performance Standard Policy Proposal,” *OSE* (May 30, 2023), 6, <https://www.seattle.gov/documents/Departments/OSE/Building%20Energy/2-Seattle-BEPS-Directors-Report-Draft-05.30.23-with-appendix.pdf>.



- Large Non-commercial buildings allowed an ACP during the first compliance period (funds from which will go to low income building upgrades).
- Affordable multi-family housing and buildings supporting social services may claim an exemption from the first compliance period (2031-35) and request an extension (shifting their final compliance period into 2045-50).<sup>35</sup>
- All multifamily buildings may adopt prescriptive options (e.g., replacing hot water heating) in lieu of meeting targets in each compliance period.
- Low-income housing, affordable housing, and buildings in financial distress, can waive GHGIs altogether if they adopt an approved Decarbonization Compliance Plan to get to net-zero or low emissions by 2045-2050.
- The policy also outlines several revenue streams and enforcement mechanisms to support implementation, which we discuss subsequently.

Seattle’s Office of Sustainability and Environment (OSE) released a draft version of the BEPS in May 2023, and plans to finalize the policy by December 2023. This analysis was conducted as OSE was collecting comments before submitting an updated version of the policy to the Mayor’s Office and City Council in November 2023.

REIA Component	Analysis
<p><b>1 Identify Stakeholders</b> Which racial/ethnic groups may be most affected by and concerned with the issues related to this proposal?</p> <p>Have stakeholders from different racial/ethnic groups—especially those most adversely affected—been informed, meaningfully involved and <b>authentically represented</b> in the <b>development</b> of this</p>	<p>The policy will apply to building owners with more than 20,000 square feet (SF) that are already required to comply with Seattle Energy Benchmarking &amp; Reporting." <b>This equates to approximately 1,650 nonresidential structures, 1,885 multifamily structures, and 45 campuses (representing approximately 600 structures).</b> This includes the majority of large nonresidential and multifamily buildings downtown and in denser urban neighborhoods such as Capitol Hill, the Chinatown International District, First Hill, and SODO, as well as some buildings in the heart of Seattle's many urban villages such as Ballard and Columbia City. Private entities, nonprofits, affordable housing, market rate apartments, condominiums, municipal and public-school buildings, universities, and hospitals are all examples of ownership. Exempt are buildings used for industrial and manufacturing purposes.</p> <p>OSE currently does not have race-based information about the owners of approximately 4,135 buildings that must comply with these mandates. Therefore, OSE utilizes several proxies to target outreach, technical</p>

<sup>35</sup> Seattle Office of Sustainability & Environment, “Director’s Report,” 7.



<p>proposal?</p>	<p>assistance, and early compliance engagement to reduce the burden of non-compliance fines and ensure OSE is not enforcing regulations in disparate ways across our community. Key data used includes the City’s <a href="#">Race and Social Equity Index Map</a> to identify <a href="#">Racial &amp; Social Equity (RSE) priority communities</a> and ownership criteria, such as community-based organization, nonprofit, Women-Minority Owned Businesses (WMBE). These tools enable us to systematically flag priority businesses, target customized support, and mitigate disproportionate impacts.<sup>36</sup></p> <p>In accordance with the prioritized focus areas outlined by the RSE, <b>the Duwamish Valley emerges as a prominent region characterized by elevated levels of disadvantage, experiencing persistent climate injustices over the years.</b> Within these <b>most disadvantaged areas, 55%</b> of its residents identify as people of color, with a median income of \$89,756. It is noteworthy that 15% of these inhabitants fall below the poverty line. Additionally, 35% of residents are homeowners, while the majority, constituting 65%, are renters.</p>
<p><b>2) Engage stakeholders</b> Who’s missing and how can they be engaged?</p>	<p>Phase 1 - Stakeholder Engagement Prior to Policy Proposal: From June 2022 to June 2022, this phase included OSE's two online open houses, which were attended by approximately 550 people in total, six technical advisory group meetings, and six meetings of the Housing Development Consortium's affordable housing task force. Climate advocates, labor organizations, building owners, building professionals, government partners, and utilities were also met by OSE. This included equity-focused interactions with non-profit owners, community-based organizations, and residential tenants.</p> <ul style="list-style-type: none"> <li>• Phase 2 - Focused Stakeholder Engagement to Refine Draft Policy: From July to Mid-May 2023, this phase included two online webinars attended by approximately 330 people, which shared details about the draft greenhouse gas intensity targets as well as an overview of the proposed policy. OSE also solicited feedback from stakeholders on specific aspects of the draft policy. This feedback has resulted in changes that will be included in the final policy draft.</li> </ul> <p>Acknowledging the significance of the influence and representation of particular racial groups in stakeholder engagement, and comprehending the consideration given to feedback from marginalized communities, is imperative. Despite the directors' report underscoring the conduct of over 100 meetings with more than 500 participants, a conspicuous omission is observed concerning information pertaining to the racial identities of the attendees. Furthermore, there is a lack of concrete evidence demonstrating the effectiveness of these meetings in addressing the needs and concerns</p>

<sup>36</sup> Seattle Office of Sustainability & Environment, “Director’s Report,” 18.



	<p>of these representatives in the implementation of the ordinance. The absence of transparency raises questions about the elements influencing equity and justice in the decision-making process.</p>
<p><b>3) Identify &amp; document racial inequities</b>          Which racial/ethnic groups are currently most advantaged and most disadvantaged by the issues this proposal seeks to address? How are they affected differently? What quantitative and qualitative evidence of inequality exists?           What evidence is missing or needed?</p>	<p>This policy applies to all commercial, municipal, multifamily and affordable housing buildings across the city, so racial demographic mixes and associated inequities will vary by location and neighborhood, but will be prevalent citywide.</p> <p>A Racial and Social Equity (RSE) Index created for Seattle’s BEPS details that the highest and second highest disadvantaged areas in Seattle include downtown, SODO, South Park, Rainier Valley area, parts of the Central District and northern areas near Lake City. These areas have been identified in the director’s report as priority areas to assess for disparate outcomes of this policy.</p> <p>Based off feedback from community outreach performed by Seattle, the following inequities that this policy could further exacerbate are as follows:</p> <ul style="list-style-type: none"> <li>● <b>Small businesses have less available staff and funding to comply with reporting standards.</b> <ul style="list-style-type: none"> <li>○ Based on reporting from prior building performance programs, class B and C commercial buildings tend to collect lower rents, thus resulting in less disposable finances to dedicate to the administrative efforts of reporting. Also, smaller business owners tend to not have a formal sustainability manager in place to dedicate skills and time to compliance.<sup>7</sup></li> </ul> </li> <li>● <b>Older buildings that have older heating and cooling systems will have higher upgrade or remedy costs than newer buildings that may already have the proper infrastructure to meet emission goals.</b> <ul style="list-style-type: none"> <li>○ Older buildings are more likely to be the most affordable than new buildings and thus, more likely to be owned by lower income people of color and non-profits<sup>7</sup>.</li> <li>○ Multi-family residential buildings that fall into this category also tend to have smaller unit sizes than newer apartment buildings since they often pre-date the 1990s. This results in units renting for less than market rate, thus making them the most affordable for low income residents. If building owners increase rents to pay for building upgrades, then this could greatly reduce the already short supply for these types of affordable units, thus resulting in</li> </ul> </li> </ul>



	<p>displacement of rent burdened Seattle residents.</p> <ul style="list-style-type: none"> <li>○ Lastly, these older buildings tend to be unsubsidized due to their age pre-dating the 1990s, which limits the availability to resources like sustainability staff and assistance with retrofits or housing expansion that subsidized buildings get access to.</li> <li>● <b>Low-income building owners don't have disposable financial capacity to pay for alternative compliance payments (ACP) to defer meeting the requirements of this ordinance in its first year when compared to larger and wealthier business owners in Seattle.</b> <ul style="list-style-type: none"> <li>○ Seattle's BEPS explains that ACP revenue will be dedicated to funding technical assistance and financial support for under-resourced buildings to support emissions reductions efforts in communities experiencing climate change first and worst. However, there is no clarity around when those building owners will receive that support and under-resourced buildings are already being granted a multi-year extension to meet their compliance standards. So the concern is that under-resourced buildings will be waiting years to see funding support to even get started on their upgrades.<sup>7</sup></li> </ul> </li> </ul>
<p><b>4) Examine the causes of the racial inequities</b>          What factors may be producing and perpetuating racial inequities associated with this issue? How did the inequities arise? Are they expanding or narrowing?          Does the proposal address root causes? If not, how could it?</p>	<p>Although this is not an exhaustive list, below are some causes that have been identified to perpetuate racial inequities in this type of policy.</p> <ul style="list-style-type: none"> <li>● <b>Insufficient representation of all people who could be negatively impacted by a proposed piece of policy.</b> <ul style="list-style-type: none"> <li>○ It was noted in the Racial Equity Toolkit organized for Seattle's BEPS that previous building policy development processes have primarily relied on input from professional organizations, owners of larger buildings and portfolios of buildings, established engineering firms, and climate organizations.<sup>37</sup> This left out the voices of nonprofits, buildings serving lower-income and/or BIPOC communities, and affordable housing (both subsidized and unsubsidized), as well as engagement with residential and small business tenants who would also be held accountable to building performance policy.</li> </ul> </li> <li>● <b>Historic acts of environmental racism and discrimination that have lasting intergenerational effects that are still lived today.</b> <ul style="list-style-type: none"> <li>○ Longstanding systemic and structural racism have historically meant that BIPOC are far more likely to have</li> </ul> </li> </ul>

<sup>37</sup> Seattle Office of Sustainability & Environment, "Director's Report," Appendix



	<p>less generational wealth and be less able to afford leasing in buildings with higher rents. With Seattle’s high rents, for both residential and commercial tenants, and with an affordable housing shortage, lower rent buildings are also at greatest risk for redevelopment which can further exacerbate inequities, displacement and create more shortage for housing. BIPOC tenants with lower incomes/lower wealth have less access to the benefits of Energy-efficient, due to the costs of upgrades and capital needed for building owners to make these upgrades.<sup>38</sup> The following are just a few examples of this type of cause.</p> <ul style="list-style-type: none"> <li>● <b>Seattle was built on stolen indigenous land from the still living Suquamish and Duwamish Tribes.</b></li> <li>● <b>Seattle economically developed and expanded from the growth of pretty heavy industrial sites located around neighborhoods that were most impacted by redlining and racially restrictive covenants</b></li> </ul>
<p><b>5) Clarify the proposed policy/plan purpose</b>                  What does the proposal seek to accomplish? Will it reduce disparities or discrimination?</p>	<p>The proposed policy targets the significant contribution of buildings, comprising <b>37% of the City's core greenhouse gas emissions. Seattle aims to cut building emissions by 39% from 2008 levels, reaching zero net emissions by 2050</b>, in line with Council Resolution 31895's endorsement of a Green New Deal for the city. The policy prioritizes decarbonization in historically disadvantaged communities, collaborating with building owners, including non-profits and providers for lower-income or BIPOC communities. It also involves engaging affected residential and small business tenants. Additionally, <i>the policy aims to create jobs in the clean energy sector, emphasizing an inclusive workforce with a focus on women and BIPOC individuals to address environmental, racial, and economic injustices.</i></p> <p><b>The policy's objective is to reconcile the swift decarbonization imperative with the concerns of building owners and the vulnerabilities of residents facing climate impacts, displacement, and housing insecurity. The delicate balancing act inherent in this approach is identified as a key factor contributing to adverse impacts on the communities we prioritize.</b></p>
<p><b>6) Consider adverse impacts of the proposed policy/plan</b>                  What adverse impacts</p>	<p>Although this is not an exhaustive list, below are possibly impacts that this policy can have on low in-come people of color:</p> <ul style="list-style-type: none"> <li>● 65% of Seattle’s building emissions come from large/mid size nonresidential buildings, but this policy applies equally to</li> </ul>

<sup>38</sup> Seattle Office of Sustainability & Environment, “Director’s Report,” Appendix

or unintended consequences could result from this policy? Which racial/ethnic groups could be negatively affected?

multifamily, affordable housing, nonprofit, and small commercial buildings. The policy could place a disproportionate burden on under-resourced building owners to retrofit their buildings for little reduction in emissions compared to larger commercial or industrial building owners committing a larger share of Seattle's emissions. Further, larger commercial buildings should have more intensive GHG reduction goals and a faster timeline.

- Affordable housing and multifamily buildings may apply for exemptions or deferrals to comply with the building standards detailed in the BEPS. Although it is beneficial to support under-resourced buildings to meet the BEPS standards, without penalty for non-compliance due to lack of resources, this form of support can prolong low income residents of color exposure to gas heating and cooking, with adverse health long-term impacts.
- Rental costs and property values for unsubsidized affordable housing units may increase if landlords need to offset costs of updates or are opportunistic. This could result in the displacement of individuals who are rent burdened or live below the poverty line.
- Displacement of tenants during retrofit upgrades can occur if there is no transitional housing or lodging support that building owners can offer tenants.
- Establishing a white male dominated workforce in the renewable energy sector with fewer future renewable energy jobs than existing fossil fuel related jobs. With the deprecation of jobs in the fossil fuel sector and the expansion of new jobs in the renewable energy sector, there will be a need to ensure that the new green workforce is inclusive of women, BIPOC, formerly incarcerated, and unhoused individuals. It must be ensured that burdened populations are well positioned to have access to training and clean energy/trade jobs, through investments in apprenticeships and partnerships with organized labor organizations<sup>7</sup>.
- "Gas Pruning", which means that as wealthier people electrify and move away from gas, neighbors who rely on gas now have to pay more to maintain gas infrastructure and transport to their neighborhood
- No real reductions in GHG's in the atmosphere as fuels like renewable natural gas still result in harmful GHG. Also, off ramps like ACPs can have ineffective impacts similar to those cited around the carbon credit economy.



<p><b>7) Advancing equitable impacts</b>                  What positive impacts on equality and inclusion, if any, could result from this proposal? Which racial/ethnic groups could benefit? Are there further ways to maximize equitable opportunities and impacts?</p>	<p>If the OSE proactively addresses the adverse impacts summarized above, the BEPS has the potential to benefit low-income residents and communities of color by:</p> <ul style="list-style-type: none"> <li>● <b>Reducing a substantial portion of emissions that exacerbate climate impacts</b> (including extreme heat, flooding, and wildfire smoke)<sup>39</sup> that low-income communities of color are disproportionately vulnerable to.</li> <li>● <b>Enhancing climate resilience</b> by prioritizing “community facing” municipal buildings and those that can serve as resilience hubs (over other municipal buildings).<sup>40</sup></li> <li>● <b>Improving health outcomes</b> through building and unit-level upgrades. Replacing gas-based cooking and heating systems should lead to a reduction in respiratory illnesses, and energy efficiency upgrades can reduce the impact of extreme heat and cold on health outcomes. Heat pumps, which provide much more efficient heating and cooling, can also provide air filtration that will benefit communities burdened by air pollution or wildfire smoke.<sup>41</sup></li> <li>● <b>Reducing electricity bills</b> through energy efficiency upgrades, and <b>eliminating gas bill costs</b> by replacing gas-based stoves and heating systems with electric ones.</li> </ul> <p>To further these impacts, we recommend that OSE and other City departments take several steps outlined below.</p>
<p><b>8) Examining alternatives or improvements</b> Are there better ways to reduce racial disparities and advance racial equity? What provisions could be changed or added to ensure positive</p>	<p>Unless OSE proactively addresses the above mentioned adverse impacts, the BEPS may not achieve its intended equity benefits, and may instead perpetuate patterns of extraction, displacement, and environmental injustice.</p> <p>We recommend that the OSE:</p> <ul style="list-style-type: none"> <li><b>(1) Build structures and processes to empower low-income communities of color</b> to participate meaningfully in the finalization of the ordinance, as well as in monitoring its</li> </ul>

<sup>39</sup> Ann Grodnik-Nagle, “Is Seattle Prepared for Climate Change?,” Yale Insights, October 5, 2021, <https://insights.som.yale.edu/insights/is-seattle-prepared-for-climate-change>.

<sup>40</sup> Seattle Office of Sustainability & Environment, “Director’s Report,” 18.

<sup>41</sup> CBC News, “Can a Heat Pump Beat the Heat and Wildfire Smoke at Home?,” *CBC*, July 20, 2023, <https://www.cbc.ca/news/canada/british-columbia/bc-heat-pumps-explainer-2023-1.6911499>.



<p>impacts on racial equity and inclusion?</p>	<p>implementation. These could include establishing a resident advisory council that holds decision making power alongside OSE, or working with community-based organizations to conduct community engagement and community-led monitoring.</p> <p><b>(2) Explore modifications to ‘frontload’ upgrades that meet residents’ stated needs, while avoiding displacement</b> from affordable housing and low-income multifamily housing buildings. In a recent City survey of low-income multifamily building tenants, tenants identified several urgent needs which can be addressed through BEPS upgrades, including: need for air conditioning, broken boilers (no hot water or heat), utility costs, old windows, and mold.<sup>42</sup></p> <p>The current draft policy allows owners of low-income and affordable multifamily housing to postpone upgrades that our most vulnerable neighbors deserve by claiming an exemption from the 2031-35 compliance period and extending their last period out to 2045-50. OSE should consider eliminating the extension/exemption options, and instead allow those buildings to pursue prescriptive options (heat pumps, electric cooking and heating systems, sealing windows, and energy efficiency) in lieu of meeting targets – which it already allows these buildings in other compliance periods.</p> <p>Adequate funding will be critical to supporting these buildings to making these upgrades on an earlier timetable. OSE should conduct an analysis of existing revenue for the BEPS and identify additional revenue streams as needed to ensure that low-income and affordable multi-family buildings can begin making these upgrades during the first compliance period. OSE should also prioritize utilizing Inflation Reduction Act (IRA) funding while available.</p> <p><b>(3) Add additional measures to avoid triggering temporary relocation and preventing longer term displacement.</b> These measures should be co-created with residents and anti-displacement advocates, but could include: ensuring that landlords and/or city are fully covering costs of temporary relocations, requiring in-situ or incremental upgrades, legally ensuring just-cause eviction, and regulating or barring pass-through costs among others.</p>
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<sup>42</sup> Seattle Office of Sustainability & Environment, “Stakeholder Engagement Summary,” 7.



	<p><b>(4) Incentivize alternatives to renewable natural gas.</b> While the ordinance legally cannot prescribe specific decarbonization pathways,<sup>43</sup> it can create additional incentives to encourage building owners to pursue efficiency and electrification upgrades over relying on renewable natural gas. OSE should conduct an analysis on how to establish rebates, tax credits, or subsidies – including through IRA funds – to support residents’ needs (as outlined in Recommendation 2).</p> <p><b>(5) Impose stricter compliance periods and fees to ensure speedy decarbonization.</b> Several stakeholders have raised concern that OSE’s choices to extend the compliance timeline by an extra 3 years, allow an ACP during the first compliance period, and impose lax non-compliance fees will prevent the BEPS from hitting its goal of decarbonizing large buildings in time to avert the worst climate impacts. We recommend that OSE:</p> <ul style="list-style-type: none"> <li>• <b>Eliminate the ACP option</b> for non-residential large buildings in the first compliance period, and <b>reinstating the original compliance timeline</b> of 2027-2042 for all building types.</li> <li>• Raise the non-compliance fees to a level that incentivizes compliance, and conduct an analysis if needed to identify how to structure the fees. Several stakeholders who commented on the draft BEPS have cautioned that these fines are too low to incentivize compliance,<sup>44</sup> and substantially lower than fines from other BEPS policies across the country. In D.C. the fine for non-compliance is \$10/sqft.</li> <li>• Revenue from fines should be reinvested into environmental justice priority areas to assist lower-income building owners with their compliance efforts.</li> </ul>
<p><b>9) Ensuring viability &amp; sustainability</b> Is the proposal realistic, adequately funded, with mechanisms to ensure successful</p>	<p>The BEPS is supported by several funding streams as well as several mechanisms to ensure implementation and enforcement. However, its reporting process is not public and it does not specify any mechanisms for public accountability or stakeholder participation.</p> <p><u>Support for Building Owners</u> To support building owners to meet their GHGITS, the BEPS specifies that</p>

<sup>43</sup> Syris Valentine, “Seattle Releases Plan to Curb Climate Pollution from Buildings,” *The Urbanist*, September 19, 2023, <https://www.theurbanist.org/2023/06/09/the-battle-over-building-climate-pollution>.

<sup>44</sup> Valentine, “Seattle Releases Plan to Curb Climate Pollution from Buildings.”



<p>implementation and enforcement. Are there provisions to ensure ongoing data collection, public reporting, stakeholder participation and public accountability?</p>	<p>OSE will conduct “outreach, education, and compliance assistance...to all owners, including outreach materials, a phone and email helpdesk, training workshops for owners and service providers, and fact sheets, tools, and case studies on topics such as financial support and calculating building emissions.<sup>45</sup> OSE will also provide “deeper levels of technical assistance, funding for engineering analysis, and direct capital investments...towards supporting building owners and tenants that are in or serve frontline communities.<sup>46</sup></p> <p><u>Reporting &amp; Monitoring</u> To track buildings’ progress towards their GHGITS, the BEPS relies on an Energy Benchmarking program that already covers impacted buildings and has been “successfully running for a decade with over 93% compliance in 2021.”<sup>47</sup> The BEPS specifies that results from the Benchmarking must be independently verified by a “qualified person” to ensure accuracy. To limit the administrative burden placed on building owners from this requirement, the City will streamline overlapping reporting requirements from other programs.<sup>48</sup> While this reporting system is robust and reliable, it is not publicly accessible, and <b>we urge the OSE to release all compliance data collected under the BEPS.</b></p> <p><u>Non-Compliance Fees</u> For building owners who do not properly report or meet their GHGITS, the BEPS imposes the following penalties:<sup>49</sup></p> <ul style="list-style-type: none"> <li>● For failure to meet goals, \$2.50/sqft for multifamily buildings and \$3.33/sqft for non-residential buildings.</li> <li>● Flat fines for failure to report (\$15,000) or inaccurate reporting (\$7,500)</li> </ul> <p>As noted in Section 8 of this analysis, <b>it is likely that these fees are too low to incentivize compliance, and OSE should consider raising them.</b></p> <p><u>External Accountability Mechanisms</u> In its Directors Report on the Draft BEPS, OSE acknowledges that Seattle’s Green New Deal Oversight Board (GNDOB) “commits to continue to monitor that there is enough funding for low-income owners and tenants to make the transition.”<sup>50</sup> While the GNDOB membership includes residents from “impacted communities,” it is not clear what power the GNDOB has to direct implementation of the plan or involve</p>
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<sup>45</sup> Seattle Office of Sustainability & Environment, “Director’s Report,” 8.  
<sup>46</sup> Seattle Office of Sustainability & Environment, “Director’s Report,” 22.  
<sup>47</sup> Seattle Office of Sustainability & Environment, “Director’s Report,” 10.  
<sup>48</sup> Ibid.  
<sup>49</sup> Seattle Office of Sustainability & Environment, “Director’s Report,” 8.  
<sup>50</sup> Seattle Office of Sustainability & Environment, “Stakeholder Engagement Summary,” 9.



greater numbers of impacted residents in implementation and monitoring. As noted in Section 8 of this analysis **we recommend that OSE establish fora and structures for low-income residents and communities of color to participate in implementation and monitoring, to ensure that the BEPS best serves their needs.**

#### Funding Streams

OSE identifies several funding streams that will support BEPS implementation, which are summarized below. **We recommend that OSE conduct an analysis to identify any additional funds to frontload needed upgrades to low-income residents of color, and to understand whether and how the BEPS might impact funding/implementation of other racial justice-relevant policies.** For example, Seattle’s Office of Housing has raised concern that the costs of meeting the BEPS requirement “may conflict with their funding priorities towards creating new units.” and with upgrades that could trigger building code substantial alteration requirements.<sup>51</sup>

Major funding streams include:

- *\$6-12M in revenue from the ACP* depending on how many owners opt to use the ACP.
- *\$8.8M in capital funding* through 2024 alone to support building owners, especially of affordable housing, to make needed upgrades. This includes “\$4.5 million/year in the endorsed 2024 budget, for in-depth engineering design and capital support for nonprofit and affordable housing buildings serving low-income and BIPOC communities.”<sup>52</sup>
- *\$2M from the 2022 adopted budget* (Seattle Payroll Expense Tax-PET Opportunity Fund) for multi-family affordable housing electrification, starting in 2023.<sup>53</sup>
- *2023 budget increases for Clean Buildings Accelerator* including funding for a new full-time position and consultant support to make the Accelerator into a “robust resource hub” for building owners.<sup>54</sup>
- *\$1M for workforce development* in the 2022 budget, and another \$1M annually in the 2023 budget for pre-apprenticeship and job readiness programs for clean energy careers.
- *Federal infrastructure and inflation reduction funds*, as available.<sup>55</sup>

<sup>51</sup> Seattle Office of Sustainability & Environment, “Stakeholder Engagement Summary,” 7.

<sup>52</sup> Seattle Office of Sustainability & Environment, “Director’s Report,” 8.

<sup>53</sup> Seattle Office of Sustainability & Environment, “Director’s Report,” 25.

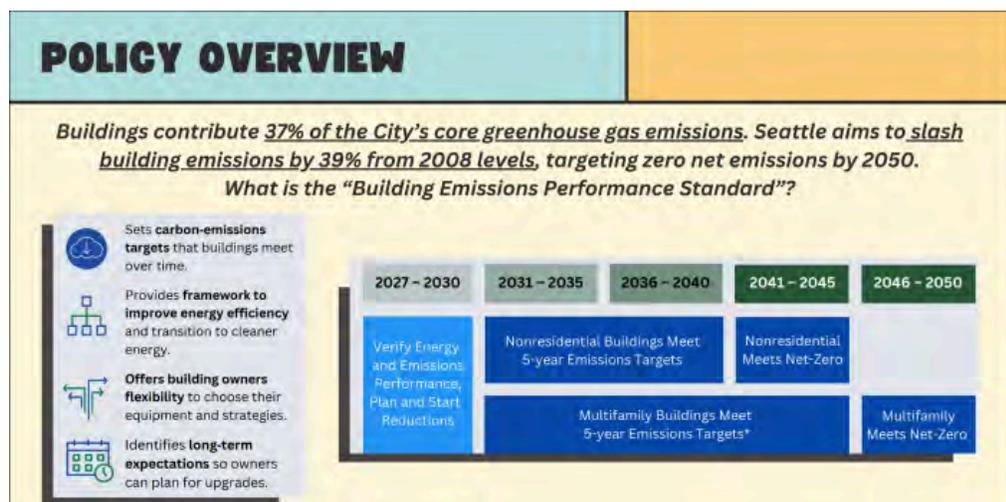
<sup>54</sup> Seattle Office of Sustainability & Environment, “Director’s Report,” 8.

<sup>55</sup> Seattle Office of Sustainability & Environment, “Director’s Report,” 24.



<p><b>10) Identifying success indicators</b>                  What are the success indicators and progress benchmarks? How will impacts be documented and evaluated? How will the level, diversity and quality of ongoing stakeholder engagement be assessed?</p>	<p>The BEPS evaluates buildings’ emissions reductions progress using greenhouse gas intensity (GHGI). GHGI is defined as “the total of the weather-normalized energy for each fuel source to the building (e.g., electric, gas, district steam) multiplied by the emissions factor of each fuel source divided by the building gross floor area” and measured in kgCO<sub>2</sub>e/SF/year). GHGI is a well-established metric already collected by the city of Seattle and recommended by the EPA.</p> <p>While GHGI may help measure emissions reductions, it is insufficient to measure whether the benefits and costs of building decarbonization are being spread equitably. <b>We recommend that OSE work with residents to co-create and implement additional indicators</b> that measure whether and how the BEPS meets the needs of low-income residents and communities of color. As an example, these indicators could include:<sup>56</sup></p> <ul style="list-style-type: none"> <li>• Energy bill savings and change in energy burden (the ratio of energy costs to income)</li> <li>• Number of gas system replacements or percentage of gas system replacements by income,</li> <li>• Average days of temporary displacement during upgrades</li> <li>• Changes in rent by level of market-rate housing</li> <li>• Unit turnover in affordable and low-income multifamily buildings, above a pre-BEPS baseline</li> <li>• Percentage of local hires per project</li> </ul>
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**Seattle Green New Deal Policy Roadmap**



<sup>56</sup> [https://greenlining.org/wp-content/uploads/2019/10/Greenlining\\_EquitableElectrification\\_Report\\_2019\\_WEB.pdf](https://greenlining.org/wp-content/uploads/2019/10/Greenlining_EquitableElectrification_Report_2019_WEB.pdf)

**Appendix E: Berkeley Green New Deal Infographic**

## WHAT IS THE GREEN NEW DEAL?

Cities cannot wait for the federal government to act, so the City of Berkeley lays out a framework for tackling climate change while also securing a livable future for ALL Berkeleyans through the repair of societal injustices, like economic inequality and environmental racism.

The following photos are just examples of how the city could meet these goals, not a definitive list.

### GOAL #1:

#### Achieve net zero emissions



Renewable  
Energy



Oil Free  
Travel



Preserved  
& Restored  
Nature

### GOAL #2:

#### Secure basic needs



Reliable  
Income



Healthy  
Food



Safe  
Shelter



Clean  
Water & Air

### GOAL #3:

#### Increase access to quality jobs



Job  
Training



New  
Green Jobs



Application  
Assistance



Post-Placement  
Support

### GOAL #4:

#### Invest in green infrastructure



Solar  
Capture



Home Efficiency  
Improvements



Public Transit

### GOAL #5:

#### Repair historic environmental oppression



Community  
Reconnection



Priority Area  
Investment



Indigenous Land  
Rights



Appendix F: Berkeley Green New Deal Poster Presentation

## Berkeley Green New Deal : West and South Berkeley Prioritization

Kat Cuiffo & Yaa Fremah Sarkodie | Dellums Clinic | May 3, 2024

### What is a Green New Deal?

Cities cannot wait for the federal government to act, so the City of Berkeley works on laying out a framework for tackling climate change while also securing a livable future for ALL Berkeleysans through the repair of societal injustices, like economic inequality and environmental racism.

**Goal #1**  
Achieve net zero emissions

**Goal #2**  
Secure basic needs

**Goal #3**  
Access to quality jobs

**Goal #4**  
Invest in green infrastructure

**Goal #5**  
Repair environmental racism

### Existing Policy Pathway

Federal Green Deal Resolution 2019  
*(Failed)*

Municipal Green Deal Resolution 2021  
*(Passed)*

Implementation Plan or Policy Bundle  
*(TBD)*

### Why prioritize West and South Berkeley's Needs?

History of Redlining & Disinvestment

Major Polluters & Toxic Remediation

Displacement of Marginalized Communities

### Our Learning Journey

#### Community Interviews

*"Jobs, job opportunities, food sovereignty, fair wage/good programs with a focus on transitional populations (disabled), former incarceration, with and without children, and elderly"*  
- Alex Smith, former Mayor, Berkeley City Council

*"The unhoused residents of Berkeley are the most likely to slip into the new green economy - when food, shelter and survival is primary and housing they can get it will be the priority"*  
- Beverly Lewis-Culter, former Berkeley Unified School District Board Member

*"Basic needs haven't been met yet. We housing and food needs, trauma informed care, access to reliable income, and community support."*  
- Jani Bennett, Law Student, Environmental Resource Center

*"Anti-displacement protections and mechanisms as well as better air quality for in the poorer areas of Berkeley are community needs that haven't been met yet."*  
- John Thomas, Green the Church

*"What is Berkeley's sea level rise mitigation plan, in particular how will people who may lose their homes be rehomed and stabilized?"*  
- Corina Gould, Condemned Veterans of Loan

#### Policy Research

City	Main Topic Areas	Climate	Equity	Jobs	Transportation	Water	Waste
Berkeley CA	Climate, Equity, Jobs, Transportation, Water, Waste	High	High	High	High	High	High
Chico CA	Climate, Equity, Jobs, Transportation, Water, Waste	Medium	Medium	Medium	Medium	Medium	Medium
Emeryville CA	Climate, Equity, Jobs, Transportation, Water, Waste	Low	Low	Low	Low	Low	Low
San Francisco	Climate, Equity, Jobs, Transportation, Water, Waste	High	High	High	High	High	High

#### Needs and Services Identification

Area	Need	Service	Task
Climate	Greenhouse gas emissions	Renewable energy	Energy audits
Equity	Income inequality	Job training	Financial counseling
Jobs	Unemployment	Apprenticeship	Job placement
Transportation	Public transit	Bike lanes	Transit subsidies
Water	Water quality	Water conservation	Water audits
Waste	Waste management	Recycling programs	Waste audits

### Policy Focus: Access to Quality Jobs

**Rationale for focus on jobs for a Green New Deal:**

- No other city department is addressing basic workforce needs through the lens of environmental sustainability
- Financial stability underlies all other basic needs
- Green workforce development is a tenet of all GND definitions

**Berkeley's Status Quo**  
The City of Berkeley's residential workforce development services are provided and managed by the County of Alameda. There is no local Workforce Development Board dedicated solely to the success of Berkeley residents.

### Workforce Development Model

**Richmond Workforce Development Board**  
Established in 2017, Richmond's WFDB has contributed to an 11% improvement in unemployment.

**Results of Investment**

- Served over 7000 people in the Career Center
- Served over 500 youth providing career development
- Awarded over \$4 million dollars to provide employment and training services to Richmond residents: Adult workers, Youth, Dislocated Workers, ESL, Formerly Incarcerated, Construction Trades

### Tax Revenue Models

**Richmond: General Tax Policy**  
Measure H and Measure E: Charter Amendment & General Tax Increase

**Step 1:** Amend charter to create a new distribution of general fund to a specific cause

**SIMPLE MAJORITY (50% + 1 votes to pass)**

**Step 2:** Impose general tax increase on transfer tax for properties valued more than \$1 million.

**SIMPLE MAJORITY (50% + 1 votes to pass)**

**San Francisco: Special Tax Policy**  
Proposition C: Special Tax Increase for Homelessness Services

**Option 1:** Impose special tax increase businesses earning more than \$50 million through citizen signature petition

**SIMPLE MAJORITY (50% + 1 votes to pass)**

**Option 2:** Impose special tax increase on businesses earning more than \$50 million through city council petition

**2/3 MAJORITY (66% votes to pass)**

### Policy Proposal

Establish a City of Berkeley Workforce Development Board that would oversee the allocation of dedicated funding toward efforts like training and apprenticeship programs, application support, and post-placement support.

Establish a new local revenue stream that creates long-term funding for workforce development that prioritizes Berkeley's marginalized populations.



Commission on the Status of Women

ACTION CALENDAR  
June 3, 2025

To: Honorable Mayor and Members of the City Council  
 From: Commission on the Status of Women  
 Submitted by: Carole Marasovic, Chair, Commission on the Status of Women  
 Subject: Exploitation of Vulnerable Homeowners

RECOMMENDATION

That Council refer to the City Manager to direct the Department of Health, Housing, and Community Services and other relevant departments and divisions to draft materials, written and visual (DVDs/VHS) to provide to homeowners vulnerable to exploitation, those being older and minority homeowners subject to exploitation from realtors, appraisers, lenders, speculators and others. For the appropriate department or division to identify a means of distribution of these materials to locations frequented by older and minority homeowners including senior centers, community organizations, medical providers and faith-based organizations. To promote the availability of these materials through public notices and local media. To return to Council with the draft materials and proposed locations of distribution within 6 months of the passage of this recommendation at Council. That in addition to English, materials be written, spoken, and otherwise communicated in other languages in which residents in Berkeley communicate.

FISCAL IMPACTS OF RECOMMENDATION

Fiscal impacts are best identified by City staff. There should be a cost to the printing and distribution of materials.

BACKGROUND

On June 19, 2024, the Commission on the Status of Women passed a motion as follows:

That Council refer to the City Manager to direct the Department of Health and Human Services and other relevant departments and divisions to draft materials, written and visual (DVDs/VHS) to provide to homeowners vulnerable to exploitation, those being older and minority homeowners subject to exploitation from realtors, appraisers, lenders, speculators and others. For the appropriate department or division to identify a means of distribution of these materials to locations frequented by older and minority homeowners including senior centers, community organizations, medical providers and faith-based organizations. To promote the availability of these materials through public

notices and local media. To return to Council with the draft materials and proposed locations of distribution within 6 months of the passage of this recommendation at Council. That in addition to English, materials be written, spoken, and otherwise communicated in other languages in which residents in Berkeley communicate.

At the June 19, 2024 Commission on the Status of Women meeting, the above recommendation was passed to send a report to Council.

The Commissioners voted as follows:

M/S: Ortiz-Cedeno/Posey

Yes: Goodwin, Marasovic, Ortiz-Cedeno, Posey

Noes: None

Abstentions: None

Leaves of Absence: Boyd, Plese

Absences: Seshagiri, Oliver

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable direct environmental impacts or opportunities associated with the subject of this report.

#### RATIONALE FOR RECOMMENDATION

Given the current price of Bay Area homes, long-term Berkeley homeowners are frequently approached by realtors, appraisers, lenders and speculators. The most vulnerable to exploitation are older persons, particularly older women who live alone, and minority homeowners. As the attachments below show, it has been shown that exploitations of vulnerable homeowners in the Bay Area have been transpiring.

To protect our Berkeley homeowners, the City needs to draft written materials and create video materials to educate the most vulnerable homeowners to protect their rights and to provide them with resources where they can receive assistance. These materials also should be made available in Spanish as well as English and other languages where there are monolingual homeowners in Berkeley.

The National Housing Law Project presented at a COSOW meeting that these exploitations were common and provided COSOW with information on cases where they provided representation.

The City should identify locations to distribute materials. All seniors do not frequent senior centers. Thus, locations such as medical providers, communication organizations and faith-based organizations should also have these materials available.

Research has shown that there are no materials currently being distributed in the Berkeley community to protect senior and minority homeowners from exploitation from realtors, appraisers, lenders and speculators. The last recall of City staff was that there were brochures a few years ago that have since been disposed of and which did not focus on homeowners.

Housing Economic and Rights Advocates (HERA) has drafted materials which are informative but somewhat complex for many vulnerable persons. HERA also is a resource for homeowners to be referred.

ALTERNATIVE ACTIONS CONSIDERED

To continue to not educate vulnerable homeowners on their rights.

CITY MANAGER

See companion report.

CONTACT PERSON

Carole Marasovic, Chair, Commission on the Status of Women  
Okeya Vance-Dozier, Commission, City Manager's Office (510) 529-5376

Attachments:

1. Supporting Links



Commission on the Status of Women

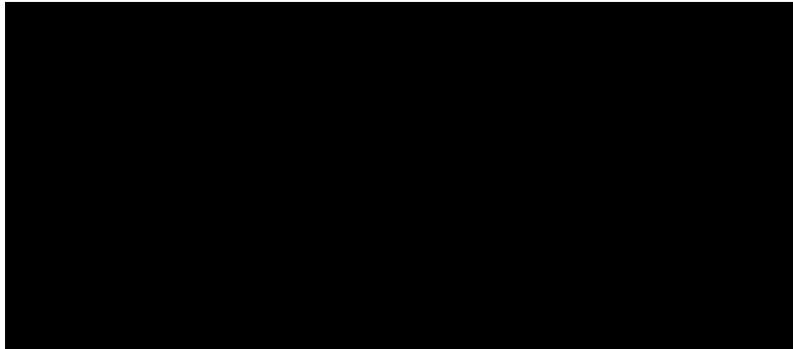
## Exploitation of Vulnerable Homeowners: Supporting Links

### **Oakland homeowner settles with appraiser, lender after \$300,000 lowball appraisal**

<https://abc7news.com/post/oakland-homeowner-settles-with-appraiser-mortgage-lender-after-300-000-lowball-appraisal-in-2021/14790837/>

### **Our America Lowballed**

[Our America: Lowballed | Watch the full episode](#)



[Our America: Lowballed | Watch the full episode](#)

["Our America: Lowballed" follows Black and Latino families as they fight for fair home values after lower than e...](#)

See below articles in attachment:

"81 yr. old SF resident sues to fight to stay in her long-term Upper Haight home".

<https://www.sfchronicle.com/bayarea/article/upper-haight-condo-eviction-17914906.php>

"She sold her 1.7 million dollar Bay Area home for one-third of the value over margaritas. What happened?"

<https://www.sfchronicle.com/bayarea/article/reverse-mortgage-18107326.php>



Office of the City Manager

ACTION CALENDAR  
June 3, 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: Companion Report: Exploitation of Vulnerable Homeowners

RECOMMENDATION

Refer the item to the Land Use, Housing & Economic Development Policy Committee to study the requirements for producing and distributing educational resources for resources and assign a budget and referral ranking.

FISCAL IMPACTS OF RECOMMENDATION

The commission's referral may require costs for outreach and educational materials including but not limited to graphic design, printing, video production, and translation. Staff recommends the committee create a refined Scope of Work that staff may use to create a budget.

CURRENT SITUATION AND ITS EFFECTS

Staff appreciate the importance of the Commission on the Status of Women's (COSOW) referral to educate homeowners to protect their assets and housing security. Staff determined the commission's report needs additional clarity to specify educational target areas and define a Scope of Work. These efforts will assist staff to determine if there are existing resources that may be leveraged or draft a budget for new efforts. Once the project is better defined it should be ranked through the Council's referral management process (RRV).

BACKGROUND

The COSOW adopted its resolution following reports of homeowners, especially seniors and people of color, being taken advantage of by predatory actors.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable sustainability or climate impacts associated with this report.

RATIONALE FOR RECOMMENDATION

Staff supports the commission's desire to support homeowners and is requesting more clarity on the intended outcomes and topics the commission would like to cover.

Defining a Scope of Work and budget will help the council and staff better understand the potential results and costs.

ALTERNATIVE ACTIONS CONSIDERED

Council may adopt the Commission's referral as is. Staff will be limited in what can be produced without a clear Scope of Work and an accompanying budget.

CONTACT PERSON

Okeya Vance-Dozier, Commission Secretary, City Manager's Office, (510) 981-7239  
Mike Uberti, Senior Community Development Project Coordinator, HHCS, (510)  
981--5114



CONSENT CALENDAR  
May 20 2025

*Land Use and Economic Development*

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin

Subject: Berkeley Nightlife Council

RECOMMENDATION

Adopt a resolution to form an inaugural Berkeley Nightlife Council as an ad-hoc committee convened by the District 2 council office to return recommendations for the formation, structure, and scope of operation of a Berkeley Nightlife Council (Night Council) to support nighttime economic activity, cultural programming, and community safety in city commercial districts.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley is home to several commercial districts, including but not limited to Gilman, San Pablo, The Lorin District, Downtown, North Shattuck, Telegraph, and Elmwood. Berkeley’s commercial districts host a variety of economic activities traditionally associated with nightlife, ranging from hospitality to food and beverage, arts, entertainment, and gaming, as well as activities less associated with but compatible with nightlife, such as health and fitness.

***Occupancy Rate and Sales Tax Revenue in Hospitality and Food and Beverages Sectors***

Berkeley’s hotels enjoy a higher occupancy rate than other Bay Area cities. There are 2.4 million overnight visitors, spending \$18.7m. In 2024, the city’s average nightly hotel occupancy increased to 71%, up from 70% the year prior, but still below the pre-pandemic average occupancy rates, exceeding 80%.

In the second quarter of 2024, the City of Berkeley saw a 28.4% increase in sales tax revenue over the three previous quarters, versus decreases of 13.7% and 1.4% reported by Alameda County and the State of California, respectively. The food and beverage sector was the second largest contributor, representing 37% of sales tax revenue, behind retail at 45%.

***Commercial District Vacancy Rates***

The Office of Economic Development’s 2024 Economic Dashboard reports a year-over-year reduction in the groundfloor vacancy rate from 15.5% to 7.1% in the San Pablo Avenue commercial district, from 17.7% to 7.7% on University Avenue, and from 19.2% to 8.9% in



South Berkeley. Conversely, commercial vacancy rates have increased from 10.8% to 10.9% in the Downtown, from 1.9% to 2.0% along North Shattuck, from 9.3% to 9.9% along Telegraph, and from 6.2% to 6.9% in the Elmwood.

### *Commercial Districts with Concentration of Nightlife*

#### **Downtown**

Downtown Berkeley serves as the city's core commercial district, a vibrant critical nexus for the social and professional lives of residents, students, workers, and visitors. Shattuck Square is the city's primary transit hub, connecting AC Transit lines 6,7,18,51B, 79, 800, 851, F, and BART's Red and Orange lines. The Downtown is home to the Berkeley Public Library's Central Branch, the Arts District, and is situated between Berkeley High, Berkeley City College, and UC Berkeley, and hosts the densest concentration of multifamily residential communities and the largest number of restaurants in the city. In the Berkeley Police Department's 2024 Annual Crime Report, Council District 4 logged the highest count for calls for service, with the Downtown commercial district generating a high volume.

Arts and entertainment uses in the Downtown account for 15.3 % of total ground floor commercial space versus 4.8%. As of 2024's fourth quarter, commercial vacancies increased 0.01% over the previous year, and food and beverage sales tax revenue dropped slightly from \$1.17m to \$ 1.2m.

The nightlife culture of the Downtown and Arts District is emblemized by renowned businesses and venues such as The Berkeley Repertory Theater, UC Theater, Freight and Salvage, Revival Kitchen, Pizza de Laura, Jupiter, East Bay Spice Company, and Study Hall at the Residence Inn.

#### **Elmwood**

The Elmwood is a compact, walkable neighborhood serving a commercial district serviced by the 51B bus line, which sees some of the AC Transit's highest ridership routes. This district also features Berkeley's only remaining movie house, Rialto Cinema's Elmwood.

Food and beverage services account for 29% of the district's ground-floor uses and generated \$229,309 in sales tax revenue, up from a low of \$140,812 in 2021. As of 2024's fourth quarter, Elmwood's commercial vacancy rate was 6.9%.

Night in the Elmwood is enlivened by the Elmwood Cinema, La Mediteranee, Five Tacos and Five Beers, and Vietnamese street food vendors.



***North Shattuck***

North Shattuck is one of the city’s oldest commercial districts. Walkable and neighborhood-serving, North Shattuck is a global dining destination well known for lauded establishments including Cheeseboard and Chez Panisse.

Food and beverage sector sales tax revenues rose to \$588,817 in 2024, up from a 2021 low of \$298,196.

North Shattuck’s evening activity is bestudded with gems such as Sauls, Via Del Corso, Da Lian, Farmhouse Thai, and Vintage Berkeley Wine Shop in the Vine Street Pumping Plant.

***San Pablo and West Berkeley***

Berkeley’s largest commercial corridor, served by AC Transit’s 72,72M,72R bus lines, San Pablo Avenue serves as a regional destination for specialized commercial uses and features many neighborhood-serving establishments spanning the length of the city. Despite featuring smaller percentages of food and beverage services (13.7%) than the city, San Pablo’s bars and restaurants comprise the gem and beating heart of the social and nightlife of West Berkeley’s diverse neighborhoods. West Berkeley has two nascent merchant associations: the Gilman District and the International Market Place, and the established University Avenue Association.

San Pablo’s commercial vacancy rate decreased to 7.1% in 2024 from 15.6% the previous year. Retail sales comprise the largest source of tax revenue, increasing to \$772,703 in 2024, generating foot traffic to nearby businesses.

West Berkeley’s nightlife culture is defined by businesses and venues including: Hammerling Wines, the Gilman Brewery, Funky Elephant Thai, Babette, La Marcha, El Patio, and Acme Bar.

***Telegraph***

Telegraph Ave linking UC Berkeley’s Southside neighborhood to Oakland’s Uptown and Temescal and served by AC Transit’s 51B and 6 bus lines as well as the line 851 nightbus and Bear Transit’s P Line, is one of Berkeley’s most rapidly transforming commercial districts. The Telegraph is home to an eclectic and vibrant mix of restaurants, bars, event spaces, and entertainment venues, serving both the campus and city communities.



32% of ground-floor square footage is host to food and beverage services compared to 12.5% citywide. Sales tax revenue collected from this sector increased to \$618,773 in 2024.

Businesses and venues comprising Southside and Telegraph’s nightlife culture include: Raleigh’s, Cali Sports Bar, Henry’s at the Graduate, Games of Berkeley, and Zellerbach Hall on the UC Berkeley campus.

### ***Zoning Amendments for Berkeley Businesses***

On March 12 2024, the City Council adopted Ordinance No. 7,898-N-S. amending Berkeley Municipal Code Title 23 to streamline and clarify the permitting process for businesses in C-Prefixed (commercial districts), select M-Prefixed (manufacturing districts), R-BMU( residential BART mixed-use), and R-SMU (residential Southside mixed-use) zoning districts.

The ordinance amendments implemented changes to the permitting process: reducing the level of permitting discretion for group class instruction and clarifying the definitions of “Dance/Exercise/Martial Arts/Music Studio”, “Group Class Instruction,” and “Gyms and Health Clubs”; revising permit requirements and providing clear performance standards for restaurants that wish to serve Incidental Distilled Spirits at a Food Service Establishment; permitting stand-alone Beer and Wine Sales and Service with an administrative use permit (AUP), subject to performance standards, in all commercial zoning districts; modifying the special use standards related to Alcohol Service, Live Entertainment, and Hours of Operation in select C-prefixed and M-prefixed districts; removing the permit requirements to change a use in commercial districts, thereby reducing permitting time and costs for small businesses getting established in existing commercial spaces; reducing the level of permitting discretion for Office, Business and Professional; Art/Craft Studio; and Pet Stores in select C-prefixed districts; Reducing levels of permitting discretion for food service in commercial and select manufacturing districts and in R-SMU and R-BMU zoning districts, as long as alcohol service is not included, removing restrictions on rentals of food service establishments to third parties, and on outdoor and seated food service with alcohol in select C and M prefixed districts and removing quotas on food service in the C-E (Elmwood) district; and remove the prohibition on uses involving sale or distribution of paraphernalia in the C-T (Telegraph) district.

### ***Continuing Berkeley’s Economic Recovery***

Berkeley’s hotel occupancy rate and food and beverage sales tax revenues indicate a positive economic recovery across districts containing a concentration of commercial uses associated with nightlife. Recent BMC amendments represent a historic opportunity to revitalize Berkeley’s small business ecosystem, especially across industries operating in nightlife sectors. However,



commercial vacancy rates in the downtown core and a high volume of calls for service underscore the challenges facing many downtowns in the Bay Area and beyond.

#### FINANCIAL IMPLICATIONS

The ad-hoc committee will convene to conduct its work utilizing the internal resources of the District 2 council office, requiring no additional funding and placing no additional fiscal strain on city resources.

#### BACKGROUND

Night Councils function as collaborative night-time urban governance structures between municipal organizations, nightlife industry sector business leaders, and local communities to generate solutions to improve and support night-time economic activity, cultural programming, and public safety in commercial districts. Several global cities currently maintain active night councils with several governance structures.

#### **International Models for Night-Time Governance**

New York City's Office of Nightlife was created via 2017 legislation and functions as a non-enforcement liaison between the city and the nightlife industry. Early actions taken by the office include a five-borough listening tour to establish a framework for the manage of challenges across the industry culminating in the formation of the office's four-pronged agenda: 1) supporting business development and recovery, 2) improving and addressing quality of life issues between venues and residents, 3) promoting safety, equity, and harm reduction, and 4) elevating and preserving nightlife culture.

Melbourne's nightlife scene is lauded for contributing immensely to the city's global reputation as one of the most liveable cities. The Melbourne Night-time Advisory Committee advises the city on economic recovery and designs programs to advance the city's night-time economic goals. Flash Forward, one of the Committee's programs, utilizes locally sourced public art installations to generate foot traffic in the city's unique and lesser-explored laneways and pedestrian streets containing shops, cafes, bars, and restaurants. Like Berkeley, Melbourne benefits from the knowledge partnerships fostered through its proximity to and cross-pollination with academic institutions. One such program borne from collaboration between the Night-Time Advisory Committee and the University of Melbourne's School of Design is Project Night Justice, an initiative to promote the safety of women-identified and LGBTQ+ community members.

