



**BERKELEY CITY COUNCIL PUBLIC SAFETY COMMITTEE
SPECIAL MEETING**

**Monday, March 24, 2025
10:30 AM**

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

Committee Members:

Councilmembers Rashi Kesarwani, Shoshana O’Keefe, and Brent Blackaby
Alternate: Mayor Adena Ishii

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. All Committee meetings are recorded.

Use this URL <https://cityofberkeley-info.zoomgov.com/j/1604810930> to access the meeting remotely.. To request to speak, use the “raise hand” function in Zoom. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and Enter **Meeting ID: 160 481 0930**. To provide public comment, press *9 and wait to be recognized by the Chair. To submit a written communication for the Committee’s consideration and inclusion in the public record, email policycommittee@berkeleyca.gov.

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

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

California Government Code Section 84308 (Levine Act) Parties to a proceeding involving a license, permit, or other entitlement for use are required to disclose if they made contributions over \$500 within the prior 12 months to any City employee or officer. Parties and participants with a financial interest are prohibited from making more than \$500 in contributions to a decisionmaker for the 12 months after the final decision is rendered on the proceeding. The above contribution disclosures and restrictions do not apply when the proceeding is competitively bid, or involves a personnel or labor contract. For more information, see Government Code Section 84308.

AGENDA

Roll Call

Minutes for Approval

Draft minutes for the Committee's consideration and approval.

1. Minutes - February 25, 2025

Committee Action Items

The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

2. Adoption of CALFIRE Map and Additional Areas Designated as the City of Berkeley Fire Hazard Severity Zones

From: City Manager

Referred: March 10, 2025

Due: July 28, 2025

Recommendation:

1. Adopt first reading of an Ordinance to designate Fire Hazard Severity Zones (FHSZ) within the Local Responsibility Area as recommended by the California Department of Forestry and Fire Protection (CALFIRE) pursuant to Government Code Section 51178, and

2. Designate areas not identified as Very High and High Fire Hazard Severity Zones by the State Fire Marshal, as Very High, and High Fire Hazard Severity Zones following a finding supported by substantial evidence in the record that the requirements of Government Code Section 51182 are necessary for effective fire protection within the area.

Financial Implications: See report

Contact: David Sprague, Fire, (510) 981-3473

Committee Action Items

- 3. Modification and Adoption of Berkeley Fire Code Local Amendments**
From: City Manager
Referred: March 10, 2025
Due: July 28, 2025
Recommendation:

 1. Adopt the first reading of an Ordinance which proposes to amend certain portions of Section 19.48.020 of the Berkeley Municipal Code (“Amendments to the California Fire Code”);
 2. Adopt a Resolution setting forth findings as to local conditions applicable to the revised portions of Section 19.48.020 that require more stringent standards than those provided by the 2022 California Fire Code (“CFC”) and amending Resolution number 70,611–N.S.;
 3. In compliance with state law on adopting such codes by reference, hold a public hearing following the first reading, and before the second reading, and schedule the second reading and public hearing for April 15, 2025.

Financial Implications: Staff time
Contact: David Sprague, Fire, (510) 981-3473

- 4. Resolution: Affirming Support for Berkeley Police Department, Police Accountability Board, and Office of the Director of Police Accountability in Response to Downtown Task Force Texting Offenses Investigation**
From: Councilmember Blackaby (Author)
Recommendation: Adopt a Resolution affirming our community’s support for the Berkeley Police Department (BPD) and acknowledging the work of the Police Accountability Board (PAB) & the Office of the Director of Police Accountability (ODPA) in investigating BPD’s Downtown Task Force texting offenses, ultimately making recommendations to increase trust, transparency, and accountability. Additionally, the Resolution condemns any and all racism and misconduct, affirms the City Council’s opposition to arrest quotas, and asks the California Legislature to extend the prohibition on arrest quotas, which are currently limited to the California Vehicle Code.
Financial Implications: See report
Contact: Brent Blackaby, Councilmember, District 6, (510) 981-7160

- 5. Resolution: Opposition to Police Brutality and Use of Force on Nonviolent Protesters**
From: Councilmember Harrison (Author)
Referred: October 15, 2024
Due: March 24, 2025
Recommendation: Adopt a Resolution reaffirming the City of Berkeley’s opposition to and condemning police brutality towards nonviolent protesters and discouraging use of “less-lethal” weapons for crowd control.
Financial Implications: See report
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Unscheduled Items

These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting

6. **Police Accountability Board Report: Fair and Impartial Policing Implementation**

(Item contains supplemental material)

From: Police Accountability Board

Referred: January 27, 2025

Due: June 16, 2025

Recommendation: Approve the following recommendations and instruct the Berkeley Police Department (BPD) and Police Accountability Board (PAB) to proceed with their implementation:

Recommendations to the Berkeley Police Department

1. Three-prong approach.

a. Definition of Low-Level Traffic Infractions: A definition consistent with SB 50 should be adopted.

b. Primary Collision Factors: This prong should specify the mode of the party at fault.

c. Community Reports: Under the category of "a variety of unsafe driving incidents," policies should be put in place that specify which calls for service will result in law enforcement action. That specification should be derived from an analysis of the 13% of calls from community members that resulted in a citation or arrest, as per the City Auditor's July 2021 report.

d. Community Caretaking: This prong needs more specificity, and its components should be based on Berkeley data rather than national statistics, as is done for Prong 1 (Primary Collision Factors). Specifically, the analysis should examine which other factors (non-PCFs) are highly associated with severe and fatal collisions in Berkeley. The open-ended quality of this prong may contribute to more non-safety-related stops than is called for in the Council directive. If more specificity is not possible or feasible, this prong should be eliminated.

e. Reporting: Future BPD updates on FIP implementation should include statistical information enabling an analysis of the impact of the three-prong approach on reducing or eliminating stops for low-level offenses—a primary focus of the Council directive—in a manner that supports an overall assessment and an understanding of the approach's impact on reducing racial disparities in traffic stops.

2. Evidence-based definition for stops of criminal suspects:

a. Establish an evidence-based definition for stops of criminal suspects.

b. Explain how precision-based policing, feedback loops, and accountability measures referenced in BPD FIP implementation updates relate to this recommendation and addresses the directive to establish an evidence-based definition for stopping criminal suspects.

3. Enhanced implicit bias training: Per the Council's directive, ensure that BPD personnel receive intensive annual training dedicated to implicit bias.

4. EIS: Pending the deployment of a new Early Intervention and Risk Management system, EIS audits should be focused on officers who are outliers on the variables stipulated in the Department's EIS, with a particular focus on racial disparities in stops, arrests, and searches. A designated PAB Member should serve as an

Unscheduled Items

observer in this process, as has been informally agreed to. Future audit reports should include the scope of what was reviewed and a clear statement of findings within the confines of officer confidentiality.

5. Written consent searches: Future reporting to the council should include the number of consent searches conducted per reporting period and their effect on racial disparities in searches, compared to consent search numbers before implementation.

6. Warrantless searches of people on supervised release: Future FIP updates should identify the impact of the new BPD Policy 311.6 on the numbers of searches and arrests of people on probation and parole and the racial disparities in them.

7. Profiling by proxy: Future BPD updates should specify what instructions dispatchers are given on profiling by proxy, and any impact the instruction and corresponding Communications Manual amendments have had on racial disparities in departmental response to calls for service.

8. Business cards: Ensure that business cards are distributed as mandated by the Council directive.

9. Make resources on police-civilian encounters publicly available, such as through RAHEEM.org.

Recommendations to the Police Accountability Board

1. Scenario-based training: The 2021 Council specifically referred to the PAB oversight of the implementation of a scenario-based training component in the existing officer training required by the California Penal Code. This topic will be agendized for discussion at a future PAB meeting, including the appropriateness of, and ability of the PAB to oversee departmental training.

2. Crisis Intervention Team (CIT): The 2021 Council item refers to the PAB accelerating CIT activity. This will be discussed in future PAB meetings.

Recommendations to the Berkeley City Council

1. Establish metrics to assess the success of implementing FIP directives. Currently, the BPD appears to be focused entirely on policy, and on tests of bias, as evidenced in its recently published Annual Report. The PAB has focused instead on outcomes, addressing the key question of whether racial disparities have decreased in any of the areas subject to FIP directives.

2. Eliminate reporting requirements for recommendations that the PAB ascertains have been fully implemented.

3. Require BPD to report biannually on:

a. Traffic stops by each prong of their 3-prong framework and by race within each prong.

b. Stop, search, and arrest data by probation/parole status and race.

c. Calls for service by the race of the reporter and reportee.

Financial Implications: See report

Contact: Hansel Aguilar, Police Accountability Board, (510) 981-4950

7. **Discussion Item: Update on the Five-Year Infrastructure Plan and how it factors in with reduction of traffic violence**

From: Councilmember Tregub

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

Unscheduled Items

8. Discussion Item: Domestic Violence Report

From: Councilmember Taplin

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

Items for Future Agendas

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

Adjournment

~~~~~  
*Written communications addressed to the Public Safety Committee and submitted to the City Clerk Department will be distributed to the Committee in advance of the meeting and retained as part of the official record.*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Members of the City Council who are not members of the standing committee may attend a standing committee meeting even if it results in a quorum being present, provided that the non-members only act as observers and do not participate in the meeting. If only one member of the Council who is not a member of the committee is present for the meeting, the member may participate in the meeting because less than a quorum of the full Council is present. Any member of the public may attend this meeting. Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900.*



### COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at [ada@berkeleyca.gov](mailto:ada@berkeleyca.gov), (510) 981-6418 (V), or (510) 981-6347 (TDD) at least three business days before the meeting date. Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.

~~~~~  
I hereby certify that the agenda for this meeting of the Standing Committee of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on March 20, 2025.



Mark Numainville, City Clerk

Communications

Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or policycommittee@berkeleyca.gov.



**BERKELEY CITY COUNCIL PUBLIC SAFETY COMMITTEE
SPECIAL MEETING MINUTES**

**Tuesday, February 25, 2025
10:00 AM**

Cypress Room – 2180 Milvia Street, 1st Floor, Berkeley, CA 94704

Committee Members:

Councilmembers Rashi Kesarwani, Shoshana O’Keefe, and Brent Blackaby
Alternate: Mayor Adena Ishii

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. All Committee meetings are recorded.

To access the meeting remotely use this URL - <https://cityofberkeley-info.zoomgov.com/j/1610923585>. To request to speak, use the “raise hand” function in Zoom. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and Enter **Meeting ID: 161 092 3585**. To provide public comment, press *9 and wait to be recognized by the Chair. To submit a written communication for the Committee’s consideration and inclusion in the public record, email policycommittee@berkeleyca.gov.

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

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

California Government Code Section 84308 (Levine Act) Parties to a proceeding involving a license, permit, or other entitlement for use are required to disclose if they made contributions over \$500 within the prior 12 months to any City employee or officer. Parties and participants with a financial interest are prohibited from making more than \$500 in contributions to a decisionmaker for the 12 months after the final decision is rendered on the proceeding. The above contribution disclosures and restrictions do not apply when the proceeding is competitively bid, or involves a personnel or labor contract. For more information, see Government Code Section 84308.

MINUTES

Roll Call 10:09 a.m.

Present: Kesarwani, O’Keefe, Blackaby

Absent: None

Election of Chairperson

Action: M/S/C (Kesarwani/O’Keefe) to elect Councilmember Blackaby as Chairperson of the Public Safety Policy Committee.

Vote: All Ayes.

Minutes for Approval

Draft minutes for the Committee’s consideration and approval

1. Minutes - November 18, 2024

Action: M/S/C (O’Keefe/Kesarwani) to approve the November 18, 2024 minutes.

Vote: All Ayes.

Committee Action Items

The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

2. Resolution: Opposition to Police Brutality and Use of Force on Nonviolent Protesters

From: Councilmember Harrison (Author)

Referred: October 15, 2024

Due: March 24, 2025

Recommendation: Adopt a Resolution reaffirming the City of Berkeley’s opposition to and condemning police brutality towards nonviolent protesters and discouraging use of “less-lethal” weapons for crowd control.

Financial Implications: See report

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

Action: Item continued to a future meeting.

Committee Action Items

3. Berkeley Police Department Texting Offences: An Independent Investigation by the Police Accountability Board *(Item contains supplemental material)*

From: Police Accountability Board

Referred: January 6, 2025

Due: June 9, 2025

Recommendation: The Police Accountability Board formally recommends to the City Council that it:

1. Pass an ordinance or otherwise affirm the Police Accountability Board's ability to access documents and records in furtherance of its central accountability function, consistent with Charter Amendment Section 125.
2. Adopt a robust resolution ensuring full and meaningful accountability for sworn officers—whether on-duty or off-duty—who engage in misconduct of any kind, but especially actions or expressions of racial or other types of bias.
3. Direct the City Manager to work with the Berkeley Police Department, Police Accountability Board, and the Office of the Director of Police Accountability to create a public repository to fulfill the vision of California Penal Code Section 832.7(b)(1), allowing for transparency in cases of sustained allegations of officer racism or other discriminatory conduct or expression.
4. Call on California state legislators to extend the prohibition on arrest quotas, which are currently limited to the California Vehicle Code (Section 41600 – 41603).

Financial Implications: See report

Contact: Hansel Aguilar, Police Accountability Board, (510) 981-4950

Action: 11 speakers. M/S/C (Kesarwani/O'Keefe) to send item to City Council with a negative recommendation.

Vote: All Ayes.

4. Police Accountability Board Report: Fair and Impartial Policing Implementation *(Item contains supplemental material)*

From: Police Accountability Board

Referred: January 27, 2025

Due: June 16, 2025

Recommendation: Approve the following recommendations and instruct the Berkeley Police Department (BPD) and Police Accountability Board (PAB) to proceed with their implementation:

Recommendations to the Berkeley Police Department

1. Three-prong approach.
 - a. Definition of Low-Level Traffic Infractions: A definition consistent with SB 50 should be adopted.
 - b. Primary Collision Factors: This prong should specify the mode of the party at fault.
 - c. Community Reports: Under the category of "a variety of unsafe driving incidents," policies should be put in place that specify which calls for service will result in law enforcement action. That specification should be derived from an analysis of the 13%

Committee Action Items

of calls from community members that resulted in a citation or arrest, as per the City Auditor's July 2021 report.

d. Community Caretaking: This prong needs more specificity, and its components should be based on Berkeley data rather than national statistics, as is done for Prong 1 (Primary Collision Factors). Specifically, the analysis should examine which other factors (non-PCFs) are highly associated with severe and fatal collisions in Berkeley. The open-ended quality of this prong may contribute to more non-safety-related stops than is called for in the Council directive. If more specificity is not possible or feasible, this prong should be eliminated.

e. Reporting: Future BPD updates on FIP implementation should include statistical information enabling an analysis of the impact of the three-prong approach on reducing or eliminating stops for low-level offenses—a primary focus of the Council directive—in a manner that supports an overall assessment and an understanding of the approach's impact on reducing racial disparities in traffic stops.

2. Evidence-based definition for stops of criminal suspects:

a. Establish an evidence-based definition for stops of criminal suspects.

b. Explain how precision-based policing, feedback loops, and accountability measures referenced in BPD FIP implementation updates relate to this recommendation and addresses the directive to establish an evidence-based definition for stopping criminal suspects.

3. Enhanced implicit bias training: Per the Council's directive, ensure that BPD personnel receive intensive annual training dedicated to implicit bias.

4. EIS: Pending the deployment of a new Early Intervention and Risk Management system, EIS audits should be focused on officers who are outliers on the variables stipulated in the Department's EIS, with a particular focus on racial disparities in stops, arrests, and searches. A designated PAB Member should serve as an observer in this process, as has been informally agreed to. Future audit reports should include the scope of what was reviewed and a clear statement of findings within the confines of officer confidentiality.

5. Written consent searches: Future reporting to the council should include the number of consent searches conducted per reporting period and their effect on racial disparities in searches, compared to consent search numbers before implementation.

6. Warrantless searches of people on supervised release: Future FIP updates should identify the impact of the new BPD Policy 311.6 on the numbers of searches and arrests of people on probation and parole and the racial disparities in them.

7. Profiling by proxy: Future BPD updates should specify what instructions dispatchers are given on profiling by proxy, and any impact the instruction and corresponding Communications Manual amendments have had on racial disparities in departmental response to calls for service.

8. Business cards: Ensure that business cards are distributed as mandated by the Council directive.

9. Make resources on police-civilian encounters publicly available, such as through RAHEEM.org.

Recommendations to the Police Accountability Board

Committee Action Items

1. Scenario-based training: The 2021 Council specifically referred to the PAB oversight of the implementation of a scenario-based training component in the existing officer training required by the California Penal Code. This topic will be agendaized for discussion at a future PAB meeting, including the appropriateness of, and ability of the PAB to oversee departmental training.

2. Crisis Intervention Team (CIT): The 2021 Council item refers to the PAB accelerating CIT activity. This will be discussed in future PAB meetings.

Recommendations to the Berkeley City Council

1. Establish metrics to assess the success of implementing FIP directives. Currently, the BPD appears to be focused entirely on policy, and on tests of bias, as evidenced in its recently published Annual Report. The PAB has focused instead on outcomes, addressing the key question of whether racial disparities have decreased in any of the areas subject to FIP directives.

2. Eliminate reporting requirements for recommendations that the PAB ascertains have been fully implemented.

3. Require BPD to report biannually on:

a. Traffic stops by each prong of their 3-prong framework and by race within each prong.

b. Stop, search, and arrest data by probation/parole status and race.

c. Calls for service by the race of the reporter and reportee.

Financial Implications: See report

Contact: Hansel Aguilar, Police Accountability Board, (510) 981-4950

Action: 8 speakers. Presentation made and discussion held. Item continued to a future meeting.

5. **Discussion Item: Update on the Five-Year Infrastructure Plan and how it factors in with reduction of traffic violence**

From: Councilmember Tregub

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

Action: Item continued to a future meeting

6. **Discussion Item: Domestic Violence Report**

From: Councilmember Taplin

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

Action: Item continued to a future meeting.

Unscheduled Items

These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.

Items for Future Agendas

- None

Adjournment

Action: M/S/C (Blackaby/O'Keefe) to adjourn the meeting

Vote: All ayes

Adjourned at 11:58 a.m.

I hereby certify that the foregoing is a true and correct record of the Public Safety Committee meeting held on February 25, 2025.

Wendy Sorensen, Assistant City Clerk

Communications

Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or policycommittee@berkeleyca.gov.



Office of the City Manager

ACTION CALENDAR
April 15, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: David Sprague, Fire Chief

Subject: Adoption of CALFIRE Map and Additional Areas Designated as the City of Berkeley Fire Hazard Severity Zones

RECOMMENDATION

1. Adopt first reading of an Ordinance to designate Fire Hazard Severity Zones (FHSZ) within the Local Responsibility Area as recommended by the California Department of Forestry and Fire Protection (CALFIRE) pursuant to Government Code Section 51178, and
2. Designate areas not identified as Very High and High Fire Hazard Severity Zones by the State Fire Marshal, as Very High, and High Fire Hazard Severity Zones following a finding supported by substantial evidence in the record that the requirements of Government Code Section 51182 are necessary for effective fire protection within the area.

FISCAL IMPACTS OF RECOMMENDATION

There are substantial financial impacts to the Department in the form of staff and program costs associated with this recommendation, all of which can currently be absorbed within the Department's budget.

CURRENT SITUATION AND ITS EFFECTS**Adoption of CALFIRE Maps:**

Pursuant to California Government Code 51177-51179, CALFIRE has released recommended updates to Fire Hazard Severity Zones in the Local Responsibility Area¹. The City has received formal notification from CALFIRE and, at a minimum, must adopt the map produced by the State no later than June 24, 2025.

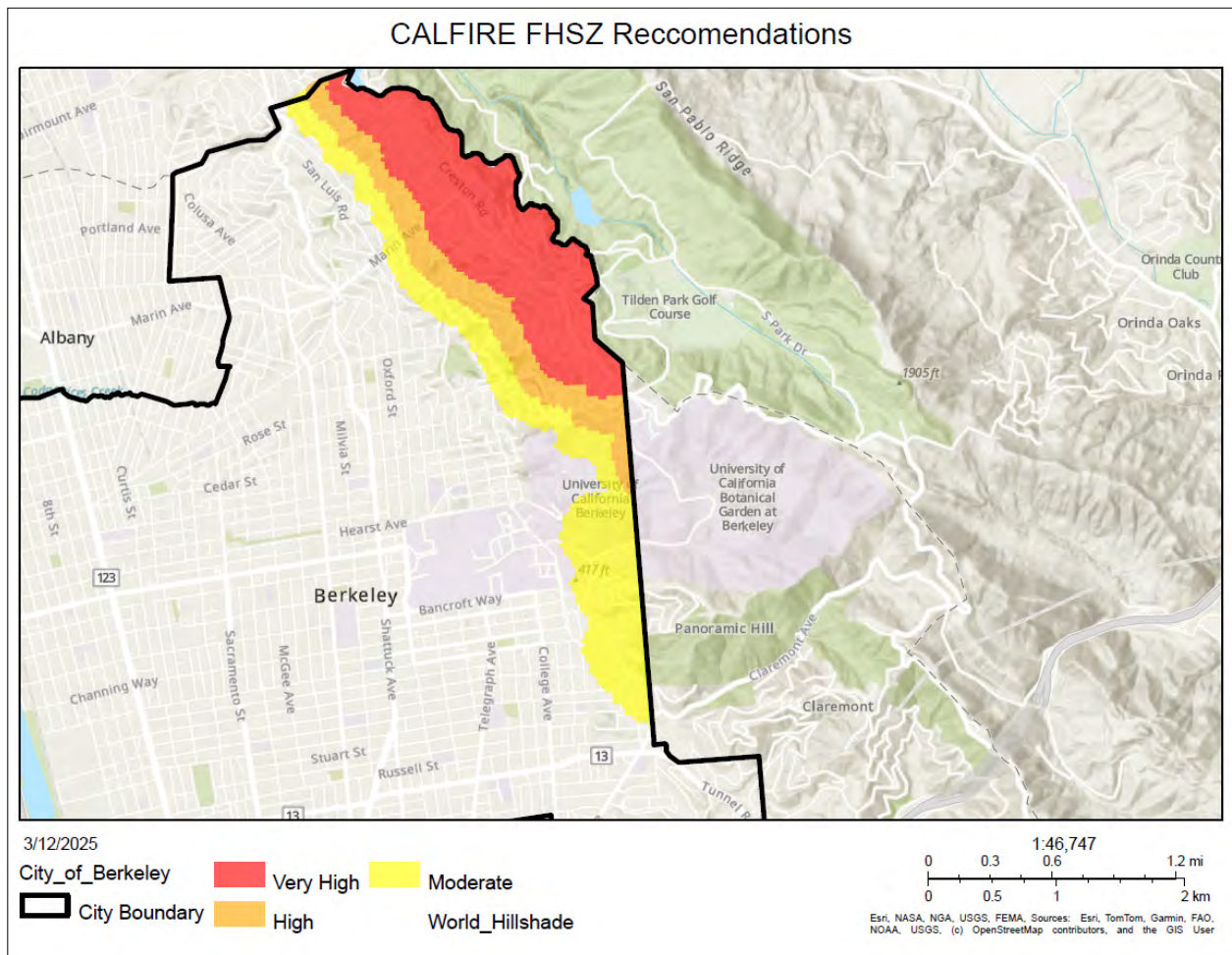
With the adoption of the Local Responsibility Area maps, all properties in those areas designated as Very High (1) are required to meet the vegetation management requirements identified in Government Code Section 51182 as a minimum standard, and (2) all new buildings constructed, or major remodels classified by the Building

¹ CALFIRE Fire Hazard Severity Zone Map within the Local Responsibility Area

Official as new construction, will be required to incorporate the ignition resistant building standards required in Chapter 7A of the Building Standards Code.

In areas designated as High Fire Hazard Severity Zones, all new construction, or major remodels classified by the Building Official as new construction, are required to meet the wildfire resistant construction requirements included in Chapter 7A of the Building Standards Code.

Properties within the Very High and High Fire Hazard Severity Zones must conduct a natural hazard real estate disclosure at time of sale per CA CIV 1102.19 (AB 38, 2019).

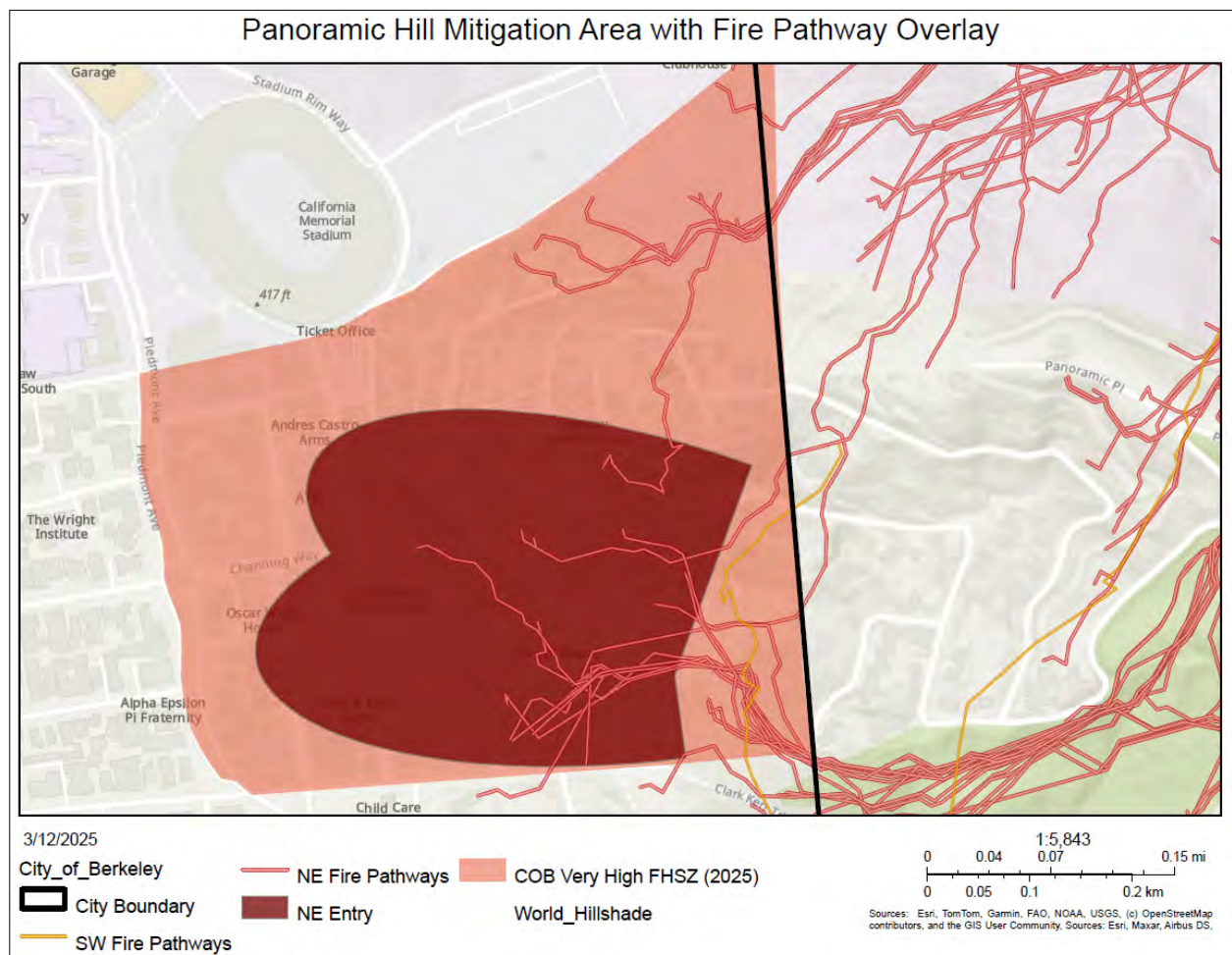


Additional Designation of High and Very High Hazard Fire Severity Zones:

Notwithstanding the minimum Fire Hazard Severity Zones that we are required to adopt by state law, under the authority included in Government Code 51175, the City may designate areas not included in the recommended CALFIRE maps as Moderate, High, or Very High Fire Hazard Severity Zones. The City may not reduce the recommended designations, or boundaries, included on the CALFIRE maps.

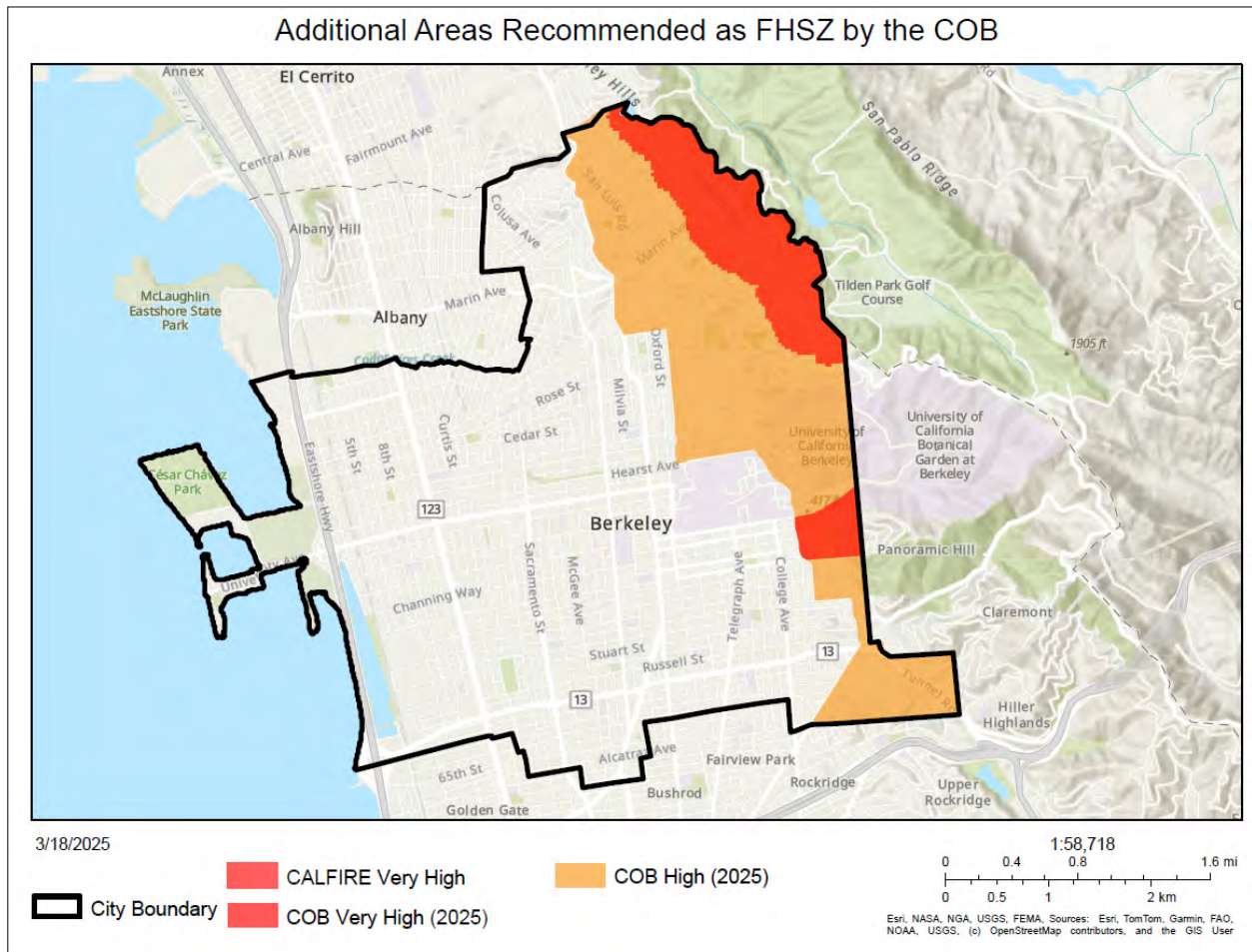
Staff have reviewed the CALFIRE maps and suggest the following additional geographic designations:

1. Designate as Very High Fire Hazard Severity Zones² those areas of the City bounded by the line formed by these roads. Homes addressed on, or with a structural frontage on either side of these road segments are included in the zone:
 - a. Canyon Road from the Oakland border to Stadium Rim Way
 - b. Stadium Rim Way from Canyon Road to Bancroft Way
 - c. Bancroft Way from Stadium Rim Way to Prospect Street
 - d. Prospect Street from Bancroft Way to Bancroft Steps
 - e. Bancroft Steps from Prospect Street to Waring Street
 - f. Bancroft Way from Waring Street to Piedmont Avenue
 - g. Piedmont Avenue from Bancroft Way to Dwight Way
 - h. Dwight Way from Piedmont Avenue to the Oakland border



² Additional Area Recommended as a Very High Fire Hazard Severity Zone by the City of Berkeley

2. Designate as High Fire Hazard Severity Zones³ those areas of the City west of the CALFIRE Very High Fire Hazard Severity Zone and east / northeast of the line formed by these roads. Homes addressed on, or with a structural frontage on either side of these road segments are included in the zone:
 - a. The Arlington Avenue from the Kensington Border to Marin Avenue
 - b. Sutter Street from the Southern portal of the Northbrae Tunnel to Eunice Street
 - c. Spruce Street from Eunice Street to Hearst Avenue
 - d. Galey Road from Hearst Avenue to Stadium Rim Way
 - e. Piedmont Avenue from Stadium Rim Way to Bancroft Way
 - f. Waring Street from Dwight Way to Derby Street
 - g. Belrose Avenue from Derby Street to Garber Street
 - h. Claremont Boulevard from Garber Street to Claremont Avenue
 - i. Claremont Avenue from Claremont Boulevard to the Oakland Border



³ Additional Area Recommended as a High Fire Hazard Severity Zone by the City of Berkeley

The City's official maps are located electronically on the City's Community GIS portal, under the Fire & Emergency Services heading. The official CALFIRE map is located electronically on the "CALFIRE Fire Hazard Severity Zones in the Local Responsibility Area Map" page.

BACKGROUND

Local Conditions That Justify Additional Areas Designated as Very High or High Fire Hazard Severity Zones:

Panoramic Hill and the areas immediately surrounding it are recommended for inclusion in the Very High Fire Hazard Severity Zone due to narrow structure separation distance and high housing density, limited retrofitting of structures to bring them in compliance with Chapter 7A of the Building Standards Code, a single evacuation route that will cause extended evacuation time, proximity to dense vegetation and topographic features capable of supporting fast moving wind driven fire⁴, the benefits to evacuation and wildfire risk reduction associated with long term replacement of existing housing stock with structures that meet wildfire resistive construction standards, and the strategic opportunity that the relatively straight, wide, north-south street selected as the western boundary could provide in terms of stopping or slowing the advance of a fire moving from the hills, west into the City.

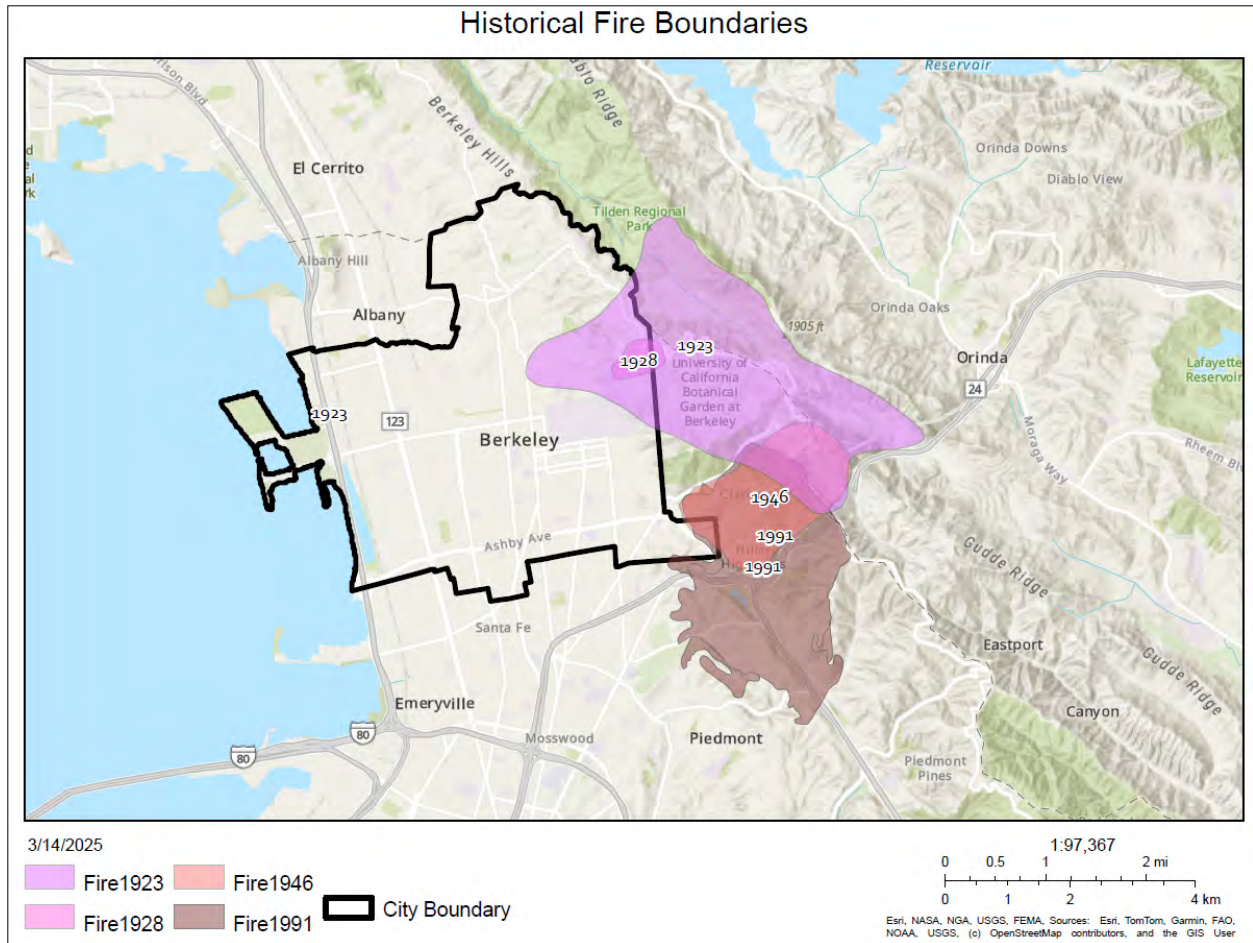
The areas recommended for inclusion in the High Fire Hazard Severity Zones are included due to fire history, with major fires occurring in and around this area in 1905, 1923, 1928, 1946, 1970, 1980, and 1991⁵, the narrow structure separation distance between homes, the limited retrofitting of structures to bring them in compliance with Chapter 7A of the Building Standards Code^{6 7}, the benefits to evacuation and wildfire risk reduction associated with long term replacement of existing housing stock with wildfire resistive construction, limited east to west evacuation routes that will cause extended evacuation time, and the strategic opportunity that the relatively straight, wide, north-south streets selected as western boundaries could provide in terms of stopping or slowing the advance of a fire moving from the hills, west into the City.

⁴ Panoramic Hill Mitigation Area with Fire Pathway Overlay

⁵ Historical Fire Boundaries

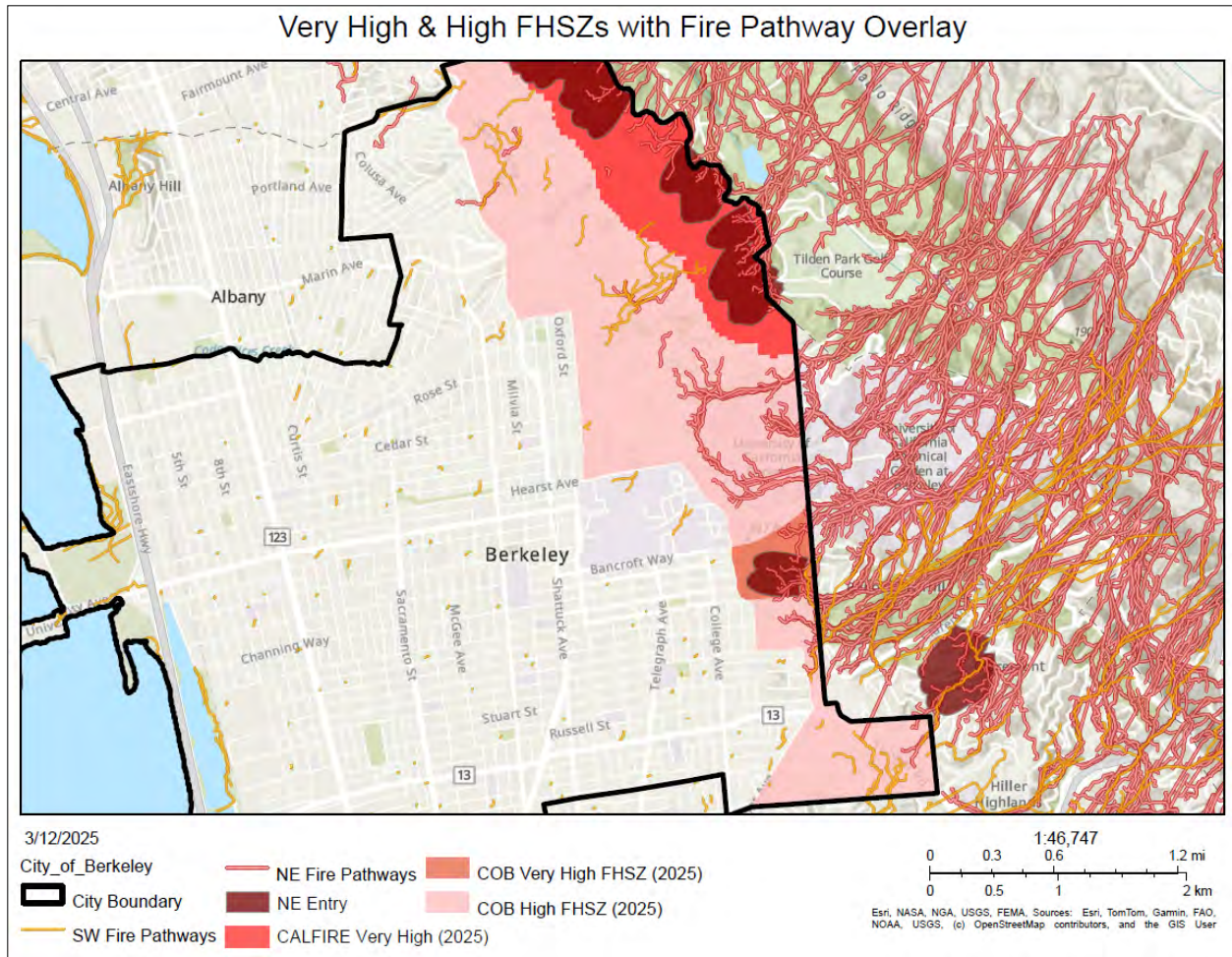
⁶ Year Built, North Hills. Shows which structures have been built to the new Chapter 7A building standards.

⁷ Year Built, South Hills. Shows which structures have been built to the new Chapter 7A building standards.



In addition to these factors the City has considered fire pathways which are the routes formed by the combination of topography, weather, and continuous vegetative fuel that bring wildfire to values at risk, including structures and critical infrastructure, during a fast-moving, wind-driven fire event. Fire pathways highlight where rapid-fire growth may outpace the local firefighting response, resulting in a wildfire's arrival to the built environment and the potential for urban conflagration. The fire pathways mapping was created using the minimum travel time algorithm, a peer-reviewed algorithm built into FlamMap, the industry-standard tool for fire behavior analysis in the United States. The analysis found numerous entry points from Diablo Wind events (from the northeast) and several entry points from Maritime Influence winds (from the southwest) into the City⁸.

