

**BERKELEY CITY COUNCIL FACILITIES, INFRASTRUCTURE,
TRANSPORTATION, ENVIRONMENT & SUSTAINABILITY COMMITTEE
REGULAR MEETING**

**Wednesday, September 17, 2025
2:00 PM**

Redwood Room – 2180 Milvia Street, 6th Floor, Berkeley, CA 94704

Committee Members:

Councilmembers Terry Taplin, Cecilia Lunaparra, and Mark Humbert
Alternate: Mayor Adena Ishii

This meeting will be conducted in a hybrid model with both in-person and virtual attendance. Attend this meeting remotely using [Zoom](#). To request to speak, use the “raise hand” function in Zoom. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter **Meeting ID: 160 741 6571**. 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. All Committee meetings are recorded.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting, however, if you are feeling sick, please do not attend the meeting in person.

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

Public Comment on Non-Agenda Matters

Minutes for Approval

Draft minutes for the Committee's consideration and approval.

1. Minutes - September 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. **Discussion Item: Telegraph Avenue Multimodal Corridor**
From: Councilmember Humbert (Author)
Contact: Mark Humbert, Councilmember, District 8, (510) 981-7180
3. **Discussion Item: Stormwater Master Plan**
From: Councilmember Taplin (Author)
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
4. **Discussion Item: Claremont Corridor Vision Zero Quick Build Project**
From: Councilmember Humbert (Author)
Contact: Mark Humbert, Councilmember, District 8, (510) 981-7180
5. **Discussion Item: Claremont Complete Streets Project**
From: Councilmember Humbert (Author)
Contact: Mark Humbert, Councilmember, District 8, (510) 981-7180

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.

6. **Discussion Item: Bike Plan Update**
From: Councilmember Taplin (Author)
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Unscheduled Items

7. **Discussion Item: Zachary's Corner Safety Improvements Project**
From: Councilmember Humbert (Author)
Contact: Mark Humbert, Councilmember, District 8, (510) 981-7180
8. **Discussion Item: Measure FF Next Steps**
From: Councilmember Taplin (Author)
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
9. **Discussion Item: EV Fleet Plan and Infrastructure**
From: Councilmember Taplin (Author)
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
10. **Discussion Item: Unfunded Infrastructure Liabilities**
From: Councilmember Taplin (Author)
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
11. **Discussion Item: Zero Waste Strategic Plan**
From: Councilmember Taplin (Author)
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
- 12a. **Enforcement of Public Right-of-Way Accessibility Guidelines (PROWAG)**
From: Commission on Disability
Referred: May 20, 2025
Due: October 27, 2025
Recommendation: The Berkeley City Council shall refer to the City Attorney the requirement to include, in all City of Berkeley contracts that impact the public right-of-way, a clause that obligates City contractors to comply with the Public Right-of-Way Accessibility Guidelines (PROWAG).
Financial Implications: See report
Contact: Thomas Gregory, Commission Secretary, (510) 981-6300
- 12b. **Companion Report: Enforcement of Public Right-of-Way Accessibility Guidelines (PROWAG)**
From: City Manager
Referred: May 20, 2025
Due: October 27, 2025
Recommendation: The City Manager recommends that the Public Right-of Way Accessibilities Guidelines item be referred to the Facilities, Infrastructure, Transportation, Environment and Sustainability Committee for discussion of potential impacts.
Financial Implications: See report
Contact: Terrance Davis, Public Works, (510) 981-6300

Unscheduled Items

13. **City Manager Referral: Strengthen Berkeley's Micromobility Regulatory Framework to Improve Public Safety, ADA Accessibility, and Operator Accountability**

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

Referred: August 25, 2025

Due: March 6, 2026

Recommendation: Refer to the City Manager to develop recommendations for mitigating unsafe shared micromobility riding, improper parking, or device misuse and to strengthen Berkeley's micromobility framework through improved incentives and enforcement, cost recovering fee and penalty structure, right of way and accessibility enforcement, stronger accountability measures, and community engagement and education, and return to the City Council by December 2025, with preliminary research and by April 2026, with final recommendations.

Recommendations should incorporate updates to future operator contracts and internal enforcement process and include the following elements, which, to the extent possible would be structured to shift the onus on the vendors to work with the City of Berkeley and other stakeholders:

1. Improved Incentives and Enforcement - Clarify and strengthen city enforcement processes for the use by the public – how to report issues associated with micromobility. - The enforcement structure should be such that operators would consider progressive accountability measures for individual users (e.g., mandatory classes, increased fines, revoking ridership privileges).- Suggest mechanisms for imposing additional penalties by the city on operators failing to address violations in a timely and effective manner.- Suggest mechanisms for enforcing the deployment of existing and emerging technologies by operators, including, to the extent this is not already under consideration, geofencing, speed restrictions, and device locks for sidewalk riding or excessive speed, to prevent unsafe micromobility device use and for effective data collection and sharing. - Recommend to operators to develop incentive programs rewarding riders who consistently use devices responsibly, such as offering free rides or discounts for properly parking devices, completing safety classes, or taking devices to high-demand areas where parking is limited. - Recommend any additional operator-funded city incentive programs that reward evidence-based best operational practices by operators.

2. Cost Recovering Fee and Penalty Structure - Implement an operator-paid fee and penalty schedule that fully covers the city's costs of staff time and enforcement infrastructure. - On a pilot basis, explore additional infrastructure contributions from operators, such as funding a specified number of parking corrals, bike racks, or signage based on fleet size, following models such as Bay Wheels in San Francisco. Such improvements should be subject to an engineering assessment for safety and feasibility. - Explore and negotiate leveraging data collected by micromobility devices for other city use. - Consider the expansion of the agreed upon fee, incentive, and enforcement model beyond current e-scooter contracts (Veo Micromobility and Lime) to include other current or future micromobility options (e.g., Bay Wheels).

Unscheduled Items

3. Right of Way and Accessibility Enforcement - Research and recommend additional effective and low-cost infrastructure upgrades, including standardized markings for appropriate parking zones, creating parking corrals in daylighted zones to reduce sidewalk obstruction, and improve compliance with the Americans with Disability Act (ADA) (e.g., eliminating or mitigating for instances of micromobility devices impeding public right of way access to those with physical disabilities). Operators should consider enhancing ADA compliance and accessibility by incorporating features such as Braille labels on devices, emergency buttons accessible to wheelchair users, and prominently displayed contact information that is easily visible at all times of day, subject to technological and contractual feasibility. The operator fee should, to the extent possible, incorporate the costs of all such measures. - Incorporate systems to reduce unsafe behaviors, including geofencing, speed restrictions, and device locks for sidewalk riding or excessive speed. Such measures and mechanisms would be at the discretion of the City Manager.

4. Stronger Accountability Measures - The City of Berkeley should continue, through contracting tools, to reflect the shared responsibility of operators in ensuring that unsafe behaviors and public nuisances are proactively addressed, as negative perceptions could threaten the long-term viability of these services. Operators should be held accountable for protecting the public perception and social acceptance of micromobility. - Enhance the currently required submission of monthly reports by operators to City staff with the production of biannual (twice per year) reports to the full Council, including, but not limited to detailing moving and parking violations, number of repeat offenders, safety class attendances, warnings issued, penalties applied, and any ridership privileges revoked. - Require operators to provide mandatory certifiable rider safety training with recurring reminders through apps and other means. Training should cover safe riding practices, proper parking, and the impact on vulnerable populations, including children, seniors, and people with disabilities.

5. Community Engagement and Education - Centralize and streamline the city's website to ensure all micromobility program details and reporting instructions are easy to find and access in one location. - Explore creating a micromobility information hub with all relevant information in one place (a separate website or a robust micromobility webpage). - Expand education campaigns via signage, classes, media, and social media to increase awareness of proper micromobility use. - Develop and provide materials for residents to understand reporting processes, safe riding practices, and ADA considerations. - Partner with operators to create public-private partnerships with educational institutions, community and advocacy organizations, and affordable housing providers to further promote equitable outreach and education campaigns and responsible device use. - Special attention should be given to family and youth education. Operators and the City should partner with schools and community groups to equip parents with resources to educate their children on micromobility safety. These coordinated approaches integrate infrastructure improvements, rider safety, enforcement, operator accountability, public education, and rider incentives, providing a framework for a safer, more equitable, and sustainable micromobility system in Berkeley.

Financial Implications: See report

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

Unscheduled Items

14. Referral: Amendments to the Berkeley Green Code for Newly Constructed Buildings and Existing Construction

From: Councilmember Tregub (Author)

Referred: September 2, 2025

Due: March 6, 2026

Recommendation: 1. Refer to the City Manager to return to the Berkeley City Council by December 1, 2025, to adopt the first reading of an Ordinance amending the Berkeley Green Code, BMC Chapter 19.37, to require AC/Heater to Heat Pump conversions for existing buildings; and 2. Refer to the City Manager to return to the Berkeley City Council by December 1, 2025, with further recommendations to adopt a Zero NOx, Ultra-Low NOx, or Single Margin Energy Reach Code.

