

AGENDA
Disaster Fire and Safety Commission
Regular Meeting
October 26, 2022
7:00 PM

District 1 – Kim-Mai Cutler
District 2 – Weldon Bradstreet
District 3 –
District 4 – Antoinette Stein

District 5 – Shirley Dean
District 6 – Nancy Rader
District 7 – Tobias Simmons
District 8 – Paul Degenkolb

Mayor’s Appointee- Jose Luis Bedolla

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

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

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://cityofberkeley-info.zoomgov.com/j/1619573531> If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the “raise hand” icon by rolling over the bottom of the screen.

*To join by phone: Dial 1-669-900-9128 and enter Meeting ID 161 957 3531 If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair. Please be mindful that all other rules of procedure and decorum will apply for Commission meetings conducted by teleconference or videoconference*

Preliminary Matters

Call to Order

Approval of the Agenda

Public Comment on Non-Agenda Matters

1. Fire Department Staff Report *

Consent Items

2. Approval of Draft Minutes of Meeting of August 3, 2022*
3. Approval of Draft Minutes of Meeting of September 28, 2022*

Action Items

Discussion Items

4. Commission Minutes Format Including the Staff Report (Staff)
5. Adoption of the Berkeley Fire Code Update (Staff)
6. Measure FF and Measure GG Budget Follow Up (Bedolla)
7. Commission Workplan Implementation and Topic Reports (Bedolla)
8. Firefighter and Staff Recruitment Strategies (Bedolla)
9. Future Agenda Items and Next Steps

Adjournment

Disaster & Fire Safety Commission
Regular Meeting
Wednesday August 3, 2022

- Present:** Jose Luis Bedolla, Shirley Dean, Tobias Simmons, Paul Degenkolb, Toni Stein, Nancy Rader, Weldon Bradstreet
- Absent:** Kim-Mai Cutler,
- Staff:** Khin Chin, Chris Pinto
- Public:** 42 Attendees : Carol L Rice, Henry DeNero, Ganey PMT, Andrew Talbot, Shantee, kellyhammargren, Peter Lydon, Jerry Kent, Richard, Richard Thomason, Jon Kaufman, Esther Mandeno# Digital Mapping Solutions, Cheryl Miller, marthasrabkin, Susie Bailey, Benay Dara-Abrams, Scott Stoller, sheryl Drinkwater, Gretchen Carlson, Carolyn Burgess, Takato Umeda, Kathleen Kelly, arbara Gross, Davis, Iris Kwok, Madeline, Alec Dara-Abrams, Joan Hollinger, Masha Fergusson, Maya Jimenez, Steve Taylor, Michael Rowe, ray yep, Doug Kennedy, David Schindler, molly, Linda, Lynn Crook, Michael, ipad, C Chen, Stephen Yang

Preliminary Matters

Call to Order

J. Bedolla called meeting to order at 7:01pm

Approval of the Agenda

Approved by Acclamation

Public Comment on Non-Agenda Items

Benay Dara-Abrams Secretary for Hillside Fire Safety Group, Status of the June 22 and why is it in still in staff review and what responsibility does the Fire Department have to provide the report in a timely basis to the Council.

1. Fire Department Staff Report

Consent Items

2. Approval of Draft Minutes of Meeting of June 22, 2022*

Motion to approve as submitted: Bradstreet

Second: Rader

Vote: 7 Ayes: Rader , Bedolla, Dean, Bradstreet, Simmons, Degenkolb, Stein; 0 Noes; 1

Absent: Cutler; Abstain:

Action Items

3. Commission Annual Workplan

No action taken, held to next meeting.

Discussion Items

4. Community Wildfire Protection Plan Community Input Process (Staff Presentation)
5. Community Communications About 2022 Fire Season (Bedolla)
6. Fire Department Facilities Master Plan (Dean)
7. CERT Training (Bedolla)
8. Safe Passages Program Update (Bedolla)
9. June 28, 2022 Council Meeting - Consideration of Various DFSC-related Budget Items* (Rader)
 - a. Rader Communication to Council
 - b. Measure GG and FF Tax Rates
 - c. Parking Enforcement in Fire Zones 2 and 3
- J. Bedolla left the meeting at 9:01p
10. Berkeley Strategic Plan Quarterly Report on Wildfire Safety* (Rader)
11. California and Berkeley Fire Code Updates (Rader)
12. Future Agenda Items and Next Steps

Adjournment

Motion to Adjourn: Dean

Second: Stein

Vote: 6 Ayes: Rader , Dean, Bradstreet, Simmons, Degenkolb, Stein; 0 Noes; 2 Absent:

Bedolla, Cutler; Abstain:

Adjourned at 9:23p

DRAFT

Disaster & Fire Safety Commission
Regular Meeting
Wednesday September 28, 2022

Present: Jose Luis Bedolla, Tobias Simmons, Toni Stein, Nancy Rader, Weldon Bradstreet, Paul Degenkolb, Shirley Dean,

Absent: Kim-Mai Cutler,

Staff: Khin Chin, Keith May, Chris Pinto, Carol Rice, Cheryl Miller, Stacie Clarke

Public: 12 Attendees: Alec Dara Abrams, Richard, Angie Sprang, Benay Dara-Abrams, C Chen, Duncan, Jim Evans, Kelly Hammargren, Leah G, Richard, Sheryl Drinkwater, Zoom User

Preliminary Matters

Call to Order

J. Bedolla called meeting to order at 7:01pm

Approval of the Agenda

Approved by Acclamation

Public Comment on Non-Agenda Items

Kelly Hammargren suggested

S. Dean arrived at 7:05p

Nancy Rader said SB 884, which the legislature passed (but the Governor has not – yet – signed), requires the CPUC to establish a program to expedite large utilities’ plans for undergrounding their power lines in high-fire-risk areas, which includes at least a portion of Berkeley’s Zones 2 and 3. The bill would provide the long-term certainty that PG&E needs to fulfill its plan for undergrounding 10,000 miles of distribution power lines and create efficiencies to keep costs as low as possible. If this pans out, we could expect power lines in our high-fire areas to be undergrounded at some point within the next decade. Nancy asked the Fire Department a question that she’d read on a local online forum. Someone was wondering whether neighboring fire departments can now fit their hoses onto Berkeley fire hydrants, which was a big problem in the Tunnel fire. Has that situation been corrected?

Toni Stein said that we are having severe storms throughout the country and this should be a reminder that we can have severe weather in Berkeley as well.

1. Fire Department Staff Report

DFSC Staff Report

September 28, 2022

1. Measure FF Monthly Report

a. Budget Overview – Staff (to include update on Mayor’s Recommendation on Parking Enforcement Officer funding)

i. Program Review

1. Standards of Coverage Analysis – The Department is undergoing an in-depth analysis of fixed and mobile resources to determine the best deployment model and to ensure the Department is responding effectively and efficiently.

- Status: City Gate consultants completed the risk assessment and since included an assessment of the Lawrence Berkeley National Laboratory and University of California, Berkeley's growth plans and the City's growth trends. Expected Completion: Fall 2022

2. Community Wildfire Protection Plan (CWPP) – The CWPP is a comprehensive risk analysis that addresses local target hazards and includes a community-based action plan to mitigate threats, promote preparedness activities, and ensure resiliency. It will serve as the foundation and roadmap for the Departments work to prevent wildfire and limit the spread when they ignite.

- a. Update: The CWPP Steering Committee identified processes for public participation via an online hub site with survey tools slated to launch at the end of July and through September. Committee members have communicated the CWPP process to neighboring agencies at the Hills Emergency Forum (HEF) monthly meetings and will continue to keep our neighboring agencies informed and involved throughout the process. The Community Based Map is a key component of the CWPP that will create a shared vision of the existing City of Berkeley wildfire environments. The Community Based Map was initiated and used to display the wildfire layers as the data is gathered and finalized

3. Wildfire Prevention / Mitigation – Vegetation Management Inspections –We have launched a multi-department WUI Task Force with members participating from Fire, the City Attorney’s Office, Public Works and Parks, Recreation and Waterfront. This group is tackling many of the issues that will take a group effort to deal with including Safe Passages and Vegetation Management.

We are working through some major foundational issues in WUI, including how to significantly increase the Cities capacity to perform vegetation management, chipping service, education and outreach, and changes to fire code. Our goal is to be ready to begin significant operations when the results of the CWPP are published as it will include recommendations on where and what vegetation management is the priority.

4. **Retired Annuitants** – The retired annuitants are largely focused on performing vegetation inspections for properties in fire zone 2 and 3. They are also looking at transitioning the inspection from paper to mobile technology, re-tooling the re-inspection, citation, and violation process. The Department has also expanded its traditional hazardous fire area program to include all properties in fire zones 2 and 3.
 - a. Update: No New Update
5. Emergency Medical Technician (EMT) and Paramedic Recruitment – Single Function Job Classifications & Recruitment:
 - a. The Division has worked collaboratively with Local 1227 and Human Resources to draft single function EMT and Paramedic Job Classifications have been approved by the City Council on January 18th, 2022.
 - i. Update: Recruitment for our first class of Paramedics has begun! We plan to hire groups of 10 with an ALS Academy of eight weeks followed by Field Training Observation. On track to start this academy in the beginning of 2023.
6. Fire Facilities Master Plan (FMP): Berkeley Fire Department stations are undersized, in poor condition and in need of remodels or replacement. The Department initiated a long-term replacement planning process to better understand infrastructure needs. This process will provide the City leaders of today and tomorrow with actionable information ahead of future infrastructure bond measures.
 - i. Update: Department and Consultant staff worked together to determine future facility needs and newbuilding layouts and design for all fire facilities. The team is also developing floor plans for the new proposed BFD administration building and will bring an update to City Council for a work session in the Fall of 2022.

7. Dispatch Study: Our goal, per Council direction is to enhance the dispatch center so it can triage calls, divert non-emergency calls (including mental health calls) to appropriate resources like the SCU; and provide emergency medical instructions to callers.
 - i. Status: Draft report is completed and we will meet with the vendor to review the preliminary report.

8. Recruitments:

- i. Communications Specialist (PIO) – Candidates moving forward in recruitment process.
- ii. Firefighter/Paramedic x11 – Four final offers provided/accepted. Seven more candidates in medical/backgrounds for Academy 112th
- iii. Paramedic x10 – Applications being screened. Continuous recruitment.
- iv. Associate Management Analyst (AFS) - Interviews in process.
- v. Administrative Assistant x2 - Positions posted and interviews are being scheduled.
- vi. Fire Inspector (Sworn) x2 – We will be moving forward with a recruitment for an additional two inspectors using candidates on the existing list.
- vii. Office Specialist III (WUI) – Recruitment to launch in the next four months.

9. **Division of Training Property** – The Department is actively engaged to find a piece of property that will meet the City’s needs for the training and development of its emergency responders and support staff. Due to zoning, the cost of property and the proximity of residential units to most property in Berkeley, this location will likely be outside the City proper. This presents exciting opportunities for regional collaboration with other fire departments and a community college district.
 - a. Update: No new updates.

ii. Implementation & Metrics

1. **Outdoor Warning System** – All Outdoor Warning System equipment has been delivered to the Berkeley Fire Warehouse. Permitting process is in final stages for the first 5 sites with expectations that plan check will be complete within the next two weeks. The vendor has started the process for permitting the 10 sites in Phase II, most of which are schools and permitted via the Department of the State Architect

2. Measure GG Monthly Report –
 - a. Budget Overview – Staff.

3. Department Activities

- a. We have participated in several State wildfires including sending a single resource to assist in the Lightning Complex Fire in late August, a Strike Team in our OES rig and a single resource to the Mosquito Fire in mid-September.

4. Safe Passage

- Update: We have been working with Transportation and Traffic to repaint existing red curbs and replacing “no parking signs” that have faded as well as painting red curbs around hydrants.
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5. Call Volume Report

Fire Department Report by California Incident Type		
August 2022		
Fires – including Encampment Fires (structures, mobile properties, vegetation, rubbish, equipment, cooking, chimney,	30	
Encampment Fires (structures, warming/cooking, debris)	9	
Explosion - no fire (overpressure ruptures, explosions)	0	
Rescue & EMS (medical assist, vehicle accident	875	
Hazardous Condition - no fire (combustible spills/leaks, chemical release, radioactive condition, electrical wiring problem, biological hazard, potential accident w/ building/aircraft/vehicles)	48	
Service Calls (person in distress, water issue, smoke/odor problem, animal issue, public assist, cover assignment/standby)	98	

Good Intent (canceled en-route, wrong location, nothing found, steam mistaken for smoke)	93	
False Alarm Calls (malicious, malfunction, unintentional, biohazard scare)	184	
Severe WX (lightening, wind storms)	0	
Special Incidents (citizen complaints)	1	
TOTAL	1,329	

Unit Utilization	Apparatus Count	2,886
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Consent Items

- Approval of Draft Minutes of Meeting of June 22, 2022*
These minutes were approved in the previous meeting.

Action Items

- Commission Annual Workplan (Bedolla, Dean, Rader)

Motion to submit the FY 22-23 Commission Work Plan to City Council with final revisions on “cohorts” by Commissioner Bedolla: Rader

Second: Bradstreet

Vote: 7 Ayes: Bedolla, Rader, Dean, Bradstreet, Simmons, Degenkolb, Stein; 0 Noes; 1

Absent: Cutler; Abstain:

Discussion Items

- Community Wildfire Protection Plan (CWPP) Meeting #2 Strategies and Projects (Staff Presentation)*
- Fire Department Facilities Master Plan (Dean)
- Safe Passages Program Update (Bedolla)
- Assembly Bill 3047 (Dean)

8. Recording of Commission Meetings (Dean)
9. Review of Process for Evaluating and Making Recommendations for Measure GG and FF Tax Rates (Rader)
10. Future Agenda Items and Next Steps

Adjournment

Motion to Adjourn: Bradstreet

Second: Degenkolb

Vote: 7 Ayes: Rader , Dean, Bradstreet, Simmons, Degenkolb, Stein, Bedolla; 0 Noes; 1

Absent: Cutler; Abstain:

Adjourned at 9:27p

DRAFT

DFSC Staff Report

October 26, 2022

1. Measure FF Monthly Report

a. Budget Overview – No new update

i. Program Review

- **Standards of Coverage Analysis** – The Department is undergoing an in-depth analysis of fixed and mobile resources to determine the best deployment model and to ensure the Department is responding effectively and efficiently.
 - Status: No Updates

- **Community Wildfire Protection Plan (CWPP)** – The CWPP is a comprehensive risk analysis that addresses local target hazards and includes a community-based action plan to mitigate threats, promote preparedness activities, and ensure resiliency. It will serve as the foundation and roadmap for the Departments work to prevent wildfire and limit the spread when they ignite.
 - Update: No update

- **Wildfire Prevention / Mitigation – Vegetation Management Inspections** –We have launched a multi-department WUI Task Force with members participating from Fire, the City Attorney’s Office, Public Works and Parks, Recreation and Waterfront. This group is tackling many of the issues that will take a group effort to deal with including Safe Passages and Vegetation Management. We are working through some major foundational issues in WUI, including how to significantly increase the Cities capacity to perform vegetation management, chipping service, education and outreach, and changes to fire code. Our goal is to be ready to begin significant operations when the results of the CWPP are published as it will include recommendations on where and what vegetation management is the priority.

- **Retired Annuitants** – The retired annuitants are largely focused on performing vegetation inspections for properties in fire zone 2 and 3. They are also looking at transitioning the inspection from paper to mobile technology, re-tooling the re-inspection, citation, and violation process. The Department has also expanded its traditional hazardous fire area program to include all properties in fire zones 2 and 3.

- Update: No New Update
- **Emergency Medical Technician (EMT) and Paramedic Recruitment – Single Function Job Classifications & Recruitment:**
 - The Division has worked collaboratively with Local 1227 and Human Resources to draft single function EMT and Paramedic Job Classifications have been approved by the City Council on January 18th, 2022.
 - Update: Recruitment for our first class of Paramedics has begun! We plan to hire groups of 10 with an ALS Academy of eight weeks followed by Field Training Observation. On track to start this academy in the beginning of 2023.
 - **Dispatch Study:** Our goal, per Council direction is to enhance the dispatch center so it can triage calls, divert non-emergency calls (including mental health calls) to appropriate resources like the SCU; and provide emergency medical instructions to callers.
 - Status: Draft report is completed and we will meet with the vendor to review the preliminary report.
- **Recruitments:**
 - Communications Specialist (PIO) – Candidates are being scheduled for interviews.
 - Firefighter/Paramedic – Eight job offers accepted for Academy 112th that is slated to begin on October 31st
 - Paramedic – 55 applications went to physicals this last weekend. Interviews are set for week of November 7th. Continuous recruitment.
 - Associate Management Analyst (AFS) – One of the positions has been filled. Geri Pena is the new Associate Analyst and will be working on the overall department budget with our Administrative Fiscal Manager.
 - Administrative Assistant x2 – Interviews concluded on October 20th. Selection process underway.
 - Fire Inspector (Sworn) x2 – Scheduling interviews with candidates on the list.
 - Office Specialist III (WUI) – Recruitment to launch in the next four months.
- **Safe Passage**

- **Update:** We have been working with Transportation and Traffic to repaint existing red curbs and replacing “no parking signs” that have faded as well as painting red curbs around hydrants.
- **Division of Training Property** – The Department is actively engaged to find a piece of property that will meet the City’s needs for the training and development of its emergency responders and support staff. Due to zoning, the cost of property and the proximity of residential units to most property in Berkeley, this location will likely be outside the City proper. This presents exciting opportunities for regional collaboration with other fire departments and a community college district.
 - Update: No new updates.

ii. Implementation & Metrics

- **Outdoor Warning System** – No new updates.

2. Measure GG Monthly Report

- a. Budget Overview – No new update
- b. Program update presentation by staff (10/26/22)

3. Fire Facilities Master Plan (FMP): Berkeley Fire Department stations are undersized, in poor condition and in need of remodels or replacement. The Department initiated a long-term replacement planning process to better understand infrastructure needs. This process will provide the City leaders of today and tomorrow with actionable information ahead of future infrastructure bond measures.

- a. Update: Department and Consultant staff worked together to determine future facility needs and newbuilding layouts and design for all fire facilities. The team is also developing floor plans for the new proposed BFD administration building and will bring an update to City Council for a work session in the Fall of 2022.

4. Department Activities

- a. Fire Prevention signed off on the final fire permits for the Hope Center on Berkeley Way which has now officially opened. The idea for this project started almost 20 years ago and aims to provide affordable housing for a community where the median home value is over 1.6 million dollars. The site also provides 12 transitional housing beds for homeless male veterans, 32 shelter beds for homeless adult men, and 53 units of permanent supportive housing for homeless and disabled men and women. There is an official Ribbon Cutting Ceremony scheduled for October 27th at 2:00 p.m.
- b. The Acacia Neighborhood Group became Berkeley’s First Recognized Firewise Neighborhood. They will also be receiving a Proclamation in an upcoming City Council Meeting.

- c. The Fire Department along with our Office of Emergency Services and Public Health participated in the Solano Stroll. The booth had a ton of visitors (kids & adults) learning about their Zonehaven zones and evacuation preparedness.
- d. On September 12th, Berkeley Fire responded to a structure fire on the 1300 block of Berkeley Way. The crews on scene did a great job performing a quick search and rescue of this 3-story apartment building that had pressurized black smoke coming from two sides of the building and on multiple floors. The fire mostly came from burning material in a stairway which caused additional challenges.
- e. On September 30th, Berkeley Fire responded to the 3000 block of California for a couch on fire in an apartment. What makes it notable is that there was a non-ambulatory person trapped in the apartment that could have been easily overcome with smoke. From experience and ULFSRI research it is well documented that a single couch can bring an apartment to flashover – and asphyxiate any occupants minutes after ignition. Solid work performed by Truck 5 on forcing the door and effecting the rescue.