⁸ Very High and High FHSZ with Fire Pathway Overlay

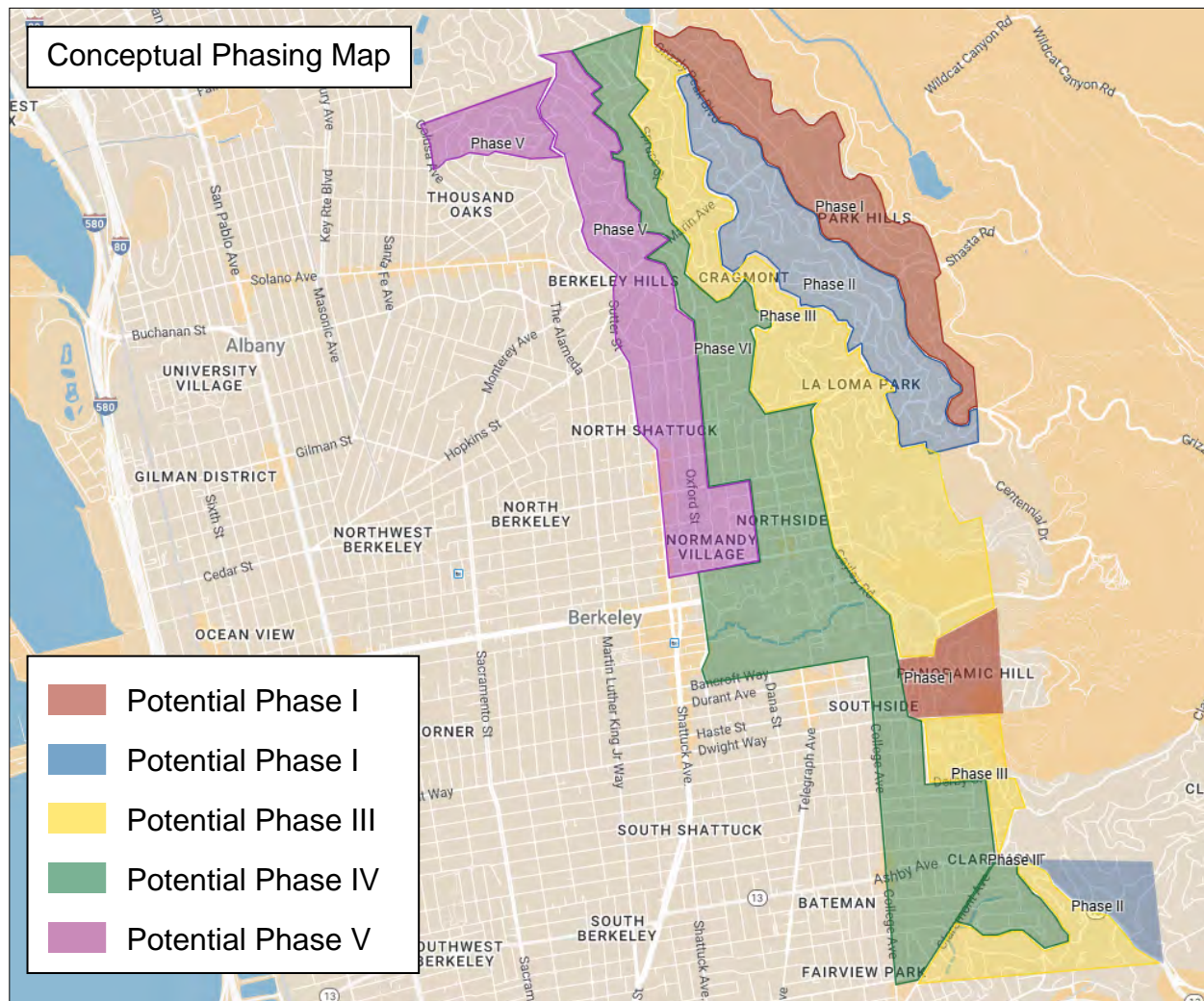


Future intent to expand the Very High Fire Hazard Severity Zone:

The City will initially focus on the highest risk areas of the built environment where ember cast from vegetation along fire pathways is likely and should be prioritized for home hardening and defensible space education, incentives, and enforcement. This will prioritize effective mitigations with limited resources. Focusing resources on the highest priority areas, creating a buffer along the edges of the community can prevent the transition of fire from vegetation to densely spaced structures, interrupting the initiation and propagation of urban conflagration in the built environment.

Phase I will include the Panoramic Mitigation Area and the Grizzly Peak Mitigation area. Phase II will include, at minimum, additional areas of the CALFIRE Very High Fire Hazard Severity Zone. Subsequent phases will complete work in the CALFIRE Very High Fire Hazard Severity Zone and following City Council adoption, will transition areas of the High Fire Hazard Severity Zone to the Very High Fire Hazard Severity Zone. The City will be able to provide a better estimate of how long subsequent phases will take

once staff have begun work in Phase I. A map demonstrating the conceptual phasing is shown below⁹.



History of CALFIRE Fire Hazard Severity Zones:

Assembly Bill 337 (Bates 1992), prompted by the devastating Oakland/Berkeley Hills fire of 1991, calls for CALFIRE to evaluate fire hazard severity in the Local Responsibility Area and to make a recommendation to the local jurisdiction where Very High Fire Hazard Severity Zones exist (CA GC 51175).

The Local Responsibility Area includes incorporated cities, urban regions, agriculture lands, and portions of the desert where the local government is responsible for wildfire protection (CA PRC 4125).

This process last occurred in 2007 and is directed by state law. Fire Hazard Severity Zones consist of Very High, High, and Moderate designations. Of note, when the

⁹ City of Berkeley Fire Hazard Severity Zone Conceptual Phasing Map; <https://www.google.com/maps/d/u/0/edit?mid=1tNP0lWFdz2ACKj2v6eijTLBBaboYc9o&usp=sharing>

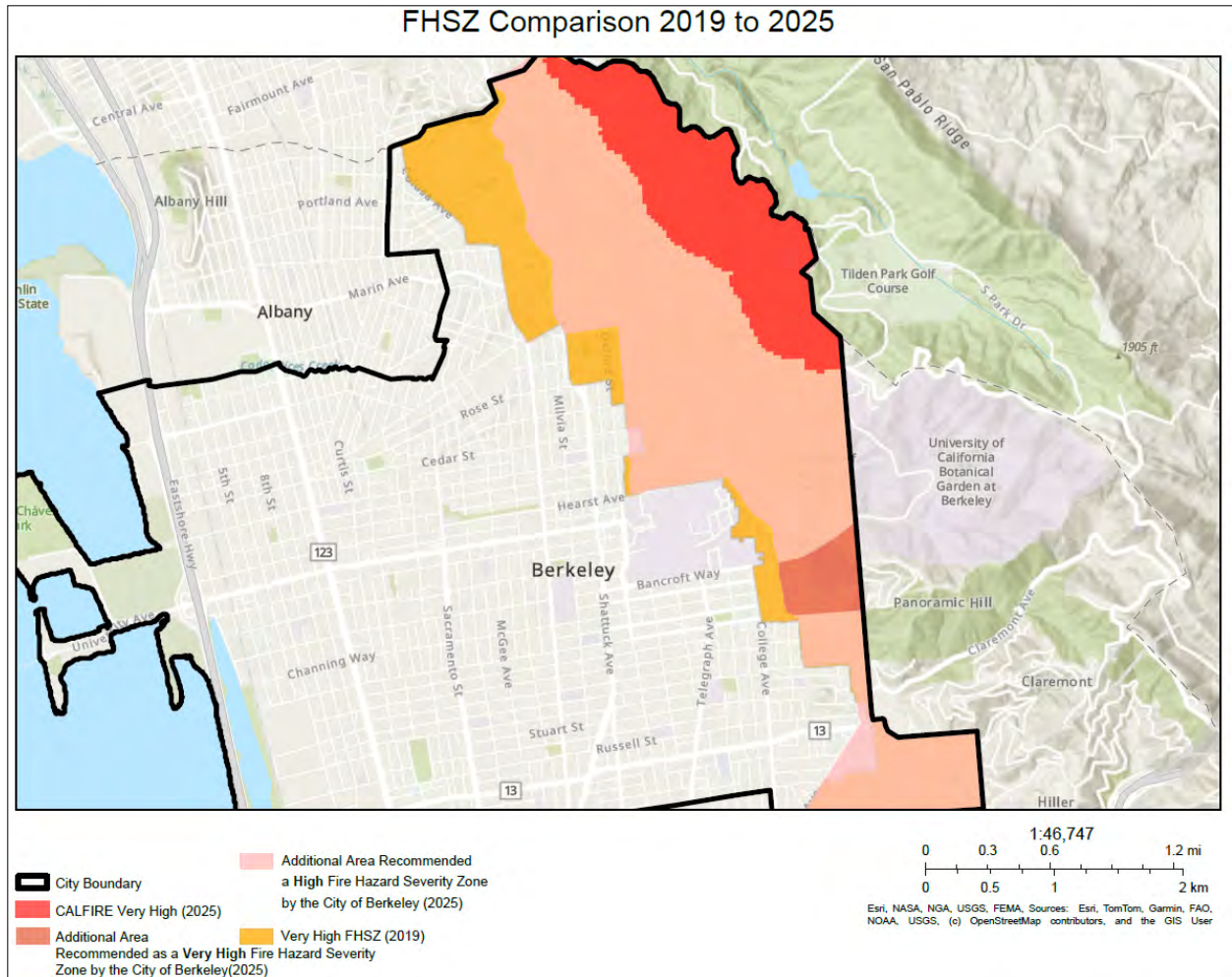
current maps were released in 2007 the High and Moderate designations did not apply to the Local Responsibility Area and only Very High designations were adopted by the City Council. Senate Bill 63 (Stern, 2021) amended Government Code 51178 to add the Moderate and High Fire Hazard Severity Zones in the Local Responsibility Area¹⁰.

Comparison of historical Zones to the 2025 recommendations:

The CALFIRE recommended Fire Hazard Severity Zone has substantially contracted in the 2025 Local Responsibility Area maps. This is not indicative of a decrease in risk as the CALFIRE Fire Hazard Severity Zones are not a structure loss model, as key information regarding structure ignition (such as roof type, etc.) is not considered. Nor do the CALFIRE maps consider local factors inclusive of structure separation distance, year of construction, construction type, or roadway design and capacity. The factors considered by CALFIRE in determining fire hazard within wildland areas are fire history, flame length, terrain, local weather, and potential fuel over a 50-year period. Outside of wildlands, the model considers factors that might lead to buildings being threatened, including terrain, weather, urban vegetation cover, blowing embers, proximity to wildland, fire history, and fire hazard in nearby wildlands.

The City has, since the mid-1990s, recommended that a larger geographic area be identified as a Fire Hazard Severity Zone than what CALFIRE recommends. In the map below, the area that has historically been recognized, through local amendment to the CALFIRE maps as a Very High Fire Hazard Severity Zone is show in orange. The areas recommended by CALFIRE and the City as Fire Hazard Severity Zones in 2025 are shown in the other colors and are smaller than the 2019 adopted boundary. This contraction is based on a City analysis of fire history, transportation network design, strategic positioning of boundaries along major thoroughfares that could be used during a firefight, and fire pathway modeling.

¹⁰ Fire Hazard Severity Zone 2019 to 2025 Comparison



ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Wildfires that transition to a structure-to-structure conflagration have acute and far-reaching consequences, not only for the environment and climate, but also for the stability and well-being of impacted communities. These fires release large amounts of pollutants into the air, including soot and carbon dioxide, which contribute to climate change and degrade air quality. Additionally, toxic byproducts from burning structures, vehicles, and other synthetic material can pose significant health risks to residents and responders.

A commitment to strong fire safety regulations ultimately benefits the entire community—protecting public health, safeguarding financial resources, and ensuring a resilient and sustainable future.

RATIONALE FOR RECOMMENDATION

Adoption of the CALFIRE Local Responsibility Area maps is required by California GC 51178.

ALTERNATIVE ACTIONS CONSIDERED

Recommending that the very High Fire Hazard Severity Zone be adopted in the area recommended to be adopted as High Fire Hazard Severity Zone. While this would more

closely align with the current fire zone boundary, and would continue to require that those parcels be in compliance with defensible space regulations. The number of parcels tops 9,000 and the Department would not be able to provide an adequate amount of support to that number of residents. The Department believes it will be more achievable to work towards 85% compliance with defensible space inclusive of Zone 0 and home hardening in smaller, more manageable slivers of the community, only moving on when the desired rate of compliance has been achieved.

CONTACT PERSON

David Sprague, Fire Chief, 510-981-3473

Attachments:

1: Ordinance

- CALFIRE Fire Hazard Severity Zone Map within the Local Responsibility Area
- Additional Area Recommended as a Very High Fire Hazard Severity Zone by the City of Berkeley
- Additional Area Recommended as a High Fire Hazard Severity Zone by the City of Berkeley
- Panoramic Hill Mitigation Area with Fire Pathway Overlay
- Historical Fire Boundaries
- Year Built, North Hills. Shows which structures have been built to the new Chapter 7A building standards.
- Year Built, South Hills. Shows which structures have been built to the new Chapter 7A building standards.
- Very High and High FHSZ with Fire Pathway Overlay
- Fire Hazard Severity Zone 2019 to 2025 Comparison

2: Local Responsibility Area - Legislation Factsheet.pdf

ORDINANCE NO. -N.S.

ADOPTION OF CALFIRE MAP DESIGNATING CITY OF BERKELEY FIRE HAZARD SEVERITY ZONES

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

Section 1: Findings

Pursuant to California Government Code 51177-51179, California Department of Forestry and Fire Protection (CALFIRE) has released recommended updates to Fire Hazard Severity Zones in the Local Responsibility Area. This process last occurred in 2007 and is directed by state law. Fire Hazard Severity Zones consist of Very High, High, and Moderate designations. Of note, when the current maps were released in 2007 the High and Moderate designations did not apply to the Local Responsibility Area and only Very High designations were adopted by the City Council. Senate Bill 63 (Stern, 2021) amended Government Code 51178 to add the Moderate and High Fire Hazard Severity Zones in the Local Responsibility Area.

Panoramic Hill and the areas immediately surrounding it are recommended for inclusion in the Very High Fire Hazard Severity Zone due to narrow structure separation distance and high housing density, limited retrofitting of structures to bring them in compliance with Chapter 7A of the Building Standards Code, a single evacuation route that will cause extended evacuation time, proximity to dense vegetation and topographic features capable of supporting fast moving wind driven fire¹¹, the benefits to evacuation and wildfire risk reduction associated with long term replacement of existing housing stock with structures that meet wildfire resistive construction standards, and the strategic opportunity that the relatively straight, wide, north-south street selected as the western boundary could provide in terms of stopping or slowing the advance of a fire moving from the hills, west into the City.

The areas recommended for inclusion in the High Fire Hazard Severity Zones are included due to fire history (with major fires occurring in and around this area in 1905, 1923, 1970, 1980, and 1991), the narrow structure separation distance between homes, the limited retrofitting of structures to bring them in compliance with Chapter 7A of the Building Standards Code^{12 13}, the benefits to evacuation and wildfire risk reduction associated with long term replacement of existing housing stock with wildfire resistive construction, limited east to west evacuation routes that will cause extended evacuation time, and the strategic opportunity that the relatively straight, wide, north-south streets selected as western boundaries could provide in terms of stopping or slowing the advance of a fire moving from the hills, west into the City.

¹¹ Panoramic Hill Mitigation Area with Fire Pathway Overlay

¹² Year Built, North Hills. Shows which structures have been built to the new Chapter 7A building standards.

¹³ Year Built, South Hills. Shows which structures have been built to the new Chapter 7A building standards.

Community members in areas designated as Very High Fire Hazard Severity Zones are required to maintain defensible space within 100 feet of structures, or the property line, whichever is closer and in the case of new construction or major remodels classified by the Building Official as new construction, to meet the wildfire resistant construction requirements included in Chapter 7A of the Building Standards Code.

Community members in areas designated as High Fire Hazard Severity Zones are required to meet the wildfire resistant construction requirements included in Chapter 7A of the Building Standards Code and in the case of new construction or major remodels classified by the Building Official as new construction.

Finally, community members selling property in the Very High and High Fire Hazard Severity Zones must conduct a natural hazard real estate disclosure at time of sale per CA CIV 1102.19 (AB 38, 2019).

Section 2: Adoption of CALFIRE recommended Fire Hazard Severity Zones:

The City hereby designates the Fire Hazard Severity Zones as recommended by the CALFIRE pursuant to Government Code Section 51178, and

Section 3: Designation of Additional Lands as Fire Hazard Severity Zones:

Notwithstanding the minimum fire safety standards required by state law, under the authority included in Government Code 51175 the City has the authority to establish more stringent wildfire safety standards. Further, as part of the Local Responsibility Area map adoption process, the City may designate areas not included in the recommended CALFIRE maps as Moderate, High, or Very High Fire Hazard Severity Zones. The City may not reduce the recommended designations, or boundaries, included on the CALFIRE maps.

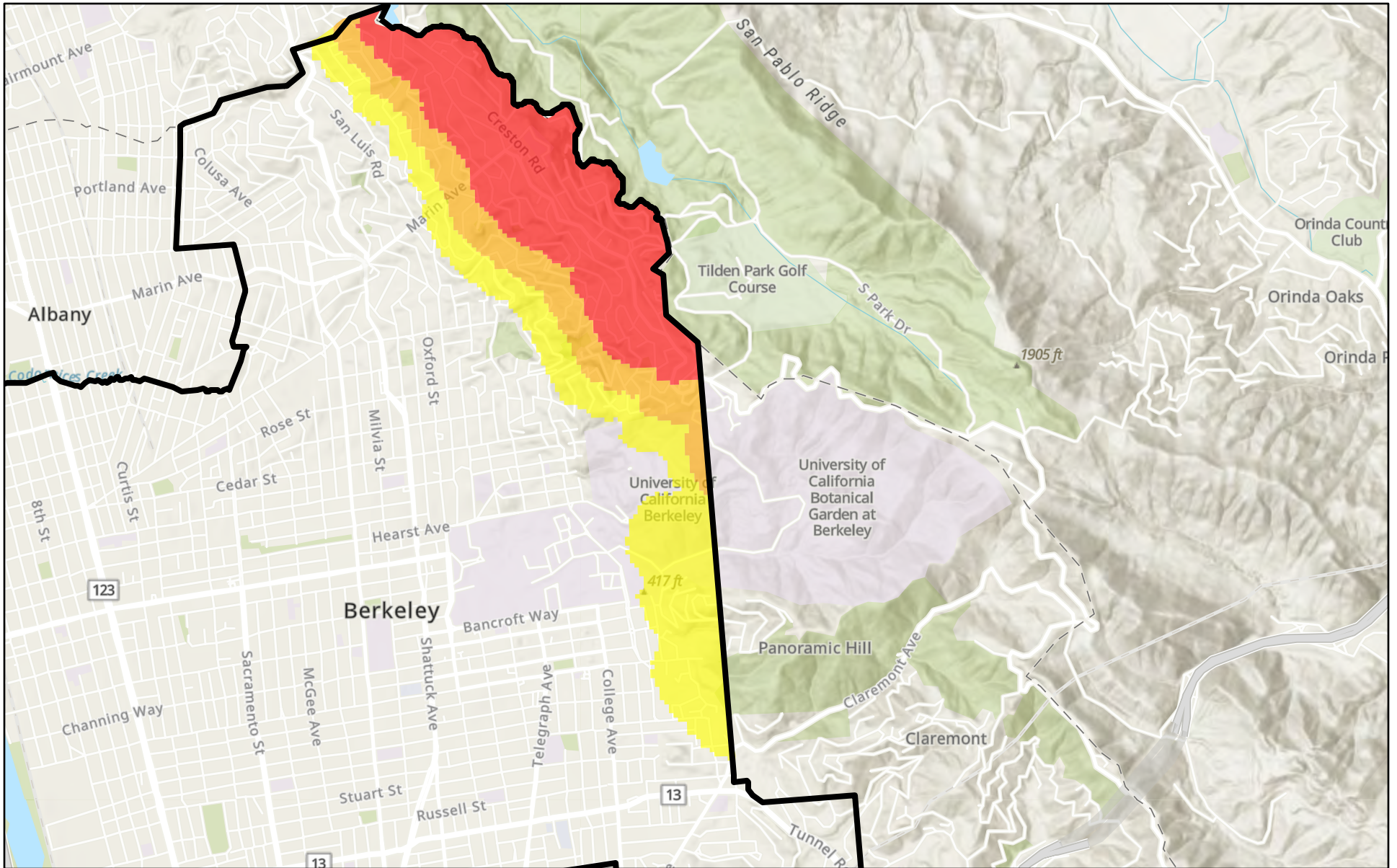
Staff have reviewed the recommended maps and suggest the following changes:

1. Designate as Very High Fire Hazard Severity Zones those areas of the City bounded by the line formed by these roads. Homes addressed on, or with a structural frontage on either side of these road segments are included in the zone:
 - a. Canyon Road from the Oakland border to Stadium Rim Way
 - b. Stadium Rim Way from Canyon Road to Bancroft Way
 - c. Bancroft Way from Stadium Rim Way to Prospect Street
 - d. Prospect Street from Bancroft Way to Bancroft Steps
 - e. Bancroft Steps from Prospect Street to Waring Street
 - f. Bancroft Way from Waring Street to Piedmont Avenue
 - g. Piedmont Avenue from Bancroft Way to Dwight Way
 - h. Dwight Way from Piedmont Avenue to the Oakland border

2. Designate as High Fire Hazard Severity Zones those areas of the City west of the CALFIRE Very High Fire Hazard Severity Zone and east / northeast of the line formed by these roads. Homes addressed on, or with a structural frontage on either side of these road segments are included in the zone:
 - a. The Arlington Avenue from the Kensington Border to Marin Avenue
 - b. Sutter Street from the Southern portal of the Northbrae Tunnel to Eunice Street
 - c. Spruce Street from Eunice Street to Hearst Avenue
 - d. Galey Road from Hearst Avenue to Stadium Rim Way
 - e. Piedmont Avenue from Stadium Rim Way to Bancroft Way
 - f. Waring Street from Dwight Way to Derby Street
 - g. Belrose Avenue from Derby Street to Garber Street
 - h. Claremont Boulevard from Garber Street to Claremont Avenue
 - i. Claremont Avenue from Claremont Boulevard to the Oakland Border

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

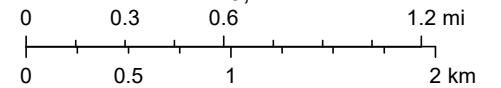
Page 15 of 42
CALFIRE FHSZ Reccomendations



3/12/2025

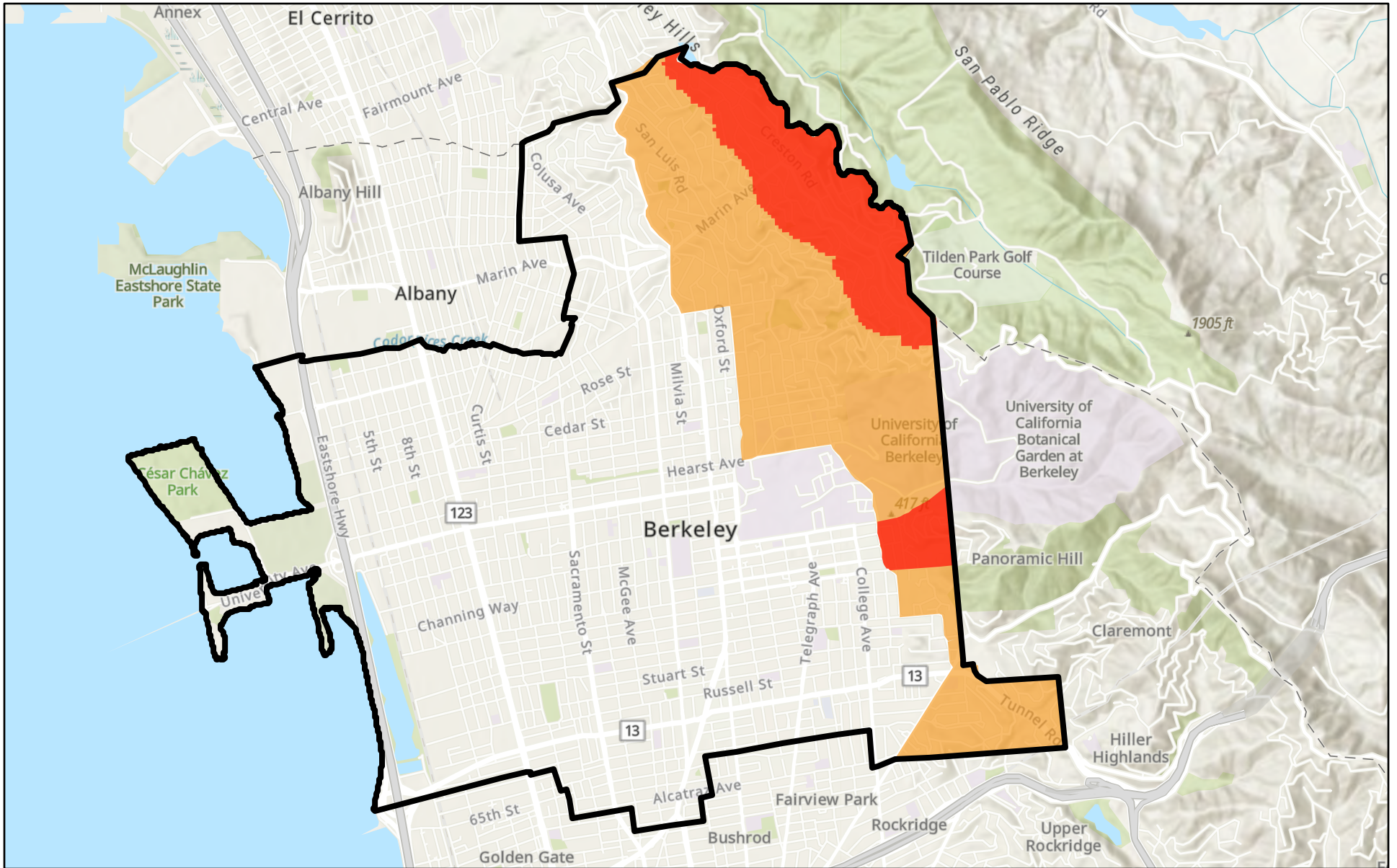
City_of_Berkeley Very High Moderate
City Boundary High World_Hillshade

1:46,747



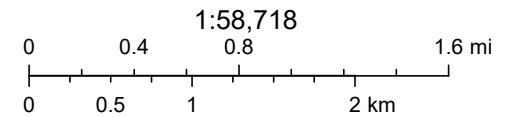
Esri, NASA, NGA, USGS, FEMA, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User

Page 16 of 42
Additional Areas Recommended as FHSZ by the COB



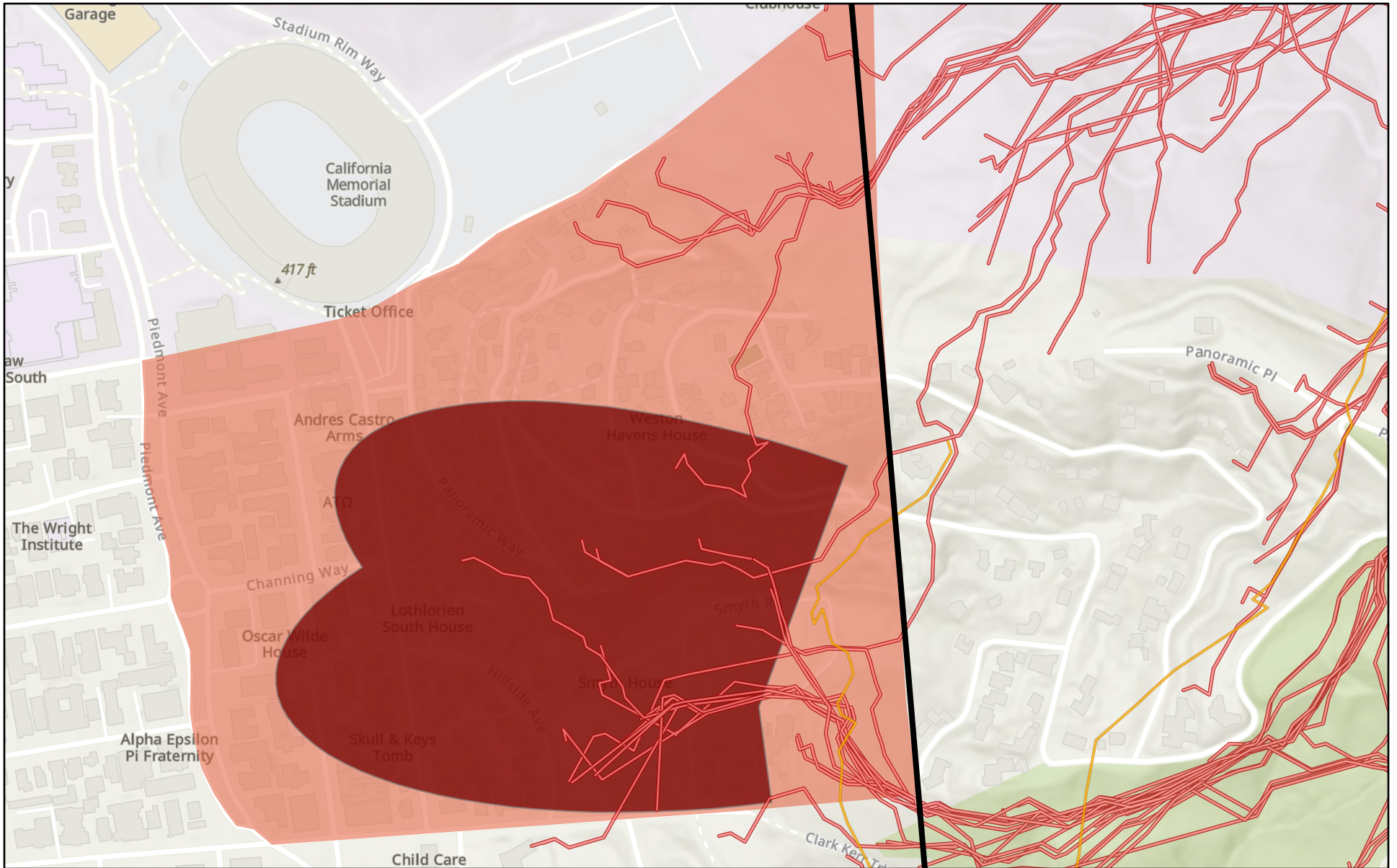
3/18/2025

- City Boundary
- CALFIRE Very High
- COB Very High (2025)
- COB High (2025)



Esri, NASA, NGA, USGS, FEMA, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User

Page 17 of 42
 Panoramic Hill Mitigation Area with Fire Pathway Overlay



3/12/2025

City_of_Berkeley

City Boundary

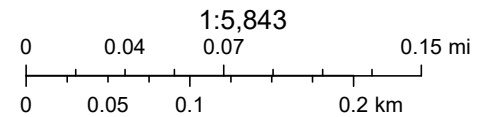
SW Fire Pathways

NE Fire Pathways

NE Entry

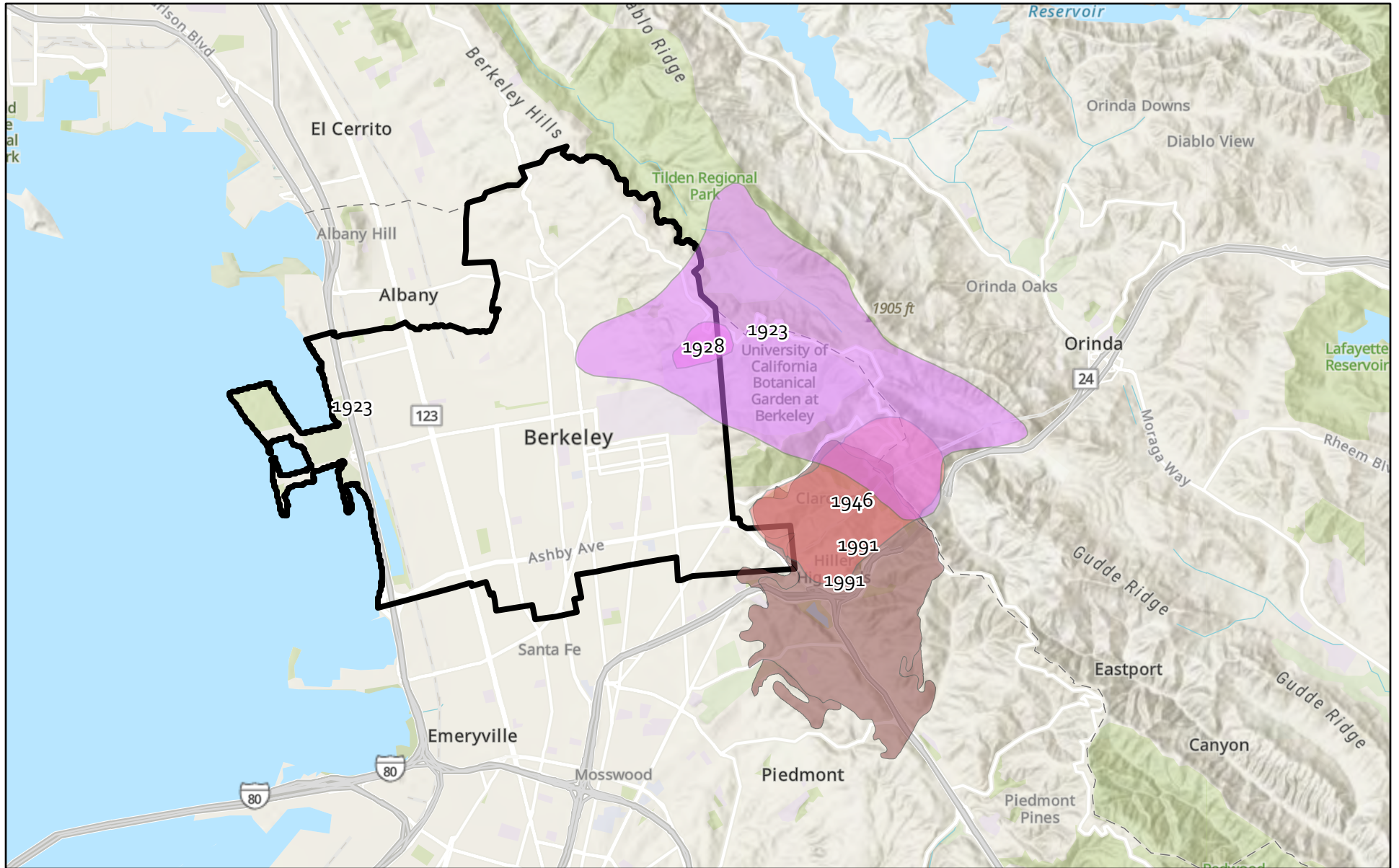
COB Very High FHSZ (2025)

World_Hillshade

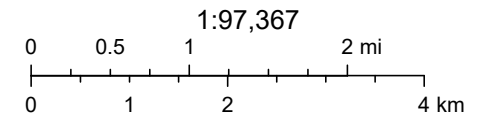
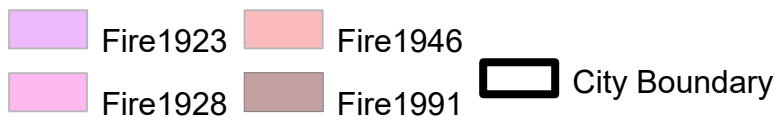


Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User Community, Sources: Esri, Maxar, Airbus DS,

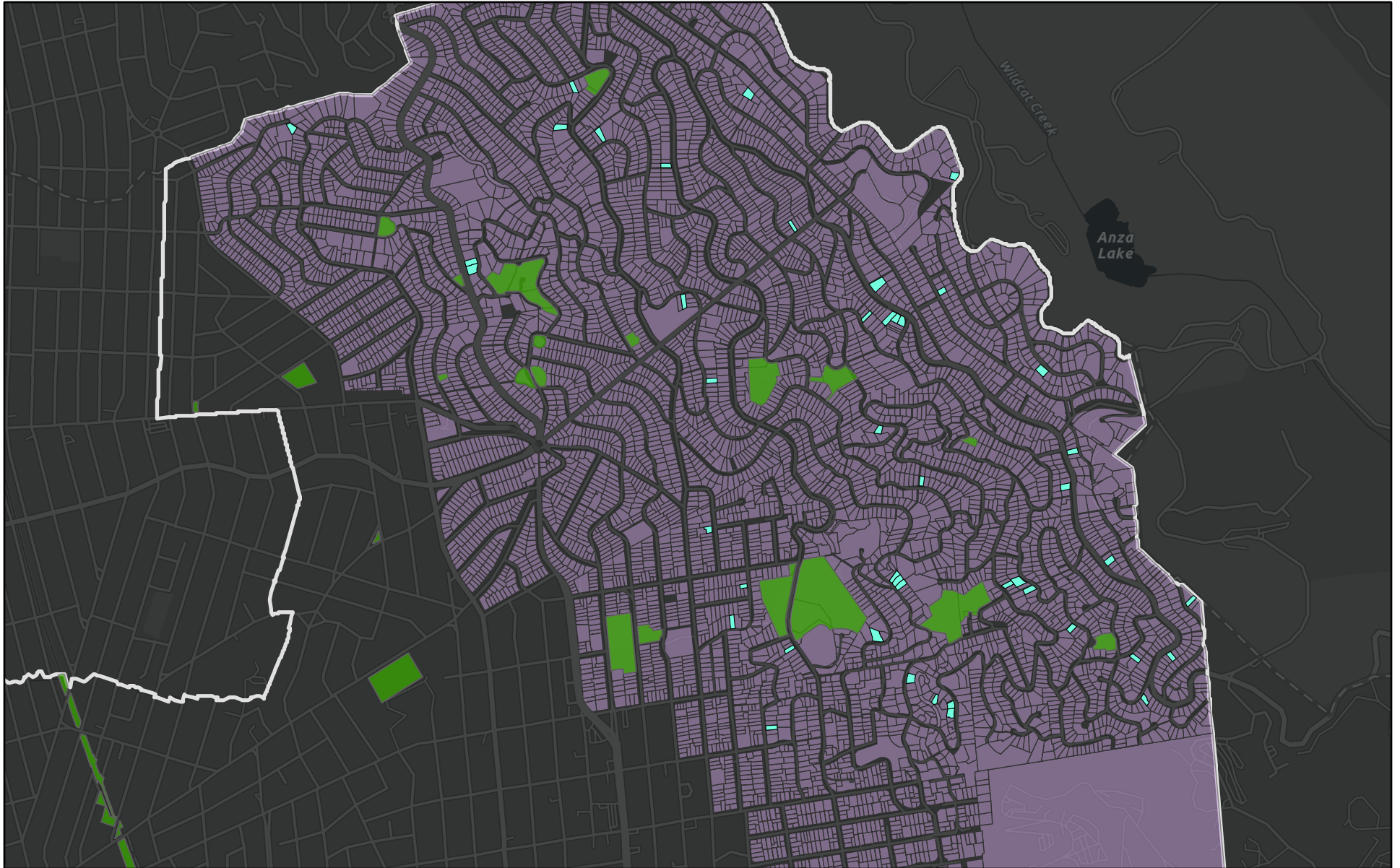
Page 18 of 42
Historical Fire Boundaries







3/14/2025

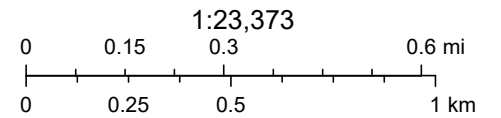


Esri, NASA, NGA, USGS, FEMA, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User

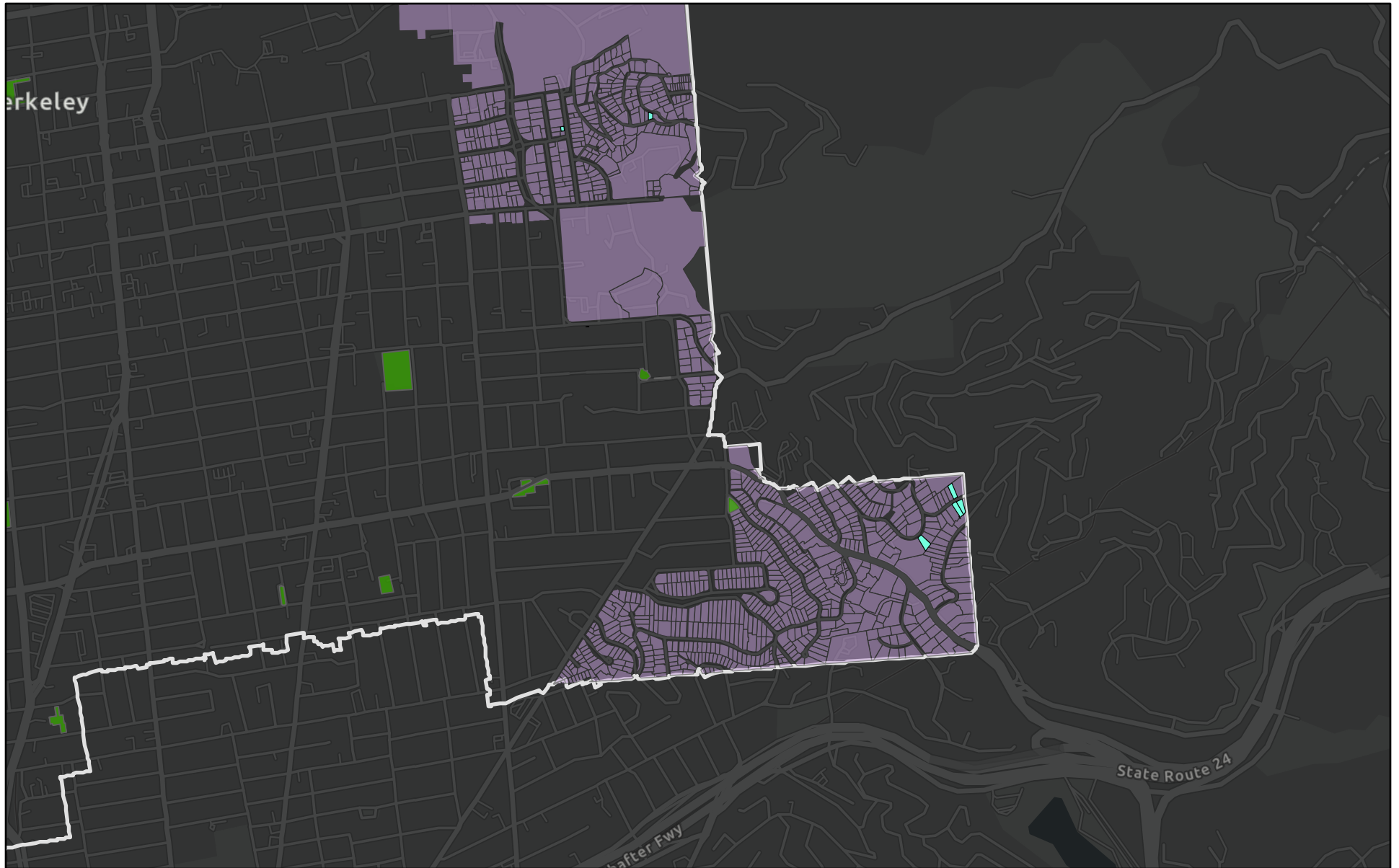


3/12/2025





-  Parks
-  before2008
-  after2008
-  City of Berkeley Boundary

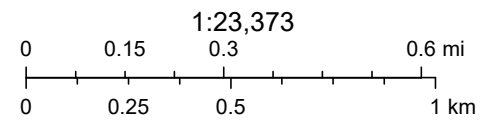


Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community



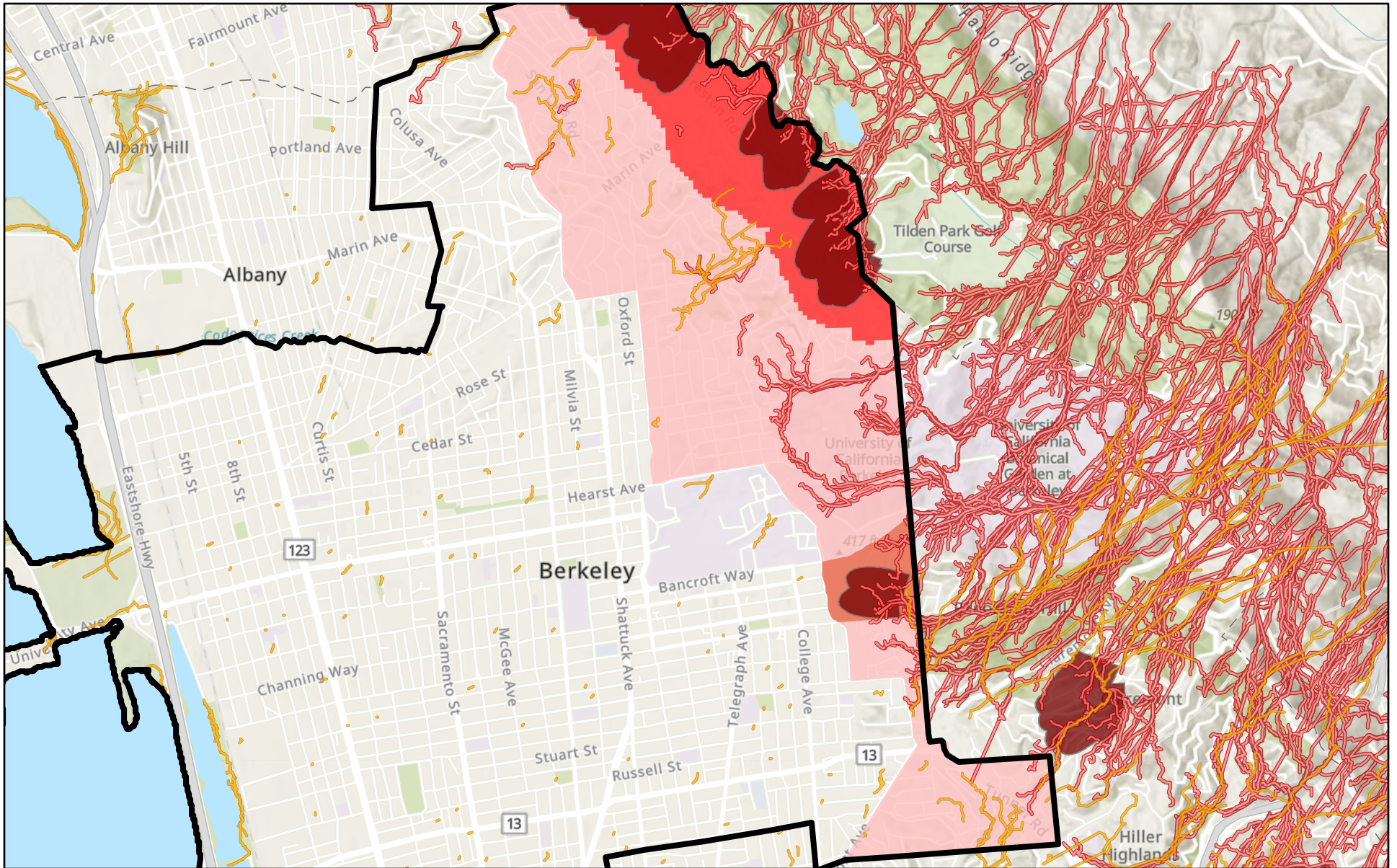
3/12/2025

-  Parks
-  before2008
-  after2008
-  City of Berkeley Boundary



Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

Very High & High FHSZs with Fire Pathway Overlay



3/12/2025

City_of_Berkeley

City Boundary

SW Fire Pathways

NE Fire Pathways

NE Entry

CALFIRE Very High (2025)