Financial Implications: See report

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

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 Facilities, Infrastructure, Transportation, Environment & Sustainability 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 September 11, 2025.



Mark Numainville, City Clerk

## **Communications**

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**BERKELEY CITY COUNCIL FACILITIES, INFRASTRUCTURE,  
TRANSPORTATION, ENVIRONMENT & SUSTAINABILITY COMMITTEE  
SPECIAL MEETING MINUTES**

**Wednesday, September 3, 2025  
2:00 PM**

Redwood Room – 2180 Milvia Street, 6th Floor, Berkeley, CA 94704

Committee Members:

Councilmembers Terry Taplin, Cecilia Lunaparra, and Mark Humbert  
Alternate: Mayor Adena Ishii

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## MINUTES

**Roll Call:** 2:00 p.m.

**Present:** Councilmembers Lunaparra, Humbert, and Vice-Mayor Taplin.

### Minutes for Approval

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

**1. Minutes - July 16, 2025**

**Action:** M/S/C (Humbert/Lunaparra) to approve the July 16, 2025 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. Recreation and Community Facility Improvement Measures**

**From:** Councilmember Taplin (Author)

**Referred:** August 25, 2025

**Due:** March 6, 2026

**Recommendation:** Refer to the City Manager the assessment of potential revenue measures to finance capital improvements for certain recreational and community-serving city facilities that have completed the conceptual or design phase and return to the City Council with recommendations for placing such measures on the November 2026 midterm Election ballot.

**Financial Implications:** See report

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

**Action:** 7 speakers. Discussion held. M/S/C (Lunaparra/Humbert) to send the item to Council with a positive recommendation.

**Vote:** All Ayes.

Councilmember Humbert exited the meeting for the consideration of Item 4 at 2:32 p.m. due to Brown Act participation rules.

## Committee Action Items

### 3. **City Manager Referral: Strengthen Berkeley's Micromobility Regulatory Framework to Improve Public Safety, ADA Accessibility, and Operator Accountability**

**From: Councilmember Tregub (Author)**

**Referred: August 25, 2025**

**Due: March 6, 2026**

**Recommendation:** Refer to the City Manager to develop recommendations for mitigating unsafe shared micromobility riding, improper parking, or device misuse and to strengthen Berkeley's micromobility framework through improved incentives and enforcement, cost recovering fee and penalty structure, right of way and accessibility enforcement, stronger accountability measures, and community engagement and education, and return to the City Council by December 2025, with preliminary research and by April 2026, with final recommendations. Recommendations should incorporate updates to future operator contracts and internal enforcement process and include the following elements, which, to the extent possible would be structured to shift the onus on the vendors to work with the City of Berkeley and other stakeholders:

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2. Cost Recovering Fee and Penalty Structure: - Implement an operator-paid fee and penalty schedule that fully covers the city's costs of staff time and enforcement infrastructure. - On a pilot basis, explore additional infrastructure contributions from operators, such as funding a specified number of parking corrals, bike racks, or signage based on fleet size, following models such as Bay Wheels in San Francisco. Such improvements should be subject to an engineering assessment for safety and feasibility. - Explore and negotiate leveraging data collected by micromobility devices for other city use. - Consider the expansion of the agreed upon fee, incentive, and enforcement model beyond current e-scooter contracts (Veo Micromobility and Lime) to include other current or future micromobility options (e.g., Bay Wheels).

3. Right of Way and Accessibility Enforcement: - Research and recommend additional effective and low-cost infrastructure upgrades, including standardized markings for appropriate parking zones, creating parking corrals in daylighted zones to reduce sidewalk obstruction, and improve compliance with the Americans with Disability Act (ADA)

## Committee Action Items

(e.g., eliminating or mitigating for instances of micromobility devices impeding public right of way access to those with physical disabilities). Operators should consider enhancing ADA compliance and accessibility by incorporating features such as Braille labels on devices, emergency buttons accessible to wheelchair users, and prominently displayed contact information that is easily visible at all times of day, subject to technological and contractual feasibility. The operator fee should, to the extent possible, incorporate the costs of all such measures. - Incorporate systems to reduce unsafe behaviors, including geofencing, speed restrictions, and device locks for sidewalk riding or excessive speed. Such measures and mechanisms would be at the discretion of the City Manager.

4. Stronger Accountability Measures: The City of Berkeley should continue, through contracting tools, to reflect the shared responsibility of operators in ensuring that unsafe behaviors and public nuisances are proactively addressed, as negative perceptions could threaten the long-term viability of these services. Operators should be held accountable for protecting the public perception and social acceptance of micromobility. - Enhance the currently required submission of monthly reports by operators to City staff with the production of biannual (twice per year) reports to the full Council, including, but not limited to detailing moving and parking violations, number of repeat offenders, safety class attendances, warnings issued, penalties applied, and any ridership privileges revoked. - Require operators to provide mandatory certifiable rider safety training with recurring reminders through apps and other means. - Training should cover safe riding practices, proper parking, and the impact on vulnerable populations, including children, seniors, and people with disabilities.

5. Community Engagement and Education: - Centralize and streamline the city's website to ensure all micromobility program details and reporting instructions are easy to find and access in one location. Explore creating a micromobility information hub with all relevant information in one place (a separate website or a robust micromobility webpage). - Expand education campaigns via signage, classes, media, and social media to increase awareness of proper micromobility use. - Develop and provide materials for residents to understand reporting processes, safe riding practices, and ADA considerations. - Partner with operators to create public-private partnerships with educational institutions, community and advocacy organizations, and affordable housing providers to further promote equitable outreach and education campaigns and responsible device use. - Special attention should be given to family and youth education. Operators and the City should partner with schools and community groups to equip parents with resources to educate their children on micromobility safety.

These coordinated approaches integrate infrastructure improvements, rider safety, enforcement, operator accountability, public education, and rider incentives, providing a framework for a safer, more equitable, and sustainable micromobility system in Berkeley.

**Financial Implications:** See report

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

**Action:** 3 speakers. Councilmember Blackaby added as a co-sponsor. Discussion held. Item continued to a future meeting.

## Committee Action Items

4. **Refer to the City Manager in Collaboration with the City Attorney's Office to Develop Proposed Increases to the Shared Micromobility Program Fees From: Councilmember Lunaparra (Author), Councilmember Blackaby (Co-Sponsor), Councilmember Humbert (Co-Sponsor), Councilmember Tregub (Co-Sponsor)**  
**Referred: August 25, 2025**  
**Due: March 6, 2026**  
**Recommendation:** Refer to the City Manager in collaboration with the City Attorney's Office to develop proposed increases to the shared micromobility program fees and return to Council within 120 days. The proposed amendments should evaluate adjustments to the following fee categories: Application fee; Operating fee; Fee per vehicle; Fee per ride  
**Financial Implications:** See report  
Contact: Cecilia Lunaparra, Councilmember, District 7, (510) 981-7170  
**Action:** 2 speakers. Presentation made and discussion held.  
M/S/C (Taplin/Lunaparra) to send the item to Council with a positive recommendation.  
**Vote:** Ayes – Taplin, Lunaparra; Noes – None; Abstain – None; Absent – Humbert

## Items for Future Agendas

- **Discussion items on Zachary's Corner Update, Claremont Ave Complete Streets, Claremont Ave Quick build, Telegraph Avenue Multimodal Corridor, Bike Plan Update.**

**Action:** M/S/C (Taplin/Lunaparra) to add discussion items on Zachary's Corner Update, Claremont Ave Complete Streets, Claremont Ave Quick build, Telegraph Avenue Multimodal Corridor, and Bike Plan Update to the next agenda.

**Vote:** Ayes – Taplin, Lunaparra; Noes – None; Abstain – None; Absent – Humbert

## Adjournment

**Action:** M/S/C (Taplin/Lunaparra) to adjourn the meeting.

**Vote:** Ayes – Taplin, Lunaparra; Noes – None; Abstain – None; Absent – Humbert

Adjourned at 3:29 p.m.

I hereby certify that the foregoing is a true and correct record of the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee meeting held on September 3, 2025.

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Denise Burgara, Assistant City Clerk

## Communications

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No Material  
Available for  
this Item

There is no material for this item.

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Commission on Disability

**12a**

ACTION CALENDAR  
06/03/2025

To: Honorable Mayor and Members of the City Council  
 From: Commission on Disability  
 Submitted by: Kathi Pugh, Chairperson  
 Subject: Enforcement of Public Right-of-Way Accessibility Guidelines (PROWAG)

### RECOMMENDATION

The Berkeley City Council shall refer to the City Attorney the requirement to include, in all City of Berkeley contracts that impact the public right-of-way, a clause that obligates City contractors to comply with the Public Right-of-Way Accessibility Guidelines (PROWAG).

### FISCAL IMPACTS OF RECOMMENDATION

Examples of PROWAG contract clauses are readily available to the Office of the City Attorney. Adoption of this recommendation should not require significant time or expense.

