



Berkeley Homeless
Services Panel of Experts

REGULAR MEETING AGENDA

September 4, 2024 – 7:00 PM

North Berkeley Senior Center, Juniper Room
1901 Hearst Ave., Berkeley, CA 94709

Mayor Arreguin:
Carole Marasovic – **Chair**

Rashi Kesarwani:
Sadie Mae Palmatier

Terry Taplin:
Denah Bookstein

Ben Bartlett:
Paul Kealoha-Blake –
Vice Chair

Igor Tregub:
Mary Ann Meany

Sophie Hahn:
Vacant

Susan Wengraf:
Steven Segal

Cecilia Lunaparra:
Donnell Jones

Mark Humbert:
Vacant

Josh Jacobs, Homeless Services Coordinator, Homeless Services Panel of Experts
Staff Secretary, jjacobs@berkeleyca.gov, 510.225.8035

All items are for discussion and possible action.

1. Roll Call.
2. Land Acknowledgement.
3. Public comment for items not on the agenda.

Updates/Action Items:

1. Approval of the Agenda. Discussion and Possible Action.
2. Approval of the July 22, 2024 Minutes. [Attachment 1]. Discussion and Possible Action.
3. Chair update. Discussion only.
4. Discussion of possible letter or report on Council item at September 10, 2024 Council meeting addressing clearing identified encampments without offer of housing/shelter based on specified conditions. Discussion and Possible Action.
5. Discussion of possible letter or report on safety protocols at shelters and other homeless service programs that addresses provider responsibility to act as keen observers of residents/participants and to act expeditiously towards conflict resolution; plan modification; reporting or other actions. Recommendation may include addressing weapons in shelters and other homeless services programs as to whether improved staff training and oversight is sufficient or implementation of metal detectors should be explored as a matter of last resort. Discussion and possible action.

A Vibrant and Healthy Berkeley for All

6. Adjourn.

Attachments:

1. July 22, 2024 minutes.
2. Encampment Policy Memo.
3. Man killed in shooting at Harrison House in Berkeley.
4. Man charged with Berkeley homeless shelter murder.

Correspondence and Notice of Decision Requests:

Deadlines for Receipt:

- A) Supplemental Materials must be received by 5 PM the day before the meeting.
- B) Supplemental Communications must be received no later than noon the day of the meeting.

Procedures for Distribution:

- A) Staff will compile all Supplemental Materials and Supplemental Communications received by the deadlines above into a Supplemental Packet, and will print 15 copies of this packet for the Commission meeting.
- B) For any Supplemental Material or Communication from a Commissioner received after these deadlines, it is the Commissioner's responsibility to ensure that 15 printed copies are available at the meeting. Commissioners will not be reimbursed for any printing or materials expenses.
- C) Staff will neither print nor distribute Supplemental Communications or Materials for subcommittee meetings.

Procedures for Consideration:

- A) The Commission must make a successful motion to accept and receive all Supplemental Materials and Communications into the record. This includes the Supplemental Packet compiled by staff.
- B) Each additional Supplemental Material or Communication received by or before the meeting that is not included in the Supplemental packet (i.e., those items received after the respective deadlines above) must be individually voted upon to be considered by the full Commission.
- C) Supplemental Materials subject to a Commission vote that are not accepted by motion of the Commission, or for which there are not at least 15 paper copies (9 for each Commission seat, one for staff records, and 5 for the public) available by the scheduled start of the meeting, may not be considered by the Commission.

****Supplemental Materials*** are defined as any items authored by one or more Commissioners, pertaining to an agenda item but available after the agenda and packet for the meeting has been distributed, on which the Commission is asked to take vote at the meeting. This includes any letter to Council, proposed Council report, or other correspondence on behalf of the Commission for which a full vote of the Commission is required.

*****Supplemental Communications*** are defined as written emails or letters from members of the public or from one or more Commissioners, the intended audience of which is the full Commission. Supplemental Communications cannot be acted upon by the Commission, and they may or may not pertain to agenda items.

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at Health, Housing & Community Services Department located at 2180 Milvia Street, 2nd Floor.

Public Comment Policy:

Members of the public may speak on any items on the Agenda and items not on the Agenda during the initial Public Comment period. Members of the public may not speak more than once on any given item. The Chair may limit public comments to 3 minutes or less.

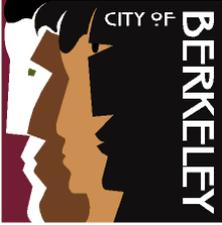
COMMUNITY ACCESS INFORMATION

ADA Disclaimer "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 ADA Program Coordinator at 510-981-6418 (V) or 510-981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting."

Communications to Berkeley boards, commissions or committees 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 a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. 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 secretary to the relevant board, commission or committee for further information. The Health, Housing & Community Services Department does not take a position as to the content.

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.



Berkeley Homeless
Services Panel of Experts

MEETING MINUTES

July 22, 2024

1. **Roll Call:** 7:04 PM
- 2.

Present: Marasovic, Kealoha-Blake (absent after 7:54), Segal, Meany, and Bookstein.

Absent: Palmatier (Leave of Absence) and Jones.

Staff: Jacobs, Wilson.

Council: None.

Public: 2.

3. Land acknowledgement.
4. Comments from the Public: 0.

Update/Action Items

5. Approval of the Agenda. Discussion and Possible Action.

Action: M/S/C Meany/Marasovic move to approve the agenda as written.

Vote: Ayes: Marasovic, Kealoha-Blake, Segal, Meany, and Bookstein.

Noes: None. *Abstain:* None. *Absent:* Palmatier and Jones.

6. Approval of Minutes from June 5, 2024. Discussion and Possible Action.

Action: M/S/C Marasovic/Segal move to approve the minutes as written.

Vote: Ayes: Marasovic, Kealoha-Blake, Segal, and Bookstein.

Noes: None. *Abstain:* Meany. *Absent:* Palmatier and Jones.

7. Approval of Minutes from July 10, 2024. Discussion and Possible Action.

Action: M/S/C Bookstein/Marasovic move to approve the minutes as written.

Vote: Ayes: Marasovic, Kealoha-Blake, Segal, and Bookstein.

Noes: None. *Abstain:* Meany. *Absent:* Palmatier and Jones.

8. Chair Update. Discussion only.

Discussion; no action taken.

A Vibrant and Healthy Berkeley for All

- 9. Transfer of \$549,785 previously allocated for acquisition of Insight Housing’s Russell House to Insight Housing’s Dwight Way shelter for rehab funds. Discussion and Possible Action.

Action: M/S/C Segal/Bookstein move to recommend the transfer of the \$549,785 previously allocated funds for acquisition of Insight Housing’s Russell House to Insight Housing’s Dwight Way shelter for rehab funds to enable the facility to meet the state standard for occupancy.

Vote: Ayes: Marasovic, Segal, Meany, and Bookstein.
Noes: None. Abstain: None. Absent: Palmatier, Kealoha-Blake, and Jones.

- 10. United States Supreme Court Grants Pass decision. Discussion and Possible Action.

Action: M/S/C Segal/Meany the Homeless Services Panel of Experts (HSPE) discussed at two meetings and reviewed extensive documents related to the recent Supreme Court of the United States decision on Grants Pass v. Johnson. We understand that City Council is reviewing the city’s direction and policies in response to this decision. As the statutorily mandated HSPE, we believe it is highly advisable that the city should consult with HSPE before it finalizes any action or makes changes to homeless response policies.

Vote: Ayes: Marasovic, Segal, Meany, and Bookstein.
Noes: None. Abstain: None. Absent: Palmatier, Kealoha-Blake, Jones.

- 11. Letter to Council for one additional meeting to compensate for July 22, 2024 Special meeting so that HSPE can hold regular meetings in September, October, and November, 2024. Discussion and Possible Action.

Action: M/S/C Segal/Meany move to approve the report to City Council to compensate for July 22, 2024 Special meeting so that HSPE can hold regular meetings in September, October, and November, 2024 subject to the edits discussed by the panel to be submitted by the chair.

Vote: Ayes: Marasovic, Segal, Meany, and Bookstein.
Noes: None. Abstain: None. Absent: Palmatier, Kealoha-Blake, and Jones.

- 12. Adjourn.

Meeting adjourned at 8:42 PM.

Minutes Approved on: _____

Josh Jacobs, Commission Secretary: _____

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 14.48

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Chapter 14.48 is amended as follows:

**Chapter 14.48
MISCELLANEOUS USE OF STREETS AND SIDEWALKS**

Sections:

14.48.010	One-way streets.
14.48.020	Obstructions on streets and sidewalks.
14.48.030	Objects in transit.
14.48.040	Construction materials and barricades.
14.48.050	Trees and shrubs.
14.48.060	Poles, hydrants, signs, etc.
14.48.070	Bicycle racks.
14.48.080	Bus benches and bus shelters.
14.48.090	Mail boxes and armed forces recruiting signs.
14.48.100	Newspaper racks and newspapers.
14.48.110	Authorized retail displays.
14.48.120	Temporary Noncommercial Objects.
14.48.130	Decorative noncommercial installations.
14.48.140	Public telephones.
14.48.150	Sidewalk seating, benches and planters.
14.48.160	Removal of obstructions on streets and sidewalks.
14.48.170	Use of streets and sidewalks by vendors.
14.48.180	Trap doors in sidewalks.
14.48.190	Parklets.

14.48.010 One-way streets.

The City Traffic Engineer is authorized and directed to suitably indicate by appropriate signs those streets or portion of streets designated by resolution of the Council as one-way streets.

14.48.020 Obstructions on streets and sidewalks.

It is unlawful for any person to place or cause to be placed anywhere upon any Sidewalk, Parklet or roadway, any object which obstructs, restricts, or prevents the use of any portion of such Sidewalk, Parklet or roadway, except as set forth in this Chapter or in a regulation promulgated by the City Manager ~~and adopted by the City Council.~~

For purposes of this Chapter, Sidewalk is defined as provided in BMC Section 1.04.010(18) as that portion of a street between the curbline and the adjacent property line intended for the use of pedestrians. Parklet is defined as provided in BMC Section 14.48.190(B)(4).

