



Office of the City Manager

ACTION CALENDAR
July 30, 2024
(Continued from July 9, 2024)

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: Initiative Petition – Ordinance to Establish a Parcel Tax to Fund Repairs and Improvements to Streets, Sidewalks, and Pedestrian Paths (SAFE STREETS)

RECOMMENDATION

- 1) Take action on the initiative petition to:
 - a) Adopt the provisions of the measure without alteration.
 - OR-
 - b) Adopt a Resolution submitting the measure, without alteration, to a vote of the people at the November 5, 2024 General Municipal Election.
- 2) Designate, by motion, specific members of the Council to file ballot measure arguments on this measure as provided for in Elections Code Section 9282.

FISCAL IMPACTS OF RECOMMENDATION

No direct fiscal impacts related to the recommended action.

CURRENT SITUATION AND ITS EFFECTS

An initiative petition titled “City of Berkeley Ordinance to Establish a Parcel Tax to Fund Repairs and Improvements to Streets, Sidewalks and Pedestrian Path (SAFE STREETS)” was filed with the City Clerk on May 9, 2024. The proponents of this petition submitted 3,874 prima facie signatures.

Under Berkeley City Charter Article XIII, a successful initiative petition must include valid signatures of at least 5% (2,985) of the votes for all candidates for Mayor in November 2020 (57,885).

The Alameda County Registrar of Voters verified the signatures based on the line-by-line examination set forth in accordance with State Elections Code §9115(b). The petition was certified by the Registrar of Voters as being sufficient on June 7, 2024.

Additionally, with respect to who can author arguments for measures placed on the ballot by petition, Elections Code Section 9282 provides the City Council may authorize the

Initiative Petition

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Council as a whole, or members of the Council, to submit an argument against the initiative ordinance.

BACKGROUND

Pursuant to the City Charter, Article XIII §92, once a petition has been found to have a sufficient amount of signatures, the City Council must consider whether to a) Adopt said ordinance without alteration within twenty days after the attachment of the City Clerk's certificate of sufficiency to the accompanying petition (subject to a referendary vote, under the provision of Article XIV of this Charter); or b) Submit the ordinance to the voters of the City of Berkeley at the next general election.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or climate impacts associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The proposed action is mandated by state codes and the provisions of the City Charter.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. Resolution
Exhibit A: Full Text of Measure
2. City Clerk's Certificate of Sufficiency

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

SUBMITTING TO THE BERKELEY ELECTORATE AN INITIATIVE ORDINANCE TO ESTABLISH A PARCEL TAX TO FUND REPAIRS AND IMPROVEMENTS TO STREETS, SIDEWALKS AND PEDESTRIAN PATHS (SAFE STREETS) FOR THE NOVEMBER 5, 2024 BALLOT

WHEREAS, the Berkeley City Council has elected to submit to the voters at the November 5, 2024 General Municipal Election, an initiative measure to Establish a Parcel Tax to Fund Repairs and Improvements to Streets, Sidewalks, and Pedestrian Paths (SAFE STREETS); and

WHEREAS, certain actions are required in connection with said election; and

WHEREAS, the Council has requested that the Alameda County Board of Supervisors consolidate the General Municipal Election with the Presidential General Election; and

WHEREAS, the Council desires to submit all measures to be placed upon the ballot at said consolidated election.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Board of Supervisors of Alameda County is hereby requested to include on the ballots and sample ballots the measure enumerated above to be voted on by the voters of the qualified electors of the City of Berkeley.

BE IT FURTHER RESOLVED that full text of the measure and the City Attorney's analysis shall be printed in the Voter Information Pamphlet mailed to all voters in the City of Berkeley.

BE IT FURTHER RESOLVED that the above enumerated measure requires a majority vote threshold for passage.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to cause the posting, publication and printing of notices, pursuant to the requirements of the Charter of the City of Berkeley, the Government Code and the Elections Code of the State of California.

BE IT FURTHER RESOLVED that the Registrar of Voters of Alameda County is requested to perform services in connection with said election at the request of the City Clerk.