The City currently has a staff position assigned to investigate, monitor and enforce PROWAG. The job description of the City's ADA Program Coordinator states that "under general supervision" the position is tasked with "implementation of the City's ADA program which includes...receiving and investigating grievance, reviewing projects plans for accessibility, [and] training city staff."

### CURRENT SITUATION AND ITS EFFECTS

Both the ADA Program Coordinator and 311 receive complaints when disabled pedestrians and wheelchair users confront hazardous conditions in the public right-of-way. City staff time, significantly by the ADA Program Coordinator, is already used to, in many cases, successfully secure compliance with PROWAG. In some cases, City contractors refuse to comply with accessibility guidelines—because the requirement to comply is not stipulated in their contract. This is often on large, months-long City projects that significantly alter and disrupt the public right-of-way.

Failure to comply with PROWAG creates serious safety hazards for people with disabilities. At times, wheelchair users are forced into busy streets when PROWAG is not followed. In 2024-2025, this occurred repeatedly at projects on Bancroft/Fulton, University and Shattuck Avenues.

In addition, Audible Information Devices that warn blind and low vision individuals about blocked and alternate routes are rarely used by City contractors or private construction companies. When employed, these warning devices are frequently useless. They are, with regularity, incorrectly placed, not operating and inaudible. The routine failure to address accessibility for blind and low vision pedestrians creates manifestly unsafe conditions.

The City of Berkeley Public Works Department must develop proactive and effective educational, monitoring and enforcement systems to ensure that disruptions in the public right-of-way, whether performed by the City, its contractors, or during private construction projects, conform to PROWAG standards. When the City is informed of potential violations, timely investigation and remediation must bring violations into PROWAG compliance.

With the passage of Measure FF and the significant street redesign projects that will result, complying with PROWAG technical standards—in both design and construction—is imperative. Over many years, significant resources will be devoted to improving the condition and safety of Berkeley streets and sidewalks. Attention to PROWAG must be the rule—and included in City contracts. When envisioning Berkeley's future, Safe Streets must include the safety of people with disabilities.

### BACKGROUND

PROWAG defines aspects of the ADA not specified at the time of the groundbreaking law's passage in 1990. The ADA never specifically addressed accessibility in areas deemed the "public right-of-way." To support implementation of the ADA, the U.S. Access Board, a federal agency charged with promoting "equality for people with disabilities through leadership in accessible design and the development of accessibility guidelines and standards" created PROWAG. These accessibility guidelines were developed over the past two decades.

PROWAG was entered into the Federal Register in 2023 and adopted by the U.S. Department of Transportation in 2024. The City of Berkeley's 2020 Pedestrian Plan, Appendix B: Engineering and Design Guidance references PROWAG numerous times. CalTrans uses its technical standards. It is considered best practice. Yet, it does not hold the force of federally-mandated law. Because of this, the City's ADA Program Coordinator has indicated that some City contractors are unwilling to follow PROWAG. This obstacle to securing the rights and safety of people with disabilities can be overcome by including a PROWAG clause in City contracts.

PROWAG will define the access standards expected by the City of Berkeley in the

Yet a contract clause, without monitoring and enforcement of its obligations, is meaningless. For implementation, this recommendation requires a Public Works Department committed to the principles and technical standards outlined in PROWAG. We expect—and the City should secure—this level of accessibility and safety for the disability community.

The Commission on Disability took the following action at its April 9, 2025 meeting:

Action: Motion(Fischer/Pugh):To approve the recommendation to City Council regarding the enforcement of PROWAG, with the ability to make small edits regarding Caltrans and the City's use of PROWAG.

Votes: Ayes: Walsh, Fischer, Pugh, Sun, Lewkowicz, Mann, and Holloway; Nays: None  
Abstain: None; Unexcused Absence: None; Leave of Absence: Paz

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

#### RATIONALE FOR RECOMMENDATION

The PROWAG Contract Clause recommendation is a Strategic Plan Priority Project, advancing the City's goals in multiple areas:

- provide state-of-the-art, well-maintained infrastructure, amenities, and facilities;
- create a resilient, safe, connected, and prepared city;
- champion and demonstrate social and racial equity.

#### ALTERNATIVE ACTIONS CONSIDERED

No alternative actions have been considered.

#### CITY MANAGER

The City Manager recommends referring this item to the FITES Committee to better understand the potential costs and time impacts of undertaking the recommendation to streetscape projects.

#### CONTACT PERSON

Thomas Gregory, ADA Program Coordinator, Public Works, 510-981-6418





Office of the City Manager

**12b**

ACTION CALENDAR  
06/03/2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Terrance Davis, Director, Public Works

Subject: Companion Report: Enforcement of Public Right-of-Way Accessibility Guidelines (PROWAG)

RECOMMENDATION

The City Manager recommends that the Public Right-of Way Accessibilities Guidelines item be referred to the Facilities, Infrastructure, Transportation, Environment and Sustainability Committee for discussion of potential impacts.

FISCAL IMPACTS OF RECOMMENDATION

An assessment of comparable jurisdictions that currently adhere to PROWAG would need to be conducted to begin to understand the costs for implementation and the potential long-term impact on contracting and timelines for streetscape infrastructure.

Additionally, staff time for the administration of the recommendation has not yet been calculated within the following potentially impacted departments: City Attorney, Public Works; Parks Recreation and Waterfront; Planning and Building; Health Housing and Community Services; and Finance. City staff across multiple departments acting as project managers serve as contract monitors and are not currently trained in PROWAG requirements. Training expenses have not yet been determined.

Time to develop the contractual language needed for implementation would additionally impact the City Attorney's Office, which has not been consulted to calculate the exact staff time required or the potential need for an outside contractor to draft the provisions.

CURRENT SITUATION AND ITS EFFECTS

The City Manager recommends that Council refrain from referring this matter to the City Attorney's Office at this time. Staff would first need to assess capacity to monitor contractors' adherence to PROWAG and to determine how to take remedial steps if contractors fail to comply with PROWAG.

PROWAG is not incorporated in state or federal guidelines to which cities are required to adhere, and there are no funds tied to citywide implementation. If a contractor was unwilling or unable to comply with PROWAG, staff do not currently have clear protocols for when or how to terminate the noncompliant contract. Currently, there are no

protocols for determining if qualified alternative contractors are readily available to fill any gaps created by non-PROWAG compliant contractors. Adding compliance with PROWAG as a contractual duty may result in contractors requiring additional compensation.

Staff have yet to analyze current budgetary constraints to determine if recommended implementation costs are feasible.

### **BACKGROUND**

The Commission on Disability took the following action at its April 9, 2025 meeting:

Action: Motion(Fischer/Pugh):To approve the recommendation to City Council regarding the enforcement of PROWAG, with the ability to make small edits regarding Caltrans and the City's use of PROWAG.

Votes: Ayes: Walsh, Fischer, Pugh, Sun, Lewkowicz, Mann, and Holloway; Nays: None  
Abstain: None; Unexcused Absence: None; Leave of Absence: Paz

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

All future potential City contractors for projects related to lowering carbon emissions through upgrading the public right of way to encourage pedestrian and bicyclist use, would be required by the City to adhere to the PROWAG requirements. While many already do, including this in the contractual language, rather than in the design phase, may increase costs.

### **RATIONALE FOR RECOMMENDATION**

Better understanding the PROWAG project and cost implications would be prudent ahead of mandating they be made.

### **ALTERNATIVE ACTIONS CONSIDERED**

Staff could begin the process to study the cost of implementation, but the time required for that study would necessitate an outside contractor to supplement current staffing. A working group consisting of the aforementioned departments impacted by PROWAG requirements could be convened to begin to determine feasibility. There are not currently any funds dedicated in the City Budget for a study by an outside contractor or an interdepartmental working group.

### **CONTACT PERSON**

Thomas Gregory, ADA Program Coordinator, Public Works, 510-981-6418  
Wahid Amiri, Deputy Director, Public Works, 510-981-6396



**Igor Tregub, Councilmember, District 4**

**To:** Honorable Mayor and Members of the City Council

**From:** Councilmember Igor Tregub (Author), Councilmember Brent Blackaby (Co-Sponsor)

**Subject:** City Manager Referral: Strengthen Berkeley's Micromobility Regulatory Framework to Improve Public Safety, ADA Accessibility, and Operator Accountability

### **RECOMMENDATION**

Refer to the City Manager to develop recommendations for mitigating unsafe shared micromobility riding, improper parking, or device misuse and to strengthen Berkeley's micromobility framework through **improved incentives and enforcement, cost recovering fee and penalty structure, right of way and accessibility enforcement, stronger accountability measures, and community engagement and education**, and return to the City Council by December 2025, with preliminary research and by April 2026, with final recommendations. Recommendations should incorporate updates to future operator contracts and internal enforcement process and include the following elements, which, to the extent possible would be structured to shift the onus on the vendors to work with the City of Berkeley and other stakeholders:

#### **1. Improved Incentives and Enforcement**

- Clarify and strengthen city enforcement processes for the use by the public – how to report issues associated with micromobility.
- The enforcement structure should be such that operators would consider progressive accountability measures for individual users (e.g., mandatory classes, increased fines, revoking ridership privileges).
- Suggest mechanisms for imposing additional penalties by the city on operators failing to address violations in a timely and effective manner.