14.48.030 Objects in transit.

Goods, wares, merchandise, containers, furniture, suitcases and other similar objects in the immediate custody and control of individuals readily able to move or remove such objects may be allowed on the outer one-third of the sidewalk for up to one hour while in the actual course of receipt, delivery, transport, transit or removal.

14.48.040 Construction materials and barricades.

Materials used in the construction or repair of any building or structure, together with the necessary pedestrian walkways, barricades and warning signs, when required permits have been obtained from the City.

14.48.050 Trees and shrubs.

Trees, shrubs and flowers with the necessary barricades when planted or maintained by the City, or by private parties when expressly allowed by Council action or by the City Manager.

14.48.060 Poles, hydrants, signs, etc.

Poles, fire and police boxes, lamp posts, parking, street directional or warning signs, parking meters, drinking fountains, poster kiosks, hydrants, flag poles or standards, decorations for public events, sidewalk clocks, refuse cans, book return receptacles, barriers and any other similar installation; provided, however, that any such installation belongs to the City or is authorized by Council action.

14.48.070 Bicycle racks.

Bicycle racks of a type and at locations approved by and under such conditions as may be imposed by the City Manager.

14.48.080 Bus benches and bus shelters.

Bus benches and bus shelters at such locations and in accordance with such rules and regulations as may be prescribed by the City Manager.

14.48.090 Mail boxes and armed forces recruiting signs.

Mail boxes and armed forces recruiting signs that are placed in such locations that they do not interfere with the normal use of the sidewalk by pedestrians.

14.48.100 Newspaper racks and newspapers.

Newspaper racks which are installed and maintained in accordance with Chapter 16.40 or Chapter 16.44 of the Berkeley Municipal Code.

14.48.110 Authorized retail displays.

Objects such as, but not limited to, tables, chairs, umbrellas and canopies that are permitted pursuant to Chapter 9.48.

14.48.120 Temporary Noncommercial Objects.

A. Temporary Noncommercial Objects ("TNC Objects") are personal belongings:

1. In the immediate custody and control of a person or persons at substantially all times;
2. Not offered for sale or exchange or involved in the solicitation of money for immediate payment;
3. Not otherwise prohibited and of a size, weight and quantity that can be easily moved by the owner.
4. *Not furniture.* Furniture is only allowed pursuant to BMC Chapter 9.48 or pursuant to BMC § 14.48.030 Objects in Transit.

The City Manager may adopt regulations specifying what TNC Objects may be permitted under this Section and where such TNC Objects may be permitted, as well as procedures and limitations to implement this Section. Any such regulation shall contain provisions and shall be applied in such a manner as to ensure that it does not deprive any person of rights protected by the state or federal constitutions, including freedom of expression, and any size limitation contained therein shall not apply to dogs, or to limited cushioning material being used to sit on such as, but not limited to, blankets, cushions or mats. ~~Regulations adopted by the City Manager under this Section shall not take effect until they have been presented to the City Council for approval at a regularly scheduled meeting.~~

B. ~~After approval by the City Council,~~ The City Manager shall ensure that regulations adopted pursuant to this Section are publicized in a manner substantially equivalent to the manner in which ordinances are published, and that materials summarizing such regulations are available for dissemination in Commercial and Manufacturing zones. The City may also post fixed signage in Commercial and Manufacturing zones informing the public of such regulations.

C. No person may be cited for a violation of this Section or the regulations adopted pursuant to it unless that person has first been warned that their conduct is in violation hereof, is allowed a reasonable opportunity to comply but refuses to do so.

D. Violations of this Section or City Manager regulations adopted pursuant to this Section shall be charged as infractions, and not as misdemeanors.

14.48.130 Decorative noncommercial installations.

Decorative noncommercial installations subject to the following regulations and requirements:

A. At least six feet of improved sidewalk area measured at right angles to the curb shall be kept open and unobstructed.

B. Such decorative noncommercial installations shall be placed and maintained in the portion of the sidewalk area farthest from the curb; provided, however, that subject to all other conditions herein specified, such installations may be placed and maintained in the portion of the sidewalk area adjacent to the curb if such installations will not interfere with access to or from any parked vehicle and are:

1. Not closer than twenty-five feet to any curb return or fire hydrant;
2. Not located adjacent to any commercial or passenger loading zone;
3. Not closer to the curb than eighteen inches;
4. Not affixed to any City or utility company-owned poles or appurtenances;
5. Not mounted in or affixed to the sidewalk;
6. Not inconsistent with safety, development in the area, or other decorative noncommercial installations.

C. No decorative noncommercial installation shall be placed or maintained in the sidewalk area without a permit therefor. Application for such permit shall be made to the office of the City Manager, who may require as part of the application such information as may be deemed necessary to determine compliance with this Section and other applicable laws and regulations, including but not limited to a scaled site plan, signature of the fronting property owner and permittee, and agreement to indemnify the City as specified in Subsection D. The application shall be referred to the Public Works Department and the Civic Art Commission for review to determine that it is in the public interest to grant the permit, and that the granting thereof will not be detrimental to the public health, safety or general welfare. The permit shall not be granted without the approval of both the Public Works Department and the Civic Art Commission. If such approval is given and the City Manager concurs, the permit shall be granted subject to the conditions hereinabove set forth, and such additional conditions as may reasonably be imposed. Such permit shall be subject to revocation by the City Manager without cause; the decorative noncommercial installation for which the permit has been given shall be removed within ten days after notice.

D. Anyone granted a permit for a decorative noncommercial installation shall agree to indemnify and hold harmless the City, its officers and employees of and from any and all claims, damages or suits that may arise or in any way be occasioned by the granting of the permit or the maintenance of the decorative noncommercial installation permitted thereby.

1. The permittee shall carry liability insurance in the amount of \$500,000.

E. For purposes of this Chapter, "Decorative Noncommercial Installations" shall include but are not limited to artwork, planters, and other objects that are placed within the public right-of-way by a private party for the purpose of decoration in a residential, commercial, or industrial district, not for the purpose of advertising, commerce or other economic benefit.

F. Decorative Noncommercial Installations that are not permitted under this Section are prohibited encroachments under 16.18 and shall constitute a public nuisance subject to the remedies in Chapter 1.26.

G. The City Council may by resolution establish fees for the implementation and administration of this Section.

14.48.140 Public telephones.

Telephones for public use of a type and at locations approved by and under such conditions as may be imposed by the City Manager.

14.48.150 Sidewalk seating, benches and planters.

A. Notwithstanding anything to the contrary in this Chapter, the City of Berkeley Engineering Division of the Department of Public Works, or its successor, may approve Sidewalk Seating, Benches and/or Planters on sidewalks, parking lanes, street areas, and other public right of way locations as set forth in, and in compliance with, this Section.

1. No permit may be issued under this Section for any sidewalk area in front of a single parcel if there are any current violations of this Chapter in that sidewalk area.
2. A permit for Sidewalk Seating, Benches and/or Planters may not be issued unless the business for which the Sidewalk Seating, Benches and/or Planters is/are proposed is in full compliance with Title 23 and any Permit issued thereunder.
3. Sidewalk Seating and Outdoor Commerce shall require a Sidewalk Seating engineering permit, renewed annually.
4. Businesses conducting Outdoor Commerce in a parking lane shall additionally pay an annual Outdoor Commerce Use Fee in exchange for using public parking spaces for business operations.

5. Sidewalk Seating shall be permitted in any area of the public right-of-way if City Staff makes a finding that the use of the right-of-way for Sidewalk Seating purposes does not create a dangerous condition for customers, pedestrians, or bicycle or motor vehicle traffic. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshall as appropriate.

6. Upon termination of any declared City emergency, any Sidewalk Seating present in the public right-of-way and not on the sidewalk shall within (365) days of date of termination either obtain a valid Sidewalk Seating Engineering Permit and pay the Outdoor Commerce Use Fee or be removed from the public right-of-way.

B. For purposes of this Chapter, the following terms shall be defined as follows:

1. "Bench" means a seat designed for two or more persons.

2. "Block Face" means one side of one block, e.g., the north side of Center Street between Milvia Street and Shattuck Avenue.

3. "Bus Bench" means a bench installed and maintained under an agreement between the City, A.C. Transit and Lamar Transit Advertising or another public or semi-public transit provider.

4. "Commercial Establishment" means, but is not limited to, a place where Business Activity is established. Business activity is defined as any activity subject to BMC Chapter 9.04 and any economic activity which generates receipts but is exempt from BMC Chapter 9.04 by state or federal law.

5. "District-wide Sidewalk Bench/Planter Area Plan" means a City-approved plan for a specific commercial district as defined in said plan that establishes area-specific regulations for benches, planters and/or plant material, and establishes general regulations for the placement of benches and planters in the public right-of-way, for the designated district.

6. "District-wide Sidewalk Seating Area Plan" means a City-approved plan for a specific commercial district as defined in said plan that establishes area-specific regulations for sidewalk seating, and establishes general regulations for the placement of sidewalk seating in the public right-of-way, for the designated district.

7. "Food Service Establishment" has the same meaning as set forth in BMC Chapter 23F.04.

8. "Furniture" means amenities such as but not limited to tables, chairs, benches, and other equipment that facilitates the stationary use of sidewalk, parking lanes, street area, and other public right of way spaces.