5. Call Volume Report

Fire Department Report by California Incident Type		
September 2022		
Fires – including Encampment Fires (structures, mobile properties, vegetation, rubbish, equipment, cooking, chimney,	35	
Encampment Fires (structures, warming/cooking, debris)	22	
Explosion - no fire (overpressure ruptures, explosions)	1	
Rescue & EMS (medical assist, vehicle accident)	884	
Hazardous Condition - no fire (combustible spills/leaks, chemical release, radioactive condition, electrical wiring problem, biological hazard, potential accident w/ building/aircraft/vehicles)	46	
Service Calls (person in distress, water issue, smoke/odor problem, animal issue, public	101	

assist, cover assignment/standby)		
Good Intent (canceled en-route, wrong location, nothing found, steam mistaken for smoke)	137	
False Alarm Calls (malicious, malfunction, unintentional, biohazard scare)	181	
Severe WX (lightening, wind storms)	0	
Special Incidents (citizen complaints)	0	
TOTAL	1,407	

Unit Utilization	Apparatus Count	2,947
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6. Commission Actions Status

Date of Action	Topic	Result	Description of result	Notes
12/1/2021	Measure FF Oversight Recommendation- revised	City Council 6/28/22 Agenda	Item 34	
2/23/2022	Request for Timely Fiscal Information on Measures FF and GG	City Council 6/28/22 Agenda	Item 48	
4/13/2022	Budget Recommendation for Parking Enforcement			Staff Review for Response; Police Department

4/27/2022	Measure FF Budget Recommendation - Expanded Fire Prevention Inspection	City Council 11/3/22 Agenda		In Agenda Process for 11/3/22 City Council Agenda
5/25/2022	Annual Measure GG Tax Rate Adjustment Memorandum	City Council 6/14/22 Agenda	Communications Packet related to Item 17	Submitted to Clerk for inclusion in Council Communication Packet
5/25/2022	Request for One Additional Meeting of Disaster and Fire Safety Commission	City Council 7/26/22 Agenda	Item 26	Additional Meeting Approved
6/22/2022	Red Curbs and Visible Signage	City Council 9/13/22 Agenda	Item 22	
9/28/2022	FY 22-23 Commission Work Plan			Pending final edits from Commissioner Bedolla



C I T Y O F B E R K E L E Y
→ FIRE DEPARTMENT ←

Date: October 21, 2022

To: DFSC Chair Bedolla & DFSC Commissioners

Re: Adoption of 2022 Fire Code & Amendments

Ahead of your next meeting I wanted to take a moment to notify you that as part of the City's adoption of the 2022 California Fire Code with Local Amendments we are making several modifications that begin to clarify vegetation treatment requirements for property within the City's Very High Fire Danger Severity Zones. Some of the most substantial changes in the California Fire Code, and in the proposed amendments in Berkeley's local adoption of that code, have occurred in Chapter 49 ("Requirements for Wildland-Urban Interface Fire Areas"), and address wildfire safety requirements. This represents a significant step forward in the enhancements that are required of our Fire Code to adopt best practices with regard to vegetation treatment in our WUI. Specific recommendations for amendments being forwarded by staff in the 'wildfire' safety arena include:

- 1) Adopt the Amended Subsection 4902.1 ("General"), which provides definitions specific to Chapter 49 of the fire code. Staff's proposed local amendments:
 - a) Modify the definition of "Fire Protection Plan" so that it can apply to both proposed and existing properties, projects and developments. The language in the California Fire Code is limited to new proposed projects and developments. Staff believes a Fire Protection Plan can be a useful tool in some circumstances for existing developments.
 - b) Not only defines the terms Berkeley "Fire Zone 1", "Fire Zone 2" and "Fire Zone 3" but also clarifies that Fire Zone 2 and Fire Zone 3 are Very-High Fire Hazard Severity Zones and Wildland-Urban Interface fire areas.
- 2) Adopt Additional Subsection 4906.7, "Vegetation and combustible material hazards not otherwise regulated". This new amendment prohibits any person in control of property from allowing vegetation or combustible material hazards to exist which constitutes a fire hazard as determined by the fire code official, regardless of the material's proximity to structures.
- 3) Modify the adoption of local amendment, Additional Subsection 4907.4, "Specific requirements". This section lists specific Defensible Space actions that individual property

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owners are to take around or adjacent to structures. These requirements are a compilation of actions required by other references and include the following provisions:

- a) Mandates that property owners with structures comply with Defensible Space requirements, and also mandates that owners of properties adjacent to structures also comply with Defensible Space requirements (whether or not those structures are on their property).
 - b) Clarifies throughout subsection 4907.4 that Defensible Space requirements are to be implemented within 100 feet of structures. This dimension is consistent with State law. This subsection also clarifies that the amount and intensity of fuel management is subject to variation within the 100-foot perimeter, which is also consistent with Defensible Space requirements under State law.
 - c) Allows the fire department to extend vegetation management requirements to beyond 100 feet from a structure where a distance of 100 feet would be inadequate to protect the structure from a wildfire burning under average weather conditions.
 - d) Mandates traditional, accepted vegetation management practices such as the limbing of trees, clearance from chimneys, debris removal from roofs and property, and the removal of miscellaneous hazards such as hanging bark, light fuels, debris, litter and wood piles.
- 4) Modify the adoption of local amendment, Additional Subsection 4907.2.2, "Corrective actions". This subsection allows the fire department to pursue correction of Chapter 49 violations using the tools and methods already established in the B.M.C. This subsection has historically provided that the City Council is authorized to instruct the fire code official to notice properties of hazards, correct such conditions, and/or for Council to cause the correction of violations and if necessary levy liens against properties. This enforcement approach may have been feasible at some point in the past, but the sheer scope and scale of the problem and program have increased to the point that a much more efficient and streamlined enforcement process be adopted.

Staff is planning to perform a presentation on this item at the next DFSC meeting. Due to the heavy workload of the Fire Prevention Division, work was just completed on this draft and it was submitted to OnBase for the November 15th Council meeting.

Please contact me if you have any questions ahead of the meeting or have a particular questions you would like to ensure we focus on during the presentation.

Attachments:

- 2022_BFC_Ordinance_ATT 1_FirstReading.docx

**ORDINANCE NO. ##,###-N.S.
REPEALING AND RE-ENACTING BERKELEY MUNICIPAL CODE CHAPTER 19.48
(FIRE CODE)**

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

Section 1. That Berkeley Municipal Code Chapter 19.48 is hereby repealed and reenacted as to read as follows:

Section 19.48.010 Adoption of California Fire Code

- A. The California Fire Code, 2022 edition, as adopted in Title 24, Part 9 of the California Code of Regulations, including Chapter 1 (excluding Section 103), Chapter 3, Section 503 of Chapter 5, Sections 1103.5.6 through 1103.5.6.3 (new sections as created by BMC 19.48.020, Amendments to the California Fire Code), Appendix Chapters D, E, F, L (as amended by BMC 19.48.020, Amendments to the California Fire Code) and O published by the International Code Council not included in the California Building Standards Code, are adopted by this reference into this Chapter, and are hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth this ordinance. One copy of this Code is on file in the office of the City Clerk of the City of Berkeley.
- B. This chapter shall be known as the "Berkeley Fire Code" and shall be referred to in this chapter as "this code".
- C. This Chapter will become effective on January 1, 2023.

Section 19.48.020 Amendments to the California Fire Code

The following additions, changes and deletions to the 2022 California Fire Code, as detailed below, are adopted as part of the Berkeley Fire Code.

- A. **Section 101.1 Title [Amended subsection].** ~~These regulations shall be known as the Fire Code of [NAME OF JURISDICTION], including the local amendments to the California Fire Code set forth in this ordinance, shall be known as the Berkeley Fire Code, hereinafter referred to as "this code."~~
- B. **Section 107.7. Expense of securing emergencies [Additional subsection]** The expense of securing any emergency that is within the responsibility for enforcement of the fire code official as given in Sections 104.1 or 104.11 is a charge against the person who caused the emergency. Damages and expenses incurred by any public agency having jurisdiction or any public agency assisting the agency having jurisdiction shall constitute a debt of such person and shall be collectible by the fire code official for proper distribution in the same manner as in the case of an obligation under contract expressed or implied. Expenses as stated above shall include, but not be limited to, equipment and personnel committed and any payments required by the public agency to outside business firms requested by the public agency to secure the emergency, monitor remediation, and clean up.

- C. Section 102.6 Historic buildings. [Amended subsection]** The provisions of this code relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings where such buildings or structures do not constitute a distinct hazard to life or property. Fire protection in designated historic buildings shall be provided ~~with an approved fire protection plan as required in Section 1403.1.1.~~ in accordance with the 2022 California Historical Building Code.
- D. Section 104.13. Authority to arrest and issue citations [Additional subsection]** The Fire Chief, Chief Officers, Fire Marshal, Deputy Fire Marshal, and Fire Inspectors shall have authority to arrest or to cite any person who violates any provision of this Chapter involving the International Fire Code or the California Building Standards Code regulations relating to fire and panic safety as adopted by the State Fire Marshal, in the manner provided for the arrest or release on citation and notice to appear with respect to misdemeanors or infractions, as prescribed by Chapters 5, 5c and 5d of Title 3, Part 2 of the California Penal Code, including Section 853.6, or as the same hereafter may be amended. It is the intent of the City Council that the immunities provided in Penal Code Section 836.5 are applicable to aforementioned officers and employees exercising their arrest or citation authority within the course and scope of their employment pursuant to this Chapter.
- E. Section 104.14 Authority to abate fire nuisance [Additional subsection].** The Fire Chief, Chief Officers, Fire Marshal, Deputy Fire Marshal, Fire Inspectors, Fire Officers and Acting Fire Officers shall have the authority to order the abatement of fire nuisances.
- F. 105.5.18 Flammable and combustible liquids. [Amended subsection]** An operational permit is required:
1. To use or operate a pipeline for the transportation within facilities of flammable or combustible liquids. This requirement shall not apply to the offsite transportation in pipelines regulated by the Department of Transportation (DOTn) nor does it apply to piping systems.
 2. To store, handle or use Class I liquids in excess of 5 gallons (19 L) in a building or in excess of 10 gallons (37.9 L) outside of a building, except that a permit is not required for the following:
 - 2.1. The storage or use of Class I liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant, unless such storage, in the opinion of the fire code official, would cause an unsafe condition.
 - 2.2. The storage or use of paints, oils, varnishes or similar flammable mixtures where such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days.
 3. To store, handle or use Class II or Class IIIA liquids in excess of 25 gallons (95 L) in a building or in excess of 60 gallons (227 L) outside a building, except for fuel oil used in connection with oil-burning equipment.

4. To store, handle or use Class IIIB liquids in excess of 110 gallons in containers, or in tanks or portable tanks for fueling motor vehicles at motor fuel-dispensing facilities or where connected to fuel-burning equipment.
Exception: Fuel oil and used motor oil used for space heating or water heating.
5. To remove Class I or II liquids from an underground storage tank used for fueling motor vehicles by any means other than the approved, stationary on-site pumps normally used for dispensing purposes.
6. To operate tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.
7. To place temporarily out of service (for more than 90 days) an underground, protected above-ground or above-ground flammable or combustible liquid tank.
8. To change the type of contents stored in a flammable or combustible liquid tank to a material that poses a greater hazard than that for which the tank was designed and constructed.
9. To manufacture, process, blend or refine flammable or combustible liquids.
10. To engage in the dispensing of liquid fuels into the fuel tanks of motor vehicles at commercial, industrial, governmental or manufacturing establishments in accordance with Section 5706.5.4 or to engage in on-demand mobile fueling operations in accordance with Section 5707.
11. To utilize a site for the dispensing of liquid fuels from tank vehicles into the fuel tanks of motor vehicles, marine craft and other special equipment at commercial, industrial, governmental or manufacturing establishments in accordance with Section 5706.5.4 or, where required by the fire code official, to utilize a site for on-demand mobile fueling operations in accordance with Section 5707.

- G. **Section 105.5.55 Christmas tree sales lot. [Additional subsection]** An operational permit is required to operate a Christmas tree sales lot.
- H. **Section 105.5.56 Escort convoy service [Additional subsection]** Police and/or Fire Department convoy service for vehicle transportation of extremely hazardous materials.
- I. **Section 105.5.57 Fire Fighter Air Replenishment System (FARS). [Additional subsection]** An annual operational permit is required to maintain a FARS system in accordance with Appendix L.
- J. **Section 105.5.58 General use permit. [Additional subsection]** For any activity or operation not specifically described in this code, which the fire code official reasonably determines, may produce conditions hazardous to life or property.
- K. **Section 105.5.59 Parking facility, special events [Additional subsection]** An operational permit is required to use buildings or structures for vehicle parking, including parking for special events (i.e. football games, etc.).

- L. **Section 105.6.25 Fire fighter air replenishment system (FARS). [Additional subsection]** A construction permit is required for installation of or modification to a FARS system in accordance with Appendix L.
- M. **Section 105.6.26 Window bars, operational constraints and opening control devices. [Additional subsection]** A construction permit is required to install window bars or other equipment which imposes operational constraints and opening controls on emergency escape and rescue openings on exterior doors or windows of any sleeping rooms in accordance with fire code Section 1031.2.1 of this code.
- N. **Section 107.2 Schedule of permit fees. [Amended subsection]** Where a permit is required, a fee for each permit shall be paid as required, in accordance with the schedule as established by the applicable governing body. Of fees for permits and inspections as set forth by the City Council by resolution.
- O. **Section 107.4 Work commencing before permit issuance [Amended subsection]**. A person who commences any work, activity or operation regulated by this code before obtaining the necessary permits shall be subject to a fee established by the applicable governing authority, which shall be in addition to the required permit fees. equivalent to three times the amount of the required fees to obtain a permit for that work, activity or operation regulated by this code.
- P. **SECTION 111 MEANS OF APPEALS [Amended Section]**
- Q. **Section 111.1 Board of appeals established. Appeals Procedure [Amended subsection]** In order to hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code, ~~there shall be and is hereby created a board of appeals.~~ The board of appeals shall be appointed by the applicable governing authority and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the fire code official. An appeal therefore may be taken to the City Council by the applicant or permit holder. Notice of the appeal must be filed in triplicate with the City Clerk of the City of Berkeley within ten days from the date of mailing of the fire code official's decision to the applicant or permit holder. The notice of appeal shall contain a statement of the reasons for the appeal. The City Clerk shall forward one copy thereof to the fire code official. Within ten days after the filing of the notice of appeal, the fire code official shall transmit to the City Council all his/her records pertaining to the decision appealed from.
- R. **Section 111.1.1 Stay of Proceedings [Additional subsection]** The filing of the notice of appeal shall stay all proceedings by all parties in connection with the matter upon which the appeal is taken until determination of the appeal as hereinafter provided, unless the fire code official determines that such a stay could result in an imminent threat to public safety.

- S. **Section 111.3 Qualifications.** ~~The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to hazards of fire, explosions, hazardous conditions or fire protection systems, and are not employees of the jurisdiction.~~ **Decisions [Amended subsection]** The City Council shall review the action of the fire code official and shall do any one of the following:
- a. Refer the matter back to the fire code official.
 - b. If the facts stated in or ascertainable from the application, the Notice of Appeal, the written statement of the fire code official setting forth the reason for his/her decision, and the other papers, if any, constituting the record do not, in the opinion of the City Council, warrant further hearing, the City Council may affirm the decision of the fire code official. Such decision shall be final.
 - c. If, in the opinion of the City Council, said facts warrant further hearing, the City Council shall set the matter for hearing and shall give notice of the time and place of said hearing by mailing a copy of such notice by certified mail to the address of the applicant as stated in the Notice of Appeal, at least ten (10) days before the time fixed for the hearing. The City Council may continue the hearing from time to time.
 - d. Following such hearing, the City Council shall reverse, affirm wholly or partly modify any decision of the fire code official, or make any other decisions or determinations or impose such conditions as the facts warrant. Such decision or determination shall be final.
 - e. If none of the above actions have been taken by the City Council within thirty (30) days from the date the appeal first appears on the City Council agenda, then the decision of the fire code official shall be deemed affirmed and the appeal shall be deemed dismissed.
 - f. If the appeal is set for hearing but the disposition of the appeal has not been determined within ninety (90) days from the date the appeal first appears on the City Council agenda, then the decision of the fire code official shall be deemed affirmed and the appeal deemed dismissed.
- T. **Section 112.1 Unlawful acts [Amended subsection].** It shall be unlawful for a person, firm or corporation to erect, construct, alter, repair, remove, demolish or utilize a building, occupancy, premises or system regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code, or to create, maintain or allow to continue any fire hazard.
- U. **Section 112.4 Violation penalties [Amended subsection].** Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a [SPECIFY OFFENSE], ~~punishable by a fine of not more than [AMOUNT] dollars or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment~~ misdemeanor, but may be cited or charged, at the election of the enforcing officer or City Attorney, as infractions, subject to an election by the defendant under Penal Code Subsection 17 (d). Each day that a violation continues after due notice has been served shall be deemed a separate offense. In

addition to all other legal remedies, civil or criminal (as set forth above), any violation of this code constitutes a public nuisance in accordance with B.M.C Chapter 1.26, and is subject to all provisions of B.M.C. Chapter 1.26, as well as abatement under B.M.C. Chapter 1.24, "Abatement of Nuisances". All such violations are also subject to the issuance of an administrative citation in accordance with B.M.C Chapter 1.28 at the discretion of the enforcing officer or the City Attorney.

- V. **Section 114.7 Summary abatement [Amended subsection]** Where conditions exist that are deemed hazardous to life and property, the fire code official or fire department official in charge of the incident is authorized to abate summarily such hazardous conditions that are in violation of this code. Where the owner does not comply with an abatement order under Section 114.4 within the period specified, the City of Berkeley may perform or cause to be performed the necessary work. The costs incurred shall be recoverable under the procedures in Section 114.7.1
- W. **Section 114.7.1 Abatement process [Additional subsection]** The abatement process shall be conducted in accordance with the notice and hearing requirements of the nuisance abatement provisions of Berkeley Municipal code chapter 1.24, including summary abatements of structures or premises determined by the City of Berkeley to constitute an imminent hazard or emergency condition.
- X. **Section 202 Definitions – B [Additional definition] BERKELEY MARINA.** The area shall mean all those, parts of the City of Berkeley west of the Interstate 80 Freeway
- Y. **Section 202 (Definitions — F) [Additional definition] FIRE HAZARD.** Anything or act which increases or could cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing or extinguishing fire or anything or act which could obstruct, delay, hinder or interfere with the operations of the fire department or the egress of occupants in the event of fire. Fire hazards as defined herein are hereby declared to be public nuisances subject to abatement by the City of Berkeley.
- Z. **Section 202 (Definitions — F) [Additional definition] FIRE NUISANCE.** Anything or act, which is annoying, unpleasant, offensive or obnoxious because of fire.
- AA. **Section 202 (Definitions – J [Amended definition]. JURISDICTION.** The City of Berkeley. The governmental unit that has adopted this code.
- BB. **Section 202 (Definitions — W) [Additional definition] WASTE OIL** is a Class III-B waste liquid resulting from the use of Class III-B combustible liquids such as waste motor oil, hydraulic oil, lubricating oil, brake fluids and transmission fluids.
- CC. **Section 504.1.1 Marking of Exterior Building Openings [Additional subsection].** Where exterior doorways are not otherwise marked with identification such as building addresses, room/suite numbers or business names which identify

the area(s) they provide access to, or a functional description for the space, such opening shall be provided with signs or labels indicating the areas they serve. Doorways to be marked shall include but are not limited to doors serving building circulation (such as stairwells/exit passageways), potential hazards (such as trash rooms), and building service and utility spaces (such as electrical, gas, HVAC and elevator machine rooms). Signs/labels shall be permanent, weather and sunlight resistant with lettering not less than 3/4" high with a 1/16" width stroke on a contrasting background. Such signs or labels shall be affixed to the door frame or wall above the door. Such signs and labels shall be maintained.

Exception: Doors associated with private dwellings, the main entrance to normally occupied spaces or when determined to be unnecessary by the fire code official.

DD. Section 705.2.5 Smoke- and heat-activated doors. [Amended subsection]

Smoke-activated doors shall be maintained to self-close or automatically close upon detection of smoke. Existing fusible-link-type automatic-door closing devices are permitted if the fusible-link rating does not exceed 135°F (57°C). Doors required for fire and smoke separation for interior exit stairways and floor separation in R-1 or R-2 occupancies shall not be maintained in an open position with fusible links.

EE. Section 903.2.10.1 Commercial parking garages [Amended subsection]. An automatic sprinkler system shall be provided throughout buildings used for storage of commercial motor vehicles ~~where the fire area exceeds 5,000 square feet (464 m²).~~

FF. Section 903.2.11.1 Stories without openings [Amended subsection]. An automatic sprinkler system shall be installed throughout all buildings having stories, including basements, of all buildings where the floor area exceeds 1,500 square feet (139.4 m²) and where the story does not comply with the following types of exterior wall openings:

1. Openings below grade that lead directly to ground level by an exterior stairway complying with Section 1011 or an outside ramp complying with Section 1012. Openings shall be located in each 50 linear feet (15 240 mm), or fraction thereof, of exterior wall in the story on not fewer than one side. The required openings shall be distributed such that the lineal distance between adjacent openings does not exceed 50 feet (15 240 mm).
2. Openings entirely above the adjoining ground level totaling not less than 20 square feet (1.86 m²) in each 50 linear feet (15 240 mm), or fraction thereof, of exterior wall in the story on not fewer than one side. The required openings shall be distributed such that the lineal distance between adjacent openings does not exceed 50 feet (15 240 mm) The height of the bottom of the clear opening shall not exceed 44 inches (1118 mm) measured from the floor.

GG. Section 903.2.11.2.Rubbish, Recycling and linen chutes. [Amended subsection] An automatic sprinkler system shall be installed at the top of rubbish and linen chutes and in their terminal rooms. Chutes shall have additional sprinkler heads installed at alternate floors and at the lowest intake. Where a rubbish chute

extends through a building more than one floor below the lowest intake, the extension shall have sprinklers installed that are recessed from the drop area of the chute and protected from freezing in accordance with Section 903.3.1.1. Such sprinklers shall be installed at alternate floors, beginning with the second level below the last intake and ending with the floor above the discharge. Access to sprinklers in chutes shall be provided for servicing. Activation of any fire sprinkler in a chute shall activate a separate water flow switch to indicate waterflow in the chute. All fire sprinklers in the chute shall be controlled by a separate, electrically supervised control valve with tamper switch.