- Suggest mechanisms for enforcing the deployment of existing and emerging technologies by operators,<sup>1</sup> including, to the extent this is not already under consideration, geofencing, speed restrictions, and device locks for sidewalk riding or excessive speed, to prevent unsafe micromobility device use and for effective data collection and sharing.
- Recommend to operators to develop incentive programs rewarding riders who consistently use devices responsibly, such as offering free rides or discounts for properly parking devices, completing safety classes, or taking devices to high-demand areas where parking is limited.
- Recommend any additional operator-funded city incentive programs that reward evidence-based best operational practices by operators.

## 2. Cost Recovering Fee and Penalty Structure

- Implement an operator-paid fee and penalty schedule that fully covers the city's costs of staff time and enforcement infrastructure.<sup>2</sup>
- On a pilot basis, explore additional infrastructure contributions from operators, such as funding a specified number of parking corrals, bike racks, or signage based on fleet size, following models such as Bay Wheels in San Francisco.<sup>3</sup> Such improvements should be subject to an engineering assessment for safety and feasibility.
- Explore and negotiate leveraging data collected by micromobility devices for other city use.<sup>4</sup>
- Consider the expansion of the agreed upon fee, incentive, and enforcement model beyond current e-scooter contracts (Veo Micromobility and Lime) to include other current or future micromobility options (e.g., Bay Wheels).

## 3. Right of Way and Accessibility Enforcement

- Research and recommend additional effective and low-cost infrastructure upgrades,<sup>5</sup> including standardized markings for appropriate parking zones, creating parking corrals in daylighted zones to reduce sidewalk obstruction, and improve compliance with the Americans with Disability Act (ADA) (e.g.,

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<sup>1</sup> SFMTC: Scooter Sidewalk Riding Detection Technology Demonstration <https://www.sfmta.com/blog/scooter-sidewalk-riding-detection-technology-demonstration#:~:text=As%20part%20of%20the%20permitting,the%20results%20of%20Thursday's%20demonstration.>

<sup>2</sup> A proposal to increase the shared micromobility fee is being submitted on August 18, 2025 ("Refer to the City Manager in Collaboration with the City Attorney's Office to Develop Proposed Increases to the Shared Micromobility Program," Councilmembers Lunaparra, Blackaby, Humbert, and Tregub.

<sup>3</sup> <https://www.sfmta.com/blog/sf-mta-and-bay-wheels-reach-agreement>

<sup>4</sup> Studying the Use of Low-Cost Sensing Devices to Report Roadway Pavement Conditions, USDOT, <https://rosap.ntl.bts.gov/view/dot/78991#:~:text=This%20report%20investigates%20the%20application,network%20longevity%20and%20user%20satisfaction.>

<sup>5</sup> <https://alexnesic88.medium.com/parking-compliance-unleashing-the-potential-of-shared-micromobility-d979b1e3c950>

- eliminating or mitigating for instances of micromobility devices impeding public right of way access to those with physical disabilities). Operators should consider enhancing ADA compliance and accessibility by incorporating features such as Braille labels on devices, emergency buttons accessible to wheelchair users, and prominently displayed contact information that is easily visible at all times of day, subject to technological and contractual feasibility. The operator fee should, to the extent possible, incorporate the costs of all such measures.
- Incorporate systems to reduce unsafe behaviors, including geofencing, speed restrictions, and device locks for sidewalk riding or excessive speed. Such measures and mechanisms would be at the discretion of the City Manager.

#### **4. Stronger Accountability Measures**

The City of Berkeley should continue, through contracting tools, to reflect the shared responsibility of operators in ensuring that unsafe behaviors and public nuisances are proactively addressed, as negative perceptions could threaten the long-term viability of these services. Operators should be held accountable for protecting the public perception and social acceptance of micromobility.

- Enhance the currently required submission of monthly reports by operators to City staff with the production of biannual (twice per year) reports to the full Council, including, but not limited to detailing moving and parking violations, number of repeat offenders, safety class attendances, warnings issued, penalties applied, and any ridership privileges revoked.
- Require operators to provide mandatory certifiable rider safety training with recurring reminders through apps and other means.
  - o Training should cover safe riding practices, proper parking, and the impact on vulnerable populations, including children, seniors, and people with disabilities.

#### **5. Community Engagement and Education**

- Centralize and streamline the city's website to ensure all micromobility program details and reporting instructions are easy to find and access in one location. Explore creating a micromobility information hub with all relevant information in one place (a separate website or a robust micromobility webpage).
- Expand education campaigns via signage, classes, media, and social media to increase awareness of proper micromobility use.
- Develop and provide materials for residents to understand reporting processes, safe riding practices, and ADA considerations.
- Partner with operators to create public-private partnerships with educational institutions, community and advocacy organizations, and affordable housing

providers to further promote equitable outreach and education campaigns and responsible device use.

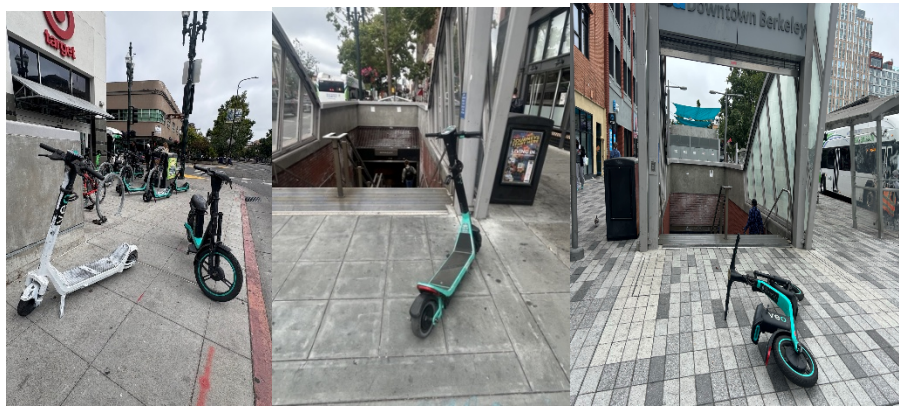
- Special attention should be given to family and youth education. Operators and the City should partner with schools and community groups to equip parents with resources to educate their children on micromobility safety.

These coordinated approaches integrate infrastructure improvements, rider safety, enforcement, operator accountability, public education, and rider incentives, providing a framework for a safer, more equitable, and sustainable micromobility system in Berkeley.

### **CURRENT SITUATION AND ITS EFFECTS**

Micromobility devices including e-scooters, bikes, e-bikes, skateboards, and hoverboards have become an increasingly popular mode of transportation in Berkeley, providing sustainable, low-emission, and convenient first- and last-mile travel options.<sup>6</sup> Currently, Berkeley has approximately 200 Lime scooters and 800 devices, including scooters and e-bikes, operated by Veo Micromobility,<sup>7</sup> reflecting the growing presence of shared micromobility options. However, current regulations and enforcement mechanisms have not kept pace with the challenges posed by their growing use and need to be closer aligned with Vision Zero Action Plan passed by the City in 2018.<sup>8</sup>

Improperly parked devices routinely block sidewalks, curb ramps, and transit access points, creating hazards for seniors, people with disabilities, and pedestrians. Unsafe riding behaviors including sidewalk riding, speeding, and double riding continue to be reported, yet the city lacks clear, publicly accessible reporting channels specific to micromobility.<sup>9</sup>



*Examples of improperly parked Veo Micromobility and personal micromobility devices on Shattuck Avenue, Berkeley, CA, Summer 2025.*

<sup>6</sup>U.S. Department of Transportation, Climate Change Center “Shared Micromobility & Micro Transit” <https://www.transportation.gov/sites/dot.gov/files/2025-01/Shared%20Micromobility%20%26%20Microtransit.pdf>.

<sup>7</sup> Berkeleyside <https://www.berkeleyside.org/2024/07/05/berkeley-fleet-of-lime-rental-e-scooters>

<sup>8</sup> Berkeley Vision Zero Action Plan <https://berkeleyca.gov/sites/default/files/2022-02/Vision-Zero-Annual-Report-2020-2021.pdf>

<sup>9</sup> Berkeley Police Department, “Annual Traffic Safety Report,” 2023 (internal document).

In Berkeley, micromobility vendors have the primary responsibility for enforcing the rules on their customers and to address noncompliance, including through disincentives (e.g., penalties on riders who violate the terms of their agreement with the vendor up to a prohibition on future use of the platform) and physically addressing issues in the field (e.g., picking up and moving poorly parked vehicles for example within a defined timeframe).