9. "Outdoor Commerce" means Sidewalk Seating in the public right of way.
10. "Outdoor Commerce Use Fee" means an annual fee for the use of the parking lane for Sidewalk Seating.
11. "Planter" means a container that is designed or used for growing plants.
12. "Parking Lane" and "Street Area" are considered to be part of the Public right-of-way (PROW), known as, "any public street, public way, public place or rights-of-way, now laid out or dedicated, and the space on, above or below it, and all extensions thereof, and additions thereto, owned, operated and/or controlled by the City or subject to an easement owned by City and any privately-owned area within City's jurisdiction which is not yet, but is designated as a proposed public place on a tentative subdivision map approved by City." as defined in BMC 23F.04.010.
13. "Sidewalk" has the same meaning as set forth in BMC 1.04.010(18).
14. "Sidewalk Seating" means tables and/or chairs (including benches) and, umbrellas and other associated furniture with lawfully operating Food Service Establishments or other commercial establishments, in or on the sidewalk. "Sidewalk Seating" includes seating and associated furniture in the public right-of-way or resting on, or projecting into, the sidewalk, parking lane, or street area, or any combination thereof which are not physically or structurally attached to a building, retaining wall or fence.
15. "Transit Stop" means an AC Transit bus stop, UC Berkeley bus stop, a paratransit bus stop, Bay Area Rapid Transit station entrance, or another public transit provider.
16. "Window Box Planter" means a box, designed to hold soil for growing plants, attached at or on a windowsill.

C. Sidewalk Seating, Benches and Planters shall fully conform to the following requirements of this subdivision:

1. Any object permitted under this Section shall leave a minimum horizontal clear space of six feet for ADA-compliant path of travel, (or reduce to 5 feet at a single point of contact) or such greater (or smaller) amount of clear space as the Engineering Division finds necessary to protect and enhance pedestrian and vehicle traffic for public use in the sidewalk area, as that space is determined by the City of Berkeley Engineering Division of the Department of Public Works, or its successor.
2. Objects permitted under this Section shall not:

- (a) Unduly interfere with access by public employees and utility workers to meters, fire hydrants or other objects (street hardware) in the right-of-way;
- (b) Block or obstruct the view of necessary authorized traffic devices;
- (c) Unduly interfere with pedestrian traffic in the public ROW/sidewalk, pedestrian safety, access to public or private parking, traffic circulation, and/or vehicular safety;
- (d) Be closer than 25 feet to any curb return or fire hydrant; except in such cases where the geometry of the roadway has been designed to accommodate, or will accommodate, Sidewalk Seating, as determined by City staff. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshal as appropriate;
- (e) Be affixed to any City or utility company-owned poles or appurtenances;

3. All sidewalk seating shall be subject to the following additional standards and requirements:

- (a) All Sidewalk Seating configurations shall comply with applicable Americans with Disabilities Act (ADA) accessibility standards.
- (b) All Sidewalk Seating components shall be stored in a secure location when not in use.
- (c) The permittee shall regularly inspect and clean the Sidewalk Seating and that portion of the public sidewalk adjacent to the establishment. A waste receptacle shall be provided.

4. All benches and planters shall be subject to the following additional standards and requirements:

- (a) All proposals shall comply to the greatest extent possible with any design requirements adopted by the City for benches, planters and/or plant material.

D. All permits issued under this Section shall be subject to the following conditions:

- 1. The permittee shall be responsible for, and exercise reasonable care in the inspection, maintenance, and cleanliness of the area affected by any object(s) permitted by this Section, including any design requirements hereafter enacted, from the building frontage to the curb, parking lane, or street area.
- 2. The permittee shall restrict any objects permitted under this Section to the approved location(s) and configuration, and ensure compliance with all applicable laws, and the

number of tables and chairs shall not be increased without prior approval of the Public Works or Public Health Department.

3. When any objects permitted under this Section are found to be in conflict with existing or proposed facilities or improvements owned, maintained, or operated by the City, or any existing or proposed City design plans, those objects shall, upon written demand of the City Manager or their designee, be removed or relocated in such a way as to eliminate the conflict. Should the permittee fail to comply with said written demand within a reasonable period of time, the City may cause such relocation of the placement at the expense of the permittee. Any such non-compliance shall also be a violation of this Section.

4. Permits issued under the Section shall be posted in plain view within the commercial establishment for which the permit has been issued along with any other relevant permits that support health and safety of patrons and the general public.

5. By accepting a permit under this Section, the permittee explicitly agrees to hold the City, its officers and employees harmless from any liability, claims, suits or actions for any and all damages alleged to have been suffered by any person or property by reason of the permittee's installation, operation, maintenance or removal of Sidewalk Seating, Furniture, Benches and/or Planters.

6. Prior to permit approval, the permittee shall demonstrate possession of liability insurance in the amount of \$1,000,000 for Benches and Planters, and related Sidewalk Seating furniture. Said insurance shall name the City of Berkeley as additionally insured and shall be in a form acceptable to the City Attorney.

7. The permittee shall monitor and control the use of the Sidewalk Seating so as to prevent disturbance of the surrounding neighborhood.

8. A food service establishment that proposes to serve alcoholic beverages within an outdoor dining area shall comply with the standards established by the State of California Department of Alcoholic Beverage Control. The dining area shall be:

- (a) Physically defined and clearly part of the commercial establishment it serves; and
- (b) Supervised by a commercial establishment employee to ensure compliance with laws regarding the on-site consumption of alcoholic beverages.

E. Permits under this Section are not transferable, and must be renewed annually.

F. Sidewalk Seating, Benches, Furniture, and/or Planters that are not permitted under this Section are prohibited encroachments under Chapter 16.18, and shall constitute public nuisances subject to the remedies in Chapter 1.26.

G. The City Council may by resolution establish or waive fees for the implementation and administration of this Section. Outdoor Commerce Use Fees shall be equivalent to the expected block face parking revenue from the parking spaces used by the permittee, and shall be treated as Parking Meter Fund revenue.

14.48.160 Removal of obstructions on streets and sidewalks.

Anything placed or permitted to remain upon any sidewalk or roadway in violation of this Chapter, is declared to constitute a nuisance and the City is authorized and empowered to abate such nuisance by removing the same to the custodian of lost property in the Police Department or the Corporation Yard of the City, or other location designated by the City.

14.48.170 Use of streets and sidewalks by vendors.

Any properly licensed vendor may use the public streets of the City in commercial or industrial zones for the sale of goods, wares, merchandise, or food when conducted under the conditions stated in this section.

A. Sidewalk vending is permitted as regulated by Chapter 9.48 of the Berkeley Municipal Code.

B. Other street vending is permitted from vehicles which are lawfully parked upon streets which are not regulated by parking meters or other posted parking time limits.

C. It is unlawful for any person to vend in violation of this section.

14.48.180 Trap doors in sidewalks.

A. Trap doors in sidewalks used to cover an opening for an elevator, stairway or chute must be kept in such a condition that they will not endanger persons or property, and it is unlawful for any person owning or being in charge or control of any such doors in sidewalks used for covering entrances to elevators, stairways or chutes, or other openings in the sidewalk leading to the basement, to allow said doors to remain open, except when such elevator, stairway or chute is being used and monitored for pedestrian safety while loading or unloading or transferring of merchandise or material.

B. The requirements of this section shall be in addition to and not in lieu of any other ordinance of the City having to do with doors or other openings in sidewalks.

14.48.190 Parklets.

A. Notwithstanding anything to the contrary in this Chapter, the City of Berkeley Engineering Division of the Department of Public Works, or its successor, may approve Parklets, Benches and/or Planters in the public right of way (excluding Sidewalks alone, which are subject to and governed by Section 14.48.200) as set forth in, and in compliance with, this Section.

1. No permit may be issued under this Section for any right-of-way area in front of a single parcel if there are any current violations of this Chapter in that right-of-way area.
2. A permit for a Parklet may not be issued unless the parklet Host is in full compliance with all applicable requirements of Title 23 and any Permit issued thereunder.
3. A permit for a Parklet may only be issued adjacent to parcels in the following zoning districts: all Commercial (C-prefixed districts), Mixed-Use Light Industrial (MU-LI), Mixed-Use Residential (MU-R), and Mixed Manufacturing (MM).

B. For purposes of this Chapter, the following terms shall be defined as follows:

1. "Bench" means a seat designed for two or more persons.
2. "Bike Parking" means a location with bike racks intended for the secure parking of bicycles.
3. "Furniture" means amenities such as but not limited to tables, chairs, benches, and other equipment that facilitates the stationary use of public space.
4. "Parklet" means a platform or similar level surface extending into the public right of way with amenities such as but not limited to tables and/or chairs (including Benches), Bike Parking, and umbrellas, designated as public space, located in or on the public right-of-way or resting on, or projecting into, the sidewalk and parking area, which are not physically or structurally attached to a building, retaining wall or fence. Platforms that meet this definition but have received a Sidewalk Seating Permit pursuant to BMC Section 14.48.150 shall not be considered Parklets.
5. "Planter" means a container that is designed or used for growing plants.
6. "Sidewalk" has the same meaning as set forth in Section 1.04.010(18).

7. "Sponsoring Business", "Host", "Permit Holder" or "Permittee" means, and is limited to, any establishment engaged in insuring and caring for the Parklet as set forth in the Parklet maintenance agreement.

8. "Transit Stop" means an AC Transit bus stop, UC Berkeley bus stop, a paratransit bus stop, Bay Area Rapid Transit station entrance, or another public transit provider.

C. Parklets, Benches and Planters shall fully conform to the following requirements of this subdivision:

1. Any object permitted under this Section shall leave a minimum of clear space as the Engineering Division finds necessary to protect and enhance pedestrian or vehicle traffic for public use in and around the Parklet area, as that space is determined by the City of Berkeley Engineering Division of the Department of Public Works, or its successor.