COB Very High FHSZ (2025)

COB High FHSZ (2025)

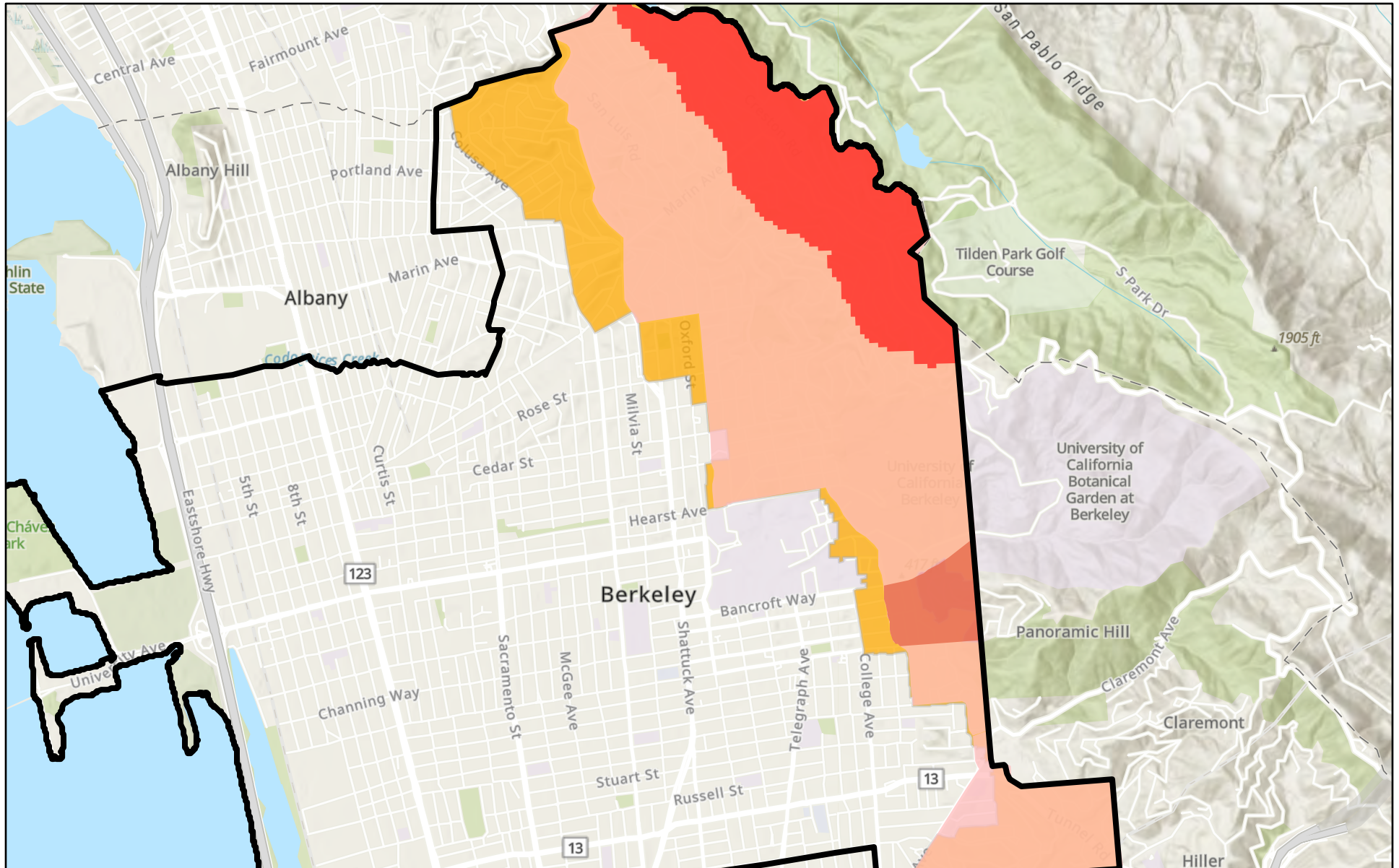
1:46,747

0 0.3 0.6 1.2 mi

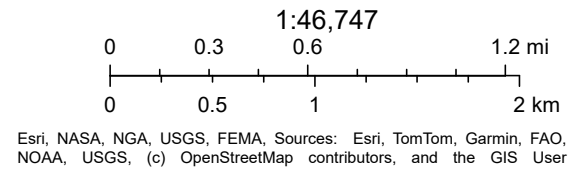
0 0.5 1 2 km

Esri, NASA, NGA, USGS, FEMA, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User

Page 22 of 42
 FHSZ Comparison 2019 to 2025



- City Boundary
- CALFIRE Very High (2025)
- Additional Area Recommended as a **Very High** Fire Hazard Severity Zone by the City of Berkeley(2025)
- Additional Area Recommended a **High** Fire Hazard Severity Zone by the City of Berkeley (2025)
- Very High FHSZ (2019)





Fire Hazard Severity Zones Local Responsibility Area

Fire Hazard Severity Zones

What is a Fire Hazard Severity Zone?

The State Fire Marshal shall identify areas in the State as Moderate, High, and Very High Hazard Severity Zones based on consistent statewide criteria and the severity of fire hazard that is expected to prevail in those areas. – [CA GOV 51178](#)

When did Fire Hazard Severity Zones begin in Local Responsibility Area?

Assembly Bill 337 (Bates 1992), prompted by the devastating Oakland Hills fire of 1991, calls for CAL FIRE to evaluate fire hazard severity in local responsibility area and to make a recommendation to the local jurisdiction where Very High FHSZ exist. – [CA GOV 51175](#)

What do Fire Hazard Severity Zones measure?

The maps evaluate "Hazard", not "Risk". Hazard is based on physical conditions that create expected fire behavior over a 50-year period without considering short-term modifications. Risk is the potential damage a fire can do to the area under existing conditions, including fuel reduction projects, defensible space, and ignition resistant building construction. - osfm.fire.ca.gov/fhsz

Will the new Fire Hazard Severity Zone maps affect my insurance?

Insurance companies use risk models, which differ from hazard models, because they consider the susceptibility of a structure to damage from fire and other short-term factors that are not included in hazard modeling. Insurance risk models incorporate additional factors that change more frequently than those that CAL FIRE includes in its hazard mapping, which is built to remain steady.

– [California Department of Insurance](#)

What are the requirements within Fire Hazard Severity Zones?

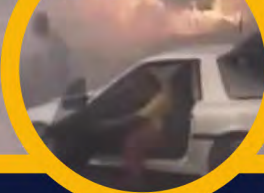
- Materials and Construction Methods for Exterior Wildfire Exposure – [CBC Chapter 7A](#)
- Natural hazard real estate disclosure at the time of sale – [CA CIV 1102.19 \(AB 38 2019\)](#)
- 100-foot defensible space clearance requirements – [CA GOV 51182](#)
- Property development standards such as road widths, water supply, and signage – [CA PRC 4290](#)
- Consideration during future development of Cities and Counties General Plan – [CA GOV 65302](#)

1980



Panorama Fire burns 28,800 acres, destroying 325 structures and resulting in 4 fatalities in San Bernardino.

1991



Tunnel Fire burns 1,600 acres, destroying 2,900 structures and resulting in 25 fatalities in the Oakland Hills.

PRC 4201 mandates that CAL FIRE develop Fire Hazard Severity Zones.

1982

Fire Hazard Severity Zone maps are created.

1985

The "Bates Bill" calls for CAL FIRE to identify Very High Fire Hazard Severity Zones in LRA.

1992

Frequently Asked Questions



Is there an easy way to determine the Fire Hazard Severity Zone of my property?

You can search by address to find your current designation on the website: osfm.fire.ca.gov/fhsz

Why are Fire Hazard Severity Zones being updated?

The hazard maps are being updated to more accurately reflect the zones in California that are susceptible to wildfire. The process will incorporate new science in local climate data and improved fire assessment modeling in determining hazard ratings. – [PRC 4125](#) and [GC 51178](#)

What are the key elements of the Fire Hazard Severity Zone Model?

The model has two key elements: probability of an area burning and expected fire behavior under extreme fuel and weather conditions. The factors considered in determining fire hazard within wildland areas is fire history, flame length, terrain, local weather, and potential fuel over a 50-year period. Outside of wildlands, the model considers factors that might lead to buildings being threatened, including terrain, weather, urban vegetation cover, blowing embers, proximity to wildland, fire history, and fire hazard in nearby wildlands. This is not a structure loss model, as key information regarding structure ignition is not included. – osfm.fire.ca.gov/fhsz

Why does the model place an emphasis on the spread of embers?

Embers spread wildfire because they can travel long distances in the wind and ignite vegetation, roofs, attics (by getting into vents), and decks. – osfm.fire.ca.gov/fhsz

What is the difference between SRA and LRA?

State Responsibility Area (SRA) is a legal term defining the area where the State has financial responsibility for wildland fire protection and prevention. – [CA PRC 4102](#)

Local Responsibility Area (LRA) includes incorporated cities, urban regions, agriculture lands, and portions of the desert where the local government is responsible for wildfire protection. – [CA PRC 4125](#)

How are Fire Hazard Severity Zones determined in Local Responsibility Areas?

CAL FIRE uses an extension of the state responsibility area Fire Hazard Severity Zone model as the basis for evaluating fire hazard in Local Responsibility Area. The Local Responsibility Area hazard rating reflects flame and ember intrusion from adjacent wildlands and from flammable vegetation in the urban area.

– [PRC 4202](#) and [GC 51178](#)

2017



Tubbs Fire burns 36,810 acres, destroying 5,643 structures and resulting in 22 fatalities in Santa Rosa.

2018



Camp Fire burns 153,336 acres, destroying 18,804 structures and resulting in 85 fatalities in Paradise.

CAL FIRE finalizes the Statewide FHSZ Model to include Very High FHSZ in LRA.

2007

AB 642 and SB 63 require CAL FIRE to identify Moderate and High FHSZ in LRA.

2021

AB 211 requires local agency to designate by ordinance Moderate and High FHSZ in LRA.

2022



General

What is a Fire Hazard Severity Zone or FHSZ?

[Public Resource Code 4202](#); The State Fire Marshal shall classify lands within State Responsibility Areas into Fire Hazard Severity Zones. Each zone shall embrace relatively homogeneous lands and shall be based on fuel loading, slope, fire weather, and other relevant factors present, including areas where winds have been identified by the department as a major cause of wildfire spread.

[Government Code 51178](#); The State Fire Marshal shall identify areas in the state as Moderate, High, and Very High Fire Hazard Severity Zones based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas. Moderate, High, and Very High Fire Hazard Severity Zones shall be based on fuel loading, slope, fire weather, and other relevant factors including areas where winds have been identified by the Office of the State Fire Marshal as a major cause of wildfire spread.

Will the new Fire Hazard Severity Zones affect my ability to get or maintain insurance?

Insurance companies use risk models, which differ from hazard models, because they consider the susceptibility of a structure to damage from fire and other short-term factors that are not included in hazard modeling. It is unlikely that insurance risk models would utilize CAL FIRE Fire Hazard Severity Zones as a factor, but much of the same data that is used in the Fire Hazard Severity Zone model are likely included in the insurance companies' risk models. However, insurance risk models incorporate many additional factors and that change more frequently than those that CAL FIRE includes in its hazard mapping, which is built to remain steady for the next 10+ years.

What do Fire Hazard Severity Zones measure?

The Fire Hazard Severity Zone map reflects "hazard," not "risk". The map is like flood zone maps, where lands are described in terms of the probability level of a particular area being inundated by floodwaters, and not specifically prescriptive of impacts.

"Hazard" is based on the physical conditions that create a likelihood and expected fire behavior over a 30 to 50-year period without considering mitigation measures such as home hardening, recent wildfire, or fuel reduction efforts.

"Risk" is the potential damage a fire can do to the area under existing conditions, accounting for any modifications such as fuel reduction projects, defensible space, and ignition resistant building construction.



General

What are the key elements of the Fire Hazard Severity Zone model?

The fire hazard severity model for wildland fire has two key elements: probability of an area burning and expected fire behavior under extreme fuel and weather conditions. The zones reflect areas that have similar burn probabilities and fire behavior characteristics. The factors considered in determining fire hazard within wildland areas are fire history, flame length, terrain, local weather, and potential fuel over a 50-year period. Outside of wildlands, the model considers factors that might lead to buildings being threatened, including terrain, weather, urban vegetation cover, blowing embers, proximity to wildland, fire history, and fire hazard in nearby wildlands. FHSZs are not a structure loss model, as key information regarding structure ignition (such as roof type, etc.) is not included.

Where do Fire Hazard Severity Zones apply?

Fire Hazard Severity Zones are found in areas where the state has financial responsibility for wildfire protection and prevention, called the State Responsibility Area. More than 31 million acres are in this area. Under [Senate Bill 63 \(Stern, 2021\)](#) [Government Code 51178](#) was amended to also identify the Moderate and High Fire Hazard Severity Zones with the Very High in Local Responsibility Area (LRA).

What are the uses of Fire Hazard Severity Zones?

The zones are used for several purposes including to designate areas where California’s defensible space standards and wildland urban interface building codes are required. They can be a factor in real estate disclosure, and local governments may consider them in their general plan.

When were the maps last updated?

In 2007, CAL FIRE updated the FHSZs for the entire State Responsibility Area (SRA). Between 2008-2011 the department worked with local governments to make recommendations of the Very High Fire Hazard Severity Zones within Local Responsibility Area (LRA).

Why are fire hazard severity maps being updated?

The hazard maps are being updated to more accurately reflect the zones in California that are susceptible to wildfire. The hazard mapping process will incorporate new science in local climate data and improved fire assessment modeling in determining hazard ratings.



General

How do the Fire Hazard Severity Zone Maps differ from California Public Utilities Commission (CPUC) High Fire Threat District Maps?

The California Public Utilities Commission (CPUC) sponsored map, known as "CPUC High Fire Threat District Map" (HFTD), includes similar factors as those in the FHSZ maps, however the CPUC HFTD Map is designed specifically for identifying areas where there is an increased risk for utility associated wildfires. As such, the CPUC map includes fire hazards associated with historical powerline-caused wildfires, current fuel conditions, and scores areas based on where fires start, as opposed to where potential fires may cause impacts.

How are Fire Hazard Severity Zones determined?

CAL FIRE used the best available science and data to develop, and field test a model that served as the basis of zone assignments. The model evaluated the probability of the area burning and potential fire behavior in the area. Many factors were included such as fire history, vegetation, flame length, blowing embers, proximity to wildland, terrain, and weather.

What new data will be included in the new model, and how does this differ from the previous model?

A 2 km grid of climate data covering the years 2003-2018 is being used in the update. The previous model used stock weather inputs across the state to calculate wildland fire intensity scores. The updated model will adjust fire intensity scores based on the most extreme fire weather at a given location, considering temperature, humidity, and wind speed. In addition, ember transport is being modeled based on local distributions of observed wind speed and direction values instead of using a generic buffer distance for urban areas adjacent to wildlands.

Why is my property in a different zone than the adjacent area, which looks similar?

In wildland areas, zone edges are a result of the way zones are delineated. Specifically, zones represent areas of similar slope and fuel potential. Zone boundaries divide zones based on geographic and vegetation features that align with fire hazard potential; although, at a local scale, it may appear that the immediate area is similar on both sides of the edge. The class value within a zone is based on the average hazard score across the whole zone, so areas that are in the same zone but not immediately adjacent to a local area can have an influence on the final zone classification. Classification outside of wildland areas is based on the fire hazard of the adjacent wildland and the probability of flames and embers threatening buildings.



General

Why does the model place an emphasis on the spread of embers?

Embers spread wildfire because they can travel long distances in the wind and ignite vegetation, roofs, attics (by getting into vents), and decks.

Why do waterbodies have a Fire Hazard Severity Zone Classification?

All areas in State Responsibility Area, including water bodies, require a Fire Hazard Severity Zone designation. The 2007 FHSZ maps zoned all water as Moderate by default. In the 2023 FHSZ model we added a buffer of FHSZ from the surrounding wildland into water bodies to account for potential threat of embers to buildings on docks and house boats, as well as variation in reservoir height that occurs with drought.

How does CAL FIRE assist Local Governments in Fire Hazard Severity Zones?

CAL FIRE's Land Use Planning Program is a specialized unit that provides support to local governments by providing fire safety expertise on the State's wildland urban interface building codes, wildfire safety codes, as well as helping in the development of the safety elements in general plans.

How can I search the Fire Hazard Severity Zone of a property?

You can search by address to find your current designation on the web at: osfm.fire.ca.gov/FHSZ



State Responsibility Area

What is State Responsibility Area or SRA?

SRA is a legal term defining the area where the state has financial responsibility for wildland fire protection and prevention. Incorporated cities and federal ownership are not included. Within the SRA, CAL FIRE is responsible for fire prevention and suppression. There are more than 31 million acres in SRA, with an estimated 1.7 million people and 800,000 existing homes.

How is State Responsibility Area determined?

The Board of Forestry and Fire Protection (Board) classifies land as State Responsibility Area. The legal definition of SRA is found in the [Public Resources Code Section 4125](#). The Board has developed detailed procedures to classify lands as State Responsibility Area. Lands are removed from SRA when they become incorporated by a city, change in ownership to the federal government, become more densely populated, or are converted to intensive agriculture that minimizes the risk of wildfire. While some lands are removed from SRA automatically, the Board typically reviews changes every five years.

What Fire Hazard Severity Zones are in State Responsibility Area?

All of the State Responsibility Area is in a Fire Hazard Severity Zone. Lands are either ranked as Moderate, High or Very High Fire Hazard Severity Zones.

What are the wildland urban interface (WUI) building codes in State Responsibility Area?

The WUI building codes ([California Building Code \(CBC\) Chapter 7A](#)) reduce the risk of embers fanned by wind-blown wildfires from igniting buildings. The codes for roofing, siding, decking, windows, and vents apply throughout all State Responsibility Area regardless of the fire hazard severity ranking. Ember-resistant building materials can be found at: <https://osfm.fire.ca.gov/divisions/fire-engineering-and-investigations/building-materials-listing/>



State Responsibility Area

What is the difference between the various Fire Hazard Severity Zones?

Classification of a wildland zone as Moderate, High or Very High Fire Hazard is based on the average hazard across the area included in the zone, which have a minimum size of 200 acres. In wildlands, hazard is a function of modeled flame length under the worst conditions and annual burn probability. Both these factors generally increase with increasing hazard level, but there may be instances where one value is Very High and the other is low, pushing the overall hazard into a more intermediate ranking. On average, both modeled flame length and burn probability increase by roughly 40-60% between hazard classes.

Is the GIS data for Fire Hazard Severity Zones available for download?

The data inputs used to develop the Fire Hazard Severity Zones are identified in the Initial Statement of Reasons (ISOR) Title 19 Development (ca.gov). CAL FIRE has developed an additional data package which consists of sequential modeling steps, including any data inputs that were not already publicly available and referenced in the ISOR. The data package encompasses 34 spatial datasets and 8 tables, provided in raster, polygon, and table format. These datasets are formatted for Esri ArcGIS software, except for four tables provided in Excel. Ten of the datasets are updated versions used to produce an edited SRA FHSZ map following the public comment period that ended April 4, 2023. Upon formal adoption of the FHSZ map, the final SRA FHSZ geospatial data file will become available. The data package is available on the FHSZ website Fire Hazard Severity Zones (ca.gov) under the science and methods banner.



Local Responsibility Area

What is Local Responsibility Area or LRA?

Local Responsibility Areas (LRA) are incorporated cities, urban regions, agriculture lands, and portions of the desert where the local government is responsible for wildfire protection. This is typically provided by city fire departments, fire protection districts, counties, and by CAL FIRE under contract.

When did Fire Hazard Severity Zones begin in Local Responsibility Area?

Assembly Bill 337 (Bates, 1992) prompted by the devastating Oakland Hills Fire of 1991, calls for CAL FIRE to evaluate fire hazard severity in Local Responsibility Area and to make a recommendation to the local jurisdiction where Very High FHSZ exist. [Government Code 51175](#) then provides direction for the local jurisdiction to take appropriate action.

How are Fire Hazard Severity Zones determined in Local Responsibility Areas?

CAL FIRE uses an extension of the State Responsibility Area Fire Hazard Severity Zone model as the basis for evaluating fire hazard in Local Responsibility Area. The Local Responsibility Area hazard rating reflects flame and ember intrusion from adjacent wildlands and from flammable vegetation in the urban area.

What are the requirements for landowners in Fire Hazard Severity Zones in Local Responsibility Areas?

California's WUI building codes ([CBC Chapter 7A](#)) apply to the design and construction of new buildings located in High and Very High FHSZs in Local Responsibility Areas. Local ordinances may require ignition resistant construction for remodel projects. Check with your local building department to determine which ignition resistant building codes apply to your project. In addition, Government Code Section 51182 calls for defensible space clearance and other wildland fire safety practices for buildings. Owners are also required to make a natural hazard disclosure as part of a real estate transfer. For information regarding home hardening and defensible space clearance, visit www.readyforwildfire.org.

Does the designation of Very High Fire Hazard Severity Zones in the Local Responsibility Area trigger the 100-foot clearance requirement?

Yes, per [Government Code 51182](#) unless a local government has passed a more stringent requirement, the 100-foot defensible space clearance applies. For information regarding home hardening and defensible space clearance, visit www.readyforwildfire.org.



Local Responsibility Area

What is the process for developing Fire Hazard Severity Zones in the Local Responsibility Area?

CAL FIRE uses the same modeling data that is used to map the State Responsibility Area. The map, along with a model ordinance, are then sent to the governing body for adoption.

How are the new Fire Hazard Severity Zones impacting development?

Many of the changes expanding Fire Hazard Severity Zones in Local Responsibility Areas have been supported by the building industry. CAL FIRE works closely with the building industry when setting various building codes and defensible space requirements, so we are working together to not affect development itself but to make sure development matches the hazards of that area.

When will the Local Responsibility Area Map be released?

The Local Responsibility Area map process will happen after the State Responsibility Area process has been completed, which is estimated to occur in winter of 2025.

Why haven't Moderate and High Fire Hazard Severity Zone classes been classified before in the Local Responsibility Area?

New legislation, [Senate Bill 63 \(Stern, 2021\)](#), now requires the adoption of all three Fire Hazard Severity Zone classes in the Local Responsibility Area. Previously only Very High Fire Hazard Severity Zones were required for adoption in Local Responsibility Areas.

Why is my property in a different zone than the adjacent area, which looks similar?

In non-wildland areas, zone edges occur based on distance to the wildland edge. Because hazard in these areas is largely determined by incoming embers from adjacent wildland, urban areas that are similar in vegetation type and housing density may have a change in FHSZ class as the distance to the wildland edge increases. Areas immediately adjacent to wildland receive the same FHSZ score as that wildland where fire originates, and the model then produces lower scores as the distance to wildland edge increases.

LRA Legislation Factsheet



Assembly Bill No.337

An act to add Chapter 6.8 (commencing with Section 51175) to Part 1 of Division 1 of Title 5 of the Government Code, and to amend Section 13108.5 of the Health and Safety Code, relating to fire protection.

[Enrolled, January 28, 1991]

AB 337, Bates. Very high fire hazard severity zones.

- (1) Under existing law, the State Board of Forestry is required to classify all lands within the state, in accordance with prescribed criteria, for the purpose of determining areas in which the financial responsibility of preventing and suppressing fires is primarily the responsibility of the state.

This bill would declare that the prevention of fires is not a municipal affair but is instead, a matter of statewide concern, and would make a finding and declaration of the Legislature that its provisions apply to all local agencies, including, but not limited to, charter cities, charter counties, and charter cities and counties. The bill would prohibit that finding from limiting the authority of a local agency, as defined, from imposing more restrictive fire and panic safety requirements, as otherwise authorized by law.

The bill would state that it is not the intent of the Legislature to limit or restrict the authority of a local agency to impose more restrictive fire and panic safety requirements, as otherwise authorized by law.

This bill would require the Director of Forestry and Fire Protection to identify areas in the state as very high fire hazard severity zones within all counties pursuant to a prescribed schedule. The bill would require local agencies, as defined, to designate, by ordinance, very high fire hazard severity zones in their jurisdiction after receiving recommendations from the director, except as prescribed. The bill would authorize local agencies to include or exclude areas following certain findings and would require changes made by local agencies to be final and not rebuttable by the director. By requiring local agencies to designate very high fire hazard severity zones within their jurisdictions, this bill would impose a state-mandated local program. The bill would require the State Fire Marshal to prepare and adopt a model ordinance that provides for the establishment of any high fire hazard security zones.

LRA Legislation Factsheet



Assembly Bill No.337 (Continued)

- (2) Under existing law, any person who owns, leases, controls, operates, or maintains any building or structure in, upon, or adjoining any mountainous area or forest-covered lands, brush-covered lands, or grass-covered lands, or any land that is covered with flammable material, is required to undertake specified fire protection measures, including the maintenance of specified firebreaks.

The bill would enact requirements of this nature for any person who owns, leases, controls, operates, or maintains, any occupied dwelling or occupied structure in, upon, or adjoining any mountainous area, forest-covered land, brush-covered land, grass-covered land, or land covered with flammable material, which area or land is within a very high fire hazard severity zone, as described in (1).

The bill would authorize local agencies to exempt certain structures and would exempt certain land or water areas.

The bill would make violation of these requirements an infraction or misdemeanor, as specified, thereby imposing a state-mandated local program by creating a new crime, and would specify related matters.

This bill would require local agencies to notify owners of property of violation and would authorize local agencies to correct the conditions and make a lien upon the property, as prescribed. By creating these requirements, this bill would impose a state-mandated local program.

The bill would permit a violation of these requirements to be considered a public nuisance, as specified.

- (3) Existing law requires the State Fire Marshal to adopt, amend, and repeal regulations for roof coverings and openings into the attic areas of buildings in those fire hazard severity zones in state responsibility lands as designated by the director. Existing law requires the director to classify lands within state responsibility areas into fire hazard severity zones.

This bill would instead require the State Fire Marshal to propose, and would require the State Building Standards Commission to adopt, amend, and repeal those regulations. The bill would also require the State Fire Marshal to propose, and would require the State Building Standards Commission to adopt, amend, and repeal, those regulations for buildings in very high fire hazard severity zones in state responsibility lands, designated by the director, and in very high fire hazard severity zones as described in (1). The bill would require roofs on all new buildings and certain existing buildings in both of those zones to be at least a class B roof that complies with Standard 32-7 of the Uniform Building Code, as adopted in the California Building Standards Code. The bill would impose requirements on installers and roofing materials and make other related changes. The bill would exempt historic buildings, as defined, from these provisions.

LRA Legislation Factsheet



Senate Bill No.63

CHAPTER 382

An act to amend Sections 51177, **51178, 51178.5**, 51182, and 51189 of the **Government Code**, to amend Section 13108.5 of the Health and Safety Code, and to amend Sections 4124.5 and 4291 of, and to add and repeal Sections 4123.8, 4291.5, and 4291.6 of, the Public Resources Code, relating to fire prevention.

[Approved by Governor September 28, 2021. Filed with Secretary of State September 28, 2021.]

SB 63, Stern. Fire prevention: vegetation management: public education: grants: defensible space: fire hazard severity zones.

- (1) Existing law requires the Director of Forestry and Fire Protection to identify areas of the state as very high fire hazard severity zones based on specified criteria. Existing law requires a local agency, within 30 days after receiving a transmittal from the director that identifies very high fire hazard severity zones, to make the information available for public review, as provided. This bill, among other things, would also require the director to identify areas of the state as moderate and high fire hazard severity zones. The bill would modify the factors the director is required to use to identify areas into fire hazard severity zones, as provided. The bill would require a local agency to make this information available for public review and comment, as provided. By expanding the responsibility of a local agency, the bill would impose a state-mandated local program.

This bill would also make conforming changes.

- (2) Existing law requires a person who owns, leases, controls, operates, or maintains an occupied dwelling or structure in, upon, or adjoining a mountainous area, forest-covered land, brush-covered land, grass-covered land, or land that is covered with flammable material that is within a very high fire hazard severity zone, as designated by a local agency, or a building or structure in, upon, or adjoining those areas or lands within a state responsibility area, to maintain a defensible space of 100 feet from each side and from the front and rear of the structure, as specified. Existing law authorizes a greater distance than specified above on the specified land in a very high fire hazard severity zone. Existing law specifies that clearance beyond the property line may only be required if state law, local ordinance, rule, or regulation includes certain findings and specifies that clearance on adjacent property shall only be conducted following written consent by the adjacent landowner.

LRA Legislation Factsheet



Amended by Senate Bill No.63

Government Code 51178

The State Fire Marshal shall identify areas in the state as moderate, high, and very high fire hazard severity zones based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas. Moderate, high, and very high fire hazard severity zones shall be based on fuel loading, slope, fire weather, and other relevant factors including areas where winds have been identified by the Office of the State Fire Marshal as a major cause of wildfire spread.

(Amended by Stats. 2021, Ch. 382, Sec. 2.5. (SB 63) Effective January 1, 2022.)

Government Code 51178.5

Within 30 days after receiving a transmittal from the State Fire Marshal that identifies fire hazard severity zones pursuant to Section 51178, a local agency shall make the information available for public review and comment. The information shall be presented in a format that is understandable and accessible to the general public, including, but not limited to, maps.

(Amended by Stats. 2021, Ch. 382, Sec. 3.5. (SB 63) Effective January 1, 2022.)

LRA Legislation Factsheet



Assembly Bill No. 211

CHAPTER 574

An act to amend Sections 11891, 11893, 12581, 12996, 12998, 12999.4, and 12999.5 of, and to add Sections 12999.6 and 13001 to, the Food and Agricultural Code, **to amend Section 51179 of the Government Code**, to amend Sections 44274.10, 44274.11, 44274.12, 44274.13, and 44274.14 of the Health and Safety Code, to amend Sections 3113, 4799.05, 14503.5.1, 14538, 14549.2, 14581, 42052, and 42060 of, to add Sections 14537.5, 14548, 14555, and 21166.3 to, to add Part 5 (commencing with Section 75250) to Division 44 of, and to repeal Section 75250.1 of, the Public Resources Code, to amend Section 43152.6 of, and to amend and repeal Section 43152.10 of, the Revenue and Taxation Code, to amend Section 13198 of the Water Code, to amend the Budget Act of 2021 (Chapters 21, 69, and 240 of the Statutes of 2021) by amending Item 8570-002-0001 of Section 2.00 of that act, and to amend the Budget Act of 2021 (Chapter 44 of the Statutes of 2022) by amending Items 3540-101-0001 of Section 2.00 of that act, relating to public resources, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor September 27, 2022. Filed with Secretary of State September 27, 2022.]

AB 211, Committee on Budget. Public resources trailer bill.

- (2) Existing law requires the State Fire Marshal to identify areas of the state as moderate, high, and very high fire hazard severity zones based on specified criteria. Existing law requires a local agency to designate, by ordinance, very high fire hazard severity zones in its jurisdiction within 120 days of receiving recommendations from the State Fire Marshal. Existing law authorizes a local agency, at its discretion, to include areas within the jurisdiction of the local agency, not identified as very high fire hazard severity zones by the State Fire Marshal, as very high fire hazard severity zones following a finding supported by substantial evidence, as provided.

This bill would additionally require a local agency to designate, by ordinance, moderate and high fire hazard severity zones within 120 days of receiving recommendations from the State Fire Marshal. By expanding the responsibility of a local agency, the bill would impose a state-mandated local program. The bill would additionally authorize a local agency, at its discretion, to include areas within the jurisdiction of the local agency, not identified as moderate and high fire hazard severity zones by the State Fire Marshal, as moderate and high fire hazard severity zones, respectively. The bill would prohibit the local agency from decreasing the level of fire hazard severity zone as identified by the State Fire Marshal for any area within the jurisdiction of the local agency, as provided.

LRA Legislation Factsheet



Amended by Assembly Bill No. 211

Government Code 51179

- (a) A local agency shall designate, by ordinance, moderate, high, and very high fire hazard severity zones in its jurisdiction within 120 days of receiving recommendations from the State Fire Marshal pursuant to Section 51178.
- (b) (1) A local agency may, at its discretion, include areas within the jurisdiction of the local agency, not identified as very high fire hazard severity zones by the State Fire Marshal, as very high fire hazard severity zones following a finding supported by substantial evidence in the record that the requirements of Section 51182 are necessary for effective fire protection within the area.
 - (2) A local agency may, at its discretion, include areas within the jurisdiction of the local agency, not identified as moderate and high fire hazard severity zones by the State Fire Marshal, as moderate and high fire hazard severity zones, respectively.
 - (3) A local agency shall not decrease the level of fire hazard severity zone as identified by the State Fire Marshal for any area within the jurisdiction of the local agency, and, in exercising its discretion pursuant to paragraph (2), may only increase the level of fire hazard severity zone as identified by the State Fire Marshal for any area within the jurisdiction of the local agency.
- (c) The local agency shall transmit a copy of an ordinance adopted pursuant to subdivision (a) to the State Board of Forestry and Fire Protection within 30 days of adoption.
- (d) Changes made by a local agency to the recommendations made by the State Fire Marshal shall be final and shall not be rebuttable by the State Fire Marshal.
- (e) The State Fire Marshal shall prepare and adopt a model ordinance that provides for the establishment of very high fire hazard severity zones.
- (f) Any ordinance adopted by a local agency pursuant to this section that substantially conforms to the model ordinance of the State Fire Marshal shall be presumed to be in compliance with the requirements of this section.
- (g) A local agency shall post a notice at the office of the county recorder, county assessor, and county planning agency identifying the location of the map provided by the State Fire Marshal pursuant to Section 51178. If the agency amends the map, pursuant to subdivision (b) or (c) of this section, the notice shall instead identify the location of the amended map.

(Amended by Stats. 2022, Ch. 574, Sec. 10. (AB 211) Effective September 27, 2022.)

LRA Legislation Factsheet



Increasing Fire Hazard Severity Zone (FHSZ) Area and Designation

Government Code section 51179 requires a local agency to designate, by ordinance, moderate, high, and very high FHSZ within 120 days of receiving the identified FHSZ's from the State Fire Marshal pursuant to Section 51178.

The law does not allow for a local jurisdiction to request changes or provide comments to the State Fire Marshal on the FHSZ designations. However, a local agency may choose to increase the designation of a FHSZ from the FHSZ identified by the State Fire Marshal, or designate areas as having a FHSZ that were not designated in a FHSZ by the State Fire Marshal. This may occur because FHSZ zone edges in the maps and data from the State Fire Marshal are not aligned with parcel boundaries or roads that some may consider for lines of convenience when adopting ordinances. A local agency is not allowed to reduce the designation of a FHSZ classification from the State Fire Marshal (i.e. a local agency cannot make an area designated as High by the State Fire Marshal, Moderate in its adopted ordinance).

However, a local jurisdiction can increase the designation from the one identified by the State Fire Marshal. If a local agency decides to increase the designation of a FHSZ, it may do so if it does the following:

1. If increasing the designation to Very High, a local agency must make a finding supported by substantial evidence in the record that the requirements of Government Code section 51182 are necessary for effective fire protection.
2. If increasing the designation to Moderate or High, a local agency may do this at its discretion.

If a local agency decides to include areas in its FHSZ adopted ordinance not identified as being in a FHSZ by the State Fire Marshal, it may include those areas if it does the following:

1. If including areas not identified as being in a FHSZ and designating it as Very High, a local agency must make a finding supported by substantial evidence in the record that the requirements of Government Code section 51182 are necessary for effective fire protection.
2. If including areas not identified as being in a FHSZ and designating it as Moderate or High, a local agency may do this at its discretion.

LRA Legislation Factsheet





Land Use Planning Program

CAL FIRE's Land Use Planning Program is a specialized unit that provides support to local governments by providing fire safety expertise on the State's wildland urban interface building codes, as well as collaborating in the development of Safety Elements in General Plans.



For More Information
osfm.fire.ca.gov/fhsz



Office of the City Manager

ACTION CALENDAR

April 15, 2025

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: David Sprague, Fire Chief

Subject: Modification and Adoption of Berkeley Fire Code Local Amendments

RECOMMENDATION

1. Adopt the first reading of an Ordinance (Attachment 1) which proposes to amend certain portions of Section 19.48.020 of the Berkeley Municipal Code (“Amendments to the California Fire Code”);
2. Adopt a Resolution (Attachment 2) setting forth findings as to local conditions applicable to the revised portions of Section 19.48.020 that require more stringent standards than those provided by the 2022 California Fire Code (“CFC”) and amending Resolution number 70,611–N.S.;
3. In compliance with state law on adopting such codes by reference, hold a public hearing following the first reading, and before the second reading, and schedule the second reading and public hearing for April 15, 2025.

SUMMARY**Fire Code:**

On December 6, 2022 the Berkeley City Council adopted the current edition of the Berkeley Fire Code (BFC), which was based on the State of California adoption of the 2022 California Fire Code. On June 4, 2024 the City Council adopted mid-cycle amendments that were issued by the State of California to the 2022 California Fire Code. These new amendments took take effect on July 1, 2024. On February 11, 2025 at a Special Meeting, the Council referred the following proposals to Staff; (1) Create a new Fire Zone within the Fire Code to include – at minimum - the areas between Wildcat Canyon Rd. to the east, Grizzly Peak Blvd to the west, and the Berkeley City Limits to the south and north; and (2) Repeal the Berkeley Fire Code (BMC Chapter 19.48) and reenact BMC Chapter 19.48 to include an Ember Resistant Zone (Zone 0) and other defensible space best practices and schedule a Public Hearing for the first reading on April 15, 2025 pursuant to state law.

Local jurisdictions may adopt local amendments to the California Fire Code (CFC), and to any supplemental building standards which may subsequently amend the CFC. These local Berkeley fire code amendments address local conditions specific to our

community that effect our local fire and life safety. The City has adopted multiple fire code amendments in the past that are designed to address these concerns.

Fire Risk:

Fire is a historical part of our landscape since long before modern city planning or residential settlement of the Berkeley Hills. Eliminating the likelihood of fire has been proven both inadequate and ill-informed. Post-incident analysis and laboratory testing suggest that we should be focusing our efforts on the threatened structures instead.

This report provides evidence that informs the most up to date recommendations that protect homes from wildfire and urban conflagration. Best practice requires removing flammable materials and maintaining vegetation to minimize wildfire exposure, particularly within the critical Ember Resistant Zone (Zone 0) and surrounding Home Ignition Zones 1 and 2. These measures require elimination of all combustible materials from within 5 feet of a structure, including vegetation and accessories.

These mitigations work best when they are taken on by a contiguous group of homes. To be effective, the Berkeley Fire department will focus inspection efforts on residences on Panoramic Hill and east of Grizzly Peak Blvd. Once compliance is gained to this new standard, other areas would be systematically mitigated until all areas designated by CAL FIRE as Very High Fire Hazard Severity Zone are mitigated.

FISCAL IMPACTS OF RECOMMENDATION

Substantial staff time will be required to update and implement these Fire Code modifications including updating all public facing documents and websites, modifications to the City's inspection software, inspection guides, forms and training for staff.

CURRENT SITUATION AND ITS EFFECTS

Amendments to the Berkeley Municipal Code, Section 19.48 – Berkeley Fire Code:

A city, county, or city and county may establish more restrictive building standards as reasonably necessary because of local climatic, geological or topographical conditions. Findings of the local condition(s) and the adopted local building standard(s) must be filed with the California Building Standards Commission. Berkeley has long elected to establish more restrictive building standards in accordance with Calif. Health & Safety Code Sections 18941, 17958, 17958.5, 17958.7 and other statutes.

The City's adoption of stringent fuel mitigation and exterior hazard abatement standards is designed to decrease the risk of structure fires spreading to adjacent vegetation and the risk of vegetation fires and wildfires spreading to structures. The Council bases these standards, in part, upon its finding (Attachment 2) that the climatic, vegetative, geological, and topographical conditions within the City create a grave risk of wildfire and resulting loss of life and property.

Staff’s recommendations on modifications to local amendments in addition to the previously approved local amendments to adopt in this cycle’s fire code, include:

1. **Modify Section 4902.1 General** to rename Berkeley Fire Zones 1, 2 and 3 to the Flatlands, Hills and Panoramic Mitigation Zones, respectively and to create the Grizzly Peak Mitigation Zone to encompasses the area east of Grizzly Peak Boulevard and to the City boundary to the north and south.
2. **Modify Section 4904.4 Berkeley Fire Hazard Severity Zones** to exclude Hills Mitigation Zone from Section 4907.6.
3. **Add Section 4907.6 Specific requirements** to establish the requirements for removing flammable materials and maintaining vegetation to minimize wildfire risk, particularly within the critical Ember Resistant Zone (Zone 0) and surrounding Zones 1 and 2. These measures aim to reduce ignition risks from embers, radiant heat, and direct flame by implementing evidence-based practices.

Precipitating Conditions:

The fire tragedy suffered by the Los Angeles area is the most recent demonstration that wildfire is a recurring feature of our landscape, even more so as climate change results in more frequent extreme weather events. Maintaining the status quo in communities with exposure to wildfire will inevitably result in similar, disastrous outcomes. Below is a partial list of recent wildfires that remind us of the potential for destruction of property and loss of life that is possible in Berkeley. We have the opportunity and agency to take actions to reduce the probability of wildfire loss in our community.