BE IT FURTHER RESOLVED that the City of Berkeley agrees to reimburse the County of Alameda in full for the cost of election services performed.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized to enter into any contracts necessary for election consulting services, temporary employment services, printing services, and any such other supplies and services as may be required by the statutes of the State of California and the Charter of the City of Berkeley for the conduct of the November General Municipal Election.

BE IT FURTHER RESOLVED that Pursuant to Elections Code Section 9285 (b), the City Council hereby adopts the provisions of Elections Code Section 9285 (a) providing for the filing of rebuttal arguments for city ballot measures.

BE IT FURTHER RESOLVED that said proposed initiative measure shall appear and be printed upon the ballots to be used at said election as follows:

CITY OF BERKELEY INITIATIVE ORDINANCE	
Shall the measure creating a special parcel tax for the purposes of street, sidewalk, and pedestrian path repair, repaving, and reconstruction, safety improvements, and environmental infrastructure, at a rate of \$0.17 per square foot of improvements to dwelling units and \$0.25 per square foot of improvements to other property, which may be increased annually for inflation; and generating approximately \$15 million annually for 14 years, provided other funding for street maintenance is maintained, be adopted?	YES
	NO

BE IT FURTHER RESOLVED that the text of the initiative ordinance be shown as Exhibit A, attached hereto and made a part hereof.

Exhibits

A: Text of Ordinance

MEASURE TO BE SUBMITTED TO THE VOTERS AUTHORIZING THE CITY OF BERKELEY
TO LEVY A PARCEL TAX TO FINANCE STREET AND SIDEWALK REPAIR AND TRAFFIC
SAFETY

RECEIVED

The people of the City of Berkeley do ordain as follows:

DEC 15 2023

Section 1. Title

This measure shall be known as the Sustainable and Accountable Funding for Equitable Street Transformation, Revitalization, Enhancements, and Essential Traffic Safety (SAFE STREETS) Initiative

CITY OF BERKELEY
CITY CLERK DEPARTMENT

Section 2. Findings

The People of the City of Berkeley find and declare as follows:

A. The City's Vision 2050 Framework is a comprehensive plan to repair and upgrade Berkeley's infrastructure and facilities to be more sustainable, safe, and resilient and to meet the needs of future generations, including addressing climate and environmental challenges. The Vision 2050 task force identified the highest priority is to rehabilitate Berkeley's core infrastructure, which is the infrastructure within the street right-of-way; and is inclusive of street paving, sidewalks, mobility and traffic safety, quick build transit projects, green infrastructure, and street trees.

B. Berkeley's street pavement has an overall Pavement Condition Index (PCI) of 57 and is currently classified as "at risk" condition by the Metropolitan Transportation Commission and by the City Auditor. Failure to make urgently needed street repairs in a timely manner will result in the need for more costly repairs in the future. City staff estimates show that improving the overall PCI to 70, classified as "good" condition, would require \$320 million over 12 years, or an estimated \$350 million over 14 years. Funding will continue to come largely from existing sources, such as the General Fund, and augmented by an estimated \$110 million in funds from this initiative.

On July 26, 2022, in Resolution No. 70,456-N.S., the City Council committed to increase annual funding of street maintenance from the General Fund to approximately \$8 million, for a total of \$15.3 million, and to continue that funding and increase it to account for inflation and maintenance once repairs have been made.

C. City staff estimate a backlog of about \$35 million is needed to repair sidewalks and pathways.

D. The Berkeley City Council adopted the 2019 Vision Zero Action Plan, with the goal of eliminating fatal and severe traffic crashes by 2028, and outlined a set of priority actions, including implementation of adopted and updated plans such as the 2017 Bicycle Plan and 2020 Pedestrian Plan. The Bicycle and Pedestrian Plans had a total estimated cost of \$124 million when initially adopted, but have remained largely unfunded while costs have increased. This initiative will prioritize the most critical projects to improve pedestrian and bike safety and

will require an investment of about \$70 million, which will be leveraged as matching funds to win additional grant monies.

The pedestrian safety projects are described in the 2020 Pedestrian Plan, and include signal, intersection and street improvements at 10 priority street segments. The estimated cost ranges from \$18 to \$61 million.