2. Parklets shall comply with applicable Americans with Disabilities Act (ADA) accessibility standards.

3. Objects permitted under this Section shall not:

(a) Unduly interfere with access by public employees and utility workers to meters, fire hydrants or other objects (street hardware) in the right-of-way;

(b) Block or obstruct the view of necessary authorized traffic devices;

(c) Unduly interfere with pedestrian traffic in the right-of-way, including the Sidewalk, pedestrian safety, traffic circulation, and/or vehicular safety;

(d) Be closer than 25 feet to any curb return or fire hydrant; except in such cases where the geometry of the roadway has been designed to accommodate, or will accommodate, a parklet, as determined by City staff. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshall as appropriate;

(e) Be affixed to any City or utility company-owned poles or appurtenances;

(f) The width of the Parklet must not extend beyond six feet from the curb line, except in such cases where the geometry of the roadway has been designed to accommodate, or will accommodate, a Parklet, as determined by City staff. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshall as appropriate.

4. All Parklets shall be subject to the following additional standards and requirements:

(a) Parklets must remain publicly accessible and must include signage posted on site to this effect;

(b) Parklet construction materials must be of high quality, durable, and suitable for public use;

(c) A visible edge to the Parklet is required, which may consist of Planters, railing, or cabling. The edges should be visually permeable;

(d) The Permittee shall regularly inspect and clean the Parklet and that portion of the public sidewalk adjacent to the Parklet;

(e) Access panels must be included in order to maintain the gutter and area underneath the Parklet and the design must allow for drainage along the gutter to pass underneath the Parklet;

(f) Safe hit posts and wheel stops, or approved equivalents, may be required. If Bike Parking is provided, the bike racks can be at street grade;

5. All Benches, Furniture, and Planters within the Parklet shall be subject to the following additional standards and requirements:

(a) All proposals shall comply with any design requirements adopted by the City for Benches, Planters and/or plant material;

(b) All non-secured Parklet components shall be stored in a secure location on private property when not in use;

(c) Any unsecured Furniture must be clearly different from the Furniture used by a Parklet Host in order to emphasize that the Parklet is public space, as determined by City staff;

D. All permits issued under this Section shall be subject to the following conditions:

1. The Permittee shall be responsible for, and exercise reasonable care in the inspection, maintenance, and cleanliness of the area affected by any object(s) permitted by this Section, including any design requirements hereafter enacted, from the building frontage to the right-of-way, including the Parklet area.

2. The Permittee shall restrict any objects permitted under this Section to the approved location(s) and configuration, ensure compliance with all applicable laws, and the number and configuration of Benches, Furniture and Planters and overall square footage of the Parklet shall not be modified without prior approval of the Public Works Department.

3. When any objects permitted under this Section are found to be in conflict with existing or proposed facilities or improvements owned, maintained, or operated by the City, or any

existing or proposed City design plans, those objects shall, upon written demand of the City Manager or his or her designee, be removed or relocated in such a way as to eliminate the conflict, at the sole expense of the Permittee. Should the Permittee fail to comply with said written demand within a reasonable period of time, the City may cause such relocation of the placement at the expense of the Permittee. Any such non-compliance shall also be a violation of this Section.

4. Permits issued under the Section, when under review prior to issuance shall be posted in plain view within the sponsoring establishment(s) for which the permit has been issued. Public notice, permitting, and appeal for Parklets are set forth in BMC Section 16.18.060 (Permit procedure for minor encroachment) of the Berkeley Municipal Code. Section D(4) is not applicable in cases of declared local emergency due to disease outbreak. Upon termination of a declared local emergency due to disease outbreak within 365 days, a permittee must:

(a) pay the permit fee for a minor encroachment and comply with all the requirements of this Section and Section 16.18.060, except that public notice requirements shall not be required; or

(b) apply for a Sidewalk Seating Permit pursuant to BMC Section 14.48.150, and pay initial annual outdoor commerce use fee (the application permit fee for transitioning permits will be waived); or

(c) remove the Parklet from the public right-of-way.

5. By accepting a permit under this Section, the Permittee explicitly agrees to hold the City, its officers and employees harmless from any liability, claims, suits or actions for any and all damages alleged to have been suffered by any person or property by reason of the Permittee's installation, operation, maintenance or removal of the Parklet, Benches and/or Planters.

6. Prior to permit approval, the Permittee shall demonstrate possession of liability insurance, in the amount not less than \$1,000,000, for the Parklet including any associated Benches, Planters and Furniture. Said insurance shall name the City of Berkeley as an additional insured and shall be in a form acceptable to the City Attorney.

7. The City Manager or their designee may require a performance bond to ensure Parklet removal in the event of a permit cancellation.

8. The Permittee shall monitor and control the use of the Parklet to prevent disturbance of the surrounding neighborhood.

9. A Sponsoring Business or other business is not permitted to perform table service at a Parklet or otherwise incorporate a Parklet into its business operations. Section D(9) is not applicable in cases of declared local emergency due to disease outbreak.

10. Commercial signage, smoking, and advertising are prohibited at Parklets.

E. Parklets, Benches and/or Planters that are not permitted under this Section are prohibited encroachments under Chapter 16.18, and shall constitute public nuisances subject to the remedies in Chapter 1.26.

F. The City Council may by resolution establish or waive fees and guidelines for the implementation and administration of this Section.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

CITY OF BERKELEY

ADMINISTRATIVE REGULATION

Subject: Regulating Temporary Non-Commercial Objects on Sidewalks and in Parklets, Pursuant to BMC § 14.48.120

PURPOSE

This Regulation is intended to protect the City's substantial interests in access and safety on Sidewalks and Parklets for pedestrians and for persons with disabilities, aesthetically pleasing streetscapes, and vital commercial areas, all of which are critical to the City's economic and social well-being, in a manner consistent with the United States and California Constitutions, including the First, Fourth, Eighth, and Fourteenth Amendments.

This Regulation provides policy and procedures regarding placing Temporary Noncommercial (TNC) Objects on Sidewalks and Parklets, pursuant to Berkeley Municipal Code (BMC) § 14.48.120.

DEFINITIONS

"BART Access Corridor" is a Sidewalk, including a wide plaza area, on the same side of the street as a BART Station entrance, within 25 feet of such entrance. In the downtown area, the BART Access Corridor includes all sidewalk and plaza areas on the west side of Shattuck Avenue from Addison Street to Allston Way.

"Parklet" is defined as provided in BMC § 14.48.190.

"Path of Travel" is defined as:

- For Sidewalks which measure less than fourteen (14) feet in width, the Path of Travel is six (6) feet wide; this 6-foot wide strip is parallel to the curb and the sides of this strip are equidistant from the curb edge of the sidewalk and the edge of private property abutting such sidewalk.
- For Sidewalks which measure 14 feet or greater in width, the Path of Travel is ten (10) feet wide; This 10-foot strip is parallel to the curb and the sides of this strip are equidistant from the curb edge of the sidewalk and the edge of private property abutting such sidewalk.

"Sidewalk" is defined as provided in BMC § 1.04.010(18) as that portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

"TNC Objects" are defined as provided in BMC § 14.48.120 as personal belongings:

1. In the immediate custody and control of a person or persons at substantially all times;

2. Not offered for sale or exchange or involved in the solicitation of money for immediate payment;
3. Not otherwise prohibited and of a size, weight and quantity that can be easily moved by the owner.
4. Not furniture. Furniture is only allowed pursuant to BMC Chapter 9.48 or pursuant to BMC § 14.48.030 for Objects in Transit or BMC § 14.48.150 for Sidewalk Café permits and City-installed furniture.

POLICY

A. Objects Subject to this Regulation

This Regulation applies to all Temporary Noncommercial (TNC) Objects. It does not apply to leafleting, hawking, peddling and similar activities to the extent those activities do not involve the placement of physical objects on the Sidewalk, or to TNC or other objects expressly permitted by the Berkeley Municipal Code.

B. TNC Objects Exempt from this Regulation:

The following categories of TNC Objects are exempt from this Regulation:

1. Mobility devices in use by pedestrians or individuals in wheelchairs; or
2. Blankets, cushions, mats, or other material providing cushioning ("Cushioning Material") while an individual is seated on such an item, which does not expand beyond 2' x 2' in size and is outside of the Path of Travel.

C. Time and Location Requirements for TNC Objects

1. TNC Objects - Residential Districts:

TNC Objects are prohibited on Sidewalks in Residential Districts, except Objects in Transit pursuant to BMC § 14.48.030 or as otherwise specifically authorized by the BMC.

2. TNC Objects - Commercial and Manufacturing Districts

- a. TNC Objects shall not be left unattended for more than 2 hours.
- b. TNC Objects may not be placed in Parklets.
- c. TNC Objects must not interfere with access to and use of driveways, crosswalks, bus benches, bus stops, transit stops, bicycle racks, fire hydrants, faucet bibs,

utility boxes, public art installations, mailboxes, ATM machines, embedded trap doors, parking meters, parking payment machines, refuse or recycling cans, or pursuant to a City permit, construction materials, newspaper racks, or sidewalk café seating.

- d. TNC Objects may not be placed in a location that interferes with access for individuals with disabilities such as curb and wheelchair ramps, or other features for disability access.
- e. TNC Objects may not be placed in a location where they would obstruct, restrict, or hinder visibility of traffic devices or signs.
- f. TNC Objects may not be placed at or adjacent to any blue or white curb.
- g. TNC Objects may not be placed on a Sidewalk directly in front or within three feet of either side of a building entrance, from the building face to the curb edge of the Sidewalk, except between the hours of 10:00 p.m. and 7:00 a.m., if the building entrance will not be used during that period (i.e., not an apartment building entrance where people may be expected to enter and exit 24/7, and not the entrance to a restaurant or business that is open for customers or deliveries).
- h. TNC Objects may not be placed within a BART Access Corridor, except objects in transit per 14.48.030 and other objects expressly allowed by the BMC.

D. ENFORCEMENT PROCEDURES

To the extent possible, given resources, the initial outreach may be made by homeless outreach staff; management and/or enforcement of TNC Objects may be initiated by Code Enforcement and/or Public Works staff.