Fire Name	County	Acres	Date	Structures	Deaths
Lahaina	Maui	2,170	08/2023	2,200	102
Camp	Butte	153,336	11/2018	18,804	86
Tunnel	Alameda	1,600	10/1991	2,900	29
Thomas	Ventura, Santa Barbara	281,893	12/2017	1,063	23
Tubbs	Napa, Sonoma	36,807	10/2017	5,643	22
Eaton	Los Angeles	14,117	01/2025	7,000+	16
North Complex	Plumas, Butte	318,935	08/2020	2,352	15
Cedar	San Diego	273,246	10/2003	2,820	15
Palisades	Los Angeles	23,713	01/2025	6,000+	11

These wildfires transitioned into areas of dense structures due to key vulnerabilities that enabled their devastating fire behavior. Common factors included widespread pre-2008

construction which lacks modern fire-resistant standards as found in the California Building Code, lack of home hardening measures to retrofit these vulnerable structures; delays in statewide adoption of ember resistant zone “Zone 0”, and the need for more stringent and focused fire prevention measures in vulnerable neighborhoods particularly at points where wildfire pathways enter communities. These factors have, again and again, contributed to vegetative wildfires penetrating communities, igniting structures, and transitioning into a wind driven structure-to-structure conflagration¹, which overwhelm available firefighting resources. We have a moral imperative to shift our focus away from only the response, as evidenced by the recurring outcome above. It is time to voraciously engage with what we know will save homes and lives.

Adoption of unadulterated, scientifically validated mitigation measures proven to reduce the vulnerability of a neighborhood from ignition during a wildfire offers the best chance of minimizing the probability of vegetative to urban fire transition. This memo outlines a trio of policies aimed at achieving a community that is safer from wildfire. These policies are structured around proactive measures to be implemented at the demonstrated most effective point -- before a fire occurs.

BACKGROUND AND DISCUSSION

The City of Berkeley has climatic, geological, and topographical conditions, which require local amendments to mitigate potential hazards, and to reduce loss of life caused by fires or natural disasters. To address local fire and life safety impacts, the City of Berkeley has adopted local amendments to address local conditions which make CFC requirements inadequate. These include requiring sprinkler systems and fire alarms for existing hotels, fraternities, and sororities, and measures to improve firefighter safety and operations in high-rise construction.

Fire History in Berkeley and Around the East Bay

Berkeley and the East Bay Hills have a cyclical relationship with wildfire. Before European colonizers arrived, California experienced many small, frequent fires². These low-intensity fires benefitted the landscape because they cleaned out underbrush — which otherwise serve as fuel for larger fires — and helped native species regenerate. Along with other wildfire prone regions, the East Bay has suffered from the exclusion of traditional wildfire patterns from the landscape for over 150 years. This has resulted in a triad of risk: an abundance of vegetative fuel, a dense urban development of vulnerable homes, and an undersized network of roadways relative to the volume of vehicles. This

¹ CAL FIRE TV. (2025, January 26). *CAL FIRE: When homes fall like dominos*. [Video]. YouTube. <https://youtu.be/LfTVKfcBvEk?si=q0MpxZ9w1gNFr3yz>

² Hao, C., (2022, October 15). This one fact will completely change how you think about California wildfires. *The San Francisco Chronicle*. <https://www.sfchronicle.com/projects/2022/california-wildfire-history/>

is not new information, a 1974 report prepared for the city regarding the fire risk for Panoramic Hill states the following:

Panoramic Hill originally was composed of grasslands and brush on the ridges with dense tree and other growth along the creeks. However, man has altered the environment greatly.... Within the neighborhood, residents have planted dense stands of trees and other vegetation, such that the homes look as though they had been built within the forest.³

The suppression of natural fire patterns to protect a now populated topography has not eliminated the risk but rather held it back as the fuel load – both vegetative and built- has increased. The effects of climate change have exacerbated the historical problem, compressing the rainy season and increasing the drying of fuels. This combination creates a fire problem that is now demonstrably more destructive when it overwhelms suppression efforts. The immediate Berkeley area has experienced a significant wildfire on average every 20 years⁴ since 1905, with 2024 marking the 33rd year since the last major fire in the area. Since 2020, the city has been moving with great haste to revisit our historical thinking to research and bring best practices in wildfire planning, prevention and response to Berkeley.

Progress thus far

The Berkeley City Council unanimously declared wildfire prevention and safety a top priority on October 15, 2019⁵. This declaration helped establish this issue as one of the key priorities of the 2020 Measure FF tax.

Since the passage of Measure FF, the Department has created and funded a Wildland Urban Interface (WUI) Division. The WUI Division has annually inspected all private property in Fire Zones 2 and 3. Thus far, that has resulted in 21,856 inspections. These have uncovered 11,042 violations, of which 9,972 have been resolved.

The WUI Division also provides a number of free services to the community. In 2024 crews removed 3234 cubic yards of green waste from private property using these services. A home hardening mesh program has also been launched which provides CBC Chapter 7A compliant ember resistant mesh to homes in the highest hazard area, including the current Berkeley Fire Zone 3, proposed Grizzly Peak Mitigation Zone, and both recognized and budding FireWise communities. That program has thus far provided material to 50 homes and continues to expand as material and staff time allow. Crews are about to embark on a vegetation (fuel) mitigation project along common

³ Berkeley Planning Department, June 1974. *Panoramic Hill Area Development and Environmental Resources Study.*, p. 38.

⁴ East Bay Parks (retrieved February 1, 2025).

https://www.ebparks.org/sites/default/files/history_all_fires.pdf

⁵ Berkeley City Council Meeting 10/15/2019

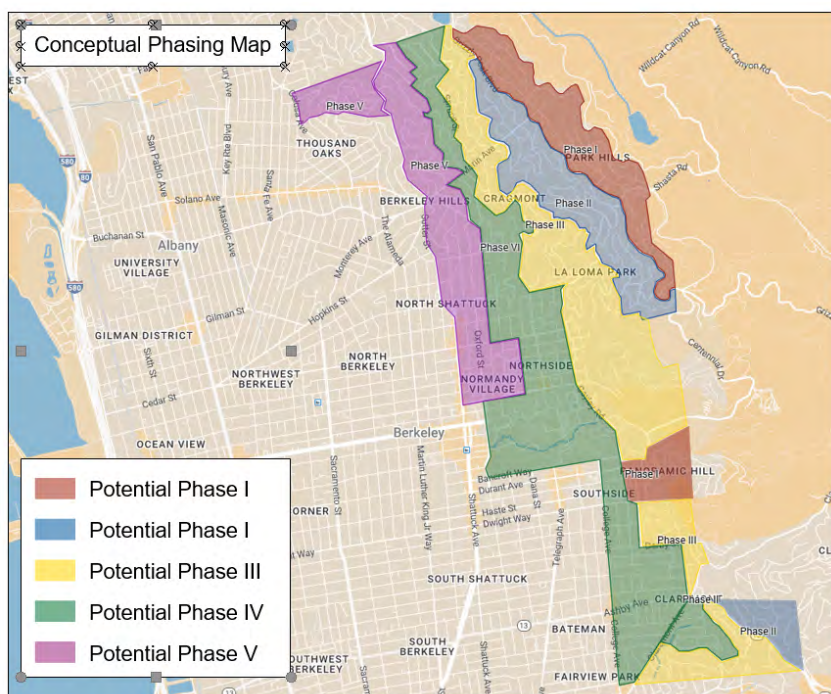
public rights of way and critical evacuation routes and in 2025 a \$1 million CAL FIRE grant will be leveraged to assist low income and disabled homeowners with vegetation management on private property.

A Focused and Phased Approach

The effectiveness of the City’s Defensible Space Inspection program is reduced by the size of the impacted geographic region, as well as being limited by laws that require permission from residents to enter private property. While the Fire Department is launching a program in 2025 to pre-authorize inspector entry, moving over 9,000 parcels through this degree of modification will take too long.

The current Defensible Space Inspection program does not meet the threshold that would adequately prepare a neighborhood for exposure to a wildfire – primarily it lacks Ignition Zone 0. A more effective fire code must be combined with home hardening to meet minimum thresholds to create resilience. The resilience of an individual property only increases if done in conjunction with adjacent properties. Thus, successful implementation and enforcement will be more effective if concentrated in one region of the City at a time.

The Department will strive to implement these same recommendations in iterative phases that can be adjusted as the department and community continue the work of redacting the wildfire risk of the community. A map showing conceptual phasing for this work is below.



Limitations of Other Areas of Focus

Focusing on the values at risk (homes), and working outwards, is better supported by the evidence than trying primarily to address the origin of the fire, although these measures often receive less attention.⁶ The vegetative landscape east of Berkeley is dominated by large trees, often *Eucalyptus globulus* (Blue Gum). While mitigation of these trees is widely discussed as a solution, removal will not eliminate the risk or threat of fire. In many of the above referenced destructive fires, the initial exposure into the built environment was from grass and low-lying shrubs. Removal of trees without a methodical and ongoing approach to mitigation will result in similar, fire prone conditions; grasslands still pose a significant regional threat⁷. The “historical” landscape before the arrival of Blue Gum *Eucalyptus* was fire-dependent, as well. The admittedly limited evidence around vegetation thinning beyond the immediate area around homes suggests limited effectiveness^{8,9} and one study suggests thinning may actually increase the chance of crown fires¹⁰; where fire moves into the treetops and can move exponentially faster than on the ground. In all research, extreme weather appears to nullify most interventions.¹¹

Because the forested lands are outside of the City’s jurisdiction, and the limited evidence informing thinning and removal is inconclusive at best, fiscal prudence demands that we prioritize elsewhere.

⁶ Dale, L., Barrett, K. (2023). Missing the Mark : Effectiveness and Funding in Community Wildfire Risk Reduction. *Headwaters Economics, Columbia Climate School*. [HE_2023_Missing-the-Mark-Wildfire.pdf](#)

⁷ Cheney, N.P., Coleman, J., 1988. The level of fire risk associated with plantations. In:

Paper presented to Plantation 2020 The Local Government Perspective, 13–14

May 1988. Old Parliament House, King George Terrace Park, Canberra. P. 3

⁸ Mirra, I.M., Oliveria, T.M., Barros, A.M.G., Fernandes, P.M. (2017). Fuel Dynamics following fire hazard reductions treatments in blue gum (*Eucalyptus globulus*) plantations in Portugal. *Forest Ecology and Management* 398. P.1.

⁹ Weise, C.L., Brussee, B.E., Coates, P.S., Shinneman, D.J., Crist, M.R., Aldridge, C.L., Heinrichs, J.A., Ricca, M.A. (2023, September). A retrospective assessment of fuel break effectiveness for containing rangeland wildfires in the sagebrush biome. *Journal of Environmental Management* 341(1).

<https://www.sciencedirect.com/science/article/abs/pii/S0301479723006916> ct

¹⁰ Price, O.A., Bradstock, R.A., (2012). The efficacy of fuel treatment in mitigating property loss during wildfires: Insights from analysis of the severity of the catastrophic fires in 2009 in Victoria, Australia. *Journal of Environmental Management*. Volume 113. p. 154

¹¹ Price, O.A., Bradstock, R.A., (2012). The efficacy of fuel treatment in mitigating property loss during wildfires: Insights from analysis of the severity of the catastrophic fires in 2009 in Victoria, Australia. *Journal of Environmental Management*. Volume 113. p. 1 p. 153

Why implementing home hardening and Ignition Zone 0 together is key to hazard reduction

Two entities, widely considered to lead the science and best practices for wildfire mitigation, are cited here. The first is the National Institutes for Science and Technology (NIST) Wildland Urban Interface Division¹² and the Insurance Institute for Business and Home Safety (IBHS)¹³, an independent, 501(c)(3) nonprofit scientific research and communications organization supported by property insurers, reinsurers, and affiliated companies. IBHS helps develop standards used by many insurers to establish how insurable a home is by understanding if they are prepared and defensible.

Based on this research, many after action reports, and lived experience during numerous wildfires, the U.S. Fire Service has an understanding of the mitigations required to protect homes from wildfire. We have sufficient evidence to implement measures that would mitigate the cause of up to 90% of structure ignitions. The City of Berkeley has the ability to adopt these scientifically validated mitigation measures to reduce the vulnerability of our neighborhoods to wildfire ignition. Implementing these mitigations at scale sets our city on a path to a fire adapted future characterized by a significant reduction in the probability of a vegetative wildfire transitioning to an urban conflagration. However, these mitigations must be considered as a package.

Clear evidence shows that limited enforcement of a code that does not meet the current consensus requirements results in inadequate mitigation of risk. When it comes to mitigations against wildfire loss, both NIST and IBHS agree that "something is not better than nothing". Wildfires pose an ignition threat to structures from both direct flame and embers, with embers being especially hazardous since they can travel long distances beyond municipal and property boundaries. While we can reduce the risk of wildfire spreading on the ground by managing vegetation and removing flammable materials around homes, embers remain a significant challenge. To truly protect a home, it must be "hardened" to resist both fire and embers—meaning it's built or retrofitted with materials and features that can withstand these exposures. Partial hardening offers some protection in mild conditions but is nearly useless during fast moving wildfires as fire is opportunistic and finds gaps. The volume of embers a home is subjected to under these conditions requires complete compliance, as any one penetrating ember can result in the ignition that leads to complete structure loss. Additionally, accessory structures like sheds, pergolas, hot tubs or vehicles located too close to a home can catch fire and spread flames to the house. To provide homes the best chance of survival on their own [without organized suppression efforts] during a wildfire, they need thorough ember and fire hardening, along with thoughtful management of nearby hazards.

¹² NIST. (2025, February 1). *Wildland Urban Interface Group*. <https://www.nist.gov/el/fire-research-division-73300/wildland-urban-interface-fire-73305>

¹³ Insurance Institute for Business & Home Safety (2025, February 1). *IBHS*. <https://ibhs.org/risk-research/wildfire/>

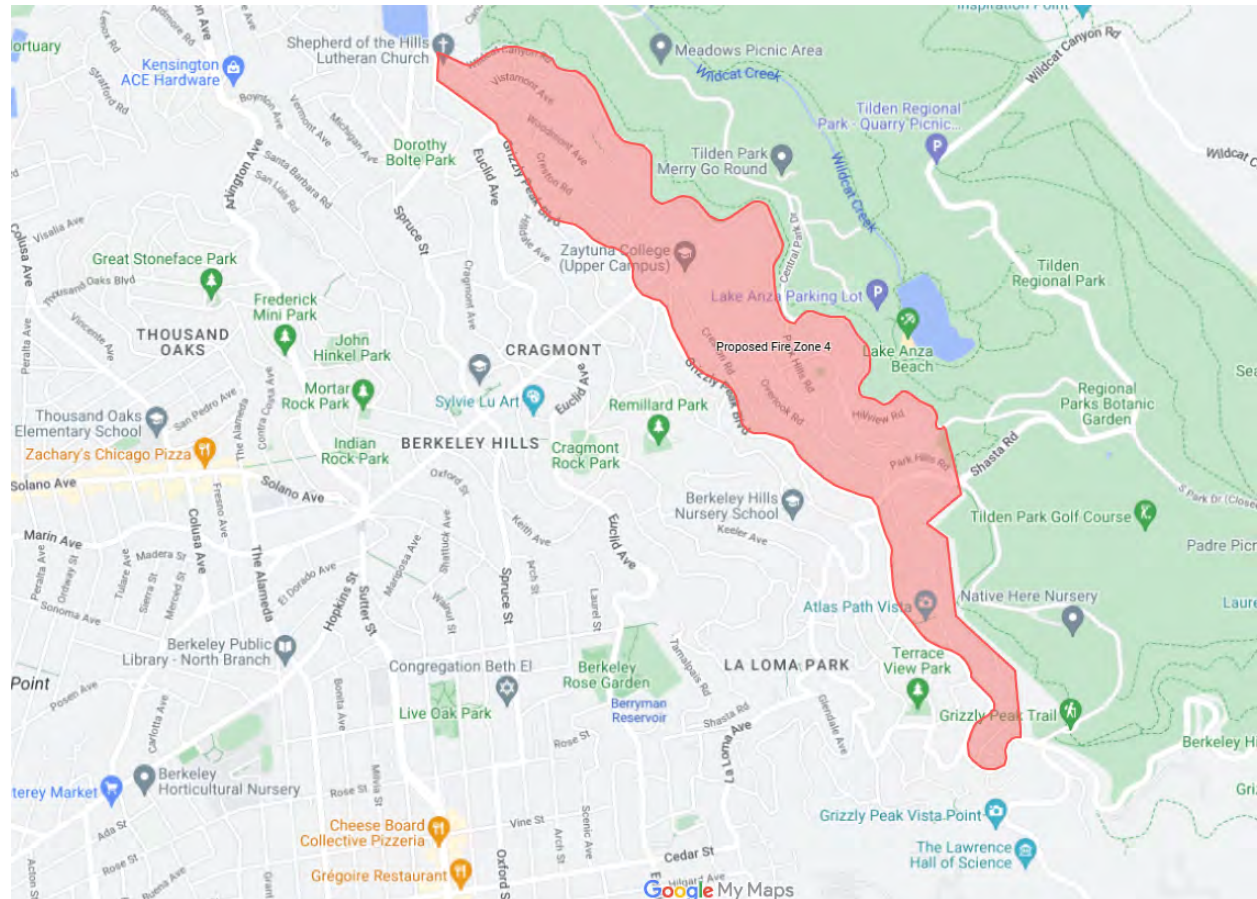
Mitigating some vegetation without, for instance, enforcing the ember resistant zone in the first five feet around a home to the proven standard, is not measurably helpful. Neither is a private property with compliant vegetation where the home is not built to the current Chapter 7A of the building code (or retrofitted and hardened¹⁴), which provides the standard by which homes in the Wildland Urban Interface (WUI) should be built. This is because each mitigation action is complementary and provides a defense that other mitigations rely on. The wildfire scenario we may encounter is so persistent, that mitigating one part without the other will not save the home.

Creating Ignition Zone 0 and hardening a home is effective at reducing wildfire risk, but will not stop fires from spreading between houses once a structure catches fire. This is because the heat energy produced from a burning house can be much greater than the heat from burning vegetation. In the Berkeley Hills, most homes are close together, making it easier for fires to spread from one house to another. If the fire department cannot respond quickly enough, house-to-house fires become the biggest danger. Fighting just one house fire typically requires five to six fire apparatus and at least 15 firefighters. To give firefighters more time to respond and for residents to evacuate, we must take strong preventive actions now, before a wildfire ignites that will slow down its transition from vegetative fire to structural conflagration.

In partnership with stakeholders from throughout the community, we are proposing a trio of policies designed to develop a community that is prepared for exposure to wildfire. These policies are structured around durable pre-fire measures proven to reduce the risk of structure ignitions.

¹⁴ CAL FIRE. (Retrieved 2025, February 1). *Home Hardening: Address your home's vulnerabilities to better withstand wildfire*. <https://www.fire.ca.gov/home-hardening>

Proposal 1: Establishing Grizzly Peak Mitigation Zone, East of Grizzly Peak



Map: New proposed Grizzly Peak Mitigation Zone. A quarter mile buffer that will help prevent the transition of a wind driven wildfire to a structure-to-structure conflagration¹⁵

While the City's existing Defensible Space Inspection program has resulted in considerable progress, engagement, and compliance, it has also demonstrated the limitations of implementing change across a large swath of the City.

Adopting Ignition Zone 0 and home hardening in this proposed Grizzly Peak Mitigation Zone would create a buffer of prepared parcels along the eastern perimeter of the community with fewer vulnerabilities that can lead to structure ignition. Specifically, these homes would be more resistant to wildfire ignition through the combination of defensible space that minimizes the structure's exposure to direct flame and radiant heat, reduces the presence of receptive fuel beds capable of supporting ember caused ignitions, and seals the structure against ember intrusion. The more time it takes a

15

<https://www.google.com/maps/d/viewer?hl=en&mid=124Uo4PwX3EgwV9ula4jb9kRz5E1YBzc&ll=37.88538150382334%2C-122.2572005000001&z=14>

vegetative fire to ignite combustibles around homes and homes themselves, the more time there is for the community to evacuate and for firefighting resources from around the region to amass in Berkeley and suppress the ignitions that do occur. Recent experience in Paradise¹⁶ (CA), Santa Rosa¹⁷ (CA), Lahaina¹⁸ (HI), Boulder County¹⁹ (CO), and Los Angeles²⁰ (CA) clearly shows the results of wildfire becoming established in high density neighborhoods. Berkeley also has lessons painted in our institutional memories from 1991²¹ and 1923²²

Prioritizing our resources in strategically targeted areas will benefit all of Berkeley. By focusing education, incentives, and enforcement on these adjoining properties we can achieve network effects and create a wildfire buffer. Contiguous properties that implement the scientifically validated best practices that follow will form a resilient unit, rather than a scattered, salt-and-pepper approach with some mitigated properties surrounded by those with unmitigated hazards. In fact, post-incident analysis of the Camp Fire in Paradise shows that, had the town of Paradise met the parameters that follow, a 53% reduction in loss would have occurred²³.

Why did we choose these specific regions to begin this work?

While a fire can ignite anywhere in the community, few locations within the built environment provide enough vegetative fuel to provide the “runway” necessary for a wildfire to gain the size, speed and energy required to transition to a structure-to-structure conflagration. The most likely scenario for a wildfire of this magnitude to occur

¹⁶ Porter, K., Scawthorn, C., Sandink, D. (2021) An impact analysis for the National Guide for Wildland-Urban Interface Fires., *Institute for Catastrophic Loss Reduction*. <https://www.iclr.org/wp-content/uploads/2021/05/ICLR-SPA-Risk-Impact-Analysis-for-the-National-WUI-Fire-Guide-2021.pdf>

¹⁷ Garrison, J. (2025, January 22). This California city lost thousands of homes to fire. Santa Rosa’s rebuilding has lessons for L.A. *The Los Angeles Times*. <https://www.latimes.com/california/story/2025-01-22/santa-rosa-offers-hope-lessons-for-rebuilding-after-la-fires#:~:text=On%20the%20night%20of%20Oct.at%20low%20risk%20for%20wildfire.>

¹⁸ Kerber, S., Alkonis, D., (2024) Lahaina Fire Comprehensive Timeline Report. *UL Research Institutes Fire Safety Research Institute*. <https://fsri.org/research-update/lahaina-fire-incident-analysis-report-released-attorney-general-hawaii>

¹⁹ Giammanco, I.M., Hedayati, F., Hawks, S.R., Sanchez Monroy, Z.S., Sluder, E. (2023). The Return of Conflagration in Our Built Environment. *IBHS Wildfire Research Report*. https://ibhs.org/suburban_wildfire_conflagration_whitepaper/

²⁰ IBHS. (2025). 2025 LA County Wildfires: Early Insights. *The Insurance Institute for Business & Home Safety*. <https://ibhs.org/wp-content/uploads/2025-LAFires-EarlyInsights-FINAL.pdf>

²¹ Sullivan, M., Fowler, D., Ed. (1993 December). Report on the Response of the Berkeley Department of Fire and Emergency Services to the Berkeley-Oakland Conflagration of 1991. *City of Berkeley Department of Fire and Emergency Services*.

²² Andrews, R.E., Raines, H. (1923). Report on the Berkeley, California Conflagration of September 17, 1923. *National Board of Fire Underwriters Committee on Fire Prevention and Engineering Standards*.

²³ Chamberlain, M., Lee, R., Deacon, T., Watkins, N., David, K., Lei, F., Meftah, I. (2023) *Town of Paradise California Resilience Challenge Task 1 to Task 4; Risk Reduction, Climate Change, and Insurance Premiums*. Milliman and CoreLogic.

is from an ignition to the east of the city within Tilden or Wildcat Canyon Regional Parks. Such an ignition, during a Diablo Wind event, has the potential to significantly impact the eastern edges of Berkeley. If the properties at Berkeley's eastern edge are not prepared to receive wildfire, they may facilitate a wildland fire's transition to a structure-to-structure conflagration that would burn west toward the Bay until the wind stops or changes direction.

In addition to areas on Panoramic Hill (known as Panoramic Mitigation Zone), properties between Grizzly Peak Blvd and Wildcat Canyon Rd (proposed Grizzly Peak Mitigation Zone) have one of the greatest wildfire exposure and access challenges in Berkeley. As such, it is important to implement focused wildfire risk reduction efforts in these areas. These efforts include education, incentives and enforcement to encourage adoption of enhanced defensible space and home hardening requirements that meet the scientific threshold for meaningful risk reduction. The areas east of Grizzly Peak Blvd are bounded by relatively wide roads, whose non-burnable features form a fire break separating private property from park lands and homes on the eastern aspect from those on the opposite west facing slope.

Proposal 2: Ignition Zone (Zone Zero) and Best Practice Modifications to the Fire Code in the Grizzly Peak and Panoramic Mitigation Zones

In August 2020, following Governor Gavin Newsom's proclamation of a State of Emergency due to widespread wildfires, the California State Legislature enacted Assembly Bill 3074 (AB 3074). This legislation established a critical new fire mitigation measure known as the "ember-resistant zone," or Zone 0. The law aimed to enhance existing defensible space requirements by requiring the five-foot perimeter surrounding structures in Fire Hazard Severity Zones²⁴ to be cleared of combustible materials, a practice proven to significantly reduce the risk of structural ignition during wildfires.

We know that during a wildfire, embers from burning material fly long distances ahead of the fire front. When these embers find receptive fuel beds, which are often at the base of structures²⁵, they can start new spot fires ahead of the main body of fire, essentially expanding the fire front exponentially. When these spot fires are adjacent to structures, those structures can also ignite.

Under the timeline mandated by AB 3074, new homes were expected to comply with Ignition Zone 0 regulations beginning in 2023, with existing homes required to comply starting in 2024. However, despite the legislative directive, the State has yet to complete the formal rulemaking process necessary to implement these requirements. The delay in rulemaking has been attributed to political and administrative challenges.

²⁴ CAL FIRE. (retrieved February 1, 2025). Fire Hazard Severity Zones. *Cal Fire*. <https://osfm.fire.ca.gov/what-we-do/community-wildfire-preparedness-and-mitigation/fire-hazard-severity-zones>

²⁵ Quarles, S. L., Standohar, C., Hedayati, F., & Gorham, D. (2023). Factors Influencing Ember Accumulation Near a Building. *International Journal of Wildland Fire*

During this same period of time, the insurance industry and the California Department of Insurance adopted Ignition Zone 0 as one component of how they measure wildfire risk. The absence of Ignition Zone 0 from the Statewide fire code means that few communities are enforcing this standard. This then places homeowners in peril: even if their properties comply with the state and local code, they may face insurance non-renewal - or damage and destruction during a wildfire - because their property does not meet these scientifically validated standards. Further, the few homeowners who voluntarily adopt Ignition Zone 0 face significant risk from adjacent properties that have not adopted this mitigation measure.

The scientifically validated version of Ignition Zone 0 eliminates all combustible material within the first five feet of a home and any outbuildings, attached decks, and stairs. Ignition Zone 0 also includes the area *under* attached decks and stair landings. Materials not allowed include weeds, grass, plants (including climbing vines), debris, wood mulch products, combustible fencing and gates, plastic trash and recycle cans, trellis, pergolas, shade coverings, combustible planters, privacy walls, boats, RVs, vehicles, and other material that could be ignited by embers or direct flame. A version of Ignition Zone 0 that does not fully adopt this standard, and allows some fuel to remain, has not been studied and the benefits of a partial Ignition Zone 0 adoption have not been established.

Proactive steps to maintain Insurance

One common point of frustration with the current standards is that the existing fire code is less strict than the risk evaluation process of many insurers, who often follow the above-described evidence, leaving homeowners free of violations following an inspection, but unable to obtain insurance or facing non-renewal. Full adoption, and enforcement of the recommendations, outlined in this report would also align the affected home with industry standards for establishing risk. Because this would take place in a region, rather than with an individual property, congruent homes would meet the designation, likely reducing the overall neighborhood risk score. While the Department cannot guarantee this would increase eligibility in traditional insurance markets, it would align City requirements with the scientifically validated best practices adopted by that industry. Additionally, in cases where traditional insurance is still not an option, following these standards gives a home the scientifically validated best chance of survival during a wildfire.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Wildfires that transition to a structure-to-structure conflagration have acute and far-reaching consequences, not only for the environment and climate but also for the stability and well-being of impacted communities. These fires release large amounts of pollutants into the air, including soot and carbon dioxide, which contribute to climate change and degrade air quality. Additionally, toxic byproducts from burning structures,

vehicles, and other synthetic material can pose significant health risks to residents and responders.

The water used to combat these fires is often sourced from the city's potable water supply. Once used, it can become contaminated with chemicals, ash, and debris, potentially polluting groundwater and local waterways.

The destruction of homes, businesses, and critical infrastructure leads to substantial economic burdens that jeopardize the financial stability of impacted communities. Rebuilding efforts require significant financial investment, as well as the production, transportation, and installation of new materials—all of which generate additional emissions. For individual residents, the loss of a home or business can lead to long-term financial instability, displacement, and increased insurance costs.

Beyond the physical and financial toll, these disasters leave lasting emotional and psychological scars on affected communities. Residents may experience trauma, anxiety, and grief, particularly when lives are lost, homes are destroyed, or neighborhoods are permanently altered. The social fabric of a community can be disrupted as families and businesses struggle to recover, sometimes forcing relocation and reducing neighborhood cohesion.

Investing in a strong fire code is one tool the city uses to reduce the frequency and severity of fires. Effective fire prevention also contributes to environmental sustainability by reducing emissions, preserving water resources, and minimizing the need for costly rebuilding efforts. A commitment to strong fire safety regulations ultimately benefits the entire community—protecting public health, safeguarding financial resources, and ensuring a resilient and sustainable future.

RATIONALE FOR RECOMMENDATION

The fire and seismic danger and other local conditions justify the proposed local amendments that are stricter than the California Fire Code.

A city, county, or city and county may establish more restrictive building standards as reasonably necessary because of local climatic, geological or topographical conditions. The City's adoption of stringent fuel mitigation and exterior hazard abatement standards is designed to decrease the risk of structure fires spreading to adjacent vegetation and the risk of vegetation fires spreading to structures. The Council bases these standards, in part, upon its finding that the climatic, vegetative, geological, and topographical conditions within the City create a grave risk of wildfire and resulting loss of life and property.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

David Sprague, Fire Chief, 510-981-3473

Attachments:

- 1: Ordinance – “Amendment of Section 19.48.020 of the Berkeley Municipal Code (“Amendments to The California Fire Code”)”
- 2: Resolution - “Adopting Findings as to Local Climatic, Geological And Topographical Conditions Rendering Reasonably Necessary Various Enumerated Local Fire Standards That Are More Stringent Than Those Mandated By The California Fire Code And Amending Resolution No. 70,611–N.S.”
- 3: California Department of Insurance - Safer from Wildfire Standard
- 4: IBHS Wildfire Prepared Home - Base Designation Checklist

ATTACHMENT 1

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

**Chapter 19.48
BERKELEY FIRE CODE***

Sections:

19.48.010 Adoption of the California Fire Code including Appendix B – Fire-Flow Requirements for Buildings and Appendix L – Requirements for Fire Fighter Air Replenishment Systems

19.48.020 Amendments to the California Fire Code

19.48.030 Validity

Section 19.48.010 Adoption of the 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 June 1, 2025.

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.

Chapter 1 of the California Fire Code is adopted in its entirety subject to the modifications thereto which are set forth below.

CHAPTER 1 – SCOPE AND ADMINISTRATION

SECTION 101 SCOPE AND GENERAL REQUIREMENTS

ATTACHMENT 1

[A] Section 101.1 Title. These regulations shall be known as the Berkeley Fire Code shall be known as the ~~Fire Code~~ of, shall be known as the Berkeley Fire Code, hereinafter referred to as "this code."

SECTION 102 APPLICABILITY

[A] 102.6 Historic buildings. 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 1103.1.1 in accordance with the 2022 California Historical Code.

SECTION 104 DUTIES AND POWERS OF THE FIRE CODE OFFICIAL

Section 104.13. Authority to arrest and issue citations. The Fire Chief, or their designee 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.

Section 104.14 Authority to abate fire nuisance [Additional subsection]. The Fire Chief or the Fire Chief's designee shall have the authority to order the abatement of fire nuisances.

SECTION 105 PERMITS

105.5.18 Flammable and combustible liquids. 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 (DOT) 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.

ATTACHMENT 1

- 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.

Section 105.5.55 Christmas tree sales lot. An operational permit is required to operate a Christmas tree sales lot.

Section 105.5.56 Escort convoy service. Police and/or Fire Department convoy service is required for vehicle transportation of extremely hazardous materials.

Section 105.5.57 Fire Fighter Air Replenishment System (FARS). An annual operational permit is required to maintain a FARS system in accordance with Appendix L.

Section 105.5.58 General use permit. 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.

ATTACHMENT 1

Section 105.5.59 Parking facility, special events An operational permit is required to use buildings or structures for vehicle parking, including parking for special events (i.e. football games, etc.).

Section 105.6.25 Fire fighter air replenishment system (FARS). A building permit is required for installation of or modification to a FARS system in accordance with Appendix L.

Section 105.6.26 Window bars, operational constraints and opening control devices. A building 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.

SECTION 107 FEES

Section 107.2 Schedule of permit fees. 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.

Section 107.4 Work commencing before permit issuance. 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.

Section 107.7. Expense of securing emergencies. 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.

SECTION 111 MEANS OF APPEALS

Section 111.1 Board of appeals established. Appeals Procedure 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~~

ATTACHMENT 1

must be filed 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 thirty days after the filing of the notice of appeal, the fire code official shall transmit to the City Council all their records pertaining to the decision appealed from.

Section 111.1.1 Stay of Proceedings 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.

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:** 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 their 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.

111.4 Administration. The fire code official shall take immediate action in accordance with the decision of the Board City Council .

SECTION 112 VIOLATIONS

ATTACHMENT 1

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.

Section 112.4 Violation penalties. 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.

SECTION 114 UNSAFE STRUCTURES OR EQUIPMENT

Section 114.7 Summary abatement. 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

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.

Chapter 2 of the California Fire Code is adopted in its entirety subject to the modifications thereto which are set forth below.

CHAPTER 2 – DEFINITIONS

SECTION 202 GENERAL DEFINITIONS

Section 202 Definitions – BBERKELEY MARINA. The area shall mean all those, parts of the City of Berkeley west of the Interstate 80 Freeway

ATTACHMENT 1

Section 202 (Definitions — F). 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.

Section 202 (Definitions — F). FIRE NUISANCE. Anything or act, which is annoying, unpleasant, offensive or obnoxious because of fire.

Section 202 (Definitions — J). JURISDICTION. The City of Berkeley. The governmental unit that has adopted this code.

Section 202 (Definitions — W). 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.

Chapter 5 of the California Fire Code is adopted in its entirety subject to the modifications thereto which are set forth below.

CHAPTER 5 – FIRE SERVICE FEATURES

SECTION 504 ACCESS TO BUILDING OPENINGS AND ROOFS

Section 504.1.1 Marking of Exterior Building Openings. 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.

Chapter 7 of the California Fire Code is adopted in its entirety subject to the modifications thereto which are set forth below.

CHAPTER 7 – FIRE AND SMOKE PROTECTION FEATURES

SECTION 705 DOOR AND WINDOW OPENINGS

Section 705.2.5 Smoke - and heat-activated doors. 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

ATTACHMENT 1

exit stairways and floor separation in R-1 or R-2 occupancies shall not be maintained in an open position with fusible links.

Chapter 9 of the California Fire Code is adopted in its entirety subject to the modifications thereto which are set forth below.

**CHAPTER 9 – FIRE PROTECTION AND LIFE SAFETY SYSTEMS SECTION 903
AUTOMATIC SPRINKLER SYSTEMS**

Section 903.2.10.1 Commercial parking garages. 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).~~

Section 903.2.11.1 Stories without openings. 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.

Section 903.2.11.2. Rubbish, Recycling and linen chutes. 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.

Section 903.2.22 Structures in the Berkeley Marina Area. An automatic sprinkler system shall be installed in all structures located in the Berkeley Marina Area in accordance with NFPA 13 standards.

ATTACHMENT 1

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.

Section 903.2.23 Public Self-Storage Buildings. 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.

Section 903.2.24 Environmental Safety - Residential District. Reserved

Section 903.3.1.2 NFPA 13R sprinkler systems. 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.

Section 903.3.9 Floor control valves. 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~~ 30 feet or more above the lowest level of fire department vehicle access.
2. Buildings that are ~~four-three~~ 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.

Section 907.2 Where required—new buildings and structures. 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.

ATTACHMENT 1

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.

Section 907.2.1 Group A. 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.*

Section 907.2.2 Group B. A manual fire alarm system, which activates the occupant notification system in accordance with Section 907.5, 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.~~

ATTACHMENT 1

Section 907.2.4 Group F. 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.~~

Section 907.2.7 Group M. 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.~~

Section 907.2.8.1 Manual Fire alarm system. 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.~~

ATTACHMENT 1

Section 907.2.8.2 Manual and Automatic fire alarm systems ~~smoke detection system.~~ ~~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.~~

Section 907.2.9.1 Automatic and Mmanual fire alarm system. ~~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.~~
3. ~~2. 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.~~

Section 914.3.9 Fire Fighter Air Replenishment Systems. ~~New high-rise buildings shall install an approved Fire Fighter Air Replenishment System (FARS) or equivalent~~

ATTACHMENT 1

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.

Chapter 11 of the California Fire Code is adopted in its entirety subject to the modifications thereto which are set forth below.

CHAPTER 11 – CONSTRUCTION REQUIREMENTS FOR EXISTING BUILDINGS

SECTION 1103 FIRE SAFETY REQUIREMENTS FOR EXISTING BUILDINGS

Section 1103.5 Sprinkler systems. An automatic sprinkler system shall be provided in existing buildings in accordance with Section 1103.5.1 through 1103.5.5-6.3

SECTION 1103.5.6 AUTOMATIC SPRINKLER REQUIREMENTS FOR EXISTING HOTELS

Section 1103.5.6.1 Definitions. 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:

ATTACHMENT 1

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.

Section 1103.5.6.2 Types of Fire Sprinklers. In the sleeping units of the building, only residential or quick response sprinkler heads shall be used.

Section 1103.5.6.3 Supervision of fire sprinkler systems. 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. 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.

Section 1103.7.5.1 Group R-1 hotels, and motels, and congregate residences manual and automatic fire alarm system. 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.

ATTACHMENT 1

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

Section 1103.7.6 Group R-2. 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.
2. ~~A separate fire alarm system is not required in buildings that are equipped throughout with an approved supervised automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 and having a local alarm to notify all occupants.~~
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 smoke alarms complying with the requirements of Section 907.2.11.

Section 1103.7.10 Monitoring of Group R Occupancies. 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.

Chapter 49 of the California Fire Code is adopted in its entirety subject to the modifications thereto which are set forth below.

ATTACHMENT 1

CHAPTER 49 – REQUIREMENTS FOR WILDLAND-URBAN INTERFACE FIRE AREAS

SECTION 4902 DEFINITIONS

Section 4902.1 General. 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. A document prepared for a specific premises, project or development, either existing or proposed for a Wildland-Urban Interface (WUI) 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 Area 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."

FLATLANDS MITIGATION ZONE shall encompass the entire City of Berkeley except for areas in the Hills, Panoramic and Grizzly Peak Mitigation Zones.

FUEL BREAK. A natural or human caused change in fuel characteristics which affects fire behavior so that fires burning into them can be more readily controlled (NWCG PMS 205).

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)].

GRIZZLY PEAK MITIGATION ZONE encompasses the area east of Grizzly Peak Boulevard to the city boundary west, north and south. Homes addressed on, or with a structural frontage on either side of Grizzly Peak Boulevard are included in the zone. The Grizzly Peak Mitigation Zone is designated as a Very-High Fire Hazard Severity Zone and Wildland-Urban Interface area.

HILLS MITIGATION ZONE encompasses those areas designated as Very High and High Fire Hazard Severity Zones that are not included in the Grizzly Peak or

ATTACHMENT 1

Panoramic Mitigation Zones. The Hills Mitigation Zone is designated as a Wildland-Urban Interface area. This area includes areas of the City east / north east of the line formed by these roads. Homes addressed on, or with a structural frontage on either side of these road segments are included in the zone:

- a. The Arlington Avenue from the Kensington Border to Marin Avenue
- b. Sutter Street from the Southern portal of the Northbrae Tunnel to Eunice Street
- c. Spruce Street from Eunice Street to Hearst Avenue
- d. Galey Road from Hearst Avenue to Stadium Rim Way
- e. Piedmont Avenue from Stadium Rim Way to Bancroft Way
- f. Waring Street from Dwight Way to Derby Street
- g. Belrose Avenue from Derby Street to Garber Street
- h. Claremont Boulevard from Garber Street to Claremont Avenue
- i. Claremont Avenue from Claremont Boulevard to the Oakland Border

IGNITION-RESISTANT MATERIAL. 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.

PANORAMIC MITIGATION ZONE encompasses those areas of the City bounded by the line formed by these roads. The Panoramic Mitigation Zone is within the area designated as a Very High Fire Hazard Severity Zone and Wildland-Urban Interface area. Homes addressed on, or with a structural frontage on either side of these road segments are included in the zone.

- a. Canyon Road from the Oakland border to Stadium Rim Way
- b. Stadium Rim Way from Canyon Road to Bancroft Way
- c. Bancroft Way from Stadium Rim Way to Prospect Street
- d. Prospect Street from Bancroft Way to Bancroft Steps
- e. Bancroft Steps from Prospect Street to Waring Street
- f. Bancroft Way from Waring Street to Piedmont Avenue
- g. Piedmont Avenue from Bancroft Way to Dwight Way
- h. Dwight Way from Piedmont Avenue to the Oakland border

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.

ATTACHMENT 1

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 (WUI). 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. The Berkeley Hills, Panoramic, and Grizzly Peak Mitigation Zones are designated as Wildland-Urban Interface 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.

SECTION 4903 PLANS

Section 4903.3 Submittal, approval and fees. 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.

SECTION 4904 FIRE HAZARD SEVERITY ZONES

Section 4904.4 Berkeley Fire Hazard Severity Zones.

HILLS MITIGATION ZONE is designated a Very-High and 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 to the areas designated as Very-High and all requirements of Berkeley Municipal Code Section 19.28.030 (Berkeley Building Code, Chapter 7A) shall apply to the areas designated as Very High and High.

PANORAMIC MITIGATION ZONE 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.

GRIZZLY PEAK MITIGATION ZONE 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.

ATTACHMENT 1

SECTION 4905 WILDFIRE PROTECTION BUILDING CONSTRUCTION

Section 4905.2 Construction methods and requirements within established limits. 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 Code and Berkeley Residential Code, 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.

SECTION 4906 VEGETATION MANAGEMENT

Section 4906.5 Maintenance of existing vegetation. Maintenance and management of existing vegetation shall be in accordance with this Section and with Section 4907, "Defensible Space".

Section 4906.5.1 Electrical Equipment Support Clearance. 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.

SECTION 4906.5.2 ELECTRICAL DISTRIBUTION AND TRANSMISSION LINE CLEARANCES.

Section 4906.5.2.1 General. Clearances between vegetation and electrical lines shall be in accordance with this section.

Section 4906.5.2.2 Trimming clearance. 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

Line Voltage	MINIMUM RADIAL CLEARANCE FROM CONDUCTOR (feet)
--------------	--

Commented [A1]: @Stephens, Sara @De Genova, Haley Sara & Haley, 4906.5.1, 4906.5.2, 4906.5.3, 4906.5.4, are long-standing local amendments, however i believe they conflict with CPUC Rule 35 and that we should remove it from our code, can you please research and let us know prior to March 25?

Rule 35: <http://docs.cpuc.ca.gov/published/Graphics/13352.PDF>

CPUC: <https://www.cpuc.ca.gov/regulatory-services/safety/electric-safety-and-reliability-branch/electric-and-cip-audits-introduction/tree-trimming-and-vegetation-management-information>

PGE: <https://www.pge.com/en/outages-and-safety/safety/vegetation-management.html#:~:text=General%20Order%2095%2C%20Issued%20by%20the%20California,time%20of%20pruning%20to%20maintain%20year%20round%20clearance.>

ATTACHMENT 1

	<u>[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>

Section 4906.5.2.3 Minimum clearance to be maintained. Clearances not less than those established by Table 4906.5.2.3 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 4906.5.2.3 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)</u> <u>[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>

Section 4906.5.3 Electrical power line emergencies. 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 4906.5.2.3.