The City of Berkeley, particularly the Public Works Transportation Department, has a secondary role to inspect the streets, document poor behavior, notify device operators, and, when necessary, fine vendors for poor performance of the terms of their contract with the city. The City of Berkeley currently provides detailed information for members of the public to report poor behavior and how to help us monitor and report items to the device operators. Public participation helps expand the reach of our inspection and data collection. However, this information is concentrated on a single webpage and opportunities exist to disseminate it more broadly.<sup>10</sup>

Furthermore, based on the many instances of noncompliance with terms of micromobility contracts with the city (e.g., documented instances of illegally parked scooters not being picked up within the designated time frame required per their contract), the current accountability structure appears to be less than adequate. The current City of Berkeley micromobility payment structure is \$1500 per vendor application fee, a \$15,000 Annual Operating Fee per vendor, and a permitting fee of \$64 per vehicle. The penalty structure is \$27 per violation if the City of Berkeley or member of the public submits a violation ticket, and the vendor does not respond within 72 hours. The penalty rises to \$127 per violation if the noncompliance occurs in an ADA zone or the blocking a sidewalk or entrance way. Several jurisdictions with comparable micromobility use cases appear to have a fee and penalty structure that imposes higher fees and penalties than Berkeley.<sup>11</sup>

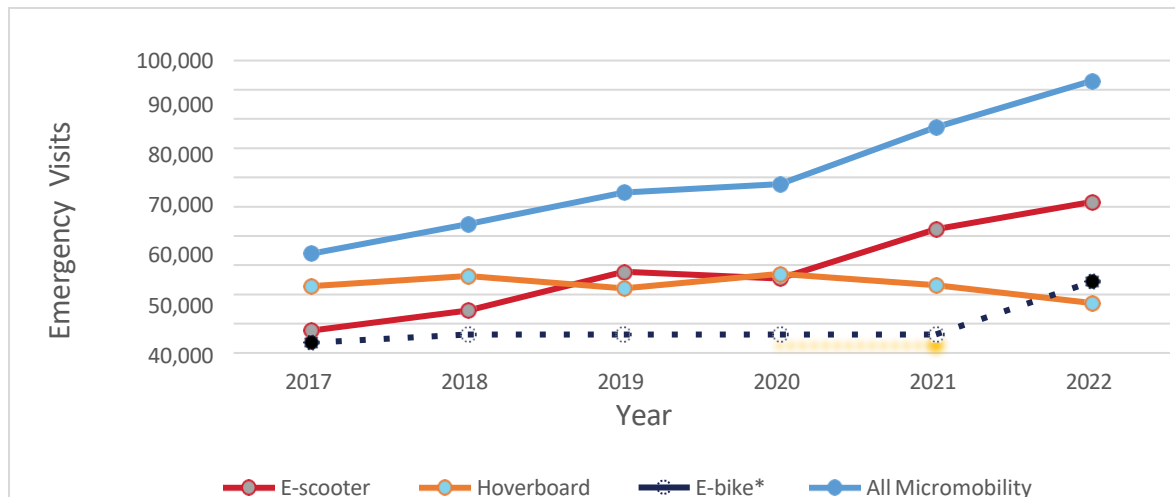
The U.S. Consumer Product Safety Commission reports over 50,000 emergency department visits linked to e-scooter use nationwide in recent years, underscoring the urgent need for clear enforcement, public education, and infrastructure improvements to mitigate risks and enhance public safety. Overall emergency department visits associated with micromobility increased significantly from 2017 to 2022.<sup>12</sup>

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<sup>10</sup> <https://berkeleyca.gov/city-services/getting-around/shared-bikes-and-scooters>

<sup>11</sup> A proposal to increase the shared micromobility fee is being submitted on August 18, 2025 ("Refer to the City Manager in Collaboration with the City Attorney's Office to Develop Proposed Increases to the Shared Micromobility Program," Councilmembers Lunaparra, Blackaby, Humbert, and Tregub.

<sup>12</sup> <https://www.cpsc.gov/Newsroom/News-Releases/2024/E-Scooter-and-E-Bike-Injuries-Soar-2022-Injuries-Increased-Nearly-21>



Simultaneously, technological advances, such as geofencing, pavement-sensing speed regulators, and others allow companies to monitor and modify behavior in real time.

Some cities employ programs and technologies that improve micromobility use.

### San Francisco, CA

- San Francisco's Powered Scooter Share Permit Program requires application and annual permit fees, along with fleet size caps, effectively shifting enforcement costs to operators and ensuring responsible management.<sup>13</sup>
- San Francisco's multi-channel outreach includes the "Three Golden Rules" campaign, social media messaging, and community events coordinated with local law enforcement.<sup>14</sup>
- San Francisco uses geofencing to limit speeds and restrict sidewalk riding, empowers parking officers with citation authority, and incentivizes compliant parking through dedicated programs.

### Austin, TX

- Austin employs operator limits, fleet caps, and cost recovery mechanisms to fund enforcement and infrastructure improvements.<sup>15</sup>
- Austin enforces nighttime speed limits and deploys "force-park" technology to ensure proper device placement.

### Portland, Oregon

<sup>13</sup> SFMTA, "Powered Scooter Share Permit Program," <https://www.sfmta.com/projects/powered-scooter-share-permit-program>

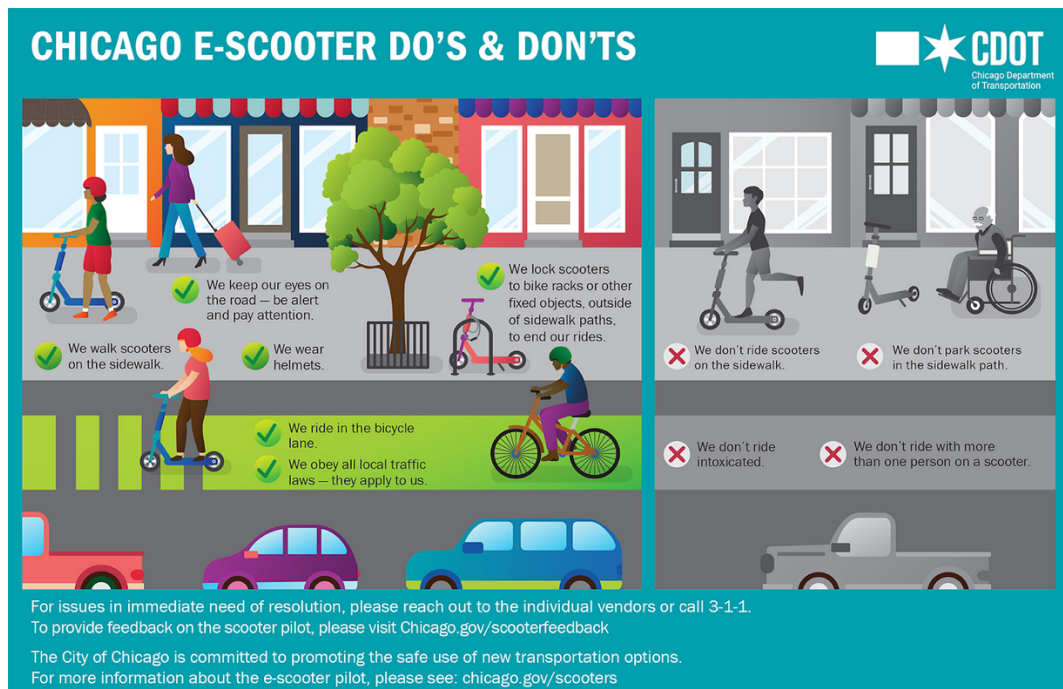
<sup>14</sup> SFMTA, "Scooter Safety Campaign 2023," <https://www.sfmta.com/scooter-safety-campaign-2023>

<sup>15</sup> City of Austin, "Micromobility Program," <https://www.austintexas.gov/sharedmobility>

- Portland integrates in-app reminders and widespread public education to promote safe riding and proper parking.<sup>16</sup>
- Portland mandates secure locking of devices post-trip and rapid removal of improperly parked scooters, supported by centralized 311 reporting.

## Chicago, Illinois

- Chicago developed a sweep of educational campaigns to provide comprehensive and easy to assess and intake resources, including Rider Tips for How to Safely and Properly Use Shared Scooters.<sup>17</sup>



## BACKGROUND

Micromobility offers substantial benefits, including reduced greenhouse gas emissions, lower transportation costs, and increased access to transit.<sup>18</sup> A survey in neighboring Oakland found that 37% of e-scooter riders used them to connect to public transportation at least once a week.<sup>19</sup> Micromobility devices are used by a wide range of residents,

<sup>16</sup> Portland Bureau of Transportation, "Shared Electric Scooter Program,"

<https://www.portland.gov/transportation/regulatory/escooterpdx/documents/2019-new-mobility-snapshot/download>

<sup>17</sup> Rider Tips for How to Safely and Properly Use Shared Scooters

[https://www.chicago.gov/city/en/depts/cdot/supp\\_info/escooter-share-pilot-project.html](https://www.chicago.gov/city/en/depts/cdot/supp_info/escooter-share-pilot-project.html)

<sup>18</sup> California Air Resources Board, "Reducing Greenhouse Gas Emissions from Transportation,"

<https://safetrec.berkeley.edu/sites/default/files/publications/escooterresearchbriefsummer2022.pdf>

<sup>19</sup> City of Oakland Department of Transportation, "Micromobility Survey Report," 2023,

<https://www.oaklandca.gov/Government/Oakland-Improvement-Projects/Zero-Emission-Vehicle-Action-Plan>

including students, commuters, seniors, and visitors, offering convenient first- and last-mile connections to transit and local destinations.