Bicycle safety projects will prioritize Tier I projects described in the 2017 Bicycle Master Plan Appendix E, primarily consisting of improvements to existing bicycle routes, including traffic calming on bike boulevards and intersection improvements (including protected intersections and flashing beacons). The Executive Summary of the Bicycle Master Plan estimates the Tier I bicycle projects at a total cost of \$48 million.

E. Berkeley has declared a climate emergency and set a goal of achieving 100% sustainable transportation by 2040. The State has mandated the inclusion of green infrastructure in roads that are reconstructed. This initiative includes funding for environmental improvements, including the use of green infrastructure, permeable surfaces, use of native plants, and tree plantings, as well as community spaces, benches, bus shelters, and other appropriate uses to improve the environment of our streets and adapt to a changing climate. The funding allocated in this measure for these types of improvements is roughly \$20 million.

F. A special parcel tax within the City provides an equitable mechanism for funding capital investments and ongoing maintenance and improvements of streets, sidewalks, and traffic safety features, including for pedestrian and bicyclist safety. An exemption from the tax for low-income homeowners will help ensure the cost of the measure is not a burden for residents on fixed or limited incomes. A split-roll tax under which commercial properties pay more than residential properties, as used in numerous prior parcel taxes, ensures equity in raising funds.

G. The intent of this measure is to augment current city funding for paving and sidewalk repair for a temporary period and allow long-deferred repairs to be made so that the overall condition of the roads and sidewalks will be made acceptable and safe within 14 years, and maintenance costs will be reduced.

Section 3. Code Amendment

A new Chapter 7.11 is hereby added to the Berkeley Municipal Code as follows:

Chapter 7.11

Sustainable and Accountable Funding for Equitable Street Transformation, Revitalization, Enhancements, and Essential Traffic Safety (SAFE STREETS) Tax

7.11.010 Special Tax - Use.

A. A special tax for the purpose of funding repairs and improvements to streets, sidewalks, and pedestrian paths is hereby authorized to be imposed on all improvements in the City of Berkeley as more fully set forth in this Chapter.

B. The Council may impose the tax authorized by this Chapter up to the rate, and subject to inflation adjustments, set forth in Section 7.11.020.

C. This special tax is imposed under Article XIII A, Section 4, of the California Constitution and the City's constitutional authority as a charter city under Article XI, Section 5 of the California Constitution.

D. All proceeds of the tax are subject to review, allocation, and approval by the City Council.

E. The proceeds of the tax imposed by this Chapter shall be placed in a special fund to be used only for the purposes of enhancing streets, sidewalks, and pedestrian paths within City limits by funding the following types of projects:

1. Repair, repaving, and reconstruction of streets, sidewalks, and pedestrian paths,
2. Safety improvements to streets, sidewalks, and pedestrian paths,
3. Environmental enhancements to streets, sidewalks, and pedestrian paths.

F. Proceeds of the tax may be used to pay or reimburse the City for actual, verifiable costs of City staff when they are performing work on, or necessary and incidental to, projects funded by the tax, or public input, oversight, and accountability elements required by this chapter.

Proceeds of the tax may also be used to pay or reimburse the City for the costs of City Auditor staff time spent auditing the tax expenditures of this measure.

G. Proceeds of the tax may be used to pay or reimburse the City for the costs of updating the Transportation Element of the General Plan, once every ten years, to integrate and reflect all relevant adopted plans and policies.

H. Proceeds of the tax may be used to pay or reimburse the City for the costs of reviewing and updating the City's public works project delivery process, once every ten years.

I. Proceeds of the tax may be used for public art, limited to no more than 1.75% of applicable project budgets and consistent with Section 6.13.020. Public art funded by this tax shall be in public spaces.

J. Proceeds of the tax may not be used to fund bicycle-specific safety improvements (such as cycletracks or protected bike lanes) on Hopkins Street between McGee and Gilman.

K. The goal of this tax is to achieve the following by December 31, 2036:

- 1) Raise Berkeley's Pavement Condition Index (PCI) to or above 70 (rated as "Good" by the Metropolitan Transportation Commission), ideally with no streets having a PCI below 50; and
- 2) Eliminate the backlog of damaged sidewalks and pedestrian paths in Berkeley; and
- 3) Significantly reduce or eliminate fatal and severe traffic crashes throughout the city, particularly involving pedestrians or cyclists.