Montreal 24/24 is a non-profit citizen-led organization that partners with Montreal's economic development agency and receives city funding to develop policy and support the nightlife industry community and night-time economy. The organization commissions research, provides workshops, plans a summit, conducts pilot projects, and runs a night council comprising twelve citizens with nightlife expertise, including artists, venue owners, public health professionals, and academics. Formed during the Pandemic, Melbourne's Night Council is composed of four



committees: 1) Permanent spaces (venues, bars, clubs), 2) Temporary initiatives, festivals, and events, 3) Health, safety, inclusion, and diversity, and 4) Living at Night. The Committee receives input, issues recommendations on nightlife topics, and holds an annual Open Mic open to members of the Melbourne community to share their experiences and visions for nightlife. The Council also organizes a yearly summit called Montreal Au Sommet De La Nuit, attended by global leaders to discuss night-time governance and different global practices.

### **Potential Night-Time Governance Structure for the City of Berkeley**

Given the City of Berkeley's organic configuration of commercial neighbors and the characteristics of its night-time economy, its proximity to local academics institutions, and the operational capacity constraints of the city organization, a night governance model built on a synthesis of Melbourne's Night-Time Advisory Committee and Montreal 24/24's Night Council may benefit Berkeley's economic recover from COVID and further its Strategic Plan goal to *foster a dynamic, sustainable, and locally-based economy.*

### **Berkeley's Nightlife Ecosystem**

Berkeley has several key stakeholders, non-profits, and companion agencies, uniquely positioned to serve as strategic partners for a Night Council. This item proposes the formation of an ad-hoc advisory committee convened by the District 2 Council office and including the representative members from the following:

- Mayor of the City of Berkeley
- District 2 City Councilmember
- District 4 City Councilmember
- District 5 City Councilmember
- Visit Berkeley
- The Berkeley Chamber of Commerce
- The Gilman District
- The International Market Place
- The Lorin District
- The Downtown Berkeley Association
- The Arts District
- The North Shattuck Business Improvement District
- The Telegraph Business Improvement District
- Berkeley Police Department Community Services Bureau

The ad-hoc committee will fulfill the ceremonial function of serving as an inaugural Night Council and shall meet quarterly for one year and return recommendations to the City Council for the permanent governance structure and organization of a formal Night Council.

### **RATIONALE**

Night Councils have played a major role in the economic recoveries of New York City, Montreal, and Melbourne through strategic collaborative thought-partnerships between cities,



nightlife industries, and local communities. Berkeley's strong hotel occupancy rate and sales tax revenues, proximity to cultural and academic institutions, and global dining and arts destination status position the city to leverage its cultural and economic capital to accelerate economic recovery and revitalize our commercial sectors.

Berkeley benefits from an organic ecosystem of potential strategic partners. Before pursuing a permanent structure, stakeholders should be engaged by convening an ad hoc community to assess potential and optimal governance structures right-sized to the city's organizational capacity.

The Office of Economic Development's collaborative engagement with the Berkeley Startup Cluster has yielded fruitful policy results through the legislation of land use reform, leveraging Berkeley's innovation ecosystem. The Berkeley Nightlife Council has the potential to replicate this success via close thought partnership with the food and beverage, arts and entertainment, and hospitality sectors.

#### Alternatives Considered

A recommendation proscribing a concrete structure had been considered. It is preferable to initiate this effort as an ad-hoc vehicle for stakeholder engagement and organization assessment.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

N/A

#### CONTACT PERSON

Councilmember Terry Taplin, Council District 2 510-981-7120

#### Attachments:

- 1) Resolution Inauguring the Berkeley Nightlife Council (Night Council) as an Ad-Hoc Committee.
- 2) Office of Economic Development 2024 Commercial District Dashboard Presentation.
- 3) Office of Economic Development 2024 2024 Economic Dashboard Presentation
- 4) Planning and Development Zoning Amendment for Berkeley Businesses; Amending Berkeley Municipal Code Title 23 February 27, 2024 Staff Report.
- 5) 24-Hour Cities Network Governance Workshop Insight Report.

**Resolution Inaugurating the Berkeley Nightlife Council as an Ad-hoc Committee**

WHEREAS, urban nightlife is generally associated with economic activity related to the hospitality, food and beverage, and arts and entertainment commercial sectors, and, more broadly, with health and wellness; and

WHEREAS, “Night Councils” are collaborative urban governance frameworks linking municipal organizations, nightlife industries, and local communities to foster strategic thought-partnerships to develop policy and issue recommendations in support of night-time economic activity, cultural programming, and public safety in commercial districts, and official and unofficial “Night Mayors” and “Night Commissioners” are social and cultural ambassadors to the wider community and active participants in the culinary, artistic, cultural and social life of cities at night; and

WHEREAS, New York City’s Office of Nightlife, The Melbourne Night-Time Advisory Committee, and Montreal 24/24’s Night Council were initiated in response to the COVID Pandemic and were instrumental in the economic recovery of their respective cities; and

WHEREAS, the City of Berkeley hosts several commercial districts with concentrations of nightlife sectors, and Berkeley’s superior hotel occupancy rate and growing sales tax revenue generation continue to play a crucial role in the city’s economic recovery; and

WHEREAS, Berkeley’s Downtown commercial core continues to struggle with high rates of commercial vacancy having lost landmark institutions such as Regal’s United Artists Berkeley 7 theater, California Theater, and Shattuck Cinemas, yet benefits from proximity to the University of California at Berkeley, Berkeley City College, and is experiencing the highest growth of multifamily residential construction; and

WHEREAS, Berkeley remains a global destination for dining, arts, and culture, and increased foot traffic will bring vibrancy, safety, and vitality to its Downtown core and commercial and citywide commercial neighborhoods, increasing venues and expanding the city’s tax base,

THEREFORE BE IT RESOLVED, that the Mayor and the City Council of Berkeley establish an inaugural Night Council as an informal ad-hoc committee to meet quarterly over one year and shall return to the City Council recommendations for the formation and organizational structure of a formal Berkeley Nightlife Council (Night Council); and

THEREFORE BE IT FURTHER RESOLVED, that the District 2 City Council office will convene the ad-hoc Night Council committee, which shall include the Mayor of the City of

Berkeley and the City Council representatives of Districts 4 and 5, and shall invite representatives of the following to participate:

- Visit Berkeley
- The Berkeley Chamber of Commerce
- The Gilman District
- The International Market Place
- The Lorin District
- The Downtown Berkeley Association
- The Arts District
- The North Shattuck Business Improvement District
- The Telegraph Business Improvement District
- Berkeley Police Department Community Services Bureau; and

THEREFORE BE IT FURTHER RESOLVED, that the chairing officer of the informal ad-hoc Inaugural Night Council shall bear the symbolic title of Night Mayor which title shall carry no material or ceremonial power or authority concerning the roles of the City Council charter offices or representation of the City of Berkeley in an matter whatsoever, but shall solely serve as a social and cultural ambassador of the Inaugural Night Council to the wider community of Berkeley nightlife, and whose primary purpose is to convene the quarterly ad-hoc meeting, conduct stakeholder engagement, record feedback concerning night-time economic, social, and cultural experiences and challenges of Berkeley's residents, visitors, students, and workers, and authoring the resulting Council referral to be submitted one year following, and to participate in Berkeley's culinary, arts and entertainment, society and culture at night.

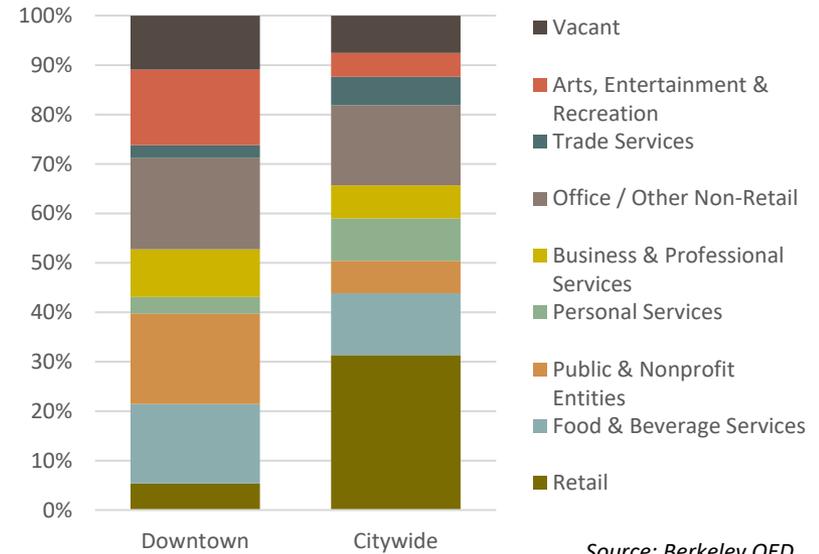
# Downtown: 2024 Snapshot



Downtown Berkeley serves as the City's core commercial district, meeting the daily needs of residents, students, workers, and visitors. The district benefits from a significant concentration of arts and entertainment uses, which occupy 15.3% of total ground floor commercial space in the district, compared to 4.8% citywide. As of Q4 2024, the vacancy rate in Downtown is 10.91%, an increase from 10.78% in 2023, and above the 9.9% seen during the first year of COVID (2020). Sales tax revenue generated by Food & Beverage services reached its nadir in 2021 (\$565,561), but has recently matched pre-COVID levels with \$1.17M generated in 2024 (a slight drop from \$1.2M in 2023).

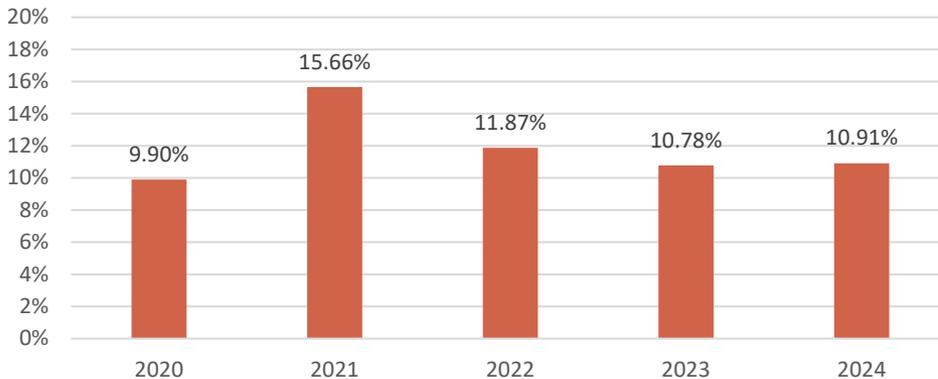


**Ground Floor Commercial Business Mix (by Square Footage), 2024 Q4**



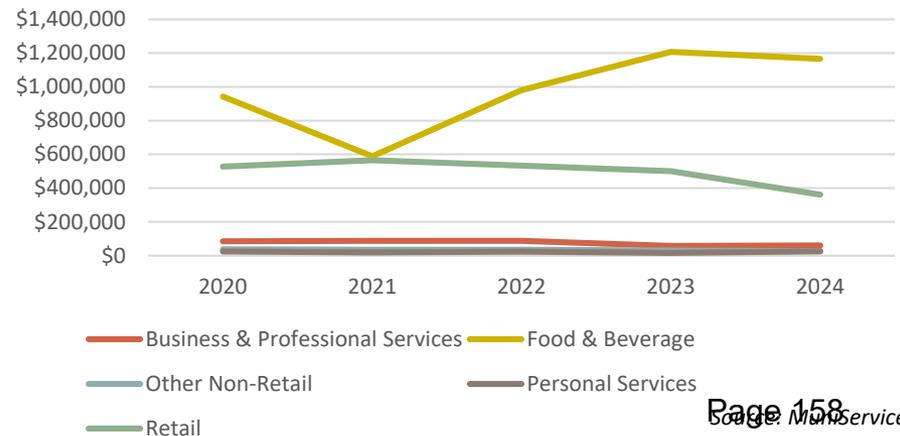
Source: Berkeley OED

**Ground Floor Commercial Vacancy Rate (by Square Footage), 2020-2024**



Source: Berkeley OED

**Sales Tax Revenue by Sector, 2020-2024**



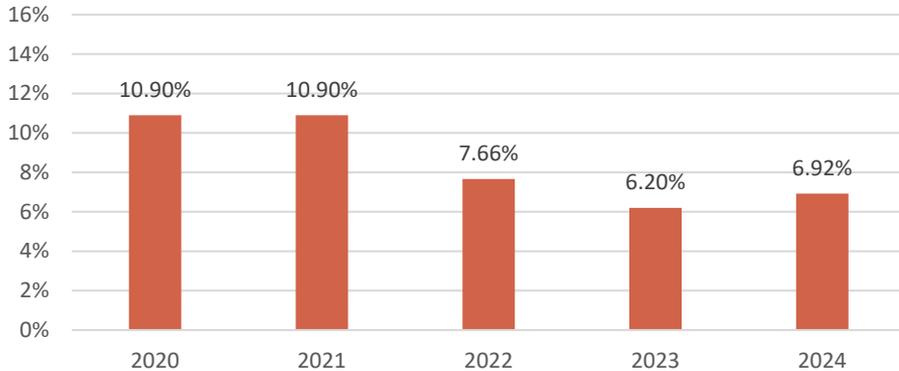
Source: Map Services

The Elmwood is a compact three block commercial district along College Avenue near the Berkeley-Oakland border and the neighboring Rockridge shopping district. The Elmwood district is characterized by a high concentration (29%) of Food & Beverage services and Personal Services (17.6%), and is a walkable, neighborhood-serving commercial district. As of Q4 2024, the district's vacancy rate by square footage is 6.9%.

Sales tax collected from the Food and Beverage sector in the Elmwood increased in 2024 to \$229,309, from a low of \$140,812 in 2021. Sales tax collected from the Retail sector decreased slightly in 2024 to \$103,201, but remained above retail sales tax collected in 2021 (\$88,709) when the pandemic was in an acute phase.

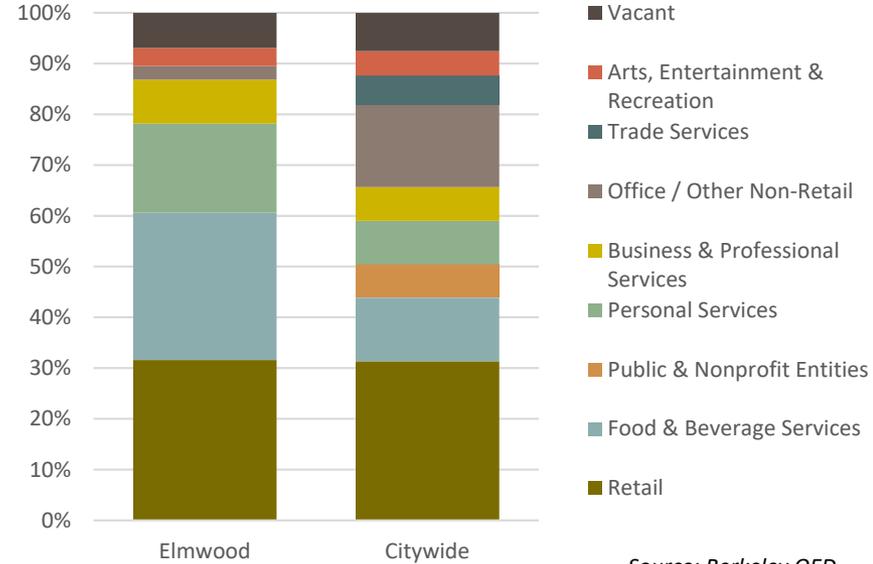


**Ground Floor Commercial Vacancy Rate (by Square Footage), 2020-2024**



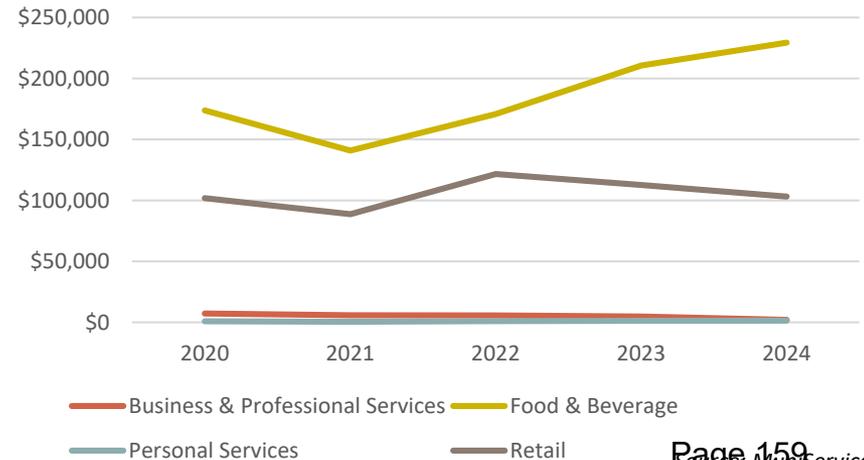
Source: Berkeley OED

**Business Mix (by Square Footage), 2024 Q4**



Source: Berkeley OED

**Sales Tax Revenue by Sector, 2020-2024**



Source: Main Services

# North Shattuck: 2024 Snapshot

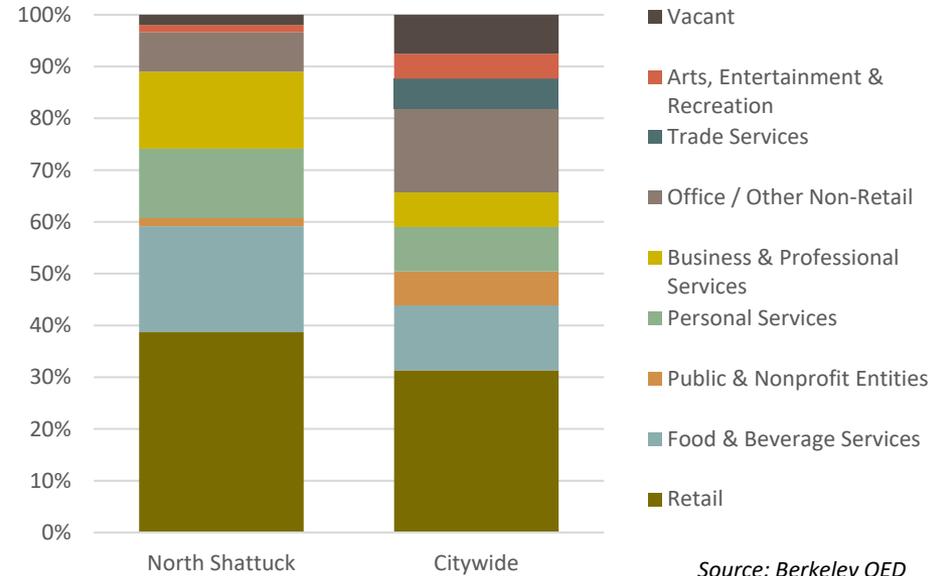


North Shattuck is one of Berkeley's oldest commercial districts, just north of Downtown. The district is characterized by a high concentration of well-known, long-standing, and celebrated restaurants, including Chez Panisse and the Cheeseboard. North Shattuck is both a walkable, neighborhood-serving commercial district as well as a global destination for food and dining. As of Q4 2024, the district's vacancy rate by square footage is 1.95%, on par with the 1.9% calculated in 2023 Q4.

Sales tax collected from the Food and Beverage sector in North Shattuck increased in 2024 to \$588,817 from its 2021 low (\$298,196), and sales tax collected from the retail sector increased slightly in 2024 to \$136,153 from \$134,219 collected in 2023.

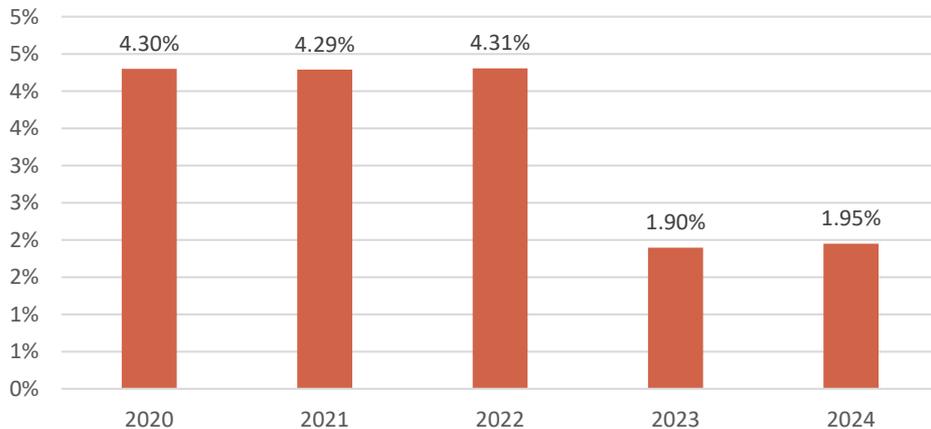


## Business Mix (by Square Footage), 2024 Q4



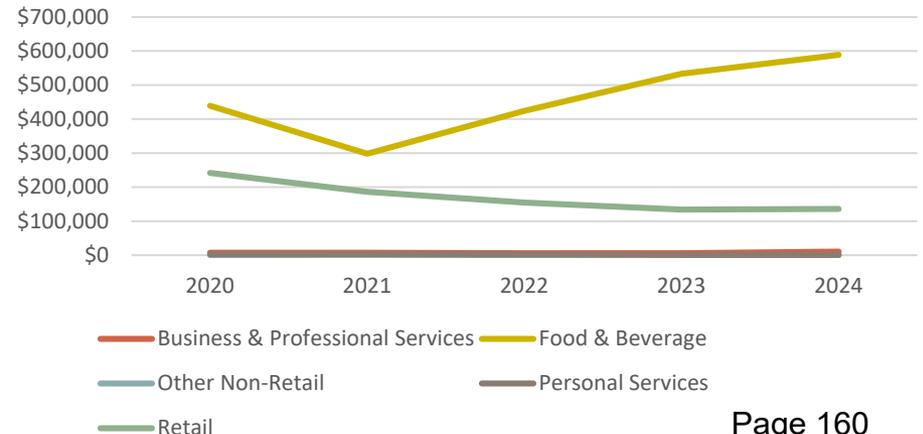
Source: Berkeley OED

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2020-2024



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2020-2024



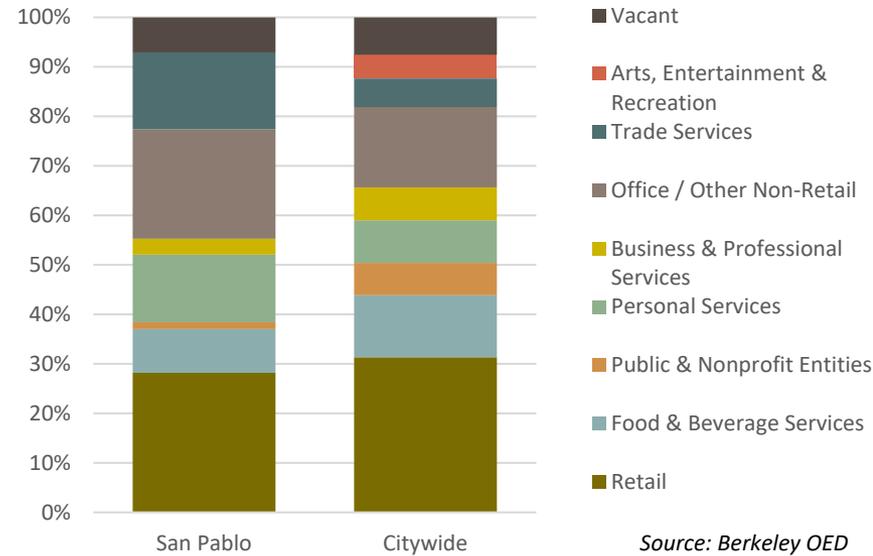
Page 160  
Source: MuniServices

San Pablo Avenue is Berkeley's largest commercial corridor, running the entire north-south length of the City. San Pablo is characterized by a high concentration of Trade Services (15.5%), including automobile services.

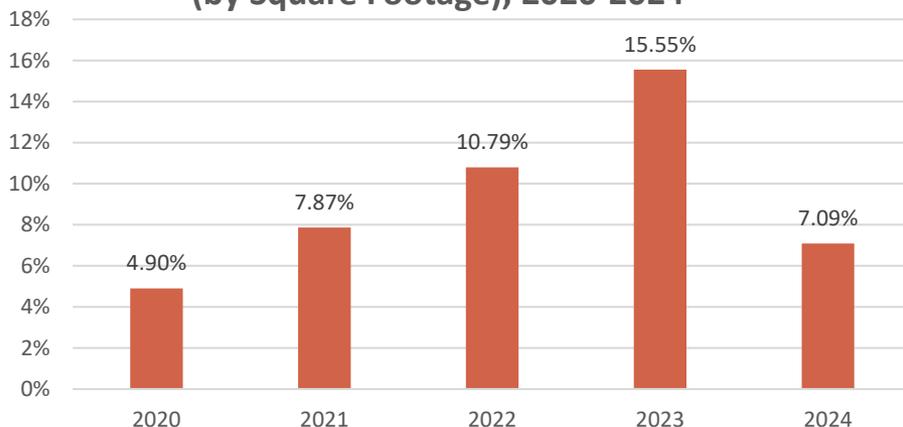
San Pablo functions more as a regional destination for specific uses rather than a walkable, neighborhood-serving commercial district; as such, it features smaller percentages of Food & Beverage Services (8.9%) and a larger portion of Personal Services (13.7%) than the city as a whole. In 2024, the district's vacancy rate by square footage is 7.1%, down from 15.6% in 2023. Retail Sales tax revenue collected in 2024 has increased to \$772,703 since 2023 (\$679,253) and continues to be the largest source of tax revenue for the area.



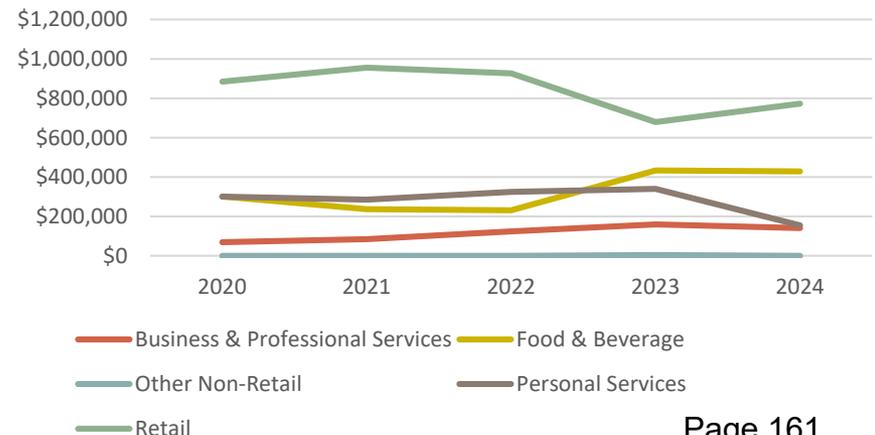
## Business Mix (by Square Footage), 2024 Q4



## Ground Floor Commercial Vacancy Rate (by Square Footage), 2020-2024



## Sales Tax Revenue by Sector, 2020-2024





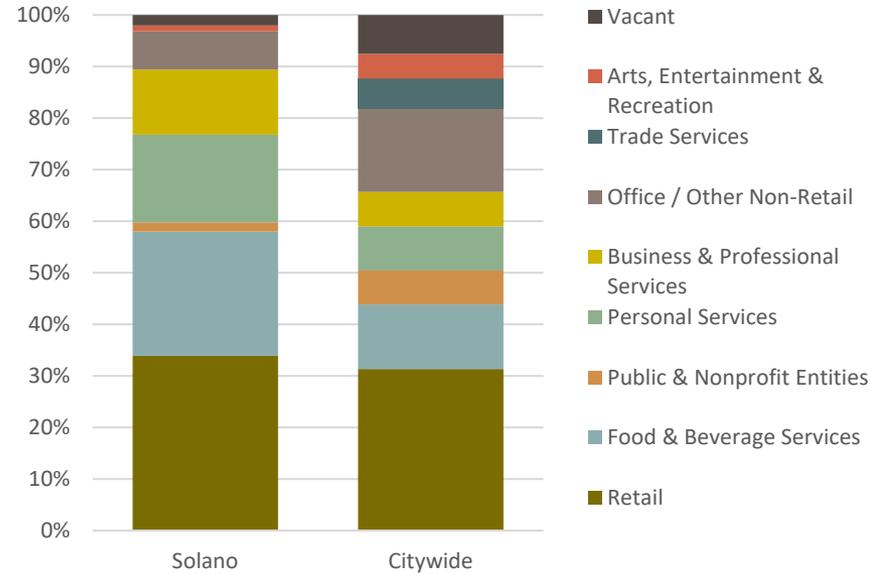
Solano is a small district in North Berkeley, with a total of 148 commercial spaces and approximately 189 thousand square feet of commercial space. It shares a border with Albany and is situated next to a large elementary school and an active neighborhood of single-family homes.

The former Oaks Theatre is now occupied by *The Oaks* climbing gym that opened in 2024. The district's vacancy rate by square footage is 2.1%, a slight decrease from 2023 (2.6%).



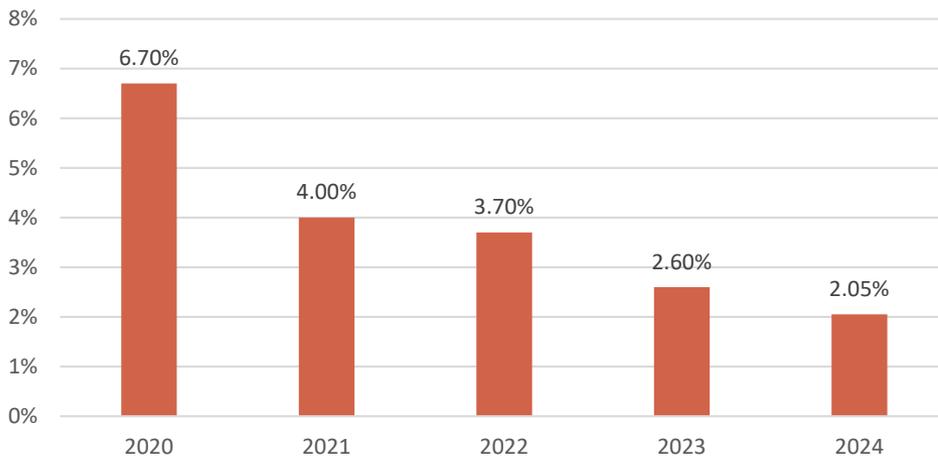
Sales tax collected from the Food and Beverage sector along Solano Avenue increased by \$3,084, from 2023 to 2024, and sales tax collected from the retail sector also increased from 2023, to \$114,635.

## Business Mix (by Square Footage), 2024 Q4



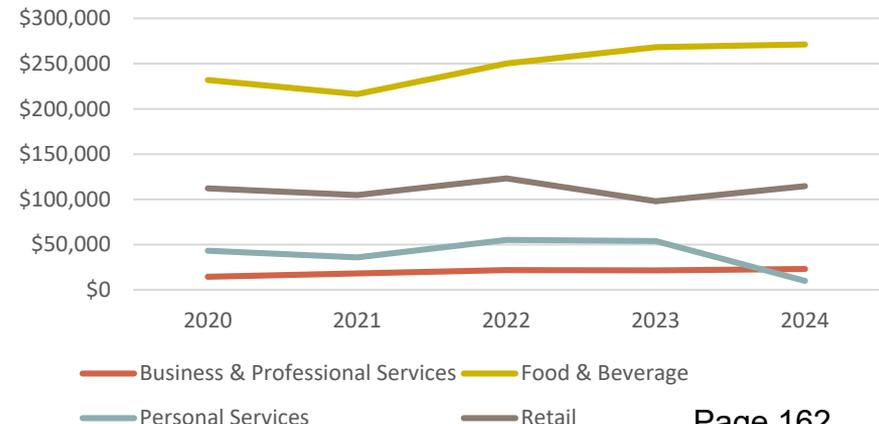
Source: Berkeley OED

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2020-2024



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2020-2024



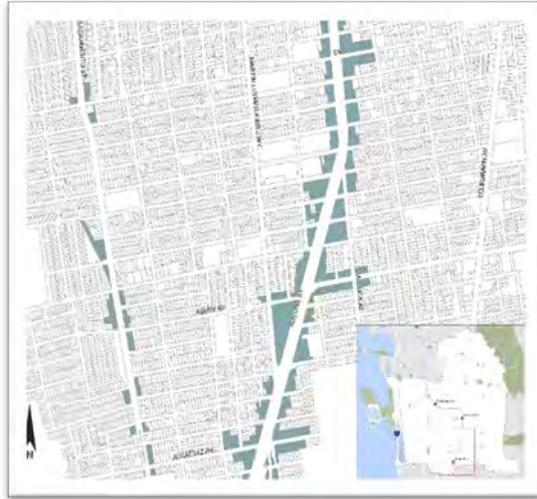
Page 162  
Source: MuniServices

# South Berkeley: 2024 Snapshot

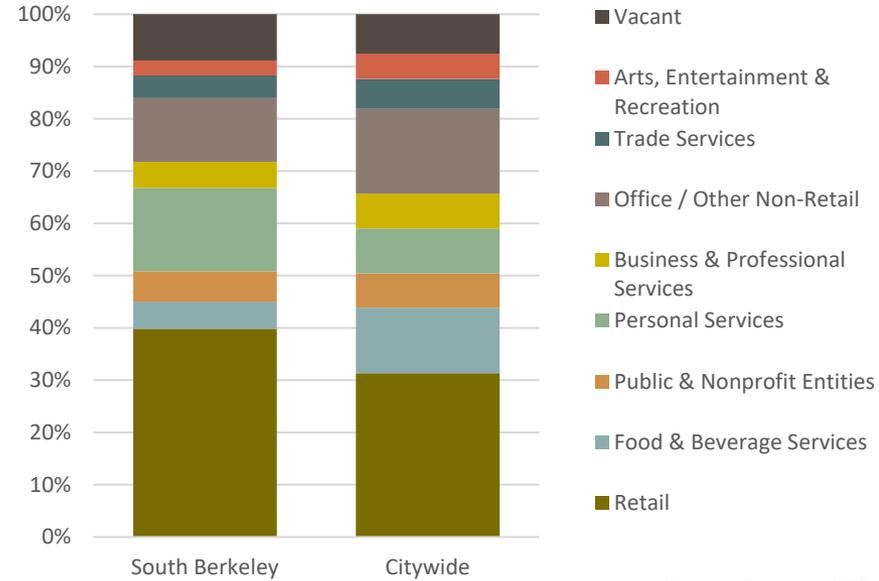


South Berkeley is a large district stretching over an area known for its cultural diversity and includes the Lorin District, the Sacramento Ave. corridor, and the South Shattuck area. South Berkeley includes car dealerships, which accrue retail sales tax revenue for the City.

The area features a high concentration of Personal Services businesses (15.9% vs. 8.6% citywide) but is under-served by Food & Beverage services, which account for only 5.2% of ground floor commercial space, as compared to 12.5% citywide. As of Q4 2024, the district's vacancy rate by square footage was 8.9%, a marked decrease from 2023 (19.3%).

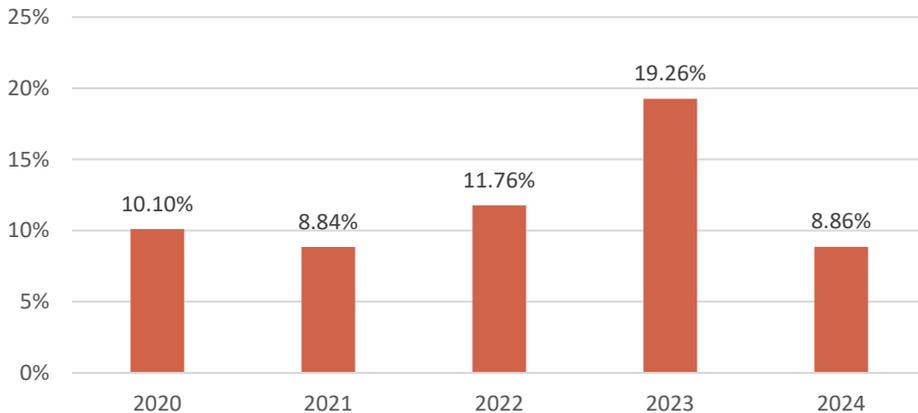


## Business Mix (by Square Footage), 2024 Q4



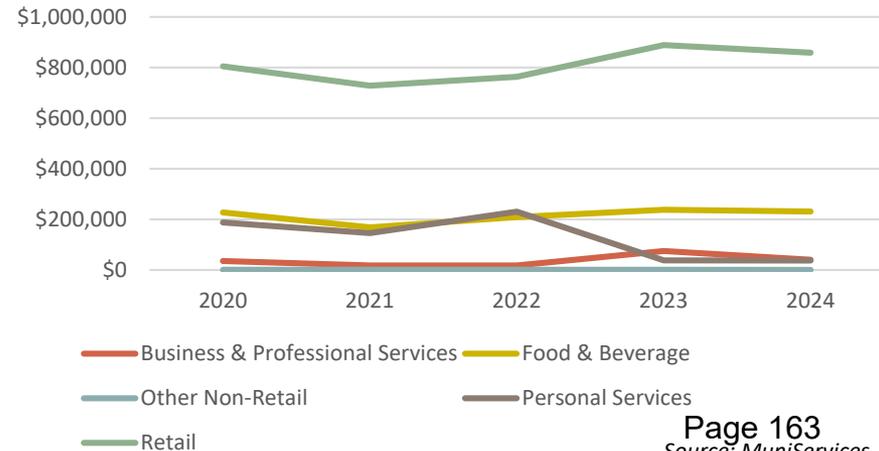
Source: Berkeley OED

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2020-2024



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2020-2024



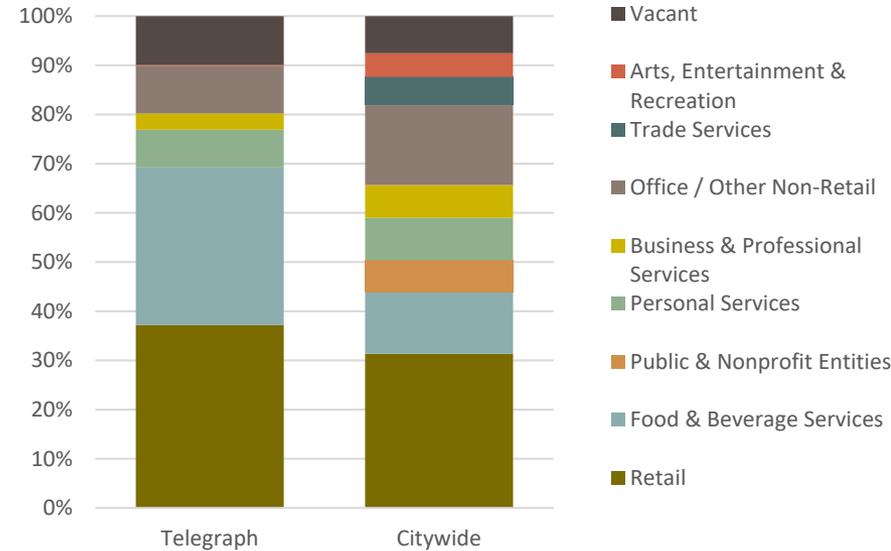
Page 163  
Source: MuniServices



The Telegraph district has undergone significant change with respect to its ground floor inventory over the past several years. Food & Beverage services have shown a dramatic increase in the last decade, with 32% of Food & Beverage services accounting for ground floor commercial space in the district, as compared to 12.5% citywide. Telegraph's ground floor inventory of retail accounts for 37.2% of the business mix, slightly more than the 31.3% observed citywide. As of Q4 2024, the district's ground floor commercial vacancy rate of 9.9%, was higher than 2023 (9.3%). Food & Beverage services outperform Retail with respect to sales tax collected; Food & Beverage collections increased to \$618,773 in 2024.



## Business Mix (by Square Footage), 2024 Q4



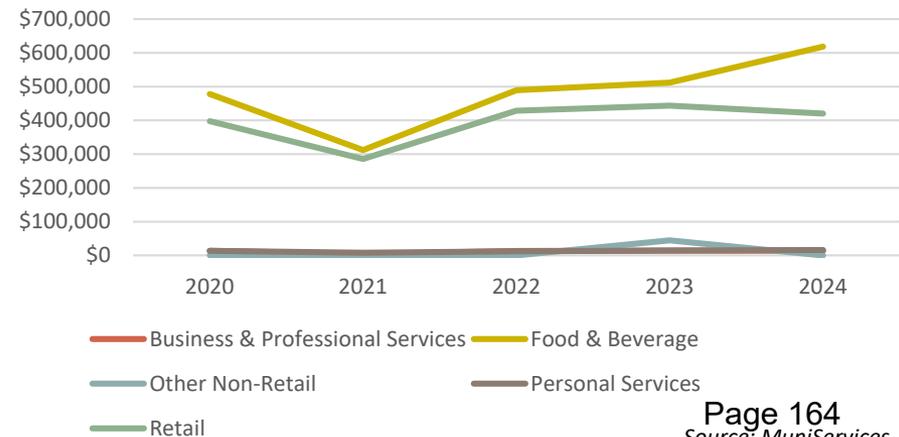
Source: Berkeley OED

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2020-2024



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2020-2024

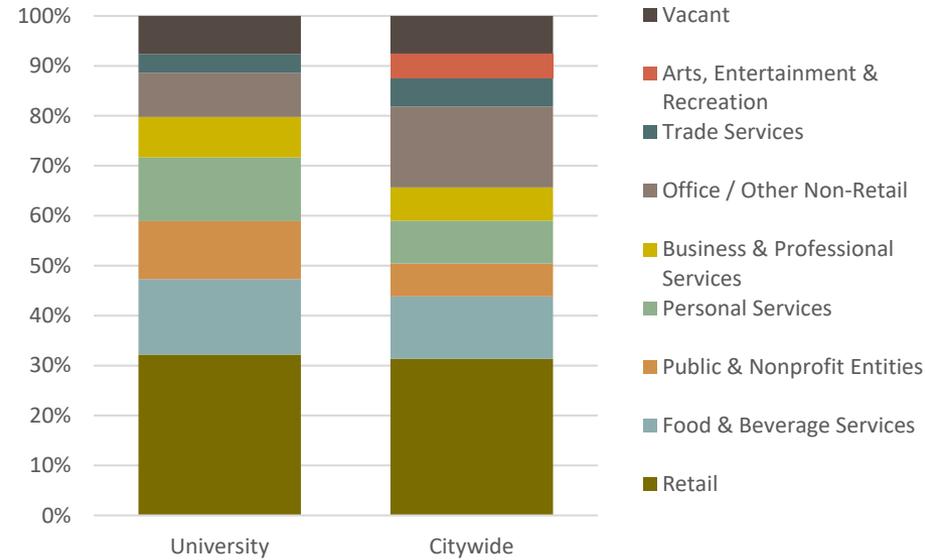


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Source: MuniServices

University Avenue, from Martin Luther King Jr Way to the waterfront, spans many of the City's neighborhoods and serves as the gateway to the UC Berkeley Campus. Since 2019, Retail and Food & Beverage Services have generated the most sales tax revenue for the district. Retail sales tax collected in 2024 decreased slightly by \$14,117 from 2023, and sales tax from Food & Beverage stayed steady. The 2024 vacancy rate decreased year over year from 17.7% in 2023 to 7.7% in 2024; the lowest rate in five years.

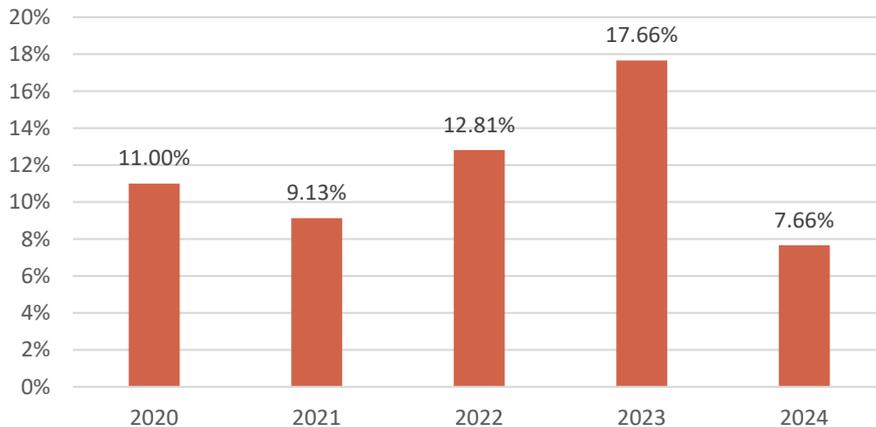


## Business Mix (by Square Footage), 2024 Q4



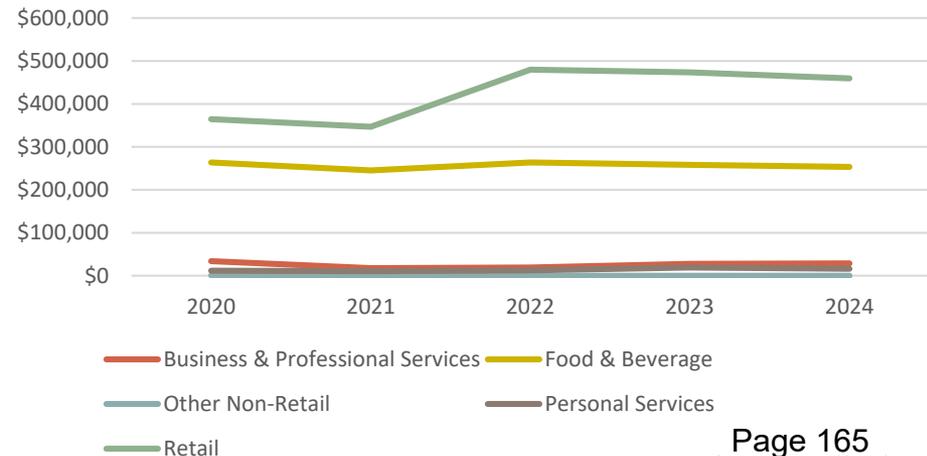
Source: Berkeley OED

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2020-2024



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2020-2024



Page 165  
Source: MuniServices

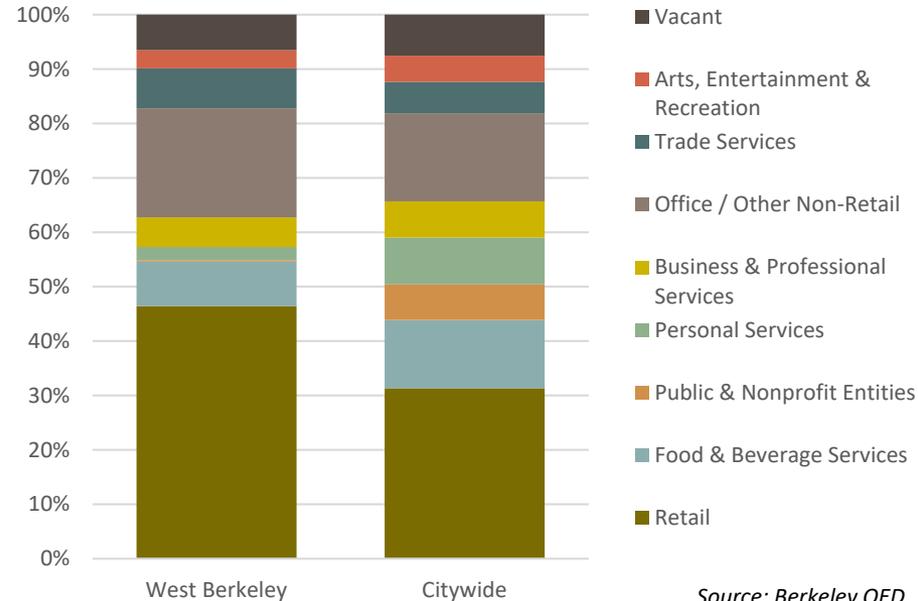
# West Berkeley: 2024 Snapshot



West Berkeley represents all commercial spaces west of San Pablo Avenue, including 4<sup>th</sup> Street and the Gilman District. There are a number of major, large-floor-plate retailers, and a dense cluster of home supplies and construction businesses. There is also a higher percentage of non-retail commercial uses, including manufacturing and warehousing. Retail accounts for 46.4% of ground floor commercial space in the district, as compared to 31.3% citywide. West Berkeley also has a smaller percentage of square footage devoted to Food and Beverage (8.2%) businesses than the citywide rate of 12.5%. The commercial vacancy rate in Q4 of 2024 is 6.5%, up from 2023's 2.1%. Sales tax revenue has decreased or stayed steady in this area in all categories including Retail where a sales tax revenue decrease of \$473,968 (-7.1%) YoY is observed.

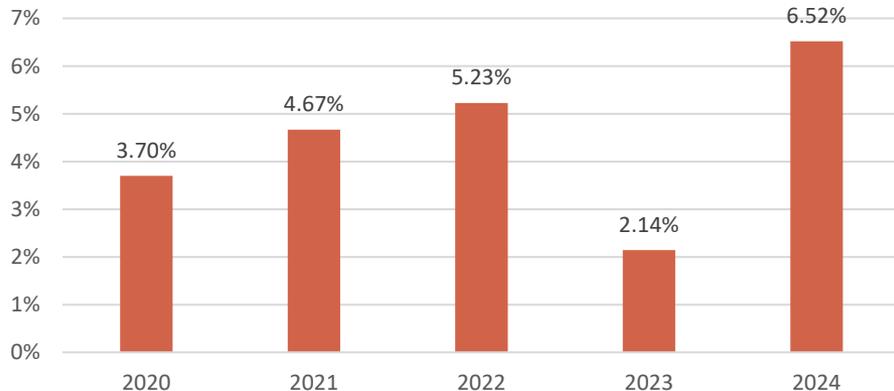


## Business Mix (by Square Footage), 2024 Q4



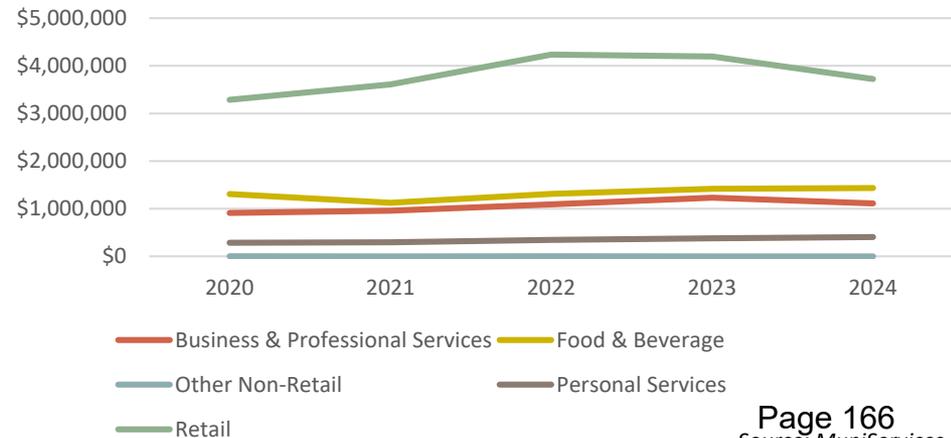
Source: Berkeley OED

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2020-2024



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2020-2024



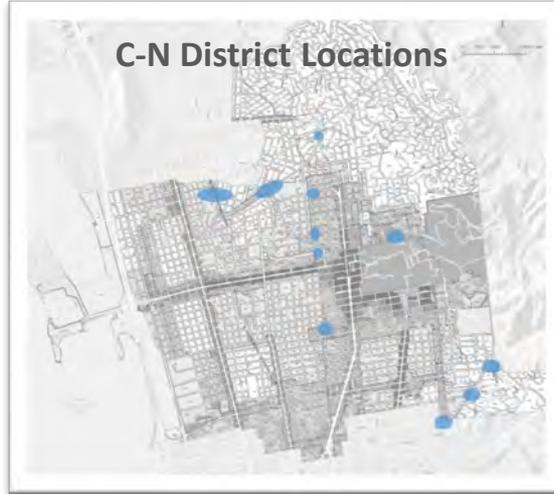
Page 166  
Source: MuniServices

# Neighborhood (C-N): 2024 Snapshot



Across Berkeley there are **11** smaller commercial pockets, zoned as “C-N” or “Neighborhood Commercial.” These areas are one or two block collections of commercial enterprises distributed throughout Berkeley.