- HH. **Section 903.2.21 Structures in the Berkeley Marina Area [Additional subsection]** An automatic sprinkler system shall be installed in all structures located in the Berkeley Marina Area in accordance with NFPA 13 standards. **Exceptions:** Gear lockers not designed to permit human entry, municipal restrooms unattached to other structures, the existing City of Berkeley Harbor Master's office, and any temporary construction site structures.
- II. **Section 903.2.22 Public Self-Storage Buildings [Additional subsection]** An automatic sprinkler system shall be installed in any building erected or existing building that was converted and/or subdivided for public self-storage use on or after August 19, 1982, in accordance with NFPA 13 standards.
- JJ. **Section 903.2.23 Environmental Safety - Residential District [Additional subsection]** Any new construction requiring a permit determined to be \$100,000 or more in construction costs or new additions to existing structures shall be required to install automatic fire sprinklers throughout the structure. For the purpose of this subsection "Environmental Safety — Residential District" shall mean those areas designated as such on the Official Zoning Map of the City of Berkeley, as it may be amended from time to time.
- KK. **Section 903.3.1.2 NFPA 13R sprinkler systems. [Amended subsection]**
Automatic sprinkler systems in Group R occupancies shall be permitted to be installed throughout in accordance with NFPA 13R *as amended in Chapter 80*.
1. Four stories or less above grade plane.
 2. The floor level of the highest story is 30 feet (9144mm) or less above the lowest level of fire department vehicle access.
 3. The floor level of the lowest story is 30 feet (9144mm) or less below the lowest level of fire department access.
- The number or stores of Group R occupancies constructed in accordance with Sections 510.2 and 510.4 of the *California Building Code* shall be measured from grade plane.
- Exception:** Sprinkler systems in residential / commercial mix-use buildings are to be in accordance with NFPA 13.
- LL. **Section 903.3.9 Floor control valves. [Amended subsection]** Floor control valves and waterflow detection assemblies shall be installed at each floor where any of the following occur:

1. Buildings where the floor level of the highest story is located ~~more than~~ more 30 feet or more above the lowest level of fire department vehicle access.
2. Buildings that are ~~four~~ three or more stories in height.
3. Buildings that are two or more stories below the highest level of fire department vehicle access.

Exception: In Group R-3 and R-3.1 occupancies, floor control valves and waterflow detection assemblies shall not be required.

- MM. **Section 907.2 Where required—new buildings and structures [Amended subsection].** An approved fire alarm system installed in accordance with the provisions of this code and NFPA 72 shall be provided in new buildings and structures in accordance with Sections 907.2.1 through 907.2.29 and provide occupant notification in accordance with Section 907.5, unless other requirements are provided by another section of this code.

Not fewer than one manual fire alarm box shall be provided in an approved location to initiate a fire alarm signal for fire alarm systems employing automatic fire detectors or water-flow detection devices. Where an automatic and manual, or a manual fire alarm system is required by this code or Berkeley local ordinance, ~~other sections of this code allow elimination of fire alarm boxes is prohibited. due to sprinklers or automatic fire alarm systems,~~ a single fire alarm box shall be installed at a location approved by the enforcing agency.

Exceptions:

1. ~~The manual fire alarm box is not required for fire alarm control units dedicated to elevator recall control, supervisory service and fire sprinkler monitoring.~~
2. ~~The manual fire alarm box is not required for Group R-2 occupancies unless required by the fire code official to provide a means for fire watch personnel to initiate an alarm during a sprinkler system impairment event. Where provided, the manual fire alarm box shall not be located in an area that is open to the public.~~
3. ~~The manual fire alarm box is not required to be installed when approved by the fire code official.~~

- NN. **Section 907.2.1 Group A. [Amended subsection]** A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group A occupancies where the occupant load due to the assembly occupancy is 300 or more, or where the Group A occupant load is more than 100 persons above or below the lowest level of exit discharge. Group A occupancies not separated from one another in accordance with Section 707.3.10 of the *California Building Code* shall be considered as a single occupancy for the purposes of applying this section. Portions of Group E occupancies occupied for assembly purposes *with an occupant load of less than 1000* shall be provided with a fire alarm system as required for the Group E occupancy.

Exception: ~~Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.~~

Every Group A building used for educational purposes shall be provided with a manual or automatic fire alarm system. This provision shall apply to, but shall not necessarily be limited to, every community college and university.

Exception: *Privately owned trade or vocational schools or any firm or company which provides educational facilities and instruction for its employees.*

OO. **Section 907.2.2 Group B. [Amended subsection]** A manual fire alarm system shall be installed in Group B occupancies where one of the following conditions exists:

1. The combined Group B occupant load of all floors is 500 or more.
2. The Group B occupant load is more than 100 persons above or below the lowest level of exit discharge.
3. The fire area contains an ambulatory care facility.
4. *For Group B occupancies containing educational facilities, see Section 907.2.2.2.*

~~**Exception:** Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.~~

PP. **Section 907.2.4 Group F. [Amended subsection]** A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group F occupancies where both of the following conditions exist:

1. The Group F occupancy is two or more stories in height.
2. The Group F occupancy has a combined occupant load of 500 or more above or below the lowest level of exit discharge.

~~**Exception:** Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.~~

QQ. **Section 907.2.7 Group M. [Amended subsection]** A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group M occupancies where one of the following conditions exists:

1. The combined Group M occupant load of all floors is 500 or more persons.
2. The Group M occupant load is more than 100 persons above or below the lowest level of exit discharge.

Exceptions:

1. A manual fire alarm system is not required in covered or open mall buildings complying with Section 402 of the *California Building Code*.
2. ~~Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will automatically activate throughout the notification zones upon sprinkler water flow.~~

RR. **Section 907.2.8.1 Manual fire alarm system [Amended subsection].** A manual and automatic fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R-1 occupancies.

Exceptions:

~~1. A manual fire alarm system is not required in buildings not more than two stories in height where all individual sleeping units and contiguous attic and crawl spaces to those units are separated from each other and public or common areas by not less than 1-hour fire partitions and each individual sleeping unit has an exit directly to a public way, egress court or yard.~~

~~2. Manual fire alarm boxes are not required throughout the building where all the following conditions are met:~~

~~2.1. The building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.~~

~~2.2. The notification appliances will activate upon sprinkler water flow.~~

~~2.3. Not fewer than one manual fire alarm box is installed at an approved location.~~

SS. Section 907.2.8.2 Manual and Automatic fire alarm systems ~~smoke detection system~~ [Amended subsection]. ~~An A manual and automatic smoke detection fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed throughout all interior corridors and common areas of Group R-1 occupancies. The detection device for this purpose shall be a smoke detector (or heat detector as approved), which is system connected and electronically supervised serving sleeping units.~~

Exception: ~~An automatic smoke detection system is not required in buildings that do not have interior corridors serving sleeping units and where each sleeping unit has a means of egress door opening directly to an exit or to an exterior exit access that leads directly to an exit.~~

TT. Section 907.2.9.1 Automatic and Manual fire alarm system [Amended subsection]. ~~An automatic and manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R-2 occupancies where any of the following conditions apply:~~

- ~~1. The building is three or more stories in height and Any any dwelling unit or sleeping unit is located three or more stories above the lowest level of exit discharge.~~
- ~~2. Any dwelling unit or sleeping unit is located more than one story below the highest level of exit discharge of exits serving the dwelling unit or sleeping unit.~~
- ~~3. The building contains more than 16 dwelling units or sleeping units.~~
- ~~4. Congregate residences with more than 16 occupants.~~

Exceptions:

- ~~1. A fire alarm system is not required in buildings not more than two stories in height where all dwelling units or sleeping units and contiguous attic and crawl spaces are separated from each other and public or common areas by not less than 1-hour fire partitions and each dwelling unit or sleeping unit has an exit directly to a public way, egress court or yard.~~
- ~~2. Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 and the occupant notification appliances will~~

automatically activate throughout the notification zones upon a sprinkler water flow.

32. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units and are protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that dwelling units either have a means of egress door opening directly to an exterior exit access that leads directly to the exits or are served by open-ended corridors designed in accordance with Section 1027.6, Exception 3.

UU. **Section 914.3.9 Fire Fighter Air Replenishment Systems [Additional subsection]** New high-rise buildings shall install an approved Fire Fighter Air Replenishment System (FARS) or equivalent equipment or systems as determined by the fire code official to provide a breathing air supply for firefighting self-contained breathing air tanks. Such system or equipment shall provide adequate pressurized breathing air supply through a permanent piping system or other means acceptable to the fire code official for the replenishment of portable life sustaining air equipment carried by fire department, rescue and other personnel in the performance of their duties. Design, installation, testing and maintenance of such air replenishment systems shall be made in accordance with Appendix Chapter F of the California Plumbing Code. Each property owner shall be responsible for maintaining such equipment or systems including annual air sampling and testing.

Exceptions:

1. Buildings equipped with Firefighter Access Elevators as required by Berkeley Building Code section 403.6.1
2. Where an alternate method of supplying breathing air replenishment is approved by the fire code official.

VV. **Section 1103.5 Sprinkler systems. [Amended subsection]** An automatic sprinkler system shall be provided in existing buildings in accordance with Section 1103.5.1 through 1103.5.5-6.3

WW. **Section 1103.5.6 Automatic Sprinkler Requirements for Existing Hotels [Additional subsection]**

XX. **Section 1103.5.6.1 Definitions [Additional subsection].** For the purposes of this Section, the following terms shall be defined as follows:

1. "Hotel" shall mean any building, including motels, dormitories, rooming houses, fraternity houses and sorority houses, which contain six or more rooms which were intended or designed to be used, or which are used, for the purposes of renting, hiring or letting to residential occupants for sleeping purposes but shall not include apartment buildings as defined in this code.
2. "Story" is as defined in the Berkeley Building Code.
3. "First Story" is as defined in the Berkeley Building Code.
4. "Basement" is as defined in the Berkeley Building Code.
5. "Balcony, Exterior Exit" shall mean a landing or porch projecting from the wall of a building which serves as a required exit. The long side shall be at least 50

percent directly open to the exterior, and the open area above the guardrail shall be so configured as to prevent the accumulation of smoke or toxic gases.

Application: This section shall apply to every hotel in which the rooms used for sleeping are rented or let above the ground floor, if the hotel was built prior to 1992, and also meets one of the following two conditions:

The height of the hotel is three or more stories or two stories plus an inhabited basement, which is used for purposes other than exclusively servicing the maintenance and other needs of the building; or the hotel contains 20 or more rooms, or regularly accommodates 20 or more residential occupants.

Exception: No hotel in which the exits from sleeping rooms lead either to the outside of the building either directly or via approved exit balconies with approved exterior stairways(s) in accordance with the requirements of the Berkeley Building Code is required to comply with this section.

YY. **Section 1103.5.6.2 Types of Fire Sprinklers [Additional subsection].** In the sleeping units of the building, only residential or quick response sprinkler heads shall be used.

ZZ. **Section 1103.5.6.3 Supervision of fire sprinkler systems [Additional subsection].** All automatic sprinkler systems installed under this subsection shall be monitored for supervision and alarms in accordance with Section 903.4.

Section 1103.7 Fire Alarm Systems [Amended subsection]. An approved fire alarm system shall be installed in existing buildings and structures in accordance with Sections 1103.7.1 through 1103.7.6 and provide occupant notification in accordance with Section 907.5 unless other requirements are provided by other sections of this code. Existing high-rise buildings shall comply with Section 1103.7.9. Where an automatic and manual or a manual fire alarm system is required by this code or Berkeley local ordinance, elimination of fire alarm boxes in buildings equipped with an approved sprinkler system is prohibited.

Exception: Occupancies with an existing, previously approved fire alarm system When deemed not required by the fire code official.

AAA. **Section 1103.7.5.1 Group R-1 hotels, and motels, and congregate residences manual and automatic fire alarm system [Amended subsection].** A manual and automatic fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in existing Group R-1 hotels, and motels, and congregate residences ~~more than~~with three or more stories or with ~~more than 20 or more~~ sleeping units.

Exceptions:

- ~~1. A manual fire alarm system is not required in buildings less than two stories in height where all sleeping units, attics and crawl spaces are separated by 1-hour fire resistance rated construction and each sleeping unit has direct access to a public way, egress court or yard.~~
- ~~2. A manual fire alarm system is not required in buildings not more than three stories in height with not more than 20 sleeping units and equipped~~

~~throughout with an automatic sprinkler system installed in accordance with Sections 903.3.1.1 or 903.3.1.2.~~

~~3. Manual fire alarm boxes are not required throughout the building where the following conditions are met:~~

~~3.1. The building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.~~

~~3.2. The notification appliances will activate upon sprinkler water flow.~~

~~3.3. Not less than one manual fire alarm box is installed at an approved location.~~

BBB. Section 1103.7.6 Group R-2 [Amended subsection]. A manual and automatic fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in existing Group R-2 occupancies three or more stories in height or with 16 or more dwelling or sleeping units. Congregate residences shall retrofit existing manual-only fire alarm systems with manual and automatic fire detection. Other types of R-2 occupancies (such as apartment buildings) shall retrofit existing manual-only fire alarm systems with manual and automatic fire detection when the existing fire alarm control unit is replaced for any reason. Automatic detection shall be accomplished by use of a smoke detector (or heat detector as approved), which is system connected and electronically supervised. Detectors shall be installed in all interior corridors and common areas.

Exceptions:

1. Where each living unit is separated from other contiguous living units by fire barriers having a fire-resistance rating of not less than 3/4 hour, and where each living unit has either its own independent exit or its own independent stairway or ramp discharging at grade.
3. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units and are protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that dwelling units either have a means of egress door opening directly to an exterior exit access that leads directly to the exits or are served by open ended corridors designed in accordance with Section 1027.6, Exception 3.
4. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units, do not exceed three stories in height and comply with both of the following:
 - 4.1. Each dwelling unit is separated from other contiguous dwelling units by fire barriers having a fire-resistance rating of not less than ¾ hour.
 - 4.2. Each dwelling unit is provided with hard-wired, interconnected smoke alarms as required for new construction in Section 907.2.10.

CCC. Section 1103.7.10 Monitoring of Group R Occupancies [Additional subsection] All existing R occupancies that are required to provide both a fire alarm and fire suppression system shall have the system monitored by a central station, remote supervising station, or proprietary supervising station.

DDD. **Section 4902.1 General [Amended subsection].** For the purpose of this chapter, certain terms are defined as follows:

DIRECTOR. Director of the California Department of Forestry and Fire Protection (CAL FIRE).

FIRE PROTECTION PLAN [Amended definition]. A document prepared for a specific premises, project or development, either existing or proposed for a Wildland-Urban Interface (WUI) Fire Area. It describes ways to minimize and mitigate potential for loss from wildfire exposure.

FIRE HAZARD SEVERITY ZONES. Geographical areas designated pursuant to California Public Resources Codes, Sections 4201 through 4204 and classified as Very High, High, or Moderate in State Responsibility Areas or as Local Agency Very High Fire Hazard Severity Zones designated pursuant to California Government Code, Sections 51175 through 51189.

The California Code of Regulations, Title 14, Section 1280 entitles the maps of these geographical areas as "Maps of the Fire Hazard Severity Zones in the State Responsibility Area of California."

FIRE ZONE ONE [Additional definition] shall encompass the entire City of Berkeley except for Fire Zones Two and Three.

FIRE ZONE TWO [Additional definition] encompasses those areas designated as Combined Hillside District in the Official Zoning map of the City of Berkeley and those areas designated as Very High in the official Fire Hazard Severity Zones (FHSZ) map of the California Department of Forestry and Fire Protection (CAL FIRE), as they may be amended from time to time. The following properties, not part of the Combined Hillside District, are included in Fire Zone Two under the Very High designation of the FHSZ map: the eastern section of the University of California, Berkeley main campus, block number 2042 (Alameda County Assessor's parcel numbering (APN) system), to the east city line; all of the Clark-Kerr campus, block number 7690, to the east city line; all of block number 7680 in the City of Berkeley; portions of block number 1702 in the City of Berkeley. These additional parcels and their assigned street address are established in Section 19.28.030 of the Berkeley Municipal Code, Berkeley Building Code and are specified in Table 4902.1.

Table 4902.1

Parcels Added to the Berkeley Combined Hillside District	
Parcel Number (APN)	Address
<u>048-7680-001-02</u>	<u>3 Tanglewood Road</u>
<u>048-7680-002-01</u>	<u>5 Tanglewood Road</u>
<u>048-7680-031-00</u>	<u>7 Tanglewood Road</u>
<u>048-7680-019-00</u>	<u>11 Tanglewood Road</u>
<u>048-7680-014-00</u>	<u>19 Tanglewood Road</u>
<u>048-7680-032-01</u>	<u>25 Tanglewood Road</u>
<u>048-7680-027-00</u>	<u>29 Tanglewood Road</u>
<u>054-1702-067-00</u>	<u>10 Tanglewood Road</u>
<u>054-1702-068-00</u>	<u>18 Tanglewood Road</u>
<u>054-1702-069-00</u>	<u>22 Tanglewood Road</u>
<u>054-1702-070-00</u>	<u>28 Tanglewood Road</u>
<u>054-1702-063-00</u>	<u>2701 Belrose Avenue</u>
<u>054-1702-076-00</u>	<u>2715 Belrose Avenue</u>

<u>054-1702-075-00</u>	<u>2721 Belrose Avenue</u>
<u>054-1702-074-00</u>	<u>2729 Belrose Avenue</u>
<u>054-1702-073-00</u>	<u>2737 Belrose Avenue</u>
<u>054-1702-112-00</u>	<u>2801 Claremont Boulevard</u>
<u>054-1702-123-01</u>	<u>2811 Claremont Boulevard</u>
<u>054-1702-122-00</u>	<u>2815 Claremont Boulevard</u>
<u>054-1702-120-01</u>	<u>2821 Claremont Boulevard</u>
<u>054-1702-114-01</u>	<u>2816 Claremont Avenue</u>
<u>054-1702-115-00</u>	<u>2820 Claremont Avenue</u>
<u>054-1702-072-00</u>	<u>3005 Garber Street</u>
<u>054-1702-071-00</u>	<u>3015 Garber Street</u>
<u>054-1702-113-00</u>	<u>3020 Garber Street</u>
<u>054-1702-116-00</u>	<u>3017 Avalon Avenue</u>

Fire Zone One is declared as a Very-High Fire Hazard Severity Zone and Wildland-Urban Interface fire area.

FIRE ZONE 3 [Additional definition] encompasses those areas designated as Environmental Safety - Residential Districts on the Official Zoning Map of the City of Berkeley, as it may be amended from time to time. Fire Zone Three is declared as a Very-High Fire Hazard Severity Zone and Wildland-Urban Interface fire area.

FIRE-RESISTANT VEGETATION. *Plants, shrubs, trees and other vegetation that exhibit properties, such as high moisture content, little accumulation of dead vegetation, and low sap or resin content, that make them less likely to ignite or contribute heat or spread flame in a fire than native vegetation typically found in the region.*

[Note: The following sources contain examples of types of vegetation that can be considered fire-resistant vegetation (Fire-resistant Plants for Home Landscapes, A Pacific Northwest Extension publication; Home Landscaping for Fire, University of California Division of Agriculture and Natural Resources; Sunset Western Garden Book)].

IGNITION-RESISTANT MATERIAL. [Amended definition] *A type of building material that complies with the requirements in Section 704A.2 in the California Berkeley Building Code.*

LOCAL RESPONSIBILITY AREAS (LRA). *Areas of the state in which the financial responsibility of preventing and suppressing fires is the primary responsibility of a city, county, city and county, or district.*

STATE RESPONSIBILITY AREA (SRA). *Lands that are classified by the Board of Forestry pursuant to Public Resources Code Section 4125 where the financial responsibility of preventing and suppressing wildfires is primarily the responsibility of the state.*

WILDFIRE. *Any uncontrolled fire spreading through vegetative fuels that threatens to destroy life, property, or resources as defined in Public Resources Code, Sections 4103 and 4104.*

WILDFIRE EXPOSURE. *One or a combination of radiant heat, convective heat, direct flame contact and burning embers being projected by vegetation fire to a structure and its immediate environment.*

WILDLAND-URBAN INTERFACE FIRE AREA (WUI).**[Amended definition]** *A geographical area identified by the state as a "Fire Hazard Severity Zone" in accordance with the Public Resources Code, Sections 4201 through 4204, and Government Code, Sections 51175 through 51189, or other areas designated by the enforcing agency to be at a significant risk from wildfires. Berkeley Fire Zones 2 and 3 are designated as Wildland-Urban Interface Fire Areas. See Government Code Chapter 6.8 Very High Fire Hazard Severity Zones and Public Resources Code Article 9 Fire Hazard Severity Area for the applicable referenced sections.*

EEE. **Section 4903.3 Submittal, approval and fees. [Additional subsection]** When required to submit a Fire Protection Plan or Vegetation Management Plan for any reason the responsible party shall prepare or cause to be prepared a Fire Protection Plan in accordance with the latest standards of the Berkeley Fire Department. The Fire Protection Plan shall be submitted to, reviewed and approved by the Berkeley Fire Department and shall be enforced and maintained by the responsible party or their designated agent. The Berkeley Fire Department may charge an appropriate fee for the review, approval and processing of the Fire Protection Plan in accordance with the hourly rate established by City Council resolution.