Section 4906.5.4 Correction of Condition. 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.

Section 4906.5.5 Clearance of Brush or Vegetative Growth from Roadways. 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.

ATTACHMENT 1

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

Section 4906.6 Unusual Circumstances. 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.

Section 4906.7 Vegetation and combustible material hazards not otherwise regulated. 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.

SECTION 4907 DEFENSIBLE SPACE

Section 4907.4 Specific requirements. Persons owning, leasing, controlling, operating or maintaining buildings or structures in, or upon the Very High Fire Hazard Severity Zone or Wildland-Urban Interface Fire Areas shall at all times comply with the specific requirements set forth within the references listed in CFC 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 CFC Section 4907.3, as well as the following minimum requirements. The minimum area(s) of these properties that are required to comply with CFC 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 3 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 fuel break 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.
2. 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 fire-resistant zone being required within 5 feet of the structure based on regulations promulgated by the State Board of Forestry and Fire Protection; and

ATTACHMENT 1

3. Maintain additional fire protection or fuel break 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
4. Zone 1 – 5 to 30 feet from any structure:
 - a. Remove all Hazardous Vegetation and Combustible Material capable of being ignited and endangering the Structure or attached deck as determined by the Fire Code Official or their designee.
 - b. Maintain 6 feet of vertical clearance between branches and all other parts of trees overhanging the roof or other portion of any Structure or attached deck.
 - c. Maintain any tree, shrub, or other plant adjacent to or overhanging any Structure or attached deck free of dead branches, dead limbs, or other Combustible Material.
 - d. Maintain the roof and roof gutters of any structure, and the surface of any attached deck free of leaves, needles, Hazardous Vegetation, and Combustible Materials.
 - e. Maintain trees to remove Ladder Fuels so that foliage, twigs, or branches are greater than 8 feet above the ground or surface fuels.
 - f. Remove all branches within 10 feet of any chimney or stovepipe outlet.
 - g. Storage of firewood, lumber, or other Combustible Material is not permitted.
 - h. Remove any privacy hedges or rows of bushes that will create a pathway for fire to reach a Structure.
 - i. Keep low-growing shrubs spaced apart or in small groupings (no more than 3 shrubs or a maximum of 10 feet wide and 10 feet apart from other plantings) that result in a discontinuous path of vegetation.
 - j. If there are multiple structures, such as a shed, hot tub, and playset, ensure these structures are spaced at least 10 feet apart. Have at most three (3) of these structures within 30 feet of your home.
 - k. Relocate exposed firewood piles outside of Zone 1 unless they are completely covered in a fire-resistant material.
5. Zone 2 – 30 to 100 feet from any structure:
 - a. All exposed wood piles must have a minimum of ten feet (10 ft.) of clearance, down to bare mineral soil, in all directions.

ATTACHMENT 1

6. For both Zones 1 and 2:

- a. Remove all flammable vegetation and combustible material capable of transmitting fire to a structure as determined by the Fire Code Official.
- b. Annual grasses must be removed or cut to less than 4 inches.
- c. Non-irrigated brush is not permitted.
- d. Limb trees and shrubs by removing hanging bark, debris and 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.
- e. 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
- f. New trees shall be planted and maintained so that the tree's drip line at maturity is a minimum of 10 feet from any structure or the canopy of other trees.

Section 4907.6 Specific requirements. Effective January 1, 2026 the Grizzly Peak and Panoramic Mitigation Zones shall be subject to 4907.6 instead of 4907.4:

Performance-Based Approach: The prescriptive standards within this section must be met as a baseline. For situations that are not clearly covered by the prescriptive requirements, a performance-based approach using methods that are substantiated by evidence-based practices, research, or testing data deemed acceptable by the Fire Code Official may be used. The Fire Code Official reserves the authority to evaluate and approve proposed methods based on their ability to meet the established performance objectives.

This performance-based approach allows for innovation, adaptability, and site-specific solutions while maintaining the primary goal of reducing the ignition risk to vegetation and structures.

A variety of techniques, materials, and strategies may be used, provided they effectively achieve the following performance objectives:

1. Maintain defensible space that mitigates the potential that vegetation, debris or other combustible material on a parcel creates a wildfire exposure to structures and accessory structures on the property or adjacent properties.
2. Vegetation will be evaluated based on the type, density, configuration, and arrangement on a parcel and how those factors are likely to contribute, or prevent, the spread of fire by radiant heat, ember and direct flame. Each parcel

ATTACHMENT 1

must contribute to the resiliency and reduction of the ignition risk the community faces.

3. Effectiveness of defensible space can be enhanced with improvements to the fire resistance of structures by completing "home hardening" retrofitting that is compliant with California Building Standards Code, including the following: California Building Code, Chapter 7A, California Residential Code, Section R337, California Referenced Standards Code, Chapter 12-7A, or other features deemed acceptable by the Berkeley Building Official.

Persons owning, leasing or controlling land adjacent to such buildings or structures that are in the Very High Fire Hazard Severity Zone or 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 CFC Section 4907.3, as well as the following minimum requirements. The minimum area(s) of these properties that are required to comply with CFC 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 4907.6, No. 3 (below) 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:

DRAFT

ATTACHMENT 1

1. Maintain an effective fuel break 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.
2. 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 Zone 0 is required within 5 feet of Structures.
3. Maintain additional fire protection or fuel break by removing brush, flammable vegetation and combustible growth located **more than** 100 feet from such buildings when the Fire Code Official 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.
4. Zone 0 – 0 to 5 feet from any structure:
 - a. Maintain all ground areas within five (5) horizontal feet of any structure, including any outbuildings, attached decks, stairs, hot tubs and the area under attached decks and stair landings free of combustible material including but not limited to vegetation, debris, wood mulch products, combustible fencing and gates (e.g.: wood/vinyl), playsets, plastic trash and recycle cans, trellises, pergolas, shade coverings, combustible planters, privacy walls, boats, RVs, and other material that could be ignited by embers, radiant heat, or direct flame. Hardscape materials, such as gravel, pavers, concrete, and other noncombustible mulch materials are permitted. This zone extends vertically along and above the structure. Sections of mature trees taller than 15 feet that are within this zone shall be removed unless such work would endanger the health of the tree. Tree limbs not removed shall comply with the remainder of this section. Trees shorter than 15 feet, or bushes, must be removed.

Exception: Fire Resistant Vegetation that is maintained free of dead vegetative growth in up to 10 small non-combustible planters with plants that are less than 18-inches in height and that can be easily moved indoors, or outside of Zone 0 during Extreme Fire Weather or days declared as a Particularly Dangerous Situations.

ATTACHMENT 1

- b. Remove vines from the home, pergolas, fences, and within 5 feet of any structure.
 - c. Remove all Hazardous Vegetation and Combustible Material capable of being ignited and endangering the Structure or attached deck as determined by the Fire Code Official or their designee.
 - d. Maintain 6 feet of vertical clearance between branches and all other parts of trees overhanging the roof or other portion of any Structure or attached deck.
 - e. Maintain any tree, shrub, or other plant adjacent to or overhanging any Structure or attached deck free of dead branches, dead limbs, or other Combustible Material.
 - f. Maintain the roof and roof gutters of any structure, and the surface of any attached deck free of leaves, needles, Hazardous Vegetation, and Combustible Materials.
 - g. Maintain trees to remove Ladder Fuels so that foliage, twigs, or branches are greater than 8 feet above the ground or surface fuels.
 - h. Remove all branches within 10 feet of any chimney or stovepipe outlet.
 - i. Storage of firewood, lumber, or other Combustible Material is not permitted.
5. Zone 1 – 5 to 30 Feet from any structure:
- a. Remove any privacy hedges or rows of bushes that will create a pathway for fire to reach a Structure.
 - b. Keep low-growing shrubs spaced apart or in small groupings (no more than 3 shrubs or a maximum of 10 feet wide and 10 feet apart from other plantings) that result in a discontinuous path of vegetation.
 - c. If there are multiple structures, such as a shed, hot tub, and playset, ensure these structures are spaced at least 10 feet apart. Have at most three (3) of these structures within 30 feet of your home.
 - d. Relocate exposed firewood piles outside of Zone 1 unless they are completely covered in a fire-resistant material.
6. Zone 2 – 30 to 100 feet from any structure:
- a. All exposed wood piles must have a minimum of ten feet (10 ft.) of clearance, down to bare mineral soil, in all directions.
7. For both Zones 1 and 2:
- a. Remove all flammable vegetation and combustible material capable of transmitting fire to a structure as determined by the Fire Code Official.
 - b. Annual grasses must be removed or cut to less than 4 inches.
 - c. Non-irrigated brush is not permitted.

ATTACHMENT 1

- d. Limb trees and shrubs by removing hanging bark, debris and 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.
- e. Brush and debris do 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
- f. New trees shall be planted and maintained so that the tree's drip line at maturity is a minimum of 10 feet from any structure or the canopy of other trees.

Section 4907.5 Corrective Actions. 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.

Section 4912 SUPPRESSION AND CONTROL OF HAZARDS IN WILDLAND-URBAN INTERFACE AREAS

Section 4912.1 Permit. 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.

Section 4912.2 Restricted Entry. The fire code official shall determine and publicly announce when Wildland-Urban Interface areas shall be closed to entry and when such areas shall again be opened to entry. Entry on and occupation of Wildland-Urban Interface 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 areas are closed to entry, is prohibited.

Exceptions:

1. Residents and owners of private property within Wildland-Urban Interface 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

Section 4912.3 Trespassing on Posted Property

Section 4912.3.1 General. When the fire code official determines that a specific area within a Wildland-Urban Interface 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

ATTACHMENT 1

conditions warrant termination of closure. Such areas shall be posted as hereinafter provided.

Section 4912.3.2 Signs. Approved signs prohibiting entry by unauthorized persons and referring to this section shall be placed on every closed area.

Section 4912.3.3 Trespassing. 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.

Section 4912.4 Smoking. Lighting, igniting or otherwise setting fire to or smoking tobacco, cigarettes, pipes or cigars in Wildland-Urban Interface areas are prohibited.

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

Section 4912.5 Spark Arresters. 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 areas shall be provided with a spark arrester. See Berkeley Building Code Section 705A.5 for specifications.

Section 4912.6 Tracer Bullets, Tracer Charges, Rockets and Model Aircraft. Tracer bullets and tracer charges shall not be possessed, fired or caused to be fired into or across Wildland-Urban Interface 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 Areas.

Section 4912.7 Explosives and Blasting. Explosives shall not be possessed, kept, stored, sold, offered for sale, given away, used, discharged, transported or disposed of within Wildland-Urban Interface areas except by permit from the fire code official.

Section 4912.8 Fireworks. Fireworks shall not be used or possessed in Wildland-Urban Interface 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.

Section 4912.9 Apiaries. Lighted and smoldering material shall not be used in connection with smoking bees in or upon Wildland-Urban Interface areas except by permit from the fire code official.

Section 4912.10 Open-Flame Devices. See Berkeley Fire Code Sections 308.1.6 Open Flame Devices and 308.1.6.1 Signals and Markers.

Section 4912.11 Outdoor Fires. Outdoor fires shall not be built, ignited or maintained in or upon Wildland-Urban Interface 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

ATTACHMENT 1

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 be prohibited in or upon Wildland-Urban Interface areas under the following conditions:

1. When red flag conditions exist as defined by the National Oceanic and Atmospheric Administration,
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.

Section 4912.12 Incinerators and Fireplaces. Incinerators, outdoor fireplaces, fire pits, permanent barbecues and grills shall not be built, installed or maintained in Wildland-Urban Interface 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.

Section 4912.13 Dumping. 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 areas or in, upon or along trails, roadways or highways in Wildland-Urban Interface areas.

Exception: Approved public and private dumping areas.

Section 4912.14 Disposal of Ashes. Ashes and coals shall not be placed, deposited or dumped in or upon Wildland-Urban Interface 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.

Section 4912.15 Use of Fire Roads and Firebreaks. 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.

ATTACHMENT 1

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.

Section 4912.16 Use of Motorcycles, Motor Scooters and Motor Vehicles.

Motorcycles, motor scooters and motor vehicles shall not be operated within Wildland-Urban Interface 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.

Section 4912.17 Tampering with Fire Department Locks, Barricades and Signs.

Locks, barricades, seals, cables, signs and markers installed within Wildland-Urban Interface 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.

Section 4912.18 Liability for Damage. 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 the BMC.

Chapter 50 of the California Fire Code is adopted in its entirety subject to the modifications thereto which are set forth below.

CHAPTER 50 – HAZARDOUS MATERIALS – GENERAL PROVISIONS

SECTION 5001 GENERAL

Section 5001.7 Hazardous materials transportation restrictions. 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

ATTACHMENT 1

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

CHAPTER 56 – EXPLOSIVES AND FIREWORKS

SECTION 5601 GENERAL

5601.1.3 Fireworks. 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 City of Berkeley.

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.
- 3~~1~~. 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.
- 4~~2~~. 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.

Section 5604.1 General. 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

ATTACHMENT 1

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.

CHAPTER 57 – FLAMMABLE AND COMBUSTIBLE LIQUIDS

SECTION 5701 GENERAL

Section 5701.4.1 Transfer of flammable and combustible liquids. 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.

SECTION 5704 STORAGE

Section 5704.2.11.1.1 Restrictions on underground storage tanks. 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.

Section 5704.2.13.1.4 Tanks abandoned in place. 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 Management Division (TMD) that no unauthorized release has occurred. If the soil is contaminated, mitigation must be completed to the satisfaction of the Toxics Management Division (TMD). 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.

ATTACHMENT 1

Section 5704.2.14 Removal and disposal of tanks. 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.

CHAPTER 61 – LIQUIFIED PETROLEUM GASES

SECTION 6104 LOCATION OF LP-GAS CONTAINERS

Section 6104.1.1 Restrictions on storage of LP-gas containers. 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.

APPENDIX B – FIRE FLOW REQUIREMENTS FOR BUILDINGS

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>	2550% 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>	2550% 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 Lim.

ATTACHMENT 1

- 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.

APPENDIX L – REQUIREMENTS FOR FIRE FIGHTER AIR REPLENISHMENT SYSTEMS

SECTION L104 DESIGN AND INSTALLATION

Section L104.5.1 Stored pressure air supply. 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.

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

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

ADOPTING FINDINGS AS TO LOCAL CLIMATIC, GEOLOGICAL AND TOPOGRAPHICAL CONDITIONS RENDERING REASONABLY NECESSARY VARIOUS ENUMERATED LOCAL FIRE STANDARDS THAT ARE MORE STRINGENT THAN THOSE MANDATED BY THE CALIFORNIA FIRE CODE AND AMENDING RESOLUTION NO. 70,611–N.S.

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

WHEREAS, the City is proposing to adopt various enumerated changes and modifications to the California Fire Code, as set forth below; and

WHEREAS, Health & Safety Code §17958 allows the City to make modifications or changes to the California Fire Code and other regulations adopted pursuant to Health & Safety Code §17921(a) which result in more stringent local requirements; and

WHEREAS, Health & Safety Code §17925, §17958.5 and §17958.7 require that such changes be supported by findings made by the governing body that such more stringent local requirements are necessary because of “local climatic, geological or topographical conditions or factors;” and

WHEREAS, such findings must be made available as a public record and a copy thereof with each such modification or change shall be filed with the California Building Standards Commission:

NOW THEREFORE, BE IT RESOLVED by the City Council that it finds that each of the various proposed changes or modifications to the California Fire Code which are enumerated below are reasonably necessary because of local conditions in the area encompassed by the City of Berkeley, as set forth below:

1. LOCAL CONDITIONS

a. Climatic Conditions

i. Discussion

The City of Berkeley is located at the geographic center of the Bay Area. The western limits are defined by the Bay at near sea level and the eastern limits by the abruptly rising Berkeley Hills to 1,200 feet. The eastern limit faces open parklands and open space (covered with vegetative fuel loading) to the east and is exposed to a unique danger from wildland fires during periods of hot, dry weather in the summer months. Many of the Berkeley homes in this area have wood shake and shingle roofs and are surrounded by brush type vegetation. The situation is made even worse by the negative effects of high wind conditions during the fire season. During May to October, critical climatic fire conditions occur where the temperature is greater than 80°F, wind speed is greater than 15 mph, fuel moisture is less than or equal to 10 percent, wind direction is from north to

the east-southeast and the ignition component is 65 or greater. These conditions occur more frequently during the fire season but this does not preclude the possibility that a serious fire could occur during other months of the year. The critical climate fire conditions create a situation conducive to rapidly moving, high intensity fires. Fires starting in the wildland areas along the easterly border are likely to move rapidly westward into Berkeley's urban areas.

- In September 1923, critical climatic fire conditions were in effect and Berkeley sustained one of the most devastating fires in California's history. A fire swept over the range of the hills to the northeast of Berkeley and within two hours was attacking houses within the City limits. A total of 130 acres of built-up territory burned. 584 Berkeley buildings were wholly destroyed and about 30 others seriously damaged. By far the greater portion were single-family dwellings, but among the number were 63 apartments, 13 fraternity, sorority and students' house clubs and 6 hotels and boarding houses.
- In September 1970, during critical climatic fire conditions characterized by hot, dry winds out of the northeast, a fire started along Fish Ranch Road and Grizzly Peak. This fire rapidly spread into the surrounding neighborhoods of Oakland and Berkeley, burning 400 acres and destroying 37 homes. An additional 18 homes were badly damaged before the fire was brought under control.
- In December of 1980, during critical climatic fire conditions, a small fire started at Berkeley's northeast limits and within minutes five homes were totally destroyed by fire.
- On October 20, 1991, a disastrous firestorm swept down from the Oakland hills. Within the first few hours, thousands of people were evacuated. Ultimately over 3,000 dwelling units were destroyed, of which more than 70 were in Berkeley. This fire matched the pattern established by the fires of 1923 and 1980. Additionally, the conditions that led to it were the same as the conditions that led to a 1970 fire that destroyed 37 homes in Berkeley and Oakland.

ii. Summary.

Local climatic conditions of limited rainfall, low humidity, high temperatures and high winds along with existing building construction create extremely hazardous fire conditions that adversely affect the acceleration intensity and size of fires in the City. The same climatic conditions may result in the concurrent occurrence of one or more fires, which may spread in the more populated areas of the City without adequate fire department personnel to protect against and control such a situation.

b. Geological Conditions.

i. Discussion.

The City of Berkeley is in a region of high seismic activity and is traversed by the Hayward fault. It has the San Andreas earthquake fault to the west and the Calaveras earthquake fault to the east. All three faults are known to be active as evidenced by the damaging earthquakes they have produced in the last 100 years and can, therefore, be expected to do the same in the future. Of primary concern to Berkeley is the Hayward

Fault, which has been estimated to be capable of earthquakes exceeding a magnitude of 7.0 on the Richter scale. It extends through many residential areas and passes through a small business district and the University of California. A large number of underground utilities cross the fault, including major water supply lines. Intensified damage during an earthquake may be expected in those areas of poorer ground along the Bay, west of Interstate 80 and in known slide areas, as well as hillside areas (occupied mainly by dwellings) located within or near the fault zone; some areas are steep and have been subjected to slides.

The waterfront areas and areas in the Berkeley flatlands immediately adjacent to creeks and water streams present a major potential for soil liquefaction hazard. The Eastshore Freeway may liquefy and fail under heavy shaking or it may be inundated by a tsunami. The north hill area is most susceptible to landslides because of the presence of soft and unconsolidated sediments, extensive water content in the ground and the steepness of slopes.

Great potential damage can be related to the likely collapse of freeway overpasses. In the event of a major earthquake, Berkeley's firefighting capability could be greatly affected by loss of its main water supply. There is also the strong possibility of inundation due to failure of water reservoirs in the hill area. The replacement of Summit Reservoir at the Kensington border in Berkeley was completed in December 2018. Berryman Reservoir North has been demolished and replaced by a steel tank in 2012. Berryman Reservoir South has received a seismic upgrade. Additional potential situations following an earthquake include broken natural gas mains and ensuing fires in the streets; building fires, as the result of broken service connections; trapped occupants in collapsed structures; and rendering of first aid and other medical attention to a large number of people.

ii. Summary.

Local geological conditions include high seismic activity and large concentrations of residential type buildings as well as a major freeway. Since the City of Berkeley is located in a densely populated area having buildings and structures constructed over and near a vast array of fault systems capable of producing major earthquakes, the modifications cited herein are intended to better limit life safety hazards and property damage as a result of a seismic activity.

c. Topographical Conditions.

i. Discussion.

The City of Berkeley has many homes built throughout the urban portion of the Berkeley Hills that are reached by narrow and often winding paved streets which hamper access for fire apparatus and escape routes for residents. In addition, many of the hillside homes are on the extreme eastern edge of the City and require longer response times for the total required firefighting force. Panoramic Way and other hill areas with narrow and winding streets may face the problem of isolation from the rest of the City.

In the areas north and south of the University of California, there are large concentrations of apartments, rooming houses, and fraternity and sorority houses. A number of apartments in these areas are of wood frame construction and are up to five stories in

height from grade level. The fire potential is moderately high due to building congestion, heights, and wood shingle roof coverings and siding. Fires can be expected to involve large groups of buildings in these areas. It is noted that Berkeley most probably has more physically impaired people per capita than any other community in the United States. It is estimated that 14% of the approximate population of 112,580 per 2010 Census in Berkeley are physically impaired. Emergency egress and rescue for these people are more difficult during a fire or other life safety emergency.

The Eastshore Highway, running along the western edge of Berkeley, is one of the most heavily used and congested freeway sections in the state. Noted impacts have been increased rates of asthma, particularly among children. The proximity of Berkeley to this freeway and its location downwind from prevailing patterns negatively affects air quality, thus increasing the impact of wood smoke in Berkeley.

d. Summary.

Local topographical conditions include hillside housing with many narrow and winding streets with slide potential for blockage in the abruptly rising Berkeley hills. These conditions create an extremely serious problem for the Fire Department when a major fire or earthquake occurs. Many situations will result in limiting or total blockage of fire department emergency vehicular traffic, overtaxed fire department personnel and a total lack of resources for the suppression of fire in buildings and structures in the City of Berkeley. In addition, under these local conditions, the presence of wood smoke can cause increased disease, including asthma, and increased deaths from heart and lung disease.

2. REASONABLE NECESSITY

The proposed changes and modifications to the California Fire Code are reasonably necessary due to the local climatic, geological and topographical conditions set forth above. They are further justified for the reasons set forth below.

In adopting the California Fire Code as the Berkeley Fire Code, the City proposes to make certain substantive modifications whose effect is to impose more stringent requirements locally than are mandated by the California Fire Code. These are specifically listed below, but may be generally characterized as relating to: the preservation of building and roof accessibility and emergency egress; maintenance of building compartmentation using fusible links; amendment of automatic sprinkler requirements; amendment of fire alarm system requirements; amendment of fire flow requirements; requirements for high-rise air supply and the regulation of hazards including hazardous materials, Wildland-Urban Interface management, temporary assembly attractions, fireworks and explosives. These more stringent local requirements are reasonably necessary to address risks created by local conditions set forth above for the following reasons:

1. Section 105.6.26 (Window bars, operational constraints and opening control devices) is a local amendment which regulates window bars or other opening control devices that impose operational constraints on emergency escape and rescue openings. This amendment does not impose more stringent requirements on the devices or equipment than is set forth in Section 1031.2.1 of this code, but it does impose the requirement that a fire department permit be obtained prior to the installation of such

equipment. Section 1031.2.1 of this code contains detailed requirements for the installation conditions of this equipment yet the California Fire Code provides no mechanism to verify that the code requirements are being met. This provision is adopted due to Berkeley's increased local geological risk of earthquakes and the likelihood that exterior escape and rescue openings may be needed by occupants to evacuate buildings.

2. Section 503 (Fire apparatus access roads) and Appendix D (Fire apparatus access roads) are adopted in their entirety as local code amendments. They are adopted due to: local geological conditions of severe earthquake potential which may result in landslides and the collapse of "built-environment" features which may block access roads; local topographical conditions including narrow streets and steep hills which slow and hinder emergency response and evacuation; and local climatic conditions including the need for rapid, unhindered citizen evacuation from and emergency responder access into wildfire prone areas of the City.
3. Section 504.1.1 (Marking of Exterior Building Openings) is added due to local topographical conditions which promote multi-story and on-slope construction to maximize buildable space within the City. The limited space available for development encourages developers and designers to crowd exterior openings into limited available space, often resulting in groups of building openings without any obvious cues for firefighters as to the area(s) served within the building or the purpose of the openings. This amendment is intended to inform firefighters as to the area served and/or purpose of an exterior opening and therefore reduce the amount of time firefighters may spend searching for or forcing entry into otherwise unmarked doorways.
4. Section 705.2.5 (Smoke- and heat-activated doors) is amended due to the increased risks caused by fires resulting from earthquakes and proximity to the wildland-interface. These risks, which are particularly severe in Berkeley due to its high population density, are shown by its past history of above average death and property loss due to fire in these types of occupancies. This amendment will maintain the fire and smoke separation requirements and prevent spread of smoke and fire in apartments, boarding houses, and congregate living spaces.
5. Sections 903.2.10.1, 903.2.11.1, 903.2.11.2, 903.2.22, 903.2.23, 903.3.1.2, 903.3.9 and 1103.5, 1103.5.6, 1103.5.6.1, 1103.5.6.2, 1103.5.6.3 (Fire Sprinkler Systems) are amended due to the increased risks caused by fires resulting from earthquakes and proximity to the wildland-interface. These risks, which are particularly severe in Berkeley due to its high population density, are shown by its past history of above average death and property loss due to fire in these types of occupancies. Automatic fire sprinkler systems significantly reduce the loss of life and fire spread with early suppression and control of a fire. Additionally, these amendments will maintain the standards established in 1992 after the 1990 fraternity fire and 1991 Berkeley Oakland firestorm.
6. Amendments and additions to Sections 907.2, 907.2.1, 907.2.2, 907.2.4, 907.2.7, 907.2.8.1, 907.2.8.2, 907.2.9.1 and 1103.7, 1103.7.5.1, 1103.7.6, and 1103.7.10 (Fire Alarm Systems) are amended due to the increased risks caused by fires

resulting from earthquakes and proximity to the wildland-interface. These risks, which are particularly severe in Berkeley due to its high population density, are shown by its past history of above average death and property loss due to fire in these types of occupancies. Automatic fire alarm systems significantly reduce the loss of life and fire spread with early detection and notification of firefighting personnel. Additionally, these amendments will maintain the standards adopted in 1998 as part of the Berkeley Fire Code.

7. Section 914.3.9 ["Fire Fighter Air Replenishment Systems"], Appendix Chapter L ["Requirements for Fire Fighter Air Replenishment Systems" in its entirety as amended), Section L104.5.1 ["Stored pressure air supply" as amended], Section 105.5.57 [operational permit to maintain a "firefighter air replenishment system (FARS)"] and Section 105.6.25 [construction permit to install or modify "Firefighter air replenishment system(FARS)"] are added due to the local geological condition of severe risk of earthquake and ensuing fires. Fire Fighter Air Replenishment Systems are intended to maximize the operational efficiency of available firefighting forces, and to reduce the impacts of high-rise fire incidents on limited firefighting forces that may already be challenged by the aftermath of a major seismic event. Additionally, these amendments will maintain the standards adopted in 2002 as part of the Berkeley Fire Code to require air supply systems for firefighting operations. The proposed code adoption recognizes Appendix Chapter L of the International Fire Code as the standard for the design, installation, testing and maintenance of such a system. It provides potential owners, designers and installers with a standard that they may refer to in order to better understand a type of system that many may not be familiar with.
8. Section 4911.12 (Incinerators and Fireplaces), is created which mandates that certain potential ignition sources within Wildland-Urban Interface (WUI) fire areas such as incinerators, outdoor fireplaces, fire pits, permanent barbecues and grills shall not be constructed without prior approval of the fire code official. Also, continued use of such constructed equipment (termed 'maintained' in the fire code ordinance) is prohibited unless the equipment is maintained in good repair and safe condition at all times. This section also requires that such equipment be provided with appropriate spark arrestors, similar to the requirements in the Berkeley Building Code for fixed mechanical equipment associated with structures and regulated under the Berkeley Building Code. This added section requires fire department approval, spark arresters and maintenance of this equipment due to steep topography and Mediterranean climatic conditions. These conditions result in a large wildland-interface fire area which has a history of large, catastrophic fires.
9. Section 5704.2.11.1.1 (Restrictions on underground storage tanks), Section 5704.2.13.1.4 (Tanks abandoned in place), Section 5704.2.14 (Removal and disposal of tanks) and section 6104.1.2 (Restrictions on storage of LP-gas containers) of the Berkeley Fire Code are local amendments to the California Fire Code. These subsections are necessitated by local topographical conditions including the dense population of residential dwellings throughout the City; the narrow winding streets of the hazardous hill area; and the presence of a major transportation system underground (BART with its surge chambers and other

openings at the street level in various areas of the city). These factors make it very important for purposes of fire safety to regulate hazardous material storage to ensure that it does not intrude in these areas.

10. Section B105.2 (Appendix B, "Fire Flow Requirements for Buildings", Table B105.2, "Required Fire-Flow For Buildings Other Than One- And Two-Family Dwellings, Group R-3 And R-4 Buildings And Townhouses") is amended due to the geological conditions of the City with its proximity to major earthquake faults. Predictions by the local water utility company are that many water mains will break as the result of a magnitude 6.7 earthquake on the Hayward Fault.
11. Appendix O (Temporary haunted houses, ghost walks and similar amusement uses) is adopted as a local amendment to the California Fire Code and is adopted based on local geological conditions (the potential for severe earthquake with accompanying fire and/or structural collapse) and local topographical conditions including the need to ensure adequate separation of structures and uses in densely developed urban areas. Fire alarm systems (as required in this appendix) are shown to significantly reduce the life safety threat to occupants of structures during fire events. Regulation of these structures and activities ensures that adequate safety provisions have been made for limiting occupancy to safe numbers of guests and for the evacuation of attraction guests in crowded urban environments. Adoption of this appendix also allows for the regulation of related features such as the combustibility of decorations and the management of hazards such as temporary electrical wiring and the use of portable generators.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that certain local amendments to the codes are not building standards more stringent than the provisions of the California Fire Code but rather cover matters not addressed by those codes as building standards, or are administrative in nature, as follows:

1. Chapter 1 (as amended in Sections 101.1, 102.6, 104.13, 104.14, 105.5.18, 105.5.55, 105.5.56, 105.5.58, 105.5.59, 107.2, 107.4, 111, 111.1, 111.1.1, 111.3, 112.1, 112.4, 114.7, and 114.7.1 provides administrative provisions, an appeal process, and additional clarification and non-building standard permit requirements required to implement the fire code.
2. Chapter 2 as amended in section 202 (Definitions) provides additional definitions required to clarify and implement the local adoption of the fire code.
3. Chapter 3 (General Requirements) is adopted in its entirety. The adopted sections of this chapter impose controls on a wide range of hazards that are not building standards. Hazards addressed include asphalt kettles, combustible waste materials, control of ignition sources, open burning/recreational fires, open flames, powered industrial equipment, smoking, securing of vacant premises, vehicle impact protection, fueled equipment, general storage and hazards to firefighters.
4. Chapter 49 as amended, including Sections 4902.1, Table 4902.1, 4903.3, 4904.4, 4905.2, 4906.5, 4906.5.1, 4906.5.2, 4906.5.2.1, 4906.5.2.2, Table 4906.5.2.2, 4906.5.2.3, Table 4906.5.2.3, 4906.5.3, 4906.5.4, 4906.5.5, 4906.6, 4906.7, 4907.4, 4907.6 provides definitions related to local Wildland-Urban Interface (WUI) fire areas,

directs interested parties to appropriate BMC Chapter 19.28 sections (Berkeley Building Code) for building construction requirements in WUI areas, and imposes various non-building standard requirements for the management of vegetation. Added Sections 4911, 4911.1, 4911.2, 4911.3, 4911.3.1, 4911.3.2, 4911.3.3, 4911.4, 4911.5, 4911.6, 4911.7, 4911.8, 4911.9, 4911.10, 4911.11, 4911.13, 4911.14, 4911.15, 4911.16, 4911.17, and 4911.18 impose various non-building standard requirements for the suppression and control of fires in WUI areas.

5. Section 5001.7 (Hazardous Materials Transport Restrictions) is a local amendment to the California Fire Code that restricts the transportation, storage and transfer of hazardous materials but does not create or modify any building standards. It simply imposes additional requirements necessitated by local conditions. This new subsection is necessitated by the dense population of residential dwellings throughout the City; the narrow winding streets of the hazardous hill area; and the presence of a major transportation system underground (BART with its surge chambers and other openings at the street level in various areas of the city). These factors make it very important for purposes of fire safety to regulate hazardous material transportation to ensure that it does not intrude in these areas.
6. Section 5601.1.3 (Fireworks) prohibits (with suitable exceptions) the possession, manufacture, storage, sale, handling and use of fireworks within the jurisdiction (including fireworks classified by the State Fire Marshal as Safe and Sane fireworks). Section 5604.1 (“General” section of 5604, “Explosive and Fireworks”) is modified to prohibit the storage and handling of explosives within the jurisdiction. Both sections are intended to preserve the ban on storage, handling and use of these materials within City limits which have historically been deemed unsafe and inappropriate activities within the jurisdiction.
7. Section 5701.4.1 (Transfer of flammable and combustible liquids) prohibits dispensing of flammable liquids on or from a street or public way and provides administrative provisions, additional clarification and non-building standard approval or permit requirements required to implement the fire code.
8. Appendix E (Hazard Categories) and Appendix F (Hazard Ranking) are local amendments to the California Fire Code related to hazardous materials management. These chapters define the hazard categories and rankings associated with the storage, handling and use of hazardous materials, and provide the qualitative and quantitative rankings used on hazardous materials information signs posted for the benefit of firefighters and other first responders. These hazard categories and rankings are administrative in nature and do not constitute building standards.

BE IT FURTHER RESOLVED, that Resolution No. 69,170–N.S is hereby rescinded.

Being Safer from Wildfires Can Help With Your Insurance



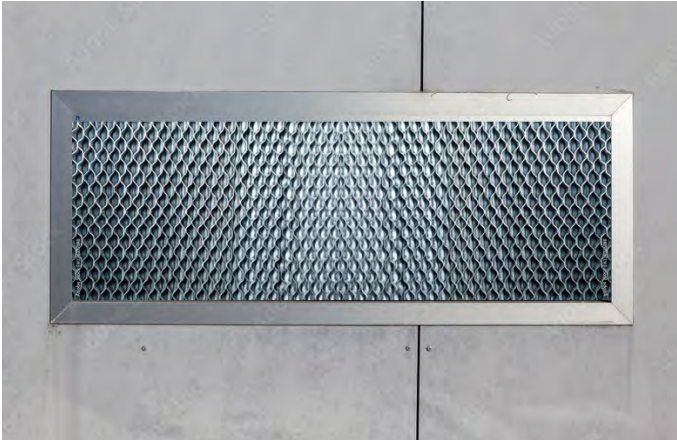
Safer from Wildfires is a ground-up approach to wildfire resilience with three layers of protection — for the structure, the immediate surroundings, and the community. Following these achievable steps can help you save money on your insurance.



Safer from Wildfires was created by an interagency partnership between Insurance Commissioner Ricardo Lara and the emergency response and readiness agencies in Governor Gavin Newsom's administration. Learn more at insurance.ca.gov Page 112

3 Ways to Get Started with **Safer from Wildfires**

Don't know where to start? Here are 3 low-cost steps you can take today.



Keep embers out

Installing 1/16 to 1/8 inch noncombustible, corrosion-resistant metal mesh screens over attic vents can keep wind-blown embers out of your house.



Clear the first 5 feet

Removing greenery and replacing wood chips with stone or decomposed granite 5 feet around your home prevents fire from getting a foot in the door.



Be safer together

With Firewise USA, communities as small as 8 dwelling units or as big as 2,500 can create an action plan and start being safer together. Firewise USA is a nationally recognized program with proven results, sponsored by the National Fire Prevention Association.

Do more, save more

Every action under **Safer from Wildfires** will qualify you for an insurance discount.

By doing more, you can save more.

- Class A fire-rated roof
- 5-foot ember-resistant zone around the structure
- Noncombustible 6 inches at the bottom of walls
- Ember- and fire-resistant vents
- Double pane windows or added shutters
- Enclosed eaves
- Cleared vegetation and debris from under decks
- Move sheds and outbuildings at least 30 feet away
- Trim trees and remove brush in compliance with state and local defensible space laws
- Neighborhoods can form a Firewise USA community
- Cities, counties, and local districts can become certified as a Fire Risk Reduction Community

Scan to find more resources



How-to Prepare Your Home Checklist

Wildfire Prepared Home Base Designation

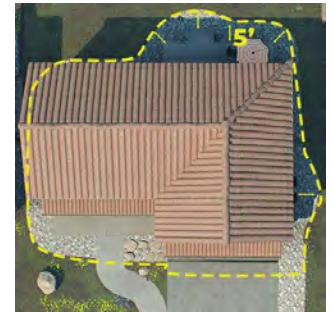
Typically achieved through retrofits to existing homes —This group of required actions includes creating a 5-foot noncombustible home buffer, preparing the home's exterior, and maintaining the deck/covered porch and yard. **To receive a designation certificate, your home must meet all requirements listed for this level.**

CREATE A 5-FOOT HOME BUFFER (0-5 FEET)**1. Create a 5-foot noncombustible buffer around your home and decks.**

- Remove ALL vegetation** and combustible ground covers such as wood mulch within 5 feet of your home. This means all bushes, grass/artificial turf, flowers, trees, succulents, etc., down to bare dirt or hardscape.
- Remove trees and trim branches that overhang the 5-foot area;** the home buffer extends to the sky. Don't forget your deck too.
- Install hardscape:** Clear the 5 feet around your home including decks/covered porches, under and around the stairs to bare dirt. You may also, use hardscapes such as gravel, pavers, river rocks, DG base, steppingstones, or concrete to create an attractive noncombustible buffer zone.
- Replace combustible (wood/vinyl) fencing, posts, and gates within 5 feet of the home** with a noncombustible fence, such as metal (aluminum, chain link, or iron) or concrete blocks.
- Remove vines** from the home, pergolas, fences, and within 5 feet.
- Clear and maintain the 5-foot noncombustible buffer area.**
 - Clear tree debris, weeds, leaves, and grass regularly.
 - Do not park or store any vehicles, boats, RVs, trailers, or ATVs within 5 feet of the home. Ideally, relocate these stored items in a closed garage or park them at least 30 feet away from the home.
 - Remove all combustible items such as firewood, potted plants, outdoor furniture, trash cans, pet houses, lawn tools, sheds, hot tubs, etc., from this zone.

5-foot Home Buffer Tips:

- Use a measuring tape from the base of the walls and deck to measure out to 5 feet. If you have a covered porch, it should be measured out to 5 feet from the cover, including vertical supports.
- Homeowners with less than 5-feet of setback will have to work with neighbor(s) to create and maintain the 5-foot buffer zone.



*During a wildfire, embers can travel miles ahead of a fire front and accumulate at the base of your home's exterior walls and within the first 5 feet. By implementing a **5-foot noncombustible buffer zone**, you significantly reduce the chances of your home being ignited by wildfire.*



***Wood and vinyl fences** when ignited can provide a pathway for fire to reach your home.*

PREPARE YOUR HOME'S EXTERIOR**2. Check and maintain your roof and gutters.**

- Clear all tree debris from your roof and gutters** regularly.
- Replace a wood shake/shingle roof** with a Class A fire-rated roof cover such as asphalt shingles, tile, slate, or metal. Barrel tile and some metal must also include bird stops at the edges, to prevent intrusion under the tile by birds or other wildlife.
- Replace plastic/vinyl gutters** and downspouts with metal.

3. Ensure a 6-inch vertical clearance on exterior walls.

- Ensure there is a minimum of **6 vertical inches** (measured from the ground up and from any attached horizontal surface like a deck) of noncombustible siding material around your home. This can include fiber-cement, brick, stone, stucco, or exposed concrete foundation. Additionally, metal flashing can be used above deck walking surfaces and posts.



***6-inch clearance:** Embers accumulate against homes at the base of exterior walls and on other horizontal surfaces like decks that can ignite the home.*

To apply for a designation certificate or learn more visit wildfireprepared.org.

4. Install ember-resistant vents.

- Install ember-resistant vents or cover all existing vents with 1/8-inch metal wire mesh.
- Ensure your dryer vent has working louvers or a flap to reduce ember entry. Due to its design and function, wire mesh should not be used on dryer vents.

Note: Plumbing vents are excluded from these requirements.

Vent Tips

- o Check your current vent mesh size using a golf tee or the tip of a pen. If the tee does not fit through the mesh openings, it is the correct size.
- o You can cover your current vents by installing the 1/8-inch metal mesh from the inside or outside.



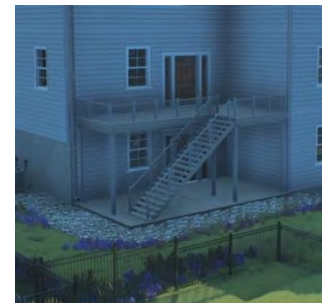
Wind-blown embers can enter your home through vents in your attic, roof, gables, and crawlspace and ignite materials inside.

MAINTAIN DECKS & YARD (5-30 FEET)

5. Clear and maintain decks and covered porches.

On the surface of a deck, patio, or under a covered porch:

- Clear all tree debris** regularly.
- Remove large rugs and combustible furniture** such as wood, wicker, or plastic. Use noncombustible cast aluminum or metal furniture instead.
- Ensure if you have **a few small items**, they can easily be moved inside on Red Flag days and keep them out of the 5-foot buffer.
 - o You may have up to 10 small, noncombustible terra cotta or ceramic planters with small flowers or plants; avoid woody vegetation or trees in the pots.
 - o You may have a few cushions and a small door mat.
- Remove combustible structures such as a pergola or gazebo from wood or composite decks.** You may replace it with a noncombustible material such as metal.
- Retrofit vinyl/wood pergolas within 30 feet with all the following:**
 - o **Place pergola on a noncombustible surface** and include the surrounding 5-foot noncombustible buffer.
 - o **Remove 50% of the slats or cover the roof with a Class A material** such as metal or asphalt shingles.
 - o **Install 6 inches of noncombustible siding material** to the bottom of the posts where they meet the ground. Materials can include metal flashing, concrete block, fiber cement siding, or stone/brick veneer.
- Remove all accessories from the structures** such as hanging plants, vines, and any curtains/drapes/ screens.
- Remove hot tubs** from underneath a covered porch and from combustible (wood or composite) decks. **Place hot tubs to at least 10 feet away** from the home if located on a noncombustible patio material such as stones, pavers, or concrete. Ensure it includes the surrounding 5-foot noncombustible buffer and 6 vertical inches of noncombustible material such as flashing.



Decks attached to or built near your home provide a path for fire to reach your home. Reducing or eliminating the vulnerabilities of a deck or porch—including items on top of or underneath—reduces the chance your

Note: Detached decks, covered porches, and pergolas within 30 feet of the home must meet the same requirements as attached decks.

Underneath the walking surface of a deck:

- Remove anything stored** under the deck or stairs.
- Remove all vegetation**—including grass or weeds—from under the deck and stairs.

To apply for a designation certificate or learn more visit wildfireprepared.org.

- ❑ **Install 6 inches of noncombustible siding material to the bottom of the posts** where they meet the ground.
- ❑ **Include a 5-foot noncombustible buffer** around deck and stairs.
- ❑ **Additionally, for decks with a walking surface at a height of 4 feet or less** from the ground, enclose the area underneath with one of the following:
 - Install 1/8-inch or finer metal wire mesh around the outer edge of the walking surface extending to the ground, **or**
 - Install a noncombustible wall covering.



For low decks, enclose the area underneath to keep debris and embers out which can easily ignite a deck from underneath.