It is also a goal of this tax to achieve the above in a way that is in line with current best practices, ensures accessibility for all users, enhances the sustainability and resiliency of Berkeley's public right-of-way facilities, and provides benefits to Berkeley's entire community.

7.11.020 Tax Authorized - Tax Rate and Allocation - Adjustments for Inflation

A. The City Council is hereby authorized to impose and allocate a special tax as follows:

- 1) **Residential Rate:** For all dwelling units, the tax may be imposed at the rate of up to \$0.17 per square foot of improvements.
- 2) **Non-Residential Rate:** For all other property, the tax may be imposed at the rate of up to \$0.25 per square foot of improvements.

B. Annually in May, the City Council may increase the previous year's rate by up to the greater of the cost of living in the immediate San Francisco Bay Area or per capita personal income growth in the state, as verified by official United States Bureau of Labor Statistics data. If either index referred to above is discontinued, the City shall use any successor index specified by the applicable agency, or if there is none, the most similar existing index then in existence.

C. Tax proceeds shall be allocated approximately as follows:

- 1) 60% for streets and sidewalks, of which roughly three quarters (45%) will be for streets and one quarter (15%) will be for sidewalks and pedestrian paths, until the backlog of damaged sidewalks and pedestrian paths is eliminated.
- 2) 30% for safety improvements.
- 3) The remaining 10% shall include environmental enhancements, any required fees to the County, and any permitted uses as specified in Section 7.11.010.

D. When the City's average PCI is 70 or higher, the allocations specified in Section 7.11.030(C) shall not be required.

E. If another measure providing an additional source of revenue for uses covered in this tax is approved by the voters on the same ballot as this measure, the tax rates authorized in Section 7.11.020(A) shall be reduced by an equivalent amount, and the percentages specified in 7.11.020(C) shall be adjusted as necessary to meet the goals of this chapter, while that measure remains in effect.

7.11.030 Duration and Renewal - City Funding Required

A. This measure shall remain in place for 14 years from the effective date, unless extended by the voters.

B. If the City Council fails to adopt a budget with at least \$15.3 million in funding for street maintenance, from sources other than this tax, and adjusted for inflation, per Resolution No. 70,456-N.S. (adopted July 26, 2022), the City Council shall not be authorized to impose the special tax for the following two years.

C. In the event of a loss of any external funding source for street maintenance, or a decline in the amount provided for street maintenance by an external funding source included in the 2023-24 budget (adjusted for inflation), the required budgeted amount in Section 7.11.030(B) shall be reduced by an equivalent amount.

D. Section 7.11.030(B) shall not apply for years in which the City Council draws upon \$1 million (or more) from the Stabilization Reserve in order to adopt a budget, or the City of Berkeley is included in the site of a natural disaster recognized by the Federal Emergency Management Agency or in a state or federal declaration of a state of emergency.

7.11.040 SAFE STREETS Citizen Oversight Committee

A. The City Council shall establish a SAFE STREETS Citizen Oversight Committee (SSCOC) to review expenditures and progress reports from the City Manager and City Auditor to ensure compliance with the intent of this chapter, evaluate the impacts and outcomes of tax expenditures on this chapter's stated goals, and prepare public reports on the committee's findings.

B. Composition:

1. The SSCOC shall consist of seven members, as follows:
 - (a) Two members of the Transportation and Infrastructure Commission
 - (b) One member of the Environment and Climate Commission
 - (c) Four members of the public who are Berkeley residents
2. SSCOC members from commissions shall be appointed by their respective bodies, and members of the public shall be appointed by the City Council as a whole. Members of the public shall be required to have a background in civil engineering, transportation engineering, infrastructure program management, or the implementation of municipal bond or tax measures.
3. The SSCOC annually shall elect one of its members as the chairperson and one of its members as the vice-chairperson.

C. The City Manager shall designate a staff person to serve as secretary of the committee.

D. The committee shall establish a regular place and time for meeting. All meetings shall be noticed as required by law and shall be scheduled in a way to allow for maximum input from the public. The frequency of committee meetings shall be as determined by City Council Resolution, but no less than four per year.