FFF. **Section 4904.3 Berkeley Fire Hazard Severity Zones [Additional subsection].**

FIRE ZONE TWO. Berkeley Fire Zone Two is designated a Very-High Fire Hazard Severity Zone and Wildland-Urban Interface Fire Area. All requirements of Berkeley Fire Code Chapter 49 and Berkeley Municipal Code Section 19.28.030 (Berkeley Building Code, Chapter 7A) and shall apply.

FIRE ZONE THREE. Berkeley Fire Zone Three is designated a Very-High Fire Hazard Severity Zone and Wildland-Urban Interface Fire Area. All requirements of Berkeley Fire Code Chapter 49 and Berkeley Municipal Code Section 19.28.030, Berkeley Building Code, Chapter 7A shall apply.

GGG. ***Section 4905.2 Construction methods and requirements within established limits [Amended subsection].*** *Within the limits established by law, construction methods intended to mitigate wildfire exposure shall comply with the wildfire protection building construction requirements contained in the California Building Standards Code Berkeley Building and Berkeley Residential Codes, including the following:*

1. California Building Code, Chapter 7A. Chapter 7A of the Berkeley Building Code (B.B.C), Berkeley Municipal Code Section 19.28.030.
2. California Residential Code Section R337 of the Berkeley Residential Code (B.R.C.), Berkeley Municipal Code Section 19.29.050.
3. *California Referenced Standards Code, Chapter 12-7A.*

HHH. **Section 4906.5 Maintenance of existing vegetation [Additional subsection].** Maintenance and management of existing vegetation shall be in accordance with this Section and with Section 4907, "Defensible Space".

III. **Section 4906.5.1 Electrical Equipment Support Clearance [Additional subsection]**. Persons owning, controlling, operating or maintaining electrical transmission or distribution lines shall have an approved program in place that identifies poles or towers with equipment and hardware types that have a history of becoming an ignition source, and provides a combustible free space consisting of a clearing of not less than 10 feet (3048 mm) in each direction from the outer circumference of such pole or tower during such periods of time as designated by the fire code official.

Exception: Lines used exclusively as telephone, telegraph, messenger call, alarm transmission or other lines classified as communication circuits by a public utility.

JJJ. **Section 4906.5.2 Electrical Distribution and Transmission Line Clearances [Additional subsection]**.

KKK. **Section 4906.5.2.1 General [Additional subsection]**. Clearances between vegetation and electrical lines shall be in accordance with this section.

LLL. **Section 4906.5.2.2 Trimming clearance [Additional subsection]**. At the time of trimming, clearances not less than those established by Table 4906.5.2 should be provided. The radial clearances shown below are minimum clearances that should be established, at time of trimming, between the vegetation and the energized conductors and associated live parts.

Exception: The fire code official is authorized to establish minimum clearances different than those specified in Table 4906.5.2.2 when evidence substantiating such other clearances is submitted to the fire code official and approved.

TABLE 4906.5.2.2 – MINIMUM CLEARANCES BETWEEN VEGETATION AND ELECTRICAL LINES AT TIME OF TRIMMING

<u>Line Voltage</u>	<u>MINIMUM RADIAL CLEARANCE FROM CONDUCTOR (feet) [x 304.8 mm]</u>
<u>400 – 71,999</u>	<u>4</u>
<u>72,000 – 109,999</u>	<u>6</u>
<u>110,000 – 299,999</u>	<u>10</u>
<u>300,000 or more</u>	<u>15</u>

MMM. **Section 4906.5.2.3 Minimum clearance to be maintained [Additional subsection]**. Clearances not less than those established by Table 4906.5.3 shall be maintained during such periods of time as designated by the fire code official. The site specific clearance achieved, at time of pruning, shall vary based on species growth rates, the utility company specific trim cycle, the potential line sway due to wind, line sway due to electrical loading and ambient temperature, and the tree’s location in proximity to the high voltage lines.

Exception: The fire code official is authorized to establish minimum clearances different than those specified by Table 4906.5.3 when evidence substantiating such other clearances is submitted to the fire code official and approved

TABLE 4906.5.2.3 – MINIMUM CLEARANCES BETWEEN VEGETATION AND ELECTRICAL LINES TO BE MAINTAINED

<u>Line Voltage</u>	<u>MINIMUM CLEARANCE (inches) [x 25.4 mm]</u>
<u>750 – 34,999</u>	<u>6</u>
<u>35,000 – 59,999</u>	<u>12</u>
<u>60,000 – 114,999</u>	<u>19</u>
<u>115,000 – 230,000</u>	<u>30-1/2</u>

NNN. **Section 4906.5.3 Electrical power line emergencies [Additional subsection].** During emergencies, the utility company shall perform the required work to the extent necessary to clear the hazard. An emergency can include situations such as trees falling into power lines, or trees in violation of Table 4906.5.3.

OOO. **Section 4906.5.4 Correction of Condition [Additional subsection].** The fire code official is authorized to give notice to the owner of the property on which conditions regulated by Section 4906.5 exist to correct such conditions. If the owner fails to correct such conditions, the City of Berkeley is authorized to cause the same to be done and make the expense of such correction a lien on the property where such condition exists.

PPP. **Section 4906.5.5 Clearance of Brush or Vegetative Growth from Roadways [Additional subsection].** The fire code official is authorized to cause areas within 10 feet (3048 mm) from the edge of the pavement on each side of portions of highways, streets and private roads which are improved, designed or ordinarily used for vehicular traffic to be cleared of flammable vegetation and other combustible growth. The fire code official is authorized to enter upon private property to do so.

Exception: Specimens of trees, ornamental shrubbery, or similar plants which are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any building or structure.

QQQ. **Section 4906.6 Unusual Circumstances [Additional subsection].** If the fire code official determines that difficult terrain, danger of erosion or other unusual circumstances make strict compliance with the clearance of vegetation provisions of Section 4906 undesirable or impractical, enforcement thereof may be suspended and reasonable alternative measures shall be provided.

RRR. **Section 4906.7 Vegetation and combustible material hazards not otherwise regulated [Additional subsection].** No person who has any ownership or possessory interest in or control of a parcel of land shall allow to exist thereon any hazardous vegetation or combustible material which constitutes a fire hazard

as determined by the Fire Code Official, regardless of the vegetation or material's proximity to structures.

SSS. **Section 4907.4 Specific requirements. [Additional subsection].** Persons owning, leasing, controlling, operating or maintaining buildings or structures in, or upon Wildland-Urban Interface Fire Areas shall at all times comply with the specific requirements set forth within the references listed in Section 4907.3, as well as the following minimum requirements.

Persons owning, leasing or controlling land adjacent to such buildings or structures that are in the Wildland-Urban Interface Fire Area, regardless of the status of their land as developed or undeveloped, shall at all times comply with the specific requirements set forth within the references listed in Section 4907.3, as well as the following minimum requirements. The minimum area(s) of these properties that are required to comply with Section 4907.3 and the following requirements are to be based on a 100-foot distance from structures on all adjacent lands, unless the fire code official determines that compliance with section 4907.4, Item 2 is required.

Property owners are not required or authorized by this code to enter the properties of another person to implement the requirements of this Section. Persons described above shall at all times:

1. Maintain an effective firebreak by removing and clearing away flammable vegetation and combustible growth from areas within 100 feet of such buildings or structures, but not beyond the property line.

In accordance with Government Code Section 51182, the amount and intensity of fuels management may vary within the 100-foot perimeter of the structure as determined by the inspecting fire department personnel, with more intense fuel reduction being used between 5 and 30 feet around the structure, and an ember-resistant zone being required within 5 feet of the structure based on regulations promulgated by the State Board of Forestry and Fire Protection; and

Exception: Specimens of trees, ornamental shrubbery, or similar plants which are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any building or structure.

2. Maintain additional fire protection or firebreak by removing brush, flammable vegetation and combustible growth located more than 100 feet from such buildings when the fire department determines that conditions exist which may cause a firebreak of 100 feet to be insufficient to provide reasonable fire safety against a wildfire burning under average weather conditions. This section does not require or authorize property owners to manage vegetation beyond their property lines; and.

Exception: Grass and other vegetation, located more than 30 feet (9144 mm) from buildings or structures, and less than four (4) inches (102 mm)

in height above the ground need not be removed where necessary to stabilize the soil and prevent erosion.

3. Remove portions of trees which extend within 10 feet (3048 mm) of the outlet of a chimney or stovepipe; and
4. Maintain trees, shrubs and other plants free of dead wood where such plants are adjacent to, below or overhanging a building, windows, or attached decks; and
5. Maintain the roof and gutters of a structure free of leaves, needles or other dead vegetative growth and debris; and
6. Brush and debris does not need to be completely removed, but may be chipped into pieces less than three (3) inches in length, provided that the resulting mulch is less than three (3) inches deep; and
7. The trunks of trees are to be maintained so that they are free of hanging bark and debris to a height of at least eight (8) feet. Where understory vegetation is present hanging bark and debris must be removed to a height equivalent to four times the height of the understory vegetation or eight (8) feet, whichever is greater.
8. Limb trees and shrubs by removing branches that are within eight feet (8 ft.) of the ground, or four times the height of the understory vegetation, whichever is greater. Where a tree / shrub is not adaptable to limbing to the height described above, use a combination of limbing and/or modify and remove fuels adjacent to and underneath the plant to provide clearance above grade that is equivalent to four times the height of the tallest understory fuel.
9. Relocate wood piles from within 30 feet of structures, or provide an alternative form of protection which will prevent the ignition of the pile or the transmission of fire to a structure.

TTT. **Section 4907.2.2 Corrective Actions [Additional subsection].** The fire department is authorized to take enforcement actions as necessary to achieve compliance with Chapter 49 of this code, including but not limited those actions specified in Sections 104.13 (“Authority to arrest and issue citations”), 112.4 (“Violation penalties”) and 114.7 (“Summary abatement”) of this code, and as authorized by Berkeley Municipal Code, Chapter 1.24, “Abatement of Nuisances”, and in accordance with all other applicable portions of the Berkeley Municipal Code. Corrective actions may also include the use of abatement warrants and the imposition of property liens as appropriate and in accordance with law.

UUU. **Section 4911 SUPPRESSION AND CONTROL OF WILDLAND-URBAN INTERFACE FIRE AREAS [Additional section]**

VVV. **Section 4911.1 Permit [Additional subsection]**. The fire code official is authorized to stipulate conditions for permits. Permits shall not be issued when public safety would be at risk, as determined by the fire code official.

WWW. **Section 4911.2 Restricted Entry [Additional subsection]**. The fire code official shall determine and publicly announce when Wildland-Urban Interface Fire Areas shall be closed to entry and when such areas shall again be opened to entry. Entry on and occupation of Wildland-Urban Interface Fire Areas, except public roadways, inhabited areas or established trails and camp sites which have not been closed during such time when the Wildland-Urban Interface Fire Areas are closed to entry, is prohibited.

Exceptions:

- 1) Residents and owners of private property within Wildland-Urban Interface Fire Areas and their invitees and guests going to or being upon their lands;
- 2) Entry, in the course of duty, by peace officers, and other duly authorized public officers, members of a fire department and members of the United States Forest Service

XXX. **Section 4911.3 Trespassing on Posted Property [Additional subsection]**

YYY. **Section 4911.3.1 General [Additional subsection]**. When the fire code official determines that a specific area within a Wildland-Urban Interface Fire Areas presents an exceptional and continuing fire danger because of the density of natural growth, difficulty of terrain, proximity to structures or accessibility to the public, such areas shall be closed until changed conditions warrant termination of closure. Such areas shall be posted as hereinafter provided.

ZZZ. **Section 4911.3.2 Signs [Additional subsection]**. Approved signs prohibiting entry by unauthorized persons and referring to this section shall be placed on every closed area.

AAAA. **Section 4911.3.3 Trespassing [Additional subsection]**. Entering and remaining within areas closed and posted is prohibited.

Exception: Owners and occupiers of private or public property within closed and posted areas, their guests or invitees, and local, state and federal public officers and their authorized agents acting in the course of duty.

BBBB. **Section 4911.4 Smoking [Additional subsection]**. Lighting, igniting or otherwise setting fire to or smoking tobacco, cigarettes, pipes or cigars in Wildland-Urban Interface Fire Areas are prohibited.

Exception: Places of habitation or within the boundaries of established smoking areas or campsites as designated by the fire code official.

CCCC. **Section 4911.5 Spark Arresters [Additional subsection]**. Chimneys used in conjunction with fireplaces, barbecues, incinerators or heating appliances in which solid or liquid fuel is used, upon buildings, structures or premises located

within Wildland-Urban Interface Fire Areas shall be provided with a spark arrester. See Berkeley Building Code Section 704A1.6 for specifications.

DDDD. **Section 4911.6 Tracer Bullets, Tracer Charges, Rockets and Model Aircraft [Additional subsection].** Tracer bullets and tracer charges shall not be possessed, fired or caused to be fired into or across Wildland-Urban Interface Fire Areas. Rockets, model planes, gliders and balloons powered with an engine, propellant or other feature liable to start or cause fire shall not be fired or projected into or across Wildland-Urban Interface Fire Areas.

EEEE. **Section 4911.7 Explosives and Blasting [Additional subsection].** Explosives shall not be possessed, kept, stored, sold, offered for sale, given away, used, discharged, transported or disposed of within Wildland-Urban Interface Fire Areas except by permit from the fire code official.

FFFF. **Section 4911.8 Fireworks [Additional subsection].** Fireworks shall not be used or possessed in Wildland-Urban Interface Fire Areas. The fire code official is authorized to seize, take, remove or cause to be removed fireworks in violation of this section.

Exception: Fireworks allowed by the fire code official under permit when not prohibited by applicable local or state laws, ordinances and regulations.

GGGG. **Section 4911.9 Apiaries [Additional subsection].** Lighted and smoldering material shall not be used in connection with smoking bees in or upon Wildland-Urban Interface Fire Areas except by permit from the fire code official.

HHHH. **Section 4911.10 Open-Flame Devices [Additional subsection].** See Berkeley Fire Code Sections 308.1.6 Open Flame Devices and 308.1.6.1 Signals and Markers.

IIII. **Section 4911.11 Outdoor Fires [Additional subsection].** Outdoor fires shall not be built, ignited or maintained in or upon Wildland-Urban Interface Fire Areas, except by permit from the fire code official.

Exception: Outdoor fires within habited premises or designated campsites, where such fires are built in a permanent barbecue, portable barbecue, outdoor fireplace, incinerator or grill and are a minimum of 30 feet (9144 mm) from a grass-, grain-, brush or forest-covered area.

Permits shall incorporate such terms and conditions, which will reasonably safeguard public safety and property.

Outdoor fires shall not be built, ignited or maintained in or upon Wildland-Urban Interface Fire Areas under the following conditions:

1. When high winds are blowing,
2. When a person age 17 or over is not present at all times to watch and tend such fire, or

3. When public announcement is made that open burning is prohibited. Permanent barbecues, portable barbecues, outdoor fireplaces, fire pits or grills shall not be used if solid or liquid fueled.

JJJJ. **Section 4911.12 Incinerators and Fireplaces [Additional subsection].**

Incinerators, outdoor fireplaces, fire pits, permanent barbecues and grills shall not be built, installed or maintained in Wildland-Urban Interface Fire Areas without prior approval of the fire code official. Existing incinerators, outdoor fireplaces, fire pits, permanent barbecues and grills shall be maintained in good repair and in a safe condition at all times. Openings in such appliances shall be provided with an approved spark arrester, screen or door.

Exception: When approved, unprotected openings in barbecues and grills necessary for proper functioning shall be allowed.

KKKK. **Section 4911.13 Dumping [Additional subsection].** Garbage, cans, bottles, papers, ashes, refuse, trash, rubbish or combustible waste material shall not be placed, deposited or dumped in or upon Wildland-Urban Interface Fire Areas or in, upon or along trails, roadways or highways in Wildland-Urban Interface Fire Areas.

Exception: Approved public and private dumping areas.

LLLL. **Section 4911.14 Disposal of Ashes [Additional subsection].** Ashes and coals shall not be placed, deposited or dumped in or upon Wildland-Urban Interface Fire Areas.

Exceptions:

1. In the hearth of an established fire pit, camp stove or fireplace;
2. In a noncombustible container with a tight-fitting lid, which is kept or maintained in a safe location not less than 10 feet (3048mm) from combustible vegetation or structures;
3. Where such ashes or coals are buried and covered with 1 foot (304.8mm) of mineral earth not less than 25 feet (7620 mm) from combustible vegetation or structures.

MMMM. **Section 4911.15 Use of Fire Roads and Firebreaks [Additional subsection].** Motorcycles, motor scooters and motor vehicles shall not be driven or parked upon, and trespassing is prohibited upon, fire roads or firebreaks beyond the point where travel is restricted by a cable, gate or sign, without the permission of the property owner(s). Vehicles shall not be parked in a manner, which obstructs the entrance to a fire road or firebreak.

Exception: Public officers acting within their scope of duty. Radio and television aerials, guy wires thereto, and other obstructions shall not be installed or maintained on fire roads or fire breaks unless located 16 feet (4877 mm) or more above such fire road or firebreak.

- NNNN. **Section 4911.16 Use of Motorcycles, Motor Scooters and Motor Vehicles [Additional subsection]**. Motorcycles, motor scooters and motor vehicles shall not be operated within Wildland-Urban Interface Fire Areas, without a permit by the fire code official, except upon clearly established public or private roads. Permission from the property owner(s) shall be presented when requesting a permit.
- OOOO. **Section 4911.17 Tampering with Fire Department Locks, Barricades and Signs [Additional subsection]**. Locks, barricades, seals, cables, signs and markers installed within Wildland-Urban Interface Fire Areas, by or under the control of the fire code official, shall not be tampered with, mutilated, destroyed or removed. Gates, doors, barriers and locks installed by or under the control of the fire code official shall not be unlocked.
- PPPP. **Section 4911.18 Liability for Damage [Additional subsection]**. The expenses of fighting fires and securing emergencies, which result from a violation of this code, Chapter 6.15.030 of the Berkeley Municipal Code (“Unauthorized barbecues and fire on public property”), Sections 13000-13011 of the California Health and Safety Code, Sections 4421-4446 of the California Public Resources Code, or Sections 451, 451.5, 452 or 455 of the California Penal Code is a charge against the person(s) whose violation of the code section(s) caused the fire. Damages caused by such fires shall constitute a debt of such person(s) and shall be collectable by the fire code official in accordance with Section 107.7 of this code.
- QQQQ. **Section 5001.7 Hazardous materials transportation restrictions [Additional subsection]** No vehicle containing hazardous materials, including a hazardous materials transportation tank truck, trailer, semi-trailer or tank wagon containing flammable or combustible liquids, hazardous chemicals, liquefied petroleum gases, poisonous gases, or cryogenic fluids, shall be operated on any city street without a permit from the fire code official. A map showing the proposed route of the vehicle shall accompany applications for such permits. If a permit is granted, the map shall be carried at all times in the vehicle and the vehicle shall not deviate from the approved route as shown on the map. Such a permit may contain conditions, including restrictions on the hours within which certain routes may be used and limitations on the size of the vehicle allowed to travel the approved route. No route shall be approved that includes passage over or adjacent to subway entry or vent structures, through the Northbrae Tunnel, in any area designated an environmental safety residential district by the City of Berkeley's Zoning Ordinance, or in an area which may be designated as a hazardous fire area. Departure from the approved route, travel outside the permitted hours, and violation of any vehicle size limitation imposed, or failure to carry a map showing route approval shall constitute a violation of this Code. The transportation of extremely hazardous materials may, in the discretion of the fire code official, require both a permit and accompaniment by a Fire Department or Police Department convoy. The following streets contain purge chamber openings which lead directly into the subway section of the Bay Area Rapid

Transit (BART) System in Berkeley and their use by tank vehicles or trailers for transportation or delivery of flammable or combustible liquids, hazardous chemicals, liquefied petroleum gases, poisonous gases, or cryogenic fluids is prohibited and a violation of this Code:

- a. On Addison Street between Martin Luther King Jr. Way and Oxford Street;
- b. On Shattuck Avenue between University Avenue and Dwight Way;
- c. On Virginia Street between Franklin and Sacramento Streets;
- d. On Sacramento Street between Virginia Street and Hearst Avenue;
- e. On Hearst Avenue between McGee Avenue and Milvia Street;
- f. On Adeline Street between Ward and Stuart Streets; and
- g. On Adeline Street between Ashby Avenue and Woolsey Street

RRRR. 5601.1.3 Fireworks. [Amended subsection] The possession, manufacture, storage, sale, handling and use of fireworks, including fireworks which are classified as Safe and Sane fireworks by the California State Fire Marshal's Office, are prohibited within the jurisdiction.

