BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE SPECIAL MEETING

MONDAY, NOVEMBER 16, 2026

2:30 P.M.

2180 Milvia Street, Berkeley, CA 94704

Committee Members:

Mayor Adena Ishii, Councilmembers Terry Taplin and Mark Humbert

Alternate: Ben Bartlett

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: 165 970 1340**. To provide public comment, Press *9 and wait to be recognized by the Chair. To submit a written communication for 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

Review of Agendas

1. **Approval of Minutes: November 2, 2026**
2. **Review and Approve Draft Agenda:**
   a. 12/1/2026 – Regular City Council Meeting
3. **Adjournments In Memory**

Scheduling

4. **Council Worksessions Schedule**
5. **Council Referrals to Agenda Committee for Scheduling**
6. **Land Use Calendar**

Unscheduled Items

7. **Review Policy Committees Structure**
8. **Review Boards and Commissions Structure**

Items for Future Agendas

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

Adjournment – Next Meeting Monday, November 30, 2026

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Additional items may be added to the draft agenda per Council Rules of Procedure.

Rules of Procedure as adopted by Council resolution, Article III, C3c - Agenda - Submission of Time Critical Items

Time Critical Items. A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or council member is received by the City Clerk after established deadlines and is not included on the Agenda Committee's published agenda.

If the Agenda Committee finds the matter to meet the definition of Time Critical, the Agenda Committee may place the matter on the Agenda on either the Consent or Action Calendar.

The City Clerk shall not accept any item past the adjournment of the Agenda Committee meeting for which the agenda that the item is requested to appear on has been approved.

Written communications addressed to the Agenda Committee and submitted to the City Clerk Department by 5:00 p.m. the Friday before the Committee meeting, 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, (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 special meeting 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 Thursday, November 12, 2026.



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.

BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE SPECIAL MEETING MINUTES

MONDAY, NOVEMBER 2, 2026
2:30 P.M.

2180 Milvia Street, Berkeley, CA 94704

Committee Members:

Mayor Adena Ishii, Councilmembers Terry Taplin and Mark Humbert
Alternate: Ben Bartlett

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Roll Call: 2:32 p.m. All present.

Public Comment – 8 speakers

Review of Agendas

1. **Approval of Minutes: October 13, 2026**
   Action: M/S/C (Humbert/Taplin) to approve the minutes of 10/13/2026.
   Vote: All Ayes.

2. **Review and Approve Draft Agenda:**
   a. 11/17/2026 – Regular City Council Meeting
   Action: M/S/C (Humbert/Taplin) to approve the agenda of 11/17/2026 with the changes noted below.
   - *Item 18 Balfour USA Contract (City Manager) – revised recommendation submitted to increase contract amount*
   - *Item 28 Tax Revenue Allocations (Commission) – moved to Consent Calendar*
   - *Item 29 Tobacco Retail Ordinance (Kesarwani) – referred to Land Use (LUHED) Committee*

   Vote: All Ayes.

3. **Adjournments In Memory** – None

Scheduling

4. **Council Worksessions Schedule** - received and filed

5. **Council Referrals to Agenda Committee for Scheduling** - received and filed

6. **Land Use Calendar** - received and filed

Action Calendar

7. **Public Access to Supplemental Materials and Amendments at City Council Meetings, Including the Timing of Presentation of Such Materials by the Mayor or City Council Members, Such That the Public May Comment on Them**
   From: Open Government Commission
   Referred: October 13, 2026
   Due: March 23, 2027
   Recommendation: Adopt a policy requiring that prior to the commencement of public comment on each Agenda Item, councilmembers will be asked to present any material they have prepared that is not already included in the packet.
   Financial Implications: None
   Contact: Sam Harvey, Commission Secretary, (510) 981-6950
   Action: 2 speakers. M/S/C (Taplin/Humbert) to forward the item to Council with a positive recommendation on the next agenda.
   Vote: All Ayes.

Unscheduled Items

8. **Review Policy Committees Structure**

9. **Review Boards and Commissions Structure**

Items for Future Agendas

- **None**

Adjournment

Action: M/S/C (Taplin/Taplin) to adjourn the meeting.
Vote: All Ayes.

Adjourned at 3:06 p.m.

I hereby certify that the foregoing is a true and correct version of the Agenda & Rules Committee meeting held on November 2, 2026.

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Mark Numainville, City Clerk

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DRAFT AGENDA

BERKELEY CITY COUNCIL MEETING

Tuesday, December 1, 2026
6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

ADENA ISHII, MAYOR

COUNCILMEMBERS:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – IGOR TREGUB
DISTRICT 5 – SHOSHANA O'KEEFE
DISTRICT 6 – BRENT BLACKABY
DISTRICT 7 – CECILIA LUNAPARRA
DISTRICT 8 – MARK HUMBERT

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Live captioned broadcasts of Council meetings are available on B-TV (Channel 33) and via internet video stream. All Council meetings are recorded.

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Preliminary Matters

Roll Call:

Land Acknowledgement Statement: *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

City Manager Comments: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Public Comment on Non-Agenda Matters: *Up to ten persons will be selected to address matters not on the Council agenda. If five or fewer persons are identified to provide non-agenda comment, each person selected will be allotted two minutes each. If more than five persons are selected to address matters not on the Council agenda, each person selected will be allotted one minute each.*

In-person attendees wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to the moment that the Presiding Officer calls for public comment on non-agenda items. Remote attendees must raise their hand in the videoconference application when the Presiding Officer calls for non-agenda speakers. The first five raised hands on the videoconference application will be selected to speak and the first five cards drawn at the meeting will be selected to speak. The number of in-person and remote speakers selected may be adjusted by the Presiding Officer if fewer than five speakers from either format are identified.

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.

Public Comment by Employee Unions (first regular meeting of the month): *This period of public comment is reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.*

Consent Calendar

The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Three members of the City Council must agree to pull an item from the Consent Calendar or Information Calendar for it to move to Action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

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.

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. If ten or fewer persons are interested in speaking on an individual agenda item, each speaker 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. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

1. Authorization to Accept Inherited IRA Funds for Berkeley Animal Care Services
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to accept approximately $10,167 in inherited Individual Retirement Account (IRA) funds, subject to market fluctuations, on behalf of Berkeley Animal Care Services (BACS), and to execute any necessary documents to receive the funds.
Financial Implications: See report
Contact: Peter Radu, City Manager's Office, (510) 981-7000

2. Use of Catastrophic Reserve Fund for Animal Shelter Rehabilitation
From: City Manager
Recommendation: Adopt a Resolution authorizing use of the Catastrophic Reserve Fund and the allocation of $850,000 from the fund for the Animal Shelter Rehabilitation project.
Financial Implications: See report
Contact: Maricar Dupaya, Budget Manager, (510) 981-7000

Consent Calendar

3. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on December 1, 2026
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids 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: Various Funds - $7,872,015
Contact: Henry Oyekanmi, Finance, (510) 981-7300

4. Contract No. 32500243 Amendment: SEP Technology Consulting, LLC for Database Migration to Accela
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or designee to amend Contract No. 32500243 with SEP Technology Consulting, LLC (SEPTech) to add $22,800 for an amount not to exceed $347,800, and to extend the contract period to June 30, 2027.
Financial Implications: See report.
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5100

5. Unrepresented Employee Manual Update
From: City Manager
Recommendation: Adopt a Resolution (1) approving an update to the Unrepresented Employee Manual (hereafter referred to as the "Manual") effective upon Council approval, and expiring whenever next approved by Council; (2) approving the increase of approximately $1,700 annually for Public Safety uniform allowance amounts to align them with underlying MOUs; and (3) authorizing the City Manager to execute and implement the updated Manual, including any changes that may be operationally necessary during the term of the Manual, provided such changes do not create increased economic obligations for the City or modify approved compensation or benefits.
Financial Implications: See report
Contact: Janelle Rodrigues, Human Resources, (510) 981-6800

6. Contract: SHI for Cohesity Backup Solution with Hosted Cloud Storage
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a Contract with SHI, pursuant to Sourcewell RFP No. 121923, Category 1 (Technology Products and Services with Related Solutions), for a Cohesity backup solution with hosted cloud storage, for a total contract amount not to exceed $450,000 for the term December 31, 2026 through December 30, 2029.
Financial Implications: See report
Contact: Kevin Fong, Information Technology, (510) 981-6500

Consent Calendar

7. Donation: Memorial Bench at the Berkeley Marina in memory of Paul Canin
From: City Manager
Recommendation: Adopt a Resolution accepting a cash donation in the amount of $3,400 for a memorial bench to be placed at the Berkeley Waterfront Park in memory of Paul Canin.
Financial Implications: $3,400 (Donation)
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

8. Planning and Development Department Personnel Actions
From: City Manager
Recommendation: Authorize the City Manager to take the following personnel actions in the Planning and Development Department, subject to completion of any required meet-and-confer obligations: 1. Increase Position Control Number (PCN) 2886, Community Services Specialist II (Building and Safety), from 0.75 FTE to 1.0 FTE. 2. Reallocate vacant PCN 3349 from Planning Technician (Land Use Planning) to Customer Service Specialist II (Building and Safety). 3. Delete vacant PCN 1159, Associate Planner, and reallocate vacant PCN 3584 from Associate Planner to Senior Planner (Land Use Planning), consolidating two Associate Planner positions into one Senior Planner position.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400

9. Staffing Amendment for Measure FF, the SAFE STREETS Initiative
From: City Manager
Recommendation: Adopt a Resolution to amend the FY 2027 budget to add one permanent full-time Associate Management Analyst position to support the implementation of projects associated with Measure FF, the SAFE STREETS Initiative.
Financial Implications: See report
Contact: Jamie Parks, Public Works, (510) 981-6300

10. Purchase Order: National Auto Fleet Group for the Purchase of One 2027 Ford Super Duty F-450 Truck Equipped with a Pavement Marking System
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a purchase order with National Auto Fleet Group for the purchase of one 2027 Ford Super Duty F-450 truck equipped with a Roadline Products USA pavement marking system through Sourcewell Contract No. 032824-NAF, in an amount not to exceed $201,795.85, including a 10-percent contingency and estimated sales tax.
Financial Implications: See report
Contact: Jamie Parks, Public Works, (510) 981-6300

Council Consent Items

11. Berkeley High Crew Safety Equipment: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds
From: Councilmember Humbert (Author)
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed $400 per Councilmember including $400 from Councilmember Humbert to Berkeley High Crew, an independent 501(c)(3) nonprofit, for the purchase of safety equipment for the Berkeley High School (BHS) rowing team, with funds relinquished to the City's General Fund for this purpose from the discretionary Council Office Budgets of Councilmember Humbert and any other Councilmembers who would like to contribute.
Financial Implications: Councilmember's Discretionary Funds - $400
Contact: Mark Humbert, Councilmember, District 8, (510) 981-7180

Action Calendar

The public may comment on each item listed on the agenda for action. 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 during the Action Calendar public comment period on the item

The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking on an individual agenda item, each speaker 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.

The Presiding Officer may open and close an additional comment period for Action items on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters), at the start of the Action Calendar. Those who speak on an item during this comment period may not speak a second time when the item is taken up by Council.

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. For certain hearings, this is followed by five-minute presentations each by first the appellant and then the applicant. The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking during a public hearing, each speaker 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.

When applicable, 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

12. Renewal of the Elmwood BID for Calendar Year 2027
From: City Manager
Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Elmwood Business Improvement District (hereafter, “the District”, “the Elmwood BID” or “the BID”) for 2026-2027 and, if no majority protest exists, levy annual assessments in the District for calendar year 2027 to finance services and improvements and authorize a contract with Elmwood Business Association for receipt and expenditure of District funds.
Financial Implications: See report
Contact: Eleanor Hollander, Economic Development, (510) 981-7530

13. Renewal of the Solano Avenue BID for Calendar Year 2027
From: City Manager
Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Solano Avenue Business Improvement District (hereafter, “Solano BID Advisory Board” or “the BID”) for 2026-2027 and, if no majority protest exists, levy annual assessments in the District for calendar year 2027 to finance services and improvements and authorize a fiscal agency contract for receipt and expenditure of District funds.
Financial Implications: See report
Contact: Eleanor Hollander, Economic Development, (510) 981-7530

14. Changes to Selected Recreation Program and Facility Rental Fees
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution approving new fees and increasing current fees for select recreation programs and facility rentals; and rescinding Resolution No. 72,290-N.S. and all amendatory resolutions.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Action Calendar – Public Hearings

15. Corridors Zoning and General Plan Updates

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion:

1. Adopt the first reading of an Ordinance amending Title 23 of the Berkeley Municipal Code to increase housing capacity along commercial and transit corridors, consistent with Program 27— Priority Development Areas, Commercial and Transit Corridors, and Program 33—Zoning Code Amendment: Residential of the 2023-2031 Housing Element Update and the City's Affirmatively Furthering Fair Housing (AFFH) obligations.
2. Adopt a Resolution approving and adopting General Plan map and text amendments to re-designate certain parcels and update certain land use designations to be consistent with the associated Ordinance amendments.
3. Refer to the City Manager the development of additional small business support strategies, including business license tax relief, relocation assistance, and other measures to support business continuity.
4. Find the Corridors Zoning Update is exempt from CEQA pursuant to SB 131, and consider the Addendum demonstrating that the Corridors Zoning Update would not result in new or more significant environmental impacts than were analyzed and disclosed in the City's Environmental Impact Report for the 2023-2031 Housing Element Update and adopt the Findings and Statement of Overriding Considerations that the benefits of the proposed project outweigh the unavoidable adverse environmental impacts.

Financial Implications: See report

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

Action Calendar – New Business

16a. On Declaring Berkeley a Sanctuary City for and Affording Legal Protections to Trans and Gender Expansive People in Berkeley

From: Peace and Justice Commission

Recommendation: That the City Council declare Berkeley a Sanctuary City for Transgender and Gender Expansive People, and adopt a comprehensive set of policies to protect and support transgender, non-binary, and gender-nonconforming (TGNC) residents through the following actions: 1) Refer to the City Manager to review City of Berkeley data sharing and encryption practices to ensure compliance with SB 107 and SB 497, prohibiting the use of City resources—including staff time, equipment, and databases—in assisting out-of-state or federal agencies in investigating, detaining, or prosecuting individuals for seeking, providing, or assisting in lawful gender-affirming care; refer to the City Manager a review of data encryption policies for the City of Berkeley to prevent potential seizure of data that might nonconsensually "out" a TGNC person to another jurisdiction; 2) Continue current expansion of gender-neutral restrooms in the City by referring to the City Manager to explore updating the Berkeley Building Code requiring all newly constructed or renovated commercial and public buildings to include gender-neutral multi-stall restrooms or all-gender single stall restrooms consistent with the direction established in AB1732 accommodating transgender persons by mandating signage that all restrooms be gender-neutral and current State Code that all single-stall restrooms be gender neutral. This proposed action is also consistent with the City of Berkeley's Department of Parks and Recreation's plans, completed and future,

to establish exclusively gender-neutral restrooms, both new and renovated in City parks; 3) Recommend to Council to refer to the Board of Library Trustees to develop a policy that books and materials related to gender identity and trans persons be available in the library consistent with the Berkeley Public Library's adoption of the American Library Association's Public policy to challenge censorship; 4) Refer to the City Manager to coordinate with the County Continuum of Care and other regional governmental bodies to establish a trans shelter where trans persons experiencing challenges in other shelters can be directed. In the interim, to establish a procedure to otherwise direct trans persons to other settings when they experience bullying or violations of their safety, security and privacy in Berkeley shelters or other Berkeley homeless services programs. Transfers shall be to programs under the City's control or through advocacy and referral with the County Coordinated Entry system. Preferably, there shall be a point person(s) in the City knowledgeable of trans needs to facilitate that trans persons are afforded safety, security, privacy and dignity; 5) Refer to the 4x4 Joint Task Force on Housing to establish objective rental standards through policies and procedures preventing discrimination on the basis of gender identity or sexuality. Such standards could include adopting the First-In-Time standard for residential rentals and establishing local enforcement procedures to prevent housing discrimination based on gender identity or sexual orientation. Adopting this standard would require landlords to: a) Publish all minimum screening criteria (e.g., credit, income, references) at the time any residential rental is posted or published; b) Date and time stamp all applications submitted; and c),Offer tenancy to the first qualified applicant who meets the posted or published criteria; 6) Recommend that Council refer to the 4x4 that the Executive Director of the Rent Board write a letter to Berkeley landlords advising them of the rights of trans persons not to be discriminated against in tenancy; 7) Recommend that Council refer to the City Manager that the Office of Economic Development send a letter advising of employer's obligations under SB 1343 providing for protections of transgender employees and prospective employees and that such letter be sent out in coordination with the annual notice of license renewal; 8) Refer to the City Manager to insure that LGBTQIA+ persons, including trans persons, have access to mental health and behavioral services. Such access shall include services to be covered through Mental Health Services Act (MHSA) monies (to become the Behavioral Health Services Act (BHSA) effective July 1, 2026) with funding for the Pacific Center for Human Growth and other TGNC-specific mental health lifelines. Should the state Mental Health Oversight and Accountability Commission (MHOAC) decide not to accept the City's plan submitted to them to continue contracts for current mental health trauma monies in Berkeley, including for LGBTQIA+ persons, after June 30, 2026 when those contracts expire, that another source of funds be identified to provide these services; 9) Recommend that Council refer to the City Manager to require that when inspections are conducted to workplaces for any reason, that the required SB 1343 posting, which includes trans rights, by employers with 5 employers or more is in compliance; 10) Refer to the City Manager to include the health and wellness needs of LGBTQIA+ persons, including trans persons, in the City Community Health Improvement Plan; 11) Refer to the City Manager to include an addendum to update language in the Berkeley Municipal Code update language in the city code (ie. BMC 13.32.010) that discriminates on the basis of sex and gender.