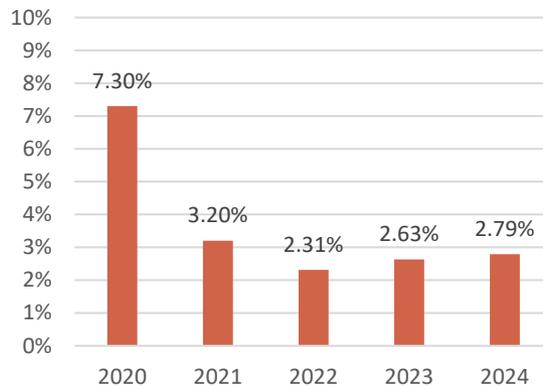
The “C-N” areas represent nearly 190 commercial spaces, and approximately 390K square feet of commercial space. The C-N areas collectively generate 2.4% of the city’s total sales tax. They also include a large number of Personal Services companies (32.8% by square footage, compared to 8.6% citywide) and Public and Non-Profit entities (24.6% compared to 6.6% citywide). The C-N vacancy rate is 2.8%.



These areas include commercial nodes at the following intersections:

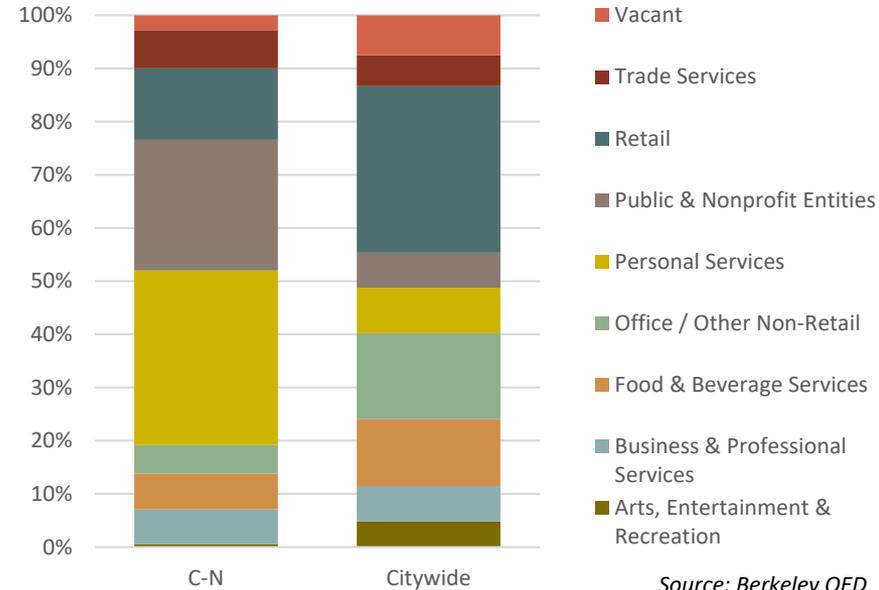
- Claremont and Prince
- Claremont and Tunnel
- College and Alcatraz
- Gilman and Curtis
- Hearst and Euclid
- Hopkins and El Dorado
- Hopkins and Monterey
- Martin Luther King Jr Way (MLK) and Dwight
- MLK and Hearst
- MLK and Rose
- MLK and Virginia

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2020-2024



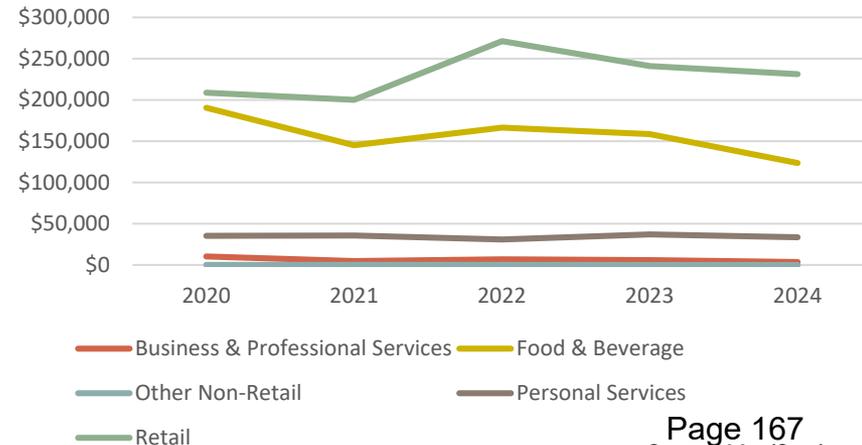
Source: Berkeley OED

## Business Mix (by Square Footage), 2024 Q4

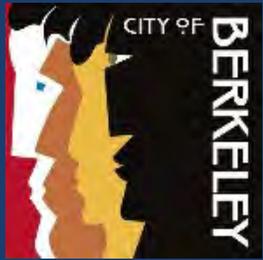


Source: Berkeley OED

## Sales Tax Revenue by Sector, 2020-2024



Page 167  
Source: MuniServices



City of

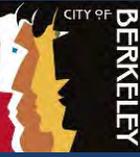
# BERKELEY



2024 Economic Dashboard  
Office of Economic Development

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## Citywide Economic Dashboard



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# Employment Activity

## job growth by industry sector & unemployment



Percent East Bay change in employment by sector  
(Nov. 2023 – Nov. 2024)

Sector (in the East Bay)	Percent Change	% of Total Jobs
Architectural, Engineering & Related Services	7.1%	1.5%
Educational & Health Services	4.0%	19.1%
Government	2.0%	14.1%
Accommodation & Food Services	1.5%	7.8%
Leisure and Hospitality	1.4%	9.4%
Arts, Entertainment & Recreation	1.1%	1.5%
Retail Trade	1.1%	9.0%
Administrative & Support Services	0.5%	4.6%
Construction	-0.7%	6.3%
Real Estate & Rental & Leasing	-1.1%	1.5%
Transportation & Warehousing	-1.2%	4.0%
Manufacturing	-2.1%	8.8%
Computer Systems Design & Related Services	-3.0%	1.6%

Source: Labor Market Information (LMI-EDD) for East Bay (Alameda and Contra Costa Counties), December 2024.

### Job Growth

Between November 2023 and November 2024, the total number of jobs located in the East Bay increased by 10,900 or 0.9%. The sectors with the *highest percent* growth in employment included *Education and health services* (up 8,900 jobs) along with *Health care and social assistance* (up 8,400 jobs). Other notable changes included increases in *leisure and hospitality* (up 1,600 jobs), *professional and business services* (up 1,500 jobs). Decreases were noted in the *information* sector (down 1,700 jobs), and *trade, transportation, and utilities* (down 1,100 jobs).

### Unemployment Rates show slight increase year over year:

	2023	2024
California	4.9%	5.4%
Alameda County	4.5%	4.7%
Berkeley	4.0%	4.4%

Source: State of California Employment Development Department (EDD), [Y Charts](#), Labor Market Information (LMI-EDD)

# Employment Activity

## largest employers



### Top 25 Berkeley Employers

Company	Sector
Backroads Inc.	Recreation
Bayer Corp.	Biotech
Berkeley Bowl Produce	Food & Beverage
Berkeley Cement Inc.	Construction
Berkeley City College	Education
Berkeley Emergency Food & Housing Project (Insight Housing)	Social Services
Berkeley Repertory Theatre	Arts & Entertainment
Berkeley Unified School District	Education
City of Berkeley	Government
Fieldwork Brewing Co.	Food & Beverage
Foresight Mental Health	Healthcare
Kaiser Permanente Medical Group Inc.	Healthcare
Lawrence Berkeley National Lab	Laboratory
Lifelong Medical Care	Healthcare
OC Jones & Sons	Construction
Satellite Affordable Housing	Social Services
Sutter Bay Hospital	Healthcare
Target Corp.	Retail
Technical Safety Services	Biotech/Manufacturing
The Wright Institute	Education
Twelve	Manufacturing/ R&D
University of California	Education
UPSIDE Foods	Biotech/R&D
Whole Foods Market	Food & Beverage
YMCA of the Central Bay Area	Recreation

Source: State of California Employment Development Department (EDD), Q1 2024



Controlled Environment Testing | TSS

(Clockwise from top) Technical Safety Services, Insight Housing, Satellite Affordable Housing. Pictured at right:- project ribbon cutting. Credits: Meta, Insight Housing, SAHA



Berkeley's top 25 employers (by number of employees) is reflective of the city's diverse economy. Top employers include four in the healthcare sector and four in the education sector, including UC Berkeley, one of the city's main economic engines. There are also a few large private sector corporations in Berkeley, notably Bayer. Two social service organizations made it onto the 2024 list: Insight Housing (formerly the Berkeley Food & Housing Project) and Satellite Affordable Housing.

**Berkeley’s hospitality sector fared better than neighboring cities, both in hotel occupancy and tourism “image”.**



The [Bioneers Conference](#) brought over 1,800 visitors to Downtown Berkeley in March 2024. It will return Mar. 27-29, 2025.

[Highlighted on KTVU](#), a record number of participants participated in [Berkeley Restaurant Week](#).

UC Berkeley became part of the Atlantic Coast Conference, drawing new domestic visitors.



[VisitBerkeley.com](#) webpages such as the [Event Calendar](#), highlight local leisure opportunities. The [Berkeley Bucks](#) e-gift card continues to generate revenue for Berkeley businesses, with \$17K redeemed in 2024.

### Hotel Occupancy & Inventory

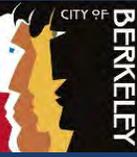
- Berkeley hotel occupancy was consistently higher than other Bay Area cities, with **2.4 million overnight visitors** and a **visitor spend of \$187.7 mil.**
- **Average nightly hotel occupancy** made a slight increase from 2023, rising from 70% to **71%**, though still below pre-pandemic average occupancy rates of more than 80%.
- The **average daily room rate** for Berkeley lodging properties rose 3.2% to **\$187.50** per night.
- Berkeley has **lost 8 lodging properties** (7.2% of its hotel inventory) since the pandemic, with most being used to support the unhoused population.
- Berkeley’s 2024 hotel tax revenue was just under \$7.1 million, slightly more than 2023.

[Food & Drinks](#), and [Where to Stay](#)

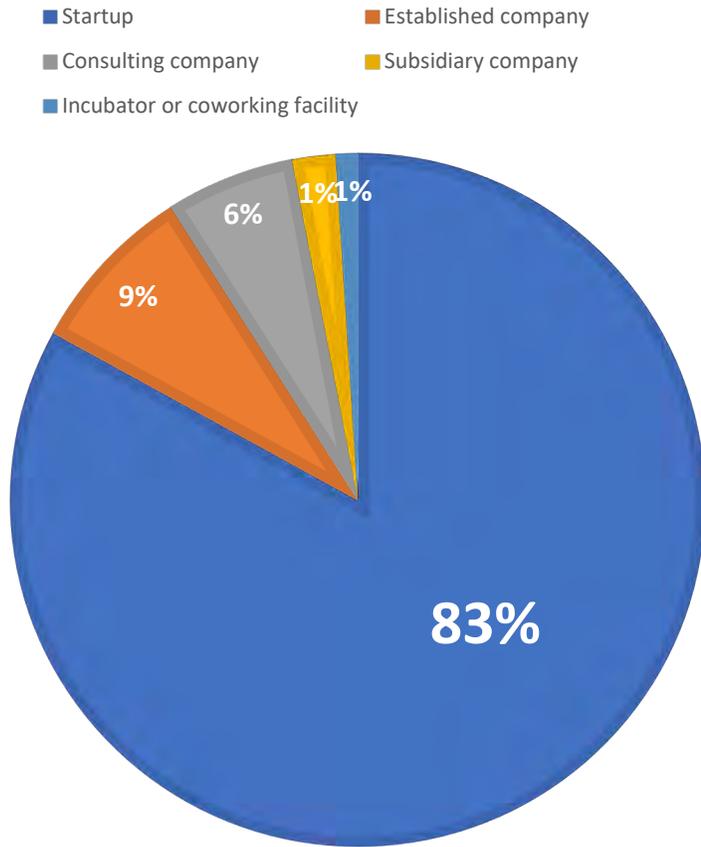


# Sector Snapshots

## startups & innovation businesses



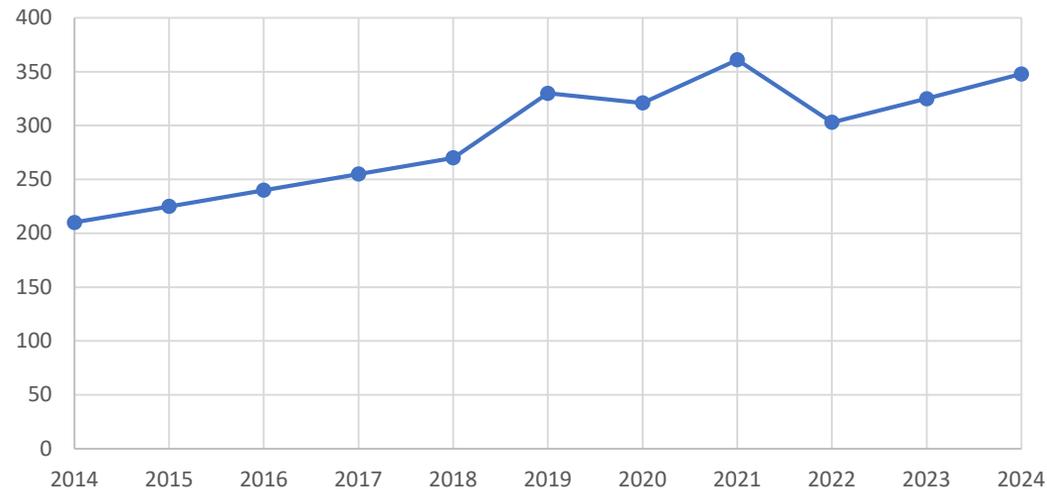
### INNOVATION COMPANIES BY GROWTH STAGE



Berkeley has more than **400 innovation companies citywide**; the vast majority are startups.

Pitchbook ranked **UC Berkeley #1 in venture-funded startups** founded by undergrad alumni from any university worldwide **AGAIN**.

Number of Startups\*



\*Companies defined as startups are for-profit businesses that sell innovative technology products or services OR substantively use innovative technologies to develop and manufacture their products or provide their services AND are developing repeatable and scalable business models that aren't yet profitable.

Sources: City of Berkeley Office of Economic Development (OED), UC Berkeley IPIRA

# Sector Snapshots

## startup sectors & wealth creation



Despite the difficult 2024 fundraising environment,

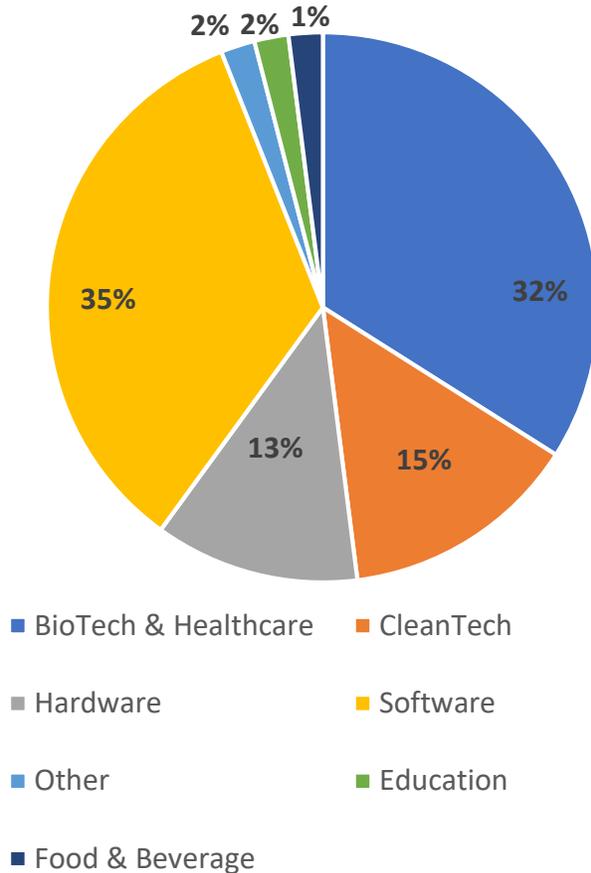
**6** Berkeley startups were acquired and

**58** raised:

- **\$1.2B** in venture and seed capital

- **\$14.3M** in government R&D grants

**Innovation Companies by Industry**



## Berkeley Innovation Sector 2024 Highlights

- **KoBold Metals**: \$537M to use AI to search for critical metals needed for the clean energy transition on 5 continents and to develop a massive copper deposit in Zambia.
- **twelve**: \$245M to decarbonize commercial aviation and transform CO<sub>2</sub> into Jet Fuel and eChemicals.
- **Perfect Day**: \$90M to scale manufacturing of dairy protein from fermentation.
- **Profluent**: \$35M to enable the creation and validation of an AI-generated gene editor and move it closer to improving healthcare and disease treatment
- **ARRIS**: \$34M to scale high-performing fiber composites in aerospace & consumer markets.
- **Aircapture**: \$30M to capture atmospheric CO<sub>2</sub> and make it available for industrial applications

# Commercial Activity

## trends & transactions - office



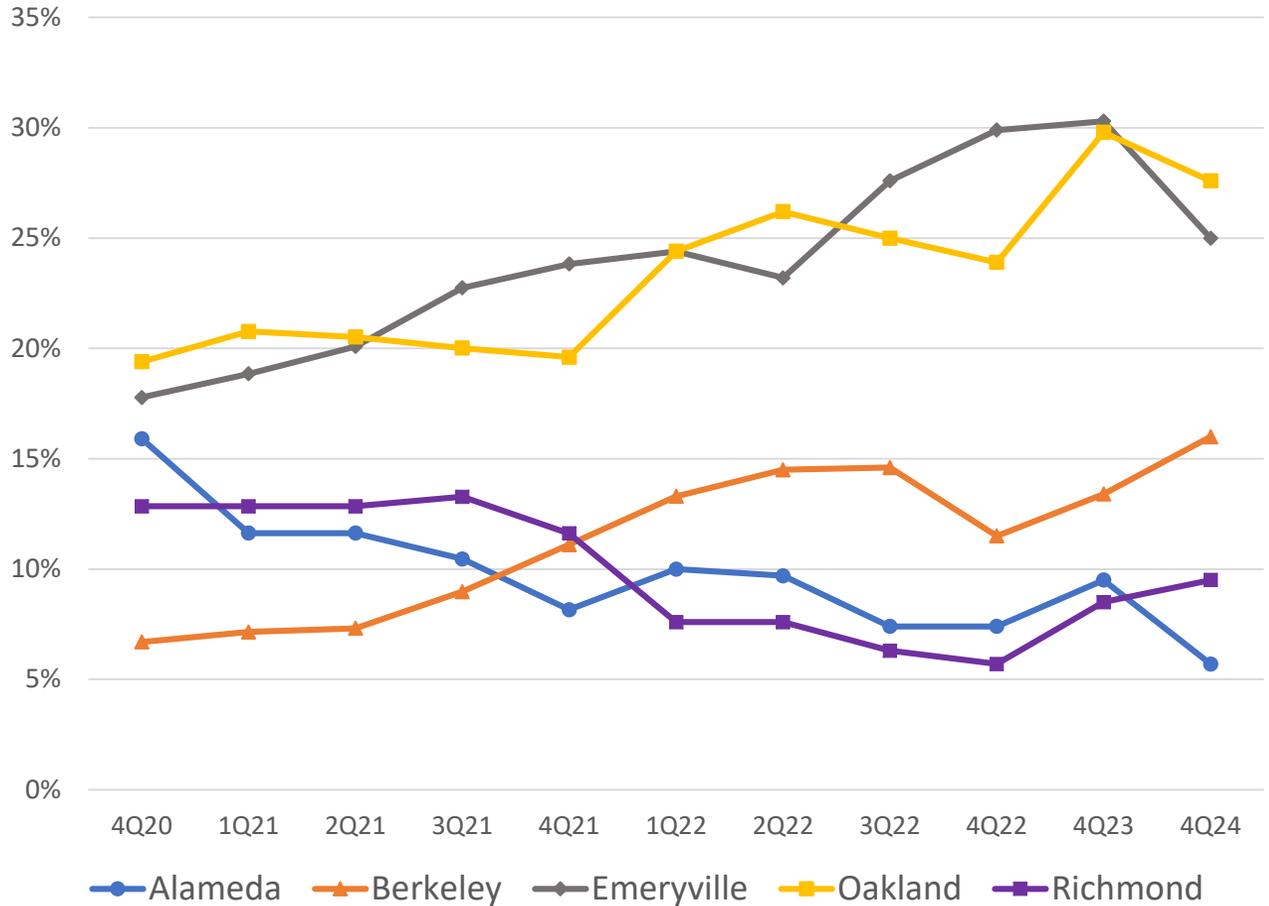
The number of office jobs in the East Bay has yet to return to pre-pandemic levels, with about 10 thousand fewer office-using jobs. Office-based employment is just below early 2017 levels. Overall leasing in the East Bay slowed down in Q4 2024 to about half the annual 10-year average. The average size of office leases has also decreased to just under 3,200 square feet, from roughly 5,600 square feet in years prior. It is anticipated that more distressed properties will go back to their lenders as rental rates continue to decline, and improvement costs remain high.

Source: Newmark Cornish & Carey, 3Q24 & 4Q24 Greater Oakland Office Market Reports

Q4 2024 Office Market, Berkeley	Indicators
Total Inventory	2,967,922 SF
Availability Rate	18.4%
Average Asking Rent	\$3.19/ SF

Source: Newmark Cornish & Carey, 4Q24 Greater Oakland Office Market Report

### Office Vacancy Rate, East Bay Cities Q4 2020 – Q4 2024



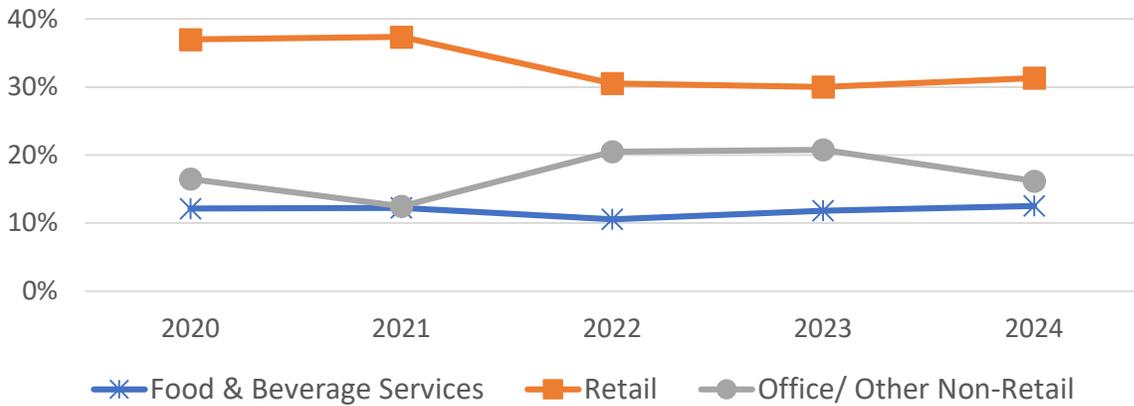
Source: Newmark Cornish & Carey, 4Q24 Greater Oakland Office Market Report

# Commercial Activity

## trends & transactions – commercial inventory



**Citywide Commercial Inventory by Select Categories & Square Footage, 2020-2024**



Together, three sectors (*Food & Beverage, Retail, and Office/Other Non-Retail*) comprised 60% of total 2024 ground floor commercial inventory. Pending developments recorded in the *Office/Non-Retail* category have crested since 2021-2022, as many development projects were completed and opened for occupancy in the past year. In 2024, both *Retail* and *Food & Beverage* as a percentage of total square footage showed slight increases from the year prior (both up by 1%), but *Retail* as a total percentage of ground floor inventory has trended downward since 2020. The *Personal Services* category at 8.6%, *Business & Professional Services* (6.7%) and *Public and Non-Profit Entities* at 6.6% were the next largest categories by square footage.



*Clockwise from top:* A mixed use development site slated for construction at Shattuck and Allston Way; pending future development coming to a former movie theater on Shattuck Avenue; and retail spaces in transition on Shattuck Ave as a result of a pending development project. All are categorized as “Office: Other Non-Retail” in OED’s field survey.



Chart: OED  
Photos: Hoodline, OED, Foursquare

# Commercial Activity

## business district vacancy rates



Citywide, the ground floor commercial vacancy rate has decreased to **7.5%\***, a drop of 0.6% since Q4 2023. The commercial districts of San Pablo, South Berkeley, University, and Solano experienced decreases. Vacancy rates increased in Downtown, West Berkeley, Telegraph, Elmwood, North Shattuck and the C-N districts.

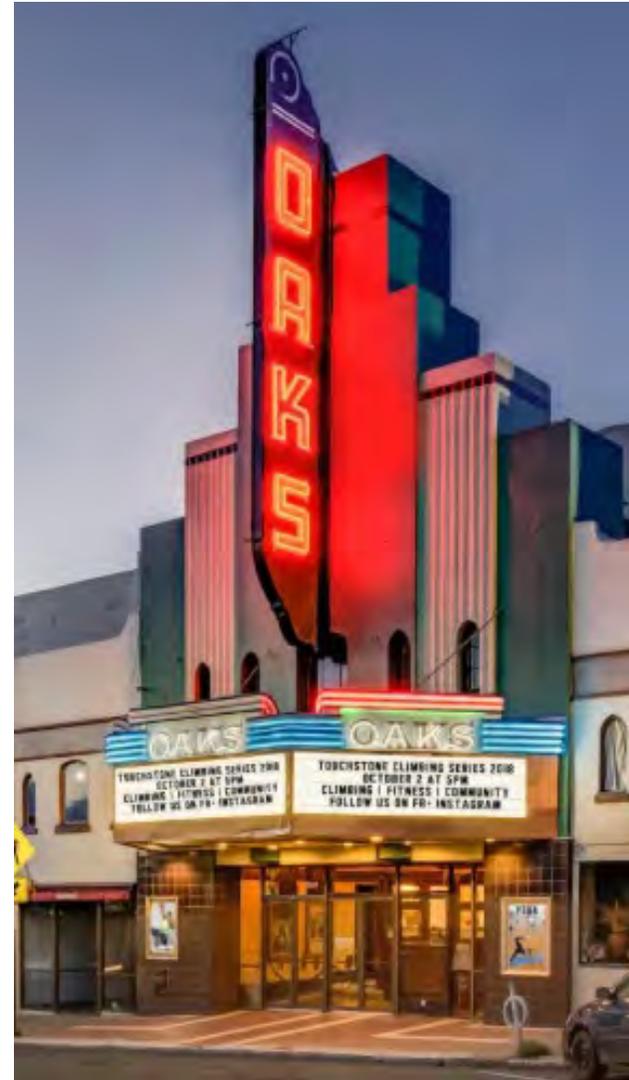
### Vacancy Rates by District, Calculated by Square Footage, 2020-2024

District	2020	2021	2022	2023	2024	Year Over Year Change
Downtown	9.9%	15.7%	11.9%	10.8%	10.9%	↑
Elmwood	10.9%	10.9%	7.7%	6.2%	6.9%	↑
North Shattuck	4.3%	4.3%	4.3%	1.9%	2.0%	↑
San Pablo	4.8%	7.9%	10.8%	15.5%	7.1%	↓
Solano	6.7%	4.4%	3.7%	2.6%	2.1%	↓
South Berkeley	10.1%	8.8%	11.8%	19.2%	8.9%	↓
Telegraph	17.2%	12.6%	8.5%	9.3%	9.9%	↑
University	11.0%	9.1%	12.8%	17.7%	7.7%	↓
Neighborhood Commercial (C-N)	7.3%	3.2%	2.3%	2.6%	2.8%	↑
West Berkeley	3.7%	4.7%	5.2%	2.2%	6.5%	↑
<b>Citywide Avg.</b>	<b>6.9%</b>	<b>8.3%</b>	<b>8.4%</b>	<b>8.1%</b>	<b>7.5%</b>	↓



Photos (L-R): R. Moon, Influent Home

\*Typical commercial district storefront vacancy rates range from 5-15% due to natural market churn. Proposed and pending development projects throughout the city have an impact on vacancy rates as well as new openings with large floorplates (pictured left).

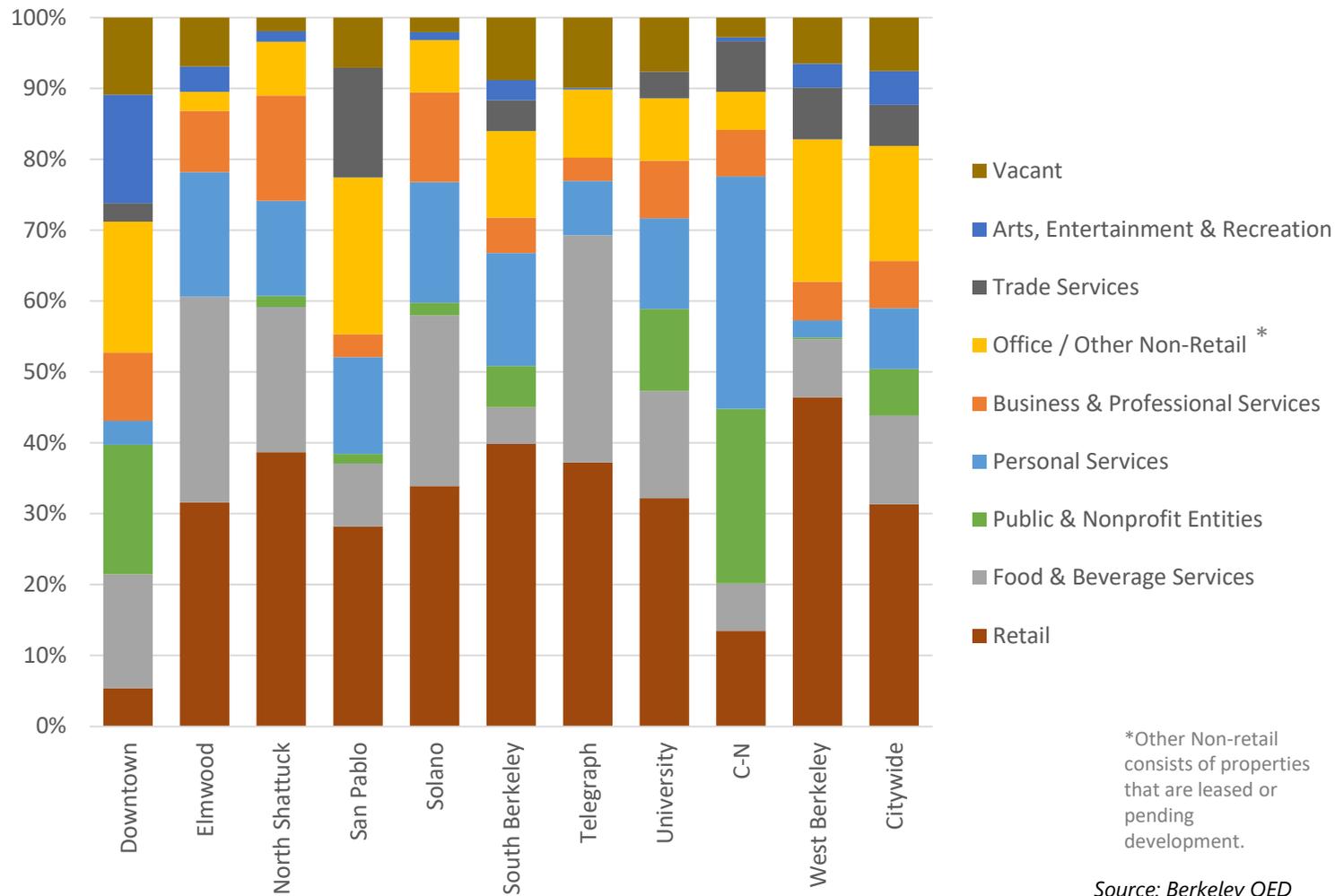


# Commercial Activity

## ground floor space occupancy by business type



Ground Floor Commercial Occupancy By Category, 2024



Retail comprises the most significant percentage (31%) of ground floor space across Berkeley commercial districts, with **Food & Beverage** also representing a large portion (13%) of occupancy, especially in the Telegraph, Elmwood, Solano, and North Shattuck districts.

- **Downtown** and **San Pablo** have the dominant share of Office/Other Non-retail (18% and 21%) due to the high level of development activity that includes ground floor retail with housing above.
- **West Berkeley** (including 4<sup>th</sup> Street) has the highest concentration of Retail (46%).
- **Downtown** has the highest vacancy rate (10.1%), followed by **Telegraph** (9.9%) and **South Berkeley** (8.6%).

\*Other Non-retail consists of properties that are leased or pending development.

Source: Berkeley OED



Photos: The Spanish Table, Casa de Chocolates, Visit Berkeley

# Commercial Activity

## future development



The **Gateway Center** on the UC Campus will house the College of Computing, Data Science, and Society (CDSS), the first new college at UC Berkeley in 50 years. Image: Weiss/Manfredi

**New Buildings**

UC Berkeley will soon be the largest rate payer to the Downtown Berkeley BID\* — a number of planned and recently completed projects surrounding the campus are providing spaces to conduct research, learn, and live.

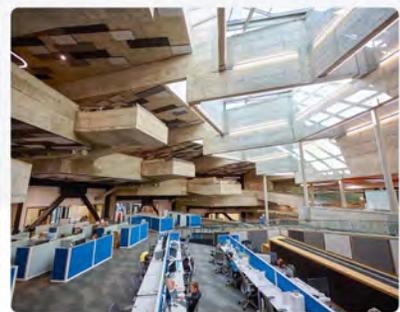
\* **BID** – Business Improvement District, a fund that supplements public services within geographically defined boundaries.



(Left) The Helen Diller **Anchor House**, a dorm for transfer students to UCB, opened for the 2024 academic year. Photo: Jason O’Rear



(Above and Right) **Bakar Labs**, where UC Berkeley and QB3 run a life science-focused incubator for startups developing innovative technologies to benefit society. Photo: QB3



(Left) The proposed **UC Innovation Zone** would include two buildings – a South Building and North Building totaling approximately 486,000 gross square feet – with academic research and collaboration space, parking, and open space. Image: UC Regents, South Building Rendering (May 2024)

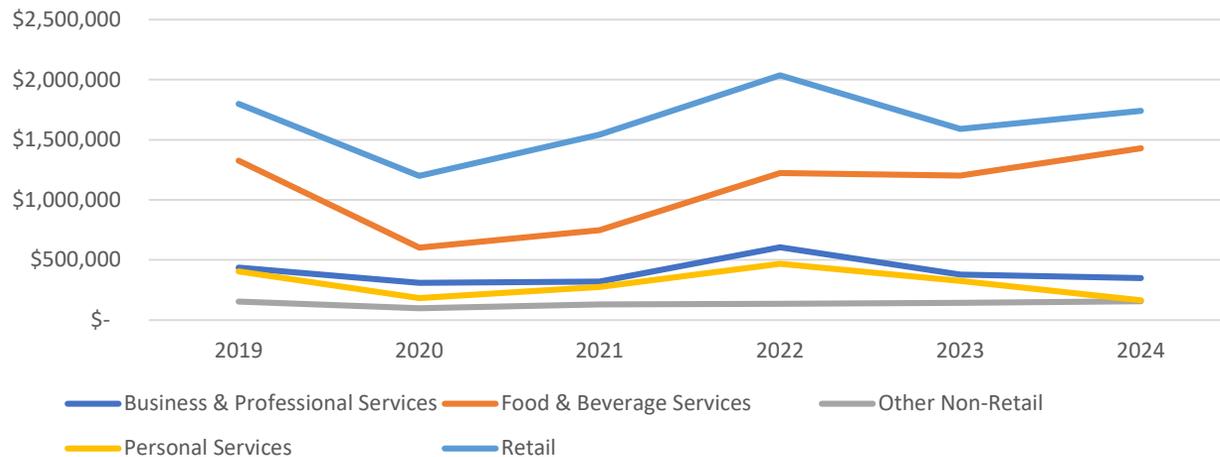
# Commercial Activity

## sales tax revenues in 2024



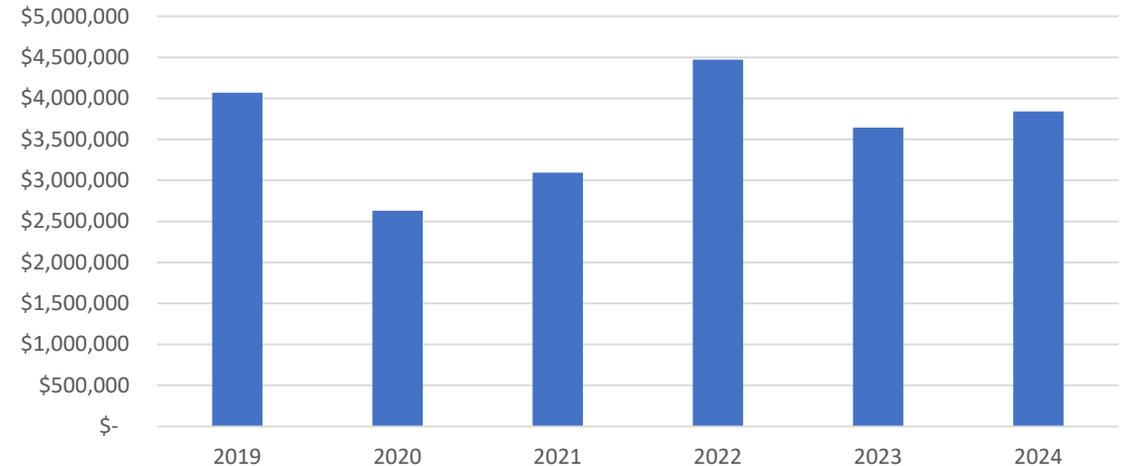
Total Annual Sales Tax Revenue (Q2 + Previous Three Quarters)	July '22 to June '23	July '23 to June '24	% Change (Year over Year)
City of Berkeley	\$14,709,995	\$18,893,092	28.4%
Alameda County (total including cities)	\$447,204,095	\$385,954,179	-13.7%
State of California	\$9,510,809,118	\$9,376,883,707	-1.4%

Berkeley Q2 Sales Tax Revenue by Business Category



Source: MuniServices, Quarter 2 (Apr-June) Collections 2019 to 2024

Total City of Berkeley Q2 Sales Tax Revenues



Source: MuniServices, Quarter 2 (Apr-June) 2019 to 2024, Nominal Values

In Q2 2024, the *Retail* subsector was the largest contributor to the city’s sales tax revenue (45%), with *Food & Beverage* second (37%). Sales tax revenue was up 5% from the same period in 2023, and is higher than citywide sales tax collected in the second quarter of both 2020 and 2021 (acute phases of the COVID-19 pandemic). Compared to Q2 last year, sales tax revenue across most business categories is up, with *Retail* increasing by 9% and *Food & Beverage* increasing by 19%. Decreases were noted in the *Personal Services* category where collections have decreased by 49% (owing to mostly service stations & fuel costs) and in the *Business & Professional Services* sector where collections are down by 8% from Q2 2023.



## development pipeline & construction

### Berkeley's Large Residential Developments, Approved 2024



### Housing Development Pipeline

In 2024, applicants submitted land use permit applications for **13 distinct projects** representing a total of **1,600** new housing units. The plans span several neighborhoods and are typically close to transit corridors and the UC Berkeley campus, the largest of which is “The Hub” at Oxford and Center Streets (456 Units). See 2128 Oxford St, inset at right.

Sources: City of Berkeley Department of Planning and Development, December 2024, Map OED.

### Pipeline & Construction Highlights



#### 2029 University Ave (at Shattuck)

If built as proposed, this 23-story tower supported by Laconia Development at 2029 University Avenue will add either 240 multi-family or 160 student housing units to Downtown Berkeley. If all projects in the current development pipeline are built as proposed, 2029 University Avenue will be the sixth tallest project in the pipeline, surpassed by 1998 Shattuck Avenue, 2128 Oxford Street, 2190 Shattuck Avenue, 2200 Bancroft Way, and (potentially) 2115 Kittredge Street.

#### The Lair 2077 Haste St (at Shattuck)

In the fall of 2024, the new Lair housing building on Haste at Shattuck Ave brought online 40 new homes, and a living wall at the dwelling entrance.



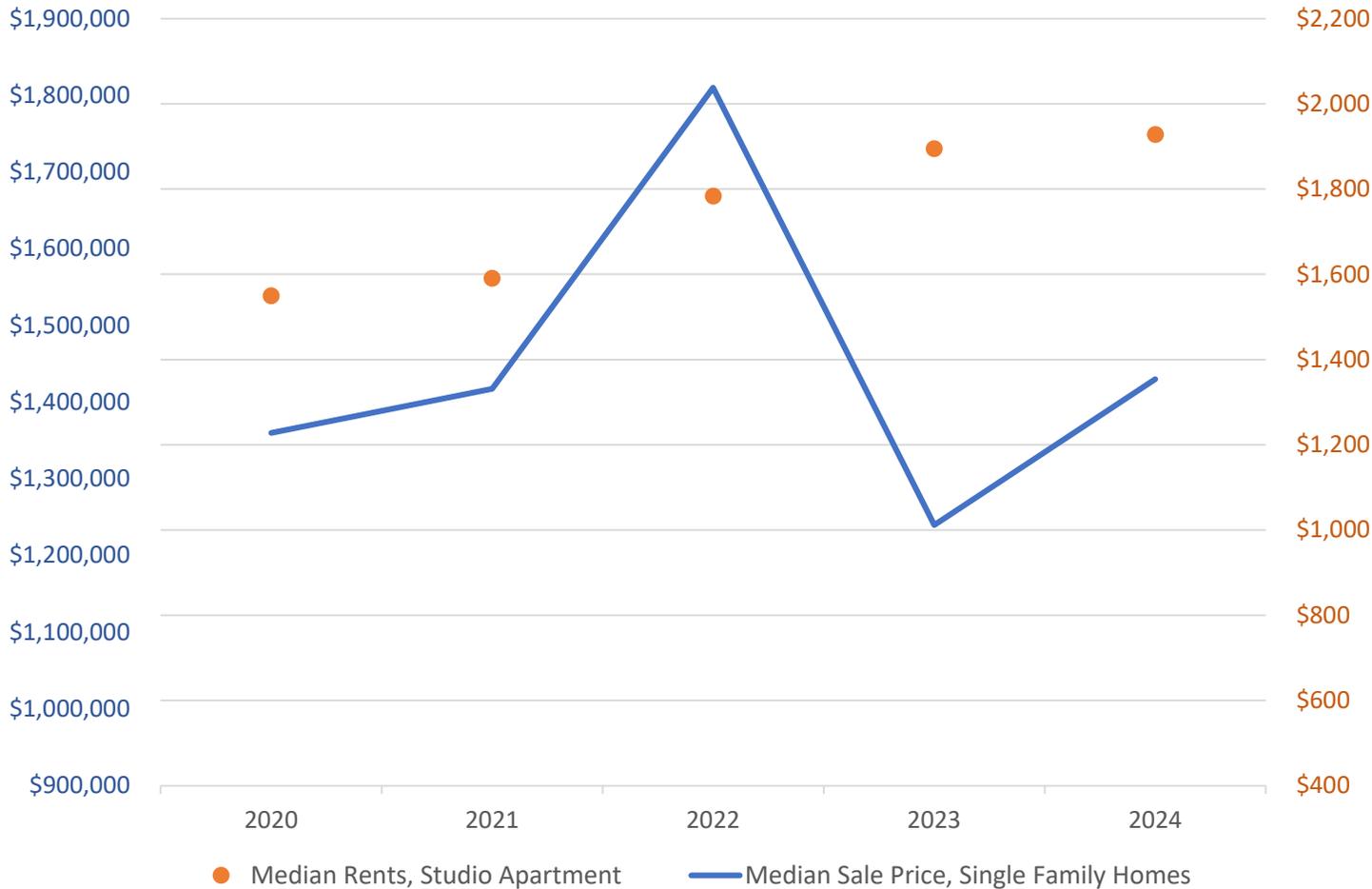
Sources (from top): SF YIMBY, Rentable Apartments.com

# Housing

## rental costs & sale prices



### Housing Prices in Berkeley, 2020-2024



Sources: Redfin, Apartment List, Zumper, Rent Cafe, and City of Berkeley Rent Stabilization Board

### Median Sale Price, Single-Family Homes, Nov. 2024

Alameda	\$1,170,000
Albany	\$1,325,000
<b>Berkeley</b>	<b>\$1,430,000</b>
El Cerrito	\$1,400,000
El Sobrante	\$782,500
Emeryville	\$585,000
Oakland	\$802,500
Richmond	\$665,000
Piedmont	\$2,900,000
San Leandro	\$875,000

Source: Redfin

#### Home sales soften, sale prices increase, rental prices flatten

Berkeley's single family home values increased 7.5% from Nov. 2023 - 2024, with a 12% decrease in sales volume over the same period. 44 single family homes were sold in Berkeley in Nov. 2024, with an average of 15 days on the market. Over the past five years (2020-2024), the median price of single family homes in Berkeley hit an all time high (\$1.81M) in April 2022.

Berkeley's **average rents** for studio apartments increased by 1.7% between Dec. 2023- 2024 to an average of \$1,928 per month.

Sources: Redfin, Multiple Listing Service or "MLS", Zumper - Rental Market Trends



# OED efforts to support local economic sustainability

# Financing small businesses through the Revolving Loan Fund & Resiliency Loan Program



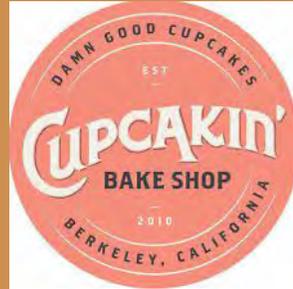
Revolving Loan Fund Portfolio	Active Loans
Number of RLF Loans	6
RLF \$ Outstanding Principal	\$375,000

Source: Berkeley OED, December 2024

COVID-19 Resiliency Loan Program Portfolio	Active Loans
Number of RLP Loans	18
RLP \$ Outstanding Principal	\$435,000

Source: Berkeley OED, Working Solutions, December 2024

## Current Revolving Loan Fund (RLF) Borrowers:



## Supporting Berkeley's existing small businesses

The Resiliency Loan Program (RLP) program, administered by Working Solutions, a Community Development Financial Institution (CDFI), was established to help Berkeley businesses weather the impacts of the pandemic. It is a revolving fund with 18 active loans to Berkeley borrowers.



In 2024, City of Berkeley RLP loan recipient *El Tiny Cafe* celebrated their 4<sup>th</sup> Anniversary. Café owners Lily and Alan gained access to a suite of business support services, including a Spanish-speaking Working Solutions business consultant who helped them streamline operations and enhance profitability.

Today, El Tiny Cafe is a community anchor in their South Berkeley neighborhood.



Source: CDFI.org, Working Solutions





# Marketing businesses #DiscoveredinBerkeley

The [Discovered in Berkeley](#) marketing campaign highlighted businesses enabling adventure travel, producing beloved baked goods like bagels and scones, manufacturing induction stoves, scooping artisanal ice cream, and curating tea ceremonies.

By year end, the campaign had made ~4.4M impressions and generated nearly 179K concrete engagements. Since 2023, *Berkeleyside* articles saw more than a 4K increase in readers (19K+ unique page views) and the .28% banner ad click-through-rate more than doubled, exceeding *Berkeleyside's* site average (.15%-.20%). The 3.7K click through on in-story links increased from 1.6K in 2023.

[Instagram @DiscoveredinBerkeley](#) achieved 1,475 followers and #DiscoveredinBerkeley achieved nearly 6K uses.



Make authentic and meaningful connections on a luxury active vacation planned by Berkeley adventure travel company, **Backroads**.

Learn more about Berkeley's innovative businesses ▶



Find traditional tea scones, galettes, omelets and more at **Sconehege**, a 26-year-old, worker-owned bakery and café in Berkeley.

Learn more about Berkeley's innovative businesses ▶



In West Berkeley, **Copper** designs induction stoves that enable faster, more precise cooking and don't require costly electrical upgrades.

Learn more about Berkeley's innovative businesses ▶



**Boichik Bagels** employs a combo of people, robotics and technology to produce amazing-tasting bagels.

Learn more about Berkeley's innovative businesses ▶



**BERKELEYHOLIDAYS.COM** Gift Guide

At **Teance** in West Berkeley tea is more than a drink – it's a lifestyle.

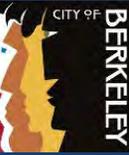
Learn more about Berkeley's innovative businesses ▶



Enjoy summertime and reminisce about childhood at **iScream!** on Solano Ave and Fourth Street.

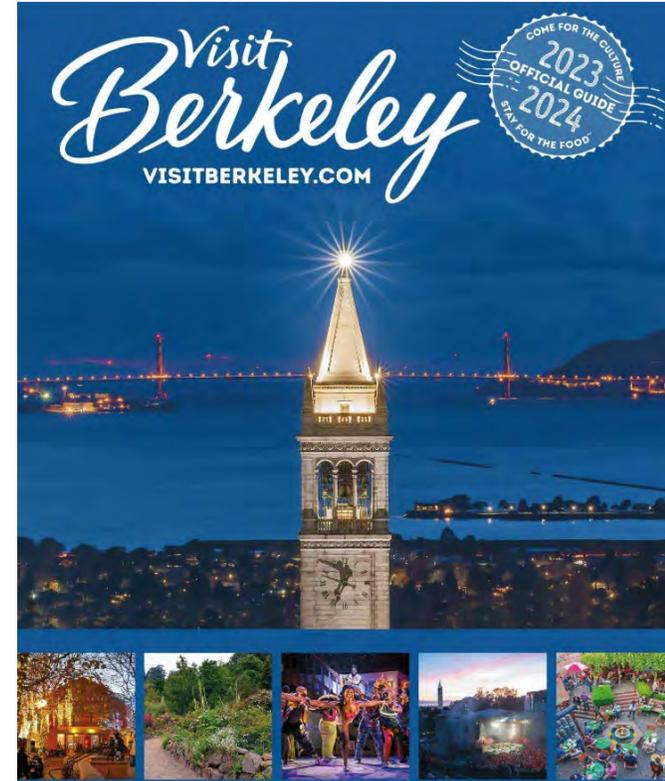
Learn more about Berkeley's innovative businesses ▶





# Enabling sustainable business networks

- OED supports local BID, Visit Berkeley, and the Berkeley Chamber through the Berkeley Business District Network (BBDN).
- *Coming in 2025* – 10 year strategic planning and district renewal activities for the Downtown and Tourism BIDs in Berkeley.