Exceptions:

- ~~1. Storage and handling of fireworks as allowed in Section 5604.~~
- ~~2. Manufacture, assembly and testing of fireworks as allowed in Section 5605 and Health and Safety Code Division 11.~~
- ~~31. The use of fireworks for fireworks displays, *pyrotechnics before a proximate audience and pyrotechnic special effects in motion pictures, television, theatrical or group entertainment productions as allowed in Title 19, Division 1, Chapter 6 Fireworks reprinted in Section 5608 and Health and Safety Code Division 11 when stored, transported, handled and used under the required fire department permit(s) and in accordance will all applicable requirements of Chapter 56.*~~
- ~~42. The possession, storage, sale, handling and use of specific types of Division 1.4G fireworks where allowed by applicable laws, ordinances and regulations, provided that such fireworks and facilities comply with NFPA 1124, CPSC 16 CFR Parts 1500 and 1507, and DOTn 49 CFR Parts 100–185, as applicable for consumer fireworks *and Health and Safety Code Division 11.*~~

SSSS. Section 5604.1 General. [Amended subsection] The storage and handling of explosives within City of Berkeley limits is prohibited. Storage of explosives and explosive materials, small arms ammunition, small arms primers, propellant-actuated cartridges and smokeless propellants in magazines shall comply with the provisions of this section

Exception: Where expressly permitted by applicable laws, ordinances or regulations provided such storage and handling of explosives and explosive materials, small arms ammunition, small arms primers, propellant-actuated cartridges and smokeless propellants in magazines is conducted in accordance with Section 5604 and all applicable provisions of Chapter 56.

TTTT. Section 5701.4.1 Transfer of flammable and combustible liquids. [Additional subsection] Transfer to or from containers or mobile tanks, above

ground or underground tanks of flammable and combustible liquids shall not be made from or on the street or public way except by written approval by the fire code official.

Exceptions:

1. Transfer of not more than 5 gallons flammable or combustible liquids using a listed or approved portable fuel container of not more than 5 gallons capacity.
2. The transfer of combustible liquids to or from approved, fixed mechanical or electrical system equipment such as a Standby or Emergency electric power generator when the transfer is completed by a commercial fuel vendor using approved dispensing equipment via a previously approved, fixed tank filling port which met code requirements at the time of installation.

UUUU. Section 5704.2.11.1.1 Restrictions on underground storage tanks

[Additional subsection] The storage of flammable and combustible liquids in underground tanks is prohibited in all areas zoned solely for residential occupancies, closely built commercial properties, and any other area deemed unsafe by the fire code official.

VVVV. Section 5704.2.13.1.4 Tanks abandoned in place [Amended subsection].

Tanks may be abandoned only under permit and following City of Berkeley Fire Department procedures. The owner shall demonstrate to the satisfaction of the City of Berkeley Toxics Division that no unauthorized release has occurred. If the soil is contaminated, mitigation must be completed to the satisfaction of the Toxics Division. A notice shall be placed in the deed to the property. This notice shall describe the precise location of the closed underground storage tank, the hazardous substances that it contained, and the closure method. Tanks abandoned in place shall be as follows:

1. Flammable and combustible liquids shall be removed from the tank and connected piping.
2. The suction, inlet, gauge, vapor return and vapor lines shall be disconnected.
3. The tank shall be filled completely with an approved inert solid material.
4. Remaining underground piping shall be capped or plugged.
5. A record of tank size, location and date of abandonment shall be retained.
6. All exterior above-grade fill piping shall be permanently removed when tanks are abandoned or removed.

WWWW. Section 5704.2.14 Removal and disposal of tanks [Amended subsection].

Removal and disposal of tanks shall comply with Sections 5704.2.14.1 and 5704.2.14.2. Removal of all tanks shall be authorized under a fire permit, abiding by City of Berkeley Fire Department procedures. The applicant shall submit the following:

1. **A site plan showing the location of the tanks.**
2. **A detailed description of the scope of work.**
3. **A site safety plan.**
4. **A vicinity map to the closest hospital, in an event of an emergency.**
5. **Proof of workers compensation insurance.**

The owner shall demonstrate to the satisfaction of the City of Berkeley Toxics Division that no unauthorized release has occurred. If the soil is contaminated, mitigation must be completed to the satisfaction of the Toxics Division or the California Water Board.

XXXX. **Section 6104.5 Restrictions on storage of LP-gas containers [Additional subsection]** It shall be unlawful to store any liquefied petroleum gas cylinder with a capacity greater than 2-1/2 lbs. water capacity or a portable tank within any structure or building with an occupancy classification of A, R-1, R-2 or R-4, unless specifically authorized by this Code.

YYYY. **Section B105.2 (Appendix B), Table B105.2, “Required Fire-Flow For Buildings Other Than One- And Two-Family Dwellings, Group R-3 And R-4 Buildings And Townhouses” [Amended Table]**

TABLE B105.2
REQUIRED FIRE-FLOW FOR BUILDINGS OTHER THAN ONE- AND
TWO-FAMILY DWELLINGS, GROUP R-3 AND R-4 BUILDINGS AND TOWNHOUSES

AUTOMATIC SPRINKLER SYSTEM (Design Standard)	MINIMUM FIRE-FLOW (gallons per minute)	FLOW DURATION (hours)
No automatic sprinkler system	Value in Table B105.1(2)	Duration in Table B105.1(2)
Section 903.3.1.1 of the <i>California Fire Code</i>	25 50% of the value in Table B105.1(2) ^a	Duration in Table B105.1(2) at the reduced flow rate
Section 903.3.1.2 of the <i>California Fire Code</i>	25 50% of the value in Table B105.1(2) ^b	Duration in Table B105.1(2) at the reduced flow rate

For SI: 1 gallon per minute= 3.785 Lit.

- a. The reduced fire-flow shall be not less than 1,000 gallons per minute.
- b. The reduced fire-flow shall be not less than 1,500 gallons per minute.

ZZZZ. **Section L104.5.1 Stored pressure air supply. (Amended subsection)** A stored pressure air supply shall be designed based on Appendix Chapter F of the California Plumbing Code Chapter 24 of NFPA 1901 except that the provisions applicable only to mobile apparatus or not applicable to system design shall not apply. A stored pressure air supply shall store not less than 5,000 Standard Cubic Feet (SCF) of air or be capable of refilling not less than 50 empty breathing air cylinders of a size and pressure used by the fire department, whichever is greater.

Section 19.48.030 Validity Should any section, paragraph, sentence or word of this Chapter or of the Code or Standards be declared invalid, all other portions of this Chapter shall remain in effect. (Ord. ##,###-NS § 1 (part), 2022)



Be connected. Be prepared. Be Berkeley.

Berkeley Ready Program & Measure GG Update



Program Staff

Khin Chin

Office of Emergency Services
Emergency Services Coordinator



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Office of Emergency Services
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Program Specialist



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Public Health
Emergency Preparedness
Community Health Worker
Specialist

Program Objective

Berkeley Ready's public programs are designed to:

- Foster community engagement
- Aid in disaster preparedness self-assessment
- Provide formal and informal training
- Support communities' disaster resilience





Program Overview

What is Berkeley Ready?

BEACON

Presentations
Trainings
Drills

CERT

Disaster
Preparedness
campaign

Neighborhood
Programs

City
government's
readiness

Outreach at
community
events

Community
Resilience
Centers
(CRC)

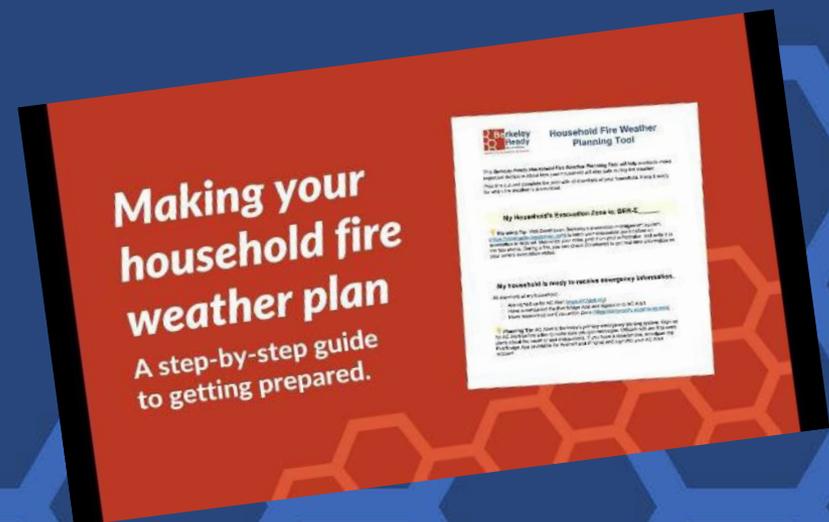
Apartment
Resilience
Centers
(ARC)



Recent Efforts

Trainings/Presentations

- Household Fire Weather Planning (throughout Summer/Fall 2022)
- Home Hardening Workshops (throughout Summer/Fall 2022)
- Community Preparedness Event at Mormon Temple (8/20)
- Emergency Preparedness Training at Berkeley Youth Alternatives (10/20)



Recent Efforts

Outreach at Community Events

- National Night Out (8/2)
- Solano Stroll (9/11)
- Block Party sponsored by Hispanic Chamber of Commerce (9/25)
- Hillside Neighbors Potluck (10/2)
- BYA Flu Clinic (10/13)
- Harvest Festival (10/15)





Hispanic Chamber of Commerce Block Party





Hillside Neighbors Potluck





Solano Stroll



Solano Stroll



Recent Efforts

Re-Engaging with Community Resilience Centers

- List of CRCs:
 - Ed Roberts Campus
 - Berkeley Youth Alternatives
 - McGee Baptist Church
 - La Peña Cultural Center
 - Harriet Tubman Terrace Apartments
 - YMCA Head Start
 - Easy Does It Emergency Services
 - Oregon Park Apartments
 - Berkeley Humane
 - Multicultural Institute
 - Congregation Netivot Shalom
 - Ecology Center

Goals

- **Reinvest in Building Relationships with CRCs**
 - Determining the role they imagine playing in an emergency
 - Continuity of Operations planning
 - Collaboration with OESD around climate equity program launch

Goals



- **Reestablish Presence in the Community**
 - City Sponsored Events and events hosted by CRCs
 - Gathering feedback about what resources the community needs
 - Upcoming Events:
 - Halloween Parade and Costume Contest
 - Tots Winter Carnival



Goals

- **Continue to Identify Avenues to Build Resiliency in Berkeley**
 - Office of Energy and Sustainability
 - Housing Division in Public Health
 - Child Care Resiliency



Questions?

Check out the new webpage:
<https://berkeleyca.gov/ready>

Contact us: [**ready@CityofBerkeley.info**](mailto:ready@CityofBerkeley.info)

Chin, Khin

From: Numainville, Mark L.
Sent: Friday, October 21, 2022 2:11 PM
To: Allen, Shallon L.; Apa, Gregory; Bellow, LaTanya; Brozyna, Andrew; Bryant, Ginsi; Burns, Anne M; Castrillon, Richard; Chin, Khin; Cole, Shamika S.; Crane, Fatema; Enke, Joe; Ernst, Margot; Harvey, Samuel; Hollander, Eleanor; Jacobs, Joshua; Javandel, Farid; Katz, Mary-Claire; Lee, Katherine; Lovvorn, Jennifer; May, Keith; Mayer, Tess; Miller, Roger; Murillo, Jose; Obermeit, Heidi; Oehler, Joshua; Radu, Peter; Romain, Billi; Slaughter, Kieron; Terrones, Roberto; Uberti, Mike; Updegrave, Samantha; Vance-Dozier, Okeya; Works-Wright, Jamie; Wu, Grace
Subject: Land Acknowledgement Statement
Attachments: Land Acknowledgement Memo and Documents.pdf

Internal

Commission Secretaries,

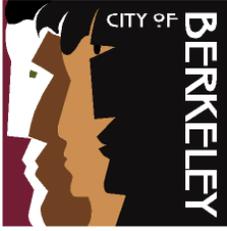
Attached you will find a memo and documentation regarding the recently adopted Land Acknowledgement Statement.

Please share this information with your Commissioners per the City Council's request.

Thank you.

Mark Numainville, City Clerk
City of Berkeley
2180 Milvia Street, 1st Floor
Berkeley, CA 94704
(510) 981-6909 direct
mnumainville@cityofberkeley.info





City Clerk Department

October 21, 2022

To: Berkeley Unified School District
Berkeley Rent Stabilization Board
Board of Library Trustees
Berkeley Housing Authority
All Berkeley Boards & Commissions

From: Mark Numainville, City Clerk

Subject: Land Acknowledgement Recognizing Berkeley as the Ancestral, Unceded Home of the Ohlone People

On October 11, 2022, the Berkeley City Council unanimously adopted the Land Acknowledgement Statement Resolution. The Statement acknowledges that the City of Berkeley rests upon the ancestral lands of the Chochenyo speaking Lisjan Ohlone people, brings attention to their centuries of resistance to colonial violence, and reminds our City and community of the need to take concrete restorative actions.

The full recommendation of the City Council is as follows:

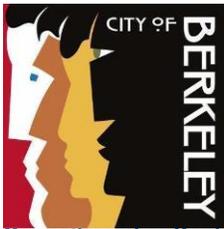
1. Adopt the Land Acknowledgement Statement Resolution recognizing that Berkeley is the ancestral, unceded home of the Ohlone people.
2. Display the Land Acknowledgement in writing at all in-person or online Regular meetings of the City Council and read the Acknowledgement at the first Regular meeting of each month in which Regular City Council meetings are held.
3. Recommend to all Berkeley Commissions, Committees, Boards, and other elected and appointed City entities to consider inclusion of the Land Acknowledgement in meeting practices and direct the City Manager to convey a copy of this Item and Resolution to all such entities for reference.
4. Direct the City Manager to post the Land Acknowledgement or a prominent link to the Acknowledgement on the home page of the City's website and to create a webpage dedicated to Ohlone history and culture.
5. Now and in the future, consider additional more substantive reparative and restorative actions, including but not limited to those described under the heading "Actions/Alternatives Considered."

This memo transmits the agenda item and resolution to you as directed by the City Council in recommendation number three. Recommendation number three also states that the City Council recommends to all Berkeley Commissions, Committees, Boards, and other elected and appointed City entities to consider inclusion of the Land Acknowledgement in their meeting practices.

Thank you for your review and consideration of this important item.

cc: Mayor and City Council
Dee Williams-Ridley, City Manager

Enc.



Councilmember Sophie Hahn
City of Berkeley, District 5

CONSENT CALENDAR

October 11, 2022

To: Honorable Mayor and Members of the City Council
From: Councilmember Hahn (Author)
Mayor Jesse Arreguín (Co-Sponsor)
Councilmember Taplin (Co-Sponsor)
Councilmember Robinson (Co-Sponsor)
Subject: Land Acknowledgement Recognizing Berkeley as the Ancestral,
Unceded Home of the Ohlone people.

RECOMMENDATION

1. Adopt the Land Acknowledgement Statement Resolution recognizing that Berkeley is the ancestral, unceded home of the Ohlone people.
2. Display the Land Acknowledgement in writing at all in-person or online Regular meetings of the City Council and read the Acknowledgement at the first Regular meeting of each month in which Regular City Council meetings are held.
3. Recommend to all Berkeley Commissions, Committees, Boards, and other elected and appointed City entities to consider inclusion of the Land Acknowledgement in meeting practices and direct the City Manager to convey a copy of this Item and Resolution to all such entities for reference.
4. Direct the City Manager to post the Land Acknowledgement or a prominent link to the Acknowledgement on the home page of the City's website and to create a webpage dedicated to Ohlone history and culture.
5. Now and in the future, consider additional more substantive reparative and restorative actions, including but not limited to those described under the heading "Actions/Alternatives Considered."

SUMMARY

Acknowledging that the City of Berkeley rests upon the ancestral lands of the Chochenyo speaking Lisjan Ohlone people brings attention to their centuries of resistance to colonial violence and reminds our City and community of the need to take concrete restorative actions.

The settlers of California, primarily Europeans seeking religious converts, agricultural land and economic opportunity during the gold rush, committed one of the most egregious genocides in history. Settlers murdered 80 percent of Indigenous people in the state from

1846 to 1873 through massacre by state-directed militias, enslavement in mining and agricultural production, displacement causing starvation, and compulsory assimilation.¹

Land acknowledgment is a traditional custom that dates back centuries in many Native nations and communities. Today, land acknowledgments are used by Native Peoples and non-Natives to recognize Indigenous Peoples who are the original stewards of the lands on which we now live.² To begin public meetings, dozens of localities across the United States including Denver (CO), Portland (OR), and Phoenix (AZ) now share official land acknowledgements. Many public agencies, including the National Park Service, the National Aeronautics and Space Administration (NASA), read these acknowledgements as well. The practice has been common for nearly a decade in Canada, New Zealand, and Australia.³

Locally, many public and public-facing private institutions have also adopted land acknowledgement statements including UC Berkeley, Mills College, Chabot Las Positas Community College District, California College of the Arts, UCSF, Stanford, and recently, Berkeley's Rent Stabilization Board.

However impactful these statements may be, it's important to consider that land acknowledgements have been criticized as appropriating the Indigenous practice of acknowledging the ancestral roots of land without taking concrete action against ongoing oppression.⁴ According to University of Oklahoma Professor of Native American Cultural Studies Dustin Tahmahkera, "To acknowledge Indigenous homelands and to return those lands are related, but the former alone allows for rhetoric without further action."⁵

Dr. Duke Redbird, an Elder of the Saugeen First Nation in Ontario recently noted that Canada has invited non-Indigenous territories such as Prince Edward Island into the government's confederation, giving them lawmaker representation in parliament, while excluding millions of Indigenous people from the same opportunity:⁶

¹ Madley, B. (2016). *An American Genocide. The United States and the California Indian Catastrophe*. Yale University Press. Print. p. 10, 12. Note: approximately, one in ten of these 125,000 deaths were the result of direct violence, often perpetuated by volunteer militias. Others resulted indirectly through displacement and disease.

² Smithsonian National Museum of the American Indian, *Honoring Original Indigenous Inhabitants: Land Acknowledgment*. [Web](#).

³ Dewey, C. (2021). *Growing Number of Cities Weigh Tribal 'Land Acknowledgements.'* Pew Research Trust. [Web](#).

⁴ Kaur, H. (2021). *Land acknowledgments are often an empty gesture, some Indigenous people say.* CNN. [Web](#).

⁵ Wood, G. (2021). *'Land Acknowledgments' Are Just Moral Exhibitionism.* The Atlantic. [Web](#).

⁶ Museum of Toronto (2020). *Ask an Elder: What do Land Acknowledgements represent?* [Web](#).

To get up in government and give a land acknowledgement without even inviting us into confederation, we were left out. What is the land acknowledgement supposed to represent? Give us a feeling that we should be grateful? Grateful for what?

Naomi Bob, an Indigenous Youth Wellness Project Coordinator with the Snaw'naw'as and Nanoose First Nation, shared his perspective:⁷

I'm seeing land acknowledgements done in a way that is tokenizing and minimizes responsibility and our history... It's really easy to list off your host nations you found off of a google search but I want to hear how you as an individual have ended up on their land and I want to hear about the work you're doing to reconcile responsibilities you have inherited . . .

One of the leading advocacy groups for land acknowledgement, the Native Governance Center, acknowledges this issue of “optical allyship,” asking that local governments and community groups craft land acknowledgements that go beyond a mere statement, by providing research on the history of Indigenous peoples and offering concrete actions to support them. The organization’s Guide to Indigenous Land Acknowledgement states “every moment spent agonizing over land acknowledgement wording is time that could be used to actually support indigenous people... an apology or an acknowledgement is one thing, but what are you going to do next?”⁸

At an April 2022 Berkeley Rent Stabilization Board meeting Lisjan Ohlone Chairperson Corrina Gould spoke in support of their land acknowledgment and emphasized that we must acknowledge not only the past but also the future. She stressed that land acknowledgements are “a way to create goals together so there is an ongoing partnership taking care of the lands, and waters, and places that we live.”⁹ The City of Berkeley should honor this intention and use this resolution and the Land Acknowledgement practice as a first step to bring attention to these histories and as a foundation for further concrete actions.

This item asks for the Land Acknowledgement to be formally adopted, displayed, and spoken by the City Council at the start of proceedings, and asks other appointed and elected governmental bodies in Berkeley to consider adopting similar Land

⁷ CFSC Video (2020). Why are land acknowledgments important? Naomi Bob - Indigenous Voices on Reconciliation. [Web](#).

⁸ Native Governance Center (2019), quoting Dr. Kate Beane of the Falandreau Santee Dakota and Muskogee Creek as well as Robert Larson of the Sioux Indian Community. A Guide to Indigenous Land Acknowledgement. [Web](#).

⁹ City of Berkeley (2022). Berkeley Rent Board Adopts Land Acknowledgement Statement. [Web](#).

Acknowledgement practices. More importantly, *it is intended to serve as a starting point for further restorative and reparative work our City and community must engage in*, not as an end in and of itself.