Financial Implications: See report

Contact: Tasha Tervalon, Commission Secretary, (510) 981-7000

Action Calendar – New Business

16b. Companion Report: On Declaring Berkeley a Sanctuary City for and Affording Legal Protections to Trans and Gender Expansive People in Berkeley
From: City Manager
Recommendation: Review and adopt the alternate recommendations from the City Manager for the eleven recommendations from the Peace & Justice Commission regarding policies to protect and support transgender, non-binary, and gender-nonconforming residents.
Financial Implications: See report
Contact: Tasha Tervalon, City Manager's Office, (510) 981-7000

17. Whistleblower Program Special Report: Evaluation of Workplace Relationship Policies- Recommendation 3 *(Reviewed by the Agenda & Rules Committee)*
From: Auditor
Recommendation: We recommend that City Council endorse Recommendation 3 of the City Auditor's Evaluation of Workplace Relationship Policies special report and provide direction on next steps for considering adoption of nepotism and cronyism provisions in the Berkeley Municipal Code.
Policy Committee Recommendation: To send the item to Council with a positive recommendation on "Recommendation 3" regarding regulations on cronyism and nepotism.
Financial Implications: No direct fiscal impact
Contact: Jenny Wong, Auditor, (510) 981-6750

Action Calendar – Policy Committee Track Items

18. Referral to Strengthen Berkeley's Tobacco Retail Ordinance to Promote Public Health
From: Councilmember Kesarwani (Author), Councilmember Taplin (Author), Councilmember Tregub (Co-Sponsor)
Recommendation: Refer to the City Manager to develop a density cap of no more than six Tobacco Retail Licenses for each Berkeley city council district, establishing a ban on new licenses in council districts with more than six Tobacco Retail Licenses, restrictions on transfers into those areas, and policies to prevent further concentration of retailers in disproportionately impacted neighborhoods. Further recommend the following: Update administrative processes related to Tobacco Retail Licenses, including business license disclosures, license application requirements, coordination with State licensing data, and internal review and enforcement procedures; and Evaluate and propose updates to the Tobacco Retail License fee structure to better align fees with the costs of inspection, enforcement, and program administration.
Financial Implications: Staff time
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

Action Calendar – Policy Committee Track Items

19. Budget Referral: Establish a Small Business Disruption Grant Fund (Public-Private Match)
From: Councilmember Humbert (Author)
Recommendation: Refer to the City Manager and the FY 2027 Mid-Year Budget Process the establishment of a Small Business Disruption Grant Fund to provide one-time grants to Berkeley small businesses that suffer a significant disruption to their operations. Specifically: 1. Refer to the City Manager program design and administration, including eligibility criteria, qualifying events, grant limits, and any minimum operating history, modeled on the City's existing Business Damage Mitigation Fund for repairing property damage. 2. Structure the fund as a public-private match. The program activates only once the City secures at least $75,000 in committed outside contributions, after which the City provides a matching contribution of up to $125,000. 3. Retain a qualified fiscal agent, such as a business association or the Berkeley Chamber of Commerce, to operate the program under the City's guidelines. 4. Councilmember Humbert commits $10,000 from his FYoffice budget toward the City's match to reduce the net cost to the General Fund, and invites other Council offices to contribute.
Financial Implications: See report
Contact: Mark Humbert, Councilmember, District 8, (510) 981-7180

Information Reports

20. 2026 Climate Action & Resilience Update
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400

21. April 2026 Update to the Shared Electric Micromobility Permit Program (SEMPP) in Response to Council Referrals
From: City Manager
Contact: Jamie Parks, Public Works, (510) 981-6300

Public Comment – Items Not Listed on the Agenda

Adjournment

NOTICE CONCERNING YOUR LEGAL RIGHTS*: If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

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Communications to the 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 to the City Clerk Department at 2180 Milvia Street. 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 Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street, and through the City's online records portal: https://records.cityofberkeley.info/.

Agendas, agenda reports, and revised/supplemental material may be accessed via the online agenda for this meeting at: berkeleyca.gov/council-agendas
and may be accessed at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901
Email: clerk@berkeleyca.gov

Libraries: Main – 2090 Kittredge Street,
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,
North Branch – 1170 The Alameda, Tarea Hall Pittman South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:
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Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900 or by email at clerk@berkeleyca.gov.

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Berkeley City Councilmember
Mark Humbert, District 8
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
mhumbert@berkeleyca.gov

02a.11

CONSENT CALENDAR
December 1, 2026

To: Honorable Mayor and Members of the City Council

From: Councilmember Humbert (Author)

Subject: Berkeley High Crew Safety Equipment: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed $400 per Councilmember including $400 from Councilmember Humbert to Berkeley High Crew, an independent 501(c)(3) nonprofit, for the purchase of safety equipment for the Berkeley High School (BHS) rowing team, with funds relinquished to the City's General Fund for this purpose from the discretionary Council Office Budgets of Councilmember Humbert and any other Councilmembers who would like to contribute.

BACKGROUND

Established in 1967, Berkeley High Crew is the oldest youth rowing program in Northern California and the only public school rowing team in the western United States. The program runs a Learn to Row summer camp for incoming 9th graders as well as the regular school team, which has 85 registered athletes this year and competes against private clubs and private schools. Last year, the team sent three boats to the Scholastic National Championships, and 95% of its alumni go on to attend college. As a public school program, Berkeley High Crew allows students who qualify for free and reduced-price lunch to participate for free and offers a sliding scale for lower-income families. The team receives minimal funding from the school district and relies on family contributions and fundraising, which makes it challenging to meet all equipment funding needs. These donated funds will help the team purchase needed safety equipment, including boat safety lights, maritime-quality megaphones, and life jackets, as practices continue into the darker winter months.

FINANCIAL IMPLICATIONS

No General Fund impact. $400 is available from Councilmember Humbert's office budget.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with adopting this recommendation.

CONTACT PERSON

Councilmember Mark Humbert Council District 8 510-981-7180

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

BERKELEY HIGH CREW SAFETY EQUIPMENT

WHEREAS, established in 1967, Berkeley High Crew is the oldest youth rowing program in Northern California and the only public school rowing team in the western United States; and

WHEREAS, the BHS rowing team has 85 registered student athletes this year, competes against private clubs and private schools, and sent three boats to the Scholastic National Championships last year; and

WHEREAS, Berkeley High Crew is committed to making rowing inclusive for all Berkeley High students, allowing students who qualify for free and reduced-price lunch to participate for free and offering a sliding scale for lower-income families; and

WHEREAS, the team receives minimal funding from the school district and suffers from severe equipment strain, and without new safety equipment the BHS rowing team could be up a creek without a paddle; and

WHEREAS, as the team heads into the dark winter season, there is a stern need for safety, including boat safety lights, maritime-quality megaphones, and life jackets; and

WHEREAS, it’s all of oar responsibility to support youth athletics, and this funding will firm up the team’s readiness and help keep them afloat; and

WHEREAS, hopefully this funding will represent a stroke of good fortune and help the rowing team sweep to victory; and

WHEREAS, Councilmember has surplus funds in his office expenditure account, which he would like to steer toward the team; and

WHEREAS, BHS Crew is requesting funds in the amount of $2,631.67 to help purchase safety equipment and keep participation fees low for public school families; and

WHEREAS, the Council has the opportunity to pull together and pitch in for the BHS rowing team, serving the civic interests of youth athletics, safety, and equitable access to aquatic sports;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Councilmembers from their Council Office Budgets up to $400 per office shall be granted to Berkeley High Crew for helping cover the costs of safety equipment for the Berkeley High School rowing team.

02a.16a

Peace and Justice Commission

ACTION CALENDAR
December 1, 2026

To: Honorable Mayor and Members of the City Council

From: Peace and Justice Commission

Submitted by: Rev. Dwayne Philips, Chair, Peace and Justice Commission

Subject: On Declaring Berkeley a Sanctuary City for and Affording Legal Protections to Trans and Gender Expansive People in Berkeley

RECOMMENDATION

That the City Council declare Berkeley a **Sanctuary City for Transgender and Gender Expansive People,** and adopt a comprehensive set of policies to protect and support transgender, non-binary, and gender-nonconforming (TGNC) residents through the following actions:

1) Refer to the City Manager to review City of Berkeley data sharing and encryption practices to ensure compliance with SB 107 and SB 497, prohibiting the use of City resources—including staff time, equipment, and databases—in assisting out-of-state or federal agencies in investigating, detaining, or prosecuting individuals for seeking, providing, or assisting in lawful gender-affirming care; refer to the City Manager a review of data encryption policies for the City of Berkeley to prevent potential seizure of data that might nonconsensually "out" a TGNC person to another jurisdiction;
2) Continue current expansion of gender-neutral restrooms in the City by referring to the City Manager to explore updating the Berkeley Building Code requiring all newly constructed or renovated commercial and public buildings to include gender-neutral multi-stall restrooms or all-gender single stall restrooms consistent with the direction established in AB1732 accommodating transgender persons by mandating signage that all restrooms be gender-neutral and current State Code that all single-stall restrooms be gender neutral. This proposed action is also consistent with the City of Berkeley's Department of Parks and Recreation's plans, completed and future, to establish exclusively gender-neutral restrooms, both new and renovated in City parks;
3) Recommend to Council to refer to the Board of Library Trustees to develop a policy that books and materials related to gender identity and trans persons be available in

the library consistent with the Berkeley Public Library's adoption of the American Library Association's Public policy to challenge censorship;

4) Refer to the City Manager to coordinate with the County Continuum of Care and other regional governmental bodies to establish a trans shelter where trans persons experiencing challenges in other shelters can be directed. In the interim, to establish a procedure to otherwise direct trans persons to other settings when they experience bullying or violations of their safety, security and privacy in Berkeley shelters or other Berkeley homeless services programs. Transfers shall be to programs under the City's control or through advocacy and referral with the County Coordinated Entry system. Preferably, there shall be a point person(s) in the City knowledgeable of trans needs to facilitate that trans persons are afforded safety, security, privacy and dignity;
5) Refer to the 4x4 Joint Task Force on Housing to establish objective rental standards through policies and procedures preventing discrimination on the basis of gender identity or sexuality. Such standards could include adopting the First-In-Time standard for residential rentals and establishing local enforcement procedures to prevent housing discrimination based on gender identity or sexual orientation. Adopting this standard would require landlords to:
   a) Publish all minimum screening criteria (e.g., credit, income, references) at the time any residential rental is posted or published;
   b) Date and time stamp all applications submitted; and
   c) Offer tenancy to the first qualified applicant who meets the posted or published criteria;
6) Recommend that Council refer to the 4x4 that the Executive Director of the Rent Board write a letter to Berkeley landlords advising them of the rights of trans persons not to be discriminated against in tenancy;
7) Recommend that Council refer to the City Manager that the Office of Economic Development send a letter advising of employer's obligations under SB 1343 providing for protections of transgender employees and prospective employees and that such letter be sent out in coordination with the annual notice of license renewal;
8) Refer to the City Manager to insure that LGBTQIA+ persons, including trans persons, have access to mental health and behavioral services. Such access shall include services to be covered through Mental Health Services Act (MHSA) monies (to become the Behavioral Health Services Act (BHSA) effective July 1, 2026) with funding for the Pacific Center for Human Growth and other TGNC-specific mental health lifelines. Should the state Mental Health Oversight and Accountability Commission (MHOAC) decide not to accept the City's plan submitted to them to continue contracts for current mental health trauma monies in Berkeley, including for LGBTQIA+ persons, after June 30, 2026 when those contracts expire, that another source of funds be identified to provide these services;
9) Recommend that Council refer to the City Manager to require that when inspections are conducted to workplaces for any reason, that the required SB 1343 posting, which includes trans rights, by employers with 5 employers or more is in compliance;
10) Refer to the City Manager to include the health and wellness needs of LGBTQIA+ persons, including trans persons, in the City Community Health Improvement Plan;

11) Refer to the City Manager to include an addendum to update language in the Berkeley Municipal Code update language in the city code (ie. BMC 13.32.010) that discriminates on the basis of sex and gender (See Attachment 1).

SUMMARY

In response to an unprecedented federal assault on transgender rights, this recommendation codifies Berkeley's role as a haven. By declaring sanctuary status, Berkeley joins California cities including Sacramento and West Hollywood in refusing to comply with out-of-state "gender ideology" investigations. Berkeley continues its long tradition of standing at the vanguard of Civil Rights movements during moments of state-sanctioned bigotry. Many Berkeley departments have already taken steps, including Berkeley Parks opening gender-inclusive restrooms at Ohlone and Willard Parks. This recommendation formalizes and expands accessibility and safety mechanisms throughout the city.

FISCAL IMPACTS OF RECOMMENDATION

None to the General Fund. All recommended actions utilize regulatory updates, existing departmental staff time, or restricted funding sources. Mental health support is directed from MHSA/BHSA state allocations, and employment initiatives are to be funded through federal workforce grants or capital project budgets.

CURRENT SITUATION AND ITS EFFECTS

The TGNC community is under a state of emergency due to coordinated federal actions since January 2025:

- Executive Order 14168 (signed Jan 20, 2025) redefined "sex" as a biological binary at conception for all federal agencies, stripping TGNC individuals of legal recognition in passports, federal housing, and healthcare. Executive Orders 14190, 14201, 14183, and 14187 each seek explicitly to erase transgender people from various areas of public and professional life. [1]
- A December 2025 CMS rule proposed denying Medicare/Medicaid funding to any hospital providing gender-affirming care to minors.
- BPD reports indicate that hate crimes involving gender and sexual orientation were the second highest category of reported incidents in 2024, with anti-transgender events increasing statewide by 12.3% in 2025.[2, 3]

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[1] https://lgbtqbar.org/programs/advocacy-resources/trump-executive-order-tracker/

[2] https://berkeleyca.gov/sites/default/files/documents/BPD%202024%20Annual%20Report.pdf

[3] https://oag.ca.gov/news/press-releases/attorney-general-bonta-releases-third-annual-state-pride-report-honor-pride#:~:text=In%202024%2C%202.8%20million%20people,hate%20crimes%20please%20visit%20here.

- The Pacific Center faces a critical funding expiration in June 2026 as existing MHSA cycles transition to BHSA.
- In response to threats from the Federal Government, many medical facilities throughout California have ended their gender affirming care services, endangering the lives of countless people, particularly trans youth.
- In March 2026, Idaho passed the most extreme anti-trans bathroom ban in the country, with convictions leading to years of incarceration; also in March, Kansas revoked drivers licenses for trans people and mandated medical facilities to report transgender patient data to the state, establishing a de facto registry of trans people.