Map of Berkeley's Commercial Districts



# Greening local business practices

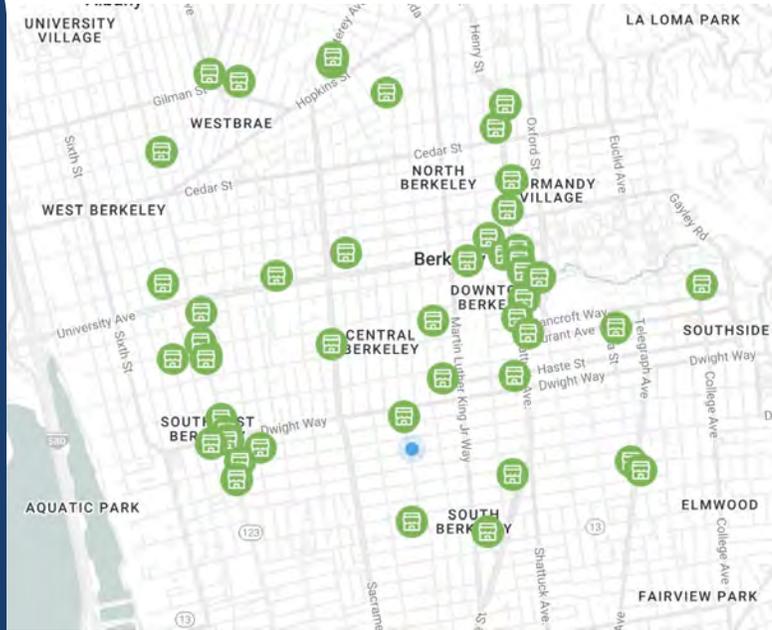
## Going Green Helps Companies Achieve Environmental Benefits and Cost Savings

171 Berkeley companies have registered for California Green Business Program certification. **79 are currently green business certified.**

In 2024:

- 8 new green businesses certified
- 10 green businesses recertified
- 1,710,242 gallons of water saved
- 1,029,154 kWh of electricity conserved
- 192,816 lbs of solid waste diverted
- 1,059 gallons of fuel saved

## Green Businesses in Berkeley



See Berkeley Green Businesses at [www.greenbusinessca.org](http://www.greenbusinessca.org)

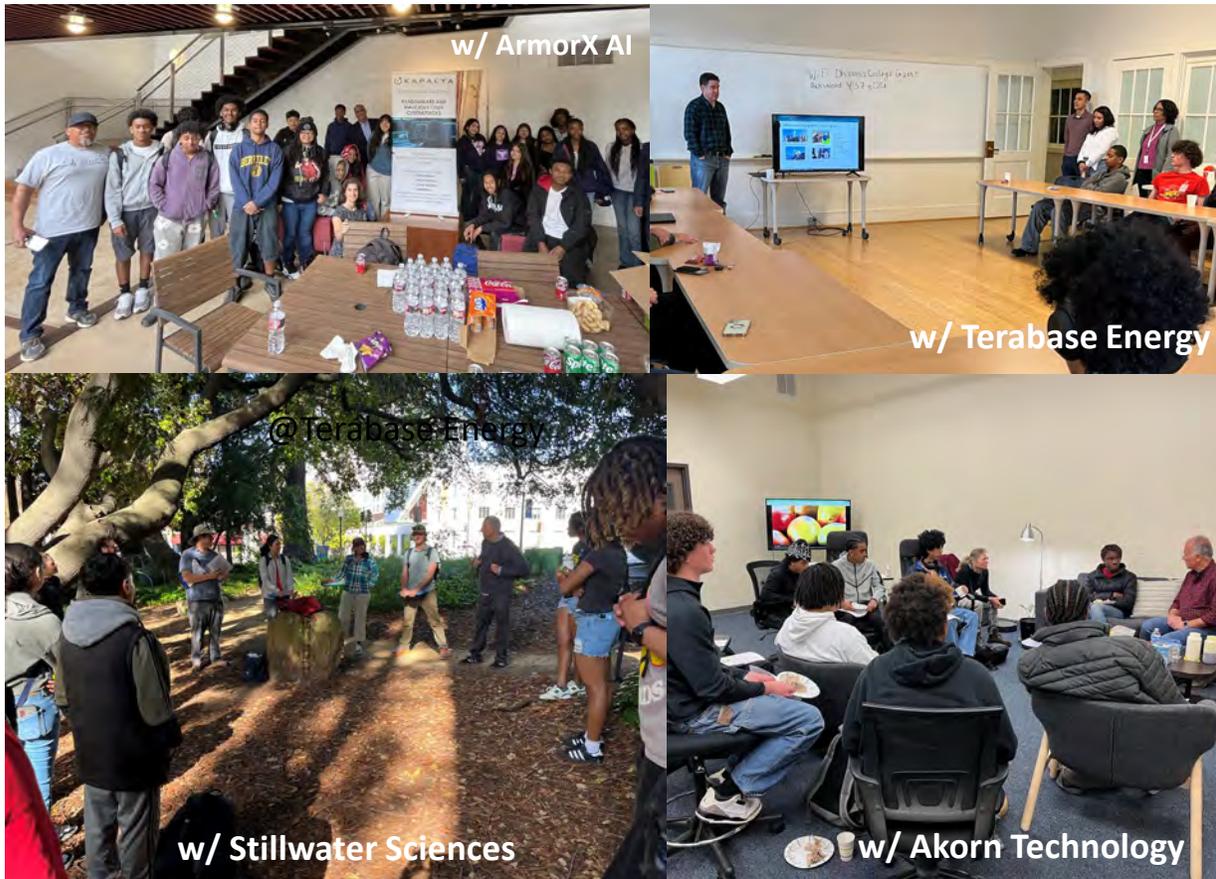


The Potters Studio uses a filter press to recycle clay and process glaze water, changed the studio over to LED lighting, uses environmentally responsible cleaning supplies, and continues to look for ways to be a [sustainable studio](#).

# Deepening and diversifying Berkeley's talent pipeline



OED and the [Institute for STEM Education at Cal State University](#) arranged 125 Berkeley High School student-visits at 7 STEM CareerX tours in 2024. The company tours provided an opportunity for students to see how their science, technology, engineering and math (STEM) skills apply in the workplace, as part of the Berkeley Startup Cluster's *Berkeley Ventures, Berkeley Values* initiative.



**TDK:** *"I appreciated making those professional connections; it's something you can't just get without being there in person."*

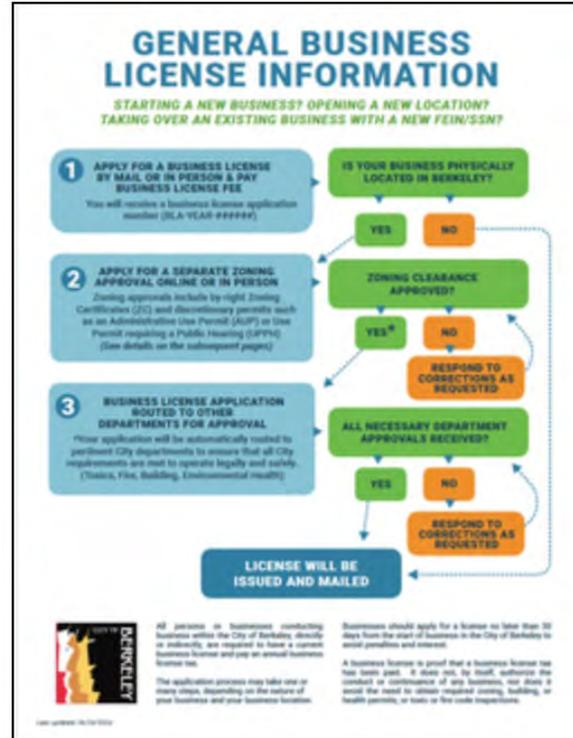
**Terabase Energy:** *"The hands-on activities made it feel like we were actually part of the company for a day, not just visitors."*

**Stillwater Sciences:** *"It's pretty cool that the place we live is, like, such a hub for STEM companies... It makes you want to contribute to the community because there's literally so much, like STEM companies, engineering companies, stuff like that."*

# Promoting equitable development



In 2024 OED partnered with the Berkeley Chamber to provide easy-to-digest information on how to engage with the city and work, invest, and grow a business in Berkeley. A new Chamber [Doing Business in Berkeley](#) webpage, webinars, and downloadable materials from the City of Berkeley website now help local business leaders navigate government requirements for launching or expanding a business in Berkeley.



**DO YOU HAVE A STARTUP OR INNOVATION BUSINESS?**  
THE CITY OF BERKELEY CAN HELP YOU:

- 1. GET JOB SHARE INFORMATION ABOUT RESOURCES AND OPPORTUNITIES**  
Through the Berkeley Job Share Center, visit [www.jobshare.com](#)
- 2. INCREASE YOUR COMPANY'S LOCAL VISIBILITY**  
Through the Berkeley Startup Cluster campaign and other local marketing and communication channels
- 3. MAKE NEW LOCAL CONNECTIONS**  
With mentors, investors, and peers
- 4. FIND AND LEASE (OR CO-LEASE) BERKELEY OFFICE & LAB SPACE**
- 5. OBTAIN AN OVER-THE-COUNTER ZONING CERTIFICATE FOR R&D**  
In the commercial corridor, use the O.C.Z. zoning waiver for up to 20,000 sq. ft. of space
- 6. GET ASSISTANCE FILING FOR A BUSINESS LICENSE**  
In order to allow non-residential building permits in other City-licensed businesses
- 7. EXEMPT GOVERNMENT AND PHILANTHROPIC R&D SPACES FROM LOCAL BUSINESS LICENSE TAXES**
- 8. ATTEND OR HOST A BERKELEY STARTUP CLUSTER NETWORKING OR EDUCATIONAL EVENT**  
Allow industry-specific connections and share new skills
- 9. INCREASE THE DIVERSITY OF YOUR WORKFORCE**  
With your employees' culture, business, and community background to increase the diversity of your workforce
- 10. CONNECT WITH ELECTED OFFICIALS**  
Meet them at town hall, City Council, and other public events and meetings

CONTACT THE OFFICE OF ECONOMIC DEVELOPMENT AT [301MALDEN@BERKELEY.CA.GOV](mailto:301MALDEN@BERKELEY.CA.GOV) FOR GUIDANCE STARTING OR EXPANDING A BUSINESS

**ZONING RULES FOR BERKELEY RESTAURANTS, BARS & ENTERTAINMENT BUSINESSES**  
Streamlined City of Berkeley zoning rules will save time & money for existing and prospective owners of Berkeley restaurants, bars and entertainment venues.

- 1. STAND-ALONE BEER AND WINE SERVICE**  
AUP or Administrative Use Permit
- 2. INSTALLED ALCOHOL SERVICE INCIDENTAL TO EXISTING FOOD SERVICE**  
AUP or Administrative Use Permit
- 3. BARS WITH INSTALLED ALCOHOL SERVICE**  
AUP or Administrative Use Permit & Temporary License Extension of District
- 4. EXPANDED HOURS OF OPERATION**  
AUP or Extension and Temporary Extension of District - Bars and Nightclubs - Administrative Use Permit - Late-night license to limit residential districts
- 5. LIVE ENTERTAINMENT**  
AUP or Extension of District - Live Entertainment District
- 6. AMPLIFIED LIVE ENTERTAINMENT**  
AUP or Extension of District - Live Entertainment District
- 7. RESTAURANTS 2,000 SQ FT OR LESS**  
25-30 minimum sq. ft. per seat - Residential Districts
- 8. RESTAURANTS 2,000+ SQ FT**  
AUP or Extension of District - Live Entertainment District

ZC = ZONING CERTIFICATE (over the counter approval)  
AUP = ADMINISTRATIVE USE PERMIT (permit requiring staff notice & approval)

This guide is a general summary of the City of Berkeley Zoning Ordinance and additional conditions may apply. Consult zoning rules with the Planning Department prior to submitting business applications and contact the Office of Economic Development at [301Malden@berkeley.ca.gov](mailto:301Malden@berkeley.ca.gov) for additional details or regarding a violation.



**Doing Business In Berkeley: Your Questions Answered**  
Webinar Recording & Slideshow

Starting a new business? Opening a new location? Taking over an existing business? Learn the steps required to get a Berkeley business license and how to avoid common mistakes.



In partnership with Project Equity, OED offers [Berkeley businesses support](#) with succession planning and transition to employee ownership.



# Funding arts & culture in Berkeley

## Sustaining Berkeley's Arts and Culture Sector

The City of Berkeley Civic Arts program provides grants to support a vibrant arts ecosystem, strengthen diverse cultural expressions, and ensure equitable access to arts and culture throughout Berkeley.

Civic Arts Grants Awarded in 2024 for deployment in 2025:

- 11 individual arts projects (\$44,000)
- 34 community festivals (\$199,680)
- 55 arts organizations (\$444,799)
- 12 arts program grants (\$60,000)

## Leveraging Local Funds to Increase Arts Grants

**Arts Program Grants.** Leveraging local 1:1 matching funds, in 2024 the City received a \$40,000 National Endowment for the Arts grant to continue the new *Arts Program Grants* category for a second year, providing an additional \$80,000 to better support Berkeley arts and cultural programming.

## Berkeleyside

Nonprofit news. Free for all, funded by readers.

ARTS

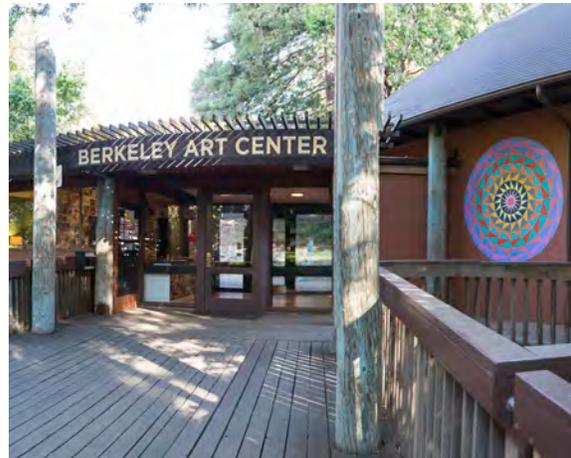
### Berkeley gave these artists \$4,000 each to create an original project. Here's what they're doing

We spoke with four of the 11 grant recipients about their work, which ranges from public wellness dance classes to a James Baldwin-inspired audio project.

By Iris Kwok  
Feb. 3, 2025, 10:50 a.m.



Source: Kwok, Berkeleyside  
Page 190



Left: ¡BAILA! Community Dance Party at La Peña Cultural Center, general operating support grantee. Photo source: www.lapena.org.

Right: Berkeley Art Center, general operating support grantee. Photo source: www.berkeleyartcenter.org.

# Investment in public art in Berkeley

## Public Art throughout Berkeley

In FY24, the Civic Arts Program implemented a portfolio of public art projects valued at nearly \$700,000. Those projects included:

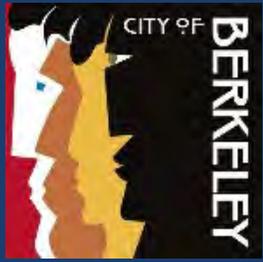
- Commissioned large bronze sculpture by Mildred Howard. The piece was installed at Adeline and Martin Luther King, Jr. Way and unveiled at the 2024 Juneteenth celebration dedication event.
- Restored a collaborative public art installation at the Berkeley transit node created by muralist John Wehrle and poet Betsy Davids, “Mak Roote.” In recent years the artwork had suffered from vandalism, as well as fading and staining from overhead roadway runoff.



Right: Restoration of “Mak Roote” murals by John Wehrle and Betsy Davids in West Berkeley in 2024. Photos: Mark Salinas



Left: “Delivered, Mable’s Promissory Note”, 2024 by Mildred Howard installed in South Berkeley. Photo: Ethan Kaplan.



City of

# BERKELEY

## Office of Economic Development (OED)

See the OED website for past Economic Dashboards and other economic reports:

<https://berkeleyca.gov/doing-business/economic-development/economic-dashboards-and-reports>

Contact OED for more information:

[oedmailbox@berkeleyca.gov](mailto:oedmailbox@berkeleyca.gov)



Office of the City Manager

PUBLIC HEARING  
February 27, 2024

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Jordan Klein, Director, Planning and Development  
 Subject: Zoning Amendments for Berkeley Business; Amending Berkeley Municipal Code Title 23

### RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt the first reading of an ordinance amending Title 23 of the Berkeley Municipal Code to streamline and clarify the permitting process for small businesses in commercial districts (“C-Prefixed”), select manufacturing (“M-Prefixed”) districts, and the Residential BART Mixed Use (R-BMU) and Residential Southside Mixed Use (R-SMU) zoning districts.

### SUMMARY

In 2019, the City Council adopted a referral (**Attachment 4**) with a set of nine policy considerations “to streamline the zoning review process for new or expanding small businesses,” intended to support Berkeley businesses and bolster Berkeley’s commercial districts. Between 2020 and 2023, the Planning Commission met and considered these recommendations and developed seven additional policy recommendations. Council consideration of these proposals will conclude work on the 2019 referral.

The proposed ordinance would to streamline and clarify the permitting process for small businesses in Berkeley by implementing the following changes:

- **Group Class Instruction:** Reduce the level of permitting discretion for Group Class Instruction and clarifying definitions of “Dance/Exercise/Martial Arts/Music Studio”, “Group Class Instruction”, and “Gyms and Health Clubs.”
- **Incidental Distilled Spirits:** Revise permit requirements and provide clear performance standards for restaurants that wish to serve Incidental Distilled Spirits at a Food Service Establishment.
- **Stand-Alone Beer and Wine Sales and Service:** Permit stand-alone Beer and Wine Sales and Service with an administrative use permit (AUP), subject to performance standards, in all commercial zoning districts.

- **Alcohol Service, Live Entertainment, and Hours of Operation:** Modify the special use standards related to Alcohol Service, Live Entertainment, and Hours of Operation in select C-prefixed and M-prefixed districts.
- **Change of Use:** Removing the permit requirements to change a use in commercial districts, thereby reducing permitting time and costs for small businesses getting established in existing commercial spaces.
- **Office, Business and Professional; Art/Craft Studio; Pet Stores:** Reduce the level of permitting discretion for Office, Business and Professional; Art/Craft Studio; and Pet Stores in select C-prefixed districts.
- **Food Service:** Reduce levels of permitting discretion for food service in commercial and select manufacturing districts and in R-SMU and R-BMU zoning districts, as long as alcohol service is not included. Remove restrictions on rentals of food service establishments to third parties, and on outdoor and seated food service with alcohol in select C and M prefixed districts. Remove quotas on food service in the C-E (Elmwood) district.
- **Drug Paraphernalia Stores:** Remove the prohibition on uses involving sale or distribution of drug paraphernalia in the C-T (Telegraph) district.

These recommendations were considered by the Planning Commission and the Planning Commission’s Zoning Amendments for Berkeley Business Subcommittee in the context of current zoning regulations and General Plan objectives. Staff subsequently developed a refined set of corresponding proposed Zoning Ordinance amendments.

On October 4, 2023, the Planning Commission held a public hearing (**Attachment 2**) and unanimously recommended the proposed zoning amendments to the City Council (Motion/Second (Mikiten/ Moore). Ayes: Merker, Moore, Oatfield, Mikiten, Marthinsen, Twu, Hauser, Ghosh, and Vincent. Noes: None. Abstain: None. Absent: None (9-0-0-0)).

The zoning amendments are contained in **Attachment 1**, and are proposed for City Council adoption. The proposed zoning amendments advance the City’s Strategic Plan goals to foster a dynamic, sustainable, and locally-based economy and to provide excellent, timely, easily accessible service and information to the community.

#### FISCAL IMPACTS OF RECOMMENDATION

The proposed amendments are intended to simplify the planning review process for business activities, including new business starts and expansions. Therefore, the proposed amendments may result in a modest increase in business license tax and sales tax revenues due to increased business activity. In addition, the proposed

amendments may result in a modest decrease in staffing-related expenditures and land use permitting fee collections, as more uses would be permitted “by right” rather than through a discretionary permitting process.

**CURRENT SITUATION AND ITS EFFECTS**

The proposed zoning amendments reflect policy changes that are summarized in *Table 1: Referral Actions and Zoning Amendment Proposals*. Detailed explanations of the proposed zoning amendments are included below.

The first set of proposed zoning amendments reflect specific previously referred actions from City Council, while the second set of proposed zoning amendments reflect staff-initiated changes that are consistent with the previous direction and intent of City Council referrals, and which are recommended by the Planning Commission. Table 1 also includes a column which indicates which Section(s) of the proposed ordinance include changes related to the indicated referral actions. **Attachment 3** is an annotated version of the proposed ordinance that includes comments for each Section which refer to items in Table 1.

**Table 1: Referral Actions and Zoning Amendment Proposals**

	<b>Policy Change</b>	<b>Proposed Zoning Change</b>	<b>Ordinance Sections (Attachments 1 and 3)</b>
<b>2018-2019 CITY COUNCIL REFERRALS</b>			
1.	<p><b>Group Class Instruction.</b> Allow Group Class Instruction with a Zoning Certificate (ZC) in the C-N, C-E, C-NS and C-SO zoning districts. (Council referral dated 10/15/2019).</p> <p>Revise definitions of “Dance/Exercise/Martial Arts/Music Studio”, “Group Class Instruction”, and “Gyms and Health Clubs.”</p>	<ul style="list-style-type: none"> <li>Removed “Dance/Exercise /Martial Arts/Music Studio” definition and revised the definition of “Group Class Instruction” (simplified to “Group Instruction”). (Section 22)</li> <li>Replaced “Gyms and Health Clubs” use with new “Health and Fitness Facility” use and definition. (Section 25)</li> <li>Changed permit requirements and size thresholds. (Sections 1, 2 and 3)</li> </ul>	<p>1 2 3 4 11 13 22 24 25 26 27</p>

	Policy Change	Proposed Zoning Change	Ordinance Sections (Attachments 1 and 3)
		<ul style="list-style-type: none"> <li>Removed ground floor transparency requirement for gyms in the C-DMU, for customer privacy. (Section 4)</li> <li>Conforming technical edits, e.g., renumbering and references.</li> </ul>	
2.	<p><b>Incidental Distilled Spirits.</b> Permit the sale of Distilled Spirits that are incidental to a Food Service Establishment with an Administrative Use Permit (AUP), subject to performance standards, in all commercial zoning districts and the MU-LI and MU-R zoning districts. (Council referral dated 10/15/2019, and Council referral dated 12/4/2018)</p>	<ul style="list-style-type: none"> <li>Revised permit requirements. (Section 19)</li> </ul>	19
3.	<p><b>Stand-Alone Beer and Wine.</b> Permit stand-alone Beer and Wine Sales and Service with an AUP, subject to performance standards, in all commercial zoning districts. (Council referral dated 10/15/2019 and Council referral dated 12/4/2018)</p>	<ul style="list-style-type: none"> <li>Expanded Bar/Cocktail Lounge/Tavern use type to include "Tap Room/Wine Tasting." (Sections 3, 13 and 21)</li> <li>Revised permit requirements. (Section 3)</li> </ul>	3 8 13 21
4.	<p><b>Alcoholic Beverage Sales Standards.</b> Update the Special Use Standards for Alcoholic Beverage Sales in BMC Section</p>	<ul style="list-style-type: none"> <li>Revised permit requirements. (Sections 18 and 19)</li> </ul>	18 19

	Policy Change	Proposed Zoning Change	Ordinance Sections (Attachments 1 and 3)
	23.310.030(C). (Council referral dated 10/15/2019)	<ul style="list-style-type: none"> <li>Revised Findings of Public Convenience or Necessity. (Section 18)</li> </ul>	
5.	<b>Hours of Operation.</b> Modify hours and days of operations in commercial districts. (Council referral dated 10/15/2019).	<ul style="list-style-type: none"> <li>Amended district purpose for C-SO District. (Section 9)</li> <li>Revised Hours of Operation. (Section 14)</li> <li>Clarified exceptions. (Section 14)</li> <li>Established that an AUP, not a Use Permit Modification, is required to extend hours to match this change. (Section 14)</li> <li>Conforming technical edit. (Section 9)</li> </ul>	9 14
6.	<b>Change of Use.</b> Remove permit requirements to change a use in commercial districts. (Attachment 1, referral dated 10/15/2019)	<ul style="list-style-type: none"> <li>Removed additional permit requirements related to change of use. (Sections 3 and 4)</li> </ul>	3 4
7.	<b>ATMs.</b> Allow Automatic Teller Machines (ATMs) in commercial districts with a ZC. (Council referral dated 10/15/2019)	<ul style="list-style-type: none"> <li>No recommended changes.</li> </ul>	N/A

STAFF-INITIATED CHANGES CONSISTENT WITH CITY COUNCIL REFERRALS			
8.	<b>Office, Business and Professional; Art/Craft Studio; Pet Stores.</b>	<ul style="list-style-type: none"> <li>Revised permit requirements. (Section 3)</li> </ul>	3

	<ul style="list-style-type: none"> <li>• Allow Office, Business and Professional uses with a ZC in the C-NS and C-T zoning districts.</li> <li>• Allow Art/Craft Studios with a ZC in all commercial zoning districts.</li> <li>• Permit Pet Stores with an AUP in the Corridor Commercial (C-C), University Commercial (C-U), C-N, C-E, C-NS, South Area Commercial (C-SA), C-T, C-SO, Downtown Mixed-Use (C-DMU) and Adeline Corridor Commercial (C-AC) zoning districts.</li> </ul>		
<p>9.</p>	<p><b>Live Entertainment.</b> Allow unamplified Live Entertainment with a ZC, and permit amplified Live Entertainment with an AUP in the C-C, C-U, C-SA, C-T, C-SO, C-DMU, C-AC, C-N, C-NS, West Berkeley Commercial (C-W), C-E, MU-LI and MU-R zoning districts.</p>	<ul style="list-style-type: none"> <li>• Added Live Entertainment as incidental use in the R-SMU districts. (Section 1)</li> <li>• Added “Live Entertainment, Unamplified” and “Live Entertainment, Amplified” as land uses in the residential, commercial and manufacturing Allowed Uses Tables. (Section 3)</li> <li>• Removed stand-alone section. (Section 13 and 15)</li> </ul>	<p>1 3 13 15</p>

10.	<p><b>Seated Food Service Requirement.</b> Allow distilled alcoholic beverage service without seated food service in the C-T, C-NS, and the C-SO zoning districts.</p>	<ul style="list-style-type: none"> <li>Removed requirement that food service must accompany distilled alcohol service. (Sections 8 and 19)</li> </ul>	8 19
11.	<p><b>Food Service Establishments 3,000 sq. ft or less.</b> Allow Food Service Establishments 3,000 square feet or less with a ZC, and permit food establishments greater than 3,000 square feet with an AUP, in all commercial zoning districts and the R-SMU and R-BMU zoning districts, as long as alcohol service is not included.</p>	<ul style="list-style-type: none"> <li>Added new “Food Service Establishments” uses to Residential and Commercial Allowed Use tables and removed stand-alone section. (Sections 1, 3 and 16)</li> <li>Removed AUP requirement for food service on ground floor in C-DMU. (Section 10)</li> </ul>	1 3 10 16
12.	<p><b>Food Service Establishment Quota.</b> Remove the Numeric Limitation for Food Service Establishments in the C-E zoning district.</p>	<ul style="list-style-type: none"> <li>Removed numeric quota. (Section 5)</li> </ul>	5
13.	<p><b>Incidental Food Service Establishment Requirements.</b> Permit incidental Food Service Establishments under 20,000 square feet in manufacturing districts to be indoors and outdoors with an AUP, and remove the specification that food or beverage be limited to “immediate consumption” in the MM zoning district.</p>	<ul style="list-style-type: none"> <li>Added new “Food Service Establishment” incidental uses to Manufacturing Allowed Use Table and removed stand-alone code section. (Sections 13 and 16)</li> </ul>	13 16

14.	<b>Drug Paraphernalia in C-T District.</b> Allow retail sales of drug paraphernalia in the C-T zoning district.	<ul style="list-style-type: none"> <li>Removed prohibition on uses involving sale or distribution of drug paraphernalia in C-T. (Section 8)</li> </ul>	8
15.	<b>Third Party Rental.</b> Remove the restriction on renting space in a Food Service Establishment that serves alcohol incidental to food service to a third party.	<ul style="list-style-type: none"> <li>Removed restriction. (section 19)</li> </ul>	19

*Discussion of Proposed Changes*

Items 1 through 7 in the list below were considered pursuant to City Council referrals in 2018 and 2019.

*1. Group Class Instruction.*

*Allow Group Class Instruction with a Zoning Certificate (ZC) in the C-N, C-E, C-NS and C-SO zoning districts. Currently, most commercial zoning districts require an AUP for group class instruction. Recent business models focus on creating activity or experience-based enterprises for patrons alongside traditional retail sales (e.g., painting or art classes accompanying the sales of paint and art supplies, or pattern and fabric sales connected with sewing classes).*

The proposed amendments would:

- Allow Group Instruction uses with a ZC in all commercial zoning districts, except:
  - An AUP would be required for Group Instruction uses 3,000 square feet or larger in the Neighborhood Commercial (C-N), Elmwood Commercial (C-E), and Solano Avenue (C-SO) zoning districts. The Planning Commission wished to maintain a higher level of discretion for larger Group Instruction uses in smaller commercial districts.
- Allow Health and Fitness Facility uses with a ZC in all commercial zoning districts, except:
- Require an AUP for Health and Fitness Facility uses 7,500 square feet or larger in the Neighborhood Commercial (C-N), Elmwood Commercial (C-E), and Solano Avenue (C-SO) zoning districts. The Planning Commission

wished to maintain a higher level of discretion for larger Health and Fitness Facilities uses in smaller commercial districts.

*Revise Definitions Related to Group Class Instruction* - The BMC currently includes three related use types (Group Class Instruction, Art Classes/Studios/Dance/Martial Arts Studios, and Gym/Health Club) that share some overlapping uses (exercise classes, for example, appear in both Group Class Instruction and Gym/Health Club). This has led to confusion as to how to classify a proposed use or accommodate emerging business models. The proposed zoning amendments consolidate and refine these definitions, as shown in Table 2.

**Table 2: Existing and Proposed Group Class Instruction & Related Definitions**

Existing Definitions	Proposed Definitions
<p><b>Dance / Exercise / Martial Arts / Music Studio.</b> An establishment in which customers assemble for group exercises, dancing, self-defense training, aerobics, choral or musical instrument instruction, other movement drills for learning, rehearsal or non-audience performances.</p>	<p><b>Group Instruction.</b> An establishment that offers specialized programs in personal growth, development, and instruction in artistic, cultural, and academic pursuits, including music and choral schools, performing arts, arts and crafts, cooking, tutoring, martial arts and self-defense training. Excludes spaces designed exclusively for public performance.</p>
<p><b>Group Class Instruction.</b> An establishment that offers specialized programs in personal growth and development. Includes music studios, drama schools, dance academies, art schools, tutoring schools, and instruction in other cultural and academic pursuits.</p>	
<p><b>Gyms and Health Clubs.</b> An indoor facility where exercise equipment, classes and related activities related to personal health and fitness are available to paying customers. Excludes parks/playgrounds.</p>	<p><b>Health and Fitness Facility.</b> An indoor facility where exercise equipment, group classes and other activities related to personal health and fitness are available to customers or members. This can include a facility where exercise equipment, swimming pools, group or aerobic classes (including yoga and Pilates) and other activities related to personal health and fitness are available to customers or members. Excludes: park/playground.</p>

Dance, exercise and aerobics are proposed to be captured in the definition of “Health and Fitness Facility.” “Music Studio” is proposed to be removed from the definition because the use is captured in the existing definition of “Media Production.” Music Instruction is proposed to be included under “Group Instruction.”<sup>1</sup> Note that the definition and permit requirements for a “Commercial Recreation Center” remain unchanged, which permit activities and uses that include indoor rock climbing, bowling alleys, bingo parlors, skating rinks, billiard or pool halls, miniature golf courses and axe throwing.

2. *Incidental Distilled Spirits.*

*Permit the sale of Distilled Spirits that are incidental to a Food Service Establishment with an Administrative Use Permit (AUP), subject to performance standards, in all commercial zoning districts and the MU-LI and MU-R zoning districts, and with a UP in the R-BMU zoning district.* Currently, an operator of a Food Service Establishment must obtain a Use Permit to serve Distilled Spirits that are incidental to food service, which is a process separate from, and in addition to, the State of California Division of Alcohol Beverage Control (ABC) review process. The proposed amendments would permit incidental sale and service of distilled alcoholic beverages with an AUP subject to performance standards. The proposed changes are included in Table 3, below and would also include an amendment to BMC Section 23.310.030(C) – Incidental Beer and Wine Service Standards to condition Food Service Establishments applying to expand alcoholic beverage service.

**Table 3: Beer & Wine and Distilled Spirits Incidental to Food Service – Proposed Amendments**

District	Permit Required Based on Type of Beverages Served When Incidental to Food Service	
	Beer and Wine	Distilled Spirits
R-SMU	UP(PH)	UP(PH)
All Commercial Zoning Districts, <del>except C-AC and the R-BMU District</del>	ZC	<u>UP(PH) AUP</u>
<u>R-BMU</u>	<u>ZC</u>	<u>UP(PH)</u>
MU-LI, MU-R	<u>UP(PH) AUP</u>	<u>UP(PH) AUP</u>

3. *Stand-Alone Beer and Wine.*

*Permit stand-alone Beer and Wine Sales and Service with an Administrative Use Permit (AUP), subject to performance standards, in all commercial zoning districts.* Currently, stand-alone Beer and Wine Sales and Service uses (e.g., tap rooms, wine bars, and tasting rooms) are permitted in the C-C, C-U, C-SA, C-T, C-DMU, C-W,

<sup>1</sup> Note: This would be separate from a home occupation use in a residential district that includes small group lessons as an incidental use, such as private piano lessons taught in a home.

and C-AC zoning districts with a Use Permit, which is a process separate from, and in addition to, the State of California's Alcoholic Beverage Control (ABC) review process. The proposed amendments would permit stand-alone sale and service of beer and wine with an AUP in the above listed districts.

#### 4. *Alcoholic Beverage Sales and Service Standards.*

*Update the Special Use Standards for Alcoholic Beverage Sales in BMC Section 23.310.030(C) to align with the proposed Zoning amendments.* The proposed amendments include revisions to the standards for Alcoholic Beverage Sales and Service in BMC 23.310.020 and BMC 23.310.030.<sup>2</sup> These changes include revised findings for public convenience and necessity that provide updated standards consistent with ABC requirements for staff to reference when evaluating permit applications and/or preparing findings for a proposed permit involving alcoholic beverage sales or service.

*Revise Alcoholic Beverage Sales General Requirements, Excluding Incidental Beer and Wine Service.* BMC Section 23.310.020, Alcoholic Beverage General Requirements Excluding Beer and Wine Service (i.e., distilled spirits), applies to applications that are starting or increasing alcoholic beverage sales (except for beer and wine service that is incidental to food service). The proposed revisions would implement the following changes:

- Currently, a Use Permit is required to begin or increase alcoholic beverage sales or service. The proposed revisions would permit service of distilled spirits incidental to food service with an AUP.
- The proposed revisions would amend the findings of undue concentration of alcoholic beverage sales and service uses to be consistent with State of California definitions found in Business and Professions Code Section 23958.4<sup>3</sup> and current ABC regulations.
- The proposed revisions would amend the *Findings of Convenience and Necessity* to include “economic development benefits to the surrounding area”, and to require that *only one, not all*, of the listed findings are required for permit issuance.
- The proposed revisions would remove existing requirements that the Berkeley Police Department (BPD) review proposed establishments to determine whether they would be expected to add crime to the area or whether an applicant's previous alcohol-related violations at another location would

<sup>2</sup> Special Use Standards for Alcoholic Beverage Sales were first established in 1999 and revised in 2008, 2009, 2010, 2011, 2014, and 2019.

<sup>3</sup> California State Code, Business and Professions 23958.4.

[https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=23958.4&lawCode=BPC](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=23958.4&lawCode=BPC)

indicate a high likelihood of further violations. These findings are difficult to make as there are no objective standards to evaluate the potential of a business to negatively impact public safety in the future, for BPD to forecast crime at a particular location, or to attribute any predicted increase in crime to the operation of a business that does not yet exist. BPD will instead be notified of all approved alcohol-related permits along with their conditions of approval. Furthermore, additional language has been added to the standard conditions of approval to increase safety and improve authentic identification verification.

*Revise Alcoholic Beverage Sales General Requirements, Alcoholic Beverage Service When Incidental to Food Service.* BMC Section 23.310.030(C) includes standards that apply to beer and wine service that are incidental to food service in commercial zoning districts. The proposed revisions would implement the following changes for beer and wine service that is incidental to food service:

- The proposed revisions would allow beer and wine to be served in its original bottle or can, or in a container.
- The proposed revisions would allow a lounge or bar area to be established for the sole purpose of alcoholic beverage sales and consumption.
- The proposed revisions would empower the Zoning Officer to review and approve changes to hours of operation that have been established through conditions of approval with an AUP.
- The proposed revisions would remove the common permit condition that prohibits the premises to be rented by a third party.
- The proposed revisions would allow advertising of alcoholic beverages and allow alcoholic beverage sales and service equipment to be visible from the public right-of-way, subject to standards in BMC 20.67 (Alcohol Product Advertising).

### 5. Hours of Operation.

*Modify hours and days of operation in commercial zoning districts.* Currently, the permitted days and hours of operation vary among commercial zoning districts, and do not account for holidays and other unique cultural and civic events that may occur on a weekday. Currently, in order for a business to extend hours of operation, a UP is required in most commercial zoning districts. To standardize the permitted hours and days of operations across districts, the proposed amendments include the changes to permitted hours of operation as shown in Table 4. Controls related to both noise and alcohol sales would remain in effect with the adoption of the changes articulated in Table 3.<sup>4</sup> While 24 hour a day operation would be allowed in the C-

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<sup>4</sup> E.g., Chapter 9.84 (Responsible Beverage Service Training), BMC Section 13.46.050 (Regulations for Operation and Conduct of Entertainment Events Involving Service or Permitted Consumption of Alcohol),

DMU and C-T zoning districts for commercial uses, no alcohol service use would be permitted to continue past 2:00 a.m.<sup>5</sup>

**Table 4: Hours of Operation – Proposed Amendments**

District	Allowed Hours of Operation	Permit Required to Extend Hours
C-C, C-U, <del>C-NS, C-AC, C-W nodes</del>	<del>7:00 a.m.–12:00 midnight 6:00 a.m.–2:00 a.m.</del>	AUP
C-N, C-E, <del>C-NS</del> , C-SO, C-SA, C-W outside nodes, <del>MU-R</del>	<del>7:00 a.m.–11:00 p.m. 6:00 a.m.–12:00 midnight</del>	UP <del>AUP</del>
<del>C-W nodes</del>	<del>6:00 a.m.–12:00 midnight with Zoning Certificate</del>	UP
<del>C-SA</del>	<del>7:00 a.m.–12:00 midnight Sundays through Thursdays 7:00 a.m.–12:00 Fridays and Saturday</del>	UP
<del>C-AC</del>	<del>7:00 a.m.–12:00 midnight Sundays through Thursdays 7:00 a.m.–2:00 a.m. Fridays and Saturday 6:00 a.m.–2:00 a.m.</del>	UP
<del>C-T between Bancroft Way and the north side of Dwight Way, C-DMU</del>	24 hours per day, 7 days a week	N/A
<del>C-T between the south side of Dwight Way and Parker Street</del>	<del>7:00 a.m.–12:00 midnight</del>	<del>AUP</del>
<del>C-DMU</del>	<del>6:00 a.m. and 2:00 a.m.</del>	<del>AUP</del>
<del>MU-R</del>	<del>6:00 a.m.–10:00 p.m.</del>	<del>AUP</del>

The proposed amendments would require applicants to apply for an AUP to extend their hours of operation beyond what is allowed by their current permit or zoning code.

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Chapter 13.48 (Civil Penalties for Multiple Responses to Loud or Unruly Parties, Gatherings or Other Similar Events), Chapter 13.49 (Social Host Ordinance), Chapter 13.60 (Warning Sign Against Consuming Alcoholic Beverages During Pregnancy), Chapter 13.40 (Community Noise), Chapter 20.67 (Alcohol Product Advertising).

<sup>5</sup> California State Business & Professions Code 25631 regulates any on-sale or off-sale licensee, or agent or employee of that licensee, who sells, gives, or delivers to any persons any alcoholic beverage or any person who knowingly purchases any alcoholic beverage between the hours of 2:00 a.m. and 6:00 a.m. of the same day.

## 6. Change of Use.

*Remove “change of use” permit requirements in commercial districts.* Currently, all commercial zoning districts except the C-T, C-DMU and C-AC require an AUP or a UP for a change of use, in addition to the permits required for the proposed use itself. In some cases, change of use requirements are different based on project size (square feet), not use. For example, General Retail is allowed in many commercial zoning districts with a ZC, but an AUP is required if it is a change of use for a space over 3,000 square feet in size.

The proposed amendments include the removal of change of use requirements in commercial zoning districts, both for individual uses and for the size of a proposed use. Any proposed use, whether in an empty (vacant) location or as a replacement for a previous use, would be subject to the same permit requirements as the underlying district; there would not be an added discretionary administrative requirement for a proposed use based solely on a change from a previous use. Uses that are different than the immediately previous use would still be evaluated based on compatibility with the purpose of the zoning district and any potential impacts and unique characteristics that may require conditions of approval, to the degree a discretionary permit is required. There remain sections of the zoning code that would still require discretionary procedures based on other underlying size-related regulations, as well as changes in floor area or tenant reconfigurations.

## 7. ATMs.

*Allow Automatic Teller Machines (ATMs) in commercial districts with a Zoning Certificate (ZC).* Currently the BMC requires a UP for an ATM that is not associated with a financial institution. After evaluation and consultation with small businesses and existing legislation, staff determined this is a low priority and there are no revisions included in the proposed amendments related to ATMs.

Items 8 through 14 below were advanced by Office of Economic Development (OED) staff in response to changing business conditions, research and community engagement. Some of these modifications, particularly number 8, were refined through outreach and engagement, particularly with the Planning Commission and its small business zoning subcommittee.

## 8. Office, Business and Professional; Art/Craft Studios; Pet Stores.

*Allow Office, Business and Professional uses with a ZC in the C-NS and C-T zoning districts.* Currently, Office, Business and Professional uses require an AUP in the C-NS and C-T zoning districts. The proposed zoning changes revise this requirement to a ZC. The Planning Commission wished to maintain a higher level of discretion for Office, Business and Professional uses in the smaller C-SO, C-E, and C-N zoning

districts and have indicated keeping the AUP requirement is more appropriate in those areas.

*Allow Art/Craft Studios with a ZC in all commercial zoning districts and permit Pet Stores with an AUP in the C-C, C-U, C-N, C-E, C-NS, C-SA, C-T, C-SO, C-DMU and C-AC zoning districts. Art/Craft Studios require an AUP in some commercial zoning districts and a ZC in others. Pet Stores currently require a UP in all but one commercial zoning district (the C-W). Existing performance standards in the BMC (e.g., Section 13.40.050 Exterior Noise Standards) would continue to provide limits and regulations for any unintended impacts related to the above-mentioned uses. Existing and proposed permit requirements are summarized in Table 5.*

**TABLE 5: OFFICE; BUSINESS AND PROFESSIONAL; ART/CRAFT STUDIOS; PET STORES – PROPOSED AMENDMENTS**

Use	Existing	Proposed
Office, Business and Professional	AUP in C-N, C-E, C-NS, C-T and C-SO	AUP in C-N, C-E and C-SO zoning districts
	ZC in C-C, C-U, C-SA, C-DMU, C-W and C-AC	ZC in all other commercial zoning districts
Art/Craft Studios	ZC in C-AC AUP in all other commercial zoning districts	ZC in all commercial zoning districts
Pet Stores	ZC in C-W UP(PH) in all other commercial zoning districts	ZC in C-W AUP in all other commercial zoning districts

**9. Live Entertainment.**

*Allow unamplified Live Entertainment with a ZC, and permit amplified Live Entertainment with an AUP, in the C-C, C-U, C-SA, C-T, C-SO, C-DMU, C-AC, C-N, C-NS, C-W, C-E, R-SMU, MU-LI and MU-R zoning districts. Live Entertainment is defined as:*

*“Any one or more of any of the following, performed live by one or more persons, whether or not done for compensation and whether or not admission is charged: musical act (including karaoke); theatrical act (including stand-up comedy); play; revue; dance; magic act; disc jockey; or similar activity.”*

Live entertainment, as either a primary or incidental use, is currently not permitted in any residential zoning district. The R-SMU, however, with its relatively dense and mixed-use character, and geographic limitation within the student-oriented Southside Plan Area, is considered an appropriate zoning district in which to permit live entertainment as an incidental use. The proposed changes would allow unamplified

Live Entertainment with a ZC and permit amplified Live Entertainment with an AUP, as summarized in Table 6.

**TABLE 6: LIVE ENTERTAINMENT – PROPOSED AMENDMENTS**

Zones	Permit Required for Live Entertainment	
	Unamplified	Amplified
C-C, C-U, C-SA, C-T, C-SO, C-DMU, C-AC, <u>C-N, C-NS, C-W, C-E, MU-LI, MU-R</u>	ZC	AUP
<u>R-SMU</u>	<u>Not Permitted ZC</u>	<u>Not Permitted AUP</u>
<u>C-N, C-NS, C-W</u>	<u>ZC</u>	<u>UP(PH)</u>
<u>C-E</u>	<u>ZC</u>	<u>Not Permitted</u>
<u>MU-LI, MU-R</u>	<u>UP(PH)</u>	<u>UP(PH)</u>

**10. Alcohol and Seated Food Service Requirements.**

Remove the requirement for seated food service to accompany distilled alcoholic beverage service in the C-T, C-NS, and C-SO zoning districts. Currently, only the C-T, C-NS, C-SO and the R-BMU (BART Mixed Use) zoning districts require seated food service with distilled alcoholic beverage service. Under this requirement, business operators must include food service in order to sell and serve distilled alcohol. The C-C, C-U, C-N, C-E, C-SA, C-DMU, C-W and C-AC zoning districts do not have this requirement.

The proposed changes would remove this requirement in the C-T, C-SO, and C-NS districts and regulate the use consistently throughout commercial districts citywide. No change is proposed for the R-BMU district, which would continue to retain this requirement.

**11. Food Service Establishments**

Allow Food Service Establishments 3,000 square feet or less with a ZC and permit food service establishments greater than 3,000 square feet with an AUP in all commercial zoning districts and in the R-SMU and R-BMU zoning districts. Several zoning districts vary permit requirements for Food Service Establishments based on floor area or square footage. In some cases, this is a legacy requirement from having a number of different types of food service (i.e., quick service vs. full service) permitted by size (square feet) in the BMC.

In 2019, due to the evolving nature of food service and the availability of food delivery, three food-related use categories (Carry Out Food Store, Quick Service

Restaurant, and Full-Service Restaurant) were condensed into one use, *Food Service Establishment*. Combining these three previous uses into one removed the size distinctions that were the basis of varying permit requirements.

The proposed zoning amendments related to Food Service Establishment size include allowing Food Service Establishments under 3,000 square feet with a ZC, and permitting those of 3,000 square feet or more with an AUP, in all commercial districts and the R-SMU and in the R-BMU if no alcohol service is provided. The proposed revisions would also remove the requirement that a Notice of Decision (NOD) be posted within 300 feet of a subject property for any Food Service Establishment that receives an AUP in the C-N, C-E, C-NS, C-SA, C-T and C-SO districts.

In addition, the proposed changes include allowing Food Service Establishments in the Arts District Overlay with a ZC, consistent with other commercial zoning districts and its underlying zoning district (C-DMU), and would remove unique findings for food service in the Elmwood (C-E) district related to incidental use and limits on food establishment uses (see 12, below).

*Remove the restriction on renting a Food Service Establishment space to a third party.* Currently, BMC Section 23.310.030(C)(3) does not allow a restaurant space that includes incidental beer and wine service to be rented to a third party. In order to provide more flexibility and sustainability to food service operations, the proposed zoning amendments would remove the restriction on renting restaurant space to a third party.

## 12. Elmwood Food Service Establishment Quota.

*Remove the quota for Food Service Establishments in the C-E zoning district.* Currently the C-E (Elmwood) zoning district is the only remaining zoning district that restricts the total number of Food Service Establishments.<sup>6</sup> All other quotas throughout the City were eliminated in 2016, after an evaluation of the quota program citywide.<sup>7</sup> Future changes to the quota system in the Elmwood were to be brought to Council after further consultation with the Elmwood Business Association.<sup>8</sup> The proposed amendment would remove the quota on the number of Food Service Establishments in the C-E. OED staff presented this proposal to the Elmwood Business Association on April 21, 2023 and the Elmwood Business

<sup>6</sup> Berkeleyside, <https://www.berkeleyside.org/2012/01/17/elmwood-business-quotas-may-change-to-help-startups>, January 17, 2012.

<sup>7</sup> Berkeley City Council, *Removing Numeric Limitations ("Quotas") in the North Shattuck (C-NS), Telegraph Avenue (C-T), and Solano Avenue (C-SO) Commercial Districts; Amending Berkeley Municipal Code Title 23*, March 29, 2016.

<sup>8</sup> Ibid, page 3 of 76.

Association Board voted to support the recommendation to remove quotas in the C-E District.

*13. Incidental Food Service Establishment Requirements in Manufacturing Districts.*

*Remove the requirement that incidental Food Service Establishments in buildings under 20,000 square feet in manufacturing zoning districts be indoors only.*

Currently, Incidental Food Service Establishments—i.e., Food Service Establishment uses that are co-located with a primarily permitted use—are permitted in select manufacturing (or “M-prefixed”) zoning districts with an AUP or a UP based on square footage. The proposed zoning amendments would allow for **outdoor** food service in all manufacturing districts, and off-site food or beverage consumption (i.e. “to-go”) in the MM District.

The AUP permit requirement for **indoor** food service in the MU-R and the MU-LI zoning districts would still apply for spaces under 5,000 square feet.

*14. Drug Paraphernalia in the C-T Zoning District.*

*Allow drug paraphernalia stores and the sale of drug paraphernalia in the C-T zoning district.* Currently, the C-T *Allowed Uses* section of BMC 23.204.110(B)(3) explicitly prohibits drug paraphernalia stores or the sale of drug paraphernalia in the C-T zoning district. No other zoning district includes this prohibition in the corresponding *Allowed Uses* section.

Currently, there are three existing legal Cannabis Retailers established in the C-T zoning district that offer cannabis paraphernalia. The existing regulation is also challenging to enforce since the statewide legalization of cannabis. The proposed change would remove this restriction in the C-T zoning district and would regulate this category of merchandise the same way as other commercial zoning districts, i.e., as general retail or as part of a Smoke Shop.

*Existing Permitted Land Uses & Proposed Zoning Ordinance Amendments*

As a result of some of the above proposed zoning amendments, there may be existing uses that, either as a result of previous zoning regulations or specific conditions of approval, would now find themselves subject to more restrictive regulations than new uses in the same zoning district established after the adoption of the proposed zoning amendments. For example, currently in the C-U zoning district, commercial hours of operation end at midnight. Accordingly, an existing business’s approval was premised on ending business at midnight. Under the proposed zoning amendments, however, commercial hours of operation in the C-U zoning district would end at 2:00 a.m. A new business would therefore be allowed to operate two hours longer than an existing business. Currently, adjusting the existing business’ commercial hours of operation would require a permit modification (BMC 23.404.070), which requires a public hearing.

To remedy this scenario and others like it, the revised ordinance includes new language in three sections to modify the process for modifying an existing land use approval to be consistent with the new regulations included in the proposed ordinance. In each case, an AUP is required to modify an approval, which includes public notice and an option to appeal an initial decision, as well as providing the City an opportunity to include conditions of approval, if necessary.