E. The committee may make and alter rules governing its organization and procedures which are consistent with this Chapter or any other applicable ordinance of the City. A majority of the members appointed to the committee shall constitute a quorum and the affirmative vote of a majority of the members appointed is required to take any action.

F. The Committee shall prepare an annual independent report of progress and performance. Each report shall be made publicly available on the City's website and submitted to the City Council.

7.11.050 Public Input, Reporting, and Accountability

A. To ensure public input for the projects and priorities funded by this measure, City staff shall hold at least three workshops in different areas of the city, every three years, to solicit input on projects and priorities from residents and civic, neighborhood, and business organizations, in addition to the regular meetings of the Transportation and Infrastructure Commission.

B. The City Manager shall prepare and submit to the City Council and the SSCOC an annual report of performance metrics, outcomes, and accomplishments that reflects all City street, sidewalk, and safety funding. To promote effective communication, the report shall also be presented in an online dashboard, and include the following metrics:

1. Streets paved, cost per mile, changes to the citywide average PCI, the PCI of all streets, and a schedule that estimates which streets will be paved in the next 5 years; and
2. Progress on sidewalks and pedestrian paths; and
3. Safety projects implemented, and fatal and severe injuries over time; and
4. Progress on green infrastructure, tree planting, climate resiliency measures, and changes in trip modality; and
5. Awarded and in-progress grants.

C. All expenditures, and verification of progress towards the goals set forth in Section 7.11.010(K), shall be subject to an independent performance audit by the City Auditor, at least once every three years, to confirm that the tax expenditures and reports are accurate and consistent with the intent of this chapter.

7.11.060 Use of Adopted Plans and Policies

A. Any project funded by the proceeds of the tax must be consistent with one or more adopted City of Berkeley plans or policies. Adopted City of Berkeley plans and policies shall inform project prioritization.

B. Any project funded by the proceeds of the tax which includes street repair, repaving, and/or reconstruction shall implement safety improvements concurrently, unless the City Council adopts a written finding based on substantial evidence that there are no improvements which would materially increase safety and are consistent with an adopted City plan or policy.

C. Any project funded by proceeds of the tax which includes safety improvements must be consistent with one or more of the following City of Berkeley plans and policies, as may be amended from time to time, or their successor plans as adopted by City Council:

- i) the Vision Zero Action Plan, adopted March 10, 2019; or
- ii) the Pedestrian Plan, adopted January 26, 2021; or
- iii) the Berkeley Bicycle Plan, adopted May 7, 2017; or
- iv) the Complete Streets Policy, adopted December 11, 2012.

A project funded by the proceeds of the tax which includes safety improvements may alternatively be consistent with one or more Safe Routes to Schools Safety Assessment and/or Improvement Plan, as may be amended from time to time by the Berkeley Unified School District and Alameda County Transportation Commission.

D. Additional City of Berkeley adopted plans and policies, such as the Vision 2050 Framework, Street Maintenance and Rehabilitation Policy, Repaving Plan, Berkeley Strategic Transportation Plan (BeST), Age-Friendly Berkeley Action Plan, Streets and Open Space Improvement Plan (SOSIP), Green Infrastructure Plan, Stormwater Management Plan, Local Hazard Mitigation Plan, Berkeley Electric Mobility Roadmap, Berkeley Resilience Strategy, Berkeley Transit-First Policy Implementation Plan, or area-specific plans, including the Adeline Corridor Specific Plan, Downtown Area Plan, South Shattuck Strategic Plan, Southside Plan, University Avenue Strategic Plan, and West Berkeley Plan, shall be considered, as appropriate, when identifying or evaluating projects to be funded by proceeds of this tax.

7.11.070 Definitions

For the purposes of this chapter, the following terms shall be defined as set forth below:

A. "Building" shall mean any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, chattel or property of any kind. The word "building" includes the word "structure."