Precedence:

Multiple cities in California have taken similar steps to declare themselves havens for the trans community. West Hollywood in 2023, Sacramento and San Francisco in 2024, Richmond in 2025 and others all passed city resolutions reaffirming their commitment to the trans community and taking measures to materially protect and support TGNC individuals. Berkeley has already declared itself a sanctuary city for immigrants and has committed significant resources to that important work in response to the Federal government's anti-immigrant stance.

Rationale:

The federal characterization of gender-affirming care (GAC) as "junk science" is directly contradicted by the nation's leading medical authorities:

- American Academy of Pediatrics (AAP): Maintains that evidence-based GAC is medically necessary and life-saving. In December 2025, the AAP called federal restrictions a "baseless intrusion into the patient-physician relationship."[4]
- American Medical Association (AMA): Reaffirms that GAC—including hormones and social transition—is associated with significant decreases in anxiety, depression, and suicidal ideation.[5]
- The American Psychological Association (APA): issued a May 2025 statement criticizing the lack of transparency in federal reports and reaffirming that supportive mental health care and gender-affirming protocols significantly reduce suicide risk.[6]

Research from UCLA's Williams Institute and local Bay Area studies (2025) shows that

[4] https://publications.aap.org/aapnews/news/33988/AAP-Proposed-restrictions-to-gender-affirming-care?autologincheck=redirected

[5] https://www.ama-assn.org/public-health/population-health/advocating-lgbtq-community

[6] https://updates.apaservices.org/statement-on-access-to-treatment-for-transgender-gender-diverse-and-nonbinary-people

LGBTQI+ individuals face a 30% higher rate of housing instability.[7]

A 2019 study of transwomen living in the Bay Area showed that, for every instance of intersectional discrimination, odds of housing instability increased by 1.25%[8]. In Berkeley, gender-nonconforming individuals in shelters report heightened acts of violence and theft when placed in facilities that do not respect their gender identity. Sanctuary status ensures these individuals are not just "housed," but safe.

Studies show that 70% of transgender people have experienced denial of access, verbal harassment, or physical assault in gender-segregated facilities. Furthermore, research from the Williams Institute confirms that inclusive bathroom policies do not increase safety risks for cisgender people.[9] Conversely, forcing TGNC individuals into non-aligned facilities increases their risk of being victimized by 2.5 times the rate of cisgender peers.[10] Beyond the TGNC community, all-gender stalls provide essential safety for caregivers of a different gender (parents with children or assistants for people with disabilities) who otherwise face exclusion or harassment in binary-gendered spaces.

BACKGROUND

On May 4th, 2026, the Peace and Justice Commission passed a motion as follows:

Motion to approve the item to Declare Berkeley a Sanctuary City for Transgender and Gender Expansive People, and adopt a comprehensive set of policies to protect and support transgender, non-binary, and gender-nonconforming (TGNC) residents as amended.

M/S/C: Taylor/Marasovic
Ayes: Commissioners Phillips, Rothbart, Marasovic, Elias, Taylor, Lee, Tabb, Sani, Morizawa, Lippman, McNeil and Press
Noes: None
Abstain: None
Excused: Commissioners Cassidy, Yasavul, Weisburg, Fink and Mencher

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

To be determined by staff.

ALTERNATIVE ACTIONS CONSIDERED

[7] https://williamsinstitute.law.ucla.edu/publications/housing-is-an-lgbtq-issue/
[8]https://www.mdpi.com/1660-4601/16/22/4521
[9] https://williamsinstitute.law.ucla.edu/publications/safety-in-restrooms-and-facilites/
[10] https://bjs.ojp.gov/library/publications/violent-victimization-sexual-orientation-and-gender-identity-2017-2020

Because the challenges facing the TGNC community are myriad and vast, many possible actions were considered for inclusion in this recommendation. Those chosen strike the best balance between non-capital intensive policy change and important declarations in language that resist the narrative shift the Federal administration is seeking with regards to gender identity.

CITY MANAGER
See Companion Report

CONTACT PERSON
Tasha Tervalon, Assistant to the City Manager and Commission Secretary, City Manager's Office, 510-981-5347

Attachments:
1: **BMC 13.32.010 – Adjustment**

Attachment 1 - BMC Adjustments

BMC 13.32.010 – Current

"It shall be either a misdemeanor or an infraction, in the discretion of the prosecutor, for any person to appear nude in any place open to the public or any place visible from a place open to the public. "Nude" within the meaning of this section means the absence of an opaque covering which covers the genitals, pubic hair, buttocks, perineum, anus or anal region of any person or any portion of the breast at or below the areola thereof of any female person."

Amendment:
Eliminate "...or any portion of the breast at or below the areola thereof of any female person".

02a.17

BERKELEY CITY AUDITOR

ACTION CALENDAR
DECEMBER 1, 2026

To: Honorable Mayor and Members of the City Council

From: Jenny Wong, City Auditor JW

Subject: Whistleblower Program Special Report: Evaluation of Workplace Relationship Policies-Recommendation 3

RECOMMENDATION

We recommend that City Council endorse Recommendation 3 of the City Auditor's Evaluation of Workplace Relationship Policies special report and provide direction on next steps for considering adoption of nepotism and cronyism provisions in the Berkeley Municipal Code.

POLICY COMMITTEE RECOMMENDATION

On October 13, 2026, the Agenda and Rules Committee adopted the following action: M/S/C (Ishii/Humbert) to send the item to Council with a positive recommendation on "Recommendation 3" regarding regulations on cronyism and nepotism. Vote: All Ayes.

FISCAL IMPACTS OF RECOMMENDATION

There is no direct fiscal impact associated with Council consideration of Recommendation 3. Further evaluation and potential development of Municipal Code provisions may require staff time for legal review, policy development, consultation with affected City offices, and implementation planning. Any additional fiscal impacts would depend on the approach selected.

CURRENT SITUATION AND ITS EFFECTS

On September 15, 2026, City Council received the City Auditor's Evaluation of Workplace Relationship Policies special report and referred Recommendation 3 to the Agenda and Rules Committee for consideration of whether to pursue nepotism and cronyism provisions in the Berkeley Municipal Code.

On October 13, 2026, the Agenda and Rules Committee vote unanimously to forward Recommendation 3 to City Council with a positive recommendation.

Council consideration is now needed to determine how to pursue the proposed provisions.

BACKGROUND

The City Auditor's Office conducted a policy review following a whistleblower report raising concerns about workplace relationships and potential favoritism. Although the conduct was not prohibited under current City policy, the review identified gaps in how the City addresses personal relationships that could create actual or perceived conflicts of interest in employment decisions.

The report made three recommendations. Recommendations 1 and 2 focus on strengthening administrative policies, including Administrative Regulation 2.12, Employment of Near Relatives. Management agreed to evaluate these updates through the City's policy development and labor relations processes.

Recommendation 3 addresses the broader applicability of nepotism and cronyism safeguards across City government. It recommends that the City consider adopting Municipal Code provisions applicable to City employees, elected officials, Charter Offices, appointed officials, boards, and commissions.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental sustainability or climate impacts associated with the recommended action.

RATIONALE FOR RECOMMENDATION

Berkeley's decentralized government structure presents challenges in establishing consistent relationship conflict safeguards. The City Manager's administrative regulations generally apply to departments and employees under the City Manager's authority but do not necessarily extend to independently elected officials, Charter Offices, or other governing bodies.

The intent of Recommendation 3 is not to prohibit personal relationships, but to establish safeguards when those relationships could create actual or perceived conflicts of interest in City decisions. Such safeguards could include disclosure requirements, recusal from certain decisions, or other measures to manage potential conflicts while allowing personal relationships to exist.

Considering nepotism and cronyism provisions in the Berkeley Municipal Code would provide an opportunity to establish consistent citywide standards while accounting for the differing authorities and responsibilities of City offices and governing bodies. Any proposed provisions

affecting employees would also need to be developed in accordance with applicable labor relations requirements, including meet-and-confer obligations where required.

The recommendation does not prescribe specific ordinance language or an implementation approach. Council consideration would allow the City to determine how to pursue appropriate safeguards while accounting for these legal and operational considerations.

CONTACT PERSON
Jenny Wong, City Auditor, City Auditor's Office, 510-981-6750

Attachments:
1: Berkeley City Auditor Whistleblower Program Special Report: Evaluation of Workplace Relationship Policies (September 2026)

2: October 13, 2026, Agenda and Rules Committee Meeting Minutes (Item 7)

BERKELEY CITY AUDITOR

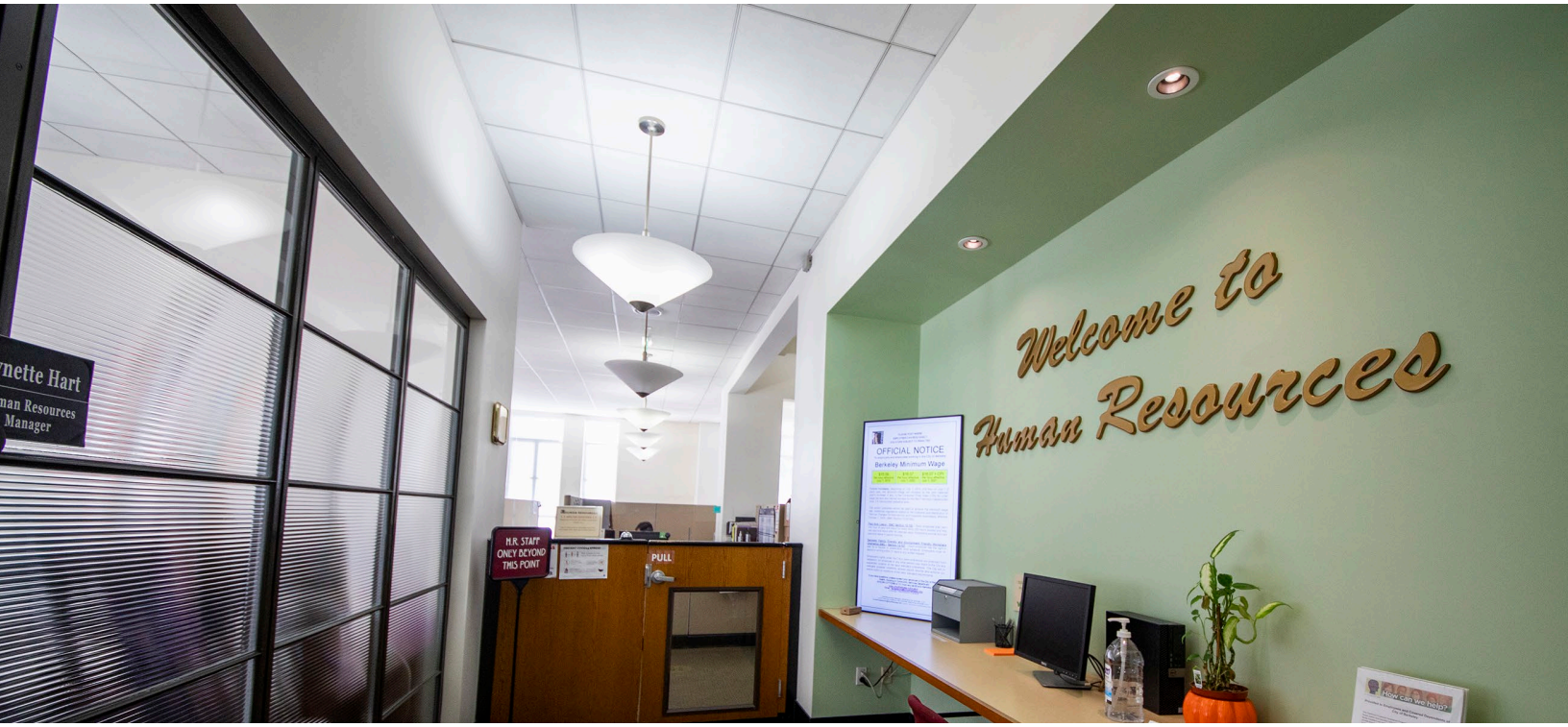
Special Report

Whistleblower Program: Evaluation of Workplace Relationship Policies

August 2026

Jenny Wong, City Auditor

Erin Mullin, Whistleblower Program Manager



Berkeley's current policies do not address romantic, cohabitating, or extended family relationships, creating potential conflicts of interest and undermining fairness in employment decisions. Expanding and updating these policies would align Berkeley with peer jurisdictions and improve transparency.

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Purpose

A whistleblower report raised concerns about a workplace relationship that intersected with City employment and the potential for perceived favoritism. We reviewed the complaint and found that City policy did not address the conduct described and therefore could not substantiate the allegation. However, the report prompted a review of the City's policies regarding workplace relationships.

Berkeley's primary policy governing workplace relationships is Administrative Regulation 2.12 (Employment of Near Relatives), which is intended to prevent nepotism by requiring disclosure and restricting supervision among certain family members. This report examines whether that framework, together with other related policies adequately address romantic, cohabiting, and related family relationships that may affect, or appear to affect, employment decisions, such as decisions regarding hiring, promotion, transfer, discipline, or termination.

Allegation History

The Berkeley City Auditor's Whistleblower Program received a report concerning a romantic relationship involving a manager and an employee within the same work unit, and the potential for perceived favoritism connected to supervisory influence. The allegation highlighted a category of workplace relationships that is not currently addressed by City policy. The information was used solely to inform a policy review. The Whistleblower Program has also received other reports raising similar concerns involving close personal relationships in the workplace that fall outside current policy coverage, indicating the issue is not isolated and reinforcing the need for policy review.

Conclusions

We found that Berkeley's current policies do not address romantic, dating, or cohabiting relationships in the workplace, leaving the City without a way to identify or manage situations where such personal relationships overlap with hiring, supervision, or other employment decisions. As a result, employees are not required to disclose these relationships, managers may participate in personnel decisions involving a romantic or cohabitating partner, and no formal recusal or conflict-management process applies when supervisory or decision authority is involved. These conditions create a risk of actual or perceived favoritism and can undermine employee confidence in the fairness and objectivity of employment decisions.

We also found that Berkeley's Employment of Near Relatives policy defines family relationships more narrowly than comparable policies in peer jurisdictions. While Berkeley covers core family members, it does not include certain extended family relationships that San Francisco and Oakland address, even though these relationships can present similar conflict-of-interest concerns. This narrower definition creates additional gaps in the City's ability to manage potential or perceived conflicts arising from workplace relationships.

Taken together, these findings indicate that Berkeley's current policies do not fully address the range of personal relationships that may affect, or appear to affect, employment decisions. Updating the City's policy framework to address romantic and cohabitating relationships and to reassess the scope of covered family relationships would strengthen conflict-of-interest controls, align Berkeley with peer jurisdictions, and support transparency and fairness in the City's employment practices.

Findings

Current City policy does not address disclosure of romantic or cohabiting relationships in the workplace.

Berkeley's current policies do not address romantic, dating, or cohabiting relationships when those relationships intersect with hiring, supervision, or other employment decisions. As a result, the City lacks a framework to identify or manage conflicts of interest that may arise from these relationships. While the City has policies governing harassment, discrimination, retaliation, financial conflicts of interest, and the employment of near relatives, none require disclosure of romantic or cohabiting relationships, restrict supervisors from participating in employment decisions involving a partner, or provide a mechanism for managing related conflicts of interest.

The table below summarizes how Berkeley's policies compare with peer jurisdictions and state-level guidance with respect to coverage, disclosure requirements, and conflict-management tools related to romantic and cohabiting workplace relationships.

Table 1: Comparison of Policies Addressing Romantic and Cohabiting Workplace Relationships

Key Feature	Oakland	San Francisco	California State Guidance	Berkeley
Who is covered	Broad (officers, officials, and employees)	Broad (officials, employees, interns, volunteers)	Agencies determine	Employees only
Romantic relationships covered	Yes	Yes	Only if cohabitating	No
Cohabiting relationships covered	Yes (romantic and non-romantic)	Romantic only	Romantic only	No
Disclosure required	Yes	Yes	Yes (department policy required)	Yes (near relatives only; not romantic or cohabiting relationships)
Restrictions on hiring or supervision of covered relationships	Yes (direct and indirect)	Yes (direct and indirect)	Yes (agency-defined)	Yes (applies only to near relatives; not romantic or cohabiting relationships)

Note: California state guidance provides recommended practices for state agencies and does not impose requirements on local governments.
Source: Auditor analysis of City of Oakland Municipal Code Chapter 2.40; San Francisco Civil Service Commission Family and Romantic Relationships at Work Policy; California CalHR Nepotism Guidance; and City of Berkeley AR 2.12

Peer jurisdictions, including Oakland and San Francisco, have adopted more comprehensive approaches. These cities require disclosure and active management of romantic and cohabitating relationships when such relationships intersect with employment decisions. State-level guidance for California public agencies similarly recommends managing conflicts of interest arising from romantic, cohabitating relationships through disclosure, recusal, and mitigation to address both actual and perceived conflicts.