To further implement BMC §§ 14.48.120(C) and (D), the City hereby adopts the following procedures:

1. If TNC Objects or Cushioning Material are located within the Path of Travel or in a BART Access Corridor, they must be immediately moved out of the Path of Travel or BART Access Corridor by their owner upon request of the enforcement officer. Should TNC objects not be immediately moved, such objects can be removed and stored by the City pursuant to BMC § 14.48.160 and Administrative Regulation 10.1, and/or a citation may be issued.
2. For TNC Objects or accumulations of TNC Objects, enforcement of this Regulation shall be a low priority, except when:
 - TNC Objects have been in the same approximate location for 24 hours or more,

- More than two accumulations of TNC Objects occupy a single blockface, or
- TNC Objects pose a significant risk to health or safety.
- Within 600 feet of a K-12 public or private school with 25 or more students located in a residential district.

Enforcement officers may:

- Request that TNC Objects be reduced to a 9-square-foot footprint (measured as 3' x 3', 4' x 2.25', 9' x 1', etc.) and/or less than 5 feet in height,
- Request that TNC Objects be moved to another location,
- Subject to the notice requirements below, remove and store TNC Objects pursuant to BMC § 14.48.160 and Administrative Regulation 10.1, or
- Issue an administrative citation or infraction.

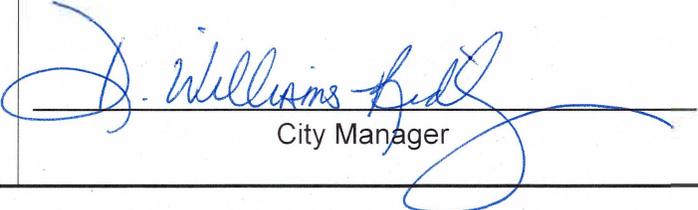
3. Except in the case of a significant health or safety risk:

Prior to removal of TNC Objects, 24 hour written notice of intent to remove TNC Objects shall be provided, either by attaching such notice to, or directly adjacent to, such TNC Objects, or by providing notice to the owner.

Removal of TNC Objects is a low priority between 10:00 p.m. and 7:00 am.

INTERPRETATION

This Regulation is intended to be consistent with the United States and California constitutions, and in the event a patent or latent ambiguity in this Chapter requires interpretation by the City or a Court, such interpretation shall, to the extent permissible, be consistent with relevant constitutional provisions.

<p>RESPONSIBLE DEPARTMENT: City Manager</p> <p>TO BE REVISED: As needed</p>	<p>Approved by:</p> <p>BERKELEY CITY COUNCIL on October 16, 2018</p> <p> City Manager</p>
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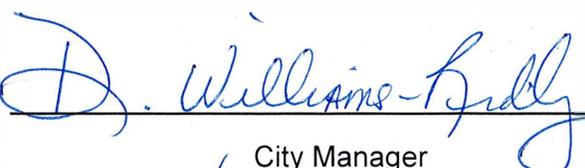
ADDENDUM TO ADMINISTRATIVE REGULATION 10.2

In addition to the requirements in Administrative Regulation 10.2, this addendum to Administrative Rule ("AR") 10.2 clarifies an ambiguity in the enforcement provisions therein. AR 10.2 Section D provides: "... enforcement of TNC Objects may be initiated by Code Enforcement and/or Public Works staff." While the Berkeley Police Department is not mentioned in this enforcement provision, it is not specifically excluded either, and has independent authority to enforce BMC 14.48.020. Other City staff either do not have the authority to issue an infraction citation or do not have the requisite training and experience to do so. Therefore, police officers will also be needed to help enforce BMC 14.48.020/14.48.120.

In light of the above, clarification is needed that police officers are authorized to help enforce BMC 14.48.020 / 14.48.120 with respect to TNC objects unlawfully placed on sidewalks. As such, a police officer is authorized to:

- Contact the occupant of a tent or other improvised structure erected on a sidewalk during the day and evening (7:00 a.m. to 10:00 p.m.), warn the person of the violation of BMC 14.48.020 / 14.48.120, and tell the person to take down the tent/improvised structure.
- If the person does not comply, the officer may issue an infraction citation.
- The officer may also issue a Notice to the person or post a Notice on the tent/improvised structure advising that if the tent or structure is not removed from the sidewalk within 24 hours, it will be removed from the sidewalk pursuant to BMC 14.48.160 and handled in accordance with A.R. 10.1 at the Corp Yard.
- In no instance will pitched tents/improvised structures be allowed to remain in the Path of Travel on the sidewalk. An officer may move such a tent/structure out of the Path of Travel immediately.

As stated in BMC 14.48.020 and AR 10.2, the word sidewalk is defined as "that portion of a street between the curblineline and the adjacent property line intended for the use of pedestrians." The dirt planting strip that sometimes exists within the sidewalk along the edge of the curb is part of the sidewalk because it is intended to be used by pedestrians walking to and from a roadway, e.g. to a parked car.

RESPONSIBLE DEPARTMENT: City Manager	Approved by:
TO BE REVISED: As needed	 City Manager
	Date: <u>4/10/19</u>

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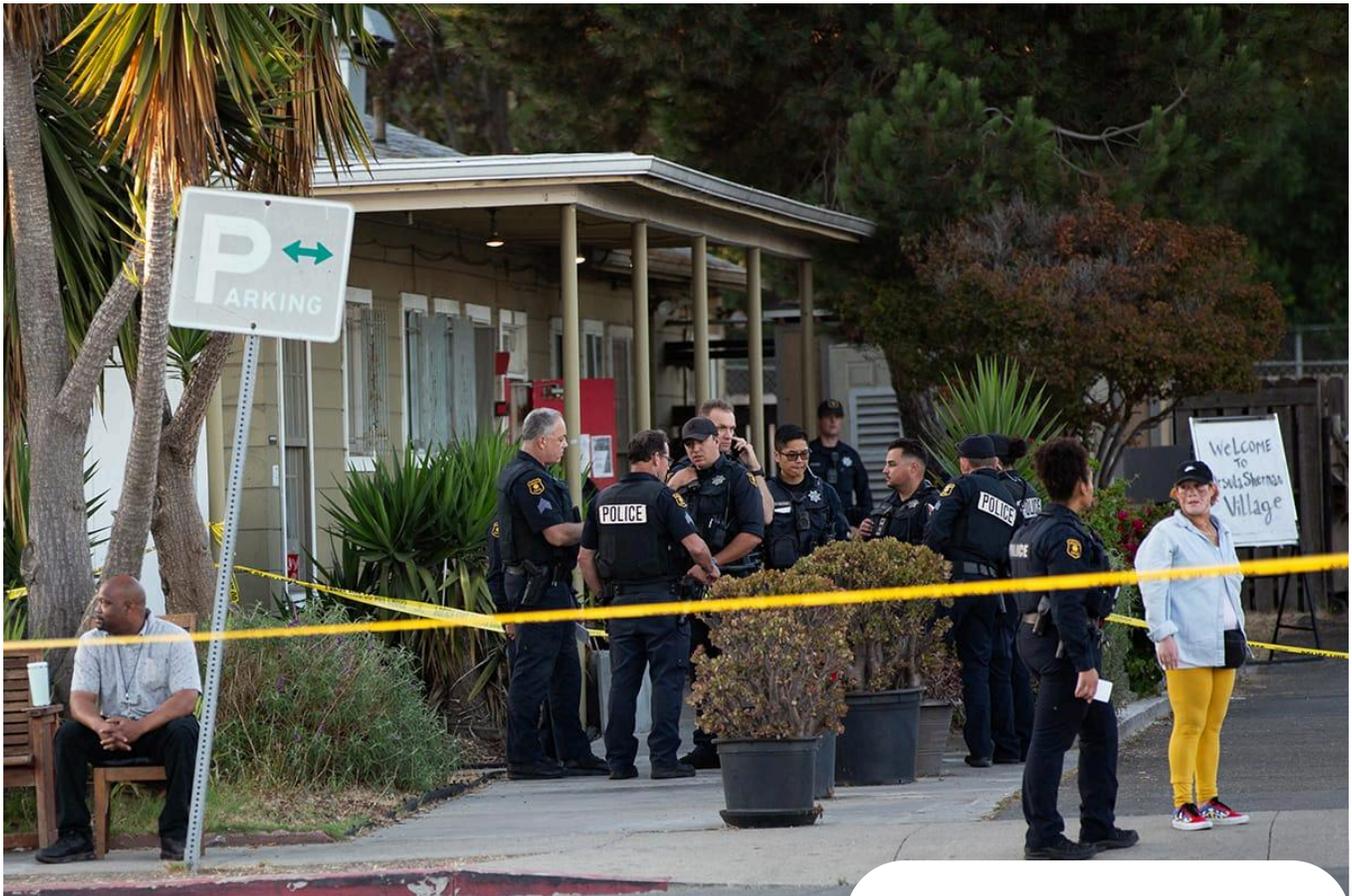
Man killed in shooting at Harrison House in Berkeley



Emilie Raguso

AUG 25, 2024 6:04 PM 42

Arriving officers found a man with multiple gunshot wounds inside the building. Attempts to revive him failed.



We can't do it without you

A man was shot and killed at Harrison House in Berkeley on Sunday, A

A man was killed at the Harrison House homeless shelter in northwest Berkeley on Sunday and a police investigation is ongoing, according to preliminary information.

Berkeley police began getting reports of a shooting at Harrison House, at 711 Harrison St., shortly before 5:30 p.m. following some type of argument or disturbance, BPD said.

The shooter fled the scene, according to initial information.

Scroll down for updates to the story.

Arriving officers found a man with multiple gunshot wounds inside the building.

Officers responded quickly and set up a perimeter.