6. Maintain the yard, trees, and structures from 5 to 30 feet.

- ❑ **Maintain the yard**
 - **Cut grass** to no more than 4 inches and keep watered.
 - **Routinely clear tree debris** such as leaves and pine needles.
 - **Remove dead vegetation**, including piles from pruning. **Firewood** should be stored 30 feet from any structures.
- ❑ **Trim trees**
 - **Remove tree limbs less than 6 feet** from the ground.
 - **Trim upper branches** of trees to ensure at least 10 feet of space between the canopies of neighboring trees.
- ❑ **Maintain shrubs**
 - Choose low-growing, fire-resistant plants.
 - **Relocate any shrubs located under or near trees.**
 - Keep low-growing shrubs **spaced apart or in small groupings** (no more than 3 shrubs or a maximum of 10 feet wide and 10 feet apart from other plantings) that will result in a discontinuous path of vegetation.
 - **Remove any privacy hedges or rows of bushes** that will create more fuel and a pathway for fire to reach your home.
- ❑ **Maintain structures within 30 feet of your home (i.e., sheds, hot tubs, pergolas, and playsets)**
 - **Place structures at least 10 feet away** from the home or any attached decks.
 - Create a **5-foot noncombustible buffer** around and under each structure.
 - **Clear all vegetation** such as vines growing on and tree branches overhanging these structures.
 - **Ensure there is a minimum of 6 vertical inches** (measured from the ground) of noncombustible siding material at the base of each structure or any horizontal surfaces, such as a hot tub, just as you would for your home. For an elevated structure like a shed, enclose the base with no larger than 1/8-inch or finer metal wire mesh.
 - **If you have multiple structures**, such as a shed, hot tub, and playset, ensure these structures are spaced at least 10 feet apart. Have at most 3 of these structures within 30 feet of your home.
 - **Move large stationary propane tanks to 30 feet away from the home.** If there is not an option to move the tank 30 feet from your home, it should be placed a minimum of 10 feet from the home and one of the following:
 - Buried underground.
 - Enclosed on all 4 sides with concrete block, 1/8-inch mesh over the top for ventilation, and 5-feet of noncombustible groundcover surrounding the structure.*

*This is a suggestion, retrofit in coordination with your propane provider.



Embers blown from miles away can easily start spot fires around your home. Creating and maintaining defensible space on your property will slow the spread of fire and reduce flame intensity near your home. By spacing out bushes and trees, you are removing ladder fuels that allow fire to spread and reducing the intensity of a fire near your home.

Note: Best practice is to place structures 30+ feet away from your home. To meet the Plus level designation, it is required to have all structures placed at least 30 feet from the home.



Brent Blackaby
Councilmember District 6

CONSENT CALENDAR
April 15, 2025

To: Honorable Mayor and Members of the City Council
From: Councilmember Blackaby (Author)
Subject: Resolution: Affirming Support for Berkeley Police Department, Police Accountability Board, and Office of the Director of Police Accountability in Response to Downtown Task Force Texting Offenses Investigation

RECOMMENDATION

Adopt a Resolution affirming our community's support for the Berkeley Police Department (BPD) and acknowledging the work of the Police Accountability Board (PAB) & the Office of the Director of Police Accountability (ODPA) in investigating BPD's Downtown Task Force texting offenses, ultimately making recommendations to increase trust, transparency, and accountability. Additionally, the Resolution condemns any and all racism and misconduct, affirms the City Council's opposition to arrest quotas, and asks the California Legislature to extend the prohibition on arrest quotas, which are currently limited to the California Vehicle Code.

FINANCIAL IMPLICATIONS

None

CURRENT SITUATION AND ITS EFFECTS

Council's Public Safety Policy Committee reviewed Item #3: *Berkeley Police Department Texting Offenses: An Independent Investigation by the Police Accountability Board* at its February 25, 2025 meeting and voted to return it to Council with a negative recommendation.

Instead, this resolution serves to acknowledge the importance of the Police Accountability Board and the Director of Police Accountability and the critical role they play in ensuring the Berkeley Police Department's accountability to the community as well as identifying & resolving policy or personnel issues as they occur. Berkeley has been a leader in police accountability, and that is a history to honor. The resolution also affirms our confidence in BPD, PAB, and ODPA.

The City of Berkeley condemns any and all racism and misconduct. Misconduct of any kind—whether on-duty or off-duty—is unacceptable behavior from anyone in our community, particularly from those who are sworn to protect vulnerable populations. This is especially true regarding racial, economic, or other types of bias.

BACKGROUND

The Police Accountability Board (PAB) submitted a report on the Downtown Task Force Texting Offenses Investigation for the City Council's October 1, 2024 agenda, which the Agenda Committee referred to the Public Safety Policy Committee (PSPC). The item was withdrawn from the PSPC as requested by a PAB vote during their September 25, 2024 meeting. The Office of the Director of Police Accountability and the Police Accountability Board submitted a new report for the January 21, 2025 Council Meeting. The Agenda and Rules Policy Committee referred the item to the Public Safety Policy Committee. The PSPC heard the item on February 25, 2025.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None

CONTACT PERSON

Councilmember Brent Blackaby Council District 6 510-981-7160

Attachments:

1: Resolution

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

AFFIRMING SUPPORT FOR BERKELEY POLICE DEPARTMENT, POLICE
ACCOUNTABILITY BOARD, AND OFFICE OF THE DIRECTOR OF POLICE
ACCOUNTABILITY IN RESPONSE TO DOWNTOWN TASK FORCE TEXTING
OFFENSES INVESTIGATION

WHEREAS, community safety is best served when the Berkeley Police Department (BPD), the Police Accountability Board (PAB), and the Office of the Director of Police Accountability (ODPA) are all operating at their best; and

WHEREAS, we have full confidence in the Berkeley Police Department and Chief Louis and are proud of the work of our Department and its dedication to keeping the community safe; and

WHEREAS, citizen oversight plays a critical role in ensuring BPD's accountability to the community and identifying & resolving policy or personnel issues as they occur. Through the PAB, ODPA, and previously the Police Review Commission (PRC), Berkeley has long been a leader in police accountability; and

WHEREAS, the PAB and ODPA contributed countless hours of work to the investigation of texting offenses in BPD's Downtown Task Force that occurred between 2019 and 2020 and became public in November 2022, making thoughtful recommendations to mitigate future instances of potential misconduct. Reading the text messages identified instances of racial insensitivity and poor judgment, highlighting the need for increased awareness and sensitivity to issues of race and inclusion; and

WHEREAS, whether on-duty or off-duty, misconduct of any kind is unacceptable behavior for our Police Officers. This is especially true with regard to racial, economic, or other types of bias; and

WHEREAS, we are grateful that BPD and PAB are working together with the Berkeley Police Association (BPA) to implement an Early Intervention System that will help identify personnel concerns, stresses, or challenges much earlier, before they materialize into misconduct or other problems in our community; and

WHEREAS, the City encourages BPD and PAB to work together through their existing collaborative process to make any needed changes to existing BPD policies on the use of personal communications devices, off-duty conduct, traffic function and responsibility and other important areas.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that we encourage the Berkeley Police Department, the Police Accountability Board, and the Office of the Director of Police Accountability to continue to work together in good faith in order to keep our community safe. The successful missions of each of these organizations are essential to maintaining the trust of all Berkeley residents.

BE IT FURTHER RESOLVED that the Berkeley City Council has full confidence in Berkeley's Police Accountability Board, the Office of the Director of Police Accountability, and the Berkeley Police Department.

BE IT FURTHER RESOLVED that the Berkeley City Council affirms the PAB's ability to access relevant information to conduct specific investigations, under authority granted by the Charter. The particular types of documents that should be accessible during different types of investigations (i.e., personnel misconduct, policy reviews, policy & practice reviews) are necessarily limited by state law and due process considerations. Therefore, we urge the PAB, OPDA, and BPD to adopt their final regulations as expeditiously as possible, after completing the "meet and confer" process with the BPA, to clarify how investigations will be conducted with appropriate information provided by BPD.

BE IT FURTHER RESOLVED that the Berkeley City Council condemns any and all racism and misconduct.

BE IT FURTHER RESOLVED that the Berkeley City Council affirms its strong opposition to arrest quotas and supports BPD's existing practice against using arrest quotas.

BE IT FURTHER RESOLVED that the Berkeley City Council urges the California State Legislature to extend the prohibition on arrest quotas, which are currently limited to the California Vehicle Code (Section 41600-41603) to all types of arrests in California.



Kate Harrison
Councilmember, District 4

ACTION CALENDAR
October 15, 2024

To: Honorable Members of the City Council

From: Councilmember Harrison

Subject: Resolution: Opposition to Police Brutality and Use of Force on Nonviolent Protesters

RECOMMENDATION

Adopt a Resolution reaffirming the City of Berkeley's opposition to and condemning police brutality towards nonviolent protesters and discouraging use of "less-lethal" weapons for crowd control.

POLICY COMMITTEE RECOMMENDATION

No final action was taken by the Public Safety Committee. Item is automatically returning to the Council agenda pursuant to the time limit for items referred to policy committees.

BACKGROUND

The City of Berkeley has a long and storied history of nonviolent protest and civil disobedience. Unfortunately, that history is coupled with one of police brutality directed at nonviolent protesters. The most infamous example of police brutality in Berkeley occurred on "Bloody Thursday" in 1969 when James Rector was murdered by the Alameda County Sheriff force and a National Guard helicopter sprayed CS (tear gas) on thousands of protesters shortly following the founding of People's Park and deputies shot birdshot and buckshot at demonstrators.

While CS gas and pepper spray are both banned in warfare by international law, police in the United States commonly use them for crowd control purposes. On June 9, 2020, the City Council unanimously passed a motion to prohibit the use of CS gas by the Berkeley Police Departments or by any agency called for mutual aid in Berkeley.¹ This motion also prohibited the use of pepper spray and smoke by the Berkeley Police Department and by any agency called for mutual aid response in Berkeley, during the

¹ <https://berkeleyca.gov/sites/default/files/city-council-meetings/06-09%20Annotated%20Agenda%204pm.pdf>

COVID-19 pandemic and until such time that the City Council removes this prohibition.² The City's recent suspension of the local COVID emergency does not mean that the COVID-19 pandemic is over, nor does it overturn the Council's 2020 pepper spray and smoke prohibition policy.

Other devices can also harm people. LRADs, or Long-Range Acoustic Devices, have dire consequences for the protesters and bystanders who are exposed to them. According to the Berkeley Police Department's 2022 Police Equipment and Community Safety Annual Report, BPD currently has two LRADs in its possession. Use of LRADs in crowd control situations can be dangerous according to Physicians for Human Rights, and the City of Berkeley regulates their use. LRADs are "capable of causing not only permanent hearing loss, but also migraine, vestibular, and other auditory symptoms" and emit decibels up to 162 dB SPL (sound pressure level), exponentially higher than jet engines at 130 dB SPL, as decibel levels increase exponentially.³

Batons are commonly used by police to brutalize protesters, and recent legislation strongly restricts their use by the Berkeley Police Department. Under international law, "batons must never be used as a means of punishment, to disperse peaceful protests, or against people who are already restrained."⁴ Yet batons were used by police forces across the United States to disperse peaceful protests during the Black Lives Matter protests of 2020, for example. During Berkeley Black Lives Matter protests in December of 2014, police forces used CS gas, blast rounds, and harmed protesters with batons to force crowds to disperse—which led to a successful civil rights lawsuit against the city.⁵

As a result, the City now is required to apply standards when less lethal weapons are used in a crowd using a standard closer to the lethal force standard. In addition, the policy requires BPD personnel to have a clear shot at an allegedly violent target to prevent injury to others, expansive use of force reporting, implementation of body worn cameras, cite and release provisions, crowd liaisons, and prohibitions on skirmish lines advancing rapidly into a crowd. Berkeley has to live up to its commitments, and other jurisdictions must adopt similar policies.

So-called less-lethal or "kinetic impact" projectiles, including rubber bullets, are used by police forces across the country against nonviolent protesters, and their use should be strongly restricted. According to Amnesty International, "there has been an alarming increase in eye injuries, including eyeball ruptures, retinal detachments and the

²<https://records.cityofberkeley.info/PublicAccess/api/Document/AfRL%C3%89LmUm28As5bQtd10Au1FOSJlk1QHHaoDvg0JDhYupGbecgfU%C3%89KphfxL4BQWn%C3%81GtBMi8Z0%C3%81w8NXdky5pxceo%3D/>

³ <https://www.asha.org/news/2020/long-range-acoustic-devices-for-crowd-control-can-cause-serious-hearing-loss-and-harm/>

⁴ <https://www.amnesty.org/en/latest/news/2022/06/global-20-rules-for-ending-widespread-misuse-of-police-batons/>

⁵ <https://www.berkeleyside.org/2015/06/11/police-report-mistakes-challenges-in-berkeley-protests>

complete loss of sight, as well as bone and skull fractures, brain injuries, the rupture of internal organs and hemorrhaging, punctured hearts and lungs from broken ribs, damage to genitalia, and psychological trauma” by less-lethal munitions.⁶ These weapons also include hard foam, rubberized buckshot, and CS gas. Amnesty International also states that “at least 53 people died from projectiles fired by security forces, according to a peer-reviewed study based on medical literature worldwide between 1990 and June 2017. It also concluded that 300 of the 1,984 people injured suffered permanent disability.” All less-lethal munitions can still be lethal, and should not be used for crowd control in Berkeley by UCPD or mutual aid agencies.

Finally, the practice of corralling, or “kettling,” can pose severe dangers to nonviolent and peaceful protesters. When police corral protesters in a confined space, there is nowhere to go if police begin to use force against protesters. As nonviolent and peaceful protesters are corralled into the same confined and potentially dangerous space, protesters may become victims of excessive police force more easily. Beyond the inability to escape police use of force, corralled protesters are put in a plainly frightening situation that may cause immense psychological distress. Importantly, even if police are focused on certain protesters, kettling places all protesters, including nonviolent and peaceful protesters, into the same confined and dangerous space. The City of Berkeley should strongly discourage any police departments responding to civil disobedience and protest in Berkeley from utilizing this strategy for crowd control.

“Less-lethal,” which is often erroneously described as “less-than-lethal,” is only relatively so. It can maim and even kill. It is known to have a disproportionate impact on persons with both physical disabilities and mental challenges. CS can be very detrimental to persons with asthma, COVID-19 or other respiratory diseases. Crowd control is a dynamic setting, and officers’ ability for precise shots is greatly impaired. The chances of hitting the intended individual with a projectile are low, and of hitting uninvolved protesters is high. Chemical munitions by their nature affect large numbers of people and even spread far beyond the immediate area. BPD Chief Meehan confirmed this in a *Berkeleyside* account from June 11, 2015:

“Chief Meehan noted that, even when an officer is focused on an individual, the projectile does not always find its mark due to the unpredictable movements of a crowd. A similar explanation was provided regarding baton strikes. Police said they are trained to avoid areas such as the head and neck, but that blows don’t always land in the right place because subjects move.”⁷

⁶ <https://www.amnesty.org/en/latest/news/2023/03/global-dozens-killed-and-thousands-maimed-by-police-misuse-of-rubber-bullets/#:~:text=There%20has%20been%20an%20alarming,damage%20to%20genitalia%2C%20and%20psychological>

⁷ <https://www.berkeleyside.org/2015/06/11/police-report-mistakes-challenges-in-berkeley-protests>

Use of less-lethal weapons in an indiscriminate manner against a demonstration that is non-violent, or even mixed, is a denial of First Amendment rights to free speech and assembly. In fact, it is tantamount to collective punishment, a denial of due process.

In September of 2021, Governor Gavin Newsom signed AB 48, which restricts police departments use of kinetic energy projectiles and chemical agents to disperse any assembly, protest, or demonstration, and AB 481, which requires law enforcement agencies to obtain approval of military equipment. While these laws restrict the use of “less-lethal” munitions California law enforcement agencies, they also do not preclude municipalities from adopting more stringent policies or reaffirming their opposition to their use on nonviolent protesters.

This subject is of particular concern because the University of California is currently awaiting a decision by the Supreme Court in *Make UC a Good Neighbor v. The Regents of University of California* that could allow the University to begin building housing there, with resulting protests a likely outcome. On September 19, 2023, the City of Berkeley adopted a resolution authorizing the City Attorney to submit an amicus brief in support of the University of California Regents, defending the University’s proposed development of People’s Park. It is important that the Berkeley City Council immediately adopt a resolution denouncing the use of “less-lethal” devices and any police brutality against nonviolent protesters in Berkeley from any agencies and police departments, whether or not our police department participates in enforcement actions.

FISCAL IMPACTS OF RECOMMENDATION

Following Berkeley’s policies on crowd control will reduce the need for resource-intensive and expensive paramedic and medical care for injured protestors.

ENVIRONMENTAL SUSTAINABILITY

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

ATTACHMENTS

1: Resolution

RESOLUTION NO. XXXX-N.S.

REAFFIRMING OPPOSITION TO AND CONDEMNING POLICE BRUTALITY
TOWARDS NONVIOLENT PROTESTERS AND DISCOURAGING USE OF “LESS-
LETHAL” WEAPONS FOR CROWD CONTROL

WHEREAS, Berkeley’s Southside neighborhood has historically been the site of violent police use of force and brutality towards protesting students and community members, most famously during “Bloody Thursday” in 1969 where the Alameda County Sheriff force murdered James Rector and a National Guard helicopter sprayed CS (tear gas) on thousands of protesters shortly following the founding of People’s Park; and

WHEREAS, the Chemical Weapons Convention and Geneva Convention prohibit CS gas and pepper spray in warfare; and

WHEREAS, the State of California recently enacted AB 481⁸ and AB 48,⁹ which demilitarize and regulate police departments’ acquisition and use of projectiles, chemical weapons, military equipment, and others, and protect protesters’ First and Fourth Amendment rights; and

WHEREAS, on April 27, 2021, the Berkeley City Council unanimously passed an ordinance to oversee and make transparent militarized police equipment used for crowd control and SWAT operations; and

WHEREAS, Berkeley Police Department’s 2022 Police Equipment and Community Safety Annual Report provided an inventory of reportable equipment, including 20 Less Lethal single 40MM launchers, 2 Less Lethal Milkor LTL 40 MM multi-launchers, 724 associated 40mm rounds, 8 Less Lethal FN 303 Launchers, 5,445 associated FN rounds, 190 Oleoresin capsicum (OC spray), 204 Chlorobenzylidene Malononitrile and Oleoresin capsicum, 2 Long Range Acoustic Devices, and 195 36’ batons; and

WHEREAS, on June 9, 2020,¹⁰ the Berkeley City Council unanimously voted to prohibit the use of CS gas by the Berkeley Police Department or any outside department or agency called to respond to mutual aid in Berkeley and of pepper spray or smoke for crowd control by the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, during the COVID-19 pandemic and beyond; and

WHEREAS, the University of California’s University-wide Police Policies and Procedures¹¹ allow the University of California Police Department to apply intermediate force, including batons, tasers, pepper spray, chemical agents (such as CS gas), and

⁸ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB481.

⁹ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB48.

¹⁰ <https://berkeleyca.gov/sites/default/files/city-council-meetings/06-09%20Annotated%20Agenda%204pm.pdf>.

¹¹ <https://ucnet.universityofcalifornia.edu/tools-and-services/administrators/policies/proposed/police-procedures-manual.pdf>.

rubber bullets, on nonviolent protesters displaying active resistance, which is defined as intentionally and unlawfully opposing the lawful order of a peace officer in a physical manner; and

WHEREAS, on August 3, 2022, UC Berkeley police forces in riot gear confronted protesters,¹² arrested students and community members participating in civil disobedience, and allegedly forcibly shoved nonviolent defenders of the park, resulting in severe injuries;¹³ and

WHEREAS, following the conflict on August 3, 2022, police forces retreated and UC Berkeley declared construction paused indefinitely; and

WHEREAS, on August 3, 2022, the Berkeley City Council called for a special meeting on August 4th, 2022 to discuss and consider the temporary suspension of the June 9, 2020 policy prohibiting the use of CS gas, smoke, and pepper spray for the duration of the City Council recess following pressure from the Alameda County Sheriff, and then canceled it on August 4, 2022 following public outrage; and

WHEREAS, in 2020, 84% of Berkeley voters¹⁴ approved amending the city charter to establish an independent police accountability board and director to provide oversight of local law enforcement, pointing to the public's desire for police reform; and

WHEREAS, violent, less-lethal forms of crowd control used by BPD, UCPD or mutual aid agencies, include but are not limited to Long Range Acoustic Devices, plastic and rubber bullets, hard foam, batons, corralling, launch projectiles, and Active Denial Systems; and¹⁵

WHEREAS, less-lethal weapons and tactics deployed in crowd control have disproportionate impacts on persons with both physical disabilities and mental challenges, can have detrimental impacts to persons with asthma, COVID-19 or other respiratory diseases; and

WHEREAS, less-lethal crowd control is a dynamic operation in which officers' ability for precise shots is greatly impaired and the chances of hitting the intended individual with a projectile are low, and of hitting uninvolved protesters is high; and

WHEREAS, chemical munitions by their nature affect large numbers of people and even spread far beyond the immediate area; and

¹² <https://www.berkeleyside.org/2022/08/03/uc-berkeley-fences-off-peoples-park-begins-construction-process>.

¹³ https://www.instagram.com/p/ChYn3ZYrU9j/?img_index=2.

¹⁴ [https://ballotpedia.org/Berkeley,_California,_Measure_II,_Police_Accountability_Charter_Amendment_\(November_2020\)](https://ballotpedia.org/Berkeley,_California,_Measure_II,_Police_Accountability_Charter_Amendment_(November_2020)).

¹⁵ <https://news.berkeley.edu/2020/06/05/are-crowd-control-weapons-dangerous-very-says-uc-berkeley-expert>.

WHEREAS, use of less-lethal weapons or tactics in an indiscriminate manner against a demonstration that is non-violent, or even mixed, is a denial of First Amendment rights to free speech and assembly, and is tantamount to collective punishment, and a denial of due process.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley reaffirms its objection to and denounces any and all police brutality and use of force against nonviolent protesters, including those participating in nonviolent civil disobedience.

BE IT FURTHER AND FINALLY RESOLVED that the Council of the City of Berkeley strongly urges the University of California Police Department and any outside departments or agencies called to respond to mutual aid in Berkeley against using “less-lethal” weapons and tactics—including but not limited to CS gas, pepper spray, smoke, Long-Range Acoustic Devices, batons, rubber bullets, launched projectiles, and corralling—against nonviolent protesters, including those participating in nonviolent civil disobedience.



Berkeley Police Department Memorandum



From: Chief Jen Louis

Date: 2/18/2025

To: Berkeley City Council Public Safety Policy Committee

Subject: Berkeley Police Department Response to the Police Accountability Board's 2024 Fair and Impartial Policing Implementation Report

On February 23, 2021, City Council approved recommendations submitted by then-Mayor Arreguin's Fair and Impartial Policing taskforce. Since that decision, the department began reporting quarterly to Council, offering detailed updates as recommendations advanced from initial planning to completion. Today, we provide substantial, near real-time data on our FIP efforts through the Transparency Hub and deliver a comprehensive account in our annual report. The Department is proud to have fully implemented the fourteens recommendations assigned by Council. Our commitment to transparent, fair, and impartial public safety remains unwavering.

This correspondence serves as a formal response to the Public Safety Policy Committee regarding the PAB's 2024 FIP Implementation Report. Please note that we submitted a direct response to both the Director of Police Accountability (DPA) and PAB when we first received the report in April 2024. We appreciate the opportunity to clarify our progress and address specific recommendations as we continue our work to ensure that policing in Berkeley remains fair, equitable, and effective.

Below is a detailed response organized by the categories of recommendations:

Recommendations to the Berkeley Police Department

Three-Prong Approach to Traffic Safety

PAB Recommendation:

- Adopt a definition of low-level traffic infractions consistent with SB 50.
- Specify the mode of the party at fault within the Primary Collision Factors prong.
- Define which unsafe driving calls merit a police response based on the fact that 13% of community calls result in a citation or arrest.
- Provide more concrete guidelines for the Community Caretaking prong, rooted in local data about severe collisions—or eliminate it if it remains too vague.
- Include data in future updates showing whether this approach reduces low-level stops and narrows racial disparities.

BPD Response:

Since implementing our Three-Pronged Traffic Enforcement model, we have decreased equipment violation stops by 21% between 2022 and 2023 and reduced disparities in all discretionary vehicle stops. Notably, the percentage of discretionary equipment violation stops involving Black individuals has declined from 29.49% in 2021 to 20.93% in 2023. While we remain open to future adjustments, we believe that our data-driven approach merits continued evaluation over time as we collect further evidence on its impact.



Berkeley Police Department Memorandum



Evidence-Based Definition for Stops of Criminal Suspects

PAB Recommendation:

- Establish an evidence-based definition for stops of criminal suspects and explain how precision-based policing, feedback loops, and accountability measures support this goal.

BPD Response:

Our department has long maintained that stops occur only when there is reasonable suspicion that a crime has been committed—a standard that is essential to protecting constitutional rights and maintaining public trust. We utilize precision-based policing by directing resources to high-need areas identified via crime trend analysis, coupled with robust feedback loops and regular reviews. This continuous, evidence-driven process ensures that our stops of criminal suspects, as well as traffic stops under our three-prong approach, adhere to the highest legal and ethical standards.

Enhanced Implicit Bias Training

PAB Recommendation:

- Ensure that BPD personnel receive intensive annual training dedicated to implicit bias.

BPD Response:

BPD continues to exceed the Council's directives through our comprehensive "KIND" training program, which integrates principles of Constitutional, Humane, Impartial, Neighborhood and Community Oriented, and DEI-Centered responses into all facets of officer training—from tactics and de-escalation to communication. Our policies also mandate strict accountability for any biased conduct. We remain committed to fostering a work environment that minimizes bias and upholds public trust.

Early Intervention System (EIS)

PAB Recommendation:

- Focus EIS audits on officers with notable racial disparity indicators, assign a PAB observer, and ensure transparent audit findings.

BPD Response:

BPD is actively collaborating with both the PAB and the Berkeley Police Association on the procurement and implementation of a state-of-the-art Early Intervention System developed by Benchmark Analytics. In February 2025, the department finalized a contract with Benchmark and began implementation. The system will continuously monitor 91 officer/incident variables—including incident context, sequence of events, behavioral patterns, and peer comparisons—to provide a nuanced assessment of officer performance. We look forward to refining our practices in consultation with PAB experts as this system is integrated.



Berkeley Police Department Memorandum



Written Consent Searches

PAB Recommendation:

- Include in future FIP updates the number of consent searches and their effects on racial disparities.

BPD Response:

This recommendation has been fulfilled. Our current reporting on the Transparency Hub's dashboards and open data portal as well as in our Annual Report includes data on consent searches. Academic standards favor yield rate ratios as a more appropriate measure for evaluating biased decision-making. Accordingly, we do not plan to expand our reporting on this item further.

Warrantless Searches of People on Supervised Release

PAB Recommendation:

- Report on changes in search and arrest rates for individuals on supervised release under Policy 311.6, including any racial disparities.

BPD Response:

This recommendation is already fulfilled. Data on parole/probation searches is tracked and publicly available as part of our RIPA stop data that we publish and update daily on the Transparency Hub. No additional reporting is planned on this matter.

Profiling by Proxy

PAB Recommendation:

- Provide details on dispatcher guidance regarding profiling by proxy and evidence that these protocols have curtailed racial bias in responses.

BPD Response:

Our existing protocols as documented in the Communications Center Operations Manual and Policies 401 and 1105.5 address profiling by proxy. Given that it is generally impossible to discern the race of a 911 caller in most scenarios, the overall departmental training efforts related to implicit bias and other KIND training, we do not anticipate expanding training or protocols on this topic.

Business Cards

PAB Recommendation:

- Ensure that business cards are distributed as mandated by the Council directive.

BPD Response:

This recommendation has been fulfilled. Business cards containing information on how to submit a complaint and other relevant resources are in active circulation.



Berkeley Police Department Memorandum



[RAHEEM.org](https://raheem.org)

PAB Recommendation:

- Make resources on police-civilian encounters publicly available on the department's website, directly the public to a platform such as RAHEEM.org.

BPD Response:

The Department completed this recommendation early in the implementation process, providing a direct link on our City of Berkeley webpage [Make a Commendation or Complaint | City of Berkeley](#) to the American Civil Liberties Union (ACLU) page [Know Your Rights | Stopped by Police | ACLU](#)

The decision was intentional, to link to an organization that is internationally recognized, that has been in existence since the 1920's, and is made up of "more than 1.1 million members, 500 staff attorneys, thousands of volunteer attorneys, and offices throughout the nation, the ACLU of today continues to fight government abuse and to vigorously defend individual freedoms including speech and religion, a woman's right to choose, the right to due process, citizens' rights to privacy and much more."

While we appreciate the continued suggestion of RAHEEM.org, that organization has been discredited as a fraudulent site (as noted in a number of New York Times articles, with the first appearing on August 25, 2024, as well as a November 2025 Washington Post article on the DC attorney general's office lawsuit for fraud).

Information on submitting complaints is printed on our business cards and is also prominently posted on the city's website at multiple locations.

Additional Considerations

We would like to reiterate that BPD has fulfilled all 14 FIP recommendations that were assigned to the department. These reforms have involved significant policy changes, resulting in fewer stops, balanced search yields, and ongoing updates on our Transparency Hub. Although the PAB report restates several recommendations, we note that many proposed measures—such as additional data collection (e.g., the race of 911 callers) and direct oversight of training—exceed the PAB's stated Charter direction or rely on data that is not feasibly collectible.

Our reforms rest on robust data collection and continuous evaluation and ensure that our practices maintain the highest legal and ethical standards. Our training needs are continuously driven by legal mandates, timely legal updates, data analysis, audits, and early intervention efforts. These mechanisms ensure that we are providing training exactly where it is needed. Currently, our assessments show that our existing training adequately addresses these standards and no additional training measures regarding stay-away orders are warranted at this time. For instance, nearly every officer has completed a 40-hour Crisis Intervention Training course, and our Annual Report already provides evidence-based metrics on implicit bias and racial disparities.

Furthermore, while the report acknowledges external factors driving racial disparities, it continues to hold BPD fully accountable for outcomes influenced by broader social issues. We believe a collaborative approach that recognizes both department-level initiatives (such as our new Early Intervention System and rigorous evidence-based analyses of officer behavior) and the larger social context is necessary to achieve lasting change.



Berkeley Police Department Memorandum



Conclusion

The Berkeley Police Department remains fully committed to fair and impartial policing. We value our ongoing collaboration with the Police Accountability Board and the Public Safety Policy Committee. Our reforms—ranging from the Three-Pronged Traffic Enforcement model to comprehensive KIND training and the upcoming Early Intervention System—demonstrate our dedication to continuous improvement and community trust.

Thank you for the opportunity to provide this follow-up response. We look forward to continued dialogue and collaboration to ensure that Berkeley's policing reflects our shared commitment to justice and equity.

Cc:

Paul Buddenhagen, City Manager

Hansel Aguilar, Director of Police Accountability

Josh Cayetano, Police Accountability Board Chair

Mark Numainville, City Clerk



ACTION CALENDAR

February 11, 2025

To: Honorable Mayor and Members of the City Council
From: Police Accountability Board
Submitted by: Hansel A. Aguilar, Director of Police Accountability
Subject: Police Accountability Board Report: Fair and Impartial Policing Implementation

RECOMMENDATION

Approve the following recommendations and instruct the Berkeley Police Department (BPD) and Police Accountability Board (PAB) to proceed with their implementation:

Recommendations to the Berkeley Police Department

1. Three-prong approach.
 - a. Definition of Low-Level Traffic Infractions: A definition consistent with SB 50 should be adopted.
 - b. Primary Collision Factors: This prong should specify the mode of the party at fault.
 - c. Community Reports: Under the category of "a variety of unsafe driving incidents," policies should be put in place that specify which calls for service will result in law enforcement action. That specification should be derived from an analysis of the 13% of calls from community members that resulted in a citation or arrest, as per the City Auditor's July 2021 report.
 - d. Community Caretaking: This prong needs more specificity, and its components should be based on Berkeley data rather than national statistics, as is done for Prong 1 (Primary Collision Factors). Specifically, the analysis should examine which other factors (non-PCFs) are highly associated with severe and fatal collisions in Berkeley. The open-ended quality of this prong may contribute to more non-safety-related stops than is called for in the Council directive. If more specificity is not possible or feasible, this prong should be eliminated.
 - e. Reporting: Future BPD updates on FIP implementation should include statistical information enabling an analysis of the impact of the three-prong approach on reducing or eliminating stops for low-level offenses—a primary

- focus of the Council directive—in a manner that supports an overall assessment and an understanding of the approach's impact on reducing racial disparities in traffic stops.
2. Evidence-based definition for stops of criminal suspects:
 - a. Establish an evidence-based definition for stops of criminal suspects.
 - b. Explain how precision-based policing, feedback loops, and accountability measures referenced in BPD FIP implementation updates relate to this recommendation and addresses the directive to establish an evidence-based definition for stopping criminal suspects.
 3. Enhanced implicit bias training: Per the Council's directive, ensure that BPD personnel receive intensive annual training dedicated to implicit bias.
 4. EIS: Pending the deployment of a new Early Intervention and Risk Management system, EIS audits should be focused on officers who are outliers on the variables stipulated in the Department's EIS, with a particular focus on racial disparities in stops, arrests, and searches. A designated PAB Member should serve as an observer in this process, as has been informally agreed to. Future audit reports should include the scope of what was reviewed and a clear statement of findings within the confines of officer confidentiality.
 5. Written consent searches: Future reporting to the council should include the number of consent searches conducted per reporting period and their effect on racial disparities in searches, compared to consent search numbers before implementation.
 6. Warrantless searches of people on supervised release: Future FIP updates should identify the impact of the new BPD Policy 311.6 on the numbers of searches and arrests of people on probation and parole and the racial disparities in them.
 7. Profiling by proxy: Future BPD updates should specify what instructions dispatchers are given on profiling by proxy, and any impact the instruction and corresponding Communications Manual amendments have had on racial disparities in departmental response to calls for service.
 8. Business cards: Ensure that business cards are distributed as mandated by the Council directive.
 9. Make resources on police-civilian encounters publicly available, such as through RAHEEM.org.

Recommendations to the Police Accountability Board

1. Scenario-based training: The 2021 Council specifically referred to the PAB oversight of the implementation of a scenario-based training component in the existing officer training required by the California Penal Code. This topic will be agendaized for discussion at a future PAB meeting, including the appropriateness of, and ability of the PAB to oversee departmental training.
2. Crisis Intervention Team (CIT): The 2021 Council item refers to the PAB accelerating CIT activity. This will be discussed in future PAB meetings.

Recommendations to the Berkeley City Council

1. Establish metrics to assess the success of implementing FIP directives. Currently, the BPD appears to be focused entirely on policy, and on tests of bias, as evidenced in its recently published Annual Report. The PAB has focused instead on outcomes, addressing the key question of whether racial disparities have decreased in any of the areas subject to FIP directives.
2. Eliminate reporting requirements for recommendations that the PAB ascertains have been fully implemented.
3. Require BPD to report biannually on:
 - a. Traffic stops by each prong of their 3-prong framework and by race within each prong.
 - b. Stop, search, and arrest data by probation/parole status and race.
 - c. Calls for service by the race of the reporter and reportee.

SUMMARY

This report formally assesses the Berkeley Police Department's (BPD) progress in implementing the Fair and Impartial Policing (FIP) directives adopted by the Berkeley City Council in February 2021. The Mayor's Working Group developed these directives on Fair and Impartial Policing following two years of consultations with experts and BPD representatives. The directives were established in response to findings in the 2018 Center for Policing Equity (CPE) report, which identified significant racial disparities in BPD's stops, arrests, and searches, particularly affecting Black and Latino/a individuals.

The report includes an analysis of BPD's efforts to implement the FIP policies, focusing on whether these efforts have successfully reduced racial disparities in policing practices. It acknowledges the BPD's progress in certain areas, such as a slight reduction in racial disparities in vehicle stops. Still, it highlights concern regarding the increase in disparities in pedestrian stops and the ongoing pronounced disparities in arrests and searches.

The PAB initially submitted this report to the City Council for presentation at the October 15, 2024 Regular Meeting. During the PAB meeting on September 25, 2024, the PAB voted to request the withdrawal of the item¹, a request that was granted by the Agenda and Rules Committee on September 30, 2024.² Notable findings of this report include, but are not limited to:

¹ The motion carried with 6 ayes in favor, 0 noes, and 2 PAB members absent. Police Accountability Board Regular Meeting Minutes for September 25, 2024: [link]

² Berkeley City Council Agenda and Rules Committee Special Meeting Minutes for September 30, 2024: <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/09-30%20Minutes%20-%20Agenda%20Committee.pdf>

- The BPD has completed the implementation of some FIP Council directives, establishing implementation programs for others, and appears not to have begun implementing some directives.
- Racial disparities in vehicle stops by the BPD have decreased slightly since the CPE report but remain high.
- Racial disparities in pedestrian stops have substantially increased.
- Racial disparities in arrests and searches remain pronounced.
- Consent searches have decreased, but racial disparities in consent searches remain high.
- The percentage of stops for equipment and other non-safety-related infractions declined from 24.8% of all traffic stops in 2022 to 19% in 2023.
- A full Early Intervention and Risk Management System is in the very early stages.
- Enhanced implicit bias training has not yet begun.

Recommendations include, but are not limited to:

- The BPD's quarterly reports on the implementation of FIP should focus on policy modifications and outcomes, specifically whether and how those policy reforms have impacted racial disparities.
- The three-pronged approach to traffic enforcement should be reviewed and further oriented towards reducing low-level, non-safety-related stops.
- As per the Council's FIP directive, annual enhanced implicit bias training should be institutionalized.
- A full Early Intervention and Risk Management System should be adopted as soon as possible. In the meantime, random audits of officers should be replaced with targeted audits of "outliers."
- Full accountability must be ensured for officers whose speech or behavior demonstrates racial animus or other bias and "damages the mission" of the Berkeley Police Department.

FISCAL IMPACTS OF RECOMMENDATION

Implementing the PAB's recommendations will incur costs related to staff time, technology requirements, and maintenance of such technology.

CURRENT SITUATION AND ITS EFFECTS

On February 23, 2021, the Berkeley City Council unanimously approved a set of policy recommendations submitted by the Mayor's Working Group on Fair and Impartial Policing (FIP). As part of this decision, the Police Review Commission (PRC) and its successor, the Police Accountability Board (PAB), were tasked with monitoring and evaluating the Berkeley Police Department's (BPD) implementation of FIP directives. These directives require the BPD to provide quarterly updates to the City Council on the progress of their implementation. To comply with the Council Directive, the Police Accountability Board established a subcommittee on August 4, 2021, to monitor the progress of these reports.

BACKGROUND

The purpose of the PAB is to promote public trust through independent, objective civilian oversight of the Berkeley Police Department, provide community participation in setting and reviewing Police Department policies, practices, and procedures, and offer a means for prompt, impartial, and fair investigations of complaints brought by members of the public against sworn employees of the Berkeley Police Department.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

The PAB presents these recommendations to the BPD, the PAB, and the City Council, aiming to enhance the progress made in implementing the FIP recommendations, ensure that all directives are fully addressed, and set the expectation that future BPD updates include an analysis of racial disparity outcomes.

CONTACT PERSON

Hansel A. Aguilar, Director of Police Accountability,

Office of the Director of Police Accountability (510) 981-4950

Attachments:

1: Police Accountability Board Report: Fair and Impartial Policing Implementation



2024

Police Accountability Board Report: Fair and Impartial Policing Implementation



Approved* by the Police Accountability Board on
April 24, 2024

*(6 Aye Votes and 1 Nay Vote)

Meeting Link:

<https://tinyurl.com/PAB-FIP-Report-Approval>

Table of Contents

Introduction.....	3
Fair and Impartial Policing Statistical Profile.....	6
Policy and Practices Directive and Reforms.....	10
Reducing stops for low-level infractions and focusing on safety in traffic stops.	10
Clear, evidence-based definition of stops of criminal suspects.	14
Only use race and ethnicity as determining factors together with other clear criteria.	15
Enhanced Implicit Bias Training	15
Early Intervention System (EIS)	16
Written consent search forms.....	17
Warrantless searches of people on supervised release status.....	18
Profiling by proxy	19
Resources on police-civilian encounters.....	20
Fire racist officers identified through social media and other media screens.....	20
Require regular analysis of BPD stop, search, and use of force data	20
Make resources on police-civilian encounters publicly available such as through RAHEEM.org	21
Conclusions and Recommendations.....	21
Recommendations to the Berkeley Police Department	21
Recommendations to the Police Accountability Board	23
Recommendations to the Berkeley City Council.....	24
Appendix.....	25
Appendix 1. Berkeley Police Department 2024 Annual Report “Tests for Bias”	25
Appendix 2. PAB Data Workbook	27
Attachment List	28
Attachment 1: Mayor’s Working Group on Fair and Impartial Policing. Proposal to City Council. February 23, 2021	29
Attachment 2: Working Group Recommendations Passed by Council. February 23, 2021	43
Attachment 3: Summary of BPD Quarterly Updates on Fair and Impartial Policing Implementation	49
Attachment 4: BPD Three-Pronged Approach to Traffic Enforcement	58
Attachment 5: Berkeley Police Department Memorandum Titled: “PD Response to PAB FIP Implementation Report”	60

List of Figures

Figure 1 Likelihood of stops for Black/African Americans Compared to White Individuals.....	7
Figure 2 Percent of Arrest by Race/Ethnicity (April 1, 2021 to October 31, 2023)	9
Figure 3 Percent of Searches by Race/Ethnicity (April 1, 2021 - October 31, 2023)	10
Figure 4 Consent Searches by Race/Ethnicity.....	18

List of Tables

Table 1 Number of Stops of Non-Berkeley Residents vs. Berkeley Residents by Race/Ethnicity.	8
Table 2 Number of Arrest by Race/Ethnicity for Reporting Period.	9
Table 3 Percentage of Stops for Equipment Violations and Other Low-Level Infractions.....	14

Introduction

On February 23, 2021, the Berkeley City Council (City Council or Council) unanimously passed the package of policy recommendations that the Mayor's Working Group on Fair and Impartial Policing (FIP) forwarded to City Council after two years of meetings with experts and Berkeley Police Department (BPD) representatives (See Attachments 1 and 2). As part of that package, the Police Review Commission (PRC) and its successor the Police Accountability Board (PAB) were assigned responsibility for "monitoring and assessing" BPD implementation of the FIP directives. The directives included a requirement for quarterly updates from the BPD to City Council on implementation progress. A chart summarizing the BPD updates from June 2021 to October 2023 is provided in Attachment 3.

The goal of the Mayor's Fair and Impartial Working Group was to discuss ways to address racial disparities in BPD stops, arrests, and searches, as presented to the Berkeley community in the 2018 Center for Policing Equity (CPE) report¹ commissioned by the Council. That report found that, given the city's population demographics, Black motorists were 6.5 times more likely to be stopped by Berkeley police than White motorists and that Black pedestrians were 4.5 times more likely to be stopped than White pedestrians.

The PAB recognizes the ongoing efforts taken by the BPD to implement the Fair and Impartial Policing mandates, as represented in the quarterly updates from Chief Louis. This PAB report, submitted pursuant to the PAB's directive to monitor FIP implementation, is an independent assessment of progress to date. The focus of this assessment is not only on BPD changes in written policy, but also on whether progress has been made in reducing racial disparities in BPD stops, arrests, and searches.

¹ Center for Policing Equity. *The Science of Justice: Berkeley Police Department, National Justice Database City Report*. May 2018. <https://berkeleyca.gov/sites/default/files/documents/Berkeley-CPE-Report-May-2018.pdf>

Before proceeding, it is important to note that a finding of racial disparities does not, by that fact alone, indicate racial bias among individual police officers or the institution. Disparity is not synonymous with bias or discrimination. A measurement of racial disparity simply indicates an inequality or disproportion among or between various races on a particular variable (such as police stops), whatever the source of that inequality. Bias, on the other hand, can be defined as individual or institutional prejudice against a particular group, which may lead to disparities. This report focuses on racial disparities, as did the Mayor's Working Group on Fair and Impartial Policing and City Council's directives. Several factors may account for such disparities. These factors include, but are not limited to, socio-economic inequalities associated with race; cultural factors; institutional decision making; and, finally, individual officer bias. These factors may act independently of each other or in interaction with each other, amplifying their potential impact. It is not our goal to untangle the complex web of factors responsible for those disparities, nor is it within the scope of our work--or our ability, given data and resource limitations--to do so. Instead, the goal is to establish policies and practices that have the potential to reduce disparities and curtail the impact of any potential bias.