Berkeley's existing policy framework focuses on compliance-based risks, such as harassment, discrimination, financial conflicts of interest, and nepotism. Romantic and cohabitating relationships fall outside the scope of these policies and have not been explicitly addressed through an administrative regulation or standalone policy.

Without a policy framework, employees are not required to disclose such relationships, and managers may participate in employment decisions involving a partner without a recusal or conflict-management process. These gaps create a risk of actual or perceived favoritism and can undermine employee trust and confidence in the fairness and objectivity of personnel decisions, even when no misconduct occurs. In the absence of clear disclosure and recusal requirements, the City also lacks a consistent basis for responding to complaints or concerns involving personal relationships that intersect with employment decisions.

Berkeley's definition of family relationships is narrower than peer jurisdictions and creates additional coverage gaps.

In addition to the absence of policies covering romantic or cohabitating relationships, Berkeley's Employment of Near Relatives policy reflects a more limited definition of family relationships than those used by peer jurisdictions like San Francisco and Oakland. While all three cities include core family relationships such as spouses, parents, and siblings, Berkeley does not include certain extended family categories that peer jurisdictions address.

The table below compares how Berkeley and peer jurisdictions define family relationships in employment policies, with emphasis on extended and non-traditional relationships that may present similar conflict-of-interest concerns but are not included in Berkeley's current definition.

Table 2. Comparison of Family Relationships Definitions

Relationship Category	Included in Berkeley	Included in San Francisco	Included in Oakland
Cousin	✗	✓ (First)	✓ (First and Second)
In-laws, Step Relations	✓ (Specific)	✓ (Broad)	✓ (Broad)
Foster Relations	✗	✓	✓
Great-grandparent / great-grandchild	✗	✗	✓
Cohabitants (Non-Domestic Partner)	✗	✗	✓
Spouses, domestic partner of any relative or cohabitant	✗	✗	✓

Source: Auditor analysis of City of Oakland Municipal Code Chapter 2.40; San Francisco Civil Service Commission Family and Romantic Relationships at Work Policy; and City of Berkeley AR 2.12

Berkeley does not include certain extended family categories like cousins or foster relationships that San Francisco and Oakland include. These relationships can raise similar conflict-of-interest concerns in hiring and supervisory contexts. While Berkeley includes some in-law and step relationships, it does so through a fixed list rather than a broader categorical definition. As a result, certain relationships, such as a step-grandparent, step-aunt or uncle, or aunt- or uncle-in-law, are not explicitly covered, even though they may present similar risks. By contrast, Oakland defines covered family relationships more expansively by category, extending beyond immediate family to include multiple degrees of relatives, foster relationships, cohabitants, and the spouses or domestic partners of covered individuals. A broader approach allows jurisdictions to identify and manage conflicts of interest across a wider range of familial and household relationships. Berkeley's narrower definition, by comparison, creates gaps in coverage and limits the City's ability to proactively identify and manage potential or perceived conflicts of interest arising from personal relationships.

Peer jurisdictions have adopted broader policy frameworks to manage conflicts arising from personal relationships.

Berkeley's Employment of Near Relatives policy establishes a framework for managing conflicts of interest arising from specified familial relationships. However, the structure and authority of Berkeley's policy limit its reach. The policy applies only to employees and does not apply to elected officials, appointed officers, or other non-employee City officials. It is established through an administrative regulation issued by the City Manager and is confined to the specific relationships listed in the definition of "near relative." As a result, the City has limited authority to address conflicts of interest arising from other personal relationships or to apply consistent standards across elected officials, officers, and other individuals working for the City.

Berkeley's current policy relies primarily on transfer or reassignment authority when a prohibited near-relative supervisory relationship exists. While the City Manager may grant written exceptions to supervisory-relationship prohibitions, the policy does not establish a structured conflict-management plan process for how supervisory conflicts or approved exceptions must be mitigated. In some operational settings, such as small divisions, specialized technical teams, or public safety departments with limited supervisory layers, reassignment alone may not fully remove indirect supervisory relationships. By contrast, San Francisco requires a formal written conflict-management plan when supervisory conflicts cannot be fully removed, and Oakland mandates documented alternate arrangements and mitigation controls through its Personnel Director and City Attorney process.

San Francisco's policy, adopted by its Civil Service Commission, and Oakland's policy, codified in its municipal code, apply to a wider range of individuals, including elected officials and City officers. Oakland also requires annual disclosure of specified personal relationships by City officials and supervisors, reinforcing ongoing accountability rather than one-time reporting.

In addition to disclosure requirements, Oakland's policy explicitly defines and prohibits cronyism, meaning participation in employment decisions involving close personal, professional, political, or commercial relationships that could result in preferential treatment or compromise the appearance of fairness. While this prohibition does not expand disclosure requirements, it establishes broader expectations for individuals covered by the policy to avoid conflicts of interest arising from relationships beyond those specifically identified for disclosure. This approach recognizes that conflicts of interest and the potential for favoritism are not limited to predefined familial relationships.

As a result, the policy provides a clear basis for reviewing and addressing employment decisions influenced by personal relationships that fall outside narrowly defined categories. Oakland's policy also requires the Director of Personnel to provide an annual report to the City Council describing the nature and number of prohibited relationships disclosed and the alternate arrangements implemented. Together, these features provide broader authority, clearer oversight, and more flexible mitigation tools than those currently available under Berkeley's policy framework.

Recommendations

1. To ensure comprehensive conflict-of-interest controls within employment and supervisory contexts, we recommend that the Human Resources Department update AR 2.12 to:
    - require disclosure of romantic, dating, and cohabiting relationships, in addition to near-relative relationships.
    - extend supervisory and decision-making restrictions to romantic and cohabiting relationships that create actual or perceived conflicts of interest.
    - update the definition of "near relative" to better align with peer jurisdictions.
    - incorporate a clear definition and prohibition of cronyism in supervision and employment decisions.
    - establish a documented conflict-management process that clearly defines responsibilities for reviewing relationship disclosures, implementing mitigation measures, maintaining records of all actions taken, and alternate decision authority where needed.

2. To support effective implementation, we recommend the Human Resources Department provide training to supervisors and managers on the updated relationship conflict-of-interest policy.
3. To extend relationship conflict safeguards beyond employees, we recommend the City consider adopting both nepotism and cronyism provisions in the Berkeley Municipal Code. These provisions should apply to all City employees, elected officials, charter offices, appointed officials, boards and commissions, ensuring consistent citywide standard.

Implementation Considerations

Implementation of the recommended policy updates will require coordination among Human Resources, the City Attorney's Office, and City leadership. Relationship disclosures should be limited to information necessary for conflict management and treated as confidential. Clear guidance and documentation standards will be important to ensure consistent application of recusal, conflict-management measures, and exceptions. The City may also wish to consider how updates to AR 2.12 align with existing ethics and conflict-of-interest policies to support clarity and effective administration. Currently, Human Resources maintains relationship disclosures within individual paper-based personnel files, which may present challenges for consistently tracking and managing disclosures as policy coverage expands.

Management Response

Management agrees that the City should review and update its framework for identifying and managing actual or perceived conflicts of interest arising from workplace relationships. Human Resources will work with City leadership to evaluate potential revisions to AR 2.12, including appropriate disclosure requirements, supervisory and decision-making restrictions, definitions of covered relationships, confidentiality safeguards, and conflict-management procedures.

The specific policy provisions recommended in this report should not, however, be understood as predetermined outcomes. Changes of this nature would affect represented employees and may implicate matters within the scope of representation. Accordingly, any proposed policy changes will require extensive notice, consultation, and meet-and-confer with the City's labor organizations. The final scope, definitions, disclosure obligations, mitigation procedures, and implementation requirements will be developed and refined through that process. The City must also carefully consider employee privacy, consistent application across departments, operational feasibility, records management, and compliance with applicable law.

Following completion of the policy-development and labor-relations process, Human Resources will provide appropriate guidance and training to managers and supervisors regarding the final requirements and their responsibilities.

Management also agrees that the City should evaluate whether broader nepotism or cronyism standards are appropriate for elected officials, charter officers, appointed officials, boards, and commissions. Because those individuals may fall outside the scope of an administrative regulation issued by the City Manager, any such expansion would require separate legal and governance review, coordination with affected offices, and possible action by the City Council.

Scope and Methodology

We conducted a policy-focused review to assess whether the City's current policies address romantic and cohabiting relationships that intersect with hiring, supervision, or other employment decisions, and whether the City's definition of family relationships provides sufficient coverage to manage related conflicts of interest.

Specifically, we analyzed Berkeley's relevant policies, including:

- AR 2.12 – Employment of Near Relatives
- AR 1.2 – Conflicts of Interest
- Harassment Prevention Policy
- Equal Employment Opportunity Policy

Reviewed workplace-relationship and conflict of interest policies from peer jurisdictions, including Oakland and San Francisco, as well as state-level guidance applicable to California public agencies.

This review was limited to evaluating policy design and coverage in employment and supervisory context. We did not conduct an investigation related to the reported relationship, did not interview individuals, and did not review personnel files, as the conduct described in the Whistleblower Report is not prohibited under current City policy. Additionally, we only examined one specific aspect of conflict-of-interest risks, those arising in employment and supervisory decisions. Other types of conflicts, such as financial interests in contracting, procurement, or policy decisions, as well as other potential conflicts in governance or personal financial dealings, are governed by separate policies and legal frameworks and were outside the scope of this review.

Office of the City Auditor

City of Berkeley

Mission Statement

Promoting transparency and accountability in Berkeley government.

Report Preparation

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City Auditor

Jenny Wong

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Copies of this report and other City Auditor reports are available at
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BERKELEY CITY AUDITOR

BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE SPECIAL MEETING MINUTES

TUESDAY, OCTOBER 13, 2026
2:30 P.M.

2180 Milvia Street, Berkeley, CA 94704
Teleconference Location - 2928 Linden Avenue, Berkeley CA 94705

Committee Members:

Mayor Adena Ishii, Councilmembers Terry Taplin and Mark Humbert

Alternate: Ben Bartlett

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: 165 679 9780**. To provide public comment, Press *9 and wait to be recognized by the Chair. To submit a written communication for 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.

Roll Call: 2:31 p.m. All present.

Public Comment – 23 speakers

Review of Agendas

1. **Approval of Minutes: September 28, 2026**
   Action: M/S/C (Taplin/Humbert) to approve the minutes of 9/28/2026.
   Vote: All Ayes.

2. **Review and Approve Draft Agenda:**
   a. 10/27/2026 – Regular City Council Meeting
   Action: M/S/C (Humbert/Ishii) to approve the agenda of 10/27/2026 with the changes noted below.
   - *Item Added: BOLT Appointment (O'Keefe) – added to Consent Calendar*
   - *Item Added: BOLT Appointment (O'Keefe) – added to Consent Calendar*
   - *Item 1 Deputy City Attorney Positions (City Attorney) – referred to Budget & Finance Committee*
   - *Item 21 Procurement for Services (Kesarwani) – Councilmember Bartlett added as a co-sponsor; revised item submitted*
   - *Item 25a\b Public Right-of-Way – moved to Consent Calendar; revised recommendation for Item 25b*
   - *Item 26 Public Access to Materials (Commission) – referred to Agenda & Rules Committee*
   - *Item 27a\b Special Events – moved to Consent Calendar*
   - *Item 28a\b Berkeley Green Code – moved to Consent Calendar*
   - *Item 29a\b Space Allocation – moved to Consent Calendar*
   - *Item 30 Encampment Policy (Kesarwani) – scheduled for a special meeting on November 17; revised item submitted*

   Vote: All Ayes.

3. **Adjournments In Memory** – None

Scheduling

4. **Council Worksessions Schedule** – received and filed

5. **Council Referrals to Agenda Committee for Scheduling** – received and filed

6. **Land Use Calendar** – received and filed

Action Items

7. **Whistleblower Program Special Report: Evaluation of Workplace Relationship Policies**
   From: Auditor
   Referred: September 15, 2026
   Due: February 23, 2027
   Recommendation: We recommend that City Council receive this report and direct the City Manager to implement Recommendations 1 and 2 consistent with Management's Response. We further recommend that City Council refer Recommendation 3 to the Agenda and Rules Committee for consideration of whether to pursue adoption of nepotism and cronyism provisions in the Berkeley Municipal Code.
   Recommendation 3: To extend relationship conflict safeguards beyond employees, we recommend the City consider adopting both nepotism and cronyism provisions in the Berkeley Municipal Code. These provisions should apply to all City employees, elected officials, charter offices, appointed officials, boards and commissions, ensuring consistent citywide standard.
   Financial Implications: See report
   Contact: Jenny Wong, Auditor, (510) 981-6750

   Action: M/S/C (Ishii/Humbert) to send the item to Council with a positive recommendation on "Recommendation 3" regarding regulations on cronyism and nepotism.
   Vote: All Ayes.

Unscheduled Items

8. **Review Policy Committees Structure**

9. **Review Boards and Commissions Structure**

Items for Future Agendas

- **None**

Adjournment

Action: M/S/C (Taplin/Humbert) to approve the minutes of 9/28/2026.
Vote: All Ayes.

Adjourned at 3:44 p.m.

I hereby certify that the foregoing is a true and correct record of the Agenda & Rules Committee meeting held on October 13, 2026.

_____
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.

02a.18

Rashi Kesarwani
Councilmember, District 1

CONSENT CALENDAR
December 1, 2026

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author), Councilmember Terry Taplin (Co-Author), and Councilmember Igor Tregub (Co-Sponsor)

SUBJECT: Referral to Strengthen Berkeley's Tobacco Retail Ordinance to Promote Public Health

RECOMMENDATION

Refer to the City Manager to develop a density cap of no more than six Tobacco Retail Licenses for each Berkeley city council district, establishing a ban on new licenses in council districts with more than six Tobacco Retail Licenses, restrictions on transfers into those areas, and policies to prevent further concentration of retailers in disproportionately impacted neighborhoods. Further recommend the following:

- Update administrative processes related to Tobacco Retail Licenses, including business license disclosures, license application requirements, coordination with State licensing data, and internal review and enforcement procedures; and

- Evaluate and propose updates to the Tobacco Retail License fee structure to better align fees with the costs of inspection, enforcement, and program administration.

CURRENT SITUATION AND ITS EFFECTS

Berkeley's Over-concentration of Tobacco Retail Stores Creates a Significant Public Health Risk. According to the City of Berkeley's Health, Housing and Community Services Department (HHCS), Berkeley currently has more than 80 tobacco retailers, approximately 70 percent higher than the recommended density of one retailer per 2,500 residents.[1] This over-saturation has created both public health and equity

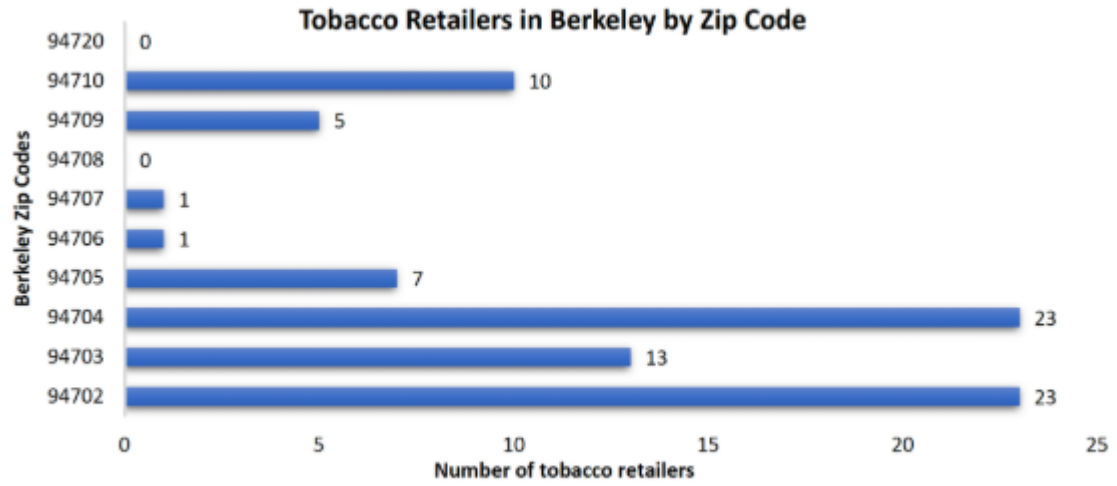
[1] This recommendation is found in the Public Health Law Center's Comprehensive Tobacco Retailer Licensing Ordinance developed jointly with the American Lung Institute, December, 2020:

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concerns, particularly given the City's relatively small geographic size and progressive health policy history.