Berkeley already has a vast library of materials relevant to the topic of micromobility, including laws, rules and regulations and contracts with operators, including the:

- Draft Plan for the 2025 Berkeley Bike Plan<sup>20,21</sup>;
- Berkeley Electric Bike Equity Project (BEEP) 2025<sup>22</sup>;
- City of Berkeley, Public Works – Transportation Division; Shared Electric Micromobility Permit Program – Terms, Conditions, and Application 2024<sup>23</sup>; and
- City of Berkeley Electric Mobility Roadmap 2020<sup>24</sup>

The data, however, is dispersed throughout the city's website and can be difficult to find. Some articles on the city news page provide more information<sup>25</sup> about micromobility in the city than dedicated pages<sup>26,27</sup>.

Some operators that are providing services in Berkeley, such as Veo Micromobility, already make investments in addressing ADA compliance and community engagement.<sup>28</sup> Berkeley has the opportunity to further enhance its micromobility framework by drawing on successful approaches from peer cities that integrate safety, accountability, and infrastructure through clear regulations, effective enforcement, and robust public education.

This report was prepared in consultation with City of Berkeley Public Works Department and Bike East Bay.<sup>29</sup>

## **COMMUNITY IMPACT**

Strengthening Berkeley's micromobility regulations will enhance public safety, protect ADA accessibility, and reduce sidewalk obstructions. Consistent enforcement and

<sup>20</sup> Draft Plan for the 2025 Berkeley Bike Plan [https://berkeleybikeplan.org/storage/app/media/uploaded-files/draft/DRAFT\\_Berkeley\\_Bike\\_Plan\\_08072025.pdf](https://berkeleybikeplan.org/storage/app/media/uploaded-files/draft/DRAFT_Berkeley_Bike_Plan_08072025.pdf)

<sup>21</sup> City of Berkeley, This Draft Plan for the 2025 Berkeley Bike Plan Update, <https://berkeleybikeplan.org/#/recommendations>

<sup>22</sup> Berkeley Electric Bike Equity Project (BEEP) 2025 <https://berkeleyca.gov/sites/default/files/documents/BEEP%20Data%20Analysis%20Summary%20Report%20February%202025-reduced.pdf>

<sup>23</sup> City of Berkeley: Shared Electric Micromobility Permit Program (SEMPP) Terms and Conditions Revised 2024 [https://berkeleyca.gov/sites/default/files/documents/SEMPP%20T%26C\\_Revised%202024\\_0.pdf](https://berkeleyca.gov/sites/default/files/documents/SEMPP%20T%26C_Revised%202024_0.pdf)

<sup>24</sup> City of Berkeley Electric Mobility Roadmap. [https://berkeleyca.gov/sites/default/files/2022-01/City%20of%20Berkeley%20Electric%20Mobility%20Roadmap\\_2020.pdf](https://berkeleyca.gov/sites/default/files/2022-01/City%20of%20Berkeley%20Electric%20Mobility%20Roadmap_2020.pdf)

<sup>25</sup> City of Berkeley, Hundreds more e-bikes added to Berkeley's bike share stations, <https://berkeleyca.gov/community-recreation/news/hundreds-more-e-bikes-added-berkeleys-bike-share-stations>

<sup>26</sup> City of Berkeley, Shared Bike and Scooters, <https://berkeleyca.gov/city-services/getting-around/shared-bikes-and-scooters>

<sup>27</sup> City of Berkeley, Electric Mobility, <https://berkeleyca.gov/city-services/getting-around/electric-mobility>

<sup>28</sup> Shared Micromobility for All [https://www.veoride.com/designing-for-access-what-disability-advocates-told-us-about-micromobility/?utm\\_source=chatgpt.com](https://www.veoride.com/designing-for-access-what-disability-advocates-told-us-about-micromobility/?utm_source=chatgpt.com)

<sup>29</sup> Bike East Bay, <https://bikeeastbay.org/>

updated operator contracts ensure accountability and equity, while expanded public education campaigns and improved infrastructure promote safe, orderly, and sustainable micromobility use.

### **FINANCIAL IMPLICATIONS**

The implementation of these recommendations will likely require additional staffing to support the City's micromobility coordinator (1 full-time equivalent). Therefore, the costs associated with enforcement, infrastructure upgrades, and public education must be offset through revised fee and penalty structures incorporated into operator contracts. By requiring micromobility companies to contribute to the costs of enforcement, signage, designated parking, and other safety infrastructure, the City of Berkeley will minimize impacts to the General Fund.

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

Well-regulated micromobility directly supports Berkeley's Climate Action Plan by providing low-emission alternatives to short car trips, helping to reduce greenhouse gas emissions, air pollution, and traffic congestion. By investing in safe infrastructure, accessible parking, and public education, the City of Berkeley can encourage more people to adopt micromobility options, increasing the share of sustainable transportation in daily travel.

### **CONTACT PERSON**

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Igor Tregub  
Councilmember, District 4

CONSENT CALENDAR  
September 16, 2025

To: Honorable Mayor and Members of the City Council

From: Councilmember Igor Tregub (Author)

Subject: Referral: Amendments to the Berkeley Green Code for Newly Constructed Buildings and Existing Construction

#### RECOMMENDATION

1. Refer to the City Manager to return to the Berkeley City Council by December 1, 2025, to adopt the first reading of an Ordinance amending the Berkeley Green Code, BMC Chapter 19.37, to require AC/Heater to Heat Pump conversions for existing buildings; and
2. Refer to the City Manager to return to the Berkeley City Council by December 1, 2025, with further recommendations to adopt a Zero NOx, Ultra-Low NOx, or Single Margin Energy Reach Code; and

#### SUMMARY

The referral will direct the City Manager to return to the Berkeley City Council by December 1, 2025, to require Air Conditioner (AC) to Heat Pump conversions at end of useful life for existing buildings and that all newly constructed buildings be either Zero Nitrous Oxide (NOx) Emission Buildings, Ultra-Low NOx Emission Buildings, or be subject to a single margin energy reach code.

#### FISCAL IMPACTS OF RECOMMENDATION

The proposed Ordinance, depending on the option adopted by City Council, will modestly or moderately increase the plan check and inspection workload. Costs would be covered by existing fees paid by permit applicants. There are no net fiscal impacts from this amendment of the Berkeley Green Code.

#### CURRENT SITUATION AND ITS EFFECTS

The Berkeley City Council adopted the California Green Building Standards Code with local amendments on November 29, 2022, and readopted this code on June 4, 2024, with State Mid-Cycle Supplements and further local amendments (effective July 1, 2024).

Proposed amendments to the Berkeley Green Code were discussed by the Environment and Climate Commission (ECC) at its April and May 2024 meetings. ECC considered options including a Zero NOx CALGreen reach code and a Single Margin Energy reach code. Several commissioners indicated support for a Zero NOx CALGreen reach code, without an exception for cooking equipment used in

commercial kitchens, citing potential benefits including alignment with BAAD's Zero NOx appliance rules, appreciation of future preparedness that a reach code brings, and facilitation of neighborhood decarbonization efforts tied to seismic safety and other health and safety benefits.

On May 7, 2024, City Council referred to the Health, Life Enrichment, Equity & Community (HLEEC) Policy Committee to consider local amendments to CALGreen to require all newly constructed buildings to be Zero NOx Emission Buildings. On July 29, 2024, the HLEEC Policy Committee unanimously voted to send Council a qualified, positive recommendation for the Zero NOx CALGreen reach code, noting also that Council should consider a commercial kitchen exemption, or as an alternative, consider a single margin energy reach code.

On June 26, 2024, staff hosted a virtual roundtable for design professionals, property owners, and developers who have recently built new buildings in Berkeley. This group of stakeholders, who had experience with designing and/or building a variety of building types, voiced support for a healthy environment and healthy buildings. Discussion topics included future code requirements, the housing crisis, recommendations for grid resilient design and battery storage, economic and technical challenges, and PG&E's interconnection timelines. The opinions in this group varied, but a Zero NOx reach code with an exception for commercial kitchens had the most interest. However, several developers voiced that having natural gas available in commercial spaces can help them attract a wider range of restaurant and cafe tenants.

The item was removed from the October 15, 2024, Council agenda in order to evaluate recommendations submitted by several environmental organizations to adopt an Ultra Low NO<sub>x</sub> or a single margin energy reach code.