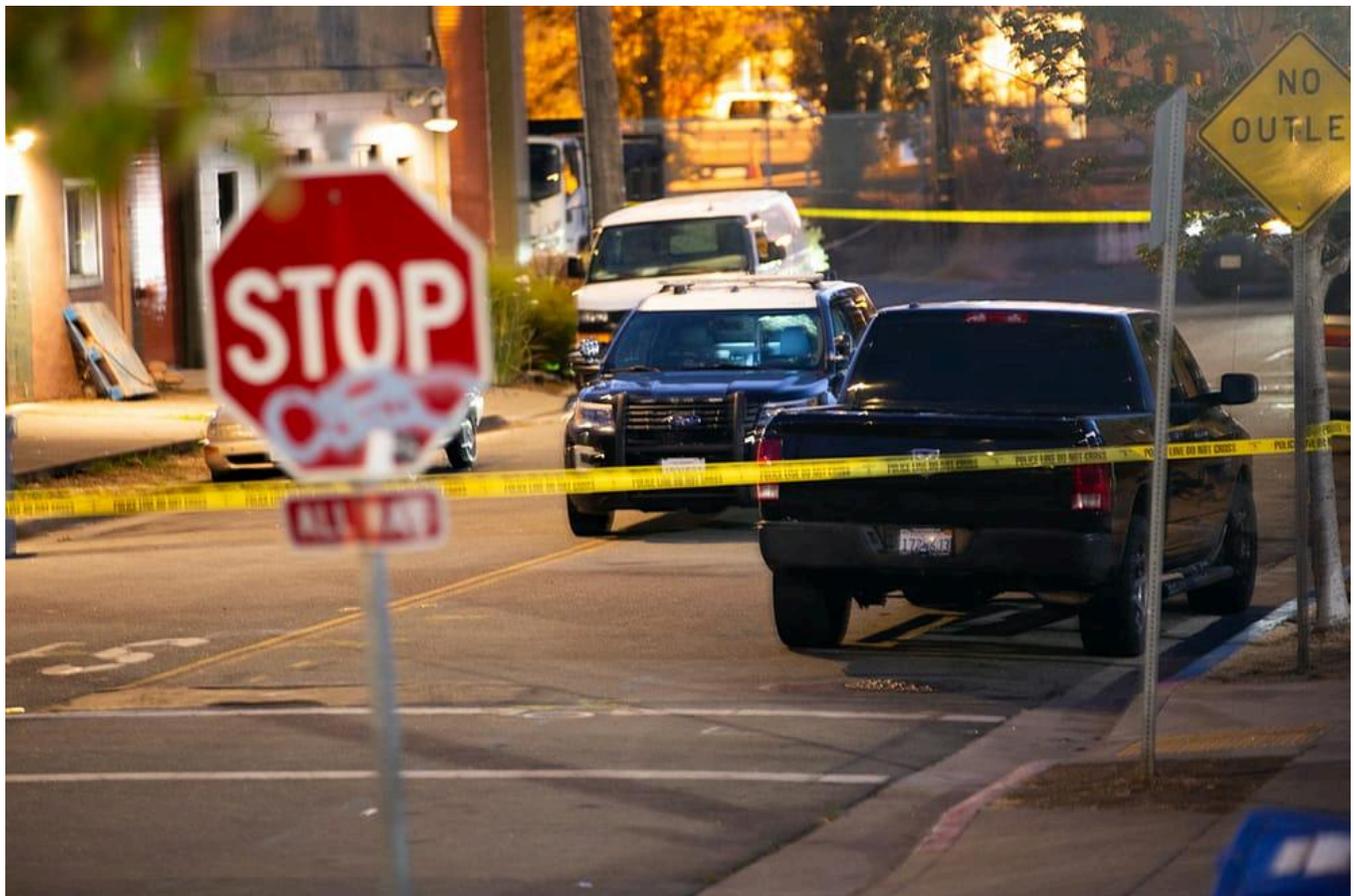


A man was shot and killed at Harrison House in Berkeley on Sunday, Aug. 25, 2024. *Emilie Raguso/TBS*

At one point, the man was not breathing and had no pulse, according to dispatch traffic.

Berkeley police applied chest seals and attempted to revive him with CPR but their efforts were unsuccessful.

As of about 6 p.m., police were still interviewing people in the area and working to find another location for Harrison House residents to stay Sunday night.



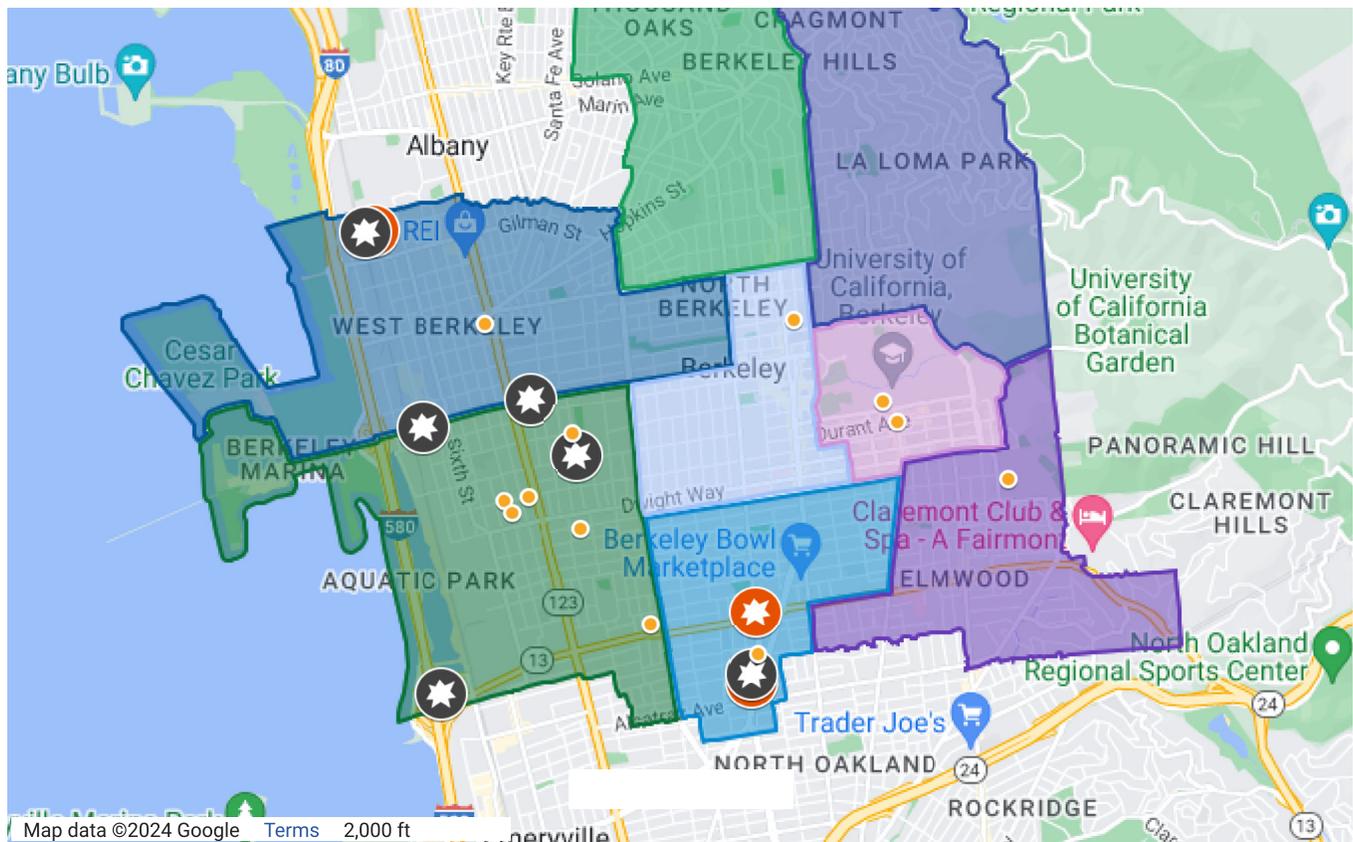
A man was shot and killed at Harrison House in Berkeley on Sunday, Aug. 25, 2024. *Emilie Raguso/TBS*

 **The Berkeley Scanner was the first to report this incident.**

Berkeley has had 4 homicides this year

Shootings in Berkeley, 2024 ☆

This map was made with Google My Maps. Create your own.



Sunday's shooting was [Berkeley's fourth homicide](#) of the year.

Three of the homicides, which have all been [shootings](#), have taken place since July.

On March 17, police say Gabriella Riemer, 23, fatally stabbed her 60-year-old mother [Heather Riemer](#) at their apartment on University Avenue.

On July 3, Steve Addison killed [Matthew Gullette](#) outside a South Berkeley halfway house on Martin Luther King Jr. Way, according to police.

On Aug. 16, police say 52-year-old [Corey Dushawn Waters](#) of Oakland was killed in a shooting in the 3200 block of Adeline St. No arrests have been reported.

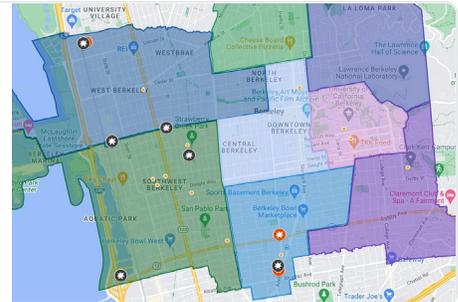
Earlier this year, a man working at Harrison House was [shot but survived](#).

This story will be updated as soon as additional information is available.

Berkeley shootings in 2024: The definitive gunfire map

As of Aug. 25, Berkeley has had 21 shootings leaving three dead and six wounded. There had been 21 shootings at this time last...