The Over-concentration of Tobacco Retailers in South and West Berkeley Disproportionately Burdens Low-Income Communities and Communities of Color. The concentration of tobacco retailers is unevenly distributed across the City with nearly half of all the outlets located in zip Codes 94702 (southwest Berkeley) and 94704 (downtown/south-central Berkeley), each containing 23 percent of the total number, as Exhibit 1 below illustrates.

Exhibit 1: High Concentration of Tobacco Retailers in South and West Berkeley Zip Codes



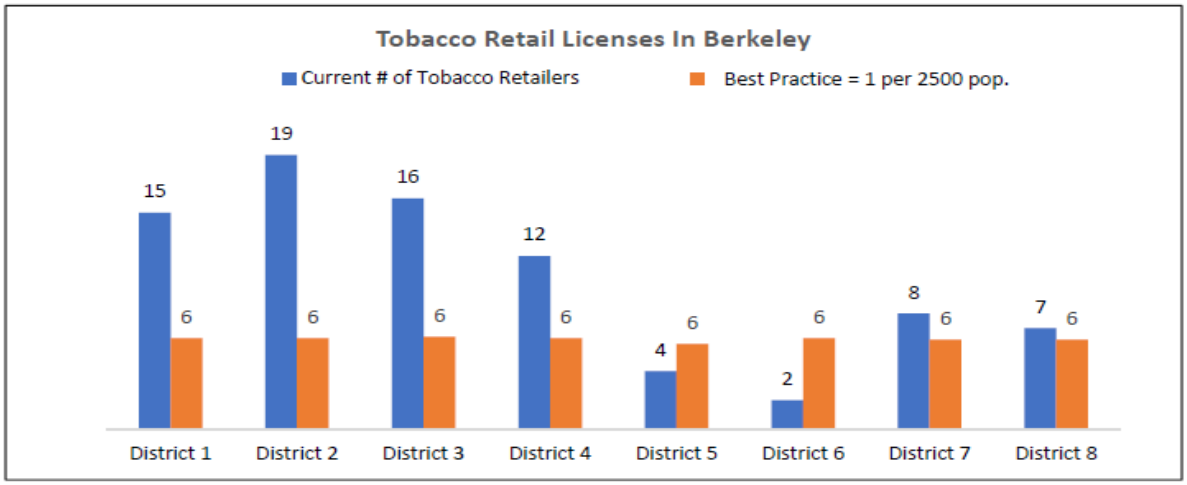
Source: Challenges with Tobacco Retail in Berkeley, HHCS staff report/infosheet

Exhibit 2 shows the overconcentration of tobacco retail outlets by City Council district.

https://www.publichealthlawcenter.org/sites/default/files/resources/Comp-Tobacco-Retailer-License.pdf

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Exhibit 2: Tobacco Retail Licenses in Berkeley by Council District



Source: Challenges with Tobacco Retail in Berkeley, HHCS staff report/infosheet (attached)

These neighborhoods have higher proportions of low-income households and communities of color, revealing the overlap between this type of retail clustering and existing health inequities.

This Spatial Clustering of Tobacco Retail Outlets Mirrors Historic Patterns of Housing Discrimination and Disinvestment that Continue to Shape Health Inequities Today. Higher tobacco retailer density is associated with lower median income, higher percentages of Black and Latino residents, and contributes to inequities in smoking.[2] Research shows that adults who live in close proximity to tobacco stores are significantly less likely to successfully quit smoking. Smokers living within 250 to 500 meters of a tobacco outlet have lower chances of long-term abstinence compared to those living farther away.[3] Because living close to tobacco retail outlets makes tobacco product purchasing easier and exposes people to constant cues and marketing, it increases the risk of relapse even during periods of abstinence. This shows that tobacco retail clustering directly undermines smoking cessation and supports the case for limiting the number of tobacco outlets near residential areas.

The Proliferation of Tobacco Retailers, Especially in Areas Already Experiencing Social and Economic Disadvantages, Has Significant Public Health Consequences. Studies consistently link higher tobacco retail density with increased youth access, greater overall tobacco consumption, lower quit rates, and worse health

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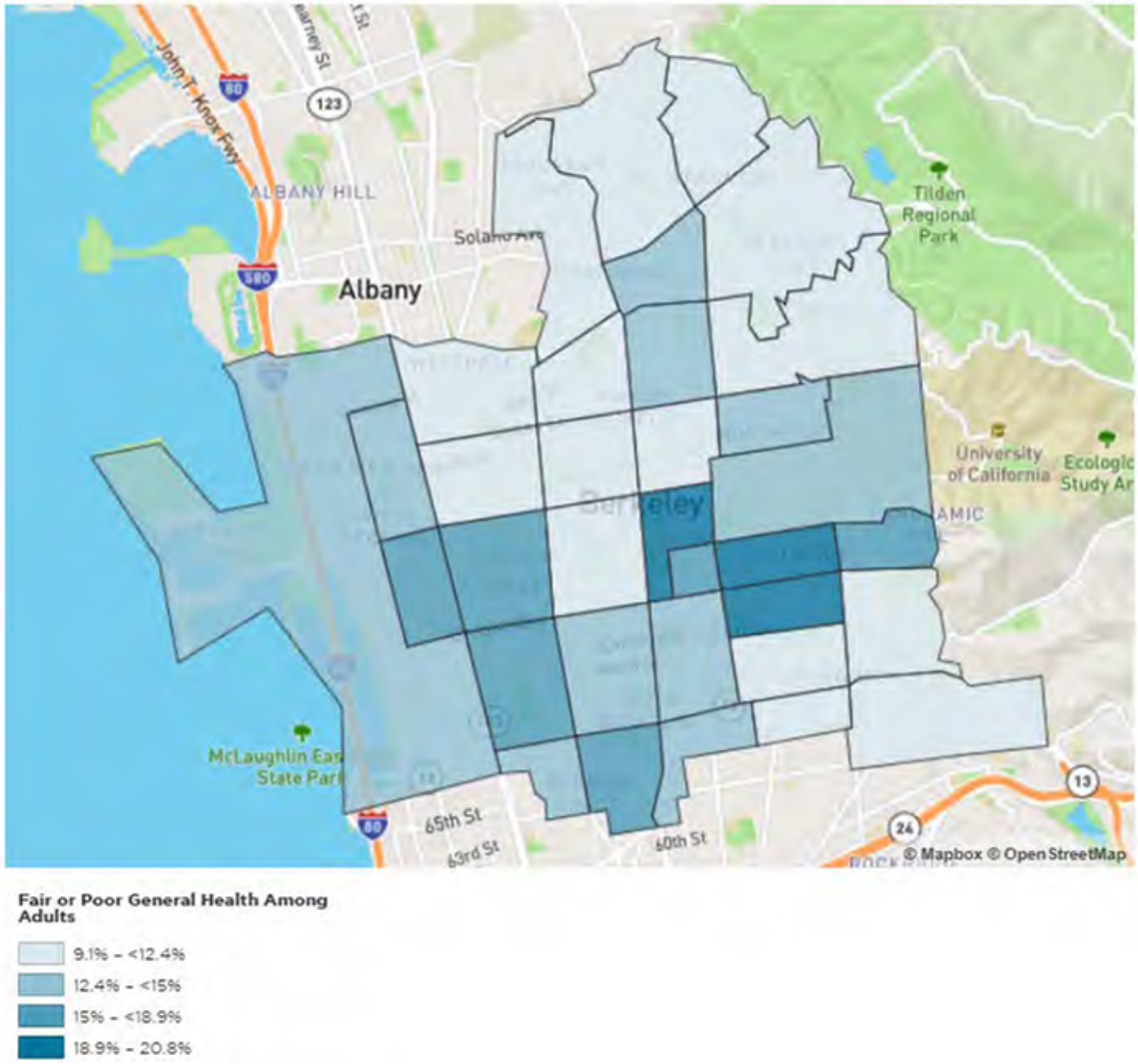
[2] Mills S.D., Golden S.D., Queen T.L., Kong A.Y., Ribisl K.M. “Sociodemographic Disparities in Tobacco Retailer Density in the United States, 2000-2017.” Nicotine & Tobacco Research. 2022. https://berkeleyca.gov/sites/default/files/documents/2025-06-24%20Item%2030%20State%20of%20Public%20Health%20in%20Berkeley%20Summary%20Report.pdf

[3] Reitzel LR, Cromley EK, Li Y, Cao Y, Dela Mater R, Mazas CA, Cofta-Woerpel L, Cinciripini PM, Wetter DW. The effect of tobacco outlet density and proximity on smoking cessation. Am J Public Health. 2011 Feb;101(2):315-20. doi: 10.2105/AJPH.2010.191676 https://pubmed.ncbi.nlm.nih.gov/21164089/

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outcomes.[4] In Berkeley, this pattern means that the most vulnerable neighborhoods face disproportionate exposure and risk. This aligns with the City's 2025 Annual Update: State of Berkeley's Population Health Report revealing the higher percentage of adults in fair or poor general health in West and South Berkeley, as illustrated in Exhibit 3.

Exhibit 3: Greater Percentage of Fair or Poor Health Status in West and South Berkeley



Source: State of Public Health in Berkeley Summary Report, June 24, 2025[5]

[4] Change Lab Solutions, Jan. 31, 2019 Tobacco Retailer Density: Placed-based Strategies to Advance Health and Equity: https://www.changelabsolutions.org/sites/default/files/CLS-BG214-Tobacco_Retail_Density-Factsheet_FINAL_20190131.pdf

[5] State of Public Health in Berkeley Summary Report, presented at the June 24, 2025 council meeting, item #30: https://berkeleyca.gov/sites/default/files/documents/2025-06-24%20Item%2030%20State%20of%20Public%20Health%20in%20Berkeley%20Summary%20Report.pdf

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The situation is worsened by the sale of illegal or unlicensed products not uncommonly found in outlets selling tobacco products. Recently, California Attorney General Rob Bonta declared: "Illegal e-cigarette sales remain widespread, posing a serious public health concern and requiring a more robust response."[6] Berkeley's Tobacco Prevention Program's recently published Retail Observation Survey Report on 75 licensed tobacco retailers in Berkeley similarly notes that despite the City's ban on the sale of all flavored tobacco products in 2020 that was followed by a statewide ban in 2022, 53 percent of tobacco retailers are still selling menthol cigarettes and 58 percent of stores are selling explicitly flavored (such as mint, fruit, alcohol) non-cigarette tobacco products.[7]

Regulatory Gaps and Licensing Structure Allow Tobacco Retailers to Evade Regulation. City enforcement staff report multiple compliance violations, including unlicensed tobacco sales, illegal flavored products, and evasion of licensing through ownership transfers or name changes. Since Tobacco Retail Licenses (TRLs) are site and person-specific under the BMC 9.80,[8] staff face recurring challenges when the same businesses reopen under new ownership or a slightly modified name - a "revolving door" effect that undermines Berkeley's public health objectives.

Many businesses selling tobacco do not appear in City records as tobacco retailers because they do not self-report tobacco sales on their business-license applications and the City has no separate tobacco business license category. Staff have noted that while all businesses are required to list what they sell, tobacco retailers often avoid identification unless discovered through inspections, complaints, or cross-checking with the state tobacco license database.

BACKGROUND

The City of Berkeley Has Long Been Recognized as a Pioneer in Public Health Policy, Particularly Regarding Tobacco Control and Youth Protection. In the late 1970s, Berkeley was the first community to limit smoking in restaurants and other public places.[9] In December 2002, Berkeley adopted its Tobacco Retail License Ordinance, codified in BMC Chapter 9.80, establishing a licensing framework to regulate the sale of tobacco products, limit youth access, and monitor compliance with state and federal health laws. The TRL program required all retailers selling tobacco or nicotine products to obtain a City license, ensuring oversight of sales practices and providing mechanisms for enforcement. At that time, the ordinance positioned Berkeley among the strictest municipalities in California to use business licensing as a local tobacco control tool as

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[6] Tuesday, April 28, 2026 Attorney General's Press Release: Attorney General Bonta Co-Leads Bipartisan Effort Urging Credit Card and Payment Processing Companies to Combat Illegal Sales of Tobacco and Nicotine Products: https://oag.ca.gov/news/press-releases/attorney-general-bonta-co-leads-bipartisan-effort-urging-credit-card-and-payment

[7] City of Berkeley Tobacco Prevention Program 2026 End Commercial Tobacco Campaign Retail Observation Survey Report, July 3, 2026, attached

[8] Berkeley Municipal Code Chapter 9.80 - Tobacco Retailers: https://berkeley.municipal.codes/BMC/9.80.020

[9] National Library of Medicine, "The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General," 2006, Table 10.1: https://www.ncbi.nlm.nih.gov/sites/books/NBK44326/table/rpt-smokeexp.ch10.t1/

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merchants would be asked to pay the entire cost of the program via the steep licensing fees.[10]

Over the past two decades, Berkeley has built upon this foundation through complementary laws such as BMC Chapter 9.80.31, which restricts smoking in public areas and prohibits flavored tobacco products.[11] Together these ordinances reflect the City's longstanding commitment to reducing youth nicotine initiation, preventing exposure to second hand smoke, and promoting health equity - particularly in communities disproportionately targeted by tobacco marketing.

In addition to licensing requirements, the City adopted buffer-zone measures to prevent tobacco retailers from locating near schools. Under Ordinance 7673-NS, codified in BMC Section 9.80.035, the City prohibits issuing or renewing TRLs for businesses located within 1,000 feet of any school; this radius was later amended to 600 feet to balance community protection with business viability.[12] The intent of these restrictions is to reduce youth exposure to tobacco retail environments and advertising - factors that have been shown to increase the likelihood of smoking or vaping initiation among minors. The City's tobacco retail information page emphasizes that this buffer-zone ordinance is "intended to protect the health of the community, in particular youth, by reducing their access to tobacco products and exposure to tobacco marketing."[13]

While the buffer-zone rules represent an important preventive measure, enforcement has revealed practical limitations. Existing licensees operating within the buffer zones may continue and some retailers circumvent location restrictions by operating under non-tobacco business classifications.

The City's Relatively Low Tobacco Retail License (TRL) Fee Does Not Reflect the Administrative and Enforcement Burden on Staff and Should be Increased, Consistent with Neighboring Cities. The TRL program requires every tobacco retailer to apply for and renew a license annually. This process involves staff review of the application, verification of the business location relative to the buffer-zone requirements, collection of fees, inspection for compliance, and enforcement of penalties for violations. Despite these intensive administrative activities, Berkeley's annual TRL fee of $533 remains low compared with neighboring cities.