B. "Improvements" shall mean all buildings or structures erected or affixed to the land.

C. "Square footage" shall mean the total gross horizontal areas of all floors, including usable basement and cellars, below the roof and within the outer surface of the main walls of buildings (or the center lines of party walls separating such buildings or portions thereof) or within lines drawn parallel to and two feet within the roof line of any building or portion thereof without walls (which includes, notwithstanding paragraph 3 below, the square footage of all porches), and including pedestrian access walkways or corridors, but excluding the following:

1. Areas used for off-street parking spaces or loading berths and driveways and maneuvering aisles relating thereto.
2. Areas which are outdoor or semi-outdoor areas included as part of the building to provide a pleasant and healthful environment for the occupants thereof and the neighborhood in which the building is located. This exempted area is limited to stoops, balconies and to natural ground areas, terraces, pools, and patios which are landscaped and developed for active or passive recreational use, and which are accessible for use by occupants of the building.
3. Arcades, porticoes, and similar open areas which are located at or near street level, which are accessible to the general public, and which are not designed or used as sales, display storage, service, or production areas.

D. "Structure" shall mean anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

E. "Parcel" shall mean a unit of real estate in one ownership as shown on the most current official assessment roll of the Alameda County Assessor.

F. "Repair, repaving, and reconstruction" shall refer to a suite of interventions designed to restore and upgrade the physical integrity and functionality of streets and sidewalks, including pedestrian paths, including all ordinary and necessary expenses and features as required by applicable law.

G. "Safety improvements" shall mean improvements to sidewalks, streets, and highways inclusive of state highways that implement features designed to reduce collisions, injuries, and fatalities, including traffic calming measures. Safety improvements shall include features recommended by the Urban Street Design Guide published by the National Association of City Transportation Officials (NACTO), features recommended by the Proven Safety Countermeasures initiative published by the Federal Highway Administration, and/or other similar features to reduce collisions, injuries, and fatalities recommended by national organizations of planning or transportation experts. Safety improvements shall also include improvements to emergency vehicle access and response times, such as fire/emergency evacuation lanes, transit lanes that also serve emergency vehicles, cycle tracks that can accommodate emergency vehicles, traffic signal controls for emergency vehicles, retractable bollards, curb management, and signage for evacuation routes.

H. "Traffic calming measures" shall mean safety improvements specifically designed to reduce vehicle speeds, including horizontal or vertical deflections (such as chicanes and speed bumps), width reductions (such as bulb-outs and medians), and routing restrictions (such as diverters and bollards), or other similar measures recommended by the Institute of Traffic Engineers, the Federal Highway Administration, or other national organizations of transportation experts.

I. "Environmental enhancements" shall mean improvements to sidewalks, streets, and highways, inclusive of state highways, that improve resiliency or sustainability, and/or provide community amenities. Environmental enhancements shall include, but not be limited to, green infrastructure, permeable surfaces, native plants, street trees, planted verges and medians, transit rider facilities, and community spaces.

J. "Transit rider facilities" shall mean improvements to sidewalks, streets, and highways inclusive of state highways that implement features to improve comfort and reliability for transit riders, such as elements recommended in the Transit Street Design Guide published by NACTO, including but not limited to bus shelters, benches, and bus station islands.

K. "Pavement Condition Index" or "PCI" shall refer to the numerical index between 0 to 100 used to determine the general condition of the pavement, following standards set forth by ASTM D6433 - 20, or an equivalent appropriate methodology developed for non-asphalt surfaces.

7.11.080 Exemptions.

A. The tax imposed by this Chapter shall not apply to parcels and improvements exempt from taxation by the City pursuant to the laws or constitutions of the United States and the State of California.

B. The tax imposed by this Chapter shall not apply to any property owned by any person whose total personal income, from all sources, for the previous calendar year, does not exceed that level which shall constitute "very low-income," as may be established by resolution of the City Council. Any taxpayer claiming the exemption under this section shall be required to demonstrate their entitlement thereto annually by submitting an application and supporting documentation to the City Manager or their designee in the manner and at the time established in regulations and/or guidelines hereafter promulgated by the City Manager subject to review by the City Council in its discretion. Such applications shall be on forms provided by the City Manager, or their designee, and shall provide and/or be accompanied by such information as the City Manager shall require, including but not limited to, federal income tax returns and W-2 forms.

C. Any person or entity claiming an exemption from the tax imposed by this Chapter shall file a verified statement of exemption on a form prescribed by the City Manager prior to June 30th of the first fiscal year for which the exemption is sought.