## **RECENT STATE LAW DEVELOPMENTS**

On June 30, 2025, Governor Newsom signed AB 130 (Committee on Budget, 2025), which enacted into statute the following provisions, effective immediately:

### **SEC. 29.**

Section 17958 of the Health and Safety Code is amended to read:

#### **17958.**

- (a) Except as provided in subdivision (b), and in Sections 17958.8 and 17958.9, any city or county may make changes in the provisions adopted pursuant to Section 17922 and published in the California Building Standards Code or the other regulations thereafter adopted pursuant to Section 17922 to amend, add, or repeal ordinances or regulations which impose the same requirements as are contained in the provisions adopted pursuant to Section 17922 and published in the California Building Standards Code or the other regulations adopted pursuant to Section 17922 or make changes or modifications in those requirements upon express findings pursuant to Sections 17958.5 and 17958.7. If any city or county does not amend, add, or repeal ordinances or regulations to impose those requirements or make changes or modifications in those requirements upon express findings, the provisions published in the California Building Standards Code or the other regulations promulgated pursuant to Section 17922 shall be applicable to it and shall become effective 180 days after publication by the California Building Standards Commission. Amendments, additions, and deletions to the California Building Standards Code adopted by a city or county pursuant to Section 17958.7, together with all applicable portions of the California Building Standards Code, shall

become effective 180 days after publication of the California Building Standards Code by the California Building Standards Commission.

- (b) Commencing October 1, 2025, to June 1, 2031, inclusive, a city or county shall not make changes that are applicable to residential units in the provisions adopted pursuant to Section 17922 and published in the California Building Standards Code or the other regulations thereafter adopted pursuant to Section 17922 to amend, add, or repeal ordinances or regulations which impose the same requirements as are contained in the provisions adopted pursuant to Section 17922 and published in the California Building Standards Code or the other regulations adopted pursuant to Section 17922 or make changes or modifications in those requirements upon express findings pursuant to Sections 17958.5 and 17958.7, unless one of the following conditions is met:
- (1) The changes or modifications are substantially equivalent to changes or modifications that were previously filed by the governing body of the city or county and were in effect as of September 30, 2025.
  - (2) The commission deems those changes or modifications necessary as emergency standards to protect health and safety.
  - (3) The changes or modifications relate to home hardening.
  - (4) The building standards relate to home hardening and are proposed for adoption by a fire protection district pursuant to Section 13869.7.
  - (5) The changes or modifications are necessary to implement a local code amendment that is adopted to align with a general plan approved on or before June 10, 2025, and that permits mixed-fuel residential construction consistent with federal law while also incentivizing all-electric construction as part of an adopted greenhouse gas emissions reduction strategy.
  - (6) The changes or modifications are related to administrative practices, are proposed for adoption during the intervening period pursuant to Section 18942, and exclusively result in any of the following:
    - (A) Reductions in time for a local agency to issue a postentitlement permit.
    - (B) Alterations to a local agency's postentitlement fee schedule.
    - (C) Modernization of, or adoption of, new permitting platforms and software utilized by the local agency.
    - (D) Reductions in cost of internal operation for a local agency.
    - (E) Establishment, alteration, or removal of local programs related to enforcement of building code violations or complaints alleging building code violations.

Several other California jurisdictions (e.g., Mill Valley<sup>1</sup>, Glendale<sup>2</sup>, Oakland<sup>3</sup>, Menlo Park<sup>4</sup>, San Jose<sup>5</sup>, Sunnyvale<sup>6</sup>, Los Altos Hills<sup>7</sup>, Saratoga<sup>8</sup>, Campbell<sup>9</sup>, *et al*<sup>10</sup>) are on track or are planning to pass an AC2HP measure by the end of September, and San Francisco<sup>11</sup> is set to pass a sweeping all-electric requirement for major renovations in the same timeframe.

City of Berkeley staff continues to work on the development of reach codes per a currently active Council referral. The summary of its upcoming work plan includes:

- Surveying the latest best practices and model ordinances.
- Engaging with stakeholders, including climate action experts, design professionals, and development project sponsors.
- Engaging the Environment and Climate Commission.
- Advancing recommended reach codes to City Council for consideration.

## CODE AMENDMENTS

The California Building Standards Code (Title 24 of the State of California Code of Regulations) is updated and published on a three-year cycle. After the California Building Standards Commission publishes the triennial codes, they become effective statewide. The current (2022) cycle of State building codes became effective on January 1, 2023. Local jurisdictions may amend the published codes to address local climatic, geological, or topographical conditions.

The current three-year building code cycle and any effective amendments thereto are effective through December 31, 2025. The local amendments proposed with a green building reach code ordinance would not negate or otherwise affect previously adopted amendments; they introduce new amendments to the 2022 and California Green Building Standards Code. Under state law local jurisdictions may adopt stricter building code provisions if justified by findings of local climatic, geological or topographical conditions.

A green building reach code ordinance supports the City's Strategic Plan Goals to create a resilient, safe, connected, and prepared city, and to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment. The ordinance also supports City Council directives and policies related to fire and life safety, resilience, and climate protection, and is supported by the resolution adopting findings of local conditions.

<sup>1</sup> [https://cityofmillvalley.granicus.com/MetaViewer.php?view\\_id=2&clip\\_id=2073&meta\\_id=100851](https://cityofmillvalley.granicus.com/MetaViewer.php?view_id=2&clip_id=2073&meta_id=100851)

<sup>2</sup>

<https://glendaleca.primegov.com/api/compilemeetingattachmenthistory/historyattachment/?historyId=db909199-b056-4790-90ff-994bc0f6b172>

<sup>3</sup> Draft not publicly available as of the date of this report's publication.

<sup>4</sup> <https://menlopark.gov/files/sharedassets/public/v/1/agendas-and-minutes/city-council/2025-meetings/20250812/h1-ordinance-amend-chapter-12-muni-code.pdf>

<sup>5</sup> <https://sanjose.legistar.com/View.ashx?M=F&ID=14574069&GUID=051302E5-52A2-4958-9CEB-6AEDF6C0CAF8>

<sup>6</sup> <https://sunnyvaleca.legistar.com/View.ashx?M=AO&ID=164851&GUID=16d2e642-ad7e-485a-ac75-599a0d0b0f19&N=Q291bmNpbCBZ2VuZGEgSXRlbSB1cGRhdGVkIGZvbGxvd2luZyBwdWJsaWNhdGlvbiAocG9zdGVkIDlwMjUwODEyKQ%3d%3d>

<sup>7</sup> <https://losaltoshills.ca.gov/571/Reach-Codes>

<sup>8</sup> Draft not publicly available as of the date of this report's publication.

<sup>9</sup> Draft not publicly available as of the date of this report's publication.

<sup>10</sup> <https://bayareareachcodes.org>

<sup>11</sup> Draft not publicly available as of the date of this report's publication.

## ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The ordinances contemplated through this referral aligns with Berkeley's health, safety, and climate goals. It supports the Climate Action Plan, Berkeley Resilience Strategy, and Fossil Fuel Free Berkeley goals. Green reduce the human health, environmental, and climate impacts of emissions associated with occupying and using the new and existing buildings.

This action is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3) because there is no possibility that this action may have a significant effect on the environment; the referral will result in standards that are more protective of the environment than existing state standards, so. Further, the referral will result in standards that are exempt from the requirements of CEQA pursuant to CEQA Guidelines sections 15307 and 15308 as an action by a regulatory agency taken to protect the environment and natural resources.

## RATIONALE FOR RECOMMENDATION

Local policies such as a Zero or Ultra-Low NO<sub>x</sub> reach code, a Single-Margin Energy Reach Code, or an AC to heat pump conversion reach code provide a higher level of safety than are achieved through the State's Building Codes and Energy Codes. Fire risk, risks to the health of building occupants, the accumulating and compounding risks of climate change to the San Francisco Bay Area, its residents, its coastal and littoral zones, and broader risks of degraded air quality justify adoption of Berkeley code amendments that are stricter than the California Building Standards Code and Energy Code.

### Zero-NO<sub>x</sub> and Ultra-Low NO<sub>x</sub>

A Zero NO<sub>x</sub> or Ultra-Low NO<sub>x</sub> reach code would regulate nitrogen oxide emissions in buildings. Nitrogen Oxides are defined as the sum of nitrogen oxide (NO) and nitrogen dioxide (NO<sub>2</sub>), collectively expressed as NO<sub>x</sub>, which is a harmful air pollutant. Short-term exposure can aggravate asthma and other respiratory illnesses and can lead to hospital admissions and emergency room visits. Long-term exposure can cause asthma and potentially increase susceptibility to respiratory infections. Further, NO<sub>x</sub> contributes to acid rain and is one of the building-blocks of ozone, an air pollutant, a greenhouse gas, and a major component of smog.<sup>12</sup> An ordinance setting limits on appliance-generated NO<sub>x</sub> emissions, or an equivalent greenhouse gas reduction ordinance, would set a higher standard for health and environmental protection by improving air quality.