Key findings include, but are not limited to:

- The BPD has completed implementation of some FIP Council directives, is in the process of establishing implementation programs for other FIP directives, and appears not to have begun implementation of others.
- Racial disparities in vehicle stops by the BPD have decreased slightly since the CPE report, but remain high
- Racial disparities in pedestrian stops have substantially increased
- Racial disparities in arrests and searches continue to be pronounced
- The number of consent searches has decreased, but racial disparities in consent searches remain high

- The percentage of stops for equipment and other non-safety related infractions declined from 24.8% of all traffic stops in 2022 to 19% in 2023
- A full Early Intervention and Risk Management System is in very early stages
- Enhanced implicit bias training has not begun

Recommendations include, but are not limited to:

- The BPD quarterly reports on implementation of FIP should focus not only on policy modifications, but on outcomes, specifically the issue of whether and how those policy reforms have impacted racial disparities
- The three-pronged approach to traffic enforcement should be reviewed and further oriented towards reducing low-level, non-safety related stops
- Annual enhanced implicit bias training should be institutionalized, as per the Council's FIP directive
- A full Early Intervention and Risk Management System should be adopted as soon as possible. In the meantime, random audits of officers should be replaced by targeted audits of "outliers"
- Full accountability must be ensured for officers whose speech or behavior demonstrates racial animus or other bias and "damage[s] the mission... of the Berkeley Police Department"

Our report begins with recent statistics on stops, arrests, and searches. As we will see, a pattern of racial disparities remains since the CPE issued its report in 2018. While the racial disparity in vehicle stops has fallen slightly, racial disparities in pedestrian stops has increased substantially. The fact of racial disparities is not an abstract or academic issue. Racial disparities in policing have a serious impact on the lives of many Black and Latino/a people.

The report then includes a discussion of the status of BPD's implementation efforts, as well as questions that emerge from Chief Louis's quarterly updates². We conclude with recommendations for the BPD, the PAB, and the Council, with the goal of more effectively addressing racial disparities.

Related to the issue of the meaning of disparities, the BPD presented their Annual Report to City Council on March 12, 2024. As part of that report, they included "tests for bias" in traffic stops, searches, and use of force. We have examined the analyses presented in that report and note several fundamental challenges to their conclusion that BPD traffic stops, searches, and use of force are "race-neutral." See Appendix 1 for a brief discussion of the PAB's concerns with the BPD analysis.

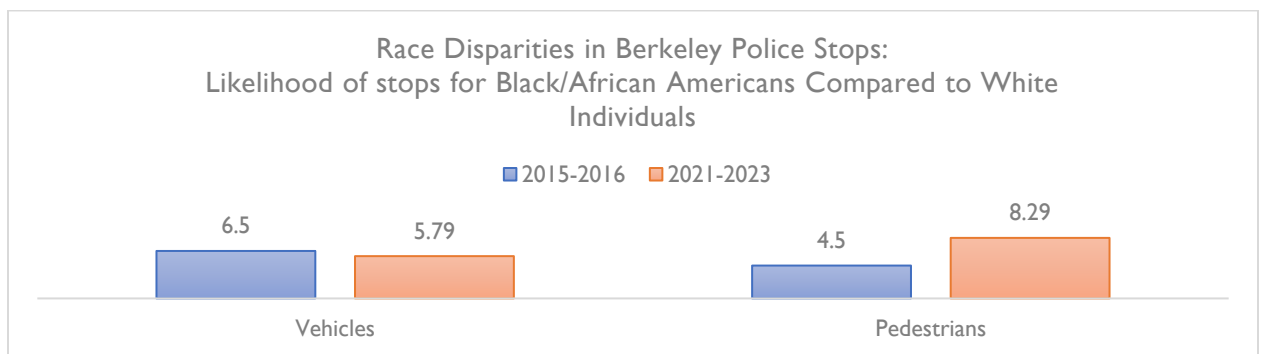
Fair and Impartial Policing Statistical Profile

The BPD data that were derived from the Department's Transparency Hub and analyzed by the ODPA and the PAB reveal little progress in reducing racial disparities in stops since the CPE report was released in 2018. That report showed that for the period 2012-2016, Black motorists were 6.5 times more likely to be stopped than White motorists based on Berkeley demographics, and Black pedestrians in 2015-2016 were 4.5 more likely to be stopped than White pedestrians.

² In addition to direction to the Berkeley Police Department to implement reforms, the February 2021 City Council action included referral of some FIP recommendations to the public safety reimagining process, and others to be "taken up by the PAB". This report does not address recommendations that were referred to the reimagining process. The report substantively addresses one of the three recommendations referred to the PAB (annual implicit bias training).

Berkeley Police Department statistics show that from April 1, 2021 to October 31, 2023³, of the 13,620 stops of bicyclists, motorists and pedestrians, 45.73% were White individuals, 44.77% were Black individuals, and 20.81% were Latino/a individuals.⁴ Based on Berkeley population figures⁵, Black motorists were 5.8 times more likely to be stopped by Berkeley police than White motorists. The racial disparity has worsened for pedestrian stops, with Black pedestrians now 8.3 times more likely to be stopped than White pedestrians.⁶

Figure 1 Likelihood of stops for Black/African Americans Compared to White Individuals



³ The April 1, 2021 date was chosen in consideration of the fact that the FIP directives were issued by Council on February 23, 2021. The end date of October 31, 2023 was used because we initiated this analysis in December 2023 and used the data then available. October 3, 2023 was the date of the last full quarterly update from the BPD. Unless otherwise noted, the data in this report covers the period from April 1, 2021 to October 31, 2023.

⁴ Occasionally, small differences will appear in the data presented here and those in the BPD Transparency Hub. These differences, which are minor and do not affect the percentages or ratios reported, are due to periodic data updates or modifications made in the BPD Transparency Hub. All the analyses reported are derived from data in our “Data Notebook” which is available in Appendix 2.

⁵ Population data sources from U.S. Census Bureau, American Community Survey (ACS) 1-Year Estimates Data Profiles, Table DP05 (2022):

https://data.census.gov/table/ACSDP5Y2022.DP05?g=040XX00US06_160XX00US0606000&tid=ACSDP5Y2022.DP05

⁶ In order to calculate the greater likelihood of Black motorists or pedestrians being stopped than White individuals, we divided the number of stops of each race/ethnicity by their numbers in the Berkeley population.

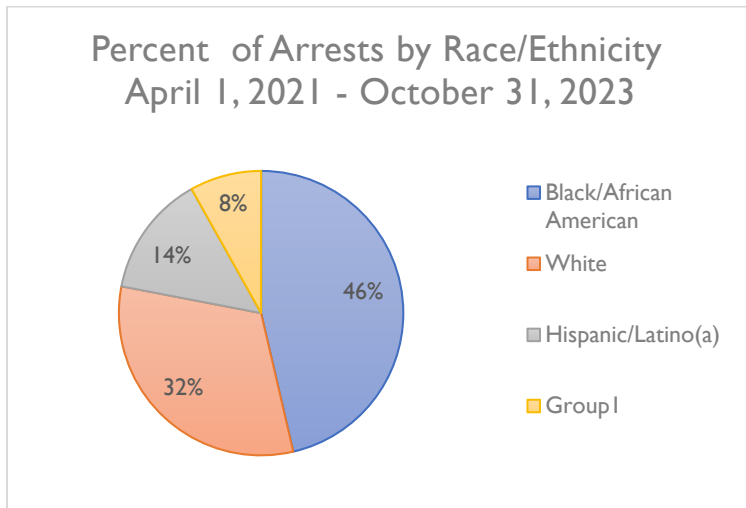
Looking at overall stop data for Berkeley residents only, a significant racial disparity persists. Black people residing in Berkeley were 6.55 times as likely to be stopped as their White counterparts. The Table below shows the absolute number of bicycle, pedestrian and vehicle stops, by race, for residents and non-residents of Berkeley.

Table 1 Number of Stops of Non-Berkeley Residents vs. Berkeley Residents by Race/Ethnicity.

Race/Ethnicity	Stops of Non-Berkeley Residents, 2021-2023	Stops of Berkeley Residents, 2021-2023
Black	1615	2814
Hispanic/Latino(a)	1212	955
White	1626	3112
Other	1109	1177
Total	5562	8058

With respect to arrests, of 2,202 arrests in this period, Black people were 50.47 percent of the total, White people 34.45 percent, and Latino/as 15.08 percent. This means that, based on population figures, Black people were 10.4 times as likely to be arrested as White people in Berkeley, and Latinos were twice as likely. Looking at these data a different way, Black people were 6.47 times more likely to be arrested than their population would suggest, White people were .62 times less likely, and Latino/as 1.25 times more likely to arrested.

Figure 2 Percent of Arrest by Race/Ethnicity (April 1, 2021 to October 31, 2023)



The Table below shows the absolute number of arrests by race.

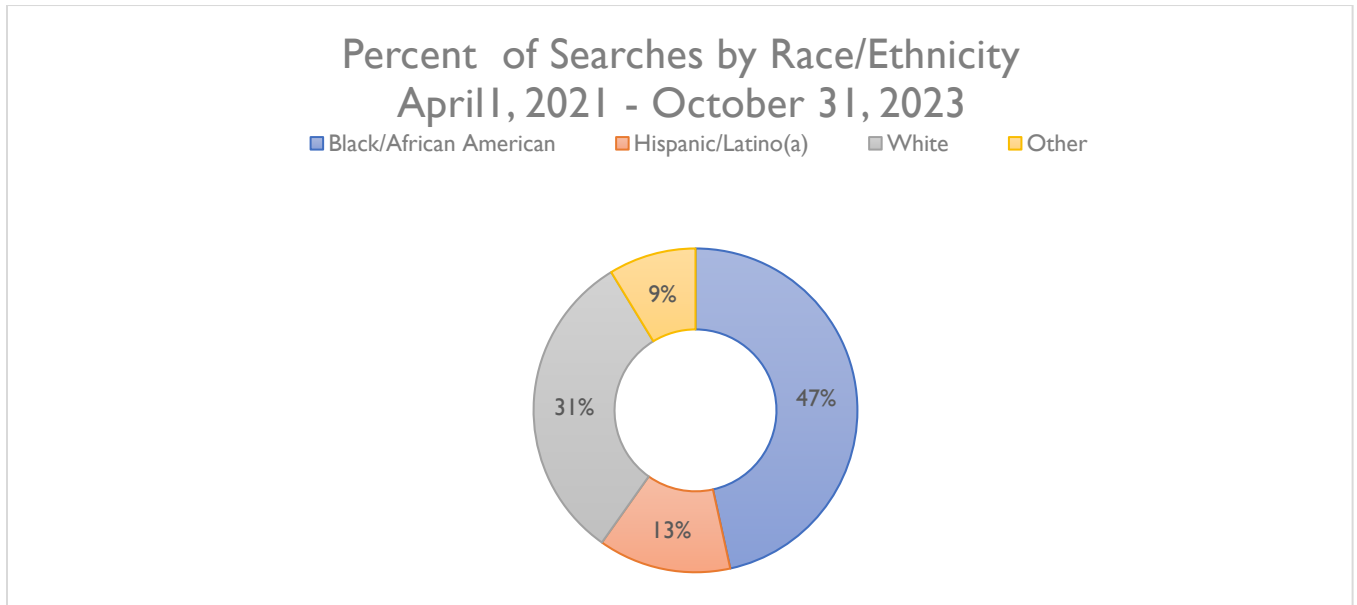
Table 2 Number of Arrest by Race/Ethnicity for Reporting Period.

Race/Ethnicity	Number of Arrests
Black	1021
Hispanic/Latino(a)	305
White	697
Other	179
Grand Total	2202

With regard to searches, of the 2,421 searches conducted by the BPD during the period of April 1, 2021 to October 31, 2023, Black individuals were 46.55 percent of the total, White individuals were 31.47 percent, and Latino/as were 13.26 percent. This indicates that Black individuals were 10.5 times more likely to be searched compared to White individuals, while Latino individuals were 1.9

times more likely.⁷ Alternatively, Black individuals were 5.97 times more likely to be searched than expected based on their population representation, White individuals were 0.57 times less likely, and Latino/as were 1.10 times more likely.

Figure 3 Percent of Searches by Race/Ethnicity (April 1, 2021 - October 31, 2023)



Policy and Practices Directive and Reforms

Reducing stops for low-level infractions and focusing on safety in traffic stops.

The FIP recommendation regarding traffic stops was to “prioritize safety in traffic stops” and “discontinue stops for minor offenses.” The FIP Working Group saw this as a way to reduce racial disparities and eliminate pretextual traffic stops. The motion approved by the City Council was to “Implement a new evidence-based traffic enforcement model that emphasizes safety as the primary reason for traffic stops, rather than merely addressing minor offenses.” Neither the Mayor’s Working Group nor the Council provided a clear definition of “minor

⁷ Similar to our calculations for stops and arrests, to determine the greater likelihood of Black and Latino/a individuals than White individuals to be searched, we divided the number of searches of Black, Latino/a and White individuals by their respective numbers in the population.

offenses.” The PAB recommends that the BPD adopt the definition utilized in Senate Bill 50, as outlined in the footnote below.⁸

The BPD is using a 3-pronged approach to traffic safety (“Primary Collision Factors”; “Community Reports”; and “Community Caretaking”) to fulfill the Council directive (See Attachment 4 for BPD Special Order 1106.2). Quarterly BPD updates report that implementation of this recommendation is complete.

The first prong of BPD’s three-pronged approach, known as “Primary Collision Factors” or PCF, is generally excellent and data-driven at the local level. This prong consists of factors that commonly lead to fatal or severe collisions in Berkeley, including unsafe speed, disregarding pedestrian right-of-way at crosswalks, failure to yield for turns, red light violations, and stop sign violations.

One important update to this prong would be to specify not only the violation but also the mode of the party at fault (e.g., stop sign violations by drivers are a common cause of fatal and severe collisions in Berkeley, but stop sign violations by bicyclists are not, and the PCF categories should reflect this). It is expected that most, if not all, stops should occur in response to these well-documented safety issues, following the Council’s directive.

⁸ In 2023, a Bill was introduced in the California Legislature, SB50 (“An Act to Amend Sections 21 and 21100 of, and add Section 2804.5, to the Vehicle Code”), that stipulated that “notwithstanding any other law, a peace officer shall not stop or detain the operator of a motor vehicle or bicycle for a low-level infraction...”. The Bill, which was tabled after a third reading and may be re-submitted this year, defined a “low-level infraction” as “a violation related to the registration of a vehicle or vehicle equipment,” as specified; “a violation related to the positioning or number of license plates when the rear license plate is clearly displayed...”; “a violation related to vehicle lighting equipment not illuminating, if the violation is limited to a single brake light, headlight, rear license plate, or running light or a single bulb in a larger light of the same,” as specified; “a violation related to vehicle bumper equipment,” as specified; “a violation related to bicycle equipment or operation,” as specified.

The second prong (“Community Reports”) consists of “responding to calls from community members” and includes such things as “possible DUI driver (i.e., car reportedly swerving)”; “driver fallen asleep at red light”; “a variety of unsafe driving incidents”; “crime with get-away vehicle description.” While some of these community calls no doubt require an immediate response, the category is broad and opens the door to potential profiling by proxy. At a minimum, under the category of “a variety of unsafe driving incidents,” policies should be put in place that specify which calls for service will result in law enforcement action.

The City Auditor’s data analysis⁹ shows that only 13% of calls from community members resulted in a citation or arrest, compared to 42% of officer-initiated stops. To effectively reduce the potential for profiling by proxy, analysis of this 13% should be conducted to determine what types of community calls are most likely to yield a law enforcement response crucial to public safety. The PAB recommends that this prong then be substantially reformulated based on the data analysis of which types of calls for service result in enforcement actions and which are more likely to open the door to profiling by proxy.

The third prong, “Community Caretaking,” is the least specific and consists of three examples: “seatbelt violations”; “distracted driving (hands-free law)”; and “DUI”. As described by the BPD, these are not primary collision factors according to the California Highway Patrol because they are not the proximate cause of a collision. Because this prong is open-ended and consists only of several examples, it allows for maximum discretion with no real parameters.

The PAB recommends more specificity in this prong and that its components be based on Berkeley data rather than national statistics, as BPD did for Prong 1 (Primary Collision Factors, or PCFs). Specifically, the analysis should

⁹ Data Analysis of the City of Berkeley’s Police Response, 07/02/2021
<https://berkeleyca.gov/sites/default/files/2022-01/Data-Analysis-Berkeley-Police-Response.pdf>

examine which other factors (non-PCFs) are highly associated with severe and fatal collisions in Berkeley. The open-ended quality of this prong may contribute to more non-safety related stops than is called for in the Council directive. If more specificity is not possible or feasible, this prong should be eliminated.

In addition to further clarification and specification of factors and policies related to prongs two and three, future BPD updates to Council should include statistical information enabling an analysis of the impact of the three-prong approach on reducing or eliminating stops for low-level offenses in a manner that supports an overall assessment, as well as an understanding of the impact of the approach on reducing racial disparities.

The PAB analysis of vehicle stops reveals that little progress has been made on reducing racial disparities. Given this finding, careful scrutiny of the three-pronged approach needs to be undertaken, with future BPD updates analyzing disparity outcomes and focusing on their reduction, as appropriate.

Our analysis of BPD raw data on traffic stops¹⁰ in 2022 (when the three-pronged approach was established) and the first three quarters of 2023 reveals that the number of traffic violation stops increased from 2883 in 2022 to 3297 in the first three quarters of 2023. The percentage of stops for equipment and other such low-level infractions declined from 24.8% in 2022 to 19% in 2023. While the percentage of low-level stops thus declined, their numbers are still relatively high

¹⁰ For this calculation, we included all vehicle stops for 2022 and for the first three quarters of 2023. The BPD data include the primary reason for each stop. From these raw data we were able to count all stops for low-level equipment violations or other non-safety related violations, for example misplaced registration tags, failure to dim beams, faulty window installation, etc. The BPD data included a few categories—such as those relating to improper parking, trespassing, bicycle helmet infractions, littering, and vehicle theft—that were not appropriate to include in these counts of traffic violations. We excluded those few categories (n=79 for 2022; n=70 for 2023) from our calculations.

despite the three-pronged approach and the directive that such stops be minimized.

Table 3 Percentage of Stops for Equipment Violations and Other Low-Level Infractions

Year	Traffic Stops	% of Stops for Equipment violations and other low-level infractions
2022	2883	24.8%
2023	3297	19%

Clear, evidence-based definition of stops of criminal suspects.

The FIP Working Group recommended “us[ing] a clear, evidence-based definition for stops of criminal suspects.” This was not meant to be primarily about traffic stops but all stops of criminal suspects, including motorists, cyclists and pedestrians. Following this recommendation, Council directed the BPD to amend policies “reaffirming and clarifying that the Berkeley Police Department will use a clear, evidence-based definition for stops of criminal suspects.” The Department’s quarterly updates state that the BPD “is establishing a precision based policing model that considers data and public safety. This model aims to reduce the number of stops that studies have shown had minimal impact on public safety.”

The PAB appreciates the BPD June 2023 and October 2023 update statement that “ensuring that we implement approaches that identify and work to reduce racial disparities will be a cornerstone to our evidence-based approaches.” However, without more specifics about the department’s “precision-based policing model” and “a feedback loop with information flowing both ways”, it is difficult to assess whether these additions have the potential to reduce racial disparities. More specificity in this context is particularly critical as the data presented in this report indicate that racial disparities remain high.

The BPD June and October 2023 updates also state that this “feedback loop ... creates an accountability measure.” Does this mean there is

accountability for racial disparities? If so, what does it consist of? The next BPD update should include greater specificity regarding precision-based policing, feedback loops, and accountability measures. Further, and significantly, none of the BPD updates have included a definition of what constitutes legitimate stops for criminal suspects, evidence-based or otherwise. Although the BPD indicated that this recommendation was implemented as of September 2022, a definition is still outstanding.

Only use race and ethnicity as determining factors together with other clear criteria.

BPD updates indicate that this recommendation has been completed because formal policies, state law, and the Constitution prohibit using race as the defining factor in making stops, arrests, and searches. The PAB is concerned that the BPD suggests no change is needed; the question is not whether BPD policies or state or federal law allow the use of race as a defining factor—clearly, they do not. The question is how to prevent discretionary actions in the field from inadvertently introducing race as the determining factor. Most important, how are race and ethnicity used as determining factors “together with other clear criteria”? Future updates should include more specificity on this important question of how race and ethnicity may be used with other factors. Examples may be useful here.

Enhanced Implicit Bias Training

The FIP directives passed by Council “require enhanced annual implicit bias training for police.” The BPD updates state that there has been “ongoing training in topics such as implicit bias, racial profiling...”. The PAB has been informed by the BPD that “The topic of bias is covered as a subtopic throughout various trainings” such as de-escalation and tactical communication. This likely falls short of the enhanced annual implicit bias training that was called for in the Council directive. Full compliance with the Council directive requires that the BPD install

annual intense implicit bias training, not the less intensive approach to implicit bias as a subtopic to other materials as currently practiced.

Early Intervention System (EIS)¹¹

An effective EIS was a central component of the FIP recommendations, and the focus—as with the FIP program as a whole-- was on racial disparities. As the Working Group stated in its presentation to Council in February 2021, an effective Early Intervention System would “involve identifying officer outliers in stops, searches, and use of force and their outcomes and examining the reasons for racial disparities.” Racial disparities take a back seat in the BPD quarterly updates, including in its description of an amended EIS program. Beyond this important omission, BPD updates have been inconsistent across quarterly reports with regard to how this directive has been implemented (See Attachment 3). After relatively minor tweaking, the BPD reported that the EIS directive had been completed.

Additionally, recent updates report that periodic audits of several randomly chosen officers have been added to the EIS process. While audits of a few randomly chosen officers may occasionally be useful, the intent of the FIP was to focus on “outliers”, a neutral term of art that refers to officers whose performance on certain indicators is outside the BPD average. As the focus of the FIP was on racial disparities, in the case of EIS it is important to focus on those units or officers for whom stops are disproportionately numerous and/or racial disparities most pronounced. The allegations of racism, disdain for the unhoused, and implicit

¹¹ The PAB acknowledges the Council's allocation of funding for designing and implementing a comprehensive Early Intervention and Risk Management System (EIRMS). However, the \$100,000 appropriation for the evaluation, design *and* implementation of an EIRMS is unlikely to be sufficient. Therefore, the budget for the EIRMS should be augmented to support not only its design but its near-term implementation.

arrest quotas in the Downtown Bike Force have drawn attention to the importance of such a directed focus when doing EIS audits.

In April 2023, City Council referred \$100,000 to the June 2023 budget to hire a consultant for the design and help with implementing a new Early Intervention and Risk Management System. It will take some time before that project is complete. In the interim, EIS audits should be focused on officers who are outliers on the variables stipulated in the Department's EIS, with a particular focus on racial disparities in stops, arrests, and searches. In addition, a designated PAB Member should serve as an EIS observer. With regard to the latter, the PAB is pleased that observation by a PAB Member has recently been agreed to by the Chief.

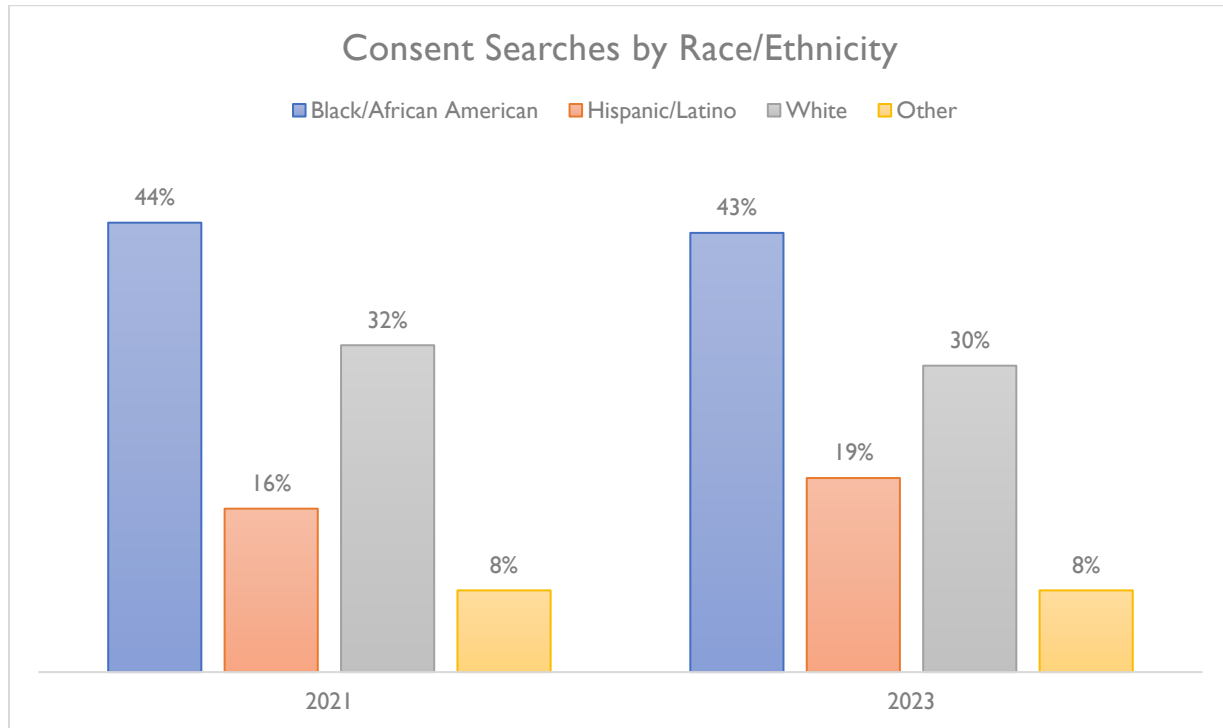
Written consent search forms

The PAB is pleased that this has been implemented (Policy 311.3). An understanding of the implementation process and its effect would be improved by the inclusion of data in the quarterly BPD reports. Dr. Frank Baumgartner and his team (2018) found that in North Carolina, consent searches declined by 75% in cities that required written permission.

PAB analysis of BPD data reveals that the number of consent searches decreased from 188 in 2021, to 123 in 2022, and 69 through the first three quarters of 2023. While the number of consent searches has gone down since the introduction of written consent forms, racial disparities in these discretionary searches remain high. In 2021, 44% of consent searches were of Black individuals, 32% were of White individuals, and 16% were of Latinos. Two years later, the respective percentages were 43%, 30%, and 19%. In other words, while the absolute number of people of color undergoing consent searches has decreased with the

implementation of written consent forms, the racial disparities in these discretionary searches have not.¹²

Figure 4 Consent Searches by Race/Ethnicity



Warrantless searches of people on supervised release status

BPD Policy 311.6, as adopted with agreement between the PRC and the BPD and incorporated into the FIP directives, limited warrantless searches of people on supervised release status unless there was reasonable suspicion that they had committed, were committing, or were about to commit a crime. This policy was modified by City Council on July 26, 2022, to make a distinction between people on supervised release for violent crimes (who would be subject

¹² These racial disparities in consent searches are roughly comparable to the disparities in all searches. As we saw above, for the period 2021 through the first three quarters of 2023, there were 2507 searches, with 47% of these searches Black people, 32% White people and 13% Latinos.

Source: https://berkeleyca.gov/sites/default/files/documents/2023-04-11_Item_25_Referral_100%2C000_to_the_June%2C_2023.pdf

to warrantless searches) as opposed to non-violent crimes (for whom reasonable suspicion would be required for a search).

The Department under Chief Greenwood had considered the violent/non-violent distinction a challenging one to make in practice and recommended the “reasonable suspicion” standard for all searches of people on supervised release. Have officers found it difficult to implement the “violent”/“non-violent” distinction as Chief Greenwood had suggested? What is the impact of this policy revision on numbers of, and racial disparities in, arrests and searches of people on probation and parole? Future BPD updates should continue to address what, if any, impact this 2022 change in policy has had on racial disparities.

Since introduction of the 311.6 policy change in 2020, BPD data no longer included “probation or parole search” as a category. This made sense since those searches were no longer permissible (absent reasonable suspicion). However, since the modification in 2022, probation and parole searches (and other supervised release searches) were allowed if the individual was on probation or parole for a violent offense. Therefore, BPD data should once again include these searches in their data.

Profiling by proxy

According to Chief Louis’s June 2023 update, the Communications Manual “has been amended to address handling cases involving profiling by proxy.” Further, dispatchers “are instructed to be cognizant and screen for profiling by proxy calls.” More specifics need to be provided. Exactly what does the “instruction” consist of? What has the effect been on racial disparities in departmental response to calls for service? As detailed in the City Auditor’s report cited above, law-enforcement actions are lower in stops initiated by the public than in officer-initiated stops. This suggests that more targeted dispatcher instructions and call-screening for profiling by proxy may be necessary.

Resources on police-civilian encounters.

The PAB is pleased that the business card directive has been fulfilled. That provision was to ensure that business cards with information on how to commend police officers or file misconduct complaints were distributed upon each officer/civilian encounter. However, the body-worn camera footage that the PAB has received in conjunction with individual misconduct complaints does not seem to show any distribution of business cards as directed by Council.

Fire racist officers identified through social media and other media screens

BPD Policy 1029 (“Employee Speech, Expression, and Social Networking”) stipulates that employees of the BPD whose speech or expression “tends to compromise or damage the mission, function, or reputation...of the Berkeley Police Department” will be held accountable. Two issues arise here: 1) The FIP recommendation included media scans to ensure consistency with this policy, yet this proactive approach does not seem to have been implemented; 2) The FIP recommendation was that “racist officers identified through social media...” shall be fired. The current Policy 1029 is not specific and requires only “accountability”. Thus, it is not clear if this FIP directive has been implemented. One way to move forward on this directive would be to be more specific on what exactly “accountability” means in this context and what preliminary steps would be taken prior to an officer’s termination.

Require regular analysis of BPD stop, search, and use of force data

As noted in the BPD quarterly reports, a Transparency Hub was developed that provides raw data through an Open Data Portal. While this allows members of the public who have the time and ability to analyze the data, the BPD’s Data Analyst should provide more detailed analysis of these data with a focus on racial disparities, as we have done in this report.

Make resources on police-civilian encounters publicly available such as through RAHEEM.org

This Council directive is mentioned in the BPD quarterly updates, but no information is provided regarding its implementation status.

Conclusions and Recommendations

Racial disparities in stops, arrest, and searches remain high, and there is little public accountability for the overall results of the FIP effort due to a lack of statistical reporting or outcome analysis in BPD quarterly updates. While some policy changes have been implemented by the BPD, modification of these changes is needed in some areas. Other FIP recommendations have not been implemented.

The PAB offers the following recommendations for action by BPD, the PAB, and City Council with the goals of improving upon steps that have already been taken, ensuring that no directives remain unfulfilled, and establishing an expectation for future BPD updates to include analysis of racial disparity outcomes.

Recommendations to the Berkeley Police Department

1. Three-prong approach.
 - a. Definition of Low-Level Traffic Infractions: A definition consistent with SB 50 should be adopted.
 - b. Primary Collision Factors: This prong should specify the mode of the party at fault.
 - c. Community Reports: Under the category of "a variety of unsafe driving incidents," policies should be put in place that specify which calls for service will result in law enforcement action. That specification should be derived from an analysis of the 13% of calls from community members that resulted in a citation or arrest, as per the City Auditor's July 2021 report.

- d. Community Caretaking: More specificity is needed in this prong, and its components should be based on Berkeley data rather than national statistics, as is done for Prong 1 (Primary Collision Factors). Specifically, the analysis should examine which other factors (non-PCFs) are highly associated with severe and fatal collisions in Berkeley. The open-ended quality of this prong may contribute to more non-safety related stops than is called for in the Council directive. If more specificity is not possible or feasible, this prong should be eliminated.
 - e. Reporting: Future BPD updates on FIP implementation should include statistical information enabling an analysis of the impact of the three-prong approach on reducing or eliminating stops for low-level offenses—a primary focus of the Council directive—in a manner that supports an overall assessment as well as an understanding of the impact of the approach on reducing racial disparities in traffic stops.
2. Evidence-based definition for stops of criminal suspects.
 - a. Establish an evidence-based definition for stops of criminal suspects.
 - b. Explain how the precision-based policing, feedback loops, and accountability measures, referenced in BPD FIP implementation updates in relation to this recommendation, address the directive to establish an evidence-based definition for stops of criminal suspects.
 3. Enhanced implicit bias training: Ensure that intensive annual training dedicated to the topic of implicit bias is delivered to BPD personnel per the Council's directive.
 4. EIS: Pending the deployment of a new Early Intervention and Risk Management system, EIS audits should be focused on officers who are outliers on the variables stipulated in the Department's EIS, with a particular focus on racial disparities in stops, arrests, and searches. A designated PAB Member should serve as an observer in this process, as has been informally

agreed to. Future audit reports should include the scope of what was reviewed and a clear statement of findings, within the confines of officer confidentiality.

5. Written consent searches: Future reporting to council should include the number of consent searches conducted per reporting period and their effect on racial disparities in searches, with a comparison to consent search numbers before implementation.
6. Warrantless searches of people on supervised release: Future FIP updates should identify the impact of the new BPD Policy 311.6 on the numbers of, and racial disparities in, searches and arrests of people on probation and parole.
7. Profiling by proxy: Future BPD updates should specify what instruction dispatchers are given on the topic of profiling by proxy, as well as any impact the instruction and corresponding Communications Manual amendments have had on racial disparities in departmental response to calls for service.
8. Business cards: Ensure that business cards are distributed as mandated by the Council directive.
9. Make resources on police-civilian encounters publicly available, such as through RAHEEM.org.

Recommendations to the Police Accountability Board

1. Scenario-based training: The 2021 Council specifically referred to the PAB oversight of the implementation of a scenario-based training component in the existing officer training required by the California Penal Code. This topic will be agendaized for discussion at a future PAB meeting, including the appropriateness of, and ability of, the PAB to oversee departmental training.

2. Crisis Intervention Team (CIT): The 2021 Council item refers to the PAB the acceleration of CIT activity. This will be taken up for discussion in future PAB meetings.

Recommendations to the Berkeley City Council

1. Establish metrics to assess the success of the implementation of FIP directives. Currently the BPD appears to be focused entirely on policy, and on tests of bias, as evidenced in its recently published Annual Report. The PAB has focused instead on outcomes, addressing the key question of whether racial disparities have decreased in any of the areas subject to FIP directives.
2. Eliminate reporting requirements for recommendations that the PAB ascertains have been fully implemented.
3. Require BPD to report biannually on:
 - a. Traffic stops by each prong of their 3-prong framework and by race within each prong.
 - b. Stop, search, and arrest data by probation/parole status and race.
 - c. Calls for service by the race of the reporter and reportee.

Ensure that employees of the BPD whose speech or behavior is inconsistent with fair and impartial policing be held accountable.

Appendix

Appendix 1. Berkeley Police Department 2024 Annual Report “Tests for Bias”

The PAB has several concerns about the adequacy of the three tests conducted for stops and searches (use of force is not part of the FIP focus): “At-fault collision demographics”; “yield rate analysis”; and, the “veil of darkness”.

1. The at-fault collision test is the most problematic of these analyses. This BPD test purports to compare the parties at fault in collisions, by race, to the rate of police stops by race. Because they find that the proportion of stops for each race is approximately the same as the proportion of each race at fault in collisions, they conclude that police stops are “race-neutral”. In other words, while not citing disparity statistics, the BPD implies that the racial disparity in stops is the result of Black motorists' more dangerous driving.

There are numerous problems with that analysis, including the following:

- In the interest of focusing on “discretionary stops,” which as they note are most likely to involve potential bias, the BPD only includes in their analysis stops that were officer-initiated. Curiously, however, it omits the most discretionary stops of all—those based on equipment violations, registration or license plate infractions and other such low-level offenses that make up 19% of all vehicle stops.
 - The “at-fault collision” side of this equation is also problematic. Only those collisions for which the police were called to the scene or were nearby when the accident happened, and/or for which a written police report was filed, are included in the analysis. Personal experience suggests that many if not most collisions are not reported to the police.
2. The BPD's yield rate analysis cites the 2024 RIPA Annual Report that shows there were no statistically significant differences in rates of discovery of contraband in searches of Black people and White people in Berkeley. This is an important RIPA finding. It must be qualified, however, by the RIPA Board's advice on interpreting the finding. As the RIPA Board notes, when search rates are higher and discovery

rates lower for Black people than for white people, it can be concluded that racial bias was involved in the searches. However, “[w]hen these statistics do not move in opposite directions, it is more difficult to determine whether disparate treatment is present.” (RIPA 2024 Annual Report; Appendix B.3, p. 46).

3. The veil of darkness test is an industry-wide standard for testing racial bias. It assumes that if racial bias exists in vehicle stops, people of color would be more likely to be stopped during the day than at night when it is presumably less possible to discern motorists’ race. The BPD analysis compares vehicle stops at the “inter-twilight” period around 6:30 pm during daylight savings time (when it is light) and standard time (when it is dark). The BPD finding is that the stop rates by race are comparable in the light and in the dark, and that “this is what we would expect to see if those stops were being made based on race-neutral factors.” This is quite different from the finding of Stanford researchers who analyzed 95 million traffic stops across the United States using the veil of darkness test and found statistically significant racial disparities¹³. The BPD finding for Berkeley is a positive one, but we need more details here. It is possible that stops occurring in the inter-twilight period in Berkeley in one year would not be sufficient in number to draw statistically valid inferences. Finally, while the veil of darkness is an industry-standard, several cautions must be applied. As numerous scientists have explained, and the BPD report acknowledges, both street lighting and car profiling may skew results.

In sum, we cannot confidently conclude from these BPD tests for bias that it is not a factor in racial disparities in BPD vehicle stops and searches. More rigorous studies would be required to untangle the web of socio-economic, cultural, institutional, and individual factors—and their interactions—that produce these racial disparities.

¹³ <https://www.nature.com/articles/s41562-020-0858-1>

Appendix 2. PAB Data Workbook

To access a copy of the Data Workbook, please use the following link:

https://berkeleyca.gov/sites/default/files/documents/PAB%20Data%20Workbook_2024%20FIP%20Implementation%20Report%20.xlsx

Attachment List

1. [Mayor's Working Group on Fair and Impartial Policing. Proposal to City Council. February 23, 2021.](#)
2. [Working Group Recommendations Passed by Council. February 23, 2021](#)
3. Summary of BPD Quarterly Updates on Fair and Impartial Policing Implementation
4. [BPD Three-Pronged Approach to Traffic Enforcement](#)
5. Berkeley Police Department Memorandum Titled: "PD Response to PAB FIP Implementation Report"

Attachment 1: Mayor's Working Group on Fair and Impartial Policing. Proposal to City Council. February 23, 2021

The Mayor's Working Group on Fair and Impartial Policing Policy Proposals

Developing and implementing reforms that will effectively reduce existing racial disparities requires changes at several levels. The following recommendations include setting new policy, updating institutional structures, and mandating individual accountability. Their implementation and ongoing effectiveness require supportive leadership, transparency and police accountability.

Executive Summary. Mayor's Working Group on Fair and Impartial Policing (hereafter, "the working group") focused on reducing racial disparities in stops and searches and improving community relationships damaged by the racially disparate practices in stops and searches.

This report advances the following recommendations for BPD practices:

- Focus on public safety and eliminate stops for low-level offenses not directly impacting public safety.
- Use race and ethnicity as determining factors in stops only when paired with clear, evidence-based criteria.
- Institute annual implicit bias training and scenario-based training for California Penal Code 13519.4, prohibiting racial or identity profiling.
- Establish a truly effective Early Intervention System and risk management process to ensure department accountability and identify officers who are outliers in stops, searches, dispositions, and outcomes.
- Limit warrantless searches of individuals on supervised release status such as Post Release Community Supervision (PRCS), probation, or parole.
- Require written consent for consent searches.
- Include evaluations of cultural competence in hiring and promotion, and fire officers who have expressed racist attitudes and/or are identified as members of racist groups.

The report also advances these recommendations for the Berkeley City Council and/or the City of Berkeley:

- Hire a consultant to create a plan for monitoring and reporting on the implementation of these recommendations.
- Ensure the creation of a Specialized Care Unit with crisis-response field workers, as included in the recent contract for a community-process to establish an SCU.
- Ensure a robust community engagement process, including annual surveys and community forums
- Require quarterly analysis of stop, search, and use of force data by City Auditor and/or the PRC.
- Adopt and carry out the compliance and accountability system outlined in this document.

Proposed Actions

Table 1 provides a proposed action for each recommendation in the body and appendices of this draft report.

Action	Recommendations
Direct the City Manager to implement key recommendations, with at minimum, quarterly progress reports to the PAB and/or the Working Group	<ul style="list-style-type: none"> • Focus traffic stops on safety • Use a clear, evidence-based definition for stops of criminal suspects • Use race and ethnicity as determining factors in stops only when paired with clear, evidence-based criteria • Eliminate stops for low-level offenses • Implement an Early Intervention System (EIS) and a risk-management structure • Immediately release stop, arrest, calls for service and use of force data from 2012 to present to the Working Group • Limit warrantless searches of individuals on supervised release status such as Post Release Community Supervision (PRCS), probation, or parole • Require written consent for all consent searches • Address Profiling by Proxy (PAB Policy Development, Dispatcher Training) • Fire racist police officers identified through social media and other media screens • Address Profiling by Proxy (Council develop & pass CAREN policy) • Require regular analysis of BPD stop, search, and use of force data • Make resources on police-civilian encounters more publicly available such as RAHEEM.org • Adopt Compliance and Accountability Mechanisms <ul style="list-style-type: none"> a. Hire consultant to develop implementation plan • For any individual detained, BPD officers shall provide a business card with info on a website similar to RAHEEM and info on complain process with PAB
Refer to be included in the process to reimagine public safety	<ul style="list-style-type: none"> • The City should create a formalized feedback system to gauge community response to ongoing reforms and ensure this constructive input system is institutionalized and includes a basic report card and quarterly neighborhood check-ins • Conduct a baseline community survey.
Refer to the Police Accountability Board	<ul style="list-style-type: none"> • Include a scenario-based training component in the existing officer training required by California Penal Code 13519.4 • Require enhanced annual implicit bias training for police • Accelerate Crisis Intervention Team (CIT) activity
Follow-up with PAB and/or Fair and Impartial Working Group	<ul style="list-style-type: none"> • Evaluate the impact of these proposals on racial disparities in stops and searches, using regular updates to stop and search data • Conduct a regular community survey and annual community forums on Police and Public Safety
Recommendations already underway	<ul style="list-style-type: none"> • Fund and implement a specialized care unit for mental health crises • Conduct a Capacity Study of police calls and responses and use of officer time outside of case work
Outstanding - No Action Recommended	<ul style="list-style-type: none"> • Include community member participation and feedback in the hiring process • Include the following for Performance Appraisal Reports

Reducing Disparities in Vehicle, Pedestrian, and Bicycle Stops & Searches:

1. Focus traffic stops on safety

According to Dr. Frank Baumgartner's 2018 book, *Suspect Citizens*, "Safety stops are those aimed at enforcing the rules of the road to decrease the likelihood of an accident" (pg. 191). The types of stops falling into this traffic safety category may include:

- Excessive speeding¹
- Running a stop sign or stop light
- Unsafe movement
- Driving while intoxicated

2. Use a clear, evidence-based definition for stops of criminal suspects

Dr. Baumgartner's analysis² reveals that "investigatory stops" (stops that use a minor infraction as a pretext for investigating rather than to prevent or reduce dangerous behavior pgs. 53-55) allow for the most officer discretion and open the possibility of implicit bias or "reliance on cultural heuristics" (pg. 191). Based on analyses of more than 9 million stops, Baumgartner's team found that 47% were investigatory and that they added substantially to the racial disparity statistics. Thus, investigatory stops and stops of criminal suspects shall be restricted to those made because the person and/or vehicle fits a description in relation to a specific crime.³⁴

Since the Oakland Police Department (OPD) has implemented evidence-based methods, the number of African American civilians stopped by the OPD has declined. Since Oakland Police Department has implemented evidence-based methods, the number of African American civilians stopped has declined from 19,185 in 2017 to 7,346 in 2019, a drop of 62% and a stop disparity rate reduction of almost 60%,⁵ with no corresponding increase in crime (Captain Chris Bolton presentation, 7/15/2020).