7.11.090 Duties and Authority of the City Manager.

It shall be the duty of the City Manager to collect and receive all taxes imposed by this Chapter and to keep an accurate record thereof. The City Manager is charged with the enforcement of this Chapter, except as otherwise provided herein, and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this chapter, including provisions for the re-examination and correction of returns and payments.

7.11.100 Collection with Property Tax - Penalties and Interest.

The special tax imposed by this Chapter shall be due in the same manner, on the same dates, and subject to the same penalties and interest as established by law for other charges and taxes fixed and collected by the County of Alameda on behalf of the City of Berkeley. The special tax imposed by this Chapter, together with all penalties and interest thereon, shall constitute a lien upon the parcel upon which it is levied until it has been paid, and shall constitute a personal obligation of the owners of the parcel on the date the tax is due.

7.11.110 Collection.

The amount of any tax, penalty, or interest imposed under the provisions of this chapter shall be deemed a debt to the City. Any person owing money under the provisions of this chapter shall be liable to an action brought in the name of the City for the recovery of such amount. The City shall be entitled to reasonable attorneys' fees and its costs of suit in any such action.

7.11.120 Refunds.

Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the City under this chapter, it may be refunded as provided in Chapter 7.20 of the Berkeley Municipal Code or any such successor chapter.

7.11.130 Savings clause - Severability.

The provisions of this chapter shall not apply to any person, association, corporation, entity, or property as to whom or which it is beyond the power of the City of Berkeley to impose the tax herein provided. If any sentence, clause, section, or part of this chapter, or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal, or invalid, such sentence, clause, section or part shall be severable and such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section, or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or other parts of this chapter. It is hereby declared to be the intention of the City Council and the People of the City of Berkeley that this chapter would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

7.11.140 Violation - Penalty.

Any person who fails to perform any duty or obligation imposed by this chapter shall be guilty of an infraction as set forth in Chapter 1.20 of the Berkeley Municipal Code. The penalties provided in this section are in addition to the several remedies provided in this chapter.

Section 4. Increase appropriations limit.

Pursuant to California Constitution Article XIII B, the appropriation limit for the City of Berkeley is hereby increased by the aggregate sum authorized to be levied by this special tax for each of the four fiscal years from 2025 through 2028.

Section 5. Effective date.

The tax imposed by this Chapter shall be operative on January 1, 2025.

Section 6. Conflicting Ballot Measures

(a) In the event that this measure and another measure(s) relating to local taxes to fund any or all of the uses permitted in this measure are approved by a majority of the voters at the same election, and this measure receives a greater number of affirmative votes than any other such measure(s), this measure shall control in its entirety, and the other measure(s) shall be rendered void and without any legal effect. If this measure is approved by a majority of the voters but does not receive a greater number of affirmative votes than the other measure(s), this measure shall take effect to the extent permitted by law.

(b) If any provisions of this measure are superseded by the provisions of any other conflicting measure approved by the voters and receiving a greater number of affirmative votes at the same election, and the conflicting measure is subsequently held to be invalid, repealed, or terminated, the provisions of this measure shall be revived and shall have full force of law.

Section 7. Amendment, repeal, and reenactment.

(a) Without voter approval, the City Council may repeal this ordinance or amend it in any manner that does not:

- 1) Result in an increase in the tax authorized to be imposed;
- 2) Expand the permissible uses in Section 7.11.010, or materially alter relevant definitions in Sections 7.11.070, in a way that is inconsistent with the original intent of this chapter;
- 3) Alter the allocations of Section 7.11.020;
- 4) Extend the sunset or reduce the City budgeting requirements set forth in Section 7.11.030;
- 5) Reduce the public input, oversight, and accountability processes set forth in Section 7.11.040 and 7.11.050;
- 6) Reduce the use of adopted plans and policies in Section 7.11.060;
- 7) Lower the threshold of "substantial evidence" in Section 7.11.060(B);
- 8) Add or modify exemptions (in a manner that would increase the tax).