A proposed NO<sub>x</sub> emission ordinance would also address an immediate health concern of growing importance for Berkeley residents. The Bay Area Air District (BAAD) notes that: "In 2019, emissions from residential natural gas combustion accounted for roughly the same amount of NO<sub>x</sub> emissions as passenger vehicles."<sup>14</sup> However, shifts in remote work practices since 2019 have likely increased that percentage, both due to increased work from home hours and reduced work commutes. BAAD further notes that, "Through the reduction of NO<sub>x</sub> and particulate matter emissions, the proposed [BAAD appliance] amendments are projected annually to prevent up to 85 premature deaths and save up to \$890 million in health impacts."<sup>13</sup> In summary, the proposed Berkeley amendment for Very-Low NO<sub>x</sub> Emission Buildings advances towards a built environment consistent with current understanding of human disease prevention and

<sup>12</sup> <https://www.epa.gov/no2-pollution/basic-information-about-no2>

<sup>13</sup> [https://www.baaqmd.gov/~media/dotgov/files/rules/reg-9-rule-4-nitrogen-oxides-from-fan-type-residential-central-furnaces/2021-amendments/documents/20230522\\_faq\\_appliance-rules\\_final-pdf.pdf?rev=b425fe938f644fa7839f8d938cad41fd&sc\\_lang=en](https://www.baaqmd.gov/~media/dotgov/files/rules/reg-9-rule-4-nitrogen-oxides-from-fan-type-residential-central-furnaces/2021-amendments/documents/20230522_faq_appliance-rules_final-pdf.pdf?rev=b425fe938f644fa7839f8d938cad41fd&sc_lang=en)

environmental health.

Cooking equipment, such as ranges, cooktops, and ovens that emit NO<sub>x</sub>, exposes users to the NO<sub>x</sub> emissions and impacts their health. The use of exhaust fans and vent hoods while cooking limits exposure indoors but does not remove it completely. The highest cited capture efficiency rate of residential kitchen vent hoods in the Energy Code is 85%, meaning cooks will inhale some combustion byproducts when a NO<sub>x</sub> emitting appliance is being used. Residential and commercial kitchen vent hoods exhaust the NO<sub>x</sub> emissions to the outside.

From a health and safety standpoint, using Zero NO<sub>x</sub> Emitting cooking equipment, whether in homes or restaurants, offers the greatest health benefit. Allowing an exception from Zero or Ultra Low NO<sub>x</sub> for cooking equipment serving nonresidential occupancies may provide other types of benefits. For example, it may be more economically attractive to restaurant owners due to factors such as equipment availability and familiarity, as well as purchase and operating costs. Restaurant operators in Berkeley have seen increases in expenses in recent years due to leases, costs of food, staff, and increasing regulatory compliance (e.g., utilizing compostable or reusable takeout containers to eliminate single use disposables).

In addition to its direct health impacts, NO<sub>x</sub> is one of the building blocks of ozone, a potent greenhouse gas with a Global Warming Potential (GWP) of 520. The Bay Area is currently out of compliance with federal standards for ozone. The provisions for Zero or Ultra Low NO<sub>x</sub> Emission Buildings made by Chapter 19.37 would have the effect of reducing the emission of ozone, because NO<sub>x</sub> reacts in sunlight with other volatile organic compounds to create ozone.<sup>14</sup> If adopted, the Ordinance will result in a reduction in ozone and a corresponding reduction in greenhouse gas emissions.

#### Single-Margin Energy Reach Code

Council could consider instead adopting an alternative amendment known as a “Single Margin Energy Reach Code” in lieu of a Zero or Ultra-Low NO<sub>x</sub> emissions ordinance for newly constructed buildings. The single margin approach would require the proposed building to meet a higher source energy compliance margin for all occupancies than currently required by the California Energy Code. Although “source energy” is not defined in the state Energy Code, a Code manual explains it generally measures the marginal greenhouse gas emissions of energy used to supply electricity (2022 Single Family Residential Compliance Manual at 1.6.4). The metric accounts for the system delivering energy to the building, as well as the time of day the energy is delivered.

By requiring that a proposed building achieve a certain compliance margin below the source energy requirement for a standard design building, such an ordinance would require that a building improve upon the state code’s 1 metric. Each building type would have a respective single margin it would need to comply with. This approach gives builders flexibility in how to meet these standards and allows and applies to both electric and mixed-use fuel designs. Methods to achieve a particular source energy compliance margin include electrifying appliances, or, if a building uses gas appliances, adding efficiency improvements such as insulation, and/or utilizing solar PV or a battery. However, overall, the single margin approach is less effective at reducing greenhouse gas emissions than Zero NO<sub>x</sub> or Ultra-Low NO<sub>x</sub> requirements, though it is a feasible option for greenhouse gas reduction and requires more passive design such

<sup>14</sup> <https://www.epa.gov/ground-level-ozone-pollution/ground-level-ozone-basics> Page 56  
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as increased insulation and/or more efficient windows in a building. The Single Margin Energy Reach Code approach has been adopted by other California cities including San Luis Obispo, Santa Cruz, San Jose, Palo Alto, East Palo Alto, Encinitas, and Brisbane.

This option was discussed at ECC, HLEEC, and at the roundtable with building professionals, and was not voiced as the preferred option by the majority of the participants in any meeting. A Single Margin Energy Reach Code would require additional work for all types of projects, leading to greater difficulty in understanding the requirements, higher impacts on building design teams, and a longer timeline for implementation, as California Energy Commission approval would be required after local adoption. It would also place greater demands on City plan check and field inspection staff. However, the benefits of this option should be reevaluated with the benefit of additional operational experience in a growing number of jurisdictions.

### AC to Heat Pump

As the federal government is rolling back climate progress, local governments such as Berkeley must step up to sustain and accelerate emissions reductions. Under an “AC to Heat Pump” (AC2HP) policy, any new installation of an air conditioner would instead be required to use a heat pump, which provides both heating and cooling through a two-way valve, or, alternatively, to install a suite of energy efficiency measures. An AC2HP ordinance was produced in collaboration with the Statewide Reach Codes Program<sup>15</sup>, and establishes a “Time of Replacement” policy. The model code language proposes a reach code requiring that any existing single-family home involving replacement or alteration of an existing air conditioning system or installation of a new air conditioning must either include a heat pump space heater as the primary heating system or install other energy conservation measures. This approach targets a natural point of intervention in a building’s lifecycle. By focusing on equipment replacement events, this policy minimizes disruption to property owners while ensuring progress toward decarbonization.<sup>16</sup>

An AC2HP policy could reduce these emissions by displacing gas furnace use in homes and ultimately eliminating the need for them altogether. Replacing all central AC installations statewide with heat pumps could decarbonize more than half of California’s residential space heating demand by 2030, while also cutting harmful air pollution responsible for approximately \$890 million annually in health damages across the Bay Area.

The policy would also align with Berkeley’s Building Emissions Savings Ordinance, which provides a compliance pathway for properties with heat pumps. “Time-of-replacement” policies such as AC2HP are considered among the most cost-effective policies for decarbonizing buildings. According to the Berkeley Existing Buildings Electrification Strategy (BEBES), adopted by Council in 2021, “the marginal cost—[the]difference between installing electric equipment and replacing with new gas equipment—at this time is smaller than the full cost of installing electric equipment.”

Yet the economics of AC2HP are even more favorable than gas-to-electric conversions. While furnace-to-heat pump conversions typically incur added costs due to electrical work, the electrical and ducting requirements of an air conditioner are typically identical to those of a heat pump. For this reason, BEBES lists AC2HP as a Phase 1 strategy for implementation by 2025.

<sup>15</sup> <https://localenergycodes.com/>

<sup>16</sup> <https://bayareareachcodes.org/model-reach-codes/>

For new construction, local policies such as the those contemplated under the referral provide a higher level of safety than are achieved through the State's Building Codes. Fire risk, risks to the health of building occupants, the accumulating and compounding risks of climate change to the San Francisco Bay Area, its residents, its coastal and littoral zones, and broader risks of degraded air quality justify adoption of Berkeley code amendments that are stricter than the California Building Standards Code.

In addition, Berkeley does not meet State and Federal ambient outdoor air quality standards (nonattainment) for ozone and is also in an area of nonattainment for State standards for particulate matter (PM<sub>2.5</sub> and PM<sub>10</sub>). Per the BAAD<sup>17</sup>, a local government has the authority to regulate air quality. By regulating NO<sub>x</sub> emissions from equipment, Berkeley can reduce harm to public health within buildings, improve ambient air quality, and assist in the transition to BAAD's appliance rules which will impact the sale and installation of water heaters and furnaces starting in 2027.

### ALTERNATIVES CONSIDERED

Council could choose to adopt either a code that regulates NO<sub>x</sub> emissions *or* an AC2HP conversion code or could choose not to adopt a reach code. However, not adopting a green building code would effectively cede Berkeley's reputation as a climate leader to a number of neighboring and other California jurisdictions that are actively developing or have already adopted such a reach code.

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<sup>17</sup> <https://www.baaqmd.gov/en/plans-and-climate/local-government-support>