BACKGROUND

The United States, the State of California, and the City of Berkeley came into being through the deliberate and sustained genocide of Indigenous people, and modern forms of this colonial violence continue to this day both here in Berkeley and across the country and globe. This history is often obscured or erased. Schools for decades have failed to teach the truth about this legacy, replacing hard and ugly facts with a variety of convenient myths and misrepresentations. Surviving Native Americans endured forced reeducation at boarding schools that suppressed oral history transmission, and fear of violence and murder drove many to hide their Indigenous ancestry, further eroding culture and memory.¹⁰ But Lisjan Ohlone and other Native American people found ways to survive this murderous and cultural genocide, and many are with us today.

To contextualize this painful history, honor the Indigenous people who have survived and resisted this violence, and chart a new path forward for our community, this item briefly recounts elements of this history to understand the present.

The Ohlone are a group of around 50 separate tribes, who for 10,000 years lived on ancestral lands that spanned the coast of what is now known as San Francisco through Monterey Bay to the lower Salinas Valley.¹¹ There were eight different nations in the Bay Area alone, including the Lisjan; many came to adopt the term Ohlone in solidarity with other nations to push back against the Spanish colonizers' blanket name of "Costanoan."¹²

The territory xučyun (Huchiun), extending from what is now known as the Berkeley Hills to the Bay Shore from West Oakland to El Cerrito, is the home territory of the Chochenyo speaking Ohlone people. The cities of Alameda, Berkeley, Emeryville, El Cerrito, and most of Oakland were created on this ancestral territory. Nearly 310,000 Indigenous people across the region lived in what is now called California, speaking as many as 100 languages.¹³

Spain began colonizing these lands in 1769, establishing military forts and religious "mission" outposts across the region, including Mission San Jose in Fremont and

¹⁰ Madley, B. (2016). Ibid. p. 10.

¹¹ UC Berkeley, n.d. Berkeley sits in the territory of xučyun. [Web](#).

¹² Gould, Corrina. (2021). Berkeley's Ohlone History. Peralta Community Garden. [Web](#).

¹³ Madley, B. (2016). Ibid. p. 23.

Mission Dolores in San Francisco, that enslaved the ancestors of some modern-day Berkeley and East Bay Ohlone people.¹⁴ ¹⁵Spain used slavery, rape, and torture of Indigenous people to secure silver mines to compete against colonial powers like Russia and Britain and “spiritually conquer” the region in the name of Catholicism.¹⁶ In this period, Spain claimed ownership of the land and granted use rights to some ranchers and farmers.¹⁷

In 1818, the Spanish soldier Luis Peralta petitioned the Spanish authorities to be granted 48,000 acres extending from modern day San Leandro Creek to El Cerrito. This area, encapsulating modern day Berkeley, was known as “Rancho San Antonio.” Two of Peralta’s four sons, Domingo and Vicente (for which streets are named today), administered the territory for nearly two decades, through the transfer of the region to Mexico from Spain. Ranching appropriated and destroyed native landscapes and diverted streams for irrigation at great cost to native peoples, some of whom found ways to survive amid ongoing Spanish oppression.¹⁸

Following Mexican independence in 1821, the new Mexican government granted private land rights to individual “ranchos” through the Missions: these land grant settlers began occupying prime agricultural lands across the state, but remained less than 20 percent of California’s population – the remainder being Native American.¹⁹ The Peralta family soon had company in the form of other landed “aristocratic” families, which replaced the missionary friars as the most powerful people across the region.²⁰

Amid the 1850’s Gold Rush, U.S. soldiers victorious over Mexico and other squatters began to make legal claims to the Peralta lands. Federal judges of the California Land Commission in 1851, not well prepared for their tasks, attempted to resolve these numerous land disputes, but the Peraltas were overwhelmed by lawyers’ bills and property taxes, eventually selling off much of their lands to pay their debts.²¹ Meanwhile the violent occupation of settlers as well as the spread of European diseases like smallpox reduced the Indigenous population to only 150,000 people by the time the United States had taken legal control of what is now California in 1846, during the Mexican-American war.²²

¹⁴ Novan, K. (2021). California Agriculture: Dimensions and Issues, 2nd Edition: Chapter 3, California’s Evolving Landscape. University of California: Giannini Foundation of Agricultural Economics. [Web](#). p. 59.

¹⁵ Gould, Corrina. (2021). Ibid.

¹⁶ Novan, K. (2021). Ibid. p. 59.

¹⁷ Madley, B. (2016). Ibid. p. 27 - 38.

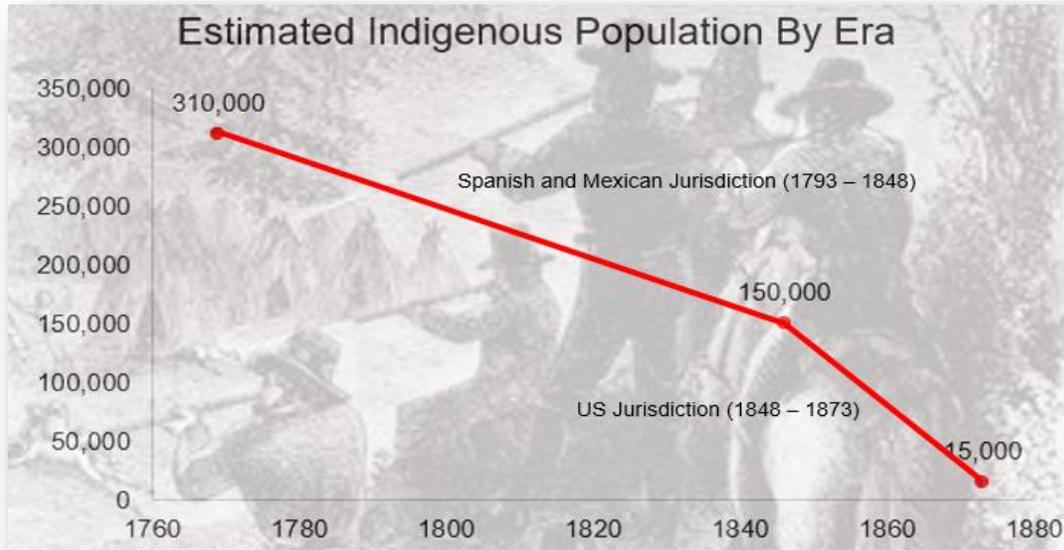
¹⁸ Wollenberg, C. (2008). Berkeley: A City in History. Chapter One: First Settlers. UC Press. p. 8. [Web](#).

¹⁹ Novan, K. (2021). Ibid. p. 60. / Lindsay, B.C. (2012), p. 131

²⁰ Wollenberg, C. (2008). Ibid. P. 8

²¹ Wollenberg, C. (2008). Ibid. P. 14

²² Madley, B. (2016). Ibid. p. 3, 12



So began the era of more affirmative, state-sponsored genocide that led US Indian Affairs Commissioner John Collier to declare in 1935 that “The world’s annals contain few comparable instances of swift depopulation— practically, of racial massacre—at the hands of a conquering race.”²³ Brenden C. Lindsay, Associate Professor of History at Sacramento State and author of *Murder State: California’s Native American Genocide*, concludes that “northern California’s Native population faced a genocidal assault perhaps unrivaled in North America in terms of its ferocity, bloodiness, and loss of human life,” this violence was executed through state-sponsored and state-tolerated violence, enslavement, and displacement.²⁴

It was just not just a select few who engaged in this violence. European settlers flooding into Northern California in search of gold came with a manufactured fear of Indigenous people, due to repetitive, sensationalized, and false storytelling in newspapers and other reports. Deaths from disease, natural causes, and even suicide were attributed to Indigenous people while actual violence by Indigenous people against settlers was quite rare. For example, contrary to popular myths, only 115 of nearly 90,000 new settlers were killed in conflicts with Indigenous people during the 1840s.²⁵ This manufactured fear, which translated into hatred, provided pretext for California Governors John

²³ Madley, B.

²⁴ Lindsay, B.C. (2012) *Murder State: California’s Native American Genocide, 1846-1873*. University of Nebraska Press. Print. p. 177

²⁵ Lindsay, B.C. (2012). *Ibid.* p. 9, 23, 31, 39, 120.

McDougal and Peter Burnett to legally sanction volunteer militias tasked with pushing Indigenous people off farming and ranching lands in the most economically efficient way possible: massacre.²⁶ Justifying this genocide with slurs like “digger,” Indigenous people were equated with animals for the purpose of literally hunting them with guns.²⁷

Many Indigenous people were enslaved for labor as well. Prominent State Senators and ranchers during California’s early years pushed the Governor to create reservations where Indigenous people could be used for hard labor but kept separate from whites. Legislation was also passed echoing legislation in southern States to reduce Indigenous people to non-legal entities who could be legally enslaved.²⁸ If Indigenous people were found drunk on Sundays, they were arrested and enslaved: the Los Angeles Star reported one instance where a jail door fell down because the cell was so crowded with imprisoned native people.²⁹ These and similar atrocities precipitated the unsuccessful pan-Indigenous “Garra Revolt” during the 1850s.

This enslavement also went hand in hand with displacement from ranching, which led to extreme poverty and starvation, with many Indigenous people desperate for work to survive. Ranching throughout California depended on the labor of enslaved Indigenous people as quests for gold by settlers drained the labor force.³⁰ Ranchers hunted deer and elk that competed for food with their cows and horses, devastating wild herds. Domesticated animals like cows, pigs, and sheep ate thousands of acres of plants Indigenous people depended on for food.³¹ This environmental devastation drove some Indigenous people such as the Paiutes to attack cows and horses (though even this tactic of survival was exaggerated by settlers, who often attributed the natural deaths of domesticated animals to Indigenous people).³² In an ironic twist, Indigenous peoples who killed domesticated animals tended to receive more in reservation funding, as this act of resistance created heavy costs for the ranchos.

The legal system, disguised with the veneer of “democratic will,” barred Indigenous people from testifying in court against settlers: in practice, legalizing their murder.³³ The Treaty of Guadalupe-Hidalgo, which ended the Mexican-American War, was violated as California took Indigenous affairs, a federal responsibility, into local hands following

²⁶ Lindsay, B.C. (2012). *Ibid.* p. 151, 170.

²⁷ Lindsay, B.C. (2012). *Ibid.* p. 133, 185

²⁸ Lindsay, B.C. (2012). *Ibid.* p. 146-148

²⁹ Lindsay, B.C. (2012). *Ibid.* p. 23, 153

³⁰ Lindsay, B.C. (2012). *Ibid.* p. 31, 136, 153

³¹ Lindsay, B.C. (2012). *Ibid.* p. 176, 181, 183, 186

³² Lindsay, B.C. (2012). *Ibid.* p. 17, 136, 186

³³ Lindsay, B.C. (2012). *Ibid.* p. 27, 28, 132, 168,

statehood.³⁴ For its part, however, the federal government reimbursed the cost of volunteer militias with millions in funding, effectively bankrolling massacre. It also issued a decree allowing soldiers from the Mexican-American war to claim up to 160 acres of land in California as a bounty, another factor in the demise of Ranchos and the establishment of “land rights” - to land that was stolen once from Indigenous peoples and a second time from the “owners” of formerly Spanish and later Mexican Ranchos.

The Sogorea Te’ Land Trust is an urban Indigenous women-led land trust based in the Bay Area that facilitates the return of Indigenous land to Indigenous people. The Trust’s website includes a short history of the Lisjan Ohlone, which parallels the history recounted in other sources.

“The Lisjan people have lived in the territory of Huchiun since the beginning of time. For thousands of years, hundreds of generations, the Lisjan Ohlone people have lived on the land that is now known as the East Bay in the San Francisco Bay Area. We did not own the land, we belonged to it. Generation after generation, we have cultivated reciprocal relationships with the plants and animals we share this place with, and developed beautiful and powerful cultural practices that keep us in balance.

The Confederated Villages of Lisjan are one of many Ohlone nations, each with its own geography and history. Our tribes, cultures and languages are as diverse as the ecosystems we live within. When the Spanish invaded in the late 1700s, in their ignorance they called us Costanoan, people of the coast. In the 1960s and 70s, inspired by the Black Power and American Indian Movements, we organized and renamed ourselves Ohlone. The different nations of Ohlone people are connected but have different territories and languages. The Confederated Villages of Lisjan speak the language Chochenyo.

The Lisjan are made up of the six nations that were directly enslaved at Mission San Jose in Fremont, CA and Mission Dolores in San Francisco, CA: Lisjan (Ohlone), Karkin (Ohlone), Bay Miwok, Plains Miwok, Delta Yokut and Napian (Patwin). Our territory includes 5 Bay Area counties; Alameda, Contra Costa, Solano, Napa and San Joaquin, and we are directly tied to the “Indian Town” census of the 1920s and the Verona Band.

The colonization of this land began with the reign of terror inflicted by Spanish soldiers and missionaries who sought to convert all Indigenous people into Catholic subjects of Spain and steal their land. The Missions were plantations, built by slave

³⁴ Lindsay, B.C. (2012). Ibid. p. 28, 140-143

labor and sustained through brutal physical violence and extractive land practices. The Spanish brought deadly diseases, invasive species, and Christian ideology, based on human dominion of the natural world, causing devastating consequences for the Lisjan people and all living beings we have shared the land with.

After a brief but harrowing Mexican rancho period, Lisjan survivors faced extermination policies by the United States that aimed to eliminate California Indians entirely. In a climate of virulent racial discrimination and state-sponsored vigilante killings, most Lisjan families survived by isolating themselves and concealing their identities. Cultural and spiritual traditions were forced into dormancy or secrecy, and much knowledge perished with the passing of generations.

Despite these concerted efforts to erase our history and identity, the Lisjan community forms a diverse and vibrant constellation of tribes and families. Utilizing a wide array of survival strategies to navigate a profoundly altered 21st century world, we continue to revitalize our cultural practices and uphold our responsibilities to protect and care for our ancestral homeland.

We have survived over two centuries of genocide and colonization during the Spanish, Mexican and American eras. Today, we continue to inhabit our ancestral homeland, fight for our sacred sites and revitalize our cultural practices.”³⁵

Despite the incredible strength it has taken to survive the repeated onslaughts of slavery, disease, environmental destruction, land appropriation, and state-sponsored physical and cultural genocide, centuries of trauma from colonization manifest themselves in ongoing struggles for Indigenous People in California and beyond. The nearly two million Indigenous people living under U.S. jurisdiction suffer the highest rate of poverty of any racial group—almost twice the national average. Rates of suicide, alcoholism, gang membership, and sexual abuse are also far higher than that of the non-Indigenous population, with challenges particularly acute on reservations.³⁶

By restoring sovereignty and land to Indigenous people, with negotiated environmental protections and meaningful economic opportunity, is one way to help repair deeply scarred communities.

As Standing Rock and other pipeline opposition campaigns have shown, Indigenous peoples living under U.S. jurisdiction continue to stand up against pipelines, oil extraction,

³⁵ Sogorea Te' Land Trust, Lisjan (Ohlone) History & Territory. [Web](#).

³⁶ Riley, N.S. (2016). One Way to Help Native Americans: Property Rights. The Atlantic. [Web](#).

and other desecrations that destroy their limited lands and poison communities with cancer and polluted water. The petroleum industry has demolished sacred sites and confronts individuals who resist with rubber bullets, attack dogs, and other war-like practices.³⁷ While Indigenous People are anything but a monolith, this common cause against extraction, pollution and desecration unites many. As Dallas Goldtooth of the Dakota Nation and Indigenous Environmental Network has described:

[Resistance] resonates across the diaspora of Indigenous Peoples. This is a critical moment we find ourselves in on this planet, not just in the sense for addressing climate change, but also a sense for social justice, a sense of just overall justice for all species. Indigenous Peoples tend to be, and rightfully are, on the frontline of those fights and those struggles. That's encapsulated by this idea of us rising together.

This connection even extends internationally, as the state of California plays an outsized role in the extraction and destruction of Indigenous homelands in the Amazon as well. In turn, the deforestation of the Amazon destroys moisture distribution that contains wildfires across North America, and California in particular.³⁸ A recent investigation demonstrated that California consumes more oil extracted from the Western Amazon than any other region on earth, refining it for airports, Amazon, PepsiCo and COSTCO.³⁹

In another example of the enduring nexus between our State and community and forces of destruction to Indigenous lands, a federal investigation found the largest animal production company in the world, JBS, has been implicated in the continued deforestation of the Amazon as well as the torture and murder of Indigenous people of the Amazon.^{40 41} Several of Europe's largest supermarket chains have responded by banning JBS beef products, acknowledging that animal feed crops and animal grazing drives 80 percent of Amazon deforestation.^{42 43} Through our consumption here in Berkeley, we literally fuel practices that continue to destroy Indigenous People and the lands on which they survive.

³⁷ Bunten, A.C. (2017). Indigenous Resistance: The Big Picture behind Pipeline Protests. Cultural Survival. [Web](#).

³⁸ Lazard, O. (2020). One Answer to California's Fires Lies in the Amazon. Carnegie Europe. [Web](#).

³⁹ Amazon Watch. Linked Fates: How California's Oil Imports Affect the Future of the Amazon Rainforest. [Web](#).

⁴⁰ Mano, A. (2021). Brazil's JBS bought 301,000 cattle from 'irregular' farms in the Amazon, audit finds. Reuters. [Web](#).

⁴¹ Phillips, D. (2020). Brazilian meat companies linked to farmer charged with 'massacre' in Amazon. The Guardian. [Web](#).

⁴² Spring, J. and Deutsch, A. (2021). European supermarkets stop selling Brazil beef over deforestation links. Reuters. [Web](#).

⁴³ Butler, R. (2009). Controlling the Ranching Boom that Threatens the Amazon. Yale School of the Environment. [Web](#).

With knowledge of these connections between the meat we eat and petroleum we consume to continued oppression of Indigenous People and desecration of their lands, we should consider actions like the boycotts undertaken in European countries.

Thoughtfully acknowledging our own history and current aspirations for local and other Indigenous Peoples prior to public deliberation offers hope for more permanent and meaningful restorative action in Berkeley as well as statewide, nationally, and across the globe.

REVIEW OF EXISTING PLANS PROGRAMS, POLICIES, AND LAWS

The City of Berkeley has a legacy of acknowledging the oppression and genocide of Indigenous people and taking concrete steps to support their struggle against institutions that grew out of settler-colonialist ideology as well as oppressive actions that persist today.

In 1992, Berkeley became the first city in the United States to rename as Indigenous Peoples' Day the federal holiday formerly recognized as Columbus Day. This action motivated changes to BUSD's history curriculum and undermined a long-standing revisionist history that European colonizer Christopher Columbus was a hero instead of a violent leader whose arrival led to the murder, enslavement, rape, and disease-related deaths of millions of Indigenous People.⁴⁴ Since then, nearly 130 cities nationwide and 20 states have acknowledged this day of recognition as well.

In 2000, the City of Berkeley officially designated the West Berkeley Shellmound, one of 425 ceremonial burial mounds that ringed San Francisco Bay to honor ancestors, as a landmark. The site is also recognized by the State of California and is eligible for listing on the National Register of Historic Places, meaning it meets all of the criteria for such listing. In 2020, the National Trust for Historic Preservation designated the Berkeley Shellmound and Village Site one of the 11 Most Endangered Historic Places in the United States.⁴⁵

Regarding the significance of the Shellmound and Village historic district, the "Shellmound - Ohlone Heritage Site and Sacred Ground" website documents that:

"For thousands of years, the people of this original village on the East Bay shore thrived on the abundant resources of land and sea, developing a sophisticated maritime culture. Towering over the village was a great mound, estimated to have been at least 20 feet high and hundreds of feet long, one of the largest of the 425

⁴⁴ Associated Press (1992). In Berkeley, Day for Columbus Is Renamed. New York Times. [Web](#).

⁴⁵ Dinkelspiel, F. (2020). West Berkeley Shellmound is now considered one of the U.S.'s 11 most endangered historic places. BerkeleySide. [Web](#).

shellmound funerary monuments that once lined the shores of San Francisco Bay. These mounds are older than the pyramids in Egypt and most of the major cities in the world.

Archaeologists have long recognized the importance of the West Berkeley Shellmound site, also known as the “West Berkeley Site,” or CA-ALA-307. The site has been determined eligible for listing on the National Register of Historic Places under all four criteria, and is listed on the California Register of Historical Resources. Archaeological evidence from the West Berkeley Site has fundamentally shaped understandings of the early human history of the San Francisco Bay Area, and ongoing research continues to enrich and reinterpret an amazing historical narrative.

Eminent UC Berkeley archaeologist Kent Lightfoot describes the West Berkeley Site as a fishing village where “an active port was maintained over hundreds of years,” with dozens of tule balsa canoes going out on fishing and hunting expeditions, or ferrying people and goods across the Bay. Large nets were used to catch fish such as sturgeon, salmon, thresher sharks, jacksmelt and surfperch. Hunters pursued antelope, deer, tule elk, dolphins, porpoises, otters, sea birds and other quarry, cooking their catch in underground ovens and hearths.