The California Department of Public Health's Policy Evaluation Tracking System (PETS) comparing California Municipalities with a Tobacco Retailer License & Fees found that nearby major jurisdictions charge significantly higher annual fees, reflecting the actual

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[10] Convenience Store News: Berkeley to up Retailer Fees, November 22, 2002: https://csnews.com/berkeley-retailer-fees

[11] Berkeley Municipal Code 9.80.31: https://berkeley.municipal.codes/BMC/9.80.031

[12] Ordinance 7673-NS (2019) - Amending BMC 9.80.035 Buffer Zones (https://berkeleyca.gov/sites/default/files/documents/2019-09-10%20Item%2002%20Ordinance%207673.pdf)

[13] City of Berkeley Webpage - Tobacco Retail Information (https://berkeleyca.gov/doing-business/operating-berkeley/tobacco-retail)

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costs of enforcement: Oakland charges $1,500 plus a $50 application fee, while Richmond's fee is $1,602.44.[14]

Berkeley's relatively low fee constrains staffing for compliance checks, inspections, and youth-access enforcement. City staff might be required to dedicate substantial time to processing license applications, responding to complaints, and conducting field inspections - time that is not adequately funded by the existing fee structure. When a business applies for a new business license and discloses tobacco sales, Finance routes the application to HHCS/EH. The business must then complete the Environmental Health application and a supplemental TRL application, and Environmental Health must conduct both pre-opening and follow-up inspections. Currently, only one Environmental Health staff member is authorized to conduct tobacco inspections, limiting the City's ability to meet ordinance requirements.

Berkeley's Tobacco Policies Should be Modernized to Address Market Evolutions and Retail Density Concerns. While Berkeley's ordinance has served as a strong foundation, it has not fully kept pace with rapid changes in the tobacco and nicotine marketplace. The proliferation of electronic nicotine delivery systems (ENDS), synthetic nicotine, hemp-derived nicotine products, and nicotine pouches has created new regulatory challenges.[15] While buffer-zone protections limit where new retailers can open, they do not restrict overall retailer density or address license transfers. Other jurisdictions, notably San Francisco, have implemented reforms to redefine "tobacco retailer," impose district level caps, and prohibit license transfers, resulting in a roughly 30 percent reduction in retailer density citywide.[16] These structural mechanisms have proven effective in reducing youth exposure and improving enforcement efficiency. Berkeley's current ordinance lacks these density-control measures, leading to clustering of tobacco outlets in vulnerable communities and inconsistent enforcement outcomes.

RATIONALE FOR RECOMMENDATION:

The recommendations in this item strengthen Berkeley's ability to accurately identify and regulate all businesses selling tobacco products and address the documented over-concentration of tobacco retailers in vulnerable neighborhoods. District level caps that would reduce the number of tobacco retailers through attrition will curb clustering over time and improve equitable enforcement while modernizing administrative workflows; and cross-checking with state license data will ensure that retailers cannot avoid

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[14] California Department of Public Health (October 2024), PETS Report: California Municipalities with a Tobacco Retailer License & Fees: https://pets.tcspartners.org/files/List%20of%20TRL%20Fees_October%202024.pdf

[15] California Department of Public Health, California Tobacco Control Program, *State Health Officer's Report on E-Cigarettes: A Community Health Threat*, Sacramento, CA, 2015: https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/CDPH%20Document%20Library/Policy/ElectronicSmokingDevices/StateHealthEcigReport.pdf

[16] Public Health Law Center (2022), San Francisco's Tobacco Retail Density Regulation: An E-Cigarette Policy Case Study: https://www.publichealthlawcenter.org/sites/default/files/resources/ecigarette-policy-case-san-francisco.pdf

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oversight through non-disclosure or ownership changes.[17] Finally, updating the TRL fee structure is essential to supporting adequate staffing and funding the level of inspections and compliance monitoring needed to protect youth and communities disproportionately impacted by tobacco-related harms.

FISCAL IMPACTS

The fiscal impacts of this referral would be limited to staff time to draft the ordinance changes.

ENVIRONMENTAL SUSTAINABILITY

Capping the number of retailers selling tobacco products and strengthening tobacco and nicotine regulations has the potential to decrease overall usage of such products. This in turn could increase health outcomes for all residents throughout the city, particularly in those areas where there is a nexus of poorer health outcomes and an over-saturation of tobacco retail outlets.

Curbing the number of stores selling tobacco products could also increase air quality and decrease litter in commercial areas near where these products are sold and elsewhere. According to the HUB, a Johns Hopkins news center for showcasing current research, roughly 4.5 trillion cigarette butts are littered annually, making them the most littered item on the planet. Cigarette butts contain nonbiodegradable plastics in their filters and toxic chemicals that leach into soil and water.[18]

CONTACT PERSON

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

ATTACHMENTS

1) Challenges with Tobacco Retail in Berkeley, HHCS staff report/infosheet, June 2024
2) City of Berkeley Tobacco Prevention Program 2026 End Commercial Tobacco Campaign Retail Observation Survey Report, July 3, 2026

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[17] It is important to note that this item is not recommending pro-actively closing any business to minimize the over-saturation of tobacco retail outlets in any given zip code. Rather, staff could consider allowing the numbers to decrease through attrition. If new businesses are interested in opening within the City, they could be granted licenses to do so in zip codes not already at maximum capacity with tobacco retail outlets.

[18] HUB, April 22, 2024: “No Ifs, and, or Butts” Sarah Kuta, Johns Hopkins University: https://hub.jhu.edu/2024/04/22/cigarette-butt-filter-litter/

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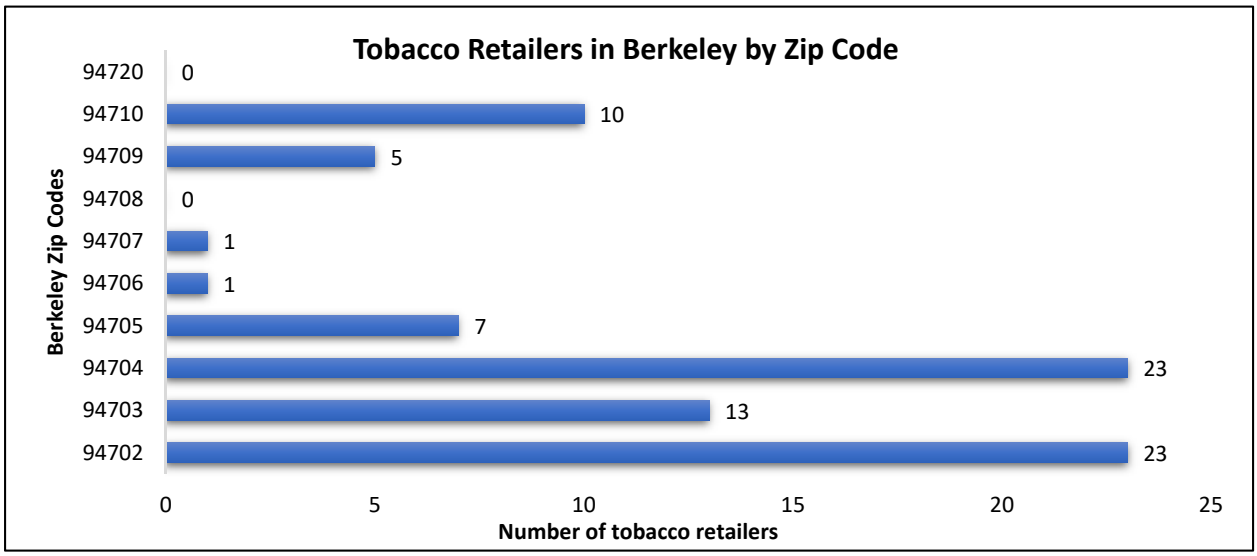
Challenges with Tobacco Retail in Berkeley

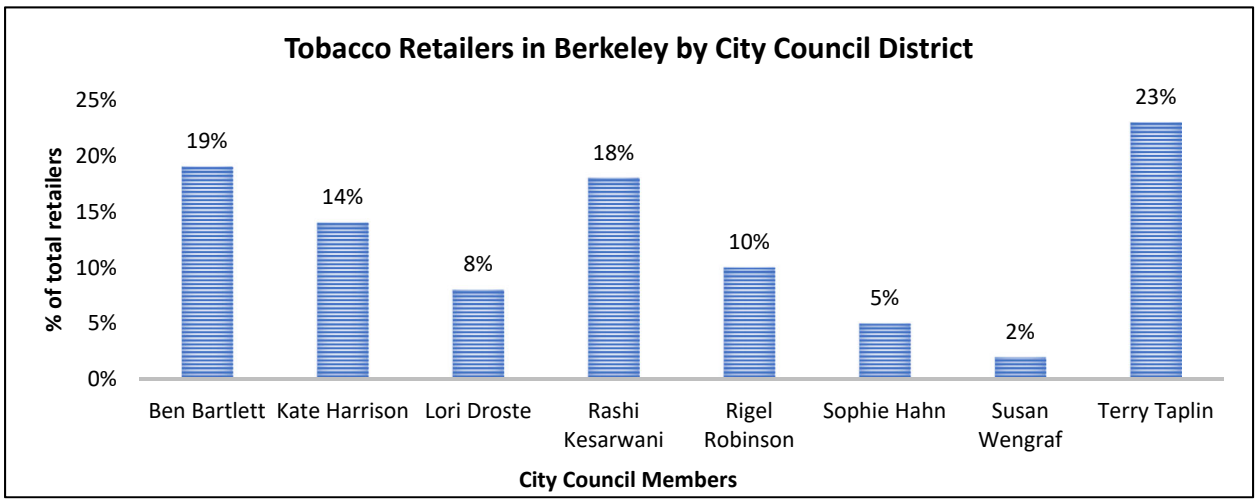
Berkeley is currently experiencing an explosion in tobacco retailers. With a constant stream of new tobacco, cannabis, and hemp products hitting the market, enforcing compliance with local and state laws has become extremely difficult.

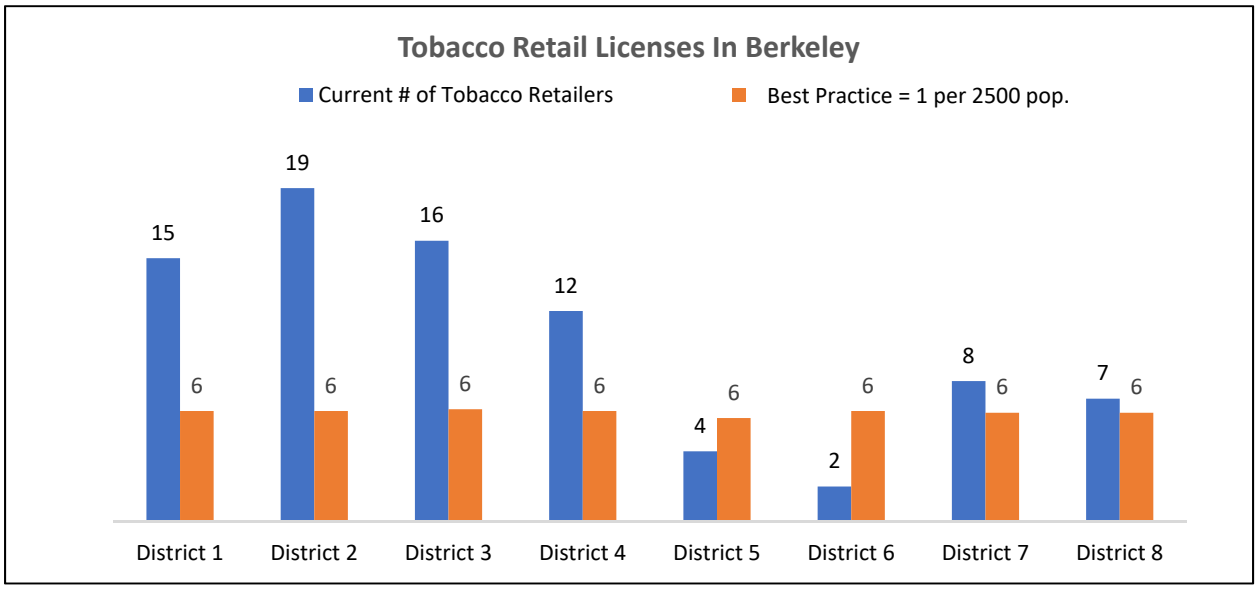
- Berkeley currently has over 80 tobacco retailers. This is almost **70% higher** than the recommended density ratio of **1 tobacco retailer per 2500 residents.**
- Tobacco retailers are highly concentrated in Berkeley in **low-income communities and communities of color** thus increasing tobacco-related heath **disparities**. More than a quarter of tobacco retailers are located in 94702 (West Berkeley, Sacramento to San Pablo, Gilman to Alcatraz) and another quarter are in 94704 (Downtown and UC Berkeley Campus areas, MLK eastward, Hearst to Derby).
- City of Berkeley enforcement staff are reporting additional **gross violations** such as unlicensed retailers and sale of out of state products, leading to the need for **additional law enforcement**.
- Policies that govern the sale of tobacco in Berkeley contain **loopholes** that other jurisdictions have closed such as difficult to enforce definitions of "tobacco-only" retailers. These loopholes allow a **"revolving door"** for retailers who have been cited for violations to simply transfer license holders and continue violating local and state laws.

Policy Suggestions

1. **Impose a cap on Tobacco Retail Licenses:** To be in compliance with the recommended density ratio, Berkeley needs to reduce current tobacco retailers from over 80 to 50. Neighboring jurisdictions such as San Francisco have capped the allowable number of tobacco retail licenses including ensuring equitable distribution. Such policies **do not revoke current licenses, only restrict new licenses**. Although full impact is expected to take many years, San Francisco saw a 10% reduction in the overall number of tobacco retailers within 1 year and reductions were greater in neighborhoods with disproportionately high numbers of tobacco retailers thus reducing inequities.
2. **Update the definition of "tobacco only" retailers:** If this definition is updated in the Berkeley zoning code, it would also provide an opportunity to revise restrictions on the sale of vapes and e-cigarettes and locations near schools which currently only apply to tobacco-only retailers. Such restrictions could be applied to all tobacco retailers.
3. **Strengthen consequences for violations** by adding a **general condition to zoning permits** that violations could result not only in revocation of a tobacco retail license but also in revocation of a zoning permit. This would **prevent the "revolving door"** where permit violators apply for new permits under different names and continue to violate laws.


Tobacco Retailers in Berkeley by Zip Code
Berkeley Zip Codes
94720
94710
94709
94708
94707
94706
94705
94704
94703
94702
0
10
5
0
1
1
7
23
13
23
0
5
10
15
20
25
Number of tobacco retailers


Tobacco Retailers in Berkeley by City Council District
% of total retailers
25%
20%
15%
10%
5%
0%
19%
14%
8%
18%
10%
5%
2%
23%
Ben Bartlett
Kate Harrison
Lori Droste
Rashi Kesarwani
Rigel Robinson
Sophie Hahn
Susan Wengraf
Terry Taplin
City Council Members


Tobacco Retail Licenses In Berkeley
Current # of Tobacco Retailers
Best Practice = 1 per 2500 pop.
15
6
19
6
16
6
12
6
4
6
2
6
8
6
7
6
District 1
District 2
District 3
District 4
District 5
District 6
District 7
District 8

City of Berkeley Tobacco Prevention Program
2026 End Commercial Tobacco Campaign

Retail Observation Survey Report

Executive Summary: Between April and June of 2026, observations were completed for 75 licensed tobacco retailers in Berkeley as part of statewide data collection efforts (64 were currently selling tobacco products). The following report details what was observed in terms of products sold (tobacco, cannabis, food and other products), tobacco product placement, tobacco advertising, pricing, and pack size.

In order to support effective education and enforcement work with tobacco retailers in Berkeley, the following is a summary of compliance and non-compliance with key Berkeley tobacco retail policies:

Sale of Flavored Tobacco Products: Berkeley banned the sale of all flavored tobacco products in 2020, followed by a statewide ban in 2022.

- 53% of tobacco retailers are still selling menthol cigarettes [34 out of 64 stores, confidence interval (CI) 40.0% to 65.7%[1]], an increase from 43% seen in 2024 and 32% seen in 2022.
- 58% of stores are selling explicitly flavored (e.g., mint, fruit, alcohol) non-cigarette tobacco products [37 stores out of 64, CI 44.8% to 70.1%], an increase from 41% seen in 2024 and 32% seen in 2022.
- 44% of stores are selling ambiguously labelled (e.g., chill, fusion, green, etc.) non-cigarette tobacco products which may be flavored [28 stores out of 64, CI 31.4% to 56.7%], a decrease from 53% seen in 2024, but an increase from 10% seen in 2022.
- 20% of stores had flavored tobacco product ads either inside or outside the store [13 stores out of 64, CI 11.3% to 32.2%]. This is a decrease from 30% seen in 2024.

Minimum Pack Size: Minimum pack size for cigarettes and little cigars/cigarillos is 20. Minimum pack size for premium cigars is 6.