(b) If the City Council repeals this ordinance, it may subsequently reenact it without voter approval, as long as the reenacted ordinance does not:

- 1) Result in an increase in the tax authorized to be imposed;
- 2) Expand the permissible uses in Section 7.11.010, or materially alter relevant definitions in Sections 7.11.070, in a way that is inconsistent with the original intent of this chapter;
- 3) Alter the allocations of Section 7.11.020;
- 4) Extend the sunset or reduce the City budgeting requirements set forth in Section 7.11.030;
- 5) Reduce the public input, oversight, and accountability processes set forth in Section 7.11.040 and 7.11.050;
- 6) Reduce the use of adopted plans and policies in Section 7.11.060;
- 7) Lower the threshold of "substantial evidence" in Section 7.11.060(B);
- 8) Add or modify exemptions (in a manner that would increase the tax).

(c) In the event that this measure and another measure(s) relating to local taxes to fund street and sidewalk repair, repaving, and reconstruction both take effect, the City Council may make any amendments to this ordinance necessary to consolidate and align this measure with the other measure(s), that does not result in a tax authorized to be imposed greater than the tax authorized by this measure.

Section 8. California Environmental Quality Act Requirements.

This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., under, including without limitation, Public Resources Code section 21065 and CEQA Guidelines sections 15378(b)(3) and 15378(b)(4).

Section 9. Special Tax; Majority Vote Requirement. This Ordinance imposes a special tax for restricted purposes and is being placed on the ballot via signature petition. It shall be effective only if approved by a majority of the voters voting thereon.

BERKELEY CITY CLERK CERTIFICATE OF PETITION

I, Mark Numainville, City Clerk of the City of Berkeley, California, do hereby certify the following:

An Initiative Petition entitled: "Initiative Ordinance to Establish a Parcel Tax to Fund Repairs and Improvements to Streets, Sidewalks and Pedestrian Paths" was filed with the Berkeley City Clerk on May 8, 2024 within the statutory time limit and forwarded to the office of the Alameda County Registrar of Voters for verification on May 9, 2024; and

The petition contained **3,874** unverified signatures; and

Pursuant to the Charter of the City of Berkeley, in order to be sufficient, the petition must have been signed by at least **2,985** qualified registered voters of the City of Berkeley, the number being equal to 5% of the total votes cast for all candidates for mayor in the last general municipal election; and

I have examined or caused to be examined, signatures on the petition pursuant to California Elections Code sections 9211 and 9115; and

I have determined that the petition contained **3,159 valid signatures** based on the line-by-line examination of the signatures as performed and certified by the Registrar of Voters in Exhibit A attached herewith; and

This number meets or exceeds the number of valid signatures needed to qualify the initiative; therefore

The petition is found to be sufficient to require the City Council of the City of Berkeley to take appropriate action specified under Article XIII of the Berkeley City Charter.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 26th day of June, 2024.




Mark Numainville
City Clerk
City of Berkeley

REGISTRAR OF VOTERS CERTIFICATE TO PETITION

I, **Tim Dupuis**, Registrar of Voters for the County of Alameda, State of California, hereby certify that:

An Initiative Petition entitled: City of Berkeley Ordinance to Establish a Parcel Tax to Fund Repairs and Improvements to Streets, Sidewalks and Pedestrian Paths (SAFE STREETS) **was** filed with the Berkeley City Clerk within the statutory time limit and forwarded to this office for verification on May 9, 2024; and

The petition contained **3,874** unverified signatures: and

In accordance with Article XIII of the Berkeley City Charter, it was determined that the total number of votes cast for all candidates for Mayor at the November 2020 General Election was 57,885, the requisite number of signatures required to qualify this initiative is 5% of 57,885 or 2,985.

I have examined, or caused to be examined, signatures on the petition pursuant to California Elections Code sections 9211 and 9115; and

Have determined that the petition contained **3,159** valid signatures of qualified registered voters in the City of Berkeley based on the line-by-line examination set forth in section 9115 (b) of the California Elections Code; and

That this number represents the total number of signatures needed to qualify the initiative; therefore

The petition is found to be sufficient to require the City Council of the City of Berkeley to take the appropriate action specified in the California Elections Code.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this **7th** day of **June 2024**.



DocuSigned by:
Tim Dupuis
C504117C2A294A7...

Tim Dupuis
Registrar of Voters
County of Alameda
State of California