Authorization to modify existing approvals with an AUP is found in the proposed ordinance's revised language for Hours of Operation (BMC 23.302.020(B); Section 14 of **Attachment 1**); General Requirements for Alcohol Beverage Sale and Service (BMC 23.301.020(B); Section 18 of **Attachment 1**); and regulations regarding Alcoholic Beverage Service When Incidental to Food Service (BMC 23.302.030(A); Section 19 of **Attachment 1**).

#### *Miscellaneous Technical Edits*

The proposed zoning amendments also include the following technical amendments and corrections unrelated to the amendments to support small businesses:

- *C-SA Text Amendments:* With the adoption of the Adeline Corridor Specific Plan, a number of parcels that were previously included in the C-SA zoning district were rezoned to C-AC. Section 23.204.100 (C-SA zoning district) still includes provisions related to alcoholic beverage sales and service that pertain only to those formerly C-SA parcels (see Section 6 in **Attachments 1 and 3**). The proposed zoning amendments include the removal of those provisions from the C-SA zoning district regulations.

*C-SA Height Provisions:* The C-SA zoning district includes two different building height standards, which are applied to parcels based on their location. Currently, there are parcels that are zoned C-SA that do not have a building height standard assigned to them. The proposed zoning amendments include revisions to the C-SA Maximum Building Heights Table and accompanying map to provide a building height standard for all C-SA zoned parcels (see Section 7 in **Attachments 1 and 3**).

- *Use Category Titles:* Section 12 of the proposed ordinance includes the correct use category titles for Retail Uses, Person and Housing Services Uses and Food and Alcohol Service, Lodging, Entertainment and Assembly Uses.
- *Family Day Care:* SB 234 (2019) requires cities to consider all family day care homes for up to 14 children, operating under the standards defined by state law, a residential use and prohibits the local requirement of a business license. Earlier this year, the City Council adopted amendments to the Residential Allowed Use Table to reflect these requirements, but the requirement for a ZC still remains in the allowed use tables for commercial and manufacturing districts. The proposed

ordinance includes removal of Family Day Care permit requirements from the commercial and manufacturing use tables, consistent with State requirements.

- *Restaurant Uses:* As a result of previous amendments, there are no longer any regulations that pertain to Carry Out Food Stores, Quick Service Restaurants and Full-Service Restaurants. To eliminate confusion, the proposed zoning amendments include removal of the definitions for these restaurant types from the Glossary and a reference in another section.
- *Formatting Changes:* The proposed ordinance simplifies and improves usability of the Zoning Ordinance by consolidating information into fewer sections and tables.

### BACKGROUND

The Zoning Ordinance has evolved over many decades to reflect Berkeley's changing values and the dynamic landscape of property development and land use. Its requirements are intended to guide the City's growth while providing opportunities for feedback from residents, business owners, and commercial district and neighborhood associations.

As noted in the June 7, 2023 Planning Commission report, OED staff consulted with external stakeholders including business services personnel, small business proprietors and operators, and business district networks, as well as City staff including the Community Services Bureau of the Berkeley Police Department, Code Enforcement, and Environmental Health. This collaborative effort also enabled the identification of enhancements in internal city processes and implementation efforts that align with the Council referrals from 2018 and 2019. Some work has already taken place in response to those referrals, including the creation a Coordinated Sign Design program by Council in November 2022.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Small businesses contribute to sustainable transportation and consumer behavior by providing opportunities to shop in commercial districts that are accessible by foot, bicycle and transit. The continued pursuit of environmental sustainability goals, as well as the programs and policies that encourage that pursuit, represents an economic strength for Berkeley and a competitive advantage of the City and the region.

The proposed ordinance includes revisions to permit and other requirements for specified land uses. It does not include allowing any uses currently not permitted that would be anticipated to have a significant effect on the environment and does not qualify as a "project" under the California Environmental Quality Act (CEQA) and further environmental review is not required.

RATIONALE FOR RECOMMENDATION

The goal of these Zoning Ordinance amendments is to simplify and streamline the permitting experience for small businesses, which can in turn enhance the quality of commercial district offerings, help fill vacant storefronts, and generate more local and sustainable economic opportunities. Berkeley’s commercial districts, and the small businesses that comprise them, are vital to the City’s fiscal, social and civic wellbeing.

ALTERNATIVE ACTIONS CONSIDERED

The June 7, 2023 Planning Commission report included a set of recommendations and alternative suggestions for a number of the proposed policy changes, including different permit requirements, differently-worded definitions and alternative approaches to formatting and organization. Ultimately through the work of the subcommittee and wider discussion(s) with the Planning Commission, some of these suggestions were abandoned and others were workshopped into the recommendations presented in this report, to address the goals of City Council’s referrals.

CONTACT PERSON

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Attachments:

- 1: Ordinance.
- 2: Planning Commission Staff Report, October 14, 2023.
- 3: Annotated Ordinance.
- 4: City Council referral to support small business, Oct. 15, 2019.
- 5: Public Hearing Notice

ORDINANCE NO. -N.S.

AMENDMENTS TO THE RESIDENTIAL DISTRICT CHAPTER (BMC 23.202), COMMERCIAL DISTRICT CHAPTER (BMC 23.204), MANUFACTURING DISTRICT CHAPTER (BMC 23.206), SUPPLEMENTAL USE REGULATIONS CHAPTER (BMC 23.302), ALCOHOLIC BEVERAGE SALES AND SERVICE CHAPTER (BMC 23.310), NONCONFORMING USES, STRUCTURES AND BUILDINGS CHAPTER (BMC 23.324) AND THE GLOSSARY CHAPTER (BMC 23.502) TO SUPPORT BERKELEY BUSINESSES

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

**Section 1.** That the lines named “Alcoholic Beverage Service,” “Food Service Establishment” “Group Class Instruction,” and “Gym/Health Club” in Table 23.202-1 Allowed Land Uses in Residential Districts, within Berkeley Municipal Code 23.202.020 are amended, and lines named “Food Service Establishment, Under 3,000 sq. ft.,” “Food Service Establishment, 3,000 sq. ft. or larger,” and a new Incidental Use use category with “Live Entertainment, Unamplified” and “Live Entertainment, Amplified” are added, to read:

Table 23.202-1: Allowed Land Uses in Residential Districts

	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)	
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU**		
ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **--Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D													
Alcoholic Beverage Service	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)* ZC*	UP(PH)*	23.310—Alcoholic Beverage Sales and Service	
Food Service Establishment	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH)*	23.302.070.E—Use-Specific Regulations	
Food Service Establishment, Under 3,000 sq. ft.	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC*	ZC*	23.302.070(E) – Use-Specific Regulations	
Food Service Establishment, 3,000 sq. ft. or larger	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP*	AUP*	23.302.070(E) – Use-Specific Regulations	
Group Class Instruction	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	23.202.150.(C) R-BMU Residential BART Mixed Use District	
Gym/Health and Fitness Facility Club	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	23.202.150.(C) R-BMU Residential BART Mixed Use District	
<b>Incidental Uses</b>													

<u>Live Entertainment, Unamplified</u>	<u>NP</u>	<u>ZC</u>	<u>NP</u>									
<u>Live Entertainment, Amplified</u>	<u>NP</u>	<u>AUP</u>	<u>NP</u>									

**Section 2.** That Berkeley Municipal Code 23.202.150(C)(2) is amended to read:

2. Group ~~Class~~-Instruction and Gym/Health Club and Fitness Facility. Group ~~class~~ instruction and gym/health club and fitness facility uses are permitted at the Ashby BART station with a Zoning Certificate. Group ~~class~~-instruction and gym/health club and fitness facility uses are permitted at the North Berkeley BART station with a Use Permit.

**Section 3.** That the lines named “Family Day Care Home, Large,” “Family Day Care Home, Small,” “Alcoholic Beverage Retail Sale,” “Pet Store,” “Retail General,” “Personal and Household Services, General,” “Laundromats and Cleaners,” “Video Tape/Disk Rental,” “Business Support Services,” “Bank and Financial Services, Retail,” “Insurance Agents, Title Companies, Real Estate Agents, Travel Agents,” “Medical Practitioners,” “Non-Chartered Financial Institutions,” “Office, Business and Professional,” “Bar/Cocktail Lounge/Tavern,” “Dance/Exercise/Martial Arts/Music Studio,” “Food Service Establishment,” “Gym/Health Club,” “Alternative Fuel Station,” “Large Vehicle Sales and Rental,” “Small Vehicle Sales and Rental,” “Vehicle Parts Store,” “Vehicle Rentals,” “Vehicle Repair and Service,” “Vehicle Sales, New,” “Vehicle Sales, Used,” “Cannabis Testing,” “Light Manufacturing,” “Wholesale Trade,” “Food and Beverage for Immediate Consumption,” “Food Service Establishment,” “Live Entertainment,” “Retail Sale of Goods Manufactured On-Site,” “Art/Craft Studio,” “Public Market, Enclosed” and the Notes in Table 23.204-1 Allowed Uses in the Commercial Districts, within Berkeley Municipal Code 23.204.020, are amended, and lines named “Group Instruction, 3,000 sq. ft. or larger,” “Food Service Establishment, Under 3,000 sq. ft.” “Food Service Establishment, 3,000 sq. ft. or larger” “Health and Fitness Facility, Under 7,500 sq. ft.” “Health and Fitness Facility, 7,500 sq. ft.” “Live Entertainment, Unamplified,” and “Live Entertainment, Amplified,” are added, to read:

**Table 23.204-1 Allowed Uses in the Commercial Districts**

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS	
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC		
<u>Family Day Care Home, Large</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	
<u>Family Day Care, Small</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	<u>ZC</u>	

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Alcoholic Beverage Retail Sale	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	NP	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	23.204.060.B-2 23.310
Pet Store	<del>AUP</del> <del>UP(PH)</del>	<del>AUP</del> <del>UP(PH)</del>	<del>AUP</del> <del>UP(PH)</del>	<del>AUP</del> <del>UP(PH)</del>	<del>AUP</del> <del>UP(PH)</del>	<del>AUP</del> <del>UP(PH)</del>	<del>AUP</del> <del>UP(PH)</del>	<del>AUP</del> <del>UP(PH)</del>	<del>AUP</del> <del>UP(PH)</del>	ZC [3]	<del>AUP</del> <del>UP(PH)</del>	
Retail, General	ZC [1]	ZC [1]	ZC* [2]	ZC* [2]	ZC* [2]	ZC* [1]	ZC* [2]	ZC* [2]	ZC	ZC* [3]	ZC*	23.204.040.(C)-E (for department stores) 23.204.040.(D)-F (for drug stores)
Personal and Household Services, General	ZC [1]	ZC [1]	ZC [2]	ZC [2]	ZC [2]	ZC [1]	ZC	ZC [2]	ZC	ZC [5]	ZC	
Laundromats and Cleaners	AUP	AUP	UP(PH)	UP(PH)	UP(PH)	AUP	AUP	UP(PH)	UP(PH)	AUP [4]	AUP	
Video Tape/Disk Rental	ZC [1]	ZC [1]	ZC [2]	AUP	ZC [2]	--	ZC	ZC [2]	ZC	ZC [5]	NP	
Business Support Services	ZC [1]	ZC [1]	ZC [2]	ZC [2]	ZC [2]	ZC [1]	ZC*	ZC [2]	ZC	ZC [5]	ZC [6]	23.204.110.(B)-6 (4)
Bank and Financial Services, Retail	AUP	AUP	UP(PH)	UP(PH)	UP(PH)	ZC [1]	AUP*	UP(PH)	ZC*	AUP	ZC	23.204.110.(B)-(64); 23.204.130.(B)-(6); 23.204.130.(D)-(3)
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC [1]	ZC [1]	ZC* [2]	ZC* [2]	ZC* [2]	ZC [1]	ZC*	ZC* [2]	ZC*	ZC [5]	ZC [6]	23.204.040.(D)(B); 23.204.110.(B)-6 (4); 23.204.130.(D)-(3)
Medical Practitioners	ZC [1]	ZC [1]	AUP	NP	UP(PH)	ZC [1]	AUP*	UP(PH)	ZC*	ZC [5]	ZC [6]	23.204.040.(D)(B); 23.204.110.(B)-6 (4); 23.204.130.D.3
Non-Chartered Financial Institutions	UP(PH)*	UP(PH)*	NP	NP	NP	UP(PH)*	UP(PH)*	NP	NP	UP(PH)*	UP(PH)	23.302.070.F 23.204.110.(B)-6 (4)
Office, Business and Professional	ZC [1]	ZC [1]	AUP*	AUP*	<del>AUP</del> <del>ZC*</del>	ZC [1]	<del>AUP</del> <del>ZC*</del>	AUP*	ZC*	ZC [5]	ZC [6]	23.204.040.(B); 23.204.110.(B)-6 (4); 23.204.130.(D)-(3)
Bar/Cocktail Lounge/Tavern/ Tap Room/Wine Tasting	<del>UP(PH)</del> <del>AUP</del> *	<del>UP(PH)</del> <del>AUP</del> *	<del>UP(PH)</del> <del>AUP</del> *	-- <del>AUP</del> *	NP <del>AUP</del> *	<del>UP(PH)</del> <del>AUP</del> *	<del>UP(PH)</del> <del>AUP</del> *	NP <del>AUP</del> *	<del>UP(PH)</del> <del>AUP</del> *	<del>UP(PH)</del> <del>AUP</del> *	<del>UP(PH)</del> <del>AUP</del> *	23.204.100.B-3 23.204.110.B-2; 23.310
Dance/Exercise/Martial Arts/Music Studio	ZC [1]	ZC [1]	ZC [2]	AUP	AUP [4]	ZC [1]	ZC	AUP	ZC	ZC [7]	ZC	
Food Service Establishment, under 3,000 sq. ft.	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.302.070.(E)
Food Service Establishment,	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	23.302.070.(E)

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
<u>3,000 sq. ft. or larger</u>	*	*	*	*	*	*	*	*	*	*	*	
Group <del>Class-Instruction,</del> <u>Under 3,000 sq. ft.</u>	ZC [1]	ZC [1]	AUP ZC	AUP ZC	AUP ZC	ZC [1]	ZC	AUP ZC	ZC	ZC	ZC	23.204.040-B
<u>Group Instruction, 3,000 sq. ft. or larger</u>	ZC	ZC	AUP	AUP	ZC	ZC	ZC	AUP	ZC	ZC	ZC	
<u>Health and Fitness Facility, Under 7,500 sq. ft.</u>	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
<u>Health and Fitness Facility, 7,500 sq. ft. or larger</u>	ZC	ZC	AUP	AUP	ZC	ZC	ZC	AUP	ZC	ZC	ZC	
<u>Gym/Health Club</u>	See 23.204.040-G											
Alternative Fuel Station	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	NP*	UP(PH)	NP	AUP*	UP(PH)	23.204.110-(B)-4 (2) 23.204.140-(B)-3
Large Vehicle Sales and Rental	AUP	NP	NP	NP	NP	NP	NP	NP	NP	AUP* [81]	NP	23.204.140-(B)-3
Small Vehicle Sales and Service	AUP	NP	NP	NP	NP	UP(PH)*	NP	NP	UP(PH)	UP(PH)*	NP	23.204.100-(B)-5 (3); 23.204.140-(B)-3
Vehicle Parts Store	ZC [1]	NP	ZC [2]	ZC [2]	ZC [2]	ZC [1]	ZC	ZC [2]	NP	AUP* [81]	ZC	
Vehicle Rentals	AUP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	AUP* [81]	NP	23.204.140-(B)-3
Vehicle Repair and Service	AUP	NP	NP	NP	NP	NP	NP	NP	NP	AUP* [81]	NP	
Vehicle Sales, New	AUP	NP	NP	NP	NP	UP(PH)*	NP	NP	UP(PH)	AUP* [81]	NP	23.204.140-(B)-3
Vehicle Sales, Used	AUP	NP	NP	NP	NP	UP(PH)*	NP	NP	UP(PH)	UP(PH)*	NP	23.204.100-(B)-5 (3); 23.204.140-(B)-3; 23.204.140-(D)-4
Cannabis Testing	AUP	AUP	NP	NP	NP	NP	NP	NP	AUP	AUP [81]	NP	
Light Manufacturing	-	-	-	-	-	-	-	-	-	AUP [81]	--	
Wholesale Trade	-	-	-	-	--	-	-	-	-	AUP [81]	--	
<b>Incidental Uses</b>												
Food and Beverage for Immediate Consumption	ZC	ZC	AUP ZC	UP(PH) ZC	UP(PH) ZC	ZC	AUP ZC	UP(PH) ZC	ZC	ZC	ZC	

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Food Service Establishment	See 23.302.070-E											
Food Service Establishment, Under 3,000 sq. ft.	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.310.030
Food Service Establishment, 3,000 sq. ft. or larger	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	23.310.030
Live Entertainment, Unamplified	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Live Entertainment, Amplified	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	
Live Entertainment	See 23.302.070-E											
Retail Sale of Goods Manufactured On-Site	ZC [1]	ZC [1]	ZC [2]	ZC [2]	ZC [2]	ZC [1]	ZC	ZC [2]	ZC	AUP ZC	ZC	
Art/Craft Studio	AUP ZC	AUP ZC	AUP ZC	AUP ZC	AUP ZC	AUP ZC	AUP ZC	AUP ZC	AUP ZC	AUP ZC	ZC [6]	
Public Market, Enclosed	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP [92]	AUP	
Notes: [1]—Change of use of floor area over 3,000 square feet requires an AUP. [2]—Change of use of floor area over 2,000 square feet requires an AUP. [3]—Requires an AUP for uses 3,500 sq. ft. to 7,500 square feet. Requires a Use Permit for uses more than 7,500 sq. ft. [4]—Requires a Use Permit if 5,000 sq. ft. or more. [5]—Requires an AUP for uses 3,000 sq. ft. to 5,000 square feet. Requires a Use Permit for uses more than 5,000 sq. ft. [6]—Requires an AUP for uses 2,500 sq. ft. or greater or 50 ft. wide or greater on Shattuck, between Ward and Russell; Adeline between Russell and the City boundary; on Ashby, east of Adeline; or on the north side of Ashby, west of Adeline. [7]—Requires a Use Permit if 7,500 square feet or more. [8][1] Require a Use Permit if either 5,000 sq. ft. or more of floor area or 10,000 square feet or more of lot area. [9][2] Requires a Use Permit if more than 10,000 sq. ft.												

Section 4. That Berkeley Municipal Code 23.204.040(B) through (F) be amended, to read:

**~~B. Group Class Instruction.~~**

- ~~1. C-NS and C-DMU Districts. When group class instruction in the C-NS or C-DMU districts are located on the ground floor adjacent to a street frontage, storefront windows must include a window display or to be transparent and provide pedestrian viewing at least 10 feet into the storefront area.~~

- 2. ~~C-NS District.~~ Group class instruction uses in the C-NS may not exceed 2,500 square feet.
- 3. ~~C-T District.~~ Group class instruction uses in the C-T district are not permitted on the ground floor.

**C. Gyms and Health Clubs**

1. ~~Permits Required.~~ Table 23.204-5: Gym and Health Club Permit Requirements shows permits required for gyms and health clubs in the Commercial Districts.

**Table 23.204-5: Gym/Health Club/Fitness Studio Permit Requirements**

DISTRICT/USE SIZE	PERMIT REQUIRED [1]
<del>C-C, C-U, C-DMU</del>	
<del>Under 7,500 sq. ft</del>	<del>ZC</del>
<del>7,500 sq. ft. and greater</del>	<del>AUP</del>
<del>C-N, C-E, C-NS, C-SO</del>	<del>AUP</del>
<del>C-SA, C-T, C-AC</del>	<del>ZC</del>
<del>C-W</del>	
<del>Under 7,500 sq. ft</del>	<del>ZC</del>
<del>7,500 sq. ft. and greater</del>	<del>UP(PH)</del>
<p>Note:                      [1] Change of use permit requirements as described in Section 23.204.030.A – Additional Permit Requirements (Change of Use) also apply. In the C-C, C-U, and C-SA districts, a change of use of gross floor area over 3,000 square feet requires an AUP. In the C-N, C-E, C-NS, and C-SO districts, a change of use of gross floor area over 2,000 square feet requires an AUP.</p>	

2. ~~C-DMU District.~~ When located on the ground floor adjacent to a street frontage, storefront windows for a gym and health club in the C-DMU district must include a window display or to be transparent and provide pedestrian viewing at least 10 feet into the storefront area.

**DB. Transparency Requirement for Office Uses.** When office uses shown in Table 23.204-6: Office Uses Subject to Transparency Requirement are located on the ground floor adjacent to a street frontage, storefront windows shall either:

- 1. Include a storefront window display; or

2. Be transparent and provide pedestrian viewing at least 10 feet into the storefront area.

**Table 23.204-6: Office Uses Subject to Transparency Requirement**

OFFICE USE	DISTRICT
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	CN, C-E, C-NS, CT, C-SO, C-DMU
Medical Practitioners	C-T
Office, Business and Professional	CN, C-E, C-NS, C-T, C-SO, C-DMU

**EC. Department Stores.** Table 23.204-7: Department Store Permit Requirements shows permits required for department stores in the Commercial Districts.

**Table 23.204-7: Department Store Permit Requirements**

DISTRICT/USE SIZE	PERMIT REQUIRED <del>[1]</del>
C-SA, C-T	
3,000 sq. ft. or less	ZC
Over 3,000 sq. ft.	AUP
C-E, C-NS, C-SO	
3,000 sq. ft. or less	ZC
Over 3,000 sq. ft.	Not Permitted
C-N	
3,000 sq. ft. or less	AUP
Over 3,000 sq. ft.	Not Permitted
C-C, C-U	
ZC	
C-AC	
3,000 sq. ft. or less	ZC
Over 3,000 sq. ft.	<del>UP(PH)AUP</del>
<p><b>Note:</b>  <del>[1] Change of use permit requirements as described in Section 23.204.030.A Additional Permit Requirements (Change of Use) also apply. In the C-C, C-U, and C-SA districts, a change of use of gross floor area over 3,000 square feet requires an AUP. In the C-N, C-E, C-NS, and C-SO districts, a change of use of gross floor area over 2,000 square feet requires an AUP.</del></p>	

**FD. Drugstores.** The following requirements apply to drugstores in the C-N, CE, C-NS, and C-SO districts.

**1. Where Prohibited.** A new or expanded drugstore is not permitted if it is:

- a. Over 5,000 square feet in gross floor area; and
- b. Within 1,000 feet of any property containing an existing drugstore.

**2. Measurement of Distance.** Distances between drugstores are measured by a straight line from the nearest point of the property line of the parcel on which the drugstore is proposed to the nearest point of the lot line of the lot on which the nearest drugstore is located.

Section 5. That Berkeley Municipal Code 23.204.080(B)(2) be amended to read:

**2. Numerical and Size Limitations.**

- a. Table 23.20420 shows land uses subject to ~~numerical and~~ size limitations in the C-E district.

**TABLE 23.204-20: C-E LAND USE NUMBER AND SIZE LIMITATIONS**

USE	<del>NUMBER LIMIT</del>	MAXIMUM SIZE	PERMIT REQUIRED
Art/Craft Shops, Gift/Novelty Shops, Jewelry/Watch Shops	<del>No limit</del>	1,500 sq. ft.	ZC
Bookstores, Periodical Stands	<del>No limit</del>	2,000 sq. ft.	ZC
<del>Food Service Establishments [1]</del>	<del>25 total</del>	<del>No max.</del>	<del>AUP</del>
Photocopy Stores, Printing, Fax, Magnetic Disk Reproduction Services	<del>No limit</del>	1,000 sq. ft.	ZC
<p><b>Notes:</b>  <del>[1] Excludes food service uses accessory to a food product store. Secondary food service uses associated with all other principal uses are subject to limitations in Table 23.204-20.</del>  <del>Change of use of over 3,000 square feet requires Use Permit</del></p>			

- b. The ZAB may allow a use to exceed the limitations in Table 23.20420 with a Use Permit upon finding that:
  - i. The use will result in the positive enhancement of the purposes of the district; and
  - ii. The use is likely to experience substantial patronage by surrounding residents as indicated by neighborhood resident support, merchant support, marketing surveys, or other information.

Section 6. That Berkeley Municipal Code 23.204.100(B) be amended to read:

1. **General.** See Table 23.204-1: Allowed Uses in the Commercial Districts

~~2. **Alcoholic Beverage Retail Sales.** The sale and service of distilled alcoholic beverages (hard liquor) is not permitted along Adeline Street, south of Ashby Avenue, except that such service is allowed when incidental to meals at full-service restaurants in accordance with Section 23.310—Alcoholic Beverage Sales and Service.~~

~~3. **Bar/Cocktail Lounge/Tavern.** Service of distilled alcoholic beverages is allowed along Adeline Street south of Ashby Avenue only when incidental to seated food service.~~

**42 Mixed-Use Permits Required.**

a. **Zoning Certificate.** A mixed-use project is allowed with a Zoning Certificate if the project:

- i. Complies with all applicable standards in Table 23.20427, Table 23.20428, and Table 23.20429;
- ii. Includes only residential uses above the ground floor; and
- iii. Is less than 5,000 square feet in gross floor area, including any existing floor area incorporated into the project.

b. **Use Permit.** If a mixed-use project does not meet the criteria for approval with a Zoning Certificate as provided above, the project requires a Use Permit and is subject to the findings in Section 23.204.100-(E)— C-SA South Area Commercial District (Permit Findings).

**53. Vehicle Sales.**

a. **Applicability.**

- i. In the C-SA district, small vehicle service is not permitted. Small vehicle sales that are exclusively indoor operations are permitted with a Zoning Certificate. Otherwise, a Use Permit is required.
- ii. All new or relocated vehicle sales in the C-SA district shall be exclusively indoor operations with no outdoor activities and shall comply with the requirements of this subsection.
- iii. Expansions or modifications of existing vehicle sales are:
  - 1. Encouraged to comply with standards in Paragraph c (Standards) below where feasible; and
  - 2. Shall not increase or exacerbate a non-conformity with these standards.

b. **Standards.**

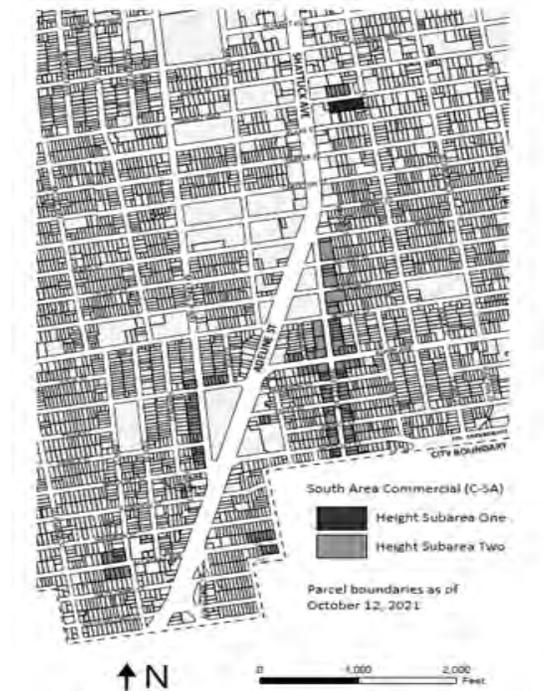
- i. **Street Frontage.** Outdoor vehicle display is permitted only along Shattuck Avenue and Adeline Street and is limited to 30 percent of the lot frontage on those streets.
  - ii. **Area for Outdoor Uses.** A maximum of 40 percent of the lot area may be used for outdoor uses, including but not limited to vehicle display and storage. Adequate landscaping and/or fencing shall be used to filter the view of outdoor uses from the adjacent right-of-way and abutting properties, with the exception of outdoor vehicle display;
  - iii. **Service Entries.** Vehicle and repair service entries may not exceed 20 percent of the primary lot frontage, no entrance may exceed a width of 20 feet. The primary street frontage is the frontage towards which the primary building entrance is oriented.
  - iv. **Transparency.** At least 60 percent of any new building shall be within 10 feet of the right-of-way along the primary street frontage and 60 percent of the street-facing facade shall be comprised of clear glass.
  - v. **Repair Activities.** All vehicle repair activities shall be conducted indoors.
  - vi. **Noise.** All noise-generating equipment and activities, such as vehicle repair, shall be shielded by noise-attenuating materials. Outdoor amplification is not permitted.
  - vii. **Lighting.** Exterior light standards and fixtures shall not be taller than 20 feet, shall achieve uniform light coverage and minimize glare, shall use light cutoffs to control light spillover onto adjacent properties and urban sky glow, and shall use low energy light fixtures consistent with the City's goals for energy efficiency.
  - vii. **Vehicle Storage.** No vehicles shall be stored in the public right-of-way.
- c. **Modification of Standards.** The Zoning Officer may allow modification to standards in Paragraph c (Standards) above with an AUP upon finding that the modification:
- i. Is necessary to facilitate incorporation of an existing structure;
  - ii. Achieve greater consistency with the surrounding street pattern;
  - iii. Buffers impacts to an adjacent residential district; or
  - iv. Is needed to accommodate dealership operations.

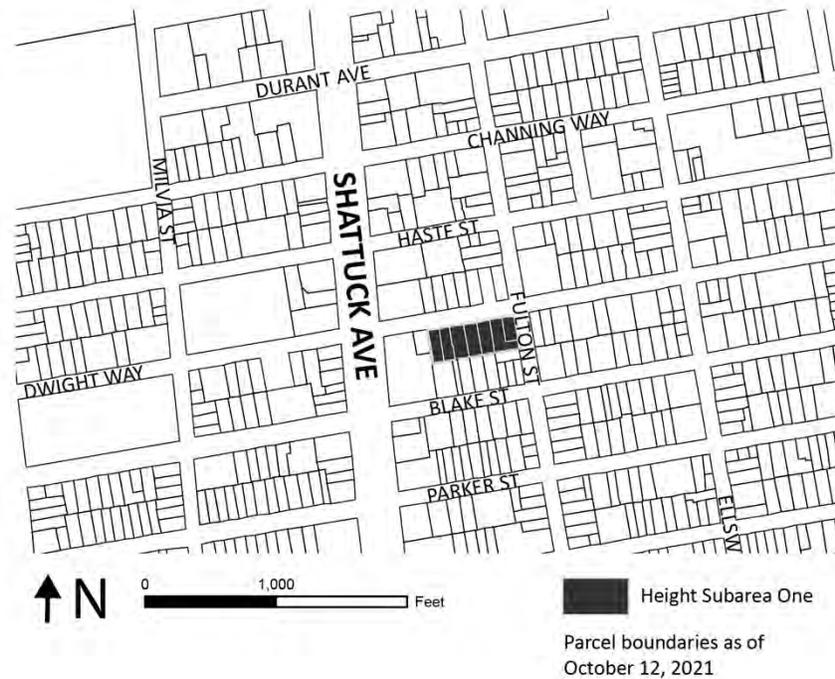
Section 7. That Table 23.204-28 C-SA Maximum Building Heights and Figure 23.204-3 C-SA Building Height Sub-Areas be amended to read:

Table 23.204-28. C-SA Maximum Building Heights

Building Land Use	Maximum Height	
	Subarea <del>1</del> <u>One</u>	Subarea <del>2</del> <u>All other parcels</u>
Non-Residential Uses	36 ft and 3 stories	24 ft and 2 stories
Mixed Use and Residential Only	60 ft and 5 stories [1]	36 ft and 3 stories [1]
[1] In mixed-use buildings, the third story and above must be used for residential purposes entirely.		

Figure 23.204-3. C-SA Building Height Sub-~~Area~~area One





Section 8. That Berkeley Municipal Code 23.204.110(B) be amended to read:

**B. Allowed Land Uses.**

1. **General.** See Table 23.2041: Allowed Uses in the Commercial Districts.

~~2. **Bar/Cocktail Lounge/Taverns.** Service of distilled alcoholic beverages in the C-T district is allowed only when incidental to seated food service.~~

~~3. **Drug Paraphernalia Stores.** Any use involving the sale or distribution of drug paraphernalia is not permitted in the C-T district.~~

~~42. **Fuel Stations.** Alternative fuel and gasoline stations are allowed with Use Permit when located in a parking structure.~~

**3. Residential Use, Ground Floor.** Residential uses are permitted on the ground floor where located behind a commercial use. The ground floor commercial use must meet the following standards:

- a. Occupy a minimum 30-foot depth of the ground floor, as measured from the ground floor street frontage, and
- b. Occupy the full extent of the building frontage, excluding required utilities, driveways, pedestrian access and residential lobby.

~~64. **Office Uses.**~~

a. Table 23.204-31 shows permits required for office uses in the C-T district.

TABLE 23.204-31: C-T OFFICE PERMIT REQUIREMENTS

Building Location	Permit Required	
	First and Second Story	Above Second Story
Adjacent to Bancroft Way	As required by Table 23.204-1	AUP
Not adjacent to Bancroft Way		UP(PH)

b. When office uses are located on the ground floor adjacent to street frontage, the storefront windows must either:

- i. Include a window display; or
- ii. Be transparent and provide pedestrian viewing at least 10 feet into the storefront area.

**75. Upper Story Uses.**

- a. Floor area above the ground floor may be occupied only by a residential or office uses.
- b. A commercial use that is an integral part of a ground floor establishment is permitted on the second story if the use:
  - i. Has no entrances or exits, other than required fire exits, outside of the ground floor space; and
  - ii. Does not exceed the ground-floor area of the use.

Section 9. That Berkeley Municipal Code 23.204.120(A)(2)(e) be amended to read:

- e. Encourage location of ~~late night~~late-night commerce in appropriate areas in Berkeley, such as the downtown area, and allow businesses to address demand for late night service on Solano Avenue by establishing a ~~11:00 p.m.~~12:00 midnight closing time for businesses on Solano Avenue; and

Section 10. That Berkeley Municipal Code 23.204.130(D)(3) be amended to read:

**3. Use Limitations; Findings.** ~~Food service establishments and offices~~Offices on the ground floor adjacent to a street frontage require an AUP. To approve the AUP, the Zoning Officer must find that

- (a) The project meets the purposes of the Arts Overlay District as set forth above; and

- (b) The location, size, type, appearance, and signage of the proposed use will:
- i. Animate and enhance the pedestrian experience on the street; and
  - ii. Be generally open to the public evenings and on weekends, whenever practicable.

Section 11. That Berkeley Municipal Code 23.204.130(E)(7)(a)(iv) be amended to read:

iv. ~~Gym/Health and Fitness Facility Club~~

Section 12. That Berkeley Municipal Code 23.204.150(B)(3)(b) be amended to read:

**b. Active Commercial Uses Defined.** Active Commercial uses are commercial uses which generate regular and frequent foot traffic. Uses include businesses in the following use categories: ~~Retail~~ Retail Uses Sales; Personal and Household Services Uses; Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses; and the following uses: Banks and Financial Services, Retail~~s~~, and Vehicle Parts Stores.

Section 13. That the lines named “Family Day Care Home, Large,” “Family Day Care Home, Small,” “Bar/Cocktail Lounge/Tavern,” “Dance/Exercise/Martial Arts/Music Studio,” “Food Service Establishment,” “Group Class Instruction,” “Gym/Health Club,” and “Food and Beverage for Immediate Consumption,” in Table 23.206-1 Allowed Uses in Manufacturing Districts, within Berkeley Municipal Code 23.206.020, are amended, and lines named “Food Service Establishment, Under 5,000 sq. ft.” “Food Service Establishment, 5,000 sq. ft. or larger,” “Food Service Establishment, Under 20,000 sq. ft.” “Food Service Establishment, 20,000 sq. ft. or larger” “Live Entertainment, Unamplified” and :Live Entertainment, Amplified” are added, to read:

**TABLE 23.206-1: ALLOWED LAND USES IN MANUFACTURING DISTRICTS**

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	MANUFACTURING DISTRICTS				Use-Specific Standards Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	M	MM	MU-LI	MU-R	
<del>Family Day Care Home, Large</del>	NP	NP	ZC*	AUP*	23.206.040.C
<del>Family Day Care Home, Small</del>	NP	NP	ZC*	ZC*	23.206.040.C

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	MANUFACTURING DISTRICTS				Use-Specific Standards Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	M	MM	MU-LI	MU-R	
Bar/Cocktail Lounge/Tavern/ <u>Tap Room/Wine Tasting</u>	NP	NP	NP	See 23.306	
<u>Dance/Exercise/Martial Arts/Music Studio</u>	NP	NP	--	UP(PH)	
<u>Food Service Establishment</u>	See 23.302.070.E				
<u>Food Service Establishment, Under 5,000 sq. ft</u>	--	--	AUP*	AUP*	23.302.070(E)
<u>Food Service Establishment, 5,000 sq. ft. larger</u>	--	--	UP(PH)*	UP(PH)*	23.302.070(E)
Group <u>Class-Instruction</u>	NPZC	NPZC	---	UP(PH)ZC	
<u>Gym/Health and Fitness Facility Club</u>	NP	NP	--	NP	
<b>Incidental Uses</b>					
<u>Food and Beverage for Immediate Consumption</u>	--	AUP [2]	--	--	
<u>Food Service Establishment</u>	AUP [2]	--	AUP [2]	AUP	
<u>Food Service Establishment, Under 20,000 sq. ft</u>	AUP*	AUP*	AUP*	AUP*	23.302.070(E)
<u>Food Service Establishment, 20,000 sq. ft. larger</u>	NP	AUP*	NP	AUP*	23.302.070(E)
<u>Live Entertainment</u>	NP	NP	UP(PH)*	UP(PH)*	23.302.020.D
<u>Live Entertainment, Unamplified</u>	NP	NP	ZC	ZC	
<u>Live Entertainment, Amplified</u>	NP	NP	AUP	AUP	

Section 14. That Berkeley Municipal Code 23.302.020(B) be amended to read:

**B. Hours of Operation.**

1. **Allowed Hours.** Table 23.302-1: Allowed Hours of Operation shows allowed hours of operation for commercial uses in the commercial districts and the MU-R district, unless otherwise restricted by an existing permit.

**2. Hours of Operation Defined.**

a. For retail or customer-serving office commercial uses, hours of operation are those times that the business is open to customer access.

a. For food service establishments, hours of operation include the time that the business is open for customer access to the departure of the last patron. These limitations do not apply to:

i. The delivery, maintenance, security, product preparation and other pre-opening activities, and

ii. Cleanup, shutdown, and other post-closure activities which do not involve presence of customers.

c. For other commercial and manufacturing uses which do not involve customer access, hours of operation are those times that employees are present who are engaged in non-maintenance or security activities.

2.3. **Exceptions.** The City may allow extended hours of operations with the approval of a permit as shown in Table 23.302-1. If more restrictive hours of operation than what is permitted in Table 23.302-1 are imposed as a condition of approval on an existing AUP or UP, the hours may be modified within the district's current limits with approval of an AUP regardless of the original review authority.

**Table 23.302-1: Allowed Hours of Operation**

DISTRICT	ALLOWED HOURS OF OPERATION	PERMIT REQUIRED TO EXTEND HOURS
C-C, C-U, <del>C-NS, C-AC, C-W</del> nodes	7:00 a.m. — 12:00 midnight 6:00 a.m. — 2:00 a.m.	AUP
C-N, C-E, <del>C-NS, C-SO, C-SA, C-W</del> outside nodes, <del>MU-R</del>	7:00 a.m. — 11:00 p.m. 6:00 a.m. — 12:00 midnight	<del>UP</del> AUP
<del>C-W</del> nodes	6:00 a.m. — 12:00 midnight with Zoning Certificate	<del>UP</del>
<del>C-SA</del>	7:00 a.m. — 12:00 midnight Sundays through Thursdays 7:00 a.m. — 12:00 Fridays and Saturday	<del>UP</del>
<del>C-AG</del>	7:00 a.m. — 12:00 midnight Sundays through Thursdays 7:00 a.m. — 2:00 a.m. Fridays and Saturday	<del>UP</del>

C-T, C-DMU between Bancroft Way and the north side of Dwight Way	24 hours per day 7 days a week	N/A
C-T between the south side of Dwight Way and Parker Street	7:00 a.m.—12:00 midnight	AUP
C-DMU	6:00 a.m. and 2:00 a.m.	AUP
MU-R	6:00 a.m. and 10:00 p.m.	AUP

**24. Alcohol Sales in C-T District.** A Use Permit is required in the C-T district for a business selling alcohol for off-site consumption to remain open past midnight. The Use Permit may be approved only if the business’s ABC license does not require sales of alcohol for off-site consumption to cease by midnight. The Zoning Adjustments Board (ZAB) may approve the Use Permit only upon finding that the extended hours will not generate excessive noise, ~~traffic or parking problems~~ affecting the well-being of the residents of the district.

~~3. C-T District Findings. The Zoning Officer may approve an AUP to extend hours of operation in the C-T district upon finding that the extended hours will not generate excessive noise, traffic, or parking problems affecting the well-being of the residents of the district.~~

~~4. Hours of Operation Defined.~~

~~a. For retail or customer-serving office commercial uses, hours of operation are those times that the business is open to customer access.~~

~~b. For food service establishments, hours of operation include the time that the business is open for customer access to the departure of the last patron.~~

~~These limitations do not apply to:~~

~~— The delivery, maintenance, security, product preparation and other pre-opening activities, and~~

~~— Cleanup, shutdown, and other post-closure activities which do not involve presence of customers.~~

~~For other commercial and manufacturing uses which do not involve customer access, hours of operation are those times that employees are present who are engaged in non-maintenance or security activities.~~

Section 15. That Berkeley Municipal Code 23.302.020(D) be removed and that Berkeley Municipal Code 23.302.020(E) be amended to read:

~~D. Live Entertainment -- Permits Required.~~ Live entertainment incidental to a permitted use is allowed as shown in Table 23.302-2.

**Table 23.302-2: Permit Requirements for Live Entertainment**

ZONES	PERMIT REQUIRED	
	AMPLIFIED	UNAMPLIFIED
C-C, C-U, C-SA, C-T, C-SO, C-DMU, C-AC	AUP	ZC
C-N, C-NS, C-W	UP(PH)	ZC
C-E	Not Permitted	ZC
M, MM	Not Permitted	Not Permitted
MU-LI, MU-R	UP(PH)	UP(PH)

**1. Allowed Activities.**

a. ~~In the S-O district, food service establishments may have no live entertainment other than unamplified music, poetry reading, comedy or other quiet activities.~~

b. ~~In the C-NS district, food service establishments may have no live entertainment other than unamplified background music, unless a Use Permit is obtained.~~

**ED. Outdoor Uses.**

1. **Applicability.** This subsection applies to outdoor uses including but not limited to exterior service windows, outside automatic teller machines, and the outside storage of goods, containers and/or materials.
2. **General.** Commercial and manufacturing uses shall be conducted solely within an interior of a building unless:
  - a. The permit as required by Paragraph 3 (Permits Required) is obtained; or
  - b. the outdoor use is specifically allowed by the Zoning Ordinance.
3. **Permits Required.** Table 23.302-2 Permit Requirements for Outdoor Uses shows permits required for uses outside of a building in the Commercial and Manufacturing Districts.
- ~~3. Table 23.302-3: Permit Requirements for Outdoor Uses shows permits required for uses outside of a building in the Commercial and Manufacturing Districts.~~

TABLE 23.302-32: PERMIT REQUIREMENTS FOR OUTDOOR USES

DISTRICT/USE CHARACTERISTICS [1]	PERMIT REQUIRED
All Commercial Districts Except for C-W	
Not abutting a residential district	AUP
Abutting a residential district	UP(PH)
C-W	
Not abutting a residential district and less than 10,000 s. ft.	AUP
Abutting a residential district	UP(PH)
10,000 sq. ft. or more	UP(PH)
M, MM [2]	
Less than 20,000 sq. ft.	ZC
20,000 sq. ft. or more	AUP
MU-LI	
Less than 20,000 sq. ft.	ZC
20,000 to 30,000 sq. ft.	AUP
More than 30,000 sq. ft.	UP(PH)
MU-R	
Not abutting a residential district	AUP
Abutting a residential district	UP(PH)
Notes:	
[1] Size is measured as the lot area of the outdoor activity or storage	
[2] In the M and MM district permits are required only for activity or storage not ancillary to a permitted use.	

**54. C-W District.** In the C-W district, uses outside of a building must be permitted or incidental to permitted use in the district.

**65. M, MM, MU-LI Districts.** Outside uses in the M, MM, and MU-LI districts may not abut a residential district.

Section 16. That Berkeley Municipal Code 23.302.070(E) be amended to read:

**E. Food Service Establishments.**

~~1. **Maximum Size in R-SMU.** Food service establishments in the R-SMU district may not exceed 1,200 square feet.~~

2. ~~Permits Required in Commercial Districts and in the R-BMU.~~ 6 shows permits required for food service establishments in the commercial districts and in the R-BMU.

**Table 23.302-6: Permit Requirements for Food Service Establishments**

DISTRICT/USE SIZE	PERMIT REQUIRED
<del>C-C, C-U, C-T, C-W</del>	
<del>Under 1,500 sq. ft</del>	<del>ZC</del>
<del>1,500 sq. ft. or more</del>	<del>AUP</del>
<del>C-N, C-NS, C-SA, C-SO</del>	
<del>Under 1,000 sq. ft</del>	<del>ZC</del>
<del>1,000 sq. ft. or more</del>	<del>AUP</del>
<del>C-AC, South Shattuck and North Adeline Subareas</del>	
<del>3,000 sq ft or less</del>	<del>ZC</del>
<del>Over 3,000 sq ft</del>	<del>AUP</del>
<del>C-AC, South Adeline Subarea</del>	
<del>1,500 sq ft or less</del>	<del>ZC</del>
<del>Over 1,500 sq ft</del>	<del>AUP</del>
<del>R-BMU, North Berkeley BART Station</del>	<del>UP(PH)</del>
<del>C-E</del>	<del>AUP [1]</del>
<del>C-DMU</del>	
<del>Under 3,000 sq. ft outside the Arts District Overlay</del>	<del>ZC</del>
<del>3,000 sq. ft. or more</del>	<del>AUP</del>
<del>Any size within the Arts District Overlay</del>	<del>AUP [2]</del>
Notes:	
[10]—All food service uses in the C-E district require an AUP and may not be considered as an incidental use except when accessory to a food product store.	
[11]—See 23.204.130.D.3 for required findings.	

3. ~~Notification of Decision.~~ Food service establishments requiring an AUP in the C-N, C-E, C-NS, C-SA, C-T, C-SO districts must provide public notification of decision (NOD) within a 300-foot radius of the subject property.

4. ~~Carry Out Limitations in C-U District.~~ Food service establishments in the C-U district that exclusively sell food for offsite consumption are not permitted at any

~~location on University Avenue between Oxford Street and Martin Luther King Jr. Way until a Downtown Retail Plan is adopted by the City Council.~~

~~5.1. **Outdoor Cafe Seating.**~~

~~a. Outdoor cafe seating on private property outside of the public right-of-way is allowed in the commercial districts with the following permits:~~

- ~~i. Zoning Certificate when seating does not abut a residential district.~~
- ~~ii. AUP when seating abuts a residential district.~~

~~b. Outdoor seating is not permitted for food service establishments in the MU-LI District.~~

~~c.b. Sidewalk cafe seating within the public right-of-way is subject to 23.302.060 (Sidewalk Cafe Seating).~~

~~6.2. **Building Openings – C-E and C-NS Districts.** Food service establishments in the C-E and C-NS districts may have no openings, other than fixed windows and required fire exits, within 50 feet of a residential district.~~

~~7.3. **C-W District Requirements.**~~

~~a. Food service drive-through is not permitted on properties fronting San Pablo Avenue.~~

~~b. To approve a Use Permit for a food service establishment on a lot with frontage on San Pablo Avenue, the ZAB must find that:~~

~~i. The project does not conflict with the goals and policies of the C-W district;~~

~~ii. The location, size, appearance and signage of the project will not adversely affect the San Pablo Avenue corridor;~~

~~iii. The project supports pedestrian-oriented development;~~

~~iv. The project is designed to protect the residential character of surrounding neighborhoods from the adverse impacts of fast food development, including, but not limited to increased traffic, litter, and noise; and~~

~~v. For projects which include construction of new buildings, the project design:~~

~~1. Provides intensity of development which does not underutilize the property; especially at or near intersections of major streets;~~

~~2. Provides pedestrian scale and siting; and~~

~~3. Incorporates continuity in street facades.~~

~~8. Permits Required in Manufacturing Districts. Table 23.3028 shows permits required for food service establishments in the manufacturing districts.~~

**TABLE 23.302-7: PERMIT REQUIREMENTS FOR FOOD SERVICE ESTABLISHMENTS IN MANUFACTURING DISTRICTS**

USE TYPE AND SIZE	DISTRICT			
	M	MM	MU-LI	MU-R
<b>Incidental Use</b>				
Under 20,000 sq. ft.	AUP [1]	AUP [1,2]	AUP [1]	AUP [1]
20,000 sq. ft. or more	-	-	-	AUP
<b>Carry-Out Food Service (Primary Use)</b>				
Under 5,000 sq. ft.	-	-	AUP	AUP
5,000 sq. ft. or more	-	-	UP	UP
<b>Quick-Service Restaurant (Primary Use)</b>				
Under 5,000 sq. ft.	-	-	AUP	AUP
5,000 sq. ft. or more	-	-	UP	UP
<b>Full-Service Restaurant (Primary Use)</b>				
	-	-	UP	UP
<b>Notes:</b>				
[12]—Outdoor food service is not permitted.				
[13]—Limited to food or beverage for immediate consumption.				

**9.4. MU-LI and MU-R District – Findings.**

- a. To approve an AUP ~~or Use Permit~~ to establish or expand a food service establishment in the MU-LI or MU-R district, the review authority must find that the establishment of the use, given its size, location, physical appearance and other relevant characteristics, will not have a significant detrimental impact on the industrial character of the area.
- b. ~~To approve an AUP for a food service establishment less than 5,000 square feet, the Zoning Officer must find that a substantial portion of the food consists of goods manufactured on site.~~

Section 17. That Berkeley Municipal Code 23.302.070(G) and (H) be amended to read:

**G. Parking Lot/Structure.**

~~1. Permits Required.~~

2.1. **Permits Required.** Table 23.302-9-7 shows required permits for the exclusive or primary use of a lot for off-street parking spaces.

**TABLE 23.302-97: PERMIT REQUIREMENTS FOR PARKING LOTS/STRUCTURES**

DISTRICT	PERMIT REQUIRED
<b>Residential Districts</b>	
R-3	Use Permit for all parking lots and structures. [1]
R-S, R-SMU, R-BMU	Use Permit for parking structures only. Parking lots are not permitted, except on lots between Acton Street and Virginia Gardens and between Peralta Avenue and Northside Avenue in the R-BMU.
All other residential districts	Use Permit for all parking lots and structures.
<b>Commercial Districts</b>	
C-C, C-U	Zoning Certificate for parking lots and structures with 5 spaces or fewer. Use Permit for more than 5 spaces.
C-SO	AUP for parking lots and structures with 5 spaces or fewer. Use Permit for more than 5 spaces.
C-DMU	AUP for parking lots with 8 spaces or fewer. Use Permit for all parking structures. Lots with more than 8 spaces not permitted.
C-N, C-E, C-NS, C-SA	Use Permit for all parking lots and structures.
C-T	Use Permit for all parking structures. All parking lots not permitted.
C-W	AUP for parking lots and structures with 10 spaces or fewer. Use Permit for parking lots and structures with more than 10 spaces.
<b>Manufacturing Districts</b>	
M, MM	AUP for parking lots and structures with 10 or fewer spaces exclusively for uses in the district. Use Permit for parking lots and structures with any number of spaces not exclusively for uses in the district.
MU-LI	Zoning Certificate for parking lots and structures with 10 or fewer spaces exclusively for uses in the district. AUP for parking lots and structures with 11 spaces or more exclusively for uses in the district. Use Permit for parking lots and structures with any number of spaces not exclusively for uses in the district.
MU-R	Zoning Certificate for parking lots and structures exclusively for uses in the district. Use Permit for parking lots and structures not exclusively for uses in the district.