A unique 40-foot long oval-shaped building at the site is thought to have functioned as a center for ceremonies, dances and special meetings. Charmstones, abalone pendants and other ritual items have been recovered from the site. Hundreds of human burials have been recorded, as well as ritual burials of coyotes and a California condor.”⁴⁶

In May of 2009, the City Council adopted a resolution recognizing and endorsing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), a statement of values denouncing forced assimilation, land removal, violent exploitation, cultural genocide, and other actions abridging Indigenous People’s right to self-determination.⁴⁷ In 2015, the Council later delivered a letter to the UN Secretary General and US Ambassador to the UN urging this declaration to be adopted as a convention, which would be legally binding.

In January of 2016, the City Council adopted a resolution formally recognizing the Ohlone Peoples as the original inhabitants of Berkeley and referred to the Berkeley Shellmound landmark.⁴⁸ The latter affirmed the City’s commitment to the “defense of Indigenous rights,

⁴⁶ Shellmound – Ohlone Heritage Site and Sacred Grounds. [Web](#).

⁴⁷ United Nations General Assembly (2007). United Nations Declaration on the Rights of Indigenous Peoples. [Web](#).

⁴⁸ Berkeley Resolution No. 67,352-N.S. Recognizing the Ohlone Peoples. [Web](#).

culture, and dignity” as an official value, committing that “free, prior, and informed consent of the Ohlone and other Indigenous people should be integral to any alteration planning for the Berkeley Shellmound sacred site...”⁴⁹ The success of this measure underscores how Indigenous groups including Ohlone members and conservation activists have organized in spreading awareness throughout the community about their homeland and sacred sites in Berkeley and the Bay Area.

In January 2018, Council adopted a policy changing Berkeley's City Limits signs to read "Welcome to Berkeley - Ohlone Territory." In October 2018, the City Council took further action and adopted a similar measure replacing all existing Welcome to Berkeley signs to signs including "Ohlone Territory." As part of their deliberations, the City Council decided that in addition to recognizing the Ohlone People through signage, there was a need for more learning opportunities to add historical context, including a special Council session on Ohlone history and culture, a webpage on the City of Berkeley website linking to cultural and historic information, and inviting representatives of the Ohlone to speak at a City Council meeting.

On June 9, 2020 the City Council passed an item to paint the words “Black Lives Matter” and “Ohlone Territory” on streets adjacent to Berkeley’s City Hall.

At its January 20, 2022 meeting, the Berkeley Rent Board unanimously voted to adopt a land acknowledgement statement to be read out loud at all future board and committee meetings.⁵⁰

In the spirit of continuing to demonstrate and deepen the City of Berkeley’s commitment to recognition and inclusion of the Ohlone People we bring the proposal for an official land acknowledgment forward, including consideration of concrete actions that may follow from public deliberation.

ACTIONS/ALTERNATIVES CONSIDERED:

The City of Berkeley should consult with Lisjan Ohlone leadership regarding any decisions related to restorative, reparative, or other supportive actions. Some actions the City may wish to consult on include:

⁴⁹ Berkeley Resolution No. 67,353-N.S. Honor Berkeley Shellmound Indigenous Sacred Site, UC Berkeley Return Ancestral Remains to Ohlone Peoples. [Web](#).

⁵⁰City of Berkeley (2022). Berkeley Rent Board Adopts Land Acknowledgement Statement. [Web](#).

Create Easements and/or Return City land: The Sogorea Te' Land Trust and the City of Oakland on September 8, 2022 announced a visionary, historic plan to return approximately five acres of land owned by the City to Indigenous stewardship.

The Oakland City Council will hold hearings to consider conveying the site, known as Sequoia Point, to the Sogorea Te' Land Trust, and the East Bay Ohlone tribe, Confederated Villages of Lisjan Nation. The City would grant a cultural conservation easement in perpetuity to the Land Trust, allowing the Land Trust to immediately use the land for natural resource restoration, cultural practices, public education, and to plan for additional future uses.

What started out with a casual conversation between Oakland Mayor Libby Schaaf and tribal Chairperson Corrina Gould in 2018, grew into a partnership between the City and the Land Trust to begin to address the historic harms of Oakland's founding.

In the short term, the easement would allow the Land Trust to immediately begin tending to the land, gather Native plants and foods, clean up the area, and perform environmental and natural habitat restoration. The long-term vision of this project is to create a thriving, beautiful, ceremonial gathering place and structure where Indigenous people and their guests can come together and share cultural information and celebrations.

"I am committed to returning land to Indigenous stewardship, to offer some redress for past injustices to Native people," said Mayor Schaaf. "I hope the work we are doing in Oakland with the Sogorea Te' Land Trust can serve as a model for other cities working to return Indigenous land to the Indigenous community we stole it from."

In recognition of this historic moment, tribal Chairperson Corrina Gould said, "This agreement will restore our access to this important area, allowing a return of our sacred relationship with our ancestral lands in the hills. The easement allows us to begin to heal the land and heal the scars that have been created by colonization for the next generations."⁵¹

Berkeley should consider this or similar actions to return land to Ohlone ownership and/or stewardship.

⁵¹ Sogorea Te' Land Trust and City of Oakland Announce Plan to Return Land to Indigenous Stewardship. [Web.](#)

Local Support for Land Transfers: As part of the land acknowledgement process, the City of Berkeley might consider encouraging residents to donate land to indigenous stakeholders such as the Sogorea Te' Land Trust that partners with dozens of local food justice and environmental groups to protect our shared environment.⁵² The Council could recognize donations of land or actions taken by community members to donate land through wills. The City could also partner to distribute information on the Sogorea Te' Land Trust and include information about the Trust on its website, including a guide to these types of donations produced by the Sustainable Economies Law Center, a copy of which is attached.^{53 54}

Local support for Voluntary Land Taxes: The City of Berkeley may consider further means to encourage residents to donate Indigenous causes through payment of voluntary land taxes, "Shuumi," that support the return of Indigenous land to Indigenous people.⁵⁵ The Sogorea Te' Land Trust, located in the East Bay, has such a program, and a similar program allows residents of the Humboldt Bay region to pay a voluntary tax to the Wiyot people. In Seattle, nearly 4,300 residents have signed up to pay the Duwamish Tribe symbolic rent.⁵⁶

Support for Statewide Indigenous Land Sovereignty: The City of Berkeley may continue its consideration of support letters, resolutions, and education campaigns that highlight exploitation of ancestral Indigenous people and lands.

Future efforts could support action to return land or pay restitution to Indigenous people. Returning land to Indigenous sovereignty or using restitution funds for Indigenous-led sustainability initiatives acknowledges the leading role that the securing of land had in the genocide of Indigenous people across the region.⁵⁷

Berkeley further may consider statements of support for giving Indigenous people sovereignty over national and local parks, acknowledging the acts of violence and genocide that drove them from these locations. Precedent exists in New Zealand and Australia.

⁵² Sogorea Te' Land Trust. Return the Land / Land Return. [Web](#).

⁵³ Sustainable Economies Law Center. Options for Transferring Land. [Web](#).

⁵⁴ Note: for lands outside this region, individuals can often find information on donations by searching "Tribal Historic Preservation Officer" along with the name of the nation they wish to give to.

⁵⁵ Sogorea Te' Land Trust. Shuumi Land Tax. [Web](#).

⁵⁶ Singh, M. (2019). Native American 'land taxes': a step on the roadmap for reparations. The Guardian. [Web](#).

⁵⁷ Lindsay, B.C. (2012) Murder State: California's Native American Genocide, 1846-1873. University of Nebraska Press. Print. P. 147- 186.

Indigenous communities are already stakeholders in park management, with a century of experience managing the layers of bureaucracy involved in managing these lands.⁵⁸

CONSULTATION/OUTREACH OVERVIEW AND RESULTS

Much like the process the Rent Stabilization Board pursued, the wording and intentions behind this land acknowledgement were developed in close consultation with Ohlone representatives. Academic and Native American sources underly the brief historical overview.

RATIONALE FOR RECOMMENDATION

The City of Berkeley has a moral obligation to acknowledge local and broader atrocities against Indigenous people, and continued injustices. The regular repetition of the Land Acknowledgement, coupled with opportunities for deeper learning, will serve as a constant reminder of our responsibilities, and open the door to further restorative actions by the City and members of the community.

IMPLEMENTATION, ADMINISTRATION & ENFORCEMENT

Very little staff time or expense is needed to carry out the requirements of this referral. For Zoom meetings, a written version of the Acknowledgement will need to be prepared for screening prior to Council meetings, and the Agenda Committee will need to add the reading of the Acknowledgement to the Ceremonial Agenda of the first Regular City Council meeting of each month. For in-person meetings, a poster-sized version of the Land Acknowledgement should be produced for display in a prominent location in the Council chambers. This likely can be accomplished for under \$100.

Staff will further need to convey a copy of this item and resolution to the secretaries and chairs of each appointed or elected body in Berkeley, with a note that the City Council has requested such bodies to consider incorporating the acknowledgement into their meeting practices.

Posting the Land Acknowledgement on the City's website homepage and completing the new Ohlone history webpage is a limited expense and should be completed as quickly as possible. Other jurisdictions and organizations that practice the reading of Land Acknowledgements often also include pages about the history of local Indigenous People on their websites. These can serve as examples. Consultation with Lisjan Ohlone representatives is central to ensuring what is posted is complete and accurate.

⁵⁸ Treuer, D. (2021). Return the National Parks to the Tribes. The Atlantic. [Web](#).

ENVIRONMENTAL SUSTAINABILITY

This resolution raises awareness of how genocide and exploitation of land and other natural resources intersects with climate change, wildfire, food insecurity, and other major challenges our community – and planet - face. It will also raise awareness of the local conservation and environmental work of the Ohlone people.

FISCAL IMPACT

See Section in Implementation, Administration, and Enforcement for a description of de minimus associated costs.

OUTCOMES & EVALUATION

The City Council should partner with the Ohlone to develop and carry out more substantive acts of education, partnership, and restitution. This will prevent the land acknowledgement statement from becoming a mere “check-box of optical allyship.”

CONTACT PERSON

Councilmember Sophie Hahn, shahn@cityofberkeley.info; 510-682-5905

Attachments

1. Land Acknowledgement Statement
2. Land Acknowledgement Resolution
3. Sustainable Economies Law Center Options for Transferring Land – A Brief Guide

ATTACHMENT 1

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.

ATTACHMENT 2 - RESOLUTION

RESOLUTION #####-N.S.

RECOGNIZING THAT BERKELEY IS THE ANCESTRAL, UNCEDED HOME OF THE OHLONE PEOPLE AND ADOPTING AN OFFICIAL CITY OF BERKELEY LAND ACKNOWLEDGEMENT AND PRACTICES

WHEREAS Acknowledging that the City of Berkeley rests upon the ancestral lands of the Chochochenyo speaking Lisjan Ohlone people brings attention to their centuries of resistance to colonial violence and reminds our City and community of the need to take concrete restorative actions; and

WHEREAS Land acknowledgment is a traditional custom that dates back centuries in many Native nations and communities, land acknowledgments continue to be used by Native Peoples and non-Natives to recognize Indigenous Peoples who are the original stewards of the lands on which we now live; and

WHEREAS To begin public meetings, localities across the United States including Denver (CO), Portland (OR), and Phoenix (AZ) now share official land acknowledgements as well as many public agencies, including the National Park Service, the National Aeronautics and Space Administration (NASA); and

WHEREAS Many public and public-facing private institutions have also adopted land acknowledgment statements including UC Berkeley, Mills College, Chabot Las Positas Community College District, California College of the Arts, UCSF, Stanford, and recently, Berkeley's Rent Stabilization Board; and

WHEREAS One of the leading advocacy groups for land acknowledgement, the Native Governance Center, asks that land acknowledgements go beyond a mere statement, by providing research on the history of indigenous peoples and offering concrete actions to support them; and

WHEREAS The settlers of California, primarily Europeans seeking religious converts, agricultural land, and economic opportunity during the gold rush committed one of the most egregious genocides in history, murdering 80 percent of Indigenous people in the state from 1846 to 1873 through massacre by state-directed militias, enslavement in mining and agricultural production, displacement causing starvation, and compulsory assimilation; and

WHEREAS The Lisjan people have lived in the territory of Huchiun, the land that is now known as the East Bay in the San Francisco Bay Area, since the beginning of time and for thousands of years and hundreds of generations; and

WHEREAS the Lisjan people did not own the land, *they belonged to it*, and generation after generation they have cultivated reciprocal relationships with plants and animals and developed beautiful and powerful cultural practices that keep us in balance; and

WHEREAS The Confederated Villages of Lisjan are one of many Ohlone nations, each with its own geography and history, whose tribes, cultures and languages are as diverse as the ecosystems we live within; and

WHEREAS The Lisjan are made up of the six nations that were directly enslaved at Mission San Jose in Fremont, CA and Mission Dolores in San Francisco, CA: Lisjan (Ohlone), Karkin (Ohlone), Bay Miwok, Plains Miwok, Delta Yokut and Napian (Patwin); and

WHEREAS The colonization of the land where Berkeley is located began with the reign of terror inflicted by Spanish soldiers and missionaries who sought to convert all Indigenous people into Catholic subjects of Spain and steal their land; and

WHEREAS The Missions were plantations, built by slave labor and sustained through brutal physical violence and extractive land practices, and the Spanish also brought deadly diseases, invasive species, and Christian ideology based on human dominion of the natural world, causing devastating consequences for the Lisjan people and all living beings they shared the land with; and

WHEREAS After a brief but harrowing Mexican rancho period, Lisjan survivors faced extermination policies by the United States that aimed to eliminate California Indians entirely; and

WHEREAS In a climate of virulent racial discrimination and state-sponsored vigilante killings, most Lisjan families survived by isolating themselves and concealing their identities, and cultural and spiritual traditions were forced into dormancy or secrecy resulting in much knowledge perishing with the passing of generations; and

WHEREAS Despite these concerted efforts to erase Lisjan history and identity, the Lisjan community forms a diverse and vibrant constellation of tribes and families that utilizes a wide array of survival strategies to navigate a profoundly altered 21st century

world, and the Lisjan continue to revitalize their cultural practices and uphold their responsibilities to protect and care for their ancestral homeland; and

WHEREAS Having survived over two centuries of genocide and colonization during the Spanish, Mexican and American eras, the Lisjan continue to inhabit their ancestral homeland, fight for their sacred sites, and revitalize their cultural practices; and

WHEREAS The City of Berkeley has a legacy of acknowledging the oppression and genocide of Indigenous people and taking both symbolic and concrete steps to support their struggle against institutions that grew out of settler-colonialist ideology as well as steps to address oppressive actions that persist today; and

WHEREAS In 1992, Berkeley became the first city in the United States to rename as Indigenous Peoples' Day the federal holiday formerly recognized as Columbus Day, which motivated changes to BUSD's history curriculum and undermined a long-standing revisionist history that European colonizer Christopher Columbus was a hero instead of a violent leader whose arrival led to the murder, enslavement, rape, and disease-related deaths of millions of Indigenous People; and

WHEREAS In 2000, the City of Berkeley officially designated the West Berkeley Shellmound, one of 425 ceremonial burial mounds that ringed San Francisco Bay to honor ancestors, as an official Landmark, and the site is also recognized by the State of California and is eligible for listing on the National Register of Historic Places, meaning it meets all of the criteria for such listing; and

WHEREAS In 2020, the National Trust for Historic Preservation designated the Berkeley Shellmound and Village Site one of the 11 Most Endangered Historic Places in the United States; and

WHEREAS In May of 2009, the City Council adopted a resolution recognizing and endorsing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), a statement of values denouncing forced assimilation, land removal, violent exploitation, cultural genocide, and other actions abridging Indigenous People's right to self-determination and in 2015 the Council delivered a letter to the UN Secretary General and US Ambassador to the UN urging this declaration to be adopted as a convention, which would be legally binding; and

WHEREAS In January of 2016, the City Council adopted a resolution formally recognizing the Ohlone Peoples as the original inhabitants of Berkeley and affirmed the City's commitment to the "defense of Indigenous rights, culture, and dignity" as an official value,

committing that “free, prior, and informed consent of the Ohlone and other Indigenous people should be integral to any alteration planning for the Berkeley Shellmound sacred site...”; and

WHEREAS In January 2018, the City Council adopted a policy changing Berkeley's City Limits signs to read "Welcome to Berkeley - Ohlone Territory" and in October 2018, the City Council took further action and adopted a similar measure replacing all existing Welcome to Berkeley signs to signs including "Ohlone Territory;" and

WHEREAS During deliberations to recognize the Ohlone on City Limit Signs, the City Council decided that in addition to recognizing the Ohlone People through signage, there was a need for more learning opportunities to add historical context, including a special Council session on Ohlone history and culture, a webpage on the City of Berkeley website linking to cultural and historic information, and inviting representatives of the Ohlone to speak at a City Council meeting; and

WHEREAS On June 9, 2020 the City Council passed an item to paint the words “Black Lives Matter” and “Ohlone Territory” on streets adjacent to Berkeley’s City Hall; and

WHEREAS At its January 20, 2022 meeting, the Berkeley Rent Board unanimously voted to adopt a land acknowledgement statement to be read out loud at all future board and committee meetings, providing an important example for the City to follow.

NOW THEREFORE, BE IT RESOLVED In the spirit of continuing to demonstrate and deepen the City of Berkeley’s recognition, inclusion, restitution, and repair towards the Lisjan Ohlone, whose ancestral home lies where the City of Berkeley is located, and who have survived centuries of cultural, physical, and environment genocide at the hands of Spanish, Mexican, and American colonists, the Council of the City of Berkeley hereby adopts the following Land Acknowledgement:

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.

BE IT FURTHER RESOLVED That the Land Acknowledgement shall be displayed in writing at all Regular Meetings of the Berkeley City Council and shall be read out loud during the Ceremonial portion of the first Regular City Council Meeting of each month.



OPTIONS FOR TRANSFERRING LAND

A BRIEF GUIDE

This short guide summarizes various options for landowners interested in transferring land to another person, group, or community. Landowners who are particularly interested in transferring ownership to nonprofit land trusts, indigenous tribes, and community-based organizations will find this guide most useful.

Because we have written this guide with landowners in mind, we also provide a brief consideration of the advantages and disadvantages of each option from that perspective. Having said that, we think it is essential that landowners consider their own goals as well as the goals and needs of the party or community to whom they would like to transfer land.

Four key questions to consider as you read through this guide focus on the *financial* and *use* needs of the parties.

1. What are the **financial needs** of the transferring party?
2. What are the **financial needs** of the receiving party?
3. What are the **use needs** of the transferring party after the transfer?
4. What are the **use needs** of the receiving party after the transfer?

The land transfer mechanisms covered in this guide include:

- Full Value Sale
- Charitable (Bargain) Sale
- Full Donation
- Donation of a Remainder Interest
- Revocable Transfer on Death (Lady Bird Deed)
- Donation by Bequest
- Sale or Donation of an Easement

In any situation, we strongly recommend that you seek individualized tax, legal, and estate planning advice to determine which of these options is best suited to your circumstances. Laws vary from state to state, so having appropriate counsel where the land is located is critical.



Full Value Sale

This is likely the kind of transfer of ownership that most people are familiar with. In this scenario, the landowner sells to the buyer at a price determined by a third-party appraisal. The buyer pays the full value and receives title to the property. For many people, including nonprofits and other community-based organizations, a full value sale is not an affordable option. However, there are ways to make this option more affordable by delaying payment in two ways.

1. **Installment Sale:** An installment sale allows the buyer to make payments over several years at intervals and amounts that are agreeable to both parties. The landowner would retain title to the property until the final payment. The parties could agree to provide the buyer with use of the land at any point during the payment period, including at the first payment or after payment has been made in full.
2. **Seller Financing:** Alternatively, the landowner could provide seller financing, meaning that title immediately transfers to buyer, and in exchange, the landowner gets a promissory note in which the buyer promises to pay the landowner over time, with or without interest. A deed of trust is recorded on the property to secure payment of the promissory note.

Advantages of this option:

- Fee simple ownership of land gives the buyer the greatest ability to fulfill their mission and ensure secure tenure over the long term.

Disadvantages of this option:

- The landowner will have to pay income tax on the capital gain if the land has appreciated in value since it was originally purchased.
- This is the least financially feasible option for buyers, particularly nonprofit organizations with a limited budget and limited capacity to raise capital.
- An installment sale may limit the buyer's uses of the land until the transfer is complete.



Charitable (Bargain) Sale

A charitable, or bargain, sale occurs when the landowner sells land to a *tax-exempt nonprofit* organization for less than market value. This kind of sale makes the land more affordable to the buying nonprofit, and can offer tax deduction benefits to the selling landowner. The parties can also use the **Installment Sale** or **Seller Financing** options discussed above in this situation as well, if affordability is still a concern for the nonprofit buying the land.

Advantages of this option:

- The difference between full market value and the sale price can qualify the landowner for an income tax deduction and capital gains tax reduction for that portion of the value. This can offset the income taxes and capital gains taxes the landowner will incur from the sale of the property, after reducing ordinary income.
- If the land has significantly increased in value since the seller purchased it, this option can offset a large amount of the resulting capital gains liability for the increased value.
- The nonprofit buyer will be more likely to afford the purchase price of the land.

Disadvantages of this option:

- The landowner does not realize the full income from the market value of the property.
- This may not be the best strategy if the landowner would otherwise qualify for public benefits in the next several years. Recently transferred assets like land can negatively impact eligibility for benefits.