- 100% of stores selling little cigars/cigarillos (41 out of 41, CI 91.4% to 100%) sold them in packs of less than five. By weight, some products labelled as cigarillos actually fall in the premium cigar category. Even if counted as premium cigars, these are non-compliant with current policy. This is an increase from 73% seen in 2024.

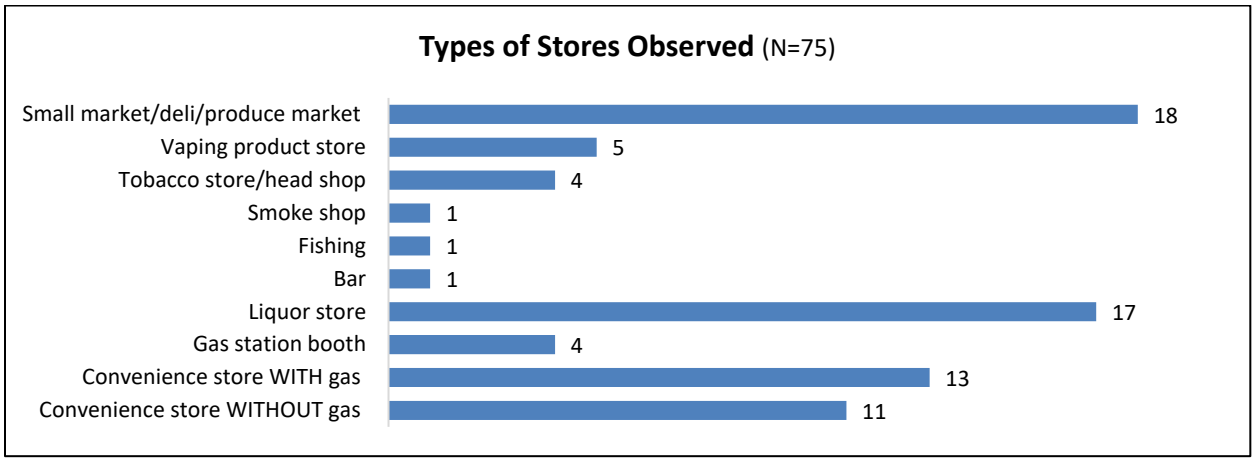
Pricing: Minimum price for cigarettes and little cigars/cigarillos is $8 per pack of 20. Minimum price for premium cigars is $5 each or $30 per pack of 6. Retailers are not allowed to offer discounts on tobacco products.

- 100% of stores selling little cigars/cigarillos (41 out of 41 stores, CI 91.4% to 100%) were selling them at a price of less than $5 per pack. This is an increase from 72% seen in 2024.
- 1 retailer (out of 58 for whom pricing data was available, 1.7%, CI 0% to 9.2%) was selling a pack of 20 cigarettes for less than $8 before taxes. This is a decrease from 16% seen in 2024.
- The vast majority of retailers (60 out of 64) had no tobacco price promotions outside the store (94%, CI 84.8% to 98.3%), however 63% (40 out of 64, CI 49.5% to 74.3%) had price promotions inside the store. Of those who had promotions, the most commonly discounted items were regular cigarettes.

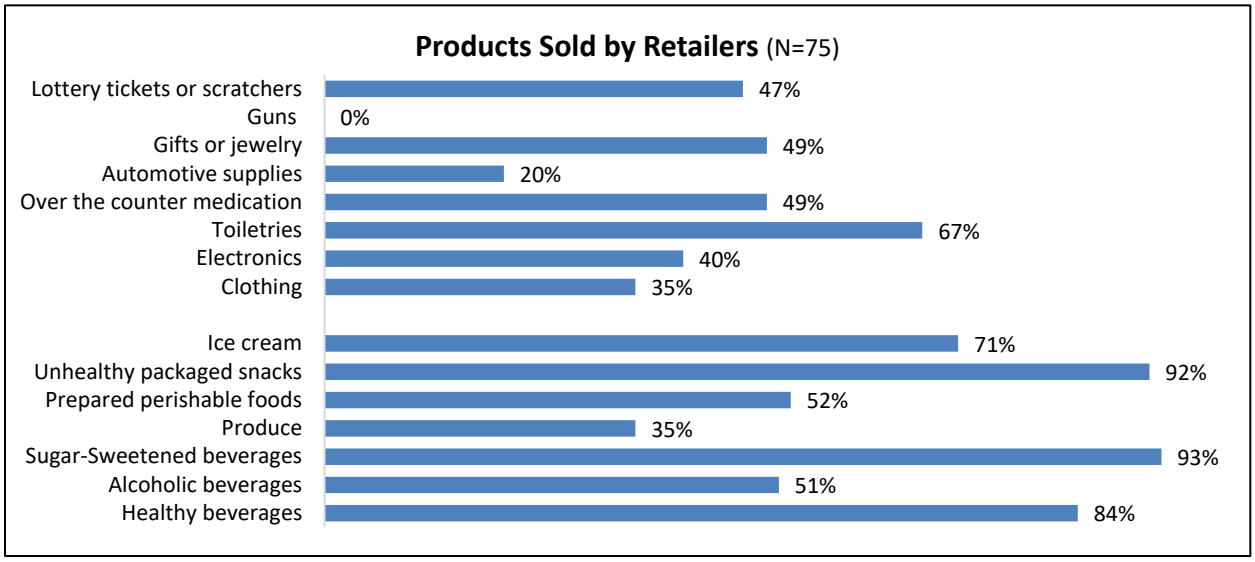
[1] All confidence intervals in this report were calculated using a 95% confidence level and confidence interval calculators available at: https://sample-size.net/

Berkeley Retail Observations: Between April and June 2026, the City of Berkeley Tobacco Prevention Program (COBTPP) attempted to complete observations of 86 licensed tobacco retailers in Berkeley to assess the retail environment and inform future program activities and policy strategies to reduce the impact of tobacco in Berkeley. The retail observations were conducted as part of a statewide initiative coordinated by the California Tobacco Control Program (CTCP) and the Tobacco Control Evaluation Center (TCEC). The retail observation survey tool was standardized across the state and CTCP drew the minimum required sample of stores to be surveyed for each jurisdiction. Data collectors were instructed not to survey retailers that had active smoking (e.g., hookah bars, cigar bars), retailers with substantial cost-consideration and membership fees (e.g., airport retailers, wholesale clubs), or retailers located in areas with restricted access (e.g., military base). Eleven of the 86 stores in Berkeley were unable to be observed due to accessibility (not open, not at listed address) or safety (including observers being asked to leave), thus 75 retail observations were completed.

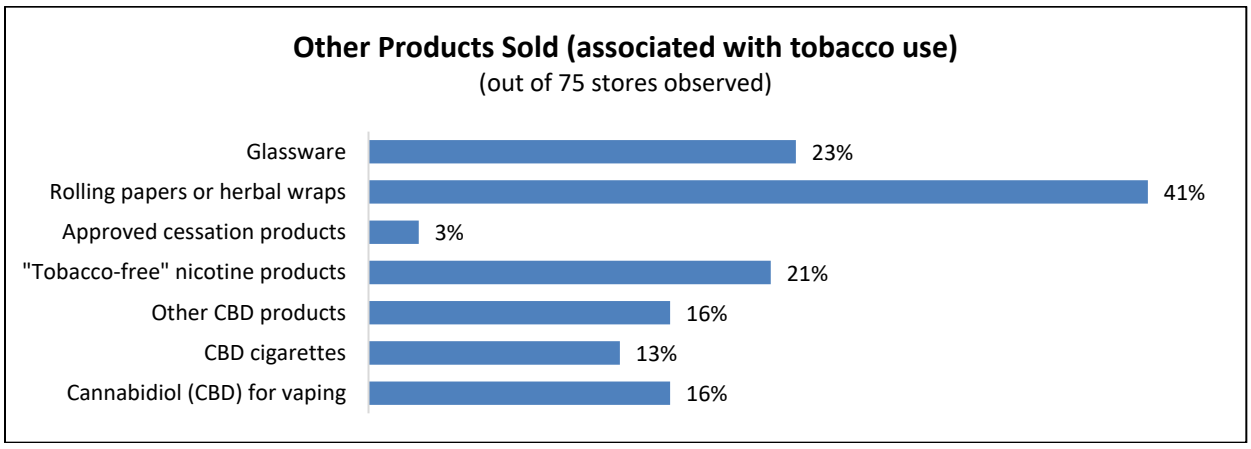
Data Collection: Retail observations were conducted by COBTPP staff, all of whom completed retail observation training. Observation data was entered directly into an electronic survey using handheld devices. Of the stores where observations were completed, 28% were in Central Berkeley (94702), 51% in South Berkeley (94703-5), 9% in North Berkeley (94706/7/9), and 12% in West Berkeley/94710). The types of stores can be seen in the chart below.



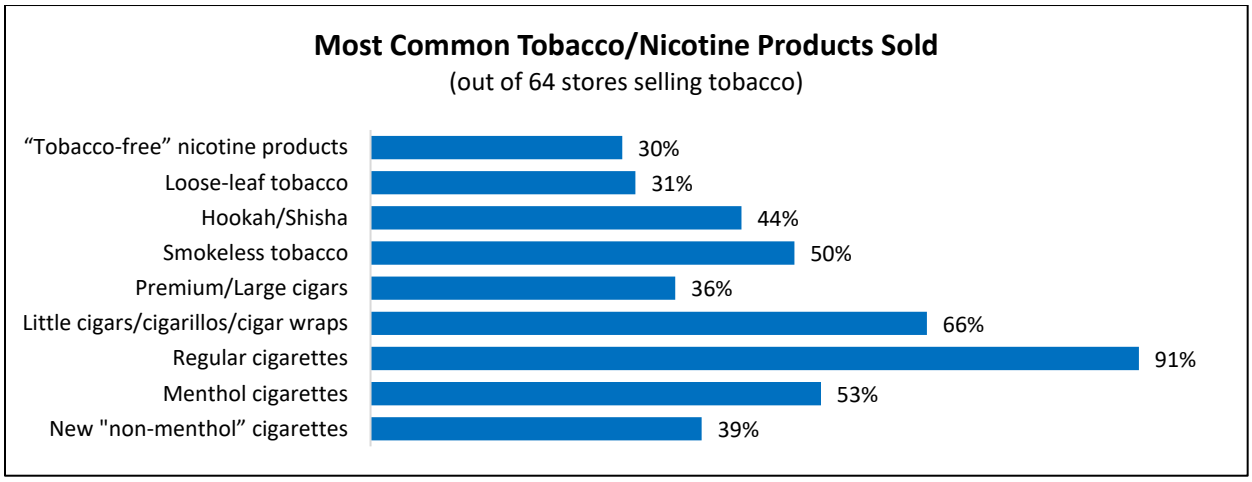
Products Sold: In addition to assessing tobacco sales, observers noted the presence or absence of a wide variety of non-tobacco products. The most commonly sold items included sugar-sweetened beverages, unhealthy packaged snacks, and healthy beverages.



A range of products associated with tobacco use were also observed, the most common of which were rolling papers/herbal wraps, glassware, and “Tobacco-free” nicotine products.

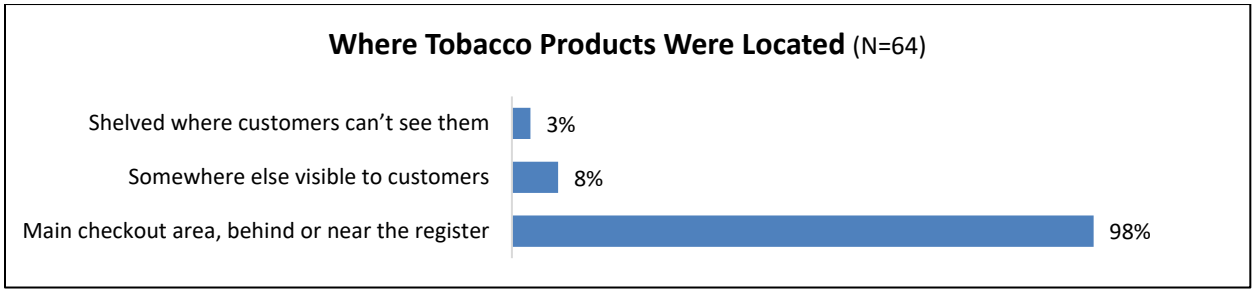


Tobacco Products Sold: Sixty-four of the 75 observed retailers sold some type of tobacco product. The most commonly sold tobacco products were regular cigarettes (91%, CI 80.7% to 96.5%) followed by little cigars/cigarillos/cigar wraps (66%, CI 52.7% to 77.1%) and menthol cigarettes (53%, CI 40.2% to 65.7%). Despite the ban on the sale of all flavored products (in effect since 2020), 53% of stores were still selling menthol cigarettes (CI 40.0% to 65.7%). Twenty-five stores were observed selling vaping products.

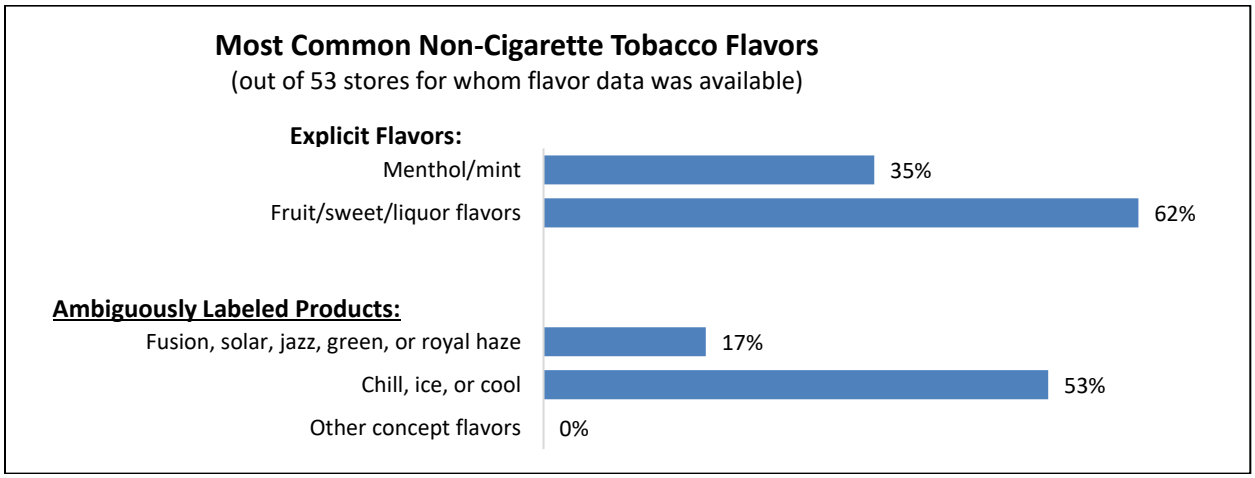


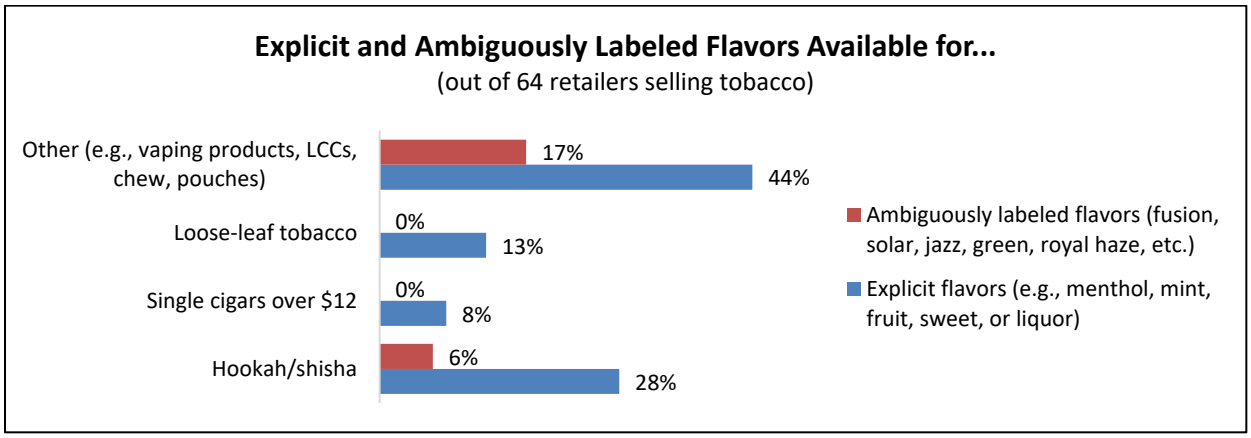


Tobacco products were most commonly located near the check-out area.