Notes:

[1] Parking lots and structures in the R-3 district are not permitted within the Southside Plan area

~~3.2.~~ **Residential District Standards.** See 23.322.110– Parking Lots in Residential Districts for standards that apply to the exclusive or primary use of a lot for off-street parking spaces in a residential district.

**H. Residential Use, Ground-Floor Units.**

1. Southside Plan Area. In the R-3, R-S, R-SMU, and C-T districts within the Southside Plan boundaries, individual unit entries located within six feet of the front property line shall be at least 18 inches above the finished grade of the adjacent public frontage.

I. **Senior Congregate Housing.** Table 23.302-~~10-8~~ shows permits required for senior congregate housing.

**TABLE 23.302-~~108~~: PERMIT REQUIREMENTS FOR SENIOR CONGREGATE HOUSING**

PROJECT	PERMIT REQUIRED
Change of use from an existing dwelling unit to accommodate six or fewer people	ZC
Change of use from an existing dwelling unit to accommodate seven or more people	AUP
New construction to accommodate any number of people	UP(PH)

Section 18. That Berkeley Municipal Code 23.310.020 be amended to read:

**A. Applicability.**

1. This section applies to any application to begin ~~or increase~~ alcoholic beverage sales or service, excluding ~~beer and wine~~ alcoholic beverage service incidental to a food service establishment ~~in a Commercial District~~ (see 23.310.030 (Alcoholic Beverage Service When Incidental to a Food Service)).

~~2. As used in this section, an increase in alcoholic beverage sales or service includes, but is not limited to:~~

~~a. Adding the sales or service of distilled spirits to any existing sales or service of beer and/or wine;~~

~~b. Extending the hours of operation of any establishment that sells or serves any alcoholic beverage; and~~

~~c. Adding to the capacity, floor area, or shelf space devoted to alcoholic beverages of any establishment that sells or serves any alcoholic beverages.~~

~~3. An increase in alcoholic beverage sales or service does not include extending the hours of operation of any food service establishments with incidental beer and/or wine service.~~

**B. Permit Required.** ~~A Use Permit is required to begin or increase alcoholic beverage sales or service in any way.~~

~~1. An Administrative Use Permit is required to begin service of alcoholic beverages, except as provided in 23.310.030 (Alcoholic Beverage Service When Incidental to Food Service).~~

~~4.2. To increase sales and service of alcoholic beverages, an existing Administrative Use Permit or Use Permit may be modified with an AUP regardless of the original review authority.~~

**C. Application – List of Nearby Establishments.** ~~As part of an application to begin or increase alcoholic beverage sales or service, the applicant must provide a list of all establishments within a 1,000-foot radius which are in the same category of alcoholic beverage sales or service, as defined by the California Department of Alcoholic Beverage Control.~~

**DC. Findings of Public Convenience or Necessity.** ~~To approve a permit for alcoholic beverage sales or service, the decision-making body must make the following findings: If the proposed use is within a 1,000-foot radius of the site of a use that is in the same category of alcoholic beverage sales or service, excluding food service establishments with incidental service of beer and/or wine, the Zoning Adjustments Board (ZAB) may approve the application~~

~~1. The number of alcoholic beverage sales licensees in the census tract does not exceed the limit set by the Department of Alcoholic Beverage Control, as defined in California Business and Professions Code Section 23958.4, excluding Food Service Establishments with incidental alcohol service; and~~

~~4.2. At least one of the following: only if it makes all of the following findings:~~

~~a. The proposed establishment will promote the City's economic health, contribute to General Plan or area plan policies, or further the district purpose.~~

~~b. The economic benefits associated with the establishment could not reasonably be achieved without the proposed alcohol sales or service.~~

~~b. c. The applicant has operated a licensed establishment that has not been the subject of violations regarding alcohol in the State of California, or violations of public safety or nuisance statutes or regulations in Berkeley, as verified by the Police Department, such violations do not indicate a high likelihood of further~~

~~violations and/or detrimental impacts from the proposed establishment. In making this finding, the ZAB decision-making body may consider the number, frequency, and severity of prior violations, the time elapsed since the last violation, and other relevant factors.~~

~~4. If the proposed establishment is within 1,000 feet of any public park or public school, the ZAB has taken into consideration the effect of the proposed establishment upon such sensitive public uses.~~

~~3. If the number of alcoholic beverage sales licenses in the census tract exceeds the limit set by the Department of Alcoholic Beverage Control; the decision-making body must find that the public convenience or necessity would be served by approving alcohol sales at the proposed location for any two or more of the following reasons:~~

~~a. The proposed establishment will promote the City’s economic health, contribute to General Plan or area plan policies, or further the purposes of the district.~~

~~b. The economic benefits associated with the establishment could not reasonably be achieved without the proposed alcohol sales or service.~~

~~c. The sale of alcoholic beverages will enhance recreational or entertainment opportunities in the area.~~

~~d. The sale of alcoholic beverages complements the sale of other goods and merchandise at the location.~~

~~e. The issuance of a license at the proposed location will improve the convenience of area residents and visitors who purchase alcoholic beverages.~~

~~4. The Police Department has reported that the proposed establishment would not be expected to add to crime in the area.~~

Section 19. That Berkeley Municipal Code 23.310.030 be amended to read:

A. **Permits Required.** Table 23.310-1 shows permits required for alcoholic beverage service when incidental to a food service establishment. If more restrictive requirements than what is permitted in Table 23.310-1 are imposed as a condition of approval on an existing AUP or UP, the use may be modified with an AUP regardless of the original review authority.

**Table 23.310--1: Permits Required for Alcoholic Beverage Service**

District	Permit Required Based on Type of Beverages Served When Incidental to Food Service	
	Beer and Wine	Distilled Spirits
R-SMU	UP(PH)	UP(PH)

District	Permit Required Based on Type of Beverages Served When Incidental to Food Service	
	Beer and Wine	Distilled Spirits
<u>R-BMU</u>	<u>ZC</u>	<u>UP (PH)</u>
All Commercial Districts, <del>except C-AC and the R-BMU District</del>	ZC	UP(PH), <u>AUP</u>
<u>C-AC</u>	<u>ZC</u>	<u>AUP</u>
MU-LI, MU-R	<u>UP(PH), <u>AUP</u></u>	<u>UP(PH), <u>AUP</u></u>

**B. Use Limitations.**

- ~~1. **R-SMU District.** In the R-SMU district, alcoholic beverage service is allowed only for full-service restaurants. Alcoholic beverage service is not allowed for carry out food stores and quick-service restaurants.~~
- ~~2. **Commercial Districts.** In Commercial Districts, beer and wine service is allowed by right when for on-site consumption with seated food service.~~
- ~~3. **C-NS and R-BMU Districts.** In the C-NS district, distilled spirit service is allowed only for full-service restaurants. Distilled spirit service is not allowed for carry-out food stores and quick-service restaurants.~~
- ~~4. **C-T and C-SO Districts.** In the C-T and C-SO districts, distilled spirit service is allowed only for on-site consumption with seated food service.~~
- ~~5. **C-AC District.** In the C-AC district, distilled spirit service is allowed along Adeline Street south of Ashby Avenue only for on-site consumption with seated food service.~~

**CB. Incidental Beer and Wine Service Standards.** The following standards apply to beer and wine service incidental to a food service establishment, ~~in a Commercial District.~~

1. **Licensing.**
  - a. The food service establishment shall comply with all applicable regulations of the California Department of Alcoholic Beverage Control.
  - b. An operator of the licensed establishment may not have a prior licensed establishment that was the subject of verified complaints or violations regarding alcohol, public safety, or nuisance statutes or regulations before issuance or transfer of a business license at this location.
2. **Service.**

- a. Beer and wine beverage service shall be incidental to the primary food service use.
- b. Beer and wine service incidental to seated food service shall only be allowed at a bona fide eating place making actual and substantial sales of meals as determined and required by the California Department of Alcoholic Beverage Control.
- c. The sale of beer and wine for off-site consumption is not permitted.
- ~~d. Employees may not serve beer or wine to patrons who appear to be inebriated or otherwise unable to behave in an orderly manner upon consuming alcohol.~~
- ~~e. All beer and wine served to patrons must be served in durable restaurant tableware. Beer or wine may not be distributed in its original bottle or can, or in any other potentially disposable container.~~
- ~~f. There shall be no bar or lounge area upon the licensed premises maintained for the sole purpose of sales, service, or consumption of alcoholic beverages directly to patrons for consumption.~~
- ~~g.d.~~ Hours of operation are subject to review and amendment by the review authority ~~Zoning Officer or the ZAB~~ as necessary to avoid detriment to the neighborhood or to achieve conformance with revised City of Berkeley standards or policies.

### 3. Operation.

- a. The food service establishment must operate at least five days a week.
- b. The service of beer and wine shall be limited to normal meal hours (per California Department of Alcoholic Beverage Control) during the food service establishment's hours of operation.
- c. During ~~operating the food service establishment's~~ hours of operation, ~~100 percent of the service~~ all customer accessible ~~areas~~ shall be ~~designed and used~~ available for meal service and the food service establishment must possess the necessary utensils, and condiment dispensers with which to serve meals to the public.
- ~~d. At no time shall the operator rent the restaurant space to a third party.~~
- ~~e.d.~~ The owner or operator of the establishment shall take reasonable measures to prevent disturbances by patrons in the immediate vicinity. Such measures shall include:
  - i. Signs reminding patrons of nearby residences and requests not to congregate or loiter near such residences nor operate vehicles in a noisy manner on residential streets; and

ii. Surveillance to public areas near the establishment, keeping public areas free of trash and litter, providing lighting, and otherwise preventing conduct that might disturb the peace and quiet of residences in the vicinity.

~~f.e.~~ The operator shall assume reasonable responsibility for ensuring that patrons do not block the entrance or interfere with pedestrian activity on the adjacent public sidewalk.

~~g.f.~~ The applicant shall establish cash handling procedures to reduce the likelihood of robberies and theft.

#### 4. Advertising.

~~a. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior constitute a violation of this requirement. Establishments shall comply with Municipal Code Chapter 20.67 (Alcohol Product Advertising)~~

~~b. Alcohol dispensing facilities and signs advertising alcoholic beverages may not be visible from the public right-of-way.~~

#### 5. Training.

a. The operator shall finish a Crime Prevention through Environmental Design (CPTED) survey before beginning alcohol service.

b. All employees selling and/or serving beer and wine, or directly supervising such sales and/or service, shall comply with Municipal Code Section 9.84.030 (Responsible Beverage Service Training) and finish the Licensee Education on Alcohol and Drugs (LEAD) program, or another equivalent program offered or certified by the California Department of Alcoholic Beverage Control within 90 days of employment at the establishment. Employees who have finished the course within the last 12 months are exempt from this requirement.

Section 20. That Berkeley Municipal Code 23.324.040(B)(2)(b) be amended to read:

b. **Uses with Major Investments.** Lawful nonconforming ~~full or quick service restaurants~~ food services establishments with cooking or food preparation facilities, gas/auto fuel stations, theaters, manufacturing plants with specifically designed fixed facilities and other uses which represent a major investment in physical plant or facilities shall not be considered or declared terminated, regardless of the duration of non-use, unless:

i. Such fixed structures, equipment, or facilities are removed; or

- ii. Other uses could not be established without major removal of or extensive remodeling or replacement of structures associated with the previous established use.

Section 21. That Berkeley Municipal Code 23.502.020(B)(4) be amended to read:

- 4. **Bar/Cocktail Lounge/Tavern/Tap Room/Wine Tasting.** A business devoted to serving alcoholic beverages for consumption by guests on the premises and in which the serving of food is ~~only~~ incidental to the consumption of such beverages.

Section 22. That Berkeley Municipal Code 23.502.020(D) be amended to read:

D. **“D” Terms.**

- ~~1. **Dance/Exercise/Martial Arts/Music Studio.** An establishment in which customers assemble for group exercises, dancing, self-defense training, aerobics, choral or musical instrument instruction, other movement drills for learning, rehearsal or non-audience performances.~~
- 2.1. **Deck.** An unenclosed structure, usually made of wood, built to provide a solid continuous surface for outdoor use and/or access to a door, which is accessible from the ground level, directly or from a connecting stairway and is separated from the ground by an air space.
- 3.2. **Demolition.** A building or enclosed structure shall be considered demolished for the purposes of this chapter when, within any continuous 12-month period, such building or enclosed structure is destroyed in whole or in part or is relocated from one lot to another. For purposes of this definition, destroyed in part means when 50 percent or more of the enclosing exterior walls and 50 percent or more of the roof are removed. Removal of facades or portions of facades requires Design Review.
- 4.3. **Density.** See 23.106.100 - Residential Density
- 5.4. **Density Bonus.** See 23.332.020 (Definitions).
- 6.5. **Department.** The Planning and Development Department of the City of Berkeley or its successor administrative unit.
- 7.6. **Department Store.** A retail store selling several kinds of merchandise, which are usually grouped into separate sections, including but not limited to, apparel, housewares, household hardware, household appliances, household electronics and gifts.
- 8.7. **Dormer.** A projection built out from a sloping roof, usually housing a vertical window or ventilating louver. See also 23.304.110 (Dormers).

- 9.8. \_\_\_\_\_ Dormitory.** A building providing group living accommodations, occupied by individuals not sharing a common household, characterized by separate sleeping rooms without individual kitchen facilities and containing congregate bath and/or dining facilities or rooms.
- 10.9. \_\_\_\_\_ Drive-in Uses.** A use where a customer is permitted or encouraged, either by the design of physical facilities or by the service and/or packaging procedures offered, to be served while remaining seated within an automobile. This use includes drive-through food service establishments, financial services (banks), and automatic carwashes.
- 11.10. \_\_\_\_\_ Driveway.** A paved, vehicular accessway connecting an off-street parking space or parking lot with a public or private street.
- 12.11. \_\_\_\_\_ Drug Paraphernalia.** As defined in California Health and Safety Code Section 11364.5(d).
- 13.12. \_\_\_\_\_ Drugstore.** A retail establishment where the profession of pharmacy is practiced and/or where licensed prescription drugs and general merchandise are offered for sale. A food products store with a pharmacy is not a drugstore.
- 14.13. \_\_\_\_\_ Dry Cleaning and Laundry Plants.** A place where clothes are dry cleaned, dyed and/or laundered as part of a commercial business, whether or not such clothes were deposited by a customer at that location, or transported from another location, as part of a service. This use includes all establishments subject to Section 19233 of the State of California Business and Professions Code, regulating Dry Cleaning Plants, but excludes laundromats and cleaners as defined in this chapter.
- 15.14. \_\_\_\_\_ Duplex.** A building or use of a lot designed for, or occupied exclusively by, two households.
- 16.15. \_\_\_\_\_ Dwelling Unit.** A building or portion of a building designed for, or occupied exclusively by, persons living as one household.

Section 23. That Berkeley Municipal Code 23.502.020(F) (11) be amended to read:

**11. Food Service Establishments.** An establishment which in whole or in part prepares food or beverages for immediate consumption on or off the premises.

~~**a. Carry Out Food Store:** A store which serves food or non-alcoholic beverages for immediate consumption not on the premises, but usually in the vicinity of the store. This use is usually characterized as an establishment which serves food altered in texture and/or temperature on a customer demand basis, puts such food in non-sealed packages or edible containers, requires payment for such food before consumption, and provides no seating or other physical accommodations for on-premises dining. Examples of this use include~~

~~delicatessens and other stores without seating which sell doughnuts, croissants, ice cream, frozen yogurt, cookies, whole pizzas and sandwiches. This use excludes bakeries and food products stores.~~

~~**b. Quick Service Restaurant:** An establishment which serves food or beverages for immediate consumption either on the premises, or to be taken out for consumption elsewhere. This use is usually characterized as an establishment in which food is cooked on a customer-demand basis, payment is required before consumption, limited or no able service is provided (no waiters), and seating or other physical accommodations for on-premises customer dining is provided. Examples of this use include establishments selling primarily hamburgers or other hot or cold sandwiches, hot dogs, tacos and burritos, pizza slices, fried chicken, or fish and chips.~~

~~**c. Full-Service Restaurant:** An establishment which serves food or beverages for immediate consumption primarily on the premises, with only a minor portion, if any, of the food being taken out of the establishment. This use is characterized as an establishment in which food is stored, cooked or prepared on the premises on a customer-demand basis, which requires payment after consumption, and provides seating and tables for on-premises customer dining, and may provide with table service (waiters).~~

Section 24. That Berkeley Municipal Code 23.502.020(G)(6) be amended to read:

6. **Group Class Instruction.** An establishment that offers specialized programs in personal growth, and development, and instruction in artistic, cultural, and academic pursuits, including music and choral schools, performing arts, arts and crafts, cooking, tutoring, martial arts and self-defense training. Excludes spaces designed exclusively for public performance. ~~Includes music studios, drama schools, dance academies, art schools, tutoring schools, and instruction in other cultural and academic pursuits.~~

Section 25. That Berkeley Municipal Code 23.502.020(G)(9) be removed:

9. **Gyms and Health Clubs.** ~~An indoor facility where exercise equipment, classes and related activities related to personal health and fitness are available to paying customers. Excludes parks/playgrounds.~~

Section 26. That Berkeley Municipal Code 23.502.020(H)(2) – (11) be amended to read:

2. **Health and Fitness Facility.** A facility where exercise equipment, swimming pools, group or aerobic classes (including yoga and Pilates) and other activities related to person health and fitness are available to customers or members. Excludes park/playground.

**23. Hedge.** Any line or row of plants, trees or shrubs planted in a continuous line to form a dense thicket or barrier.

**34. Height of Building, Average.** See 23.106.090.A (Average Building Height).

**45. Height of Building, Maximum.** See 23.106.090.B (Maximum Building Height).

**56. Home Occupation.** A business use conducted on property developed with a residential use, which is incidental and secondary to the residential use, does not change the residential character of the residential use, is limited so as not to substantially reduce the residential use of the legally established dwelling, Accessory Dwelling Unit, Accessory Building or Group Living Accommodation room and is operated only by the residents of the subject residence.

There are three classification of Home Occupations. For the purposes of this section, a "customer" is considered a single paying customer, but may include more than one person receiving the services at the same time:

(1) Class I Home Occupation--Involves no more than five customer visits per day, with no more than four persons receiving services at a time. This class does not allow shipping of goods directly from the subject residence.

(2) Class II Home Occupation--Involves no more than ten customer visits per day, with no more than four persons receiving services at a time and no more than one non-resident engaging in business-related activities on-site. This class does not allow shipping of goods directly from the subject residence.

(3) Class III Home Occupation--Involves more than ten customer visits per day, with no more than four persons receiving services at a time and no more than one non-resident engaging in business-related activities on-site and/or involves shipping of goods directly from the subject residence.

**67. Hospital.** A facility for in-patient medical care licensed under California Administrative Code, Title 17, Section 237 or 238.

**78. Hot Tub.** A tub or small pool, usually made of wood or fiberglass, in which heated water is maintained for recreational or therapeutic activities, including, but not limited to, jacuzzis, whirlpools and spas.

**89. Hotel, Residential.** A type of group living accommodations which provides rooms for rent for residential purposes, including single residential occupancy (SRO) rooms.

**910. Hotel, Tourist.** A building with sleeping rooms used, designed, or intended for occupancy by transient guests for a period not to exceed 14 consecutive days.

This use includes inns, bed and breakfasts (B&Bs), and hostels, and excludes building with residential hotel rooms and dwelling units.

**4011. Household.** One or more persons, whether or not related by blood, marriage or adoption, sharing a dwelling unit in a living arrangement usually characterized by sharing living expenses, such as rent or mortgage payments, food costs and utilities, as well as maintaining a single lease or rental agreement for all members of the household and other similar characteristics indicative of a single household.

**4412. Household Income, Gross.** The income of all adult members of the household as determined by the guidelines used by the Berkeley Housing Authority for its administration of the Section 8 Rental Subsidy Program. For purposes of this definition, household is the same as Family in the federal Section 8 Existing Housing Program or its future equivalent. Classification of Households, based on income, shall be based on the following percentages of the Oakland Primary Metropolitan Statistical Area (PMSA) statistical figures for income of the most recent U.S. Census that are available:

- (a) *Low Income Household.* A household whose gross income is greater than 80 percent and less than 100 percent of the median income.
- (b) *Lower Income Household.* A household whose income is no greater than 80 percent and above 50 percent of the median income.
- (c) *Very Low Income Household.* A household whose gross income is 50 percent or less of the median income.

Section 27. That Berkeley Municipal Code 23.502.020(S)(31) be amended to read:

31. **Studio.** See Art/Craft Studio ~~and Dance, Exercise, Martial Arts or Music Studio.~~

Section 28. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



Planning and Development Department  
Land Use Planning Division

STAFF REPORT  
October 4, 2023

TO: Members of the Planning Commission

FROM: Justin Horner, Associate Planner

SUBJECT: Zoning Amendments for Berkeley Business Public Hearing

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### RECOMMENDATION

Planning Commission is asked to hold a public hearing, receive and provide comment on the proposed Zoning Amendments for Berkeley Business (“proposed zoning amendments”), and make a recommendation for consideration by the City Council.

### SUMMARY

In response to City Council referrals and recommendations from the Planning Commission’s Zoning Amendments for Berkeley Business Subcommittee, staff from the Office of Economic Development (OED) and the Land Use Planning Division (LUP) are proposing zoning amendments (**Attachment 1**) targeted at supporting businesses, particularly small businesses with fewer than 50 employees, in commercial, manufacturing and the Residential BART Mixed Use (R-BMU) and Residential Southside Mixed Use (R-SMU) zoning districts.

On June 7, 2023, the Planning Commission heard a presentation and held a discussion on proposed policy changes and zoning amendments (**Attachment 2**). At that meeting, the Planning Commission appointed a Subcommittee, which met on June 28, 2023 and August 23, 2023, to review the draft proposed ordinance in detail. The proposed ordinance is included as **Attachment 1** to this report. The policy rationale for each of these zoning amendments is discussed at length in the June 7, 2023 Planning Commission staff report. Changes made subsequent to the June 7, 2023 Planning Commission meeting are discussed in detail below.

### FISCAL IMPACTS OF RECOMMENDATION

As noted in the June 7, 2023 Planning Commission report, the proposed amendments are intended to simplify the planning review process for business activities, including new business starts and expansions. Therefore, the proposed amendments may result in a modest increase in business license tax and sales tax revenues due to increased

business activity. In addition, the proposed amendments may result in a modest decrease in staffing-related expenditures and land use permitting fee collections, as more uses would be permitted “by right” rather than through a discretionary permitting process.

### CURRENT SITUATION AND ITS EFFECTS

The Zoning Ordinance has evolved over many decades to reflect Berkeley's changing values and the dynamic landscape of property development and land use. Its requirements are intended to guide the city's growth while providing opportunities for feedback from residents, business owners, and commercial district and neighborhood associations.

OED staff has observed a specific challenge encountered by small, independent enterprises—the intricate path of maneuvering through the permit review procedure, and associated timelines and financial implications.

In order to better accommodate today's small, independent enterprises, OED staff propose a series of amendments. While they would apply to businesses of all sizes, these proposed zoning amendments aim to establish a streamlined, cost-effective, and expedited process tailored to smaller businesses. These changes further the City of Berkeley's Strategic Plan goals to "foster a dynamic, sustainable, and locally-based economy" and "provide excellent, timely, easily- accessible service and information to the community," while honoring the city's commitment to public participation and ensuring that new uses are compatible with neighboring land uses.

### BACKGROUND

As detailed in the June 7, 2023 Planning Commission report, the proposed zoning amendments reflect policy changes that are summarized in Table 1 Referral Actions and Zoning Amendment Proposals. The first six proposed zoning amendments reflect specific referred actions from City Council, while the second set of eight proposed zoning amendments reflect staff-initiated changes that are consistent with the direction and intent of City Council referrals. Table 1 also includes a column which indicates which Section(s) of the proposed ordinance (**Attachment 1**) include changes related to the indicated referral actions. **Attachment 1** also includes comment bubbles for each Section of the proposed ordinance to indicate which of the items in Table 1 are referred to therein.

**Table 1 Referral Actions and Zoning Amendment Proposals**

	Policy Change	Proposed Zoning Change	Ordinance Sections (Attachment 1)
<b>CITY COUNCIL REFERRALS</b>			
1.	<p><b>Group Class Instruction.</b> Allow Group Class Instruction with a Zoning Certificate (ZC) in the C-N, C-E, C-NS and C-SO zoning districts. (Council referral dated 10/15/2019).</p> <p>Revise definitions of “Dance/Exercise/Martial Arts/Music Studio”, “Group Class Instruction”, and “Gyms and Health Clubs.”</p>	<ul style="list-style-type: none"> <li>Removed “Dance/Exercise /Martial Arts/Music Studio” use and revised the definition of “Group Class Instruction” (simplified to “Group Instruction”) to include it. (Section 23)</li> <li>Replaced “Gyms and Health Clubs” use with new “Health and Fitness Facility” use and definition. (Section 25)</li> <li>Changed permit requirements and size thresholds. (Sections 1, 2 and 3)</li> <li>Removed ground floor transparency requirement for gyms in the C-DMU, for customer privacy. (Section 4)</li> <li>Conforming technical edits, e.g. renumbering and references.</li> </ul>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>11</p> <p>13</p> <p>22</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p>
2.	<p><b>Incidental Distilled Spirits.</b> Permit the sale of Distilled Spirits that are incidental to a Food Service Establishment with an Administrative Use Permit (AUP), subject to performance standards, in all commercial zoning districts and the MU-LI and MU-R zoning districts. (Council referral dated 10/15/2019, and Council referral dated 12/4/2018)</p>	<ul style="list-style-type: none"> <li>Revised permit requirements. (Section 18)</li> </ul>	<p>19</p>
3.	<p><b>Stand-Alone Beer and Wine.</b> Permit stand-alone Beer and Wine Sales and Service with an AUP, subject to performance standards, in all commercial zoning districts. (Council referral dated 10/15/2019 and Council referral dated 12/4/2018)</p>	<ul style="list-style-type: none"> <li>Expanded Bar/Cocktail Lounge/Tavern use type to include “Tap Room/Wine Tasting.” (Sections 3, 12 and 20)</li> <li>Revised permit requirements. (Section 3)</li> </ul>	<p>3</p> <p>13</p> <p>21</p>
4.	<p><b>Alcoholic Beverage Sales Standards.</b> Update the Special Use Standards for Alcoholic Beverage Sales in BMC Section 23.310.030(C). (Council referral dated 10/15/2019)</p>	<ul style="list-style-type: none"> <li>Revised permit requirements. (Sections 17 and 18)</li> </ul>	<p>18</p> <p>19</p>

	Policy Change	Proposed Zoning Change	Ordinance Sections (Attachment 1)
		<ul style="list-style-type: none"> <li>Revised Findings of Public Convenience or Necessity. (Section 17)</li> </ul>	
5.	<b>Hours of Operation.</b> Modify hours and days of operations in commercial districts. (Council referral dated 10/15/2019).	<ul style="list-style-type: none"> <li>Amended district purpose for C-SO District. (Section 8)</li> <li>Revised Hours of Operation. (Section 13)</li> <li>Clarified exceptions. (Section 13)</li> <li>Establish that an AUP, not a Use Permit Modification, is required to extend hours to match this change. (Section 13)</li> <li>Conforming technical edit. (Section 8)</li> </ul>	9 14
6.	<b>Change of Use.</b> Remove permit requirements to change a use in commercial districts. (Attachment 1, referral dated 10/15/2019)	<ul style="list-style-type: none"> <li>Removed additional permit requirements related to change of use. (Sections 3 and 4)</li> </ul>	3 4
7.	<b>ATMs.</b> Allow Automatic Teller Machines (ATMs) in commercial districts with a ZC. (Council referral dated 10/15/2019)	<ul style="list-style-type: none"> <li>No recommended changes.</li> </ul>	N/A
<b>STAFF-INITIATED CHANGES CONSISTENT WITH CITY COUNCIL REFERRALS</b>			
8.	<b>Office, Business and Professional; Art/Craft Studio; Pet Stores.</b> <ul style="list-style-type: none"> <li>Allow Office, Business and Professional uses with a ZC in the C-N, C-E, C-NS, C-T and C-SO zoning districts;</li> <li>Allow Art/Craft Studios with a ZC in all commercial zoning districts; and</li> <li>Permit Pet Stores with an AUP in the Corridor Commercial (C-C), University Commercial (C-U), C-N, C-E, C-NS, South Area Commercial (C-SA), C-T, C-SO, Downtown Mixed-Use (C-DMU) and Adeline Corridor Commercial (C-AC) zoning districts.</li> </ul>	<ul style="list-style-type: none"> <li>Revised permit requirements. (Section 3)</li> </ul>	3
9.	<b>Live Entertainment.</b> Allow unamplified Live Entertainment with a ZC, and permit amplified Live Entertainment with an AUP in the C-C, C-U, C-SA, C-T, C-SO, C-DMU, C-AC, C-N, C-NS, West Berkeley Commercial (C-W), C-E, MU-LI and MU-R zoning districts.	<ul style="list-style-type: none"> <li>Added Live Entertainment as incidental use in the R-SMU districts. (Section 1)</li> <li>Added "Live Entertainment, Unamplified" and "Live</li> </ul>	1 3 13 15

	Policy Change	Proposed Zoning Change	Ordinance Sections (Attachment 1)
		Entertainment, Amplified” as their land uses in the residential, commercial and manufacturing Allowed Uses Tables. (Section 3) <ul style="list-style-type: none"> <li>Removed stand-alone section. (Section 12 and 14)</li> </ul>	
10.	<b>Seated Food Service Requirement.</b> Allow distilled alcoholic beverage service without seated food service in the C-T, C-NS, and the C-SO zoning districts.	<ul style="list-style-type: none"> <li>Removed requirement that food service must accompany distilled alcohol service. (Sections 7 and 18)</li> </ul>	8 19
11.	<b>Food Service Establishments 3,000 sq. ft or less.</b> Allow Food Service Establishments 3,000 square feet or less with a ZC, and permit food establishments greater than 3,000 square feet with an AUP, in all commercial zoning districts and the R-SMU and R-BMU zoning districts, as long as alcohol services is not included.	<ul style="list-style-type: none"> <li>Added new “Food Service Establishments” uses to Residential and Commercial Allowed Use tables and removed stand-alone section. (Sections 1, 3 and 15)</li> <li>Removed requirement that food service on ground floor in C-DMU requires an AUP. (Section 9)</li> </ul>	1 3 10 16
12.	<b>Food Service Establishment Quota.</b> Remove the Numeric Limitation for Food Service Establishments in the C-E zoning district.	<ul style="list-style-type: none"> <li>Removed numeric quota. (Section 5)</li> </ul>	5
13.	<b>Incidental Food Service Establishment Requirements.</b> Permit incidental Food Service Establishments under 20,000 square feet in manufacturing districts to be indoors and outdoors with an AUP, and remove the specification that food or beverage be limited to “immediate consumption” in the MM zoning district.	<ul style="list-style-type: none"> <li>Added new “Food Service Establishment” incidental uses to Manufacturing Allowed Use Table and removed stand-alone section. (Sections 12 and 15)</li> </ul>	13 16
14.	<b>Drug Paraphernalia in C-T District.</b> Allow retail sales of drug paraphernalia in the C-T zoning district.	<ul style="list-style-type: none"> <li>Removed prohibition on uses involving sale or distribution of drug paraphernalia in C-T. (Section 7)</li> </ul>	8
15.	<b>Third Party Rental</b> Remove the restriction on renting space in a Food Service Establishment that serves alcohol incidental to food service to a third party.	<ul style="list-style-type: none"> <li>Removed restriction. (section 18)</li> </ul>	19

### *Changes Subsequent to June 7, 2023 Planning Commission*

The June 7, 2023 Planning Commission staff report included detailed discussion of the referral actions and rationales for the proposed zoning changes. Subsequent to that meeting, revised recommendations from the Zoning Amendments for Berkeley Business Subcommittee and from project planning, policy planning, and Office of Economic Development staff have been incorporated into the proposed ordinance. Those changes are summarized below.

*1. Group Class Instruction:* The BMC includes three related use types (Group Class Instruction, Art Classes/Studios/Dance/ Martial Arts Studios, and Gym/Health Club) that share some overlapping uses (exercise classes, for example, appear in both Group Class Instruction and Gym/Health Club). This has led to some confusion as to how to classify a proposed use. The June 7, 2023 Planning Commission report included revisions to the definitions of each of three related uses to make each one distinct and to clarify how a proposed use should be classified. The report also proposed an alternative approach: consolidating the definitions and creating fewer use types.

The proposed zoning amendments include a consolidation of the three use types into two use types (Group Instruction and Health and Fitness Facility) and provides definitions that expand and clarify what types of uses are to be considered under each use type.

- **Single Land Use Alternative:** An alternative approach is to consolidate the two proposed use types (“Group Instruction” and “Health and Fitness”) into one single land use, called “Group Activity.” As a result of other changes included in the proposed ordinance, the permit requirements for Group Instruction and Health and Fitness Facility are the same across all commercial districts. It may not be necessary to distinguish between the two use types if they are regulated similarly. However, the two uses are regulated differently in the M, MM, and MU-R zoning districts: Group Instruction is permitted with a ZC, while Health and Fitness uses are not permitted.

In addition, the June 7, 2023 Planning Commission report included permitting Group Class Instruction in any commercial zoning district with a ZC. Currently, Group Class Instruction uses require an AUP in smaller neighborhood commercial districts (C-N, C-E and C-SO zoning districts). The proposed ordinance includes a revision requiring an AUP for *larger* Group Instruction uses (3,000 sq. ft. or larger) in the C-N, C-E and C-SO zoning districts, while permitting smaller uses with a ZC.

2. *Revised Levels of Permit Discretion for Office, Business and Professional:* The June 7, 2023 Planning Commission report included a revision to the Allowed Use Table which permitted Office, Business and Professional uses in all commercial zoning districts with a ZC.

In discussing this item, Subcommittee members expressed a concern that making Office, Business and Professional uses easier to establish in smaller neighborhood commercial districts could make it difficult for neighborhood-serving retail to compete in these more discrete areas. Currently, Office, Business and Professional uses require an AUP in smaller neighborhood commercial districts (C-N, C-E and C-SO zoning districts). The proposed ordinance includes a revision that maintains this AUP requirement for Office, Business and Professional use in these three smaller neighborhood commercial zoning districts.

3. *Live Entertainment.* The June 7, 2023 Planning Commission report included revisions to BMC Section 23.302.020 to make it easier for live entertainment to be approved as an incidental use in commercial zoning districts and in the MU-LI and MU-R zoning districts.

The proposed ordinance includes an additional revision permitting live entertainment as an incidental use in the R-SMU district. Live entertainment, as either a primary or incidental use, is currently not permitted in any residential zoning district. The R-SMU, however, with its relatively dense and mixed-use character, and geographic limitation within the student-oriented Southside Plan Area, was considered an appropriate zoning district in which to permit live entertainment as an incidental use.

4. *Structural/Formatting Changes.* Currently, for some uses, the residential, commercial and manufacturing allowed use tables do not contain information about required permits for certain use types; instead, users are instructed to find this permit-related information in other sections or tables of the BMC.

Where appropriate, the proposed ordinance eliminates these references and additional tables, and includes required permit distinctions directly within the allowed use tables themselves. The intent is to simplify the ordinance, remove extraneous language, and to make it easier for users to locate the required permit(s).

- **Food Service Establishments:** Currently, Food Service Establishment is a single use, and users need to go elsewhere in the BMC to learn about permit distinctions based on project size. The proposed ordinance removes the extra section and instead includes two use types, based on size, directly in the Allowed Use Tables (Food Service Establishment, Under 3,000 sq. ft. and Food Service Establishment, 3,000 sq. ft. or larger).

- Live Entertainment: Currently, a user must consult a separate section of the BMC for permit requirements related to unamplified and amplified live entertainment. The proposed ordinance removes the extra section and instead includes two use types directly in the Allowed Use Tables (Live Entertainment, Unamplified and Live Entertainment, Amplified). This revision also includes the addition of an Incidental Use category within the Residential Allowed Use Table.
- Group Instruction and Health and Fitness Facility: Currently, a user must consult a separate section of the BMC for permit requirements related to the size and location of Gym/Health Club/Fitness uses. The proposed ordinance removes the extra section and instead includes size-based distinctions in the Allowed Use Tables (Group Instruction, Under 3,000 sq. ft.; Group Instruction, 3,000 sq. ft. or larger; Health and Fitness Facility, Under 7,500 sq. ft.; and Health and Fitness Facility, 7,500 sq. ft. or larger).

5. *Technical Changes.* The proposed zoning amendments also include five technical amendments: two related to the C-SA zoning district, one that corrects use category titles, and two related to restaurant uses.

- C-SA District:
  1. With the adoption of the Adeline Corridor Specific Plan, a number of parcels that were previously included in the C-SA zoning district were rezoned to C-AC. Section 23.204.100 (C-SA zoning district) still includes provisions that pertain only to those formerly C-SA parcels. The proposed zoning amendments include the removal of those provisions from the C-SA zoning district regulations.
  2. The C-SA zoning district includes two different building height standards, which are applied to parcels based on their location. Currently, there are parcels that are zoned C-SA that do not have a building height standard assigned to them. The proposed zoning amendments include revisions to the C-SA Maximum Building Heights Table and accompanying map to provide a building height standard for all C-SA zoned parcels.
- Use Category Titles: Section 12 of **Attachment 1** includes the correct use category titles for Retail Uses, Person and Housing Services Uses and Food and Alcohol Service, Lodging, Entertainment and Assembly Uses.
- Restaurant Uses: As a result of previous amendments, there are no longer any regulations that pertain to Carry Out Food Stores, Quick Service Restaurants and Full-Service Restaurants. To eliminate confusion, the proposed zoning amendments include removal of the definitions for these restaurant types from the Glossary and a reference in another section.

### *Existing Land Uses and the Proposed Zoning Ordinance Amendments*

As a result of some of the proposed zoning ordinance amendments, there may be existing uses that, either as a result of previous zoning regulations or specific conditions of approval, would be subject to more restrictive regulations than new uses in the same zoning district that would be established after the adoption of the proposed zoning amendments.

For example, currently in the C-U zoning district, commercial hours of operation end at midnight. Accordingly, an existing business' approval was premised on ending business at midnight. Under the proposed zoning changes, however, commercial hours of operation in the C-U zoning district would end at 2:00 a.m. A new business would therefore be allowed to operate two hours longer than an existing business. Currently, adjusting the existing business' commercial hours of operation would require a permit modification (BMC 23.404.070), which requires a public hearing.

The revised ordinance includes new language in three sections to modify the process for modifying an existing land use approval to be consistent with the new regulations included in the proposed ordinance. In each case, an AUP is required to modify an approval, which includes public notice and an option to appeal an initial decision, as well as providing the city an opportunity to include conditions of approval, if necessary.

Authorization to modify existing approvals with an AUP is found in the proposed ordinance's revised language for Hours of Operation (BMC 23.302.020(B); Section 13 of **Attachment 1**); General Requirements for Alcohol Beverage Sale and Service (BMC 23.301.020(B); Section 17 of **Attachment 1**); and regulations regarding Alcoholic Beverage Service When Incidental to Food Service (BMC 23.302.030(A); Section 18 of **Attachment 1**).

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

#### Environmental Review Status

The proposed ordinance includes revisions to permit and other requirements for specified land uses to encourage economic development. It does not include allowing any uses currently not permitted that would be anticipated to have a significant effect on the environment.

California Public Resource Code Section 21065 defines a "project" under CEQA as "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." The proposed ordinance includes revisions to permit and other requirements for specified land uses to encourage economic development. It does not include allowing any uses currently not permitted that would be anticipated to have a significant effect on the environment. The proposed ordinance does not consist of a discretionary action that would permit or

cause any direct or indirect change in the environment. The proposed ordinance is therefore not a project under CEQA, and further environmental review is not required.

#### RATIONALE FOR RECOMMENDATION

The proposed zoning amendments aim to provide a more straightforward, cost-effective, and efficient process for businesses in their establishment or expansion phases. As noted in the June 7, 2023 Planning Commission report, OED staff consulted with business services personnel, small business proprietors and operators, as well as the Community Services Bureau of the Berkeley Police Department, along with code enforcement staff from the Zoning, Neighborhood Services, and Environmental Health Divisions. This collaborative effort enabled the identification of enhancements in processes and implementations that align with Council referrals.

At its June 7, 2023 meeting, the Planning Commission expressed support for the proposed zoning amendments' general direction. Consequently, a Subcommittee was convened to offer further analysis and a detailed review of the proposed ordinance. The Subcommittee conducted that review and suggested a select number of changes that have been incorporated into the proposed ordinance.

#### ALTERNATIVE ACTIONS CONSIDERED

As noted above, the June 7, 2023 Planning Commission report included a set of recommendations and alternative suggestions for a number of the proposed policy changes, including different permit requirements, differently-worded definitions and alternative approaches to formatting and organization.

#### NEXT STEPS

Upon a recommendation from the Planning Commission, the City Council will conduct a public hearing on the proposed ordinance. The proposed zoning amendments would be effective 30 days after the second reading of the ordinance by the City Council.

#### CONTACT PERSON

Kieron Slaughter, Chief Strategist, Economic Innovation, Office of Economic Development, 510-981-2490

Justin Horner, Associate Planner, Planning and Development Department, 510-981-7476

#### Attachments:

1. Ordinance
2. June 7, 2023 Planning Commission report and attachments
3. Public Hearing Notice

#### Referenced Council Referrals:

1. Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses (City Manager Williams-Ridley, 12/4/18)
2. Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses (City Manager Williams-Ridley, 10/15/19)

ATTACHMENT 3

ORDINANCE NO. -N.S.

AMENDMENTS TO THE RESIDENTIAL DISTRICT CHAPTER (BMC 23.202), COMMERCIAL DISTRICT CHAPTER (BMC 23.204), MANUFACTURING DISTRICT CHAPTER (BMC 23.206), SUPPLEMENTAL USE REGULATIONS CHAPTER (BMC 23.302), ALCOHOLIC BEVERAGE SALES AND SERVICE CHAPTER (BMC 23.310), NONCONFORMING USES, STRUCTURES AND BUILDINGS CHAPTER (BMC 23.324) AND THE GLOSSARY CHAPTER (BMC 23.502) TO SUPPORT BERKELEY BUSINESSES

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

**Section 1.** That the lines named “Alcoholic Beverage Service,” “Food Service Establishment” “Group Class Instruction,” and “Gym/Health Club” in Table 23.202-1 Allowed Land Uses in Residential Districts, within Berkeley Municipal Code 23.202.020 are amended, and lines named “Food Service Establishment, Under 3,000 sq. ft.,” “Food Service Establishment, 3,000 sq. ft. or larger,” and a new Incidental Use use category with “Live Entertainment, Unamplified” and “Live Entertainment, Amplified” are added, to read:

**Commented [HJ1]:** 1. Group Class Instruction  
9. Live Entertainment  
11. Food Service Establishments 3,000 sq. ft. or less

Table 23.202-1: Allowed Land Uses in Residential Districts

	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)	
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU		
Alcoholic Beverage Service	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH) <sup>*</sup> ZC <sup>*</sup>	UP(PH) <sup>*</sup>	23.310—Alcoholic Beverage Sales and Service
Food Service Establishment	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH) <sup>*</sup> ZC <sup>*</sup>	UP(PH) <sup>*</sup>	23.302.070.E—Use-Specific Regulations
Food Service Establishment, Under 3,000 sq. ft.	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC <sup>*</sup>	ZC <sup>*</sup>	23.302.070(E) – Use-Specific Regulations
Food Service Establishment, 3,000 sq. ft. or larger	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP <sup>*</sup>	AUP <sup>*</sup>	23.302.070(E) – Use-Specific Regulations
Group Class-Instruction	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH) <sup>*</sup>	23.202.150.(C) R-BMU Residential BART Mixed Use District
Gym/Health and Fitness Facility/Club	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH) <sup>*</sup>	23.202.150.(C) R-BMU Residential BART Mixed Use District
Incidental Uses													

Live Entertainment, Unamplified	NP	ZC	NP										
Live Entertainment, Amplified	NP	AUP	NP										

Section 2. That Berkeley Municipal Code 23.202.150(C)(2) is amended to read:

Commented [HJ2]: 1. Group Class Instruction

2. Group ~~Class~~ Instruction and ~~Gym/Health Club~~ and ~~Fitness Facility~~. Group ~~class~~ instruction and ~~gym/health club and fitness facility~~ uses are permitted at the Ashby BART station with a Zoning Certificate. Group ~~class~~ instruction and ~~gym/health club and fitness facility~~ uses are permitted at the North Berkeley BART station with a Use Permit.

Section 3. That the lines named "~~Family Day Care Home, Large,~~" "~~Family Day Care Home, Small,~~" "Alcoholic Beverage Retail Sale," "Pet Store," "Retail General," "Personal and Household Services, General," "Laundromats and Cleaners," "Video Tape/Disk Rental," "Business Support Services," "Bank and Financial Services, Retail," "Insurance Agents, Title Companies, Real Estate Agents, Travel Agents," "Medical Practitioners," "Non-Chartered Financial Institutions," "Office, Business and Professional," "Bar/Cocktail Lounge/Tavern," "Dance/Exercise/Martial Arts/Music Studio," "Food Service Establishment," "Gym/Health Club," "Alternative Fuel Station," "Large Vehicle Sales and Rental," "Small Vehicle Sales and Rental," "Vehicle Parts Store," "Vehicle Rentals," "Vehicle Repair and Service," "Vehicle Sales, New," "Vehicle Sales, Used," "Cannabis Testing," "Light Manufacturing," "Wholesale Trade," "Food and Beverage for Immediate Consumption," "Food Service Establishment," "Live Entertainment," "Retail Sale of Goods Manufactured On-Site," "Art/Craft Studio," "Public Market, Enclosed" and the Notes in Table 23.204-1 Allowed Uses in the Commercial Districts, within Berkeley Municipal Code 23.204.020, are amended, and lines named "Group Instruction, 3,000 sq. ft. or larger," "Food Service Establishment, Under 3,000 sq. ft." "Food Service Establishment, 3,000 sq. ft. or larger" "Health and Fitness Facility, Under 7,500 sq. ft.," "Health and Fitness Facility, 7,500 sq. ft." "Live Entertainment, Unamplified," and "Live Entertainment, Amplified," are added, to read:

Commented [HJ3]: 1. Group Class Instruction  
3. Stand-Alone Beer and Wine  
6. Change of Use  
8. Office, Business & Professional. Art/Craft Studio, Pet Store  
9. Live Entertainment  
11. Food Service Establishments 3,000 sq. ft. or less  
TECHNICAL CHANGE related to Family Day Care Homes

Table 23.204-1 Allowed Uses in the Commercial Districts

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted - = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS	
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC		
Family Day Care Home, Large	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Family Day Care, Small	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Alcoholic Beverage Retail Sale	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	NP	UP(PH)*	UP(PH)*	UP(PH)*	UP(PH)*	23.204.060.B.2 23.310
Pet Store	AUP UP(PH)	AUP UP(PH)	AUP UP(PH)	AUP UP(PH)	AUP UP(PH)	AUP UP(PH)	AUP UP(PH)	AUP UP(PH)	AUP UP(PH)	ZC {3}	AUP UP(PH)	
Retail, General	ZC {4}	ZC {4}	ZC* {2}	ZC* {2}	ZC* {2}	ZC* {4}	ZC* {1}	ZC* {2}	ZC	ZC* {3}	ZC*	23.204.040.(C).E (for department stores)  23.204.040.(D).F (for drug stores)
Personal and Household Services, General	ZC {4}	ZC {4}	ZC {2}	ZC {2}	ZC {2}	ZC {4}	ZC	ZC {2}	ZC	ZC {5}	ZC	
Laundromats and Cleaners	AUP	AUP	UP(PH)	UP(PH)	UP(PH)	AUP	AUP	UP(PH)	UP(PH)	AUP {4}	AUP	
Video Tape/Disk Rental	ZC {4}	ZC {4}	ZC {2}	AUP	ZC {2}	--	ZC	ZC {2}	ZC	ZC {5}	NP	
Business Support Services	ZC {4}	ZC {4}	ZC {2}	ZC {2}	ZC {2}	ZC {4}	ZC*	ZC {2}	ZC	ZC {5}	ZC {6}	23.204.110.(B).6 {4}
Bank and Financial Services, Retail	AUP	AUP	UP(PH)	UP(PH)	UP(PH)	ZC {4}	AUP*	UP(PH)	ZC*	AUP	ZC	23.204.110.(B).6 {4}; 23.204.130.(B).6 {3}; 23.204.130.(D).3 {3}
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC {4}	ZC {4}	ZC* {2}	ZC* {2}	ZC* {2}	ZC {4}	ZC*	ZC* {2}	ZC*	ZC {5}	ZC {6}	23.204.040.(D).B); 23.204.110.(B).6 {4}; 23.204.130.(D).3 {3}
Medical Practitioners	ZC {4}	ZC {4}	AUP	NP	UP(PH)	ZC {4}	AUP*	UP(PH)	ZC*	ZC {5}	ZC {6}	23.204.040.(D).B); 23.204.110.(B).6 {4}; 23.204.130.D.3
Non-Chartered Financial Institutions	UP(PH)*	UP(PH)*	NP	NP	NP	UP(PH)*	UP(PH)*	NP	NP	UP(PH)*	UP(PH)	23.302.070.F 23.204.110.B.64
Office, Business and Professional	ZC {4}	ZC {4}	AUP*	AUP*	AUP ZC*	ZC {4}	AUP ZC*	AUP*	ZC*	ZC {5}	ZC {6}	23.204.040.B; 23.204.110.B.64; 23.204.130.D.3
Bar/Cocktail Lounge/Tavern/ Tap Room/Wine Tasting	UP(PH) AUP*	UP(PH) AUP*	UP(PH) AUP*	-- AUP*	NPA UP*	UP(PH) AUP*	UP(PH) AUP*	NP AUP*	UP(PH) AUP*	UP(PH) AUP*	UP(PH) AUP*	23.204.100.B.3 23.204.110.B.2; 23.310
Dance/Exercise/Martial Arts/Music Studio	ZC {4}	ZC {4}	ZC {2}	AUP	AUP {4}	ZC {4}	ZC	AUP	ZC	ZC {7}	ZC	
Food Service Establishment, under	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.302.070.E

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
3,000 sq. ft.												
Food Service Establishment, 3,000 sq. ft. or larger	AUP *	AUP *	AUP *	AUP *	AUP *	AUP *	AUP *	AUP *	AUP *	AUP *	AUP *	23.302.070.E
Group Class Instruction, Under 3,000 sq. ft.	ZC [4]	ZC [4]	AUP ZC	AUP ZC	AUP ZC	ZC [4]	ZC	AUP ZC	ZC	ZC	ZC	23.204.040.B
Group Instruction, 3,000 sq. ft. or larger	ZC	ZC	AUP	AUP	ZC	ZC	ZC	AUP	ZC	ZC	ZC	
Health and Fitness Facility, Under 7,500 sq. ft.	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Health and Fitness Facility, 7,500 sq. ft. or larger	ZC	ZC	AUP	AUP	ZC	ZC	ZC	AUP	ZC	ZC	ZC	
Gym/Health Club	See 23.204.040.C											
Alternative Fuel Station	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	NP*	UP(PH)	NP	AUP*	UP(PH)	23.204.110(B);4(2) 23.204.140(B);(3)
Large Vehicle Sales and Rental	AUP	NP	NP	NP	NP	NP	NP	NP	NP	AUP*[81]	NP	23.204.140(B);(3)
Small Vehicle Sales and Service	AUP	NP	NP	NP	NP	UP(PH)*	NP	NP	UP(PH)	UP(PH)*	NP	23.204.100(B);5(3); 23.204.140(B);(3)
Vehicle Parts Store	ZC [4]	NP	ZC [2]	ZC [2]	ZC [2]	ZC [4]	ZC	ZC [2]	NP	AUP*[81]	ZC	
Vehicle Rentals	AUP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	AUP*[81]	NP	23.204.140(B);(3)
Vehicle Repair and Service	AUP	NP	NP	NP	NP	NP	NP	NP	NP	AUP*[81]	NP	
Vehicle Sales, New	AUP	NP	NP	NP	NP	UP(PH)*	NP	NP	UP(PH)	AUP*[81]	NP	23.204.140(B);(3)
Vehicle Sales, Used	AUP	NP	NP	NP	NP	UP(PH)*	NP	NP	UP(PH)	UP(PH)*	NP	23.204.100(B);5(3); 23.204.140(B);(3); 23.204.140(D);4
Cannabis Testing	AUP	AUP	NP	NP	NP	NP	NP	NP	AUP	AUP[81]	NP	
Light Manufacturing	-	-	-	-	-	-	-	-	-	AUP[81]	-	
Wholesale Trade	-	-	-	-	-	-	-	-	-	AUP[81]	-	
<b>Incidental Uses</b>												
Food and Beverage for Immediate Consumption	ZC	ZC	AUP ZC	UP(PH) ZC	UP(PH) ZC	ZC	AUP ZC	UP(PH) ZC	ZC	ZC	ZC	

Commented [HJ4]: Instead of using a table in section 23.204.040, we made new land uses here, for ease of use.