3. Use race and ethnicity as relevant factors when determining law enforcement action only when provided as part of a description of a crime and suspect that is credible and relevant to the locality and timeframe of the crime and only in combination with other specific descriptive and physical characteristics.^{6,7}

Specific descriptive and physical characteristics may include, for example: the gender, age, height, weight, clothing, tattoos and piercings of the suspect, the make and model of the car, and the time and location of the crime. Simple race and ethnicity alone are not

¹ <https://www.idrivesafely.com/dmv/california/laws/traffic-tickets-and-violations/>, <https://www.martenslawfirm.com/blog/2015/november/what-is-excessive-speeding/>

² *Suspect Citizens*, pp. 190-192

³ Eberhardt, J. L. (2016). *Strategies for change: Research initiatives and recommendations to improve police-community relations in Oakland, Calif.* Stanford University

⁴ This definition was created by Dr. Jennifer Eberhardt in collaboration with the Oakland Police Department.

⁵ This is the percentage of African American stops within all discretionary non-intel led stops made by Police Area 2 officers fell from 76% in September 2017 to 31% in September 2018

⁶ Southern Poverty Law Center, 10 Best Practices for Writing Policies Against Racial Profiling

⁷ CA Penal Code

satisfactory as bases for reasonable suspicion under the law, and amount to racial profiling.

4. Eliminate stops for low-level offenses

According to the presentation to the Working Group by Captain Bolton of the OPD, Oakland significantly reduced stops for these low-level, non-public safety related offenses, resulting in a reduction in the number of African Americans being stopped and a reduced stop-disparity rate, with no effect on crime rates (homicides and injury shootings went down during the same period). There is often overlap between “investigatory stops” and “stops for low-level offenses,” as the latter may be used as a pretext for investigation. The types of stops falling into these categories may include:

- Equipment violations
- Not wearing a seat belt
- Improper use of high beams
- Violating a regulation (e.g. expired license tags)
- Stop purposes recorded as “other”

5. Implement an Early Intervention System (EIS) and a risk-management structure

These measures to ensure individual accountability have operated successfully in Oakland and many other localities for some time. They involve identifying officer outliers in stops, searches, and use of force and their outcomes and examining the reasons for racial disparities. Existing software programs to assist BPD in implementing an EIS could be utilized or BPD can build its own system.

These programs operate to identify officers who are a danger either to themselves or to the public. They are referred to as “risk management” systems because they help limit the financial liability of the City and hence its taxpayers. They may address a broad range of concerns, but in this document, we only consider their use with regard to racial disparities. Elements of this process include the following steps:

- a. Evaluate and assess stop incidents for legality and enforcement yield.
- b. Analyze data to determine whether racial disparities are generalized across the force or are concentrated in a smaller subset of outlier officers or squads/groups of officers. To the extent that the problem is generalized across the department, supervisors as well as line officers should be re-trained and monitored, and department recruitment, training, and structure should be reviewed. In addition, department policy should be examined for their impacts.
- c. Where disparities are concentrated in an individual or a group of officers, with no race-neutral legitimate evidence for this behavior in specific cases, initiate an investigation to determine the cause for the disparity. Evaluate whether there are identifiable causes contributing to racially disparate stop rates and high or low rates of resulting enforcement actions exhibited by outlying officers. Determine and address any trends and patterns among officers with disparate stop rates. In the risk management process, the responsible personnel in the chain of

command reviews and discusses the available information about the subject officer and the officer's current behavior.

- d. Absent a satisfactory explanation for racially disparate behavior, monitor the officer.. Options for the supervisor in these cases include reviewing additional body-worn camera footage, supervisor ride-alongs, and other forms of monitoring. Further escalation to intervention, if necessary, may include a higher form of supervision, with even closer oversight. If performance fails to improve, command should consider other options including breaking up departmental units, transfer of officers to other responsibilities, etc. The goal of this process is to achieve trust and better community relations between the department as a whole and all the people in Berkeley. Formal discipline is always a last resort unless there are violations of Department General Orders, in which case this becomes an IAB matter.
- e. Identify officers who may have problems affecting their ability to make appropriate judgments, and monitor and reduce time pressures, stress and fatigue on officers.
- f. An outside observer from the PRC shall sit in on the risk management and/or EIS program. Reports from these meetings, or other accurate statistical summary, can be given to the commission without identifying any officers' names.
- g. Report the results of this data analysis quarterly.

6. Immediately release the following data to the Working Group:

- a. All data given to the Center for Policing Equity (CPE) - This data includes:
 - i. Calls for Service (January 1, 2012 - December 2016)
 - ii. Use of Force Data (January 1, 2012 - December 31, 2016)
 - iii. Crime Report Data (January 1, 2012 - December 31, 2016)
- b. STOP DATA - this data shall include information on "call type," similar to the data used by the Center for Policing Equity. The timeframe would be January 1, 2012 to present.
- c. USE OF FORCE DATA - This data was used in the analysis presented in the CPE report. Along with the CPE data, it would be helpful to have more recent Use of Force data. The timeframe would be January 1, 2012 to present.
- d. DEIDENTIFIED STOP & ARREST DATA - To determine if there are any problematic patterns among certain officers, or perhaps pairs of officers, data that we can be attached to anonymized individuals. The timeframe for this data would be January 1, 2012 to present.
- e. ADDITIONAL ARREST DATA - Currently, the Open Data Portal posts arrest data from January 1, 2015. The timeframe for this data would be January 1, 2012 to present day.
- f. ADDITIONAL CALLS FOR SERVICE - Currently, Calls for Service data are posted for the last 180 days. The timeframe for this data would be January 1, 2012 to present.

7. Limit warrantless searches of individuals on supervised release status, including probation, Post Release Community Supervision (PRCS), and parole, absent evidence of imminent danger

California is one of a handful of states that allow high-discretion, suspicionless searches of probationers and parolees. The following was passed by the Police Review Commission on 9/23/2020 and the Working Group endorses this approach:

“In accordance with California law, individuals on probation, parole, Post Release Community Supervision, or other supervised release status may be subject to warrantless search as a condition of their probation. Officers shall only conduct probation or parole searches to further a legitimate law enforcement purpose. Searches shall not be conducted in an arbitrary, capricious, or harassing fashion. However, under Berkeley policy, officers shall not detain and search a person on probation or parole solely because the officer is aware of that person’s probation or parole status.

The decision to detain a person and conduct a probation or parole search, or otherwise enforce probation or parole conditions, should be made, at a minimum, in connection with articulable facts that create a reasonable suspicion that a person may have committed a crime, be committing a crime, or be about to commit a crime.”

8. Require written consent for all consent searches

Baumgartner (pp. 195-209) and his team found that in cities requiring written consent to perform a consent search, these searches declined by 75%. Since people of color are disproportionately the subjects of these searches, it makes sense that a significant reduction would lead to fewer consent searches for people of color.

Examining three cities in North Carolina, Baumgartner found that in cities where there was resistance by leadership to the new written-consent policy, there was a substitution effect, such that as consent searches went down, probable cause searches went up. However, the substitution effect seemed to be directly correlated with leadership priorities. The chapter concludes, “We showed that a combination of leadership directives and simple initiatives can alter the relationship a department can have with their community” (pg. 213). *This speaks to the need for clear buy-in from BPD leadership.* The Working Group recommends that the BPD adopt the written consent form used in North Carolina, a copy of which can be found [here](#).

9. For any individual detained, BPD officers shall provide a business card with the following information on the back

- a) A website similar to RAHEEM that collects information on police-civilian encounters.⁸
- b) Contact information for filing a complaint with the PRC or its successor, the Police Accountability Board.

⁸ <https://www.raheem.ai/en/>

10. Address Profiling by Proxy⁹

Police should not be dispatched to calls that are motivated by caller bias or malintent, e.g., a claim that someone is suspicious with no corroborating reason.¹⁰ These types of calls harm police-community relationships and undermine the authority of the police. To protect against profiling by proxy the police department shall:

- a. work with PRC and other appropriate agencies to formulate a policy that defines and remedies profiling by proxy.
- b. enhance Dispatcher training to evaluate calls and add implicit bias training for 911 Dispatch.

An article on profiling by proxy by the Vera Institute of Justice recommends including 911 Dispatch in implicit bias training as a method for reducing issues with profiling by proxy. Anti-bias training will also help Dispatchers become aware of their own biases. For example, when they receive calls about behavior the complainant may dislike but is not illegal—e.g., “too many” black teenagers in the public park.¹¹

Hiring & Evaluation

The successful hiring and evaluation of police officers is an important part of creating a healthy and high-functioning police department. The types of people the department hires, and the effective evaluation of police officers are important in determining police department culture. Researchers on policing have repeatedly found that organizational culture is the single most important determinant of officer behavior.¹² Human Resource Management research supports including the evaluation for cultural competency as important in improving agencies. The key components for a high degree of cultural competency are: awareness, attitude, knowledge, skills.

11. Fire racist police officers identified through social media and other media screens

A third-party agency, hired by the City of Berkeley, or agency outside the police department should screen police officers and potential new hires’ social media accounts for racist or violent comments, affiliations to racist groups whether public or private, including private groups expressing racist or violent rhetoric.

- a. BPD shall immediately fire all identified officers who have engaged in racist or violent actions or commentary online.
- b. A social media screen of officer online conduct shall be done annually.

⁹ Profiling by proxy may occur “when an individual calls the police and makes false or ill-informed claims of misconduct about persons they dislike or are biased against—e.g., ethnic and religious minorities, youth, homeless people” (retrieved from The Vera Institute of Justice).

¹⁰ Captain Bolton of the Oakland Police Department made improvements on profiling by proxy using an approach that educated citizens on focusing on criminal behavior instead of suspicion when calling police.

¹¹ “Avoiding ‘profiling by proxy,’” Vera Institute of Justice, March 13, 2015, <https://www.vera.org/blog/police-perspectives/avoiding-profiling-by-proxy>

¹² [Organizational Culture and Police Misconduct](#)

Recommendations for Council

Community Engagement and Feedback - When the City of Berkeley pledged to consider reducing funding for the police department by 50%, it also committed itself to shifting to new and alternative methods of community safety. To effectively understand and implement new and alternative safety practices and services, the City of Berkeley must look to its residents for ongoing insight and feedback. The City must collect and utilize regular community feedback to inform the city on community investment priorities including police department policies and practices and future direction. To that end:

12. Address Profiling by Proxy¹³

To protect against profiling by proxy City Council should:

- a. Introduce profiling by proxy legislation similar to [CAREN Act](#) in SF, which would hold residents accountable for using police in a biased manner.
- b. Issue a quarterly review of data from 911 Dispatch, for the PRC or City Auditor to help understand the extent of calls from community members presenting 'biased' suspicions."

13. Require regular analysis of BPD stop, search, and use of force data

The City Auditor and/or PRC shall update the [analysis](#) of BPD data completed by the [Center for Policing Equity](#) and the PRC and publish the results on the BPD website every quarter. This report shall include stop, search, and use of force analysis. —

Ensuring Timely and Effective Implementation:

Since the fall of 2017, the police department has received 37 separate policy or legislative directives to address the racially disparate treatment of City of Berkeley residents. Those directives are the result of extensive and on-going racial disparities in police department stops, searches, and use of force. As of the drafting of this report, at least 30 of those directives remain outstanding with ***no plan*** for implementation.

We respectfully recognize that the role of the Mayor's Working Group on Fair and Impartial Policing is to advise the Berkeley City Council and staff. We recognize that we are not in a position to make final decisions; rather, our role is to offer advice and recommendations to the Council. The Mayor's Working Group is committed to ensuring that the policy recommendations outlined in this proposal are not added to the long list of unaccomplished directives. Therefore, we have included an accountability system with our policy proposal. This accountability system

¹³ When an individual calls the police and makes false or ill-informed claims of misconduct about persons they dislike or are biased against—e.g., ethnic and religious minorities, youth, homeless people; retrieved from The Vera Institute of Justice

will ensure that the changes necessary to establish fair and impartial policing and rebuild public trust occur.

Compliance and Accountability Mechanisms:

- A. Working in partnership with the Mayor's Working Group on Fair and Impartial Policing and within six months from approval of the proposal (extended for good cause), the City Manager hires an experienced consultant to help draft an implementation plan that includes a timeline to monitor, assess, and report on the implementation of the items outlined in the working group's policy proposal.
 - i. If a consultant is not hired within six months from approval of the proposal, the Council should move to item "E" below.
 - ii. If a consultant is not hired within six months (extended for good cause), the working group should remain formally organized by the Mayor until a consultant is hired and a plan is approved.
- B. The Working Group, Police Chief, and the consultant will create an implementation plan that includes a timeline to monitor, assess, and report on the implementation of the items outlined in the Working Group's policy proposal. Long-term monitoring and assessments will be the responsibility of the police oversight body (the PRC or its successor the Police Accountability Board).
- C. The implementation plan will be presented to the Berkeley City Council for approval. Once the plan is approved by the City Council, the consultant's work is finished. Long-term monitoring and assessment will be the responsibility of the police oversight body (the PRC or its successor the Police Accountability Board).
- D. The City Manager and the Berkeley Police Chief should do everything within their power to implement the items outlined in the plan and timeline set forth and approved by City Council.
- E. The City Council should set the implementation of this plan as a priority in the annual evaluation of the city manager.
- F. If the City Manager does not ensure that the Police Department implements the plan in accordance with the timeline, the City Manager should be held accountable.
 - i. In the event of a new Berkeley Police Department Chief: the Mayor's Working Group, on Fair and Impartial Policing, the new Police Chief and the City Manager shall meet and agree upon an updated timeline to monitor, assess, and report on the implementation of the items outlined in the plan approved by City Council.
 - ii. In the event of a new City Manager: the Working Group, the Berkeley Police Chief, and the new City Manager shall meet and agree upon an updated timeline to monitor, assess, and report on the implementation of the items outlined in the plan approved by City Council.

If these recommendations are adopted and implemented promptly, we expect that the disparate stop data can show significant improvement in the near future. We expect the City Manager and the Police Chief to implement these programs with enthusiasm and dedication, as they reflect the constitutional imperative of equal protection under the law.

Appendix A: Additional Recommendations

The following recommendations are also supported by the working group, which suggests referring them to the reimagining process and/or follow-up with the Police Accountability Board and the Fair and Impartial working group. See table 1 for recommended actions.

14. Include a scenario-based training component in the existing officer training required by California Penal Code 13519.4

- a. The training must include specific, relevant examples of prohibited actions and how to conduct law enforcement activities in an unbiased manner.¹⁴
- b. MILO and VIRTRA are two such scenario-based training programs¹⁵
- c. An independent observer shall review the training and report back to the PRC or its successor on the quality of the training.

15. Require enhanced annual implicit bias training for police

There is scant scientific evidence that implicit bias training works to change implicit biases over the long-term. However, agency-wide, enhanced, and well-executed training that occurs on a regular basis could have a positive effect on the cultural environment of the police department and on expectations for behavior. Regular, required implicit bias training provides an expression of institutional support for fairness, which is important in improving relationships across groups¹⁶and improving agency culture.

- a. Officers should receive intensive anti-racism and implicit bias training as part of their core instruction in the first 90 days of employment, and an annual 'refresher' course.
- b. An independent observer shall attend the training and report back to the PRC on the quality of the training.

16. Accelerate Crisis Intervention Team (CIT) activity

- a) Require 40 hours of CIT training in the first year of employment.
- b) Collect data on CIT calls to allow BPD to make informed decisions about staffing and deployment so that a CIT officer is available for all shifts in all districts to respond to every CIT call.
- c) Develop a CIT reporting system so that each deployment of a CIT officer is well documented. CIT officers should submit narrative reports of their interactions with persons in crisis so the appropriateness of the response can be evaluated in an after-action analysis.
- d) Implement an assessment program to evaluate the efficacy of the CIT program as a whole and the performance of individual CIT officers. A portion of a CIT officer's performance review should address skill and effectiveness in CIT situations.

¹⁴ CA Penal Code

¹⁵ MILO in an Oakland setting

¹⁶ Allport, G. W., Clark, K., & Pettigrew, T. (1954). The nature of prejudice.

17. The City of Berkeley should conduct annual community forums on Police and Public Safety:

- a. Identifying community-based leaders and impacted individuals for control of the envisioning process.
- b. Placing the process under the Office of the Mayor, not the City Manager. Upon establishment of the Police Accountability Board, place the process under the auspices of the Police Accountability Board.
- c. Including the creation of community-based measures of safety as part of the first round of the envisioning process.¹⁷
- d. Once community-based measures of safety are created, including these measures in the annual community survey (see item 17) and publishing the data as per item 17b.

18. The City of Berkeley should conduct an annual community survey.

Sample surveys include the [Milwaukee survey](#) and the [Dallas survey](#).

- a. Data collected should be shared publicly via the City of Berkeley website or an online community dashboard.

19. The City should create a formalized feedback system to gauge community response to ongoing reforms and ensure this constructive input system is institutionalized and includes:

- a. A basic "Report Card," in collaboration with the PRC or its successor the Police Accountability Board, based on community feedback for each reform. This will enable the Department to take the 'community's temperature' on how the implementation of the reforms are being perceived by the public.
- b. Quarterly neighborhood 'check ins' for relationship building .

20. Conduct a Capacity Study

- a. Release data including but not limited to 911 dispatch calls, BPD stops and interventions, written reports, and body-worn camera footage to the City Auditor and/or PRC for analysis.¹⁸
- b. Conduct an audit on officer down time to determine the percentage of police time spent outside of responding to calls for service and how police officers spend this time. Share this information with the City Auditor and/or PRC for analysis for use in the capacity study.
- c. Conduct an audit of police overtime to determine the factors that contribute to the use of overtime .

¹⁷ This process should follow or be modeled after the [Everyday Peace Indicators](#) process

¹⁸ This study could be time-limited and would not have to be a comprehensive analysis of internal data; a random sample done correctly would suffice to determine how best to restructure the response to a variety of problematic situations.

- d. Identify what percentage of calls for service require a unique police response and what percentage of calls could be better served by an alternative response with the goal to focus police response on issues that can best be responded to by police officers.
- e. These data can also assist in identifying calls suspected of profiling by proxy.

21. Fund and implement a specialized care unit for mental health crises

Fully fund and implement the specialized care unit as swiftly as possible in order to remove mental health and homeless encounters from the responsibility of BPD. Research has found that individuals with mental illness are at a higher risk of police stops, use of force,¹⁹ and a fatal police encounter.²⁰ These disparities increase for Black and Latinx individuals. Specialized mental health crisis units are a safer option for those experiencing a mental health crisis than a police response and a more cost-effective use of public resources.²¹ The Council's July 14, 2020 decision to create a Specialized Care Unit will better serve people in Berkeley experiencing a mental health crisis. The Working Group supports transitioning away from police as first responders to 911 calls related to mental health and towards trained, unarmed mental health first responders.

The Berkeley Community Safety Coalition in collaboration with Councilmember Bartlett are developing a proposal related to a pilot program transitioning away from sworn police as first responders to professional mental health first responders. The Working Group supports this effort.

22. Make resources on police-civilian encounters more publicly available, including:

- a. A website similar to RAHEEM that collects information on police-civilian encounters.²²
- b. Contact information for filing a complaint with the PRC or its successor.

23. Evaluate the impact of these proposals on racial disparities in stops and searches, using regular updates to stop and search data

¹⁹ [Mental Illness, Police Use of Force, and Citizen Injury](#)

²⁰ [Deaths of people with mental illness during interactions with law enforcement](#)

²¹ [CAHOOTS Media Guide, 2020](#)

²² <https://www.raheem.ai/en/>

Attachment 2: Working Group Recommendations Passed by Council. February 23, 2021

**ANNOTATED AGENDA
SPECIAL MEETING OF THE
BERKELEY CITY COUNCIL**

Tuesday, February 23, 2021

4:00 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

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

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/81676274736>. 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** or **1-877-853-5257 (Toll Free)** and enter Meeting ID: **816 7627 4736**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call: 4:06 p.m.

Present: Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

Absent: Kesarwani

Councilmember Kesarwani present at 4:13 p.m.

Action: M/S/C (Arreguin/Wengraf) to adopt a special rule for this meeting to limit public comment to one minute per speaker, with the option to yield time up to a total of four minutes.

Vote: Ayes – Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent - Kesarwani

Action Calendar – New Business

1. **Report and Recommendations From Mayor’s Fair and Impartial Policing Working Group**
From: Mayor Arreguin (Author), Councilmember Harrison (Author)
Recommendation:
 1. Accept and acknowledge the report from the Fair and Impartial Working Group (Attachment 1).
 2. Direct the City Manager to implement the following recommendations summarized below and detailed in full in Attachment 1, with at minimum, quarterly progress updates to the Police Accountability Board (PAB) and/or the Working Group.
 - Focus traffic stops on safety
 - Use a clear, evidence-based definition for stops of criminal suspects
 - Use race and ethnicity as determining factors in stops only when paired with clear, evidence-based criteria
 - Eliminate stops for low-level offenses
 - Implement an Early Intervention System (EIS) and a risk-management structure
 - Immediately release stop, arrest, calls for service and use of force data from 2012 to present to the Working Group
 - Limit warrantless searches of individuals on supervised release status such as Post Release Community Supervision (PRCS), probation, or parole
 - Require written consent for all consent searches
 - Address Profiling by Proxy (PAB Policy Development, Dispatcher Training)
 - Fire racist police officers identified through social media and other media screens
 - Address Profiling by Proxy (Council develop & pass CAREN policy)
 - Require regular analysis of BPD stop, search, and use of force data
 - Make resources on police-civilian encounters more publicly available such as RAHEEM.org
 - Adopt Compliance and Accountability Mechanisms; -Hire consultant to develop implementation plan
 - For any individual detained, BPD officers shall provide a business card with info on a website similar to RAHEEM and info on complaint process with PAB
 3. Refer the following recommendations summarized below and detailed in full in Attachment 1 to be included in the process to reimagine public safety:

Action Calendar – New Business

-Create a formalized feedback system to gauge community response to ongoing reforms and ensure this constructive input system is institutionalized with the Police Review Commission or its successor and includes a basic report card and quarterly neighborhood check-ins

-Conduct a baseline community survey

4. Refer the following recommendations summarized below and detailed in full in Attachment 1 to the Police Review Commission, to be taken up by the Police Accountability Board when it is established

-Include a scenario-based training component in the existing officer training required by California Penal Code 13519.4

-Require enhanced annual implicit bias training for police

-Accelerate Crisis Intervention Team (CIT) activity

5. Acknowledge and reaffirm the following recommendations summarized below and detailed in full in Attachment 1 that are already underway:

-Fund and implement a specialized care unit for mental health crises

-Conduct a Capacity Study of police calls and responses and use of officer time outside of case work

6. Refer \$50,000 to the FY 2022 budget process for a consultant to develop an implementation plan as described in Attachment 1 and other minor costs the Department may confer

Financial Implications: See report

Contact: Jesse Arreguin, Mayor, (510) 981-7100

Action: 40 speakers. M/S/C (Arreguin/Harrison) to:

1. Accept and acknowledge the report from the Mayor's Fair and Impartial Policing Working Group;
2. Acknowledge and appreciate the work already completed or underway by the City Manager's Office and Police Department to implement policing reforms including:
 - Adoption and implementation of Policy 401, Fair and Impartial Policing
 - Public reporting of stop data on the BPD Open Data Portal
 - Initiation of the Center for Policing Equity study
 - Implementation of the Body Worn Camera Program
 - Early adoption of Racial and Identity Profiling Act (RIPA) data collection and reporting
 - Updates to the Use of Force Policy, Policy 300
 - Development and passage of Measure II to create a new Police Accountability Board
 - Launching of the Public Safety Reimagining process
3. Refer to the City Manager to implement the following recommendations summarized below, with quarterly progress updates to the City Council and Police Review Commission/Police Accountability Board (when established):

Implement a new evidence-based Traffic Enforcement Model

 - Focusing the basis for traffic stops on safety and not low-level offenses;
 - Reaffirming and clarifying that the Berkeley Police Department will use a clear, evidence-based definition for stops of criminal suspects;
 - Reaffirming and clarifying that the Berkeley Police Department will use race and ethnicity as determining factors in stops only when paired with clear, evidence-based criteria
 - Minimize or de-emphasize as a lowest priority stops for low-level offenses.

Action Calendar – New Business

Implement Procedural Justice Reforms

- Refer amendments to existing BPD policy and the creation of an Early Intervention System (EIS) related to traffic, bike and pedestrian stops;
- Adopt a policy to require written consent for all vehicle and residence searches and update the consent search form in alignment with best practice and community feedback;
- Limit warrantless searches of individuals on supervised release status such as Post Release Community Supervision (PRCS), probation, or parole;
- Address Profiling by Proxy (PAB Policy Development, Dispatcher Training);
- Fire racist police officers identified through social media and other media screens;
- Require regular analysis of BPD stop, search, and use of force data;
- Make resources on police-civilian encounters publicly available such as through RAHEEM.org;
- For any individual detained, BPD officers shall provide a business card with info on the commendation and complaint process with PAB and Berkeley Police Department.

Request that the City Manager report back at a Council Work Session in three months with budget estimates for implementation (to be considered along with the FY 22 budget process), information on legal and operational considerations, and a short-term action plan of recommendations which can be implemented without the hiring of a consultant, and those that will require the assistance of a consultant and additional resources.

Compliance and Accountability Mechanisms

- The City Manager will create an implementation plan with the assistance of a consultant that includes a timeline to monitor, assess, and report on the implementation of the items outlined in the Working Group's policy proposal. Long-term monitoring and assessments will be the responsibility of the police oversight body (the PRC or its successor the Police Accountability Board).
 - The implementation plan will be presented to the Berkeley City Council for approval. Once the plan is approved by the City Council, the consultant's work is finished. Long-term monitoring and assessment will be the responsibility of the police oversight body (the PRC or its successor the Police Accountability Board).
4. Refer the following recommendations summarized below to the Reimagine Public Safety process:
 - Create a formalized feedback system to gauge community response to ongoing reforms and ensure this constructive input system is institutionalized with the Police Review Commission or its successor and includes a basic report card and quarterly neighborhood check-ins
 - Conduct a baseline community survey.
 5. Refer the following training recommendations summarized below to the Police Review Commission, to be taken up by the Police Accountability Board when it is established, and consider the resources required to implement this expanded training:
 - Include a scenario-based training component in the existing officer training required by California Penal Code 13519.4
 - Require enhanced annual implicit bias training for police
 - Accelerate Crisis Intervention Team (CIT) activity

Action Calendar – New Business

- Refer to the PRC/PAB to consider a departmental policy on requiring written consent for person searches and report back in 6 months.
6. Acknowledge and reaffirm the following recommendations summarized below and detailed in full in Attachment 1 that are already underway and have been completed:
 - BPD released stop, arrest, calls for service and use of force data from 2012 to present to the Working Group;
 - Fund and implement a specialized care unit for mental health crises;
 - Conduct a Capacity Study of police calls and responses and use of officer time outside of case work.
 7. Refer \$50,000 to the FY 2022 budget process for a consultant to assist the City Manager/Police Department in the implementation of these recommendations and other minor costs the Department may confer; and also refer to the FY 2022 budget process a line item for police training for the new evidence-based stop program (costs to be determined by BPD).

Vote: All Ayes.

Adjournment

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

Vote: All Ayes.

Adjourned at 7:07 p.m.

Communications

- None

Supplemental Communications and Reports 1

- None

Supplemental Communications and Reports 2

Item #1: Report and Recommendations From Mayor's Fair and Impartial Policing Working Group

1. Elizabeth Ferguson

Supplemental Communications and Reports 3

Item #1: Report and Recommendations From Mayor's Fair and Impartial Policing Working Group

2. Material, submitted by Mayor Arreguin
3. Presentation, submitted by the Police Department
4. Janice Schroeder
5. Thomas Luce
6. Ben Gerhardstein, on behalf of Walk Bike Berkeley
7. Diana Bohn
8. Sivan Orr
9. Ali Lafferty

Attachment 3: Summary of BPD Quarterly Updates on Fair and Impartial Policing Implementation

Summary of Berkeley Police Department Quarterly Reports: Fair & Impartial Policing Recommendation Implementation Updates per BPD

FIP Recommendation	June 2021	Oct 2021	Feb 2022	June 2022	September 2022	March 2023	June 2023	October 2023
Implement a new evidence-based traffic enforcement model: minimize or de-emphasize as a lowest priority stops for low-level offenses	A working group (wg) has been established consisting of employees working in every division of BPD and a representative of the BPA leadership. The wg is tasked with identifying what low-level offenses are applicable while balancing the necessity of traffic safety and the Berkely Vision Zero initiative. The wg will present recommended policy language as well as analysis of risk or unintended outcomes no later than Fall 2021.	Officers have been directed to focus less attention on equipment violations and are expected to make investigative stops related to criminal intelligence information. The wg has been working to identify traffic offenses that most impact public safety.	Officers have been provided data regarding primary collision factors and have been directed to enforce those violations. The wg created a three-prong approach that focuses on primary collision factors, community member reports, and community caretaking. Implementation in progress. Training has commenced.	Implementation complete ¹ . Officers have been provided data regarding primary collision factors and have been directed to enforce those violations. BPD has implemented and conducted departmental training on the three-prong approach.	Implementation complete. Training on the three-pronged approach has concluded. The Department will continue to review data on traffic offenses that affect community safety.	Same as previous	In addition, this has been formalized as a departmental directive in a Special Order on traffic enforcement.	Same as previous
Use a clear, evidence-based definition for stops	BPD is establishing a precision based policing model that considers	BPD continues to develop and deploy data-	BPD is establishing a precision-based policing model	BPD is establishing a precision-based policing model	Implementation complete. BPD is establishing a precision-based	Same as previous	Same as previous	Same as previous

¹ Reflects BDP-reported status update.

Summary of Berkeley Police Department Quarterly Reports: Fair & Impartial Policing Recommendation Implementation Updates per BPD

<p>of criminal suspects</p>	<p>data and public safety. Data driven tools that enable close to real-time dashboard tracking of calls for service have been provided to Community Service Bureau and Patrol Watch Commandeers. The goal is to have data-driven approaches to violence prevention programs in real time crime and call analysis for patrol deployment strategies.</p>	<p>driven tools to enhance precision-based policing model. Interviewing for two data analysts and continuing to build data dashboard.</p>	<p>that considers data and public safety. Data driven tools that enable real-time dashboard tracking (close to real time) have been provided to Patrol Watch Commanders. Exploring feasibility of a system that employs a feedback loop to provide information back to the Community Services Bureau to support accountability. Filled one of two data analyst positions.</p>	<p>that considers data and public safety. Data driven tools that enable real-time dashboard tracking (close to real time) have been provided to Patrol Watch Commanders. Exploring feasibility of a system that employs a feedback loop.</p>	<p>policing model that considers data and public safety. Data driven tools that enable real-time dashboard tracking (close to real time) have been provided to Patrol Watch Commanders. During this reporting period feedback loop implemented. System provides tracking of calls for service with the goal of call analysis for patrol deployment strategies and allows officers in the field to communicate to the Community Service Bureau.</p>			
-----------------------------	--	---	---	--	--	--	--	--

Summary of Berkeley Police Department Quarterly Reports: Fair & Impartial Policing Recommendation Implementation Updates per BPD

<p>Use race and ethnicity as determining factors in stops only when paired with clear, evidence-based criteria</p>	<p>Implementation complete. Existing law prohibits racial profiling. Policy 401 (Fair and Impartial) explicitly states that officers shall not consider race, ethnicity, national origin, gender....in establishing reasonable suspicion or probable cause...the above policies were reviewed in light of taskforce recommendations and found to affirm and clarify officer responsibility in stops.</p>	<p>Same as previous</p>	<p>Same as previous</p>	<p>Same as previous</p>	<p>Same as previous</p>	<p>Same as previous</p>	<p>Same as previous</p>	<p>Same as previous</p>
<p>Implement an Early Intervention System (EIS) and a risk-management structure</p>	<p>Working on amendments to EWS to include data around traffic, bike, and pedestrian stops.</p>	<p>Amendments are being made to specifically identify additional activity that should be considered when applying the EWS policy. Language</p>	<p>Implementation complete. Updated policy finalized reflecting amendments to include monitoring of stop data for</p>	<p>Implementation complete. Random quarterly audits of officers' stop data, complaints, and use of force, and other</p>	<p>Implementation complete. The City Council referred \$100,000 to the June 2023 Budget Process to enter into a contract to</p>	<p>Same as previous</p>	<p>Same as previous</p>	<p>Same as previous</p>

Summary of Berkeley Police Department Quarterly Reports: Fair & Impartial Policing
 Recommendation Implementation Updates per BPD

<p>BPD to provide regular analysis of stop, search, and use of force data</p>		<p>BPD is in the process of expanding the call for service dataset to include all call types and eliminate 180-day time range. BPD has started working with a vendor to update the public facing open data.</p>	<p>added to include data around traffic, bicycle and pedestrian stops. The new policy is being reviewed by the police union.</p>	<p>individual officers. The Audits and Inspections Sergeant will also conduct separate and random quarterly audits of officer's stop data, complaints, and use of force incidents and other factors and will share these audits with the PAB.</p>	<p>factors, the results of which will be reported to the Chief of Police.</p>	<p>design and assist with implementing a comprehensive Early Intervention and Risk Management System.</p>	<p>Same as previous</p>
			<p>In the process of eliminating the 180-day time range that currently exists. In the process of expanding the call for service data set. Expected completion is summer 2022.</p>	<p>Implementation complete. Open Data Portal and Transparency Hub effectuate this recommendation.</p>	<p>Implementation complete. The department will regularly analyze stop, search, and use of force data.</p>	<p>Same as previous</p>	<p>Same as previous</p>

Summary of Berkeley Police Department Quarterly Reports: Fair & Impartial Policing
 Recommendation Implementation Updates per BPD

Require written consent for all consent searches	Policy to require written consent for all vehicle and residence searching using updated form near completion.	Revised consent form has been created. Implementation in progress. New search and seizure policy being reviewed by union.	Implementation complete.	Same as previous	Same as previous	Same as previous	Same as previous
Limit warrantless searches of individuals on supervised release status such as PRCS, probation, or parole, absent reasonable suspicion		Implementation complete. Policy 311 updated to limit searches on individuals who are on supervised release, absent reasonable suspicion.	Implementation complete. However, in July 2022, City Council approved a revised Policy 311 to allow for searches of those on supervised release for violent crimes.	Same as previous	Same as previous	Same as previous	Same as previous
Address profiling by proxy		Implementation complete. Comms Center Operation Manual amended to address.	Same as previous	Same as previous	Same as previous	Same as previous	Same as previous
Fire racist police officers identified through social media and other media screens	The FIP taskforce identified additional methods for	Implementation complete. Existing policy implements this recommendation	Same as previous	Same as previous	Same as previous	Same as previous	Same as previous

Summary of Berkeley Police Department Quarterly Reports: Fair & Impartial Policing
 Recommendation Implementation Updates per BPD


			<p>One data analyst will be tasked with ongoing analysis of police calls and responses.</p>	<p>process via the Council's direction on Reimagining public safety</p>		<p>ations were provided to the BPD and findings were referred to the Reimagine Public Safety Task Force. BPD has implemented the recommendations and an assessment of overall staffing levels as well as patrol beat specific analysis will be conducted as part of the sworn staffing assessment.</p>	<p>Citygate is expected in the near future.</p>	<p>of August.</p>
<p>Fund and implement a specialized care unit</p>	<p>XX (PAB has not tracked implementation status of this effort)</p>	<p>XX</p>	<p>XX</p>	<p>XX</p>	<p>XX</p>	<p>XX</p>	<p>XX</p>	<p>XX</p>
<p>Create a formalized feedback system to</p>			<p>Implementation in progress. Baseline survey</p>	<p>Initial implementation complete. BPD</p>	<p>Same as previous</p>	<p>Same as previous</p>	<p>Initial implementation complete. To</p>	<p>Same as previous</p>




Appendix 3

Summary of Berkeley Police Department Quarterly Reports: Fair & Impartial Policing
 Recommendation Implementation Updates per BPD

<p>gauge community response to ongoing reforms and ensure this constructive input system is institutionalized with the police review commission or its successor and includes a basic report card and quarterly neighborhood check-ins; conduct a baseline community survey.</p>			<p>completed as part of Reimagining Public Safety Taskforce process.</p>	<p>will be seeking ongoing community input and feedback via the Transparency Hub</p>		<p>support feedback systems, the BPD will be seeking ongoing community input and feedback around reform efforts via the Transparency Hub.</p>	
--	--	--	--	--	--	---	--

Attachment 4: BPD Three-Pronged Approach to Traffic Enforcement


Police Transparency

Stop Data
Calls for Service
Use of Force
Crime Data
Community Engagement
Current Trends
Traffic Safety
Open Data Portal

Our Three-Prong Approach to Traffic Safety

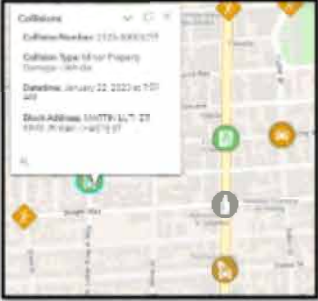
The BPD has reprioritized traffic safety efforts around a three-prong approach that focuses on primary collision factors (PCF), community concerns submitted to the BPD, and our role as community caretakers. Community caretaking functions consider safety violations that aren't always noted as the primary collision factor but can be a significant contributing factor in serious collisions. The BPD collects a range of data related to traffic safety to include calls for service, collision data, and qualitative survey data. The analyses are then used to guide enforcement, education, and prevention strategies.

Prong # 1 - Primary Collision Factors (Berkeley specific data)


Vehicle code violations resulting in severe and fatal collisions in Berkeley.

- Unsafe speed
- Pedestrian right-of-way at crosswalks
- Failure to yield for turns
- Red light violations
- Stop sign violations

For additional information on the city's Vision Zero efforts please check out their page on the right!



Use the Dashboard below to explore Berkeley collision data.



Vision Zero

Berkeley's Vision Zero strategy aims to eliminate all traffic fatalities and severe injuries while increasing saf...


Explore

Prong # 2 – Community Reports


Responding to calls from community members.

- Possible DUI driver (car reportedly swerving)
- Driver that's fallen asleep at a red light
- A variety of unsafe driving incidents occurring
- CRIME involving vehicle
 - Hit and Run
 - Crime with get-away vehicle description

To submit a traffic safety concern, please fill out the form on the right!



Use the Dashboard below to explore traffic-related Calls for Service (orange lines) and community concerns (orange flag).



Submit a Traffic Concern

Let the Berkeley Police Department Traffic Bureau know about your traffic safety concern in the community

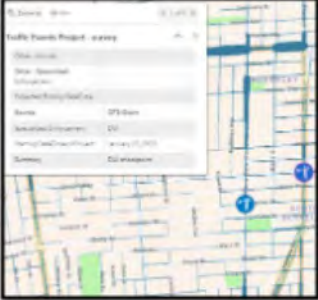
Take Survey

Prong #3 – Community Caretaking


Examples of violations that are safety concerns but not necessarily PCFs

- Distracted Driving (hands free law)
- DUI Investigation
- Seatbelt Violations

For additional information on our traffic stop data, please visit our Stop Data page on the right!



Use the Dashboard below to explore our traffic enforcement efforts (blue lines) in relation to calls/concerns/collisions.

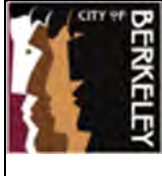


Stop Data

An ArcGIS Hub page used by Law Enforcement agencies to help illustrate to the general public the enforcement.

Explore

Attachment 5: Berkeley Police Department Memorandum Titled: "PD Response to PAB FIP Implementation Report"



Berkeley Police Department Memorandum



From: Chief Jennifer Louis

Date: 4/15/2024

To: The Police Accountability Board and the Office of the Director of Police Accountability

Subject: PD Response to PAB FIP Implementation Report

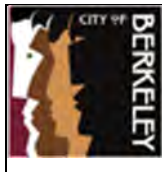
We sincerely thank you for sharing the draft of your Fair and Impartial Policing Implementation Report and for being open to accepting our comments and feedback. The Berkeley Police Department commends the Police Accountability Board for your analysis and efforts to enhance policing standards in our community. Your work plays a vital role in promoting fairness, equity, and impartiality in policing.

BPD is fully committed to collaborating with the PAB as we share the goals of ensuring justice and safety for every community member. We value your partnership as we implement effective reforms and strive for continuous improvement.

Regarding the specific recommendations:

- BPD appreciates the guidance to focus on outcomes, not just policies. We commit to including measures of our impact on racial disparities, such as steps taken to mitigate officer bias, in our quarterly FIP reports. While acknowledging external factors, we will emphasize areas where BPD can drive meaningful change.
- Since implementing our Three-Pronged Traffic Enforcement model, we've decreased equipment violation stops by 21% from 2022-2023 and reduced disparities in all discretionary vehicle stops. The data shows that the percentage of all discretionary equipment violation stops involving Black individuals has decreased from 29.49% in 2021 to 20.93% in 2023, indicating progress in addressing the overrepresentation of Black people in these stops. We are open to further adjustments but believe our current approach needs more time to demonstrate its full impact.
- BPD will continue to exceed the Council's directives for implicit bias training through our comprehensive KIND program, which embeds these principles into trainings on tactics, de-escalation, and communication. This holistic approach reinforces recognizing and mitigating bias across all aspects of our work.
- BPD is actively collaborating with the PAB and the Berkeley Police Association to enhance and refine our Early Intervention System. We are working to ensure our approach reflects best practices and balances the goals of fairness and effectiveness in identifying areas for improvement. The system's design will be informed by comprehensive analysis and guidance from these subject matter experts.
- Our policies mandate strict accountability for any biased conduct by officers. BPD is fully committed to enforcing these standards to maintain the highest levels of integrity and public trust.

Regarding the collision analysis, we want to clarify that it aims to provide a relevant baseline of the demographics of Berkeley drivers, especially those driving dangerously, to enable a fair assessment of officers' decision-making. The data reflects operational realities, not an attribution of driving behaviors



Berkeley Police Department Memorandum



to any racial group. We acknowledge the omission of equipment violations and commit to expanding our analysis to examine these stops in future reports.


We suggest the FIP subcommittee develop a theory of change linking each recommendation to specific factors contributing to disparities (e.g., socioeconomic inequities, institutional practices, individual bias). This will allow us to better assess if reforms are addressing the intended aspects of the disparities.

We also recommend clarifying that the disparity figures compare stop demographics to city demographics, not necessarily differential treatment for identical behaviors, to accurately capture the complex factors shaping police interactions beyond just department policies.

Regarding implementation progress, BPD has engaged on every recommendation, completing all but one. The outstanding recommendation, 'Conduct a capacity study of police calls and responses and use of officer time outside of case work,' is expected to be completed by June, pending the results of an upcoming report from Citygate Associates. Our 2023 annual report reflects this progress and commitment. Beyond the completion of the final recommendation, the department will continue efforts related to fair and impartial policing and will continue to assess and review the efficacy of our efforts.

In conclusion, the Berkeley Police Department reaffirms our unwavering dedication to fair and impartial policing. We deeply value the PAB's crucial role in achieving our shared goals and welcome your continued feedback. BPD is committed to learning, improving, and engaging in open dialogue as we work together to promote equity and justice.

Thank you again for the opportunity to provide input. We look forward to our continued partnership to ensure Berkeley's policing lives up to our city's values.



No Material
Available for
this Item

There is no material for this item.

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

The City of Berkeley Public Safety Policy Committee Webpage:

<https://berkeleyca.gov/your-government/city-council/council-committees/policy-committee-public-safety>



There is no material for this item.

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

The City of Berkeley Public Safety Policy Committee Webpage:

<https://berkeleyca.gov/your-government/city-council/council-committees/policy-committee-public-safety>