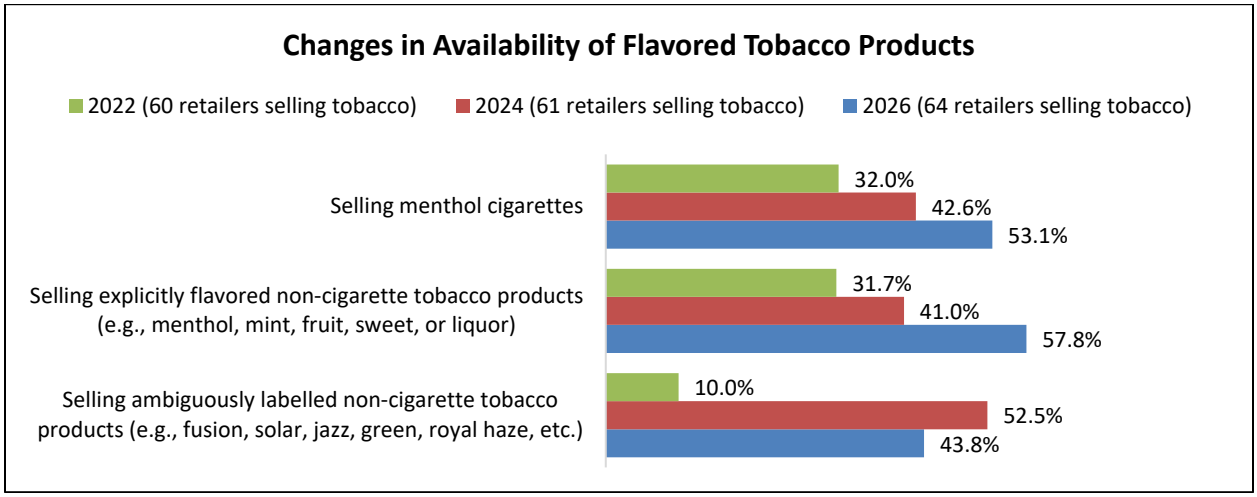


Flavored Tobacco Products Sold: Explicit and concept flavor data was collected for 53 stores selling tobacco products other than cigarettes and can be seen in the charts below. These flavors were primarily available for other tobacco products such as vape, chew, and pouches and sometimes available for hookah/shisha, loose-leaf tobacco, and single cigars.

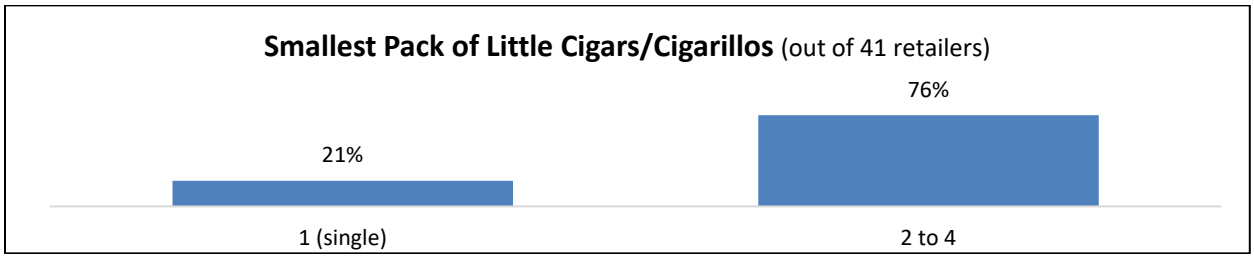


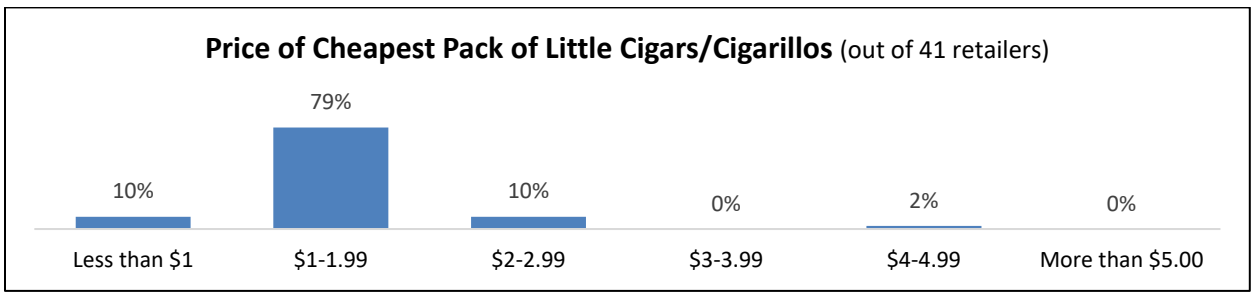


Across all tobacco products, there have been significant increases since both 2022 and 2024 data in the availability of menthol cigarettes and explicitly flavored non-cigarette tobacco products (e.g., menthol, mint, fruit, sweet, or liquor). A large increase was seen between 2022 and 2024 in the availability of ambiguously labeled non-cigarette tobacco products (e.g., fusion, solar, jazz, green, royal haze, etc.), however availability fell slightly between 2024 and 2026. Complete data can be seen in the following chart.



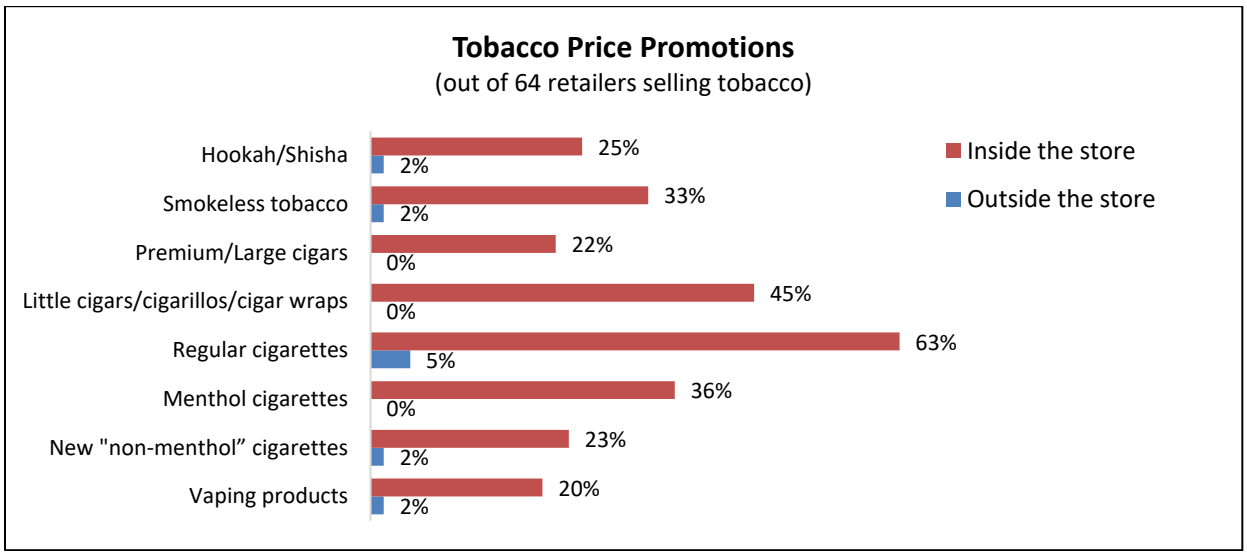
Tobacco Product Pricing and Pack Sizes: Among retailers who sold little cigars/cigarillos, 100% (CI 91.4% to 100%) sold them in packs of less than five and at a price of less than $5 per pack, well below the required minimum of $8 per pack of 20 little cigars/cigarillos. Even if counted as premium cigars, these are non-compliant with current policy (minimum pack size six, minimum pricing $5 each or $30 per pack). These rates are significant increases from those seen in 2024 when 73% were selling in packs of less than five and 72% were selling for less than $5.





The average cheapest price per single pack of cigarettes (including taxes) was $10.44 (95% CI, $9.94, $10.94), with the lowest price $7.22 and the highest price $16.50. (Forty-six percent of documented minimum prices were provided by clerks, while 49% were identified based on listed prices.) Only 1 store (1.7%, CI 0% to 9.2%) was selling a pack of 20 cigarettes for less than $8, the current minimum price mandated by Berkeley's tobacco retail policy.

Advertising: Retail observations also included assessments of advertising and price promotions both inside and outside of stores for both tobacco and non-tobacco products. Fifteen retailers had tobacco price promotions inside the store, however only 7 had tobacco price promotions posted outside stores. Of listed price promotions, the most commonly discounted items were regular cigarettes, little cigars/cigarillos/cigar wraps, and menthol cigarettes.


Tobacco Price Promotions
(out of 64 retailers selling tobacco)
Hookah/Shisha
Smokeless tobacco
Premium/Large cigars
Little cigars/cigarillos/cigar wraps
Regular cigarettes
Menthol cigarettes
New "non-menthol" cigarettes
Vaping products
25%
2%
33%
2%
22%
0%
45%
0%
63%
5%
36%
0%
23%
2%
20%
2%
Inside the store
Outside the store

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CONSENT CALENDAR
December 1, 2026

To: Members of the Berkeley City Council

From: Councilmember Mark Humbert (Author)

Subject: Budget Referral: Establish a Small Business Disruption Grant Fund (Public-Private Match)

RECOMMENDATION

Refer to the City Manager and the FY 2027 Mid-Year Budget Process the establishment of a Small Business Disruption Grant Fund to provide one-time grants to Berkeley small businesses that suffer a significant disruption to their operations. Specifically:

1. Refer to the City Manager program design and administration, including eligibility criteria, qualifying events, grant limits, and any minimum operating history, modeled on the City's existing Business Damage Mitigation Fund for repairing property damage.
2. Structure the fund as a public-private match. The program activates only once the City secures at least $75,000 in committed outside contributions, after which the City provides a matching contribution of up to $125,000.
3. Retain a qualified fiscal agent, such as a business association or the Berkeley Chamber of Commerce, to operate the program under the City's guidelines.
4. Councilmember Humbert commits $10,000 from his FYoffice budget toward the City's match to reduce the net cost to the General Fund, and invites other Council offices to contribute.

SUMMARY

When Berkeley small businesses are hit by sudden disruptions, they typically must absorb the costs on their own while continuing to meet expenses. A few bad weeks can close a business that was otherwise healthy, and the City has few tools to help business owners bridge that kind of gap. This item refers to the City Manager the creation of a Small Business Disruption Grant Fund, built as a public-private match to reduce costs to the General fund and with a trigger to ensure that no City funds are spent until a minimum amount of private commitments are made. The fund would be open to small businesses citywide, administered by the City (possibly through the Office of Economic Development), and operated by a qualified fiscal agent. The fund, and the City's fiscal

obligation do not activate until after at least $75,000 in outside contributions are formally pledged to the program by way of a check or other financial instrument received by the City and directed toward the City and/or a selected fiscal agent.

FINANCIAL IMPLICATIONS

The referral itself carries no immediate cost. If the $75,000 outside-contribution threshold is met and the program is established, the City's matching contribution is capped at $125,000. Councilmember Humbert's $10,000 office contribution, along with any contributions from other Council offices, reduces the net draw on the General Fund. The source of the City match would be identified through the mid-year budget process. Operating the fund through a fiscal agent limits the City's ongoing administrative costs.

CURRENT SITUATION AND ITS EFFECTS

Small businesses anchor Berkeley's commercial districts, are collectively a major source of employment, and are essential to Berkeley's distinct character and worldwide reputation. But many of these businesses also run on very thin margins. When businesses are affected by any number of man-made or natural disruptions to either their physical space or access to clientele, they can experience cash flow problems as they continue to have to make payroll and pay suppliers and other expenses. For a small operator, that gap can be fatal. A business that would have recovered with a little bridge support closes instead, and the empty storefront it leaves behind drags on the whole block. The City's existing tools for this are limited and narrow, and there is no general resource a disrupted business can turn to.

BACKGROUND

The City already runs the Business Damage Mitigation Fund that helps businesses and property owners repair damage, and it offers a workable template: clear criteria, modest one-time grants, and simple administration. Public-private grant funds, run by business associations or chambers in partnership with local government, are well established elsewhere. This item adapts that proven approach to Berkeley and keeps the City's role focused on standards and oversight while a fiscal agent handles day-to-day operation.

RATIONALE FOR RECOMMENDATION

The program design is deliberately conscientious with public money. Private contributions are necessary to trigger the City's financial obligation and the City's match is capped (i.e., nothing is spent unless outside donors first commit at least $75,000). This approach recognizes the City's tight budget, while seeking opportunities to leverage private dollars; and Council contributions could further reduce General Fund impacts.

The fund is citywide and flexible by design. Every commercial district deals with disruptions, so the program is open to all of them, and leaving eligibility and qualifying events to City-created criteria lets the City target assistance where it does the most good and adjust as circumstances change.

The proposed program also builds on existing practices and infrastructure. A business association or the Chamber is better positioned than the City to run a grant program quickly, especially because they already have existing relationships with small businesses, and the existing repair fund shows the model works.

The matching structure is also an open invitation. Any resident, business, foundation, or organization that wants to help Berkeley's small businesses will have a direct and accountable way to put real dollars behind that commitment. And Berkeley already has multiple organizations whose missions include assistance for and protection of small businesses. Since the City cannot afford to provide such financial assistance on its own, this approach represents an opportunity for individuals and organizations to step up and partner with the City on this shared goal.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Keeping established businesses open supports Berkeley's compact, walkable commercial districts and reduces the vacancy and turnover that lead to demolition and rebuild. The item has no significant adverse environmental impact and is consistent with the City's climate and sustainability goals.

POSSIBLE FUTURE ACTION

Once the City develops program guidelines, Council could formally adopt the program and appropriate the matching funds. If private contributions exceed the match cap, Council could consider raising it. If the fund proves useful, Council could evaluate making it a recurring component of the City's economic development programs.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Future appropriation of the City match would be up to $125,000, reduced by any Council office contributions, and only if the outside-contribution threshold is met. Making the program recurring would carry ongoing costs, which would be evaluated through the regular budget process.

CONTACT PERSON

Councilmember Mark Humbert — mhumbert@berkeleyca.gov, 510-981-7180

Upcoming Worksessions and Special Meetings	
Scheduled Dates	
November 17 (4pm)	Encampment Policy

Unscheduled Presentations and Special Meetings

1. Accessory Dwelling Unit (ADU) Amnesty Program Update
2. OED Economic Dashboards Presentation

Future Information Reports

1. Affordable Housing Fee Feasibility Study
2. Berkeley Fire Department Annual Report

	City Council Referrals to the Agenda & Rules Committee and Unfinished Business for Scheduling
1.	**22a. Adopt Amendments to Ordinances Governing Special Events: Block Parties; Park Events; Street Events** *(Referred to the Agenda & Rules Committee for scheduling on October 27, 2026)* **From: Zero Waste Commission** **Recommendation:** Adopt first reading of an ordinance amending BMC 6.46 (Park Events) and BMC 13.44 (Block Parties and Street Events). **Financial Implications:** See report Contact: Julia Heath, Commission Secretary, (510) 981-6300

CITY CLERK DEPARTMENT
WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS BEFORE THE CITY COUNCIL

Address	Board/ Commission	Appeal Period Ends	Public Hearing
NOD – Notices of Decision			
Public Hearings Scheduled			
Elmwood Commercial Historic District	LPC		TBD
2700 Shattuck Avenue (construct mixed-use residential development)	ZAB		TBD
2955 Shattuck Avenue (construct 8-story mixed-use building)	ZAB		TBD
2900-20 Shattuck Avenue (construct 11-story mixed-use building)	ZAB		TBD
Remanded to ZAB or LPC			
Notes			
ZAB: Zoning Adjustments Board			
LPC: Landmarks Preservation Commission			

11/12/2026



There is no material for this item.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

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