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Food Service Establishment	See 23.302.070.E											
Food Service Establishment, Under 3,000 sq. ft.	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.310.030
Food Service Establishment, 3,000 sq. ft. or larger	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	23.310.030
Live Entertainment, Unamplified	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Live Entertainment, Amplified	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	
Live Entertainment	See 23.302.070.E											
Retail Sale of Goods Manufactured On-Site	ZC [4]	ZC [4]	ZC [2]	ZC [2]	ZC [2]	ZC [4]	ZC	ZC [2]	ZC	AUP ZC	ZC	
Art/Craft Studio	AUP ZC	AUP ZC	AUP ZC	AUP ZC	AUP ZC	AUP ZC	AUP ZC	AUP ZC	AUP ZC	AUP ZC	ZC [6]	
Public Market, Enclosed	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP [92]	AUP	
Notes: [1] Change of use of floor area over 3,000 square feet requires an AUP. [2] Change of use of floor area over 2,000 square feet requires an AUP. [3] Requires an AUP for uses 3,500 sq. ft. to 7,500 square feet. Requires a Use Permit for uses more than 7,500 sq. ft. [4] Requires a Use Permit if 5,000 sq. ft. or more. [5] Requires an AUP for uses 3,000 sq. ft. to 5,000 square feet. Requires a Use Permit for uses more than 5,000 sq. ft. [6] Requires an AUP for uses 2,500 sq. ft. or greater or 50 ft. wide or greater on Shattuck, between Ward and Russell; Adeline between Russell and the City boundary; on Ashby, east of Adeline; or on the north side of Ashby, west of Adeline. [7] Requires a Use Permit if 7,500 square feet or more. [9][1] Require a Use Permit if either 5,000 sq. ft. or more of floor area or 10,000 square feet or more of lot area. [9][2] Requires a Use Permit if more than 10,000 sq. ft.												

**Commented [HJ5]:** Instead of using a table in section 23.302.070, we made new land uses here, for ease of use.

Section 4. That Berkeley Municipal Code 23.204.040(B) through (F) be amended, to read:

**Commented [HJ6]:** 1. Group Class Instruction 6. Change of Use

**B. Group Class Instruction.**

- ~~1. C-NS and C-DMU Districts. When group class instruction in the C-NS or C-DMU districts are located on the ground floor adjacent to a street frontage,~~

storefront windows must include a window display or to be transparent and provide pedestrian viewing at least 10 feet into the storefront area.

2. **C-NS District.** Group class instruction uses in the C-NS may not exceed 2,500 square feet.
3. **C-T District.** Group class instruction uses in the C-T district are not permitted on the ground floor.

**C. Gyms and Health Clubs**

**1. Permits Required.** Table 23.204-5: Gym and Health Club Permit Requirements shows permits required for gyms and health clubs in the Commercial Districts.

**Commented [HJ7]:** Created new use (Health and Fitness Facility) and moved permit requirements to Commercial Allowed Uses Table (Section 3, above), so we can get rid of this table. New definition in Glossary, below (Section 25)

**Table 23.204-5: Gym/Health Club/Fitness Studio Permit Requirements**

DISTRICT/USE SIZE	PERMIT REQUIRED [1]
<b>C-C, C-U, C-DMU</b>	
Under 7,500 sq. ft	ZC
7,500 sq. ft. and greater	AUP
<b>C-N, C-E, C-NS, C-SO</b>	
C-SA, C-T, C-AC	ZC
<b>C-W</b>	
Under 7,500 sq. ft	ZC
7,500 sq. ft. and greater	-UP(PH)
<p>Note:                      [1] Change of use permit requirements as described in Section 23.204.030.A – Additional Permit Requirements (Change of Use) also apply. In the C-C, C-U, and C-SA districts, a change of use of gross floor area over 3,000 square feet requires an AUP. In the C-N, C-E, C-NS, and C-SO districts, a change of use of gross floor area over 2,000 square feet requires an AUP.</p>	

**2. C-DMU District.** When located on the ground floor adjacent to a street frontage, storefront windows for a gym and health club in the C-DMU district must include a window display or to be transparent and provide pedestrian viewing at least 10 feet into the storefront area.

**DB. Transparency Requirement for Office Uses.** When office uses shown in [Table 23.204-6: Office Uses Subject to Transparency Requirement](#) are located on the ground floor adjacent to a street frontage, storefront windows shall either:

1. Include a storefront window display; or
2. Be transparent and provide pedestrian viewing at least 10 feet into the storefront area.

**Table 23.204-6: Office Uses Subject to Transparency Requirement**

OFFICE USE	DISTRICT
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	CN, C-E, C-NS, CT, C-SO, C-DMU
Medical Practitioners	C-T
Office, Business and Professional	CN, C-E, C-NS, C-T, C-SO, C-DMU

**EC. Department Stores.** Table 23.204-7: Department Store Permit Requirements shows permits required for department stores in the Commercial Districts.

**Table 23.204-7: Department Store Permit Requirements**

DISTRICT/USE SIZE	PERMIT REQUIRED <sup>[1]</sup>
C-SA, C-T	
3,000 sq. ft. or less	ZC
Over 3,000 sq. ft.	AUP
C-E, C-NS, C-SO	
3,000 sq. ft. or less	ZC
Over 3,000 sq. ft.	Not Permitted
C-N	
3,000 sq. ft. or less	AUP
Over 3,000 sq. ft.	Not Permitted
C-C, C-U	ZC
C-AC	
3,000 sq. ft. or less	ZC
Over 3,000 sq. ft.	<del>UP(PH)</del> AUP

**Note:**

~~[1] Change of use permit requirements as described in Section 23.204.030.A Additional~~

Permit Requirements (Change of Use) also apply. In the C-C, C-U, and C-SA districts, a change of use of gross floor area over 3,000 square feet requires an AUP. In the C-N, C-E, C-NS, and C-SO districts, a change of use of gross floor area over 2,000 square feet requires an AUP.

**FD. Drugstores.** The following requirements apply to drugstores in the C-N, CE, C-NS, and C-SO districts.

**1. Where Prohibited.** A new or expanded drugstore is not permitted if it is:

- a. Over 5,000 square feet in gross floor area; and
- b. Within 1,000 feet of any property containing an existing drugstore.

**2. Measurement of Distance.** Distances between drugstores are measured by a straight line from the nearest point of the property line of the parcel on which the drugstore is proposed to the nearest point of the lot line of the lot on which the nearest drugstore is located.

Section 5. That Berkeley Municipal Code 23.204.080(B)(2) be amended to read:

Commented [HJ8]: 12. Food Service Establishment Quota (C-E)

**2. Numerical and Size Limitations.**

- a. Table 23.204-20 shows land uses subject to ~~numerical and~~ size limitations in the C-E district.

**TABLE 23.204-20: C-E LAND USE NUMBER AND SIZE LIMITATIONS**

USE	NUMBER LIMIT	MAXIMUM SIZE	PERMIT REQUIRED
Art/Craft Shops, Gift/Novelty Shops, Jewelry/Watch Shops	No limit	1,500 sq. ft.	ZC
Bookstores, Periodical Stands	No limit	2,000 sq. ft.	ZC
Food Service Establishments [1]	25 total	No max.	AUP
Photocopy Stores, Printing, Fax, Magnetic Disk Reproduction Services	No limit	1,000 sq. ft.	ZC

**Notes:**  
 [1] Excludes food service uses accessory to a food product store. Secondary food service uses associated with all other principal uses are subject to limitations in Table 23.204-20.  
 Change of use of over 3,000 square feet requires Use Permit

- b. The ZAB may allow a use to exceed the limitations in Table 23.204-20 with a Use Permit upon finding that:
  - i. The use will result in the positive enhancement of the purposes of the district; and
  - ii. The use is likely to experience substantial patronage by surrounding residents as indicated by neighborhood resident support, merchant support, marketing surveys, or other information.

Section 6. That Berkeley Municipal Code 23.204.100(B) be amended to read:

Commented [HJ9]: TECHNICAL CHANGE to C-SA: many C-SA parcels were rezoned to C-AC when the Adeline Plan was adopted. Due to that rezoning, there are no longer areas within the C-SA zoning district that meet these conditions (there are now all C-AC).

1. **General.** See Table 23.204-1: Allowed Uses in the Commercial Districts

~~2. **Alcoholic Beverage Retail Sales.** The sale and service of distilled alcoholic beverages (hard liquor) is not permitted along Adeline Street, south of Ashby Avenue, except that such service is allowed when incidental to meals at full-service restaurants in accordance with Section 23.310—Alcoholic Beverage Sales and Service.~~

~~3. **Bar/Cocktail Lounge/Tavern.** Service of distilled alcoholic beverages is allowed along Adeline Street south of Ashby Avenue only when incidental to seated food service.~~

**42 Mixed-Use Permits Required.**

- a. **Zoning Certificate.** A mixed-use project is allowed with a Zoning Certificate if the project:
  - i. Complies with all applicable standards in Table 23.204-27, Table 23.204-28, and Table 23.204-29;
  - ii. Includes only residential uses above the ground floor; and
  - iii. Is less than 5,000 square feet in gross floor area, including any existing floor area incorporated into the project.
- b. **Use Permit.** If a mixed-use project does not meet the criteria for approval with a Zoning Certificate as provided above, the project requires a Use Permit and is subject to the findings in Section 23.204.100-(E)— C-SA South Area Commercial District (Permit Findings).

~~53. **Vehicle Sales.**~~

- a. **Applicability.**

i. In the C-SA district, small vehicle service is not permitted. Small vehicle sales that are exclusively indoor operations are permitted with a Zoning Certificate. Otherwise, a Use Permit is required.

ii. All new or relocated vehicle sales in the C-SA district shall be exclusively indoor operations with no outdoor activities and shall comply with the requirements of this subsection.

iii. Expansions or modifications of existing vehicle sales are:

1. Encouraged to comply with standards in Paragraph c (Standards) below where feasible; and
2. Shall not increase or exacerbate a non-conformity with these standards.

**b. Standards.**

i. **Street Frontage.** Outdoor vehicle display is permitted only along Shattuck Avenue and Adeline Street and is limited to 30 percent of the lot frontage on those streets.

ii. **Area for Outdoor Uses.** A maximum of 40 percent of the lot area may be used for outdoor uses, including but not limited to vehicle display and storage. Adequate landscaping and/or fencing shall be used to filter the view of outdoor uses from the adjacent right-of-way and abutting properties, with the exception of outdoor vehicle display;

iii. **Service Entries.** Vehicle and repair service entries may not exceed 20 percent of the primary lot frontage, no entrance may exceed a width of 20 feet. The primary street frontage is the frontage towards which the primary building entrance is oriented.

iv. **Transparency.** At least 60 percent of any new building shall be within 10 feet of the right-of-way along the primary street frontage and 60 percent of the street-facing facade shall be comprised of clear glass.

v. **Repair Activities.** All vehicle repair activities shall be conducted indoors.

vi. **Noise.** All noise-generating equipment and activities, such as vehicle repair, shall be shielded by noise-attenuating materials. Outdoor amplification is not permitted.

vii. **Lighting.** Exterior light standards and fixtures shall not be taller than 20 feet, shall achieve uniform light coverage and minimize glare, shall use light cutoffs to control light spillover onto adjacent properties and urban sky glow, and shall use low energy light fixtures consistent with the City's goals for energy efficiency.

- vii. **Vehicle Storage.** No vehicles shall be stored in the public right-of-way.
- c. **Modification of Standards.** The Zoning Officer may allow modification to standards in Paragraph c (Standards) above with an AUP upon finding that the modification:
  - i. Is necessary to facilitate incorporation of an existing structure;
  - ii. Achieve greater consistency with the surrounding street pattern;
  - iii. Buffers impacts to an adjacent residential district; or
  - iv. Is needed to accommodate dealership operations.

Section 7. That Table 23.204-28 C-SA Maximum Building Heights and Figure 23.204-3 C-SA Building Height Sub-Areas be amended to read:

**Commented [HJ10]:** TECHNICAL CHANGE to C-SA: Some C-SA parcels are not included in the C-SA Maximum Building Heights Table

**Table 23.204-28. C-SA Maximum Building Heights**

Building Land Use	Maximum Height	
	Subarea <u>1One</u>	Subarea <u>2All other parcels</u>
Non-Residential Uses	36 ft and 3 stories	24 ft and 2 stories
Mixed Use and Residential Only	60 ft and 5 stories [1]	36 ft and 3 stories [1]
[1] In mixed-use buildings, the third story and above must be used for residential purposes entirely.		

Figure 23.204-3. C-SA Building Height Sub-Areas Area One



Section 8. That Berkeley Municipal Code 23.204.110(B) be amended to read:

Commented [HJ11]: 10. Seated Food Service Requirement  
14. Drug Paraphernalia in C-T District

**B. Allowed Land Uses.**

1. **General.** See Table 23.204-1: Allowed Uses in the Commercial Districts.

~~2. **Bar/Cocktail Lounge/Taverns.** Service of distilled alcoholic beverages in the C-T district is allowed only when incidental to seated food service.~~

~~3. **Drug Paraphrenalia Stores.** Any use involving the sale or distribution of drug paraphrenalia is not permitted in the C-T district.~~

42. **Fuel Stations.** Alternative fuel and gasoline stations are allowed with Use Permit when located in a parking structure.

53. **Residential Use, Ground Floor.** Residential uses are permitted on the ground floor where located behind a commercial use. The ground floor commercial use must meet the following standards:

- a. Occupy a minimum 30-foot depth of the ground floor, as measured from the ground floor street frontage, and
- b. Occupy the full extent of the building frontage, excluding required utilities, driveways, pedestrian access and residential lobby.

64. **Office Uses.**

- a. Table 23.204-31 shows permits required for office uses in the C-T district.

TABLE 23.204-31: C-T OFFICE PERMIT REQUIREMENTS

Building Location	Permit Required	
	First and Second Story	Above Second Story
Adjacent to Bancroft Way	As required by Table 23.204-1	AUP
Not adjacent to Bancroft Way		UP(PH)

b. When office uses are located on the ground floor adjacent to street frontage, the storefront windows must either:

- i. Include a window display; or

- ii. Be transparent and provide pedestrian viewing at least 10 feet into the storefront area.

**75. Upper Story Uses.**

- a. Floor area above the ground floor may be occupied only by a residential or office uses.
- b. A commercial use that is an integral part of a ground floor establishment is permitted on the second story if the use:
  - i. Has no entrances or exits, other than required fire exits, outside of the ground floor space; and
  - ii. Does not exceed the ground-floor area of the use.

Section 9. That Berkeley Municipal Code 23.204.120(A)(2)(e) be amended to read:

**Commented [HJ12]:** 5. Hours of Operation

- e. Encourage location of ~~late night~~late-night commerce in appropriate areas in Berkeley, such as the downtown area, and allow businesses to address demand for late night service on Solano Avenue by establishing a ~~11:00 p.m~~12:00 ~~midnight~~ closing time for businesses on Solano Avenue; and

Section 10. That Berkeley Municipal Code 23.204.130(D)(3) be amended to read:

**Commented [HJ13]:** 11. Food Service Establishments 3,000 sq. ft. or less

**3. Use Limitations; Findings.** ~~Food service establishments and offices~~ Offices on the ground floor adjacent to a street frontage require an AUP. To approve the AUP, the Zoning Officer must find that

- a. The project meets the purposes of the Arts Overlay District as set forth above; and
- b. The location, size, type, appearance, and signage of the proposed use will:
  - i. Animate and enhance the pedestrian experience on the street; and
  - ii. Be generally open to the public evenings and on weekends, whenever practicable.

Section 11. That Berkeley Municipal Code 23.204.130(E)(7)(a)(iv) be amended to read:

**Commented [HJ14]:** 1. Group Class Instruction

- iv. ~~Gym/Health~~ and Fitness Facility Club

Section 12. That Berkeley Municipal Code 23.204.150(B)(3)(b) be amended to read:

**Commented [HJ15]:** TECHNICAL CHANGE to correct proper use category titles.

**b. Active Commercial Uses Defined.** Active Commercial uses are commercial uses which generate regular and frequent foot traffic. Uses include businesses in the following use categories: Retail Retail Uses Sales; Personal and Household Services Uses; Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses; and the following uses: Banks and Financial Services, Retail, and Vehicle Parts Stores.

Section 13. That the lines named "Family Day Care Home, Large," "Family Day Cre Home, Small," "Bar/Cocktail Lounge/Tavern," "Dance/Exercise/Martial Arts/Music Studio," "Food Service Establishment," "Group Class Instruction," "Gym/Health Club," and "Food and Beverage for Immediate Consumption," in Table 23.206-1 Allowed Uses in Manufacturing Districts, within Berkeley Municipal Code 23.206.020, are amended, and lines named "Food Service Establishment, Under 5,000 sq. ft." "Food Service Establishment, 5,000 sq. ft. or larger," "Food Service Establishment, Under 20,000 sq. ft." "Food Service Establishment, 20,000 sq. ft. or larger" "Live Entertainment, Unamplified" and "Live Entertainment, Amplified" are added, to read:

**Commented [HJ16]:** 1. Group Class Instruction  
3. Stand-Alone Beer and Wine  
9. Live Entertainment  
13. Incidental Food Service Requirements  
XX. Technical change for Family Day Care Home

**TABLE 23.206-1: ALLOWED LAND USES IN MANUFACTURING DISTRICTS**

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	MANUFACTURING DISTRICTS				Use-Specific Standards Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	M	MM	MU-LI	MU-R	
<u>Family Day Care Home, Large</u>	NP	NP	ZC*	AUP*	23.206.040.C
<u>Family Day Care Home, Small</u>	NP	NP	ZC*	ZC*	23.206.040.C
<u>Bar/Cocktail Lounge/Tavern/</u> <u>Tap Room/Wine Tasting</u>	NP	NP	NP	See 23.306	
<u>Dance/Exercise/Martial Arts/Music Studio</u>	NP	NP	--	UP(PH)	
<u>Food Service Establishment</u>	See 23.302.070.E				
<u>Food Service Establishment, Under 5,000 sq. ft</u>	=	=	AUP*	AUP*	23.302.070(E)
<u>Food Service Establishment, 5,000 sq. ft. larger</u>	=	=	UP(PH)*	UP(PH)*	23.302.070(E)
<u>Group Class Instruction</u>	NPZC	NPZC	--	UP(PH)ZC	

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	MANUFACTURING DISTRICTS				Use-Specific Standards Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	M	MM	MU-LI	MU-R	
Gym/Health and Fitness Facility Club	NP	NP	--	NP	
<b>Incidental Uses</b>					
Food and Beverage for Immediate Consumption	--	AUP [2]	--	--	
Food Service Establishment	AUP [2]	--	AUP [2]	AUP	
Food Service Establishment, Under 20,000 sq. ft	AUP*	AUP*	AUP*	AUP*	23.302.070(E)
Food Service Establishment, 20,000 sq. ft. larger	NP	AUP*	NP	AUP*	23.302.070(E)
Live Entertainment	NP	NP	UP(PH)*	UP(PH)*	23.302.020(D)
Live Entertainment, Unamplified	NP	NP	ZC	ZC	
Live Entertainment, Amplified	NP	NP	AUP	AUP	

**Commented [HJ17]:** Instead of using a table in section 23.302.070, we made two new land uses here, for ease of use. Cutting the reference and the table simplifies the code.

Section 14. That Berkeley Municipal Code 23.302.020(B) be amended to read:

**Commented [HJ18]:** 5. Hours of Operation

**B. Hours of Operation.**

1. **Allowed Hours.** Table 23.302-1: Allowed Hours of Operation shows allowed hours of operation for commercial uses in the commercial districts and the MU-R district, unless otherwise restricted by an existing permit.

2. **Hours of Operation Defined.**

**Commented [HJ19]:** Not new language; existing language that has been relocated

a. For retail or customer-serving office commercial uses, hours of operation are those times that the business is open to customer access.

b. For food service establishments, hours of operation include the time that the business is open for customer access to the departure of the last patron. These limitations do not apply to:

i. The delivery, maintenance, security, product preparation and other pre-opening activities, and

ii. Cleanup, shutdown, and other post-closure activities which do not involve presence of customers.

a. For other commercial and manufacturing uses which do not involve customer access, hours of operation are those times that employees are present who are engaged in non-maintenance or security activities.

c.

2.3. **Exceptions.** The City may allow extended hours of operations with the approval of a permit as shown in Table 23.302-1. If more restrictive hours of operation than what is permitted in Table 23.302-1 are imposed as a condition of approval on an existing AUP or UP, the hours may be modified within the district's current limits with approval of an AUP regardless of the original review authority.

**Table 23.302-1: Allowed Hours of Operation**

DISTRICT	ALLOWED HOURS OF OPERATION	PERMIT REQUIRED TO EXTEND HOURS
C-C, C-U, C-NS, C-AC, C-W nodes	7:00 a.m. — 12:00 midnight 6:00 a.m. — 2:00 a.m.	AUP
C-N, C-E, C-NS, C-SO, C-SA, C-W outside nodes, MU-R	7:00 a.m. — 11:00 p.m. 6:00 a.m. — 12:00 midnight	UPAUP
C-W nodes	6:00 a.m. — 12:00 midnight with Zoning Certificate	UP
C-SA	7:00 a.m. — 12:00 midnight Sundays through Thursdays 7:00 a.m. — 12:00 Fridays and Saturday	UP
C-AC	7:00 a.m. — 12:00 midnight Sundays through Thursdays 7:00 a.m. — 2:00 a.m. Fridays and Saturday	UP
C-T, C-DMU between Bancroft Way and the north side of Dwight Way	24 hours per day 7 days a week	N/A
C-T between the south side of Dwight Way and Parker Street	7:00 a.m. — 12:00 midnight	AUP
C-DMU	6:00 a.m. and 2:00 a.m.	AUP
MU-R	6:00 a.m. and 10:00 p.m.	AUP

**24. Alcohol Sales in C-T District.** A Use Permit is required in the C-T district for a business selling alcohol for off-site consumption to remain open past midnight. The Use Permit may be approved only if the business's ABC license does not require sales of alcohol for off-site consumption to cease by midnight. The Zoning Adjustments Board (ZAB) may approve the Use Permit only upon finding that the extended hours will not generate excessive noise, ~~traffic or parking problems~~ affecting the well-being of the residents of the district.

~~3. C-T District Findings.~~ The Zoning Officer may approve an AUP to extend hours of operation in the C-T district upon finding that the extended hours will not generate excessive noise, traffic, or parking problems affecting the well-being of the residents of the district.

**4. Hours of Operation Defined.**

~~a. For retail or customer-serving office commercial uses, hours of operation are those times that the business is open to customer access.~~

~~b. For food service establishments, hours of operation include the time that the business is open for customer access to the departure of the last patron. These limitations do not apply to:~~

- ~~— The delivery, maintenance, security, product preparation and other pre-opening activities, and~~
- ~~— Cleanup, shutdown, and other post-closure activities which do not involve presence of customers.~~

~~For other commercial and manufacturing uses which do not involve customer access, hours of operation are those times that employees are present who are engaged in non-maintenance or security activities.~~

**Commented [HJ20]:** This definition is moved up to the beginning of the section

**Section 15.** ~~That Berkeley Municipal Code 23.302.020(D) be removed and that Berkeley Municipal Code 23.302.020(E) be amended to read:~~

**Commented [HJ21]:** 9. Live Entertainment.

~~D. Live Entertainment -- Permits Required. Live entertainment incidental to a permitted use is allowed as shown in Table 23.302-2.~~

**Commented [HJ22]:** Permit levels now moved to Commercial and Manufacturing Use Tables (one row for each of amplified and unamplified)

**Table 23.302-2: Permit Requirements for Live Entertainment**

ZONES	PERMIT REQUIRED	
	AMPLIFIED	UNAMPLIFIED
C-C, C-U, C-SA, C-T, C-SO, C-DMU, C-AC	AUP	ZC
C-N, C-NS, C-W	UP(PH)	ZC

ZONES	PERMIT-REQUIRED	
	AMPLIFIED	UNAMPLIFIED
C-E	Not Permitted	ZC
M, MM	Not Permitted	Not Permitted
MU-LI, MU-R	UP(PH)	UP(PH)

**1. Allowed Activities.**

- a. In the S-O district, food service establishments may have no live entertainment other than unamplified music, poetry reading, comedy or other quiet activities.
- b. In the C-NS district, food service establishments may have no live entertainment other than unamplified background music, unless a Use Permit is obtained.

**ED. Outdoor Uses.**

1. **Applicability.** This subsection applies to outdoor uses including but not limited to exterior service windows, outside automatic teller machines, and the outside storage of goods, containers and/or materials.
2. **General.** Commercial and manufacturing uses shall be conducted solely within an interior of a building unless:
  - a. The permit as required by Paragraph 3 (Permits Required) is obtained; or
  - b. the outdoor use is specifically allowed by the Zoning Ordinance.
3. **Permits Required.** Table 23.302-2 Permit Requirements for Outdoor Uses shows permits required for uses outside of a building in the Commercial and Manufacturing Districts.
3. Table 23.302-3: Permit Requirements for Outdoor Uses shows permits required for uses outside of a building in the Commercial and Manufacturing Districts.

TABLE 23.302-32: PERMIT REQUIREMENTS FOR OUTDOOR USES

DISTRICT/USE CHARACTERISTICS [1]	PERMIT REQUIRED
All Commercial Districts Except for C-W	
Not abutting a residential district	AUP
Abutting a residential district	UP(PH)

C-W	
Not abutting a residential district and less than 10,000 s. ft.	AUP
Abutting a residential district	UP(PH)
10,000 sq. ft. or more	UP(PH)
M, MM [2]	
Less than 20,000 sq. ft.	ZC
20,000 sq. ft. or more	AUP
MU-LI	
Less than 20,000 sq. ft.	ZC
20,000 to 30,000 sq. ft.	AUP
More than 30,000 sq. ft.	UP(PH)
MU-R	
Not abutting a residential district	AUP
Abutting a residential district	UP(PH)
Notes:	
[1] Size is measured as the lot area of the outdoor activity or storage	
[2] In the M and MM district permits are required only for activity or storage not ancillary to a permitted use.	

- 54. **C-W District.** In the C-W district, uses outside of a building must be permitted or incidental to permitted use in the district.
- 65. **M, MM, MU-LI Districts.** Outside uses in the M, MM, and MU-LI districts may not abut a residential district.

Section 16. That Berkeley Municipal Code 23.302.070(E) be amended to read:

**E. Food Service Establishments.**

- 1. ~~Maximum Size in R-SMU.~~ Food service establishments in the R-SMU district may not exceed 1,200 square feet.
- 2. ~~Permits Required in Commercial Districts and in the R-BMU.~~ 6 shows permits required for food service establishments in the commercial districts and in the R-BMU.

**Table 23.302-6: Permit Requirements for Food Service Establishments**

**Commented [HJ23]:** 10. Seated Food Service Requirements  
 11. Food Service Establishments 3,000 sq. ft. or less  
 13. Incidental Food Service Establishments

**Commented [HJ24]:** These requirements amended and moved to Residential and Commercial Allowed Use tables (see Sections 1 and 3, above)

DISTRICT/USE SIZE	PERMIT REQUIRED
C-C, C-U, C-T, C-W	
Under 1,500 sq. ft	ZC
1,500 sq. ft. or more	AUP
C-N, C-NS, C-SA, C-SO	
Under 1,000 sq. ft	ZC
1,000 sq. ft. or more	AUP
C-AC, South Shattuck and North Adeline Subareas	
3,000 sq ft or less	ZC
Over 3,000 sq ft	AUP
C-AC, South Adeline Subarea	
1,500 sq ft or less	ZC
Over 1,500 sq ft	AUP
R-BMU, North Berkeley BART Station	UP(PH)
C-E	AUP [1]
C-DMU	
Under 3,000 sq. ft outside the Arts District Overlay	ZC
3,000 sq. ft. or more	AUP
Any size within the Arts District Overlay	AUP [2]
Notes: [10]— All food service uses in the C-E district require an AUP and may not be considered as an incidental use except when accessory to a food-product store. [11]— See 23.204.130.D.3 for required findings.	

3. **Notification of Decision.** Food service establishments requiring an AUP in the C-N, C-E, C-NS, C-SA, C-T, C-SO districts must provide public notification of decision (NOD) within a 300-foot radius of the subject property.

4. **Carry Out Limitations in C-U District.** Food service establishments in the C-U district that exclusively sell food for offsite consumption are not permitted at any location on University Avenue between Oxford Street and Martin Luther King Jr. Way until a Downtown Retail Plan is adopted by the City Council.

5.1. **Outdoor Cafe Seating.**

- a. Outdoor cafe seating on private property outside of the public right-of-way is allowed in the commercial districts with the following permits:
  - i. Zoning Certificate when seating does not abut a residential district.
  - ii. AUP when seating abuts a residential district.

~~b. Outdoor seating is not permitted for food service establishments in the MU-LI District.~~

~~c. Sidewalk cafe seating within the public right-of-way is subject to 23.302.060 (Sidewalk Cafe Seating).~~

~~6.2. Building Openings – C-E and C-NS Districts. Food service establishments in the C-E and C-NS districts may have no openings, other than fixed windows and required fire exits, within 50 feet of a residential district.~~

~~7.3. C-W District Requirements.~~

~~a. Food service drive-through is not permitted on properties fronting San Pablo Avenue.~~

~~b. To approve a Use Permit for a food service establishment on a lot with frontage on San Pablo Avenue, the ZAB must find that:~~

- ~~i. The project does not conflict with the goals and policies of the C-W district;~~
- ~~ii. The location, size, appearance and signage of the project will not adversely affect the San Pablo Avenue corridor;~~
- ~~iii. The project supports pedestrian-oriented development;~~
- ~~iv. The project is designed to protect the residential character of surrounding neighborhoods from the adverse impacts of fast food development, including, but not limited to increased traffic, litter, and noise; and~~
- ~~v. For projects which include construction of new buildings, the project design:~~
  - ~~1. Provides intensity of development which does not underutilize the property, especially at or near intersections of major streets;~~
  - ~~2. Provides pedestrian scale and siting; and~~
  - ~~3. Incorporates continuity in street facades.~~

~~8. Permits Required in Manufacturing Districts. Table 23.3028 shows permits required for food service establishments in the manufacturing districts.~~

**Commented [HJ25]:** These requirements amended and moved to Manufacturing District Use table (see Section 13, above)

**TABLE 23.302-7: PERMIT REQUIREMENTS FOR FOOD SERVICE ESTABLISHMENTS IN MANUFACTURING DISTRICTS**

USE TYPE AND SIZE	DISTRICT			
	M	MM	MU-LI	MU-R
<b>Incidental Use</b>				
Under 20,000 sq. ft.	AUP [1]	AUP [1,2]	AUP [1]	AUP [1]
20,000 sq. ft. or more	-	-	-	AUP
<b>Carry Out Food Service (Primary Use)</b>				
Under 5,000 sq. ft.	-	-	AUP	AUP
5,000 sq. ft. or more	-	-	UP	UP
<b>Quick Service Restaurant (Primary Use)</b>				
Under 5,000 sq. ft.	-	-	AUP	AUP
5,000 sq. ft. or more	-	-	UP	UP
<b>Full-Service Restaurant (Primary Use)</b>				
	-	-	UP	UP
Notes:				
[12]— Outdoor food service is not permitted.				
[13]— Limited to food or beverage for immediate consumption.				

**9.4. MU-LI and MU-R District – Findings.**

- a. To approve an AUP or Use Permit to establish or expand a food service establishment in the MU-LI or MU-R district, the review authority must find that the establishment of the use, given its size, location, physical appearance and other relevant characteristics, will not have a significant detrimental impact on the industrial character of the area.
- b. To approve an AUP for a food service establishment less than 5,000 square feet, the Zoning Officer must find that a substantial portion of the food consists of goods manufactured on site.

Section 17. That Berkeley Municipal Code 23.302.070(G) and (H) be amended to read:

Commented [HJ26]: TECHNICAL EDITS to correct numbering

**G. Parking Lot/Structure.**

**1. Permits Required.**

2-1. **Permits Required.** Table 23.302-9-7 shows required permits for the exclusive or primary use of a lot for off-street parking spaces.

**TABLE 23.302-9-7: PERMIT REQUIREMENTS FOR PARKING LOTS/STRUCTURES**

DISTRICT	PERMIT REQUIRED
<b>Residential Districts</b>	
R-3	Use Permit for all parking lots and structures. [1]
R-S, R-SMU, R-BMU	Use Permit for parking structures only. Parking lots are not permitted, except on lots between Acton Street and Virginia Gardens and between Peralta Avenue and Northside Avenue in the R-BMU.
All other residential districts	Use Permit for all parking lots and structures.
<b>Commercial Districts</b>	
C-C, C-U	Zoning Certificate for parking lots and structures with 5 spaces or fewer. Use Permit for more than 5 spaces.
C-SO	AUP for parking lots and structures with 5 spaces or fewer. Use Permit for more than 5 spaces.
C-DMU	AUP for parking lots with 8 spaces or fewer. Use Permit for all parking structures. Lots with more than 8 spaces not permitted.
C-N, C-E, C-NS, C-SA	Use Permit for all parking lots and structures.
C-T	Use Permit for all parking structures. All parking lots not permitted.
C-W	AUP for parking lots and structures with 10 spaces or fewer. Use Permit for parking lots and structures with more than 10 spaces.
<b>Manufacturing Districts</b>	
M, MM	AUP for parking lots and structures with 10 or fewer spaces exclusively for uses in the district. Use Permit for parking lots and structures with any number of spaces not exclusively for uses in the district.
MU-LI	Zoning Certificate for parking lots and structures with 10 or fewer spaces exclusively for uses in the district. AUP for parking lots and structures with 11 spaces or more exclusively for uses in the district. Use Permit for parking lots and structures with any number of spaces not exclusively for uses in the district.
MU-R	Zoning Certificate for parking lots and structures exclusively for uses in the district. Use Permit for parking lots and structures not exclusively for uses in the district.

Notes:

[14][1] Parking lots and structures in the R-3 district are not permitted within the Southside Plan area

**3-2 Residential District Standards.** See 23.322.110– Parking Lots in Residential Districts for standards that apply to the exclusive or primary use of a lot for off-street parking spaces in a residential district.

**H. Residential Use, Ground-Floor Units.**

1. Southside Plan Area. In the R-3, R-S, R-SMU, and C-T districts within the Southside Plan boundaries, individual unit entries located within six feet of the front property line shall be at least 18 inches above the finished grade of the adjacent public frontage.

I. **Senior Congregate Housing.** Table 23.302-40-8 shows permits required for senior congregate housing.

**TABLE 23.302-408: PERMIT REQUIREMENTS FOR SENIOR CONGREGATE HOUSING**

PROJECT	PERMIT REQUIRED
Change of use from an existing dwelling unit to accommodate six or fewer people	ZC
Change of use from an existing dwelling unit to accommodate seven or more people	AUP
New construction to accommodate any number of people	UP(PH)

Section 18. That Berkeley Municipal Code 23.310.020 be amended to read:

Commented [HJ27]: 4. Alcoholic Beverage Sales Standards

**A. Applicability.**

1. This section applies to any application to begin ~~or increase~~ alcoholic beverage sales or service, excluding ~~beer and wine~~ alcoholic beverage service incidental to a food service establishment ~~in a Commercial District~~ (see 23.310.030 (Alcoholic Beverage Service When Incidental to a Food Service)).

~~2. As used in this section, an increase in alcoholic beverage sales or service includes, but is not limited to:~~

~~a. Adding the sales or service of distilled spirits to any existing sales or service of beer and/or wine;~~

~~b. Extending the hours of operation of any establishment that sells or serves any alcoholic beverage; and~~

~~c. Adding to the capacity, floor area, or shelf space devoted to alcoholic beverages of any establishment that sells or serves any alcoholic beverages.~~

~~3. An increase in alcoholic beverage sales or service does not include extending the hours of operation of any food service establishments with incidental beer and/or wine service.~~

**B. Permit Required.** ~~A Use Permit is required to begin or increase alcoholic beverage sales or service in any way.~~

~~1. An Administrative Use Permit is required to begin service of alcoholic beverages, except as provided in 23.310.030 (Alcoholic Beverage Service When Incidental to Food Service).~~

~~4-2. To increase sales and service of alcoholic beverages, an existing Administrative Use Permit or Use Permit may be modified with an AUP regardless of the original review authority.~~

**C. Application – List of Nearby Establishments.** ~~As part of an application to begin or increase alcoholic beverage sales or service, the applicant must provide a list of all establishments within a 1,000-foot radius which are in the same category of alcoholic beverage sales or service, as defined by the California Department of Alcoholic Beverage Control.~~

**DC. Findings of Public Convenience or Necessity.** ~~To approve a permit for alcoholic beverage sales or service, the decision-making body must make the following findings: If the proposed use is within a 1,000-foot radius of the site of a use that is in the same category of alcoholic beverage sales or service, excluding food service establishments with incidental service of beer and/or wine, the Zoning Adjustments Board (ZAB) may approve the application~~

~~1. The number of alcoholic beverage sales licensees in the census tract does not exceed the limit set by the Department of Alcoholic Beverage Control, as defined in California Business and Professions Code Section 23958.4, excluding Food Service Establishments with incidental alcohol service; and~~

~~4-2. At least one of the following; only if it makes all of the following findings:~~

~~a. The proposed establishment will promote the City's economic health, contribute to General Plan or area plan policies, or further the district purpose.~~

~~b. The economic benefits associated with the establishment could not reasonably be achieved without the proposed alcohol sales or service.~~

~~b.-c. The applicant has operated a licensed establishment that has not been the subject of violations regarding alcohol in the State of California, or violations of public safety or nuisance statutes or regulations in Berkeley, as verified by the Police Department, such violations do not indicate a high likelihood of~~

~~further violations and/or detrimental impacts from the proposed establishment. In making this finding, the ZAB decision-making body may consider the number, frequency, and severity of prior violations, the time elapsed since the last violation, and other relevant factors.~~

- ~~4. If the proposed establishment is within 1,000 feet of any public park or public school, the ZAB has taken into consideration the effect of the proposed establishment upon such sensitive public uses.~~
- ~~3. If the number of alcoholic beverage sales licenses in the census tract exceeds the limit set by the Department of Alcoholic Beverage Control; the decision-making body must find that the public convenience or necessity would be served by approving alcohol sales at the proposed location for any two or more of the following reasons:
 
  - ~~a. The proposed establishment will promote the City's economic health, contribute to General Plan or area plan policies, or further the purposes of the district.~~
  - ~~b. The economic benefits associated with the establishment could not reasonably be achieved without the proposed alcohol sales or service.~~
  - ~~c. The sale of alcoholic beverages will enhance recreational or entertainment opportunities in the area.~~
  - ~~d. The sale of alcoholic beverages complements the sale of other goods and merchandise at the location.~~
  - ~~e. The issuance of a license at the proposed location will improve the convenience of area residents and visitors who purchase alcoholic beverages.~~~~
- ~~4. The Police Department has reported that the proposed establishment would not be expected to add to crime in the area.~~

Section 19. That Berkeley Municipal Code 23.310.030 be amended to read:

- A. **Permits Required.** Table 23.310-1 shows permits required for alcoholic beverage service when incidental to a food service establishment. If more restrictive requirements than what is permitted in Table 23.310-1 are imposed as a condition of approval on an existing AUP or UP, the use may be modified with an AUP regardless of the original review authority.

**Table 23.310-1: Permits Required for Alcoholic Beverage Service**

**Commented [HJ28]:** 2. Incidental Distilled Spirits  
4. Alcoholic Beverage Sales Standards  
10. Seated Food Service Requirement  
15. Third Party Rental

District	Permit Required Based on Type of Beverages Served When Incidental to Food Service	
	Beer and Wine	Distilled Spirits
R-SMU	UP(PH)	UP(PH)
<u>R-BMU</u>	<u>ZC</u>	<u>UP (PH)</u>
All Commercial Districts, <del>except C-AC and the R-BMU District</del>	ZC	<u>UP(PH) AUP</u>
<del>C-AC</del>	<del>ZC</del>	<del>AUP</del>
MU-LI, MU-R	<u>UP(PH) AUP</u>	<u>UP(PH) AUP</u>

**B. Use Limitations.**

- ~~1. **R-SMU District.** In the R-SMU district, alcoholic beverage service is allowed only for full-service restaurants. Alcoholic beverage service is not allowed for carry out food stores and quick-service restaurants.~~
- ~~2. **Commercial Districts.** In Commercial Districts, beer and wine service is allowed by right when for on-site consumption with seated food service.~~
- ~~3. **C-NS and R-BMU Districts.** In the C-NS district, distilled spirit service is allowed only for full-service restaurants. Distilled spirit service is not allowed for carry-out food stores and quick-service restaurants.~~
- ~~4. **C-T and C-SO Districts.** In the C-T and C-SO districts, distilled spirit service is allowed only for on-site consumption with seated food service.~~
- ~~5. **C-AC District.** In the C-AC district, distilled spirit service is allowed along Adeline Street south of Ashby Avenue only for on-site consumption with seated food service.~~

**CB. Incidental Beer and Wine Service Standards.** The following standards apply to beer and wine service incidental to a food service establishment ~~in a Commercial District.~~

1. **Licensing.**
  - a. The food service establishment shall comply with all applicable regulations of the California Department of Alcoholic Beverage Control.
  - b. An operator of the licensed establishment may not have a prior licensed establishment that was the subject of verified complaints or violations

regarding alcohol, public safety, or nuisance statutes or regulations before issuance or transfer of a business license at this location.

**2. Service.**

- a. Beer and wine beverage service shall be incidental to the primary food service use.
- b. Beer and wine service incidental to seated food service shall only be allowed at a bona fide eating place making actual and substantial sales of meals as determined and required by the California Department of Alcoholic Beverage Control.
- c. The sale of beer and wine for off-site consumption is not permitted.
- ~~d. Employees may not serve beer or wine to patrons who appear to be inebriated or otherwise unable to behave in an orderly manner upon consuming alcohol.~~
- ~~e. All beer and wine served to patrons must be served in durable restaurant tableware. Beer or wine may not be distributed in its original bottle or can, or in any other potentially disposable container.~~
- ~~f. There shall be no bar or lounge area upon the licensed premises maintained for the sole purpose of sales, service, or consumption of alcoholic beverages directly to patrons for consumption.~~
- ~~g-d. Hours of operation are subject to review and amendment by the review authority, Zoning Officer or the ZAB as necessary to avoid detriment to the neighborhood or to achieve conformance with revised City of Berkeley standards or policies.~~

**3. Operation.**

- a. The food service establishment must operate at least five days a week.
- b. The service of beer and wine shall be limited to normal meal hours (per California Department of Alcoholic Beverage Control) during the food service establishment's hours of operation.
- ~~c. During operating the food service establishment's hours of operation, 400 percent of the service all public areas shall be designed and used available for meal service and the food service establishment must possess the necessary utensils, and condiment dispensers with which to serve meals to the public.~~
- ~~d. At no time shall the operator rent the restaurant space to a third party.~~
- ~~e-d. The owner or operator of the establishment shall take reasonable measures to prevent disturbances by patrons in the immediate vicinity. Such measures shall include:~~

i. Signs reminding patrons of nearby residences and requests not to congregate or loiter near such residences nor operate vehicles in a noisy manner on residential streets; and

ii. Surveillance to public areas near the establishment, keeping public areas free of trash and litter, providing lighting, and otherwise preventing conduct that might disturb the peace and quiet of residences in the vicinity.

f.e. The operator shall assume reasonable responsibility for ensuring that patrons do not block the entrance or interfere with pedestrian activity on the adjacent public sidewalk.

g.f. The applicant shall establish cash handling procedures to reduce the likelihood of robberies and theft.

4. Advertising.

a. ~~There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior constitute a violation of this requirement. Establishments shall comply with Municipal Code Chapter 20.67 (Alcohol Product Advertising)~~

b. ~~Alcohol-dispensing facilities and signs advertising alcoholic beverages may not be visible from the public right-of-way.~~

5. Training.

a. The operator shall finish a Crime Prevention through Environmental Design (CPTED) survey before beginning alcohol service.

b. All employees selling and/or serving beer and wine, or directly supervising such sales and/or service, shall comply with Municipal Code Section 9.84.030 (Responsible Beverage Service Training) and finish the Licensee Education on Alcohol and Drugs (LEAD) program, or another equivalent program offered or certified by the California Department of Alcoholic Beverage Control within 90 days of employment at the establishment. Employees who have finished the course within the last 12 months are exempt from this requirement.

Section 20. That Berkeley Municipal Code 23.324.040(B)(2)(b) be amended to read:

b. **Uses with Major Investments.** Lawful nonconforming ~~full or quick service restaurants~~ food services establishments with cooking or food preparation facilities, gas/auto fuel stations, theaters, manufacturing plants with specifically designed fixed facilities and other uses which represent a major

Commented [HJ29]: TECHNICAL EDIT: "full or quick service restaurants" no longer exist as a use type (see Section 25 below)

investment in physical plant or facilities shall not be considered or declared terminated, regardless of the duration of non-use, unless:

- i. Such fixed structures, equipment, or facilities are removed; or
- ii. Other uses could not be established without major removal of or extensive remodeling or replacement of structures associated with the previous established use.

Section 21. That Berkeley Municipal Code 23.502.020(B)(4) be amended to read:

Commented [HJ30]: 3. Stand-Alone Beer and Wine

- 4. **Bar/Cocktail Lounge/Tavern/Tap Room/Wine Tasting.** A business devoted to serving alcoholic beverages for consumption by guests on the premises and in which the serving of food is ~~only~~ incidental to the consumption of such beverages.

Section 22. That Berkeley Municipal Code 23.502.020(D) be amended to read:

Commented [HJ31]: 1. Group Class Instruction

D. "D" Terms.

- ~~1. **Dance/Exercise/Martial Arts/Music Studio.** An establishment in which customers assemble for group exercises, dancing, self-defense training, aerobics, choral or musical instrument instruction, other movement drills for learning, rehearsal or non-audience performances.~~
- ~~2-1. **Deck.** An unenclosed structure, usually made of wood, built to provide a solid continuous surface for outdoor use and/or access to a door, which is accessible from the ground level, directly or from a connecting stairway and is separated from the ground by an air space.~~
- ~~3-2. **Demolition.** A building or enclosed structure shall be considered demolished for the purposes of this chapter when, within any continuous 12-month period, such building or enclosed structure is destroyed in whole or in part or is relocated from one lot to another. For purposes of this definition, destroyed in part means when 50 percent or more of the enclosing exterior walls and 50 percent or more of the roof are removed. Removal of facades or portions of facades requires Design Review.~~
- ~~4-3. **Density.** See 23.106.100 – Residential Density~~
- ~~5-4. **Density Bonus.** See 23.332.020 (Definitions).~~
- ~~6-5. **Department.** The Planning and Development Department of the City of Berkeley or its successor administrative unit.~~

- 7.6. **Department Store.** A retail store selling several kinds of merchandise, which are usually grouped into separate sections, including but not limited to, apparel, housewares, household hardware, household appliances, household electronics and gifts.
- 8.7. **Dormer.** A projection built out from a sloping roof, usually housing a vertical window or ventilating louver. See also 23.304.110 (Dormers).
- 9.8. **Dormitory.** A building providing group living accommodations, occupied by individuals not sharing a common household, characterized by separate sleeping rooms without individual kitchen facilities and containing congregate bath and/or dining facilities or rooms.
- 10.9. **Drive-in Uses.** A use where a customer is permitted or encouraged, either by the design of physical facilities or by the service and/or packaging procedures offered, to be served while remaining seated within an automobile. This use includes drive-through food service establishments, financial services (banks), and automatic carwashes.
- 11.10. **Driveway.** A paved, vehicular accessway connecting an off-street parking space or parking lot with a public or private street.
- 12.11. **Drug Paraphernalia.** As defined in California Health and Safety Code Section 11364.5(d).
- 13.12. **Drugstore.** A retail establishment where the profession of pharmacy is practiced and/or where licensed prescription drugs and general merchandise are offered for sale. A food products store with a pharmacy is not a drugstore.
- 14.13. **Dry Cleaning and Laundry Plants.** A place where clothes are dry cleaned, dyed and/or laundered as part of a commercial business, whether or not such clothes were deposited by a customer at that location, or transported from another location, as part of a service. This use includes all establishments subject to Section 19233 of the State of California Business and Professions Code, regulating Dry Cleaning Plants, but excludes laundromats and cleaners as defined in this chapter.
- 15.14. **Duplex.** A building or use of a lot designed for, or occupied exclusively by, two households.
- 16.15. **Dwelling Unit.** A building or portion of a building designed for, or occupied exclusively by, persons living as one household.

Section 23. That Berkeley Municipal Code 23.502.020(F) (11) be amended to read:

**Commented [HJ32]: TECHNICAL EDIT:** There are no longer any regulations pertaining to Carry Out Food Store, Quick Service Restaurant, or Full Service Restaurant; so, deleting definitions.

11. **Food Service Establishments.** An establishment which in whole or in part prepares food or beverages for immediate consumption on or off the premises.

~~a. **Carry Out Food Store:** A store which serves food or non-alcoholic beverages for immediate consumption not on the premises, but usually in the vicinity of the store. This use is usually characterized as an establishment which serves food altered in texture and/or temperature on a customer-demand basis, puts such food in non-sealed packages or edible containers, requires payment for such food before consumption, and provides no seating or other physical accommodations for on-premises dining. Examples of this use include delicatessens and other stores without seating which sell doughnuts, croissants, ice cream, frozen yogurt, cookies, whole pizzas and sandwiches. This use excludes bakeries and food products stores.~~

~~b. **Quick Service Restaurant:** An establishment which serves food or beverages for immediate consumption either on the premises, or to be taken out for consumption elsewhere. This use is usually characterized as an establishment in which food is cooked on a customer-demand basis, payment is required before consumption, limited or no able service is provided (no waiters), and seating or other physical accommodations for on-premises customer dining is provided. Examples of this use include establishments selling primarily hamburgers or other hot or cold sandwiches, hot dogs, tacos and burritos, pizza slices, fried chicken, or fish and chips.~~

~~c. **Full-Service Restaurant:** An establishment which serves food or beverages for immediate consumption primarily on the premises, with only a minor portion, if any, of the food being taken out of the establishment. This use is characterized as an establishment in which food is stored, cooked or prepared on the premises on a customer-demand basis, which requires payment after consumption, and provides seating and tables for on-premises customer dining, and may provide with table service (waiters).~~

Section 24. That Berkeley Municipal Code 23.502.020(G)(6) be amended to read:

Commented [HJ33]: 1. Group Class Instruction

6. **Group Class Instruction.** An establishment that offers specialized programs in personal growth, and development, and instruction in artistic, cultural, and academic pursuits, including music and choral schools, performing arts, arts and crafts, cooking, tutoring, martial arts and self-defense training. Excludes spaces designed exclusively for public performance. Includes music studios, drama schools, dance academies, art schools, tutoring schools, and instruction in other cultural and academic pursuits.