 The Berkeley Scanner • Emilie Raguso



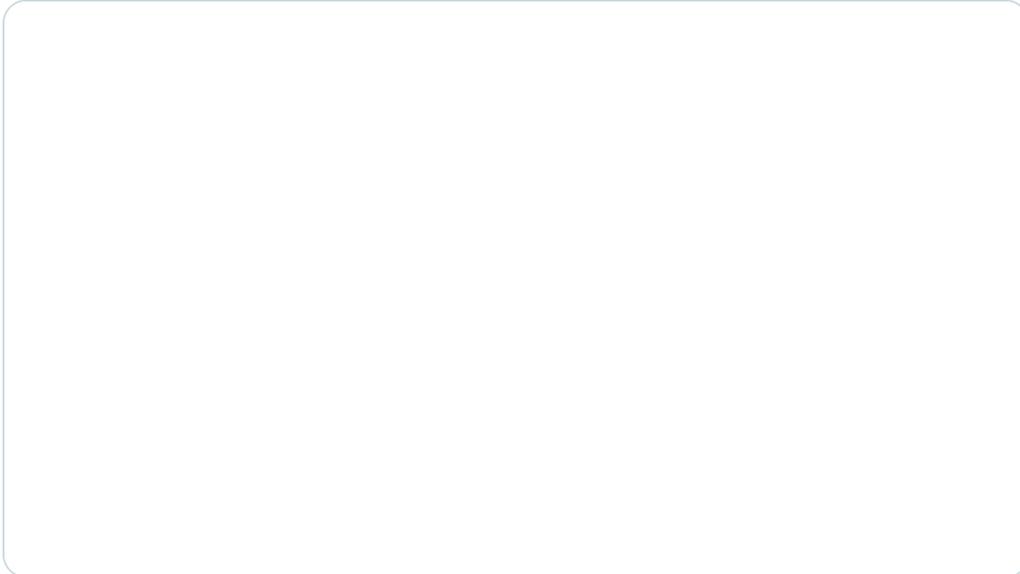
Reporting live: Scenes from the homicide scene

The Scanner shared updates from the scene on X on Sunday evening and added additional photographs to the story after publication.

The Berkeley Scanner 
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Out here near Harrison House waiting for [@berkeleypolice](#) spokesman to arrive. Donald Frazier, head of operations at the shelter, called today's homicide a "tragic situation." We'll continue to seek updates.



7:18 PM · Aug 25, 2024



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Berkeley police have a large perimeter set up here after today's homicide at Harrison House. BKGD:

[berkeleyscanner.com/2024/08/26/sho...](https://www.berkeleyscanner.com/2024/08/26/sho...)



7:33 PM · Aug 25, 2024



5



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BPD currently holding the scene, waiting for homicide detectives and [@berkeleypolice](#) spokesman to arrive.
BKGD: [berkeleyscanner.com/2024/08/26/sho...](https://www.berkeleyscanner.com/2024/08/26/sho...)



7:49 PM · Aug 25, 2024



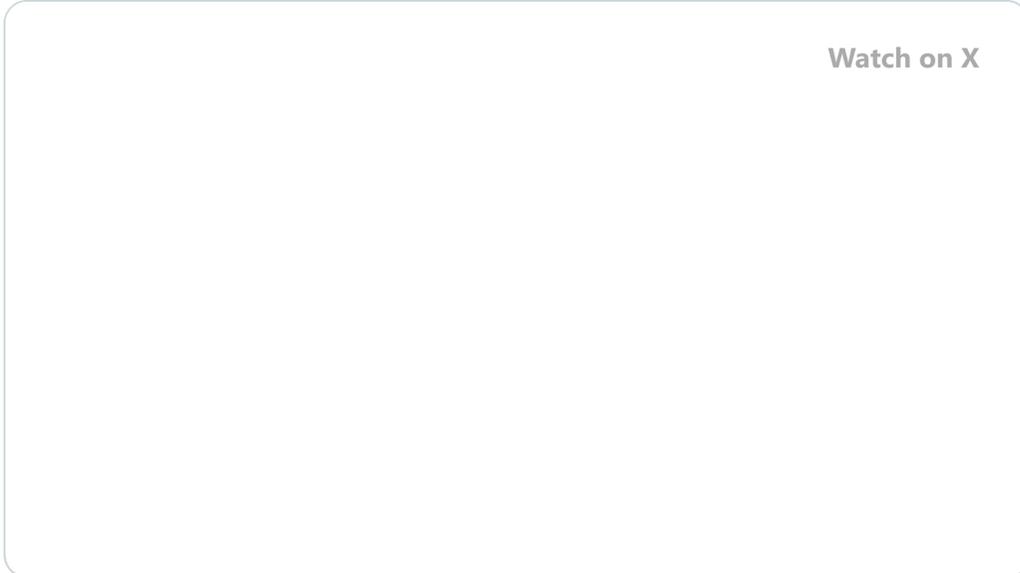
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Police still setting up the crime scene outside Harrison House where a man was killed earlier this evening. BKGD: [berkeleyscanner.com/2024/08/26/sho...](https://www.berkeleyscanner.com/2024/08/26/sho...)



8:03 PM · Aug 25, 2024



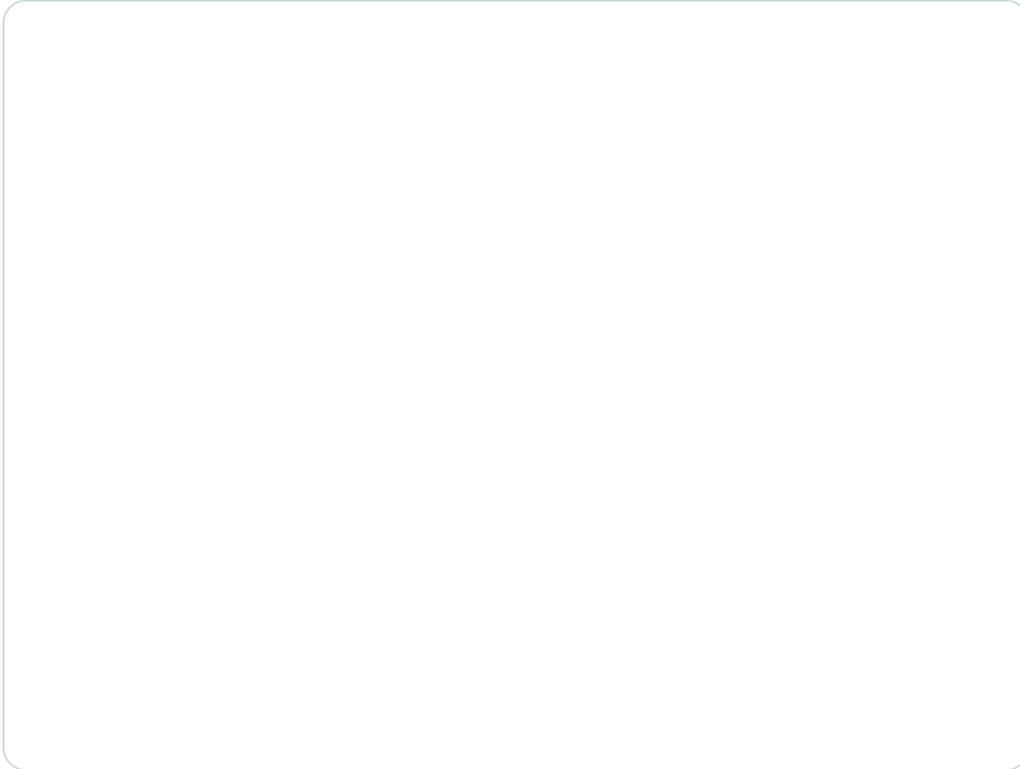
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Harrison House residents and others still waiting outside to find out where they'll sleep tonight. Some have just ordered pizza. [@berkeleypolice](#) spokesman has arrived. BKGD: [berkeleyscanner.com/2024/08/26/sho...](https://www.berkeleyscanner.com/2024/08/26/sho...)



8:17 PM · Aug 25, 2024



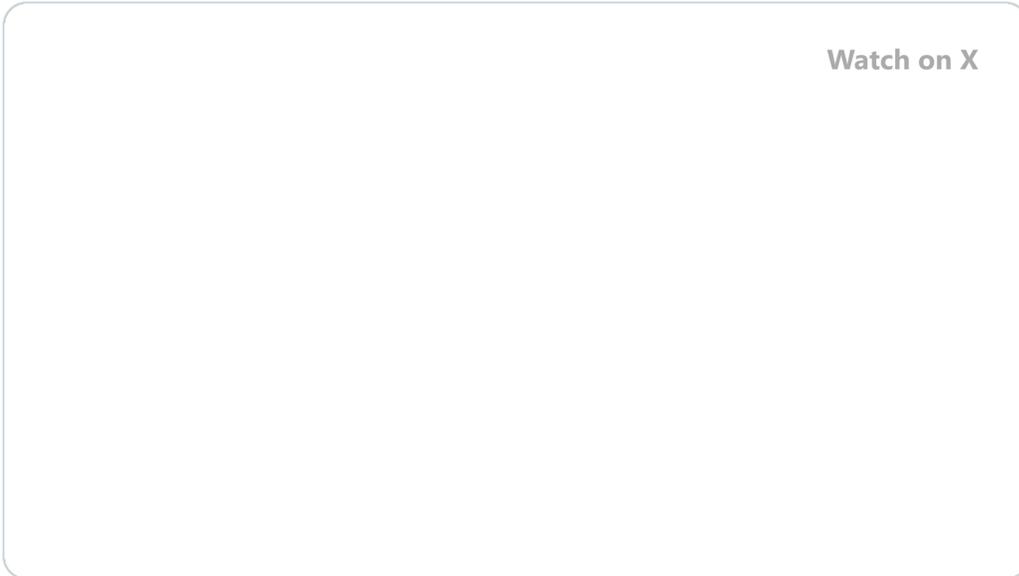
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Brief statement from [@berkeleypolice](#) about today's homicide at Harrison House. It's the second shooting here this year (prior victim survived). Berkeley's fourth homicide of the year. BKGD: berkeleyscanner.com/2024/08/26/sho...