Full Donation

This is the simplest way to transfer land to another party and is the most affordable option for receiving nonprofits or community-based organizations to advance their mission to protect, preserve, and steward land in the long term.

Advantages of this option:

- Fee simple donation to an eligible tax-exempt organization would give the landowner the greatest immediate income tax benefits, sometimes for the full appraised value of the land, in addition to relief from property taxes, and potential estate tax benefits.
- The receiving party would not require financing in order to receive the land.
- The land would be immediately available to the receiving party.

Disadvantages of this option:

- The landowner does not realize the full income from the market value of the property.
- This may not be the best strategy if the landowner would otherwise qualify for public benefits in the next several years. Recently transferred assets like land can negatively impact eligibility for benefits.



Donation of a Remainder Interest

If the landowner would like to donate the land to an eligible tax-exempt nonprofit organization but retain the ability to live on the land during their, or their family members', lifetime, they can donate what is called a "remainder interest" in the land while retaining what is called a "life estate."

Advantages of this option:

- Full transfer to the receiving party will occur immediately upon the landowner's death. Upon the landowner's, or their designated family members', death, this kind of transfer avoids the expense and delay of probate.
- The landowner may be able to receive an immediate income tax deduction for the value of the property that was donated (determined by an appraisal).
- This may be a good option for landowners who receive public benefits. The state can make a claim for repayment of these benefits against an estate and place a lien on property after death. However, because donating a remainder interest is irrevocable, the property will not be part of the estate at death.
- The land will not be subject to capital gains tax on appreciated value.
- The property will not be part of the donor's taxable estate, where the donor (and/or the donor's spouse) are the only life tenants.

Disadvantages of this option:

- The landowner will need to pay the property taxes on the land while retaining use of the property.
- The landowner does not realize the full income from the market value of the property.
- The receiving party would not require financing in order to receive the land.
- Without another agreement, the land will not be immediately available for use by the receiving party.



Revocable Transfer on Death Deed (Lady Bird Deed)

Lady Bird Deeds, which are only available in some states, are similar to deeds described above that create a life estate and donate a remainder interest, except that Lady Bird Deeds are revocable, meaning that the landowner can, during their lifetime, revoke the transfer. This gives more control to the landowner, but can put the receiving party in an uncertain position. Lady Bird Deeds are available in California until 2021, unless legislation is introduced to extend the law.

Advantages of this option:

- Transfer of title will occur immediately upon the landowner's death, so the donation will not be subject to the expense and delay of probate.
- The land donation will not be subject to capital gains tax on appreciated value.
- The landowner can revoke the deed at any time during their lifetime.

Disadvantages of this option:

- Because the deed is revocable, the landowner does not receive an income tax deduction available with other land donations.
- Without another agreement, the land will not be immediately available to the receiving party.
- The receiving party would not require financing in order to receive the land.
- This kind of transfer does not provide reliable certainty to the receiving party since the transfer can be revoked during the landowner's lifetime.



Donation by Will or Living Trust (Bequest)

A landowner can donate land in a will or through a revocable living trust. Both strategies allow the landowner to retain full use of the land during their lifetime.

Advantages of this option:

- Reduces estate or inheritance taxes.
- Can be changed or revoked at any time during landowner's lifetime.
- The receiving party would not require financing in order to receive the land.

Disadvantages of this option:

- The landowner will still be responsible for paying property taxes for the entire property during their lifetime.
- Without another agreement, the land will not be immediately available to the receiving party.



Agricultural, Conservation, or Cultural Easement Donation

An *easement* is an agreement between the landowner and a third party that affects the landowner's rights on the land covered by the easement. Easements are generally recorded on the deed of the property and are therefore permanent. Conservation, agricultural, and cultural easements are specific kinds of agreements that can be entered into with eligible organizations or tribes that can also qualify as a charitable contribution if donated by the landowner.

- A *conservation easement* permanently restricts uses on the land that interfere with the ecological conservation of that land.
- An *agricultural easement* permanently protects farmland by setting limitations on the use of the land.
- A *cultural easement*, available in some states, grants indigenous communities certain access rights to lands for continuing and preserving cultural heritage.

Easements can be sold or donated. The party holding the easement cannot also be the party that holds title to the land.

Advantages of this option:

- The landowner can retain ownership of the land and convey the land to their heirs.
- If the easement meets IRS criteria, the landowner may be able to deduct the value of any donated portion of the easement up to 50% of their adjusted gross income, or 100% if they are a farmer, for up to 15 years.
- Affirmative easements (those requiring certain uses) can increase the value of the easement and reduce the overall value of the land, making it more affordable if the easement is sold instead of donated
- In addition to an income tax deduction, the easement may reduce property taxes and estate taxes.

Disadvantages of this option:

- Easements do not convey an ownership interest in the land to the party holding the easement. This may not align with the intent of either or both parties.
- Easements can be expensive to enforce, thus creating a financial liability for the easement-holding party.
- Easements, alone, do not preserve long-term affordability of land, because an easement only reduces the relative market value of the land, but does not immunize the land value from increasing through speculation and other market forces.

RESOLUTION 70,564-N.S.

RECOGNIZING THAT BERKELEY IS THE ANCESTRAL, UNCEDED HOME OF THE OHLONE PEOPLE AND ADOPTING AN OFFICIAL CITY OF BERKELEY LAND ACKNOWLEDGEMENT AND PRACTICES

WHEREAS Acknowledging that the City of Berkeley rests upon the ancestral lands of the Chochenyo speaking Lisjan Ohlone people brings attention to their centuries of resistance to colonial violence and reminds our City and community of the need to take concrete restorative actions; and

WHEREAS Land acknowledgment is a traditional custom that dates back centuries in many Native nations and communities, land acknowledgments continue to be used by Native Peoples and non-Natives to recognize Indigenous Peoples who are the original stewards of the lands on which we now live; and

WHEREAS To begin public meetings, localities across the United States including Denver (CO), Portland (OR), and Phoenix (AZ) now share official land acknowledgements as well as many public agencies, including the National Park Service, the National Aeronautics and Space Administration (NASA); and

WHEREAS Many public and public-facing private institutions have also adopted land acknowledgement statements including UC Berkeley, Mills College, Chabot Las Positas Community College District, California College of the Arts, UCSF, Stanford, and recently, Berkeley's Rent Stabilization Board; and

WHEREAS One of the leading advocacy groups for land acknowledgement, the Native Governance Center, asks that land acknowledgements go beyond a mere statement, by providing research on the history of indigenous peoples and offering concrete actions to support them; and

WHEREAS The settlers of California, primarily Europeans seeking religious converts, agricultural land, and economic opportunity during the gold rush committed one of the most egregious genocides in history, murdering 80 percent of Indigenous people in the state from 1846 to 1873 through massacre by state-directed militias, enslavement in mining and agricultural production, displacement causing starvation, and compulsory assimilation; and

WHEREAS The Lisjan people have lived in the territory of Huchiun, the land that is now known as the East Bay in the San Francisco Bay Area, since the beginning of time and for thousands of years and hundreds of generations; and

WHEREAS the Lisjan people did not own the land, *they belonged to it*, and generation after generation they have cultivated reciprocal relationships with plants and animals and developed beautiful and powerful cultural practices that keep us in balance; and

WHEREAS The Confederated Villages of Lisjan are one of many Ohlone nations, each with its own geography and history, whose tribes, cultures and languages are as diverse as the ecosystems we live within; and

WHEREAS The Lisjan are made up of the six nations that were directly enslaved at Mission San Jose in Fremont, CA and Mission Dolores in San Francisco, CA: Lisjan (Ohlone), Karkin (Ohlone), Bay Miwok, Plains Miwok, Delta Yokut and Napien (Patwin); and

WHEREAS The colonization of the land where Berkeley is located began with the reign of terror inflicted by Spanish soldiers and missionaries who sought to convert all Indigenous people into Catholic subjects of Spain and steal their land; and

WHEREAS The Missions were plantations, built by slave labor and sustained through brutal physical violence and extractive land practices, and the Spanish also brought deadly diseases, invasive species, and Christian ideology based on human dominion of the natural world, causing devastating consequences for the Lisjan people and all living beings they shared the land with; and

WHEREAS After a brief but harrowing Mexican rancho period, Lisjan survivors faced extermination policies by the United States that aimed to eliminate California Indians entirely; and

WHEREAS In a climate of virulent racial discrimination and state-sponsored vigilante killings, most Lisjan families survived by isolating themselves and concealing their identities, and cultural and spiritual traditions were forced into dormancy or secrecy resulting in much knowledge perishing with the passing of generations; and

WHEREAS Despite these concerted efforts to erase Lisjan history and identity, the Lisjan community forms a diverse and vibrant constellation of tribes and families that utilizes a wide array of survival strategies to navigate a profoundly altered 21st century world, and the Lisjan continue to revitalize their cultural practices and uphold their responsibilities to protect and care for their ancestral homeland; and

WHEREAS Having survived over two centuries of genocide and colonization during the Spanish, Mexican and American eras, the Lisjan continue to inhabit their ancestral homeland, fight for their sacred sites, and revitalize their cultural practices; and

WHEREAS The City of Berkeley has a legacy of acknowledging the oppression and genocide of Indigenous people and taking both symbolic and concrete steps to support their struggle against institutions that grew out of settler-colonialist ideology as well as steps to address oppressive actions that persist today; and

WHEREAS In 1992, Berkeley became the first city in the United States to rename as Indigenous Peoples' Day the federal holiday formerly recognized as Columbus Day, which motivated changes to BUSD's history curriculum and undermined a long-standing

revisionist history that European colonizer Christopher Columbus was a hero instead of a violent leader whose arrival led to the murder, enslavement, rape, and disease-related deaths of millions of Indigenous People; and

WHEREAS In 2000, the City of Berkeley officially designated the West Berkeley Shellmound, one of 425 ceremonial burial mounds that ringed San Francisco Bay to honor ancestors, as an official Landmark, and the site is also recognized by the State of California and is eligible for listing on the National Register of Historic Places, meaning it meets all of the criteria for such listing; and

WHEREAS In 2020, the National Trust for Historic Preservation designated the Berkeley Shellmound and Village Site one of the 11 Most Endangered Historic Places in the United States; and

WHEREAS In May of 2009, the City Council adopted a resolution recognizing and endorsing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), a statement of values denouncing forced assimilation, land removal, violent exploitation, cultural genocide, and other actions abridging Indigenous People's right to self-determination and in 2015 the Council delivered a letter to the UN Secretary General and US Ambassador to the UN urging this declaration to be adopted as a convention, which would be legally binding; and

WHEREAS In January of 2016, the City Council adopted a resolution formally recognizing the Ohlone Peoples as the original inhabitants of Berkeley and affirmed the City's commitment to the "defense of Indigenous rights, culture, and dignity" as an official value, committing that "free, prior, and informed consent of the Ohlone and other Indigenous people should be integral to any alteration planning for the Berkeley Shellmound sacred site..."; and

WHEREAS In January 2018, the City Council adopted a policy changing Berkeley's City Limits signs to read "Welcome to Berkeley - Ohlone Territory" and in October 2018, the City Council took further action and adopted a similar measure replacing all existing Welcome to Berkeley signs to signs including "Ohlone Territory;" and

WHEREAS During deliberations to recognize the Ohlone on City Limit Signs, the City Council decided that in addition to recognizing the Ohlone People through signage, there was a need for more learning opportunities to add historical context, including a special Council session on Ohlone history and culture, a webpage on the City of Berkeley website linking to cultural and historic information, and inviting representatives of the Ohlone to speak at a City Council meeting; and

WHEREAS On June 9, 2020 the City Council passed an item to paint the words "Black Lives Matter" and "Ohlone Territory" on streets adjacent to Berkeley's City Hall; and

WHEREAS At its January 20, 2022 meeting, the Berkeley Rent Board unanimously voted to adopt a land acknowledgement statement to be read out loud at all future board and committee meetings, providing an important example for the City to follow.

NOW THEREFORE, BE IT RESOLVED In the spirit of continuing to demonstrate and deepen the City of Berkeley's recognition, inclusion, restitution, and repair towards the Lisjan Ohlone, whose ancestral home lies where the City of Berkeley is located, and who have survived centuries of cultural, physical, and environment genocide at the hands of Spanish, Mexican, and American colonists, the Council of the City of Berkeley hereby adopts the following Land Acknowledgement:

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.

BE IT FURTHER RESOLVED That the Land Acknowledgement shall be displayed in writing at all Regular Meetings of the Berkeley City Council and shall be read out loud during the Ceremonial portion of the first Regular City Council Meeting of each month.

The foregoing Resolution was adopted by the Berkeley City Council on October 11, 2022 by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.


Jesse Arreguin, Mayor

Attest: 
Mark Numainville, City Clerk



October 25, 2022

To: Disaster Fire and Safety Commission

Re: Wildland Urban Interface Fire Preparedness Progress Report

Large portions of Berkeley’s jurisdiction lie within recognized CalFIRE Very High Wildfire Hazard Severity Zones. As a result of topography, infrastructure, weather, and the systematic exclusion of fire from this area for over 100 years, there is no simple solution to the problem of reducing the risk of catastrophic wildfire.

The impacts from wildfire may be direct from fire, or indirect from adverse health impacts (breathing problems downwind, sustained loss of power from a PG&E PSPS event, or infrastructure damage). There will also be long term challenges related to property insurance collection, struggles to rebuild after a fire, and the psychological toll that large disasters have on a community. The indirect impacts disproportionately affect unsheltered populations, individuals with underlying health conditions, low-income individuals, children and the elderly (Governor’s Office of Planning and Research, 2022).

Wildfire is a community wide threat – not just a hills problem. Catastrophic fires that spread out of the hills and to the flat lands have been experienced locally in 1923 when a fire started near Lake Anza burned to downtown, in 1991 when the Tunnel Fire started in the hillsides of northern Oakland and swept through southeastern Berkeley (only stopped due to a change in the weather), regionally in 2017 when the Tubbs Fire spread out of the hills and through Coffey Park in Santa Rosa, and in many other locations throughout the world. Unprecedented community-wide collaboration will be necessary to protect Berkeley from wildfire.

To coordinate and collaborate on this work, an Intra-Departmental Wildfire Task Force (WUI Task Force) composed of staff from the City Manager’s Office (CMO), City Attorney’s Office (CAO), Parks Recreation and Waterfront (PRW), Public Works (PW), Fire that have been meeting regularly. Since these meetings began in August of 2022, the WUI Task Force has been focused on:

- **WUI Work Plan:** This document will detail what the strategic and tactical plan will be to implement the policies and programs that will help reduce the risk of wildfire to the community. This plan will be organized along four lines of effort:

DAVID SPRAGUE / INTERIM FIRE CHIEF
2100 MARTIN LUTHER KING JR WAY 510.981.3473
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- Minimizing Risks to Existing and New Land Uses
 - Fuel Modification and Land Management
 - Protecting Public Health and Increasing Equity
 - Disaster Response, Recovery, and Maintenance
- **2022 Fire Code Amendments [11/15 Council Meeting]:** An amendment has been included that will require management of vegetation within 100' of a structure in Very High Fire Hazard Severity Zone 2 & 3 (Zone 2 & 3). This amendment applies to structures on adjacent property – because fire does not recognize property lines. GIS mapping shows this amendment provides for vegetation management in all but a dozen small areas in Zone 2 & 3, mostly public parks. An additional amendment provides the authority to require management of vegetation on private lands that are outside of 100' from a structure based on the hazards present.
 - **Subject Matter Experts (SME) [11/03 Council Meeting]:** Looking outside of Berkeley for the best and brightest minds working on wildfire prevention and response will yield the best results here in Berkeley. A contract with Ganey Science has been used to bring in SMEs on a temporary basis to help research, prepare, and pursue grants, environmental experts to improve our understanding of (and how to balance) the environmental impacts of this work, SMEs that have implemented and managed very successful community-wide chipping programs, and other industry experts with incredible experience and connections. Council will consider a resolution authorizing an amendment to increase the value of this contract.
 - **Chipping Pilot Program:** Staff are considering an enhancement to the existing chipper program and expansion of this service to a larger portion of the city. Wildfire is a city-wide problem, not just a hills problem and thus all community members will have to be considerate of the vegetation on their property. An SME who designed and manages the chipping program for the Marin Wildfire Protection Agency (MWPA) has been hired. Data from Marin demonstrates that when chipping is provided and coordinated with a Defensible Space Inspection (DSI), voluntary vegetation removal by homeowners increases significantly. At the 11/03 meeting, Council will consider amending a Contract with FireAside to increase funding that will add a software feature that will provide residents the ability to self-schedule chipping appointments through the web.
 - **Public/Private Partnerships:** The most effective and efficient way to treat vegetation and harden homes is to remove the hurdles that inhibit the voluntary adoption of these core risk reduction principals. Two of the most significant hurdles are selecting a contractor and financing the work. Staff are working with the CAO and PRW on a cost-sharing program to help homeowners complete this work.



- **Grant Funding:** There is now a team working on tracking available grants that would help leverage City funds for projects related to wildfire education, vegetation treatment, and home hardening in Fire Zone 2 & 3. Staff will likely be applying for a CalFire grant in the coming months.
- **Citation Process:** While the Department's goal is to educate and gain voluntary compliance with hazardous vegetation management. When the citation, fine and abatement process is necessary it should be fair, efficient, and effective. Staff is working to streamline the existing inspection and appeal process to meet these goals.
- **Temporary Employees [11/03 Council Meeting]:** Due to recruitment and retention challenges facing the City, it has, and will continue to be critical that the Department have alternatives in place to ensure work can progress. As one example, a critical staff support position in the new WUI Division has been vacant and filled with a temporary employee as there has not been an established list for the classification. On 11/03 Council will consider a resolution authorizing a new contract with Robert Half/Protiviti, the vendor that provides temporary employees. Until the City's recruitment and retention challenges are stabilized, this contract will allow the Department to sustain operations when there are staffing gaps.
- **On-Call Contractors:** Staff are working with PW and PRW to launch competitive processes or leverage existing contracts to have adequate capacity to perform hazardous tree maintenance and removal, hazardous vegetation treatment, and chipping service for the 2023 fire season.
- **Physical Space:** The Department does not have the physical space to locate any additional employees. Staff has been working with the CAO and PW to complete negotiations with the owners of a new, larger Fire Department Headquarters. Staff hopes to bring a lease to Council in early 2023, with move-in to occur in late 2023 or early 2024. As a stop gap, Staff are working with PW to secure temporary overflow office space so work is not inhibited.
- **DFSC & Community Partners:** Staff is engaging key community stakeholders in dialogue to align their passion and energy with a comprehensive plan of action. This has included group and 1:1 meetings where there has been a substantial amount of listening and positive sharing of information and ideas. This effort will be immensely beneficial as community alignment needs to occur in order to make substantial changes to the fire risk facing our community. These conversations have also yielded many good ideas that are being incorporated in to the WUI Work Plan.
- **Vegetation Treatment on Public Land:** Staff has worked with PRW to seek out public property where additional vegetation management could be performed in the 2022



season using a contractor already in place. Staff also solicited community stakeholders to determine if they knew of any areas that were of particular concern and within the vendor's scope of work. The contracted crews have performed some great work and will be wrapping up the season after a final project in Remillard Park. The additional haz veg work was made possible by an infusion of Measure FF funds to the PRW budget.

- **Safe Passages:** Staff has begun working with PW to obtain quotes for repainting all red curbs and replacing all worn parking restriction signs in Fire Zone 2 & 3. This work will commence once vendors are selected. Staff is also working with a Mills College graduate class that has adopted providing a framework for Safe Passages program implementation as their final project.
- **Mobile Water Supply:** Staff has been trying to procure a mobile 3,000-gallon water tender (water truck) that will provide the City a quick attack water supply for a wildfire that ignites in or adjacent to the city. Due to the pandemic's impact on the availability of chassis, a unit has not been procured. Recently Staff worked with PW to generate a Purchase Order in less than 12 hours (!!) to secure purchase of a demo unit that is being produced for an upcoming fire trade show. Staff turned a PO around faster than a dozen other jurisdictions that were attempting to purchase this unit. This will complement the Above Ground Water System (Measure Q) which takes several hours to deploy.
- **Evacuation Warning [11/15 Council Meeting]:** Council will consider a contract amendment to increase the Genasys contract by 200k to provide funding for what has proven to be a more complex permitting process both within the City and with the State Architect for the warning speaker sites that will be on BUSD land. We are projecting that speakers will begin to be installed in late 2022.
- **Evacuation Time Study:** Staff are working on a Contract with a consultant to perform this study, which will feed the next Local Hazard Mitigation Plan and is required under AB 747. The study will identify evacuation routes and their capacity, safety, and viability under a range of emergency scenarios. Excerpt from AB 747 *"The Planning and Zoning Law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city and of any land outside its boundaries that bears relation to its planning. That law requires this general plan to include certain mandatory elements, including a safety element for the protection of the community from unreasonable risks associated with the effects of various geologic hazards, flooding, wildland and urban fires, and climate adaptation and resilience strategies. That law requires the safety element to address, among other things, evacuation routes related to identified fire and geologic hazards."*