Section 25. That Berkeley Municipal Code 23.502.020(G)(9) be removed:

Commented [HJ34]: 1. Group Class Instruction

- 9. ~~**Gyms and Health Clubs.** An indoor facility where exercise equipment, classes and related activities related to personal health and fitness are available to paying customers. Excludes parks/playgrounds.~~

Section 26. That Berkeley Municipal Code 23.502.020(H)(2) – (11) be amended to read:

Commented [HJ35]: 1. Group Class Instruction

- 2. **Health and Fitness Facility.** A facility where exercise equipment, swimming pools, group or aerobic classes (including yoga and Pilates) and other activities related to person health and fitness are available to customers or members. Excludes park/playground.

Commented [HJ36]: New definition to replace Gym/Health Club/Fitness Studio

- 23. **Hedge.** Any line or row of plants, trees or shrubs planted in a continuous line to form a dense thicket or barrier.
- 34. **Height of Building, Average.** See 23.106.090.A (Average Building Height).
- 45. **Height of Building, Maximum.** See 23.106.090.B (Maximum Building Height).
- 56. **Home Occupation.** A business use conducted on property developed with a residential use, which is incidental and secondary to the residential use, does not change the residential character of the residential use, is limited so as not to substantially reduce the residential use of the legally established dwelling, Accessory Dwelling Unit, Accessory Building or Group Living Accommodation room and is operated only by the residents of the subject residence.

There are three classification of Home Occupations. For the purposes of this section, a "customer" is considered a single paying customer, but may include more than one person receiving the services at the same time:

- (1) Class I Home Occupation--Involves no more than five customer visits per day, with no more than four persons receiving services at a time. This class does not allow shipping of goods directly from the subject residence.
- (2) Class II Home Occupation--Involves no more than ten customer visits per day, with no more than four persons receiving services at a time and no more than one non-resident engaging in business-related activities on-site. This class does not allow shipping of goods directly from the subject residence.
- (3) Class III Home Occupation--Involves more than ten customer visits per day, with no more than four persons receiving services at a time and no more than one non-resident engaging in business-related activities on-site and/or involves shipping of goods directly from the subject residence.

67. **Hospital.** A facility for in-patient medical care licensed under California Administrative Code, Title 17, Section 237 or 238.
78. **Hot Tub.** A tub or small pool, usually made of wood or fiberglass, in which heated water is maintained for recreational or therapeutic activities, including, but not limited to, jacuzzis, whirlpools and spas.
89. **Hotel, Residential.** A type of group living accommodations which provides rooms for rent for residential purposes, including single residential occupancy (SRO) rooms.
910. **Hotel, Tourist.** A building with sleeping rooms used, designed, or intended for occupancy by transient guests for a period not to exceed 14 consecutive days. This use includes inns, bed and breakfasts (B&Bs), and hostels, and excludes building with residential hotel rooms and dwelling units.
4011. **Household.** One or more persons, whether or not related by blood, marriage or adoption, sharing a dwelling unit in a living arrangement usually characterized by sharing living expenses, such as rent or mortgage payments, food costs and utilities, as well as maintaining a single lease or rental agreement for all members of the household and other similar characteristics indicative of a single household.
4112. **Household Income, Gross.** The income of all adult members of the household as determined by the guidelines used by the Berkeley Housing Authority for its administration of the Section 8 Rental Subsidy Program. For purposes of this definition, household is the same as Family in the federal Section 8 Existing Housing Program or its future equivalent. Classification of Households, based on income, shall be based on the following percentages of the Oakland Primary Metropolitan Statistical Area (PMSA) statistical figures for income of the most recent U.S. Census that are available:
- (a) *Low Income Household.* A household whose gross income is greater than 80 percent and less than 100 percent of the median income.
  - (b) *Lower Income Household.* A household whose income is no greater than 80 percent and above 50 percent of the median income.
  - (c) *Very Low Income Household.* A household whose gross income is 50 percent or less of the median income.

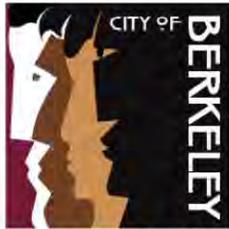
Section 27. ~~That~~ Berkeley Municipal Code 23.502.020(S)(31) be amended to read:

Commented [HJ37]: 1. Group Class Instruction

31. **Studio.** See Art/Craft Studio ~~and Dance, Exercise, Martial Arts or Music Studio.~~

Section 28. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

DRAFT



Office of the City Manager

ACTION CALENDAR

October 15, 2019

*(Continued from September 24, 2019)*

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Economic Development Manager

Subject: Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses

RECOMMENDATION

Refer to the Planning Commission modifications to the Zoning Ordinance that are designed to streamline the zoning review process for new or expanding small businesses in Berkeley.

SUMMARY

In April 2017, City Council referred to the City Manager analysis of a number of policy and programmatic initiatives to support the City's small businesses, including "streamlining of zoning, permitting and licensing requirements and processes." In February of 2019, six changes to the Zoning Ordinance were enacted. Subsequently, staff from the Office of Economic Development (OED) have identified eight additional potential modifications to the Zoning Ordinance for the Council and Planning Commission to consider. These eight changes are proposed in Berkeley's commercial zoning districts to make the permitting review process for small businesses less complex and time consuming:

1. Consider permitting Group Instruction (Dance Studios, Yoga Studios, Martial Arts, Exercise) with a Zoning Certificate.
2. Clarify the threshold for design review and the applicability of design guidelines for sign applications in commercial districts.
3. Consider permitting the sale of Distilled Spirits that are incidental to a Food Service Establishment with an Administrative Use Permit (AUP) subject to performance standards.
4. Consider permitting standalone Beer and Wine Sales (such as Tap Rooms and Wine Bars) with a Zoning Certificate subject to performance standards.
5. Consider modifying the limitation on hours of operations in some commercial districts.
6. Consider the necessity of 'change of use' requirements in commercial districts.
7. Consider the appropriate levels of discretion for Arcades and Automatic Teller Machines (ATMs) commercial districts.

- 8. Update the Special Use Standards in Section 23E.16.040 for Alcoholic Beverage Sales and 23E.16.050 Amusement Arcades to reflect the proposed changes to the Zoning Ordinance.

These proposed revisions reflect input from the small business community and are seen by staff as relatively straightforward opportunities to modernize and improve the Zoning Ordinance to reflect present day conditions and community values. Each of these proposed modifications is designed to make the zoning review process for small businesses easier, clearer, and more streamlined.

FISCAL IMPACTS OF RECOMMENDATION

Modifications to the Zoning Ordinance, and the accompanying public hearings, will require staff time from the Planning Department, Office of Economic Development, and City Attorney’s Office to produce staff reports and attend the required Planning Commission and City Council hearings. Proposed modifications are designed to simplify the planning review process for desirable business activities (including new business starts and expansions) and therefore may result in a modest increase in business license tax and sales tax revenues.

CURRENT SITUATION AND ITS EFFECTS

The Zoning Ordinance has evolved over decades to reflect Berkeley’s changing values and the changing landscape of property development and land use. Its requirements are intended to guide the City’s growth while preserving its existing character. However, businesses and people operate differently than they did 20 to 50 years ago, and some of the current permit thresholds and ordinance requirements do not recognize these changes. This results in a permitting process that can be unnecessarily lengthy and cumbersome, especially for independently-owned small businesses without the sophistication to navigate our complicated code and permitting process. Since its last major overhaul in 1999, the Zoning Ordinance has been updated in large and small ways at least 16 times to reflect new approaches to land use and changes in the ways businesses function and residents view their community. Staff has observed that it is particularly difficult for smaller, independently-owned businesses to navigate the permit review process and the associated timelines and expense. The modifications proposed here are designed with the unique needs and challenges of small businesses in mind. Further, these recommendations follow up on the recently adopted (January 2019) zoning modifications to support small business that have improved the experiences in several cases over a period of five months.

In order to update our ordinance to better accommodate today’s locally-owned, small, independent enterprises that are highly desirable to our community, and to adhere to best practices in planning and sustainable economic development, staff recommends the eight modifications to the Zoning Ordinance listed above to provide regulatory relief for small businesses in their establishment or expansion phases. These changes are an important component and continuation of a broader effort to improve our organization’s embrace of our customer service and Strategic Plan goals to “foster a dynamic, sustainable, and locally-based economy” and “provide excellent, timely, easily-

accessible service and information to the community,”<sup>1</sup> while honoring the City’s commitment to public participation and ensuring that new uses are compatible with neighboring land uses.

## BACKGROUND

On April 25, 2017, the City Council referred to the City Manager a bundle of recommendations entitled the “Small Business Support Package” with the objective to “to support the establishment of new, and sustainability of existing small and/or locally owned businesses.” Among the strategies that Council asked staff to analyze and implement included “streamlining of zoning, permitting and licensing requirements and processes for small/local businesses and not-for-profits, to reduce associated costs and delays, and, where appropriate, provide less onerous levels of review.”<sup>2</sup> In the Council’s annual referral prioritization exercise conducted in May 2017, the item was ranked as the Council’s top priority among the referrals not pertaining to housing.

Subsequently, during summer and fall of 2017, Office of Economic Development (OED) staff conducted significant outreach and research on Berkeley’s small businesses and compiled its findings in a work session report and presentation to council on January 16, 2018.<sup>3</sup> Small business owners and advocates identified the lengthy permitting review process as one of the primary barriers to small business startup and expansion in Berkeley. As a result, staff recommended six modifications to the Zoning Ordinance that were adopted by the City Council on January 22, 2019.<sup>4</sup> Over six months since the zoning modifications went into effect, several business have benefited from the amendments by reducing months of permit review time and additional expenses. For example, Thai Corner at 1277 Gilman Street, the Sundhari Spa at 1605 Solano Avenue, and AxeVentures at 2566 Telegraph Avenue each were able to open their business or expand their hours via a Zoning Certificate, rather than wait several months for an AUP. In addition, the zoning modifications were acknowledged by the Northern California Chapter of the American Planning Association (NorCal APA) with an Award of Merit in Economic Planning and Development.

The goal of this second round of zoning changes is again to improve and simplify the permitting experience for small businesses, which can in turn enhance the quality of commercial district offerings, help fill vacant storefronts, and generate more local and sustainable economic opportunities. The recommendations distill specific complaints, concerns, challenges, and staff observations into concise changes to the zoning ordinance designed specifically to alleviate long permit queues, clear up applicant confusion, and streamline the experience of doing business in Berkeley. The

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<sup>1</sup> See *City of Berkeley 2018-2019 Strategic Plan*, adopted by Berkeley City Council, January 16, 2018.

<sup>2</sup> See *Small Business Support Package*, adopted by Berkeley City Council, Item 41, April 25, 2017.

<sup>3</sup> See *Economic Development Worksession, Small Business Support*.

[https://www.cityofberkeley.info/Clerk/City\\_Council/2018/01\\_Jan/Documents/2017-01-16\\_WS\\_Item\\_01\\_Economic\\_Development\\_Worksession.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/01_Jan/Documents/2017-01-16_WS_Item_01_Economic_Development_Worksession.aspx)

<sup>4</sup> See *Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses*, adopted by City Council, Item 1, January 22, 2019

[https://www.cityofberkeley.info/Clerk/City\\_Council/2019/01\\_Jan/Documents/2019-01-22\\_Item\\_01\\_Ordinance\\_7635.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/01_Jan/Documents/2019-01-22_Item_01_Ordinance_7635.aspx)

recommendations are also informed by outreach, conducted February through August 2019, to neighborhood stakeholders, business owners, elected officials and commissioners. Staff aimed to identify and streamline the particular controls that lengthen the review process for desired and noncontroversial uses. In addition, the recommendations are consistent with purpose statements for commercial districts in section 23E of the Zoning Ordinance.

The following recommendations and rationale continue to iterate on the progress and inputs gathered from the first round of zoning amendments to support small businesses:

1. Consider permitting Group Instruction (Dance Studios, Yoga Studios, Martial Arts, Exercise) with a Zoning Certificate. Currently the Zoning Ordinance requires an AUP for Group Class Instruction in the majority of commercial zoning districts. A new yoga studio or exercise studio, or businesses interested in adding classes to an existing business, such as an art gallery or culinary business, are subject to discretionary review through an AUP application. The AUP requirement typically lengthens the zoning review process by three to six months, and typically increases the cost by roughly \$1,000 to \$4,000.

OED staff has observed an increase in business models that employ a combination of retail and/or food consumption with instruction, training and class offerings. As the prevalence of online purchases for soft goods (e.g., clothing, books, music) increases, these creative commercial uses are increasingly critical to the vitality and sustainability of neighborhood commercial districts. Therefore staff recommends amending the Zoning Ordinance to permit these uses in commercial districts with a Zoning Certificate.

2. Clarify the threshold for design review and the applicability of design guidelines for sign applications in commercial districts. Section 20.12.070 of the Zoning Ordinance and Section 23E.08.020 of the Sign Code have conflicting and contradictory language related to the threshold for the design review of a new sign and the requirements for a Sign Permit. In addition, the current application for Signs and Awnings throughout the City refer to the Downtown Sign Guidelines; those guidelines have been used for the review and processing of signs beyond Downtown. This has led to confusion for applicants, business owners and sign companies wishing to do business in Berkeley. The impact is especially detrimental to small, independent business owners interested in opening a new business with a new sign.

To remedy this, staff recommends a minor modification to the language in Section 23E.08.020 Applicability of Design Review in non-residential districts to clarify the types of signs that are subject to design review and signs that are exempt. In addition, the Planning Commission should determine whether the Downtown Sign Guidelines are suitable for the evaluation of signs throughout the City or only Downtown.

3. Consider permitting the sale of Distilled Spirits that are incidental to a Food Establishment with an Administrative Use Permit (AUP) subject to performance standards. Presently an operator of a food service establishment must obtain a Use Permit with a Public Hearing UP(PH) to serve distilled spirits. This review process is separate from and in addition to the review process an owner or operator is subject to by Alcohol Beverage Control (ABC), the state agency regulating the sale, service, and production of alcohol. The UP(PH) requirement typically lasts between five to eleven months, and includes \$5,215 in fees. The requirement also generates additional demands on Planning staff and the Zoning Adjustments Board, and uncertainty for food service purveyors.

Staff recommends the incidental service of distilled spirits at a food establishment be permitted via an AUP, subject to specific conditions of approval and the adopted performance standards which are approved by Berkeley's law enforcement officials and in line with the best practices employed by the state ABC. Nearby residents and property owners will still be notified of the proposed use and will have the ability to provide comments and appeal the Planning Department's decision.

4. Consider permitting standalone Beer and Wine Sales (such as Tap Rooms and Wine Bars) with a Zoning Certificate subject to performance standards. Currently, tap rooms, wine bars and tasting rooms are subject to the UP(PH) process in most commercial districts. As noted above, the UP(PH) requirement typically lasts between five to eleven months, and includes \$5,215 in fees. The requirement also generates additional demands on Planning staff and the Zoning Adjustments Board, and uncertainty for entrepreneurs interested in this type of business. This review process is separate from and in addition to the review process an owner or operator is subject to by Alcohol Beverage Control (ABC), the state agency regulating the sale, service, and production of alcohol.

Staff recommends that standalone beer and wine sales be permitted via a Zoning Certificate, subject to the performance standards which are approved by Berkeley's law enforcement officials and in line with the best practices employed by the state ABC. The City of Berkeley has an emerging wine and beer scene, resulting in additional tourism, tax revenue, manufacturing and job creation; this policy change could help to encourage its continued expansion.

5. Consider modifying the limitation on hours of operations in some commercial districts. Currently, several commercial zoning districts limit the hours of operation for businesses; e.g., businesses in the Elmwood District may not operate outside of 7am-11pm. In order for a business to exceed the existing limits, they must apply for a UP(PH) (adding approximately five to eleven months and \$5,215 in fees to the zoning approval process). This is a significant obstacle for many business owners and has served as a deterrent for entrepreneurs that may be interested in providing food and drinks to customers after 11:00 pm. Many of the City's entertainment activities end at or after 11:00 pm; in some

districts, the limits on hours of operations restricts businesses from offering complementary services. This could result in lost tax revenue, job opportunities and lost business to adjacent cities. Staff recommends that the Planning Commission consider removing the blanket restriction in some or all commercial districts, allowing business owners to maintain hours of operation that comply with any applicable State laws and are aligned with their business model and customer demand.

6. Consider the necessity for 'change of use' requirements in commercial districts triggered by square footage. Currently in some C-prefixed districts, a change of use above a certain square footage threshold necessitates an AUP or a UP(PH). A commercial change of use requirement based on square footage is atypical; surrounding jurisdictions do not impose this level of scrutiny on neighborhood serving business, which puts Berkeley at a competitive disadvantage in its attraction of new businesses to larger commercial spaces. Each district's Use Table makes allowances for different levels of discretionary review for particular uses based on square footage thresholds. This additional requirement therefore adds to the overall complexity of the zoning ordinance; as it is a supplemental requirement implemented via an asterisk, often it is initially overlooked by applicants.

Staff recommends that the Planning Commission review the appropriateness and benefits of an AUP for a Change of Use and consider eliminating the requirement in some or all commercial districts. Proposed uses would be evaluated and reviewed based on the levels of discretion defined in the Use Table for each district.

7. Consider the appropriate levels of discretion for Arcades and Automatic Teller Machines (ATMs) commercial districts. Commercial recreation uses that are classified as Arcades (e.g., Emporium and 90's Experience, Oakland, CA and the High Scores Arcade Museum, Alameda, CA) have become increasingly popular and prevalent. With the rise of internet sales posing challenges to retailers, these types of experiential commercial establishments have become increasingly important to the overall health of commercial districts. However, Berkeley's existing zoning controls make it difficult or impossible to open that type of establishment in most districts. Currently, Arcades are either prohibited or require a UP(PH), which adds approximately five to eleven months and \$5,215 in fees to the zoning approval process. The requirement also generates additional demands on Planning staff and the Zoning Adjustments Board, and uncertainty for entrepreneurs interested in this type of business.

ATMs also typically require an AUP or UP(PH), and in some districts are prohibited unless part of a Financial Institution. ATMs are often a beneficial and complimentary element for active commercial districts, especially if there's a lack of financial institutions in the area like some parts of Berkeley. Furthermore, the City of Berkeley is considering a policy that would require businesses to accept

cash. Staff recommends that the Planning Commission review the levels of discretion for Arcades and ATM's in commercial districts.

8. Update the Special Use Standards in Section 23E.16.040 for Alcoholic Beverage Sales and 23E.16.050 Amusement Arcades to reflect the proposed changes to the Zoning Ordinance. The Special Use Standards in Section 23E.16.040 for Alcoholic Beverage Sales and 23E.16.050 Amusement Arcades provide additional requirements and limitations for certain uses in the Zoning Ordinance. Several of the regulations are limiting and don't reflect the current standards in other jurisdictions. In addition, these sections would need to be modified to be consistent with the recommended Zoning Ordinance amendments above. Furthermore, the Public Convenience or Necessity findings for alcohol use and the distance buffers for Arcades are overly restrictive, don't reflect best practices and conflict with typical business practices. For example, Section 23E.16.040(A)(1)(b)(5) states "*no beer or wine may be distributed in its original bottle or can.*" Staff recommends that the Planning Commission consider updating the Special Use section of the ordinance to be reasonable, enforceable and be consistent with surrounding jurisdictions.

#### *Next Steps*

Staff recommends that City Council review and adopt this referral to Planning Commission. Subsequently, Planning Department staff would present the Planning Commission with information, case studies and analysis relevant to each proposed change, seek guidance from the Commission, and draft Zoning Ordinance amendments for the Commission's review. It is possible that some of the recommendations may be implemented as part of the Zoning Ordinance Revision Project (ZORP), a current initiative to modernize and streamline the Zoning Ordinance. Planning Commission hearings will provide opportunities for additional feedback from small business owners, citizens, neighborhood associations, and commercial district groups.

#### *Strategic Plan Connection*

This referral is a component of a Strategic Plan Priority Project (Small Business Support), advancing our goals to provide an efficient and financially-healthy City government; to foster a dynamic, sustainable, and locally-based economy; and to be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

#### ENVIRONMENTAL SUSTAINABILITY

Many of the City's environmental sustainability goals are inextricably tied to the overall health of the City's economy. Small businesses make up the bulk of Berkeley's economy. Small businesses often contribute to sustainable transportation and consumer behavior by providing opportunities to shop in neighborhood commercial districts that are accessible by foot, bicycle and transit.

#### RATIONALE FOR RECOMMENDATION

Berkeley's commercial districts, and the small businesses that comprise them, are vital to the City's economic, social and civic wellbeing. These zoning changes represent the

most immediate and straightforward approach the City can take to assist small businesses and potentially reduce commercial vacancies. They are designed specifically to support small independent operators seeking to invest and activate these districts, and will provide the community with needed goods and services. These changes also have the added addition of improving our city's internal permitting processes, by shortening timelines and improving customer service.

ALTERNATIVE ACTIONS CONSIDERED

Staff considered various other changes to levels of discretionary review and other zoning compliance review for commercial uses, but recommends moving forward with the modifications proposed above while continuing to gather input on additional changes.

CONTACT PERSON

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Kieron Slaughter, Community Development Project Coordinator, (510) 981-2490

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL  
ZONING ORDINANCE AMENDMENTS TO SUPPORT BERKELEY  
BUSINESS**

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

The Department of Planning and Development is proposing amendments to the City's Zoning Ordinance (Title 23) to establish a streamlined, cost-effective, and expedited review and approval process tailored to smaller businesses, while preserving the city's commitment to public participation and ensuring that new uses are compatible with neighboring land uses. Proposed amendments affect the following sections of Title 23:

- 23.202.020 Allowed Land Uses (Residential Districts)
- 23.202.150 R-BMU Residential BART Mixed Use District
- 23.204.020 Allowed Land Uses (Commercial Districts)
- 23.204.040 Use-Specific Permit Requirements and Regulations
- 23.204.080 C-E Elmwood Commercial District
- 23.204.100 C-SA South Area Commercial District
- 23.204.110 C-T Telegraph Avenue Commercial District
- 23.204.120 C-SO Solano Avenue Commercial District
- 23.204.130 C-DMU Downtown Mixed-Use District
- 23.204.150 C-AC Adeline Corridor Commercial District
- 23.206.020 Allowed Land Uses (Manufacturing Districts)
- 23.302.020 Supplemental Use Regulations (Hours of Operation)
- 23.302.070 Supplemental Use Regulations (Use-Specific Regulations)
- 23.310.020 Alcoholic Beverage Sales and Service (General Alcohol Service Requirements)
- 23.310.030 Alcoholic Beverage Sales and Service (Incidental Alcohol Service Requirements)
- 23.324.040 Nonconforming Uses
- 23.502.020 Glossary

The hearing will be held on, February 27, 2024 at 6:00 pm 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 February 15, 2024. **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 Justin Horner, Associate Planner, at 510-981-7476.

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:** February 16, 2024 – The Berkeley Voice

**Public Hearing required by BMC 23.412.050 and Govt Code 65853; notice provided according to Govt Code 65090 and BMC 23.404.040.**

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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 February 15, 2024.

\_\_\_\_\_  
Mark Numainville, City Clerk



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Pioneered by Mastercard

# 24-Hour Cities Network governance workshop

INSIGHT REPORT

MAY 2022



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# Introduction

This report is the synthesis of insights drawn from the Governance Workshop of the 24-Hour Cities Network on April 28th, 2022. The 2-hour workshop covered a wide variety of topics and included presentations and discussions on how to build effective city governance at night-time. This report is divided into three main sections: framing of governance at night for the discussion, insights from the main case studies presented, and insights from the group discussion that followed.





# Governance at night

*Presentation by Andreina Seijas, Resident Expert*

Urban governance is the process through which different actors in the public and private sectors collaborate to manage cities. When brought into the context of running cities at night, this urban governance principle remains the same.

There is an increasingly large number of actors, organizations, and institutions in the space of all types, with many groups jostling to have their voices heard on how cities are planned and operated at night. Given the proliferation of actors, there is widespread confusion on who can and should do what, which can create resistance to addressing the topic in some cities. However, much of this can be dispelled by addressing three primary myths of night-time governance:

## MYTH #1

### Shorter nights = better nights

The first myth about governance at night-time is that efficient night-time management requires reducing the hours and restricting the locations of night-time activity. This includes actions like imposing curfews and lockdowns and restricting business operation hours. One way to counteract this myth is to highlight examples of cities that have expanded nightlife activity in a strategic way, such as the cities experimenting with the use of time-based licenses. Amsterdam, for example, uses 24-hour licenses that allow venues and establishments to open 24 hours. The city focused on distributing these licenses to neighborhoods outside its crowded city center to redistribute nightlife outside of its busy core. This spreads the benefits of night-time economic activity more widely while also limiting the negative impacts of such dense concentration.





## MYTH #2

## More police means more safety

The second myth is that night-time governance means greater policing and surveillance. There are an ever-increasing number of institutions, mediators, volunteers, and neighborhood groups involved in managing the city at night. However, many cities still try to solve night-time safety issues by deploying more police and surveillance.

This need not be the case. Cities around the world have pioneering examples of non-police public safety organizations, such as Les Pierrots de La Nuit in Paris, the Soho Angels in London, and the Rembrandtplein Square Hosts in Amsterdam. These programs focus on shifting away from strict policing by decentralizing authority and creating different ways to engage with people at night to de-escalate violence.



## MYTH #3

## Night-time is party time

To many, the night is for leisure- lively concerts, fun restaurants, pulsing nightclubs, and rowdy bars. However, this is a very restrictive view of life at night- and requires us to look beyond leisure and entertainment and think of night-time as a time to work, connect with friends and family, and live every aspect of life. In 2016, Colombian think tank Corpovisarios conducted a study in Cali, Colombia asking people what activity they do outside their homes after 8pm. Contrary to the conventional wisdom that this would be cultural or leisure activities like dancing or drinking, the number one activity cited as exercise- running, biking, and going to the gym. Thinking of the night-time solely in terms of partying takes away from the night's vibrancy- and keeps decision-makers from formulating the best night-time governance strategies.



## Moving forward

Part of how we bust these myths and move toward more effective night-time governance is to treat cities at night as just as deserving of effective planning and management as cities during the day. In recent years as more and more cities have taken the topic more seriously, offices of official night mayors, unofficial night mayors, associations, commissions, and councils have proliferated around the world. As a result, a growing cast of actors is involved, and priorities shift based on location and the ecosystem involved. Unfortunately, there are limited resources to address these issues, which is why providing opportunities to collaborate between the public and private sectors, as well as academia and civil society, is becoming increasingly important.

As night-time governance continues to develop, it is crucial to test the feasibility or the applicability of new solutions and find avenues for them to become a reality. Additionally, other considerations should undergird all night-time governance solutions. Sustainability, for example, continues to be a vital point of discussion. Decision-makers must focus on how we can make night-time ecosystem environments safer, more inclusive, more economically sustainable, and prosperous, with an eye toward adhering to the Sustainable Development Goals. It is important to acknowledge that there are regional differences and that they matter. We also need to ensure that night-time governance isn't just a fleeting topic- but that it becomes a permanent fixture of how we govern cities.



## NEW YORK

## Collaborative governments for creative solutions

*Presentation by Ariel Palitz, Executive Director,  
New York City Office of Nightlife*

New York City's Office of Nightlife is a non-enforcement liaison between the city and the nightlife industry created in 2017 through legislation introduced by Councilmember Rafael Espinal and signed by Mayor Bill de Blasio. The genesis was to provide a safe, trusted space for the industry to interact with the city rather than through law and regulation enforcement channels. The idea behind the founding of the office was to see nightlife as an asset rather than a liability and build a more holistic and respectful relationship between the city and the industry.

One of the first actions the office undertook after it was created was a five-borough listening tour to get broad feedback from across the nightlife industry. This included business owners, workers, performers, patrons, and residents. In addition to the Office of Nightlife, the New York State liquor authority and city police, fire, and health departments were invited to the tour to listen to residents as well. The office also held focus groups to do deep dives into key issues and then conducted a comprehensive economic impact study. They found that the industry had over 25,000 liquor-licensed establishments that accounted for \$35.1 billion in economic activity and supported nearly 300,000 jobs in New York City. The combination of listening to real concerns, grievances and ideas coupled with a comprehensive economic impact study helped to provide the feedback that shaped the office's agenda.

"...How does the city create a framework to manage these issues? This led to the formation of a four-pillared agenda to set priorities for the office. These pillars were 1) Supporting business development and recovery, 2) Improving and addressing quality of life issues between venues and residents, 3) Promoting safety, equity, and harm reduction, and 4) Elevating and preserving nightlife culture."

This effort brought into focus the vastness of the industry and raised the question- How does the city create a framework to manage these issues? This led to the formation of a four-pillared agenda to set priorities for the office. These pillars were 1) Supporting business development and recovery, 2) Improving and addressing quality of life issues between venues and residents, 3) Promoting safety, equity, and harm reduction, and 4) Elevating and preserving nightlife culture.

From this, the office moved into action meant to address the holistic issues that were present pre-pandemic but have only grown in urgency since the worst of the pandemic has subsided. This began by developing MASH (multi-agency support for hospitality)- a dedicated multi-agency nightlife working group that meets every six weeks to discuss how agencies work with each other and with industry to improve self-correction, avoid redundancies, and identify systemic solutions while addressing individual issues. This group also provides a central point of contact with each agency to provide one-on-one case management for individual venues when they experience issues with key city and state agencies. Additionally, in response to accountability and transparency concerns of activists and venue operators, it also provides transparency reporting on M.A.R.C.H (multi-agency response to community hotspots) operations- a police department-led law enforcement program.

The office also created MEND (mediating establishment and neighborhood disputes) to improve the complaint-driven process of night-time quality-of-life law enforcement. With the current system, complaints calls are logged, and the police are dispatched in the early hours of the morning, leading to a situation where few of the underlying issues are resolved. MEND introduces a mediation process that can work with venues and residents to directly communicate and compromise. MEND is run in partnership with the Center of Creative Conflict Resolution in the Office of Arbitration Trials and Hearings, which took the city judges in their mediation division and gave them a more public-facing role, allowing city residents to resolve quality of life issues without involving law enforcement.

The office has also focused on a harm reduction strategy for illicit drugs in partnership with the city Department of Health by providing free Narcan and naloxone kits and test strip training and access. The Narcan Behind Every Bar Campaign trains workers on how to use Narcan brings awareness to the issues involved, and dispels stigma. By bringing together the key groups involved, including the police, all stakeholders can work to address concerns and ensure that a life-saving harm reduction approach is being taken.

"If cities can govern nightlife as the essential part of the fabric of a city that it is, rather than a luxury, we can continue to build healthy, well-governed 24-hour cities."

In addition to these large initiatives, there are plenty of solutions that may seem small but have the potential to hugely improve the governance of cities at night. This includes providing permits for temporary cultural events or repealing outdated laws that prohibit dancing at particular venues in certain parts of the city. Another small but mighty improvement is the standardization of the business application process for Community Boards. Community Boards are neighborhood-based advisory bodies in New York City that consult elected officials and government agencies on issues in a particular district and have a say in approving new liquor licenses. The Office of Nightlife is now working with the city's elected officials to create a standard, business-friendly process to replace the different processes each of the 59 boards currently utilize.

As cities emerge from the pandemic, it is important for city governments to acknowledge how much the nightlife industry has been through in the last few years and how much collaboration and support is needed for this vital sector of the urban economy. If cities can govern nightlife as the essential part of the fabric of a city that it is, rather than a luxury, we can continue to build healthy, well-governed 24-hour cities. Government agencies that are ready and willing to collaborate within, outside of, and between governments to develop and implement creative, innovative solutions will allow their cities to reap the benefits of a robust night-time economy.



## MELBOURNE

## Activating advisors and building knowledge partnerships

*Presentation by Michele Acuto, Director,  
Melbourne Centre for Cities, University of Melbourne*

Melbourne topped indices of the world's most livable city for years, and its nightlife was a key component of these accolades. The shutdown of nightlife during the COVID-19 pandemic hugely affected the city and its identity. Much of the recovery has been supported by the efforts of the Melbourne Night-time Economy Advisory Committee, an advisory council that sits outside of the official city government that advises the city on night-time issues. The committee represents and guides the city, particularly on major investments the city is making. Given that Melbourne does not have a designated "Night Mayor" or nightlife office, the committee chairman, committee and its various partners serve that function for the city. The committee has focused its efforts on reviving the heart of the city and designing programs that match the night-time economy goals with the larger aspirations for Melbourne as a city while supporting its unique character.

One of these programs, Flash Forward, used art installations by local artists to draw people to Melbourne's lesser know laneways- unique pedestrian streets throughout the city that are replete with shops, cafes, bars, and restaurants and that suffered greatly during COVID-related lockdowns that closed 20% of the city's businesses. Planning controls were suspended to encourage the opening of shops. The program is an example of the importance of not simply spending money to solve a problem but of building creative partnerships between stakeholders.

"As we shift the frame of thinking about night-time economies from how to deal with nightlife to how to manage a holistic 24-hour city, knowledge partnerships are an important mechanism for producing innovative ideas."

Another important aspect of Melbourne's approach to governing the night-time economy is its physical and philosophical proximity to major academic institutions. For instance, the University of Melbourne's School of Design studio produced the report that became the primary terms of reference for the Night-time Economy Advisory Committee. The university is also very involved in a program called Project Night Justice, which focuses on improving the safety and well-being of women, trans women, and other members of the LGBTIQ+ community, similar to other programs like London's Good Night Out Campaign. The university is also using federal funding to explore ways to design better environments for night shift workers.

Knowledge partnerships between government entities and universities allow for greater experimentation, research and solution building without being heavily constrained by policymaking and politics. As we shift the frame of thinking about night-time economies from how to deal with nightlife to how to manage a holistic 24-hour city, knowledge partnerships are an important mechanism for producing innovative ideas. Melbourne's effective combination of an advisory group that sits outside of government and knowledge partnerships with a local university is a good example of building night-time governance without an official city agency.



## MONTREAL

## Citizen organizations and civic engagement

*Mathieu Grondin, General Director, Montreal 24/24*

Active civic groups also have a major role in ensuring a successfully managed night-time economy. In Montreal, a group of friends created a non-profit citizen organization called Montreal 24/24 to support the nightlife industry community and develop the night-time economy. The group now has a partnership with Montreal's economic development agency and funding from the city to help Montreal develop a nightlife policy. Montreal 24/24 commissions research studies, runs a night council, provides workshops, plans summits, and undertakes pilot projects.

One of the most important aspects of Montreal 24/24's work is the citizen participatory process, which is primarily work done through the Night Council. Unlike similar councils in other cities, the Night Council does not represent industry but is composed of 12 citizens with a variety of experience in nightlife, from artists to venue owners, public health experts, and academia. The Council was formed during the pandemic and is divided into four committees 1) Permanent spaces (venues, bars, and clubs) 2) Temporary initiatives, festivals, and events 3) Health, safety inclusion, and diversity and 4) Living at night. The original Council members were selected, but going forward, they will be elected with the first election planned for autumn 2022.

“Even citizen-developed and led groups have the power to help shape night-time governance policy, and when they can find governments that want to work collaboratively with them, their power only grows.”

Their mandate is to listen to opinions and provide recommendations on different topics related to nightlife. One of the primary ways the night council interfaces with the community is to hold a yearly event called the Open Mic. All of the citizens of Montreal are invited to take the mic and share their experiences of nightlife, positive or negative, and their vision for the future.

The Council also organizes Montreal Au Sommet De La Nuit, an event that gathers leaders from around the world to talk about night-time governance and to learn about different practices around the globe. At this year's event, Montreal 24/24 will also be using this venue to pilot Montreal's first 24-hour license by throwing a 24-hour party that will feature more than 30 local artists. The idea behind the 24-hour license is not just to extend the fun for patrons but help foster emerging talents and provide more opportunities for those that work at night-time. Instead of limiting the window for night-time cultural flourishing to a few hours a couple of nights a week, a 24-hour license provides the opportunity for more broad-based participation in the night-time economy. The event will also serve as an opportunity to gather data and insights about the effects of a 24-hour license on business revenues, public safety, and effective mobility.

In the future, the ambition is to set zones in the city to have 24-hour sectors. This is an important step in protecting small independent venues and ensuring they're not at risk of being closed by noise complaints. The hope is that this pilot project will be the first step to extending this scheme more permanently and, in the next year or a year and a half, to have a permanent nightlife policy.

Even citizen-developed and led groups have the power to help shape night-time governance policy, and when they can find governments that want to work collaboratively with them, their power only grows. Montreal 24/24 is a great example of how citizen action on night-time governance can lead to long-lasting government-backed results in the absence of a permanent government apparatus.



## Discussion

### Finding funding

Funding is also a major issue in supporting the night-time economy, and in some cases, there is tension between public and private sources. Many cities are happy to leverage public funds to make improvements that directly support private businesses. In Sydney, Australia, for example, the city had "Night-time diversification" and "Live music and performance" grants to support small entertainment businesses with upgrades meant to improve their spaces and pilot new types of entertainment. This support can include upgrading event spaces, support for event production, acoustic improvements, and health and safety projects. This policy incentivizes extra measures that improve the business while also adding benefits that the city would otherwise want, like safety improvements and noise reduction. There is even power in cities working together to lobby higher levels of government for support- Groningen, the Netherlands, has also found success in partnering with other dutch cities to lobby for funds and support from the national government on supporting night-time economies.

However, in some cities, getting the government to invest funds in private businesses is more difficult. It often takes creative action from civil society to show cities the value of such programs. In Vilnius, Lithuania, the city government is readily willing to invest funds in public art and culture, but the city has traditionally been very hesitant to use government money in support of private business. Given that funding from the government can often incentivize establishments to implement things they cannot be otherwise compelled to do, outside groups looked for ways to prove the efficacy of these types of governance tactics.

“Resistance often stems from misunderstandings of the function of night-time businesses and a feeling of disconnection between night-time businesses and their surrounding communities. Solving this requires working with and in communities to help them understand, demystify the night, and help communities realize the benefits of the night economy.”

The Vilnius Night Alliance worked with the city to develop the municipally-led “More than a Bar” program to give bars a door sticker for providing extra staff training that is not required by law, for example, sexual harassment prevention. The sticker will provide the bars with a special status and includes a code that can be scanned to understand how the bar is putting in extra effort. This provides the dual benefit of educating patrons and helping the city government quantify the additional positive actions businesses are willing to take when incentivized, making the argument for city financial support easier.

## Demystifying the night

One of the biggest barriers to implementing proposals that further support the night-time economy is resistance from residents. This resistance often stems from misunderstandings of the function of night-time businesses and a feeling of disconnection between night-time businesses and their surrounding communities. Solving this requires working with and in communities to help them understand, demystify the night, and help communities realize the benefits of the night economy.

In Groningen, proponents of night-time businesses have focused on building a broad spectrum of political support. The city has found success by emphasizing the business and safety benefits with right-leaning groups and the cultural aspects with those on the left. This has been crucial to the successful implementation of 24-hour licenses that have been in place since 1983. The scheme has brought the city a variety of benefits that please all sides. Right-leaning groups can appreciate the increased economic growth that comes from a longer period of daily economic activity, as well as the benefits to safety as the increased amount of people on the streets at all hours disincentivized crime. The flourishing culture pleases those on the left as more artists, and cultural sector workers have flowed into the city to take advantage of the increased opportunity. Emphasizing the many benefits in a way different groups can understand is important for creating broad-based buy-in for implementing beneficial night-time governance policies.

While working with the most active and vocal sectors of a city's citizenry is important, it is also useful to educate surrounding communities on what goes on in businesses at night. This makes it easier for them to relate to the benefits and helps them understand what supporting the night-time economy means for them. In Zurich, night-time businesses participate in Open Club Day. Bars and venues open one day per year in the afternoon and invite the neighbors to come and see what happens behind the scenes. It often includes children's discos where families can take their children to play in the club and give them a glimpse of what it is like to produce music and entertainment. Strategies like these help neighbors and politicians understand why night-time businesses can be a positive for them and their families.

## Lessons from COVID

As for nearly all sectors of the economy, the COVID-19 pandemic had a huge effect on the night-time economy, with many businesses that operated primarily at night brushing closer than most to existential crisis. While many of the dire predictions made about the demise of nightlife at the height of the pandemic did not come to pass, night-time business still used the time as a moment of reflection, and many have come back with a different approach than before the pandemic. Discussions around topics like diversity, inclusion, and social justice in nightlife have led to new commitments for how business is conducted. The right to be safe at work or at play during the night and the right to move freely are just a few of the issues that are top of mind for all involved in night-time cities.

COVID-19 also accelerated the development and implementation of a variety of innovative ideas that will remain an integral part of night-time city life around the world. Through Bogota 24h (the city's night-time office) Bogotá, Colombia, undertook 13 pilot projects to help spur the economic recovery of the city, with nightlife at the forefront, but also introduced a "Night at the Museum" concept during the pandemic that will also become a recurring feature of Bogotá nightlife.

Bogotá A Cielo Abierto was another project the city undertook in 50 areas of the city to support restaurants and bars as they recovered from the pandemic that will provide valuable insights into policies that can help the city's economy long-term. The initiative focused on ways to support businesses using open-air city spaces for patrons that will outlast the pandemic and include a new legislatively-approved licensing process.

## Making change permanent

One of the most significant issues facing effective night-time governance is ensuring the staying power of 24-hour policies, strategies, and implementors. In many cities, night mayors and offices of nightlife are not written in legislation and can often be shut down between city administrations. It is important that the work that these offices do is sustainable while they exist so that it can survive from administration to administration. For those whose offices are not guaranteed, it is important to demonstrate the value of the office to the wider government. One approach is emphasizing the value of coordinating inside, outside, and in between the government and the private sector. The ability to bring together businesses, community groups, police, the health department etc. is rare and should be highlighted. As is the role such offices can play as a conduit between industry and government. It is also worth stressing the support these offices give in encouraging industry to take more of a leadership role in policymaking and solutions.

Additionally, the way in which night-time offices are created needs to be reoriented. Too often, they are reactive in nature- a city sees its problems at night and creates an office to help solve them. As the field of research and understanding around night-time economies continues to develop, cities must move from simply addressing night-time problems to actually building proactive, affirmative programs and policies to support and foster robust night-time activity with a particular focus on how to turn short-term pandemic interventions into long-term more permanent change.

Part of this involves providing decision-makers with data and evidence in formats they can understand. The ideas from the community of night-time activists, thinkers, and professionals need to be translated into facts and figures for policymakers to ensure a cohesive conversation. In Philadelphia, a partnership between the Philadelphia Department of Planning and Development and the University of Pennsylvania has enabled research across a variety of topics from mobility and zoning. This partnership enables experts to be able to walk into politicians' offices to give data-backed presentations about how to take advantage of the various opportunities presented by a 24-hour city in their area of responsibility- as well as the losses incurred by not taking a proactive stance toward night-time economic development. These types of partnerships can be an important initial step in setting up night-time governance bodies. In the case of Philadelphia, the findings of this research partnership became the founding set of principles that established the city's night-time economy office.

However, it is also important to recognize the role that organizations outside of government can play in the continuity of night-time governance. These organizations often precede and catalyze the creation of official night-time governance apparatuses. Their role remains important while official agencies operate, particularly if they are eliminated or downsized. Their proactive work can be a source of innovation and accountability for government counterparts, no matter the direction of city government.

## Conclusion

City life doesn't stop when the sun goes down- in fact, it only gets richer. From the \$35.1 billion in economic activity generated in New York City to the laugh shared with a long-lost friend at a restaurant table in a public plaza in Bogota- supporting cities at night has benefits for the city-wide economy and our relationship with our family, friends, and neighbors. Effective governance is key to reaping these benefits. Building effective strategies to develop governance will be crucial for any city looking to be a true 24-Hour city. Whether this be building out government night-time offices, creating government-sponsored outside advisory groups, or leveraging citizen-led initiatives that push the city to act, it's up to the whole community to develop quality night-time cities. Particularly in the wake of the COVID-19, 24-hour economic development is crucial for a global urban economy still scarred by lockdowns, population shifts, and business closures. Creating the right frameworks, policies, and initiatives to support 24-hour cities will ensure they thrive for all residents- day and night.



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## About the 24-Hour Cities Network

The 24-Hour Cities Network is a multistakeholder group of urban leaders who, supported by City Possible, gather to share best practices and co-create new solutions to address the challenges cities face at night. Through workshops and thought leadership production, the Network will help cities understand how to create strategies and set policies that ensure their cities are as safe, prosperous, inclusive, and enjoyable at night as they are during the day.

## About City Possible

City Possible™, pioneered by Mastercard, is a new model for urban innovation in which a global network of cities, businesses, academics, and communities work together to make the world's cities more inclusive and sustainable. Find out more at [www.citypossible.com](http://www.citypossible.com).

## Helpful links

[The Urban Night Events and Publications](#)

[Nights Conference 2022](#)

[New York City Office of Nightlife Report 2018-2021](#)

[Montreal 24/24](#)

[The University of Melbourne Centre for Cities](#)

[Melbourne Night-time Economy Advisory Committee](#)

[Project Night Justice](#)

[Philadelphia Nightlife Data Dashboard](#)

[Open Club Day](#)

[Measuring and Analysing the Nighttime City](#)

[New York City's Nightlife Economy Impact, Assets, and Opportunities](#)

[New South Wales 24-Hour Economy Commissioner Year in Review](#)

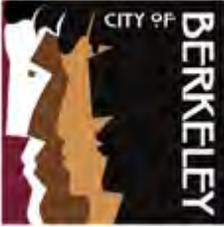
[Managing Cities at Night  
A Practitioner Guide to the Urban Governance of the  
Night-Time Economy](#)



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Igor Tregub  
Councilmember, District 4

CONSENT CALENDAR

MAY 20, 2025

To: Honorable Mayor and Members of the City Council

From: Councilmembers Igor Tregub (Author), Ben Bartlett (Co-Sponsor), Terry Taplin (Co-Sponsor)

Subject: Referral to 4 x 4 Committee: Removing On-Site Manager Exemption Loophole for Certain Multi-Family Properties that are Adjacent and/or Share the Same Common Area

**RECOMMENDATION**

Refer to the 4 x 4 Committee of the Berkeley City Council and Rent Stabilization Board a proposal related to the removal of an on-site manager exemption loophole, which is currently used by certain Berkeley properties to circumvent California Code Regulation, Title 25, Paragraph 42, for certain multi-family properties that are adjacent and/or share the same common area. If the recommended regulation is enacted, it is the intent of the referral to apply it to subject properties in a prospective manner that ensures that the rights of sitting tenants continue to be fully protected (i.e., a fully occupied property will not be required to rent to an on-site manager until at least one unit becomes vacant in accordance to all applicable state and local laws governing good cause eviction protections). The referral further requests that the 4 x 4 Committee discuss and provide recommendations as to:

- Any parameters that may limit the scope of this referral, including but not limited to situations in which one or more of the subject properties are owned by limited liability corporations (LLCs) and/or owners that own multiple other properties in Berkeley, California and/or beyond, with a total number of units or properties under ownership to be determined;
- Any exemptions to the on-site manager requirement for certain circumstances, such as for hardship of the property owner and/or LLC and/or other circumstances in which the interest of justice may supersede the public interest of this requirement;
- The enforcement mechanism and enforcing jurisdiction (i.e., City of Berkeley or Berkeley Rent Stabilization Board, with compensation by the City of Berkeley)

Internal

that the City of Berkeley should employ in furtherance of the recommended regulation; and

- Any other provisions pertinent to the efficient, just, and fair administration of the recommended regulation.

## **CURRENT SITUATION AND ITS EFFECTS**

California Code Regulation, Title 25, Paragraph 42 (CCR 25 ¶42) includes the following requirements (germane language is emphasized in **bold**):

**“A manager, janitor, housekeeper, or other responsible person shall reside upon the premises and shall have charge of every apartment house in which there are 16 or more apartments**, and of every hotel in which there are 12 or more guest rooms, **in the event that the owner of an apartment house or hotel does not reside upon said premises**. Only one caretaker would be required for all structures under one ownership and on one contiguous parcel of land. **If the owner does not reside upon the premises of any apartment house in which there are more than four but less than 16 apartments, a notice stating the owner's name and address, or the name and address of the owner's agent in charge of the apartment house, shall be posted in a conspicuous place on the premises.**”<sup>1</sup>

Over the past several months, it has come to our attention that at several contiguous properties in Berkeley have, in total, over 16 apartments but fulfill neither the on-site “manager, janitor, housekeeper, or other responsible person” nor the “notice stating the owner’s name and address” requirement. The properties in question share an entrance, common area space, and required amenities such as garbage and recycling collection and appear to have been part of a single parcel that was, somewhere over the course of their operation as apartment buildings, subdivided into separate parcels such that, individually, the number of apartment units on each parcel numbered less than sixteen (“16”).

It is the intent of this referral to explore local pathways to close this loophole and ensure that the integrity of CCR 25 ¶42 is restored in the face of efforts to subdivide a parcel with contiguous multifamily rental properties or hotels that otherwise, based on the number of apartments or hotel rooms would be subject to the “on-site manager, housekeeper, or other responsible person” provision. While not specifically the subject of this item, in the intent of this item is to ¶reveal how, if at all, the “notice” section of CCR 25 ¶42 is being enforced for existing properties on a parcel that, in total, includes between four (“4”) and sixteen (“16”) units.

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1

[https://govt.westlaw.com/calregs/Document/I3F1C71434C8611ECB533000D3A7C4BC3?viewType=FullText&originContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)&bhcp=1](https://govt.westlaw.com/calregs/Document/I3F1C71434C8611ECB533000D3A7C4BC3?viewType=FullText&originContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)&bhcp=1)

Internal

## **RATIONALE FOR RECOMMENDATION**

The lack of an on-site manager within contiguous properties have, in total, over 16 apartments but fulfill neither the on-site “manager, janitor, housekeeper, or other responsible person,” sometimes coupled with the nonexistence of a “notice stating the owner’s name and address,” in contravention to the spirit, if not the letter, of CCR 25 ¶42 has led to significant adverse impacts to the neighbors as well as the sitting occupants of the properties in question. These have included but not been limited to: poor or nonexistent garbage and/or recycling collection; slow or non-existent efforts on the part of the property owner and/or off-site manager to comply with “warranty of habitability” and/or health and safety requirements; and inability to effectively mitigate for noise violations. It is the intent of this recommendation to address a clear loophole in the state code that has been exploited by some property owners and LLCs to the detriment of the residents and neighbors of the subject properties.

## **FINANCIAL IMPLICATIONS**

Financial implications may include staff time associated with writing, reviewing, and, as necessary, enforcing the recommended language. It is the intent of this referral that discussion at the 4 x 4 Committee among members and staff from the City of Berkeley and Berkeley Rent Stabilization Board may be able to finetune these cost projections.

## **ENVIRONMENTAL SUSTAINABILITY**

Indirect environmental sustainability benefits may result from these items, particularly around improved enforcement of disaggregation between recyclable, non-recyclable, and compostable items within subject multifamily housing buildings that currently do not have an on-site manager but would be required to under language contemplated by this referral.

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