8:35 PM · Aug 25, 2024



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Update, Aug. 26: Police have arrested the suspect from a shooting that left a man dead at a Berkeley homeless shelter over the weekend, The Scanner has learned.

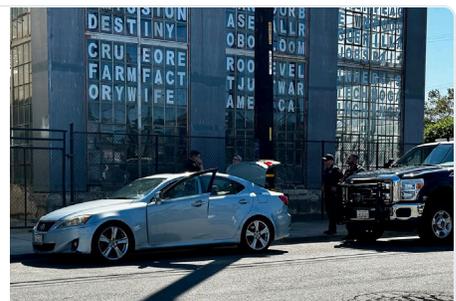
The homicide victim has been identified as shelter resident Marcel Jones.

Don't miss the latest exclusive updates on the case.

Berkeley police arrest homeless shelter homicide suspect

The homicide victim has been identified as shelter resident Marcel Jones.

 The Berkeley Scanner • Emilie Raguso



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AUG 29, 2024  8



Man charged with Berkeley homeless shelter murder

AUG 27, 2024  29



berkeley police arrest nameless snelter nomiciae suspect

AUG 26, 2024  13

42 comments



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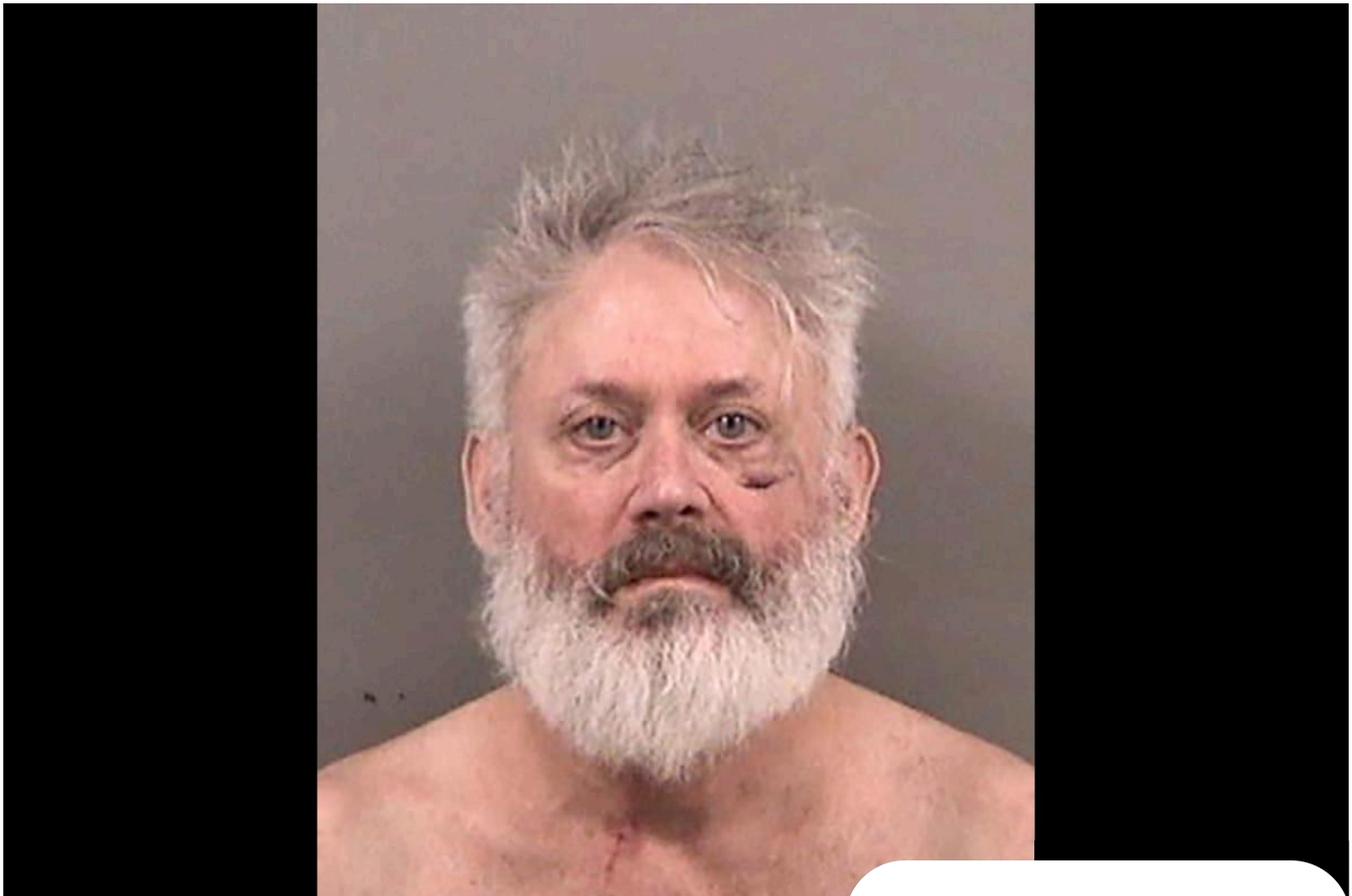
Man charged with Berkeley homeless shelter murder



Emilie Raguso

AUG 27, 2024 4:54 PM 29

Mark Dowling and Marcel Jones were roommates at Harrison House. Dowling had the top bunk and Jones had the bottom. They did not get along.



We can't do it without you

Mark Dowling has been charged with the murder of Marcel Jones. Ber...

A man with a history of conflicts at the Berkeley homeless shelter where he lived has now been charged with killing his bunkmate, according to police and court papers.

Police say Mark Dowling, 62, shot 37-year-old Marcel Jones on Sunday evening, killing him in the room they shared at Harrison House, at 711 Harrison St. in [northwest Berkeley](#).

Dowling had the top bunk and Jones had the bottom, police wrote. The men did not get along, according to court papers.

Scroll down for an update to the story.

Surveillance footage and numerous witnesses helped police link Dowling to the case.

According to court papers, Dowling and Jones had argued and fought physically in the hours before the shooting.

Police said the men initially bickered about a Tupac song, or something similar, because Jones "was known to play loud music."

Jones reportedly "won the fight" and beat Dowling up, police wrote.

Around 4 p.m., a manager at Harrison House asked the men to "keep their distance," [Berkeley police](#) wrote.

When Jones returned to their room, Dowling had thrown Jones' property on the floor, sparking another argument, according to BPD.

Dowling reportedly spat on Jones' bed as well.

"We could go for round two if you want to," Jones reportedly told Dowling, BPD wrote.

Dowling responded by whispering in Jones' ear, police said, to which Jones replied, "Come on with it then," opening his arms wide.

That's when Dowling took out a gun and shot Jones repeatedly, leaving him with gunshots to the chest, back and abdomen, police wrote.

Witnesses found Jones bleeding on the floor after the shooting. BPD's attempts to revive him were unsuccessful.

The Berkeley Fire Department pronounced Jones dead at 5:38 p.m. The Scanner was the first to report on the homicide.

Man killed in shooting at Harrison House in Berkeley

Arriving officers found a man with multiple gunshot wounds inside the building. Attempts to revive him failed.

 The Berkeley Scanner • Emilie Raguso



Multiple witnesses who saw or heard the shooting described it to BPD, according to court papers. Some witnesses said they heard nine or 10 gunshots that day.

One man said Dowling escaped capture by jumping over him and crawling out the window of their room.

Police found what they believed to be one of Dowling's tennis shoes outside the window, according to court papers.

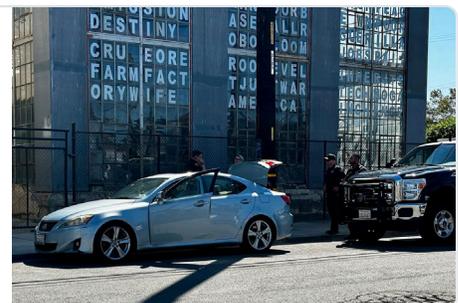
Nearby surveillance footage caught Dowling grabbing an object from his trunk and hiding it in his waistband before going back into the shelter before the shooting, police wrote.

The footage also captured the sound of gunfire at 5:22 p.m., according to BPD.

Berkeley police arrest homeless shelter homicide suspect

The homicide victim has been identified as shelter resident Marcel Jones.

 The Berkeley Scanner • Emilie Raguso



The next morning, investigators tracked Dowling down. They arrested him on Fourth Street. (The Scanner was the first to report that news.)

During the arrest, police seized Dowling's phone, clothing and firearms as well as other items, according to court papers.

Police also wrote that Dowling had five firearms registered to him and has multiple arrests on file, including an arrest from May in which he reportedly brandished a knife at a woman.

He has no prior cases charged in Alameda County, according to court records.



Above and below: Firearms seized during Dowling's arrest. BPD



Police wrote that Dowling moved into Harrison House several months earlier. His car is registered to him at an address in Stockton.

Jones, meanwhile, had been living at Harrison House for six or seven months, according to police.

Dowling had struggled to get along at the shelter, repeatedly coming into conflict with multiple people, BPD wrote.

One witness told BPD that Dowling had previously called him the N-word and threatened to shoot him, saying, "I'm going to put holes in you."

In another incident, according to police, "Dowling was making derogatory comments about black women and the other man had enough of it."

BPD continued: "Dowling threatened to shoot him and 'drill a hole in him.'"

In a statement Tuesday, [Berkeley police](#) said the Alameda County district attorney's office had charged Dowling with murder.

The case had not shown up in court records as of publication time.

According to jail records, Dowling is being held without bail at Santa Rita Jail and is scheduled for arraignment Wednesday.

Sunday's shooting was [Berkeley's fourth homicide](#) of the year.

Update, Aug. 28: The murder case against Mark Dowling includes a hate crime allegation charge, according to court papers. Dowling, who is white, reportedly had numerous conflicts with people related to race in the months before the murder.

The victim in the case was Black.

Dowling had a 31-year medical career specializing in radiology, according to profiles online.

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